

# CITY OF MONTCLAIR

CITY COUNCIL  
SUCCESSOR REDEVELOPMENT AGENCY,  
MONTCLAIR HOUSING CORPORATION, MONTCLAIR  
HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY  
FOUNDATION MEETINGS

## AGENDA

MONDAY, AUGUST 1, 2022  
7:00 p.m.



**Mayor**

Javier "John" Dutrey

**Mayor Pro Tem**

Bill Ruh,

**Council Members**

Tenice Johnson

Corysa Martinez

Benjamin "Ben" Lopez

**City Manager**

Edward C. Starr

**City Attorney**

Diane E. Robbins

**City Clerk**

Andrea M. Myrick

Location

Council Chamber  
5111 Benito Street  
Montclair, CA 91763

Webinar Link

<https://zoom.us/j/93717150550>

Dial #

1-669-900-6833

Meeting ID

937-1715-0550



**REGULAR JOINT MEETING OF THE  
CITY COUNCIL, SUCCESSOR AGENCY, MONTCLAIR HOUSING CORPORATION,  
MONTCLAIR HOUSING AUTHORITY, AND MONTCLAIR COMMUNITY FOUNDATION**

to be held in the Council Chambers  
5111 Benito Street, Montclair, California

Monday, August 1, 2022  
7:00 p.m.

*Remote Participation Information:*

Zoom Link: <https://zoom.us/j/93717150550>  
Dial Number: 1 (669) 900-6833  
Meeting ID: 937-1715-0550

*If you want to submit a public comment or speak on an agenda item, including public hearing and closed session items, please complete a Speaker Card in the Council Chambers or online at <https://www.cityofmontclair.org/public-comment/>. The Mayor/Chair (or the meeting's Presiding Officer) will call on those who submitted requests to speak at the appropriate times during the meeting. Those who did not submit a request to speak who are present at the meeting location may raise their hand during Public Comment to request to speak. Those participating remotely may request speak using the "raise hand" function in Zoom or may dial \*9 if on the phone, and then \*6 to un-mute when called on to speak. Written comments (200-word limit per agenda item, and 200-word limit for all non-agenda items combined) and requests to speak can also be emailed to [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) at least one hour before the meeting begins.*

*Video recordings of Council meetings are available on the City's website at <https://www.cityofmontclair.org/council-meetings/> and can be accessed by the end of the business day following the meeting.*

## **AGENDA**

- I. CALL TO ORDER** City Council [CC], Successor Agency Board [SA],  
Montclair Housing Corporation Board [MHC],  
Montclair Housing Authority Commission [MHA],  
Montclair Community Foundation Board [MCF]

**II. INVOCATION**

*In keeping with our long-standing tradition of opening our Council meetings with an invocation, this meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorses any particular religious belief or form of invocation.*

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS** — None

**VI. PUBLIC COMMENT**

*During Public Comment, you may comment on any subject that **does not** appear on this agenda. Each speaker has up to five minutes. The meeting's presiding officer may provide more or less time to accommodate speakers with special needs or a large number of speakers waiting in line. (Government Code Section 54954.3).*

*If you did not submit a Speaker Card and would like to speak on an item on the **Consent Calendar**, please raise your hand during Public Comment to announce the agenda item you would like to provide comments on. The presiding officer will pull the item from the Consent Calendar and will then call on you to speak at the time of the item's consideration.*

*Under the provisions of the Brown Act, the meeting bodies are prohibited from participating in substantial discussion of or taking action on items not listed on the agenda.*

**VII. PUBLIC HEARINGS**

- A. Consider Adoption of Resolution No. 22-3374 Ordering the Submission to the Voters of the City of Montclair a Measure to Consider a General Business License Tax on Commercial Retail Sales of Cannabis at the General Municipal Election to be Held on Tuesday, November 8, 2022; Directing the City Attorney to Prepare an Impartial Analysis of the Measure; and Providing for the Filing of Arguments and Rebuttal Arguments in Favor of and Against the Measure [CC]  
  
First Reading — Consider Ordinance No. 22-999 Adding Chapter 4.76 to Title 4 of the Montclair Municipal Code Related to Imposing a Cannabis Business License Tax (Subject to Final Approval by the Voters at the Tuesday, November 8, 2022 General Municipal Election) [CC]  
  
Consider Setting a Public Hearing for Second Reading and Adoption of Ordinance No. 22-999 for Monday, August 15, 2022, At 7:00 p.m. [CC]

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**VIII. CONSENT CALENDAR**

- A. Approval of Minutes
  - 1. Regular Joint Meeting — July 18, 2022 [CC/SA/MHC/MHA/MCF] 69
- B. Administrative Reports
  - 1. Consider Approval of Warrant Register & Payroll Documentation [CC] 22
  - 2. Consider Authorizing the Use of State Asset Forfeiture Funds for the Purchase and Installation of Additional Shelves and Shelf Dividers for the Police Department Evidence Storage Room [CC] 23
  - 3. Consider Authorizing the Destruction of Certain Obsolete Public Records Pursuant to the City of Montclair Records Retention Schedule [CC] 24
  - 4. Consider Approval of the Payment for a One-Year Subscription Renewal of Zengine Application Software for the Montclair to College Program Through Wizehive, Inc. [MCF] 29
- C. Agreements
  - 1. Consider Approval of Agreement No. 22-54 Amending Agreement No. 17-30 with Mariposa Landscapes, Inc. for Landscape Maintenance Services, Subject to Any Revisions Deemed Necessary by the City Attorney [CC] 30
  - 2. Consider Approval of Agreement No. 22-70 with Pivotal Strategies LLC for Community Education and Outreach Services Related to a Proposed Ballot Measure to Establish a Commercial Cannabis Tax Subject to Any Revisions Deemed Necessary by the City Attorney [CC] 39
  - 3. Consider Approval of Agreement No. 22-82 with Liebert Cassidy Whitmore for Participation in the East Inland Empire Employment Relations Consortium and Premium Liebert Library Subscription, Subject to Any Revisions Deemed Necessary by the City Attorney [CC] 58
- D. Resolutions
  - 1. Consider Adoption of Resolution No. 22-3369 Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts [CC] 61

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. COMMUNICATIONS**

**A. Department Reports**

- 1. Police Department — National Night Out - Tuesday, August 2, 2022

**B. City Attorney**

- 1. Request for City Council to Meet in Closed Session Pursuant to Government Code Section 54957.6 Regarding Conference with Designated Labor Negotiator Edward C. Starr [CC]

*Agency: City of Montclair*  
*Employee Management*  
*Associations: Montclair City Confidential Employees Association*  
*Montclair General Employees Association*  
*Montclair Fire Fighters Association*  
*Montclair Police Officers Association*

- 2. Request for City Council to Meet in Closed Session Pursuant to Government Code §54957 Regarding Public Employee Discipline/Dismissal/Release [CC]
- 3. Request for City Council to Meet in Closed Session Pursuant to Government Code §54956.9(d)(1) Regarding Pending Litigation [CC]

*Garcia v. Lopez, City of Montclair, et al.*  
*Fuentes v. Lopez, City of Montclair, et al.*

**C. City Manager/Executive Director**

**D. Mayor/Chairperson**

**E. Council Members/Directors**

**F. Committee Meeting Minutes (for informational purposes only)**

- 1. Personnel Committee Meeting — July 18, 2022 [CC]

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**XI. CLOSED SESSION**

**XII. CLOSED SESSION ANNOUNCEMENTS**

**XIII. ADJOURNMENT**

*The next regular joint meeting of the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board will be held on Monday, August 15, 2022, at 7:00 p.m.*

*Reports, backup materials, and additional materials related to any item on this Agenda distributed to the meeting bodies after publication of the Agenda packet are available for public inspection in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Please call the City Clerk's Office at (909) 625-9416 or send an e-mail to [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) to request documents via e-mail.*

*If you need special assistance to participate in this meeting, please contact the City Clerk's Office at (909) 625-9416 or e-mail [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org). Notification prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)*

*I, Andrea M. Myrick, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the City's website at <https://www.cityofmontclair.org/agendas/> and on the bulletin board adjacent to the north door of Montclair City Hall at 5111 Benito Street, Montclair, CA 91763 on Thursday, July 28, 2022.*



# CITY COUNCIL AGENDA REPORT

**DATE:** AUGUST 1, 2022

**FILE I.D.:** TAX495

**SECTION:** PUBLIC HEARINGS

**DEPT.:** ECONOMIC DEV.

**ITEM NO.:** A

**PREPARER:** M. FUENTES

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 22-3374 ORDERING THE SUBMISSION TO THE VOTERS OF THE CITY OF MONTCLAIR A MEASURE TO CONSIDER A GENERAL BUSINESS LICENSE TAX ON COMMERCIAL RETAIL SALES OF CANNABIS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AND PROVIDING FOR THE FILING OF ARGUMENTS AND REBUTTAL ARGUMENTS IN FAVOR OF AND AGAINST THE MEASURE

FIRST READING — CONSIDER ORDINANCE NO. 22-999 ADDING CHAPTER 4.76 TO TITLE 4 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO IMPOSING A CANNABIS BUSINESS LICENSE TAX (SUBJECT TO FINAL APPROVAL BY THE VOTERS AT THE TUESDAY, NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION)

CONSIDER SETTING A PUBLIC HEARING FOR SECOND READING AND ADOPTION OF ORDINANCE NO. 22-999 FOR MONDAY, AUGUST 15, 2022, AT 7:00 P.M.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 22-3374 ordering the submission to the voters of the City of Montclair a measure to consider a General Business License Tax on Commercial Retail Sales of Cannabis at the General Municipal Election to be held on Tuesday, November 8, 2022; directing the City Attorney to prepare an impartial analysis of the measure, and providing for the filing of arguments and rebuttal arguments in favor and against the measure.

In addition, the City Council is requested to consider conducting the first reading of Ordinance No. 22-999 imposing a General Business License Tax on Commercial Retail Sales of Cannabis, which is subject to final approval by the voters at the November 8, 2022 General Municipal Election, and setting a public hearing for the second reading and adoption of Ordinance No. 22-999 for Monday, August 15, 2022, at 7:00 p.m.

A copy of proposed Resolution No. 22-3374 and Ordinance No. 22-999 are attached for City Council review and consideration.

**BACKGROUND:** In 2019, the City Council conducted a series of special meetings regarding compliance with Proposition 64 (Adult Use of Marijuana Act, or “AUMA”) and the potential for a series of draft ordinances, collectively known as the Medicinal and Adult-Use Cannabis Regulation and Safety Law (MAUCRSL) regulating commercial cannabis activities in the City of Montclair. The special meetings were conducted to present the City Council with concepts contained in the draft ordinances and to determine if the City Council desired to proceed with public hearings and possible adoption of said ordinances.

At the conclusion of the series of special meeting, the City Council elected to table the draft ordinances in order to further evaluate the regulation of commercial cannabis activities in the City of Montclair given the nascent nature of the cannabis industry in the State, provide City staff with the opportunity to develop appropriate tax and fee-based revenue scenarios; and survey likely voters on the level of support for legalized cannabis.

Since concluding the series of special meetings, staff continued monitoring the regulation and evolution of the commercial cannabis industry at both the state and local levels, paying close attention to agencies that have chosen to allow commercial cannabis activities to occur in their respective jurisdictions.

At the March 7, 2022 meeting of the City Council, staff received direction to conduct a public opinion survey focusing on cannabis-related issues including the viability of a commercial cannabis tax measure on the ballot of the November 2022 election, and to hire a firm to conduct such a public opinion survey. The City Council approved Agreement No. 22-15 with Fairbank, Maslin, Maullin, Metz & Associates (FM3) for polling, educational, and outreach services to conduct the survey. The public opinion survey was conducted, in part, in response to past statements made by some members of the City Council to test the support of the public regarding cannabis legalization in the community. As discussed below, results from the public opinion survey demonstrate growing support for legalized cannabis sales in Montclair, with 60 percent indicating support. The survey was conducted between April 24 and May 16, 2022, and the results were presented at a Council Workshop held on July 18, 2022.

### ***FM3 Survey Results***

The survey was conducted from April 24 to May 16, 2022, among a random sample of 398 registered Montclair voters likely to vote in the election. The overall margin of error for the survey is  $\pm 5.2$  percent for the full sample survey, and  $\pm 7.4$  percent for the half sample survey. The results of the survey, conducted in both English and Spanish, were generally highly favorable, with a high level of satisfaction for the Montclair City government overall.

Respondents continue to believe that the City of Montclair is generally headed in the right direction with 57 percent of those agreeing, 21 percent disagreeing, and 21 percent unsure. When respondents were asked the same question in July of 2020, 61 percent believed the City of Montclair was generally headed in the right direction, with 17 percent disagreeing, and 22 percent unsure. As such, over six-in ten respondents continue to believe things are headed in the right direction in the City of Montclair.

Since July 2020, the percentage of those respondents who believe the City of Montclair has a great need for funding has increased by two percentage points from 74 percent in July 2020 to 76 percent in April-May 2022.

There is a decrease in the percentage of residents who know that it is illegal to sell cannabis products in the City of Montclair with 16 percent saying that it is legal to sell cannabis, 27 percent saying not it is not legal to sell cannabis, and 56 percent unsure.

Overall support for allowing business to sell cannabis products in Montclair has increased, from 54 percent in June/July of 2020 to 60 percent in April/May of 2022.

When asked the following sample ballot question, 70 percent indicated some level of affirmative support of the measure, with more than 40 percent indicating they would definitely vote “yes” on the measure, giving the measure the threshold needed to pass (50 percent plus 1) across all household income groupings:

*Shall the measure to fund Montclair's services such as supporting public safety; recruiting/retaining firefighters, paramedics/police; preventing thefts/property crimes; repairing streets/potholes; helping retain/attract businesses/*

*jobs; addressing homeless; for general government use by taxing cannabis businesses' gross receipts not exceeding 10% on retail, delivery, cultivation, manufacturing/testing; raising approximately \$3,500,000 annually, until ended by voters, requiring audits, spending disclosure, funds used locally, cannabis businesses follow laws protecting public health/safety, be adopted?*

70 percent, or seven-in ten, of the voters are or lean in favor of the measure, with over four-in-ten indicating they would definitely vote yes and 23 percent indicating they would vote no.

Likely voters were also asked to rank, by importance, forty different categories of City-provided services. Services of priority interest to likely voters include the following:

1. Maintaining 911 emergency and public safety response — 95 percent support
2. Maintaining 911 emergency police and fire response — 94 percent support
3. Keeping communities safe — 93 percent support
4. Protecting local drinking water sources — 91 percent support
5. Preventing car theft and home break-ins — 91 percent support
6. Preventing theft and property crimes — 91 percent support
7. Helping retain local businesses and jobs — 91 percent support
8. Repairing streets and potholes — 89 percent support
9. Marinating youth and anti-gang programs — 89 percent support
10. Retaining and recruiting firefighters and paramedics — 88 percent support

Based on the above, it appears that quality of life issues (well-maintained streets, safe and clean public areas and neighborhoods, and investments that strengthen and improve the community, improve property values, and make the City a desirable place to live, work and play), maintaining and improving public safety, keeping crime down, investing in the local economy, protecting long term financial stability, and maintaining afterschool and youth programs are reasons voters likely cited in support of a November Cannabis Business License Tax Measure.

FM3 concluded the following:

1. Slightly less than six-in-ten have a favorable view of the direction of the City.
2. Perceptions of the City's need for additional funding remain high, with almost four-in-ten saying there is a great need.
3. Less than two-in-ten are aware that it is illegal at this time to sell cannabis products in the City of Montclair.
4. Overall support for the legalization of cannabis has increased since 2020 to six-in-ten voters.
5. The potential gross receipts tax measure on all forms of cannabis businesses appears viable at this time.
6. Roughly seven-in-ten voters would vote yes on the measure, with those saying they would definitely vote yes increasing five percentage points from 40 to 45

percent after hearing more about the measure.

7. Overall support declines nine percentage points, from 72 to 63 percent, after hearing critical statements — but remains above the simple majority threshold needed for passage.
8. High percentage of voters prioritize using funds for maintaining public safety response; protecting local drinking water sources; helping retain local businesses and jobs; and repairing streets and potholes.
9. Maintaining City funded youth programs to keep local kids off the streets and out of trouble; pushing black market cannabis businesses out of the City and replacing them with a regulated business that contributes their fair share to City services are among the leading reasons to support the measure.

Given the results of the survey conducted in April/May, staff believes that with continued community engagement and education, a tax measure appears to be viable for the November 8, 2022 election.

At its regular meeting following the conclusion of the FM3 presentation, the City Council directed the City Manager to present at the next regularly scheduled City Council meeting a resolution ordering the submission to the voters of the City of Montclair a measure to consider a general business license tax on commercial retail sales of cannabis at the General Municipal Election to be held on November 8, 2022.

In order to place a tax measure on the November 8, 2022 ballot, the City Council must approve a resolution and the City Clerk must provide to the San Bernardino County Register of Voters a certified copy of the approved resolution no later than August 12, 2022.

#### ***Resolution No. 20-3374***

On November 8, 2016, Proposition 64 (the Adult-Use of Marijuana Act) was approved by California voters with 57.13 percent of the statewide vote and 53.1 percent of the vote in Montclair.

In addition to opening California for a legalized commercial cannabis marketplace, the AUMA provided additional protections for qualified patients, persons holding a valid identification card and their primary caregivers as it relates to possession and use of medicinal cannabis and medicinal cannabis products.

The AUMA also established clear law for the personal use, possession and cultivation of cannabis by private individuals, including authorizing a person 21 years of age or older to possess and use up to 28.5 grams of cannabis and up to eight (8) grams of concentrated cannabis, and to possess and process up to six (6) living cannabis plants and the cannabis produced by those plants, subject to certain restrictions, as specified by the AUMA and applicable state law and local ordinances.

Furthermore, under Title 16, Section 5416(d) of the Bureau of Cannabis Control regulations governing deliveries to a physical address, local governments have no authority to ban cannabis deliveries and the transportation of cannabis and cannabis products within their respective jurisdictions.

In March of 2017, the Montclair City Council adopted Ordinance No. 17-968 adding Chapter 11.11 to Title 11 of the Montclair Municipal Code prohibiting uses related to medical cannabis dispensaries, cultivation and processing, commercial cannabis



activities, delivery of cannabis and cannabis- related products, and outdoor cultivation of cannabis in the City.

The City’s current Municipal Code expressly prohibits all personal cannabis outdoor cultivation, all nonmedical commercial cannabis cultivation, uses and services, and smoking and ingesting cannabis or cannabis products in public places within the City of Montclair.

It should be noted that a tax measure alone would not permit commercial cannabis activities in the City. The approval of commercial cannabis activity in the City would need to be a separate policy action of the City Council at a future date.

It should also be noted that inaction by the City Council on a cannabis tax measure or an enabling ordinance does not prohibit the delivery of cannabis, for adult or medical use, to Montclair by vendors operating outside of the City. Furthermore, the Governor signed Senate Bill 827 denying local agencies that prohibit commercial cannabis cultivation and sales from receiving law enforcement grants from state taxes on legal cannabis. The State Legislature is also considering other measures that would either penalize local agencies for failing to legalize commercial cannabis activities or impose requirements that would create opportunities for commercial cannabis sales statewide.

Pursuant to California Elections Code §9222, the Montclair City Council has authority to place local measures on the ballot to be considered at a Municipal Election.

On November 6, 1996, the voters of the State of California approved Proposition 218 (the “Right to Vote on Taxes Act”), an amendment to the State Constitution requiring that all general taxes which are imposed, extended or increased must first be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election. Pursuant to Proposition 218 (California Constitution, Article XIII C, section 2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of the local government.

Pursuant to Government Code section 53724 (Proposition 62 and Revenue and Taxation Code §7285.9), a two-thirds (⅔) vote of all members of the City Council is required to place the Measure on the November 8, 2022 ballot.

