



CITY OF MONTEBELLO CITY COUNCIL
CALL AND NOTICE OF A SPECIAL MEETING

**PLEASE TAKE NOTICE THAT THE CITY COUNCIL HAS
CALLED A SPECIAL MEETING AS FOLLOWS:**

**CITY OF MONTEBELLO
COUNCIL CHAMBERS
1600 WEST BEVERLY BLVD.
MONTEBELLO, CALIFORNIA¹
MONDAY, FEBRUARY 3, 2020 – 6:00 P.M.**

FOR THE PURPOSE OF THE FOLLOWING:

SEE ATTACHED AGENDA

LILLIAN GUZMAN, Deputy City Clerk
January 29, 2019

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Building Official at 323/887-1497. Notification 48 hours 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)

SPECIAL CITY COUNCIL
MEETING AGENDA

CITY OF MONTEBELLO CITY COUNCIL/SUCCESSOR AGENCY
CITY HALL COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA^{1 1[2]}
MONDAY, FEBRUARY 3, 2020

6:00 P.M.

MONTEBELLO CITY COUNCIL

SALVADOR MELENDEZ
MAYOR

KIMBERLY COBOS-CAWTHORNE
MAYOR PRO TEM

ANGIE JIMENEZ
COUNCILMEMBER

DAVID N. TORRES
COUNCILMEMBER

JACK HADJINIAN
COUNCILMEMBER

CITY CLERK
IRMA BARAJAS

CITY TREASURER
RAFAEL GUTIERREZ

CITY STAFF

CITY MANAGER
René Bobadilla

CITY ATTORNEY
Arnold M. Alvarez-Glasman

DEPARTMENT HEADS

Assistant City Manager
Fire Chief
Police Chief
Director of Finance
Director of Human Resources
Acting Director of Planning/Community Development
Director of Public Works
Director of Recreation and Community Services
Director of Transportation

Arlene Salazar
Fernando Pelaez
Brad Keller

Nicholas Razo
Joseph Palombi
Danilo Batson
David Sosnowski
Tom Barrio

OPENING CEREMONIES

1. **CALL MEETING TO ORDER:** Mayor Melendez
2. **ROLL CALL:** City Clerk I. Barajas

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3. STATEMENT OF PUBLIC ORAL COMMUNICATIONS FOR CLOSED SESSION ITEMS:

Members of the public interested in addressing the Agency during this Special Meeting may only address the items which have been described in the notice of this Special Meeting in accordance with Government Code Section 54954.3(a). If you wish to speak on said item, please fill out a form provided at the door, and turn it in to the City Clerk prior to the beginning of Oral Communications so that you will have an opportunity to speak before or during consideration of that item.

Please be aware that the maximum time allotted for individuals to speak shall not exceed three (3) minutes per speaker. Please show courtesy to others and direct all of your comments to the Mayor.

***IN CONSIDERATION OF OTHERS, PLEASE TURN OFF, OR MUTE,
ALL CELL PHONES AND PAGERS.
THANK YOU FOR YOUR COOPERATION.***

ORAL COMMUNICATIONS ON CLOSED SESSION ITEMS

CLOSED SESSION

The City Attorney shall provide a briefing on the item listed for Closed Session as follows:

4. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Government Code Section 54956.9(d)(1)
City of Montebello v. All Persons (Athens)
Superior Court Case No. BC713533

4a. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Government Code Section 54956.9(d)(2)
Two matters

4b. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code section 54956.8
Property: 901 Via San Clemente, Montebello, CA
Agency's Negotiator: René Bobadilla, City Manager
Negotiating Party: Transports
Under Negotiation: Price and Terms

REGULAR SESSION

5. INVOCATION

PLEDGE OF ALLEGIANCE

6. STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST

7. CORRECTIONS TO THE AGENDA – CITY MANAGER

8. STATEMENT OF PUBLIC ORAL COMMUNICATIONS: Members of the public interested in addressing the Agency during this Special Meeting may only address the items which have been described in the notice of this Special Meeting in accordance with Government Code Section 54954.3(a). If you wish to speak on said item, please fill out a form provided at the door, and turn it in to the City Clerk prior to the beginning of

Oral Communications so that you will have an opportunity to speak before or during consideration of that item.

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9. PUBLIC ORAL COMMUNICATIONS ON OPEN SESSION ITEMS (30 MINUTES)

- 10. APPROVAL OF AGENDA:** Any items a Councilmember wishes to discuss should be designated at this time. All other items may be approved in a single motion with the exception of any item which a member of the public or City Council has requested to speak upon. Such approval will also waive the reading of any ordinance.

CONSENT MATTERS

11. APPROVE AN APPROPRIATION FROM THE CANNABIS FUND TO PROMOTE THE 2020 UNITED STATES CENSUS COMPLETE COUNT MONTEBELLO INITIATIVE

RECOMMENDATION: It is recommended that the City Council:

It is recommended that the City Council appropriate \$25,000 from Cannabis Community Benefit Funds to fund the City's efforts to promote the 2020 United States (U.S.) Census complete count of Montebello as a community awareness initiative.

12. REQUEST FOR AUTHORIZATION TO USE ASSET FORFEITURE FUNDS FOR PURCHASE OF LEASED VEHICLES

RECOMMENDATION: It is recommended that City Council:

- 1) Approve the purchase of the four (4) leased vehicles at the conclusion of the 4 year lease agreement set to expire in March and April of 2020; and
- 2) Authorize the transferring of funds from the Drug Asset Forfeiture account to a Police Department account.

13. APPROVAL OF A RESOLUTION ACKNOWLEDGING ACCEPTANCE AND RECEIPT OF THE MONTEBELLO FIRE DEPARTMENT'S REPORT REGARDING ANNUAL MANDATED FIRE INSPECTION PERFORMANCE AND COMPLIANCE WITH CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 13146.2 AND 13146.3, PER SENATE BILL NUMBER 1205 (SB 1205), AND BUDGET APPROPRIATION

RECOMMENDATION: It is recommended that City Council:

- 1) Approve a Resolution acknowledging acceptance and receipt of the Montebello Fire Department Report regarding Annual Mandated Fire Inspection Performance; and
- 2) Authorize the City Clerk to execute the Resolution; and
- 3) Approve the attached Resolution appropriating General Fund unassigned balance to Account for Capital Outlay (100-85-870-7055) to fund these expenditures related to the purchase of the software and related equipment in the amount of \$30,000.00.

14. FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENTS

RECOMMENDATION: It is recommended that City Council:

- 1) Approve, in substantially the form as presented, four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreement Nos. 02-19, 11-19, 15-19 and 27-19, for the operation of commercial cannabis activities in the City of Montebello, and authorize the City Attorney's Office to make final and technical edits or revisions, if any, prior to execution; and
- 2) Condition the approval of each of the four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreements on the respective owner(s) and operator(s) clearing the requisite background checks, providing all exhibits to the development agreement amendments and missing information, if any, to the City of Montebello in a form acceptable to the City Attorney's Office no later than March 2, 2020; and
- 3) Adopt findings contained herein exempting the four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreements from further CEQA review under CEQA Section 15301, and direct staff to prepare and file the applicable Notices of Exemption for each project recommended for approval; and
- 4) Take such additional, related action that may be desirable, and/or provide the City Attorney's office and/or staff with additional or alternative directive(s).

COUNCIL ORALS

15. COUNCILMEMBER HADJINIAN

None.

16. MAYOR POR TEM COBOS-CAWTHORNE

None.

17. COUNCILMEMBER ANGIE JIMENEZ

None.

18. COUNCILMEMBER TORRES

- a. Urban forest triage and management plan
- b. Augmenting Montebello Police Department crime prevention and detection vis-a-vis government monitoring and community collaboration

19. MAYOR MELENDEZ

None.

ADJOURNMENT

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, City Manager

SUBJECT: Approve an appropriation from the Cannabis Fund to promote the 2020 United States Census complete count Montebello initiative

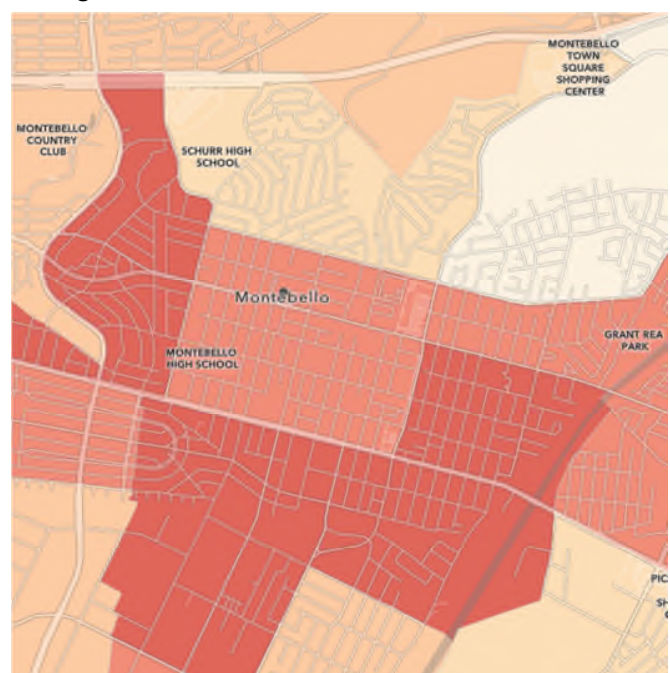
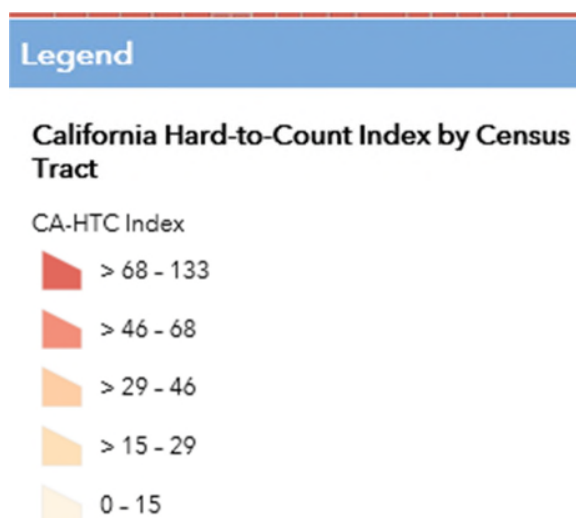
DATE: February 3, 2020

RECOMMENDATION

It is recommended that the City Council appropriate \$25,000 from Cannabis Community Benefit Funds to fund the City's efforts to promote the 2020 United States (U.S.) Census complete count of Montebello as a community awareness initiative.

BACKGROUND

California cities can play an active role in helping to make the 2020 U.S. Census fair and accurate, especially for historically undercounted populations: racial and ethnic minorities, young children and renters. The 2010 census undercounted 95,000 (or 0.26 percent) of California residents. Montebello has several pockets of neighborhoods that were undercounted as represented by the heat map, referred to the California Hard-To-Count Index. Though the overall count was an improvement from the previous undercounts (2.74 percent in 1990 and 1.52 percent in 2000), the rate of under counted populations remains consistently high, and that has many cities concerned about getting an accurate account in the upcoming census.



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Approve an appropriation from the Cannabis Fund to promote the 2020 United States Census complete count Montebello initiative

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One of the main implications of a miscount is the loss of annual federal and state funding for local government as well as philanthropic funding for social programs and service. In addition, one or more Congressional seats given to California could be lost. Obtaining an accurate and complete count poses challenges due to several factors. The housing affordability crisis has forced more Californians to move into hard-to-count unconventional housing and overcrowded dwellings or to become homeless. For the first time, the Census is a digital census and more than seventy-five percent (75%) of California households will be receiving an invitation to complete their census form online, even though many households lack broadband or digital literacy.

Census data impacts our daily lives, informing important decisions about funding for services and infrastructure in our community, including health care, senior centers, jobs, political representation, roads, schools, and businesses. It impacts our community. The distribution of more than \$675 billion in federal funds, grants and support to states, counties and communities are based on the census data. That money is spent on schools, hospitals, roads, public works and other vital programs.

City staff has met with the U.S. Census field representatives, staff from the Los Angeles County Board of Supervisors, NALEO and other regional based organizations that are assisting with the count. As part of the collective effort to promote the importance of the U.S. Census local funds are necessary to assist with a Montebello effort to inform our community. Staff will be participating in training events in February.

SUMMARY

The U.S. Census is very important to the City of Montebello's ability to apply for future grant opportunities and to receive entitlements based on our demographic and population counts that are determined by this survey. Important dates for the U.S. Census are:

- March 12 - Census information mailed to LA County households. Upon receipt, residents can immediately complete forms online, mail or by phone.
- Mid-March - Questionnaire Action Kiosks will be opened in libraries, parks and other locations throughout Los Angeles County so that the public can complete their forms and get assistance.
- April 1 - National Census Day
- May to July - Household visits by U.S. Census Bureau staff to those individuals who have not submitted a completed census form.
- July 31 - Last day to participate in and complete the Census form

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FISCAL IMPACT

Staff recommends the appropriation of \$25,000 be used for community outreach including large banners for display at City Hall, parks, and other public facilities that have extensive vehicular and pedestrian traffic. In addition, these funds would be used for printing of informational flyers, promotional materials, community outreach meeting supplies and paid ads on a billboard and local publication outlets.

