

## **NOTICE**

### **THIS MEETING WILL BE CONDUCTED VIA WEBINAR/TELECONFERENCE. THE COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC.**

Pursuant to Executive Orders issued by Governor Newsom to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, this meeting will be conducted remotely via the ZOOM virtual meeting platform. In compliance with the Executive Orders, there will be no in-person meeting location, however the public may participate using any of the remote methods described below.

### **LISTEN TO THE MEETING LIVE VIA ZOOM**

Members of the public may participate in this meeting by joining the ZOOM conference via PC, Mac, iPad, iPhone, or Android device using the URL:

<https://zoom.us/j/95239872725>

### **LISTEN TO THE MEETING LIVE VIA TELEPHONE**

The public may participate via phone only (without a computer/smart device) by dialing the below numbers:

**Dial Number: 1-669-900-6833**

**Meeting ID: 952 3987 2725**

**ALL PARTICIPANTS WILL BE MUTED AUTOMATICALLY UPON ENTERING THE MEETING.  
THE CITY CLERK WILL UNMUTE THOSE WHO WISH TO SPEAK AT THE APPROPRIATE TIME.  
PLEASE KEEP YOURSELF ON MUTE WHEN NOT SPEAKING.**

### **VERBAL PARTICIPATION USING ZOOM**

Please use the "Raise Hand" button to request to speak. Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda and when the Meeting's presiding officer requests comments from the public.

If you want to provide public comments and are using a computer or laptop without a microphone connected or built in, you will also need to call in using the Teleconference Number and Meeting ID highlighted below, and dial your Participant ID on the phone when prompted. Your Participant ID is found in the "Phone Call" tab of the "Join Audio" settings. This option will also switch your audio over to the phone. Please do not use speaker mode and turn off your computer audio when speaking to prevent audio feedback.

### **VERBAL PARTICIPATION OVER THE PHONE**

Please dial \*6 to mute and unmute yourself, and \*9 to "raise your hand" to request to speak. Raised hands will only be acknowledged during the Public Hearing and Public Comment sections of the agenda and when the Meeting's presiding officer requests comments from the public. Do not use speaker mode when speaking.

### **ADA COMPLIANCE INFORMATION**

Meetings are accessible to people with disabilities. Requests in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and the materials related to it. Individuals who need special assistance or a disability-related modification or accommodation to participate in this meeting, or who have a disability and wish to request an alternative format for the meeting materials, should contact the City Clerk at [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) or call (909) 625-9416. Every attempt will be made to swiftly address each request. (28 CFR 35.102-35.104 ADA Title II)

## **PUBLIC COMMENT PROCEDURES**

### **MAKING VERBAL COMMENTS**

To provide verbal comments during the meeting, please visit [www.cityofmontclair.org/cc-comment](http://www.cityofmontclair.org/cc-comment) to fill out a Virtual Speaker Card to request to speak in advance. You may also call the City Clerk in advance at (909) 625-9416 to fill out the Virtual Speaker Card over the phone or e-mail your name, phone number if calling in during the meeting, and subject of comment or agenda item to [cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org) with "[Meeting Date] Virtual Speaker Card" as the subject line.

Meeting attendees who did not fill out the Virtual Speaker Card in advance will be given an opportunity to speak after those who requested to speak in advance.

### **SUBMITTING WRITTEN COMMENTS**

Written comments (250 word limit) may be submitted prior to the meeting by filling out the Virtual Speaker Card ([www.cityofmontclair.org/cc-comment](http://www.cityofmontclair.org/cc-comment)), via e-mail ([cityclerk@cityofmontclair.org](mailto:cityclerk@cityofmontclair.org)), or via U.S. Mail (Mailing Address: City of Montclair, Attn: City Clerk, Re: [Meeting Date] Public Comment, 5111 Benito Street, Montclair, CA 91763), and will be read aloud during the meeting by the City Clerk at the appropriate time.

Please submit all requests to speak or written comments at least one hour prior to the start of the meeting. The City cannot be held responsible for U.S. Mail that does not arrive on time prior to the subject meeting.



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

**AGENDA**

Tuesday, February 16, 2021  
7:00 p.m.

*As a courtesy, please place yourself on mute while the meeting is in session, unless speaking (Dial \*6 on the phone to toggle mute), and turn off/mute/disable all video/web cameras.*

*Persons wishing to make a public comment or speak on an agenda item, including public hearing and closed session items, are requested to complete a Virtual Speaker Card (VSC) at [www.cityofmontclair.org/cc-comment](http://www.cityofmontclair.org/cc-comment). The Mayor/Chair (or the meeting's Presiding Officer) will recognize those who have submitted a VSC at the time of the item's consideration and invite those individuals to provide comments on the item at that time. Those who did not fill out a VSC will have an opportunity to speak after those who did by using the "raise hand" function on the ZOOM meeting platform or over the phone by dialing \*9.*

*Audio recordings of the CC/SA/MHC/MHA/MCF meetings are available on the City's website at [www.cityofmontclair.org](http://www.cityofmontclair.org) and can be accessed by the end of the next business day following the meeting.*

- 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**

- A. COVID-19 Community Recognition Award

**VI. PUBLIC COMMENT**

*This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded up to five minutes to address the City Council/Boards of Directors/Commissioners. (Government Code Section 54954.3).*

*If you did not submit a Virtual Speaker Card and would like to speak on an item that is on the agenda, please request to speak during Public Comment to announce the agenda item on which you would like to comment so you may be called on to provide your comments at the time of that 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. First Reading — Consider Ordinance No. 21-995 Amending Section 8.36.090 of the Montclair Municipal Code to Eliminate Commercial Truck Parking on Brooks Street and Palo Verde Street [CC]

Consider Setting a Public Hearing to Consider Adoption of Ordinance No. 21-995 on Monday, March 1, 2021, at 7:00 p.m. [CC]

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**VIII. CONSENT CALENDAR**

A. Approval of Minutes

1. Adjourned Meeting — January 19, 2021 [CC]
2. Regular Joint Meeting — February 1, 2021 [CC/SA/MHC/MHA/MCF]

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer’s Report [CC] 8
2. Consider Approval of Warrant Register & Payroll Documentation [CC] 9
3. Consider Receiving and Filing of Treasurer’s Report [SA] 10
4. Consider Approval of Warrant Register [SA] 11
5. Consider Receiving and Filing of Treasurer’s Report [MHC] 12
6. Consider Approval of Warrant Register [MHC] 13
7. Consider Receiving and Filing of Treasurer’s Report [MHA] 14
8. Consider Approval of Warrant Register [MHA] 15

C. Agreements

1. Consider Approval of Agreement No. 21-05 with Alta Planning + Design, Inc. for Preparation of the San Antonio Creek Channel Multimodal Connectivity Plan [CC]  
Consider Authorizing a \$177,708 Appropriation from Sustainable Communities SB 1 Grant Funds for the San Antonio Creek Channel Multimodal Connectivity Plan [CC] 16
2. Consider Approval of Agreement No. 21-06, a Memorandum of Agreement with the Los Angeles Police Department on Behalf of the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, to Join the Internet Crimes Against Children Task Force [CC]  
Consider Authorizing Executive Director of Public Safety/Police Chief Robert Avels to Sign Agreement No. 21-06 [CC] 37
3. Consider Approval of Agreement No. 21-07, a Reimbursement Agreement with Maple Multi-Family Land CA, L.P. Regarding Properties Generally Located on the Southwest Corner of Monte Vista Avenue and Arrow Highway and the Northwest Corner of Monte Vista Avenue and Richton Street [CC] 44

D. Resolutions — None

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. RESPONSE**

- A. Consider Receiving and Filing Response to Council Inquiry Regarding the Reopening of City Parks and Facilities Amidst the Novel Coronavirus Pandemic [CC]

Consider Continuing the Reopening Protocols as Established in the City Facilities Reopening, Health and Safety Plan Adopted by the City Council on September 21, 2020 [CC]

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**XI. COUNCIL WORKSHOP**

- A. Fiscal Year 2020–21 Midyear Budget Review

*(The City Council may consider continuing this item to an adjourned meeting on Wednesday, February 24, 2021, at 6:00 p.m.)*

**XII. COMMUNICATIONS**

- A. Department Reports — None
- B. City Attorney
- C. City Manager/Executive Director
- D. Mayor/Chairperson
- E. Council Members/Directors
- F. Committee Meeting Minutes *(for informational purposes only)* — None

**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, March 1, 2021, at 7:00 p.m.*

*Reports, backup materials, and additional materials related to any item on this Agenda distributed to the Acting Bodies after publication of the Agenda packet are available for public inspection in in the Office of the City Clerk between 7:00 a.m. and 6:00 p.m., Monday through Thursday. Pursuant to the Governor’s Executive Orders in relation to the COVID-19 pandemic, 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 such review of items via e-mail.*

*In compliance with the Americans with Disabilities Act, 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. Phillips, 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 <http://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, February 11, 2021.*



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	PKG300
<b>SECTION:</b>	PUBLIC HEARINGS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	A	<b>PREPARER:</b>	N. CASTILLO

**SUBJECT:** FIRST READING — CONSIDER ORDINANCE NO. 21-995 AMENDING SECTION 8.36.090 OF THE MONTCLAIR MUNICIPAL CODE TO ELIMINATE COMMERCIAL TRUCK PARKING ON BROOKS STREET AND PALO VERDE STREET

CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ADOPTION OF ORDINANCE NO. 21-995 ON MONDAY, MARCH 1, 2021, AT 7:00 P.M.

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**REASON FOR CONSIDERATION:** Parking restrictions and allowances for specified City streets are included in the Montclair Municipal Code in consideration of surrounding property uses, developments, and activities.

The City Council adopts Ordinances to make changes to the Montclair Municipal Code and set local regulations. Adoption of an Ordinance requires first and second readings, each held at separate public hearings before the City Council. An Ordinance may be adopted only after the second reading is held at a regular Council meeting occurring at least five days after the introduction of the proposed Ordinance. If substantial changes to the Ordinance are approved, the amended Ordinance must continue on to the next meeting taking place no fewer than five days thereafter to conduct the second reading and adopt the Ordinance.

**BACKGROUND:** Since the year 2000 there have been complaints from residents and businesses about trucks parking on restricted streets and parking in front of residences and businesses, blocking the view of the businesses from the street. Signs posted to restrict truck parking were somewhat effective, but the problem just migrated to other blocks. In 2006, a total ban of truck parking on City streets was presented to the Public Works Committee. During the City Council's public hearing process for the Ordinance, several residents and business owners spoke and stated they needed some place to park their trucks in the City. The issue was returned to the Public Works Committee in early 2007 and the Ordinance was modified to restrict truck parking on most streets in the City, but allowed trucks to continue parking on Brooks Street between Ramona Avenue and east of Monte Vista Avenue.

Mr. Squyres, a resident, attended the public hearings and requested consideration of additional streets for truck parking, but the Ordinance remained unchanged. Since its adoption in 2007, Mr. Squyres occasionally parked his truck at his residence and was issued a citation for parking a commercial vehicle in a residential area. In 2012, the Public Works Committee agreed to issue parking permits on an individual basis for trucks to park on Palo Verde Street between Central Avenue and Carrillo Street. The expectation was that Mr. Squyres's truck would only be parked on the street a few times a year and not every weekend, therefore it was not anticipated to be a problem.

The permit-parking program on Palo Verde Street did not specify a maximum number of permits to be issued and, as an unintended consequence, the number of trucks parked on Palo Verde Street has grown over the years. This has attracted trucks to illegally park in other segments of Palo Verde where truck parking is prohibited.

The City's General Plan vision is to continue to improve safety, access, and mobility for all. The actions taken in 2006 to ban truck parking on City streets was tempered by the inclusion of Brooks Streets and Palo Verde to allow for a smooth transition to the ultimate goal of a total ban of truck parking on City streets. It has been over 15 years now and is Public Works Director/City Engineer Castillo's recommendation to remove A(4) and A(5) of Section 8.36.090 of the Montclair Municipal Code. Executive Director, Office of Public Safety/Police Chief Avels endorses the deletion as the truck parking creates safety and policing concerns. City Manager Starr endorses the deletion since it will assist with the removal of unsightly trucks that create blight in the community. All new development projects in the City must provide adequate onsite parking for their buildings' commercial truck needs. Owner-operators need to make accommodations and provide the parking for their trucks on the property. Implementing a total ban of truck parking on City streets will advance the City toward its goal of creating a public place where vehicles and pedestrians can co-exist in a much more aesthetically pleasing and safe manner.

