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, November 10, 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. Introduction of employees

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 October 27, 2022 minutes

3. Adopt a resolution confirming the continued existence of a local emergency due to the COVID-19 Pandemic

4. 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 November 10 Pursuant to AB 361

5. Motion accepting the Measure GG Transaction and Use Tax Oversight Committee Annual Report for Fiscal Year 2020-2021

6. Adopt a resolution reappointing Jeff Aguilar to the Planning Commission

7. Adopt a resolution accepting public subdivision improvements for Tract 8310 – Bayshores Phase II, an 86-unit residential subdivision generally located on the southeast corner of Hickory Street and Seawind Way in Bayside Newark

8. Adopt a resolution accepting public subdivision improvements for Tract 8085 – Bayshores Phase I, a 213-unit residential subdivision generally located on the west side of Willow Street between Central Avenue and Seawind Way in Bayside Newark

9. Adopt a resolution authorizing the City Manager to execute Task Order No. 27 to the Joint Powers Agreement with the City of Fremont for Paratransit Services

10. Adopt a resolution adopting a compensation plan for certain positions in the exempt service employee group to amend the Part-Time, Seasonal and Temporary (PST) Classifications Schedule of Hourly Wage Rates, and revoking the previous resolution in conformance with California Code of Regulations, Title 2, Section 570.5

11. Adopt a resolution approving the Measure D Expenditure Plan and amend the 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Years 2022-2023 and 2023-2024

12. Adopt a Resolution approving and authorizing the City Manager to execute the annual Sun Ridge Systems, Inc., Software Support Services Agreement

13. Adopt resolutions to (1) approve an amendment to the classification plan to add the class specification of Principal Civil Engineer; (2) approve an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan to replace one full-time equivalent Senior Civil Engineer with one full-time equivalent Principal Civil Engineer and authorization for one additional full-time equivalent Associate Civil Engineer; and (3) approve an amendment to the City of Newark Compensation and Benefit Plan for the Management, Supervisory and Professional Employee Group to add the classification of Principal Civil Engineer and assign salary range 17.

14. Adopt a resolution authorizing the City Manager to execute a Software as a Service Agreement with Axero Holdings LLC. to provide annual cloud hosting, security, backup, upgrades and maintenance support services for an intranet, and amending the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $29,353.50 in FY2022-2023 for the implementation cost (one-time fee) and year one of the agreement and $21,356.25 in FY2023-2024 for year two of the agreement.

15. Adopt a resolution approving Used Oil Payment Program expenditures for Fiscal Year 2022

16. Adopt a resolution authorizing the purchase of three vehicles for the Newark Police Department directly from auto dealerships with single-source findings

17. Adopt a resolution authorizing the purchase of four Ford Interceptors for the Newark Police Department from Folsom Lake Ford and adopt a resolution authorizing increased not-to-exceed amounts to $136,000 for Lehr Auto Electric and to $20,000 for Classic Graphics under their respective Fiscal Year 2023 Annual Purchase Agreements

18. Adopt a resolution approving and authorizing the City Manager to execute an agreement with Lehr Auto Electric to purchase twenty Police Department mobile data computers and installation of five of the computers

19. Adoption of a resolution authorizing the City Manager to negotiate and enter into a Contractual Services Agreement, in a form approved by the City Attorney, with Universal Building Services and Supply Company for janitorial services for City buildings and amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan

E. PUBLIC HEARINGS

1. Conduct a public hearing and waive second reading and adopt an Ordinance to repeal and replace certain chapters of Title 15 of the Newark Municipal Code in order to adopt by reference, with modification to address unique local conditions, the 2022 California Building Standards Code

F. OTHER BUSINESS

1. Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Group 4 Architecture Research + Planning, Inc. (Group 4) for the development of a Citywide Facilities Master Plan and approving an amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan

2. Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Gail M. Goldman Associates for the update of the 2001 Public Art Master Plan and approving an amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan.

3. Adopt a resolution authorizing the City Manager to execute a contract amendment with R3 Consulting Group, Inc. to assist staff with negotiations for a potential extension of the Franchise Agreement with Republic Services Inc. for solid waste collection services

4. Adopt a resolution approving the Newark Community Nonprofit Service Organization Grant Program and authorizing an amendment to the 2022-2024 Biennial Budget for FY 2022 to provide American Rescue Plan Act (ARPA) funding of $300,000 for the Community Nonprofit Grant Program

5. Transient Occupancy Tax (TOT) Informational Report

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

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.

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/UC383NGSxaPwZP1lkJbo2T8A
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/82956297604

From a telephone dial 1- 669-900-9128, Webinar ID Number 829 5629 7604

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	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Introduction of employees

The following employees will be introduced at the City Council meeting:

Alexis Cross, Accounting Assistant
Alex Tat, Senior Civil Engineer
Brett Oeverndiek, Administrative Analyst

STAFF REPORT

Item D. 1.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Krysten Lee, Finance Director
SUBJECT	Approval of Audited Demands.

Attachments

Audited Demands

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Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 10/20/2022

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE					
Check	10/20/2022	6861 Accounts Payable	AIRGAS USA, LLC		83.80
	Invoice	Date	Description		Amount
	9991979459	09/30/2022	CYL ACETYLENE RENTAL 09/30/2022		83.80
Check	10/20/2022	6862 Accounts Payable	ALPINE AWARDS INC		3,308.75
	Invoice	Date	Description		Amount
	6100134	09/27/2022	STAFF NAME BADGES		1,023.93
	6100135	09/27/2022	STAFF NAME BADGES FOR PROMOTORES		279.41
	6100176	09/29/2022	PAYMENT FOR DANCE PARADE TSHIRTS		671.87
	6100360	10/14/2022	HOWLOWEEN GIVEAWAY ITEMS		1,333.54
Check	10/20/2022	6863 Accounts Payable	ALTA LANGUAGE SERVICES, INC.		132.00
	Invoice	Date	Description		Amount
	IS614926	09/30/2022	BILINGUAL TESTS SERVICES		132.00
Check	10/20/2022	6864 Accounts Payable	AXON ENTERPRISE, INC.		750.00
	Invoice	Date	Description		Amount
	121422-PEDRO	09/28/2022	TASER TRAINING 12/14/2022		375.00
	12/14/22-WANG	09/28/2022	TASER TRAINING 12/14/2022		375.00
Check	10/20/2022	6865 Accounts Payable	BAY AREA BARRICADE SERVICE INC		1,692.55
	Invoice	Date	Description		Amount
	0033372	08/09/2022	SAFETY SUPPLIES-VESTS		1,692.55
Check	10/20/2022	6866 Accounts Payable	BURTON'S FIRE INC		60.43
	Invoice	Date	Description		Amount
	S 58111	09/30/2022	FIRE TRUCK PARTS-STEELCHANNEL NUT/STRUT		60.43
Check	10/20/2022	6867 Accounts Payable	CALIFORNIA DEPT. OF TAX & FEE ADMINISTRATION		70.00
	Invoice	Date	Description		Amount
	0-028-905-750	10/03/2022	DIESEL FUEL REGULATORY FEES AC#057-425064		70.00
Check	10/20/2022	6868 Accounts Payable	CARBONIC SERVICE		728.60
	Invoice	Date	Description		Amount
	454328	09/26/2022	PAYMENT FOR CO2		728.60
Check	10/20/2022	6869 Accounts Payable	CENTRAL VETERINARY HOSPITAL		886.25

	Invoice	Date	Description	Amount
	485893	09/27/2022	VET SVCS 09/27/22	886.25
Check	10/20/2022	6870 Accounts Payable	CHILDCARE CAREERS, LLC	287.60
	Invoice	Date	Description	Amount
	559285	10/07/2022	9/30/22 CHILDCARE SUBSTITUE	287.60
Check	10/20/2022	6871 Accounts Payable	CITY OF SAN LEANDRO	360.00
	Invoice	Date	Description	Amount
	388995	09/19/2022	ACCMA 2022-23 MEMBERSHIP DUES	360.00
Check	10/20/2022	6872 Accounts Payable	DUKE DE LEON	585.00
	Invoice	Date	Description	Amount
	4164	09/26/2022	RECORDING SVES CC, MEASURE GG, CANDIDATES INFO 9/2022	585.00
Check	10/20/2022	6873 Accounts Payable	EAST BAY LAWN MOWER	546.79
	Invoice	Date	Description	Amount
	37324	10/13/2022	SMALL EQUIPMENT REPAIR	546.79
Check	10/20/2022	6874 Accounts Payable	FEDEX	25.43
	Invoice	Date	Description	Amount
	7-885-80824	09/16/2022	SHIPPING CHARGES	25.43
Check	10/20/2022	6875 Accounts Payable	GRAINGER	320.02
	Invoice	Date	Description	Amount
	9444144134	09/13/2022	SILLIMAN SUPPLIES - POINT OF SALE 9/13/22	19.78
	9444144142	09/13/2022	SILLIMAN SUPPLIES - POINT OF SALE 9/13/22	21.77
	9444144126	09/13/2022	SILLIMAN MOTOR	278.47
Check	10/20/2022	6876 Accounts Payable	HARRIS COMPUTER SYSTEMS	6,747.53
	Invoice	Date	Description	Amount
	CERMN0000081	09/28/2022	FINANCIAL SOFTWARE DEC 2022-NOV 2023	6,747.53
Check	10/20/2022	6877 Accounts Payable	INDUSTRIAL PLUMBING SUPPLY, LLC.	3,280.12
	Invoice	Date	Description	Amount
	103017	09/09/2022	SILLIMAN SUPPLIES	1,690.14
	103283	09/21/2022	SILLIMAN SUPPLIES	1,589.98
Check	10/20/2022	6878 Accounts Payable	KBA DOCUMENT SOLUTIONS, LLC	6,792.43
	Invoice	Date	Description	Amount
	9136955	09/10/2022	COPIER LEASE YEAR 1 OF 5 - SEPT '22	3,640.87
	9188324	10/10/2022	COPIER LEASE YEAR 1 OF 5 - OCT '22	3,151.56
Check	10/20/2022	6879 Accounts Payable	KBA DOCUMENT SOLUTIONS, LLC	2,368.85
	Invoice	Date	Description	Amount
	55Y1299328	08/17/2022	COPIER LEASE YEAR 1 OF 5 7/22-8/21/22	355.77
	55Y1303656	09/01/2022	COPIER LEASE YEAR 1 OF 5 - 8/1-8/31/22	1,625.81
	55Y1306890	09/16/2022	COPIER LEASE YEAR 1 OF 5 08/22-09/21/22	387.27
Check	10/20/2022	6880 Accounts Payable	KELLY-MOORE PAINT COMPANY INC	321.22
	Invoice	Date	Description	Amount
	816-00000170837	10/18/2022	SILLIMAN PAINT	140.76

	810-00000926463	10/18/2022	SILLIMAN PAINT	180.46
Check	10/20/2022	6881 Accounts Payable	KNORR SYSTEMS INC	5,207.43
	Invoice	Date	Description	Amount
	SI242257	09/30/2022	SILLIMAN POOL PARTS	369.87
	SI242288	09/30/2022	SILLIMAN POOL CHEMICALS	4,837.56
Check	10/20/2022	6882 Accounts Payable	LEXISNEXIS RISK DATA MANAGEMENT INC.	424.20
	Invoice	Date	Description	Amount
	1415640-20220930	09/30/2022	BACKGROUND CHECKS SEPTEMBER 2022	424.20
Check	10/20/2022	6883 Accounts Payable	MEDCOM	2,425.00
	Invoice	Date	Description	Amount
	8533A	10/01/2022	ANNUAL ACA EMPLOYER REPORTING-REMAINING BALANCE	2,425.00
Check	10/20/2022	6884 Accounts Payable	MEYERS NAVE, A PROFESSIONAL CORPORATION	23,821.85
	Invoice	Date	Description	Amount
	197928	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	286.12
	197933	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	8,795.50
	197934	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	651.00
	197935	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	3,077.90
	197936	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	4,679.99
	197941	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	3,843.34
	197942	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	155.00
	197943	09/16/2022	LEGAL SERVICES THROUGH AUGUST 31, 2022	2,333.00
Check	10/20/2022	6885 Accounts Payable	MUNICIPAL MAINTENANCE EQUIPMENT INC	5,889.58
	Invoice	Date	Description	Amount
	0174049-IN	09/27/2022	SWEEPER REPAIR	5,889.58
Check	10/20/2022	6886 Accounts Payable	OWEN EQUIPMENT COMPANY	295.79
	Invoice	Date	Description	Amount
	00057735	09/26/2022	SWEEPER PARTS	295.79
Check	10/20/2022	6887 Accounts Payable	PACIFIC GAS & ELECTRIC	2,547.06
	Invoice	Date	Description	Amount
	2305-100322	10/03/2022	ELECTRICITY CHARGES FOR STREET/TRAFFIC LIGHTS (08/26-9/26/22)	132.77
	0552-100422	10/04/2022	ELECTRICITY CHARGES FOR STREET/TRAFFIC LIGHTS (08/27-09/27/22)	82.12
	9045-100322	10/03/2022	ELECTRICITY CHARGES FOR STREET/TRAFFIC LIGHTS (08/26-09/26/22)	207.95
	1859-100522	10/05/2022	ELECTRICITY CHARGES FOR STREET/TRAFFIC LIGHTS (08/30-09/28/22)	2,021.86
	3926-100522	10/05/2022	ELECTRICITY CHARGES FOR STREET/TRAFFIC LIGHTS (08/30-09/28/22)	25.70
	0870-100622	10/06/2022	ELECTRICITY CHARGES FOR STREET/TRAFFIC LIGHTS (08/31-09/29/22)	76.66
Check	10/20/2022	6888 Accounts Payable	RYAN PEREZ	84.21
	Invoice	Date	Description	Amount
	101222EXP	10/11/2022	2ND BOOT/UNIFORM REIMBURSEMENT 10/12/22	84.21
Check	10/20/2022	6889 Accounts Payable	PROVIDENT LIFE & ACCIDENT INSURANCE	261.24
	Invoice	Date	Description	Amount

	SEPT PREMIUMS	10/06/2022	UNUM - UNUM INSURANCE*	261.24
Check	10/20/2022	6890 Accounts Payable	REDFLEX TRAFFIC SYSTEMS, INC.	17,400.00
	Invoice	Date	Description	Amount
	INV-41954	09/30/2022	REDLIGHT CAMERA MONITORING SEPT 2022	17,400.00
Check	10/20/2022	6891 Accounts Payable	RINCON CONSULTANTS, INC	1,217.25
	Invoice	Date	Description	Amount
	42953	10/13/2022	HYATT HOUSE CE - PER. 9/1/22-9/30/22	1,217.25
Check	10/20/2022	6892 Accounts Payable	SEIFEL CONSULTING INC	10,000.00
	Invoice	Date	Description	Amount
	12810	09/19/2022	AFFORDABLE HOUSING LIVE/WORK POLICY STUDY	10,000.00
Check	10/20/2022	6893 Accounts Payable	SIERRA DISPLAY INC	12,814.39
	Invoice	Date	Description	Amount
	26570	08/19/2022	NEW DATE PATCHES FOR NEWARK DAYS 2022	2,923.80
	26788	09/23/2022	INCLUSIVE COMMUNITY BANNERS	9,890.59
Check	10/20/2022	6894 Accounts Payable	SIERRA INSTALLATIONS INC	1,010.00
	Invoice	Date	Description	Amount
	210459	08/16/2022	REMOVAL OF INCLUSIVE COMMUNITY BANNERS	1,010.00
Check	10/20/2022	6895 Accounts Payable	SIMON & COMPANY INC	1,720.00
	Invoice	Date	Description	Amount
	09-2022	09/27/2022	PROFESSIONAL FEDERAL AFFAIRS ASSISTANCE 09/22	1,720.00
Check	10/20/2022	6896 Accounts Payable	SURF TO SNOW ENVIRONMENTAL RESOURCE	4,960.00
	Invoice	Date	Description	Amount
	12173	06/30/2022	MUNICIPAL STORMWATER INSPECTION SERVICES (06/01-06/30/22)	4,960.00
Check	10/20/2022	6897 Accounts Payable	TRACKER SOFTWARE CORPORATION INC	4,428.00
	Invoice	Date	Description	Amount
	85017	10/01/2022	PUBWORKS SOFTWARE OCT 2022-SEPT 2023	4,428.00
Check	10/20/2022	6898 Accounts Payable	JENNIFER TRAN	31.25
	Invoice	Date	Description	Amount
	0901-092922EXP	10/11/2022	MILEAGE REIMBURSEMENT SEPT 2022	31.25
Check	10/20/2022	6899 Accounts Payable	UTILITY TELECOM GROUP, LLC	180.00
	Invoice	Date	Description	Amount
	17273	09/30/2022	TELEPHONE & NETWORK PROVIDER - TECH LABOR	180.00
Check	10/20/2022	6900 Accounts Payable	WEX BANK	2,143.87
	Invoice	Date	Description	Amount
	84204819	10/06/2022	CHEVRON FUEL PURCHASE 09/07/2021-10/6/2021	2,143.87
Check	10/20/2022	6901 Accounts Payable	ENGEO INCORPORATED	5,372.00
	Invoice	Date	Description	Amount
	2023-0542	10/18/2022	ENCP2022-0171 RFND	5,372.00
Check	10/20/2022	6902 Accounts Payable	THIRUMURTHY , ROHIT RAJ	5,000.00

	Invoice	Date	Description	Amount
	2023-0254	10/18/2022	ENCP2022-0173 RFND	5,000.00
Check	10/20/2022	6903 Accounts Payable	UYEHARA , KARYN	1,000.00
	Invoice	Date	Description	Amount
	2022-0413	10/18/2022	ENCP2021-0262 RFND	1,000.00
Check	10/20/2022	6904 Accounts Payable	VIRAY , ARMIE	500.00
	Invoice	Date	Description	Amount
	660855	10/18/2022	REFUND FOR COMM CTR RENTAL DEPOSIT	500.00

AP ZBA ACCOUNTS PAYABLE Totals: Transactions: 44 $138,080.49

Checks: 44 $138,080.49

LIVE Newark CA LIVE

Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 10/27/2022

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE					
Check	10/27/2022	6905 Accounts Payable	34TH STREET INC.		6,275.98
	Invoice	Date	Description		Amount
	2022-58	09/16/2022	CONFLICT RESOLUTION, CULTURE ASSESSMENT, COMMUNICATION, PROFESSI		5,025.98
	2022-61	09/16/2022	EFFECTIVE COMMUNICATION TRAINING		1,250.00
Check	10/27/2022	6906 Accounts Payable	4LEAF INC		10,560.00
	Invoice	Date	Description		Amount
	J3962M	10/12/2022	TEMPORARY PROFESSIONAL PLANNING SERVICES-9/6/22-9/29/22		10,560.00
Check	10/27/2022	6907 Accounts Payable	AIR EXCHANGE, INC.		6,809.23
	Invoice	Date	Description		Amount
	91608062	10/06/2022	PLYMOVENT SERVICE AND MAINTENANCE - FIRE STATION 27		6,809.23
Check	10/27/2022	6908 Accounts Payable	TREASURER OF ALAMEDA COUNTY		886.75
	Invoice	Date	Description		Amount
	SEPT'22	10/03/2022	CRIME LAB FEES SEPT'22		886.75
Check	10/27/2022	6909 Accounts Payable	ALESHIRE & WYNDER, LLP		754.00
	Invoice	Date	Description		Amount
	71000	10/11/2022	FY 22/23 INVESTIGATION & LEGAL SERVICES-SERVICES THROUGH 09/30		754.00
Check	10/27/2022	6910 Accounts Payable	ALLIANT INSURANCE SERVICES		16,845.00
	Invoice	Date	Description		Amount
	2080504	09/14/2022	SPECIAL EVENT LIABILITY 1/1/22-1/1/23		16,845.00
Check	10/27/2022	6911 Accounts Payable	BAKER TILLY US, LLP		6,840.00
	Invoice	Date	Description		Amount
	INV11025	09/30/2022	ASSISTANCE WITH WORKERS COMP., DOCUMENTATION AND STAFFING		6,840.00
Check	10/27/2022	6912 Accounts Payable	BAY CENTRAL PRINTING		3,320.29
	Invoice	Date	Description		Amount
	193100	09/06/2022	PRINT FALL 2022 NEWSLETTER		3,320.29
Check	10/27/2022	6913 Accounts Payable	BKF ENGINEERS		83,056.31
	Invoice	Date	Description		Amount
	22090648	09/07/2022	LINDSEY TRACT DESIGN SERVICES, PROJECT 1238 (07/25-08/21/22)		76,678.50
	22101059	10/17/2022	LINDSEY TRACT DESIGN SERVICES, PROJECT 1238 (08/22-09/25/22)		6,377.81
Check	10/27/2022	6914 Accounts Payable	BLAISDELL'S BUSINESS PRODUCTS		942.15