ATTACHMENT

Census 101: What you need to know information

CENSUS 101: WHAT YOU NEED TO KNOW

The 2020 Census is closer than you think!
Here's a quick refresher of what it is and why it's essential that everyone is counted.

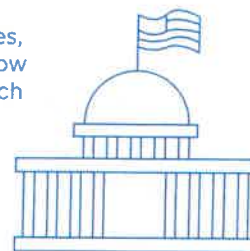
Everyone counts.

The census counts every person living in the U.S. once, only once, and in the right place.



It's about fair representation.

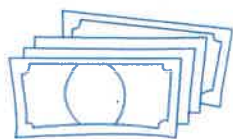
Every 10 years, the results of the census are used to reapportion the House of Representatives, determining how many seats each state gets.



It's in the constitution.

The U.S. Constitution mandates that everyone in the country be counted every 10 years. The first census was in 1790.

It's about \$675 billion.



The distribution of more than \$675 billion in federal funds, grants and support to states, counties and communities are based on census data.

That money is spent on schools, hospitals, roads, public works and other vital programs.

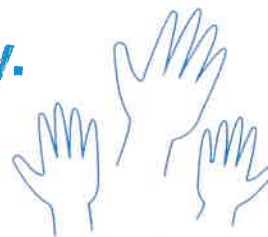


It's about redistricting.

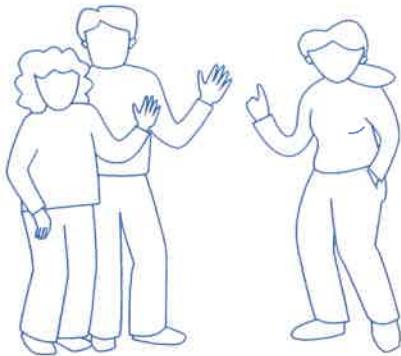
After each decade's census, state officials redraw the boundaries of the congressional and state legislative districts in their states to account for population shifts.

Taking part is your civic duty.

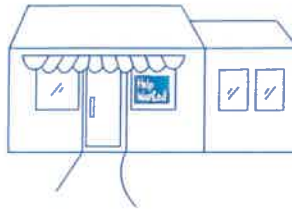
Completing the census is mandatory; it's a way to participate in our democracy and say "I COUNT!"



Census data are being used all around you.

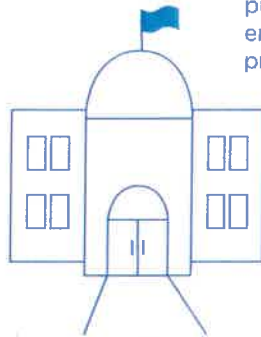


Residents use the census to support community initiatives involving legislation, quality-of-life and consumer advocacy.

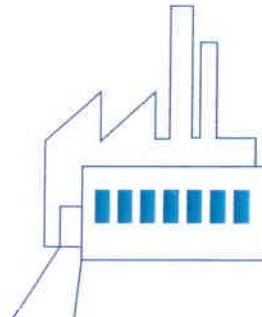


Businesses use census data to decide where to build factories, offices and stores, which create jobs.

Local governments use the census for public safety and emergency preparedness.



Real estate developers use the census to build new homes and revitalize old neighborhoods.



Your privacy is protected.

It's against the law for the Census Bureau to publicly release your responses in any way that could identify you or your household.

By law, your responses cannot be used against you and can only be used to produce statistics.



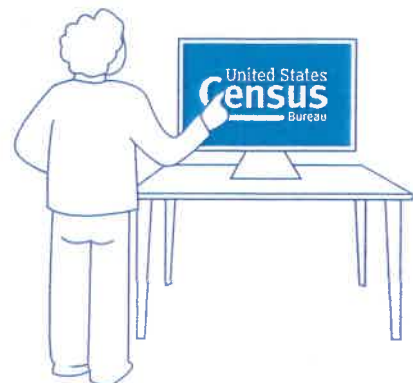
2020 will be easier than ever.

In 2020, you will be able to respond to the census online.



You can help.

You are the expert—we need your ideas on the best way to make sure everyone in your community gets counted.



United States™
Census
Bureau

FIND OUT HOW TO HELP
AT [CENSUS.GOV/PARTNERS](https://www.census.gov/partners)

United States
Census
2020

2020 Census at a Glance

The census is much more than just a head count. It provides a picture of our nation that helps determine where to build new schools, hospitals, and businesses; how federal funding is distributed; and how congressional seats are apportioned. It also helps us see how our communities have changed over time. That's why an accurate count is so important.

UNDERSTANDING THE CENSUS

Once every decade, the federal government conducts a census of the entire population to count everyone in the United States and record basic information about them. Our nation's founders believed this data was so important that they mandated the decennial census in the Constitution.



Easy and Convenient

In 2020, for the first time ever, the U.S. Census Bureau will accept responses online, but you can still respond by phone or mail if you prefer.



Confidential and Secure

Strict federal law protects your census responses. It is against the law for any Census Bureau employee to disclose or publish any census information that identifies an individual or business. Census Bureau employees take a lifelong pledge of confidentiality to handle data responsibly and keep respondents' information private. The penalty for wrongful disclosure is a fine of up to \$250,000 or imprisonment for up to 5 years, or both. No law enforcement agency (not the DHS, ICE, FBI, or CIA) can access or use your personal information at any time. Data collected can only be used for statistical purposes that help inform important decisions, including how much federal funding your community receives.

The Census Bureau will never ask for your Social Security number, bank or credit card account numbers, money or donations, or anything on behalf of a political party.

The Census Bureau has a robust cybersecurity program that incorporates industry best practices and federal security standards for encrypting data.

To make sure you and your community are counted, learn more about the 2020 Census by visiting 2020census.gov.

How the 2020 Census will invite everyone to respond



Every household will have the option of responding online, by mail, or by phone.

Nearly every household will receive an invitation to participate in the 2020 Census from either a postal worker or a census worker.

 **95%** of households will receive their census invitation in the mail.



 **Almost 5%** of households will receive their census invitation when a census taker drops it off. In these areas, the majority of households may not receive mail at their home's physical location (like households that use PO boxes or areas recently affected by natural disasters).

 **Less than 1%** of households will be counted in person by a census taker, instead of being invited to respond on their own. We do this in very remote areas like parts of northern Maine, remote Alaska, and in select American Indian areas that ask to be counted in person.

Note: We have special procedures to count people who don't live in households, such as students living in university housing or people experiencing homelessness.

How the 2020 Census will invite everyone to respond



What to Expect in the Mail

When it's time to respond, most households will receive an invitation in the mail.

Every household will have the option of responding online, by mail, or by phone.

Depending on how likely your area is to respond online, you'll receive either an invitation encouraging you to respond online or an invitation along with a paper questionnaire.

Letter Invitation

- Most areas of the country are likely to respond online, so most households will receive a letter asking you to go online to complete the census questionnaire.
- We plan on working with the U.S. Postal Service to stagger the delivery of these invitations over several days. This way we can spread out the number of users responding online, and we'll be able to serve you better if you need help over the phone.

Letter Invitation and Paper Questionnaire

- Areas that are less likely to respond online will receive a paper questionnaire along with their invitation. The invitation will also include information about how to respond online or by phone.

WHAT WE WILL SEND IN THE MAIL

On or between	You'll receive:
March 12-20	An invitation to respond online to the 2020 Census. (Some households will also receive paper questionnaires.)
March 16-24	A reminder letter.
	If you haven't responded yet:
March 26-April 3	A reminder postcard.
April 8-16	A reminder letter and paper questionnaire.
April 20-27	A final reminder postcard before we follow up in person.

We understand you might miss our initial letter in the mail.

- Every household that hasn't already responded will receive reminders and will eventually receive a paper questionnaire.
- It doesn't matter which initial invitation you get or how you get it—we will follow up in person with all households that don't respond.

The 2020 Census and Confidentiality

Your responses to the 2020 Census are safe, secure, and protected by federal law. Your answers can only be used to produce statistics—they cannot be used against you in any way. By law, all responses to U.S. Census Bureau household and business surveys are kept completely confidential.

Respond to the 2020 Census to shape the future.

Responding to the census helps communities get the funding they need and helps businesses make data-driven decisions that grow the economy. Census data impact our daily lives, informing important decisions about funding for services and infrastructure in your community, including health care, senior centers, jobs, political representation, roads, schools, and businesses. More than \$675 billion in federal funding flows back to states and local communities each year based on census data.



Your census responses are safe and secure.

The Census Bureau is required by law to protect any personal information we collect and keep it strictly confidential. The Census Bureau can only use your answers to produce statistics. In fact, every Census Bureau employee takes an oath to protect your personal information for life. Your answers cannot be used for law enforcement purposes or to determine your personal eligibility for government benefits.

By law, your responses cannot be used against you.

By law, your census responses cannot be used against you by any government agency or court in any way—not by the Federal Bureau of Investigation (FBI), not by the Central Intelligence Agency (CIA), not by the Department of Homeland Security (DHS), and not by U.S. Immigration and Customs Enforcement (ICE). The law requires the Census Bureau to keep your information confidential and use your responses only to produce statistics.



The law is clear—no personal information can be shared.

Under Title 13 of the U.S. Code, the Census Bureau cannot release any identifiable information about individuals, households, or businesses, even to law enforcement agencies.

The law states that the information collected may only be used for statistical purposes and no other purpose.

To support historical research, Title 44 of the U.S. Code allows the National Archives and Records Administration to release census records only after 72 years.

All Census Bureau staff take a lifetime oath to protect your personal information, and any violation comes with a penalty of up to \$250,000 and/or up to 5 years in prison.

There are no exceptions.

The law requires the Census Bureau to keep everyone's information confidential. By law, your responses cannot be used against you by any government agency or court in any way. The Census Bureau will not share an individual's responses with immigration enforcement agencies, law enforcement agencies, or allow that information to be used to determine eligibility for government benefits. Title 13 makes it very clear that the data we collect can only be used for statistical purposes—we cannot allow it to be used for anything else, including law enforcement.

It's your choice: you can respond securely online, by mail, or by phone.

You will have the option of responding online, by mail, or by phone. Households that don't respond in one of these ways will be visited by a census taker to collect the information in person. Regardless of how you respond, your personal information is protected by law.

Your online responses are safe from hacking and other cyberthreats.

The Census Bureau takes strong precautions to keep online responses secure. All data submitted online are encrypted to protect personal privacy, and our cybersecurity program meets the highest and most recent standards for protecting personal information. Once the data are received, they are no longer online. From the moment the Census Bureau collects responses, our focus and legal obligation is to keep them safe.

We are committed to confidentiality.

At the U.S. Census Bureau, we are absolutely committed to keeping your responses confidential. This commitment means it is safe to provide your answers and know that they will only be used to paint a statistical portrait of our nation and communities.

Learn more about the Census Bureau's data protection and privacy program at www.census.gov/privacy.



Laws protecting personal census information have withstood challenges.

In 1982, the U.S. Supreme Court confirmed that even addresses are confidential and cannot be disclosed through legal discovery or the Freedom of Information Act (FOIA). In 2010, the U.S. Justice Department determined that the Patriot Act does not override the law that protects the confidentiality of individual census responses. No court of law can subpoena census responses.

Frequently Asked Questions

WHAT IS THE DECENNIAL CENSUS?

Every 10 years, the federal government conducts a population count of everyone in the United States. Data from the census provide the basis for distributing more than \$675 billion in federal funds annually to communities across the country to support vital programs—impacting housing, education, transportation, employment, health care, and public policy. They also are used to redraw the boundaries of congressional and state legislative districts and accurately determine the number of congressional seats each state has in the U.S. House of Representatives.

WHY IS IT IMPORTANT TO ME?

Responding to the census is not only your civic duty; it also affects the amount of funding your community receives, how your community plans for the future, and your representation in government. Specifically, data from the 2020 Census are used to:

- Ensure public services and funding for schools, hospitals, and fire departments.
- Plan new homes and businesses and improve neighborhoods.
- Determine how many seats your state is allocated in the House of Representatives.

WHEN WILL I COMPLETE THE CENSUS?

The next census will take place in 2020. Beginning in mid-March, people will receive a notice in the mail to complete the 2020 Census. Once you receive it, you can respond online. In May, the U.S. Census Bureau will begin following up in person with households that haven't responded to the census.

HOW CAN I RESPOND?

In 2020, for the first time ever, the U.S. Census Bureau will accept responses online, but you can still respond by phone or mail if you prefer. Responding should take less time than it takes to finish your morning coffee.

WHAT INFORMATION WILL BE REQUESTED?

The decennial census will collect basic information about the people living in your household. When completing the census, you should count everyone who is living in your household on April 1, 2020.

WHAT INFORMATION WILL NOT BE REQUESTED?

The Census Bureau will **never** ask for:

- Social Security numbers.
- Bank or credit card account numbers.
- Money or donations.
- Anything on behalf of a political party.

WILL MY INFORMATION BE KEPT CONFIDENTIAL?

Strict federal law protects your census responses. It is against the law for any Census Bureau employee to disclose or publish any census information that identifies an individual. Census Bureau employees take a lifelong pledge of confidentiality to handle data responsibly and keep respondents' information private. The penalty for wrongful disclosure is a fine of up to \$250,000 or imprisonment for up to 5 years, or both. No law enforcement agency (not the DHS, ICE, FBI, or CIA) can access or use your personal information at any time. Data collected can only be used for statistical purposes that help inform important decisions, including how much federal funding your community receives.