All permit holders for parking in the segment of Palo Verde Street and the business within the segment of Brooks Street have been notified by mail of the proposed Ordinance eliminating the commercial truck permit-parking program.

**FISCAL IMPACT:** Adoption of this Ordinance would have no discernable impact to the City's General Fund.

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

1. Introduce and conduct the first reading of Ordinance No. 21-995 amending Section 8.36.090 of the Montclair Municipal Code to eliminate commercial truck parking on Brooks Street and Palo Verde Street.
2. Set a public hearing for Monday, March 1, 2021, at 7:00 p.m. to consider adoption of Ordinance No. 21-995.

**ORDINANCE NO. 21-995**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA AMENDING SECTION 8.36.090 OF CHAPTER 8.36 OF THE MONTCLAIR MUNICIPAL CODE TO PROHIBIT COMMERCIAL VEHICLE PARKING ON BROOKS STREET AND PALO VERDE STREET**

**WHEREAS**, Chapter 8.36 of the Montclair Municipal Code currently sets forth regulations concerning stopping, standing and parking on City streets and other property in the City; and

**WHEREAS**, paragraphs A.4. and A.5. of Section 8.36.090 of the Montclair Municipal Code currently allow commercial vehicles having a manufacturer's gross vehicle weight rating (GVWR) of 10,000 pounds or more to park on certain areas of Brooks Street and Palo Verde Street; and

**WHEREAS**, it is determined to be in the best interests of the City and its residents to amend Section 8.36.090 of the Montclair Municipal Code to prohibit the parking of commercial vehicles having a GVWR of 10,000 pounds or more on Brooks Street and Palo Verde Street.

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

**SECTION I. Deletion of paragraphs A.4. and A.5. from Section 8.36.090.**

Section 8.36.090 of Title 8 of the Montclair Municipal Code is hereby amended by deleting paragraphs A.4. and A.5.

**SECTION II. Severability.**

If any section, subsection, subdivision, sentence, clause, phrase or portion of this Ordinance, 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 Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION III. Effective Date.**

This Ordinance shall be in full force and effect thirty (30) days after passage.

**SECTION IV. Posting.**

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

**APPROVED AND ADOPTED** this XX day of XX, 2021.

\_\_\_\_\_  
Mayor

**ATTEST:**

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

I, Andrea M. Phillips, City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 21-995 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2021, and finally passed not less than five (5) days thereafter on the XX day of XX, 2021, by the following vote, to-wit:

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

\_\_\_\_\_  
Andrea M. Phillips  
City Clerk



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN520
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	J. KULBECK
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending January 31, 2021.

**BACKGROUND:** Included in the City Council's agenda packet is a copy of the Treasurer's Report for the period ending January 31, 2021.

**FISCAL IMPACT:** Routine—report of City's cash and investments.

**RECOMMENDATION:** Staff recommends the City Council receive and file the Treasurer's Report for the month ending January 31, 2021.





# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN540
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	FINANCE
<b>ITEM NO.:</b>	2	<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 February 16, 2021, and the Payroll Documentation dated January 17, 2021, and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated February 16, 2021, totals \$999,346.06; and the Payroll Documentation dated January 17, 2021 totals \$568,890.97 gross, with \$392,523.87 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>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN510
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	SA
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** The City Council acting as Successor to the Redevelopment Agency Board of Directors (Successor Agency Board) is requested to consider receiving and filing the Successor to the Redevelopment Agency Treasurer's Report for the month ending January 31, 2021, pursuant to state law.

**BACKGROUND:** Included in the Successor Agency Board's agenda packet is a copy of the Successor to the Redevelopment Agency Treasurer's Report for the period ending January 31, 2021.

**FISCAL IMPACT:** Routine—report of the Successor Agency's cash.

**RECOMMENDATION:** Staff recommends the Successor Agency Board receive and file the Successor to the Redevelopment Agency Treasurer's Report for the month ending January 31, 2021.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN530
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	SA
<b>ITEM NO.:</b>	4	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

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**REASON FOR CONSIDERATION:** The City Council acting as Successor to the Redevelopment Agency Board of Directors is requested to consider receiving and filing the Successor to the Redevelopment Agency Warrant Register for the month ending January 31, 2021, pursuant to state law.

**BACKGROUND:** Vice Chair Ruh has examined the Successor to the Redevelopment Agency Warrant Register dated 01.01.21-01.31.21 in the amounts of \$14,011.25 for the Combined Operating Fund and \$0.00 for the Redevelopment Obligation Retirement Funds, and finds it to be in order.

**FISCAL IMPACT:** Routine—report of Agency's obligations.

**RECOMMENDATION:** Vice Chair Ruh recommends the City Council as Successor to the Redevelopment Agency Board of Directors approve the Successor to the Redevelopment Agency Warrant Register for the period ending January 31, 2021.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	5	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending January 31, 2021, pursuant to state law.

**BACKGROUND:** Included in the Montclair Housing Corporation Board agenda packet is a copy of the Treasurer's Report for the period ending January 31, 2021.

**FISCAL IMPACT:** Routine—report of the Montclair Housing Corporation's cash and investments.

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending January 31, 2021.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHC
<b>ITEM NO.:</b>	6	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

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**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending January 31, 2021, pursuant to state law.

**BACKGROUND:** Vice Chair Ruh has examined the Warrant Register dated 01.01.21-01.31.21 in the amount of \$31,953.25 for the Montclair Housing Corporation and finds it to be in order.

**FISCAL IMPACT:** Routine—report of Montclair Housing Corporation's obligations.

**RECOMMENDATION:** Vice Chair Ruh recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending January 31, 2021.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN525
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	7	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER RECEIVING AND FILING OF TREASURER'S REPORT		

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Commission is requested to receive and file the Montclair Housing Authority Treasurer's Report for the month ending January 31, 2021, pursuant to state law.

**BACKGROUND:** Included in the Montclair Housing Authority Commission's agenda packet is a copy of the Treasurer's Report for the period ending January 31, 2021.

**FISCAL IMPACT:** Routine—report of Montclair Housing Authority's obligations.

**RECOMMENDATION:** Staff recommends the Montclair Housing Authority Commission receive and file the Treasurer's Report for the month ending January 31, 2021.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	FIN545
<b>SECTION:</b>	CONSENT - ADMIN. REPORTS	<b>DEPT.:</b>	MHA
<b>ITEM NO.:</b>	8	<b>PREPARER:</b>	C. RAMIREZ
<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER		

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**REASON FOR CONSIDERATION:** The Montclair Housing Authority Commission is requested to consider receiving and filing the Warrant Register for the month ending January 31, 2021, pursuant to state law.

**BACKGROUND:** Vice Chair Ruh has examined the Warrant Register dated 01.01.21-01.31.21 in the amount of \$0.00 for the Montclair Housing Authority and finds it to be in order.

**FISCAL IMPACT:** Routine—report of Montclair Housing Authority's obligations.

**RECOMMENDATION:** Vice Chair Ruh recommends the Montclair Housing Authority Commission approve the Warrant Register for the period ending January 31, 2021.



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	TRN550/PUB200
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	PUBLIC WORKS
<b>ITEM NO.:</b>	1	<b>PREPARER:</b>	N. CASTILLO

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 21-05 WITH ALTA PLANNING + DESIGN, INC. FOR PREPARATION OF THE SAN ANTONIO CREEK CHANNEL MULTIMODAL CONNECTIVITY PLAN

CONSIDER AUTHORIZING A \$177,708 APPROPRIATION FROM SUSTAINABLE COMMUNITIES SB 1 GRANT FUNDS FOR THE SAN ANTONIO CREEK CHANNEL MULTIMODAL CONNECTIVITY PLAN

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**REASON FOR CONSIDERATION:** Professional planning and design services are needed to prepare and develop a Multimodal Connectivity Plan in anticipation of the development of the San Antonio Creek Trail along the San Antonio Channel. The City Council must approve contracts for professional services in excess of \$15,000, and appropriate funds for unbudgeted projects.

The City Council is requested to consider approval of Agreement No. 21-05 with Alta Planning + Design, Inc. to prepare the San Antonio Creek Channel Multimodal Connectivity Plan, and is also requested to authorize a \$177,708 appropriation from Sustainable Communities SB 1 Grant Funds to cover the cost of the contract.

A copy of Agreement No. 21-05 with Alta Planning + Design, Inc., is attached for the City Council's review and consideration. The full exhibits are included in the agenda packet.

**BACKGROUND:** On November 6, 2020, the City received notification of a successful grant application with the Caltrans Sustainable Transportation Planning Program to develop the San Antonio Creek Channel Multimodal Connectivity Plan. In total, the City received \$177,945 in funding for the planning study, with an additional \$23,055 local match required. The City intends to meet the local match with City staff time.

Development of the San Antonio Creek Trail presents a tremendous opportunity for Montclair to dramatically expand its recreational amenities, enhance safety, and better connect its parks, schools, and neighborhoods to one another and to regional assets like the Pacific Electric Trail.

A request for proposals (RFP) was issued for preparation of the planning document. RFPs were received from five qualified Planning and Design firms:

- Alta Planning + Design, Inc.
- KOA
- Mark Thomas
- Michael Baker International
- Stoss Landscape Urbanism

The City's evaluation team determined that the proposal submitted by Alta Planning + Design, Inc. exhibited the most knowledge of the work to be performed, relevant experience with similar kinds of work, and overall wherewithal to complete the project.



**FISCAL IMPACT:** Funding for this project would be appropriated from Sustainable Communities SB 1 Grant funds received through the Caltrans Sustainable Transportation Planning Program. The agreement with Alta Planning is for a not-to-exceed amount of \$177,708.

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

1. Approve Agreement No. 21-05 with Alta Planning + Design Services, Inc. for preparation of the San Antonio Creek Channel Multimodal Connectivity Plan; and
2. Authorize a \$177,708 Appropriation from Sustainable Communities SB 1 Grant funds for the San Antonio Creek Channel Multimodal Connectivity Plan.

**CITY OF MONTCLAIR**

**AGREEMENT FOR CONSULTANT SERVICES**

**Multimodal Connectivity Plan for San Antonio Creek Channel**

THIS AGREEMENT is made and effective as of February 9, 2021, between the City of Montclair, a municipal corporation ("City") and Alta Planning +Design, Inc., a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on February 9, 2021 and shall remain and continue in effect for a period of 15 months until tasks described herein are completed, but in no event later than April 1, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. **PERFORMANCE**

CONSULTANT represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this AGREEMENT in a thorough, competent and professional manner. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by professionals of the same discipline engaged in providing similar services during a similar time and location as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **CITY MANAGEMENT**

City's City Manager shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to be Performed or change the compensation due to Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Tasks to be Performed or change Consultant's compensation, subject to Section 6 hereof.

5. **PAYMENT**

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full,

based upon actual time spent on the above tasks. This amount shall not exceed One Hundred and Seventy Seven Thousand Seven Hundred Eight Dollars and Zero Cents (\$177,708.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Seventeen Thousand Seven Hundred Seventy Dollars and Eighty Cents (\$17,770.80). Any additional work in excess of this amount shall be approved by the City Council.

(c) Consultant will submit invoices monthly for actual services performed. Said invoices shall detail all costs, rates and hours for individual tasks. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of the Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

(d) Consultant agrees that, in no event shall City be required to pay to Consultant any sum in excess of ninety-five percent (95%) of the maximum payable hereunder prior to receipt by City of all final documents, together with all supplemental technical documents, as described herein acceptable in form and content to City. Final payments shall be made no later than sixty (60) days after presentation of final documents and acceptance thereof by City.

## 6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant on a pro-rata basis the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 6(c).