As such, staff has prepared Resolution No. 22-3374, which would submit to the voters at the General Municipal Election to be held on November 8, 2022, the following measure:

Shall the measure funding general Montclair services, including supporting 911/police/fire response; preventing thefts/property crime; recruiting/retaining firefighters, paramedics; retaining local business/jobs; repairing streets/potholes; addressing homelessness; by taxing cannabis retail, delivery, cultivation, manufacturing/testing businesses at a rate of not more than 10% of gross receipts, raising about \$3,500,000 annually, until ended by voters, requiring audits, spending disclosure, funds used locally, cannabis businesses follow laws protecting public health/safety, be adopted?	YES
	NO

Resolution No. 22-3374 also includes language that would allow staff to complete other legal requirements to facilitate the submission of the measure to the voters of Montclair. Resolution No. 22-3374 includes the following:

1. **Impartial Analysis.** The City Clerk is directed to transmit copies of the measure to the City Attorney, who shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by 12:00 p.m. on August 18, 2022.
2. **Arguments and Rebuttals.** Any and all members of the City Council, an individual voter who is eligible to vote on the measure, a bona fide association of citizens, or a combination of voters and associations, may file a written argument for or against the measure not exceeding 300 words, which shall be submitted to the City Clerk no later than 12:00 p.m. on August 18, 2020.

Rebuttal arguments not exceeding 250 words concerning this measure shall be submitted to the City Clerk no later than 6:00 p.m. on August 25, 2022.

3. **Public Examination.** The impartial analysis of, and the arguments and rebuttals for and against the measure will be available for public examination for ten (10) calendar days following their respective filing deadlines prior to being submitted for printing in the voter information guide.

### **Ordinance No. 22-999 – Montclair Cannabis Business License Tax**

On November 6, 1996, the voters of the State of California approved Proposition 218 (the "Right to Vote on Taxes Act"), an amendment to the State Constitution requiring that all general taxes which are imposed, extended or increased must first be submitted to the electorate and approved by a majority vote of the qualified electors voting in the election.

Pursuant to Proposition 218 (California Constitution, Article XIII C, section 2(b)), the general rule is that any local election for the approval of an increase to a general tax must be consolidated with a regularly scheduled general election for members of the governing body of a local government.

Staff recommends the City Council consider submitting a proposed General Business License Tax on Commercial Retail Sales of Cannabis to the voters at the November 8, 2022 General Municipal Election. If approved by a majority of the City's voters at that election, the proceeds of the proposed general tax on gross receipts of cannabis businesses may be spent on any lawful general fund City purpose.

Proposed Ordinance No. 22-999 would establish the structure and procedures for the implementation of the "Montclair Cannabis Business License Tax" and subsequent other legal requirements.

Ordinance No. 22-999 contains the following sections:

- Title;
- Purpose;
- Definitions;
- Cannabis Business License Tax;
- Tax payment does not authorize activity;

- Cannabis tax is not a sales tax;
- Returns and remittances;
- Audits;
- Refunds;
- Tax administration
- Appeals;
- Consistency with business license tax; and
- Constitutionality and legality.

If approved by the voters, the tax measure would add Chapter 4.76, Cannabis Business License Tax to Title 4, of the Montclair Municipal Code and would allow for a tax on commercial cannabis businesses to raise revenue for general fund purposes.

This measure would impose a gross receipts tax on the privilege of conducting the following activities within the City's jurisdiction: transporting, dispensing, manufacturing, producing, processing, preparing, storing, testing, providing, selling, delivering, distributing, or testing cannabis or cannabis products by commercial cannabis businesses in the City of Montclair.

The tax would be imposed on gross receipts of commercial cannabis businesses up to a maximum of ten percent.

The proposed measure seeks voter approval for a maximum tax of ten percent of gross receipts. Once approved, the City Council would have the power to implement a lower tax rate than the maximum rate of ten percent and/or establish differing tax rates for each of different categories of cannabis business activities.

The City Manager would be responsible for adopting administrative policies to promulgate rules, regulations, and procedures to implement and administer the tax to ensure the efficient and timely collection. The City Manager would also be responsible for organizing an independent audit of the cannabis taxes to verify that tax revenues have been properly collected and expended in accordance with will of the voters.

If Ordinance No. 22-999 is approved by the City Council, with subsequent approval by the voters of the City of Montclair at the General Municipal Election to be held on November 8, 2022, the "Montclair Cannabis Business License Tax" would be operative beginning 10 days after certification of the November 8, 2022 General Municipal Election.

**November 8, 2022, Municipal Election Ballot Timeline.**

**Table 1**, below, identifies the San Bernardino County Election deadlines related to submission of a ballot measure appearing on the November 8, 2022, Municipal Election:

**Table 1  
November 8, 2022  
Municipal Election Ballot Measure Timelines**

<b>EVENT</b>	<b>DATE</b>
<b>Assignment of Measure Letters by San Bernardino County Registrar of Voters</b>	Monday, August 15, 2022 11:00 a.m.
<b>Deadline to Withdraw Measure</b>	Wednesday, August 17, 2022 5:00 p.m.
<b>Impartial Analysis Submission Deadline</b>	Monday, August 22, 2022 12:00 p.m.
<b>Argument Submission Deadline</b>	Monday, August 22, 2022 12:00 p.m.
<b>Rebuttal Submission Deadline</b>	Thursday, August 25, 2022 6:00 p.m.
<b>End of 10-day Public Examination Period for Arguments</b>	Thursday, September 1, 2022 12:00 p.m.
<b>End of 10-day Public Examination Period for Rebuttals</b>	Monday, September 5, 2022 5:00 p.m.

**FISCAL IMPACT:** Preparation of a ballot measure will entail publication and election consolidation costs through the San Bernardino County Registrar of Voters. General Fund costs assessed by the San Bernardino County Registrar of Voters are not expected to exceed \$25,000.

Voter approval of the proposed General Business License Tax on Commercial Retail Sales of Cannabis Measure would produce an estimated annual revenue stream of \$3.5 million.

Funds generated by the General Business License Tax on Commercial Retail Sales of Cannabis Measure would be deposited in the City’s General Fund and used to support, maintain and improve general government services including, but not limited to the following:

- Maintaining 911 emergency and public safety response
- Keeping the community safe
- Helping to protect local drinking water sources
- Helping retain local businesses and jobs
- Maintaining and improving the City’s infrastructure

- Protecting long-term financial stability
- Maintaining gang prevention programs for at-risk youth
- Maintaining senior discount programs for municipal services
- Providing for emergency funds to assist with public health, safety and welfare
- Other General Fund program expenditures as determined by the City Council

**RECOMMENDATION:** Staff recommends the City Council take the following actions:

1. Adopt Resolution No. 20-3374 ordering the submission to the voters of the City of Montclair a measure to consider a General Business License Tax on Commercial Retail Sale of Cannabis at the General Municipal Election to be held on Tuesday, November 8, 2022, and directing the City Attorney to prepare an impartial analysis of the measure, and other related matters; and
2. Conduct the first reading of Ordinance No. 22-999 adding Chapter 4.46 to Title 4 of the Montclair Municipal Code related to imposing a Cannabis Business License Tax (subject to final approval by the votes at the Tuesday, November 8, 2022 General Municipal Election); and
3. Set a public hearing for second reading and adoption of Ordinance No. 22-999 for Monday, August 15, 2022, at 7:00 p.m.

RESOLUTION NO. 22-3374

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ORDERING THE SUBMISSION TO THE VOTERS OF THE CITY OF MONTCLAIR A MEASURE TO CONSIDER A GENERAL BUSINESS LICENSE TAX ON COMMERCIAL RETAIL SALE OF CANNABIS AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AND PROVIDING FOR THE FILING OF ARGUMENTS AND REBUTTAL ARGUMENTS IN FAVOR OF AND AGAINST THE MEASURE

**WHEREAS**, the City of Montclair provides unmatched neighborhood services, including public safety through the Montclair Police and Fire Departments, repair and maintenance of streets and sidewalks, high-quality parks, community centers, family services and libraries services, seniors and youth programs, low-cost healthcare and education services, and community revitalization; and

**WHEREAS**, the City of Montclair imposes license taxes upon businesses in the City; and

**WHEREAS**, the Ordinance attached hereto as Exhibit "A" and incorporated herein by reference would impose a business license tax on persons engaged in commercial activity in the City involving cannabis products; and

**WHEREAS**, these business license taxes are imposed to raise revenue and not for regulation; and

**WHEREAS**, this measure is projected to raise an estimated \$3,500,000 annually for the City's General Fund and could be used to maintain and enhance City's existing services such as local public safety, maintaining 911 emergency, police and fire response times, street and infrastructure maintenance, assistance for the individuals experiencing homelessness, city-funded after-school and summer recreational programs which provide healthy alternatives for at-risk youth, keeping communities safe and clean, and quality of life programs; and

**WHEREAS**, all revenue raised by this measure will be used locally to benefit Montclair residents and businesses, and cannot be used by other governmental agencies or districts; and

**WHEREAS**, this measure only applies to individuals or businesses engaging in the cannabis business and does not increase other taxes on Montclair residents or businesses within the City; and

**WHEREAS**, this measure as a general tax includes strict accountability requirements to make sure that the funds are placed in the City's General Fund and are used effectively and as promised including online and public disclosure of all spending; and

**WHEREAS**, the City Council may submit the Ordinance directly to the voters pursuant to Section 9222 of the California Elections Code; and

**WHEREAS**, at a properly noticed meeting on June 20, 2022 the City Council adopted Resolution No. 22-3359 to call a general election for November 8, 2022, at which it will submit to the qualified voters of the City the Ordinance to impose a general tax on commercial cannabis activity in the City.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Montclair as follows:

**Section 1. Ballot Measure.** Pursuant to the laws of the State of California applicable to general law cities, the City Council of the City of Montclair does hereby order submitted to the voters at the General Municipal Election to be held on November 8, 2022, the following question:

Shall the measure funding general Montclair services, including supporting 911/police/fire response; preventing thefts/property crime; recruiting/retaining firefighters, paramedics; retaining local business/jobs; repairing streets/potholes; addressing homelessness; by taxing cannabis retail, delivery, cultivation, manufacturing/testing businesses at a rate of not more than 10% of gross receipts, raising about \$3,500,000 annually, until ended by voters, requiring audits, spending disclosure, funds used locally, cannabis businesses follow laws protecting public health/safety, be adopted?	YES
	NO

This measure requires the approval of a simple majority (50% plus 1) of those voting and the full text of the referenced measure (Ordinance No. 22-999) is attached hereto as Exhibit "A" and incorporated into this Resolution by this reference.

**Section 2. Impartial Analysis.** The City Clerk is directed to transmit copies of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall include a statement indicating the Measure was placed on the ballot by the City Council. There shall be printed immediately below the impartial analysis, in not less than 10-point font bold type, the following: "The above statement is an impartial analysis of Ordinance No. 22-999. If you desire a copy of the ordinance, please call the elections official's office at (909) 625-9416 and a copy will be mailed at no cost to you." The impartial analysis shall be filed by 12:00 p.m. on August 22, 2022.

**Section 3. Arguments and Rebuttals.** Pursuant to Elections Code Section 9282(b), the City Council authorizes any and all members of its body, an individual voter who is eligible to vote on the measure, a bona fide association of citizens, or a combination of voters and associations, to file a written argument for or against the measure not exceeding 300 words regarding the City measure as specified above, which shall be submitted to the City Clerk no later than 12:00 p.m. on August 22, 2022.

Pursuant to Elections Code Section 9285, the City Council authorizes the filing of rebuttal arguments for and against measures in the Election. Rebuttal arguments not exceeding 250 words concerning this measure shall be submitted to the City Clerk no later than 6:00 p.m. on August 25, 2022. This Section 3 shall expire with the Election, and shall not authorize rebuttal arguments as to measures presented at any future election.

**Section 4. Public Examination.** Pursuant to Elections Code Section 9295, this Measure will be available for public examination for no fewer than ten (10) calendar days prior to being submitted for printing in the voter information guide. The City Clerk shall post notice in the Clerk's office and City website ([www.cityofmontclair.org](http://www.cityofmontclair.org)) of the specific dates that the examination period will run.

**Section 5. CEQA.** The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et. seq. ("CEQA") and 14 Cal. Code Reg. §15000 et. seq. ("CEQA Guidelines"). The noticing of a Municipal Election is not a project within the meaning of CEQA Guidelines Section 15378, subsection (b)(3).

**Section 6. Certification.** The City Clerk shall certify to the passage and adoption of this Resolution and its approval by the City Council and shall cause the same to be listed in the records of the City and entered into the book of original Resolutions; and shall file with the Board of Supervisors and the Registrar of Voters of the County of San Bernardino, California, a certified copy of this Resolution.

The City Clerk is authorized and directed to take all other steps necessary to conduct the election on the Measure and to cooperate with the County Elections Official to consolidate it with the November 8, 2022 Statewide General Election.

**Section 7. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The City Council of the

City of Montclair hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

**Section 8. Effective Date.** This Resolution shall take effect immediately upon its adoption as a measure affecting an election.

**APPROVED AND ADOPTED** this XX day of XX, 2022.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 22-3374 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2022, and that it was adopted by the following vote, to-wit:

AYES: XX  
NOES: XX  
ABSTAIN: XX  
ABSENT: XX

\_\_\_\_\_  
Andrea M. Myrick  
City Clerk



ORDINANCE NO. 22-999

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR ADDING CHAPTER 4.76 TO TITLE 4 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO IMPOSING A CANNABIS BUSINESS LICENSE TAX (SUBJECT TO FINAL APPROVAL BY THE VOTERS AT THE TUESDAY, NOVEMBER 8, 2022 GENERAL MUNICIPAL ELECTION)**

**WHEREAS**, pursuant to California Elections Code §9222, the City Council has the authority to place local measures on the ballot to be considered at a Municipal Election; and

**WHEREAS**, on August 1, 2022, the City Council adopted Resolution No. 22-3374 ordering the submission to the voters of Montclair a measure to consider a general business license tax on commercial retail sale of cannabis at the General Municipal Election of November 8, 2022 (the "Measure"); and

**WHEREAS**, the City Council has reviewed the form and content of this Ordinance and by its adoption approves this Ordinance as the complete text of the Measure subject to approval by the voters of the City of Montclair.

**NOW, THEREFORE, THE CITY COUNCIL AND THE VOTERS OF THE CITY OF MONTCLAIR HEREBY ORDAIN AS FOLLOWS:**

**SECTION I. Amendment to Code.** Chapter 4.76 is hereby added to Title 4 of the Montclair Municipal Code with the following provisions:

**CANNABIS BUSINESS LICENSE TAX**

**4.76.010. Title.**

This chapter shall be referenced as the "Montclair Cannabis Business License Tax."

**4.76.020. Purpose.**

This chapter is adopted for the following purposes and shall be interpreted to accomplish them:

- A. To impose a tax on the privilege of conducting cannabis business in the city, under the state Medicinal and Adult-Use Cannabis Regulation and Safety Act, California Business and Professions Code section 26000, Proposition 64, approved by the voters in November 2016 and as amended to date ("MAUCRSA"), which legalized and regulates adult use of cannabis in California, and other applicable law as it now exists or may hereafter be adopted;
- B. To impose a general tax to generate revenues which may be used in the discretion of the City Council for any lawful purpose of the City;
- C. To specify the type of tax and rate of tax to be levied and the method of collection; and
- D. To comply with all requirements for imposition of a general tax.

This Chapter is enacted solely to raise revenue, not for regulation. It shall apply to all persons engaged in cannabis business in the City. The tax imposed by this chapter is a general tax under Article XIII C of the California Constitution.

**4.76.030. Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them by this section unless the context makes apparent another meaning was intended.

- A. "Cannabis" or "marijuana" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds of such plants. "Cannabis" also means cannabis as defined by Business and Professions Code section 26001, subdivision (f), the Health and Safety Code section 11018, and by other state law.

- B. "Cannabis accessory" is any device intended to aid in the use of cannabis or cannabis products which does not itself consist in all or part of cannabis or cannabis products and includes, without limitation, "cannabis accessories" as defined in Health and Safety Code section 11018.2 and by other state law.
- C. "Cannabis business" means the activity of any natural or legal person, business, or collective in the City relating to cannabis, including but not limited to cultivation (including nurseries), transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (including both wholesale and retail sales) of cannabis, cannabis products, or cannabis accessories, whether or not carried on for gain or profit, whether for medical or adult use, and whether or not such business is licensed by the State. A cannabis business does not include any business the only relationship of which to cannabis or cannabis products is the production or sale of cannabis accessories.
- D. "Cannabis product" means any product containing cannabis or its derivatives, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and products described in Section 11018.1 of the Health and Safety Code.
- E. "City Manager" means the city manager or his or her designee.
- F. "Collector" means the city manager or a person he or she charges to administer this Chapter.
- G. "Commercial cannabis cultivation" means cultivation conducted by, for, or as part of a cannabis business. Commercial cannabis cultivation does not include personal medical cannabis cultivation, or cultivation for personal adult use as authorized by the MAUCRSA, including Health & Safety Code section 11362.1 et seq., for which the individual receives no compensation whatsoever.
- H. "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- I. "Delivery" means the transfer for any form of compensation of cannabis or cannabis products to a customer or caregiver at a location that is not a dispensary.
- J. "Dispensary" means a fixed place at which cannabis, cannabis products, or accessories for the use of cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including, without limitation, a dispensary that engages in delivery.
- K. "Distributor" means a person engaged in procuring cannabis and/or cannabis products for sale to a dispensary or to others engaged in retail sales of cannabis and/or cannabis products. "Distribution" means engaging in that conduct and a "distribution facility" is any real property, whether or not improved, used in such conduct.
- L. "Gross receipts," except as otherwise specifically provided in this chapter or by regulations authorized by this Chapter, has the meaning stated in section 4.02.010 of this Code.
- M. "Manufacturer" means a person who engages in the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- N. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association; city, county, state, or district; and includes any trustee, receiver, assignee, or other similar representative thereof.

**4.76.040. Cannabis Business License Tax.**

- A. There is hereby imposed on every person who engages in cannabis business in the City an annual cannabis business license tax in the amounts stated in this Section 4.76.040 or such lesser amounts as the City Council may from time to time establish.
- B. The City Council may, by resolution, implement a tax rate lower than the maximum rate established in subsection (C) of this section for all persons

engaged in cannabis business, or establish differing tax rates for different categories of cannabis business. The City Council may, by resolution, decrease or increase such tax rates without further voter approval provided the tax rate is not above the maximum tax rate established in subsection (C) of this section.

C. The maximum rate of the cannabis tax shall be calculated as follows:

1. For every person who engages in commercial cannabis cultivation shall be subject to the maximum tax rate not to exceed ten percent (10%) of gross receipts.
2. For every person who engages in the operation of a testing laboratory for cannabis or cannabis products shall be subject to the maximum tax rate not to exceed ten percent (10%) of gross receipts.
3. For every person who engages in the retail sales of cannabis as a retailer (dispensary) or non-store front retailer (delivery business), or microbusiness (retail sales activity) shall be subject to the maximum tax rate not to exceed ten percent (10%) of gross receipts.
4. For every person who engages in a cannabis distribution business for cannabis or cannabis products shall be subject to the maximum tax rate not to exceed ten percent (10%) of gross receipts.
5. For every person who engages in cannabis manufacturing, processing, or microbusiness (non-retail activity) or any other type of cannabis business not described in Section 4.76.040 (C) (1), (2), (3) or (4), the maximum tax rate shall not exceed ten percent (10%) of gross receipts.

#### **4.76.050. Payment obligations.**

Each person subject to a tax under this chapter shall pay that tax regardless of any rebate, exemption, incentive, or other reduction elsewhere in this code, except as required by state or federal law. Failure to pay such a tax shall be subject to penalties, fines and interest charges established under this Chapter and the City may resort to any or all other remedies available at law or in equity to enforce this chapter. No provision of this Chapter shall be interpreted to reduce a tax rate established under this chapter or otherwise reduce the taxes paid hereunder unless the provision specifically requires that reduction.