	Invoice	Date	Description	Amount
	OCT'22	10/03/2022	OFFICE SUPPLIES	942.15
Check	10/27/2022	6915 Accounts Payable	BEACON VETERINARY SPECIALISTS	900.00
	Invoice	Date	Description	Amount
	129875	08/08/2022	VET SVCS 08/03/22	150.00
	129878	08/08/2022	VET SVCS 08/04/22	150.00
	131680	09/19/2022	VET SVCS 08/08/22	150.00
	130205	08/16/2022	VET SVCS 08/13/22	150.00
	130208	08/16/2022	VET SVCS 08/15/22	150.00
	130420	08/22/2022	VET SVCS 08/22/22	150.00
Check	10/27/2022	6916 Accounts Payable	CENTRAL VALLEY TOXICOLOGY, INC.	155.00
	Invoice	Date	Description	Amount
	322809	09/07/2022	LAB TESTS 9/7/22	75.00
	323334	09/30/2022	LAB TESTS 9/30/22	40.00
	323336	09/30/2022	LAB TESTS 9/30/22	40.00
Check	10/27/2022	6917 Accounts Payable	CHILDCARE CAREERS, LLC	521.28
	Invoice	Date	Description	Amount
	561248	10/14/2022	10/4 & 10/7 CHILDCARE SUBSTITUE	521.28
Check	10/27/2022	6918 Accounts Payable	CLIENTFIRST TECHNOLOGY CONSULTING	17,563.75
	Invoice	Date	Description	Amount
	13967	07/31/2022	INFO TECH DEPARTMENT SUPPORT 7/1 - 7/31/22	17,563.75
Check	10/27/2022	6919 Accounts Payable	CONNECTWISE	890.88
	Invoice	Date	Description	Amount
	INV00694083	09/30/2022	IT MANAGEMENT SOFTWARE 10/20/22 - 11/19/22	890.88
Check	10/27/2022	6920 Accounts Payable	DIVISION OF THE STATE ARCHITECT	59.00
	Invoice	Date	Description	Amount
	0701-030922	10/05/2022	CA STATE CASP FEES (AB1379)	59.00
Check	10/27/2022	6921 Accounts Payable	FEHR & PEERS	2,293.00
	Invoice	Date	Description	Amount
	159148	10/17/2022	TASK ORDER #6-NEWARK/BRITTANY & ENTERPRISE/ALEPPO 08/27-09/30/22	2,293.00
Check	10/27/2022	6922 Accounts Payable	GHD INC.	2,508.00
	Invoice	Date	Description	Amount
	380-0019976	10/03/2022	TASK ORDER #2 - STEVENSON/ENCYCLOPEDIA CIRCLE (THROUGH 10/01/22)	2,508.00
Check	10/27/2022	6923 Accounts Payable	HILLYARD	1,760.30
	Invoice	Date	Description	Amount
	604900543	10/07/2022	JANITORIAL SUPPLIES	1,760.30
Check	10/27/2022	6924 Accounts Payable	HIROSHI ICHIMURA	3,632.40
	Invoice	Date	Description	Amount
	0907-10222022	10/25/2022	PAYMENT FOR KENDO 9/7-10/22/22	3,632.40
Check	10/27/2022	6925 Accounts Payable	JOCELYN E. ROLAND	475.00
	Invoice	Date	Description	Amount

	20446	07/01/2022	PRE-EMPLOYMENT PSYCHOLOGICAL SCREENING - 06/23/2022	475.00
Check	10/27/2022	6926 Accounts Payable	KBA DOCUMENT SOLUTIONS, LLC	1,891.75
	Invoice	Date	Description	Amount
	55Y1311424	10/03/2022	COPIER LEASE YEAR 1 OF 5 9/1-9/30/22	1,891.75
Check	10/27/2022	6927 Accounts Payable	LANGUAGE LINE SERVICES	419.47
	Invoice	Date	Description	Amount
	10638587	09/30/2022	INTERPRETATION SVCS SEPTEMBER 2022	419.47
Check	10/27/2022	6928 Accounts Payable	LYNN PEAVEY COMPANY	86.15
	Invoice	Date	Description	Amount
	394317	10/07/2022	DETECTIVE DIVISION CERT SUPPLIES	86.15
Check	10/27/2022	6929 Accounts Payable	MICHAEL STEVEN YORKS	1,575.00
	Invoice	Date	Description	Amount
	2022-14	10/04/2022	BACKGROUND INVESTIGATIONS 08/13-09/25/22	1,575.00
Check	10/27/2022	6930 Accounts Payable	MIKE YORKS INVESTIGATIONS	1,575.00
	Invoice	Date	Description	Amount
	2022-19	10/18/2022	BACKGROUND INVESTIGATIONS 09/27-10/05/22	1,575.00
Check	10/27/2022	6931 Accounts Payable	MNS ENGINEERS INC	25,357.50
	Invoice	Date	Description	Amount
	81389	10/08/2022	ON-CALL PUBLIC WORKS INSPECTION SERVICES (09/01-09/30/22)	25,357.50
Check	10/27/2022	6932 Accounts Payable	MFCP INC	184.26
	Invoice	Date	Description	Amount
	8488394	10/07/2022	BLDG SUPPLIES - TUBING	24.11
	8488040	10/07/2022	BLDG SUPPLIES - TUBING	4.81
	8486545	10/06/2022	FLEET PARTS AND SUPPLIES - SPIRAL GUARD	30.76
	8487145	10/06/2022	FLEET PARTS AND SUPPLIES - SPIRAL GUARD	124.58
Check	10/27/2022	6933 Accounts Payable	NEWARK TRAVEL SERVICES	6,538.54
	Invoice	Date	Description	Amount
	0727-073022-JH	07/26/2022	ACCOMODATION FOR TRAINING-0727-073022	1,200.80
	0911-092222-AP	09/06/2022	FLIGHT, RENTAL& ACCOMODATION FOR TRAINING	3,734.46
	0727-073022-AP	07/26/2022	ACCOMODATION & FLIGHT FOR TRAINING-0727-073022	1,603.28
Check	10/27/2022	6934 Accounts Payable	PAPA JOHNS PIZZA	113.98
	Invoice	Date	Description	Amount
	100	09/17/2022	PAYMENT FOR BIRTHDAY PARTY PIZZAS	113.98
Check	10/27/2022	6935 Accounts Payable	SMARTDEPLOY, LLC	6,372.00
	Invoice	Date	Description	Amount
	PDQ24845	08/29/2022	IMAGING SOFTWARE 7/5/22-7/5/23	6,372.00
Check	10/27/2022	6936 Accounts Payable	PHAN'S SMOG STATION	160.00
	Invoice	Date	Description	Amount
	049175	10/21/2022	SMOG VEH #128	60.00
	048994	10/18/2022	SMOG VEH #172	40.00
	048998	10/18/2022	SMOG VEH #132	60.00

Check	10/27/2022	6937 Accounts Payable	PUBLIC SAFETY FAMILY COUNSELING GROUP, INC.	400.00
	Invoice	Date	Description	Amount
	P2212-GRIN-105	10/07/2022	ICISF-12/05-12/08/22-D.HIGBEE	400.00
Check	10/27/2022	6938 Accounts Payable	REYES COCA-COLA BOTTLING LLC.	341.15
	Invoice	Date	Description	Amount
	11581212457	10/07/2022	DRINKS FOR SILLIMAN CENTER	341.15
Check	10/27/2022	6939 Accounts Payable	MATT REYMUNDO	147.00
	Invoice	Date	Description	Amount
	101822EXP	10/17/2022	CALNENA MEMBERSHIP 2023-REIMBURSEMENT	147.00
Check	10/27/2022	6940 Accounts Payable	SAVAGE TRAINING GROUP LLC	730.00
	Invoice	Date	Description	Amount
	1710	07/21/2022	FIELD TRAINING OFFICER CERTIFICATION 11/07-11/11/22	730.00
Check	10/27/2022	6941 Accounts Payable	SMITH & SONS ELECTRIC, INC.	723.50
	Invoice	Date	Description	Amount
	22046	08/10/2022	FS 27 LIGHTING	723.50
Check	10/27/2022	6942 Accounts Payable	STAPLES	702.05
	Invoice	Date	Description	Amount
	8067741574	09/30/2022	OFFICE SUPPLIES	702.05
Check	10/27/2022	6943 Accounts Payable	HDL COREN & CONE	4,081.25
	Invoice	Date	Description	Amount
	SIN019991	07/18/2022	PROPERTY TAX CONSULTING - JULY - SEPTEMBER 202	4,081.25
Check	10/27/2022	6944 Accounts Payable	TURF STAR, INC.	522.30
	Invoice	Date	Description	Amount
	7250212-00	10/04/2022	FLEET PARTS AND SUPPLIES - V-BELT	256.47
	7250860-00	10/07/2022	FLEET PARTS AND SUPPLIES	265.83
Check	10/27/2022	6945 Accounts Payable	TYLER TECHNOLOGIES, INC.	9,344.41
	Invoice	Date	Description	Amount
	045-386817	08/01/2022	TIMEKEEPING AND ADVANCE SCHEDULING IMPLEMENTATION 9/1/22-8/31/23	9,344.41
Check	10/27/2022	6946 Accounts Payable	URBAN PLANNING PARTNERS, INC.	3,911.00
	Invoice	Date	Description	Amount
	22005-220731	08/21/2022	TASK ORDER #3 - HOMEKEY NEPA - THROUGH 07/31/22	3,911.00
Check	10/27/2022	6947 Accounts Payable	WASHINGTON HOSPITAL	50.00
	Invoice	Date	Description	Amount
	0922-NPD	10/04/2022	LAB TESTS SEPT 2022	50.00
Check	10/27/2022	6948 Accounts Payable	ORION SECURITY	4,043.20
	Invoice	Date	Description	Amount
	118938	10/15/2022	UNARMED, UNIFORMED SECURITY OFFICER 10/10/2022-10/13/2022	1,155.20
	118979	10/22/2022	UNARMED, UNIFORMED SECURITY OFFICER 10/17/2022-10/21/2022	1,444.00
	118886	10/08/2022	UNARMED, UNIFORMED SECURITY OFFICER 10/03/2022-10/07/2022	1,444.00

Check	10/27/2022	6949 Accounts Payable	POLILLO , MARK		1,000.00
	Invoice	Date	Description		Amount
	101022	10/10/2022	ADMINISTRATION CITATION #P6488 REFUNDED		1,000.00
Check	10/27/2022	6950 Accounts Payable	TORRES TALANCON LESLY		500.00
	Invoice	Date	Description		Amount
	661195	10/25/2022	REFUND FOR COMM CTR RENTAL DEPOSIT		500.00
EFT	10/27/2022	386 Accounts Payable	GRANICUS	022000020 / 269099115	8,295.83
	Invoice	Date	Description		Amount
	156979	09/30/2022	WEB SITE HOST AND EDITOR 10/01-09/30/23		8,295.83
EFT	10/27/2022	387 Accounts Payable	MACQUARIE EQUIPMENT CAPITAL INC.	041001039 / 359681508271	822.22
	Invoice	Date	Description		Amount
	49289	10/04/2022	HP PRINTER LEASE 09/24-10/23/22		822.22

AP ZBA ACCOUNTS PAYABLE Totals: Transactions: 48 $246,935.88

Checks:	46	$237,817.83
EFTs:	2	$9,118.05

STAFF REPORT

Item D. 2.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Approval of October 27, 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, October 27, 2022
7:00 P.M.

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:10 p.m. Vice Mayor Hannon, Council Members Collazo, Freitas, and Bucci were noted as present.

B. PRESENTATIONS

1. Assemblymember Alex Lee ceremonial presentation of check for Quiet Zone Safety Improvements and Broadband Master Plan

Assemblymember Lee presented ceremonial checks to Mayor Nagy in the amount of $2 million for Quiet Zones Safety Improvements and $1.8 million for the Broadband Master Plan. Mayor Nagy stated this was the largest appropriation that the City has received from the State of California through an Assemblymember.

2. Commending Newark Days Committee

Mayor Nagy presented the Newark Days Committee Commendation to Shirley Sisk and the Newark Days committee members. Mrs. Sisk announced that Newark Rocks would be the theme of next year's event.

3. Proclaim October as Promotores Month

Mayor Nagy presented proclamations from the City and Alameda County Supervisor Valle in honor of Promotores Month to Edda Rivera, Adriana Lopez, and Veronica Torres.

4. Introduction of employees

Mayor Nagy introduced Police Support Services Manager Marisa Huntley, Administrative Analyst Kamini Kumar, and Building Inspector I Bryan Cabeceira.

Mayor Nagy presented a ten-year career service certificate to City Manager Benoun.

C. PUBLIC COMMENT

Mary Beth Bykowsky, Outreach Analyst for the California Department of Insurance shared information on insurance related issues.

D. CONSENT CALENDAR

Vice Mayor Hannon stated that for item D.6, seniors over the age of 65, could apply for a discount through Republic Services. He requested that the Newark News include an article on garbage rate discounts for seniors in the future.

No one from the public requested to speak.

Vice Mayor Hannon moved, Council Member Collazo seconded, to approve Consent Calendar Items D.1 through D.6, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 5 AYES.

1. Approval of Audited Demands

2. Approval of October 13, 2022 meeting minutes

3. Adopt a resolution approving the final map and subdivision improvement agreement for Tract 8606 – Newpark Mall Phase D1 and D4 (Newpark Mall, LP) at 2086 Newpark Mall Road
Resolution No. 11416
Contract No. 22063

4. Adopt a resolution approving the final map and subdivision improvement agreement for Tract 8489 – Newpark Mall Phase A (Newpark Mall Phase A Development LLC) at 2086 Newpark Mall Road
Resolution No. 11417
Contract No. 22064

5. Adopt a resolution authorizing the City Manager to execute a contractual services agreement with All City Management Services, Inc. to provide crossing guard services at intersections near schools that are within the jurisdiction of the Newark Unified School District
Resolution No. 11418
Contract No. 22065

6. Adopt a resolution authorizing a 3.7% increase to the solid waste collection, recycling and organics services maximum rates for Calendar Year 2023
Resolution No. 11419

E. PUBLIC HEARINGS

F. OTHER BUSINESS

1. Presentation of the 2021 Community Survey Results

Administrative Analyst Gonzales gave the presentation (on file with City Clerk).

No one from the public requested to speak.

Vice Mayor Hannon request that Text My Gov include information with outside agencies that would be beneficial for Newark residents such as Stopwaste.

In response to Vice Mayor Hannon, Assistant City Engineer Imai stated that staff applied for a grant through the Federal Highway Administration (FHA) for a two way cycle track between Gateway Boulevard and Hickory Street by the Don Edwards Wildlife Refuge. If the grant is approved, the FHA will be responsible for the project with an anticipated start date of 2029.

Vice Mayor Hannon requested that staff review sideshow fines.

In response to Council Member Bucci, Public Works Director Fajeau stated that the Newark Municipal Code was consistent with the California Streets and Highways Code for sidewalk repair being the responsibility of the adjacent property owner. He noted that the City had limited funding for repairs.

This item was informational only, no action requested.

2. Information regarding the Newark Police Department automated license plate reader (ALPR) program and opportunity for public comment

Captain Macias provided an overview of the automated license plate reader (ALPR) program, which has been in place since 2009. She stated that the updated Police Department Policy was consistent with state law and other jurisdictions best practices.

No one from the public requested to speak.

Council Member Bucci thanked the Police Department for updating the policy. He stated that he saw the value in license plate readers, but the one-year retention of the data was still a concern. He noted that the CHP keeps their data for 6 months. He further noted that Homeland Security access was listed in the redlined policy and wondered if it was left over from the previous policy. He thought it was in conflict with the City's Welcoming City policy. He requested it be double checked and followed up with him in an email.

In response to Council Member Bucci, Captain Macias stated that Maiveric was the data repository vendor for the information retention after the initial 30 day period.

This item was informational only, no action requested.

G. CITY COUNCIL MATTERS

Mayor Nagy thanked City staff for the Employee Appreciation Lunch, the Howl-O-Ween Dog Park event, and the Volunteer Appreciation Dinner.

Vice Mayor Hannon thanked Assemblymember Lee for his assistance in obtaining funding from the State. He stated that Newark Days attendance increased this year. He commended the Promotores group. He congratulated Council Member Collazo for another successful Día de los Muertos event.

Council Member Bucci also thanked Assemblymember Lee and City staff for the various events. He congratulated John Becker, Promotores, and Harold Crossland for their volunteer awards. Happy Halloween.

Council Member Freitas agreed with previous comments and recognized Unity Week too.

Council Member Collazo stated that Dia de los Muertos grows each year and thanked everyone who helped with the event. She suggested that the City form a cultural events committee. Shop Newark.

Council Member Bucci suggested the name of Cultural Celebration Committee for Council Member Collazo's idea.

H. CLOSED SESSION

I. ADJOURNMENT

Mayor Nagy adjourned the meeting at 8:56 p.m.

STAFF REPORT

Item D. 3.

DATE	11/10/2022
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

SUMMARY AND RECOMMENDATION

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 has continually adopted resolutions confirming the continued existence of the local emergency due to the COVID-19 Pandemic since May 14, 2020.

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 (October 28, 2022) there have been 352,111 confirmed cases within the County, with 11,346 of those cases being Newark residents. To date, there have been 2,046 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 has continually adopted resolutions confirming the existence of the local emergency since that time; 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 of the previous continued emergency resolutions 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, the number of cases within Alameda County has continued to rise, and there are now 352,111 confirmed cases of COVID-19 within the County, and 2,046 deaths as of October 28, 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. 4.

DATE	11/10/2022
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 November 10 Pursuant to AB 361

SUMMARY AND 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).

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, BA.2.12.1, and BA.5 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;
• 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 November 10

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 NOVEMBER 10 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, 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 highly contagious Omicron variant has since resulted in several highly contagious sub-variants, including the new BA.5, which has become the dominant strain of COVID-19; and

WHEREAS, due to the presence of the highly contagious Omicron sub-variants, especially BA.5, there has been a continuation of hospitalizations within the state; 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) 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. 5.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Motion accepting the Measure GG Transaction and Use Tax Oversight Committee Annual Report for Fiscal Year 2020-2021

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council, by motion, accept the Measure GG Oversight Committee Annual Report for Fiscal Year 2020-2021.

BACKGROUND

The City of Newark Transaction and Use Tax Ordinance (Measure GG) was approved at the November 8, 2016, election and took effect on April 1, 2017. Under Measure GG, the City receives a one-half of one percent (0.5%) general transaction and use tax for a period of 25 years. The measure is a general tax which allows the City to use the funds for any legitimate governmental purpose. The City Council prioritized the use of the revenue collected for facilities and services, including replacing the police operations/emergency operations to survive an earthquake, providing updated crime-fighting technology and replacing aging library/city facilities.

DISCUSSION/ANALYSIS

An Oversight Committee was appointed by the City Council to review revenues and expenditures associated with the tax and to provide the City Council with an annual report. The Committee consists of Elizabeth Macris, Jacinta Arteaga, Jim Lola, Michael Marzano, and Roy Pereira.

The Oversight Committee met on September 20, 2022, to review the Fiscal Year 2020-2021 transactions and the draft annual report. The Committee concluded that there were no findings to comment on nor recommendations for future expenditures.

FISCAL IMPACT

The Oversight Committee's Annual Report is for informational purposes only and does not have a direct fiscal impact nor cost.

REVIEW AND APPROVAL

Prepared by - Sheila Harrington, City Clerk
Reviewed by - Krysten Lee, Finance Director
Reviewed by - Lenka Hovorka, Assistant City Manager
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Annual Report

Measure GG Transaction and Use Tax Oversight Committee

Date: September 20, 2022

To: Honorable Mayor Nagy and Council Members Hannon, Collazo, Freitas, and Bucci

From: Measure GG Oversight Committee

Subject: Measure GG Oversight Committee's Report of the Measure GG Transactions and Use Tax Revenue and Expenditures for the Fiscal Year 2021

Background

City of Newark voters passed Measure "GG," a 25-year one-half cent transactions and use tax (TUT), in November 2016, and the transactions and use tax took effect on April 1, 2017.

The purpose of the Measure GG tax "is to upgrade City of Newark facilities and services, including replacing the seismically unsafe police operations/emergency operations center to survive an earthquake; providing updated crime-fighting technology; replacing aging library/city facilities with buildings meeting safety codes; providing disabled access and senior/teen/children's facilities; and other facilities and services."

This Measure GG tax is a "general tax," meaning that revenues raised from the tax go into the City's general fund to pay for any legitimate governmental purpose.

Measure GG also established a "City of Newark Transactions and Use Tax Oversight Committee." Resolution No. 10740, establishing the City of Newark Transactions and Use Tax Oversight Committee and committee bylaws, was passed by the City of Newark City Council on January 25, 2018. "The primary duties of the Oversight Committee established by the resolution are to:

a) Review semi-annual revenue and expenditure reports produced by the City and other relevant reports and information regarding the Transactions and Use Tax; and
b) Provide to the City Council an annual report on whether revenues were expended in an appropriate manner and recommendations, if any, of ways to ensure that future revenues are expended appropriately.
c) In order to preserve the integrity and independence of the oversight process, Committee members shall not play a role in contracting or project management for projects funded through revenue from Measure GG or any other expenditure of Measure GG funds.
d) The committee is not charged with decision-making on spending priorities, schedules, project details, or financing plans.

Consistent with the composition and qualifications of the Oversight Committee members outlined in Resolution No. 10740, the following citizens were selected as members of the Committee: Elizabeth Macris, Jacinta Arteaga, Jim Lola, Michael Marzano, and Roy Pereira.

Jim Lola was elected as Committee Chair, and Jacinta Arteaga was elected as Committee Vice-Chair.