The Census Bureau has a robust cybersecurity program that incorporates industry best practices and federal security standards for encrypting data.

WHERE CAN I GO TO LEARN MORE?

You can learn more about the 2020 Census by visiting 2020census.gov.

Counting Young Children in the 2020 Census

Counting everyone once, only once, and in the right place

An estimated 5 percent of kids under the age of 5 weren't counted in the 2010 Census. That's about 1 million young children, the highest of any age group.

We need your help closing this gap in the 2020 Census. Here's what our research tells us about why young children are missed and what you can do to help make sure they are counted.



Common situations where young children aren't counted



The **child splits time between two homes**.

The child lives or stays with **another family or with another relative such as a grandparent**.

How you can help?

- Emphasize that the census counts **everyone where they live** and sleep most of the time, even if the living arrangement is temporary or the parents of the child do not live there.
- If the child truly spends equal amounts of time between two homes, count them where they stayed on **Census Day, April 1**. Coordinate with the other parent or caregiver, if possible, so the child is not counted at both homes.
- If it's not clear where the child lives or sleeps most of the time, count them where they stayed on Census Day, April 1.



The child lives in a **lower income household**.

- Explain to service providers and families that responding to the census helps determine **\$675 billion in local funding** for programs such as food stamps (also called the Supplemental Nutritional Assistance Program or SNAP), the National School Lunch Program, and the Children's Health Insurance Program (CHIP). When children are missed in the census, these programs miss out on funding that is based on the number of children counted.



The child lives in a household with **young parents or a young, single mom**.

- Explain that filling out the census yourself, on your own schedule, is easier than having to respond when a census worker knocks on your door. Remind these households that the form should **only take about 10 minutes** to fill out and can be done online or over the phone, in addition to mailing it back.
- Encourage moms with young children to ask other household members to count them and their children on the form if others live in the household.



The child is a **newborn**.

- Emphasize that parents should **include babies** on census forms, even if they are still in the hospital on April 1.
- **Encourage facilities** providing services to newborns to remind parents about the importance of counting their children on the census form.
- Highlight the fact that the census form only takes about 10 minutes to complete, and parents can **fill it out online or over the phone in addition to paper** at a time that works best for them.

Common situations where young children aren't counted

How you can help?



The child lives in a household that is **large, multigenerational, or includes extended or multiple families**.

- Remind the person filling out the form to count all children, including nonrelatives and children with no other place to live, even if they are only living at the address temporarily on April 1.
- Spread the word that the census **counts all people living or staying** at an address, not just the person or family who owns or rents the property.



The child lives in a household that **rents or recently moved**.

- Encourage renters and recent movers to complete their census forms **online or over the phone**, right away. That way they don't need to worry about paper forms getting lost in the move.
- **Focus efforts** on multiunit buildings that are likely to have renters.



The child lives in a household where they're **not supposed to be**, for one reason or another.

- Please explain to those that have children living in places where they aren't allowed (for example, grandparents in a seniors-only residence that have a grandchild living with them, a family with more people, including children, than the lease allows) that they should include the children because the **Census Bureau does not share information** so it can't be used against them.
- Emphasize the Census Bureau's legal commitment to keep census **responses confidential**.
- Explain that the Census Bureau **will never share information** with immigration enforcement agencies like Immigration and Customs Enforcement (ICE), law enforcement agencies like the police or Federal Bureau of Investigation (FBI), or allow this information to be used to determine eligibility for government benefits.



The child lives in a **non-English or limited-English speaking** household.

- **Conduct outreach** and create resources in non-English languages that highlight the importance of counting young children.
- **Encourage non-English speakers to self-respond** to the census and let them know that for the 2020 Census, the online form and telephone line will be available in 13 languages, including English. Language guides will be available in 59 languages other than English.



The child lives in a household of **recent immigrants or foreign-born adults**.

- Work with community members to conduct outreach in neighborhoods with recent immigrants. **Focus efforts** on the **community's gathering places** like local grocery stores, places of worship, and small restaurants.
- Emphasize the **Census Bureau's legal commitment** to keep census responses confidential. Explain that the Census Bureau will never share information with immigration enforcement agencies like Immigration and Customs Enforcement (ICE), law enforcement agencies like the police or Federal Bureau of Investigation (FBI), or allow this information to be used to determine eligibility for government benefits.



Hiring and Background Checks

When we hire Census Bureau staff, we are mindful of two critical objectives. Most importantly, we want to protect the public's safety and trust. Secondly, we want to give every applicant who is fit to serve a fair opportunity to do so. This decade, we have worked with legal experts, law enforcement officials, and advocacy leaders to make sure our hiring process for the 2020 Census meets both objectives.

Every applicant selected for a job goes through an independent background check.

- Applicants for temporary census positions apply online and are selected based on their answers to assessment questions and how well they meet the [job requirements](#).
- Once selected for a position and made a tentative job offer, applicants must get their fingerprints taken for an FBI fingerprint check. This check looks for arrest records.
- Office staff (clerks, recruiting assistants, office operations supervisors) will also go through a background investigation with the Office of Personnel Management. OPM's background investigation verifies education, employment history, residence, etc.

We worked with legal experts, law enforcement officials, and advocacy groups to design a process for resolving issues identified in applicants' background checks. The process is designed to be fair to the applicant and to protect the public.

- Depending on the results of the fingerprint check, we may ask selectees to provide additional information.
- We will notify the selectee if they need to provide more information and will give them 30 days to respond. We will also send them

reminders throughout the process and notify them once a final determination is made.

- To respond, the selectee will need to provide a final court disposition and an explanation of the circumstances.
- The background check process is timed to allow applicants enough time to resolve any issues before moving on to the next step of the hiring process, such as participating in required job training.

The results of the background investigation determine whether the applicant will continue in the hiring process.

- If an applicant ultimately passes the pre-employment checks, they continue through the hiring process and are viewed and treated as any other employee. Census Bureau hiring officials and supervisors do not see the results of the fingerprint check.
- If the applicant does not pass the background investigation, the selectee will be notified that they are no longer eligible for the position.

For applicants:

If you suspect your background check may identify an arrest record, you can prepare now.

- Be available to schedule your fingerprint appointment as soon as you are tentatively offered a position. This will allow the maximum time to resolve any issues before job training begins.
 - Selectees will be able to schedule their appointments online. (A telephone number will also be available.)
 - Sites will be available at more than 500 locations across the country, including at 200 Office Depot locations.
- Find and review your court documentation. Be prepared to explain what caused any arrest.
- If convicted, it may also be helpful to have information about any rehabilitation programs you may have completed readily available.

For more information about 2020 Census jobs, please visit 2020census.gov/jobs.

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: René Bobadilla, City Manager

BY: Brad Keller, Chief of Police

SUBJECT: Request for Authorization to Use Asset Forfeiture Funds for Purchase of Leased Vehicles

DATE: February 3, 2020

RECOMMENDATION

It is recommended that City Council:

- 1) Approve the purchase of the four (4) leased vehicles at the conclusion of the 4 year lease agreement set to expire in March and April of 2020; and
- 2) Authorize the transferring of funds from the Drug Asset Forfeiture account to a Police Department account.
- 3) Take such additional, related, action that may be desirable.

BACKGROUND

The Investigations Unit, consisting of Detectives, conducts a great deal of surveillance activities that require dependable vehicles. These Detectives are on call 24 hours a day and require the use of a take home vehicle, which allows them to respond at a moment's notice. Due to the nature of their assignment, Detectives are also tasked with locating and apprehending violent offenders in our community or those that have fled to avoid capture for crimes committed in the City of Montebello. Many times this requires an immediate response and surveillance activities.

On February 24, 2016 (Resolution # 16-04), the Montebello Police Department entered into a lease agreement with Enterprise Leasing Company, to lease vehicles for our Detective Fleet. This lease allowed the Police Department to update its aging fleet, while having preventative service and collision repair covered by the lease price. The lease agreement on four of the vehicles is set to expire.

ITEM # 12

SPECIAL CITY COUNCIL AGENDA REPORT – MEETING OF FEBRUARY 3, 2020 **CONSIDER REQUEST FOR AUTHORIZATION TO USE ASSET FORFEITURE FUNDS FOR PURCHASE OF LEASED VEHICLES**

Page 2 of 3

The below vehicles are in superior working order and are fully outfitted with emergency equipment, at a cost of \$ 5,000 per vehicle. It is recommended that asset forfeiture funds are used to purchase the vehicles at the end of the lease term. The vehicle lease agreement information:

- 2016 Chevy Tahoe, City Identification # 116154, VIN # 1GNSCBKC5GR248065. (Lease Expires 03/09/20).
- 2016 Chevy Tahoe, City Identification # 116155, VIN # 1GNSCBKC8GR281139. (Lease Expires 04/04/20).
- 2016 Chevy Malibu, City Identification # 116153, VIN # 1G1ZE5STOGF240601. (Lease Expires 03/31/20).
- 2016 Chevy Malibu, City Identification # 116152, VIN # 1G1ZE5STXGF239374. (Lease Expires 03/31/20).

The requested funds will assure that our Investigations Bureau continue to have assigned vehicles that are dependable, which is essential in the 24 hour / 7 day a week nature of the assignment. The purchase of these vehicles will not increase the size of the Police Department vehicle fleet, as no new vehicles will be added.

The purchase of the four (4) leased vehicles provides reliable vehicles for Detectives without having to purchase four new vehicles. Federal law permits the use of drug asset forfeiture funds to purchase law enforcement equipment.

FISCAL IMPACTS

This request for funds would have no fiscal impact to the general fund as the funds requested are proceeds of the drug asset forfeiture account. Currently the drug asset forfeiture fund balance is \$ 600,000.

SUMMARY

Drug Asset Forfeiture Funds requested to purchase the following vehicles from Enterprise, with a lease agreement ending in March and April of 2020:

- 2016 Chevy Tahoe, City Identification # 116154 - approximate cost to purchase: \$ 8,387.99
- 2016 Chevy Tahoe, City Identification # 116155 – approximate cost to purchase: \$ 8,961.30

ITEM # 12

SPECIAL CITY COUNCIL AGENDA REPORT – MEETING OF FEBRUARY 3, 2020 CONSIDER REQUEST FOR AUTHORIZATION TO USE ASSET FORFEITURE FUNDS FOR PURCHASE OF LEASED VEHICLES

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- 2016 Chevy Malibu, City Identification # 116153 - approximate cost to purchase:
\$ 4,556.42
- 2016 Chevy Malibu, City Identification # 116152 - approximate cost to purchase:
\$ 4,774.81

The total cost to purchase the four vehicles from Enterprise is **\$ 26,680.52**

These vehicles will need to be registered with the California Department of Motor Vehicle. At the time of this report, the actual price to register each vehicle is not known. It is requested that **\$ 6,000** be earmarked to complete the registration process with the California Department of Motor Vehicles.

The total funds requested to purchase the aforementioned vehicles and register each, with the California Department of Motor Vehicles is: **\$ 32,680.52.**

Use of Drug Asset Forfeiture funds requires approval by the Chief of Police and City Administrator prior to submission to the City Council for final approval.

ATTACHMENTS

Copy of email from Enterprise with anticipated price per vehicle

Montebello Resolution 16-04

Lopez, Luis

From: Hawkins, Janae Y <Janae.Y.Hawkins@efleets.com>
Sent: Tuesday, January 14, 2020 5:02 PM
To: Lopez, Luis
Subject: RE: CITY OF MONTEBELLO POLICE DEPT. - 417457 - 2FL5 - September Past Due Invoice

Follow Up Flag: Flag for follow up
Flag Status: Flagged

Hi Luis,

The reduced book values are below:

Vehicle	Cust Num	VIN	Year	Make	Model	Series	Lease Term	Months In Service*	Current RBV*
225TLL	417457	1GNSCBKC5GR248065	2016	Chevrolet	Tahoe	LT 4x2	48	46	8387.99
225TLN	417457	1GNSCBKC8GR281139	2016	Chevrolet	Tahoe	LT 4x2	48	45	8961.30
225TLP	417457	1G1ZE5ST0GF240601	2016	Chevrolet	Malibu	LT w/1LT 4dr Sedan	48	46	4556.42
225TLQ	417457	1G1ZE5STXGF239374	2016	Chevrolet	Malibu	LT w/1LT 4dr Sedan	48	46	4774.81
228SCJ	417457	1N4BL3APXGC254410	2016	Nissan	Altima	3.5 SR 4dr Sedan	48	41	4182.87

Janae Y Hawkins
Account Fleet Coordinator
Enterprise Fleet Management
(310) 817-7383 Direct
Janae.Y.Hawkins@efleets.com

From: Lopez, Luis [mailto:LLopez@cityofmontebello.com]
Sent: Monday, January 13, 2020 11:48 AM
To: Hawkins, Janae Y <Janae.Y.Hawkins@efleets.com>; Chatmon, Judith A <Judith.A.Chatmon@efleets.com>
Cc: Madatyan, Gia L <Gia.L.Madatyan@efleets.com>
Subject: RE: CITY OF MONTEBELLO POLICE DEPT. - 417457 - 2FL5 - September Past Due Invoice

RESOLUTION NO. 16-04

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTEBELLO
AUTHORIZING THE APPROPRIATIONS OF FUNDS**

THE CITY COUNCIL OF THE CITY OF MONTEBELLO DOES HEREBY
RESOLVE AS FOLLOWS:

SECTION 1. That the Finance Director is hereby authorized to make the
following appropriation:

FROM		TO	
Account Number	Amount	Account Number	Amount
230-2920	\$177,574.56	230-99-847-7035	\$177,574.56
(Drug Asset Forfeiture Account)		(Drug Asset Lease for Vehicles)	
230-2920	\$ 20,000.00	230-99-847-6080.60	\$ 20,000.00
(Drug Asset Forfeiture Account)		(Auto Equipment and Labor to Install)	

SECTION 2. That the City Clerk shall certify to the adoption of this resolution.

