



CITY OF NEWARK

CITY COUNCIL

City Administration Building, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4266 | E-mail: city.clerk@newark.org



AGENDA

Thursday, May 12, 2022
7:00 P.M.

**HYBRID IN-PERSON/VIRTUAL MEETING
REFER TO THE END OF THE AGENDA TO REVIEW
OPTIONS FOR PARTICIPATING IN THE MEETING
REMOTELY OR IN-PERSON.**

**IF YOU ATTEND THE MEETING IN PERSON A FACE COVERING
IS RECOMMENDED BUT NOT REQUIRED.**

A. ROLL CALL

B. PRESENTATIONS

1. Proclamation designating May 15-21, 2022, as National Police Week
2. Proclamation designating May 15-21, 2022, as Public Works Week

C. PUBLIC COMMENT

The public is invited to address the City Council on any item not listed on the agenda. Public Comments are generally limited to 5 minutes per speaker. Please note that State law prohibits the Council from acting on non-agenda items.

D. CONSENT CALENDAR

Consent Calendar items are considered to be routine and may be approved by one motion. There will be no separate discussion on these items unless there is a request by a Council Member, a staff member, or a member of the public to remove an item for separate discussion and action.

1. Approval of Audited Demands
2. Approval of April 28, 2022, minutes

3. Resolution accepting the public subdivision improvements for Tract 8208 (Continental Residential, Inc.), a 281-unit residential subdivision at Cedar Boulevard and Cedar Court
4. Adopt a resolution endorsing the Alameda County Home Together 2026 Implementation Plan to Address Homelessness.
5. Resolution authorizing the City Manager to execute a memorandum of understanding between the City of Newark and the Alameda County Department of Environmental Health to implement the SB1383 Edible Food Recovery Program
6. Adopt a Resolution Finding That There is a Proclaimed State of Emergency; Finding That Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the State of Emergency; and Authorizing Continued Remote Teleconferenced Meetings of the Legislative Bodies of the City of Newark for the 30 Day Period Beginning May 12 Pursuant to AB 361
7. Adopt a Resolution confirming the continued existence of a local emergency due to the COVID-19 Pandemic
8. Authorization for the City Manager to execute a purchase order and enter into an agreement with CentralSquare Technologies, Inc. for an update to the City's permit tracking software system and appropriation of \$200,000 from American Rescue Plan Act (ARPA) funds to Capital Improvement Plan (CIP) Project 001296 - Permit Tracking System Software Upgrades
9. Approval of an amendment to Resolution No. 10,416 to revise the Personnel Rules and Regulations by changing the authority of approving class specifications from the City Council to the City Manager or Personnel Officer.

E. PUBLIC HEARINGS

F. OTHER BUSINESS

G. CITY COUNCIL MATTERS

City Council Members report on attendance at intergovernmental agency meetings, conferences, and seminars since the last meeting. City Council Members may also announce upcoming events and coordinate attendance; report on local events attended since the last meeting; and make brief comments on issues of concern.

H. CLOSED SESSION

1. Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: City Manager Benoun, Assistant City Manager Hovorka, and Human Resources Director Solito; Employee Groups: the Newark Association of Miscellaneous Employees; the Newark Police Management Association; the Newark Police Association; the Confidential Employee Group; and City Officials and the Management, Supervisory, and Professional Employee Group
2. Closed session for conference with Labor Negotiator pursuant to California Government Code Section 54957.6. Agency Designated Representative: Mayor Nagy, Unrepresented employee: City Manager Benoun

I. ADJOURNMENT

HYBRID IN-PERSON/VIRTUAL MEETING NOTICE

This meeting is being conducted utilizing teleconferencing and electronic means consistent with Assembly Bill 361 (2021). Members of the public may attend the meeting in person, virtually via Zoom, or watch it via YouTube. If you attend the meeting in person, a face covering is recommended but not required. The City Council Chambers will have limited public seating consistent with CDC Guidelines.

Mayor Nagy, Vice Mayor Hannon, and Council Members Bucci, Collazo, and Freitas may be attending this meeting via teleconference. Teleconference locations are not open to the public. In the event that any members of the City Council elect to attend this meeting via teleconference, all votes conducted during the teleconferencing session will be conducted by roll call vote.

How to view the meeting remotely:

Livestream online at YouTube: <https://www.youtube.com/channel/UC383NGSxaPwZP1kJbo2T8A>

Copy/paste the YouTube URL into your browser if the link does not automatically open.

How to participate in the meeting remotely, via Zoom Webinar:

From a PC, Mac, iPad, iPhone or Android device: Zoom Meeting <https://us06web.zoom.us/j/87507429771>

From a telephone dial 1- 669-900-9128, Webinar ID Number 875 0742 9771

Provide live, remote public comments, when the Mayor calls for comments. Use the raise your hand feature in Zoom to be called upon by the City Clerk.

For frequently asked Zoom questions, please go to [Agendas and Minutes](#) and select the Frequently Asked Questions link.

No question shall be asked of a council member, city staff, or an audience member except through the Mayor. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the Mayor for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.

Council Meeting Access/Materials:

The agenda packet is available for review at [Agendas and Minutes](#). The packet is typically posted to the City website the Friday before the meeting, but no later than 72 hours before the meeting.

Pursuant to Government Code 54957.5, supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and will be posted, if time allows, at [Agendas and Minutes](#). Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection. For

those persons who require special accommodations, please contact the City Clerk at least two days prior to the meeting at [City Clerk](#) or 510-578-4266.



STAFF REPORT

Item B. 1.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Proclamation designating May 15-21, 2022, as National Police Week

May 15-21, 2022 has been designated National Police Week in Newark. A member of the Police Department will be at the meeting to accept the proclamation.

Attachments

Proclamation

PROCLAMATION NO. 1872

NATIONAL POLICE WEEK

WHEREAS, Congress and the President of the United States have designated May 15 as Peace Officers Memorial Day, and the week in which May 15 falls as National Police Week; and

WHEREAS, the members of the Newark Police Department play an essential role in safeguarding the rights and freedoms of the citizens of the City of Newark; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people of the community by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the City of Newark Police Department unceasingly provide a vital public service;

NOW, THEREFORE, I, Alan L. Nagy, Mayor of the City of Newark, on behalf of the Newark City Council, do hereby proclaim May 15 – 21, 2022, as

NATIONAL POLICE WEEK

in the City of Newark in honor of the law enforcement officers, past and present, who have rendered a dedicated service to the community, and do further proclaim May 15, 2022, as Peace Officers Memorial Day in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty.

IN WITNESS THEREOF, I have hereunto set forth my hand and caused the Official Seal of the City of Newark, State of California, to be affixed this Twelfth Day of May, Two Thousand Twenty-two.

ALAN L. NAGY
Mayor



STAFF REPORT

Item B. 2.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Proclamation designating May 15-21, 2022, as Public Works Week

May 15-21, 2022 has been designated National Police Week in Newark. A member of the Public Works Department will be at the meeting to accept the proclamation.

Attachments

Proclamation

PROCLAMATION NO. 1871

NATIONAL PUBLIC WORKS WEEK

WHEREAS, public works services provided in our community are an integral part of our citizens' everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, parks and landscape, and equipment maintenance; and

WHEREAS, the health, safety, and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the quality and effectiveness of these facilities, as well as their planning, design, and construction, is vitally dependent upon the efforts and skills of public works officials;

NOW, THEREFORE, I, Alan L. Nagy, Mayor of the City of Newark, on behalf of the Newark City Council, do hereby proclaim the week of May 15-21, 2022, as

NATIONAL PUBLIC WORKS WEEK

in the City of Newark, and I call upon the community to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

IN WITNESS THEREOF, I have hereunto set forth my hand and caused the Official Seal of the City of Newark to be affixed this Twelfth Day of May Two Thousand Twenty-two.

ALAN L. NAGY
Mayor



STAFF REPORT

Item D. 1.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Krysten Lee, Finance Director
SUBJECT Approval of Audited Demands

Attachments

Audited Demands

LIVE Newark CA LIVE
Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 04/21/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	04/21/2022	5484	Accounts Payable	AIRGAS USA, LLC		
	Invoice		Date	Description		Amount
	9987660426	03/31/2022		RENT CYLINDER TANK 03/31/2022		78.00
Check	04/21/2022	5485	Accounts Payable	ALL CITY MANAGEMENT SERVICES, INC.		
	Invoice		Date	Description		Amount
	76637	04/06/2022		SCHOOL CROSSING GUARD SVCS 03/20-04/02/22		4,235.16
Check	04/21/2022	5486	Accounts Payable	ALPINE AWARDS INC		
	Invoice		Date	Description		Amount
	5550011	03/30/2022		SPECIAL EVENT VESTS		1,085.29
Check	04/21/2022	5487	Accounts Payable	GINA ANDERSON		
	Invoice		Date	Description		Amount
	0207-021022EXP	04/20/2022		EXPENSE REIMBURSEMENT		1,024.92
Check	04/21/2022	5488	Accounts Payable	GUSTAVO ARROYO		
	Invoice		Date	Description		Amount
	0314-031822EXP	04/20/2022		EXPENSE REIMBURSEMENT		1,473.59
	0307-030922EXP	04/20/2022		EXPENSE REIMBURSEMENT		57.92
Check	04/21/2022	5489	Accounts Payable	AT&T		
	Invoice		Date	Description		Amount
	2300-040122	04/01/2022		CHARGES FOR CAPTION LISTINGS & CIRCUITS - 4/1/22-4/30/22		181.12
Check	04/21/2022	5490	Accounts Payable	LAW OFFICES OF GARY M. BAUM		
	Invoice		Date	Description		Amount
	001638	03/31/2022		LEGAL SERVICES		4,384.24
Check	04/21/2022	5491	Accounts Payable	BAY AREA TEMPORARY SANITATION, INC.		
	Invoice		Date	Description		Amount
	93260	04/06/2022		PORTABLE RESTROOMS FOR FISHING IN THE CITIES		310.10
Check	04/21/2022	5492	Accounts Payable	BEELINE GLASS, INC		
	Invoice		Date	Description		Amount
	118284	02/22/2022		LIBRARY GLASS REPAIR		5,496.08
Check	04/21/2022	5493	Accounts Payable	STACY BURTON		
						112.67

	Invoice	Date	Description	Amount
Check	0202-033122EXP	04/12/2022	MILEAGE REIMBURSEMENT FOR 2/10-3/31	112.67
	04/21/2022	5494 Accounts Payable	510AUTOWORKS	80.00
	Invoice	Date	Description	Amount
Check	2106	04/12/2022	WHEEL ALIGNMENT - 2013 TOYOTA 4RUNNER	80.00
	04/21/2022	5495 Accounts Payable	BEACON VETERINARY SPECIALISTS	450.00
	Invoice	Date	Description	Amount
Check	124286	03/22/2022	VET SVCS 03/19/22	150.00
	124719	04/01/2022	VET SVCS 03/22/22	150.00
	124587	03/30/2022	VET SVCS 03/26/22	150.00
Check	04/21/2022	5496 Accounts Payable	CENTRAL TOWING & TRANSPORT LLC	363.75
	Invoice	Date	Description	Amount
Check	8442117-1	01/18/2022	PD TAHOE TOW	233.75
	8456001-1	01/26/2022	PD CHARGER TOW	65.00
	8461321-1	01/29/2022	TOWING SERVICES 01/29/2022	65.00
Check	04/21/2022	5497 Accounts Payable	CENTRAL VETERINARY HOSPITAL	112.25
	Invoice	Date	Description	Amount
Check	476885	03/29/2022	VET SVCS MAR'22	112.25
	04/21/2022	5498 Accounts Payable	JADA CHIU	297.00
	Invoice	Date	Description	Amount
Check	032122EXP	04/18/2022	EXPENSE REIMBURSEMENT	297.00
	04/21/2022	5499 Accounts Payable	CINDY K. HULL & ASSOCIATES - FORENSIC CONSULTING	640.00
	Invoice	Date	Description	Amount
Check	129	01/22/2022	LATENT PRINT ANALYSIS JAN 2022	640.00
	04/21/2022	5500 Accounts Payable	COMCAST	34.23
	Invoice	Date	Description	Amount
Check	0413-051222PD	04/08/2022	TV SERVICE/BOX RENTAL - 04/13/22-05/12/22	34.23
	04/21/2022	5501 Accounts Payable	SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT	608.00
	Invoice	Date	Description	Amount
Check	0531-060222	04/20/2022	POST PATROL TRAINING	608.00
	04/21/2022	5502 Accounts Payable	DLT SOLUTIONS, LLC	18,535.84
	Invoice	Date	Description	Amount
Check	SI559233	03/31/2022	NEW LICENSES - CAD/CIVIL3D	18,535.84
	04/21/2022	5503 Accounts Payable	EMBLEM ENTERPRISES, INC.	328.17
	Invoice	Date	Description	Amount
Check	846253	03/07/2022	PATCHES	328.17
	04/21/2022	5504 Accounts Payable	FOUR SEASONS POOL SERVICE	555.46
	Invoice	Date	Description	Amount
Check	51771	03/31/2022	POOL REPAIR	555.46
	Invoice	Date	Description	Amount

Check	04/21/2022	5505 Accounts Payable	KARL FREDSTROM	Description	Invoice	Date	Amount
							57.92
Check	04/21/2022	5506 Accounts Payable	EXPENSE REIMBURSEMENT	FREMONT CDJR	0307-030922EXP	04/21/2022	57.92
							626.50
Check	04/21/2022	5507 Accounts Payable	FLEET PARTS AND SUPPLIES	FREMONT FORD	86408	02/25/2022	626.50
							6,150.50
							371.56
							254.26
							60.56
							143.98
							83.20
							215.96
							3,719.05
							918.90
							128.03
							255.00
Check	04/21/2022	5508 Accounts Payable	GRAINGER		402532	03/07/2022	146.38
							Amount
check	04/21/2022	5509 Accounts Payable	FIRE STATION #1 MIXER PRESSURE BALANCING UNIT		9246949912	03/16/2022	73.19
			FIRE STATION #1 MIXER PRESSURE BALANCING UNIT		9246041710	03/15/2022	71.79
			FIRE STATION #1 PARTS		9246041736	03/15/2022	1.40
			JESSICA GURULE		04/21/2022		128.70
							Amount
Check	04/21/2022	5510 Accounts Payable	EXPENSE REIMBURSEMENT FOR TRAVEL TO AND FROM CPRS CONFERENCE		0308-031122EXP	04/18/2022	128.70
			HOLIDAYGOO, INC.		04/21/2022		1,249.47
							Amount
Check	04/21/2022	5511 Accounts Payable	CANDY FILLED PLASTIC EGGS FOR FAMILY DAY AT THE PARK		19355	03/28/2022	1,249.47
			INDUSTRIAL PLUMBING SUPPLY, LLC.		04/21/2022		233.54
							Amount
Check	04/21/2022	5512 Accounts Payable	FIRE STATION SHOWER REPAIR		99753	03/29/2022	233.54
			IAPE		04/21/2022		395.00
							Amount
Check	04/21/2022	5513 Accounts Payable	PATROL NON POST TRAINING		LI899488	02/21/2022	395.00
			JARVIS, FAY & GIBSON, LLP		04/21/2022		418.00
							Amount
Check	04/21/2022	5514 Accounts Payable	LEGAL SERVICES FOR FMC WILLOW PROJECT 03/22		16364	03/31/2022	418.00
			JOCELYN E. ROLAND		04/21/2022		475.00
							Amount
Check	04/21/2022	5515 Accounts Payable	PRE-EMPLOYMENT/ PSYCHOLOGICAL SCREENING 03/15/22		20126	03/18/2022	475.00
			KNORR SYSTEMS INC		04/21/2022		2,395.99

Invoice	Date	Description	Amount
PWSVI-7321	03/30/2022	SILLIMAN POOL REPAIR AND MAINTENANCE	2,395.99
Check 04/21/2022	5516 Accounts Payable	LINCOLN AQUATICS	387.63
Invoice	Date	Description	Amount
SL034036	03/15/2022	POOL CHEMICALS	387.63
Check 04/21/2022	5517 Accounts Payable	LYNN PEAVEY COMPANY	517.97
Invoice	Date	Description	Amount
386951	01/28/2022	EVIDENCE SUPPLIES	217.06
388019	03/09/2022	EVIDENCE SUPPLIES	149.47
388144	03/11/2022	EVIDENCE SUPPLIES	151.44
Check 04/21/2022	5518 Accounts Payable	MARK GOTHARD	204.60
Invoice	Date	Description	Amount
040322	04/03/2022	MARTIAL ARTS SEMINAR 4/3/22	204.60
Check 04/21/2022	5519 Accounts Payable	MAZE & ASSOCIATES	14,499.00
Invoice	Date	Description	Amount
44292	02/28/2022	ACCOUNTING SERVICES - 02/22	14,499.00
Check 04/21/2022	5520 Accounts Payable	MICHAEL STEVEN YORKS	3,075.00
Invoice	Date	Description	Amount
2022-03	02/25/2022	BACKGROUND INVESTIGATIONS 02/14-02/25/22	3,075.00
Check 04/21/2022	5521 Accounts Payable	MIKE YORKS INVESTIGATIONS	1,800.00
Invoice	Date	Description	Amount
2022-01	03/03/2022	BACKGROUND INVESTIGATIONS 01/21-03/03/22	1,575.00
2022-04	04/13/2022	BACKGROUND INVESTIGATIONS 03/29-04/13/22	225.00
Check 04/21/2022	5522 Accounts Payable	MISSION LINEN SUPPLY - UNIFORM	2,131.75
Invoice	Date	Description	Amount
MAR' 22	03/31/2022	UNIFORM SERVICE 03/01/2022-03/31/2022	2,131.75
Check 04/21/2022	5523 Accounts Payable	MOTOROLA SOLUTIONS, INC.	139,065.45
Invoice	Date	Description	Amount
1187072824	03/24/2022	APX PORTABLE, MOBILE AND CONSOLETTTE RADIO UPGRADE FLASHES #22-03	139,065.45
Check 04/21/2022	5524 Accounts Payable	TODD NOBBE	178.14
Invoice	Date	Description	Amount
0321-032522EXP	04/20/2022	EXPENSE REIMBURSEMENT	178.14
Check 04/21/2022	5525 Accounts Payable	NORCAL HR DIRECTORS	175.00
Invoice	Date	Description	Amount
2022 NORCAL	03/14/2022	2022 NORCAL HUMAN RESOURCES SPRING MEETING REGISTRATION FEE	175.00
Check 04/21/2022	5526 Accounts Payable	OWEN EQUIPMENT COMPANY	826.53
Invoice	Date	Description	Amount
00055749	03/18/2022	SWEEPER PARTS	826.53
Check 04/21/2022	5527 Accounts Payable	RYAN PEREZ	231.51
Invoice	Date	Description	Amount

Check	041522EXP	04/13/2022	BOOT REIMBURSEMENT 04/15/2022	231.51
	04/21/2022	5528 Accounts Payable	JACKSON POSADAS	260.22
	Invoice	Date	Description	Amount
Check	040922EXP	04/09/2022	BOOT REIMBURSEMENT 04/09/2022	260.22
	04/21/2022	5529 Accounts Payable	PROMO DIRECT	1,518.00
	Invoice	Date	Description	Amount
Check	N151383	03/31/2022	PROMOTIONAL ITEMS FOR CIVIC CENTER GRAND OPENING	1,518.00
	04/21/2022	5530 Accounts Payable	QUADIENT LEASING USA, INC.	417.69
	Invoice	Date	Description	Amount
Check	N9345678	03/30/2022	MAIL AND FOLDER MACHINE LEASE - 04/01-04/30/22	417.69
	04/21/2022	5531 Accounts Payable	HOLLY RISNER-PEREZ	83.31
	Invoice	Date	Description	Amount
Check	040522EXP	04/21/2022	EXPENSE REIMBURSEMENT	83.31
	04/21/2022	5532 Accounts Payable	SAVAGE TRAINING GROUP LLC	610.00
	Invoice	Date	Description	Amount
Check	1582	03/14/2022	FTO UPDATE COURSE	610.00
	04/21/2022	5533 Accounts Payable	SCHINDLER ELEVATOR CORPORATION	1,739.31
	Invoice	Date	Description	Amount
Check	8105907664	04/01/2022	FIRE STATION #1 ELEVATOR QUARTERLY BILLING 04/01/22-06/30/22	1,739.31
	04/21/2022	5534 Accounts Payable	SILVER & WRIGHT LLP	1,057.50
	Invoice	Date	Description	Amount
Check	29321	04/01/2022	LEGAL SERVICES 03/22	1,057.50
	04/21/2022	5535 Accounts Payable	TEMPERATURE TECHNOLOGY INC.	350.00
	Invoice	Date	Description	Amount
Check	1021-1527	03/29/2022	REPAIR PD SERVER ROOM	350.00
	04/21/2022	5536 Accounts Payable	SHANNON TODD	1,185.96
	Invoice	Date	Description	Amount
Check	0214-021622EXP	04/20/2022	EXPENSE REIMBURSEMENT	1,185.96
	04/21/2022	5537 Accounts Payable	JENNIFER TRAN	30.42
	Invoice	Date	Description	Amount
Check	0303-031722EXP	04/13/2022	MILEAGE REIMBURSEMENT MARCH 2022	12.52
	0201-022822EXP	04/13/2022	MILEAGE REIMBURSEMENT FEB 2022	17.90
	04/21/2022	5538 Accounts Payable	UNITED STATES POSTMASTER	3,500.00
	Invoice	Date	Description	Amount
Check	35766	04/18/2022	POSTAGE FOR SUMMER REC ACTIVITIES POSTCARD	3,500.00
	04/21/2022	5539 Accounts Payable	PEPPERBALL	990.00
	Invoice	Date	Description	Amount
Check	0419-042022JH	04/13/2022	PEPPERBALL INSTRUCTOR COURSE	495.00
	0419-042022CS	04/13/2022	PEPPERBALL INSTRUCTOR COURSE	495.00
	04/21/2022	5540 Accounts Payable	UNIVERSAL BUILDING SERVICES &	524.88