The Oversight Committee met on September 20, 2022. All Committee members were in attendance with Elizabeth Macris attending virtually via Zoom. During this Committee meeting the Committee received a comprehensive Measure GG Revenue and Expenditure update from City Finance Director Krysten Lee.

The Measure GG Fund is accounted for as part of the City's General Fund, which is a type of governmental fund included in the City's basic financial statements. The City's General Fund accounts for all the general revenues and financial resources of the City not specifically levied or collected for the other City funds, as well as the related expenditures.

The Measure GG Fund is audited with all other City funds as part of the City's annual year-end compliance and financial audit conducted by the independent audit firm Lance, Soll, and Lunghard, LLP (LSL). This report reflects Measure GG revenues and expenditures following the full Fiscal Year (FY) 2021 ending June 30, 2021.

To ensure that the City receives all of the revenue it is owed from the Measure GG tax, the City has entered into a contract with HdL, an auditing firm from Diamond Bar, California, for audit and information services. HdL administers a system for monitoring sales and use tax receipts to identify and correct allocation errors that, once corrected, enhance their clients' revenues.

Fiscal Year 2021 Measure GG Revenues and Expenditures

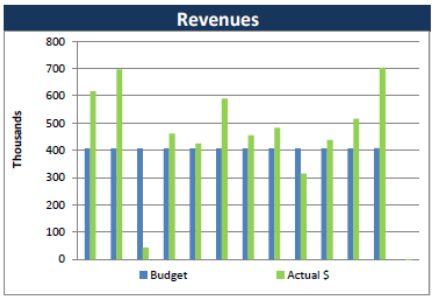
In Fiscal Year 2021, the California Department of Tax and Fee Administration (CDTFA) distributed a total of $5,699,899 in Measure GG tax collected from merchants using a system of advances and true-up payments.

As of the first calendar quarter, CDTFA switched its method of allocating advance payments. The first two advances will be higher in the future, with the "clean-up payment" being less. This change resulted from CDTFA's new financial system and new tax-collection system implemented in the Fall of 2019.

1/2 Cent Sales Tax Revenues

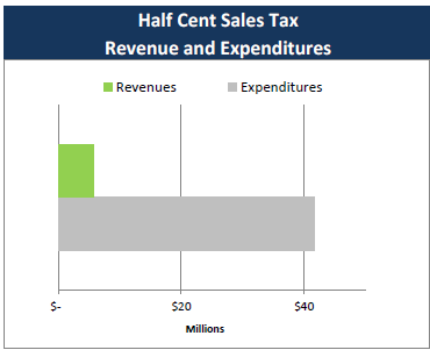
Month of Transaction	Month Received by City	Budget	Actual $
Jul-2020	September	$ 407,000	$ 616,985
Aug-2020	October	$ 407,000	$ 696,426
Sep-2020	November *	$ 407,000	$ 43,361
Oct-2020	December	$ 407,000	$ 461,400
Nov-2020	January	$ 407,000	$ 424,711
Dec-2020	February *	$ 407,000	$ 589,640
Jan-2021	March	$ 407,000	$ 454,633
Feb-2021	April	$ 407,000	$ 483,367
Mar-2021	May *	$ 407,000	$ 315,418
Apr-2021	June	$ 407,000	$ 437,997
May-2021	July	$ 407,000	$ 516,508
Jun-2021	August *	$ 408,000	$ 703,223
	CDTFA Error Corrections	$ -	$ (43,769)
Revenue Totals		$ 4,885,000	$ 5,699,899

* Includes quarterly clean-up payments.



For the Fiscal Year (FY) 2021, starting July 1, 2020 to June 30, 2021, the expenditures that supported the Civic Center Project were $41,601,813.

Expenditures from 1/2 Cent Sales Tax Fund			
Vendor	Action	Budget	Actual $
	Project Budget as of 7/25/2019	$ 88,705,207	
THE HDL COMPANIES	Audit Services Costs		$ 1,200
3QC, INC.	Commisioning Services		$ 49,142
ACC ENVIROMENTAL CONSULTANTS	Hazardous Material Monitoring		$ 40,282
ALAMEDA COUNTY WATER DISTRICT	ACWD Deposit for Connection		$ 24,800
AT&T MOBILITY	Transfer of Dispatch Services		$ 7,284
AVIAT U.S. INC.	Microwave Path Analysis		$ 52,241
BUTTERFLY PROPERTY, LP	Alternative Parking		$ 21,900
CEL CONSULTING, INC.	Construction Inspection & Quality Assurance Services		$ 37,112
COUNTY OF ALAMEDA AUDITOR-CO	Dispatch Communitcations Move		$ 13,277
DIGITAL ENGINEERING SYSTEMS	Relocations of Printers		$ 845
FRANK BONETTI PLUMBING INC	Sewer Line and Plumbing		$ 1,240
GEOCON CONSULTANTS, INC.	Geotechnical Services		$ 6,127
HILLYARD OF SAN FRANCISCO	Waste Receptacles		$ 1,601
HOME DEPOT CREDIT SERVICES	Civic Center Appliances		$ 9,312
KBA DOCUMENT SOLUTIONS, LLC.	Relocations of Printers		$ 2,000
KBM OFFICE EQUIPMENT INC	Civic Center Furniture		$ 997,538
KIER & WRIGHT CIVIL ENGINEERS &	Parcel Map for Civic Center Site Survey		$ 3,453
MISSION CRITICAL PARTNERS, LLC.	Public Safety Consulting & Support		$ 137,827
NEWARK PAVILION	Alternative Parking		$ 63,525
PACIFIC GAS & ELECTRIC	Design & Connection Fees		$ 58,641
SMITH & SONS	Electrical Work		$ 1,446
STAPLES ADVANTAGE	Office Supplies		$ 3,539
STATE WATER RESOURCES CONTROL	Annual State Water Permit		$ 773
SYSTEMS & SPACE, INC.	High Density Stroage Solutions		$ 333,304
UNION SANITARY DISTRICT	USD Demolition Permit Fee		$ 2,900
VALLEY RELOCATION & STORAGE	Moving and Furniture Disposal 3/5/2021-3/23/2021		$ 57,165
VANIR CONSTRUCTION MANAGEME	Construction Management - Design Phase		$ 524,140
WATSON FURNITURE GROUP	Dispatch Furniture		$ 62,715
WEBCOR CONSTRUCTION, LP	Civic Center Build/Design Services		$ 39,081,119
ANDREASEN SECURITY	Fire Proof Safes for Finance		$ 4,445
BOX, INC.	License for Digital Content Management		$ 675
Various	Misc. Supplies		$ 242
Expenditure Totals		$ 88,705,207	$ 41,601,813



The City accounts for all of its resources using generally accepted accounting principles and governmental fund accounting procedures.

The City established a fund (112 - Measure GG Fund) to account for the Measure GG transaction use tax (TUT) revenues and a project code (1188 - Measure GG Civic Center Project) under the Capital Improvement Projects Fund 401 to enable careful tracking of Measure GG revenues and expenditures.

Conclusions

At this time, the Oversight Committee has no findings to comment on for the fiscal year ending on June 30, 2021. The Oversight Committee has found the City Staff transparent and forthcoming with data and answers to our questions. It has made no recommendations to the City to ensure that future revenues are expended effectively and efficiently.

Respectfully submitted,

Jim Lola
Chairperson
Measure GG Oversight Committee

STAFF REPORT

Item D. 6.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Adopt a resolution reappointing Jeff Aguilar to the Planning Commission

Planning Commissioner Jeff Aguilar has a term on the Planning Commission that will expire on December 31, 2022. Commissioner Aguilar has served on the Planning Commission since February 27, 2014, and has requested a four-year reappointment.

It is recommended that the City Council, by resolution, approve the reappointment of Jeff Aguilar to the Planning Commission, for a term to expire on December 31, 2026.

Attachments

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING THE REAPPOINTMENT OF JEFF AGUILAR TO THE PLANNING COMMISSION

WHEREAS, Jeff Aguilar, hereto appointed member of the Planning Commission, has a term expiring December 31, 2022; and

WHEREAS, the Mayor of the City of Newark has reappointed Jeff Aguilar to said position on the Planning Commission for a term expiring December 31, 2026;

NOW, THEREFORE, BE IT RESOLVED that said appointment is hereby approved by the City Council of the City of Newark.

STAFF REPORT

Item D. 7.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Diana Cangco, Senior Civil Engineer
SUBJECT	Adopt a resolution accepting public subdivision improvements for Tract 8310 – Bayshores Phase II, an 86-unit residential subdivision generally located on the southeast corner of Hickory Street and Seawind Way in Bayside Newark

SUMMARY AND RECOMMENDATION

Public and private improvements for Tract 8310 – Bayshores Phase II, an 86-unit residential subdivision generally located on the southeast corner of Hickory Street and Seawind Way in the Bayside Newark Specific Plan Area (formerly known as the Dumbarton Transit Oriented Development), have been completed in substantial compliance with the plans and specifications of the project. The project contractor, William Lyon Homes Inc., a California corporation, a subsidiary of Taylor Morrison of California, LLC, a California limited liability company, will reduce the Subdivision Performance Bond to the amount of $148,400 in place of the required Warranty Bond to guarantee the completed subdivision improvements for a one-year maintenance period.

Staff recommends that the City Council adopt a resolution accepting the public subdivision improvements for Tract 8310.

BACKGROUND

On May 25, 2017, the developer, CDCG Group Holdings Bayshores, LP, entered into a Subdivision Agreement with the City of Newark to construct public and private improvements for Tract 8310 – Bayshores Phase II, an 86-unit residential subdivision generally located on the southeast corner of Hickory Street and Seawind Way in the Bayside Newark Specific Plan Area (formerly known as the Dumbarton Transit Oriented Development). As allowed by the Subdivision Improvement Agreement, the project contractor, William Lyon Homes Inc., provided a Performance Bond in the amount of $1,484,000 and a Materials Bond in the amount of $742,000, both issued by Philadelphia Indemnity Insurance Company, to guarantee the subdivision improvements on portions of Seawind Way and Quiet Cove Way rights-of-way, and all private in-tract common area improvements. The public improvements included new curb, gutter, sidewalk, landscaping, lighting, utility connections, and street pavement. The private improvements included new private street alleyways, driveways, signage, utilities, storm drain systems, lighting, landscaping, and other common area improvements.

On January 10, 2019, 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, and in accordance with authority contained in §66499.7 of the California Government Code.

DISCUSSION/ANALYSIS

The construction of the subdivision improvements for Tract 8310 – Bayshores Phase II is now complete. The project contractor, William Lyon Homes Inc., will reduce the Subdivision Performance Bond to the amount of $148,400 in place of the required Warranty Bond for the correction of any defective materials or workmanship within the designated one-year maintenance period. After acceptance, the public improvements, some of which are part of Zone 1 of Landscape and Lighting District 19 for Bayshores, will be owned and maintained by the City. The private improvements for the common benefit of all homeowners will be owned and maintained by the Bayshores Homeowners Association.

FISCAL IMPACT

The estimated additional annual maintenance cost of the public improvements associated with Tract 8310 is $16,000. The estimated annual maintenance cost is for pavement maintenance, street sweeping, curb and gutter replacement and maintenance costs identified as the City's contribution for Zone 1 of Landscape and Lighting District 19 due to general and special benefits for parcels outside Zone 1.

REVIEW AND APPROVAL

Prepared by - Diana Cangco, Senior Civil Engineer
Reviewed by - Jayson Imai, Assistant City Engineer
Reviewed 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 PUBLIC SUBDIVISION IMPROVEMENTS FOR TRACT 8310 – BAYSHORES PHASE II, AN 86-UNIT RESIDENTIAL SUBDIVISION GENERALLY LOCATED ON THE SOUTHEAST CORNER OF HICKORY STREET AND SEAWIND WAY IN BAYSIDE NEWARK

WHEREAS, CDCG Group Holdings Bayshores, LP, previously entered into a Subdivision Agreement with the City of Newark dated May 25, 2017 (Resolution 10,637) for the construction of certain public and private improvements for Tract 8310 – Bayshores Phase II, an 86-unit residential subdivision generally located on the southeast corner of Hickory Street and Seawind Way in the Bayside Newark Specific Plan Area (formerly known as the Dumbarton Transit Oriented Development) in accordance with plans and specifications on file with the City Engineer; and

WHEREAS, the scope of public improvements on portions of Seawind Way and Quiet Cove Way included new curb, gutter, sidewalk, landscaping, lighting, utility connections, and street pavement; and

WHEREAS, said work has been completed in substantial compliance with the plans and specifications of the contract entered into heretofore and the City Engineer has recommended the acceptance of these public improvements on portions of Seawind Way and Quiet Cove Way; and

WHEREAS, additional work was completed in substantial compliance with the plans and specifications, within the common areas of the project site to be owned and maintained by the Bayshores Homeowners Association, including but not limited to the private street alleyways, driveways, signage, utilities, storm drain systems, lighting, landscaping, and other common area improvements; and

WHEREAS, pursuant to Resolution 10,880, 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 $1,484,000 and the original Materials Bond in the amount of $742,000 with bond riders issued by Philadelphia Indemnity Insurance Company in the amounts of $296,800 and $148,400 respectively; and

WHEREAS, as allowed by the Subdivision Improvement Agreement, William Lyon Homes, Inc., the project contractor, a subsidiary of Taylor Morrison of California, LLC, will reduce the Subdivision Performance Bond in the amount of $148,400 in place of the required Warranty Bond for the correction of any defective materials or workmanship within a designated one-year maintenance period.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that said public improvements on portions of Seawind Way and Quiet Cove Way are hereby accepted.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby approve the reduction of the Subdivision Performance Bond in the amount of $148,400 in place of the required Warranty Bond.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the release of the Materials Bond guaranteeing the completion of work in Tract 8310.

STAFF REPORT

Item D. 8.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Diana Cangco, Senior Civil Engineer
SUBJECT	Adopt a resolution accepting public subdivision improvements for Tract 8085 – Bayshores Phase I, a 213-unit residential subdivision generally located on the west side of Willow Street between Central Avenue and Seawind Way in Bayside Newark

SUMMARY AND RECOMMENDATION

Public and private improvements for Tract 8085 – Bayshores Phase I, a 213-unit residential subdivision generally located on the west side of Willow Street between Central Avenue and Seawind Way in the Bayside Newark Specific Plan Area (formerly known as the Dumbarton Transit Oriented Development), have been completed in substantial compliance with the plans and specifications of the project. The developer's contractor, William Lyon Homes Inc., a California corporation, a subsidiary of Taylor Morrison of California, LLC, a California limited liability company, will reduce the Subdivision Performance Bond to the amount of $651,030 in place of the required Warranty Bond to guarantee the completed subdivision improvements for a one-year maintenance period.

Staff recommends that the City Council adopt a resolution accepting the public subdivision improvements for Tract 8085.

BACKGROUND

On April 28, 2016, the developer, CDCG Group Holdings Bayshores, LP, entered into a Subdivision Agreement with the City of Newark to construct public and private improvements for Tract 8085 – Bayshores Phase I, a 213-unit residential subdivision generally located on the west side of Willow Street between Central Avenue and Seawind Way in the Bayside Newark Specific Plan Area (formerly known as the Dumbarton Transit Oriented Development). As allowed by the Subdivision Improvement Agreement, the project contractor, William Lyon Homes Inc., provided a Performance Bond in the amount of $6,510,300 and a Materials Bond in the amount of $3,255,150, both issued by Philadelphia Indemnity Insurance Company, to guarantee the subdivision improvements on Bayshores Avenue, Seawind Way, Spring Tide Road, Lookout Way, Harbor Light Road, and Quiet Cove Way rights-of-way, and all private in-tract common area improvements. The public improvements included new curb, gutter, sidewalk, landscaping, lighting, utility connections, and street pavement. The private improvements included new private street alleyways, driveways, sidewalk, signage, utilities, storm drain and stormwater treatment systems, lighting, landscaping,

and other common area improvements.

On January 10, 2019, 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, and in accordance with authority contained in §66499.7 of the California Government Code.

DISCUSSION/ANALYSIS

The construction of the subdivision improvements for Tract 8085 – Bayshores Phase I is now complete. The project contractor, William Lyon Homes Inc., will reduce the Subdivision Performance Bond to the amount of $651,030 in place of the required Warranty Bond for the correction of any defective materials or workmanship within the designated one-year maintenance period. After acceptance, the public improvements, some of which are part of Zone 1 of Landscape and Lighting District 19 for Bayshores, will be owned and maintained by the City. The private improvements for the common benefit of all homeowners will be owned and maintained by the Bayshores Homeowners Association.

FISCAL IMPACT

The estimated additional annual maintenance cost of the public improvements associated with Tract 8310 is $65,000. The estimated annual maintenance cost is for pavement maintenance, street sweeping, curb and gutter replacement and maintenance costs identified as the City's contribution for Zone 1 of Landscape and Lighting District 19 due to general and special benefits for parcels outside Zone 1.

REVIEW AND APPROVAL

Prepared by - Diana Cangco, Senior Civil Engineer
Reviewed by - Jayson Imai, Assistant City Engineer
Reviewed 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 PUBLIC SUBDIVISION IMPROVEMENTS FOR TRACT 8085 – BAYSHORES PHASE I, A 213-UNIT RESIDENTIAL SUBDIVISION GENERALLY LOCATED ON THE WEST SIDE OF WILLOW STREET BETWEEN CENTRAL AVENUE AND SEAWIND WAY IN BAYSIDE NEWARK

WHEREAS, CDCG Group Holdings Bayshores, LP, previously entered into a Subdivision Agreement with the City of Newark dated April 28, 2016 (Resolution 10,485) for the construction of certain public and private improvements for Tract 8085 – Bayshores Phase I, a 213-unit residential subdivision generally located on the west side of Willow Street between Central Avenue and Seawind Way in the Bayside Newark Specific Plan Area (formerly known as the Dumbarton Transit Oriented Development) in accordance with plans and specifications on file with the City Engineer; and

WHEREAS, the scope of public improvements on Bayshores Avenue, Seawind Way, Spring Tide Road, Lookout Way, Harbor Light Road, and Quiet Cove Way included new curb, gutter, sidewalk, landscaping, lighting, utility connections, and street pavement; and

WHEREAS, said work has been completed in substantial compliance with the plans and specifications of the contract entered into heretofore and the City Engineer has recommended the acceptance of these public improvements on Bayshores Avenue, Seawind Way, Spring Tide Road, Lookout Way, Harbor Light Road, and Quiet Cove Way; and

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

WHEREAS, pursuant to Resolution 10,879, 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 $6,510,300 and the original Materials Bond in the amount of $3,255,150 with bond riders issued by Philadelphia Indemnity Insurance Company in the amounts of $1,302,060 and $651,030 respectively; and

WHEREAS, as allowed by the Subdivision Improvement Agreement, William Lyon Homes, Inc., the project contractor, a subsidiary of Taylor Morrison of California, LLC, will reduce the Subdivision Performance Bond in the amount of $651,030 in place of the required Warranty Bond for the correction of any defective materials or workmanship within a designated one-year maintenance period.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that said public improvements on Bayshores Avenue, Seawind Way, Spring Tide Road, Lookout Way, Harbor Light Road, and Quiet Cove Way are hereby accepted.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby approve the reduction of the Subdivision Performance Bond in the amount of $651,030 in place of the required Warranty Bond.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the release of the Materials Bond guaranteeing the completion of work in Tract 8085.

STAFF REPORT

Item D. 9.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Nicholas Cuevas, Recreation and Community Services Manager
SUBJECT	Adopt a resolution authorizing the City Manager to execute Task Order No. 27 to the Joint Powers Agreement with the City of Fremont for Paratransit Services

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council, by resolution, authorize the City Manager to execute Task Order No. 27 to the Joint Powers Agreement with the City of Fremont for Newark Paratransit services.

BACKGROUND

Door-to-door shared ride transportation services are an essential service offered to Newark residents who are 70 years of age and older or who are unable to access public transit independently due to a medical or disabling health condition. These paratransit services are provided to elderly and disabled Newark residents in order to improve their access to health care, shopping, errands, and social and recreational activities. The City has contracted for paratransit services with the City of Fremont since 2013. The size and scope of Fremont's program provides Newark residents with expanded and efficient services.

DISCUSSION/ANALYSIS

The following table provides a summary of services to be provided through the City of Fremont under the proposed contract for services with MV Transportation, local taxi companies, Lyft, and GoGo Technologies:

FY22/23 Service Parameters	**Fremont/Newark Wheelchair Accessible Paratransit Service**
Service Hours	Monday - Sunday 8am-6pm
Service Area	All of Fremont, Newark, and Union City
Fares	$4 per one-way trip within Newark, Fremont, and Union City
Reservation Hours	Ride reservations will be taken Monday – Friday, 8 am – 5 pm. Reservations are taken up to 3 days in advance. Rides are reserved on a first-call, first-served basis and are subject to vehicle space availability. Reservations and dispatch are provided through MV Transportation during the hours specified above. Standing order requests are processed and approved by

	Fremont's Transportation and Mobility Services team.
Enrollment processing time	On the same day of receipt of the application. Expedited access to transportation can also be arranged on the same day or the next day as scheduling capacity allows.