ADOPTED AND APPROVED this 24th day of February, 2016.


Art Barajas, Mayor

ATTEST:


Irma Barajas, City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTEBELLO
AUTHORIZING THE APPROPRIATIONS OF FUNDS

THE CITY COUNCIL OF THE CITY OF MONTEBELLO DOES HEREBY
RESOLVE AS FOLLOWS:

SECTION 1. That the Finance Director is hereby authorized to make the
following appropriation:

FROM		TO	
Account Number	Amount	Account Number	Amount
230-2920	\$ 32,680.52	230-99-847-7035	\$ 32,680.52
(Drug Asset Forfeiture Account)		(Drug Asset Vehicle Lease Payment Account)	

SECTION 2. That the City Clerk shall certify to the adoption of this resolution.
ADOPTED AND APPROVED this **3rd day of February, 2020.**

Salvador Melendez, Mayor

ATTEST:

Irma Barajas, City Clerk

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, City Manager

BY: Fernando Pelaez, Fire Chief

SUBJECT: Approval of a Resolution acknowledging acceptance and receipt of the Montebello Fire Department's Report regarding Annual Mandated Fire Inspection Performance and compliance with California Health and Safety Code Sections 13146.2 and 13146.3, per Senate Bill Number 1205 (SB 1205), and Budget Appropriation

DATE: February 03, 2020

RECOMMENDATION

It is recommended that the City Council:

1. Approve a Resolution acknowledging acceptance and receipt of the Montebello Fire Department Report regarding Annual Mandated Fire Inspection Performance; and
2. Authorize the City Clerk to execute the Resolution; and
3. Approve the attached Resolution appropriating General Fund unassigned balance to Account for Capital Outlay (100-85-870-7055) to fund these expenditures related to the purchase of the software and related equipment in the amount of \$30,000; and

BACKGROUND

On September 27, 2018, the Governor of the State of California signed Bill Senate Bill 1205 (SB 1205). The Bill mandates that every city fire department report annually to its administering authority on its compliance with the Health and Safety Code, Sections 13146.2, 13146.3 and 13146.4. The Bill states that the report occurs when the administering authority discusses its annual budget, or at another time determined by the administering authority.

This item is before the City Council to request approval of a Resolution acknowledging acceptance and receipt of the Montebello Fire Department Report regarding Annual Mandated Fire Inspection Performance. In order to meet compliance requirements set

**SPECIAL CITY COUNCIL AGENDA REPORT-MEETING OF FEBRUARY 03, 2020
APPROVAL OF RESOLUTION AND BUDGET APPROPRIATION**

Page 2 of 3

forth in the Bill, staff is requesting \$30,000 for the purchase of fire inspection software and the related equipment.

ANALYSIS

In March 2011, the Office of the State Fire Marshal published "Office of the State Fire Marshal Regulated Occupancies: Authority, Responsibility, Inspection Frequency, Ability to Modify Regulations Locally, and Ability to Charge an Inspection Fee" document, generally referred to as the Mandated Annual Inspection document. This document requires annual inspection of public and private schools, generally classified as an Educational Occupancy (Group E Occupancy), which is a facility with six (6) or more persons utilized for educational purposes through the 12th grade. This document also requires annual inspection of hotels, motels, apartments (with three [3] or more units), and residential care facilities, generally classified as a Residential Occupancy (Group R Occupancy), as well as some technically referred to as Institutional Occupancies (Group I Occupancy). Some of these occupancies are inclusive of residential care facilities providing custodial care (child and adult day care), assistance to those with mobility and cognitive disabilities, and non-ambulatory patients.

SB 1205 is in response to a December 2, 2016 fire that broke out in a former warehouse, which had been converted into living spaces known as the Ghost Ship. This warehouse fire in Oakland, California, resulted in 36 deaths, and in post-fire research it was found that the Oakland Fire Department was unable to complete all their required annual inspections due to staffing shortages.

On September 27, 2018, the Governor signed Senate Bill Number 1205 (SB 1205), requiring the Fire Chief of every Fire Department to provide an annual report to their respective administering authority (City Council), of the performance and compliance with the inspection mandates within the California Health and Safety Code.

In the 2019 calendar year, the City of Montebello Fire Department completed 16 of the current 16 Group E Occupancies, for a 100% compliance rate. This is an increase over the previous year, in which zero (0) inspections of Group E Occupancies were performed.

In the 2019 calendar year, the City of Montebello Fire Department completed 58 of the current 1147 Group R Occupancies (including the 47 Group I Occupancies, 10 hotels or motels, and 1 high rise), for a compliance rate of about 5%. This was an increase over the previous year, in which 10 of these occupancies were inspected for compliance.

These increases were due to a staffing change in which a firefighter was assigned to the Fire Prevention Bureau. This firefighter also assumed the other inspection responsibilities including construction, business licenses, and complaints and/or referrals. The normal annual capacity of a fire inspector is about 800 inspections. Given the current workload, of construction inspections (annual average of 500), business licenses (annual average of 200), complaints and/or referrals (annual average of 200), and the mandated inspections

(about 1200), the current staffing model should be 3 field personnel, a clerical staff, and a supervisor or manager. To increase efficiency, computer hardware and inspection software should be utilized.

It is the goal of the Montebello Fire Department to increase the compliance rate to 100% across all mandated inspections, while continuing to provide the necessary day-to-day inspection capacity for construction projects and new businesses.

The acceptance of this compliance report and recommended Resolution fulfill the statutory requirements contained in the California Health and Safety Code Section 13146.2, 13146.3, and 13146.4, as amended by SB 1205.

CEQA COMPLIANCE:

Not a project as defined by CEQA.

FISCAL IMPACT

The fiscal impact will be for the initial purchase of the fire inspection software and related equipment. The annual maintenance of the software and related equipment will be within the existing budget.

SUMMARY

It is recommended that the City Council approve the recommendations to accept the report, authorize the City Clerk to execute the Resolution, and approve the appropriation to assign unassigned General Funds balances, to the Fire Departments' Prevention Divisions' Account for Capital Outlay (100-85-870-7055), and to authorize the City Manager to execute any related agreements and/or purchase order related to the purchases in the amount of \$30,000.

ATTACHMENTS

Resolution for Report

Resolution for Appropriation

Document referred to as the "Office of the State Fire Marshal Regulated Occupancies: Authority, Responsibility, Inspection Frequency, Ability to Modify Regulations Locally, and Ability to Charge an Inspection Fee"

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA ACKNOWLEDGING RECEIPT OF A REPORT MADE BY THE FIRE CHIEF OF THE MONTEBELLO FIRE DEPARTMENT REGARDING THE INSPECTION OF CERTAIN OCCUPANCIES REQUIRED TO PERFORM ANNUAL INSPECTIONS IN SUCH OCCUPANCIES PURSUANT TO SECTIONS 13146.2 AND 13146.3 OF THE CALIFORNIA HEALTH AND SAFETY CODE.

WHEREAS, California Health & Safety Code Section 13146.4 was added in 2018, and became effective on September 27, 2018; and

WHEREAS, California Health & Safety Code Sections 13146.2 and 13146.3 requires all fire departments, including the Montebello Fire Department, that provide fire protection services to perform annual inspections in every building used as a public or private school, hotel, motel, lodging house, apartment house, and certain residential care facilities for compliance with building standards, as provided; and

WHEREAS, California Health & Safety Code Section 13146.2 requires all fire departments, including the Montebello Fire Department, that provide fire protection services to report annually to its administering authority on its compliance with Sections 13146.2 and 13146.3 and

WHEREAS, the Council of the City of Montebello intends this Resolution to fulfill the requirements of the California Health & Safety Code regarding acknowledgment of the Montebello Fire Department's compliance with California Health and Safety Code Sections 13146.2 and 13146.3.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Montebello that said Council expressly acknowledges the measure of compliance of the Montebello Fire Department with California Health and Safety Code Sections 13146.2 and 13146.3 in the area encompassed by the City of Montebello, as follows:

A. EDUCATIONAL GROUP E OCCUPANCIES:

Educational Group E occupancies are generally those public and private schools, used by more than six persons at any one time for educational purposes through the 12th grade. Within the City of Montebello, there lie 16 Group E occupancies, buildings, structures and/or facilities.

During calendar year 2019, the Montebello Fire Department completed the annual inspection of 16 Group E occupancies, buildings, structures and/or facilities. This is a compliance rate of 100% for this reporting period.

Additional items of note regarding this compliance rate can be found in the accompanying staff report for this resolution.

B. RESIDENTIAL GROUP R OCCUPANCIES:

Residential Group R occupancies, for the purposes of this resolution, are generally those occupancies containing sleeping units, and include hotels, motels, apartments (three units or more), etc. as well as other residential occupancies (including a number of residential care facilities). These residential care facilities have a number of different sub-classifications, and they may contain residents or clients that have a range of needs, including those related to custodial care, mobility impairments, cognitive disabilities, etc. The residents may also be non-ambulatory or bedridden. Within the

City of Montebello, there lie 1147 Group R (and their associated sub-categories) occupancies of this nature.

During calendar year 2019, the Montebello Fire Department completed the annual inspection of 58 Group R occupancies, buildings, structures and/or facilities. This is a compliance rate of about 5% for this reporting period.

Additional items of note regarding this compliance rate can be found in the accompanying staff report for this resolution.

PASSED, APPROVED AND ADOPTED THIS ____ DAY OF February, 2020.

Salvador Melendez, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Barajas, City Clerk

Arnold Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF MONTEBELLO)

I, Irma Barajas, City Clerk of the City of Montebello, do hereby certify that the foregoing City Council Resolution No. _____ was duly and regularly approved and adopted by the City Council of the City of Montebello at their meeting held on the 11th day of September, 2019, as approved by law by the following vote:

AYES:

NOES:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City on the _____ day of February, 2020.

IRMA BARAJAS, City Clerk

Resolutions No. _____

**A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF MONTEBELLO
AUTHORIZING THE APPROPRIATION OF FUNDS FOR FIRE DEPARTMENT
INSPECTION SOFTWARE AND RELATED EQUIPMENT**

THE CITY COUNCIL OF THE CITY OF MONTEBELLO DOES RESOLVE AS FOLLOWS:

SECTION 1. That the Director of Finance is hereby authorized to make the following appropriations:

<u>FROM</u>		<u>TO</u>	
<u>Account Number</u>	<u>Amount</u>	<u>Account Number</u>	<u>Amount</u>
100-2900	\$30,000.00	100-85-870-7055	\$30,000.00
(Unassigned Funds)		(Prevention-Capital Outlay)	

SECTION 2. That the City Clerk shall certify to the adoption of the Resolution, which shall become effective immediately upon approval.

ADOPTED AND APPROVED this 3rd day of February, 2020.

Salvador Melendez, Mayor

ATTEST:

APPROVED AS TO FORM:

Irma Barajas
City Clerk

Arnold M Alvarez-Glasman
City Attorney

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF MONTEBELLO

I, Irma Barajas, City Clerk of the City of Montebello, do hereby certify that the foregoing City Council Resolution No. _____ was duly and regularly approved and adopted by the City Council of the City of Montebello at their meeting held on the 3rd day of February, 2020, as approved by law by the following vote:

AYES:

NOES:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City on the _____ day of _____, 2020.

IRMA BARAJAS, City Clerk

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: René Bobadilla, City Manager

BY: Joseph A. Palombi, Acting Director Planning and Community Development
Arnold M. Alvarez-Glasman, City Attorney
Norma Copado, Assistant City Attorney

SUBJECT: First Amendment to, and Assignment and Assumption of, Commercial Cannabis Business Development Agreements

DATE: February 3, 2020

RECOMMENDATION

It is recommended that the City Council:

1. Approve, in substantially the form as presented, four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreement Nos. 02-19, 11-19, 15-19 and 27-19, for the operation of commercial cannabis activities in the City of Montebello, and authorize the City Attorney's Office to make final and technical edits or revisions, if any, prior to execution; and
2. Condition the approval of each of the four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreements on the respective owner(s) and operator(s) clearing the requisite background checks, providing all exhibits to the development agreement amendments and missing information, if any, to the City of Montebello in a form acceptable to the City Attorney's Office no later than March 2, 2020; and
3. Adopt findings contained herein exempting the four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreements from further CEQA review under CEQA Section 15301, and direct staff to prepare and file the applicable Notices of Exemption for each project recommended for approval; and
4. Take such additional, related action that may be desirable, and/or provide the City Attorney's office and/or staff with additional or alternative directive(s).

**SPECIAL CITY COUNCIL AGENDA REPORT - MEETING OF FEBRUARY 03, 2020
FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF,
COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENTS
Page 2 of 6**

BACKGROUND

On September 13, 2017, the City of Montebello (the "City") adopted Ordinance Nos. 2399 and 2400 adding Chapters 5.90 and 17.71 to the City Municipal Code allowing cannabis cultivation, manufacturing, and testing with a required development agreement and conditional use permit under specified location restrictions.