## 7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

## 8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to billed time, sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, claims, applications, computer files, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. Any use except for the specific purpose intended by this Agreement will be at the user's sole risk and without liability or legal exposure to Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

(c) Consultant shall not be responsible for any alterations, modifications, or additions made in the electronic data by the Client or any reuse of the electronic data by the Client or any other party for this project or any other project without the consent of

the Consultant. Client shall indemnify and hold harmless Consultant, its officers, directors, and employees against any claims, damages, or losses arising out of the reuse or distribution of the electronic data without consent of the Consultant and arising out of alterations, modifications, or additions to the electronic data made by anyone other than Consultant. Copies of documents that may be relied upon by Client are limited to the printed copies (also known as hard copies) that are signed or sealed by the Consultant. Electronic text, data, graphics, or other files furnished by the Consultant to Client is provided as a convenience only. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

## 9. INDEMNIFICATION

(a) Defense, Indemnity and Hold Harmless. Contractor shall defend, indemnify, and hold harmless the City, its present and former officers, directors, employees, agents, staff, volunteers, mayor, council, boards, committees, and representatives, as broadly interpreted (collectively, the "Indemnified Parties"), of and from all claims, suits, demands, obligations, losses, damages, sums, or any other matters threatened or presently asserted, including but not limited to all reasonable legal fees, costs of defense and litigation expenses (including legal fees, expert fees and any other costs or fees, including those of adverse parties imposed on or sought against the Indemnified Parties), arising directly or indirectly out of any liability or claim of loss or liability for personal injury, bodily injury to persons, contractual liability, errors or omissions, breach, failure to perform, damage to or loss of property, or any other loss, damage, injury or other claim of any kind or nature arising out of the work to be performed by Contractor herein, caused by or arising out of the negligent acts or omissions, or intentional misconduct of Contractor, including its subcontractors, employees, and other persons or entities performing work for Contractor.

(b) Contractual Indemnity. To the fullest extent permitted under California law, Contractor shall contractually indemnify, defend and hold harmless the Indemnified Parties from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, amounts for good faith settlement, or costs of any kind, whether actual, alleged or threatened, including reasonable attorney's fees and costs, court costs, interest, defense costs, and expert witness fees and costs), arising out of or related to, in whole or in part, the performance of this Agreement by Contractor or by any individual or entity for which Contractor is legally liable, including but not limited to Contractor's officers, representative, employees, independent contractors, subcontractors or affiliated or related entities and/or its or their employees, agents and representatives, caused by or arising out of all negligent acts or omissions, or intentional misconduct of Contractor, including its subcontractors, employees, and other persons or entities performing work for Contractor. Indemnification shall include any claim that Contractor, or Contractor's employees are or may be considered and treated as employees of the City, or are entitled to any employee benefits from City including but not limited to those available under Public Employees Retirement Law. The obligation to indemnify, defend and hold harmless the Indemnified Parties shall apply to all liability as defined above regardless of whether the Indemnified Parties were or are alleged to have been

negligent, except that it shall not apply to claims arising from the negligence or willful intentional misconduct of the Indemnified Parties. Contractor's obligation to defend the Indemnified Parties is not contingent upon there being an acknowledgement of or determination of the merit of any claims, liability, demands, causes of action, suits, losses, expenses, errors, omissions and/or costs.

(c) Subcontractors and Indemnification. Contractor agrees to and shall obtain executed indemnity agreements in favor of the Indemnified Parties with provisions identical to those set forth from each and every Subcontractor, Sub consultant, or other person or entity involved by, for, with, or on behalf of Contractor in the performance of any aspect of this Agreement. In the event Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible for each and every Subcontractor, Subconsultant or other person or entity in terms of defense, indemnity and hold harmless obligations in favor of the Indemnified Parties as set forth above. This obligation to indemnify and defend the Indemnified Parties is binding on the successors, assigns, or heirs of Contractor and shall survive the full performance or termination of this Agreement. These indemnification provisions are independent of and shall not in any way be limited or superseded by the insurance requirements and insurance-related provisions of this Agreement.

(d) City Lost or Damaged Property – Theft. Contractor further agrees to pay or cause to be paid to the Indemnified Parties' benefit, any and all damages, fines, penalties, and loss or theft of property of the City arising out of or related in any way to the negligent acts or omissions or intentional misconduct of Contractor or of Contractor's officers, agents, representatives, employees, independent contractors, subcontractors or affiliated or related entities and/or its or their employees, agents and representatives, whether such actions, omissions to act, negligence or intentional conduct is or was authorized by this Agreement or not. City assumes no responsibility whatsoever for any property placed on the premises of City. Contractor further agrees to waive all rights of subrogation against the Indemnified Parties.

(e) Non-Waiver and Non-Exhaustion of City's Further Rights and Remedies. No aspect of this provision shall in any way limit or effect the rights of the Indemnified Parties against the Contractor under the terms of this Agreement or otherwise. The indemnification provisions shall apply regardless of whether this Agreement is executed after Contractor begins the work and shall extend to claims arising after this Agreement is performed or terminated, including a dispute as to the termination of Contractor. The indemnity obligations of Contractor shall continue until it is determined by final judgment that the claim against the City and any Indemnified Parties is determined by final judgment and after exhaustion of any rights of appeal. Further, no aspect of this provision shall impact the City's rights to contribution from Contractor, or for the City to dispute Contractor's refusal to defend and indemnify City.

(f) Limitations on Scope of Indemnity. Notwithstanding the foregoing, Contractor shall not be responsible for indemnification for claims or losses caused by the negligence or intentional wrongdoing of Indemnified Parties. Further, the indemnity provided shall be interpreted as broadly as permitted under California law and as to agreements between parties and shall if required be reformed to be consistent with those laws to protect and save this provision for the protection of the Indemnified Parties.

(g) The obligations of Contractor under this or any other provision of this Agreement shall not be limited by the provisions of any workers' compensation act or similar act. The Contractor expressly waives any statutory immunity under such statutes or laws as to the Indemnified Parties. The Contractor's indemnity obligation set forth in this Section 9 shall not be limited by the limits of any policies of insurance required or provided by the Contractor pursuant to this Agreement.

(h) The Contractor's covenant under this Section 9 shall survive the expiration or termination of this Agreement.

## 10. INSURANCE

The City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

### (a) Types of Required Coverages

Without limiting the indemnity provisions of the Contract, the Contractor shall procure and maintain in full force and effect during the term of the Contract, the following policies of insurance. If the existing policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

- (1) Commercial General Liability: Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than \$1,000,000 per occurrence, and \$2,000,000 aggregate total bodily injury, personal injury, and property damage.
- (2) Automobile Liability Insurance: Automobile Liability Insurance with coverage at least as broad as Insurance Services Office Form CA 0001 covering "Any Auto" (Symbol 1), including owned, non-owned and hired autos, or the equivalent, with minimum limits of \$1,000,000 for bodily injury and property damage, each accident. If Contractor owns no vehicles, auto liability coverage may be provided by means of a non-owned and hired auto endorsement to the general liability policy. Automobile liability insurance and endorsements shall be kept in force at all times during the performance of this Agreement.
- (3) Workers' Compensation: Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease.

- (4) Professional Liability: Professional Liability insurance with limit of not less than \$1,000,000 each claim and \$2,000,000 aggregate. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusion that may potentially affect the work to be performed.

(b) Endorsements

Insurance policies shall not be in compliance if they include any limiting provision or endorsement. The insurance policies shall contain, or be endorsed to contain, the following provisions:

(1) Commercial General Liability

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims from the work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

Additional Insured Endorsements shall not:

1. Be limited to "Ongoing Operations"
2. Exclude "Contractual Liability"
3. Restrict coverage to the "Sole" liability of contractor
4. Exclude "Third-Party-Over Actions"
5. Contain any other exclusion contrary to the Agreement

Additional Insured Endorsements shall be at least as broad as ISO Forms CG 20 10 11 85; or CG 20 and 10 and CG 2037.

Primary Insurance: This insurance shall be primary and any other insurance, whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement, shall be in excess of, and shall not contribute with, this insurance. Coverage shall be at least as broad as ISO CG 20 01 04 13.

(2) Auto Liability

Additional Insured: The City, its elected officials, officers, employees, volunteers, boards, agents, and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the work or operations performed by or on behalf of the Contractor.



Primary Insurance: This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

(3) Workers' Compensation

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

(c) Notice of Cancellation

Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the City except ten (10) days shall be allowed for non-payment of premium.

(d) Waiver of Subrogation

Required insurance coverages shall not prohibit Contractor from waiving the right of subrogation prior to a loss. Contractor shall waive all rights of subrogation against the indemnified parties and policies shall contain or be endorsed to contain such a provision. This provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer.

(e) Evidence of Insurance

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City as to form and content. These requirements are subject to amendment or waiver only if so approved in writing by the City. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

(f) Deductible or Self-Insured Retention

Any deductible or self-insured retention must be approved in writing by the City and shall protect the indemnified parties in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention. The City may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the Contractor or the City.

(g) Contractual Liability/Insurance Obligations

The coverage provided shall apply to the obligations assumed by the Contractor under the indemnity provisions of this Agreement, subject to the limits,

terms, conditions, and exclusions of the policy(ies). The insurance obligations under this Agreement shall be: (1) all the insurance coverage and/or limits carried by or available to the Contractor; or (2) the minimum insurance coverage requirements and/or limits shown in this Agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits, which are applicable to a given loss, shall be available to the City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the Contractor under this Agreement.

(h) Failure to Maintain Coverage

Contractor agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the City. The City shall have the right to withhold any payment due Contractor until Contractor has fully complied with the insurance provisions of this Contract. In addition, the City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.

In the event that the Contractor's operations are suspended for failure to maintain required insurance coverage, the Contractor shall not be entitled to an extension of time for completion of the Work because of production lost during suspension.

(i) Acceptability of Insurers

Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing in accordance with the City.

(j) Claims Made Policies

If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Contractor's Agreement with the City and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least five (5) years from termination or expiration of this Agreement.

(k) Insurance for Subcontractors

Contractor shall be responsible for causing Subcontractors to purchase the same types and limits of insurance in compliance with the terms of this Agreement, including adding the City as an Additional Insured, providing Primary and Non-Contributory coverage and Waiver of Subrogation to the Subcontractors' policies. The Commercial General Liability Additional Insured Endorsement shall be on a form at least as good as CG 20 38 04 13.

11. INDEPENDENT CONTRACTOR

(a) Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement

on behalf of Consultant shall at all times be under Consultant's exclusive direction and control and shall not be construed to be employees of City for any purpose, including eligibility under Public Employees Retirement Law. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner. Consultant shall be solely responsible and hold the City harmless for all matters relating to the payment of Consultant's employees, including compliance with Social Security withholdings and all other regulations governing such matters.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

## 12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

## 13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City of Montclair in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City of Montclair will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

## 14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

## 15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, responses to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(c) Consultant shall comply with all applicable federal, state and local Conflict of Interest laws, including the Political Reform Act (California Government Code, Section 81000, *et. seq.*) and California Government Code, Section 1090, *et. seq.* Consultant covenants that neither he/she nor any officer or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement. Further, Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to the City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by the Consultant. The Consultant's covenant under this Section shall survive the termination of this Agreement.

16. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: Noel Castillo  
City Engineer  
City of Montclair  
5111 Benito  
Montclair, CA 91763

To Consultant: C/O Contract Administrator  
Alta Planning + Design, Inc.  
711 SE Grand Ave.  
Portland, OR 97214

17. ASSIGNMENT AND SUBCONTRACTING

The Contractor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, nor any monies due hereunder, without prior written consent of the City. The City's consent to an assignment of rights under this Agreement shall not release the Contractor from any of its obligations or alter any of its obligations to be performed under this Agreement. Any attempt at assignment or delegation by the Contractor in violation of this Section 17 shall be void and of no legal effect and shall constitute grounds to terminate this Agreement for cause. The Contractor shall not subcontract any performance required under this Agreement without the City's prior written consent.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement, including a City of Montclair business license.

19. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City of Montclair.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. CONTENTS OF REQUEST FOR PROPOSALS

Consultant is bound by the contents of City's Request for Proposal, Exhibit "C" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit "D" hereto. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

22. CONFIDENTIALITY

Information and materials obtained by the Consultant from City during the performance of this Agreement shall be treated as strictly confidential and shall not be used by the Consultant for any purpose other than the performance of this Agreement. Consultant's covenant under this Section shall survive the expiration or termination of this Agreement.

23. DISCRIMINATION

The Consultant agrees that no person shall be excluded from employment in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, or place of national origin. In this connection, the Consultant agrees to comply with all County, State and Federal laws relating to equal employment opportunity rights.

24. EFFECT OF PARTIAL INVALIDITY

If any term or provision of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement and any application of the terms shall remain valid and enforceable under this Agreement or California law.

25. CLAIMS AGAINST CITY

Contractor must comply with the claim procedures set forth in Government Code sections 900, *et. seq.*, and/or Montclair Municipal Code, Chapter 1.16, as applicable, prior to filing any lawsuit against the City. Such claims and any subsequent lawsuit based upon the claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Contractor. If no such claim is submitted, or if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Contractor shall be barred from bringing and maintaining a valid lawsuit against the City.

26. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

27. NO THIRD PARTY BENEFICIARIES

This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

28. COST OF LITIGATION

If any legal action is necessary to enforce any provision of this Agreement or for damages by reason of an alleged breach of any provisions of this Agreement (whether in contract, tort or both), the prevailing Party shall be entitled to receive from the losing Party all attorneys' fees, costs and expenses in such amount as the courts may determine to be reasonable. In awarding the cost of litigation, the court shall not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses and attorneys' fees paid or incurred in good faith.

29. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Contractor warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

30. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF MONTCLAIR**

**CONSULTANT**

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

By: \_\_\_\_\_  
Emily Duchon, Vice President

Attest:

By: \_\_\_\_\_  
Andrea Phillips, City Clerk

By: \_\_\_\_\_  
(Title)

Approved as to Form: By:

\_\_\_\_\_  
Diane Robbins, City Attorney



**EXHIBIT A – Scope and Schedule**

**EXHIBIT B - Payment Rates and Terms and the Schedule of Payment**

**EXHIBIT C - Request for Proposal**

**EXHIBIT D - Proposal**



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	PDT405
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	POLICE
<b>ITEM NO.:</b>	2	<b>PREPARER:</b>	B. KUMANSKI

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 21-06, A MEMORANDUM OF AGREEMENT WITH THE LOS ANGELES POLICE DEPARTMENT ON BEHALF OF THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, TO JOIN THE INTERNET CRIMES AGAINST CHILDREN TASK FORCE

CONSIDER AUTHORIZING EXECUTIVE DIRECTOR OF PUBLIC SAFETY/POLICE CHIEF ROBERT AVELS TO SIGN AGREEMENT NO. 21-06

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**REASON FOR CONSIDERATION:** To assist with the Police Department's investigations into internet crimes against children, cyber-enticement, and child pornography cases, City Council is requested to consider approval of Agreement No. 21-06 with the Los Angeles Police Department (LAPD) on behalf of the United States Department of Justice (DOJ), Office of Juvenile Justice and Delinquency Prevention (OJJDP), to join the Internet Crimes Against Children (ICAC) Task Force.

Proposed Agreement No. 21-06 is attached for the City Council's review and consideration.

**BACKGROUND:** The ICAC Task Force Program helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and internet crimes against children. This support encompasses forensic and investigative components, training and technical assistance, victim services, prevention, and community education. The ICAC Task Force Program was developed in 1998 in response to the increasing number of children and teenagers using the internet and other technology, the proliferation of child sexual abuse images available electronically, and heightened online activity by predators seeking unsupervised contact with potential underage victims.

The ICAC Program is funded through DOJ OJJDP. The ICAC Program is a national network of 61 coordinated task forces representing more than 4,500 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in both pro-active and re-active investigations, forensic examinations, and criminal prosecutions. By helping state and local agencies develop effective, sustainable responses to online child victimization, including responses to child sexual abuse images, the ICAC Program has increased law enforcement's capacity to combat technology facilitated crimes against children at every level.

Because arrests alone cannot resolve the problem of technology-facilitated child sexual exploitation, the ICAC Program is also dedicated to training law enforcement personnel, prosecutors, and other professionals working in the ICAC field as well as educating parents, youth, and the community about the potential dangers of online activity including online child victimization.

Many of these investigations are costly, both for the technology needed and for the training required. Currently, the Montclair Police Department already must investigate these incidents of child exploitation. In addition, ICAC already sends the Department reports generated by the Task Force for follow-up investigation and prosecution; however, without the resources the ICAC Task Force can provide, the Department must rely on its own limited resources and budgetary constraints. Becoming a participating member of this region's Task Force would provide staff with access to training and resources shared by all members, including high-tech investigative tools and data. One such example is the Department's existing Cellebrite system for forensic analysis of phones. Although the Department already has the machine, new investigators require training in its use. This can cost upwards of \$1,600 per user. This training would be covered by the Task Force grant at no cost to the City.

In exchange for the resource sharing, the Department would agree to share its resources as needed and report its investigative efforts to the LAPD, who is this region's OJJDP grant coordinator. Nearly every agency in the Los Angeles, Orange, and San Bernardino County regions is a participant in the ICAC Task Force, which would provide the Department with significant resources and expertise to draw from.

**FISCAL IMPACT:** If authorized by the City Council, proposed Agreement No. 21-06 would have no fiscal impact on the City's General Fund.

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

1. Approve Agreement No. 21-06, a Memorandum of Agreement with the Los Angeles Police Department on behalf of the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention, to join the Internet Crimes Against Children Task Force; and
2. Authorize Executive Director of Public Safety/Police Chief Robert Avels to sign Agreement No. 21-06.



**MEMORANDUM OF AGREEMENT**  
**Between**  
**Los Angeles Police Department**  
**INTERNET CRIMES AGAINST CHILDREN TASK FORCE**  
**and**  
**Montclair Police Department**

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### **I. PARTIES**

This Memorandum of Agreement (**MOA**) is entered into by and between the Los Angeles Police Department (LAPD) and the Montclair Police Department (MPD).

### **II. BACKGROUND**

The LAPD is the recipient of a United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention (**OJJDP**) grant to enforce laws regarding Internet Crimes Against Children (**ICAC**), and the LAPD utilizes this grant to administer and operate the Los Angeles ICAC Task Force.

The OJJDP has created the ICAC Task Force Program, which is a national network of state and local law enforcement cybercrime units. The national ICAC program assists state and local law enforcement agencies in developing an effective response to cyber enticement and child pornography cases. This helps encompass investigative and forensic components, training and technical assistance, victim services and community education. Due in large part to the technological aspects of these cases, the ICAC Task Force Program promotes a multi-jurisdictional, multi-agency team approach to investigating and prosecuting ICAC cases.

The mission of the Los Angeles ICAC Task Force therefore is to: (1) properly investigate and prosecute those who sexually exploit children using the internet and/or computers; (2) provide training and equipment to those involved in investigating and prosecuting ICAC; and, (3) provide community education regarding the prevention of ICAC.

### **III. PURPOSE**

The purpose of this MOA is to delineate the responsibilities and expectations of the MPD and the LAPD, and to formalize their working relationship in the Los Angeles ICAC Task Force. By signing this MOA, MPD agrees to join the ICAC Task Force for the primary purpose of vigorously and properly investigating ICAC. By joining this Task Force, MPD will benefit from

grant resources, joint operations, and extensive training opportunities. By entering this MOA, the Los Angeles ICAC Task Force will benefit from MPD's investigative support.

#### **IV. INVESTIGATIONS**

Investigations will follow guidelines established by each agency's respective policy manual or guidelines. However, ICAC investigations shall also be governed by the national ICAC program's Operational and Investigative Standards (attached). Violation of the ICAC operational standards is cause for cancellation of this MOA. This MOA is not intended to infringe on the ongoing investigations of any other agency. It is agreed that unilateral acts on the part of employees involved in Task Force investigations are not in the best interest of the Task Force.

##### **A. Montclair Police Department Responsibilities**

**Montclair Police Department** will:

1. Use "authorized personnel" who themselves lack powers of arrest but have been authorized by their respective agency to participate in investigations and are being supervised by "sworn personnel". Each investigator involved with undercover operations must receive ICAC training prior to initiating proactive investigations and shall submit reports of all undercover activity to the OJJDP.
2. Conduct reactive investigations where subjects are associated within MPD's jurisdiction, including investigations of child pornography, CYBERTIP referrals from the National Center for Missing and Exploited Children (NCMEC), Internet Service Provider and law enforcement referrals, and other ICAC-related investigations. Additional case initiations may develop from subject interviews, documented public sources, direct observations of suspicious behavior, public complaints, etc.
3. Record and document all undercover online activity. Any deviations from this policy due to unusual circumstances shall be documented in the relevant case file and reviewed by the ICAC Task Force Unit Commander.
4. Provide the Los Angeles ICAC Task Force with access to all ICAC investigative files including, without limitation, computer records, in order to ensure compliance with all national ICAC standards for a period of no less than three years.
5. Locate its ICAC investigators in secured space provided by MPD with controlled access to all equipment, software, and investigative files. At a minimum, information should be maintained in locked cabinets and under control of MPD ICAC Task Force personnel, with restricted access to authorized personnel only.
6. Conduct education and prevention programs to foster awareness and provide practical, relevant guidance to children, parents, educators, librarians, the business and law enforcement communities, and other individuals concerned about internet child safety issues. Presenters shall not discuss ongoing investigative techniques and undercover operations utilized by the ICAC Task Force in the education and prevention programs.



## **V. SUPERVISION**

The MPD will be responsible for the day-to-day operational supervision, administrative control, and personal and professional conduct of its officers and agents assigned to the Task Force. Internet Crimes Against Children investigations are a cooperative effort and investigative decisions will be a joint process guided by ICAC standards.

## **VI. JURISDICTION**

The principal sites of task force activity will be within the jurisdictional areas of the respective member law enforcement agencies. Nothing in this agreement shall otherwise limit or enhance the jurisdiction and powers normally possessed by an MPD employee as a member of the MPD.

## **VII. EVIDENCE**

Seized evidence and any other related forfeiture will be handled in a manner consistent with the seizing law enforcement agency's policies.

## **VIII. LIABILITY**

The MPD is responsible and liable for the acts and omissions of its own officers, agents or employees in connection with the performance of their official duties under this MOA. For tort liability purposes, no participating agency shall be considered the agent of other participating agencies. Each participating agency shall be liable (if at all) only for the torts of its own officers, agents or employees that occur within the scope of their official duties.

## **IX. REPORTING STATISTICS**

Using a form provided by the Los Angeles ICAC Task Force, MPD shall submit monthly statistics to the Task Force on all ICAC investigations or other investigative work pertaining to the sexual exploitation of children via the Internet. These statistics shall be submitted in the appropriate format by the 10<sup>th</sup> day of each month, and shall include data on all related investigations opened or closed during the month, as well as forensic examinations, technical/investigative assistance provided to other agencies, subpoenas and court orders issued, training hours attended and taught, and community outreach provided.

In addition, a breakdown of basic case data shall be included for each sexual exploitation of a minor (child pornography) case, and/or criminal solicitation of a minor (enticement/traveler) case investigated by MPD. The Task Force will be responsible for all required reporting to OJJDP.

## **X. RECORD RETENTION AND ACCESS**

Records pertinent to the award that MPD must retain for a period of three years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies, and to which the recipient (and any sub recipient ["sub grantee"] at any tier) must provide access, and include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 Code of Federal Regulations 200.333.

## **XI. COMPLIANCE WITH DOJ REGULATIONS PERTAINING TO CIVIL RIGHTS AND NONDISCRIMINATION - 28 C.F.R. Part 38**

The recipient, and any sub recipient ("sub grantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination based on religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and sub recipient ("sub grantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and sub recipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

## **XII. TRAINING**

The MPD shall make investigators designated as Task Force members available for applicable specialized training provided through the national ICAC program and other appropriate training programs. The Task Force will review training requests and provide funding for ICAC-approved training when appropriate.

## **XIII. PARTICIPATING AGENCY OBLIGATIONS AND CIVIL IMMIGRATION ENFORCEMENT**

The Montclair Police Department as a local law enforcement agency is responsible for enforcing state and local criminal laws. It is neither authorized nor responsible for the enforcement of civil immigration laws or regulations.

The Congress of the United States has vested United States Immigration and Customs Enforcement (US-ICE) and United States Customs and Border Protection (US-CBP) with the legal authority and responsibility for enforcing civil immigration laws including status violations and removal proceedings. Therefore, Task Force personnel must abide by the limitations in legal authority and responsibility for enforcing federal civil immigration laws.

The California Values Act (CVA or SB-54), other state laws, and each agency's existing policies and practices provide procedural protections to ensure that each agency's personnel do not go beyond existing legal authorities or contradict the agency's steadfast commitment to community and constitutional policing principles.

**XIV. VEHICLES**

The Los Angeles ICAC Task Force will provide ICAC vehicles to participating agency personnel assigned to ICAC for use in carrying out ICAC-related activities.

Participating agencies shall provide and maintain automobile liability/hold harmless insurance coverage (or a program of self-insurance) associated with its personnel’s temporary possession of use of ICAC-provided vehicles in accordance with established participating agency policies and procedures.