FY22/23 Service Parameters	**Subsidized Taxi Voucher Program**
Service Hours	24 hours per day, seven days a week. Ride requests are made on the same day. Riders will be picked up within 45 minutes of their call or within 10 minutes of a time order request.
Service Area	All of Newark, Fremont, and Union City
Fares	Depends on the distance traveled. $4 per taxi voucher (purchased through the City of Fremont). Each voucher subsidizes up to $20 in taxi meter fare. Riders are responsible for fares beyond the voucher subsidy.
Enrollment Requirements	Must be enrolled in the Fremont/Newark Paratransit program.

FY22/23 Service Parameters	**Subsidized Direct-Ride Hailing Service with Lyft and Ride-Hailing Service with GoGo Technologies**
Service Hours	24 hours per day, seven days a week, for rides ordered through an individual's smartphone. Rides provided through GoGo Technologies (for individuals without smartphones) will be available 7 days per week, 8 am – 6 pm. Ride requests are made on the same day through the Lyft app on the rider's own smartphone. Riders will receive special codes to apply to their rides in order to receive subsidized rides. Riders without smartphones will call GoGo Technologies' GoGo Grandparent call center for a ride on the Lyft or Uber ride-hailing platforms.
Service Area	All of Newark, Fremont, and Union City. Out-of-Area medical trips by staff approval only.
Fares	Riders pay the first $4 of a trip and up to $16 of the trip will be subsidized. Riders are responsible for all fares above $20. For staff-approved medical out-of-area trips, the rider pays the first $4 of the trip, and up to $46 of the trip will be subsidized; riders are responsible for all fares above $50. Passenger fares will be charged directly through the Lyft app or by GoGo Technologies.
Enrollment Requirements	Must be enrolled in the Fremont/Newark Paratransit program.

In addition to Paratransit, taxi voucher, and direct ride-hailing services, Newark residents benefit from the high level of service coordination and customer service provided by the City of Fremont's Paratransit services team. City of Fremont staff ensures that elderly and disabled residents have expedited access to transportation services (applications can be processed within hours, and urgent need transportation can be scheduled on the next day and sometimes even on the same day). Paratransit enrollment packets are sent out within a day or two of receipt of a completed application.

FISCAL IMPACT

Funding for Newark Paratransit services is provided through Measure B ($19,000) and Measure BB ($274,052) sales tax and administered through the Alameda County Transportation Committee. For the fiscal year 2023, staff is recommending funding in the amount of $293,052 which $220,000 was appropriated to Measure BB as part of the 2022-2024 Biennial Budget. Staff further recommends adding appropriation of $19,000 to Measure B (Fund 283) and $54,052 to Measure BB (Fund286).

REVIEW AND APPROVAL

Prepared by - Nicholas Cuevas, Recreation & Community Services Manager
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Reviewed & Approved by - David J. Benoun, City Manager

Attachments

Paratransit Resolution
JPA Task Order 27

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE TASK ORDER NO. 27 TO THE JOINT POWERS AGREEMENT WITH THE CITY OF FREMONT FOR NEWARK PARATRANSIT SERVICES

WHEREAS, a Joint Powers Agreement between the City of Newark and the City of Fremont on was entered into on August 17, 2009 for case management services; and

WHEREAS, the City of Fremont agreed to perform services in accordance with the Task Orders issued by the City of Newark; and

WHEREAS, on August 17, 2013 the Joint Powers Agreement was amended to enable the City of Fremont to provide paratransit services to the City of Newark, in accordance with Task Orders issued by the City of Newark; and

WHEREAS, the City of Newark wishes to continue paratransit services for the 2022-2023 program year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Manager of the City of Newark be and is hereby authorized to execute Task Order No. 27 to the Joint Powers Agreement with the City of Fremont for paratransit services, said agreement on file in the Office of the City Clerk.

TASK ORDER NO. 27 TO JOINT POWERS AGREEMENT BETWEEN THE CITY OF NEWARK AND THE CITY OF FREMONT (PARATRANSIT SERVICES FY 2022/2023)

This Task Order No. 27 ("Task Order") is made and entered into by and between the City of Newark, a municipal corporation ("Newark"), and the City of Fremont, a municipal corporation ("Fremont").

RECITAL

A. Newark and Fremont entered into an agreement entitled Joint Powers Agreement between the City of Newark and the City of Fremont ("Agreement"), by which Fremont agreed to perform services in accordance with Task Orders issued by Newark.

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Agreement.

2. **SCOPE OF TASK ORDER.** Fremont shall perform the services described in Exhibit "A," attached hereto and incorporated herein by reference, in accordance with the terms and conditions of the Agreement.

3. **PAYMENT.** For services performed by Fremont in accordance with this Task Order, Newark will compensate Fremont in accordance with the terms and conditions of the Agreement, in an amount not to exceed $293,052 (two hundred and ninety-three thousand and fifty-two dollars), as described in Exhibit "B," attached hereto and incorporated by reference.

4. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the Newark and Fremont.

IN WITNESS WHEREOF, the Newark and Fremont do hereby agree to the full performance of the terms set forth herein.

CITY OF FREMONT	**CITY OF NEWARK**
Signature:_____	Signature:_____
By: Christina Briggs	By: David Benoun
Title: Assistant City Manager	Title: City Manager
Date:_____	Date:_____

APPROVED AS TO FORM:

Signature: _____

By: Heather Lee

Title: Senior Deputy City Attorney

APPROVED AS TO FORM:

Signature: _____

By: Kristopher Kokotaylo

Title: City Attorney

EXHIBIT A TO TASK ORDER NO. 27
SCOPE OF SERVICES
Paratransit Services for FY 2022-2023

1. GENERAL DESCRIPTION

The City of Fremont will provide door-to-door, shared ride Wheelchair Accessible Van service to Newark residents needing wheelchair-accessible vehicles who are 70 years of age and older or who are unable to access public transit independently due to a medical or disabling health condition. Subsidized taxi and ride-hailing services will be provided to ambulatory Newark residents who are 70 years of age and older or who are unable to access public transit independently due to a medical or disabling health condition. These transportation services are provided to elderly and disabled Newark residents in order to improve their access to health care, shopping, errands and social and recreational activities. Services will be provided from July 1, 2022 through June 30, 2023.

2. PERSONNEL

a. Personnel working on this program will include members of the City of Fremont's Ride-On Tri-City! Program. The Fremont team consists of a Program Manager, Program Coordinator, Transportation Resources Specialist, Office Support Specialist and Public Services Assistant.

b. The City of Fremont has contracted with MV Public Transportation, Inc., local taxi companies, Lyft and GoGo Technologies, Inc. to provide transportation services for the specified period. A Request for Proposals has been issued for the Wheelchair-Accessible Van service with the selected transportation service provider ex[ected to begin service on January 1, 2023.

3. SERVICE REQUIREMENTS

a. Program Parameters:

(1) Wheelchair Accessible Van Service through MV Transportation (or new service provider) will be offered during the following hours:
Monday – Sunday, 8 am – 6 pm
No services will be provided on the following holidays:
New Year's Eve, New Year's Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day following Thanksgiving, Christmas Eve, Christmas Day.

Rides provided by taxi companies and ride hailing services provided by transportation network companies (for those using the Lyft app or calling GoGo Technologies's call center) will be available seven days a week from 8 am – 6 pm.

(2) Rides will be provided within Fremont, Newark and Union City.

(3) Passenger Fares:

Fares for Wheelchair Accessible Van rides: $4 per one-way trip within Newark, Fremont and Union City. Fares to be paid with a pre-paid paratransit voucher. Paratransit program participants can purchase pre-paid voucher books (10 pre-paid vouchers per book) from the City of Fremont at a cost of $40 per book.

Fares for taxi rides: Depends on distance traveled. Riders will purchase taxi vouchers from the City of Fremont at a cost of $4 per taxi voucher. Each taxi voucher subsidizes up to $20 in taxi meter fare. Riders are responsible for fares beyond the voucher subsidy.

Fares for ride-hailing services: Riders will pay the first $4 of a trip and up to $16 of the trip will be subsidized. Riders are responsible for all fares above $20. For staff-approved medical out-of-area trips, rider pays first $4 of a trip and up to $46 of the trip will be subsidized; riders are responsible for all fares above $50. Passenger fares will be charged directly through the Lyft app or by GoGo Technologies.

(4) Wheelchair Accessible Van Ride Requests:
Ride reservations will be taken: Monday – Friday, 8 am – 5 pm
Reservations are taken up to 3 days in advance. Rides are reserved on a first call, first served basis and are subject to vehicle space availability. Reservations and dispatch are provided through MV Transportation during the hours specified above. Standing order requests are processed and approved by the City's Transportation and Mobility Services team.

Taxi Ride Requests:
Ride requests are made on the same day. Riders will be picked up within 45 minutes of their call or within 10 minutes of a time order request.

Ride-Hailing Service through Lyft App:
Ride requests are made on the same day through the Lyft app on the rider's own smartphone. Riders requesting rides within the program's parameters will automatically receive program subsidy.

Ride-Hailing Service with GoGo Technologies:
Ride requests are made on the same day. Riders without smartphones will call GoGo Technologies's GoGoGrandparent call center serrvice and a call center representative will book the individual's ride on the Lyft or Uber ride-hailing platforms. Rides that fall within the program's parameters will automatically receive the program subsidy.

b. Services to be provided by the Transportation and Mobility Services Team include:

(1) Service Eligibility Screening & Program Enrollment

Staff will review applications, determine eligibility and enroll eligible individuals for paratransit services. A Rider's Guide will be provided to each enrolled participant. Pre-paid paratransit vouchers books and taxi vouchers will be sold to program participants by mail or in person at Fremont City Hall.

(2) Consumer Education and Service Coordination

Staff will provide one-on-one assistance to program participants who are experiencing difficulties in accessing or using the City's transportation services.

(3) Program Monitoring

Fremont's Program Manager will be responsible for the ongoing monitoring and evaluation of paratransit service operations. Staff from Fremont and Newark will meet quarterly to evaluate program and make adjustments as necessary to service operations.

(4) Service Documentation and Quarterly Invoicing

Documentation of paratransit services provided to each client will be kept in a manner consistent with the City of Fremont's existing practice. Service statistics will be maintained and submitted to City of Newark staff on a monthly basis, and as otherwise requested. The City of Newark will be responsible for all required reporting to the Alameda County Transportation Commission.

Fremont's Program Manager will submit an invoice to the City of Newark every six months for paratransit services provided. Invoices will include the City of Fremont's administrative fee and reimbursement for the paratransit services provided to Newark residents through the City's contract with its Wheelchair Accessible Van service provider, local taxi companies, Lyft and GoGo Technologies.

EXHIBIT B TO TASK ORDER NO. 27
BUDGET
Paratransit Services for FY 2022-23

The FY 2022-2023 budget for Task Order No. 27 is:

Paratransit Services:	Up to a maximum of $270,743
Administrative Fee:	Up to a maximum of $22,309
TOTAL BUDGET	$293,052

Invoicing to Newark will be broken down as follows:

- **Trip costs, by month, for all one-way trips provided to Newark residents:**

  a) Total monthly charge for Wheelchair Accessible Van services (based on each invoice received from Wheelchair Accessible Van service provider) divided by the total number of one-way trips provided and multiplied by the number of one-way trips provided to Newark residents.

  b) Total number of taxi vouchers redeemed by Newark residents multiplied by $25 per voucher redeemed.

  c) Total monthly subsidized trip costs for Lyft rides provided through Newark residents' Lyft smartphone app as invoiced by Lyft.

  d) Total monthly subsidized trip costs for Lyft and Uber rides provided by GoGo Technologies for Newark residents as invoiced by GoGo Technologies.

- **The administrative fee (8.24% of total trip cost amount) will be billed quarterly.**

- **Any revenues from transportation voucher sales to Newark residents will be deducted from the quarterly invoice.**

The City of Newark will reimburse the City of Fremont for service provision and administrative costs associated with the Paratransit Program. The City of Fremont shall submit an invoice to Newark by January 30, 2023 for services provided in the first half of FY 2022/2023 and by July 31, 2023 for services provided in the second half of FY 2022/2023. Newark shall make payments to Fremont within thirty (30) days of receipt of an invoice.

STAFF REPORT

Item D. 10.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Jennifer Solito, Human Resources Director
SUBJECT	Adopt a resolution adopting a compensation plan for certain positions in the exempt service employee group to amend the Part-Time, Seasonal and Temporary (PST) Classifications Schedule of Hourly Wage Rates, and revoking the previous resolution in conformance with California Code of Regulations, Title 2, Section 570.5

SUMMARY AND RECOMMENDATION

Staff annually reviews and recommends changes to the salary schedule for temporary employees. This year, in addition to the annual recommendations, an additional salary schedule change is requested to document the approval of the Police Officer Trainee pay rate increase included in the 2022-2024 Biennial Budget and Capital Improvement Plan.

Staff recommends that the City Council, by resolution, adopt a compensation plan for certain positions in the exempt service employee group to amend the Part-Time, Seasonal and Temporary (PST) Classifications Schedule of Hourly Wage Rates in conformance with California Code of Regulations, Title 2, Section 570.5 effective November 10, 2022 and January 1, 2023, and revoke Resolution No. 11,297.

BACKGROUND

The Part-Time, Seasonal and Temporary (PST) Classifications Schedule of Hourly Wage Rates provides a list of hourly wage rates for certain part-time, temporary and/or seasonal classifications, including CalPERS Annuitants. City staff conducts an annual review of temporary classification wage rates in order to remain in compliance with minimum wage laws and maintain alignment across wage ranges. Following any adjustments required due to minimum wage laws, the remaining temporary classifications are reviewed to ensure that they maintain similar compensation relationships with other related temporary and regular full-time positions. Compensation surveys are also conducted at times to ensure the City remains competitive in the job market when recruiting for positions critical to providing City services.

DISCUSSION/ANALYSIS

Two schedules are proposed for adoption as part of this action. The first schedule (Schedule One) is proposed to be effective immediately upon adoption, and the second schedule (Schedule Two) is proposed to be effective January 1, 2023 and replace Schedule One at that time.

Schedule One: As part of the fiscal year 2022-2023 budget, an increase to the Police Officer Trainee hourly rate was approved in order to align with the labor market and assist in an extremely difficult recruiting period. Schedule One is amended accordingly and is proposed to be effective upon City Council adoption, November 10, 2022, to assist immediately with recruitment and retention efforts. The City has also recently updated its internal guidelines around employment classifications and all non-permanent assignments are now classified as Temporary, and no longer distinguished by Part-Time, Seasonal, and Temporary (PST). As such, the title of the Schedule has been amended accordingly.

The staff recommended changes are redlined in Exhibit A to the resolution.

Schedule Two: Due to scheduled increases in the California minimum wage, some temporary classification minimum hourly ranges must be increased to the new minimum of $15.50 per hour, effective January 1, 2023. Staff also recommends consolidating temporary classifications with similar scope into a single level and broader hourly salary range, to provide flexibility to set the hiring rate based on commensurate experience, and avoid redundancy and overlap between positions with similar duties. Staff has also recommended amendments to remove classifications which are no longer used. Further, language has been added to provide that, should the duties of a temporary job assignment align most closely with an existing City job classification, that classification and corresponding hourly salary range will be utilized for the temporary assignment. This will provide for better alignment with job duties to be performed and appropriate compensation levels, consistency with other assignments within the City, and eliminate the need for additional temporary-only classifications and hourly salary ranges.

The summary of the proposed amendments to be effective January 1, 2023 are as follows:

- Five (5) temporary classifications are amended to reflect the new California minimum wage.
- Eleven (11) temporary-only classifications are deleted, to reduce redundancy or lack of use.
- Minor increase to the Lifeguard classification is proposed to remain competitive with the local labor market.
- Rates for classifications in job families or related positions impacted by the minimum wage increase or lifeguard market adjustment were increased to maintain similar compensation relationships.

The staff recommended changes are redlined in Exhibit B to the resolution.

FISCAL IMPACT

The fiscal impact of the Police Officer Trainee increase is included in the 2022-2024 Biennial Budget. The remaining adjustments primarily impact the Recreation and Community Services Department. These impacts can be absorbed in the current year budget due to salary savings which have occurred this fiscal year due to staffing shortages, and will be included in budget adjustments for the 2023-2024 budget, if necessary.

REVIEW AND APPROVAL

Prepared by – Jennifer Solito, Human Resources Director
Reviewed by - Lenka Hovorka, Assistant City Manager
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution Temp Salary Schedule

Exhibit A Temp Salary Schedule Eff 11.10.22

Exhibit B Temp Salary Schedule Eff 01.01.23

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ADOPTING A COMPENSATION PLAN FOR CERTAIN POSITIONS IN THE EXEMPT SERVICE EMPLOYEE GROUP TO AMEND THE SCHEDULE OF HOURLY WAGE RATES FOR PART-TIME, SEASONAL, and TEMPORARY (PST) CLASSIFICATIONS IN CONFORMANCE WITH CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5 EFFECTIVE NOVEMBER 10, 2022 AND JANUARY 1, 2023, AND REVOKING RESOLUTION NO. 11,297

WHEREAS, the Part-Time, Seasonal, and Temporary (PST) Classifications Schedule of Hourly Wage Rates provides a list of hourly wage rates for temporary positions; and

WHEREAS, the City is updating the "Part-Time, Seasonal, and Temporary (PST) Classifications Schedule of Hourly Wage Rates" document title to "Temporary Classifications Schedule of Hourly Rate Ranges ("the Schedule");

WHEREAS, as part of the fiscal year 2022-2023 budget, an increase to the Police Officer Trainee rate was approved to assist with recruitment and retention efforts, as shown in Exhibit A; and

WHEREAS, due to a scheduled increase in the state of California minimum wage effective January 1, 2023, the Schedule was reviewed to identify recommendations for minimum wage compliance; and

WHEREAS, the Schedule was also reviewed to ensure classifications remain in use and compensation relationships are maintained, and

WHEREAS, the Schedule was reviewed to ensure the City maintains competitiveness in the job market.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Council hereby adopts the Temporary Classifications Schedule of Hourly Rate Ranges effective November 10, 2022, as attached in Exhibit A, for certain positions in the Exempt Service.

BE IT FURTHER RESOLVED by the City Council of the City of Newark that the City Council hereby adopts the Temporary Classifications Schedule of Hourly Rate Ranges effective January 1, 2023, as attached in Exhibit B, for certain positions in the Exempt Service.

BE IT FURTHER RESOLVED that Exempt Service for the purposes of this resolution includes Temporary Employees. Employees appointed to exempt positions listed on the Temporary Classifications Schedule of Hourly Rate Ranges shall receive the stated rate if no range, or an hourly rate between the top and bottom of the range based on the qualifications of the appointee.

BE IT FURTHER RESOLVED that Resolution Number 11,297 is hereby revoked effective November 10, 2022, and if any provisions contained herein are found to be in conflict with provisions of any other resolutions, the provisions herein shall prevail.

Exhibit A

City of Newark, CA

~~PART-TIME, SEASONAL, and~~ TEMPORARY ~~(PST)~~ CLASSIFICATIONS

Schedule of Hourly ~~Wage~~ Rate~~s~~ Ranges Effective ~~January~~ November 10, 2022

Position	**Hourly Rate Range**	
	~~Bottom~~ Minimum	~~Top~~Maximum
Activity Coordinator	17.00	25.00
Aquatics Instructor I	17.00	20.00
Aquatics Instructor II	18.00	25.00
Customer Service Representative	15.00	19.00
Engineering Aide	24.50	34.00
Equipment Operator	21.00	28.00
General Maintenance Worker I	15.00	20.00
General Maintenance Worker II	17.00	22.00
General Maintenance Worker III	20.00	25.00
Inspector	25.00	45.00
Intern	15.00	25.00
Lifeguard I	16.00	20.00
Office Assistant I	15.00	24.00
Office Assistant II	16.50	26.00
Plan Checker	33.50	46.00
Planning Commissioner	75.00 per meeting	
Police Services Aide I*	15.00	18.00
Police Services Aide II*	17.00	26.00
Police Officer Trainee	~~33~~50.00	
Pool Service Technician	18.00	25.00
Preschool Aide	15.00	19.00
Preschool Instructor	17.50	25.00
Professional Services Specialist	50.00	125.00
Recreation Instructor	16.50	30.00
Recreation Leader I	15.00	18.00
Recreation Leader II	16.00	19.00
Senior Customer Service Representative	16.00	20.00
Senior Lifeguard	19.00	25.00
Special Assistant	30.00	75.00
Sports Official	15.00	30.00

Temporary staff may be hired into any existing job classification within the City's classification plan, commensurate with the work being performed by the temporary position. The temporary hourly pay rate will remain the same as the hourly rate of the applicable job classification posted in the City's salary schedule or employee agreements or compensation plans.