#### **4.76.060. Tax payment does not authorize activity.**

The payment of a tax imposed under this Chapter does not authorize the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this chapter authorizes or implies the lawfulness of any activity connected with the distribution or possession of cannabis unless otherwise authorized and allowed in strict and full conformance with this code. Nothing in this Chapter is intended to authorize commercial cannabis activity.

#### **4.76.070. Cannabis tax is not a sales tax.**

The tax imposed by this Chapter is upon the privilege of doing business in the City. It is not a sales or use tax.

#### **4.76.080 – Returns and remittances.**

The tax imposed by this chapter shall be due and payable as follows:

- A. Each person owing tax under this Chapter shall provide a tax return to the city manager on or before the last business day of each month stating the tax owed for the preceding month and the basis of its calculation. The taxpayer shall remit the tax owed to the City Manager when the return is due.
- B. The City Manager may establish a form for tax returns submitted under this section and, if so, use of that form shall be mandatory.
- C. Tax returns and payments for all outstanding taxes, penalties and interest owed the city are immediately due upon cessation of business for any reason.
- D. Whenever the City Manager receives a payment, statement, report, request or other communication after the time this section prescribes for its receipt in an

envelope postmarked by that time, the City Manager shall regard such payment, statement, report, request, or other communication as timely. If the due date falls on a day when city offices are not open for business, the due date shall be the last day before that date when city offices are open for business.

- E. Unless otherwise provided by this Chapter, the tax imposed by this chapter is delinquent if not paid by the due date specified in subsection (A) of this section.
- F. The City Manager need not send a bill or delinquency or other notice to any person subject to a tax imposed by this chapter and failure to send such bill or notice shall not affect the validity of any tax, interest or penalty due under this chapter.

#### **4.76.090 – Audits.**

The City Manager shall arrange for an annual independent audit of the receipts and expenditures of the taxes imposed by this chapter. He or she shall share that audit report with the City Council and make it available for public inspection.

#### **4.76.100. Refunds.**

- A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in this section.
- B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a cannabis business.
- C. Any person entitled to a refund of sums paid under this Chapter may ask the City to apply it as a credit against future obligations under this Chapter.
- D. If a tax, penalty, or interest imposed under this Chapter has been overpaid, paid more than once, or has been erroneously or illegally collected or received by the City, such amount shall be refunded to the person who paid it upon a written claim for refund filed with the City Manager within a year of the payment sought to be refunded.
- E. The collector may examine and audit all the books and business records of a refund claimant to determine entitlement to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of the claimant's books and business records.
- F. A sum erroneously paid under this chapter due to an error of the City shall be refunded to the claimant in full upon a claim filed within one year of the payment sought to be refunded. If an error is attributable to the claimant, the City may retain an amount established by resolution of the City Council to recover the City's cost to process the claim and refund the balance.

#### **4.76.110. Tax administration.**

- A. It shall be the duty of the City Manager to collect the taxes, penalties, and interests, and perform the duties this chapter requires.
- B. The City Manager may from time to time promulgate such administrative rules and procedures consistent with the purpose, intent, and terms of this Chapter as he or she deems necessary to implement or clarify it or to aid in its enforcement. He or she shall give notice of those regulations as required for ordinances of the City Council and such regulations shall take effect upon such notice unless a particular regulation provides otherwise.
- C. The City Manager may take such administrative actions as needed to administer the tax, including but not limited to:
  - 1. Provide information about this Chapter to any taxpayer;
  - 2. Receive and record all taxes remitted to the City under this Chapter;
  - 3. Maintain records of taxpayer reports and taxes collected under this Chapter;
  - 4. Assess penalties, fines and interest charges to taxpayers under this Chapter;
  - 5. Determine amounts owed and enforce collection under this Chapter; and

6. Take such other reasonable steps as he or she deems appropriate to enforce this Chapter.
- D. The City council may establish by ordinance or resolution penalties, fines and interest charges related to this chapter.

#### **4.76.120. Appeals.**

Any person aggrieved by any decision of the City under this Chapter may appeal to the City Council pursuant to the procedures described in Section 1.08.030 of this Code. The City Council may, but need not, appoint a hearing officer to decide appeals or to provide a recommended decision for the City Council's review. Judicial review of the City's final action on any such appeal shall be available under California Code of Civil Procedure section 1094.5.

#### **4.76.130. Consistency with business license tax.**

The City Council intends this Chapter to be enforced consistently with the balance of Title 4 of this Code and any rule or regulation promulgated under that title except as this chapter expressly requires to the contrary.

#### **4.76.140 - Constitutionality and legality.**

- A. The tax imposed under this Chapter is intended to be applied consistently with the United States and California Constitutions and applicable law. The tax shall not be applied to cause an undue burden upon interstate or inter-city commerce, a violation of the equal protection or due process clauses of those Constitutions, to constitute a special tax, or to violate any other provision of applicable law.
- B. Under California Constitution, Article XIII B, the appropriation limit for the City is hereby increased to the maximum extent over the maximum period of time allowed under law by the amount of the revenues generated by the tax imposed by this chapter.

**SECTION II. Amendment.** To the extent Article XIII C of the California Constitution allows, the City Council may amend this Ordinance without a vote of the people, except that voter approval shall be required for any amendment that would increase, within the meaning of Government Code section 53750, subdivision (h), the tax rate beyond the maximum rates this Ordinance authorizes.

**SECTION III. CEQA.** This Ordinance is exempt from the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, because it can be seen with certainty that there is no possibility that its enactment would have a significant effect on the environment (Pub. Resources Code 21065, CEQA Guidelines 15378(b)(4), 15061(b)(3) and because the Ordinance involves the approval of government revenues to fund existing services (Pub. Resources Code 21080, subd. (b)(8); CEQA Guidelines 15273(a)(4). It does not make any commercial activity lawful nor commit the City to fund any particular activity.

**SECTION IV. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Montclair declare that they would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion of it, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions might be declared invalid or unconstitutional.

**SECTION V. Effective Date.** This Ordinance shall take effect, under Elections Code sections 9217 and 9122, 10 days after certification of its approval by a majority of those voting on the measure at the November 8, 2022 general municipal election.

**SECTION VI. Certification.** Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law.

**SECTION VII. Execution.** The Mayor shall sign and the City Clerk shall attest to the adoption of this ordinance upon certification by the City Council of the results of the election approving this ordinance.

APPROVED AND ADOPTED this      day of      , 2022.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

I, Andrea M. Myrick, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 22-999 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2022, and finally passed not less than five (5) days thereafter at a regular meeting on the XX day of XX, 2022, by the following vote, to-wit:

AYES:      XX  
NOES:      XX  
ABSTAIN:    XX  
ABSENT:    XX

\_\_\_\_\_  
Andrea M. Myrick  
City Clerk

FIRST READING  
08/01/2022



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	FIN540
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	L. LEW/V. FLORES
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

**BACKGROUND:** Mayor Pro Tem Ruh has examined the Warrant Register dated August 1, 2022, and the Payroll Documentation dated June 19, 2022, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated August 1, 2022, totals \$2,245,025.07.

The Payroll Documentation dated June 19, 2022 totals \$882,130.81 gross, with \$588,432.27 net being the total cash disbursement.

**RECOMMENDATION:** Staff recommends the City Council approve the above-referenced Warrant Register and Payroll Documentation.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	PDT360
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	POLICE
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	B. KUMANSKI
<b>SUBJECT:</b>	CONSIDER AUTHORIZING THE USE OF STATE ASSET FORFEITURE FUNDS FOR THE PURCHASE AND INSTALLATION OF ADDITIONAL SHELVES AND SHELF DIVIDERS FOR THE POLICE DEPARTMENT EVIDENCE STORAGE ROOM		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider authorizing the use of State Asset Forfeiture Funds to purchase and install additional shelves and shelf dividers for the Police Department evidence storage room.

**BACKGROUND:** The Police Department is currently in possession of several thousand pieces of evidence from current as well as historical cases, for which there is a statutory requirement to maintain over a specified period of time. Over the years, deficiencies in storage were identified by the Detective Bureau Sergeant and Property Custody Clerk, who then began a process of reorganization and purging items eligible for destruction.

Part of this process involved creating standardized packaging sizes, which could maximize the available space in the rolling shelves. The original shelves were manufactured by McMurray Stern, a commercial shelving and storage company. The shelving is modular and configurable, which makes adding or reorienting shelving and dividers relatively easy with additional components manufactured by McMurray Stern. The addition of several shelves, supports, and dividers to the existing rolling shelving would increase the amount of available storage without increasing the storage footprint and would be designed to maximize the fit of the new storage boxes.

McMurray Stern provided a quote of \$3,105.20 to reorganize and add the additional shelving components. A 50 percent deposit of \$1,551.60 is required for shipment of the material with the remaining \$1,551.60 due upon completion.

**FISCAL IMPACT:** If authorized by the City Council, funding for the purchase of additional shelves and shelf dividers for the Police Department evidence storage room would result in an expenditure of \$3,105.20 from State Asset Forfeiture Fund (1140).

**RECOMMENDATION:** Staff recommends the City Council authorize the use of State Asset Forfeiture Funds for the purchase and installation of additional shelving and shelf dividers for the Police Department evidence storage room.





# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	CCK280
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	CITY MGR./CITY CLERK
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	A. MYRICK
<b>SUBJECT:</b>	CONSIDER AUTHORIZING THE DESTRUCTION OF CERTAIN OBSOLETE PUBLIC RECORDS PURSUANT TO THE CITY OF MONTCLAIR RECORDS RETENTION SCHEDULE		

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**REASON FOR CONSIDERATION:** The City Council is requested to authorize the destruction of certain obsolete public records pursuant to the City of Montclair Records Retention Schedule.

The subject records requested for destruction are listed on the attached *City of Montclair Destruction of Public Records Forms*. The current lists consist of records from the Police and Fire Departments.

**BACKGROUND:** On November 19, 2012, the City Council adopted Resolution No. 12-2973 establishing the Montclair Records Retention Schedule as the City of Montclair's Official Records Management Program, and providing ongoing authority for the destruction of obsolete public records in accordance with the Records Retention Schedule by the City Clerk, with review and consent by the City Attorney. This allowed the City to free up office space used solely for the storage of boxes of records, and to reduce the costs of off-site records storage for hundreds of boxes of obsolete documents. While the practice of administratively destroying obsolete records was successful in reducing storage costs and has been used by many cities over the past decade, recent legal attention to the practice have resulted in a return to using the City Council approval process for the destruction of obsolete records in accordance with the Records Retention Schedule on a periodic basis.

**FISCAL IMPACT:** There would be no fiscal impact directly related to authorizing the destruction of the subject records. The Police and Fire Departments maintain the subject records within their offices, and will be using staff time and the City's monthly on-site shred service to destroy the records once approved.

**RECOMMENDATION:** Staff recommends the City Council authorize the destruction of certain public records pursuant to the Records Retention Schedule.



MONTCLAIR

CITY OF MONTCLAIR

DESTRUCTION OF PUBLIC RECORDS FORM

Please refer to the City of Montclair Records Retention Schedule for record retention guidelines for each department.

The retention period has expired for the records listed below pursuant to the City of Montclair's Records Retention Schedule.

Department: Police -Records Bureau

Page 1 of 2

Record type & Retention Period	Description of Records	Period covered	Additional Notes
Citations - Notice to Appear CU+2	Notice to Appear citations	2014-2019	
Citation - Parking CU+2	Parking citations	2014-2019	
Background Inv Requests CU+2	Background Investigation requests	2013-2019	
Pawn Slips CU +4	Pawn Slips	2014-2016	
Accounting/Cash Reconciliation CU+2	Cash register receipts rolls, daily reconciliation documents	2012-2019	
Log book CU+5	Log Book - Crime Report/Arrest Report	2013-2016	
CORI Log CU+3	CORI (Criminal Offender Record Information) Book	2007-2018	
Press Releases CU+2	Press Releases	2009-2019	
Fingerprint App CU+2	Fingerprint Application Forms	2013-2019	
Local Rec Checks CU+2	Local Record Check Forms	2013-2019	
Validation List CU+2	NCIC Validation List	2016-2019	
Repo/PPI CU+2	Repossession and Private Property Impounds	2017-2019	

Approval for destruction of listed records:

Dept. Records Manager: Christine Wojcik Date: 7-11-22  
 Department Head: [Signature] Date: 7-11-22  
 City Clerk: [Signature] Date: 7.14.22  
 City Attorney: [Signature] Date: 7-18-22





# CITY OF MONTCLAIR

## DESTRUCTION OF PUBLIC RECORDS FORM

Please refer to the City of Montclair Records Retention Schedule for record retention guidelines for each department.


The retention period has expired for the records listed below pursuant to the City of Montclair's Records Retention Schedule.


Department: Police

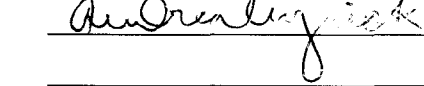
Page 1 of 1

<i>Record type &amp; Retention Period</i>	<i>Description of Records</i>	<i>Period covered</i>	<i>Additional Notes</i>
License -2nd Hand Dealer CU+2	Lic. docs related to 2nd hand dealer permits. Businesses no longer have license	2019	Lic=License Doc=documents
Personnel Files T+10	Includes PD Personnel files, training files, bg investigation files, and employee/vol photos	2011	Vol=Volunteer
TS and OT/Time off sheets CU+6	Timesheets, leave request, overtime and shift trade forms	2015	TS=Timesheets
Training Files CU+2	Includes general admin records related to training class info, expenses, schedules etc.	2016-2019	
Administrative Investigations CI+5	Includes applicable docs/records related to the initial complaint, investigation & findings	2015-2016	docs=document s

Approval for destruction of listed records:

Dept. Records Manager: 

Department Head: 

City Clerk: 

City Attorney: \_\_\_\_\_

Date: 7-25-22

Date: 7-25-22

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# CITY OF MONTCLAIR

## DESTRUCTION OF PUBLIC RECORDS FORM

Please refer to the City of Montclair Records Retention Schedule for record retention guidelines for each department.

The retention period has expired for the records listed below pursuant to the City of Montclair's Records Retention Schedule.

Department: Fire

Page 1 of 1

<i>Record type &amp; Retention Period</i>	<i>Description of Records</i>	<i>Period covered</i>	<i>Additional Notes</i>
Administrative Files CU+2	Monthly Activity Reports	2000-2016	
Accounting CU+2	Payment Requests	2004-2019	
Administrative Files CU+2	Ride A Long Waiver	2009-2018	
Accounting CU+2	EF Recovery Forms - Cost Recovery Program	2008-2019	
Accounting CU+2	EMS Overpayment Forms	2006-2019	
Accounting CU+2	Petty Cash Request Forms	2006-2019	

Approval for destruction of listed records:

Dept. Records Manager:   
 Department Head:   
 City Clerk:   
 City Attorney: \_\_\_\_\_

Date: 7/25/22  
 Date: 7-26-22  
 Date: 7.27.22  
 Date: \_\_\_\_\_



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	MCF175
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MCF
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	A. COLUNGA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF THE PAYMENT FOR A ONE-YEAR SUBSCRIPTION RENEWAL OF ZENGINE APPLICATION SOFTWARE FOR THE MONTCLAIR TO COLLEGE PROGRAM THROUGH WIZEHIVE, INC.		

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**REASON FOR CONSIDERATION:** The Montclair Community Foundation (MCF) Board of Directors is requested to consider approval of the purchase of a one-year subscription renewal of Zengine application software for the Montclair to College (MTC) program through Wizehive, Inc.

**BACKGROUND:** The MCF Board of Directors also serves as Montclair City Council. The vision of MCF is to work collectively and collaboratively to strengthen services and enhance the quality of life for residents by promoting health, wellness and economic stability for all including the most vulnerable in our community. The mission of MCF is to guarantee a quality community for all, by working together as diverse, committed individuals and organizations to make an impact that improves the overall well-being of the community.

MTC, formerly Online to College, is a program of MCF. Every student that enrolls in 12th grade at Montclair High School and meets minimum requirements is offered a two-year scholarship to Chaffey College. The MCF Board approved an agreement for a subscription to the Zengine software through Wizehive, Inc. to provide a cloud application software for Montclair to College applicants at its meeting on June 18, 2018. This online application system has allowed for streamlined communication with students and their families about their status in the program, requirements that are outstanding, and their eligibility to receive the scholarship at the end of their senior year at Montclair High School.

After four successful years of using the service, the Montclair Community Foundation would like to renew the service for another year. At the initiation of the agreement, staff solicited three bids for cloud application service. Based on proposals and meetings with three companies, Human Services Department staff along with the Director of Information Technology recommended utilizing the Wizehive software.

**FISCAL IMPACT:** Should the Montclair Community Foundation Board approve of the payment for a one-year subscription renewal, MCF will pay Wizehive, Inc. \$7,350 for the software license agreement through grants and donations received for Montclair to College. The term of the subscription renewal is July 1, 2022 to June 30, 2023.

**RECOMMENDATION:** Staff recommends the Montclair Community Foundation Board approve the payment of a one-year subscription renewal of Zengine application software for the Montclair to College Program through Wizehive, Inc.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	STA701/500
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	M. HEREDIA
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 22-54 AMENDING AGREEMENT NO. 17-30 WITH MARIPOSA LANDSCAPES, INC. FOR LANDSCAPE MAINTENANCE SERVICES, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

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**REASON FOR CONSIDERATION:** The term of Agreement No. 17-30 with Mariposa Landscapes, Inc. (Mariposa) for landscape maintenance services was last amended by Agreement No. 21-72, which expired on June 30, 2022.

The City Council is requested to consider approval of Agreement No. 22-54 extending the contract with Mariposa to expire June 30, 2023, a copy of which is attached. Modifications to existing agreements require City Council approval.

**BACKGROUND:** At its June 5, 2017 meeting, the City Council approved Agreement No. 17-30, amending Agreement No. 13-41 with Mariposa for landscape maintenance services. Agreement No. 17-30 extended the original contract term from one to three years and included a clause allowing for a maximum three percent monetary increase commensurate with the current CPI for Fiscal Years (FY) 2018-19 and 2019-20.

For FY 2018-19, the City Council approved Agreement No. 18-30, allowing for a three percent rate increase.

For FY 2019-20, Mariposa requested a 2.7 percent increase. In addition to the 2.7 percent rate increase, the City asked to remove certain work items outlined in Agreement No. 19-38 due to the Central Avenue Median Island Rehabilitation Project.

For FY 2020-21, the City Council approved Agreement No. 20-55 with no increases. Due to the financial impact of COVID-19, from December 2020 through October 2021, Mariposa agreed to modify the existing contract and reduce the monthly expense from \$24,079.30 to \$12,500.

For FY 2021-22, Mariposa's full contract was reinstated and included a 6.5 percent increase for landscape maintenance services. Staff negotiated a monthly cost of \$29,099.31 from November 1, 2021 to June 30, 2022.

On April 25, 2022, staff issued a Request for Bid Proposals (RFB) for landscape maintenance services based on current services and additional services including weekly maintenance of the medians along Central Avenue, Holt Boulevard, Mission Boulevard, daily trash collection at all parks and optional services at the following facilities:

- Montclair Transcenter
- Montclair Kids Station
- Fruit Park
- Reeder Ranch

On May 26, 2022, the City received proposals from five landscaping companies as shown below:

<i>Company</i>	<i>Monthly Cost</i>	<i>Annual Cost</i>	<i>Optional Services</i>
Brightview Landscape Services	\$33,224.33	\$398,692.00	Not Provided
Colts Landscape, Inc.	\$33,219.70	\$398,636.42	\$8,220
Mariposa Landscapes, Inc.	\$34,101.00	\$409,212.02	\$31,100
Greentech Landscape, Inc.	\$35,600.00	\$427,200.00	\$22,800
J. Orozco Enterprises, Inc.	\$60,550.00	\$726,600.00	\$28,080

Based on the proposals received and further evaluation of the proposals, staff recommends extending Mariposa’s contract for another year including the additional services as stated in the RFB. It should be noted that the City is not required to accept the lowest proposal as this type of landscape maintenance is not required to go out to bid under the Public Contract Code (PCC §22002(d)).