On June 13, 2018, the City adopted Ordinance Nos. 2404 and 2405, adding delivery-only retail sales and distribution along with cultivation, manufacturing, and testing as conditionally approved activities/uses in the M-1 and M-2 zones with a required development agreement and sensitive use buffer of 600 feet from residential zones and other sensitive uses.

On February 13, 2019, the City Council held a public hearing for the selection of potential cannabis operators for Phase 3 consideration and adoption of fees. The City Council selected 21 potential operators, adopted cannabis business application fees, and established a conditional use permit filing due date of March 4, 2019 for said operators.

Since the March 4, 2019 conditional use permit filing deadline, multiple departments of City staff and the City Attorney's Office has worked with said operators to finalize the conditional use permit application and negotiate a final development agreement, respectively. Prior to today's meeting, the City has already approved both the conditional use permit and development agreement for twenty (20) operators. Additionally, at the October 15, 2019 Planning Commission meeting, the Planning Commission approved one (1) conditional use permit, and at the November 5, 2019 Planning Commission meeting, the Planning Commission approved three (3) conditional use permits. The latter three (3) conditional use permits were originally Phase 2 applicants that were temporarily stayed from Phase 3 consideration. On December 18, 2019, City Council approved the final four (4) cannabis development agreements for the four (4) operators who were granted said conditional use permits on October 15, 2019 and November 5, 2019.

ANALYSIS

Of the twenty-four (24) already approved Commercial Cannabis Business Development Agreements ("Development Agreements"), four applicants with fully executed Development Agreement submitted a written application form, with supporting documentation and application fees to the City, seeking modifications to their Development Agreements. Article 19 of the Development Agreement, "Assignment by Owner," prohibits the transfer, delegation, sublet or assignment by Owner of any portion of Owner's interests, rights, duties, and obligations described in Development

**SPECIAL CITY COUNCIL AGENDA REPORT - MEETING OF FEBRUARY 03, 2020
FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF,
COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENTS**
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Agreement without prior written consent and approval by the City, as required under Montebello Municipal Code Chapters 5.90 and 17.71.

The four (4) requests before the City Council on February 3, 2020 include transfers and/or changes in ownership. Table 1, below, illustrates the four (4) First Amendments to, and Assignments and Assumptions of, Commercial Cannabis Development Agreements, ("First Amendments") that are being recommended for approval to the City Council by City staff at the February 3, 2020 meeting.

TABLE 1 – First Amendments to Development Agreements Recommended for City Council Approval

DA #	Applicant	Activity	Project Location
02-19	EEL Holdings	M/D/DR	8129 Slauson Avenue
11-19	Green Hearts, LLC	C/M/D/DR	7895 Telegraph Road
15-19	RD Montebello, Inc.	M/D/DR	1801 S. Bluff Road
27-19	Eppek, LLC	C/D/DR	1040 Vail Avenue

Key: C – Cultivation | M – Manufacturing | D – Distribution | DR – Delivery-Only Retail

The applications above are requesting a transfer and/or change of ownership in their Development Agreement. The proposed changes are as found in Table 2.

TABLE 2 – Proposed Transfers and/or Changes in Ownership

DA #	Applicant ("Assignor")	Type of Change	Proposed New Owner and Legal Entity ("Assignee")
02-19	EEL Holdings, LLC	100% Transfer to New Entity	MB Atlantic, LLC
11-19	Green Hearts, LLC	100% Transfer to New Ownership and Membership of Same Entity	Green Hearts, LLC
15-19	RD Montebello, Inc.	30% Sale/Transfer to New/Additional Owner	RD Montebello, Inc.
27-19	Eppek, LLC	100% Transfer to New Entity, with original two (2) individual owners remaining the same, but adding a third individual owner	Montvail, Inc.

In accordance with the terms of the Development Agreement, including Article 19, Owner/Assignor and Assignee have provided to the City of Montebello a written application form seeking a modification to the Development Agreement and respective Conditional Use Permit ("CUP"), for City's consent to assignment and change of

SPECIAL CITY COUNCIL AGENDA REPORT - MEETING OF FEBRUARY 03, 2020
FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF,
COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENTS
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ownership. The City has received application for modification materials, information and requisite fees it deems sufficient, appropriate and complete for the purpose of determining that Assignee is a qualified applicant for purposes of the terms of the Development Agreement and the CUP, including showing the requisite proof of lawful transfer and holding of legal or equitable interest in real property considered in the Development Agreement and CUP.

The four (4) First Amendments are intended to meet the requirements of Article 19 of the Development Agreement and applicable Montebello Municipal Code provisions regulating an assignment and assumption agreement between Assignor and Assignee, and to ensure same are executed with the consent of City of Montebello as contemplated in the Development Agreement.

In the event of missing or incomplete application information, or exhibits to the First Amendments, if any, staff is recommending that City Council condition the approval of each of the four (4) First Amendment to, and Assignment and Assumption of, Cannabis Business Development Agreements on the respective owner(s) and operator(s) clearing the requisite background checks, providing all exhibits to the development agreement amendments and missing information, if any, to the City of Montebello in a form acceptable to the City Attorney's Office no later than March 2, 2020.

ENVIRONMENTAL ASSESSMENT

The California Environmental Quality Act ("CEQA") requires public agencies to analyze and consider the impacts a "project" may have on the environment. A project is only subject to CEQA if the project requires a discretionary decision by the public agency. The required level of review depends on the probability and intensity of project related impacts. Additionally, a project may be exempt from CEQA review if the project qualifies for a categorical exemption.

City staff determined that approval of these First Amendments to development agreements qualify as a project pursuant to CEQA. As such, staff determined that the proposed projects anticipated by the First Amendments to development agreements require CEQA compliance. After a thorough examination of the project applications of each proposed facility, including, but not limited to, standard operating procedures ("SOPs"), security plan, site plan and environmental data form, staff determined that the projects meet the provisions of CEQA Categorical Exemptions. These categorical exemptions were mandated by Public Resource Code Section 21084 and listed as a part of the CEQA Guidelines by the Secretary for Resource in Article 19 of the CEQA Guidelines.

Additionally, the projects contemplated by First Amendment Nos. 02-19, 11-19, 15-19 and 27-19, were already previously analyzed for environmental impacts, and include only minor interior alterations to the respective subject property. This zone was

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previously analyzed for environmental impacts with the approval of the conditional use permits for the subject property. Impacts were evaluated based on the anticipated activities likely to occur in such zone and City staff has determined that such "project", pursuant to the California Environmental Act (CEQA) Section 15301 (Existing Facilities) Class 1, consist of projects characterized as existing facilities meeting the following conditions described in said section:

1. The project consists of the operation repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public and private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing of former use.
2. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
3. The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
4. The project site has no value as habitat for endangered, rare or threatened species.
5. Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
6. The site can be adequately served by all required utilities and public services.

Commercial cannabis activities are like in nature to those uses allowed by right currently existing or allowed in the M-1 and M-2 zones in which commercial cannabis activities are proposed. Further, as referenced hereinabove, each of the proposed four (4) projects have been approved as conditionally allowed uses by the Planning Commission, and a determination at that time was made that the projects were categorically exempt. Therefore, there is no nexus between commercial cannabis activities and additional significant environmental impacts in the zones that allow such activities.

There has been no scientific or factual data presented, to date, identifying any direct or indirect environmental impacts resulting from the manufacturing process or any other cannabis related activity. In fact, many of the processes used in the manufacturing of cannabis, like extraction methods, are currently used in other manufacturing industries. Furthermore, impacts can be mitigated or otherwise regulated by the permitting process of other regulatory agencies. For example, all manufacturing facilities are required to obtain approvals and permits by the Fire Department and regional air quality management districts.

None of the conditions described in CEQA Guidelines, requiring the preparation of a Negative Declaration, Mitigated Negative Declaration or Environmental Impact Report,

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will occur as part of the proposed projects contemplated as part of the DAs. The City Council has the authority and discretion to make findings exempting the approval of the Development Agreement from further CEQA review. Therefore, in accordance with Section 15061(d) of the CEQA Guidelines, the City staff recommends that the City Council adopt these findings exempting the development agreements from further CEQA review and direct staff to file a Notice of Exemption for each project recommended for approval. In this regard, a Notice of Exemption from the California Environmental Quality Act CEQA for each development agreement have been prepared pursuant to CEQA (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, §15000 et seq.) prior to the City Council's consideration for approval. The subject development agreements are "projects" that are subject to environmental review.

FISCAL IMPACT

The recommended action will have a substantially positive fiscal impact to the City by generating operating fees based on the aforementioned gross receipts' percentages and square footage, as applicable, and annual community benefit fees in the annual amount of \$50,000.00 per location.

SUMMARY

City staff recommends that the City Council approve four (4) First Amendments to cannabis business development agreements for the operation of commercial cannabis activities in the City of Montebello, and adopt findings contained herein exempting the First Amendments to the development agreements from further CEQA review under CEQA Section 15301, and direct staff to prepare and file the appropriate Notice of Exemption for each project recommended for approval.

ATTACHMENTS

1. First Amendment to Cannabis Development Agreement No. 02-19
2. First Amendment to Cannabis Development Agreement No. 11-19
3. First Amendment to Cannabis Development Agreement No. 15-19
4. First Amendment to Cannabis Development Agreement No. 27-19

**FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL
CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 02-19**

THIS FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 02-19 (the "First Amendment") is entered into this _____ day of _____, 2020, by and between the CITY OF MONTEBELLO ("City"), a California municipal corporation, EEL HOLDINGS LLC ("Owner"), a California limited liability company, and MB ATLANTIS, LLC ("Assignee/New Owner"), a California limited liability company. Owner may also be referred to herein as ("Assignor"). City, Owner, Assignee/New Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party."

The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this First Amendment to, and Assignment and Assumption of, Commercial Cannabis Development Agreement No. 02-19:

RECITALS

A. **WHEREAS**, on February 14, 2018, Ordinances No. 2399 and No. 2400 came into effect authorizing specified commercial cannabis activities within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

B. **WHEREAS**, on June 13, 2018, Ordinances No. 2404 and 2405 came into effect amending specified commercial cannabis activities authorized by Ordinances No. 2399 and No. 2400 within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

C. **WHEREAS**, no such commercial cannabis activities are allowed or authorized in the City without a Conditional Use Permit, a Development Agreement, and all requirements pursuant to Montebello Municipal Code Chapters 5.90 and 17.71.

D. **WHEREAS**, on March 4, 2019, Owner applied to this City for a Conditional Use Permit (*hereinafter* "CUP") to conduct commercial cannabis activities.

E. **WHEREAS**, after conducting a duly noticed CUP hearing on June 18, 2019, in conjunction with the City's applicable ordinances and resolutions, the Planning Commission of the City reviewed, considered and approved environmental clearance and approved the execution of CUP NO. 02-19.

F. **WHEREAS**, on July 8, 2019, the City Council of the City of Montebello approved the execution of "COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 02-19 BETWEEN THE CITY OF MONTEBELLO AND EEL HOLDINGS, LLC," (the "Development Agreement").

G. **WHEREAS**, Article 19 of the Development Agreement, "Assignment by Owner," prohibits the transfer, delegation, or assignment by Owner of any portion of Owner's interests, rights, duties, and obligations described in Development Agreement to a third party without prior

written consent and approval by the City, as required under Montebello Municipal Code Chapters 5.90 and 17.71.

H. **WHEREAS**, pursuant to Article 19 of the Development, the proposed transferee is required to show proof of lawful transfer of possession of the applicable location, and assume all interests, rights, duties and obligations in the CUP.

I. **WHEREAS**, it is the intention of EEL Holdings, LLC to sell 100% of its interest to the Development Agreement and CUP to MB ATLANTIS, LLC ("Assignee"), becoming 100% owner of the Development Agreement and CUP, with the legal limitations that the CUP runs with the land, here, specifically, with real property as discussed herein.

J. **WHEREAS**, Assignor intends to assign, and Assignee intends to assume, all assignable interests, rights, duties and obligations under the Development Agreement and the CUP.

K. **WHEREAS**, in accordance with the terms of the Development Agreement, including Article 19, Owner/Assignor and Assignee have provided to the City of Montebello a written request to a modification to the Development Agreement and CUP for City's consent to assignment and change of ownership. The City has received the request for modification materials, information and requisite fees it deems sufficient, appropriate and complete for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement and the CUP, including showing the requisite proof of lawful transfer and holding of legal or equitable interest in real property considered in the Development Agreement and CUP, located at 8129 Slauson Avenue, Montebello, CA, 90640, with Assessor Parcel Number 6354-030-001 ("Property" or "Site").

L. **WHEREAS**, this First Amendment is intended to meet the requirements of Article 19 of the Development Agreement and applicable Montebello Municipal Code provisions regulating an assignment and assumption agreement between Assignor and Assignee, and is executed with the consent of City of Montebello as contemplated in the Development Agreement.

M. **WHEREAS**, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied as the City previously found that the proposed project was Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines **Section 15301** – Existing Facilities as change of ownership does not have any further environmental impact from what was previously found by the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

Section 1: Recitals.

The Recitals above are true and correct and are hereby incorporated into and made a part of this First Amendment. In the event of any inconsistency between the Recitals and the provisions of this First Amendment, herein below, said provisions of this First Amendment shall prevail.

Section 2: Assignment and Assumption of Development Agreement and corresponding Conditional Use Permit.