SUPPLY

Invoice	Date	Description	Amount
500288	03/31/2022	JANITORIAL - SVC CTR ADDITIONAL SERVICES 03/31/22	524.88
Check 04/21/2022	5541 Accounts Payable	BOSCO OIL INC DBA VALLEY OIL	31,141.56
Invoice	Date	Description	Amount
108980	04/13/2022	FUEL FOR FLEET 04/13/22	8,046.09
108979	04/13/2022	FUEL FOR FLEET 04/13/22	23,095.47
Check 04/21/2022	5542 Accounts Payable	MATTHEW WARREN	57.92
Invoice	Date	Description	Amount
0307-030922EXP	04/20/2022	EXPENSE REIMBURSEMENT	57.92
Check 04/21/2022	5543 Accounts Payable	CHRISTI WAYBRIGHT	782.90
Invoice	Date	Description	Amount
0314-031822EXP	04/20/2022	EXPENSE REIMBURSEMENT	782.90
Check 04/21/2022	5544 Accounts Payable	WEX BANK	358.23
Invoice	Date	Description	Amount
80079491	04/06/2022	CHEVRON FUEL PURCHASE 03/07/2021-4/6/2021	358.23
Check 04/21/2022	5545 Accounts Payable	WILLIAM D. WHITE CO, INC.	751.90
Invoice	Date	Description	Amount
459202NW	03/28/2022	GATE REPAIR	751.90
Check 04/21/2022	5546 Accounts Payable	STEVE WILLKOMM	34.00
Invoice	Date	Description	Amount
02012022EXP	04/18/2022	LIVE SCAN FINGERPRINTING	34.00
Check 04/21/2022	249 Accounts Payable	SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.	55,702.60
Invoice	Date	Description	Amount
SF-8510-01010678	02/01/2022	WORKERS COMPENSATION CLAIMS 01/03/2022-01/31/2022	2,697.36
SF-8510-01024639	03/01/2022	WORKERS COMPENSATION CLAIMS 02/01/2022-02/28/2022	16,456.52
SF-8510-01039669	04/01/2022	WORKERS COMPENSATION CLAIMS 03/01/2022-03/31/2022	36,548.72
AP ZBA ACCOUNTS PAYABLE Totals:			\$316,909.77
Transactions: 64			
Checks:	63	\$261,207.17	
EFTs:	1	\$55,702.60	

LIVE Newark CA LIVE

Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 04/28/2022

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	04/28/2022	5547	Accounts Payable	4LEAF INC		19,845.00
	Invoice		Date	Description		Amount
	J3962G		04/21/2022	TEMPORARY PROFESSIONAL PLANNING SERVICES		19,845.00
Check	04/28/2022	5548	Accounts Payable	ABACUS PRODUCTS INC		1,158.04
	Invoice		Date	Description		Amount
	B67736		04/05/2022	PRINTING SVCS - 6X9 EVIDENCE		911.57
	B67742		04/05/2022	PRINTING SVCS - COMPENSATION REPORT		246.47
Check	04/28/2022	5549	Accounts Payable	ACCESS		100.00
	Invoice		Date	Description		Amount
	9342974		03/31/2022	SHREDDING SVCS MAR'22		100.00
Check	04/28/2022	5550	Accounts Payable	PRINTS CHARLES REPROGRAPHICS		1,521.75
	Invoice		Date	Description		Amount
	107712		04/08/2022	CIVIC CENTER - AS BUILT PRINTS		1,521.75
Check	04/28/2022	5551	Accounts Payable	TREASURER OF ALAMEDA COUNTY		1,265.25
	Invoice		Date	Description		Amount
	MAR'22		04/04/2022	CRIME LAB FEES - MAR'22		1,265.25
Check	04/28/2022	5552	Accounts Payable	ALTA LANGUAGE SERVICES, INC.		66.00
	Invoice		Date	Description		Amount
	IS583541		03/31/2022	BILINGUAL TESTS SERVICES		66.00
Check	04/28/2022	5553	Accounts Payable	BAY CENTRAL PRINTING		2,261.56
	Invoice		Date	Description		Amount
	191506		04/01/2022	BUSINESS CARD IMPRINTING - GUSTAVO ARROYO		64.27
	191559		04/07/2022	HOUSING OUTREACH MATERIALS		199.35
	191561		04/07/2022	HOUSING OUTREACH MATERIALS		272.45
	191562		04/07/2022	HOUSING OUTREACH MATERIALS		1,096.43
	191560		04/07/2022	HOUSING OUTREACH MATERIALS		629.06
Check	04/28/2022	5554	Accounts Payable	BEAR ELECTRICAL SOLUTIONS, INC.		8,057.66
	Invoice		Date	Description		Amount
	15345		03/28/2022	STREETLIGHT MAINTENANCE (MARCH 2022)		8,057.66
Check	04/28/2022	5555	Accounts Payable	BLAISDELL'S BUSINESS PRODUCTS		1,129.72

Invoice	Date	Description	Amount
APR'22	04/27/2022	OFFICE SUPPLIES	1,129.72
Check 04/28/2022	5556 Accounts Payable	BURTON'S FIRE INC	25,777.35
Invoice	Date	Description	Amount
S 56294	04/04/2022	FIRE TRUCK SWITCH	162.17
W 80138	03/10/2022	FIRE TRUCK REPAIR E-29	25,615.18
Check 04/28/2022	5557 Accounts Payable	CAL-WEST LIGHTING & SIGNAL MAINTENANCE	17,184.83
Invoice	Date	Description	Amount
220352	03/31/2022	TRAFFICE SIGNAL KNOCKDOWN - CEDAR/THORNTON	7,367.34
220353	03/31/2022	TRAFFIC SIGNAL KNOCKDOWN - NEWARK/THORNTON	5,244.25
220351	03/31/2022	STREETLIGHT KNOCKDOWN - CEDAR/BIRCH	4,573.24
Check 04/28/2022	5558 Accounts Payable	CALIFORNIA DEPARTMENT OF CONSERVATION	16,694.48
Invoice	Date	Description	Amount
0701-093021	04/20/2022	Q1 SMIP FEES	3,673.21
1001-123121	04/20/2022	Q2 SMIP FEES	7,580.85
0101-033122	04/20/2022	Q3 SMIP FEES	5,440.42
Check 04/28/2022	5559 Accounts Payable	CENTRAL VALLEY TOXICOLOGY, INC.	384.00
Invoice	Date	Description	Amount
318922	03/08/2022	LAB TESTS 03/08/22	38.00
318923	03/08/2022	LAB TESTS 03/08/22	38.00
318924	03/08/2022	LAB TESTS 03/08/22	38.00
319019	03/11/2022	LAB TESTS 03/11/22	116.00
319218	03/22/2022	LAB TESTS 03/22/22	38.00
319219	03/22/2022	LAB TESTS 03/22/22	116.00
Check 04/28/2022	5560 Accounts Payable	APRO LLC	190.00
Invoice	Date	Description	Amount
030122-033122	03/31/2022	PATROL VEHICLE CLEANING MAR 2022	190.00
Check 04/28/2022	5561 Accounts Payable	CITY OF FREMONT	13,205.00
Invoice	Date	Description	Amount
323842	04/05/2022	SHELTER OPERATING EXPS APR'22	13,205.00
Check 04/28/2022	5562 Accounts Payable	COMCAST	492.95
Invoice	Date	Description	Amount
0422-052122SIL	04/17/2022	MONTHLY CABLE SERVICE AND INTERNET	492.95
Check 04/28/2022	5563 Accounts Payable	COUNTY OF ALAMEDA	2,612.50
Invoice	Date	Description	Amount
MARCH'22	04/27/2022	CITATION PROCESSING FEES - MAR'22	2,612.50
Check 04/28/2022	5564 Accounts Payable	ALAMEDA COUNTY INFORMATION TECHNOLOGY DEPARTMENT	3,399.50
Invoice	Date	Description	Amount
112-2203036	04/09/2022	AWS ACCESS FEES MAR'22	3,399.50
Check 04/28/2022	5565 Accounts Payable	CSG CONSULTANTS, INC.	2,042.50

Invoice	Date	Description	Amount
43416	04/21/2022	COMM PRES DIV PROGRAM ASSESSMENT/REVIEW (BILLED THRU 4/21/22)	2,042.50
04/28/2022	5566 Accounts Payable	DEPARTMENT OF JUSTICE	416.00
Invoice	Date	Description	Amount
571894	04/05/2022	FINGERPRINTING FEES - 03/22	416.00
04/28/2022	5567 Accounts Payable	DIVISION OF THE STATE ARCHITECT	504.80
Invoice	Date	Description	Amount
0101-033122	04/27/2022	CA STATE CASP FEES (AB1379)	504.80
04/28/2022	5568 Accounts Payable	DLT SOLUTIONS, LLC	4,266.90
Invoice	Date	Description	Amount
SI547432	12/29/2021	AUTOCAD/CIVIL 3D RENEWAL	4,266.90
04/28/2022	5569 Accounts Payable	ALHAMBRA	401.27
Invoice	Date	Description	Amount
15734365 041322	04/13/2022	WATER SERVICE	401.27
04/28/2022	5570 Accounts Payable	ENVIRONMENTAL SCIENCE ASSOCIATES	20,928.88
Invoice	Date	Description	Amount
173204	04/07/2022	HOUSING ELEMENT UPDATE PREPARATION (MARCH 2022)	20,928.88
04/28/2022	5571 Accounts Payable	EQUIFAX INFORMATION SVCS LLC	18.27
Invoice	Date	Description	Amount
6745231	04/07/2022	CREDIT BUREAU REPORT FEES	18.27
04/28/2022	5572 Accounts Payable	FEDEX	4.41
Invoice	Date	Description	Amount
9-623-41018	04/15/2022	LATE FEE	4.41
04/28/2022	5573 Accounts Payable	GET SAFE	1,650.00
Invoice	Date	Description	Amount
213	01/18/2022	NON PATROL POST TRAINING	150.00
234	04/21/2022	NON PATROL POST TRAINING	150.00
235	03/21/2022	POST PATROL TRAINING	1,350.00
04/28/2022	5574 Accounts Payable	GHD INC.	2,636.00
Invoice	Date	Description	Amount
380-0011159	04/06/2022	TRAFFIC AND ENGINEERING TRANSPORTATION SERVICES THROUGH 4/2/22	2,636.00
04/28/2022	5575 Accounts Payable	GRAINGER	143.58
Invoice	Date	Description	Amount
9258037093	03/25/2022	FIRE STATION #1 MIXER PRESSURE BALANCING UNIT	71.79
9255160815	03/23/2022	FIRE STATION #1 MIXER PRESSURE BALANCING UNIT	71.79
04/28/2022	5576 Accounts Payable	GYM DOCTORS	190.00
Invoice	Date	Description	Amount
00130309	04/08/2022	MAINTENANCE SERVICE FOR 4/7/22	190.00
04/28/2022	5577 Accounts Payable	ARTURO INTERIANO	56.51
Invoice	Date	Description	Amount

Check	031622-031822EXP	04/20/2022	TRAVEL REIMBURSEMENT - PC ACADEMY	56.51
	04/28/2022	5578 Accounts Payable	JACK JAMES TOW SERVICE, INC.	120.00
	Invoice	Date	Description	Amount
	236697	07/20/2021	TOWING SVCS	60.00
	241455	12/18/2021	TOWING SVCS	60.00
Check	04/28/2022	5579 Accounts Payable	KBA DOCUMENT SOLUTIONS, LLC	3,248.60
	Invoice	Date	Description	Amount
Check	8857889	04/10/2022	COPIER LEASE/SERVICE/SUPPLIES - APR'22	3,248.60
	04/28/2022	5580 Accounts Payable	LANGUAGE LINE SERVICES	204.21
	Invoice	Date	Description	Amount
	10484958	03/31/2022	INTERPRETATION SVCS MAR 2022	204.21
Check	04/28/2022	5581 Accounts Payable	KRYSTEN LEE	460.00
	Invoice	Date	Description	Amount
Check	033122EXP	04/27/2022	EXPENSE REIMBURSEMENT	460.00
	04/28/2022	5582 Accounts Payable	LEXISNEXIS RISK DATA MANAGEMENT INC.	424.20
	Invoice	Date	Description	Amount
Check	1415640-20220331	03/31/2022	BACKGROUND CHECKS MAR'22	424.20
	04/28/2022	5583 Accounts Payable	LINCOLN AQUATICS	339.26
	Invoice	Date	Description	Amount
Check	29024217	03/23/2022	LIFT OPERATOR BATTERY PACK	339.26
	04/28/2022	5584 Accounts Payable	METROPOLITAN PLANNING GROUP	6,800.00
	Invoice	Date	Description	Amount
Check	2003106	03/31/2022	TASK ORDER #3 - CEDAR/ROBSON HOMES PROJECT 03/22	3,971.25
	2003107	03/31/2022	PROJECT MGMT SERVICES-FMC WILLOW-3RD AMDT (SVCS THRU 3/31/22)	2,828.75
	04/28/2022	5585 Accounts Payable	MEYERS NAVE, A PROFESSIONAL CORPORATION	19,921.90
	Invoice	Date	Description	Amount
	192055	04/25/2022	LEGAL SVCS - SANCTUARY WEST (SVCS THRU 3/31/22)	476.30
	192057	04/25/2022	LEGAL SVCS (SVCS THRU 3/31/22)	1,861.90
	192058	04/25/2022	LEGAL SVCS - FMC WILLOW (SVCS THRU 3/31/22)	1,018.10
	191236	03/17/2022	LEGAL SVCS (THRU 2/28/22)	10,572.10
	192059	04/25/2022	LEGAL SVCS - MOWRY VILLAGE (SVCS THRU 3/31/22)	5,993.50
Check	04/28/2022	5586 Accounts Payable	MNS ENGINEERS INC	22,907.50
	Invoice	Date	Description	Amount
Check	80222	04/08/2022	ON CALL PUBLIC WORKS INSPECTIONS (3/1/22-3/31/22)	22,907.50
	04/28/2022	5587 Accounts Payable	PAKPOUR CONSULTING GROUP, INC.	9,081.19
	Invoice	Date	Description	Amount
Check	3771	04/05/2022	ON CALL CIVIL ENGINEERING PLAN REVIEW SERVICES (3/1/22-3/31/22)	9,081.19
	04/28/2022	5588 Accounts Payable	PROMO DIRECT	506.78
	Invoice	Date	Description	Amount
	N151810	04/13/2022	PROMOTIONAL ITEMS	506.78

Check	04/28/2022	5589 Accounts Payable	ROBERT HALF		3,740.00
	Invoice	Date	Description		Amount
	59747552	04/06/2022	TEMPORARY STAFFING KHADAR ALIKHAN - 04/01		3,740.00
Check	04/28/2022	5590 Accounts Payable	WILLE ELECTRIC SUPPLY CO., INC		509.23
	Invoice	Date	Description		Amount
Check	S2079510.001	04/04/2022	LIGHT REPLACEMENT		509.23
	Invoice	Date	Description		Amount
Check	04/28/2022	5591 Accounts Payable	SAN MATEO COUNTY SHERIFF'S OFFICE		968.00
	Invoice	Date	Description		Amount
Check	PS-INV103891	01/31/2022	CRIME LAB FEES - CASE #202003108		968.00
	Invoice	Date	Description		Amount
Check	04/28/2022	5592 Accounts Payable	JAMES SCANLIN		30.00
	Invoice	Date	Description		Amount
Check	122121EXP	04/25/2022	EXPENSE REIMBURSEMENT		30.00
	Invoice	Date	Description		Amount
Check	04/28/2022	5593 Accounts Payable	ANCHOR AUDIO OUTLET		5,725.77
	Invoice	Date	Description		Amount
Check	7416	04/08/2022	SOUND SYSTEM		5,725.77
	Invoice	Date	Description		Amount
Check	04/28/2022	5594 Accounts Payable	STANDARD INSURANCE COMPANY		1,164.00
	Invoice	Date	Description		Amount
Check	APRIL '22	04/01/2022	EMPLOYEE LIFE INSURANCE AND AD&D COVERAGE PREMIUMS - 04/22		576.00
	MAY '22	04/25/2022	EMPLOYEE LIFE INSURANCE AND AD&D COVERAGE PREMIUMS - 05/22		588.00
Check	04/28/2022	5595 Accounts Payable	STAPLES		624.07
	Invoice	Date	Description		Amount
Check	8065734178	04/27/2022	OFFICE SUPPLIES		624.07
	Invoice	Date	Description		Amount
Check	04/28/2022	5596 Accounts Payable	T-MOBILE USA, INC		1,830.00
	Invoice	Date	Description		Amount
Check	9489674951	04/01/2022	CALL DETAIL RECORDS		900.00
	9489915685	04/04/2022	CALL DETAIL RECORDS		30.00
	9490138805	04/06/2022	CALL DETAIL RECORDS		900.00
Check	04/28/2022	5597 Accounts Payable	THE ED JONES CO INC		92.53
	Invoice	Date	Description		Amount
Check	50267	02/01/2022	BADGES & INSIGNIA - STERLING RIBBON FOR 514 BADGE; ARROYO		92.53
	Invoice	Date	Description		Amount
Check	04/28/2022	5598 Accounts Payable	HDL COREN & CONE		4,081.25
	Invoice	Date	Description		Amount
Check	SIN016477	04/26/2022	PROPERTY TAX CONSULTING - APRIL - JUNE 2022		4,081.25
	Invoice	Date	Description		Amount
Check	04/28/2022	5599 Accounts Payable	URBAN PLANNING PARTNERS, INC.		3,411.50
	Invoice	Date	Description		Amount
Check	22002-220228	03/28/2022	PROJECT MGMT SERVICES-LEPAKSHI AT THORNTON 01/22-02/22		3,411.50
	Invoice	Date	Description		Amount
Check	04/28/2022	5600 Accounts Payable	UTILITY TELECOM GROUP, LLC		18,604.30
	Invoice	Date	Description		Amount
Check	APRIL '22	04/16/2022	TELEPHONE VOIP/WAN/SERVICE 04/22		18,604.30

AP ZBA ACCOUNTS PAYABLE Totals:

Checks: 54

Transactions: 54

\$253,399.00

myReports

\$253,399.00



STAFF REPORT

Item D. 2.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Approval of April 28, 2022, minutes

Attachments

Minutes



CITY OF NEWARK CITY COUNCIL

City Administration Building, City Council Chambers

37101 Newark Boulevard, Newark, CA 94560 | (510) 578-4266 | E-mail: city.clerk@newark.org

MINUTES

Thursday, April 28, 2022

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:00 p.m. Present were Council Members Collazo, Freitas, and Vice Mayor Hannon. Council Member Bucci was noted absent.

B. PRESENTATIONS

1. Proclaiming April as Fair Housing Month

Mayor Nagy presented the proclamation to Dorothy Jackson, Past President of Bay East Association of Realtors, Director of the California Association of Realtors and Member Emeritus of the National Associations of Realtors.

2. Proclaiming May as Water Safety Month

Mayor Nagy presented the proclamation to Senior Recreation Supervisor Beireis.

3. Proclaiming April 28, 2022, as Arbor Day in Newark

Mayor Nagy presented the proclamation to Assistant Maintenance Superintendent Hornbeck. The City Council planted a tree at Civic Center Park, before the City Council meeting, in honor of Arbor Day.

4. Introduction of Employees

Mayor Nagy introduced Environmental Services Manager Scanlin, Associate Civil Engineer Mirza, and Administrative Analyst Gonzalez.

C. PUBLIC COMMENT

No one requested to speak.

D. CONSENT CALENDAR

Vice Mayor Hannon requested the removal of item D.3 for separate consideration.

Council Member Freitas moved, Council Member Collazo seconded, to approve Consent Calendar items D.1, D.2, D.4, and D.5, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption. The motion passed, 4 AYES, 1 ABSENT (Bucci).

1. Approval of Audited Demands
2. Approval of April 14, 2022, special and regular meeting minutes
3. Removed from Consent Calendar for separate consideration.
4. Adopt a Resolution Approving the First Amendment to the Contractual Services Agreement with Greensfelder Commercial Real Estate LLC to Increase the Not-to-Exceed Amount by \$40,000 and Authorizing a Budget Amendment to the Biennial Budget 2020-2022 for Fiscal Year 2022 to Provide Funding for Retail Property Research
Resolution No. 11336
Contract No. 21014
5. Adopt a Resolution Approving the First Amendment to the Contractual Services Agreement with Economic Impact Catalyst for economic development digital platform and consulting services and Authorize an Increase in the Not-to-Exceed Amount by an Additional \$80,000 for an Additional Three-Year Period and Authorizing an Amendment to the 2020-22 Biennial Budget for FY 2021-22 to Increase the General Fund Professional Services in the Amount of \$25,000
Resolution No. 11337
Contract No. 20072

Removed from Consent Calendar for separate consideration

3. Adopt a Resolution to support locating a trauma center at Washington Hospital Healthcare that will provide advanced life-saving medical care and ambulance transport within an acceptable trauma response time and encourages the Alameda County Board of Supervisors to approve a trauma center at Washington Hospital in Southern Alameda County
Resolution No. 11338

Vice Mayor Hannon spoke in support of adopting the resolution.

Kimberly Hartz, CEO Washington Hospital, spoke in support of the resolution.