**XV. EQUIPMENT**

The Los Angeles ICAC Task Force will provide participating agency personnel with necessary ICAC assets, including supplies, investigative equipment, communication equipment and technical equipment for all ICAC-related activities. Such assets, supplies and equipment shall remain the property of ICAC and will be funded from the Program Operating Budget.

**XVI. CONFIDENTIALITY**

The parties agree that any confidential information pertaining to investigations of ICAC will be held in the strictest confidence, and will only be shared with Participating ICAC Task Force members or other law enforcement agencies where necessary or as otherwise permitted by federal and/or state law.

**EFFECTIVE DATE**

This MOA shall be effective on \_\_\_\_\_ and continue until such time as federal funding for the Grant ends or the MOA is canceled by either party upon written notice delivered to both agency directors.

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Robert Avels, Chief of Police  
Montclair Police Department



\_\_\_\_\_  
Michel R. Moore, Chief of Police  
Los Angeles Police Department



# CITY COUNCIL AGENDA REPORT

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<b>DATE:</b>	FEBRUARY 16, 2021	<b>FILE I.D.:</b>	LDU325
<b>SECTION:</b>	CONSENT - AGREEMENTS	<b>DEPT.:</b>	CITY MGR.
<b>ITEM NO.:</b>	3	<b>PREPARER:</b>	M. FUENTES
<b>SUBJECT:</b>	CONSIDER APPROVAL OF AGREEMENT NO. 21-07, A REIMBURSEMENT AGREEMENT WITH MAPLE MULTI-FAMILY LAND CA, L.P. REGARDING PROPERTIES GENERALLY LOCATED ON THE SOUTHWEST CORNER OF MONTE VISTA AVENUE AND ARROW HIGHWAY AND THE NORTHWEST CORNER OF MONTE VISTA AVENUE AND RICHTON STREET		

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**REASON FOR CONSIDERATION:** The North Montclair Downtown Specific Plan (NMDSP) calls for architectural review of all proposed development projects within the boundaries of the specific plan by the City's architectural and land use consultant. In addition, all proposed development projects within the boundaries of the Specific Plan require that developers enter into a reimbursement agreement with the City of Montclair pertaining to peer review, legal review, environmental review, etc.

The implementation efforts within the NMDSP area are seen as a method to ensure new development has a limited negative impact on the City's General Fund and has aesthetics that enhance quality of life in the community.

Staff was recently approached by Maple Multi-Family Land CA, L.P. (Trammel Crow Residential) regarding the potential development of sites that the developer is in negotiations to purchase. In order to contemplate development of the proposed projects pursuant to the standards set in the NMDSP, the projects will need to comply with the specific plan and require related compliance and architectural review by the City's Architectural Consultant. Trammel Crow Residential has agreed to enter into a reimbursement agreement with the City of Montclair for costs and expenses related to the review of the proposed projects by the City's architectural and land use consultant. The City Council is requested to approve Agreement No. 21-07, a Reimbursement Agreement with Maple Multi-Family Land CA, L.P. regarding the properties generally located on the southwest corner of Monte Vista Avenue and Arrow Highway, and the northwest corner of Monte Vista Avenue and Richton Street.

A copy of proposed Agreement No. 21-07 with Maple Multi-Family Land CA, L.P. is attached for City Council review and consideration.

**BACKGROUND:** Trammel Crow Residential is considering the purchase of certain real properties located within the City of Montclair. The properties consist of an area of approximately 2.22 gross acres located on the southwest corner of Monte Vista Avenue and Arrow Highway, and approximately 9.68 gross acres located at the northwest corner of Monte Vista Avenue and Richton Street.

Both properties are within the boundaries of the North Montclair Downtown Specific Plan (NMDSP) approved by the City Council on May 15, 2006, pursuant to Resolution No. 06-2628, and amended by the City Council on March 20, 2017, by Resolution No. 17-3149. Trammel Crow Residential is contemplating development of the two properties and would like to develop the sites in accordance with the provisions of the

NMDSP. The two projects would consist of construction of approximately 180–280 and 100–150 residential units.

In order to contemplate development of the proposed projects pursuant to the standards in the NMDSP, the project will need to comply with the specific plan and require related compliance review. To provide the City with the needed expertise and information necessary for review of the site plan and design and architectural review for the projects, it is necessary for the City to access the services of the City's architectural and land use consultant.

Trammel Crow Residential has agreed to reimburse the City for the consultant's costs and expenses related to the developer's proposed projects in the manner and amounts set forth in Agreement No. 21-07. The developer's reimbursement to the City under Agreement No. 21-07 would ensure that the City has the necessary resources to diligently and efficiently process certain conditions related to the developer's projects.

The City of Montclair has in place a professional services agreement (Agreement No 14-58) with Moule & Polyzoides for architectural design and land use development review for projects located within the boundaries of the NMDSP. In addition, Moule & Polyzoides provides staff with consultation related to proposed public and private infrastructure plans, prepares conceptual development schemes, and develops new land use standards.

In order for Trammel Crow Residential to begin utilizing the services of Moule & Polyzoides, it is necessary for the City to enter into an agreement with the developer. Proposed Agreement No. 21-07 contains the terms of the developer's reimbursement of certain City-incurred costs associated with the architectural and design review of the proposed projects as well as a scope of work to be completed by the City's architectural and land use consultant. A synopsis of the proposed agreement includes the following points:

- The consultant would be contractor exclusively of the City and not of the developer. The work product produced by the consultant, subject to financial reimbursement by the developer, would be photocopied for information to the developers, unless that work would be considered privileged or confidential under law.
- The City will retain the services of Moule & Polyzoides for architectural and design review. Moule & Polyzoides will review the initial site plan submitted by Trammel Crow Residential for conformance with the North Montclair Downtown Specific Plan (NMDSP) and prepare a conceptual parti-sketch that clearly conveys the intent of the NMDSP and the City of Montclair's expectations. Moule & Polyzoides will also participate in a meeting with Trammell Crow Residential and their architect to provide feedback and suggestions. Moule & Polyzoides will share the design suggestions with City staff for input and to confirm the proposed design direction. Moule & Polyzoides will review the follow-up site plan and meet with Trammel Crow and their architect to provide comments and final direction. The estimated total costs associated with the architectural and design review are approximately \$15,000 including incidentals.
- The City would not exceed the estimated \$15,000 of costs without first informing the developer in writing regarding the need for additional services. The City would be required to provide the developer with appropriate documentation of the reason for the excess costs so the developer may reasonably evaluate such costs. The City would also be required to inform the developer in writing prior to amending the scope of work to be conducted by the consultant. Once the City

had provided such notice to the developer, the developer would be obligated to pay the excess cost in the same manner as the estimated costs. However, if the developer were to object to the excess costs, the developer must provide the City with a written objection no later than five days after receipt of the City’s written notice. The City and developer would communicate in an attempt to resolve the objection. If the parties were unable to resolve the objection, the developer would have the sole and exclusive right to terminate the agreement and reimburse the City for all costs incurred to the date of termination.

- The City would be required to maintain accurate records of invoices received from, and payments made to, the consultants. The City would be required to provide a payment summary to the developer within a reasonable time upon request.
- The term of the Agreement would commence on February 16, 2021, and would terminate once all services required for the projects by the consultant have been completed to the City’s reasonable satisfaction. The developer’s obligation to reimburse the City would survive the termination of the Agreement.
- The City would be able to terminate the Agreement prior to the terms set forth above, without cost or liability, upon 30 days’ written notice to the developer in the event the developer fails to satisfy any material obligation of the agreement or fails to prosecute its applications for the project. The developer would be able to terminate the Agreement upon 30 days’ prior written notice provided that the developer gives the City written notice withdrawing its application for the project and the developer would be obligated to satisfy all of its obligations under the Agreement through the effective date of the termination.
- The Agreement would not be assignable by either party without the prior written consent of the other party.

**FISCAL IMPACT:** Through proposed Agreement No. 21-07, the developer would be required to pay all costs associated with architectural and design review to be conducted by Moule & Polyzoides. The estimated total cost of the reimbursement by developer would be \$15,000. A breakdown of the costs is shown as follows:

<u>Moule &amp; Polyzoides</u>	<u>Fee</u>	<u>Total</u>
<b><u>Alexan Mixed-Use Project</u></b> .....		<b>\$6,560.00</b>
Task 1: Review Initial Site Plan	\$4,490	
Task 2: Review Follow-up Site Plan	\$2,070	
<b><u>Vulcan Project</u></b> .....		<b>\$6,560.00</b>
Task 1: Review Initial Site Plan	\$4,490	
Task 2: Review Follow-up Site Plan	\$2,070	
<b><u>Incidentals</u></b> .....		<b>\$1,880.00</b>
 <b><u>Estimated Total Fees</u></b> .....		 <b><u>\$15,000.00</u></b>

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 21-07, a Reimbursement Agreement with Maple Multi-Family Land CA, L.P., regarding properties generally located on the southwest corner of Monte Vista Avenue and Arrow Highway and the northwest corner of Monte Vista Avenue and Richton Street.

**AGREEMENT NO. 21-07**

**A REIMBURSEMENT AGREEMENT**

**Between**

**CITY OF MONTCLAIR  
a California Municipal Corporation**

**and**

**MAPLE MULTI-FAMILY LAND CA, L.P.  
a Delaware Limited Partnership**

**REIMBURSEMENT AGREEMENT**

This Reimbursement Agreement ("Agreement") is made this 16th day of February, 2021, by and between the CITY OF MONTCLAIR, a California Municipal Corporation (the "City"), and MAPLE MULTI-FAMILY LAND CA, L.P., a Delaware limited partnership (the "Applicant").

**RECITALS**

This Agreement is made with respect to the following facts.

A. The Applicant is considering the purchase of certain real property ("Properties") located within the City of Montclair, County of San Bernardino, California. The Properties consists of an area of approximately 2.22 gross acres in size located on the southwest corner of Monte Vista Avenue and Arrow Highway, Montclair, CA, and an area of approximately 9.68 gross acres in size located at the northwest corner of Monte Vista Avenue and Richton Street, Montclair, CA. The Properties are further described in Exhibit "A" attached hereto and incorporated herein by reference.

B. The Properties are located within the boundaries of the North Montclair Downtown Specific Plan approved by the City Council on May 15, 2006 by Resolution No. 06-2628 and amended by the City Council on March 20, 2017 by Resolution No. 17-3149 ("Specific Plan"). The Applicant is contemplating the development of the Property and would like to develop the sites in accordance with the provisions of the North Montclair Downtown Specific Plan ("the Project"). The project will consist of construction of approximately 180-280 and 100-150 residential units.

C. In order to contemplate development of the proposed project pursuant to the standards in the North Montclair Downtown Specific Plan, the Project will need to comply with the specific plan and require related compliance review. The review of compliance to the Specific Plan shall be referred to collectively as the "Project."

D. To provide the City with the needed expertise and information necessary for review of the site plan and design and architectural review for the Project, it is necessary for the City to access the services of an outside land use planning expert for the Project ("Consultant").

E. The Applicant has agreed to reimburse the City for Consultant's costs and expenses related to the Applicant's Project in the manner and amounts set forth in this Agreement. The Applicant's reimbursement to City under this Agreement will ensure that the City has the necessary resources to diligently and efficiently process certain conditions related to the Applicant's Project.



**TERMS**

NOW, THEREFORE, in consideration of the following mutual promises and agreements, City and Applicant agree as follows:

1 Incorporation of Recitals. The parties agree that the Recitals constitute the factual basis upon which the City and the Applicant have entered into this Agreement. The City and the Applicant each acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Agreement as though fully set forth at length.

2. City to Retain Consultant. As a necessary and indispensable part of the Conditions of Approval of Applicant's proposed Project and use of the Property, the City shall retain the services of Consultant as set forth in Section 4 of this Agreement to provide advice as the City may deem necessary in its reasonable and sole discretion. The contemplated general scope of work of the Consultants for the Project is attached hereto as Exhibits "B" and "C" and incorporated herein by reference, but the City reserves the right, in its reasonable and sole discretion, to amend the scope of work as it deems necessary and appropriate to the City's proper review and consideration of the Applicant's Project. However, if such amendment will cause, or will be likely to cause, the Estimated Costs (as defined in Section 5) to be exceeded, the City shall promptly notify Applicant thereof in writing (and in no event, less than five (5) business days after the City becomes aware of such information).