Mariposa has been in business for over 40 years providing similar services for other cities and counties. They have over 600 employees including certified irrigators, certified landscape technicians, certified arborists and pest control advisors. They are able to respond to emergencies immediately and are available 24 hours a day. As the current contractor for the City, Mariposa is very familiar with the City’s landscaping and irrigation system. This gives them the ability to provide the best services to perform the work required in the RFB.

Mariposa is aware of the changes in scope and expectations to perform the responsibilities and requirements of the amended contract in the most efficient way possible. For FY 2022-23, the total monthly cost will be \$34,101 for services including weekly maintenance of the medians along Central Avenue, Holt Boulevard, Mission Boulevard and daily trash collection at all parks.

**FISCAL IMPACT:** The cost to provide landscape maintenance services under Agreement No. 17-30, as further amended by Agreement No. 22-54, would be \$34,101 per month. Funds for landscape maintenance services were included in the FY 2022-23 Public Works Department budget.

Following conclusion of the adopted Fiscal Year 2022-23 Budget, City staff completed negotiations with Mariposa to increase maintenance of medians to a weekly schedule as opposed to once per month, and assume other duties and responsibilities. Additional maintenance was requested by the City Manager to improve the overall appearance of City streets and improve litter control measures. The increased monthly cost for additional landscape maintenance services is \$5,001.69, exceeding the budgeted allocation of \$455,022 for the fiscal year by \$60,020.28. The proposed increase for landscape maintenance services provided by Mariposa is not related to inflation and, therefore, does not qualify for additional funding under the Inflation Control Expenditure Fund. The City Manager has directed that, subject to City Council approval, the Public Works Department shall request a \$60,020.28 adjustment to account number 1001-4646-52530-400 during the Midyear Budget Review process

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 22-54 amending Agreement No. 17-30 with Mariposa Landscapes, Inc. for landscape maintenance services, subject to any revisions deemed necessary by the City Attorney.



**AGREEMENT NO. 22-54**

**AMENDMENT TO AGREEMENT NO. 17-30**

**WITH**

**MARIPOSA LANDSCAPES, INC.**

**FOR**

**MEDIAN ISLAND, PARK, AND PARKWAY MAINTENANCE**

This agreement is made and entered into this 1st day of July 2022, by and between the CITY OF MONTCLAIR, a municipal corporation hereinafter designated as "City," and MARIPOSA LANDSCAPES, INC., hereinafter designated as "Contractor," and collectively designated as the "Parties."

**RECITALS**

WHEREAS, Parties have previously entered into Agreement No. 13-41 on July 1, 2013, for landscape maintenance services for a period of one year; and

WHEREAS, Parties entered into Agreement No. 14-55 on July 1, 2014 for a period of three years expiring on June 30, 2017; and

WHEREAS, Parties entered into Agreement No. 17-30 on July 1, 2017 for a period of three years expiring on June 30, 2020, which was amended by Agreement No. 18-30 on July 1, 2018, and was further amended by Agreement No. 19-38 on July 1, 2019, Agreement No. 20-55 on July 1, 2020, and Agreement No. 21-72 on July 1, 2021; and

WHEREAS, beginning on or about July 1, 2019 the City entered into a contract with a contractor for the Central Avenue Median Island Rehabilitation Project. The median islands from Phillips Boulevard at the southern border of the City of Montclair to the last median island south of the I-10 Freeway was removed from the maintenance contract; and

WHEREAS, the medians on Central Avenue were added back to the contract as amended in Agreement 21-072.

**AGREEMENT**

**NOW, THEREFORE, IT IS AGREED** by and between City and Contractor to amend Agreement No. 17-30, as amended, as follows:

**Replace Section II with the following:**

The term of the Agreement is extended an additional year, and shall terminate June 30, 2023, subject to the right of either party to cancel without cause by giving a minimum of thirty (30) days' written notice to the other of such cancellation.

**Replace the First Sentence of Section III with the following:**

All of the work and services to be performed pursuant to this Agreement shall be performed in a good and workmanlike manner for the total monthly sum of \$34,101.00 in Fiscal Year 2022-23 as shown on Exhibit A. Contractor shall pay prevailing wages in accordance with the laws of the State of California.

Except as modified above, all other terms and provisions of Agreement No. 17-30, dated July 1, 2017, as amended by Agreement No. 18-30, Agreement No. 19-38, Agreement No. 20-55, and Agreement No. 21-72, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth below their signatures.

CITY OF MONTCLAIR, CALIFORNIA

MARIPOSA LANDSCAPES, INC.

By: \_\_\_\_\_  
Javier John Dutrey, Mayor

By: \_\_\_\_\_  
Name, Title:

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Andrea M. Myrick, City Clerk

By: \_\_\_\_\_  
Name, Title:

Approved as to Form:

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Diane E. Robbins, City Attorney

**EXHIBIT A**

<b>No.</b>	<b>Description</b>	<b>Monthly Cost</b>	<b>Annual Cost</b>
A.	Moreno Street Landscaping – Once Per Month	\$170.51	\$2,046.06
B.	Monte Vista Avenue Landscaping – Once Per Month	\$255.76	\$3,069.09
C.	San Jose Landscaping – Once Per Month	\$95.48	\$1,145.79
D.	Central Avenue Islands and Landscaping – Once Per Week	\$6,199.56	\$74,394.74
E.	Mills Avenue Landscaping – Once Per Month	\$511.52	\$6,138.18
F.	Holt Boulevard Islands and Landscaping – Once Per Week	\$5,401.60	\$64,819.18
G.	San Bernardino Street Landscaping -Once Per Month	\$238.71	\$2,864.48
H.	Benson Avenue Landscaping-Once Per Month	\$511.52	\$6,138.18
I.	Central Avenue Grade Separation – Once Per Month	\$170.51	\$2,046.06
J.	Palo Verde Street Landscaping – Once Per Month	\$511.52	\$6,138.18
K.	Monte Vista Avenue Grade Separation – Once Per Month	\$170.51	\$2,046.06

No.	Description	Monthly Cost	Annual Cost
L.	Richton Street Landscaping – Once Per Month	\$341.01	\$4,092.12
M.	Phillips Boulevard Landscaping – Once Per Month	\$419.44	\$5,033.31
N.	Ramona Avenue Planters and Tree Wells (East Side) – Once Per Month	\$419.44	\$5,033.31
O.	Ramona Avenue Tree Wells (West Side)- Once Per Month	\$419.44	\$5,033.31
P.	San Bernardino Street Tree Wells (South Side) – Once Per Month	\$419.44	\$5,033.31
Q	San Bernardino Street Tree Wells (North Side)-Once Per Month	\$419.44	\$5,033.31
R	San Bernardino Street Parkway- Once Per Month	\$341.01	\$4,092.12
S.	City Owned House at 9916 Central Ave- Twice Per Month	\$341.01	\$4,092.12
T	Storm Drain Channel located North of 1-10 Freeway- Once Per Month	\$341.01	\$4,092.12
U	Freedom Plaza Landscaping – Once Per Month	\$170.51	\$2,046.06
V	Alley Planters located between Yale and Cambridge – Once Per Month	\$71.89	\$862.73
W	Ramona Parkway North and South of Canary – Once Per Month	\$170.51	\$2,046.06
X	Mission Blvd. Islands and Parkways from East to West City Limits- Once Per Week	\$6,499.65	\$77,995.81

No.	Description	Monthly Cost	Annual Cost
Y	Palo Verde Street Landscaping North Side from Mills to San Antonio Channel – Once Per Month	\$341.01	\$4,092.12
Z	Trash Collection – Daily Monday through Friday	\$5,200.40	\$62,404.83
AA	Olive Street Parkway, South Side East of Vernon – Once Per Month	\$341.01	\$4,092.12
BB	Mission Boulevard and Ramona Avenue Parkway – Once Per Month	\$170.51	\$2,046.06
CC	Monte Vista Avenue Parkway west side 1-10 Freeway to Princeton Street and Monte Vista west to Tudor Street south of 1-10-Once Per Month	\$255.76	\$3,069.09
DD	Pacific Electric Bike Trail – Once Per Month	\$341.01	\$4,092.12
EE	Ramona Avenue Islands north and south of Mission Boulevard – Once Per Month	\$170.51	\$2,046.06
FF	Richton Street Landscaping – Once Per Month	\$341.01	\$4,092.12
GG	Montclair Police Facility – Once Per Month	\$852.53	\$10,230.30
HH	Saddleback Street Parkway-Once Per Month	\$238.71	\$2,864.48
II	Montclair Place Landscape at northeast corner of San Jose and Monte Vista Avenue-Once Per Month	\$511.52	\$6,138.18

<b>No.</b>	<b>Description</b>	<b>Monthly Cost</b>	<b>Annual Cost</b>
JJ	Montclair Place Landscape at Southwest corner of Central Avenue and Moreno Street – Once Per Month	\$238.71	\$2,864.48
KK	Mission Boulevard and Stallion Avenue Parkway – Once Per Month	\$167.09	\$2,005.14
LL	Central Avenue and Howard Street Parkway- Once Per Month	\$150.04	\$1,800.53
MM	Ramona Avenue Overpass Landscape- Once Per Month	\$170.22	\$2,042.64
<b>Base Bid Amount:</b>		\$34,101.00	\$409,212.00
<b>OPTIONAL BID ITEMS</b>			
<b>No.</b>	<b>Description</b>	<b>Monthly Cost</b>	<b>Annual Cost</b>
NN	Montclair Transcenter Turf Area- Once Per Week	\$823.33	\$9,880.00
OO	Montclair Kids Station – Once Per Week	\$823.33	\$9,880.00
PP	Fruit Park- Once Per Month	\$270.00	\$3,240.00
QQ	Reeder Ranch – Once Per Month	\$675.00	\$8,100.00
<b>Optional Bid Amount:</b>		\$2,591.67	\$31,100.00



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	ADM600
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	ECONOMIC DEV.
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	M. FUENTES
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 22-70 WITH PIVOTAL STRATEGIES LLC FOR COMMUNITY EDUCATION AND OUTREACH SERVICES RELATED TO A PROPOSED BALLOT MEASURE TO ESTABLISH A COMMERCIAL CANNABIS TAX SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 22-70 with Pivotal Strategies LLC (formerly Cerrell) for community education and outreach services related to a proposed ballot measure to establish a commercial cannabis tax subject to any revisions deemed necessary by the City Attorney. The City Council approves all agreements for professional services. A copy of proposed Agreement No. 22-70 with Pivotal Strategies is attached for the City Council’s review and consideration.

**BACKGROUND:** In 2019, the City Council conducted a series of special meetings regarding compliance with Proposition 64 (Adult Use of Marijuana Act, or “AUMA”) and the potential for a series of draft ordinances, collectively known as the Medicinal and Adult-Use Cannabis Regulation and Safety Law (MAUCRSL) regulating commercial cannabis activities in the City of Montclair. The special meetings were conducted to present the City Council with concepts contained in the draft ordinances and to determine if the City Council desired to proceed with public hearings and possible adoption of said ordinances.

At the conclusion of the special meetings, the City Council elected to table the draft ordinances in order to further evaluate the regulation of commercial cannabis activities in the City of Montclair given the nascent nature of the cannabis industry in the State.

Since the series of special meetings, staff has continued to monitor the regulation and evolution of the commercial cannabis industry at both the state and local levels, paying close attention to local agencies that have chosen to allow commercial cannabis activities to occur in their jurisdictions.

### ***Public Opinion Survey — FM3***

At the March 7, 2022 City Council meeting, the City Council approved Agreement No. 22-15 with Fairbank, Maslin, Maullin, Metz and Associates (FM3) to conduct a public opinion survey focusing on cannabis-related issues including the viability of a commercial cannabis tax measure to be placed on the November 2022 ballot. FM3 presented their findings of the public opinion survey at a City Council Workshop to be held on Monday, July 18th.

In preparing for a possible commercial cannabis tax measure to be placed on the November 2022 ballot, staff was directed by the City Council to begin the necessary prep work to ensure that all necessary documents be prepared pending city Council approval and to hire a firm to conduct community education and outreach services.

In order to conduct community education and outreach services related to a proposed commercial cannabis tax measure, staff is recommending that the City contract with Pivotal Strategies for community education and outreach services.



### ***Community Education and Outreach Services***

Community education and outreach is considered essential to the successful presentation of any tax measure to members of the public.

City of Montclair officials (elective and appointed officials and employees) are prohibited by state law from preparing or distributing materials in support of or opposition to an initiative during working hours. However, City officials can prepare and distribute to citizens neutral fact sheets concerning the fiscal impact of a tax measure on agency revenues and possible impacts on expenditures. This effort can include the use of staff time to research the impact of a ballot measure for the purpose of gathering facts, and the use of third party consultants to advise and direct on an education effort.

Local governments can make an objective and fair presentation of facts as a normal and regular part of conducting local government affairs. Information may be distributed by using normal methods of communication, including newsletters, utility mailing and other forms of communication used to communicate with citizens.

The City Council, as the local governing body, may pass a resolution in support or opposition of a ballot measure at an open public meeting. Any required notice must include the title and number of the ballot proposition, and members of the legislative body, and public, who hold an opposite view, must be given an equal opportunity to express their views at the public meeting; i.e., an elected official may make a statement of support or opposition, but this exception does not extend to appointed officials or employees while on duty.

Members of the governing body may separately communicate opposition or support of a ballot measure, for example, as in a letter to the editor of a local newspaper of general circulation; however, there should be no implication in the letter that the writer is expressing an official position on behalf of the City.

To facilitate educational outreach, City staff contacted several cities throughout the state that have recently passed commercial cannabis tax measures including the cities of Banning, Costa Mesa, Covina, El Monte, Hemet, Jurupa Valley, Moreno Valley, Oceanside, Pomona, Santa Ana, Santa Clara, Simi Valley, and West Hollywood in order to understand how those cities provided education and outreach services related to their respective commercial cannabis tax measures.

Many of those cities mentioned above noted that they used Pivotal Strategies, for community education and outreach services pertaining to their proposed commercial cannabis tax measures. As a result, staff requested and obtained a quote from Pivotal Strategies for community education and outreach services.

Pivotal Strategies provided three different levels of service — Standard, Enhanced, and Premium. After reviewing the three levels of service, staff is recommending using the Standard level of service with two direct mailings both in English and in Spanish. The quote provided for these services would total \$40,550.

It should be noted that the City of Montclair has utilized the services of Pivotal Strategies (formerly Cerrell) for community education and outreach services in 2020 (Agreement No. 20-50) related to Measure L on the November 2020 ballot.

After careful consideration, staff has elected to use the services of Pivotal Strategies based on cost, familiarity with the City of Montclair, feedback from various other local government agencies who have utilized the services of Pivotal Strategies, and prior services provided to the City of Montclair. Staff is recommending a \$10,000 contingency for additional services that may arise during the community education and outreach program.

## ***Scope of Work***

A copy of the full proposal provided detailing the full scope of services to be provided by Pivotal Strategies is attached as *Exhibit A* to this Agenda Report. The relevant scope of services is summarized as follows:

The Standard level focuses on core public education and engagement activities to raise awareness among Montclair residents and businesses about a proposed commercial cannabis tax measure.

### 1. Strategic Counsel

- Montclair needs a local, experienced and responsive consultant that can adapt their approach based on changes on the ground. Pivotal Strategies will be that guide directing which tools to use and when from our kickoff meeting through Election Day.

### 2. Brand Development

- Every Pivotal Strategies municipal education program has a distinct brand, something that will resonate with residents and business owners as being local and authentic.

### 3. Message and Theme Development

- Pivotal Strategies will work to develop the themes and messages that will serve as the cornerstone for all public outreach and external communication activities.

### 4. Materials Development

- Based on the theme and messages, Pivotal Strategies will develop a set of multilingual collateral materials to communicate with residents. These materials will have the look and feel of other City materials and will be Pivotal Strategies' primary tool to disseminate messages to external audiences.

### 5. Message Dissemination

- Pivotal Strategies will work with the City to disseminate educational messages through its existing electronic and printed newsletters, to reach a broader audience and enhance educational efforts.

### 6. Media Relations

- To prevent any disinformation, Pivotal Strategies will support the City in engaging with key reporters and editors, mainly from the Inland Valley Daily Bulletin.

### 7. Online/Social Media

- Pivotal Strategies will complement traditional outreach methods with a robust online presence to reach the broadest audience of Montclair's residents. The City's existing channels already have established audiences among residents and business owners, and distributing messages through these trusted channels will ensure a greater acceptance of the messages and wider distribution.

**FISCAL IMPACT:** Approval of proposed Agreement No. 22-70 with Pivotal Strategies would result in a total cost to the City of \$50,550, inclusive of a \$10,000 contingency, payable from the Economic Development Fund.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 22-70 with Pivotal Strategies LLC for community education and outreach services related to a proposed ballot measure to establish a commercial cannabis tax measure subject to any revisions deemed necessary by the City Attorney.

# BALLOT MEASURE PUBLIC EDUCATION PROGRAM

June 15, 2022





9619 National Blvd.  
Los Angeles, CA 90034  
Phone: 310.736.2337

June 15, 2022

Mikey Fuentes  
Director of Economic Development and Housing  
City of Montclair  
Sent via email to [mfuentes@cityofmontclair.org](mailto:mfuentes@cityofmontclair.org)

**Re: Pivotal Strategies Proposal for Public Education Services**

Dear Mr. Fuentes,

Thank you for speaking with us about the City of Montclair's ongoing discussions regarding a potential revenue measure for the November 2022 election cycle. We appreciated your time and the information you provided.

Pivotal Strategies (Pivotal) has the ballot measure, communications, and community engagement expertise, coupled with the local knowledge, needed to effectively run Montclair's ballot measure public education program. We have a passion for working with and strengthening cities. We're storytellers who take complex or controversial issues, simplify them, and create engaging communications programs to educate diverse communities.

We can immediately become Montclair's partner and launch a customized, integrated, and bilingual education program to ensure constituents understand all aspects of a cannabis tax measure. We will construct a narrative demonstrating the City's strengths and challenges, why the Council is considering the measure, and most importantly the effects on City services, infrastructure, and facilities if the measure is approved or rejected by voters.

Our team is made up of experts with the skills and experience necessary to meet the City's needs, from developing the strategic framework of the program to providing the City with the tools to communicate and educate the Montclair community. Our previous work for Montclair in 2020 on Measure L illustrates our expertise.

Our team has built countless successful strategic communications and community engagement programs to help cities, counties and other government agencies create compelling narratives and engage communities on a wide range of issues. No matter the size, location, or demographics of a city, we always customize our education programs. From what messages should be communicated, to when and how, our approach ensures the most effective program communications possible.

Our team's public education and ballot measure work covers diverse cities such as Burbank, Costa Mesa, Culver City, Downey, Duarte, El Monte, Glendale, Los Alamitos, Montclair, Norwalk, Ontario, South El Monte, and Westminster among others. These cities can attest to the effectiveness of our programs and the ease of integration we had with their teams.

We're pleased to submit to the following information about how we would collaborate with the City on this important matter. We thoroughly enjoyed our previous partnership with the City

educating residents on Measure L and we hope we're ultimately selected as the City's partner for this public education program.

### **Moving Forward Together**

Based on our conversation, the City has an important story to tell. Residents should be made aware of the current legal status of cannabis operations within the City as well as the specific nature of a potential ballot measure to capture general fund revenue through a tax on the five stages of the cannabis supply chain – cultivation, manufacturing, distribution, transportation, and retail.

Perhaps more than any issue, cannabis holds a mystique that we intend to dispel and clarify through our outreach. It's crucial that residents and voters receive clear and concise information on legalized cannabis operations, including where they can be located within the City and the strict regulatory nature of the industry.

As you've seen from our team's previous work with the City, Montclair's partnership with Pivotal will take the City through every step of a ballot measure's public education lifecycle. From Day 1, we'll be by your side providing the expertise cities have come to expect from us.