Vice Mayor Hannon moved, Council Member Collazo seconded to adopt the resolution in support of locating a trauma center at Washington Hospital Healthcare that will provide advanced life-saving medical care and ambulance support within an acceptable trauma response time and encourages the Alameda County Board of Supervisors to approve a trauma center at Washington Hospital in southern Alameda County. The motion passed 4 AYES, 1 ABSENT (Bucci).

E. PUBLIC HEARINGS

F. OTHER BUSINESS

G. CITY COUNCIL MATTERS

1. Adopt a Resolution confirming Mayor's appointments to the Community Development Advisory Committee
Resolution No. 11339

Mayor Nagy recommended appointing Raju Mathew and Namit Saksena to the Community Development Advisory Committee.

No one requested to speak.

Council Member Collazo thanked the applicants for volunteering their time.

Council Member Collazo moved, Vice Mayor Hannon seconded, to adopt a resolution approving the appointments of Raju Mathew and Namit Saksena to the Community Development Advisory Committee. The motion passed, 4 AYES, 1 ABSENT (Bucci).

Vice Mayor Hannon wished everyone a joyous Mother's Day.

Council Member Collazo wished everyone a Happy Mother's Day. She encouraged everyone to wear denim on April 29 in honor of Sexual Assault Awareness. She noted that Cinco de Mayo was next week. Shop Newark.

H. CLOSED SESSION

1. Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: City Manager Benoun, Assistant City Manager Hovorka, and Human Resources Director Solito; Employee Groups: the Newark Association of Miscellaneous Employees; the Newark Police Management Association; the Newark Police Association; the Confidential Employee Group; and City Officials and the Management, Supervisory, and Professional Employee Group.
2. Closed session for conference with Labor Negotiator pursuant to California Government Code Section 54957.6. Agency Designated Representative: Mayor Nagy, Unrepresented employee: City Manager Benoun.

At 7:32 p.m. the City Council recessed to closed session.

At 7:36 p.m. the City Council convened in closed session.

At 8:30 p.m. the City Council reconvened in open session with all Council Members present, except Council Member Bucci.

I. ADJOURNMENT

Mayor Nagy adjourned the meeting at 8:30 p.m.



STAFF REPORT

Item D. 3.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Soren Fajeau, Public Works Director
SUBJECT Resolution accepting the public subdivision improvements for Tract 8208 (Continental Residential, Inc.), a 281-unit residential subdivision at Cedar Boulevard and Cedar Court

RECOMMENDATION

Staff recommends that the City Council, by resolution, accept the public subdivision improvements for Tract 8208 (Continental Residential, Inc.), a 281-unit residential subdivision at Cedar Boulevard and Cedar Court.

EXECUTIVE SUMMARY

All public improvements associated with Tract 8208, a 281-unit residential subdivision by Continental Residential, Inc. have been completed to the satisfaction of the City Engineer. The final roadway resurfacing, striping and a portion of the landscaping on Cedar Boulevard and Cedar Court had been delayed for an extended period of time due to necessary coordination with the San Francisco Public Utilities Commission. Formal acceptance of the public improvements and release of the remaining bond riders in the amount of 20% of the original Performance and Materials Bonds is recommended.

BACKGROUND

Continental Residential, Inc. previously entered into a Subdivision Agreement with the City of Newark to construct improvements associated with Tract 8208, a 281-unit residential subdivision located at Cedar Boulevard and Cedar Court. Continental Residential, Inc. provided a Performance Bond in the amount of \$8,875,000 and a Materials Bond in the amount of \$4,438,000 to guarantee the completion of the tract improvements, including all in-tract infrastructure on new private streets and all public improvements within the public rights-of-way on Cedar Boulevard and Cedar Court.

On May 28, 2020, the City Council reduced the original bond amounts to 20% of their original values due to completion of more than 80% of the total scope of tract improvements. Some remaining public improvements on Cedar Boulevard and Cedar Court were delayed due to necessary coordination with the San Francisco Public Utilities Commission (SFPUC) for work within the SFPUC right-of-way. This included, but was not limited to pavement resurfacing, pavement striping, and landscaping improvements.

DISCUSSION/ANALYSIS

All public improvements, including all work on Cedar Boulevard and on Cedar Court within the SFPUC right-of-way has now been completed to the satisfaction of the City Engineer. The remaining scope of improvements included pavement resurfacing and pavement striping on Cedar Boulevard and Cedar Court along with final landscaping improvements on the southbound side of Cedar Boulevard. The previously approved bond riders in the amount of 20% of the original Performance and Materials Bonds can now be released with formal acceptance of this work.

FISCAL IMPACT

Acceptance of the public improvements within Tract 8208 has no direct fiscal impact to the 2020-2022 Biennial Budget and Capital Improvement Plan. Maintenance responsibilities do return to the City for the roadway surfaces on Cedar Boulevard and Cedar Court and the non-frontage landscaping on the southbound side of Cedar Boulevard.

REVIEW AND APPROVAL

Prepared by – Soren Fajeau, Public Works Director

Reviewed by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF NEWARK ACCEPTING THE PUBLIC
SUBDIVISION IMPROVEMENTS FOR TRACT 8208, A
281-UNIT RESIDENTIAL SUBDIVISION AT CEDAR
BOULEVARD AND CEDAR COURT

WHEREAS, Continental Residential, Inc., the developer of Tract 8208, a 281-unit residential subdivision located at Cedar Boulevard and Cedar Court, previously entered into a Subdivision Agreement with the City of Newark (Resolution No. 10,426) to improve said Tract in accordance with plans on file with the City Engineer; and

WHEREAS, the scope of improvements for Tract 8208 on Cedar Boulevard and Cedar Court included underground utility connections, installation of a traffic signal and streetlighting, new sidewalk, curb and gutter, pavement resurfacing and striping, non-frontage decorative wall and landscaping, and other improvements; and

WHEREAS, said improvements have been completed in conformance with the plans and specifications of the contract entered into heretofore and the City Engineer has recommended acceptance of these public improvements on Cedar Boulevard and Cedar Court; and

WHEREAS, additional work was completed in conformance with the plans and specifications within the common areas of the project site to be owned and maintained by the Tract 8208 Homeowners Association, including but not limited to private streets, driveways, sidewalks, signage, utilities, storm drain and stormwater treatment systems, lighting, landscaping, and other common area improvements; and

WHEREAS, pursuant to Resolution No. 11,063, the City Council of the City of Newark approved 80% bond reductions through the release and replacement of the original Performance Bond in the amount of \$8,875,000 and the original Materials Bond in the amount of \$4,438,000 with bond riders issued by Liberty Mutual Insurance Company in the amounts of \$1,775,000 and \$888,000 respectively.

NOW THEREFORE, BE IT RESOLVED BY THE City Council of the City of Newark that said public improvements on Cedar Boulevard and Cedar Court are hereby accepted.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby release the remaining Performance and Materials Bonds guaranteeing said improvements.



STAFF REPORT

Item D. 4.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Roya Gonzalez, Administrative Analyst
SUBJECT Adopt a resolution endorsing the Alameda County Home Together 2026 Implementation Plan to Address Homelessness.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution endorsing the Alameda County Home Together 2026 Implementation Plan to Address Homelessness.

EXECUTIVE SUMMARY

In 2021, the Governor signed AB140, which authorized \$1 billion per year for Fiscal Years 2021-22 and 2022-23 for the Homeless Housing, Assistance, and Prevention (HHAP) Grant Program.

To receive funding applicants must submit a plan which outlines the agency's goals and objectives in addressing homelessness. Alameda County has completed a draft plan called Home Together 2026 Implementation Plan and has requested all cities within the county pass a resolution endorsing the plan to include with their application to the state.

BACKGROUND

In 2021, the State of California allocated \$1 billion in each year for Fiscal Years 2021-2022 and 2022-2023 for the Homeless Housing, Assistance and Prevention Grant Program (HHAP). This grant funding is available to the State's thirteen largest Cities, Counties, and Continuum Care organizations. To receive funding applicants must submit a plan which outlines the agency's goal and objectives in addressing homelessness. Alameda County Office of Homeless Care and Coordination has completed the draft application called Home Together 2026 Implementation Plan in collaboration with the Continuum of Care agency EveryOne Home.

To assist in the development of the plan, County staff participated in a technical advisory group of the Alameda County Conference of Mayors who reviewed and provided feedback on the plan from a city's perspective. The County Board of Supervisors and Alameda County Conference of Mayors met several times to discuss and agree upon a Funding Framework for the plan. Alameda County has now requested that all cities within the County pass a resolution endorsing the plan to

include in their application to the state.

DISCUSSION/ANALYSIS

The plan is a community-wide plan for Alameda County that lays out the goals, strategies and investments needed to dramatically reduce homelessness by 2026 and reverse racial disparities in homelessness through centering racial equity. The County's plan identifies four core goal areas and system performance measures. The summary of the activities undertaken in the Plan are expected to result in:

- An overall decrease in the number of people who experience homelessness; and
- A reduction in racial disparities within the homeless population to address the overrepresentation of African American, Native Americans, Multi-racial peoples, and Native Hawaiian/Pacific Islanders.

The Four Core Goal Areas and Strategic Objectives to address homelessness are:

1. Prevent Homelessness for our Residents

- Address racial disparities in mainstream/upstream systems to prevent disproportionate inflow of African American into homelessness.
- Focus resources for homelessness prevention on people most likely to lose their homes.
- Rapidly resolve episode of homelessness through Housing Problem Solving.
- Prevent racially disproportionate returns to homelessness.

2. Connect People to Shelter and Needed Resources

- Provide neighborhood-based access where people are most likely to lose housing.
- Lower programmatic barriers to crisis services such as prevention, problem solving and shelter.
- Prevent discharge from mainstream systems to homelessness.
- Significantly increase the availability of shelter, especially non-congregate models, to serve adults and families with children and to reduce unsheltered homelessness.
- Provide accessible behavioral services to people with serious mental illness or substance use needs and who are unsheltered, in shelter, or in supportive housing.

3. Increase Housing Solutions

- Add units and subsidies for permanent supportive housing.
- Create units for frail seniors and others with more intensive health services.
- Create dedicated affordable housing subsidies for people who do not need intensive services.
- Create shallow subsidies for those who need more limited assistance.
- Add new slots off rapid housing for those who can take over the full rent given time.
- Ensure new housing funding is distributed according to need.
- Reduce entry barriers to housing; ensure racial equity in referral and placements.

4. Strengthen Coordination, Communication, and Capacity

- Use data to improve outcomes and track racial equity impacts.
- Improve messaging and information availability.

- Build infrastructure to support new and expanded programs.

The endorsement of this plan is a positive step in developing and implementing a plan to reduce homelessness in Alameda County. There is no financial or administrative obligation to the City by endorsing the Plan. The County's Plan may also serve as a future framework for the City of Newark to develop a local plan to address the needs of Newark residents.

FISCAL IMPACT

There is no fiscal impact associated with this action.

REVIEW AND APPROVAL

Prepared by – Roya Gonzalez, Administrative Analyst
Reviewed by – Lenka Hovorka, Assistant City Manager
Reviewed by – Kristopher J. Kokotaylo, Interim City Attorney
Approved by – David J. Benoun, City Manager

Attachments

HomeTogether Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ENDORSING THE ALAMEDA COUNTY HOME
TOGETHER 2026 IMPLEMENTATION PLAN TO ADDRESS
HOMELESSNESS

WHEREAS, The Home Together 2026 Implementation Plan (Home Together 2026) is a community-wide plan for Alameda County which lays out the goals, strategies, and investments needed to dramatically reduce homelessness by 2026 and reverse racial disparities in homelessness through fully centering equity; and

WHEREAS, on any given night over 8,000 people experience homelessness in Alameda County, a number that grows to approximately 15,000 people over the course of a year; and

WHEREAS, more than 90% of households in Alameda County are adults without children, including nearly 10% who are between the ages of 18 and 24; and

WHEREAS, dramatic racial disparities exist in Alameda County as in the nation as a whole, and the homeless population does not reflect the demographics of the country; and

WHEREAS, in Alameda County, African Americans experience homelessness at more than four times their representation in the population (47% vs. 11%); and

WHEREAS, in Alameda County, Native Americans, multiracial people and Hawaiian Native/Pacific Islanders are all vastly overrepresented in homelessness, among those newly homeless and in the rate at which they return to homelessness even after getting into housing; and

WHEREAS, Home Together 2026 builds and is informed by existing local and regional plans, including the 2020 Centering Racial Equity in Homeless System Design report (CRE), All Home Regional Action Plan, and Plan Bay Area 2050; and

WHEREAS, Home Together 2026 is also responsive to requirements laid out in the California Comeback Plan necessary to receive critical State housing and health funding; and

WHEREAS, the homeless system modeling conducted in 2019-20 and updated in 2021 points to significant gaps in the current system in terms of both housing resources and program types; and

WHEREAS, only an estimated 36% of those experiencing homelessness can be supported by the current system's resources or are able to find housing or leave homelessness on their own; and

WHEREAS, without significant effort and investment including prevention, shelter expansion, increasing housing solutions, and strengthening the system's overall capacity, homelessness in Alameda County will continue to grow; and

WHEREAS, the total estimated cost of needed investments over the coming five years to fully meet the need is \$2.5 billion, including approximately \$430 million for additional shelter, \$1.68 billion for permanent housing such as dedicated affordable housing and permanent supportive housing, and \$388 million for prevention, rapid rehousing and shallow subsidies; and

WHEREAS, additional funding will be needed for the one-time development costs for new buildings; and

WHEREAS, to achieve the needed expansion level will take a significant investment of new resources; and

WHEREAS, there are anticipated increases in Federal and in State resources dedicated to expanding affordable housing and ending homelessness; and

WHEREAS, there is still a significant gap that will need to be filled locally; and

WHEREAS, in order to receive future funding made available through the County, Cities must endorse the Home Together 2026 plan and subsequently adopt their own Action Plan.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newark endorses the Home Together 2026 Implementation Plan; and

BE IT FURTHER RESOLVED, the City Council of the City of Newark acknowledges that to receive future funding made available through the County the City must align grants, programs, and services consistent with the Home Together 2026 framework.



STAFF REPORT

Item D. 5.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM James Scanlin, Environmental Services Manager
SUBJECT Resolution authorizing the City Manager to execute a memorandum of understanding between the City of Newark and the Alameda County Department of Environmental Health to implement the SB1383 Edible Food Recovery Program

RECOMMENDATION

Staff recommends that the City Council, by resolution, authorize the City Manager to execute a memorandum of understanding with Alameda County Department of Environmental Health to implement the Edible Food Recovery Program required by SB 1383.

EXECUTIVE SUMMARY

California Senate Bill 1383, the Short-Lived Climate Pollutant Reduction Act of 2016 (SB 1383), has established aggressive targets to achieve a 75 percent reduction in the statewide disposal of organic waste beginning in 2025. To assist the City with meeting its requirements under SB 1383, Council adopted City Ordinance No. 533 on November 18, 2021. Ordinance No. 533 added Chapter 8.40, the Organics Reduction and Recycling Ordinance (ORRO) to the Newark Municipal Code. The ORRO authorized the Alameda County Waste Management Authority (WMA) to implement various aspects of SB 1383 on behalf of the City. Section 8.40.060 of the ORRO established requirements for Commercial Edible Food Generators (CEFGs). WMA has entered into a memorandum of understanding with the Alameda County Department of Environmental Health (ACDEH) to authorize ACDEH to conduct inspection and outreach at CEFGs within Alameda County that are currently permitted and inspected by ACDEH. Adopting this resolution will allow the City to utilize the services of ACDEH to conduct inspection, outreach, and reporting related to SB 1383 CEFG requirements at facilities within the City.

BACKGROUND

California Senate Bill 1383, the Short-Lived Climate Pollutant Reduction Act of 2016, is the most significant waste reduction regulation in the last 30 years. SB 1383 requires a 75% reduction in the disposal of organic waste and recovery for human consumption of 20% of the edible food that is currently disposed of by 2025. SB 1383 requires local jurisdictions to implement the following actions:

1. Provide organic waste collection services to all organic waste generators.
2. Procure recycled content paper and recovered organic waste products (e.g.,

- compost and mulch) at levels prescribed by the State.
3. Perform education and outreach to all affected parties.
 4. Establish required enforcement protocols that include a schedule of fines for non-compliance. Enforcement is required to start by January 1, 2024.
 5. Implement an edible food for human consumption recovery program that recovers edible food that would otherwise be discarded.

The edible food for human consumption recovery program requires that all Tier 1 CEFG facilities, defined as grocery stores and supermarkets over 10,000 square feet, recover the maximum amount of surplus edible food that would otherwise be disposed of (as compost or landfill) to feed people starting on January 1, 2022. Tier 2 CEFG facilities, defined as a restaurant with over 250 seats or a facility of over 5,000 square feet, will need to implement an edible food recovery program starting on January 1, 2024. The City is required to ensure that all Tier 1 and Tier 2 facilities are implementing a compliant food recovery program.

DISCUSSION/ANALYSIS

There are eleven known Tier 1 CEFGs currently operating in the City. The number of Tier 2 facilities has not yet been determined. Both Tier 1 and 2 facilities are already permitted and inspected by ACDEH. The most efficient approach to conducting the required inspection and outreach at this time is by utilizing ACDEH inspectors. Under the terms of the memorandum of understanding, ACDEH will not charge the City for any inspections conducted during 2022. During 2022 ACDEH will determine its average cost per inspection. The cost per inspection is estimated to be between \$174 and \$348. The City will be notified in November 2022 of what the actual cost per inspection will be in 2023. If the City does not agree to the proposed cost, the City can opt out of the agreement at that time. Inspections of Tier 2 facilities will not begin until 2024.

FISCAL IMPACT

Under this memorandum of understanding the estimated total maximum cost to the City to cover expenses related to Alameda County Department of Environmental Health inspections of Tier 1 facilities for the next two fiscal years (2022/23 and 2023/24) is \$10,000. This amount will be included in the proposed 2022-2024 Biennial Budget and Capital Improvement Plan for future City Council consideration. Enforcement actions, if needed, and inspections of Tier 2 facilities would not begin until 2024. The costs associated with those efforts is not yet known. Staff will provide a proposed budget adjustment for those potential costs prior to the end of calendar year 2023.

REVIEW AND APPROVAL

Prepared by – James Scanlin, Environmental Services Manager
Reviewed by – Soren Fajeau, Public Works Director
Reviewed by – Kristopher J. Kokotaylo, City Attorney
Approved by – David J. Benoun, City Manager

Attachments

Resolution and MOU

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING A MEMORANDUM OF
UNDERSTANDING BETWEEN THE CITY OF NEWARK
AND THE ALAMEDA COUNTY DEPARTMENT OF
ENVIRONMENTAL HEALTH TO IMPLEMENT THE SB
1383 EDIBLE FOOD RECOVERY PROGRAM

WHEREAS, California Senate Bill 1383 of 2016, the Short-lived Climate Pollutant Reduction Act of 2016 (which added Sections 39730.5, 39730.6, and 39730.8 to the California Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code), took effect on January 1, 2017, setting Statewide Organic Waste disposal reduction targets of 50 percent by 2020 and 75 percent by 2025, and requiring the California Department of Resources Recycling and Recovery (“CalRecycle”) to develop regulations to reduce organics in landfills as a source of methane; and

WHEREAS, in November 2020, CalRecycle finalized the Short-lived Climate Pollutants Organic Waste Reductions Regulations (the SLCP Regulations) which establish the regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities which are contained in Title 14 of the California Code of Regulations (14 CCR); and

WHEREAS, by January 1, 2022, all city, county, and special district jurisdictions that provide solid waste collection services are required to implement measures necessary to comply with the regulations; and

WHEREAS, the City of Newark (“City”) is an incorporated city within Alameda County; and

WHEREAS, the Alameda County Department of Environmental Health (ACDEH) is the local enforcement agency which oversees retail food programs in Alameda County for the protection of public health and safety. ACDEH inspects Retail Food Facility operations and issues permits to operate those facilities under the authority granted through the California Retail Food Code (California Health and Safety Code §113700 et seq.); and

WHEREAS, the Alameda County Waste Management Authority (“WMA”) is a joint powers agency established by all the cities in Alameda County, the County, and two sanitary districts (the “Member Agencies” as more specifically defined below); and

WHEREAS, the Joint Exercise of Powers Agreement for Waste Management (“JPA”) entered into by Member Agencies grants the WMA the power, duty, and responsibility to prepare, adopt, revise, amend, administer, enforce, and implement the County Integrated Waste Management Plan; and

WHEREAS, the WMA on July 28, 2021 adopted the Organics Reduction and Recycling Ordinance (“ORRO”) to implement various measures required by the SLCP Regulations,

including regulation of commercial edible food generators, which will apply within the boundaries of any Member Agency that opts into the ordinance; and

WHEREAS, City has adopted its own ordinance which opts into the WMA Organics Reduction and Recycling Ordinance to meet the SLCP Regulations; and

WHEREAS, compliance with its responsibilities under the SB 1383 Regulations is the sole responsibility of City; however, a jurisdiction may designate a public or private entity to assist with fulfilling certain of its responsibilities under the SLCP Regulations; and

WHEREAS, designations by a jurisdiction must be made through agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments, or through contracts with haulers or other private entities; and

WHEREAS, SLCP Regulation 14 CCR 18991.1 requires jurisdictions to implement edible food recovery programs and 14 CCR 18991.3 requires commercial edible food generators to recover the maximum amount of food that would otherwise be disposed; and

WHEREAS, SLCP Regulation 14 CCR 18995.1(a)(2) requires jurisdictions to conduct inspections of commercial edible food generators for compliance with the food recovery regulations starting with Tier One facilities beginning on January 1, 2022 and for Tier Two facilities beginning on January 1, 2024; and

WHEREAS, SLCP Regulation 14 CCR 18984.10(c) requires that commercial businesses provide or arrange for access to their properties during all inspections conducted pursuant to the SLCP Regulations; and

WHEREAS, ACDEH currently permits and conducts routine inspections of certain commercial edible food generators which are Retail Food Facilities, and it would be efficient for ACDEH to also conduct the inspections for compliance with certain SLCP Regulations related to edible food recovery and provide services to assist in educating these facilities on edible food recovery; and

WHEREAS, WMA and ACDEH have entered an MOU discussing SB 1383 Edible Food Recovery, including tasks related to gathering and compiling information in areas of Alameda County related to the SLCP Regulations and may terminate or modify their agreement at any time, without consultation to City; however, WMA has agreed to provide notice of any termination to its Member Agencies; and

WHEREAS, for commercial edible food generators that are described as Tier One and Tier Two in the SLCP Regulations and have a current ACDEH issued Retail Food Facility permit, ACDEH is willing to provide services to City as set forth in this MOU; and

WHEREAS, the City desires to authorize ACDEH to conduct inspections on its behalf at certain permitted Retail Food Facilities related to edible food recovery requirements as set forth in this agreement.