The Applicant agrees that, notwithstanding the Applicant's reimbursement obligations under this Agreement, Consultant shall be the contractor exclusively of the City and not of the Applicant. Except for those disclosures required by law, including, without limitation, the Public Records Act, all conversations, notes, memoranda, correspondence and other forms of communication by and between the City and its Consultant which are deemed under law to be privileged and confidential shall not be subject to disclosure to the Applicant. The Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work product produced by the Consultant which is privileged or confidential under law; provided, however, the Applicant shall be provided with photocopies of all such documents or work product for which it has reimbursed the City which are not so privileged or confidential under law.

3. Applicant to Cooperate with Consultant. The Applicant agrees to cooperate in good faith with the Consultant. The Applicant agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with the Consultant and to provide all necessary documents or information reasonably requested of them by the City and/or the Consultant; provided, however, that the foregoing shall not require the disclosure of any documents or information of the Applicant which by law is privileged, proprietary, confidential, and exempt from disclosure under the Public Records Act.

4. City's Selection of Consultant. The City proposes to retain Moule & Polyzoides, Architects & Urbanists (Land Use Consultants-related to Applicant's project only).

5. Applicant's Reimbursement of Fees, Costs and Expenditures. The Applicant shall reimburse the City the actual fees, costs and other expenditures incurred by the City relative to the Consultant costs ("Costs") related to the Applicant's Project, subject to the terms and conditions of this Agreement.

The City has preliminarily reviewed the scope of work required and has estimated the aggregate Costs for Consultant to be approximately Fifteen Thousand Dollars (\$15,000) ("Estimated Costs"). Upon the execution of this Agreement, the Applicant shall pay said sum to the City to cover the Estimated Costs, which amount the City shall separately account for in a Project deposit account ("Deposit Account").

The City shall not exceed the Estimated Costs without first informing the Applicant in writing regarding the need for additional services which cause the Costs to exceed the Estimated Costs ("Excess Costs") and shall provide appropriate documentation of such Excess Costs in sufficient detail that the Applicant shall be able to reasonably evaluate such costs. Notwithstanding anything herein to the contrary, the City shall not incur Excess Costs without the express prior written consent of Applicant. The City shall also inform the Applicant in writing prior to amending any scope of services, or adding services, to be provided by the Consultant, and shall provide appropriate documentation of such amended or additional scope of work in sufficient detail that the Applicant shall be able to reasonably evaluate such amended scope, and approve or disapprove the same, in writing. The Applicant's obligation to reimburse the City for the Excess Costs shall be contingent upon the City providing Applicant with written notice of the amendment of the scope of services to be performed by Consultant and the estimated cost thereof as described hereinabove prior to the commencement of work and Applicant's approval thereof, as herein provided. Once the City provides such notice and obtains such approval, then Applicant shall be obligated to pay the Excess Costs in the same manner as the Estimated Costs provided above; provided, however, in the event that the Applicant reasonably disapproves any Excess Costs, the Applicant shall provide the City with a written objection not later than five (5) business days after receipt of the City's written notice stating the reasons for its disapproval in sufficient detail that the City shall be able to address. The City and the Applicant shall promptly (but in no event later than five (5) calendar days after such disapproval) communicate in order to resolve any such objection, but if the parties are unable to resolve such disapproval, and if the City thereafter pays any disputed Excess Costs, the Applicant shall have the sole and exclusive right to terminate this Agreement pursuant to Section 8 of this Agreement, subject to the Applicant's obligation to reimburse the City for all Costs incurred by the City prior to the date of termination, whether or not yet paid by the City to Consultant. Upon such termination by the Applicant, the City shall have the right to consider the Application withdrawn and no longer obligated to process such Application.

The City shall maintain accurate records of invoices received from, and payments made to, the Consultant resulting from the Project, and will provide a payment summary to Applicant within a reasonable time upon request. In the event that excess

funds remain in the Deposit Account upon conclusion of the Project and after all final payments to Consultant have been made, the City agrees to refund that excess amount, if any, to Applicant within fifteen (15) calendar days of final payment to Consultant. Alternatively, if the Costs of the services of the Consultant exceed the Estimated Costs and Excess Costs, if any, then, subject to the terms and conditions of this Agreement, Applicant shall remain obligated to pay for all such Costs. Applicant shall pay any such amount within ten (10) calendar days of written demand for payment by City.

6. Conditions of Approval. Applicant and City understand and agree that Applicant's land use entitlements concerning the Property are subject to the Conditions of Approval granted by the Planning Commission and City Council and entering into this Reimbursement Agreement will aid the Applicant in satisfying certain Conditions of Approval of Applicant's proposed project

7. Term. The term of this Agreement shall commence on the date that this Agreement is approved by the City Council and fully executed by the parties, and shall terminate when all services required for the Project by Consultant have been completed to the City's reasonable satisfaction and the Applicant has satisfied all of its obligations under this Agreement. For purposes of this section, Applicant's obligations shall include, but shall not be limited to, its obligation to reimburse the City for Estimated Costs and Excess Costs, whether or not paid by the City to Consultant prior to the date of termination, which accrue prior to the date of termination. The Applicant's obligation to reimburse (Section 5) the City as provided in this Agreement shall survive the termination of this Agreement pursuant to Section 8.

8. Early Termination.

8.1 By City. The City may, in its reasonable and sole discretion, terminate this Agreement prior to the term set forth in Section 6 above, without cost or liability to the City, upon thirty (30) days' prior written notice to the Applicant in the event that Applicant either: (1) fails to satisfy any material obligation of this Agreement (provided, however, if such failure is capable of being timely remedied without prejudice to the City, and is timely remedied by the Applicant, such failure shall be deemed to be waived); or (2) materially fails to reasonably prosecute its application(s) for the Project. In the event of such termination, Applicant shall be deemed to have withdrawn its application(s) for the Project.

8.2 By Applicant. The Applicant may, in its reasonable and sole discretion, terminate this Agreement prior to the end of the term set forth in Section 7 above, upon thirty (30) days' prior written notice to the City; provided, however, that Applicant's right to so terminate this Agreement is expressly contingent upon Applicant satisfying both of the following: (1) Applicant shall give City written notice withdrawing its application(s) for the Project; and (2) Applicant shall satisfy all of its obligations under this Agreement up through the effective date of termination. For purposes of this section, Applicant's obligations shall include, but shall not be limited to, its obligation to reimburse the City for Estimated Costs and Excess Costs incurred prior to the date of termination, whether or not paid by the City to Consultant prior to the date of termination.

Within two (2) working days following either the City's decision to terminate this Agreement or the City's receipt of written notice indicating the Applicant's decision to terminate this Agreement, the City shall notify Consultant and instruct Consultant to cease work on the Project. Consultant shall also be instructed to bill the City for any services completed prior to the date of termination. Upon such termination by the Applicant, the City shall have the right to consider the Application withdrawn and no longer obligated to process such Application.

9. Assignability. This Agreement may not be assigned by either party without the prior and express written consent of the other party, which consent shall not be unreasonably withheld. In determining whether to approve a request by the Applicant to assign this Agreement, the City may consider, among other things, the proposed assignee's financial status and commitment to the Project. Any attempted assignment of this Agreement not in compliance with the terms of this Agreement shall be null and void and shall confer no rights or benefits upon the assignee.

10. No Oral Modifications. This Agreement represents the entire understanding of the City and the Applicant, and supersedes all other prior or contemporaneous written or oral agreements pertaining to the subject matter of this Agreement. This Agreement may be modified, only by a writing signed by both the authorized representatives of both the City and the Applicant. All modifications to this Agreement must be approved by the City Council of the City of Montclair.

11. Binding Upon Successors. This Agreement and each of its terms shall be binding upon the City, the Applicant and their respective officers, elected officials, employees, agents, contractors, and permitted successors and assigns.

12. Legal Challenges. Nothing herein shall be construed to require City to defend any third party claims and suits challenging any action taken by the City with regard to any procedural or substantive aspect of the City's approval of development of the Property, the environmental process, or the proposed Project. The Applicant may, however, in its sole and absolute discretion, appear as real party in interest in any such third party action or proceeding, and in such event, it and the City shall defend such action or proceeding and the Applicant shall be responsible and reimburse the City for whatever reasonable legal fees and expert or other costs, in their entirety, including reasonable attorneys' fees, which may be incurred by the City in defense of such action or proceeding. The City shall have the absolute right to retain such legal counsel as the City deems necessary and appropriate, and the Applicant shall reimburse the City for any and all reasonable attorneys' fees and expert or other costs incurred by the City as a result of such third-party action or proceeding; provided, however, the Applicant may, at any time, notify the City in writing of its decision to terminate such reimbursement obligation and, thereafter, the City may choose, in its sole discretion, to defend or not defend such third party action or proceeding. In the event that the City decides not to continue the defense of such third party action or proceeding, Applicant shall be obligated to reimburse City for any and all reasonable costs, fees, penalties or damages associated with dismissing the action or proceeding. In the event that the City decides to continue the defense of such

third party action or proceeding, Applicant shall have no further obligation to reimburse City for its attorneys' fees and expert or other costs.

It is acknowledged by the parties that City is entering into this Agreement to assist Applicant in processing the Project. Applicant understands and agrees that City would not have entered this Agreement if it were to be liable in damages for breach of this Agreement. As a result, Applicant understands and agrees that City shall not be liable for damages to Applicant or any successor for breach of this Agreement or for any cause of action that arises from this Agreement, except to the extent of any amounts in the Deposit Account that remain unencumbered and shall be refunded to Applicant. Applicant's remedies shall be limited to termination of this Agreement, subject to the obligations contained in Section 8.2.

13. Attorneys' Fees. In the event that any action or proceeding, including arbitration, is commenced by the City to establish the validity of this Agreement or to enforce any one or more of its terms, the prevailing party in any such action or proceeding shall be entitled to recover from the other, in addition to all other legal and equitable remedies available to it, its reasonable attorneys' fees and costs of litigation, including, without limitation, filing fees, service fees, deposition costs, arbitration costs and expert witness fees, including actual costs and attorneys' fees on appeal.

14. Jurisdiction and Venue. This Agreement is executed and is to be performed in Montclair, San Bernardino County, California. Any action or proceeding brought relative to this Agreement shall be heard in the appropriate court in the County of San Bernardino, California. The City and the Applicant each consent to the personal jurisdiction of the court in any such action or proceeding.

15. Severability. If any term or provision of this Agreement is found to be invalid or unenforceable, the City and the Applicant both agree that they would have executed this Agreement notwithstanding the invalidity of such term or provision. The invalid term or provision may be severed from the Agreement and the remainder of the Agreement may be enforced in its entirety.

16. Headings. The headings of each Section of this Agreement are for the purposes of convenience only and shall not be construed to either expand or limit the express terms and language of each Section.

17. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

18. Notices. Notices required under this Agreement shall be sent to the following:

If to City:

Edward C. Starr, City Manager  
City of Montclair  
5111 Benito Street  
Montclair, CA 91763  
Fax: 909-621-1584

If to the Applicant:

Alec Schiffer  
Maple Multi-Family Land CA L.P.  
5790 Fleet St. Suite 140  
Carlsbad, CA 92008  
[aschiffer@tcr.com](mailto:aschiffer@tcr.com)

Notices given pursuant to this Agreement shall be deemed received as follows:

- (1) If sent by United States Mail - five (5) calendar days after deposit into the United States Mail, first class postage prepaid.
- (2) If by facsimile - upon transmission and actual receipt by the receiving party.
- (3) If by express courier service or hand delivery - on the date of receipt by the receiving party.

The addresses for notices set forth in this Section 18 may be changed upon written notice of such change to either the City or the Applicant, as appropriate.

**CITY OF MONTCLAIR**  
a California Municipal Corporation

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

ATTEST:

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

APPROVED AS TO FORM:

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

**Maple Multi-Family Land CA, L.P.**  
a Delaware Limited Partnership

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT "A"**  
**LEGAL DESCRIPTION OF PROPERTY**

**APN: 1007-722-03-0000**

**APN: 1009-021-21-0000**

**APN: 1009-021-22-0000**

**APN: 1009-021-23-0000**

**APN: 1009-021-24-0000**

## Exhibit B

180 EAST CALIFORNIA BOULEVARD AT PICHER ALLEY, PASADENA, CALIFORNIA 91105

626.844.2400 PHONE 626.844.2410 FAX

# MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

February 5, 2021

Christine Caldwell, Deputy Director of Economic and Community Development  
City of Montclair  
5111 Benito Street  
Montclair, CA 91763

Via E- mail: [ccaldwell@cityofmontclair.org](mailto:ccaldwell@cityofmontclair.org); [mdiaz@cityofmontclair.org](mailto:mdiaz@cityofmontclair.org)

***Re: Design Review of Alexan Mixed-Use Project***

Dear Christine:

Moule & Polyzoides is pleased to present a proposal to the City of Montclair to assist the City in reviewing design proposals submitted by Trammel Crow for a mixed-use project at the southwest corner of Arrow Highway and Monte Vista Avenue.