**The Police Services Aide positions are eligible to receive a uniform allowance, paid biweekly up to $100 per fiscal year.*

Resolution No. ~~11,297~~

Exhibit B

City of Newark, CA

PART-TIME, SEASONAL, and TEMPORARY (PST) CLASSIFICATIONS

Schedule of Hourly Wage Rates Ranges Effective January 1, 2022 23

Position	Hourly Rate Range	
	Bottom Minimum	Top Maximum
Activity Coordinator	17.00	25.00
Aquatics Instructor I	17.00	20.00
Aquatics Instructor II	178.00	25.00
Customer Service Representative	15.5000	2019.00
Engineering Aide	24.50	34.00
Equipment Operator	21.00	28.00
General Maintenance Worker I	15.00	20.00
General Maintenance Worker II	17.00	22.00
General Maintenance Worker III	15.5020.00	25.00
Inspector	25.00	45.00
Intern	15.5000	25.00
Lifeguard I	176.00	250.00
Office Assistant I	15.00	24.00
Office Assistant II	156.50	26.00
Plan Checker	33.50	46.00
Planning Commissioner	75.00 per meeting	
Police Services Aide I*	15.00	18.00
Police Services Aide II*	15.5017.00	26.00
Police Officer Trainee	5033.00	
Pool Service Technician	18.00	25.00
Preschool Aide	15.00	19.00
Preschool Instructor	17.50	25.00
Professional Services Specialist	50.00	125.00
Recreation Instructor	16.50	350.00
Recreation Leader I	15.5000	2318.00
Recreation Leader II	16.00	19.00
Senior Customer Service Representative	168.00	205.00
Senior Lifeguard	19.00	3025.00
Special Assistant	30.00	75.00
Sports Official	15.00	30.00

Temporary staff may be hired into any existing job classification within the City's classification plan, commensurate with the work being performed by the temporary position. The temporary hourly pay rate will remain the same as the hourly rate of the applicable job classification posted in the City's salary schedule, employee agreements or compensation plans.

**The Police Services Aide position~~s are~~ is eligible to receive a uniform allowance, paid biweekly up to $100 per fiscal year.*

Resolution No. ~~11,297~~

STAFF REPORT

Item D. 11.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Brett Oeverndiek, Administrative Analyst
SUBJECT	Adopt a resolution approving the Measure D Expenditure Plan and amend the 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Years 2022-2023 and 2023-2024

SUMMARY AND RECOMMENDATION

The Alameda County Waste Reduction and Recycling Initiative (Measure D) allows for a surcharge on solid waste disposed of at landfills and distributes half of the revenue to Alameda County jurisdictions. Disbursements are based on population and are for the purpose of continuation and expansion of municipal recycling programs. The City of Newark receives approximately $150,000 of Measure D funds annually. There is a cap for unspent Measure D funds for each Alameda County jurisdiction. Once this threshold is surpassed, the Alameda County Waste Management Authority (StopWaste) requires an expenditure plan in order for a jurisdiction to continue to receive Measure D funds. The Measure D expenditure plan provides a detailed projection regarding how the City will get below the maximum threshold.

Staff recommends that the City Council approve the expenditure plan and the associated budget amendments for the expenditure of these funds.

BACKGROUND

The Measure D threshold for unspent funds is calculated by multiplying eight dollars ($8) by the population. Using this formula, the threshold for Newark in fiscal year 2021-2022 is $380,232 ($8 x 47,529). Once this threshold is surpassed, the Alameda County Waste Management Authority (StopWaste) requires an expenditure plan in order for a jurisdiction to continue to receive Measure D funds. The City of Newark's Measure D fund balance currently exceeds the unspent threshold with an estimated balance of $629,877.

DISCUSSION/ANALYSIS

As several projects were delayed, the City of Newark's Measure D fund balance has exceeded the allowable balance as established by Rule 2 of the Alameda County Source Reduction and Recycling Board Resolution #2021-02. One delay was related to the Civic Center development project. This project has now been completed but as a result of the delay, an anticipated $100,000 for the associated ReScape landscaping and $50,000 for LEED Certification was not accounted for in FY 2021-2022 but rather

will be charged in FY 2022-2023. Also, due to the impacts of COVID-19 anticipated consulting services contracts were not executed until FY 2022-2023. As a result, the City of Newark is submitting this additional Measure D Expenditure Plan for fiscal years 2022-2023 and 2023-2024 for the Board's consideration.

The proposed fiscal year 2022-2023 and fiscal year 2023-2024 expenditure plan is as follows:

Fiscal Year 2022-2023	
Measure D Fund Balance (6/30/22)	$629,877
Estimated Measure D Funds to be Received[1]	$175,000
Estimated Interest Earned	$2,000
TOTAL Measure D FY 22/23 Balance =	$806,877
Ongoing/Annual Expenditures	
Newark Staff Salary (time spent on Measure D)	$115,000
Promotional items/public outreach	$20,000
Outreach to K-12 schools	$15,000
Measure D/Bay Friendly Trainings	$1,000
One-Time Projects	
Civic Center LEED Certification[2]	$50,000
Civic Center ReScape (Bay Friendly) Certifications[3]	$100,000
Consultant – Rate study/collection hauler contract services[4]	$98,000
Consultant for SB 1383 Planning and Implementation[5]	$99,000
Purchase of compost bins/kitchen pails for residents	$15,000
TOTAL Proposed Expenditures =	$513,000
Measure D Balance - Proposed Expenditures $806,877 - $513,000 =	$293,877
Maximum Unspent Funds ($8 x 47,529) =	$380,232
Amount Above Maximum Threshold =	($86,355)

1. A quarterly payment for FY 21/22 will be received and accounted for in FY 22/23.
2. This project has been completed but will be accounted for in FY 22/23.
3. This project has been completed but will be accounted for in FY 22/23.
4. Contract has been executed. Funds should be expended by the end of FY 22/23.
5. Contract has been executed. Funds should be expended by the end of FY 22/23.

Fiscal Year 2023-2024	
Approximate Measure D Fund Balance (6/30/23)	$293,877
Estimated Measure D Funds Received	$140,000
Estimated Interest Earned	$2,000
TOTAL Measure D FY 23-24 Balance =	$435,877
Ongoing/Annual Expenditures	
Newark Staff Salary (time spent on Measure D)	$124,000
Promotional items/public outreach	$20,000
Outreach to K-12 schools	$15,000
Measure D/Bay Friendly Trainings	$1,000
One-Time Projects	
Consultant for SB 1383 Planning and Implementation	$50,000
TOTAL Proposed Expenditures =	$210,000
Measure D Balance - Proposed Expenditures $435,877 - $210,000 =	$225,877
Maximum Allowable Unspent Measure D Funds =	$380,232
Amount Above Maximum Threshold =	($154,355)

The City proposes to expend a total of $513,000 this fiscal year and $210,000 in fiscal year 2023-2024 to reduce the estimated Measure D fund balance to $225,877 at the end of fiscal year 2023-2024. This would result in the City's Measure D fund balance to be $154,355 or approximately 60% below the maximum fund balance.

FISCAL IMPACT

Staff recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan to use $513,000 of the Measure D Unappropriated Fund Balance in fiscal year 2022-2023 and $210,000 in fiscal year 2023-2024. A budget amendment is necessary to appropriate funds into the following accounts:

For Fiscal Year 2022-2023:

From Account:	215.3000	Unappropriated Fund Balance	$513,000
To Account:	215.60.063.631.5110	Salaries	$115,000
	215.60.063.631.6220	Professional & Special Services	$200,000
	215.60.063.631.6221	Other Contractual Services	$197,000
	215.60.063.631.6450	Training	$1,000

For Fiscal Year 2023-2024:

From Account:	215.3000	Unappropriated Fund Balance	$210,000
	215.60.063.631.5110	Salaries	$124,000
	215.60.063.631.6220	Professional & Special Services	$35,000
	215.60.063.631.6221	Other Contractual Services	$50,000
	215.60.063.631.6450	Training	$1,000

REVIEW AND APPROVAL

Prepared by - Brett Oeverndiek, Administrative Analyst
Reviewed 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 APPROVING THE MEASURE D EXPENDITURE PLAN AND AMENDING THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN FOR FISCAL YEARS 2022-2023 AND 2023-2024

WHEREAS, the City of Newark receives funding from the Alameda County Waste Reduction and Recycling Initiative (Measure D), which is generated from a fee charged at solid waste landfills; and

WHEREAS, the Alameda County Waste Management Authority (StopWaste) established a threshold for unspent funds, which is calculated by multiplying eight dollars ($8) by the population and using this formula, the threshold for the City of Newark for fiscal year 2022-2023 is $380,232 ($8 x 47,529); and

WHEREAS, once the threshold has been reached, municipalities cannot continue to receive funds unless an expenditure plan is submitted and approved; and

WHEREAS, the City of Newark has surpassed the threshold limit; and

WHEREAS, proposed expenditures for fiscal years 2022-2023 and 2023-2024 may include, but are not limited to, expenses for: Newark staff time spent on Measure D activities, Measure D eligible trainings, promotional/outreach items, a variety of consultant costs including SB 1383 compliance and waste diversion implementation, set-up and ongoing maintenance of an online waste management tracking system, water-efficient landscape ordinance enforcement, and costs for recycled content building materials, bay-friendly landscaping and LEED certification related to the New Civic Center project; and

WHEREAS, the StopWaste Recycling Board will be meeting to review the City of Newark Measure D Expenditure Plan as proposed at their December 8, 2022 meeting.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark approves the latest Measure D Expenditure Plan and amends the 2022-2024 Biennial Budget as follows:

For Fiscal Year 2022-2023:

From Account:	215.3000	Unappropriated Fund Balance	$513,000
To Account:	215.00.5000	Salaries	$115,000
	215.00.6220	Professional & Special Services	$160,000
	215.00.6221	Other Contractual Services	$148,000
	215.00.6450	Training	$1,000

For Fiscal Year 2023-2024:

From Account:	215.3000	Unappropriated Fund Balance	$210,000
To Account:	215.00.5000	Salaries	$124,000
	215.00.6220	Professional & Special Services	$115,000
	215.00.6221	Other Contractual Services	$280,000
	215.00.6450	Training	$1,000

STAFF REPORT

Item D. 12.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Marisa Huntley, Police Services Support Manager
SUBJECT	Adopt a Resolution approving and authorizing the City Manager to execute the annual Sun Ridge Systems, Inc., Software Support Services Agreement

SUMMARY AND RECOMMENDATION

Staff recommends the City Council approve a resolution approving and authorizing the City Manager to execute the Sun Ridge Systems, Inc. Software Support Services Agreement for fiscal year 2022-2023 in an amount not to exceed $66,981.00. This agreement provides software support, maintenance, and enhancement services to Newark Police Department's computer aided dispatch (CAD), records management system (RMS), and mobile software for the period of August 29, 2022, to August 28, 2023.

BACKGROUND

On May 23, 2013, City Council awarded a contract to Sun Ridge Systems, Inc. for CAD, RMS, and mobile software for the police department. This contract also included a software support services agreement to maintain our system for the duration if its useful life. The attached Software Support Services Agreement is effective August 29, 2022, through August 28, 2023, and covers all the public safety software systems provided to Newark Police Department by Sun Ridge Systems, Inc.

DISCUSSION/ANALYSIS

The City of Newark has maintained an annual Software Support Services Agreement with Sun Ridge Systems, Inc. beginning in 2013 to provide software support for CAD, RMS, and mobile software. The software support provided by Sun Ridge Systems, Inc. is essential for City of Newark and Newark Police Department to provide public safety services to our community members, visitors, and City employees.

FISCAL IMPACT

Funding for the Sun Ridge Systems, Inc. Software Support Services Agreement in the amount of $66,981.00 in General Fund was included in the fiscal year 202222023 Biennial Budget for the purpose of providing software support to our public safety CAD, RMS, and mobile software.

REVIEW AND APPROVAL

Prepared by – Marisa Huntley, Police Support Services Manager
Reviewed by – Jonathan Arguello, Captain for Gina L. Anderson, Chief of Police
Reviewed by – Kristopher J. Kokotaylo, City Attorney
Approved by – David J. Benoun, City Manager

Attachments

Resolution Sunridge
Agreement

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE ANNUAL SUN RIDGE SYSTEMS, INC. SOFTWARE SUPPORT SERVICES AGREEMENT TO MAINTAIN THE SUN RIDGE SYSTEMS, INC., LICENSED SOFTWARE

WHEREAS, On May 23, 2013, the City of Newark awarded a contract to Sun Ridge Systems, Inc., for a computer aided dispatch (CAD), records management system (RMS), and mobile software; and

WHEREAS, the contract with Sun Ridge Systems, Inc., included a software support services agreement to maintain our system for the duration of its useful life; and

WHEREAS, the City finds that the scope of services described in the Agreement continue to be necessary to provide public safety services; and

WHEREAS, Sun Ridge Systems, Inc. is the sole provider of City of Newark's public safety CAD, RMS, and mobile software; and

WHEREAS, pursuant to the City of Newark Purchasing Rules and Regulations, Section 10.b, formal bidding procedures shall not apply in the event that the City Council makes certain findings and declarations; and

WHEREAS, the City Council, having reviewed and considered the facts related to the purchase of software support services from Sun Ridge Systems, Inc., finds and declares, as set forth below, and as required by the Purchasing Rules and Regulations, that:

1. Formal bids would work an incongruity and would be unavailing in affecting the final results since there is one vendor to provide the necessary equipment as required by the City, and therefore there is no comparable competitive product for which a competitive bid could be provided; and

2. Formal bids would not produce any advantage to the City since, as stated above, a formal bid would produce only a single bid from one vendor for the desired product; or,

3. It is practically impossible to obtain what is required through the formal bidding process, because, as stated above, multiple competitive bids for the desired product cannot be obtained; or

4. The product sought or a significant portion thereof is the subject of a patent and cannot be purchased from any source other than the holder of the patent.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that all the foregoing recitals are true and correct and are hereby incorporated as though fully set forth herein.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to approve the annual Support Services Agreement with Sun Ridge Systems, Inc., not-to-exceed amount of $66,981 for software support, maintenance, and enhancement services in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to take all actions necessary to effectuate the intent of this Resolution.

Sun Ridge Systems Software Support Services Agreement

This is a description of the software support, maintenance, and enhancement services to be provided by Sun Ridge Systems, Inc. ("SRS") to the City of Newark ("Licensee") as part of a Software Support Services Agreement ("Agreement"). This Agreement covers all RIMS public safety software (Software) licensed by the Licensee and is effective on August 29, 2022.

Under this agreement SRS agrees to provide the following services and products to Licensee:

1. **Coverage Hours.** SRS will provide a toll-free phone number for Licensee to call whenever a covered problem occurs. *Normal service hours will be Monday-Friday, 8AM-5PM PST, with the exception of New Year's Day, President's Day, Memorial Day, July 4th, Labor Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving Day, and Christmas Day ("common holidays").* However, for instances where the Licensee's system is completely inoperable due to an SRS software problem ("critical problems") preventing basic system operation, service will be available 24 hours, 7 days a week, common holidays included.

2. **SRS Response to reported problems.** SRS agrees to provide service and assistance as expeditiously as possible as follows:

   a. Most problems will be resolved with the initial phone call.

   b. For problems that cannot be immediately resolved, SRS will work to resolve the problem based on the severity of the problem *and* the urgency reported by Licensee.

      - For critical problems, SRS personnel will work with Licensee until the situation is resolved.

      - For problems that are not critical problems that have a lesser though continuing impact on operations of Licensee ("non-critical problems"), SRS will endeavor to provide a solution or work around within 72 hours of the problem being reported to SRS by the Licensee.

      - For problems that are not critical problems and are not non-critical problems ("minor problems") SRS may, at its discretion, either issue a near term "fix release" of the product or include the fix in the next scheduled product update.

3. **Licensee equipment and software responsibilities.** Licensee agrees to allow SRS to remotely connect to Licensee's system when a problem is reported. SRS uses BeyondTrust (formerly Bomgar) remote access software for secure installation and follow-on support services. BeyondTrust software provides superior security and does so over an ordinary internet connection via an SRS server that hosts a BeyondTrust security hardware device.

   SRS will use this line only with Licensee's permission. SRS will use this link to examine data files, investigate reported problems and provide updates and corrections when necessary.

4. **Provision of software updates.** SRS will provide at no additional cost all new enhanced and updated versions of software licensed to Licensee. This software will be provided with detailed installation instructions for installation by Licensee. If desired, Licensee may retain SRS to perform any installation at additional cost to be determined on a per case basis. Updates are distributed via download from the SRS ftp web site. SRS will not be obligated to provide service for release versions that are more than two annual release versions older than the current release.

5. **Cost.** The cost of the services and software to be provided under this Agreement in the amount of $66,981.00.

6. **Late Payment.** In addition to any other amounts for which Licensee is liable under this Agreement, Licensee agrees to pay to SRS a late charge equal to one percent (1%) of the amount due if Licensee fails to pay SRS any amount that is due and owing pursuant to this Agreement within sixty (60) days after Licensee's receipt of an invoice from SRS or (60) days after the expiration of the previous Agreement, whichever comes later. In addition, any invoiced amounts that are due and owing under this Agreement which Licensee fails to pay to SRS within ninety (90) days after Licensee's receipt of an invoice from SRS shall thereafter bear interest at the rate of twelve percent (12%) per annum or the highest interest rate allowed by applicable law, whichever is less.

7. **Term**. The term of this Agreement shall be one year from the date stated in the initial paragraph and shall be automatically annually renewed for another year upon payment of invoice. Payment for the year is due in advance the day the services begin. Non-payment of the support invoice within 60 days as described in Section 6 shall be cause for terminating or suspending the Agreement at the discretion of SRS.

8. **Termination.** Licensee may terminate this Agreement with or without cause upon ninety (90) days written notice to SRS. If terminated, Licensee is entitled to a prorated refund for the service days not consumed beginning on the last day of the month the written notice is received by SRS to the end of the remaining term of the Agreement.

9. **Limitations**. SRS agrees to provide support only for public safety application software provided by SRS. Other software used by Licensee (word processing, spreadsheet, etc.) is not included in this Agreement. PC and network operating system software and Microsoft SQL Server database system software is similarly not included, although SRS may assist Licensee in isolating problems to this software. Also specifically excluded is responsibility for administration, support, or maintenance of your server, computer network, operating systems, or database (Microsoft SQL Server).

   Licensee may request that SRS provide support services outside the limitations of this Support Services Agreement. If SRS agrees to provide any requested additional support services, which SRS may do or decline to do in its sole discretion, such support services will be provided at SRS's then-current rate and on such other terms and conditions as SRS may require.

   This Agreement does not include equipment maintenance or assistance in diagnosing hardware problems including but not limited to PCs, printers, network, scanners, and other computer peripheral devices with the exception that SRS will assist Licensee in determining whether a problem is RIMS application software in nature.

All terms, conditions, and limitations set forth in the *Sun Ridge Systems Software License Agreement* are incorporated herein by this reference and shall be fully applicable to the products and services provided under this Agreement.

For:	Sun Ridge Systems, Inc.	For:	Newark Police Department
Name:	Tamera Melrose	Name:	
Signed:		Signed:	
Title:	Client Services Manager	Title:	
Date:	July 28, 2022	Date:	

STAFF REPORT

Item D. 13.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Lenka Hovorka, Assistant City Manager
SUBJECT	Adopt resolutions to (1) approve an amendment to the classification plan to add the class specification of Principal Civil Engineer; (2) approve an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan to replace one full-time equivalent Senior Civil Engineer with one full-time equivalent Principal Civil Engineer and authorization for one additional full-time equivalent Associate Civil Engineer; and (3) approve an amendment to the City of Newark Compensation and Benefit Plan for the Management, Supervisory and Professional Employee Group to add the classification of Principal Civil Engineer and assign salary range 17.

SUMMARY AND RECOMMENDATION

The City's Engineering Division is in need of additional personnel resources as it continues to face a backlog of capital projects and increased development activity. Staff recommends that the City Council adopt resolutions approving the addition of a new classification specification for Principal Civil Engineer; amending the 2022-2024 Biennial Budget and Capital Improvement Plan to replace one Senior Civil Engineer with one Principal Civil Engineer and authorization for one additional full-time equivalent Associate Civil Engineer; and amending the City of Newark Compensation and Benefit Plan for the Management, Supervisory and Professional Employee Group to add the classification of Principal Civil Engineer and assign salary range 17.

BACKGROUND

The City's increased development activity has stressed the City's personnel resources while providing revenue growth to support projects that will benefit the community. The Engineering Division of the Public Works Department oversees the approval and inspection of private development projects; as well as manages the City's traffic signal and multimodal transportation system; is responsible for overseeing and implementing the City's Capital Improvement Plan; and facilitating the design and construction of projects to maintain and upgrade public amenities the community enjoys on a daily basis such as parks, roads, sidewalks, and facilities.

The Engineering Division is led by the Public Works Director, who also oversees the Building Inspection, Environmental Services, and Maintenance Divisions. The Assistant City Engineer manages the Engineering Division and performs a variety of advanced technical work. The Assistant City Engineer's supervisory responsibilities currently include two (2) Senior Civil Engineers, one (1) Associate Civil Engineer, one (1) Assistant Engineer, one (1) Junior Engineer, one (1) Public Works Inspector, one (1)

Engineering Technician, and one (1) Senior Administrative Support Specialist.

The Capital Improvement Plan alone includes 119 funded projects, including 25 annual maintenance projects, some dating back several years. The City is also currently undertaking one of the largest and most complex roadway projects - the Central Avenue Overpass. This project was delayed due to a lack of personnel resources. Staff are now in progress of completing early phases of the project to queue it up for construction. Other upcoming complex or first-time projects include community-wide broadband and potential construction of new facilities as an outcome of the Citywide Facilities Master Plan. Meanwhile, several key development projects are underway that will require significant engineering staff time, including future phases of the NewPark Mall Specific Plan and the Old Town Specific Plan.