NOW, THEREFORE, BE IT RESOLVED that the City and ACDEH agree:

A. DEFINITIONS

The following abbreviations and definitions shall apply to this MOU:

Alameda County means all of the geographical area located within the incorporated and unincorporated areas of Alameda County whereas “County of Alameda” or “County” refers to the public entity, a body corporate and politic of the State of California.

ACDEH means the Alameda County Department of Environmental Health.

City means the City of Newark.

City Boundaries means the area in which City is responsible for compliance with SB 1383 Regulations related to edible food (the geographical area in which the City is responsible for solid waste collection services). This does not include any portion of the City that is within the Oro Loma Sanitary District or Castro Valley Sanitary District.

Commercial Edible Food Generators (CEFG) has the same meaning as in the SLCP Regulations. If they have an ACDEH issued Retail Food Facility permit that is current at the time services are being provided pursuant to this MOU they are a **Permitted CEFG**.

Education Materials means the documents created and published by WMA related to the CalRecycle SLCP Regulations, the Federal Bill Emerson Good Samaritan Food Donation Act, California Good Samaritan Food Donation Act and other food donation resources. These include materials for general use as well as materials designed for CEFGs that are not in compliance with SLCP Regulations. In addition, City may create and distribute additional materials.

FRO&S means **Food Recovery Organizations** and **Food Recovery Services** as defined in the SLCP Regulation 14 CCR 18982.

Jurisdiction means the cities, county, and sanitary districts within the geographical boundaries of Alameda County that provide solid waste collection services. For areas that are in a sanitary district located within a city and/or the unincorporated County, the jurisdiction for purposes of this MOU is the sanitary district.

Member Agencies means the individual parties to the WMA JPA. Current member agencies are the County of Alameda; the Cities of Alameda, Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Newark, Oakland, Piedmont, Pleasanton, San Leandro, and Union City; and the Castro Valley and Oro Loma Sanitary Districts. Each of the foregoing is a **Member Agency**.

Member Agency Jurisdiction means, for purposes of this MOU, the geographical area for which the Member Agency is responsible for solid waste collection services.

Notice of Violation (NOV) means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties.

Permitted CEFG means a Commercial Edible Food Generator that has an ACDEH issued Retail Food Facility permit that is current at the time services are being provided pursuant to this MOU.

Retail Food Facility means a food facility as defined in the California Retail Food Code, located at Health and Safety Code (H&SC) §13700 et seq., which generally is an operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption at the retail level (see H&SC §113789).

Retail Food Facility MOU means the MOU that a Member Agency and ACDEH enter into in which (1) ACDEH agrees to perform certain services related to SB 1383 Edible Food Recovery Requirements at Permitted CEFG facilities within that Member Agency's Jurisdiction (the geographical area for which the Member Agency is responsible for solid waste collection services) and (2) the Member Agency designates and delegates authority to ACDEH to do so.

SB 1383 means Senate Bill 1383 Short-lived climate pollutants: methane emissions: dairy and livestock: organic waste: landfills (Lara, Chapter 395 Statutes of 2016).

SB 1383 Edible Food Recovery Inspection Report (SB 1383 EFR Inspection Report) means the form created by ACDEH, which may be amended from time to time in consultation with the WMA, that documents an inspection of a Permitted CEFG for compliance with the SLCP Regulations and may also be referred to as the SB 1383 EFR Report.

SLCP Regulations means the Short-lived Climate Pollutants: Organic Waste Reductions Regulations that were promulgated by CalRecycle pursuant to SB 1383, located in Title 14 of the California Code of Regulations, also referred to as the "SB 1383 Regulations" or "Organic Waste Reductions Regulations".

Waste Management Authority (WMA) means the Alameda County Waste Management Authority that is a joint powers agency comprised of all the cities in Alameda County, the County, and two sanitary districts, which are the Member Agencies.

B. INSPECTIONS AND EDUCATION OF PERMITTED COMMERCIAL EDIBLE FOOD GENERATORS

1. **ACDEH Responsibilities.** ACDEH shall perform SB 1383 Edible Food Recovery inspections and related services at Permitted CEFG facilities within City Boundaries as contained in the MOU. ACDEH services for Tier One Permitted CEFGs will begin on January 1, 2022 and for Tier Two Permitted CEFGs on January 1, 2024.

2. **SB 1383 Edible Food Recovery Inspection Report.** ACDEH has created a template SB 1383 Edible Food Recovery Inspection Report form (SB 1383 EFR Report), which will be used to document the inspection of a Permitted CEFG within the City Boundaries.
3. **Inspections, Education and Documentation.**
 - a. **Inspections.** During ACDEH routine inspections conducted at a Permitted CEFG in City, ACDEH shall also conduct an inspection for compliance with the SLCP Regulations. ACDEH staff will document their observations using the SB 1383 EFR Inspection Report form.
 - b. **Distribution of Education Materials and Technical Assistance.** During routine inspections of a Permitted CEFG, ACDEH will:
 - i. Starting in 2022, provide Education Materials to the Permitted CEFG.
 - ii. Starting in year 2023 and until December 31, 2023, provide Education Materials related to requirements with which, in the reasonable judgment of ACDEH staff, the Permitted CEFG does not appear to be in compliance. These may include (a) Education Materials prepared by the WMA and/or (b) providing the Permitted CEFG with a copy of the SB 1383 EFR Inspection Report as determined by ACDEH staff.
 - iii. During the routine inspections of Permitted CEFG, ACDEH staff will provide technical assistance to the Permitted CEFG related to the SLCP regulations, including standard food handling and operating procedures related to commercial edible food generators on safe food handling for food recovery and donations. ACDEH may also provide Educational Materials during any routine inspection.
 - c. **Documentation for Member Agency and WMA**
 - i. ACDEH staff will document the inspection on the SB 1383 EFR Inspection Report. The report will include the date and listing of Education Materials provided to the Permitted CEFG together with the name of the Permitted CEFG and identification of the food facility staff that accepted the Education Materials or a copy of the report.
 - ii. If there is any mass distribution of Education Materials through emailing, or other format such as general food permit correspondence, a notice will be provided to WMA and City. The notice will include a listing, or copy, of what was provided, the date it was provided, the manner it was distributed, and the list of recipients provided with the Education Materials. The copy of the materials may be provided by including WMA and a Member Agency on the distribution list.
 - iii. The SB 1383 EFR Inspection Reports from each Permitted CEFG will be provided to WMA and City by email in an electronic format. The Inspection Reports will be sent in batches and provided no less frequently than once a month

- iv. Efforts will be made by ACDEH to create a summary report that can be utilized in Microsoft Excel (e.g., an Excel file or file that can be imported into Excel) or alternate format(s) agreeable to ACDEH and the City.

C. Wholesale Food Facilities and Food Recovery Organizations and Services

Wholesale food facilities, food recovery organizations, and food recovery services are not permitted by ACDEH and ACDEH is not responsible for performing any SLCP Regulation related services or activities to or for wholesale facilities, food recovery organizations, and food recovery services. For any wholesale facilities, food recovery organizations, and food recovery within the City Boundaries that are also a Permitted CEFG, and for which ACDEH conducts any inspection, City will be notified and provided a copy of the SB 1383 EFR Inspection Report.

D. Complaints

1. **Investigation.** ACDEH will investigate any complaints received regarding non-compliance with SLCP Regulations by a Permitted CEFG in City Boundaries. The determination from the investigation and any follow up by ACDEH, such as providing Education Materials or technical assistance will be documented on a SB 1383 EFR Inspection Report form or another format that records information related to the complaint and provided to the City and WMA.
2. **Referral.** If ACDEH receives a complaint related to a facility not covered in paragraph 1 of this section, but located in City boundaries, ACDEH will refer the individual making the complaint to WMA and City and/or forward the complaint to the City and WMA.
3. **Assistance.** If requested, ACDEH staff will accompany City and/or WMA staff to investigate complaints at Permitted CEFG facilities within City Boundaries.

E. Enforcement Assistance to Member Agency

1. **Record Keeping.** ACDEH will document observations and forward the SB 1383 EFR Inspection Reports to City for recordkeeping pursuant to 14 CCR 18991.2, enforcement pursuant to 14 CCR 18995.4, and assessing penalties pursuant to 14 CCR 18997.2.
2. **Responsibility.** In accordance with 14 CCR Section 18981.2(c), City shall remain ultimately responsible for compliance with its responsibilities in the SLCP Regulations within City Boundaries.
3. **Timing.** 14 CCR 18995.4 requires that City take enforcement action on violations of SLCP Regulations beginning January 1, 2024. ACDEH is not and shall not be responsible for any enforcement actions required of City except as specifically set forth in this Retail Food Facility MOU.
4. **Notices of Violation.** Starting in January 2024, ACDEH will issue Notices of Violations to a Permitted CEFG, pursuant to Section 18995.4 (a)(1).

- a. ACDEH shall conduct follow up with the Permitted CEFG to verify compliance required by the Notice of Violation. The follow up may be conducted in person or virtually, through submission of pictures, documentation or other materials or methods.
 - b. ACDEH shall document compliance with the NOV or report that there has been failure to comply and provide relevant documentation to the City and WMA but is not responsible for any further enforcement actions.
 - c.
- 5. **Testimony.** If requested, ACDEH staff will be available for testimony in any enforcement action brought by WMA or City and any appeal proceedings.
 - a. City will provide as much advance notice as possible for any hearing date.
 - b. City will conduct at least one preparation meeting with any ACDEH staff that is needed to testify which, by mutual agreement, may be done in person, virtually or by telephone.
- 6. **Responsibility.** Other than the assistance identified in this MOU, City has full responsibility for its responsibilities in the SLCP Regulations, including but not limited to issuing any Notices of Violation, conducting compliance follow up, enforcement actions, due process, hearings, assessments, and collection of penalties, and/or other remedies.

F. Educational Materials and Webpage

Compliance with its responsibilities in the SB 1383 Regulations is the sole responsibility of City.

- 1. **Creation.** Creating and printing of Education Materials is the responsibility of the City. City will provide, or arrange for the provision of, printed copies of the Education Materials to ACDEH for distribution in accordance with this MOU.
- 2. **Webpage.** ACDEH will create and maintain a webpage with general information about SLCP Regulations, Edible Food Recovery, and a list of Food Recovery Organizations and Services (FRO&S) operating in Alameda County. City may request that ACDEH provide information specifically related to City (such as contact information), however, nothing in this agreement obligates ACDEH to include information on the webpage at the request of or specific to City.

G. Training

ACDEH shall provide training to its ACDEH inspectors who conduct Retail Food Facility inspections on the requirements of the SLCP Regulations, completing the SB 1383 EFR Inspection Report, handling complaints and issuing Notices of Violation.

H. Costs

1. Starting with compliance inspections in 2022, ACDEH will track its time and costs spent on SB 1383 inspections and follow-up activities over the first year and then coordinate with WMA and Member Agencies to consider appropriate reimbursement moving forward after 2022, or as ACDEH or the City determines is needed. ACDEH will track the time that is spent on services and activities provided under this MOU and related activities. No reimbursement of time and costs will be required for services in 2022; however, City will be responsible for costs of services provided under this MOU and will coordinate with ACDEH for appropriate reimbursement from the Member Agencies beginning in 2023. City agrees to cooperate with this coordination and understands that as the entity responsible for compliance with SB 1383 Regulations in City Boundaries it is responsible for costs beginning in 2023. For purposes of clarification, City is responsible only for costs of services provided related to Permitted CEFGs that are within City Boundaries. City will be provided notice prior to any request for direct reimbursement.
2. Beginning on January 1, 2023, ACDEH will charge an average flat rate for each SB 1383 inspection of a Permitted CEFG (SB 1383 Inspection Cost). The flat rate will be based on the average time spent on SB 1383 inspection and technical assistance while at each Permitted CEFG, and the related administrative work such as uploading inspections results and providing report copies to Member Agencies and WMA during 2022. It is estimated that the average time will be one to two hours for a cost of \$174.00- \$348.00 per facility inspection. ACDEH will provide notice to Member Agencies and WMA on or prior to November 1, 2022 of the SB 1383 Inspection Cost and City will have until December 31, 2022 to provide notice if it wishes to terminate this MOU effective January 1, 2023. As NOV's and enforcement are not required until 2024, the costs related to such work will be provided by ACDEH on or prior to November 1, 2023. Services related to issuing NOVs and providing testimony will be provided at the same hourly cost on which the inspection cost is based.

I. General Provisions

1. **Term.** This MOU is effective beginning on the date that both parties have executed the agreement (the Effective Date) and shall terminate on March 1, 2024, unless extended in writing or terminated early.
2. **Termination.** Except as provided in Section H.2., City may terminate this MOU with forty-five (45) days written notice to ACDEH. ACDEH may terminate this MOU with forty-five (45) days written notice to City.
3. **Conflict.** In the event of any conflicts between this Retail Food Facility MOU with the MOU between WMA and ACDEH, this Retail Food Facility MOU shall control for services provided to City.
4. **Compliance Responsibility.** In accordance with 14 CCR Section 18981.2(c), each City shall remain ultimately responsible for compliance with its responsibilities in the SLCP Regulations within City Boundaries.

5. **Notice.** All notices, requests, demands, or other communications under this MOU shall be in writing and provided by one of the following manners: (1) Personal delivery which shall be effective on delivery; (2) First Class Mail which shall be effective five calendar days after deposit in a United States Postal Service office or mailbox; (3) Certified Mail, return receipt requested, which shall be effective on receipt, if delivery is confirmed by a return receipt; or (4) Overnight Delivery, with charges prepaid or charged to the sender's account, which shall be effective on delivery, if delivery is confirmed by the delivery service. Addresses for purpose of giving notice are as follows:

To ACDEH: Alameda County Department of Environmental Health
1131 Harbor Bay Parkway
Alameda, CA 94502
Attn: Director of Dept. of Environmental Health

To City: City of Newark
37101 Newark Boulevard
Newark, CA 94560
Attn: Environmental Services Manager

Any party may change its address by giving the other party notice of the change in any manner permitted by this MOU. Any notice by email is considered a courtesy notice but shall not be effective until provided by US mail, personal service, or overnight delivery.

6. **Entire Agreement.** This MOU, including the recitals, all attachments, exhibits, and any other documents specifically incorporated into this MOU, shall constitute the entire agreement between ACDEH and City relating to the subject matter of this MOU. This MOU supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The MOU may not be modified except by a written document signed by both parties. No supplement, amendment, or modification of this MOU shall be binding unless it is in writing and signed by authorized representatives of both parties.
7. **Heading.** Headings herein are for convenience of reference only and shall in no way affect interpretation of the MOU.
8. **Severability.** If a court of competent jurisdiction holds any provision of this MOU to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this MOU would be defeated by the loss of the illegal, unenforceable, or invalid provision.

9. This MOU shall be governed and interpreted using the laws of the State of California. The venue of any suit filed by any party to this MOU shall be vested in the state courts of the County of Alameda. The pursuit by any party of any specific remedy shall not exclude any other remedy available to the party.

IN WITNESS WHEREOF, the parties have executed this MOU on the dates appearing below their respective signatures.

CITY OF NEWARK

By: _____ Date: _____

Name: _____

Title: _____

Approved as to Form:

By: _____
Jennifer Faught, Special Counsel

ALAMEDA COUNTY DEPARTMENT OF ENVIRONMENTAL HEALTH

By: _____ Date: _____

Name: _____

Title: _____

Approved as to Form:
Donna R Ziegler, County Counsel

By: _____
Kathleen Pacheco, Senior Deputy County Counsel



STAFF REPORT

Item D. 6.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Kristopher Kokotaylo, City Attorney
SUBJECT Adopt a Resolution Finding That There is a Proclaimed State of Emergency; Finding That Meeting in Person Would Present Imminent Risks to the Health or Safety of Attendees as a Result of the State of Emergency; and Authorizing Continued Remote Teleconferenced Meetings of the Legislative Bodies of the City of Newark for the 30 Day Period Beginning May 12 Pursuant to AB 361

RECOMMENDATION

Staff recommends that the City Council adopt a resolution to continue conducting City Council and all other City Council appointed Board and Commission meetings remotely due to health and safety concerns for the public and making related findings in compliance with AB 361 (2021).

EXECUTIVE SUMMARY

Since near the start of the COVID-19 pandemic the City has been able to conduct meetings of its legislative bodies remotely pursuant to Executive Order N-29-20, which suspended certain provisions of the Brown Act allowing the City to conduct its meetings virtually. On June 11, 2021, Governor Newsom issued an Executive Order that ends the clauses of Executive Order N-29-20 which suspended those provisions of the Brown Act on September 30, 2021. Governor Newsom signed AB 361 into law on September 16, 2021. AB 361 allows the City to continue conducting virtual meetings where the Governor has proclaimed a State of Emergency and state or local officials have imposed or recommended social distancing or where the City Council has declared the need to meet remotely due to imminent risks to the health or safety of attendees.

On September 23, 2021, the City Council made the necessary findings pursuant to AB 361 to continue to conduct virtual meetings. AB 361 requires that the City Council revisit the need to continue conducting virtual meetings every 30 days. The City Council last made the necessary findings on April 14, 2022.

Staff and the City Attorney recommend that the City Council adopt a resolution making the necessary findings pursuant to AB 361 to continue conducting virtual meetings. Absent further action of the City Council, the City's legislative bodies would need to continue in-person meetings 30 days after April 14, 2022.

BACKGROUND

On March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State address the broader spread of COVID-19.

On March 17, 2020, the City Council adopted a Resolution ratifying the proclamation of a local state of emergency by the Director of Emergency Services due to COVID-19.

On March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20, which suspended certain provisions of the Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means. Additionally, the State implemented a shelter-in-place order, requiring all non-essential personnel to work from home.

The City has established virtual meetings for all City Council and City Council appointed Board and Commission meetings. The virtual meetings have allowed the Council and advisory bodies to continue to conduct City business from remote locations while ensuring the public's continued access to government meetings in a safe manner.

On June 11, 2021, Governor Newsom issued Executive Order N-08-21, which among other things, rescinded certain clauses of Executive Order N-29-20 after September 30, 2021, including clauses that suspended certain provisions of the Brown Act. Thus, effective October 1, 2021, agencies would have had to transition back to public meetings held in full compliance with the Brown Act.

Since the Governor issued Executive Order N-08-21, the highly contagious Delta variant has emerged, causing a spike in cases throughout the state and within the Alameda County. Additionally, since then, the highly contagious Omicron variant and sub-variants BA.2 and BA.2.12.1 have emerged, resulting in the greatest nationwide COVID-19 infection rate since the beginning of the COVID-19 pandemic. Currently, state and local officials strongly recommend wearing masks indoors. State officials further recommend the use of masks when social distancing is not possible.

On September 16, 2021, the Governor signed AB 361 (2021) which allows for local legislative and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the Council make specified findings. AB 361 took effect immediately.

The City Council adopted a resolution pursuant to AB 361 on September 23, 2021 in order to allow the City's legislative bodies to continue conducting virtual meetings after September 30, 2021. The resolution included all of the necessary findings required pursuant to AB 361. The City Council has adopted continued resolutions since that time.

DISCUSSION/ANALYSIS

The California Legislature approved AB 361 and the Governor signed the bill into law on September 16, 2021. AB 361 allows local legislative bodies to continue to meet remotely after the expiration of the clauses of Executive Order N-29-20 which suspended certain Brown Act provisions. Under AB 361, the City and its legislative bodies will be allowed to continue to meet remotely when:

- The local agency holds a meeting during a declared state of emergency;
- State or local health officials have imposed or recommended measures to promote social distancing;
- Legislative bodies declare the need to meet remotely due to present imminent risks to the health or safety of attendees.

The City meets the requirements to continue holding meetings remotely in order to ensure the health and safety of the public:

- The Governor has declared a State of Emergency, and the City Council has ratified the proclamation of a local emergency by the Director of Emergency Services;
- The CDC recommends social distancing of at least six feet due to COVID-19, and CalOSHA recommends social distancing under certain circumstances and maintaining six feet of distance can avoid close contacts requiring quarantine;
- The Delta and Omicron variants of COVID-19 have resulted in a significant increase of COVID-19 cases within the state and throughout Alameda County;
- Meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies, and staff.

Pursuant to AB 361, the City Council is required to declare every 30 days that the City's legislative bodies must continue to meet remotely in order to ensure the health and safety of the public.