### ***A. SCOPE OF WORK***

#### ***Task 1: Review Initial Site Plan***

M&P will review the initial site plan submitted by Trammel Crow for conformance with the *North Montclair Downtown Specific Plan* (NMDSP) and prepare a conceptual parti-sketch that clearly conveys the intent of the NMDSP and the City of Montclair's expectations. M&P will also participate in a meeting with Trammell Crow and their architect to provide feedback and suggestions. M&P will share the design suggestions with City staff for input and to confirm the proposed design direction.

#### ***Deliverables for Task 1:***

Review of initial site plan, preparation of parti-sketch, meeting with Trammel Crow and their architect, consultation with City of Montclair staff.

#### ***Fees & Schedule for Task 1:***

Work on this task will be completed within one week for a fee of \$ 4,490.00

***Task 2: Review Follow-up Site Plan.***

M&P will review the follow-up site plan and meet with Trammel Crow and their architect to provide comments and final direction. M&P will share the design suggestions with City staff for input and to confirm the proposed design direction.

***Deliverables for Task 1:***

Review of follow-up site plan, meeting with Trammel Crow and their architect, consultation with City of Montclair staff.

***Fees & Schedule for Task 1:***

Work on this task will be completed within one week for a fee of \$ 2,070.00

***B. FEE SUMMARY***

***Moule & Polyzoides:***

<i>Task 1: Review Initial Site Plan</i>	\$ 4,490.00
<i>Task 2: Review Follow-up Site Plan</i>	\$ 2,070.00
<b><i>Total.....</i></b>	<b><i>\$ 6,560.00</i></b>

Further review beyond the two reviews described in the above Scope of Work shall be subject to additional services as described below. Upon completion of the above tasks, Moule & Polyzoides will submit an invoice to the Client and will be paid within 30 days of submission.

Reimbursable expenses will be in addition, estimated as an allowance of \$100.00, and will include the costs of transportation, delivery, process printing and other costs incurred by the Consultant Team in its service on this project. Expenses will be billed by M&P to Client at a multiplier of 1.15 to cover administrative and processing costs.

***C. ADDITIONAL SERVICES***

Should the Client request Moule & Polyzoides to provide Additional Services in addition to those set forth in the above Scope of Work, Moule & Polyzoides will prepare a scope, schedule, and budget for providing such services for approval by the Client. If any such services are to be paid on a time and materials basis, professional fee compensation shall be billed according to the schedule of the 2021 hourly rates for our firm as follows:

# MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

Partner:	\$ 340.00 per hour
Planning Principal:	\$ 260.00 per hour
Principal	\$ 260.00 per hour
Sr Associate	\$240 per hour
Associate	\$220 per hour
Staff/graphic designer	\$180 per hour
staff II	\$160 per hour

Such services will only be undertaken with the Client's previous authorization.

We are very pleased to have the opportunity to continue to assist you in our role as town architect to ensure that new projects continue to transform Montclair according to the community's vision.

Please call me, if you have any questions.

Sincerely,



Stefanos Polyzoides, Architect & Urbanist

ACCEPTED AND AGREED:

Name \_\_\_\_\_

Date \_\_\_\_\_

# MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

February 5, 2021

Christine Caldwell, Deputy Director of Economic and Community Development  
City of Montclair  
5111 Benito Street  
Montclair, CA 91763

Via E- mail: [ccaldwell@cityofmontclair.org](mailto:ccaldwell@cityofmontclair.org); [mdiaz@cityofmontclair.org](mailto:mdiaz@cityofmontclair.org)

***Re: Design Review of Vulcan Property***

Dear Christine:

Moule & Polyzoides is pleased to present a proposal to the City of Montclair to assist the City in reviewing design proposals submitted by Trammel Crow for a residential project on the Vulcan property in North Montclair.

## ***A. SCOPE OF WORK***

### ***Task 1: Review Initial Site Plan***

M&P will review the initial site plan submitted by Trammel Crow for conformance with the *North Montclair Downtown Specific Plan* (NMDSP) and prepare a conceptual parti-sketch that clearly conveys the intent of the NMDSP and the City of Montclair's expectations. M&P will also participate in a meeting with Trammell Crow and their architect to provide feedback and suggestions. M&P will share the design suggestions with City staff for input and to confirm the proposed design direction.

### ***Deliverables for Task 1:***

Review of initial site plan, preparation of parti-sketch, meeting with Trammel Crow and their architect, consultation with City of Montclair staff.

### ***Fees & Schedule for Task 1:***

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M&P will review the follow-up site plan and meet with Trammel Crow and their architect to provide comments and final direction. M&P will share the design suggestions with City staff for input and to confirm the proposed design direction.

***Deliverables for Task 1:***

Review of follow-up site plan, meeting with Trammel Crow and their architect, consultation with City of Montclair staff.

***Fees & Schedule for Task 1:***

Work on this task will be completed within one week for a fee of \$ 2,070.00

***B. FEE SUMMARY***

***Moule & Polyzoides:***

<i>Task 1: Review Initial Site Plan</i>	\$ 4,490.00
<i>Task 2: Review Follow-up Site Plan</i>	\$ 2,070.00
<b><i>Total.....</i></b>	<b><i>\$ 6,560.00</i></b>

Further review beyond the two reviews described in the above Scope of Work shall be subject to additional services as described below. Upon completion of the above tasks, Moule & Polyzoides will submit an invoice to the Client and will be paid within 30 days of submission.

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# MOULE & POLYZOIDES

ARCHITECTS AND URBANISTS

Partner:	\$ 340.00 per hour
Planning Principal:	\$ 260.00 per hour
Principal	\$ 260.00 per hour
Sr Associate	\$240 per hour
Associate	\$220 per hour
Staff/graphic designer	\$180 per hour
staff II	\$160 per hour

Such services will only be undertaken with the Client's previous authorization.

We are very pleased to have the opportunity to continue to assist you in our role as town architect to ensure that new projects continue to transform Montclair according to the community's vision.

Please call me, if you have any questions.

Sincerely,



Stefanos Polyzoides, Architect & Urbanist

ACCEPTED AND AGREED:

Name \_\_\_\_\_

Date \_\_\_\_\_



# CITY COUNCIL AGENDA REPORT

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**DATE:** FEBRUARY 16, 2021                      **FILE I.D.:** COV150  
**SECTION:** RESPONSE                              **DEPT.:** CITY MGR.  
**ITEM NO.:** A    **PREPARER:** E. STARR  
**SUBJECT:** CONSIDER RECEIVING AND FILING RESPONSE TO COUNCIL INQUIRY REGARDING THE REOPENING OF CITY PARKS AND FACILITIES AMIDST THE NOVEL CORONAVIRUS PANDEMIC

CONSIDER CONTINUING THE REOPENING PROTOCOLS AS ESTABLISHED IN THE CITY FACILITIES REOPENING, HEALTH AND SAFETY PLAN ADOPTED BY THE CITY COUNCIL ON SEPTEMBER 21, 2020

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**REASON FOR CONSIDERATION:** At the February 1, 2021 meeting of the City Council, Mayor Dutrey requested an update regarding the potential reopening of City parks and facilities amidst the current novel coronavirus pandemic (COVID-19).

**BACKGROUND:** At its September 21, 2020, meeting, the City Council adopted a *City Facilities Public Reopening, Health and Safety Plan*, introducing a strong, clear, and detailed guidance to ensure public health and safety while at City facilities. Protocols in the *Plan* are based on a variety of sources including, but not limited to, the federal government's [Opening America](https://www.whitehouse.gov/openingamerica/)<sup>1</sup> plan, [CDC Guidelines](https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html)<sup>2</sup>, [State of California Guidance](https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx)<sup>3</sup>, [EEOC Guidance for the Workplace](https://www.californiaemploymentlawreport.com/2020/06/eec-provides-additional-guidance-on-workplace-issues/)<sup>4</sup>, and the Aspen Institute [Return to Play COVID-19 Risk Assessment Tool](https://www.aspenprojectplay.org/return-to-play)<sup>5</sup>. A copy of the *Plan* was provided to each member of the City Council and City personnel.

Establishing appropriate guidance allows the City to achieve consistency and avoid unnecessary confusion among employees and residents. This effort includes guidance on public services, facility operations, buildings and spaces, and community programs including but not limited to recreation activities, public parks, senior and youth center operations, indoor and outdoor sports, summer concerts and outdoor movie events, holiday celebrations, summer camp programs, and elections.

The *Plan* is an evolving document: specific guidances for various activities are developed over time, and new guidances that are promulgated and issued by regulating authorities are automatically incorporated into the *Plan*.

The *Plan* was developed, in part, to achieve the following objectives:

- Serve as guidance as to when City of Montclair facilities are reopened to the public, and when programs and activities are to be restored or phased in.
- Establish facility reopening protocols. In its implementation, the *Plan* may modify, suspend, or replace existing department policies. It is also recognized that the environment surrounding COVID-19 continues to be evolutionary in nature. As a

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<sup>1</sup> <https://www.whitehouse.gov/openingamerica/>

<sup>2</sup> <https://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>

<sup>3</sup> <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Guidance.aspx>

<sup>4</sup> <https://www.californiaemploymentlawreport.com/2020/06/eec-provides-additional-guidance-on-workplace-issues/>

<sup>5</sup> <https://www.aspenprojectplay.org/return-to-play>



result, established guidance is subject to change and modification pursuant to legal, environmental, health, medical, governmental and institutional changes and requirements.

- Provide protocols to be used as a set of tools, procedures, and guidance that enable the resumption of public operations amidst an ongoing public health emergency.
- Provide for implementation of measures that address functionality, flexibility, and operational safety while concurrently adhering to traditional legal mandates related to the provision of municipal services.
- Provide for restoration of City operations in a safe and thoughtful manner, achieved through a phased and deliberate process that will require regular adjustment to reflect operational and environmental realities. Communication of the *Plan* to all levels of the Montclair organization has been vital to an effective, safe, and healthy approach to the City's public reopening.
- Provide tools for the safety of employees and the public as normal business operations resume amidst the continued presence of the COVID-19 pandemic.
- Consider guidance from federal and state agencies, and strategies developed by industry specific leadership groups.
- Provide supplemental information that supports protocols and Guidance from the San Bernardino County Public Health Department, State of California, Centers for Disease Control and Prevention (CDC), and other public health-related agencies.

**Reopening of City of Montclair Public Facilities.** As an essential public service, the City has continued administrative and other operations throughout the public health crisis. Normal in-person interactions and business with the public has been maintained through an appointment process, and business with partner agencies has been conducted through Email, telephone, and Zoom—a web-based interactive meeting environment.

A tentative date for reopening City facilities to the public (including meetings of the City Council and Planning Commission) continues to be subject to risk assessments related to COVID-19. The City Council and City staff have remained cautious about a public reopening of City facilities because current health metrics still do not favor a return to normal or near-normal operations. Furthermore, under the state's color-coded tier system, the reopening of facilities is subject to a phased approach.

**Blueprint for a Safer Economy.** On August 28, 2020, Governor Newsom announced the "*Blueprint for a Safer Economy*" (the "*Blueprint*") — a four-tier color-coded plan for reopening the state's economy amid the coronavirus pandemic. The *Blueprint*, which went into effect on Monday, August 31, 2020, replaced the state's previous watch list system, which allowed each of the state's 58 counties to develop their own reopening guidelines. City facilities reopening phases contained in the *City Facilities Public Reopening, Health and Safety Plan* are based largely on the state's *Blueprint*.

Counties move through the *Blueprint's* four tiers based on two metrics: each county's number of COVID-19 cases and its percentage of positive tests (case rate). Case rates are determined using confirmed cases, and do not include state and federal inmate cases.