2.1. Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's rights, interests, duties, burdens and obligations under the Development Agreement and the Conditional Use Permit (also referred herein as "Assignable Rights").

2.2. Assignee hereby assumes all of the rights, interests, duties, burdens and obligations of Assignor under the Development Agreement and Conditional Use Permit, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and respective Conditional Use Permit, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this First Amendment, Assignee shall become substituted for Assignor as the "Owner" under the Development Agreement and the corresponding Conditional Use Permit in relation to the Property.

2.3. This First Amendment shall take effect and be binding only upon City of Montebello City Council's consent to and approval of the First Amendment.

2.4. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement and the Conditional Use Permit. Assignee acknowledges that the Assignable Rights are as set forth within the Development Agreement, the Conditional Use Permit, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and the City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that the City is not party to such other agreements.

2.5. All the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors, and assigns.

2.6. Exhibits: Assignee has caused the re-execution, re-incorporation, and/or submittal of the following Exhibits, which are deleted in their entirety from the Development Agreement and are incorporated herein by this reference and shall be inserted in lieu thereof.

- 2.6.a. Exhibit D: Recorded Grant Deed or Executed Lease Agreement
- 2.6.b. Exhibit E: Property Owner Signed and Notarized Consent Form
- 2.6.c. Exhibit F: Conditions of Approval
- 2.6.d. Exhibit G: Labor Peace Agreement or Notarized Statement of Intent

Section 3: Amendments to Development Agreement. The following articles, sections, paragraphs or portions of the Development Agreement are hereby amended to read as follows:

3.1. *The Entirety of the Development Agreement:* "EEL HOLDINGS, LLC" shall be stricken and deleted throughout the entire Development Agreement, and shall be replaced with "MB ATLANTIS, LLC."

3.2: Section 2.b. Government Code and Municipal Code Required Elements; Owner and Other Person with Legal or Equitable Interest.

Owner: **MB ATLANTIS, LLC**

Nature of Interest: Lease for three (3) years with Option to Renew for an additional five (5) years.

A true and correct copy of a recorded grant deed, or executed lease agreement, is attached, hereto as Exhibit D, and incorporated herein by this reference.

If Owner is not the fee simple owner of the Site, check box below:

☒ [x] Owner represents and warrants that the property owner has consented in writing to the execution of this Agreement against the Site. [See also attached Property Owner Signed and Notarized Consent Form wherein the property owner has acknowledged reading Montebello Municipal Code Chapters 5.90 and 17.71, incorporated herein by this reference (Exhibit E)].

3.3: Section 6.c. Community Relations, Employment, and Wages; Designation of Community Relations Liaison.

Pursuant to Montebello Municipal Code Chapters 5.90 and 17.71, including, Commerce Municipal Code Section 5.61.300, at the time of this First Amendment, Owner's day-to-day operations manager, Warren Blesofsky, will be responsible for community inquiries and complaints and on-site management during normal business hours.

3.4: Section 6.d. Community Relations, Employment, and Wages; Interface with Montebello Municipal Code / Inspections.

Owner's day-to-day operations manager, and/or the Owner's Community Relations Liaison, Warren Blesofsky will interface with the Montebello Police Department's assigned designee to ensure its operation complies with state and local laws and regulations. The City Manager, or designee, or the Montebello Police Department's assigned designee acting at the City Manager's request and per his or her specific and limiting instructions, shall have the right to enter all portions of the Site from time to time unannounced during hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Agreement and Applicable Cannabis Laws, without the requirement of a search warrant, subpoena, or court order, and subject to appropriate cost recovery fees set forth in this Agreement, or adopted by the City.

_____ Owner's Initials

3.5: Section 17. CUP Conditions of Approval.

Restatement of Compliance with CUP Conditions of Approval. New Owner and Assignee, collectively, MB ATLANTIS, LLC, shall comply with all conditions of approval of the City-issued CUP, as reflected and memorialized in Exhibit F, "Conditions of Approval," of the Development Agreement, and as also incorporated herein to this First Amendment, by this reference. If there is any conflict between a term of the Development Agreement, this First Amendment,

and a condition of approval of the City-issued CUP, then the most restrictive shall apply.

3.6: Section 21. Notice.

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Montebello 1600 W. Beverly Boulevard Montebello, California 90640 Attention: City Manager
With a copy to:	City Attorney 13181 Crossroads Parkway North Suite 400 – West Tower City of Industry, California 91746
If to Owner:	MB Atlantis LLC ATTN: Warren Blesofsky 65 Pine Avenue, #119 Long Beach, CA 90802
With a copy to:	EEL Holdings LLC ATTN: Elliot Lewis 6700 Pacific Coast Hwy, Suite 220 Long Beach, CA 90815
If to Landlord:	Slauson Properties #1 500 Citadel Drive, Suite 140 Los Angeles, CA 90040 Attention: Peter Bacci

Section 4: Effect of First Amendment and Continued Effectiveness of Development Agreement. Except as expressly modified herein, the Development Agreement

shall remain in full force and effect, and all the terms and provisions of the Development Agreement are hereby reaffirmed. The provisions of this First Amendment are severable and separate, and should a legal challenge be brought challenging the First Amendment, including but not limited to, an action or proceeding – in equity or in law - such challenge shall in no way affect or impact the continued validity and existence of the Development Agreement.

Section 5: **Effective Date.** “First Amendment Effective Date” means the date on which all of the following are true: (i) this First Amendment has been signed by all Parties; (ii) the new applicant Owners have cleared all background check(s), and any related background verification(s), consistent with, and as required by, the City’s laws and policies; (iii) all complete information and documentation supporting the application for this First Amendment have been submitted to the City; and (iv) Exhibits to this First Amendment are finalized, and same have been executed and/or notarized by all affected Parties (if applicable), and are attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner and/or Assignee/New Owner, the Effective Date may not thereafter occur and this First Amendment may not thereafter become effective.

IN WITNESS HEREOF, the Parties hereto have executed this First Amendment as of the dates herein below.

[Signatures on the following page]

CITY OF MONTEBELLO

Mayor

Date: _____

EEL HOLDINGS, LLC

Elliot Lewis [Assignor/Owner]
Managing Member

Date: _____

MB ATLANTIS, LLC

Warren Blesofsky [Assignee/New Owner]
Member and Manager

Date: _____

MB ATLANTIS, LLC

Ryan Elmore [Assignee/New Owner]
Member

Date: _____

APPROVED AS TO FORM:

City Attorney
City of Montebello

Date: _____

**FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL
CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 11-19**

THIS FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 11-19 (the "First Amendment") is entered into this _____ day of _____, 2020, by and between the CITY OF MONTEBELLO ("City"), a California municipal corporation, GREEN HEARTS, LLC ("Owner" and/or "Former Version of LLC"), a California limited liability company, and GREEN HEARTS, LLC ("Assignee/New Owner" and/or "Current Version of LLC"), a California limited liability company. Owner may also be referred to herein as ("Assignor"). City, Owner, Assignee/New Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party."

The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this First Amendment to, and Assignment and Assumption of, Commercial Cannabis Development Agreement No. 11-19:

RECITALS

A. **WHEREAS**, on February 14, 2018, Ordinances No. 2399 and No. 2400 came into effect authorizing specified commercial cannabis activities within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

B. **WHEREAS**, on June 13, 2018, Ordinances No. 2404 and 2405 came into effect amending specified commercial cannabis activities authorized by Ordinances No. 2399 and No. 2400 within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

C. **WHEREAS**, no such commercial cannabis activities are allowed or authorized in the City without a Conditional Use Permit, a Development Agreement, and all requirements pursuant to Montebello Municipal Code Chapters 5.90 and 17.71.

D. **WHEREAS**, on March 4, 2019, Owner applied to this City for a Conditional Use Permit (*hereinafter* "CUP") to conduct commercial cannabis activities.

E. **WHEREAS**, after conducting a duly noticed CUP hearing on July 2, 2019, in conjunction with the City's applicable ordinances and resolutions, the Planning Commission of the City reviewed, considered and approved environmental clearance and approved the execution of CUP NO. 11-19.

F. **WHEREAS**, on August 5, 2019, the City Council of the City of Montebello approved the execution of "COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 11-19 BETWEEN THE CITY OF MONTEBELLO AND GREEN HEARTS, LLC" (the "Development Agreement").

G. **WHEREAS**, Article 19 of the Development Agreement, "Assignment by Owner," prohibits the transfer, delegation, sublet or assignment by Owner of any portion of Owner's interests, rights, duties, and obligations described in Development Agreement without prior

written consent and approval by the City, as required under Montebello Municipal Code Chapters 5.90 and 17.71.

H. **WHEREAS**, pursuant to Article 19 of the Development, the proposed transferee is required to show proof of lawful possession or transfer of possession of the applicable location, and assume all interests, rights, duties and obligations in the CUP.

I. **WHEREAS**, it is the intention of GREEN HEARTS, LLC to change ownership and membership, wherein former owners of GREEN HEARTS, LLC ("Assignor"), have sold 100% of its interest of GREEN HEARTS, LLC to Ash Capital, Inc. ("Assignee"), collectively becoming 100% owners and members of GREEN HEARTS, LLC ("Assignee/New Owner" and/or "Current Version of LLC").

J. **WHEREAS**, it is the intention of GREEN HEARTS, LLC ("Assignor") to sell 100% of its interest to the Development Agreement and CUP to GREEN HEARTS, LLC ("Assignee/New Owner" and/or "Current Version of LLC") wherein Assignee/ New Owner and Current Version of LLC, now becomes 100% owner of the Development Agreement and CUP, with the legal limitations that the CUP runs with the land, here, specifically, with real property as discussed herein.

K. **WHEREAS**, Assignor intends to assign, and Assignee intends to assume, all assignable interests, rights, duties and obligations under the Development Agreement and the CUP.

L. **WHEREAS**, in accordance with the terms of the Development Agreement, including Article 19, Owner/Assignor and Assignee have provided to the City of Montebello a written application form to a modification to the Development Agreement and CUP for City's consent to assignment and change of ownership. The City has received application for modification materials, information and requisite fees it deems sufficient, appropriate and complete for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement and the CUP, including showing the requisite proof of lawful transfer and holding of legal or equitable interest in real property considered in the Development Agreement and CUP, located at 7895 Telegraph Road, Montebello, CA, 90640, with Assessor Parcel Number 6368-001-025 ("Property" or "Site").

M. **WHEREAS**, this First Amendment is intended to meet the requirements of Article 19 of the Development Agreement and applicable Montebello Municipal Code provisions regulating an assignment and assumption agreement between Assignor and Assignee, and is executed with the consent of City of Montebello as contemplated in the Development Agreement.

N. **WHEREAS**, on February 3, 2020, the City Council of the City of Montebello reviewed, considered, and approved this FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 11-19, by and between the CITY OF MONTEBELLO and Owner, Assignee and Current Version of LLC, GREEN HEARTS, LLC.

O. **WHEREAS**, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied as the City previously found that the proposed project was Categorically Exempt from California

Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines **Section 15301** – Existing Facilities as change of ownership does not have any further environmental impact from what was previously found by the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

Section 1: Recitals.

The Recitals above are true and correct and are hereby incorporated into and made a part of this First Amendment. In the event of any inconsistency between the Recitals and the provisions of this First Amendment, herein below, said provisions of this First Amendment shall prevail.

Section 2: Assignment and Assumption of Development Agreement and corresponding Conditional Use Permit.

2.1. Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's rights, interests, duties, burdens and obligations under the Development Agreement and the Conditional Use Permit (also referred herein as "Assignable Rights").

2.2. Assignee hereby assumes all of the rights, interests, duties, burdens and obligations of Assignor under the Development Agreement and Conditional Use Permit, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and respective Conditional Use Permit, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this First Amendment, Assignee shall become substituted for Assignor as the "Owner" under the Development Agreement and the corresponding Conditional Use Permit in relation to the Property.

2.3. This First Amendment shall take effect and be binding only upon City of Montebello City Council's consent to and approval of the First Amendment, and as further outlined hereinbelow under Section 5.

2.4. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement and the Conditional Use Permit. Assignee acknowledges that the Assignable Rights are as set forth within the Development Agreement, the Conditional Use Permit, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and the City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that the City is not party to such other agreements.

2.5. All the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors, and assigns.

2.6. Exhibits: Assignee has caused the re-execution, re-incorporation, and/or submittal of the following Exhibits, which are deleted in their entirety from the Development Agreement and are incorporated herein by this reference and shall be inserted in lieu thereof.

- 2.6.a. Exhibit D: Recorded Grant Deed or Executed Lease Agreement
- 2.6.b. Exhibit E: Property Owner Signed and Notarized Consent Form
- 2.6.c. Exhibit F: Conditions of Approval
- 2.6.d. Exhibit G: Labor Peace Agreement or Notarized Statement of Intent

Section 3: Amendments to Development Agreement. The following articles, sections, paragraphs or portions of the Development Agreement are hereby amended to read as follows:

3.1. Section 2.b. Government Code and Municipal Code Required Elements; Owner and Other Person with Legal or Equitable Interest.

Owner: **Green Hearts, LLC**

Nature of Interest: Lease for 5 years with Option to Renew for an additional 5 years.

A true and correct copy of a recorded grant deed, or executed lease agreement, is attached hereto as Exhibit D, and incorporated herein by this reference.