We'll translate the information from the City's polling into compelling messages and meaningful actions, as we launch a program to educate the public about the Council's consideration of a ballot measure. And we'll keep our integrated and innovative communications going through Election Day if the Council decides that placing a measure before voters is in the City's best interests.

Voters must understand the reasons why the Council made this decision, the measure's accountability measures, and the tangible impacts the measure will have on their community. More importantly, they must understand the effects of the proposed measure on them, their families and businesses, and their quality of life.

Like all cities trying to educate constituents about a new program or potential revenue measure, Montclair will face challenges – competing measures at the County or state level, potential stakeholder groups or outside entities attacking the measure, potential voter apathy. These challenges are not reasons to stop the City from moving forward; rather, these challenges highlight the need to have a robust communications program.

We pride ourselves on following the letter and spirit of communications regulations. This includes following the rules that govern the type of messages that can be communicated by a government entity for an education program. Our messages and activities will be educational only, without any advocacy or spin. We believe that all activities and messages should be reviewed by the City Attorney or other legal counsel to maintain the highest ethical standards.

### **Scope of Work**

To provide the City with some options and flexibility, we've presented two levels of service – standard and premium. While it is our recommendation to employ the most comprehensive program, surrounding residents in multiple ways with our public education messages, we have presented these varying levels to work within your budget parameters.

## Standard

The Standard Level focuses on core public education and engagement activities to raise awareness among Montclair residents and businesses about the City's financial situation and the challenges that remain. Over the life of this program, we will gradually weave in messages focused on a potential cannabis legalization and tax revenue measure building toward the Council's decision on whether to place a November 2022 measure before voters.

- **Strategic Counsel:** Montclair needs a local, experienced and responsive consultant that can adapt their approach based on changes on the ground. We'll be that guide directing which tools to use and when from our kickoff meeting through Election Day.
- **Program Launch Meeting:** We'll quickly coordinate a team meeting to go over our proposed program and timing. The meeting will allow us to have a thorough discussion about the survey results and ensuring we're moving forward with a consensus approach. This would be followed by brief weekly calls.
- **Brand Development:** Every Pivotal municipal education program has a distinct brand, something that will resonate with residents and business owners as being local and authentic. Since a measure wouldn't receive a letter designation until approximately August, creating a unique brand for the program will allow all messages and materials to be seen as part of a unified voice on the City's behalf. As we did with the Measure L program, we'd work with you to customize the branding and logo for Montclair's efforts for this election.
- **Message and Theme Development:** We'll develop the themes and messages that will serve as the cornerstone for all public outreach and external communication activities. These messages will rely heavily on those tested in the survey research and will incorporate existing messages the City uses to communicate with its constituents. We will create a core messaging document from which all written and verbal communications will be based.
- **Materials Development:** Based on our theme and messages, we will develop a set of bilingual collateral materials to communicate with residents. These materials would have the look and feel of other City materials and would be our primary tool to disseminate messages to external audiences. Materials could include the following:
  - Fact sheet
  - Frequently Asked Questions (FAQ) document
  - PowerPoint presentation
  - Palm Card (for public events)
- **Message Dissemination:** We will work with the City to disseminate educational messages through its existing electronic and printed newsletters, to reach a broader audience and enhance our educational efforts. Additionally, we recommend that our materials be placed in all City facilities and explore utilizing other City communications platforms to distribute our messages/materials.
- **Media Relations:** One of the quickest ways for a public communications program to spin out of control is for the media to misinterpret the City's intentions or the potential community impact of a revenue-generating measure. To prevent any misunderstanding, we will support

the City in engaging with key reporters and editors, mainly from the *Inland Valley Daily Bulletin*.

- **Online/Social Media:** We will complement our traditional outreach methods with a robust online presence to reach the broadest audience of Montclair’s residents. The City’s existing channels already have established audiences among residents and business owners and distributing our messages through these trusted channels will ensure a greater acceptance of the messages and wider distribution.
  - **Website:** We will work with the City to populate its existing website with our approved messages and information. We recommend the development of a simple landing page to host our collateral materials and to serve as a clearinghouse of information and messaging.
  - **Social Media:** A vital avenue to further educate the public and share links to outreach materials and other resources, Pivotal will create a social media calendar and content for the City’s existing social media channels. Whenever possible, we will ensure that social media content is visually interesting, incorporating graphic elements and multimedia content.
- **Mail:** Mail sent directly to voters is the most effective way to engage Montclair’s registered voters and deliver the program’s messages. We recommend distributing at least two bilingual educational pieces – one soon after the Council’s vote to place a measure on the ballot to build awareness around the matter, and one afterwards leading up to Election Day.

## Enhanced

The Enhanced Level expands on the Standard Level’s public education activities to create a more robust, proactive program to further engage the Montclair community.

- **Community/Stakeholder Outreach:** An expanded public education effort involves consistent stakeholder engagement. These activities also play a critical role in gaining valuable community feedback. Working closely with the City, we will help identify stakeholders in the community to engage, who will hopefully help amplify the City’s messages to a wide array of audiences. We believe the City already possesses a robust communications network of community stakeholders. We would work with the City to augment this network with organizations such as:
  - Homeowners associations
  - Civic associations
  - Business groups
  - Ecumenical entities
  - Large businesses

We’ll reach out to these stakeholder organizations with our materials and encourage them to share our information with their respective networks, allowing our messages to organically spread throughout the community.

## Premium

The Premium Level takes the Enhanced Level’s proactive engagement approach and adds even more direct touchpoints to surround residents with our messages to ensure the maximum education levels possible.



- **Community Town Hall/Council Meetings:** To further engage the broader community, we might recommend the City host a community forum. We understand that the City previously held workshops in 2018 to hear from the community and collect their thoughts on cannabis operations within Montclair. This would be an opportunity to hear from residents a final time and educate them on the specifics of the cannabis tax measure.

We've used this type of event in the past for staff to convey what a city budget might look like with the new revenue and what it could look like without it. We envision this meeting being hosted by the City in partnership with key community organizations and led by City personnel, with Pivotal assisting in the development of the meetings' program and logistics management.

- **Information Booths:** We will work with City staff to identify highly attended community events and meetings in Montclair, and create a calendar of events where we would plan to have a presence. These events allow residents to connect face-to-face with City staff.

### **Staying On the Same Page**

Through regular team meetings and conference calls, the Pivotal team will provide continuing status updates on the program's components, ensuring the timely completion of individual benchmarks and the delivery of the final report. This includes a monthly providing updates on all activities that the City's management team can share with the Council.

We will also develop a task list to drive our activities and provide the City and Pivotal teams a firm understanding of the deliverables in the days and weeks ahead. Pivotal can attend any City Board or Council meeting to present and receive direction on our approach and progress to date at the discretion of the City.

### **An Integrated Team**

We firmly believe that City personnel are the most authentic voices for this public education effort. As such, we recommend that City staff conduct any requested presentations and lead any community meetings. Residents value personal interactions with their City's leaders, and these meetings will strengthen the City's position as responsive and accessible to constituents – a necessary component to effectively communicate new policies and ideas.

### **About Pivotal Strategies**

At any time, you might find yourself facing a pivotal moment. How you engage a community, the media, sway public opinion or protect your brand from a crisis can determine whether you can successfully reach your goals. When you're facing these types of pivotal moments, make sure you have the right team in place.

Pivotal Strategies is a Los Angeles-based public affairs and public relations firm. Our passionate and experienced team creates innovative solutions to solve your complex challenges. We're storytellers that establish our clients as thought leaders at the forefront of change through strategic communications, campaigns and issues management and engagement programs.

We move ideas and clients forward to positively impact the quality of life for all Californians. We've helped our clients improve equitable access to health care and social services, housing and mobility options, expand sensible development and enhance essential neighborhood services.

### **Project Team**

Our project team has an unmatched expertise with innovative local ballot measures, vast experience with public education and communications programs, and local knowledge – the three key ingredients the City must have for this program to be effective. Collectively, we have decades of experience on the exact type of program Montclair needs to engage and educate its constituents.

#### **Founding Partner Brandon Stephenson**

Brandon will serve as Project Lead and oversee the strategic framework and implementation of this project. For over 20 years, he has played a game-changing role on numerous public education programs and excels at crafting engagement programs that resonate with diverse audiences.

#### **Vice President John Anderson**

John will be the day-to-day Project Manager, and your primary point-of-contact. John not only manages our municipal programs, he's also the driving force behind our creative content and digital communications for government entities. Depending on our final scope of work, John could manage all aspects of our portion of this project, including overseeing the creation of all documents/materials, managing all community engagement, and ensuring that we keep to the project timeline agreed upon by the City.

Both Brandon and John were involved in our past Measure L work.

#### **Senior Associate Alina Ambrosino**

Alina will provide support in all areas of the project. Alina's political and corporate campaign experience, along with expertise in direct mail programs, will be vital for the program's communications and community engagement tactics. Alina will help in the development of materials and assist with our community engagement.

### **What It Will Cost**

We have provided Pivotal's fee for the two proposed services levels as outlined above. We are willing to scale our proposed activities and the amount of mail pieces distributed based on the City's needs.

The proposed monthly rates do not include hard costs, such as mail pieces, printing of materials or professional translation services (which will be needed to ensure our messages are accessible to the City's Spanish-speaking population). We would provide the City with a detailed budget before moving forward with that part of the program.

As previously noted, we recommend at least two mail pieces be distributed to the City's residents. During our previous engagement with the City in 2020, it was determined to send mail to only households with at least one registered voter. Following that practice for this program, we would mail to approximately 8,458 households. Based on this number, we anticipate each mailing to cost approximately \$6,350 for a standard letter-sized 8.5 x 11" mail piece. We

understand any budget constraints that the City is faced with and can work with our mail vendors to produce smaller dimension pieces which could reduce the cost of each mailing by nearly \$1,600.

<b>Level</b>	<b>Cerrell Fee</b>
Standard	\$5,500 / month
Enhanced	\$6,500 / month
Premium	\$8,000 / month
<b>Hard Costs</b>	
Direct mail (two 8.5 x 11" mailings to registered households)	\$12,700
Professional translation	\$2,000

**We're Ready to Begin!**

We're excited about working with you again and rounding out your team to ensure that Montclair receives the best possible program – one that will consistently educate the City's constituents and ensure voters can make an informed decision in November 2022. We're looking forward to your thoughts on this and, more importantly, to getting started.

Please contact John or Brandon or at (310) 736-2337 or by email at [janderson@pivotalstrategies.com](mailto:janderson@pivotalstrategies.com) or [bstephenson@pivotalstrategies.com](mailto:bstephenson@pivotalstrategies.com) with any questions or if you need additional information. We're looking forward to hearing from you.

## CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT (this “**Agreement**”) will memorialize the terms and conditions of the engagement of PIVOTAL STRATEGIES LLC, a California limited liability company located for notice at 9619 National Blvd, Los Angeles, CA 90034 (“**Pivotal**”), by the undersigned (“**Client**”).

### 1. **ENGAGEMENT; SERVICES.**

1.1 **Engagement.** Client hereby engages Pivotal, and Pivotal accepts such engagement, during the Term (as defined below), pursuant to the terms and conditions set forth in this Agreement. During the Term, Pivotal shall render (i) those services set forth on the proposal delivered to Client by Pivotal attached as Exhibit A of this Agreement which is incorporated herein by reference (such proposal being the initial “**SOW**” ), and (i) such other related services as Pivotal and Client may mutually agree to from time to time, which may be memorialized by additional SOWs, each of which will be incorporated herein by reference (collectively, the “**Services**”).

1.2 **Instructions.** Pivotal shall follow Client’s reasonable instructions, and shall devote such time to the performance of the Services as may be reasonable under the circumstances. Pivotal shall render the Services to or on behalf of Client in a professional manner, provided that Client’s instructions may request or require rendering of the Services in a manner in which Pivotal would otherwise determine to be against acceptable practices.

1.3 **Change Orders.** If either Party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other in writing. Pivotal, without creating any obligation to accept a change order, shall, within a reasonable time after such request provide a written estimate to Client of: (i) the likely time required to implement the change, (ii) any necessary variations to the fees and other charges for the Services arising from the change, (iii) the likely effect of the change on the Services, and (iv) any other impact the change might have on the performance of this Agreement. Notwithstanding the forgoing provisions of this Section 1.3, the Pivotal may, in its sole discretion, determine whether to accept or reject any change order.

### 2. **TERM; TERMINATION.**

2.1 **Term.** The term of this Agreement (the “**Term**”) shall commence on the date hereof and shall continue until November 11, 2022, provided that any new SOW entered into after the Term shall revive and reinstate the Agreement for a new Term. For the purpose of determining completion of the Services, the Services shall deemed complete upon **Pivotal**’s reasonable determination of completion of the Services to Client’s reasonable specifications and satisfaction. The Term shall be subject to earlier termination as provided in Section 2.2 below.

2.2 **Termination.** This Agreement, or any SOW, may be terminated prior to the expiration of the Term by either Party, with or without reason or cause (i.e. for “convenience”) by providing the other Party with at least ten (10) days’ advance written notice of termination. Upon any termination of this Agreement, or any SOW, Client shall immediately pay to Pivotal all accrued and unpaid expense reimbursements and Fees prorated through the effective date of termination with respect to the Agreement or terminated SOW(s).

3. **CONSIDERATION.**

3.1 **Fees Generally.** In consideration of its rendering of the Services, Client shall pay to Pivotal fees (“Fees”) set forth in the SOW with respect to Services. The Fees will be a non-refundable retainer, paid monthly, for the purpose of Client engaging Pivotal and causing Pivotal to dedicate and reserve substantial time, effort, and resources to Client regardless of whether or not Client actually avails itself of Pivotal’s time, efforts, and resources.

3.2 **Expenses.** Client agrees to reimburse Pivotal for all reasonable travel and out-of-pocket expenses incurred by Pivotal in connection with the performance of the Services [that have been approved in advance in writing by Client, including, without limitation, Pivotal personnel travel time from Pivotal’s office to Client, and license fees for third Party licenses necessary to render the Services.

3.3 **Invoicing.** Pivotal shall issue invoices to Client only in accordance with the terms of this Section, and Client shall pay all properly invoiced amounts due to Pivotal within thirty (30) days after Client’s receipt of such invoice, unless otherwise specified in the applicable SOW.

4. **INDEPENDENT CONTRACTOR.**

4.1 **Work Outside of Client.** Pivotal is, and at all times during the Term shall remain, an independent contractor under this Agreement. As such, Pivotal may perform services on behalf of other persons and entities. Pivotal represents however, that it is not, as of the effective date of this Agreement, aware of any conflict of interest, but in the event such a conflict should arise, Pivotal will promptly notify Client, and act in a commercially reasonable manner to resolve any such conflict.

4.2 **No Other Relationship.** Nothing in this Agreement shall be construed to create any employment relationship, partnership or other venture between Pivotal and Client. Neither Party shall have the authority whatsoever to bind the other Party to any agreement or other matter without the written approval of an authorized representative of the such Party. Neither Party shall hold itself out in any manner that is contrary to the relationship of independent contractor created by this Agreement, and neither Party shall become liable or have any obligation whatsoever by reason of any representation, act or omission to the contrary.

5. **REPRESENTATIONS AND WARRANTIES.**

5.1 **By Client.** Client represents, warrants, covenants, and agrees as follows:

5.1.1 **Right and Authority.** Client has the full right and authority to enter into this Agreement. The execution and delivery of this Agreement has been duly authorized and approved by Client, and the person signing this Agreement on Client’s behalf has due authorization to effectively bind Client hereunder.

5.1.2 **No Conflict.** Client’s execution of this Agreement will not violate, conflict with or result in a breach of any provision of, or constitute a default (or an event that, with notice or lapse of time, or both, would constitute a default) under, any contract or other obligation to which Client is a party or by which Client bound.

5.1.3 **No Infringement.** No materials provided by Client to Pivotal for integration into the Services will infringe upon the rights of any third party.

5.1.4 **Client Cooperation.** Client shall respond promptly, completely, and truthfully to any Pivotal request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Pivotal to perform Services in accordance with the requirements of this Agreement. Client shall provide such materials and/or information as Pivotal may reasonably request, in order to carry out the Services, in a timely manner, and ensure that it is true, complete, and accurate in all material respects

5.2 **By Pivotal.** Pivotal represents, warrants, covenants, and agrees as follows:

5.2.1 **Organization.** Pivotal is a limited liability company, duly formed under the laws of the State of California.

5.2.2 **Right and Authority.** Pivotal has the full right and authority to enter into this Agreement. The execution and delivery of this Agreement has been duly authorized and approved by Pivotal, and the person signing this Agreement on Pivotal's behalf has due authorization to effectively bind Pivotal hereunder.

5.2.3 **No Conflict.** Pivotal's execution of this Agreement will not violate, conflict with or result in a breach of any provision of, or constitute a default (or an event that, with notice or lapse of time, or both, would constitute a default) under, any contract or other obligation to which Pivotal is a party or by which Pivotal bound.

6. **DISCLAIMER AND LIMITATION OF LIABILITY.** The Services are provided "as is," "as available," with all faults and without any warranties, representations or conditions of any kind. Pivotal does not make any representations, warranties or conditions about the quality, accuracy, security, reliability, completeness, quiet enjoyment, currency, or timeliness of the Services. Pivotal does not assume any responsibility for any incompleteness, errors, problems, omissions, inaccuracies or other limitations in, or interruptions in the Services. To the fullest extent permitted by law, Pivotal disclaims all warranties, representations and conditions of any kind with respect to the Services and Deliverables, whether express, implied or collateral. To the fullest extent permissible by applicable law, Pivotal hereby disclaims all, and shall not be liable for any indirect, special, consequential, exemplary or punitive loss or damage, including lost profits or savings, even if Pivotal or Client has been advised of the possibility of the damages and regardless of any prior course of dealing between the Parties. Pivotal assumes no liability for any damage to, or loss relating to, Client's business resulting from any cause whatsoever. The maximum liability of Pivotal to Client arising out of or in connection with this agreement shall be limited to an amount equal to the total amount actually paid by Client to Pivotal under the SOW to which any claim relates, during the sixty (60) day period preceding any such claim. Client acknowledges Pivotal has set its prices and entered into this agreement in reliance on the limitations of liability and the disclaimers or warranties and damages set forth herein, and that the same form an essential basis of the bargain between the Parties. The Parties agree that the limitations and exclusions of liability and disclaimers specified in this agreement will survive and apply even if found to have failed of their essential purpose.

7. **ARBITRATION.** Any claim, controversy or other dispute between or among the Parties, or any of them, regarding any matter relating to this Agreement any breach or interpretation of this Agreement (each a "Dispute"), shall be settled and resolved by binding arbitration in Los Angeles, California, before a single arbitrator at ADR Services, Inc. ("ADRS"). The arbitration shall

be conducted in accordance with ADRS’s rules and procedures, except as expressly modified by this paragraph. In reaching a decision on any Dispute, the arbitrator shall be bound by the provisions of this Agreement and by the law that the Parties have selected to govern the enforcement and interpretation of this Agreement. The arbitrator’s decision on the Dispute shall be a final and binding determination, and such decision may be confirmed and shall be fully enforceable as an arbitration award in any court having jurisdiction and venue over the Parties. The arbitrator shall have exclusive jurisdiction to determine any questions of arbitrability. Each Party agrees to accept service of process for all arbitration proceedings in accordance with Section 8.7. Nothing in this paragraph shall prevent any Party from (i) seeking and obtaining injunctive or other equitable relief through an action in court; (ii) joining any Party as a defendant in any action brought by or against a third party; (iii) bringing an action in court to collect Fees, or effect any attachment or garnishment furtherance thereof; or (iv) bringing an action in court to compel arbitration as required by this paragraph.