Each county is assigned to a tier based on an adjusted case rate and positivity test rate from the prior two reporting periods. If a county's case rate and positivity test rate fall into two separate tiers, the county will be assigned the more restrictive tier.

Under the **Blueprint**, each county was given one of the following designations:

- "Tier 1 - Purple"
- "Tier 2 - Red"
- "Tier 3 - Orange" or
- "Tier 4 - Yellow"

Each tier determines what types of businesses and activities are allowed to open (with or without modification) in each county. The revised system guards against loosening restrictions too soon by investing more authority with the state instead of the counties.

An important feature of the color-coded system is that it requires an extended waiting period to verify the direction of data before movement to a less restrictive tier is permitted. In operation, the more cases and positive test results, the tighter the restrictions become for restaurants, retail shops, and other businesses.

When the color-coded scheme went into effect on Monday, August 31, 2020, each county was advised it should expect to remain on their current tier for at least three weeks.

Under the **Blueprint**, each county is assigned its tier every Tuesday, with a start date of September 8, 2020. A county must remain in a tier for 21 consecutive days (3 weeks) before moving to the next tier. To move forward, a county must meet the next tier's criteria for 14 consecutive days (2 weeks). The mandatory 21-day wait time between tier placements is intended to provide a buffer in terms of criteria and data evaluation and trending.

A county can only move forward one tier at a time, even if metrics qualify for a more advanced tier. A county can, however, move backwards by failing to meet the criteria for two consecutive weeks, or if state officials see a rapid rise in hospitalizations.

The **Blueprint** also stipulates that schools may reopen for in-person instruction based on criteria in the [School Re-opening Framework](#)<sup>6</sup>.

Schools in counties within **Tier 1 (Purple)** are not permitted to reopen for in-person instruction, with an exception for waivers granted by local health departments for TK-6 grades. The Ontario-Montclair School District and Chaffey Joint Union High School District are not permitted to reopen at this time. Schools not authorized to reopen may provide structured, in-person supervision and services to students under the [Guidance for Small Cohorts/Groups of Children and Youth](#)<sup>7</sup>.

Schools are eligible for reopening fully for in-person instruction following California School Sector Specific Guidelines once the county is off **Tier 1 (Purple)** for 14 days.

Effective September 8, 2020, San Bernardino County was placed, and currently remains, in **Tier 1 (Purple)**.

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<sup>6</sup> <https://www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/COVID-19/Schools%20Reopening%20Recommendations.pdf>

<sup>7</sup> <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/small-groups-child-youth.aspx>

**Modified Regional Stay-At-Home Order.** On December 3, 2020, Governor Newsom issued a modified regional stay-at-home order that came at a difficult time in California's virus response. Intensive Care Units (ICUs) were announced to have less than 15 percent capacity, non-essential businesses were closed down, and all private gatherings were prohibited. The modified regional stay-at-home order, which effectively suspended the **Blueprint**, was rescinded on Monday, January 25, 2021, returning the state to the color-coded tier system contained in the **Blueprint**. The rescission was based on projections over a four-week period showing that new ICU capacity would exceed 15 percent, largely due to the dissemination of vaccines in California.

By returning to **Tier 1 (Purple)**, restaurants were allowed to open with outdoor dining, nail and hair salons could operate with modifications, and certain youth sports activities were permitted to resume. In counties where the daily new case rate is below 25 cases per 100,000 residents, some schools have applied to reopen as well.

**COVID-19 Testing and Vaccinations.** Regular testing of employees and receipt of vaccinations are paramount to the recovery effort. There must be ubiquitous testing, and City of Montclair employees are encouraged to make regular appointments at the San Bernardino County Public Health Department testing site at the Montclair Kids' Station located within the Montclair Transcenter at 4985 Richton Street.

Pfizer and Moderna vaccines are now available to certain members of the public; however, inadequate vaccination supply has made rollout to the general public slow and cumbersome. Vaccinating a substantial majority of the population is central to full recovery of the national, state, and regional economies.

California remains 26th in the nation in positivity rates. As of Tuesday, February 9, 2021, California has received 6,963,500 vaccinations and administered 4,485,166 doses (64.4 percent), with 3,653,538 of those administered as first doses. Approximately 11.7 percent of the state's over-65 population has received at least one dose and 2.6 percent of the over-65 population has received the second dose.

In an attempt to prioritize vaccination administration, California has simplified the vaccine eligibility framework. New priority groups (regardless of condition of health) include people ages 65 and older, healthcare workers, food and agriculture employees, teachers and school staff, and other essential workers. California is also expected to open eligibility to all persons above the age of 50 with the goal of getting vaccines to everybody that wants them administered. The objective is to move California to a point where the state can return to a semblance of normalcy and resiliency. Counties have also been stripped of discretion to determine who is to be vaccinated.

Facilitating the national effort to vaccinate, President Joseph Biden has announced a plan to vaccinate 300 million Americans during the first 100 days of his administration. To that end, orders have been placed with the nation's two primary COVID-19 vaccination manufacturers, Pfizer and Moderna. In addition, Johnson & Johnson announced last week that it had filed an application for emergency authorization of its coronavirus vaccine by the Food and Drug Administration (FDA).

The Johnson & Johnson vaccine has been eagerly anticipated in part because it is administered as one dose, rather than the two-dose regimen seen with the Pfizer and Moderna vaccines, and it can also be stored in refrigerators and does not require sub-chill temperatures as with the former vaccines mentioned.

Johnson & Johnson reports its vaccine was 66 percent effective in a global study, with efficacy ranging as high as 72 percent in the U.S. and as low as 57 percent in South Africa, where a highly transmissible variant of the coronavirus predominates. In addition, the vaccine showed complete protection against hospitalization and death and 85 percent efficacy against severe disease. In contrast, the Pfizer and Moderna vaccines report 95 percent efficacy rates.

**Reopening Metrics.** Based on health metrics available on September 21, 2020, when the City Council adopted the *City Facilities Public Reopening, Health and Safety Plan*, the City Council adopted a reopening timetable, as represented in **Table 1**, below:

**Table 1**  
**Re-Opening of City Facilities and Parks**  
**Based on State’s Color Tier System**

San Bernardino County Tier and Color Code	Status of City Facilities & Parks
Tier 1 – Purple	<ul style="list-style-type: none"> <li>• City facilities and parks remain closed to the public.</li> <li>• Business may be transacted at City Hall by appointment.</li> <li>• All public meetings held remotely.</li> </ul>
Tier 2 – Red	<ul style="list-style-type: none"> <li>• City Hall may open to the public.</li> <li>• Council and Planning Commission meetings may resume in-person.</li> </ul>
Tier 3 – Orange	<ul style="list-style-type: none"> <li>• Parks may reopen.</li> </ul>
Tier 4 – Yellow	<ul style="list-style-type: none"> <li>• Youth and Senior Centers may reopen and some programs may operate on a limited basis.</li> </ul>

As indicated in **Table 1**, the City Council determined that City buildings would not reopen to the public until the County of San Bernardino migrates to **Tier 2 (Red)**, and improved health metrics under **Tier 2 (Red)** are maintained for a minimum two-week period. Under this proposed guideline, City staff anticipates that City facilities may reopen to the public in mid-summer 2021. If, however, health metrics are not maintained, or San Bernardino County is returned to a previous tier, City facilities may again be subject to closure.

City facilities that encourage gatherings, such as parks and the Youth and Senior Centers, should remain closed until San Bernardino County enters **Tier 3 (Orange)** for parks and **Tier 4 (Yellow)** for the Youth and Senior Centers. City staff also recommends that the Community Activities Commission not conduct in-person public meetings until community programs sponsored by the Human Services Department are reinstated. **Table 1** represents a phased approach to reopening City facilities.

City staff continues recommending the cautious approach outlined in the *Plan* because the Montclair community remains at high-risk for spread of the novel coronavirus. As indicated in **Table 2**, below, data from the San Bernardino County Department of Public Health clearly demonstrate that out of 26 designated communities in San Bernardino County with populations above 10,000 with reportable COVID-19 data for confirmed cases and reported deaths, Montclair ranks the eighth-highest in the number of confirmed cases per capita (one COVID-19 positive person for every 6.879 residents),

and the fourth-highest in the number of reported deaths per capita (one death for every 603.208 residents).

Montclair’s statistics for COVID-19 also fare worse than the average infection and death rates of the 26 communities. For confirmed positive cases, the County average is one case for every 7.327 persons, versus Montclair’s one case for every 6.879 residents. The County average for mortalities is one death for every 938.135 residents, versus Montclair’s one reported death for every 603.208 residents.

**Table 2**  
**COVID-19 Statistics (as of 02/08/2021)**  
**for San Bernardino County Cities Above 10,000 in Population**

Agency	Total Population as of 2018	Total Confirmed COVID-19 Cases	Cases Per Capita	Rank Per Cases Per Capita	Total Confirmed COVID-19 Deaths	Mortality Per Capita	Rank Per Mortality Per Capita
Adelanto	35,234	5,166	1:6.820	7	38	1:927.447	14
Apple Valley	73,694	8,864	1:8.313	15	91	1:809.824	7
Barstow	23,754	3,330	1:7.133	9	35	1:678.685	6
Big Bear City	10,045	515	1:19.504	24	3	1:3,348.333	23
Bloomington	17,115	5,775	1:2.963	1	38	1:450.394	1
Chino	93,009	12,600	1:7.381	12	94	1:989.457	16
Chino Hills	82,917	5,441	1:15.239	22	16	1:5,182.312	24
Colton	54,636	9,823	1:5.562	2	91	1:600.395	3
Fontana	215,334	37,377	1:5.761	4	246	1:875.341	12
Grand Terrace	12,403	1,559	1:7.955	14	15	1:826.866	10
Hesperia	97,312	13,171	1:7.388	13	83	1:1,172.433	18
Highland	55,484	7,556	1:7.343	10	57	1:973.403	15
Loma Linda	25,260	2,516	1:10.039	19	21	1:1,202.857	20
<b>Montclair</b>	<b>40,415</b>	<b>5,875</b>	<b>1:6.879</b>	<b>8</b>	<b>67</b>	<b>1:603.208</b>	<b>4</b>
Muscoy	11,536	97	1:118.927	26	0	0:0.000	26
Ontario	182,380	24,829	1:7.345	11	177	1:1,030.395	17
Phelan	14,757	1,534	1:9.619	17	8	1:1,844.625	19
Rancho Cucamonga	177,037	17,141	1:10.328	20	71	1:2,493.478	22
Redlands	72,099	8,181	1:8.812	16	130	1:554.607	2
Rialto	103,884	17,651	1:5.885	5	114	1:911.263	13
San Bernardino	218,515	38,310	1:5.703	3	351	1:622.549	5
TwentyNine Palms	24,996	925	1:27.022	25	3	1:8,332.000	25
Upland	78,249	8,084	1:9.679	18	62	1:1,262.080	21
Victorville	128,353	19,796	1:6.483	6	147	1:873.149	11
Yucaipa	54,490	5,269	1:10.341	21	67	1:813.283	8
Yucca Valley	22,146	1,315	1:16.841	23	27	1:820.222	9
<b>TOTALS</b>	<b>1,925,054</b>	<b>262,700</b>			<b>2,052</b>		
<b>AVERAGE NUMBER OF CASES / MORTALITY PER CAPITA ACROSS ALL CITIES</b>			<b>1:7.327</b>			<b>1:938.135</b>	

**FISCAL IMPACT:** During the current pandemic Montclair City Yard personnel continue to maintain public parks; however, the requirement for maintenance has lessened, permitting the targeting of other infrastructure maintenance issues.

Due to the loss of General Fund Revenue during the pandemic, three full-time and three part-time Maintenance Worker positions, and one Police Sergeant position and one Police Officer position were left temporarily vacant. Reopening of City of Montclair parks to the

public will require a re-prioritization of City Yard staff to park maintenance; re-prioritization of Police services to security and protection of the public at City parks; and the enforcement of federal, state and local COVID-19- related guidance at City parks. Together, these requirements will place pressure on the organization to begin the process of re-funding the temporarily vacated positions at an estimated cost of approximately \$734,000 at a time when detailed data related to California's Stay-At-Home Orders remain unspecific as to the full economic impact on the City's General Fund.

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

1. Receive and file the response to Council inquiry regarding the reopening of City parks and facilities amidst the novel coronavirus pandemic; and
2. Continue reopening protocols as established in the *City Facilities Public Reopening, Health and Safety Plan* adopted by the City Council on September 21, 2020.