DISCUSSION/ANALYSIS

Recognizing the growing backlog of capital projects, along with the increased engineering support required to ensure the success of development such as senior and affordable housing, community-wide broadband, and the NewPark Mall Greater Area revitalization to name a few, the Engineering Division is in need of additional personnel resources.

Four cities in our labor market have a position between a Senior Civil Engineer and a City Engineer or Assistant City Engineer, titled Principal Civil Engineer, Supervising Civil Engineer, or Engineering Manager. This level of position is responsible for oversight of one or more sections of Engineering and relieves their supervisor of a portion of the more complex engineering work and supervision of staff.

Anticipating the work involved in the construction phase of the Central Avenue Overpass project and the amount of oversight required to coordinate a multitude of development projects, staff recommends that one Senior Civil Engineer be upgraded to a Principal Civil Engineer. To relieve the workload of other engineers, an additional Associate Civil Engineer is also recommended, who would report to the Principal Civil Engineer, along with an existing Junior Engineer. This three-person team would be responsible for all development activity related to engineering. The Principal Civil Engineer would also provide construction management oversight on the Central Avenue Overpass and other upcoming projects.

FISCAL IMPACT

The upgrade of a Senior Civil Engineer to a Principal Civil Engineer is estimated to have a fiscal impact of $31,000 for the remainder of fiscal year 2022-23 (eight months). The addition of an Associate Civil Engineer is estimated at $84,000 for the remainder of fiscal year 2022-23 (five months). For fiscal year 2023-24 and annually thereafter, the increase to the Public Works Department personnel budget is $248,100, not including future negotiated salary increases.

REVIEW AND APPROVAL

Prepared by - Lenka Hovorka, Assistant City Manager
Reviewed by - Jennifer Solito, Human Resources Director
Reviewed by - Soren Fajeau, Public Works Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution - Class Plan

Class Specification

Resolution - Budget

Resolution - Employee Group

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING AN AMENDMENT TO THE CLASSIFICATION PLAN ADDING THE CLASS SPECIFICATION OF PRINCIPAL ENGINEER

WHEREAS, the Classification Plan was adopted by the City Council via Resolution No. 2,505; and

WHEREAS, the City seeks to attract and retain exceptional talent to provide superior customer service to the community; and

WHEREAS, the City determined, based on evaluation, a need to upgrade a Senior Engineer to a Principal Engineer; and

WHEREAS, the City seeks to amend the Classification Plan to add a Principal Engineer class specification.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the Classification Plan adopted by Resolution 2,505, and subsequently amended by resolutions, is hereby amended to add a Principal Engineer class specification.

Class Code: ___
WP Code: ____
Established: 11/2022___
Revised: _____
EEO Code: _PROF____

CLASS SPECIFICATION

City of Newark, California

PRINCIPAL CIVIL ENGINEER

DEFINITION – Under administrative direction, supervises one or more sections of the Engineering Division; performs advanced level professional engineering work associated with design, development, transportation and/or construction activities; performs related work as assigned.

SUPERVISION RECEIVED AND EXERCISED
Receives general supervision from the Assistant City Engineer. Exercises supervision over professional engineering and technical support staff.

DISTINGUISHING CHARACTERISTICS
This is the initial management class in the engineering series. Incumbents are responsible for managing one or more sections within the Engineering Division. This class is distinguished from the Assistant City Engineer in that the latter has managerial responsibility for all sections, functions and activities within Engineering.

EXAMPLES OF JOB FUNCTIONS (Illustrative Only)
Plan, organize, direct and coordinate the work of professional and technical engineering staff.

Exercise direct supervision over assigned engineering personnel; participate in the selection of staff; provide or coordinate staff training; conduct performance evaluations; work with employees to correct deficiencies; implement discipline procedures.

Prepare budget requests for section(s) supervised and monitor expenditures.

Review non-routine projects submitted and determine processing requirements, schedules, order of priority, problem areas, and assign necessary related tasks.

Periodically review progress of staff on assigned projects and check completed work including reports, engineering designs, and completeness of construction inspections.

Participate in the selection of consulting engineers, negotiate fees, draft agreements, outline project objectives and City requirements, provide project management such as administration of contracts, and review and recommend approval of engineering designs.

Conduct field inspections of projects in progress.

Negotiate and recommend approval of contract change orders; authorize changes in planned construction when warranted by field conditions.

SENIOR CIVIL ENGINEER

Assist in preparation of operating budget for Engineering Division and participate in the budget review process; assist in preparation of capital improvement budget for City's proposed construction programs.

Review capital needs, arrange for cost estimates, and recommend priorities.

Supervise the processing of encroachments into the public right-of-way and assist in the resolution of design and construction problems.

Direct the review of tentative maps, plans, development contracts and special agreements; meet with developers, engineers, and representatives of public and private agencies to resolve problems.

Administer all aspects of assessment district formation including coordination with involved parties, review of plans and specifications, and preparation of related reports.

Conduct or direct special studies involving programs of the section(s) supervised.

Participates in review of private development proposals including subdivision maps; supervises the preparation, updating, and maintenance of city maps and records.

Attend meetings and make presentations to City Council, Planning Commission, and other public and private groups.

Prepare Federal and State grant applications; oversee the appropriate use and expenditure of grant funds received.

Build and maintain positive working relationships with co-workers, other City employees and the public using principles of good customer service.

Act as the Assistant City Engineer in their absence.

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of public works civil and traffic engineering.

Principles and practices of leadership, motivation, team building and conflict resolution.

Pertinent local, State and Federal rules, regulations and laws.

Methods, materials and techniques in the design, construction, and maintenance of public works projects.

Current office procedures and computer equipment.

Principles and practices of organizational analysis and management.

Budgeting procedures and techniques.

Principles and practices of supervision, training and personnel management.

Ability to:

Direct one or more sections of the Engineering Division.

On a continuous basis, analyze budget and technical reports; interpret and evaluate staff reports; know laws, regulations and codes; observe performance and evaluate staff; problem solve department related issues; consistently apply various rules and procedures; and explain and interpret policy.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Gain cooperation through discussion and persuasion.

Interpret and apply City and department policies, procedures, rules and regulations.
Prepare and administer a budget.

Supervise, train, and evaluate personnel.

Establish and maintain effective working relationships with those contacted in the course of work.

Communicate clearly and concisely, both orally and in writing.

Education and Experience

Any combination of experience and training that would provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Education:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering or a related field.

Experience:

Six (6) years of increasingly responsible experience in professional civil engineering work, including three (3) years of supervisory and project management responsibility.

License and Certificate:

Possession of, or the ability to obtain, a Class C California Driver License.

Current registration as a Civil Engineer in the State of California.

PHYSICAL DEMANDS

Must possess mobility to work in a standard office setting and use standard office equipment, including a computer, to inspect City sites, including traversing uneven terrain, climbing ladders, stairs, and other access points, to operate a motor vehicle, and to visit various City and meeting sites; vision to read printed materials and a computer screen; and hearing and speech to communicate in person, before groups, and over the telephone. This is primarily a sedentary office classification although standing and walking between work areas and to conduct inspections will be required. Finger dexterity is needed to access, enter, and retrieve data using a computer keyboard or calculator and to operate standard office equipment. Positions in this classification occasionally bend, stoop, kneel, reach, push, and pull drawers open and closed to retrieve and file information. Employees must possess the ability to lift, carry, push, and pull materials and objects weighing up to 25 pounds or more with appropriate equipment or staff assistance. Employees must be available to attend day and evening meetings, at various sites within and outside the City.

ENVIRONMENTAL CONDITIONS

Employees predominately work in an office environment with moderate noise levels, controlled temperature conditions, and no direct exposure to hazardous physical substances. Employees will work in the field and occasionally be exposed to loud noise levels, cold and hot temperatures, inclement weather conditions, road hazards, vibration, mechanical and/or electrical hazards, and hazardous chemical substances and fumes. Employees may interact with members of the public or with staff under emotionally stressful conditions while interpreting and enforcing departmental policies and procedures.

Probationary Period: 12 Months **FLSA:** Exempt

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE ADDITION OF ONE FULL-TIME EQUIVALENT POSITION OF ASSOCIATE ENGINEER AND ONE FULL-TIME EQUIVALENT POSITION OF PRINCIPAL ENGINEER, AND THE DELETION OF ONE FULL-TIME EQUIVALENT POSITION OF SENIOR ENGINEER, TO THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN; AND APPROVING AN AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN TO APPROPRIATE FUNDING FOR THE POSITIONS

WHEREAS, the 2022-2024 Biennial Budget and Capital Improvement Plan was adopted by the City Council via Resolution No. 11,379 on June 23, 2022; and

WHEREAS, the City seeks to offer advancement opportunities to employees; and

WHEREAS, the City seeks to attract and retain exceptional talent to provide superior customer service to the community;

WHEREAS, the City seeks to amend the 2022-2024 Biennial Budget and Capital Improvement Plan to add one full-time equivalent position of Associate Engineer, add one full-time equivalent position of Principal Engineer, and delete one full-time equivalent position of Senior Engineer.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the certain document entitled "2022-2024 Biennial Budget and Capital Improvement Plan of the City of Newark" adopted by Resolution 11,379 on June 23, 2022, and subsequently amended by resolutions, is hereby amended to add one full-time equivalent position of Associate Engineer, add one full-time equivalent position of Principal Engineer, and delete one full-time equivalent position of Senior Engineer.

BE IT FURTHER RESOLVED that the City Council of the City of Newark hereby approves an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan by appropriating $115,000 in FY2022-2023 for the positions as follows:

FROM:

Description	Fiscal Year	Account	Amount
Unappropriated Fund Balance	2022-2023	120-3000	$115,000

TO:

Description	Fiscal Year	Account	Amount
Full-Time Salaries	2022-2023	120.60.061.611.5110	$ 66,000
Full-Time Benefits	2022-2023	120.60.061.611.5210	$ 22,000
Full-Time Retirement	2022-2023	120.60.061.611.5510	$ 27,000

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING RESOLUTION NO. 11,383, THE COMPENSATION AND BENEFIT PLAN FOR THE MANAGEMENT, SUPERVISORY, AND PROFESSIONAL EMPLOYEE GROUP TO ADD ONE CLASSIFICATION, ENTITLED PRINCIPAL ENGINEER; AND APPROVING AN AMENDMENT TO THE CITY'S SALARY SCHEDULE IN CONFORMANCE WITH CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 570.5

WHEREAS, the City must, from time to time, add or otherwise adjust class specifications in order to satisfy the changing needs and demands of the workforce and to more closely match the tasks which need to be performed by employees in the City's various departments; and

WHEREAS, the City, based on evaluation, has determined that the classification of Principal Engineer is necessary; and

WHEREAS, the City seeks to amend the Compensation and Benefit Plan for the Management, Supervisory, and Professional Employee Group to add the classification of Principal Engineer along with the associated salary range.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that Resolution No. 11,383, the Compensation and Benefit Plan for the Management, Supervisory, and Professional Employee Group, be amended to add one classification as follows, effective November 10, 2022:

ADD

Add Classification Title	Salary Range
Principal Engineer	17

BE IT FURTHER RESOLVED that the City Council hereby approves an amendment to the City's Salary Schedule to reflect the position of Principal Engineer with a salary range of $12,849.41 to $15,419.29 per month.

STAFF REPORT

Item D. 14.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Roya Gonzalez, Administrative Analyst
SUBJECT	Adopt a resolution authorizing the City Manager to execute a Software as a Service Agreement with Axero Holdings LLC. to provide annual cloud hosting, security, backup, upgrades and maintenance support services for an intranet, and amending the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $29,353.50 in FY2022-2023 for the implementation cost (one-time fee) and year one of the agreement and $21,356.25 in FY2023-2024 for year two of the agreement.

SUMMARY AND RECOMMENDATION

An intranet is a private network that is used to securely share company information and employee resources. The City currently uses a variety of outdated methods to collaborate and store documents. Staff participated in demonstrations and solicited cost proposals from three vendors and determined that Axero Holdings LLC provided the best value to the City.

Staff recommends that City Council authorize the City Manager to execute a Software as a Service Agreement, in a form acceptable to the City Attorney, with Axero Holdings LLC to provide annual cloud hosting, security, backup, upgrades and maintenance support services for a term of three years, and amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $29,353.50 in FY2022-2023 for the implementation cost (one-time fee) and year one of the agreement and $21,356.25 in FY2023-2024 for year two of the agreement.

BACKGROUND

The City began looking at solutions to address a number of outdated processes, operational inefficiencies, and desired programs not yet in place. This includes file storage, large file sharing, employee communication, collaboration tools and employee recognition. The City currently uses a variety of methods for storing documents and employee resources are often hard to find. Email communication is often overwhelming and difficult to track. In the new era of working remotely, additional methods for collaborating and recognizing employees have become increasingly important. All of these comments were communicated to City leadership through an Employee Engagement Survey. When staff began searching for solutions, it became apparent that the modern-day intranet would be a valuable asset to the City, addressing all of staff's needs in one comprehensive solution.

DISCUSSION/ANALYSIS

In the summer of 2022, staff evaluated a number of intranet solutions and selected three vendors based on the service they could provide the City, including the following items:

- Price
- Security
- Mobile accessibility
- Collaboration tools
- Integration with existing software platforms
- Recognition tools
- Communication tools
- Document storage
- Compliance with the Public Records Act

It was determined that Axero Holdings LLC could provide the best value to the City. The implementation of the intranet will provide staff with easier access to documents and information, integration with other software, collaborations tools, and a platform for sharing inter- and intradepartmental information. It will also provide the City with a centralized location for employee engagement and recognition.

The agreement, over a three-year term, including a one-time implementation fee will cost a total of $73,400. After the implementation period and training, an intranet solution is expected to save staff time currently spent searching through drives and emails to locate information or share documents, as well as lead to higher employee engagement and productivity. Details in the scope of services are still being revised, and therefore a contractual services agreement is expected to be completed in late November.

FISCAL IMPACT

Staff requests authorization to amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $29,353.50 in FY2022-2023 for the implementation cost and year one of the agreement, and $21,356.25 in FY2023-2024 for year two of the agreement.

REVIEW AND APPROVAL

Prepared by - Roya Gonzalez, Administative Analyst
Reviewed by - Lenka Hovorka, Assistant City Manager
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 AUTHORIZING THE CITY MANAGER TO EXECUTE A SOFTWARE AS A SERVICE AGREEMENT, IN A FORM ACCEPTABLE TO THE CITY ATTORNEY, WITH AXERO HOLDINGS LLC AND APPROVING AN AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN TO APPROPRIATE FUNDING FOR THE AGREEMENT

WHEREAS, the City desires a cost-efficient collaboration, communication, engagement and document sharing platform for employees; and

WHEREAS, an Employee Engagement Survey warranted the need for and supported an intranet solution; and

WHEREAS, the City solicited three vendors to provide demonstrations and proposals; and

WHEREAS, based on evaluation by staff, including the Employee Information Technology Committee, Axero Holdings LLC was determined to provide the best value to the City; and

WHEREAS, the three-year term of the agreement with Axero Holdings, including a one-time implementation fee, will cost a total of $73,400; and

WHEREAS, staff recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan appropriating $29,353.50 in FY 2022-2023 for the one-time implementation fee and year one of the contract and $21,356.25 in FY 2023-2024 for year two of the contract.

NOW THEREFORE, BE IT RESOLVED that the City Council herby authorizes the City Manager to execute the Software as a Services Agreement, in a form approved by the City Attorney, with Axero Holdings LLC for a three-year time period in the amount $73,400.

BE IT FURTHER RESOLVED that the City Council of the City of Newark hereby approves an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan by appropriating $29,353.50 in FY2022-2023 and $21,356.25 in FY2023-2024 for year two of the contract as follows:

FROM:

Description	Fiscal Year	Account	Amount
General Fund Balance	2022-2023	110-3000	$29,353.50
	2023-2024	110-3000	$21,356.25

TO:

Description	Fiscal Year	Account	Amount
IT Software/Licenses	2022-2023	110.21.021.200.6150	$29,353.50
	2023-2024	110.21.021.200.6150	$21,356.25

STAFF REPORT

Item D. 15.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Soren Fajeau, Public Works Director
SUBJECT	Adopt a resolution approving Used Oil Payment Program expenditures for Fiscal Year 2022

SUMMARY AND RECOMMENDATION

The Department of Resources, Recycling and Recovery (CalRecycle) administers the Used Oil Payment Program (OPP) which provides funding to local jurisdictions for the purpose of maintaining used oil and used oil filter collection and recycling programs. The City of Newark has received OPP funds for most fiscal years since 1995. For Fiscal Year 2022, the City received $7,058 for the used oil and used oil filter collection and recycling programs.

Staff recommends that the City Council approve Fiscal Year 2022 expenditures for various campaign and outreach programs conducted through StopWaste to promote used oil and filter recycling.

BACKGROUND

The Department of Resources, Recycling and Recover (CalRecycle) administers the Used Oil Payment Program (OPP) which provides funding to local jurisdictions for used oil and used oil filter collection and recycling programs. Used oil collection programs funded by the OPP must provide at least one of the following: ensuring there is at least one Certified Used Oil Collection Center for every 100,000 residents not served by curbside collection and providing used oil curbside collection at least once a month. Additionally, recipients of OPP funding must have a public education component that informs the public of locally available used oil recycling opportunities.

The City of Newark has received OPP funding for most years since 1995 and currently has six Certified Used Oil Collection Centers. In addition, Republic Services provides used oil curbside collection. Republic Services drivers deliver new motor oil and filter recovery kits upon request, and residents are able to recycle used motor oil by placing the oil next to their recycling cart on collection day.

DISCUSSION/ANALYSIS

All expenditures using OPP funding must be for the purpose of establishing and maintaining a used oil program. The City of Newark received $7,058 in OPP funding from CalRecycle in Fiscal Year 2022. This funding would be designated for various campaign and outreach programs administered by StopWaste to help promote used oil and filter recycling. The campaign and outreach programs included flyers, advertising, outdoor and transit advertising, digital media, display campaign marketing, digital radio and television, social media, and associated translations.

FISCAL IMPACT

Pursuant to staff's recommendation, OPP funding received in the amount of $7,058 would be expended for campaign and outreach programs through StopWaste. There is no net budget impact.

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 TO APPROVE THE USED OIL PAYMENT PROGRAM EXPENDITURES FOR FISCAL YEAR 2022

WHEREAS, the City of Newark has been a Used Oil Payment Program (OPP) funding recipient since 1995 for most fiscal years; and

WHEREAS, all expenditures using OPP funding must be for the purposes of establishing and maintaining a used oil program and must follow program guidelines for eligible costs; and

WHEREAS, funds for each OPP cycle must be expended or returned to CalRecycle at the end of each cycle; and

WHEREAS, funding in the amount of $7,058.00 was awarded to the City of Newark as part of funding cycle OPP12; and

WHEREAS, proposed expenditures for fiscal year 2022 included, but are not limited to, expenses for: flyers, advertising, outdoor and transit advertising, digital media, display campaign marketing, digital radio and television, social media, and associated translations; and

WHEREAS, all fiscal year 2022 expenditures would eligible costs under the program guidelines;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark authorizes the fiscal year 2022 Used Oil Collection Program expenditures; and

For Fiscal Year 2022:

From Account:	217.60.063.631.4792 (OPP Funding)	$7,058.00
To Account:	217.60.063.631.6221.OPP12 (OPP Expenditures)	$7,058.00

STAFF REPORT

Item D. 16.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Tonya Connolly, Maintenance Superintendent
SUBJECT	Adopt a resolution authorizing the purchase of three vehicles for the Newark Police Department directly from auto dealerships with single-source findings

SUMMARY AND RECOMMENDATION

The Police Department has three vehicles that have reached the end of their useful lives. Each of these vehicles is required to be equipped with specialized lights, sirens, speakers, antennas, radios, rear cargo boxes, power supplies, and wiring systems. Given current market conditions, staff has been unable to obtain bid responses for these vehicles through the City's typical procurement process. Staff has determined that it is necessary to make the purchases directly through dealerships in order to obtain the best available market price in a reasonable timeframe. The Equipment Replacement Fund contains sufficient funding for these necessary vehicle purchases.

Staff recommends that the City Council, by resolution, approve the purchase of three vehicles for the Newark Police Department directly from auto dealerships with single-source findings.

BACKGROUND

The 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2022-2023 includes funding for the purchase of three vehicles for the Newark Police Department as part of the Equipment Replacement Program. The Maintenance Division of the Public Works Department coordinates ongoing fleet needs with all City departments, including the Police Department. Recommendations for vehicle replacements are based on the City's Vehicle Replacement Policy and Procedures Administrative Regulation. The intent of this policy and procedures document is to ensure that the City use and replace vehicles and other motorized equipment in the most cost-effective manner possible. Some of the primary factors considered by staff as part of any replacement recommendation include each vehicle's mileage, age, mechanical condition, body and interior condition, annual usage, department requirements, cost to maintain, and available funding.

Due to the COVID-19 pandemic and prolonged market shortages, previous vehicle orders were canceled by manufacturers and/or dealerships. Staff is seeking approval to purchase three vehicles directly from auto dealerships in order to obtain the best available market price in a timely manner.