8. **MISCELLANEOUS.**

8.1 **Entire Agreement.** This Agreement, together with all SOWs, exhibits, schedules, and attachments, contains the entire agreement among the Parties hereto with respect to the transactions contemplated hereby and supersedes all prior agreements or understandings among the Parties with respect thereto. The exhibits and schedules to this Agreement, including all prior and concurrent SOWs agreed to by the Parties, are incorporated into this Agreement by this reference.

8.2 **Survival.** The provisions of each of Sections 4-8, shall survive any termination or expiration of this Agreement.

8.3 **Governing Law; Submission to Jurisdiction.** This Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of California. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of California in each case located in the city of Los Angeles and County of Los Angeles, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such Party’s address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

8.4 **Assignment.** Except for the rights granted in the Deliverables, Client shall not assign any right or other interest provided to Client under this Agreement without Pivotal’s prior written consent, which Pivotal may withhold in its sole and absolute discretion. Client acknowledges that Pivotal may delegate certain work and duties to its ordinary subcontractors without further consent of Client.

8.5 **Amendment, Modification, and Waiver.** This Agreement may not be amended, modified or supplemented except pursuant to an instrument in writing signed by each of the Parties hereto, except that any Party to this Agreement may waive any obligation owed to such Party by another Party under this Agreement, provided such waiver is in writing. The waiver by any Party hereto of a breach of any provisions of this Agreement shall not operate or be construed as a waiver of any subsequent breach.

8.6 **Severability**. If any provision of this Agreement as applied to any Party or to any circumstance shall be found by a court of competent jurisdiction to be void, invalid or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstance, or the validity or enforceability of this Agreement, and any provision that is found to be void, invalid or unenforceable shall be curtailed and limited only to the extent necessary to bring such provision within the requirements of the law.

8.7 **Notices**. All notices, statements and other documents that any Party is required or desires to give to any other Party hereunder shall be given in writing and shall be served in person by express mail, certified mail, overnight delivery, or by email at the respective addresses of the Parties as set forth in the introductory paragraph, or at such other addresses as may be designated in writing by such Party in accordance with the terms of this paragraph. The time to respond to any notice shall run from the time the notice is actually delivered to the person to whom the notice is addressed.

8.8 **Binding Effect**. All the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

8.9 **Further Acts**. Each Party shall execute and deliver all such further instruments, documents and papers, and shall perform any and all acts necessary to give full force and effect to all of the terms and provisions of this Agreement.

8.10 **Force Majeure**. Neither Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, except for any obligations to make payments to the other Party hereunder, when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including, without limitation: (i) acts of God; (ii) flood, fire or explosion; (iii) war, invasion, riot or other civil unrest; (iv) actions, embargoes or blockades in effect on or after the date of this Agreement; (v) national or regional emergency; (vi) strikes, labor stoppages or slowdowns or other industrial disturbances; (vii) compliance with any law or governmental order, rule, regulation or direction, or any action taken by a governmental or public authority, including but not limited to imposing an embargo, export or import restriction, quota or other restriction or prohibition, or failing to grant a necessary license or consent; (viii) shortage of adequate power or telecommunications or transportation facilities; or (ix) any other event which is beyond the reasonable and actual control of such Party (each of the foregoing, a "**Force Majeure Event**"). A Party whose performance is affected by a Force Majeure Event shall give notice to the other Party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and minimize the effects of such Force Majeure Event. During the Force Majeure Event, the non-affected Party may similarly suspend its performance obligations until such time as the affected Party resumes performance. The non-affected Party may terminate any affected Statement of Work if such failure or delay continues for a period of sixty (60) days or more. Unless this Agreement is terminated pursuant to the foregoing sentence, the Term of this Agreement shall be automatically extended by a period equal to the period of suspension.

8.11 **Client Delay**. If Pivotal's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Client or its agents, subcontractors, consultants or employees, Pivotal shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Client, in each case, to the extent arising directly or indirectly from such prevention or delay.



8.12 **Construction.** Whenever used in this Agreement, the terms “including,” “include,” “includes” and the like are not intended as terms of limitation, and, hence, shall be deemed to be followed by “without limitation.”

8.13 **Counterparts.** This Agreement may be executed in one or more counterpart signature pages, including PDF signature pages, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of June 20, 2022.

**“Pivotal”**

PIVOTAL STRATEGIES LLC

By: \_\_\_\_\_  
Name: Brandon Stephenson  
Its: Founding Partner

**“Client”**

CITY OF MONTCLAIR

By: \_\_\_\_\_  
Name: Javier John Dutrey  
Its: Mayor

Attest:

By: \_\_\_\_\_  
Name: Andrea M. Myrick  
Its: City Clerk

Approved as to Form:

By: \_\_\_\_\_  
Name: Diane E. Robbins  
Its: City Attorney

**EXHIBIT A**  
**Statement of Work**

This statement of work (this “SOW”) is made with reference to that certain CONSULTING SERVICES AGREEMENT (the “MSA”), and will memorialize additional terms and conditions of the engagement of PIVOTAL STRATEGIES LLC, by the CITY OF MONTCLAIR (“Client”), under the MSA.

Pivotal Strategies will conduct public education services in collaboration with the City regarding a potential November 2022 ballot measure. Exhibit A includes the full scope.

**In consideration of the services to be provided by Pivotal, the City of Montclair shall pay Pivotal a monthly fee of \$5,500 with proration for the months of June and November as identified in Section 2.1 of this agreement. In addition, the program specified in the proposal dated June, 15, 2022, recommends the City send two direct mail pieces to registered households within the City at a cost of \$6,350 per standard letter-sized 8.5 x 11” mailing. Other program costs include up to \$2,000 in professional translation of public education materials to Spanish. The total program cost is a not-to-exceed amount of \$40,550.**

Ratification and Extension of Term. In the event of any conflict between the MSA, and this SOW, this SOW shall control. Notwithstanding any provision of the MSA which is not specifically contradicted by this SOW, the MSA is hereby ratified by the Parties, and shall remain in full force and effect until terminated pursuant to its terms. In the event that the MSA has previously expired or been terminated, this SOW shall act to reinstate the MSA, and once again ratify its terms. On that basis, the Parties hereby reaffirm their obligations under the MSA (whether or not the MSA has previously expired or been terminated) as modified herein and hereby, and accordingly the Term of the MSA will be extended pursuant to Section 2 of the MSA. All capitalized or defined terms not defined herein have the meaning set forth in the MSA.

IN WITNESS WHEREOF, the Parties hereto have executed this SOW effective as of June 20, 2022.

**“Pivotal”**  
PIVOTAL STRATEGIES LLC

By: \_\_\_\_\_  
Name: Brandon Stephenson  
Its: Founding Partner

**“Client”**  
CITY OF MONTCLAIR

By: \_\_\_\_\_  
Name: Javier John Dutrey  
Its: Mayor

Attest:

By: \_\_\_\_\_  
Name: Andrea M. Myrick  
Its: City Clerk

Approved as to Form:

By: \_\_\_\_\_  
Name: Diane E. Robbins  
Its: City Attorney



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	AUGUST 1, 2022	<b>FILE I.D.:</b>	PER250
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	ADMIN. SVCS.
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	M. RICHTER
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 22-82 WITH LIEBERT CASSIDY WHITMORE FOR PARTICIPATION IN THE EAST INLAND EMPIRE EMPLOYMENT RELATIONS CONSORTIUM AND PREMIUM LIEBERT LIBRARY SUBSCRIPTION, SUBJECT TO ANY REVISIONS DEEMED NECESSARY BY THE CITY ATTORNEY		

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**REASON FOR CONSIDERATION:** The City's current Agreement with Liebert Cassidy Whitmore (LCW) for participation in the East Inland Empire Employment Relations Consortium (ERC) is scheduled for renewal on July 1, 2022. The City Council is requested to consider approval of proposed Agreement No. 22-82 with LCW, a copy of which is attached for the City Council's review and consideration.

**BACKGROUND:** For over 30 years, the City of Montclair has participated in LCW's East Inland Empire ERC. The City's participation entitles officials and employees to receive five one-day group training sessions, unlimited free telephone consultations with the law firm's attorneys, and a monthly employment-relations newsletter. Participating agencies may also receive specialized training for an added cost. As laws related to employment relations are constantly evolving, participating in this consortium is crucial to keeping City employees abreast of such changes.

The contract's renewal adds the Premium Liebert Library Subscription, which includes unlimited access to LCW workbooks in digital format and over 200 sample forms, model policies, and checklists that can be downloaded and used by staff as templates.

The term of the proposed Agreement is for July 1, 2022 to June 30, 2023.

**FISCAL IMPACT:** The annual fee for participating in the Consortium is \$4,255. Funds to cover the cost are included in the Fiscal Year 2022-2023 Budget.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 22-82 with Liebert Cassidy Whitmore for participation in the East Inland Empire Employment Relations Consortium with the added Premium Liebert Library Subscription subject to any revisions deemed necessary by the City Attorney.

**AGREEMENT FOR SPECIAL SERVICES**

This Agreement is entered into between the City of Montclair, A Municipal Corporation, hereinafter referred to as "Agency," and the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation, hereinafter referred to as "Attorney."

WHEREAS Agency has the need to secure expert training and consulting services to assist Agency in its workforce management and employee relations; and

WHEREAS Agency has determined that no less than twenty-eight (28) public agencies in the East Inland Empire area have the same need and have agreed to enter into identical agreements with Attorney; and

WHEREAS Attorney is specially experienced and qualified to perform the special services desired by the Agency and is willing to perform such services;

NOW, THEREFORE, Agency and Attorney agree as follows:

**Attorney's Services:**

During the year beginning July 1, 2022, Attorney will provide the following services to Agency (and the other aforesaid public agencies):

1. Five (5) days of group training workshops covering such employment relations subjects as management rights and obligations, negotiation strategies, employment discrimination and affirmative action, employment relations from the perspective of elected officials, performance evaluation (administering evaluations), grievance and discipline administration for supervisors and managers, planning for and responding to concerted job actions, current court, administrative and legislative developments in personnel administration and employment relations, etc., with the specific subjects covered and lengths of individual workshop presentations to be determined by Agency and the other said local agencies.

It is expressly understood that the material used during these presentations, including written handouts and projected power points are provided solely for the contracted workshops. This agreement warrants there will be no future use of Liebert Cassidy Whitmore material in other trainings or formats without the expressed written permission of Liebert Cassidy Whitmore. Any such use will constitute a violation of this agreement and copyright provisions.

2. Availability of Attorney for Agency to consult by telephone. Consortium calls cover questions that the attorney can answer quickly with little research. They do not include the review of documents, in depth research, written responses (like an opinion letter) or advice on on-going legal matters. The caller will be informed if the question exceeds the scope of consortium calls. Should the caller request, the attorney can assist on items that fall outside the service, but these matters will be billed at the attorney's hourly rate. (See additional services section.)
3. Providing of a monthly newsletter covering employment relations developments.
4. Annual Access to Premium Liebert Library.

**Fee:**

Attorney will provide these special services to Agency for a fee of Four Thousand Two Hundred Fifty Five Dollars (\$4,255.00) payable in one payment.

Said fee will cover Attorney's time in providing said training and consultative services and the development and printing of written materials provided to attendees at the training programs.

**Additional Services:**

Attorney shall, as and when requested by Agency, make itself available to Agency to provide representational, litigation, and other employment relations services. The Agency will be billed for the actual time such representation services are rendered, including reasonable travel time, plus any necessary costs and expenses authorized by the Agency.

The range of hourly rates for Attorney time is from Two Hundred Forty to Four Hundred Twenty-Five Dollars (\$240.00 - \$425.00) per hour for attorney staff, Two Hundred Seventy Dollars (\$270.00) per hour for Labor Relations/HR Consultant and from One Hundred Forty-Five to One Hundred Eighty-Five Dollars (\$145.00 - \$185.00) per hour for services provided by paraprofessional and litigation support staff. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Attorney reviews its hourly rates on an annual basis and if appropriate, adjusts them effective July 1.

**Independent Contractor:**

It is understood and agreed that Attorney is and shall remain an independent contractor under this Agreement.

**Term:**


The term of this Agreement is twelve (12) months commencing July 1, 2022. The term may be extended for additional periods of time by the written consent of the parties.

**Condition Precedent:**

It is understood and agreed that the parties' aforesaid rights and obligations are contingent on no less than twenty-eight (28) local agency employers entering into a substantially identical Agreement with Attorney on or about July 1, 2022.

**LIEBERT CASSIDY WHITMORE**  
A Professional Corporation

**CITY OF MONTCLAIR**  
A Municipal Corporation

By:   
\_\_\_\_\_  
J. Scott Fedemann / Managing Partner

By: \_\_\_\_\_

Name: Javier John Dutrey

Date: 7/25/2022

Title: Mayor

Date: \_\_\_\_\_



# CITY COUNCIL AGENDA REPORT

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**DATE:** AUGUST 1, 2022                      **FILE I.D.:** STB300-17  
**SECTION:** CONSENT - RESOLUTIONS                      **DEPT.:** FINANCE  
**ITEM NO.:** 1    **PREPARER:** C. GRAVES  
**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 22-3369 AUTHORIZING PLACEMENT OF ASSESSMENTS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH ACCOUNTS

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 22-3369 authorizing placement of assessments on certain properties for delinquent sewer and trash accounts. There are 562 outstanding liens on properties for collection of delinquent civil debts owed to the City for sewer and trash service. Placement of assessments on these properties would assist in more timely collection of these delinquent accounts.

A copy of proposed Resolution No. 22-3369 is attached for City Council review and consideration.

**BACKGROUND:** The City Council authorized the placement of 678 liens on properties for delinquent sewer and trash charges on the following dates:

<u>Date</u>	<u>No. of Liens</u>
October 4, 2021	106
November 1, 2021	139
February 7, 2022	87
March 7, 2022	116
June 6, 2022	99
July 19, 2022	131
<b>Total</b>	<b>678</b>

Of these 678 liens, 116 have been cleared.

It is recommended that assessments, which are collected with the property tax, be placed on the properties where the 562 unpaid liens remain. This would result in more timely collection of the delinquencies than the lien process, which generates payment only upon sale or refinancing of the property.

In addition to the regular bimonthly billings, the City has sent bimonthly letters to these property owners advising them of their delinquencies. They received notification when the liens were placed and were again notified on July 5, 2022, that the action proposed this evening would be considered by the City Council.

**FISCAL IMPACT:** Recoverable amount is \$286,962.65

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 22-3369 authorizing placement of assessments on certain properties for delinquent sewer and trash charges.

RESOLUTION NO. 22-3369

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING PLACEMENT OF ASSESSMENTS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH ACCOUNTS**

**WHEREAS**, Chapter 1.12 of the Montclair Municipal Code authorizes various methods by which delinquent civil debts may be collected including, but not limited to, the placement of assessments on the properties on which the debts were generated; and

**WHEREAS**, City Council has recently placed 678 property liens on properties on which there are delinquent civil debts for unpaid sewer and trash charges; and

**WHEREAS**, the lien amount was paid on 116 of these liens; and

**WHEREAS**, it is appropriate to also place assessments on these properties where the 390 liens remain outstanding as identified on Exhibit A of this Resolution to further encourage the payment of these charges owed to the City; and

**WHEREAS**, the owners of these properties have received notification of proposed actions against their properties including the date and time when such action would be considered by the City Council.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby approve the placement of assessments on the properties and in the amounts specified in Exhibit A, entitled "August 2022 - Property Assessments."

**BE IT FURTHER RESOLVED** that the City Clerk is authorized to provide the San Bernardino County Assessor's Office with the documents required to cause such assessments to be placed.

**APPROVED AND ADOPTED** this XX day of XX, 2022.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

I, Andrea M. Myrick City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 22-3369 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2022, and that it was adopted by the following vote, to-wit:

AYES: XX  
NOES: XX  
ABSTAIN: XX  
ABSENT: XX

\_\_\_\_\_  
Andrea M. Myrick  
City Clerk

**Exhibit A to Resolution 22-3369  
August 2022 - Property Assessments**

Street No.	Street Name	Type	Lien 1	Lien 2	Lien 3	Total Assessment Amount
10720	Ada Avenue	Commercial	320.74	331.94		652.68
11225	Ada Avenue	Residential	469.85	373.72	365.24	1,208.81
11239	Ada Avenue	Residential	564.06			564.06
4334	Alamitos Street	Residential	584.19	388.39	366.85	1,339.43
5356	Alamitos Street	Residential	716.47	402.94	368.45	1,487.86
5366	Alamitos Street	Residential	481.70			481.70
5634	Alamitos Street	Residential	465.81			465.81
4667	Allesandro Street	Residential	717.79	403.09	368.47	1,489.35
9757	Amherst Avenue	Residential	682.46	399.20	368.04	1,449.70
9910	Amherst Avenue	Residential	717.79	403.09	368.47	1,489.35
11141	Amherst Avenue	Residential	601.44	388.18	366.83	1,356.45
11151	Amherst Avenue	Residential	495.33	376.51	365.54	1,237.38
5363	Arrow Hwy	Commercial	535.07	391.92	616.45	1,543.44
5189	Aspen Drive	Residential	328.22			328.22
4645	Bandera Street	Residential	475.90			475.90
4740	Bandera Street	Multifamily	1,258.53			1,258.53
4959	Bandera Street	Residential	286.52			286.52
5598	Bandera Street	Residential	490.42			490.42
4432-34	Bandera Street	Multifamily	1,120.88	705.05		1,825.93
9910	Bel Air Avenue	Residential	711.66			711.66
9950	Bel Air Avenue	Residential	368.26			368.26
10036	Bel Air Avenue	Residential	389.63			389.63
10045	Bel Air Avenue	Residential	354.71			354.71
10087	Bel Air Avenue	Residential	294.69			294.69
10145	Bel Air Avenue	Residential	601.44	388.18	366.83	1,356.45
10283	Bel Air Avenue	Residential	379.87			379.87
9909	Bel Air Avenue	Residential	492.62			492.62
5214	Belvedere Way	Residential	294.22	417.61		711.83
4435	Benito Street	Residential	469.85	375.82		845.67
4460	Benito Street	Residential	717.79	368.47		1,086.26
4824	Benito Street	Residential	300.91			300.91
4959	Benito Street	Residential	324.36			324.36
5233	Benito Street	Senior	647.20	368.57	337.92	1,353.69
5429	Benito Street	Residential	717.79	403.09	368.47	1,489.35
5554	Benito Street	Residential	311.04			311.04
5598	Benito Street	Residential	761.64	434.03	397.99	1,593.66
9384	Benson Avenue	Residential	301.70			301.70
9590	Benson Avenue	Residential	506.55			506.55
4843	Berkeley Street	Residential	1,162.08	451.96	373.85	1,987.89
5382	Berkeley Street	Residential	717.79	403.09	368.47	1,489.35
9576	Bolton Avenue	Senior	370.00	352.66		722.66
9598	Bolton Avenue	Residential	717.79	403.09	368.47	1,489.35
4541	Bonnie Brae Street	Residential	717.79	403.09	368.47	1,489.35
4990	Brooks Street	Multifamily	557.95			557.95
4392	Brooks Street #B	Commercial	436.72			436.72
4412	Brooks Street #C	Commercial	294.41			294.41
11339	Brunswick Lane	Residential	315.62	383.25		698.87
11457	Brunswick Lane	Residential	315.62	383.25		698.87
11372	Buckskin Avenue	Residential	301.82			301.82
9851	Camarena Avenue	Residential	716.60	402.95	368.46	1,488.01
10401	Camarena Avenue	Residential	327.22			327.22
4443	Cambridge Street	Residential	573.83			573.83
4853	Cambridge Street	Residential	1,463.08	485.07	377.49	2,325.64
5448	Cambridge Street	Residential	707.75	401.99	368.35	1,478.09
5470	Cambridge Street	Residential	1,463.08	485.07	377.49	2,325.64
5471	Cambridge Street	Residential	718.14	403.12	368.47	1,489.73