The proposed resolution includes the necessary findings pursuant to AB 361 to allow the City Council and the City's legislative bodies to continue meeting remotely.

FISCAL IMPACT

There is no direct fiscal impact of adopting this Resolution.

REVIEW AND APPROVAL

Prepared by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

AB 361 Resolution May

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK FINDING THAT THERE IS A PROCLAIMED STATE OF EMERGENCY; FINDING THAT MEETING IN PERSON WOULD PRESENT IMMINENT RISKS TO THE HEALTH OR SAFETY OF ATTENDEES AS A RESULT OF THE STATE OF EMERGENCY; AND AUTHORIZING CONTINUED REMOTE TELECONFERENCED MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF NEWARK FOR THE 30 DAY PERIOD BEGINNING MAY 12 PURSUANT TO AB 361

WHEREAS, all meetings of the City of Newark’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the City’s legislative bodies conduct their business; and

WHEREAS, on March 4, 2020, Governor Newsom declared a State of Emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the State prepare for a broader spread of the novel coronavirus disease 2019 (“COVID-19”); and

WHEREAS, on March 17, 2020, the City Council adopted a Resolution ratifying the proclamation of a local emergency by the Director of Emergency Services due to COVID-19; and

WHEREAS, on March 17, 2020, in response to the COVID-19 pandemic, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, as a result of Executive Order N-29-20, staff set up virtual meetings for all City Council meetings and meetings of all legislative bodies within the City; and

WHEREAS, on June 11, 2021, Governor Newsom issued Executive Order N-08-21, which, effective September 30, 2021, ends the provisions of Executive Order N-29-20 that allows local legislative bodies to conduct meetings telephonically or by other means; and

WHEREAS, on September 16, 2021, Governor Newsom signed AB 361 (2021) which allows for local legislative bodies and advisory bodies to continue to conduct meetings via teleconferencing under specified conditions and includes a requirement that the City Council make specified findings. AB 361 (2021) took effect immediately; and

WHEREAS, AB 361 (2021) requires that the Governor declare a State of Emergency pursuant to Government Code section 8625; and

WHEREAS, AB 361 (2021) further requires that state or local officials have imposed or recommended measures to promote social distancing, or, requires that the legislative body

determines that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the City, specifically, Governor Newsom has declared a State of Emergency due to COVID-19; and

WHEREAS, since issuing Executive Order N-08-21, the highly contagious Delta and Omicron variants, in addition to Omicron sub-variants, of COVID-19 have emerged, causing an increase in COVID-19 cases throughout the State and Alameda County; and

WHEREAS, on August 3, 2021, in response to the Delta variant of COVID-19, the Alameda County Health Officer issued an order for nearly all individuals to wear masks when inside public spaces; and

WHEREAS, following the Alameda County Health Order the Omicron variant emerged and was designated as a variant of concern by the United States; and

WHEREAS, the emergence of the highly contagious Omicron variant has resulted in the greatest nationwide COVID-19 infection rate since the beginning of the COVID-19 pandemic; and

WHEREAS, the Centers for Disease Control and Prevention (“CDC”) continues to recommend physical distancing of at least 6 feet from others outside of the household and CalOSHA recommends social distancing under certain circumstances and maintaining six feet of distance can avoid close contacts requiring quarantine. State and local officials currently strongly recommend wearing masks indoors and state officials further recommend the use of masks when social distancing is not possible; and

WHEREAS, because of the rise in cases due to the Delta and Omicron variant of COVID-19, and now the Omicron sub-variant, the City is concerned about the health and safety of all individuals who intend to attend City Council and meetings of the City’s other legislative bodies; and

WHEREAS, on September 23, 2021, the City Council found that the presence of COVID-19 and the increase of cases due to the Delta variant would present imminent risks to the health or safety of attendees, including the legislative bodies and staff, should the City’s legislative bodies hold in person meetings; and

WHEREAS, the City Council has subsequently found that the presence of COVID-19 and the number of cases due to the Delta and Omicron variants would present imminent risks to the health or safety of attendees, including the legislative bodies and staff, should the City’s legislative bodies hold in person meetings; and

WHEREAS, the City Council finds that the imminent risks of the City’s legislative bodies holding in person meetings to the health or safety of attendees continues to exist due to the Delta and Omicron variants of COVID-19; and

WHEREAS, the City shall ensure that it’s meetings comply with the provisions required by AB 361 (2021) for holding teleconferenced meetings.

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

1. The above recitals are true and correct, and incorporated into this Resolution.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Brown Act, the City Council makes the following continued findings:
 - a) The City Council has reconsidered the circumstances of the state of emergency; and
 - b) The state of emergency, as declared by the Governor and City Council, continues to directly impact the ability of the City Council and the City's legislative bodies, as well as staff and members of the public, from meeting safely in person; and
 - c) The CDC continues to recommend physical distancing of at least six feet due to COVID-19, state and local officials continue to recommend wearing masks and physical distancing under certain circumstances, and as a result of the presence of COVID-19 and the increase of cases due to the Delta and Omicron variants, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies and staff.
3. City Council and City's legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public.
4. The City Council will revisit the need to conduct meetings remotely within 30 days of the adoption of this resolution.



STAFF REPORT

Item D. 7.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Kristopher Kokotaylo, City Attorney
SUBJECT Adopt a Resolution confirming the continued existence of a local emergency due to the COVID-19 Pandemic

RECOMMENDATION

Staff recommends that the City Council, by resolution, confirm the continued existence of a local emergency due to the COVID-19 Pandemic.

EXECUTIVE SUMMARY

The City Council ratified a proclamation of local emergency on March 17, 2020, as a result of the COVID-19 Pandemic. The local emergency was confirmed by the Council in accordance with State law on the following dates: May 14, 2020, July 9, 2020, September 2, 2020, October 22, 2020, December 10, 2020, January 28, 2021, March 25, 2021, May 13, 2021, June 24, 2021, July 22, 2021, September 9, 2021, October 28, 2021, December 9, 2021, January 27, 2022, and March 24, 2022.

City staff recommends that the City Council confirm the continued existence of the local emergency in order to mobilize resources, seek reimbursement of related expenditures, and provide immunity to governmental officials for certain acts. Extending the local emergency would also continue many of the City's temporary policies that were adopted in response to the pandemic, including the eviction moratorium, changes to the zoning code to allow outdoor business activities, and the 15% cap on fees charged by food delivery providers to our local restaurants.

BACKGROUND

On March 16, 2020, the City Manager, acting as Director of Emergency Services, proclaimed a local emergency pursuant to California Government Code Section 8630 and Newark Municipal Code Chapter 2.16. The emergency declaration was based on conditions of extreme peril to the safety of persons and property within the City as a consequence of the global spread of the novel coronavirus 2019 ("COVID-19"), including confirmed cases in Alameda County. On March 17, 2020, the City Council adopted a resolution ratifying the Proclamation of Local Emergency issued by the Director of Emergency Services.

Pursuant to State law (see Government Code Section 8630), any City Council that declares a local emergency must confirm the existence of the local emergency every

sixty (60) days until the local emergency ceases. Accordingly, the City Council adopted resolutions confirming the continued existence of the local emergency due to the COVID-19 Pandemic on the following dates: May 14, 2020, July 9, 2020, September 2, 2020, October 22, 2020, December 10, 2020, January 28, 2021, March 25, 2021, May 13, 2021, June 24, 2021, July 22, 2021, September 9, 2021, October 28, 2021, December 9, 2021, January 27, 2022, and March 24, 2022.

Various governmental agencies have declared an emergency as a result of the pandemic, including the President of the United States and the Governor of the State of California. Many cities in California have likewise declared a local emergency and have continued to confirm the existence of the local emergency within the statutorily required 60 day time period.

DISCUSSION/ANALYSIS

The conditions that prompted the original declaration of a local emergency continue to exist and health officials are still learning more information regarding the nature of COVID-19 and how it is transmitted. Community transmission of COVID-19 continues to occur, and the number of total cases within Alameda County continues to rise. Most recently, the “Omicron” variant, which is more easily transmitted, has led to an increase in COVID-19 cases within Alameda County. The public health and safety concerns for persons and property within the City as a consequence of the global spread of COVID-19 continue to exist.

At the time of this writing (May 1, 2022) there have been 265,202 confirmed cases within the County, with 8,182 of those cases being Newark residents. To date, there have been 1,889 deaths in our County that have been caused by COVID-19.

Declaring a state of emergency provides local governments with the power necessary to coordinate and implement plans aimed at protecting the community and property during a disaster. For example, a declaration of emergency is often necessary to secure mutual disaster aid from local, state, and federal agencies. This will also permit the Director of Emergency Services to promulgate orders and regulations necessary for the protection of life and property and ensures that the City and its officials and employees are immune from liability when exercising their official duties during this emergency.

Further, many of the City’s temporary policies that were adopted in response to the pandemic in order to support the local economy are tied to the expiration of the local emergency. This includes the eviction moratorium, the temporary zoning code changes to allow certain business to operate outdoors, and the 15% cap of fees charged by third party food delivery service providers to our local restaurants. If the local emergency is not extended, then these policies would automatically be rescinded.

If adopted, the declaration of emergency will remain in place until the emergency conditions have ended. However, the City Council will be required to continue to review the declaration at least every 60 days as indicated above.

FISCAL IMPACT

There is no direct fiscal impact associated with adopting the accompanying resolution that extends the local emergency. However, the City will consider all options available to seek reimbursement for expenses through appropriate authorities.

REVIEW AND APPROVAL

Prepared by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

Continued Emergency Resolution

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK CONFIRMING THE CONTINUED EXISTENCE OF
A LOCAL EMERGENCY DUE TO COVID-19

WHEREAS, Government Code Section 8630 and Newark Municipal Code Section 2.16.060 authorize the Director of Emergency Services to proclaim a local emergency when conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city exist if the City Council is not in session and provides that the City Council shall ratify the proclamation within seven days thereafter; and

WHEREAS, in accordance with Government Code Section 8630 and Newark Municipal Code Section 2.16.060, the Director of Emergency Services proclaimed the existence of a local emergency caused by the Novel Coronavirus (COVID-19), a respiratory disease first identified in China that may result in serious illness or death that is easily transmissible from person to person, on March 16, 2020; and

WHEREAS, on March 17, 2020, the City Council ratified and confirmed the proclamation of the existence of a local emergency issued by the Director of Emergency Services; and

WHEREAS, on May 14, 2020, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on July 9, 2020, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on September 2, 2020, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on October 22, 2020, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on December 10, 2020, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on January 28, 2021, the City Council adopted a resolution confirming the continued existence of the local emergency; and

WHEREAS, on March 25, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on May 13, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on June 24, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on July 22, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on September 9, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on October 28, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on December 9, 2021, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on January 27, 2022, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, on March 24, 2022, the City Council adopted a Resolution confirming the continued existence of the local emergency; and

WHEREAS, pursuant to Government Code Section 8630 the City Council must periodically review the need for continuing the local emergency; and

WHEREAS, pursuant to Government Code Section 8630, the City Council must review the need for continuing the local emergency at least every sixty (60) days; and

WHEREAS, the conditions that prompted the original declaration of a local emergency continue to exist; and

WHEREAS, the recitals contained in Resolution No. 11031 adopted by the City Council on March 17, 2020, the recitals contained in Resolution No. 11048 adopted by the City Council on May 14, 2020, the recitals contained in Resolution No. 11100 adopted by the City Council on July 9, 2020, the recitals contained in Resolution 1111 adopted by the City Council on September 2, 2020, the recitals contained in Resolution No. 11127 adopted by the City Council on October 22, 2020, the recitals contained in Resolution No. 11145 adopted by the City Council on December 10, 2020, the recitals contained in Resolution No. 11166 adopted by the City Council on January 28, 2021, the recitals contained in Resolution No. 11177 adopted by the City Council on March 25, 2021, the recitals contained in Resolution No. 11197 adopted by the City Council on May 13, 2021, the recitals contained in Resolution No. 11219 adopted by the City Council on June 24, 2021, the recitals contained in Resolution No. 11244 adopted by the City Council on July 22, 2021, the recitals contained in Resolution No. 11252 adopted by the City Council on September 9, 2021, the recitals contained in Resolution No. 11265 adopted by the City Council on October 28, 2021,

the recitals contained in Resolution No. 11281 adopted by the City Council on December 9, 2021, the recitals contained in Resolution No. 11305 adopted by the City Council on January 27, 2022, and the recitals contained in Resolution No. 11325 adopted by the City Council on March 24, 2022 are incorporated into this Resolution as if stated herein; and

WHEREAS, while there has been progress in mitigating the spread of COVID-19, community transmission of COVID-19 has continued to occur and health officials are still learning more information regarding the nature of COVID-19 and how it is transmitted. New variants of COVID-19 that are more easily transmissible, including the “Delta” and “Omicron” variants, have become more prevalent and present new risks; and

WHEREAS, as of December 20, 2021, the Omicron variant has been detected in most states and is rapidly increasing the proportion of COVID-19 cases it causes; and

WHEREAS, the number of cases within Alameda County has continued to rise, and there are now 265,202 confirmed cases of COVID-19 within the County, and 1,889 deaths as of May 1, 2022; and

WHEREAS, the public health and safety concerns for persons and property within the City as a consequence of the global spread of COVID-19 continue to exist; and

WHEREAS, the health, safety, and welfare of Newark residents, businesses, visitors, and staff is of utmost importance to the City and additional future measures may be needed to protect the community; and

WHEREAS, the City may require additional assistance in the future, and a formal declaration of emergency allows the City to access resources in a timely manner in a timely fashion; and

WHEREAS, the City Council finds that conditions of extreme peril to the safety of persons and property within the territorial limits of the City related to COVID-19 pandemic continue in existence; and

WHEREAS, the City Council finds that extraordinary measures are required to protect the public health, safety, and of persons and property within the City that are or are likely to be beyond the control or capability of the services, personnel, equipment, and facilities of the City; and

WHEREAS, the City Council desires to confirm the continued existence of a local emergency within the City of Newark due to COVID-19.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Newark hereby declares as follows:

1. The local emergency declared by Resolution No. 11031 due to the COVID-19 pandemic continues to exist within the City of Newark.

2. During the existence of the declared local emergency, the powers, functions, and duties of the City Manager, acting as Director of Emergency Services, and the emergency organization of this City shall be those prescribed by State law and by ordinances and resolutions of the City of Newark.
3. The declaration of local emergency shall remain in effect until such time that the City Council determines that the emergency conditions have been abated.
4. City staff is directed to place an item on the agenda for review at least every sixty (60) days from the effective date of this Resolution to determine the need for continuing the local emergency pursuant to Government Code Section 8630.



STAFF REPORT

Item D. 8.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Matthew Farrell, Chief Building Official
SUBJECT Authorization for the City Manager to execute a purchase order and enter into an agreement with CentralSquare Technologies, Inc. for an update to the City's permit tracking software system and appropriation of \$200,000 from American Rescue Plan Act (ARPA) funds to Capital Improvement Plan (CIP) Project 001296 - Permit Tracking System Software Upgrades

RECOMMENDATION

Staff recommends that the City Council, by resolution, authorize the City Manager to execute a purchase order and enter into an agreement with CentralSquare Technologies, Inc. for an update to the City's permit tracking software system, and appropriate \$200,000 from American Rescue Plan Act (ARPA) funds to Capital Improvement Plan (CIP) Project 001296 - Permit Tracking System Software Upgrades.

EXECUTIVE SUMMARY

The City of Newark ARPA Recovery Plan designates \$250,000 towards Community Development / Public Outreach software, with the intent being that many of the City's development services functions should be easily accessible to the public virtually as a result of the pandemic. Staff has identified an upgrade to the City's existing permit tracking software system (called "TRAKiT"), which will make development activity operations for Building Inspection, Engineering, Planning, and Fire Prevention and for ongoing Community Preservation activities more accessible to the public.

In addition, there is a need for an immediate upgrade or replacement of the TRAKiT system, as the current system will be obsolete due to the discontinuation of Microsoft Internet Explorer. Staff has evaluated various options and is recommending that an upgrade be completed to the latest version of TRAKiT, renamed "Community Development", provided by CentralSquare Technologies, Inc. Community Development would provide a vastly improved permit tracking system for the City with an updated user interface, cloud-based storage, and improved online accessibility to the public for all phases of development, all construction permitting, and community preservation activities. The cost for this software upgrade is \$200,000, including contingency, and American Rescue Plan Act funds are available for the purchase.

BACKGROUND

The City of Newark entered into a Contractual Software and Services Agreement and Software Maintenance and Support Agreement with CRW Systems, Inc. (now CentralSquare Technologies, Inc.) in 2014 to develop a comprehensive permit tracking software system, TRAKiT. This software system has been in place and active since initial development in 2014-2015 and is an essential component for ongoing daily operations to aid in all phases of development services in Building Inspection, Engineering, Planning and Fire Prevention as well as Community Preservation activities. City staff has identified a critical need to upgrade the current version of TRAKiT due to the pending discontinuation of Microsoft Internet Explorer as a viable web browser. Staff has coordinated with CentralSquare Technologies, Inc. ("CentralSquare") to evaluate the best alternatives for the software upgrade.

In addition, the City of Newark ARPA Recovery Plan recognizes the need to promote virtual access for our residents, business owners, and developers in order to enhance customer service. The Plan calls for \$250,000 to be used towards these programs. Staff is currently evaluating the use of these funds and, at this time, recommends that \$200,000 of the \$250,000 be applied towards TRAKiT. Staff is also considering the use of other online platforms, such as "TextMyGov", to enhance virtual access to our local government.

DISCUSSION/ANALYSIS

The CentralSquare TRAKiT software system now runs under the title "Community Development." This is a more robust version of TRAKiT that enables jurisdictions to have a configurable permit tracking system that helps automate all phases of development activity and community preservation. Community Development offers a substantially improved user interface, elimination of many manual processes with improved automation on a single screen, improved mobile access to the system, more options for customization to meet specific work unit needs, and vastly improved access to relevant information for the City's customers through online access. City staff members have tested the latest version of Community Development and found it to be very user-friendly and a substantial improvement from the current version of TRAKiT. In order to maintain continuity with the investment in the current system and all accumulated data to date, staff from all departments that use TRAKiT recommend implementation of the Community Development upgrade from the City's current version of TRAKiT versus seeking an alternative permit tracking software system.

One distinct advantage of the upgrade to Community Development is that the system can be cloud-based. The cloud-based version offers the following benefits:

- In terms of the City's Strategic Goals and Strategies for improved public access and streamlining efficiencies for permitting, the cloud-based version of Community Development provides a vastly improved system to significantly improve customer service
- The cloud-based version will provide a substantially improved and more efficient user-friendly interface for both staff and the public to review projects at any stage in the development cycle
- Online access can be provided to all customers for real-time access to the current status of a given permit, plan review, development application, code enforcement

case, etc.

- Improved online payment options will be added to streamline permit application processes and improve the overall customer service experience for users
- Connection to the system can be done from any location with internet access thus allowing field personnel from all work groups to have access from any device
- The cloud-based version will ensure that the most current version of the software is maintained, thus saving substantial staff time in scheduling upgrades and coordinating the upgrade process with the software vendor
- The necessary immediate upgrade of the permit tracking system is a must faster process for a cloud-based system compared to an on-premises version of the system. Staff is concerned that the time necessary for an on-premises update will cause service interruptions or complete loss of access to TRAKiT due to missing the deadline for changing our web browser.

The quoted cost for the updated Community Development permit tracking system from CentralSquare is \$158,300. This includes all software and technical support costs to complete the software upgrade and integrate the permit tracking system with several other related software systems, including Laserfische, Bluebeam and the City's Enterprise Resource Planning system. Licensing for up to 30 concurrent users will be provided. Some additional programming scripts and upgrades for integration with other existing City systems, including the City's Business License Database, are still to be determined. A budget contingency for those items is recommended in the amount of \$41,700 to provide a total project budget of \$200,000.

Staff recommends designating CentralSquare as a single source vendor for the permit tracking system software upgrades in order to ensure a seamless continuation of this critical system that was previously procured from the same vendor. A Sole/Single Source justification form is attached.

FISCAL IMPACT

Capital Improvement Plan Project 001296 has been created for the Permit Tracking System Software Upgrades. A budget amendment is required to appropriate \$200,000 from American Rescue Plan Act (ARPA) funds, Fund 382, to this project (610.90.094.940.6220.CIP001296). These ARPA funds were previously designated for information technology software and licensing purchases that improve access and service capabilities to the community.