If Owner is not the fee simple owner of the Site, check box below:

☒ [x] Owner represents and warrants that the property owner has consented in writing to the execution of this Agreement against the Site. [See also attached Property Owner Signed and Notarized Consent Form wherein the property owner has acknowledged reading Montebello Municipal Code Chapters 5.90 and 17.71, incorporated herein by this reference (Exhibit E).]

3.2. Section 6.c. Community Relations, Employment, and Wages; Designation of Community Relations Liaison.

Pursuant to Montebello Municipal Code Chapters 5.90 and 17.71, including, Commerce Municipal Code Section 5.61.300, at the time of this First Amendment, Owner's day-to-day operations manager, Dylan Kay, will be responsible for community inquiries and complaints and on-site management during normal business hours.

3.3. Section 6.d. Community Relations, Employment, and Wages; Interface with Montebello Municipal Code / Inspections.

Owner's day-to-day operations manager, and/or the Owner's Community Relations Liaison, Dylan Kay, will interface with the Montebello Police Department's assigned designee to ensure its operation complies with state and local laws and regulations. The City Manager, or designee, or the Montebello Police Department's assigned designee acting at the City Manager's request and per his or her specific and limiting instructions, shall have the right to enter all portions of the Site from time to time unannounced during hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Agreement and Applicable Cannabis Laws, without the requirement of a search warrant, subpoena, or court order, and subject to appropriate cost recovery fees set forth in this Agreement, or adopted by the

City.

_____ Owner's Initials

3.4. Section 17. CUP Conditions of Approval.

Restatement of Compliance with CUP Conditions of Approval. New Owner and Assignee, and Current Version of LLC, collectively, GREEN HEARTS, LLC, shall comply with all conditions of approval of the City-issued CUP, as reflected and memorialized in Exhibit F, "Conditions of Approval," of the Development Agreement, and as also incorporated herein to this First Amendment, by this reference. If there is any conflict between a term of the Development Agreement, this First Amendment, and a condition of approval of the City-issued CUP, then the most restrictive shall apply.

3.5. Section 21. Notice.

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City: City of Montebello
 1600 W. Beverly Boulevard
 Montebello, California 90640
 Attention: City Manager

With a copy to: City Attorney
 13181 Crossroads Parkway North
 Suite 400 – West Tower
 City of Industry, California 91746

If to Owner: Natalie Bogdanov
 135 Combs Avenue
 Woodmere, NY 11598

Section 4: Effect of First Amendment and Continued Effectiveness of Development Agreement. Except as expressly modified herein, the Development Agreement shall remain in full force and effect, and all the terms and provisions of the Development Agreement are hereby reaffirmed. The provisions of this First Amendment are severable and separate, and should a legal challenge be brought challenging the First Amendment, including but not limited to, an action or proceeding – in equity or in law - such challenge shall in no way affect or impact the continued validity and existence of the Development Agreement.

Section 5: Effective Date. “First Amendment Effective Date” means the date on which all of the following are true: (i) this First Amendment has been signed by all Parties; (ii) the new applicant Owners have cleared all background check(s), and any related background verification(s), consistent with, and as required by, the City’s laws and policies; (iii) all complete information and documentation supporting the application for this First Amendment have been submitted to the City; and (iv) Exhibits to this First Amendment are finalized, and same have been executed and/or notarized by all affected Parties (if applicable), and are attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner and/or Assignee/New Owner, the Effective Date may not thereafter occur and this First Amendment may not thereafter become effective.

IN WITNESS HEREOF, the Parties hereto have executed this First Amendment as of the dates herein below.

[Signatures on the following page]

CITY OF MONTEBELLO

Salvador Melendez
Mayor

Date: _____

GREEN HEARTS, LLC

Melanie Torbert
Owner
[Assignor/Owner]

Date: _____

GREEN HEARTS, LLC

Monica Tahergorabi
Owner
[Assignor/Owner]

Date: _____

GREEN HEARTS, LLC

Natalie Bogdanov
Title: Owner, and Member/Owner/Director
of Ash Capital, Inc.
[Assignee/New Owner]

Date: _____

GREEN HEARTS, LLC

Kim Volman
Title: Owner, and Member/Owner/Director
of Ash Capital, Inc.
[Assignee/New Owner]

Date: _____

APPROVED AS TO FORM:

City Attorney
City of Montebello

Date: _____

**FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL
CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 15-19**

THIS FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 15-19 (the "First Amendment") is entered into this _____ day of _____, 2020, by and between the CITY OF MONTEBELLO ("City"), a California municipal corporation, RD MONTEBELLO, INC. ("Owner" and/or "Former Version of Corporate Owner"), a California corporation, and RD MONTEBELLO, INC. ("Assignee/New Owner" and/or "Current Version of Corporate Owner"), a California corporation. Owner may also be referred to herein as ("Assignor"). City, Owner, Assignee/New Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party."

The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this First Amendment to, and Assignment and Assumption of, Commercial Cannabis Development Agreement No. 15-19:

RECITALS

A. **WHEREAS**, on February 14, 2018, Ordinances No. 2399 and No. 2400 came into effect authorizing specified commercial cannabis activities within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

B. **WHEREAS**, on June 13, 2018, Ordinances No. 2404 and 2405 came into effect amending specified commercial cannabis activities authorized by Ordinances No. 2399 and No. 2400 within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

C. **WHEREAS**, no such commercial cannabis activities are allowed or authorized in the City without a Conditional Use Permit, a Development Agreement, and all requirements pursuant to Montebello Municipal Code Chapters 5.90 and 17.71.

D. **WHEREAS**, on April 9, 2019, Owner applied to this City for a Conditional Use Permit (*hereinafter* "CUP") to conduct commercial cannabis activities.

E. **WHEREAS**, after conducting a duly noticed CUP hearing on July 2, 2019, in conjunction with the City's applicable ordinances and resolutions, the Planning Commission of the City reviewed, considered and approved environmental clearance and approved the execution of CUP NO. 15-19.

F. **WHEREAS**, on August 5, 2019, the City Council of the City of Montebello approved the execution of "COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 15-19 BETWEEN THE CITY OF MONTEBELLO AND RD MONTEBELLO, INC.," (the "Development Agreement").

G. **WHEREAS**, Article 19 of the Development Agreement, "Assignment by Owner," prohibits the transfer, delegation, sublet or assignment by Owner of any portion of Owner's interests, rights, duties, and obligations described in Development Agreement without prior

written consent and approval by the City, as required under Montebello Municipal Code Chapters 5.90 and 17.71.

H. **WHEREAS**, pursuant to Article 19 of the Development Agreement, the proposed transferee is required to show proof of lawful possession or transfer of possession of the applicable location, and assume all interests, rights, duties and obligations in the CUP.

I. **WHEREAS**, it is the intention of RD MONTEBELLO, INC. ("Assignor") to change ownership, by selling 30% of its interest to AKA VENTURES, LLC, a California limited liability company, and wherein AKA VENTURES, LLC has purchased 30% ownership interest in RD MONTEBELLO, INC. ("Assignee/New Owner" and/or "Current Version of Corporate Owner").

J. **WHEREAS**, it is the intention of RD MONTEBELLO, INC. ("Assignor") to sell 30% of its interest to the Development Agreement and CUP to AKA VENTURES, LLC, wherein Assignee/ New Owner and Current Version of Corporate Owner RD MONTEBELLO, INC. now becomes 100% owner of the Development Agreement and CUP, with the legal limitations that the CUP runs with the land, here, specifically, with real property as discussed herein.

K. **WHEREAS**, Assignor intends to assign, and Assignee intends to assume, all assignable interests, rights, duties and obligations under the Development Agreement and the CUP.

L. **WHEREAS**, in accordance with the terms of the Development Agreement, including Article 19, Owner/Assignor and Assignee have provided to the City of Montebello a written application form to a modification to the Development Agreement and CUP for City's consent to assignment and change of ownership. The City has received application for modification materials, information and requisite fees it deems sufficient, appropriate and complete for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement and the CUP, including showing the requisite proof of lawful transfer and holding of legal or equitable interest in real property considered in the Development Agreement and CUP, located at 1801 South Bluff Road, Montebello, CA, 90640, with Assessor Parcel Number 6354-030-002 ("Property" or "Site").

M. **WHEREAS**, this First Amendment is intended to meet the requirements of Article 19 of the Development Agreement and applicable Montebello Municipal Code provisions regulating an assignment and assumption agreement between Assignor and Assignee, and is executed with the consent of City of Montebello as contemplated in the Development Agreement.

N. **WHEREAS**, on February 3, 2020, the City Council of the City of Montebello reviewed, considered, and approved this FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 15-19, by and between the CITY OF MONTEBELLO and Assignee and Current Version of Corporate Owner, RD MONTEBELLO, INC.

O. **WHEREAS**, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied as the City previously found that the proposed project was Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines **Section**

15301 – Existing Facilities as change of ownership does not have any further environmental impact from what was previously found by the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

Section 1: Recitals.

The Recitals above are true and correct and are hereby incorporated into and made a part of this First Amendment. In the event of any inconsistency between the Recitals and the provisions of this First Amendment, herein below, said provisions of this First Amendment shall prevail.

Section 2: Assignment and Assumption of Development Agreement and corresponding Conditional Use Permit.

2.1. Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's rights, interests, duties, burdens and obligations under the Development Agreement and the Conditional Use Permit (also referred herein as "Assignable Rights").

2.2. Assignee hereby assumes all of the rights, interests, duties, burdens and obligations of Assignor under the Development Agreement and Conditional Use Permit, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and respective Conditional Use Permit, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this First Amendment, Assignee shall become substituted for Assignor as the "Owner" under the Development Agreement and the corresponding Conditional Use Permit in relation to the Property.

2.3. This First Amendment shall take effect and be binding only upon City of Montebello City Council's consent to and approval of the First Amendment, and as further outlined hereinbelow under Section 5.

2.4. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement and the Conditional Use Permit. Assignee acknowledges that the Assignable Rights are as set forth within the Development Agreement, the Conditional Use Permit, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and the City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that the City is not party to such other agreements.

2.5. All the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors, and assigns.

2.6. Exhibits: Assignee has caused the re-execution, re-incorporation, and/or submittal of the following Exhibits, which are deleted in their entirety from the Development Agreement and are incorporated herein by this reference and shall be inserted in lieu thereof.

- 2.6.a. Exhibit D: Recorded Grant Deed or Executed Lease Agreement
- 2.6.b. Exhibit E: Property Owner Signed and Notarized Consent Form
- 2.6.c. Exhibit F: Conditions of Approval
- 2.6.d. Exhibit G: Labor Peace Agreement or Notarized Statement of Intent

Section 3: **Amendments to Development Agreement.** The following articles, sections, paragraphs or portions of the Development Agreement are hereby amended to read as follows:

3.1. *Section 2.b. Government Code and Municipal Code Required Elements; Owner and Other Person with Legal or Equitable Interest.*

Owner: **RD Montebello, Inc.**

Nature of Interest: *Leasehold interest*, for five (5) years, with Option to Renew for an additional ten (10) years.

A true and correct copy of a recorded grant deed, or executed lease agreement, is attached hereto as Exhibit D, and incorporated herein by this reference.

If Owner is not the fee simple owner of the Site, check box below:

[x] Owner represents and warrants that the property owner has consented in writing to the execution of this Agreement against the Site. [See also attached Property Owner Signed and Notarized Consent Form wherein the property owner has acknowledged reading Montebello Municipal Code Chapters 5.90 and 17.71, incorporated herein by this reference (Exhibit E).]

3.2: *Section 6.c. Community Relations, Employment, and Wages; Designation of Community Relations Liaison.*

Pursuant to Montebello Municipal Code Chapters 5.90 and 17.71, including, Commerce Municipal Code Section 5.61.300, at the time of this First Amendment, Owner's day-to-day operations manager, Tony Torres, will be responsible for community inquiries and complaints and on-site management during normal business hours.

3.3: *Section 6.d. Community Relations, Employment, and Wages; Interface with Montebello Municipal Code / Inspections.*

Owner's day-to- day operations manager, and/or the Owner's Community Relations Liaison, Tony Torres will interface with the Montebello Police Department's assigned designee to ensure its operation complies with state and local laws and regulations. The City Manager, or designee, or the Montebello Police Department's assigned designee acting at the City Manager's request and per his or her specific and limiting instructions, shall have the right to enter all portions of the Site from time to time unannounced during hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Agreement and Applicable Cannabis Laws, without the requirement of a search warrant, subpoena, or court order, and subject to appropriate cost recovery fees set forth in this Agreement, or adopted by the City.

_____ Owner's Initials

3.4: Section 17. CUP Conditions of Approval.

Restatement of Compliance with CUP Conditions of Approval. New Owner and Assignee, and Current Version of Corporate Owner, collectively, RD MONTEBELLO, INC., shall comply with all conditions of approval of the City-issued CUP, as reflected and memorialized in Exhibit F, "Conditions of Approval," of the Development Agreement, and as also incorporated herein to this First Amendment, by this reference. If there is any conflict between a term of the Development Agreement, this First Amendment, and a condition of approval of the City-issued CUP, then the most restrictive shall apply.

3.5: Section 21. Notice.