**Exhibit A to Resolution 22-3369  
August 2022 - Property Assessments**

Street No.	Street Name	Type	Lien 1	Lien 2	Lien 3	Total Assessment Amount
5570	Cambridge Street	Residential	520.80			520.80
5438	Cambridge Street	Residential	585.02	288.48		873.50
9243	Camulos Avenue	Residential	717.79	403.09	368.47	1,489.35
9426	Camulos Avenue	Residential	1463.08	377.49		1,840.57
9433	Camulos Avenue	Residential	331.83	1,463.08	377.49	2,172.40
9511	Camulos Avenue	Residential	782.70	436.35	398.26	1,617.31
9540	Camulos Avenue	Residential	1,602.32	526.51		2,128.83
9737	Camulos Avenue	Residential	717.79	403.09		1,120.88
9787	Camulos Avenue	Senior	369.51			369.51
9877	Camulos Avenue	Residential	782.72	436.35	398.26	1,617.33
10060	Camulos Avenue	Residential	482.69			482.69
10213	Camulos Avenue	Residential	451.06			451.06
10234	Camulos Avenue	Residential	437.93			437.93
10259	Camulos Avenue	Residential	601.44	388.18	366.83	1,356.45
9151	Camulos Avenue	Residential	559.04	385.62		944.66
9242	Camulos Avenue	Residential	541.55			541.55
11409	Cannery Row	Residential	315.62			315.62
4924	Canoga Street	Residential	601.44	388.18	366.83	1,356.45
4912	Carlton Street	Residential	376.03			376.03
5666	Caroline Street	Residential	1,463.08	485.07	377.49	2,325.64
11239	Carriage Avenue	Senior	336.33			336.33
11178	Carrillo Avenue	Residential	601.44	388.18	366.83	1,356.45
9845	Central Avenue	Residential	460.98	397.28	367.83	1,226.09
9855	Central Avenue	Residential	723.41	403.70	368.54	1,495.65
4337	Clair Street	Residential	654.93	420.19	396.47	1,471.59
4397	Clair Street	Residential	329.73	360.40		690.13
9775	Coalinga Avenue	Residential	885.52			885.52
9795	Coalinga Avenue	Residential	717.79	403.09	368.47	1,489.35
10164	Coalinga Avenue	Residential	386.86	366.69		753.55
10276	Coalinga Avenue	Residential	294.56			294.56
11148	Coalinga Avenue	Residential	586.44	386.53	366.64	1,339.61
9824	Coalinga Avenue	Senior	305.47	333.06		638.53
11362	Cumberland Lane	Residential	327.62	384.85		712.47
11370	Cumberland Lane	Residential	327.62	384.85		712.47
11373	Cumberland Lane	Residential	463.27	402.91		866.18
11469	Cumberland Lane	Residential	319.22	383.73		702.95
11476	Cumberland Lane	Residential	414.26			414.26
11333	Dartmouth Lane	Residential	327.62	384.85		712.47
9477	Del Mar Avenue	Residential	524.74			524.74
10190	Del Mar Avenue	Residential	601.44	388.18	366.83	1,356.45
10236	Del Mar Avenue	Residential	601.44	388.18	366.83	1,356.45
9827	Del Mar Avenue	Residential	331.83			331.83
4405	Denver Street	Residential	770.83	435.04	398.10	1,603.97
4456	Denver Street	Residential	337.51			337.51
4875	Denver Street	Residential	331.83			331.83
5616	Denver Street	Residential	717.79	403.09	368.47	1,489.35
5626	Denver Street	Residential	998.83	460.12	400.86	1,859.81
5168	El Morado Street	Residential	1,633.63	535.87	415.12	2,584.62
5429	El Morado Street	Residential	716.51	402.94	368.45	1,487.90
5274	El Morado Street	Residential	489.91			489.91
11159	Essex Avenue	Residential	601.44	388.18	366.83	1,356.45
4705	Ewart Street	Residential	601.44	388.18	766.36	1,755.98
4219	Fauna Street	Residential	601.44	388.18	366.83	1,356.45
4267	Fauna Street	Residential	849.85	428.62		1,278.47
4291	Fauna Street	Residential	601.44	388.18	366.83	1,356.45
4456	Fauna Street	Senior	534.66	354.09	336.33	1,225.08

**Exhibit A to Resolution 22-3369  
August 2022 - Property Assessments**

Street No.	Street Name	Type	Lien 1	Lien 2	Lien 3	Total Assessment Amount
4703	Fauna Street	Residential	589.44	386.86	366.69	1,342.99
4738	Fauna Street	Residential	598.44	387.85	366.80	1,353.09
4852	Fauna Street	Residential	551.44	382.68	366.23	1,300.35
10232	Felipe Avenue	Residential	523.31	386.86	366.69	1,276.86
8919-21	Felipe Avenue	Multifamily	1,120.88	705.05	663.52	2,489.45
9410	Felipe Avenue	Residential	378.00	365.71		743.71
9793	Felipe Avenue	Senior	316.97	332.24		649.21
4639	Flora Street	Residential	480.17			480.17
4660	Flora Street	Senior	589.44	386.86	366.69	1,342.99
5051	Flora Street	Residential	349.99			349.99
5382	Flora Street	Residential	722.32			722.32
9020	Fremont Avenue	Senior	829.39	414.73	369.12	1,613.24
9567	Fremont Avenue	Residential	782.72	436.35	398.26	1,617.33
9823	Fremont Avenue	Residential	715.15	402.80	368.44	1,486.39
9847	Fremont Avenue	Residential	1,254.96	462.18	374.97	2,092.11
10253	Fremont Avenue	Residential	589.44	386.86	366.69	1,342.99
10287	Fremont Avenue	Residential	642.93	418.87	396.33	1,458.13
10796	Fremont Avenue	Residential	343.82			343.82
9771	Galena Avenue	Residential	511.02	583.57		1,094.59
10149	Galena Avenue	Residential	589.44	386.86	366.69	1,342.99
9985	Geneva Avenue	Residential	706.03	401.79	368.33	1,476.15
10018	Geneva Avenue	Residential	514.96	380.78		895.74
10057	Geneva Avenue	Residential	682.46			682.46
4328	Granada Street	Residential	717.79	403.09	368.47	1,489.35
4436	Granada Street	Residential	551.27			551.27
4948	Granada Street	Residential	483.93			483.93
9627	Greenwood Avenue	Residential	364.26			364.26
3792	Hampton Drive	Residential	383.25			383.25
11418	Hartford Lane	Residential	434.18			434.18
4376	Harvard Street	Residential	675.81	398.47	367.96	1,442.24
4418	Harvard Street	Residential	713.66	402.64	368.41	1,484.71
4430	Harvard Street	Residential	1,463.08	485.07	377.49	2,325.64
5141-43	Harvard Street	Senior	894.42	684.34	661.23	2,239.99
4568	Hawthorne Street	Residential	1,406.80	478.88	376.81	2,262.49
9075	Helena Avenue	Residential	426.43			426.43
4611	Highland Street	Senior	617.86	365.34	337.56	1,320.76
4520	Holt Blvd.	Commercial	507.81			507.81
4103	Howard Street	Residential	601.44	388.18	366.83	1,356.45
4341	Howard Street	Residential	386.86	366.69		753.55
4705	Howard Street	Residential	315.62	383.25		698.87
4910	Howard Street	Residential	523.87			523.87
5190	Howard Street A&B	Multifamily	1,492.86	808.35	733.05	3,034.26
4585	James Street	Residential	774.87	435.49	398.16	1,608.52
10236	Kimberly Avenue	Residential	589.44	386.86	366.69	1,342.99
10244	Kimberly Avenue	Residential	589.44	473.23		1,062.67
11065	Kimberly Avenue	Residential	329.73	360.40		690.13
5019	Kingsley Street	Residential	601.44	388.18	366.83	1,356.45
5476	Kingsley Street	Residential	601.44	388.18	366.83	1,356.45
11362	Kingston Lane	Residential	327.62	364.85		692.47
10360-62	Lehigh Avenue	Multifamily	1,138.60	707.00	663.73	2,509.33
9958	Lindero Avenue	Residential	1,463.08	485.07	377.49	2,325.64
10041	Lindero Avenue	Residential	716.47			716.47
10042	Lindero Avenue	Residential	688.05			688.05
4428	Mane Street	Residential	587.70	364.67		952.37
4846	Mane Street	Residential	654.93	420.19		1,075.12
8875	Maple Avenue	Residential	270.33	379.48	393.59	1,043.40

**Exhibit A to Resolution 22-3369  
August 2022 - Property Assessments**

Street No.	Street Name	Type	Lien 1	Lien 2	Lien 3	Total Assessment Amount
9527	Marion Avenue	Residential	717.79	403.09	368.47	1,489.35
9528	Marion Avenue	Residential	482.69			482.69
9547	Marion Avenue	Residential	714.93	402.77	368.29	1,485.99
11336	Marquette Lane	Residential	441.28			441.28
11442	Marquette Lane	Residential	370.25			370.25
9595	Mills Avenue	Residential	745.53	432.26	397.81	1,575.60
9745	Mills Avenue	Residential	350.95			350.95
10189	Mills Avenue	Residential	589.44	386.86	401.00	1,377.30
10231	Mills Avenue	Residential	601.44	388.18	366.83	1,356.45
3788	Millstone Lane	Residential	350.56			350.56
3796	Millstone Lane	Residential	277.58			277.58
4481	Mission Blvd	Commercial	352.38			352.38
9056	Monte Vista Avenue	Residential	602.64			602.64
10263	Monte Vista Avenue	Residential	332.29			332.29
10290	Monte Vista Avenue	Commercial	485.56			485.56
10332	Monte Vista Avenue	Residential	589.44			589.44
11313	Monte Vista Avenue	Residential	364.03			364.03
5092	Moreno Street	Residential	291.65			291.65
5616	Moreno Street	Residential	492.48	378.30		870.78
10163	Oak Glen Avenue	Senior	546.66	355.41	336.47	1,238.54
10176	Oak Glen Avenue	Senior	440.52			440.52
4595	Oakdale Street	Residential	388.18	366.83		755.01
4644	Olive Street	Residential	753.15	444.34	412.04	1,609.53
4183	Orchard Street	Residential	267.27			267.27
4257	Orchard Street	Senior	509.69	353.44		863.13
5032	Orchard Street	Residential	471.32			471.32
5171	Orchard Street	Senior	546.66	355.41	336.47	1,238.54
5422	Orchard Street	Residential	601.44	388.18	366.83	1,356.45
5640	Orchard Street	Residential	545.37			545.37
5690	Orchard Street	Residential	717.79	403.09	368.47	1,489.35
4779	Orchard Street	Senior	338.07	334.57		672.64
3765	Peachwood Drive	Residential	315.62	383.25		698.87
3881	Peachwood Drive	Residential	441.28			441.28
3971	Peachwood Drive	Residential	434.18			434.18
3979	Peachwood Drive	Residential	400.69			400.69
9633	Poulsen Avenue	Senior	412.76			412.76
9925	Poulsen Avenue	Residential	710.18	402.25	368.38	1,480.81
9935	Poulsen Avenue	Residential	1,602.32	526.51	408.17	2,537.00
10154	Poulsen Avenue	Residential	601.44	388.18	406.43	1,396.05
11246	Poulsen Avenue	Residential	331.83			331.83
9375	Pradera Avenue	Senior	2,884.85	1,537.83	1,389.65	5,812.33
10206	Pradera Avenue	Residential	601.44	388.18	366.83	1,356.45
10074	Pradera Avenue	Residential	570.77	413.04		983.81
4426	Princeton Street	Residential	497.76			497.76
4467	Princeton Street	Residential	1,463.08	485.07	377.49	2,325.64
9151	Ramona Avenue	Residential	663.40	307.97		971.37
9529	Ramona Avenue	Residential	438.14			438.14
9587	Ramona Avenue	Residential	1,463.08	485.07	377.49	2,325.64
9060	Ramona Avenue	Residential	331.83	360.63		692.46
4833	Rawhide Street	Residential	357.95			357.95
9413	Rose Avenue	Residential	757.75	459.73	426.94	1,644.42
9434	Rose Avenue	Residential	717.79	403.09	368.47	1,489.35
9720	Rose Avenue	Residential	780.04	436.05	398.22	1,614.31
9866	Rose Avenue	Senior	651.29	369.02	337.96	1,358.27
9966	Rose Avenue	Residential	700.49	401.18	368.26	1,469.93
4683	Rosewood Street	Residential	1,463.08	485.07	377.49	2,325.64

**Exhibit A to Resolution 22-3369  
August 2022 - Property Assessments**

Street No.	Street Name	Type	Lien 1	Lien 2	Lien 3	Total Assessment Amount
5361	Rosewood Street	Residential	721.25	403.47	368.51	1,493.23
5382	Rosewood Street	Residential	346.37			346.37
11076	Roswell Avenue	Residential	328.82	387.55		716.37
4164	Rudisill Street	Residential	677.98	398.71	367.99	1,444.68
4245	Rudisill Street	Residential	487.19	345.80	362.17	1,195.16
4711	San Bernardino Street	Residential	717.79	403.09	368.47	1,489.35
4749	San Bernardino Street	Residential	701.86	401.34	368.27	1,471.47
4843	San Bernardino Street	Residential	400.29			400.29
4844	San Bernardino Street	Residential	766.37	434.56	398.06	1,598.99
5216	San Bernardino Street	Residential	288.68	355.89	363.28	1,007.85
5489	San Bernardino Street	Residential	696.51	352.79	314.98	1,364.28
5412	San Jose Street	Residential	502.05			502.05
5422	San Jose Street	Residential	767.18	434.64	398.06	1,599.88
5453	San Jose Street	Residential	642.59	394.81	367.56	1,404.96
4424	San Jose Street #05	Residential	616.02	391.89	367.24	1,375.15
4424	San Jose Street #10	Residential	949.89	428.62	371.27	1,749.78
4424	San Jose Street #27	Residential	717.79	403.09	368.47	1,489.35
4622	San Jose Street O	Residential	376.50	393.90		770.40
4622	San Jose Street R	Residential	377.41	422.43		799.84
4622	San Jose Street W	Residential	353.31	390.81		744.12
11052	San Juan Way	Residential	601.44			601.44
11014	San Miguel Way	Residential	601.44	388.18	366.83	1,356.45
11020	San Pasqual Avenue	Residential	601.44	388.18	366.83	1,356.45
10204	Santa Anita Avenue	Residential	475.90	376.48		852.38
10221	Santa Anita Avenue	Residential	480.56	444.33		924.89
9830	Saratoga Avenue	Residential	740.85	431.75		1,172.60
11011	Stallion Avenue	Residential	968.49	428.56	371.27	1,768.32
5134	Sundance Drive	Residential	350.86			350.86
9617	Surrey Avenue	Residential	717.79	403.09	368.47	1,489.35
9563	Tudor Avenue	Residential	379.55			379.55
9773	Tudor Avenue	Residential	727.91	430.32	397.59	1,555.82
10289	Tudor Avenue	Residential	601.44	388.18	366.83	1,356.45
9829	Vail Drive	Residential	331.83			331.83
9966	Vernon Avenue	Senior	597.94	334.77		932.71
10027	Vernon Avenue	Residential	491.25			491.25
10236	Vernon Avenue	Residential	589.44	386.86		976.30
10431	Vernon Avenue	Residential	805.28			805.28
4230	Via Amore	Residential	589.44	386.86	366.69	1,342.99
10422	Via Palma	Residential	329.73			329.73
11043	Wesley Avenue	Residential	477.71	376.68		854.39
11053	Wesley Avenue	Residential	722.32	401.48	368.29	1,492.09
11178	Whitewater Avenue	Residential	551.94	382.74	366.23	1,300.91
5405	Yale Street	Residential	688.10	510.90		1,199.00
5474	Yale Street	Senior	340.51			340.51
4515	Yosemite Drive	Residential	601.44	388.18	366.83	1,356.45
10474	Yosemite Drive	Residential	589.44			589.44
						<b>\$286,962.65</b>

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY,  
JULY 18, 2022, AT 8:57 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Pro Tem Ruh called the meeting to order at 8:57 p.m.

**II. ROLL CALL**

Present: Mayor Pro Tem Ruh, Council Member Johnson, City Manager Starr, and Director of Human Services Richter

**III. APPROVAL OF MINUTES**

**A. Minutes of the Regular Personnel Committee Meeting of June 20, 2022.**

Moved by Council Member Johnson, seconded by Mayor Pro Tem Ruh, and carried unanimously to approve the minutes of the Personnel Committee meeting of June 20, 2022.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

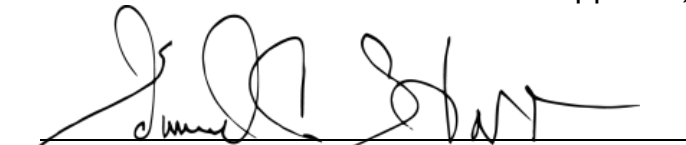
At 8:58 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:32 p.m., the Personnel Committee returned from Closed Session. Mayor Pro Tem Ruh stated that no announcements would be made at this time.

**VI. ADJOURNMENT**

At 9:32 p.m., Mayor Pro Tem Ruh adjourned the Personnel Committee.

Submitted for Personnel Committee approval,

  
\_\_\_\_\_  
Edward C. Starr  
City Manager

MINUTES OF THE REGULAR JOINT MEETING OF THE MONTCLAIR CITY COUNCIL, SUCCESSOR AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS, MONTCLAIR HOUSING AUTHORITY COMMISSION, AND MONTCLAIR COMMUNITY FOUNDATION BOARD HELD ON MONDAY, JULY 18, 2022 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

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I. CALL TO ORDER

Mayor Pro Tem/Vice Chair Ruh called the meeting to order at 7:00 p.m.

II. INVOCATION

Montclair Fire Department Chaplain Alan Olmos gave the invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Johnson led meeting participants in the Pledge.

IV. ROLL CALL

Present: Mayor Pro Tem/Vice Chair Ruh; Council Members/Directors Johnson, Martinez, and Lopez

City Manager/Executive Director Starr; Director of Community Development Diaz; Director of Human Services Richter; Finance Manager Kulbeck; Executive Director of Public Safety/Police Chief Avels; City Attorney Robbins; City Clerk Myrick

Absent: Mayor/Chair Dutrey (excused)

V. PRESENTATIONS

A. Community Activities Commission Presentation of 2021 Home Beautification Awards

Community Activities Commission Chair Diane Wells stated the CAC has sponsored the *Home Beautification Awards* program over the past 27 years to recognize Montclair residents who demonstrate community pride by attractively maintaining their homes. She noted this year the CAC selected two winners, who should be proud of the work they have done to maintain their homes. She thanked all residents who help make Montclair a beautiful community.

A brief PowerPoint presentation showcased photos of the winners' attractively landscaped residences. The **Barrios** Family, 4935 Denver Street, were praised for the beautiful floral gardens and decorative accents; and the **Shelton** family, 10120 Monte Vista Avenue, was commended for its water-conserving landscaping consisting of decorative white roses, drought-tolerant plants, hardscape features, and shaded seating areas. The **Sheltons'** "Garden of Hope" was funded by donations from friends to bring beauty and encouragement to a close friend suffering with Lou Gehrig's Disease.

The winners were each presented with *Home of the Year Award* certificates.

Mayor Pro Tem Ruh congratulated the winners and thanked all residents who have contributed to the beautification of Montclair. He thanked the CAC for organizing and facilitating the program.

VI. PUBLIC COMMENT

- A. **Mrs. Carolyn Raft**, Board Trustee, **West Valley Mosquito and Vector Control District (WVMVCD)**, reported that WVMVCD has withdrawn its application for a \$160,000 grant to fund an effort to introduce sterilized Aedes mosquitoes into the population whose offspring cannot have disease because the **San Bernardino County Department of Public Health's** Environmental Health Services Program also applied for the grant. She expressed her support for construction of a roundabout at the intersection of Ramona Avenue

and Howard Street that was approved at the last regular meeting, noting it has been needed for a long time.