DISCUSSION/ANALYSIS

The City's Purchasing Rules and Regulations require a formal bid process for any purchases of $10,000 or more, with certain allowable exceptions. In previous attempts to purchase two of the three vehicles under consideration, the City utilized an intergovernmental procurement process that satisfied the City's requirements. However, due to the ongoing industry-wide shortages in semiconductor chips and other critical parts, the 2022 production allocation for Government Fleet was severely limited. Subsequently, the City's two orders were canceled by either the manufacturers or dealerships. Based on current market and economic conditions, staff is now requesting approval to purchase the vehicles direct from local dealerships at the best available market price when the desired vehicles become available. At this time, staff is uncertain when the previously utilized intergovernmental procurement process will be available again for such purchases.

In accordance with the City's Purchasing Rules and Regulations, a single-source exemption to formal bidding is available when the City Council, by resolution, finds and declares that: (1) formal bids would work an incongruity and would be unavailing in affecting the final results; and (2) formal bids would not produce any advantage to the City; or (3) it is practically impossible to obtain what is required through the formal bidding process.

As a result of auto dealers being unwilling to respond to a formal bid document as well as the lack of availability of any intergovernmental procurement process, staff has concluded that the single-source exemption applies for these desired purchases. The City will not be able to obtain what is required through formal bidding process and that process will not produce any advantage to the City or affect the final results. Staff will therefore recommend a single-source finding with respect to the future purchases of these vehicles from auto dealerships providing the best available open market cost to the City.

Based on current available pricing, the purchase cost would be and amount not to exceed $159,000 for the three vehicles. This amount reflects slightly higher market prices than would be expected through an intergovernmental or formal bid procurement process, if those processes were available. In better market conditions staff would anticipate individual vehicle costs below the manufacturer's suggested retail price (MSRP), sometimes up to 10% below depending on the vehicle. With the current market, staff anticipates costs closer to the MSRP.

The purchase cost does not include outfitting which is not to exceed $21,000 total for three vehicles. The total outfitting cost is based on specialized vendor quotes for the installation of lights, sirens, speakers, antennas, radios, rear cargo boxes, power supplies, and specialized wiring.

FISCAL IMPACT

The 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2022-2023 includes sufficient funding in the Equipment Replacement Program in the amount of $180,000 for the purchase and outfitting of the three new police vehicles. The outfitting work will be performed by City vendors with funding approved in advance of such work by the City Council. No budget modifications are necessary.

REVIEW AND APPROVAL

Prepared by - Tonya Connolly, Maintenance Superintendent
Reviewed 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 AUTHORIZING THE PURCHASE OF THREE VEHICLES FOR THE NEWARK POLICE DEPARTMENT

WHEREAS, the 2022-2024 Biennial Budget and Capital Improvement Plan includes funding in fiscal year 2022-2023 for the purchase of three vehicles for the Newark Police Department as part of Equipment Replacement Program; and

WHEREAS, due to industry-wide market conditions for new vehicle purchases, lack of response to formal bidding requires, and the lack of intergovernmental purchase options, the City of Newark will need to purchase vehicles directly from local dealerships in order to obtain the best available market price; and

WHEREAS, pursuant to the City of Newark Purchasing Rules and Regulations, Section 10.6, formal bidding procedures shall not apply in the event that the City Council makes certain findings and declarations; and

WHEREAS, the City Council, having reviewed and considered the facts related to the desired purchase of these three vehicles, finds and declares, as set forth below and as required by the Purchasing Rules and Regulations, that:

1. Formal bids would work an incongruity and would be unavailing in affecting the final results since there are no responses to formal bid requests and pricing is subject to open market conditions; and

2. Formal bids would not produce any advantage to the City since, as stated above, a formal bid process would not produce a bid result; and

3. It is practically impossible to obtain what is required through the formal bidding process, because no competitive bids can be obtained through such a process; and

WHEREAS, the anticipated market price for all three vehicles is $159,000; and

WHEREAS, the new vehicles will require equipment outfitting based on quotes not to exceed a combined total cost of $21,000. This equipment outfitting work shall be provided by approved City vendors with all funding subject to approval by the City Council prior to the start of services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby authorize the direct purchase of three vehicles for the Newark Police Department at the best available market pricing among local dealerships in an amount not to exceed $159,000.

STAFF REPORT

Item D. 17.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Tonya Connolly, Maintenance Superintendent
SUBJECT	Adopt a resolution authorizing the purchase of four Ford Interceptors for the Newark Police Department from Folsom Lake Ford and adopt a resolution authorizing increased not-to-exceed amounts to $136,000 for Lehr Auto Electric and to $20,000 for Classic Graphics under their respective Fiscal Year 2023 Annual Purchase Agreements

SUMMARY AND RECOMMENDATION

The Newark Police Department and the Maintenance Division of the Public Works Department seek approval for the purchase of four new Ford Interceptors as replacement patrol vehicles. There are four existing patrol SUV's that have reached the end of their useful lives. An intergovernmental procurement process is recommended for these purchases to ensure competitive pricing. All new patrol vehicles would be equipped with specialized lights, sirens, speakers, antennas, radios, rear cargo boxes, power supplies, and wiring systems. This specialized outfitting work and additional autobody detailing services needs to be completed by the City's current Annual Purchase Agreement (APA) vendors specializing in these areas to ensure consistency with the existing vehicle fleet. The Equipment Replacement Fund contains sufficient funding for these necessary vehicle purchases, specialized outfitting, and autobody detailing.

Staff recommends adoption of a resolution authorizing the purchase of four Ford Interceptors for the Newark Police Department from Folsom Lake Ford and adoption of a resolution authorizing increased not-to-exceed amounts to $136,000 for Lehr Auto Electric and to $20,000 for Classic Graphics under their respective Fiscal Year 2023 Annual Purchase Agreements for additional vehicle outfitting and autobody services associated with the new vehicle purchases.

BACKGROUND

The 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2022-2023 includes funding for the purchase of four Ford Interceptors for the Newark Police Department as part of the Equipment Replacement Program. The Maintenance Division of the Public Works Department coordinates ongoing fleet needs with all City Departments, including the Police Department. Recommendations for vehicle replacements are based on the City's Vehicle Replacement Policy and Procedures Administrative Regulation. The intent of this policy and procedures document is to ensure that the City use and replace vehicles and other motorized equipment in the most cost-effective manner possible. Some of the primary factors considered by staff

as part of any replacement recommendation include each vehicle's mileage, age, mechanical condition, body and interior condition, annual usage, department requirements, cost to maintain, and available funding.

All City purchases are completed in accordance with the City's Purchasing Rules and Regulations. An intergovernmental procurement process (also known as "piggybacking") is an alternative option to the City's formal bidding process. By piggybacking onto another agency's contract, the City would save the cost and time associated with the formal bidding process while still being assured of competitive set prices established by another public agency's formal bidding process. The City has utilized this approach successfully in the past, particularly for new patrol vehicles.

The four existing patrol vehicles evaluated by staff all meet the City's requirements for replacement under the Vehicle Replacement Policy and Procedures Administrative Regulation. All four vehicles have reached the end of their useful lives based on age and mileage, among other factors. Staff recommends replacement of these four vehicles with Ford Interceptor SUV's utilizing designated funding through the Equipment Replacement Program.

All four replacement patrol vehicles will require specialized outfitting and autobody detailing. In order to ensure consistency with the existing fleet, it is desirable to have this work completed by established City vendors. The City's current Annual Purchase Agreement (APA) vendors for vehicle outfitting and autobody work of this kind are Lehr Auto Electric and Classic Graphics, respectively.

DISCUSSION/ANALYSIS

In terms of the method of purchase, an intergovernmental procurement process is available to the City for the purchase of the Ford Interceptors. Upon completion of a formal bidding process, the State of California entered into a master contract and a procurement contract with Folsom Lake Ford for the purchase of Ford Interceptors. The competitive process used by the State of California has been reviewed by the Maintenance Division of the Public Works Department and satisfies the City's requirements for the proposed vehicle purchases.

Based on the State of California contract with Folsom Lake Ford, the combined purchase cost would be $256,400 for four vehicles.

The vehicle cost does not include outfitting and autobody detailing which is estimated not to exceed $102,000 combined for all four vehicles. The total outfitting cost is based on specialized vendor quotes from the City's APA vendors for the installation of lights, sirens, speakers, antennas, radios, rear cargo boxes, power supplies, and specialized wiring as well as the autobody detailing work. Lehr Auto Electric and Classic Graphics are efficient, reliable and provide consistent quality results for this work while competitive pricing is ensured with each vendor through the City's APA process.

In accordance with the City's Purchasing Rules and Regulations, a single-source exemption to formal bidding is available when the City Council, by resolution, finds and

declares that: (1) formal bids would work an incongruity and would be unavailing in affecting the final results; and (2) formal bids would not produce any advantage to the City; or (3) it is practically impossible to obtain what is required through the formal bidding process. Staff has concluded that both Lehr Auto Electric and Classic Graphics meet the single-source criteria. Any formal bidding for either the specialized outfitting or autobody detailing services would work an incongruity and would be unavailing in affecting the final results since these are the desired vendors for the services contemplated. A formal bid would not produce any advantage to the City and it is practically impossible to obtain what is required.

In addition to the specialized outfitting and autobody detailing required for these four Ford Interceptors, services will be needed for the purchase of additional vehicles over the course of Fiscal Year 2023. In order to complete this work in a timely manner at competitive pricing and to ensure consistent quality, the not-to-exceed amounts pertaining to the Annual Purchase Agreements with Lehr Auto Electric and Classic Graphics would need to be increased to $136,000 and $20,000, respectively, for Fiscal Year 2023.

FISCAL IMPACT

The 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Year 2022-2023 includes sufficient funding in the Equipment Replacement Program in the amount of $256,400 for the purchase of four new Ford Interceptors. The Equipment Replacement Program also includes sufficient funding to increase the not-to-exceed amounts to $136,000 for Lehr Auto Electric and to $20,000 for Classic Graphics. No budget modifications are required.

REVIEW AND APPROVAL

Prepared by - Tonya Connolly, Maintenance Superintendent
Reviewed by - Soren Fajeau, Public Works Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution - Vehicle Purchases

Resolution - Single-Source Findings

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE PURCHASE OF FOUR FORD INTERCEPTORS FOR THE NEWARK POLICE DEPARTMENT FROM FOLSOM LAKE FORD

WHEREAS, the 2022-2024 Biennial Budget and Capital Improvement Plan includes funding in fiscal year 2022-2023 for the purchase of four Ford Interceptors for the Newark Police Department as part of Equipment Replacement Program, Project 2023-10; and

WHEREAS, in order to ensure the most competitive market pricing, the City of Newark can participate in an intergovernmental procurement process (also known as "piggybacking") with Folsom Lake Ford as the holder of the State of California procurement contract to purchase the specified vehicles at a combined cost of $256,400; and

WHEREAS, the new vehicles will require equipment outfitting based on quotes not to exceed a combined total cost of $102,000. This equipment outfitting work shall be provided by approved City vendors with all funding subject to approval by the City Council prior to the start of services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby authorize the purchase of four Ford Interceptors for the Newark Police Department from Folsom Lake Ford in an amount not to exceed $256,400.

(TCR1)

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING INCREASED NOT-TO-EXCEED AMOUNTS TO $136,000 FOR LEHR AUTO ELECTRIC AND $20,000 FOR CLASSIC GRAPHICS UNDER THEIR RESPECTIVE FISCAL YEAR 2023 ANNUAL PURCHASE AGREEMENTS FOR ADDITIONAL VEHICLE OUTFITTING AND AUTOBODY SERVICES ASSOCIATED WITH NEW VEHICLE PURCHASES

WHEREAS, the 2022-2024 Biennial Budget and Capital Improvement Plan includes funding in fiscal year 2022-2023 for the purchase of many vehicles for the Police Department and Public Works Department as part of Equipment Replacement Program; and

WHEREAS, it is highly desirable to maintain consistency between new vehicles and the existing City vehicle fleet for the outfitting of specialized equipment that includes but is not limited to lights, sirens, speakers, antennas, radios, rear cargo boxes, power supplies and specialized wiring. In order to ensure this consistency, such services are ideally performed by the same previously used vendor; and

WHEREAS, it also desirable to have all autobody decals, markings, and customized paint work services performed by the same previously used vendor to ensure consistency with existing vehicles; and

WHEREAS, pursuant to the City of Newark Purchasing Rules and Regulations, Section 10.6, formal bidding procedures shall not apply in the event that the City Council makes certain findings and declarations; and

WHEREAS, the City Council, having reviewed and considered the facts related to the desired outfitting and autobody needs for new vehicles, finds and declares, as set forth below and as required by the Purchasing Rules and Regulations, that:

1. Formal bids for outfitting and autobody work on new vehicles would work an incongruity and would be unavailing in affecting the final results since there are specific vendors desired for the outfitting and autobody services to ensure ongoing consistency within the vehicle fleet; and

2. Formal bids would not produce any advantage to the City since, as stated above, specific vendors are desired in order to ensure consistency for the outfitting and autobody services; and

3. It is practically impossible to obtain what is required through the formal bidding process, because specific vendors are desired in order to ensure consistency for the outfitting and autobody services; and

WHEREAS, Lehr Auto Electric and Classic Graphics have approved Annual Purchase Agreements with the City of Newark to ensure competitive pricing for vehicle outfitting and autobody services; and

WHEREAS, the new vehicles will require equipment outfitting and autobody work based on specific quotes received from Lehr Auto Electric and Classic Graphics, respectively.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby authorize increases in the not-to-exceed amounts under the Fiscal Year 2023 Annual Purchase Agreements for Lehr Auto Electric and Classic Graphics to $136,000 and $20,000, respectively for additional vehicle outfitting and autobody services associated with new vehicle purchases.

STAFF REPORT

Item D. 18.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Tonya Connolly, Maintenance Superintendent
SUBJECT	Adopt a resolution approving and authorizing the City Manager to execute an agreement with Lehr Auto Electric to purchase twenty Police Department mobile data computers and installation of five of the computers

SUMMARY AND RECOMMENDATION

The Newark Police Department is in a multi-year process to replace its mobile data computers. In Fiscal Year 2020-2021, the City purchased and installed a total of ten new computers. There is a need to purchase twenty additional computers at this time for deployment to the existing department fleet. Sufficient funding is available in the Equipment Replacement Fund for these purchases.

Staff recommends that the City Council, by resolution, approve and authorize the City Manager to execute an agreement with Lehr Auto Electric to purchase twenty mobile data computers and install five of the computers. The purchase will collectively result in a total of thirty mobile data computer units for the Newark Police Department.

BACKGROUND

The 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2022-2023 includes funding for the replacement of twenty Police Department mobile data computers and installation of five of the units through the City's Equipment Replacement Program. Historically, since 2001 the Newark Police Department has been using CF-29 and CF-31 mobile data computers which operate on 3G or 4G internal modems. The City's service provider ceased supporting 3G technology in January 2021. In addition, most existing mobile data computers are beyond the respective service warranty periods and reached the end of their useful lives.

Information Technology Department and Police Department staff field tested and selected Panasonic Toughbook Model CF-33 as the most suitable replacement mobile data computer. In fiscal year 2020-2021 the City purchased ten mobile data computers at a cost of $65,000 and have subsequently installed the units. The purchase of twenty mobile data computers will complete the replacement for the Police Department fleet.

An intergovernmental procurement process (also known as "piggybacking") is an alternative option to Newark's formal bidding process. By piggybacking onto another agency's contract, the City would save the cost and time associated with an additional

formal bid process but be able to be assured of competitive set prices established by another agency's formal bidding process. Upon completion of a formal bidding process, the County of Placer, California entered into a procurement contract with Lehr Auto Electric for the purchase and installation of mobile data computers, including the Model CF-33.

DISCUSSION/ANALYSIS

An intergovernmental procurement process is again available to the City for the purchase of the additional twenty mobile data computers. The competitive process used by the County of Placer, California has been reviewed by the City of Newark Public Works Department and satisfies the City of Newark's requirements for the proposed equipment replacement purchase of mobile data computers. The City previously contracted with Lehr Auto Group for the installation of ten mobile data computers which have been successfully installed and field tested. To ensure consistency of installation, staff recommends the purchase of twenty mobile data computers from Lehr Auto Group of which five will be installed upon receipt. Due to current marketing conditions and demand from other agencies, there is an estimated six- to eight-month lead time from the time of order to delivery.

FISCAL IMPACT

The 2022-2024 Biennial Budget and Capital Improvement Plan includes $160,000 in the Equipment Replacement fund for the purchase of twenty replacement units and installation of five units upon receipt. No changes to the 2022-2024 Biennial Budget and Capital Improvement Plan are necessary.

REVIEW AND APPROVAL

Prepared by - Tonya Connolly, Maintenance Superintendent
Reviewed by - Soren Fajeau, Public Works Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Lehr Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH LEHR AUTO ELECTRIC TO PURCHASE AND INSTALL POLICE DEPARTMENT MOBILE DATA COMPUTERS

WHEREAS, the 2022-2024 Biennial Budget and Capital Improvement Plan includes funding through the City's Equipment Replacement Program for the replacement of twenty (20) mobile data computers that have reached the end of their useful lives; and

WHEREAS, the City of Newark will be participating in an intergovernmental procurement process (also known as "piggybacking") with Lehr Auto Electric as the holder of the County of Placer, California procurement contract for the purchase of twenty (20) and installation of five Police Department mobile data computers at a cost not-to-exceed $160,000 with funding from the Equipment Replacement Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark approving and authorizing the City Manager to execute an agreement with Lehr Auto Electric to purchase twenty Police Department mobile data computers and install five mobile data computers in an amount not-to-exceed $160,000.

(TCR1)

STAFF REPORT

Item D. 19.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Tonya Connolly, Maintenance Superintendent
SUBJECT	Adoption of a resolution authorizing the City Manager to negotiate and enter into a Contractual Services Agreement, in a form approved by the City Attorney, with Universal Building Services and Supply Company for janitorial services for City buildings and amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan

SUMMARY AND RECOMMENDATION

The City of Newark regularly utilizes outside consultants to perform ongoing janitorial services to City buildings. The City has utilized Universal Building Services and Supply Company most recently. The Maintenance Division of the Public Works Department prepared and released a competitive Request for Proposals (RFP) in accordance with the City's Purchasing Rules and Regulations for Janitorial Services for City Buildings. The City received four (4) proposals in response to the RFP. Based on staff's analysis, Universal Building Services and Supply Company would continue to provide the best overall service to the City.

Staff recommends that the City Council, by resolution, authorize the City Manager to negotiate and enter into a new Contractual Services Agreement, in a form approved by the City Attorney, with Universal Building Services and Supply Company in an amount not to exceed $1,015,000 for janitorial services in fiscal years 2022-2023 and 2023-2024, and amend the 2022-2024 Biennial Budget and Capital Improvement Plan.

BACKGROUND

The City has utilized outside consultants to perform ongoing janitorial services to all City buildings. Universal Building Services and Supply Company has provided these services for the City since 2018. The Maintenance Division of the Public Works Department released a Request for Proposals (RFP) in accordance with the City's Purchasing Rules and Regulations for ongoing janitorial services at all City buildings. The RFP specified that consultant selection would be made based on the proposed cost for services, experience of staff and management team, proposed methodology, quality control program, satisfaction of previous clients and quality of referenced work, proficiency with billing practices, financial stability of company, quality and completeness of proposals, and other factors.

Staff received a total of four (4) proposals on or before November 1, 2022, from the following proposers:

IMPEC Group
Service Leader LLC
SWA Services Group, Inc.
Universal Building Services and Supply Company

Proposals from each of these firms were subsequently evaluated based on the selection criteria listed. Universal Building Services and Supply Company provided the most comprehensive proposal that satisfied the stated selection criteria. Universal Building Services and Supply Company also provided the lowest pricing of all the proposers by approximately 5%. Universal Building Services and Supply Company have provided services for the City of Newark since June 2018 and successfully provide services of a similar nature to other local municipalities including City of Mountain View (10 years) and City of Concord (14 years). Based on staff's analysis Universal Building Services and Supply Company would continue to provide the best overall value to the City for janitorial service. Staff is therefore recommending the selection of Universal Building Services and Supply Company to provide janitorial services for fiscal year 2022-2023 and 2023-2024.

DISCUSSION/ANALYSIS

The Contractual Service Agreement would be retroactive from July 1, 2022 and expire June 30, 2024. Due to an administrative oversight, work to date this fiscal year has been under the terms of the prior contract. It is appropriate at this time to incorporate the entire fiscal year with the new contract. The new contract will include options for renewal of up to four (4) additional one (1) year terms upon mutual consent of the City and Universal Building Services and Supply Company as authorized by the Public Works Director, subject to available funding levels to be approved by the City Council. Under the terms of the agreement, Universal Building Services and Supply Company would provide the requested services in an amount not to exceed:

$260,000 for July 1, 2022 through December 31, 2022
$252,000 for January 1, 2023 through June 30, 2023
$503,000 for July 1, 2023 through June 30, 2024

Renewal contract prices may be increased annually by an agreed upon consumer price index, effective July 1, 2024.

FISCAL IMPACT

An amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan is necessary to provide $16,000 in additional funding for fiscal year 2022-2023 and $32,000 for fiscal year 2023-2024.