REVIEW AND APPROVAL

Prepared by – Matthew Farrell, Chief Building Official

Reviewed by – Soren Fajeau, Public Works Director

Reviewed by - Lenka Hovorka, Assistant City Manager

Reviewed by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

Resolution

Product Quote
SingleSourceJustification

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF NEWARK AUTHORIZING THE CITY MANAGER
OR DESIGNEE TO EXECUTE A PURCHASE ORDER
AND ENTER INTO AN AGREEMENT WITH CENTRAL
SQUARE TECHNOLOGIES, INC. FOR AN UPDATE TO
THE CITY OF NEWARK PERMIT TRACKING
SOFTWARE SYSTEM AND APPROPRIATION OF
\$200,000 FROM AMERICAN RESCUE PLAN ACT
FUNDS TO CAPITAL IMPROVEMENT PLAN PROJECT
001296

WHEREAS, the City of Newark entered into a Contractual Software and Services Agreement and Software Maintenance and Support Agreement in 2014 with CRW Systems, Inc., now CentralSquare Technologies, Inc., for the procurement, development and implementation of TRAKiT, a permit tracking software system that has been utilized regularly by multiple departments for all phases of development activity, construction permits, and community preservation activities; and

WHEREAS, Capital Improvement Plan (CIP) Project 001296 – Permit Tracking Software System Upgrades, was created to upgrade the City’s permit tracking software system due to limitations of the existing version of the system; and

WHEREAS, it is desirable to maintain continuity of the accumulated data and all functions and processes in the existing permit tracking software system by utilizing CentralSquare Technologies, Inc as a single source vendor for the latest version of TRAKiT, now titled “Community Development,” which will provide the City with a significantly improved user interface, increased efficiency with processes, cloud-based storage of the system and all data, and full public online access for customers for all phases of development, permitting and community preservation activities; and

WHEREAS, the need for this continuity of the permit tracking software system and determination of CentralSquare Technologies, Inc. as a single source vendor is consistent with the City’s Purchasing Rules and Regulations; and

WHEREAS, City staff obtained a quote from CentralSquare Technologies, Inc. in the amount of \$158,300 for the upgrade to the latest version of the permit tracking software system, including full integration with most related software systems; and

WHEREAS, contingency in the amount of \$41,700 for Project 001296 is recommended for additional integration with other systems, including the City’s Business License Database, and any other unanticipated increased costs for a total project budget of \$200,000; and

WHEREAS, American Rescue Plan Act funds previously designated for information technology software and licensing purchases to improve access and service capabilities to the community are available for the necessary permit tracking system software upgrade.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark authorizes the City Manager, or designee, to execute a purchase order and any necessary agreements, each in a form approved by the City Attorney, with CentralSquare Technologies, Inc. for an update to the City's permit tracking software system; and

BE IT FURTHER RESOLVED that the City Council of the City of Newark hereby approves the appropriation of \$200,000 from American Rescue Plan Act funds from Fund 382 to Capital Improvement Plan Project 001296 in the 2020-2022 Biennial Budget and Capital Improvement Plan for fiscal year 2021-2022 as follows:

From:

<u>Description</u>	<u>Account</u>	<u>Amount</u>
American Rescue Plan Act	382. 3000	\$200,000

To:

<u>Description</u>	<u>Account</u>	<u>Amount</u>
CIP Project 001296 - Permit Tracking Software System Upgrades	610.90.094.940.6220.CIP001296	\$200,000

Quote #: Q-95631**Primary Quoted Solution:** Community Dev**Quote expires on:** July 24, 2022**Quote prepared for:**

Angela Montez

City of Newark

37101 Newark Boulevard

Newark, CA 94560

(510) 578-4284

Thank you for your interest in CentralSquare. CentralSquare provides software that powers over 8,000 communities. More about our products can be found at www.centralsquare.com.

WHAT SOFTWARE IS INCLUDED?

	PRODUCT NAME	QUANTITY	UNIT PRICE	TOTAL
1.	Bluebeam Server API for TRAKiT Annual Access Fee	1	2,100.00	2,100.00
2.	Community Development: Advanced Annual Subscription Fee SaaS	30	1,900.00	57,000.00
3.	TRAKiT Laserfiche API Annual Access Fee	1	1,200.00	1,200.00
4.	TRAKiT-Finance Web API Annual Access Fee	1	1,200.00	1,200.00
			Software Total	61,500.00 USD

WHAT SERVICES ARE INCLUDED?

	DESCRIPTION	TOTAL
1.	Community Development: Advanced SaaS Subscription Cloud Setup Fee	10,000.00
2.	Public Administration Consulting Services - Fixed Fee	16,770.00
3.	Public Administration Data Conversion Services - Fixed Fee	15,210.00
4.	Public Administration Development Services - As Incurred	13,500.00
5.	Public Administration GIS Services - Fixed Fee	15,600.00
6.	Public Administration Project Management Services - Fixed Fee	17,745.00
7.	Public Administration Technical Services - Fixed Fee	8,190.00
8.	Public Administration Training Services - Fixed Fee	8,580.00
Services Subtotal		105,595.00 USD
Discount		- 8,795.00 USD

Services Total	96,800.00 USD
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QUOTE SUMMARY

Software Subtotal	61,500.00 USD
--------------------------	----------------------

Services Subtotal	105,595.00 USD
--------------------------	-----------------------

Quote Subtotal	167,095.00 USD
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Discount	- 8,795.00 USD
-----------------	-----------------------

Quote Total	158,300.00 USD
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WHAT ARE THE RECURRING FEES?

TYPE	AMOUNT
FIRST YEAR MAINTENANCE TOTAL	0.00
FIRST YEAR SUBSCRIPTION TOTAL	61,500.00

The amount totals for Maintenance and/or Subscription on this quote include only the first year of software use and maintenance. Renewal invoices will include this total plus any applicable uplift amount as outlined in the relevant purchase agreement.

This Quote is not intended to constitute a binding agreement. The terms herein shall only be effective once incorporated into a definitive written agreement with CentralSquare Technologies (including its subsidiaries) containing other customary commercial terms and signed by authorized representatives of both parties.

BILLING INFORMATION

Fees will be payable within 30 days of invoicing.

Please note that the Unit Price shown above has been rounded to the nearest two decimal places for display purposes only. The actual price may include as many as five decimal places. For example, an actual price of \$21.37656 will be shown as a Unit Price of \$21.38. The Total for this quote has been calculated using the actual prices for the product and/or service, rather than the Unit Price displayed above.

Prices shown do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice.

For customers based in the United States or Canada, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer on the Quote Form.

PURCHASE ORDER INFORMATION

Is a Purchase Order (PO) required for the purchase or payment of the products on this Quote Form? (Customer to complete)

Yes [☐] No [☐]

Customer's purchase order terms will be governed by the parties' existing mutually executed agreement, or in the absence of such, are void and will have no legal effect.

PO Number: _____

Initials: _____

Sole /Single Source Justification

DATE: 5-5-2022	NAME OF REQUESTOR: Soren Fajeau
REQUESTING DEPARTMENT:	NAME OF VENDOR: CentralSquare Technologies, Inc.
DESCRIPTION OF ITEM: Permit Tracking Software System Upgrades, Capital Improvement Plan Project 001296 for an upgrade of the TRAKiT system to the latest version, now titled, "Community Development"	
Single Source: ☒ A Single Source is one of the multiple sources that are capable of producing the desired item(s). It is the one source that is selected without competition for compelling and justifiable reasons. *Refer to Resolution 9816	
Sole Source: ☐ A Sole Source is the <i>only</i> source available that is capable of producing the desired item(s) because of exclusive control of patent rights, copyrights, proprietary processes, etc. or similar circumstances.	

JUSTIFICATION:

☐	Only known supplier. (<u>List of the suppliers</u> which were contacted below and the specific reasons <u>why each was not a viable source</u>).
☐	Only known qualified supplier or item. (List the qualifications that each source or items meet. If another supplier offers a similar item, <u>provide the item identification, supplier information and comparable pricing</u>).
☐	Supplier proprietary item. (The selected supplier is the only manufacturer of this item. List the reasons why no substitute item can be used and if no similar item is available).
☐	Government or Customer Directed. (<u>Provide a copy</u> of the contract page which directs this source or a customer letter, or memo or e-mail specifically directing this source).
☒	Continuation of an ongoing service or an addition to a critical system already procured from that supplier. (<u>List the reasons why</u> it would not be cost effective (provide a minimum of 3 quotes) and/or schedule effective and/or technical risk mitigation prudent to procure with another supplier for this procurement). A continuation of the existing software system, including all accumulated data, for a cloud-based upgraded version is needed to provide continuous, ongoing service to the community for all development, permitting and community preservation activities.

JUSTIFICATION: (Provide written explanation, technical reasoning and/or evidence of the claim. Use additional sheets if necessary.)

(See prior page)

I CERTIFY THAT STATEMENTS CHECKED, AND INFORMATION PROVIDED ABOVE, ARE COMPLETE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I UNDERSTAND THAT THE PROCESSING OF THIS SOLE/SINGLE SOURCE JUSTIFICATION PRECLUDES THE USE OF FULL AND OPEN COMPETITION.

REQUESTOR

SIGN: _____

PRINTED NAME: Soren Fajeau

DATE: 5-5-2022

PURCHASING OFFICER

SIGN: _____

PRINTED NAME: _____

DATE: _____



STAFF REPORT

Item D. 9.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Lenka Hovorka, Assistant City Manager
SUBJECT Approval of an amendment to Resolution No. 10,416 to revise the Personnel Rules and Regulations by changing the authority of approving class specifications from the City Council to the City Manager or Personnel Officer.

RECOMMENDATION

Staff recommends that the City Council approve an amendment to Resolution No. 10,416 to revise the Personnel Rules and Regulations by changing the authority of approving class specifications from the City Council to the City Manager or Personnel Officer.

EXECUTIVE SUMMARY

The Personnel Rules and Regulations require that any changes to the classification plan be approved by City Council. This includes administrative actions such as approving a class specification (job description) each time one is created, deleted or revised. To relieve City Council of these administrative actions that are more appropriately performed at a staff level, staff recommends the City Council allow the City Manager or Assistant City Manager to approve the creation or deletion of class specifications, and the Personnel Officer (Human Resources Director or designee) to approve revisions to class specifications.

BACKGROUND

On February 28, 1963, the City Council established Personnel Rules and Regulations (Resolution No. 942) and a Classification Plan (Resolution No. 943). Though both the Rules and Plan have been updated several times since adoption, Rule III Classification of the Personnel Rules and Regulations has not been updated since adopted in 1963. Rule III sets personnel regulations for employee class specifications (job descriptions), Classification Plan changes, allocation of positions, and reclassifications. The Classification Plan includes a list of job titles for City of Newark full-time or regular part-time employees and their corresponding class specifications.

DISCUSSION/ANALYSIS

Each time a class specification is created, deleted or revised, the City Council must approve these changes to the Classification Plan. As class specifications are job descriptions for each non-temporary position the City may employ, creating or revising these documents is considered an administrative action and not a policy decision. Class specification changes are typically approved by a City's Human Resources Director and/or City Manager.

Staff recommends that the City Council transfer approval authority for Classification Plan changes as follows:

- City Manager or designee is authorized to approve the creation or deletion of class specifications
- Personnel Officer or designee is authorized to approve revisions to existing class specifications

Attached as Exhibit A is a red-lined copy of the Personnel Rules and Regulations, showing the proposed revisions to Rule III Classification (pages 5-6).

FISCAL IMPACT

There is no fiscal impact as this action requests a process change only.

REVIEW AND APPROVAL

Prepared by – Lenka Hovorka, Assistant City Manager

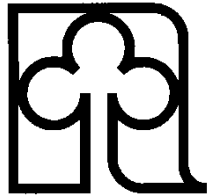
Reviewed by – Kristopher J. Kokotaylo, City Attorney

Approved by – David J. Benoun, City Manager

Attachments

Personnel Rules and Regulations proposed revisions

Personnel Rules and Regulation Resolution



CITY OF NEWARK

PERSONNEL RULES AND REGULATIONS

Resolution No. 3513 as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/98), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), No. 9820 (3/11), No. 10416 (9/15).

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**CITY OF NEWARK
PERSONNEL SYSTEM RULES AND REGULATIONS**

**RULE I
PURPOSE AND DEFINITIONS**

RULE I-A PURPOSE

The objectives of these rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government.

These rules set forth in detail those procedures which insure similar treatment for those who compete for original employment and promotion, and define the obligations, rights, privileges, benefits and prohibitions which are placed upon all employees in the Competitive Service of the City.

At the same time, within the limits of administrative feasibility, recognition shall be given to the fact that individuals differ, that no two individuals react alike to reward and discipline or to uniform motivation and encouragement. For this reason, considerable latitude shall be given to the Personnel Officer in the execution of his duties and responsibilities relating to employee morale and discipline.

RULE I-B DEFINITION OF TERMS

The terms used in these Rules shall have the same meaning as defined below:

- (a) Advancement: a salary increase within the limits of a salary range established for a classification.
- (b) Allocation: the assignment of a single position to its proper classification in accordance with the duties performed and the authority and responsibilities exercised.
- (c) Anniversary Date: the date an individual employee uses to compute eligibility for salary advancement or other change in status, as established in the provisions of these Rules.
- (d) Candidate: an applicant participating in an examination.

- (e) Classification: a position or group of positions with duties and responsibilities so similar that the same title, example of duties, qualifications, and salary range can be applied with equity.
- (f) Close Relative: husband, wife, son, daughter, sister, brother, mother, father, grandparent, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law.
- (g) Competitive Service: the positions specified in the Personnel Ordinance as being in the competitive service.
- (h) Demotion: the change in status of an employee from a position in one classification to a position in a different classification having a lower maximum rate of salary.
- (i) Eligible List: a list of names of persons who are eligible for appointment to a particular classification pursuant to the Personnel Ordinance and Rules.
- (j) Examination: any test or combination of tests used to measure particular qualifications or abilities of applicants for a position.
- (k) Exempt Service: the positions, officials, and employees generally not subject to the provisions of the Personnel Ordinance and the Personnel Rules and the resolutions adopted pursuant thereto, as set forth in the Personnel Ordinance.
- (l) Permanent Employee: an employee who has successfully completed the probationary period and has been retained as provided in these Rules.
- (m) Personnel Ordinance: City of Newark, California Ordinance No. 77 which creates a personnel system for the City.
- (n) Probationary Period: a working, on-the-job test period during which an employee is required to demonstrate fitness for the duties of the position to which the employee was appointed by actual performance of the duties of the position.
- (o) Promotion: the change in status of an employee from a position in one classification to a position in a different classification having a higher maximum rate of salary.
- (p) Reclassification: the change in allocation of an individual position in one classification to another classification, on the basis of significant change in the kind or difficulty of duties and responsibilities of the initial position.

- (q) Reduction: a decrease in salary, within the salary range established for classification.
- (r) Regular Part-Time Appointment: an appointment to a position that is scheduled to work less than the standard work week for a full-time employee but not less than 20 hours per week on a year-round continuous basis for an unspecified period of time.
- (s) Reinstatement: the re-employment of a former permanent employee from the competitive service.
- (t) Seniority: an employee's accumulated time spent in active service to the City, during which the employee was maintained on the City payroll, excluding that time spent on leave of absence as provided in these Rules.
- (u) Suspension: the temporary separation of an employee from the service without salary for disciplinary purposes.
- (v) Temporary Appointment: an appointment of a person to a position for a limited period of time. Temporary appointments may be for a limited term not to exceed six (6) months per fiscal year, casual term not to exceed 1000 hours per fiscal year, or an extended term not to exceed three years. Temporary employees are exempt from competitive service of the City.
- (w) Transfer: the change in status of an employee from one position in a classification to another position in the same or a different classification having essentially the same salary range, requiring the performance of similar duties, and the same basic qualifications.
- (x) Working Day: a day during which the employee is or would have been regularly scheduled to report to work.

RULE II GENERAL PROVISIONS

Section 1 MEMORANDUM OF UNDERSTANDING

In the event that any provisions of these Rules concerning matters within the scope of representation as set forth in the Employer-Employee Relations Ordinance No. 115 of the City of Newark, California, conflict with any provisions in any Memorandum of Understanding approved by the City Council and in effect between the City and a formally recognized employee organization, the terms of the Memorandum of Understanding shall prevail.

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

Section 2 VIOLATION OF RULES

Violations of the provisions of these rules shall be grounds for dismissal, rejection, suspension, or other disciplinary action.

Section 3 APPLICATION OF RULES

Unless specified in the content, these Rules shall be applied to all positions and employees in the competitive service of the City of Newark.

Section 4 OUTSIDE EMPLOYMENT

No member of the competitive service shall accept or continue employment from other than the City of Newark without specific approval of the Personnel Officer. The Personnel Officer may approve outside employment where he/she finds it creates no substantial conflict with the City of Newark employment. Members of the competitive service employed on the effective date of this resolution shall have 60 days within which to comply with the resolution.

Section 5 CONFLICT OF INTEREST DUE TO PERSONAL RELATIONSHIP

A close relative of any member of the City Council or any board or commission or the City Manager shall not be appointed to any position with the City. An application for employment of any member or close relative of any members of the City Council or any board or commission shall not be accepted until the end of one year following the termination of service of that member of the City Council, board or commission.

No person shall be appointed to or transferred into any department of the City where such action would compromise supervision or reduce the effectiveness of an internal audit procedure due to the relationship of the individuals involved.

Section 6 AMENDMENT OF RULES

Amendments and revisions shall become effective upon adoption of a resolution by the City Council.

RULE III CLASSIFICATION

Section 1 PREPARATION OF PLAN

The Personnel Officer, or a person or agency employed, retained or contracted with for that purpose, shall ascertain and record the duties and responsibilities of all positions in

Resolution No. 3513
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the competitive service and all other positions ~~he deems they deem~~ it desirable to include, and after consultation with heads of departments affected, shall recommend a classification with heads of departments affected, shall recommend a classification plan for such positions. The classification plan shall consist of classes of positions in the competitive service and any other positions the Personnel Officer deems it desirable to include defined by class responsibilities of positions in each class, the probationary period, a statement of the training, experience and other qualifications to be required of applicants for positions in each class. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply equitably under like working conditions to all positions in the same class.

Section 2 ADOPTION OF PLAN

~~Before the classification plan or any part thereof shall become effective, it shall first be~~The Classification Plan was established and approved ~~in whole or in part~~ by the City Council on February 28, 1963 (Resolution No. 943) and became effective March 11, 1963. ~~Upon adoption by the Council, by resolution, t~~The provisions of the classification plan shall be observed in the handling of all personnel actions and activities. The classification plan shall be amended or revised as occasion requires ~~in the same manner as originally established.~~

Section 3 ALLOCATION OF POSITIONS

Following the adoption of the classification plan, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan.

Section 4 NEW POSITIONS

No person shall be appointed or employed to fill any position until the classification plan shall have been amended to provide therefore and an appropriate employment list has been established for such position.

Section 5 RECLASSIFICATION

Positions, the duties of which have changed materially so as to necessitate reclassification, shall be allocated by the Personnel Officer to a more appropriate class, whether new or already created, in the same manner as originally classified and allocated. Reclassification shall not be used for the purpose of avoiding restrictions surrounding demotions and promotions.

Section 6 AMENDING THE CLASSIFICATION PLAN

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

The City ~~Council Manager or designee~~ may create new classes, ~~and revise~~ or abolish existing classes. The Personnel Officer or designee may revise existing classes.

RULE IV COMPENSATION

Section 1 PREPARATION OF PLAN

The Personnel Officer or the person or agency employed, retained or contracted with for that purpose shall prepare a compensation plan covering all classes of positions in the competitive service and any other positions he/she deems it desirable to include not covered by Memorandum of Understanding as provided in City of Newark Ordinance No. 115 establishing a system for Employer-Employee Relations. This plan shall cover the minimum and maximum rates of pay, employee benefits payable, and hours of work for the classifications covered.

Section 2 APPROVAL OF COMPENSATION LEVELS

The City Council shall by adoption of a resolution implement a compensation plan for positions not represented by a recognized bargaining unit or arrived at through meeting and conferring with recognized bargaining units as specified under Ordinance No. 1165, specifying the compensation levels for all positions in the competitive and exempt service of the City of Newark. No position shall be assigned a salary higher than the maximum or lower than the minimum salary provided for that class of position unless the compensation level is amended by a subsequent City Council resolution.

Section 3 ONLY AUTHORIZED COMPENSATION

No member of the competitive service shall accept anything of value for the performance of his/her official duties and acts or other acts performed while at work for the City of Newark except compensation duly authorized by the City Council.

Section 4 OATH OF OFFICE

No compensation shall be paid any employee who has not executed or affirmed an oath of office.

RULE V APPLICATIONS AND APPLICANTS

Section 1 ANNOUNCEMENT OF EXAMINATION

When necessary to establish an eligibility list, the Personnel Officer shall prepare a job announcement which shall specify the position title, nature of duties, minimum

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

qualifications, rate of compensation, application procedure, and other pertinent information. Suitable and effective methods of distributing information relative to job openings to secure the most qualified candidates available for competition shall be practiced.

Section 2 MINIMUM QUALIFICATIONS

The minimum qualifications established by the Personnel Officer in recruitment for a position in the competitive service shall be those shown for the classification in the Classification Plan.

Section 3 APPLICATION FORMS

Applications shall be made on the forms provided by the Personnel Officer. Such forms shall require information regarding training, experience and other information pertinent to the position to be filled. All applications must be signed by the person applying, and applications shall be given to any person requesting one.

Section 4 DISQUALIFICATION

The Personnel Officer shall reject any applicant before, during, or after examination for the following reasons:

- (a) Indication on the face of the application that the applicant does not possess the minimum qualification required for the position.
- (b) False statement of material fact or actual or attempted deception, fraud or misconduct in connection with the application or examination.
- (c) Failure to file the application with the Personnel Officer prior to the expiration of the application deadline.

Whenever an application is rejected, notice of such rejection with statement of reason for the rejection shall be mailed to the applicant. Defective applications may be returned to the applicant with notice to amend the same, providing the time limit for receiving applications has not expired.

RULE VI EXAMINATIONS

Section 1 NATURE AND TYPES OF EXAMINATIONS

The examination process shall be impartial, of a practical nature, and shall relate to those subjects which in the opinion of the Personnel Officer fairly measure the relative

Resolution No. 3513
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capacities of persons examined to execute the duties and responsibilities of the position to which they seek appointment.

In examining persons for positions in the competitive service, promotional, open, and continuous examinations may be used when practical and consistent with the best interest of the service.

Examinations shall consist of selection techniques which test fairly the qualifications of candidates, such as but not necessarily limited to achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical tests, psychological tests, successful completion of prescribed training, or any combination of these or other tests except as limited by applicable State law. The probationary period shall be considered as an extension of the examination process.