- B. **Mr. Bruce Culp**, resident, indicated his support for the re-election of Mayor Dutrey and Council Member Martinez, and stated he may vote for Mayor Pro Tem Ruh if he supports the sale of cannabis in Montclair. He also noted most surrounding cities have changed to district elections, which may benefit Montclair as there are currently no members of the City Council who live north of the I-10 Freeway to represent the concerns of residents directly impacted by the developments taking place within the North Montclair Downtown Specific Plan area.

## VII. PUBLIC HEARINGS

- A. **Consider Adoption of Resolution No. 22-3372 Amending the Master User Fee Schedule to Provide Clarification of an Existing In-Lieu Fee for Inclusionary Housing**

Mayor Pro Tem Ruh declared it the time and place set for public hearing to consider Resolution No. 22-3372 and invited comments from the public.

There being no one in the audience wishing to speak, Mayor Pro Tem Ruh closed the public hearing and returned the matter to the City Council for its consideration.

Council Member Johnson stated her admiration for the diversity of the Montclair community with residents of all incomes living together, and expressed her support for methods of incorporating more affordable housing in the community.

Council Member Lopez asked if the fees are deposited into the General Fund or if they are restricted to a specific purpose, and how often developers choose to pay the in-lieu fee rather than build affordable units in their projects.

City Manager Starr stated the City would deposit this fee into the Economic Development Agency's Affordable Housing Fund, which is not restricted like former Montclair Redevelopment Agency funds and could be allocated to other purposes under the direction of City Council. He stated when developers have the option, they practically always choose to pay the in-lieu fee.

Mayor Pro Tem Ruh stated the City needs every affordable housing tool at its disposal.

Moved by Council Member Lopez, seconded by Council Member Johnson, and carried unanimously 4-0-1 (Dutrey absent), the City Council adopted Resolution No. 22-3372 amending the Master User Fee Schedule to provide clarification of an existing in-lieu fee for inclusionary housing.

- B. **Adoption of Resolution No. 22-3367 Making Findings Pursuant to the California Environmental Quality Act and Approving a Precise Plan of Design for a Proposed 137-Unit Residential Apartment Project Within the North Montclair Downtown Specific Plan on 2.85 Acres at the Southwest Corner of Arrow Highway and Monte Vista Avenue**

**Mr. Reece Petterson**, Development Associate, **Trammel Crow Residential**, provided a PowerPoint-led presentation showcasing aspects of the Kendry Expansion Project, an expansion to the Alexan Kendry Project that will include 206 subterranean parking spaces, 137 apartment units, and amenities for residents.

Council Member Johnson complimented the project on providing garage parking and rooftop amenities for its residents.

Council Member Lopez expressed concerns regarding the narrow streets in the existing Alexan Kendry project, which present issues for emergency vehicle access, and asked if new wider roads would be added for this project.

**Mr. Petterson** stated no new roads are being built as a part of this expansion; however, the Fire Department verified that the hose pull length was long enough to reach all units from the street.

Council Member Martinez complimented the architecture and design elements included and stated her excitement for current Alexan Kendry residents and future Kendry Expansion residents.

Mayor Pro Tem Ruh stated he appreciates the variety of building styles used throughout the two projects.

Mayor Pro Tem Ruh declared it the time and place set for public hearing to consider Resolution No. 22-3367 and invited comments from the public.

**Mr. Culp** expressed frustration that residents who are renters living near this project did not receive a mailed notice about the hearing because the City is only legally required to mail notices to property *owners* within 300 feet of the project. He stated as a resident of the **Paseos at Montclair** located directly across the street from this development, he has already seen negative traffic impacts of the Alexan Kendry Project and foresees compounding issues with the Kendry Expansion. He urged the City to do more community outreach and hold meetings to receive input from residents so that concerns can be addressed before final approval of the project is considered by the City Council. He added he is disappointed there will be no electric vehicle chargers for future residents of the proposed project.

**Mrs. Raft** stated, as a former Council Member who was involved with the adoption and amendment of the North Montclair Downtown Specific Plan, she is excited to see so many new projects being built. She expressed relief that there will be no on-street parking for this project. In response to **Mr. Culp's** concern about a lack of electric charging stations, she stated those could be addressed when there is a greater need as more drivers switch to electric cars.

There being no one else in the audience wishing to speak, Mayor Pro Tem Ruh closed the public hearing and returned the matter to the City Council for its consideration.

Moved by Council Member Lopez, seconded by Council Member Martinez, and carried unanimously 4-0-1 (Dutrey absent), the City Council adopted Resolution No. 22-3367 making findings pursuant to the California Environmental Quality Act and approving a Precise Plan of Design for a proposed 137-unit residential apartment project within the North Montclair Downtown Specific Plan on 2.85 acres at the southwest corner of Arrow Highway and Monte Vista Avenue.

## VIII. CONSENT CALENDAR

Council Member Lopez requested Items C-2 and C-9 be pulled from the Consent Calendar.

Moved by Council Member/Director Johnson, seconded by Council Member/Director Lopez, and carried unanimously 4-0-1 (Dutrey absent), the City Council removed Items C-2 and C-9 and approved the remainder of the Consent Calendar as presented:

### A. Approval of Minutes

#### 1. Regular Joint Meeting — June 20, 2022

The City Council, Successor Agency Board of Directors, Montclair Housing Corporation Board of Directors, Montclair Housing Authority Commissioners, and Montclair Community Foundation Board of Directors approved the minutes of the June 20, 2022 regular joint meeting.

#### 2. Adjourned Joint Meeting — June 22, 2022

The City Council and Montclair Housing Corporation Board of Directors approved the minutes of the June 22, 2022 adjourned joint meeting.



**3. Special Joint Meeting — June 28, 2022**

The City Council and Montclair Housing Corporation Board of Directors approved the minutes of the June 28, 2022 special joint meeting.

**B. Administrative Reports**

**1. Receiving and Filing of City Treasurer's Report**

The City Council received and filed the City Treasurer's Report for the month ending June 30, 2022.

**2. Approval of City Warrant Register and Payroll Documentation**

The City Council approved the Warrant Register dated July 5, 2022, totaling \$546,595.92; the Warrant Register dated July 20, 2022 totaling \$2,318,522.15; and the Payroll Documentation dated June 5, 2022, amounting to \$700,054.12 gross, with \$487,352.21 net being the total cash disbursement.

**3. Receiving and Filing of Successor Agency Treasurer's Report**

The City Council acting as successor to the Redevelopment Agency Board received and filed the Successor to the Redevelopment Agency Treasurer's Report for the month ending June 30, 2022.

**4. Approval of Successor Agency Warrant Register**

The City Council acting as successor to the Redevelopment Agency Board approved the Successor to the Redevelopment Agency Warrant Register dated 06.01.22-06.30.22 in the amounts of \$6,176.35 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds.

**5. Receiving and Filing of MHC Treasurer's Report**

The MHC Board received and filed the MHC Treasurer's Report for the month ending June 30, 2022.

**6. Approval of MHC Warrant Register**

The MHC Board approved the MHC Warrant Register dated 06.01.22-06.30.22 in the amount of \$119,810.69.

**7. Receiving and Filing of MHA Treasurer's Report**

The MHA Commissioners received and filed the MHA Treasurer's Report for the month ending June 30, 2022.

**8. Approval of MHA Warrant Register**

The MHA Commissioners approved the MHA Warrant Register dated 06.01.22-06.30.22 in the amount of \$0.00.

**9. Approval of the Filing of a Notice of Completion for the Pacific Electric Trail Bridge Replacement Project with the San Bernardino County Recorder's Office**

**Authorizing the Release of Retention of the Payment Bond 30 Days After Recordation of the Notice of Completion**

The City Council took the following actions:

- (a) Approved the filing of a Notice of Completion for the Pacific Electric Trail Bridge Replacement Project with the San Bernardino County Recorder's Office.
- (b) Authorized the release of retention of the payment bond 30 Days after recordation of the Notice of Completion.

**10. Receiving and Filing the San Antonio Creek Trail Feasibility Study by Alta Planning + Design, Inc.**

The City Council received and filed the San Antonio Creek Trail Feasibility Study by Alta Planning + Design, Inc.

**11. Approval of Tract Map No. 20384 for 10680 Silicon Avenue  
Authorizing Staff to Record Tract Map No. 20384 with the  
San Bernardino County Recorder's Office**

The City Council took the following actions:

- (a) Approved Tract Map No. 20384 for 10680 Silicon Avenue.
- (b) Authorized staff to record Tract Map No. 20384 with the San Bernardino County Recorder's Office.

**12. Authorizing a \$23,680 Appropriation from the Contingency Fund for Emergency Replacement of 20 Premier Link Controllers for Air Conditioning Units Damaged by the Thunderstorm on June 22, 2022**

The City Council authorized a \$23,680 appropriation from the Contingency Fund for emergency replacement of 20 Premier Link controllers for air conditioning units damaged by the thunderstorm on June 22, 2022.

**C. Agreements**

**1. Approval of Agreement No. 22-40 with Corelogic Solutions, LLC for ParcelPoint GIS Mapping Data Access for Use in CAD/RMS and Next Generation 9-1-1 Services, Subject to Any Revisions Deemed Necessary by the City Attorney**

**Authorizing a \$2,010 Appropriation from the Prop 30/AB 109 Fund to Pay the Costs Associated with Agreement No. 22-40**

The City Council took the following actions:

- (a) Approved Agreement No. 22-40 with Corelogic Solutions, LLC for ParcelPoint GIS mapping data access for use in CAD/RMS and Next Generation 9-1-1 Services, subject to any revisions deemed necessary by the City Attorney.
- (b) Authorized a \$2,010 Appropriation from the Prop 30/AB 109 Fund to Pay the Costs Associated with Agreement No. 22-40.

**3. Approval of Agreement No. 22-61 with Econolite Systems for Traffic Signal Maintenance Services, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved Agreement No. 22-61 with Econolite Systems for traffic signal maintenance services, subject to any revisions deemed necessary by the City Attorney.

**4. Approval of Agreement No. 22-71 with Civic Publications, Inc., to Provide Public Education and Community Outreach Services, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved Agreement No. 22-71 with Civic Publications, Inc., to provide public education and community outreach services, subject to any revisions deemed necessary by the City Attorney.

**5. Approval of Agreement No. 22-72 with E-Homes, Inc., to Provide Real Estate Brokerage Services, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved Agreement No. 22-72 with E-Homes, Inc., to provide real estate brokerage services, subject to any revisions deemed necessary by the City Attorney.

**6. Approval of Agreement No. 22-74 with Nutrition Ink to Provide Nutrition Education Services for the City's Senior Citizen Nutrition Program, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved *Agreement No. 22-74* with Nutrition Ink to provide nutrition education services for the City's Senior Citizen Nutrition Program, subject to any revisions deemed necessary by the City Attorney.

**7. Approval of *Agreement No. 22-75* with Catering Systems, Inc., to Provide Meals for the City's Senior Citizen Nutrition Program, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved *Agreement No. 22-75* with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program, subject to any revisions deemed necessary by the City Attorney.

**8. Approval of *Agreement No. 22-76* with Suzanne Yoakum to Provide Case Management Services for Senior Citizen Programs, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved *Agreement No. 22-76* with Suzanne Yoakum to provide case management services for Senior Citizen programs, subject to any revisions deemed necessary by the City Attorney.

**10. Approval of *Agreement No. 22-78* with Ontario-Montclair School District to Provide a Licensed Clinical Social Worker for the Montclair Community Collaborative's Case Management Program, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved *Agreement No. 22-78* with Ontario-Montclair School District to provide a Licensed Clinical Social Worker for the Montclair Community Collaborative's Case Management Program, subject to any revisions deemed necessary by the City Attorney.

**11. Approval of *Agreement No. 22-79* with San Bernardino County Transportation Authority, Amendment No. 4 to *Agreement No. 15-64* (SBCTA Cooperative Agreement No. 15-1001297) for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved *Agreement No. 22-79* with San Bernardino County Transportation Authority, Amendment No. 4 to *Agreement No. 15-64* (SBCTA Cooperative Agreement No. 15-1001297) for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project, subject to any revisions deemed necessary by the City Attorney.

**12. Approval of *Agreement No. 22-80* with Revenue & Cost Specialists, LLC to Conduct a Comprehensive Cost-of-Service Study Related to Fees Charged by the City of Montclair, Subject to Any Revisions Deemed Necessary by the City Attorney**

The City Council approved *Agreement No. 22-80* with Revenue & Cost Specialists, LLC to conduct a comprehensive cost-of-service study related to fees charged by the City of Montclair, subject to any revisions deemed necessary by the City Attorney.

**D. Resolutions**

**1. Adoption of Resolution No. 22-3368 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges**

The City Council adopted Resolution No. 22-3368 authorizing placement of liens on certain properties for delinquent sewer and trash charges.

**2. Adoption of Resolution No. 22-3370 Adopting a Grant Management Policy**

The City Council adopted Resolution No. 22-3370 adopting a Grant Management Policy.

**3. Adoption of Resolution No. 22-3371 Rescinding and Superseding Resolution No. 21-3294 Identifying and Correcting Updated Terms and Conditions for a Fire Department Response Away from its Official Duty Station when Assigned to an Emergency Incident**

The City Council adopted Resolution No. 22-3371 rescinding and superseding Resolution No. 21-3294 identifying and correcting updated terms and conditions for a Fire Department response away from its official duty station when assigned to an emergency incident.

**4. Adoption of Resolution No. 22-3373 Making Factual Findings in Compliance with AB 361 for the Continuation of Public Meeting Teleconferencing During Public Health Emergencies for the Period of July 18, 2022, through August 17, 2022**

The City Council adopted Resolution No. 22-3373 making factual findings in compliance with AB 361 for the continuation of public meeting teleconferencing during public health emergencies for the period of July 18, 2022, through August 17, 2022.

**IX. PULLED CONSENT CALENDAR ITEMS**

**C. Agreements**

**2. Award of Contract to Mariposa Landscapes, Inc., in the Amount of \$47,558 for Construction of the Fire Station No. 2 Landscaping Project**

**Approval of Agreement No. 22-55 with Mariposa Landscapes, Inc. for Construction of the Fire Station No. 2 Landscaping Project, Subject to Any Revisions Deemed Necessary by the City Attorney**

**Authorizing an Additional \$30,000 Appropriation from 2021 Lease Revenue Bond Funds for Costs Related to the Project**

**Authorization of a \$12,442 Construction Contingency for the Project**

Council Member Lopez asked why additional funds are being requested for this project.

City Manager Starr advised staff did not anticipate the costs for this project to increase like other projects; however, that was not the case.

Moved by Council Member Lopez, seconded by Council Member Martinez, and carried unanimously 4-0-1 (Dutrey absent), the City Council took the following actions:

- (a) Awarded a contract to Mariposa Landscapes, Inc., in the amount of \$47,558 for construction of the Fire Station No. 2 Landscaping Project.
- (b) Approved Agreement No. 22-55 with Mariposa Landscapes, Inc. for construction of the Fire Station No. 2 Landscaping Project, subject to any revisions deemed necessary by the City Attorney.
- (c) Authorized an additional \$30,000 appropriation from 2021 Lease Revenue Bond Funds for costs related to the Project.
- (d) Authorized a \$12,442 construction contingency for the Project.

9. **Approval of Agreement No. 22-77 with Misha L. Penn to Provide Grant Management and Fiscal Compliance Services for the Human Services Department, Subject to Any Revisions Deemed Necessary by the City Attorney**

Moved by Council Member Lopez, seconded by Council Member Martinez, and carried unanimously 4-0-1 (Dutrey absent), the City Council approved *Agreement No. 22-77* with Misha L. Penn to provide grant management and fiscal compliance services for the Human Services Department, subject to any revisions deemed necessary by the City Attorney.

X. **COMMUNICATIONS**

A. **Department Reports** — None

B. **City Attorney**

City Attorney Robbins requested the City Council meet in closed session concerning the following:

1. **Closed Session Pursuant to Government Code Section 54957.6 Regarding Conference with Designated Labor Negotiator Edward C. Starr**

*Agency: City of Montclair*

*Employee: Management*

*Organizations: Montclair City Confidential Employees Assn.*

*Montclair General Employees Association*

*Montclair Fire Fighters Association*

*Montclair Police Officers Association*

C. **City Manager/Executive Director**

City Manager/Executive Director Starr stated while the City is required to send notices to property owners within 300 feet, the management companies of apartment complexes are also required to post the notices in an area where their residents can view them. He further advised that **Moule & Polyzoides** is currently contracted to develop a street design plan for the NMDSP area to address traffic issues and provide for a more pedestrian- and bicycle-friendly downtown area.

D. **Mayor/Chair** — None

E. **Council Members/Directors**

1. Mayor Pro Tem/Vice Chair Ruh made the following comments:
  - (a) With a new surge of COVID-19 cases due to the new BA.5 coronavirus variant, he urged everyone to be safe.
  - (b) He noted his attendance at the **Gold Line Joint Powers Authority** meeting, at which there continues to be support expressed by all representatives of cities along the Gold Line's path for its extension to Montclair.
  - (c) Last week he attended **Assembly Member Freddie Rodriguez's** Summer BBQ event where the District's Veteran, Woman, and Business of the Year were recognized. He added the Business of the Year was Montclair's own **Bowlium**. He stated he would like to recognize the awardees at a future City Council meeting.
2. Council Member/Director Lopez made the following comments:
  - (a) He congratulated Montclair's Junior Baseball Division for making it to the All Stars League tournament, where unfortunately they were defeated by the Upland team.
  - (b) He concurred with Mayor Pro Tem Ruh's suggestion for the City Council to recognize the awardees from **Assembly Member Rodriguez's** Summer BBQ event.

- (c) He reported traffic flow issues related to inadequate lane striping on Central Avenue at the I-10 Freeway and requested staff to contact SBCTA.
  - (d) He congratulated former Montclair/Upland Fire Chief **Dave Corbin** on his upcoming retirement from the **San Bernardino County Fire Protection District**.
3. Council Member/Director Johnson commented as follows:
- (a) She announced the **Montclair Chamber of Commerce** will be hosting another drive-thru e-waste collection event on Saturday and Sunday, July 23rd and 24th, and invited the community to drop by the Chamber office at 8880 Benson Avenue.
  - (b) She recently learned her grand daughters, who live in Rancho Cucamonga, recently went on a field trip with their class to a water park, which turned out to be the Splash Pad at Alma Hofman Park.
  - (c) She announced **Habitat for Humanity**, located at 4737 Holt Boulevard in Montclair, will be opening its application period for individuals to build their own homes. She advised those who are interested should call their office at (909) 399-0202.
4. Council Member/Director Martinez commented as follows:
- (a) She reported the City's campaign to prevent illegal fireworks was successful, resulting in 60 fewer firework-related calls for service compared to last year.
  - (b) She stated last week's vendor fair was successful and her family is also thoroughly enjoying the weekly concerts and movies in the park. She thanked all staff involved with these events.

**F. Committee Meeting Minutes**

**1. Minutes of Real Estate Committee Meeting of November 15, 2021**

The City Council received and filed the minutes of the Real Estate Committee meeting of November 15, 2021, for informational purposes.

**2. Minutes of Personnel Committee Meeting of June 20, 2022**

The City Council received and filed the minutes of the Personnel Committee meeting of June 20, 2022, for informational purposes.

**XI. CLOSED SESSION**

At 8:35 p.m., the City Council went into closed session to discuss labor negotiations.


**XII. CLOSED SESSION ANNOUNCEMENTS**

At 8:55 p.m., the City Council returned from closed session. Mayor Pro Tem Ruh announced the City Council met in closed session to discuss labor negotiations; information was received and direction given to staff; and no further announcements would be made at this time.

**XIII. ADJOURNMENT**

At 8:55 p.m., Mayor Pro Tem/Vice Chair Ruh adjourned the City Council, Successor Agency Board, Montclair Housing Corporation Board, Montclair Housing Authority Commission, and Montclair Community Foundation Board.

Submitted for City Council/Successor Agency Board/Montclair Housing Corporation Board/ Montclair Housing Authority Commission/Montclair Community Foundation Board approval,



Andrea Myrick, City Clerk