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Montebello 1600 W. Beverly Boulevard Montebello, California 90640 Attention: City Manager
With a copy to:	City Attorney 13181 Crossroads Parkway North Suite 400 – West Tower City of Industry, California 91746
If to Owner:	RD Montebello P.O. Box 815 Corona, California 92878
With a copy to:	Jordan Ferguson Venable LLP

2049 Century Park East
Suite 2300
Los Angeles, CA 90067

Section 4: Effect of First Amendment and Continued Effectiveness of Development Agreement. Except as expressly modified herein, the Development Agreement shall remain in full force and effect, and all the terms and provisions of the Development Agreement are hereby reaffirmed. The provisions of this First Amendment are severable and separate, and should a legal challenge be brought challenging the First Amendment, including but not limited to, an action or proceeding – in equity or in law - such challenge shall in no way affect or impact the continued validity and existence of the Development Agreement.

Section 5: Effective Date. “First Amendment Effective Date” means the date on which all of the following are true: (i) this First Amendment has been signed by all Parties; (ii) the new applicant Owners have cleared all background check(s), and any related background verification(s), consistent with, and as required by, the City’s laws and policies; (iii) all complete information and documentation supporting the application for this First Amendment have been submitted to the City; and (iv) Exhibits to this First Amendment are finalized, and same have been executed and/or notarized by all affected Parties (if applicable), and are attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner and/or Assignee/New Owner, the Effective Date may not thereafter occur and this First Amendment may not thereafter become effective.

IN WITNESS HEREOF, the Parties hereto have executed this First Amendment as of the dates herein below.

[Signatures on the following page]

CITY OF MONTEBELLO

Salvador Melendez
Mayor

Date: _____

RD MONTEBELLO, INC.

Ryan Oganessian
President
[Assignor/Owner]

Date: _____

RD MONTEBELLO, INC.

Ryan Oganessian
President
[Assignee/New Owner]

Date: _____

RD MONTEBELLO, INC.

Arthur Atinizian
Managing Member of AKA Ventures, LLC
[Assignee/New Owner]

Date: _____

APPROVED AS TO FORM:

City Attorney
City of Montebello

Date: _____

**FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL
CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 27-19**

THIS FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 27-19 (the "First Amendment") is entered into this _____ day of _____, 2020, by and between the CITY OF MONTEBELLO ("City"), a California municipal corporation, EPPEK, LLC ("Owner"), a California limited liability company, and MONTVAIL, INC. ("Assignee/New Owner"), a California corporation. Owner may also be referred to herein as ("Assignor"). City, Owner, Assignee/New Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party."

The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this First Amendment to, and Assignment and Assumption of, Commercial Cannabis Development Agreement No. 27-19:

RECITALS

A. **WHEREAS**, on February 14, 2018, Ordinances No. 2399 and No. 2400 came into effect authorizing specified commercial cannabis activities within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

B. **WHEREAS**, on June 13, 2018, Ordinances No. 2404 and 2405 came into effect amending specified commercial cannabis activities authorized by Ordinances No. 2399 and No. 2400 within the City of Montebello, in strict compliance with Applicable Cannabis Laws, under specified conditions and provisions.

C. **WHEREAS**, no such commercial cannabis activities are allowed or authorized in the City without a Conditional Use Permit, a Development Agreement, and all requirements pursuant to Montebello Municipal Code Chapters 5.90 and 17.71.

D. **WHEREAS**, on September 5, 2019, Owner applied to this City for a Conditional Use Permit (*hereinafter* "CUP") to conduct commercial cannabis activities.

E. **WHEREAS**, after conducting a duly noticed CUP hearing on November 5, 2019, in conjunction with the City's applicable ordinances and resolutions, the Planning Commission of the City reviewed, considered and approved environmental clearance and approved the execution of CUP NO. 27-19.

F. **WHEREAS**, on December 18, 2019, the City Council of the City of Montebello approved the execution of "COMMERCIAL CANNABIS BUSINESS DEVELOPMENT AGREEMENT NO. 27-19 BETWEEN THE CITY OF MONTEBELLO AND EPPEK, LLC," (the "Development Agreement").

G. **WHEREAS**, Article 19 of the Development Agreement, "Assignment by Owner," prohibits the transfer, delegation, sublet or assignment by Owner of any portion of Owner's interests, rights, duties, and obligations described in Development Agreement without prior

written consent and approval by the City, as required under Montebello Municipal Code Chapters 5.90 and 17.71.

H. **WHEREAS**, pursuant to Article 19 of the Development, the proposed transferee is required to show proof of lawful possession or transfer of possession of the applicable location, and assume all interests, rights, duties and obligations in the CUP.

I. **WHEREAS**, it is the intention of EPPEK, LLC ("Assignor") to transfer, sell and assign 100% of its interest to the Development Agreement and CUP to MONTVAIL, INC. ("Assignee"), becoming 100% owner of the Development Agreement and CUP, with the legal limitations that the CUP runs with the land, here, specifically, with real property as discussed herein.

J. **WHEREAS**, Assignor intends to assign, and Assignee intends to assume, all assignable interests, rights, duties and obligations under the Development Agreement and the CUP.

K. **WHEREAS**, in accordance with the terms of the Development Agreement, including Article 19, Owner/Assignor and Assignee have provided to the City of Montebello a written application form to a modification to the Development Agreement and CUP for City's consent to assignment and change of ownership. The City has received application for modification materials, information and requisite fees it deems sufficient, appropriate and complete for the purpose of determining that Assignee is a qualified applicant for purposes of the foregoing terms of the Development Agreement and the CUP, including showing the requisite proof of lawful transfer and holding of legal or equitable interest in real property considered in the Development Agreement and CUP, located at 1040 S. Vail Avenue, Montebello, CA, 90640, with Assessor Parcel Number 6353-015-002 ("Property" or "Site").

L. **WHEREAS**, this First Amendment is intended to meet the requirements of Article 19 of the Development Agreement and applicable Montebello Municipal Code provisions regulating an assignment and assumption agreement between Assignor and Assignee, and is executed with the consent of City of Montebello as contemplated in the Development Agreement.

M. **WHEREAS**, on February 3, 2020, the City Council of the City of Montebello reviewed, considered, and approved this FIRST AMENDMENT TO, AND ASSIGNMENT AND ASSUMPTION OF, COMMERCIAL CANNABIS DEVELOPMENT AGREEMENT NO. 27-19, by and between the CITY OF MONTEBELLO, Assignor EPPEK, LLC, and Assignee MONTVAIL, INC.

N. **WHEREAS**, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied as the City previously found that the proposed project was Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines **Section 15301** – Existing Facilities as change of ownership does not have any further environmental impact from what was previously found by the City.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

Section 1: Recitals.

The Recitals above are true and correct and are hereby incorporated into and made a part of this First Amendment. In the event of any inconsistency between the Recitals and the provisions of this First Amendment, herein below, said provisions of this First Amendment shall prevail.

Section 2: Assignment and Assumption of Development Agreement and corresponding Conditional Use Permit.

2.1. Assignor hereby assigns, transfers, and conveys to Assignee all of Assignor's rights, interests, duties, burdens and obligations under the Development Agreement and the Conditional Use Permit (also referred herein as "Assignable Rights").

2.2. Assignee hereby assumes all of the rights, interests, duties, burdens and obligations of Assignor under the Development Agreement and Conditional Use Permit, and agrees to observe and fully perform all of the duties and obligations of Assignor under the Development Agreement, and respective Conditional Use Permit, and to be subject to all the terms and conditions thereof, with respect to the Property and Assignable Rights. It is the express intention of Assignor and Assignee that, upon the execution of this First Amendment, Assignee shall become substituted for Assignor as the "Owner" under the Development Agreement and the corresponding Conditional Use Permit in relation to the Property.

2.3. This First Amendment shall take effect and be binding only upon City of Montebello City Council's consent to and approval of the First Amendment, and as further outlined hereinbelow under Section 5.

2.4. Assignee represents and warrants that it has reviewed and is familiar with the terms and conditions of the Development Agreement and the Conditional Use Permit. Assignee acknowledges that the Assignable Rights are as set forth within the Development Agreement, the Conditional Use Permit, and the duties of Assignor thereunder and the duties of Assignee hereunder, as between Assignee and the City, shall be without reference to any underlying agreements or understandings that may exist between Assignee, Assignor, or any other party with respect to the subject matter hereof, and that the City is not party to such other agreements.

2.5. All the covenants, terms, and conditions set forth herein shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, successors, and assigns.

2.6. Exhibits: Assignee has caused the re-execution, re-incorporation, and/or submittal of the following Exhibits, which are deleted in their entirety from the Development Agreement and are incorporated herein by this reference and shall be inserted in lieu thereof.

- 2.6.a. Exhibit D: Recorded Grant Deed or Executed Lease Agreement
- 2.6.b. Exhibit E: Property Owner Signed and Notarized Consent Form
- 2.6.c. Exhibit F: Conditions of Approval
- 2.6.d. Exhibit G: Labor Peace Agreement or Notarized Statement of Intent

Section 3: Amendments to Development Agreement. The following articles, sections, paragraphs or portions of the Development Agreement are hereby amended to read as follows:

3.1. The Entirety of the Development Agreement: “EPPEK, LLC” shall be stricken and deleted throughout the entire Development Agreement, and shall be replaced with “MONTVAIL, INC.”

3.2. Section 2.b. Government Code and Municipal Code Required Elements; Owner and Other Person with Legal or Equitable Interest.

Owner: **MONTVAIL, INC.**

Nature of Interest: *Lease for 5 years and 28 days with original term commencing on September 3, 2019 and ending September 30, 2024.*

A true and correct copy of a recorded grant deed, or executed lease agreement, is attached hereto as Exhibit D, and incorporated herein by this reference.

If Owner is not the fee simple owner of the Site, check box below:

[x] Owner represents and warrants that the property owner has consented in writing to the execution of this Agreement against the Site. [See also attached Property Owner Signed and Notarized Consent Form wherein the property owner has acknowledged reading Montebello Municipal Code Chapters 5.90 and 17.71, incorporated herein by this reference (Exhibit E).]

3.3. Section 6.c. Community Relations, Employment, and Wages; Designation of Community Relations Liaison.

Pursuant to Montebello Municipal Code Chapters 5.90 and 17.71, including, Commerce Municipal Code Section 5.61.300, at the time of this First Amendment, Owner's day-to-day operations manager, Andrew Angulo, will be responsible for community inquiries and complaints and on-site management during normal business hours.

3.4. Section 6.d. Community Relations, Employment, and Wages; Interface with Montebello Municipal Code / Inspections.

Owner's day-to-day operations manager, and/or the Owner's Community Relations Liaison, Andrew Angulo, will interface with the Montebello Police Department's assigned designee to ensure its operation complies with state and local laws and regulations. The City Manager, or designee, or the Montebello Police Department's assigned designee acting at the City Manager's request and per his or her specific and limiting instructions, shall have the right to enter all portions of the Site from time to time unannounced during hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Agreement and Applicable Cannabis Laws, without the requirement of a search warrant, subpoena, or court order, and subject to appropriate cost recovery fees set forth in this Agreement, or adopted by the City.

_____ Owner's Initials

3.5. Section 17. CUP Conditions of Approval.

Restatement of Compliance with CUP Conditions of Approval. New Owner and Assignee, collectively, MONTVAIL, INC., shall comply with all conditions of approval of the City-issued CUP, as reflected and memorialized in Exhibit F, "Conditions of Approval," of the Development Agreement, and as also incorporated herein to this First Amendment, by this reference. If there is any conflict between a term of the Development Agreement, this First Amendment, and a condition of approval of the City-issued CUP, then the most restrictive shall apply.

3.6. Section 21. Notice.

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:	City of Montebello 1600 W. Beverly Boulevard Montebello, California 90640 Attention: City Manager
With a copy to:	City Attorney 13181 Crossroads Parkway North Suite 400 – West Tower City of Industry, California 91746
If to Owner:	ANDREW ANGULO 123 14 TH St Unit 1 Huntington Beach, CA 92648
If to Landlord:	JOHN CHANG c/o BIG JUNG, INC.

1752 Milano Circle
Montebello, CA 90640

Section 4: Effect of First Amendment and Continued Effectiveness of Development Agreement. Except as expressly modified herein, the Development Agreement shall remain in full force and effect, and all the terms and provisions of the Development Agreement are hereby reaffirmed. The provisions of this First Amendment are severable and separate, and should a legal challenge be brought challenging the First Amendment, including but not limited to, an action or proceeding – in equity or in law - such challenge shall in no way affect or impact the continued validity and existence of the Development Agreement.

Section 5: Effective Date. “First Amendment Effective Date” means the date on which all of the following are true: (i) this First Amendment has been signed by all Parties; (ii) the new applicant Owners have cleared all background check(s), and any related background verification(s), consistent with, and as required by, the City’s laws and policies; (iii) all complete information and documentation supporting the application for this First Amendment have been submitted to the City; and (iv) Exhibits to this First Amendment are finalized, and same have been executed and/or notarized by all affected Parties (if applicable), and are attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner and/or Assignee/New Owner, the Effective Date may not thereafter occur and this First Amendment may not thereafter become effective.

IN WITNESS HEREOF, the Parties hereto have executed this First Amendment as of the dates herein below.

[Signatures on the following page]

CITY OF MONTEBELLO

Salvador Melendez
Mayor

Date: _____

EPPEK, LLC

Andrew Angulo
Owner, Member and CEO
[Assignor/Owner]

Date: _____

MONTVAIL, INC.

Andrew Angulo
Owner, President/CEO and Director
[Assignee/New Owner]

Date: _____

APPROVED AS TO FORM:

City Attorney
City of Montebello

Date: _____