Section 2 PROMOTIONAL EXAMINATIONS

Candidates for promotional examinations must possess minimum qualifications required for the new position. Only competitive service employees or former employees who were subject to layoff within the last 24 months who meet the requirements set forth in the promotional examination announcements may compete in the promotional examination.

Promotional examinations may include the types of tests listed in Section 1 of this Rule, evaluations of actual performance appraisals of promotional potential, and accomplishments of the candidate in special training courses.

Section 3 SCORING

The Personnel Officer shall establish the lowest qualifying score on individual tests or the entire examination in accord with the needs of the service. The Personnel Officer may include as part of the examination tests which are qualifying only.

Failure in any one part of the examination may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of the examination, if such fact is stated in the examination announcement.

The overall scoring of an examination shall be in accord with the method of scoring specified in the examination announcement.

Section 4 NOTIFICATION OF EXAMINATION RESULTS

Each candidate in an examination shall be given written notice of the results thereof.

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

RULE VII ELIGIBLE LIST

Section 1 ESTABLISHMENT

The Personnel Officer shall prepare and maintain eligible lists consisting of the names of candidates who qualified in the examination.

Section 2 TYPES OF ELIGIBLE LISTS

Eligible lists shall be of three types:

- (a) Open Lists. These lists consist of eligibles who have successfully competed in an examination open to any person.
- (b) Promotional Lists. These lists consist of City employees or former employees who were subject to layoff within the last 24 months who have successfully competed in a promotional examination.
- (c) Reinstatement Lists. These lists consist of persons who have been separated from service as the result of a reduction in work force (lay-off). Refer to Rule XIII, Section 4 for information pertaining to the reinstatement list.

Section 3 DURATION OF ELIGIBLE LISTS

Open eligible lists shall remain in effect for a period of six (6) months, nine (9) months or twelve (12) months as determined by the Personnel Officer unless sooner exhausted or abolished. Eligible lists may be extended prior to their expiration date by action of the Personnel Officer for an additional period, more than once, up to a maximum of two (2) years.

Open eligible lists created as the result of continuous examinations shall remain in effect for a period of six (6) months, nine (9) months, or twelve (12) months as determined by the Personnel Officer, but no longer than twelve (12) months after the last administration of an examination, unless sooner exhausted or abolished. Names placed on continuous examination lists shall remain on the list for a period of time as determined by the Personnel Officer not to exceed twelve (12) months.

Promotional eligible lists shall remain in effect for twelve (12) months and may be extended prior to their expiration date by action of the Personnel Officer for an additional period of six (6) or twelve (12) months up to a maximum of two (2) years.

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

Whenever there are fewer than five (5) candidates willing to accept appointment on an open eligible list, the Personnel Officer may abolish that list and establish a new open eligible list.

Section 4 REMOVAL OF NAME FROM ELIGIBLE LIST

This section applies to open and promotional lists only. Refer to Rule XIII, Section 4 for information pertaining to reinstatement lists.

Names of candidates may be removed from an eligible list by the Personnel Officer for any of the following reasons:

- (a) Upon written request of the candidate
- (b) Upon evidence that the candidate cannot be located by postal authorities at the address provided by the candidate.
- (c) Failure of the candidate to respond to a written inquiry within the designated time.
- (d) Failure to accept an offer of appointment.
- (e) Termination of an employee whose name is on a promotional eligible list.
- (f) Failure of background investigations or polygraph examinations.
(Polygraph examinations are used for certain public safety positions only.)
- (h) Appointment from the eligible list to a regular full-time status position.
- (i) Failure to pass the medical examination or psychological examination following a conditional offer of employment.

Section 5 ALTERNATE ELIGIBLE LIST

If a vacancy exists in a class for which there is no reinstatement list, open eligible list, promotional eligible list, or there are less than three candidates available on an open or promotional eligible list, the Personnel Officer may prepare an appropriate eligible list for the class from one or more existing eligible lists. For this purpose, the Personnel Officer shall select eligible lists for classes for which minimum qualifications and examinations are similar to or higher than those required for the class in which the vacancy exists.

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as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

RULE VIII APPOINTMENT

Section 1 APPOINTMENT AUTHORITY

If a position vacancy in the competitive service is to be filled, the department head shall notify the City Manager in the manner prescribed. If the vacancy is to be filled and there is no reinstatement list, the City Manager shall decide whether to fill the vacancy by transfer, demotion, appointment from a promotional or an open eligible list, or any other type of appointment available.

Section 2 APPOINTMENT FROM ELIGIBLE LIST

When it is the decision of the City Manager to fill a position vacancy by appointment from an eligible list, and there is no reinstatement list for the position classification, the Personnel Officer shall certify an open or promotional eligible list to the department head. The names of candidate will appear alphabetically under a qualification category based on final examination scores. The Personnel Officer shall determine the appropriate grouping of candidates under qualification categories based on final examination scores. The appointing authority may appoint any eligible candidate on an open or promotional list regardless of rank or final score.

An eligible may request to be waived from consideration for a particular vacancy for reasons satisfactory to the Personnel Officer. Satisfactory reasons may include but are not limited to medical, family leave, or completion of education or a specialized training program. If the reasons for the request for waiver are not approved by the Personnel Officer, then the eligible's name shall be removed from the eligible list. Waivers must be filed in writing with the Personnel Officer.

Section 3 PROMOTIONAL APPOINTMENTS

An employee who leaves a position to accept appointment to another classification shall be permanently separated from the position formerly held by him or her; provided, however, that any such employee, at the discretion of the Personnel Officer, within the probationary period, upon request and with approval of the department or departments concerned, may be reinstated in any vacancy in the same division and class from which he or she was separated. This section shall not preclude an employee from displacing an employee in the lower class from which the employee was promoted in the event of a reduction in work force provided the displacing employee has seniority rights over the employee in the lower classification. (Refer to Rule XIII, Section 4)

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Section 4 REGULAR FULL-TIME APPOINTMENT

Appointments to an authorized position budgeted on a full-time basis, 40 hours-a-week (or a full-time schedule equivalent), shall be made from an appropriate eligible list and shall be subject to the approval of the City Manager. Employees appointed on this basis shall be included in the competitive service of City employment, shall serve a probationary period, and shall receive all rights and benefits outlined in personnel policy documents and appropriate memoranda of understanding.

Section 5 REGULAR PART-TIME APPOINTMENT

Appointments to authorized positions budgeted and regularly scheduled for 20 hours or more per week (or a half-time or more schedule equivalent) but for less than 40 hours per week (or a full-time schedule equivalent) on a year-round continuous basis for an unspecified period of time, shall be made from an appropriate eligible list and shall be subject to the approval of the City Manager.

Regular part-time employees appointed from an eligible list may be considered for appointment to a regular full-time position in the same classification subject to the approval of the City Manager. Service time earned as a regular part-time employee will be considered in calculating City seniority provided that the part-time service is contiguous with the full-time appointment.

Section 6 TEMPORARY APPOINTMENT

There are three types of temporary appointments:

- (a) Limited Term: Appointment to a part-time or full-time position established with a regular fixed schedule for a duration of six months or less. Such appointment may be extended an additional six months for a total temporary employment period not to exceed twelve months upon the approval of the City Manager.
- (b) Extended Term: Appointments authorized by the City Manager to work on a special project that has a limited duration or to positions budgeted under a special grant or funding source that is separate from the City's base operating budget. Continued employment shall be dependent on the availability of work associated with a specific project and/or the continuation of special funding. Extended temporary employees shall be appointed from an eligible list and shall not exceed three years.
- (c) Seasonal and Casual: Appointments to work on a sporadic, irregular, or temporary basis and part-time employees who work less than 20 hours

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per week on a continuous basis shall be designated as temporary and their employment shall not exceed 1000 work hours per fiscal year.

Temporary employees shall be designated as exempt and may be terminated from employment with the City at any time and for any reason or for no reason at all. Temporary employees receive no insurance or leave benefits except those mandated by law.

Employees appointed on an extended temporary basis to a full-time position in the competitive service for a period of more than twelve months shall receive the same benefits as full-time employees in the same classification.

No special credit shall be allowed for service rendered under a temporary appointment except as provided in memoranda of understanding. Employees serving a temporary appointment shall be exempt from tenure, disciplinary proceedings, transfer, and removal provisions of these rules and from provisions regarding probation.

Section 7 EXEMPT SERVICE APPOINTMENT

The City Manager shall appoint, discipline, or dismiss persons in temporary, part-time, intermittent, seasonal or CETA employment with the City of Newark. Exempt employees may be terminated with or without cause or notice, at any time, at the will of the City in its sole discretion. Such action shall not be made in accord with the formal provisions of these rules or the personnel ordinance.

Section 8 EMERGENCY APPOINTMENT

To meet the immediate requirements of an emergency condition such as an extraordinary fire, flood, or earthquake, or which threatens public life or property, any legally competent officer or employee may employ such persons as may be needed for the duration of the emergency without regard to the Personnel Ordinance or Rules affecting appointment. As soon as possible, such appointment shall be reported to the Personnel Officer.

RULE IX **PROBATIONARY PERIOD**

Section 1 OBJECTIVE

The probationary period shall be regarded as an intrinsic part of the examination process and shall be utilized for closely observing the employee's capability for performing the duties of the position. A probationary employee whose performance does not meet the required standards shall be terminated. A person who has

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completed the probationary period as prescribed for his/her classification shall assume regular status in the competitive service.

Section 2 DURATION

All appointments to positions in the competitive service shall be subject to a probationary period. The regular probationary period shall be six (6) months but longer periods may be specified in individual classification descriptions and shall apply to all positions in that classification.

Section 3 REJECTION FOLLOWING PROMOTION

Any employee rejected for failure to meet the requirements of the position during the probationary period following a promotional appointment shall be re-instated to the position from which he/she was promoted unless disciplinary charges are filed and the employee is discharged from the competitive service.

Section 4 EXTENSION OF PROBATIONARY PERIOD

If a probationary employee is on leave of absence for more than thirty (30) calendar days, the probationary period of that employee shall be extended for a period commensurate with the length of the leave of absence.

RULE X ATTENDANCE AND LEAVES

Employees in the competitive service and the City Manager shall be entitled to leaves as follows:

Section 1 ANNUAL VACATION LEAVE

The purpose of annual vacation leave is to enable each eligible employee annually to return to his work mentally and physically refreshed. Vacation leave shall be provided under the following conditions:

- (a) Employees who have served less than six (6) months with the City shall receive no vacation except that after completion of six (6) months the employee shall receive credit for the first six (6) months in service of the City.
- (b) The following annual vacation leave entitlement shall be provided:
 - (1) Eligible employees who have served less than five (5) years with the City of Newark shall earn vacation entitlement as follows:

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as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

- (a) Positions in the classifications of Firefighter and Fire Captain - 12 hours per month.
 - (b) Position in the classifications of Police Officer and Police Sergeant - 7.5 hours per month.
 - (c) All other positions - 6.67 hours per month.
- (2) Eligible employees during their fifth year of employment with the City of Newark shall earn vacation entitlement as follows:
 - (a) Positions in the classifications of Firefighter and Fire Captain - 18 hours per month.
 - (b) Positions in all other classifications - 10 hours per month.
- (3) Eligible employees during their fifteenth year of employment with the City of Newark shall earn vacation entitlement as follows:
 - (a) Positions in the classifications of Firefighter and Fire Captain - 24 hours per month.
 - (b) Positions in all other classifications - 13.34 hours per month.
- (c) No vacation may be taken before it is earned except that a vacation may be commenced and taken where the total vacation will have been earned as of the final day of vacation, in the case of eligible personnel, where one or more municipal holidays fall during a vacation, which such eligible personnel would otherwise be entitled to such holiday, the vacation shall be extended by the number of holidays that fall during the vacation.
- (d) Vacations must be taken during the year following the date on which the employee completed accumulation of one full year of vacation credit except that the Personnel Officer may approve accumulation of more than one year's entitlement upon finding that such accrual does not adversely affect the needs of the service. The times at which an employee shall take his vacation shall be determined by the department head who, in so doing, shall give due regard to the desires of the employee and particular regard to the needs of the service.
- (e) When an employee is terminated, he shall receive a lump sum payment for accrued vacation credits. For purposes of calculating the payment due the

employee, service shall be rounded off to the nearest month, giving the employee credit for a whole month where a half month or more is due and eliminating service credit of less than half a month. No such payment shall be made for vacation accumulated contrary to the provisions of these rules.

- (f) For the purposes of determining the rate of vacation credits, only eligible continuous service with the City of Newark shall be considered. However, a valid leave of absence without pay of less than 30 days shall have no effect on vacation credits. No vacation credits shall accrue during an authorized leave of absence without pay of more than 30 days.
- (g) No former employee is entitled to vacation pay by reason of this rule.
- (h) No employee or future employee shall accrue vested rights by reason of the adoption of this resolution or by reason of service after the adoption of this rule. The City Council reserves the right to alter the policies herein, even though such action may alter the amount of "earned" vacation credits of an employee.

Section 2 SICK LEAVE

The purpose of sick leave is to allow employees who are ill or injured to remain absent from work with pay, within the limitations of this section.

- (a) Sick leave is granted to an employee to recover from illness or injury so as to be physically able to return to work.
- (b) Sick leave is expressly not for the purpose of personal business, illness of other members of the family, bereavement leave, or any other purpose other than recovery from illness or injury.
- (c) Sick leave with pay may be granted by the Personnel Officer at the rate of one work day for each calendar month of service. Employees shall accumulate unused sick leave at the rate of 12 work days a year to a total of not more than 120 days, except employees classified as Management under Ordinance No. 115 shall accumulate unused sick leave to a total of not more than 180 work days. One 24-hour work shift in the Fire Department shall be deemed two work days for the purposes of this section.
- (d) In order to receive compensation while absent on sick leave, the employee shall notify his immediate superior or other competent authority as soon as practicable, preferably prior to the time set for beginning his daily duties. He must submit to the Personnel Officer application for sick leave showing such

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information as required by the Personnel Officer. Such applications shall be factually correct. The Personnel Officer may make such investigations as he feels necessary and may require supplemental information from the employee.

- (e) Where an employee receives workers' compensation salary continuation benefits, and where sick leave is approved, the City shall pay the employee his full salary excluding therefrom the employee's workers' compensation benefits. The employee's sick leave entitlement shall be charged on a pro rata basis.
- (f) With the adoption of this resolution, employees shall be credited with accumulated sick leave they had accrued as of the date of its adoption.
- (g) Employees who have served less than six months with the City of Newark shall receive no sick leave except that after completion of six months the employee shall receive credit for the six months of service in the City.

Section 3 MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of state law. All employees entitled to military leave shall give the department head an opportunity within the limits of military regulations to determine when such leave shall be taken.

Section 4 LEAVE OF ABSENCE WITHOUT PAY

Leaves of absence without pay may be granted as follows:

- (a) Human Resources will grant leaves of absence without pay upon the request of eligible employees in accordance with mandated protected leaves including Military Leave (USERRA), Pregnancy Disability Leave (PDL), the Family and Medical Leave Act (FMLA), and the California Family Rights Act (CFRA).
- (b) Human Resources will grant maternity leave with and/or without pay for up to a total of nine months in duration (including time covered by protected leaves) when the employee applies for such leave stating the intention to return to work and provides appropriate medical certification verifying the pregnancy. The nine months of maternity leave includes time off during PDL, FMLA, and CFRA and is not in addition to covered protected leave.
- (c) Department heads may grant unprotected leaves of absence without pay upon the request of the employee for any purpose not contrary to the best interest of the City where such leave does not adversely affect the needs of

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City services, does not extend for more than seven consecutive calendar days, and does not occur in frequency more than twice in any calendar year.

- (d) The City Manager may grant a leave of absence upon request of the employee and with the recommendation of the Department Head to extend up to one year beyond protected leaves, where such leave would not unduly affect the needs of City services, and that such leave would be of benefit to the City.
- (e) Employees may request to keep a combined total of one week (up to forty hours depending on work schedule) of vacation/general leave and/or compensatory time off (CTO) subject to department head approval. The request must be made when requesting a leave of absence without pay for use after returning from leave.

Section 5 ATTENDANCE

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees which shall be reported to the Personnel Officer in the form and on the dates he shall specify. Failure on the part of an employee, absent without leave, to return to duty within 24 hours after notice to return shall be cause for discharge. Notice shall be given to the employee at his/her address as shown on his/her personnel record by U.S. mail postage prepaid, return receipt requested.

Section 6 HOLIDAYS

Employees except emergency service personnel in the Police and Fire Department shall observe the following legal holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Independence Day, Admission Day, Labor Day, Armistice Day, Thanksgiving Day, the day following Thanksgiving Day, the last work day before Christmas, Christmas. When a holiday falls on Sunday, the following Monday shall be observed. When a holiday falls on Saturday, the preceding Friday shall be observed.

Emergency service personnel in the Police and Fire Department whose work hours are assigned without regard to municipal holidays shall receive as compensation in-lieu of holidays an amount equal to 4.62 percent of his/her regular pay, which in-lieu amount shall be paid each pay period. The in-lieu compensation factor of 4.62 percent shall not be applied and added to any payment for overtime worked or to a lump sum payment for accrued vacation in the case of a terminating employee; or to any other payment to an emergency service employee in the Police and Fire Departments, except his/her regular pay.

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Section 7 BEREAVEMENT LEAVE

Bereavement leave with pay may be granted by the department head with approval of the Personnel Officer where that has been a death of a close relative of an employee in order that the employee may attend last rites and attend to any pressing matters resulting from the death. Such leave shall be no longer than necessary and shall not in any case extend more than five working days, unless the Personnel Officer approves an extension due to unusual circumstances.

Section 8 JURY DUTY

A full-time employee summoned to jury duty shall inform his/her supervisor, after receipt of such summons, and if required to serve, may be absent from duty with full salary.

Regular part-time employees, upon completion of 1,040 work hours or one year of continuous active service, whichever occurs first, who are summoned to jury duty and required to serve, may be absent from duty with pay as follows:

Work Schedule	Pay
20 - 25 work hours per week	4 hours of pay per day
30 - 35 work hours per week	6 hours of pay per day

Any jury duty fees other than mileage and subsistence received by the employee shall be remitted to the City.

RULE XI COMPENSATION ADJUSTMENTS

Section 1 APPLICATION OF COMPENSATION RATES

Employees occupying a position in the competitive service shall be paid a compensation within the range established for that position's class under the Compensation Plan as provided by Rule V. The minimum rate for the class generally shall apply to employees upon original appointment. However, the Personnel Officer may, when circumstances warrant it, appoint at other than the first step. Officers and employees re-employed after layoff shall receive a rate within the range established for the class which reflects his/her relative position within the range at time of separation from the competitive service.

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Section 2 ADVANCEMENT

No compensation advancement shall be made so as to exceed the maximum compensation rate established in the Compensation Plan for the class to which the employee's position is allocated. Advancement shall not be automatic, but shall depend upon increased service value of an employee to the City based on performance evaluations completed by his/her supervisor.

Employees whose pay is specified in a five-step pay range are eligible to be advanced to higher steps as merited by progressive improvement in job skills and work performance. The following time and step requirements shall apply before an employee gains eligibility for advancement in pay.

<u>Step</u>	<u>Time-In-Step Required</u>
1	(at appointment)
2	6 months at Step 1
3	12 months at Step 2
4	12 months at Step 3
5	12 months at Step 4

When an employee demonstrates outstanding performance of his/her duties, that employee may be advanced in pay prior to completion of the above time in step requirements.

If an employee is on leave of absence without pay for more than 30 days, the time on leave shall be deducted from the employee's accumulated time in step requirement.

Section 3 ANNIVERSARY DATE

Each employee shall have an anniversary date of the first of the month as follows: Employees appointed, promoted, reappointed, advanced in salary or otherwise the subject of a change in status, on or between the first and fifteenth day of the month inclusive, shall have the first day of that month as their anniversary date; employees appointed, promoted, reappointed, advanced in salary or otherwise the subject of change in status on or after the sixteenth and the last day of the month inclusive shall have the first day of the month immediately following as their anniversary date.

Section 4 WITHHOLDING ADVANCEMENT

Supervisors and their superiors have the authority and responsibility to recommend against an advancement in pay to the Personnel Officer if that advancement is not merited. Supervisors shall keep their employees informed about their job performance. Good work should be given proper recognition. Deficient work should be clearly

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communicated to an employee as soon as practical with an offer of guidance and assistance toward improvement.

Section 5 PROMOTION

When an employee is promoted, the employee shall receive the first step in the salary range for the new position. However, if such step is equal to or less than the present salary, that employee may receive the next step in the salary range of the new position which is immediately above the present salary. If the salary range does not have steps, the employee shall be given a minimum increase of 5% in base salary.

When an employee who has been promoted is rejected for failure to meet the requirements of the position during the probationary period, that employee's salary shall revert to the same step or position in the salary range of the position prior to promotion.

Section 6 DEMOTION

When an employee is demoted for other than disciplinary reasons, that employee shall be placed at a salary step or position in the salary range in the new lower classification which is closest to the salary rate held prior to demotion.

Section 7 RECLASSIFICATION

When a position is reallocated to a classification with a higher salary range, an incumbent employee's salary shall be placed at the step or position in the new range closest to his/her present salary rate. In no case shall the employee be placed at a step or rate lower than present salary.

When a position is reallocated to a classification with a lower salary range, the incumbent employee shall continue at present salary rate and carry forward an anniversary date of his/her advancement to that salary rate. If the present salary rate of an incumbent employee exceeds the maximum step of the new range, that employee's salary shall be reduced to the maximum step of the new range.

RULE XII TRANSFER, PROMOTION, DEMOTION, REDUCTION-IN-PAY SUSPENSION AND REINSTATEMENT

Section 1 TRANSFER

The Personnel Officer may transfer an employee from one position to another position in the same or comparable class. Transfer shall not be used for the purpose of avoiding

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the provisions of the personnel ordinance in these rules in regard to a promotion, demotion, advancement, or reduction. No person shall be transferred to a position for which he/she does not possess the minimum qualifications.

Section 2 PROMOTION

Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established.

If the position classification provides that a vacancy could be filled by an open competitive examination instead of a closed promotional examination, the Personnel Officer shall have the discretion to conduct an open competitive examination.

Section 3 DEMOTION AND REDUCTION-IN-PAY

The Personnel Officer may demote an employee whose ability to perform his required duties falls below standard, or for disciplinary purposes. Demotion may be made to a vacant position as a substitution of layoff. No employee shall be demoted to a position for which he/she does not possess the minimum qualifications. The procedure utilized to effect the demotion shall be in accordance with applicable state law.

The Personnel Officer may, within the limits of the pay range established for the position reduce in pay an employee whose performance of his/her required duties falls below standard, or for disciplinary purposes. The procedure utilized to effect the reduction in pay shall be in accordance with applicable state law.

Section 4 SUSPENSION

A department head may suspend any employee at any time for a period of not to exceed five working days in one suspension or more than ten working days in any calendar year. The Personnel Officer may suspend an employee at any time for a period of time for a period of time not to exceed 30 working days in any calendar year. A Fire Department shift shall be considered two working days. The procedure utilized to effect the suspension shall be in accordance with applicable state law.

Section 5 ATTACHMENT OF WAGES

An employee in the competitive service or exempt service shall be charged the City's total administrative cost for processing any attachment of wages. Such charge shall be deducted from the employee's pay check from the City.

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Section 6 REINSTATEMENT

With the approval of the Personnel Officer, an employee who has resigned with a good record may be reinstated within two years to his former position, if vacant, or to a vacant position in a class where he/she held permanent status.

RULE XIII SEPARATION FROM THE SERVICE

Section 1 DISMISSAL

An employee in the competitive service may be dismissed by the City Manager. Department heads may be dismissed by the City Manager subject to the approval of the City Council. The procedure utilized to effect a dismissal shall be in accordance with applicable law.

Section 2 RESIGNATION

An employee wishing to leave the competitive service in good standing shall file with his/her supervising official, at least two weeks before leaving the service, a written resignation stating the effective date. The resignation shall be forwarded to the Personnel Officer. The resignation of an employee who fails to give notice shall be reported to the Personnel Officer by the department head immediately.

Section 3a. LAYOFF

The City Manager may lay off an employee or employees in competitive service because of material change in duties or organization or shortage of work or funds. In making such layoffs, the Personnel Reduction Procedure shall be utilized.

Section 3b. WORK SCHEDULE REDUCTIONS (REDUCTIONS IN WORK HOURS) IN LIEU OF LAYOFF¹

For Management, Confidential and NAME employees, work schedules may be reduced in lieu of layoffs. The number of work schedule reductions and the amount of each reduction will be limited to the minimum needed to achieve budget reductions within each department and are not intended to affect the majority of the workforce.

When regular full-time positions are reduced, first consideration will be given to 30 to 35 hour weekly work schedules. Reductions from regular full-time to regular part-time

¹ All references to work schedule reductions and rule/procedures regarding work schedule reductions in Rule XIII, Sections 3 and 4 apply to NAME, Management and Confidential employees.

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schedules of 20 to 25 hours per week will be limited to situations in which 30 to 35 hour work weeks do not meet budgetary needs. Work schedule reductions also include the reduction of regular part-time schedules of 30 to 35 hours per week to regular part-time schedules of 20 to 25 hours per week. The Personnel Reduction Procedure shall be utilized in administering work schedule reductions in lieu of layoff.

Section 4 PERSONNEL REDUCTION PROCEDURE

The Personnel Reduction Procedure shall be used whenever it becomes necessary to lay off a regular full-time or regular part-time employee from the competitive service or to reduce a limited number of employee work schedules in lieu of layoff because of shortage of work or funds, substantive change in duties or organization, curtailment or elimination of a public service activity, reorganization, or for other reasons.

(a). Notification

This procedure shall apply to regular full-time, regular part-time and probationary employees. Notice of layoff or work schedule reduction in lieu of layoff shall be given to the affected employee and the employee association (or employee group) representing the employee at least thirty (30) calendar days prior to the effective date of layoff or work schedule reduction. The layoff notice or notice of work schedule reduction in lieu of layoff shall include a statement that the employee may have displacement rights.

(b1) Order of Layoff

The order of layoff shall be by classification within a department. In each classification in which a layoff is to occur, employees in the classification within the department shall be laid off in the following order:

- (1) Temporary employees
- (2) Probationary employees
- (3) Regular employees in the order specified in subsection (c) and (d).

(b2) Order of Work Schedule Reduction in Lieu of Layoff

The order of work schedule reduction in lieu of layoff shall be by classification within a department. In each classification in which such a work schedule reduction is to occur, employees in the classification within the department shall be subject to work schedule reduction as specified in subsection (c) and (d).

(c) Order of Layoff and Work Schedule Reduction in Lieu of Layoff for Regular Full-Time Employees

In any case in which there are two or more regular full-time employees in a full-time classification from which a layoff or work schedule reduction in lieu of layoff is to be made, the order of layoff or reduction shall be that the regular full-time employee with the least seniority in the classification within the department shall be laid off or subject to work schedule reduction first. The order of layoff or reduction for regular full-time clerical employees shall be that the employee with the least seniority in the classification shall be laid off or subject to work schedule reduction first, regardless of department assignment.

(d) Order of Layoff and Work Schedule Reduction in Lieu of Layoff for Regular Part-Time Employees

In any case in which there are two or more regular part-time employees in a regular part-time classification from which a layoff or work schedule reduction in lieu of layoff is to be made, the order of layoff or reduction shall be that the regular part-time employee with the least seniority in the classification within the department shall be laid off or subject to work schedule reduction first. The order of layoff or reduction for regular part-time clerical employees shall be that the employee with the least seniority in the classification shall be laid off or subject to work schedule reduction first, regardless of department assignment. (Clerical employees shall be specifically defined as Administrative Support Specialist I, II and Senior, Administrative Assistant, Executive Assistant, and Public Safety Clerk and Senior Public Safety Clerk.)

(e) Seniority

- (1) For the purpose of a reduction in work force, seniority includes all periods of regular full-time, regular part-time, and probationary service at or above the classification level where layoff, displacement or work schedule reduction in lieu of layoff is to occur and time served on military leave from the City. Seniority for regular part-time employment shall be prorated based on authorized work schedule. Periods of time during which an employee was on leave of absence without pay shall not be included in the calculation of seniority. For the purpose of layoff only, employees represented by NAME shall include as service time an employee's unpaid absence up to one year resulting from layoff or industrial injury.

- (2) For the purpose of layoff only, an employee in a higher classification shall have seniority rights over other employees in the next lower job classification in a classification series provided that the employee previously held regular full-time status in the lower classification. (Classification series shall be defined as a specific classification with different levels of complexity identified as a I, II, III or senior level, e.g. Administrative Support Specialist I, Administrative Support Specialist II and Senior Administrative Support Specialist.)
- (3) Employees appointed to regular part-time status on or before July 1, 1991 shall count service time in similar classifications prior to their regular part-time appointment when calculating job classification seniority.
- (4) Regular full-time employees in a higher classification within a sworn police or fire career ladder shall have seniority rights over other employees in the next lower job classification in the career ladder provided that the employee previously held regular full-time status in the lower classification. (Career ladder shall be defined as the normal progression from an entry level position through the ranks of supervisor and management within a specific occupational group such as the sworn police career group or firefighter career group.)
- (5) Temporary and acting appointments to a classification shall not be construed as service in such classification.
- (6) Whenever the effective date of appointment to a classification is the same for two or more employees, the date of appointment to the department, adjusted for unpaid leaves, shall be used to determine which employee has greater length of service within the classification. If classification and department seniority are the same, the original date of hire with the City, adjusted for unpaid leaves, shall be used to determine seniority.
- (7) Whenever the appointment date to a classification and the original date of hire with the City are the same for two or more employees, the highest overall score achieved on the eligibility list shall be used to determine who has the higher seniority. If scores are equal or unavailable, the determination of seniority shall be by lottery.

(f) Displacement

A regular-full time and promotional probationary employee may displace (bump) employees within the same department (for purposes of layoff,

Department shall be defined as those organizational units described as departments in the current year's budget) based on the following criteria:

- (1) Regular full-time and promotional probationary employees shall have the right to displace (bump) employees in a lower full-time classification within the same department provided the employee previously held regular full-time status in the lower classification. An employee in a clerical classification shall have the right to displace an employee in a lower level (lower in salary range) clerical classification in which they once held regular status in any department.
- (2) Regular part-time and promotional probationary employees shall have the right to displace (bump) employees in a lower part-time classification within the same department provided the employee previously held regular part-time status in the lower classification. An employee in a clerical classification shall have the right to displace an employee in a lower level (lower in salary range) clerical classification in which they once held regular part-time status in any department.

Regular part-time employees who were subject to work schedule reduction in lieu of layoff that previously held regular full-time status for six consecutive months shall have the right to displace (bump) employees in a lower part-time or full-time classification within the same department (or in any department for clerical classifications) provided the employee previously held regular status in the lower classification.

- (3) A regular full-time and promotional probationary employee shall have the right to displace (bump) a regular part-time employee in the same class or lower classification in the classification series within the same department (for clerical classes regardless of department) if the regular full-time employee has more seniority within the classification series. A regular part-time employee has no rights to displace a regular full-time employee unless the regular part-time employee was subject to work schedule reduction in lieu of layoff and previously held regular full-time status for six consecutive months. Classification seniority for regular part-time employees shall be prorated based on authorized work schedule.
- (4) A regular full-time employee hired directly into a higher job classification in a classification series may displace an employee in a lower classification within the classification series if the regular full-time employee has more seniority within the classification series than the

employee occupying the lower level class. (Refer to Section (e)(2) for definition of classification series.)

A regular part-time employee who was subject to work schedule reduction in lieu of layoff who previously held regular full-time status for six consecutive months and who was hired directly into a higher job classification in a classification series may displace an employee in a lower classification within the classification series if the regular part-time employee has more seniority within the classification series than the employee occupying the lower class. (Refer to Section (e)(2) for definition of classification series).

- (5) Displacement rights afforded an employee shall include access to those classifications in which the employee has previously served but which may since have been retitled but where, as determined by the City, no substantive changes have been made in the duties or qualifications for the classification(s) in question.
- (6) An alternative to layoff would be a voluntary demotion to a lower vacant classification. If a vacant position exists, the City Manager shall have the discretion to demote an employee to such position. To qualify for such a demotion, the employee must be fully qualified, trained, and capable of performing all work in the lower position as determined by the City. The salary assignment shall be based on the City's assessment of the employee's level of qualification within the lower level position salary range.

An alternative to layoff would be a voluntary work schedule reduction by a regular full-time employee in a classification identified for layoff or reduction by a department (or in any department for clerical classifications). The City Manager shall have the discretion to approve or deny such voluntary work schedule reductions. The Personnel Reduction Procedure for Work Schedule Reductions in Lieu of Layoff will apply to approved voluntary work schedule reductions as an alternative to layoff.

- (7) Current regular full-time and part-time employees who have successfully completed probation by March 31, 2011, as a Building Mechanic II, Equipment Mechanic I, Equipment Mechanic II, Landscape and Park Maintenance Worker I, Landscape and Park Maintenance Worker II, Senior Building Mechanic, Senior Equipment Mechanic, Senior Landscape and Park Maintenance Worker, or Street Maintenance Worker II and who meet the minimum qualifications for Laborer shall have the right to displace (bump) employees in the

Laborer classification. This displacement right is in addition to other displacement rights that may exist in accordance with Rule XIII, Section 4(f).

Current regular full-time and part-time employees who have successfully completed probation by March 31, 2011, as a Building Mechanic II, Equipment Mechanic I, Equipment Mechanic II, Landscape and Park Maintenance Worker II, Senior Building Mechanic, Senior Equipment Mechanic, Senior Landscape and Park Maintenance Worker, or Street Maintenance Worker II who meet the minimum qualifications for Landscape Inspector shall have the right to displace (bump) employees in the Landscape Inspector position. This displacement right is in addition to other displacement rights that may exist in accordance with Rule XIII, Section 4(f).

(g) Request For Displacement and Determination of Salary

In order to displace to a former classification, an employee must request such action in writing to the Personnel Department within seven calendar days of receipt of notice of layoff or work schedule reduction in lieu of layoff. An employee returning to a former classification shall be assigned to the step in the salary range for the lower classification that is closest to but does not exceed the employee's current rate of pay. In no case shall the salary be increased above that received by the employee in the class from which the employee is laid off.

(h) Reinstatement List

- (1) Order The names of persons laid off, displaced due to bumping, or subject to work schedule reduction in lieu of layoff in accordance with the Personnel Reduction Procedure shall be entered upon a Reinstatement List in the inverse order in which the layoff or reduction occurred. There shall be separate lists for regular full-time and regular part-time classifications. Lists from different times for the same classification shall be combined into a single list.

The names of persons subject to work schedule reductions in lieu of layoff shall be placed on a reinstatement list for full-time status or an increased work schedule in the same classification.

- (2) Duration Names of persons laid off from their appointed position, displaced due to bumping, or subject to work schedule reduction in lieu of layoff shall be carried on a Reinstatement List for two years except that persons appointed to regular positions of the same classification

and status as that from which laid off or reduced in hours shall, upon such appointment, be removed from the list. Employees who accept demotion or are recalled to a lower classification shall remain on the list for the higher classification until the list expires. Full-time employees who accept or are recalled to a part-time position shall remain on the list for recall to the regular full-time class from which laid off until the list expires.

- (3) Recall Appointments shall be made from the Reinstatement List in the order they appear on the list when a vacancy arises in the same classification and department provided the employee held regular status in that classification before selection is made from an eligible list. If there are no such employees available for reinstatement, a department shall appoint the next qualified employee on the Reinstatement List who previously held regular status in that classification.

Employees laid off, displaced due to bumping, or subject to work schedule reduction in lieu of layoff from clerical classifications shall be recalled or given increased work hours in inverse order of layoff or work schedule reduction when a vacancy arises in the same classification in any department.

Reinstatement may be subject to passing a medical examination if the layoff period exceeds twelve months.

Any person who does not respond within fourteen (14) calendar days to a letter offering reinstatement sent registered mail (return receipt requested) addressed to their last known address shall be removed from the list. If an employee elects to become reinstated, he/she shall report to work or return to an increased work schedule within thirty (30) calendar days from notice to City that he/she will return to work.

An employee who is laid off or subject to work schedule reduction in lieu of layoff, when offered reinstatement, who is unable to accept due to medical reasons as certified by a physician may be granted an additional thirty (30) calendar days to report to work or return to an increased work schedule. When an employee is unable to return to work or return to an increased work schedule due to a medical condition within the sixty (60) calendar day period, the City shall recall the next employee on the Reinstatement List and the disabled employee's name shall remain on the List and eligible for recall for the remaining duration of the two year period.

If an employee declines reinstatement to a regular position of the same classification and status or fails to report for work within the thirty (30) calendar day period, except for medical condition as specified herein, the employee's name shall be removed from the Reinstatement List and the City shall have no further obligation for employment.

(i) Reinstatement Rights for Regular Full-Time and Regular Part-Time Employees

- (1) An employee reinstated from a layoff or work schedule reduction in lieu of layoff reinstatement list within two years of the effective date of layoff or reduction shall retain cumulative service credited as of the date of layoff or reduction for purposes of determining seniority in the event of future layoffs and other matters based on City seniority.
- (2) Reinstatement after a twelve (12) month absence may be subject to passing a medical examination.
- (3) Upon reinstatement from layoff, an employee shall resume accrual of vacation at the rate which corresponds to his/her years of service on the date of separation from employment. An employee's unused sick leave balance or sick leave bank balance, if any and as applicable, on the date of separation shall be restored.
- (4) The period of time during which the employee is on unpaid status shall not count toward service credit. However, employees represented by NAME, shall receive service credit for unpaid absence or for the reduction in work hours in lieu of layoff up to one year (prorated for reductions) caused by layoff or reductions in lieu of layoff for purposes of seniority in determining layoffs or work schedule reductions only.
- (5) Upon reinstatement to the same classification from which laid off, an employee shall be placed at the same salary step which he/she occupied on the date of separation from employment. Management and professional employees reinstated to the same classification shall receive the same salary they received at the time layoff occurred.

(j) Reemployment

At the discretion of the City Manager, a regular full-time or regular part-time employee may be reemployed or restored to an increased work schedule more than two years but less than four years after the effective date of layoff, displacement or work schedule reduction. An employee so reemployed or restored shall have the benefit of being appointed without having his/her

name appear on an eligibility list. Reemployment may be subject to passing a medical examination. Any employee reemployed more than two years but less than four years after the effective date of layoff shall have no vested interest in or be entitled to any benefits accrued during any previous employment with the City with the exception of PERS retirement benefits which may remain vested after five (5) years of continuous service. Upon reemployment from layoff, the employee shall be treated as a new hire.

RULE XIV TRAINING OF EMPLOYEES

Section 1 RESPONSIBILITY FOR TRAINING

Responsibility for developing training programs for employees shall be assumed jointly by the City Council, the Personnel Officer, the department heads and the employees. Such training programs may include lecture courses, demonstrations, assignment of reading matter or such other devices as may be available for the purpose of improving the effectiveness and broadening the knowledge of municipal officers and employees in the performance of their respective duties.

Section 2 CREDIT FOR TRAINING

Participating in and successful completion of special training courses may be considered in making advancements and promotions. Evidence of such activity may be filed by the employee with the Personnel Officer.

RULE XV EVALUATIONS

Section 1 EVALUATIONS

The Personnel Officer shall cause evaluations of employees to be performed from time to time as he/she directs and on forms which he/she provides.

RULE XVI REPORTS AND RECORDS

Section 1 ROSTER CARDS

The Personnel Officer shall maintain a service or roster card for each employee in the service of the City showing the name, title of position held, the department to which assigned, salary, changes in employment status, and such other information as may be considered pertinent.

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

Section 2 CHANGE-OF-STATUS-REPORT

Every appointment, transfer, promotion, demotion, change of salary rate, and any other temporary or permanent change in status of employees shall be reported to the Personnel Officer in such manner as may be prescribed by these rules and regulations.

Section 3 DESTRUCTION OF RECORDS

Roster and payroll records shall be kept permanently. All other records relating to personnel, including correspondence, applications, examinations and reports may be destroyed as provided by law.

Section 4 ATTENDANCE

All supervisors shall maintain daily attendance records of all employees in the competitive and exempt services in the manner prescribed.

Section 5 ACCIDENT REPORTS

Any employee involved in an accident while on the job which results in personal injury or property damage of any kind shall report that accident promptly to his/her supervisor. Employee and/or supervisor shall fill out forms for reporting the accident in the manner prescribed by the Administrative Regulations of the City Manager or departmental regulations.

RULE XVII COOPERATION

Section 1 COOPERATION OF MUNICIPAL OFFICERS AND EMPLOYEES

Every officer and employee of the City of Newark shall cooperate with the Personnel Officer in order to completely fulfill the objectives and purposes of the personnel ordinance and these rules.

RULE XVIII ADMINISTRATIVE REGULATIONS

Section 1 CITY MANAGER

The City Manager is hereby authorized to issue Administrative Regulations implementing those personnel rules.

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

Section 2 DEPARTMENTAL REGULATIONS

Department heads are hereby authorized to issue departmental regulations in concert with Administrative Regulations adapting those regulations, the Personnel ordinance or Personnel Rules to the operation of their specific department.

Resolution No. 3513
as amended by Resolutions No. 6466 (5/92), No. 6616 (1/93), No. 6665 (5/93), No. 6844 (1/94), No. 7164 (2/96), No. 7420 (6/97), No. 9662 (12/09), No. 9687 (2/10), No. 9695 (3/10), and No. 9820 (3/11).

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMMENDING RESOLUTION NO. 10,416 TO
REVISE RULE III CLASSIFICATION OF THE PERSONNEL
RULES AND REGULATIONS BY AUTHORIZING THE CITY
MANAGER OR PERSONNEL OFFICER TO APPROVE CLASS
SPECIFICATION CHANGES.

WHEREAS, the Personnel Rules and Regulations govern the competitive process for filling City job openings; and

WHEREAS, the existing Personnel Rules require City Council approval for all changes to the Classification Plan, including the creation, deletion, and revision of class specifications; and

WHEREAS, the creation, deletion, and revision of class specifications is an administrative action that can be performed by City staff;

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark approves an amendment to Resolution 10,416 to revise Rule III Classification of the Personnel Rules and Regulations as referenced in the red text on pages 5-6 in Exhibit A.



STAFF REPORT

Item H. 1.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM Jennifer Solito, Human Resources Director
SUBJECT Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: City Manager Benoun, Assistant City Manager Hovorka, and Human Resources Director Solito; Employee Groups: the Newark Association of Miscellaneous Employees; the Newark Police Management Association; the Newark Police Association; the Confidential Employee Group; and City Officials and the Management, Supervisory, and Professional Employee Group



STAFF REPORT

Item H. 2.

DATE 05/12/2022
TO Honorable Mayor and City Council Members
FROM David Benoun, City Manager
SUBJECT Closed session for conference with Labor Negotiator pursuant to California Government Code Section 54957.6. Agency Designated Representative: Mayor Nagy, Unrepresented employee: City Manager Benoun