REVIEW AND APPROVAL

Prepared by - Tonya Connolly, Maintenance Superintendent
Reviewed by - Soren Fajeau, Public Works Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution
Universal Building Services

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO A CONTRACTUAL SERVICES AGREEMENT, IN A FORM APPROVED BY THE CITY ATTORNEY, WITH UNIVERSAL BUILDING SERVICES AND SUPPLY COMPANY IN AN AMOUNT NOT TO EXCEED $1,015,000 COMBINED FOR FISCAL YEARS 2022-2023 AND 2023-2024 FOR JANITORIAL SERVICES FOR CITY BUILDINGS, AND AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN

WHEREAS, the City prepared and released Requests for Proposals (RFP) for janitorial maintenance services for City buildings; and

WHEREAS, the City received proposals from four firms that were evaluated by staff based on the estimated cost of services, proposed methodology, quality control program, experience of staff, experience of management team, financial stability of company, quality of referenced work, quality of equipment, tools and uniforms, quality and completeness of proposals, and other factors; and

WHEREAS, based on the evaluations, staff determined that Universal Building Services and Supply Company is the most qualified firm to provide the requested janitorial services at the best overall value for City buildings.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to negotiate and enter into a Contractual Services Agreement, in a form approved by the City Attorney, with Universal Building Services and Supply Company in an amount not to exceed $1,015,000 combined for janitorial services in fiscal years 2022-2023 and 2023-2024.

BE IT FURTHER RESOLVED that the Public Works Director is hereby authorized to renew the aforementioned Contractual Services Agreement for up to four (4) additional one (1) year terms upon mutual consent of the City and Universal Building Services and Supply Company under the terms of the agreement, subject to prior funding approval by the City Council.

BE IT FURTHER RESOLVED that the City Council does hereby approve amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2022-2023 and 2023-2024 as follows:

Fiscal Year 2022-2023

To:	704.87.704.672.6251	Building Maintenance Contractual Services	$16,000
From:	704.00.000.000.3000	Unallocated Fund Balance	$16,000

Fiscal Year 2023-2024

To:	704.87.704.672.6251	Building Maintenance Contractual Services	$32,000
From:	704.00.000.000.3000	Unallocated Fund Balance	$32,000

COPY

A
PROPOSAL
FOR
The City of Newark
Janitorial Services to City Buildings

Due: November 1, 2022, by 2:00 pm

Presented by

UBS
UNIVERSAL BUILDING SERVICES

3120 Pierce Street, Richmond, CA 94804

(510) 527-1078

PROPOSAL TO THE CITY OF NEWARK

Name of Proposer:
Universal Building Services and Supply Co.

Business Address: **3120 Pierce Street**

City, State, Zip: **Richmond, CA 94804**

Telephone Number: **Area Code (510) 527-1078**

LOCATIONS

The work to be done and referred to herein is at various locations in the City of Newark, County of Alameda, State of California.

1. City Administration Building - 37101 Newark Boulevard
2. Police Department, 37077 Newark Boulevard
3. Newark Community Center, 35501 Cedar Boulevard
4. Newark Community Center Annex (Day Care Building), 35501 Cedar Boulevard
5. Redeker Senior Center, 7401 Enterprise Drive
6. Newark Service Center (Office, Lunchroom, and Police Evidence Storage), 37440 Filbert Street
7. Newark Library (County operated), 37055 Newark Boulevard
8. Community Park Restroom, 35501 Cedar Boulevard
9. Sportsfield Park Restroom Building, 39111 Cherry Street
10. Birch Grove Park Restroom, 38200 Birch Street
11. Ash Street Restroom Building, 37365 Ash Street
12. Community Center Summer Program, June thru August, 35501 Cedar Blvd.
13. Ash Street Summer Program, June thru August, 37365 Ash Street
14. Fire Station #27, 39039 Cherry Street
15. Fire Station #28, 7550 Thornton Avenue
16. Fire Station #29, 35775 Ruschin Drive

City of Newark
BASE BID - UNIT PRICE SCHEDULE

Location	Estimated Daily Hours	Charges Per Month	Charges Per Year
City Hall	5	$3,547.00	$42,564.00
City Hall - Day Porter	3	$2,150.00	$25,800.00
Newark Community Center			
Wednesdays Only	2.5	$ 397.00	$ 4,764.00
Weekend Events (FRI/SA/SU) (please average 4 weeks per month)	3.5	$1,799.00	$21,588.00
Community Center Annex	2	$1,445.00	$17,340.00
Redeker Senior Center	2	$1,445.00	$17,340.00
Newark Service Center	2	$1,445.00	$17,340.00
Evidence (once per week)	.75	$ 152.00	$ 1,842.00
Community Park Restroom	1	$1,260.00	$15,120.00
Sportsfield Park Restroom	1	$1,260.00	$15,120.00
Birch Grove Park Restroom	1	$1,260.00	$15,120.00
Ash Street Park Restroom	1	$1,260.00	$15.120.00
Newark Library	5	$3,557.00	$42,684.00
Library Day Porter	2	$1,408.00	$16,896.00
Newark Police Department	5	$5,063.00	$60,756.00
Police Day Porter	3	$2,150.00	$25,800.00
Silliman Phase I	6	$6,643.00	$79,716.00
Silliman Phase II	6	$5,647.00	$67,764.00
		BASE BID TOTAL	$502,674.00

The estimated number of hours and total monthly charges on this bid form includes time spent by all staff at the specified service location based on the scope of work identified on the Work Schedule for Janitorial Services for Daily, Weekly, and Bi-Weekly Duties at each respective service location.

Unit Price Schedule
Monthly Services or Less Often Duties

Location	Per Month	Charges Per Year
City Hall		
Carpet Cleaning (2x's yr)	$ 377.00	$ 4,524.00
Waxing - Lobby (semi-annual)	$ 126.00	$ 1,512.00
Window Washing (exterior 2x's per yr)	$ 380.00	$ 4,560.00
Newark Comm Ctr & Annex		
Waxing (2x's yr)	$ 190.00	$ 2,280.00
Window Washing (exterior 2x's per yr)	$ 19.00	$ 228.00
Redeker Senior Center		
Window Washing (exterior 2x's per yr)	$ 38.00	$ 456.00
Newark Service Center		
Window Washing (exterior 2x's per yr)	$ 19.00	$ 228.00
Newark Library		
Carpet Cleaning (2x's yr)	$ 377.00	$ 4,524.00
Waxing - Lobby (semi-annual)	$ 95.00	$ 1,140.00
Window Washing (exterior 2x's per yr)	$ 380.00	$ 4,560.00
Newark Police Department		
Locker Rooms Detailed (once per year)	$ 33.00	$ 396.00
Carpet Cleaning (2x's yr)	$ 252.00	$ 3,024.00
Waxing - Lobby (semi-annual)	$ 63.00	$ 756.00
Window Washing (exterior 2x's per yr)	$ 152.00	$ 1,824.00
Silliman Phase I & II		
Locker Rooms Detailed (once per year)	$ 252.00	$ 3,024.00
Carpet Cleaning (2x's yr)	$ 504.00	$ 6,048.00
Window Washing (exterior 2x's per yr)	$ 142.00	$ 1,704.00
Ash Street Summer Program (6 weeks)	$ 1,224.00	$ 1,695.00
Ash Street (detail once per yr)	$ 38.00	$ 456.00
Community Summer Program (8 weeks)	$ 1,402.00	$ 2,588.00
Fire Station #27 (detail once per year)	$ 101.00	$ 1,212.00
Fire Station #28 (detail once per year)	$ 143.00	$ 1,716.00
Fire Station #29 (detail once per year)	$ 95.00	$ 1,140.00
	Total Per Year	$49,595.00

The estimated number of hours and total monthly charges on this bid form includes time spent by all staff at the specified service location based on the scope of work identified on the Work Schedule for Janitorial Services for Daily, Weekly, and Bi-Weekly Duties at each respective service location.

UNSCHEDULED SERVICES

Requested special cleaning work not paid for under regular or periodic services, such as vandalism, new construction clean-up, remodeling clean-up, or specialty request work, including all materials, labor, and equipment.

Special Cleaning

Janitor	$32.00/hr. straight time
Utility person	$45.00/hr. straight time
Waxer	$45.10/hr. straight time
Day Porter	$32.00/hr. straight time
Carpet Cleaner	$45.10/hr. straight time

UBS
UNIVERSAL BUILDING SERVICES

JANITORIAL DIVISION SUPPLY DIVISION POWER SWEEPING DIVISION

All correspondence to:
3120 Pierce Street
Richmond, CA 94804
(510) 527-1078
1-800-869-6677
Fax (510) 526-7289

October 21, 2022

City of Newark
Department of Public Works
Tonya Connolly, Maintenance Superintendent
37101 Newark Boulevard
Newark, CA 94560

Dear Tonya Connolly:

Thank you for providing Universal Building Services and Supply Co the opportunity to submit a janitorial services proposal to the City of Newark for services at the locations specified in your RFP. I am pleased to offer our proposal for your examination.

Universal Building Services and Supply Co., a California corporation, has provided superior, cost-effective cleaning services to quality facilities such as yours for 59 years. UBS was founded on 1 March 1963 and incorporated in the State of California on 10 April 1969. **Our Federal Tax ID Number is 94-1692591. Our DIR Registration Number is JS-LR-000015724.** UBS has corporate offices in Richmond and 6 district offices throughout Northern and Central California. Our company has 600 employees and services commercial and industrial accounts of all sizes. UBS also services a large number of municipalities, including Federal, state, county, and city governments, as well as other public agencies.

Universal Building Services and Supply Co. is a member of the U.S. Green Building Council and performs green cleaning services in compliance with LEED v4 for Existing Building Operations and Maintenance, Indoor Environmental Quality (EQ). UBS Green Cleaning includes Custodial Effectiveness, Products and Materials, and Equipment. UBS uses and distributes Green Seal Certified products. The company also uses CRI-approved HEPA vacuum cleaners and microfiber towels. UBS follows Green Seal GS-42 recommendations. Paper products provided by UBS meet Green Seal GS-01 standards and are EPA-compliant for recycled content.

Universal Building Services and Supply Co. attributes its success and growth to several reasons. They include:

- Trained personnel using the latest cleaning techniques and equipment. UBS workers are in daily and constant communication with their immediate supervisors. Our clients benefit by receiving prompt, cost-effective service.

- Exceptional supervision, which ensures strong quality control and superior service to our clients. Many of our supervisors have been with UBS for over 25 years and have worked their way up the ranks.

- Experienced and responsive UBS management ensures that our clients' cleaning concerns are minimized, thereby affording our clients more time for other matters. Our clients can contact UBS management personnel 24 hours a day, 7 days a week, to handle emergencies and unforeseen events.

- Computerized tracking of safety and quality control inspections, which provides data regarding history, frequency, corrective action, and follow-up of situations.

- Information regarding state-of-the-art techniques and equipment is disseminated from the UBS Supply Division to the UBS Janitorial Division, thereby ensuring that our cleaning staff uses the latest technologies. Our clients benefit by having their facilities cleaned in an efficient and cost-effective manner.

The aforementioned are some of the many reasons why Universal Building Services and Supply Co. has become a leader in providing janitorial services to an ever-growing number of satisfied clients. UBS now cleans over 30 million square feet of property, ranging in diversity from office buildings to refineries to high-tech research facilities. At UBS, we take pride in providing our clients with superior cleaning services, cost-effectiveness, and prompt response to their needs.

I will serve as your contact during this proposal process and am authorized to represent the company in any negotiations and/or agreements. Should you have any questions about our proposal or about Universal Building Services and Supply Co., please feel free to contact me at (510) 527-1078 or email dario@ubsco.com.Thank you for your time.

Sincerely,

Dario DeVincenzi
Operations Manager
Universal Building Services and Supply Co.
3120 Pierce Street
Richmond, CA 94804
Phone: 510-527-1078
Fax: 510-526-7289
email: .....dario@ubsco.com
Web Site: www.ubsco.com

Executive Summary

Universal Building Services was founded in 1963 by Leonard Brusseau and Joseph Pieri. UBS prides itself in offering prompt response, personal contact, efficient service, and thorough follow-up to its clients. These principles support the company's umbrella policy of total client satisfaction. That UBS has steadily grown throughout its history is testimony to the company's success in meeting these principles. Now, over fifty-nine (59) years later, UBS remains family-owned and services well over 30 million square feet of diverse building space throughout the state of California. Growth and expansion at UBS continue to be steady and controlled.

Universal Building Services began with a single office in Richmond, California. To better accommodate the additional space required for increased staff and workers, more equipment, garaging and servicing of power sweepers, and warehousing of maintenance supplies, the Richmond facility has expanded to include several buildings. Richmond is also the location of the company's corporate offices. As UBS continued to expand, district offices were gradually opened in Modesto, Petaluma, Sacramento, San Jose, and Walnut Creek to provide better client support and service. In addition, UBS has developed working alliances with various service providers throughout the state of California.

Universal Building Services has grown steadily to become a major presence in the field of total building cleaning maintenance throughout California. To the basic janitorial office cleaning, which was the original UBS service provided, have been added carpet cleaning, hard and resilient floor care, window cleaning, emergency clean-up, and numerous other ancillary services. To strengthen its position as a leading provider of full-service cleaning and maintenance, UBS added power sweeping and maintenance supply sales to the services offered by the company. Power Sweeping and Maintenance Supply Sales are now separate divisions of Universal Building Services.

Universal Building Services remains dedicated to continuing those principles that have contributed to its longevity, stability, and growth and that have resulted in the satisfaction and loyalty of its clients. Providing leadership into the future are UBS managers and supervisors who, individually, average over 25 years of experience with UBS alone. With experienced leadership, trained workers, and a growing base of satisfied clientele, Universal Building Services is poised to meet the challenges of future business and growth with confidence.

Mission Statement

Universal Building Services and Supply Co.'s mission is to serve the business community and, thereby, society at large, by providing superior cleaning services to governmental, commercial, and industrial companies. Our service provides cleaner, healthier, and safer workplaces, thereby improving the environment, business productivity, and people satisfaction, ultimately enhancing the overall quality of life

APPROACH TO SCOPE OF SERVICES/METHODOLOGY

Universal Building Services and Supply Co. (UBS) has examined this Request for Proposal and is thoroughly familiar with its contents, the scope of work, and the services needed. Upon award of this contract, UBS management will meet with the City of Newark's staff to confirm and coordinate schedules for periodic work to eliminate or minimize disruptions to The City of Newark's operations.

Universal Building Services will comply with all laws and regulations, including the State of California's Labor Code, Chapter 4.5 Displaced Janitor Opportunity Act.

Upon award of the contract, UBS will establish a schedule of regular meetings with the City of Newark's staff for the purpose of discussing all aspects of janitorial services, including, but not limited to, the quality of work, inspection results, supplies, inventory, green cleaning, safety, and events coordination. UBS will generate a calendar showing chronologies and the City of Newark's events. Periodic services are scheduled one year in advance and timed to accommodate seasonal or calendar situations.

Regular inspections by Universal Building Services and Supply Co. managers and supervisors ensure the quality of service and safety awareness. The City of Newark's staff is invited to participate in the inspections. Discrepancies are pointed out to the janitor, and corrective instruction is provided. Follow-up inspections are made the following day and one week later to ensure that the correct procedures are followed.

Regular training of the cleaning staff is key to not only maintaining but also to improving the quality of our service. Through regular reviews of its services, UBS is able to provide consistently high-quality service.

All required routines are spelled out in a detailed task or checklist sheet used by janitors and monitored daily by section foremen and supervisors. This assures that no task completion has been overlooked.

JOB STAFFING AND EMPLOYEE SELECTION

Universal Building Services and Supply Co. will staff new contracts by performing Federal E-Verify checks on all employees to ensure their right to work in the United States. UBS would then apply Chapter 4.5, Displaced Janitor Opportunity Act of the California Labor Code, to retain eligible workers. Finally, UBS would hire locally to fill any remaining open positions. All new hires would undergo UBS orientation and initial training. They are given their own copy of the UBS Employee Handbook, which covers all orientation and training topics. UBS would meet with the City of Newark's staff to establish work plans and schedules.

Universal Building Services and Supply Co. desires to employ self-motivated, trainable, service-oriented people at all levels of hire. Current UBS employees have proven to be an excellent source for new employees. Current UBS employees are aware of the quality work and client service mindedness expected by UBS of its employees and are therefore in a position to recommend people who fit well with the UBS corporate philosophy.

Prospective employees must successfully complete Universal Building Services and Supply Co. employment requirements and procedures, which include:

- Federal E-Verify check to ensure the right to work in the United States.
- A UBS employment application.
- Proper I-9, Immigrations and Naturalization documents.
- With the consent of the applicant, previous employer background checks.
- Criminal background checks, where applicable.
- An employee orientation checklist

Should the job assignment involve driving a company vehicle or, if required by the client, applicants undergo a thorough Department of Motor Vehicles driving history review. In addition, these employees voluntarily submit to UBS's Drug and Alcohol Screening Program, with the understanding that they are subject to future random testing.

Eligible candidates, after preliminary screening by our personnel department, are then interviewed by the respective project manager or supervisor, who further determines the candidate's suitability to a particular assignment, work experience, and "fit" as a UBS employee.

Successful candidates (new hires) then undergo the UBS Employee Orientation Program, wherein they are introduced to UBS's rules and regulations and receive a site-specific orientation by the respective project manager and/or supervisor. New hires also receive their own copies of the Universal Building Services and Supply Co. Employee Handbook and are instructed about safety, security, and emergency procedures.

EMPLOYEE TRAINING CURRICULUM

New Employee Orientation

New Universal Building Service employees are assigned to a supervisor who provides indoctrination training covering company policies, safety in the workplace, emergency procedures, and proper cleaning procedures. Cleaning procedures taught include appropriate use of chemicals, proper use of equipment, correct methodology of cleaning, and attention to personal safety habits. The new hire is watched closely and supervised during the first 2 weeks of work. New employees are not released to work alone on a station until they have demonstrated practical knowledge and the ability to clean properly. Also, new employees are not allowed to operate equipment until they are deemed capable of operating them safely and competently.

In addition to verbal and hands-on instruction, each new UBS employee is given an extensive bilingual Employee Handbook. The UBS Employee Handbook details all aspects of the job and provides additional references and contacts, should the employee have additional questions or require clarification.

Employee Continuing Education Program

Current Universal Building Service employees are kept up to date in matters of cleaning methods and materials through a number of programs. As new products and methods are developed, they are taught to our cleaning staff by their supervisors. Where applicable, we will have a product representative in attendance to ensure the transfer of information and to answer specific questions as they arise.

Continuing education is maintained through the attendance of seminars, videotape programs, cassette programs, and meetings with vendor representatives.

Additionally, the UBS Janitorial Division receives the benefit of the UBS Supply Division first learning about new products, equipment, and techniques from supply vendors. The information is immediately passed on to the Janitorial Division. The ultimate benefit is that the UBS client receives the most recent, state-of-the-art maintenance in the shortest possible time from introduction.

PROJECT TEAM

Universal Building Services is managed by an executive team that collectively has over 100 years of professional janitorial experience. Many District Managers, Supervisors, and Lead personnel have well over 25 years with the company. The importance of client satisfaction and the practical experience accumulated by the UBS upper management team is passed on to new managers and supervisors, thereby ensuring a continuation of the ideals which have brought UBS growth and success.

Universal Building Services and Supply Co. has a long-standing policy of promoting from within. Those employees who exhibit company loyalty, longevity, outstanding performance, and wish to advance are evaluated for their practical knowledge and their leadership potential by UBS upper management. Because UBS supervisors oversee the actual cleaning operations of the work crews, and since superior cleaning is paramount to our client's satisfaction, the selection of the proper candidate to promote to UBS Supervisor is vitally important to UBS.

Universal Building Services and Supply Co. observes a unique methodology of cleaning and quality control. UBS' approach begins with company-trained janitors, supervisors, and managers who are qualified and committed to practicing safe workplace cleaning methods. In addition, UBS' routine site inspections and cross-checks provide an accurate evaluation of performance and job standards. Our quality control begins with staff who practice consistency and comply with our company policies. Our quality control system works to guarantee job specifications are met with complete client satisfaction.

PERSONNEL:

- Operations Manager – oversees all UBS accounts.
- District Manager – responsible for all accounts in the UBS district area.
- Supervisor – assists District Manager; supervises and oversees area accounts and staff.
- Custodial Lead – supervises and oversees staff and utility work.
- Janitors – performs routine cleaning as per specifications.
- Day Porter Staff – performs all routine/daily task as per specifications.

MANAGEMENT TEAM

Victor Orozco, ***District Manager***
3120 Pierce Street
Richmond, CA 94804
(510) 527-1078
victoro@ubswco.com

Mr. Victor Orozco is UBS' District Manager and oversees all current janitorial contracts in Alameda County. Mr. Orozco's responsibilities include meeting with customers, handling requests and complaints, performing inspections, establishing work orders, investigating service discrepancies, meeting with UBS workers, and scheduling periodic and special request services. He is experienced and knowledgeable in all aspects of building cleaning, bidding and estimating, and workforce training. Victor is responsive to customers' needs and ensures that UBS' high standards are maintained. If awarded this contract, Victor will oversee the City of Newark's account.

Fernando Esqueda, ***Supervisor***
3120 Pierce Street
Richmond, CA 94804
(510) 527-1078
fernandoe@ubsco.com

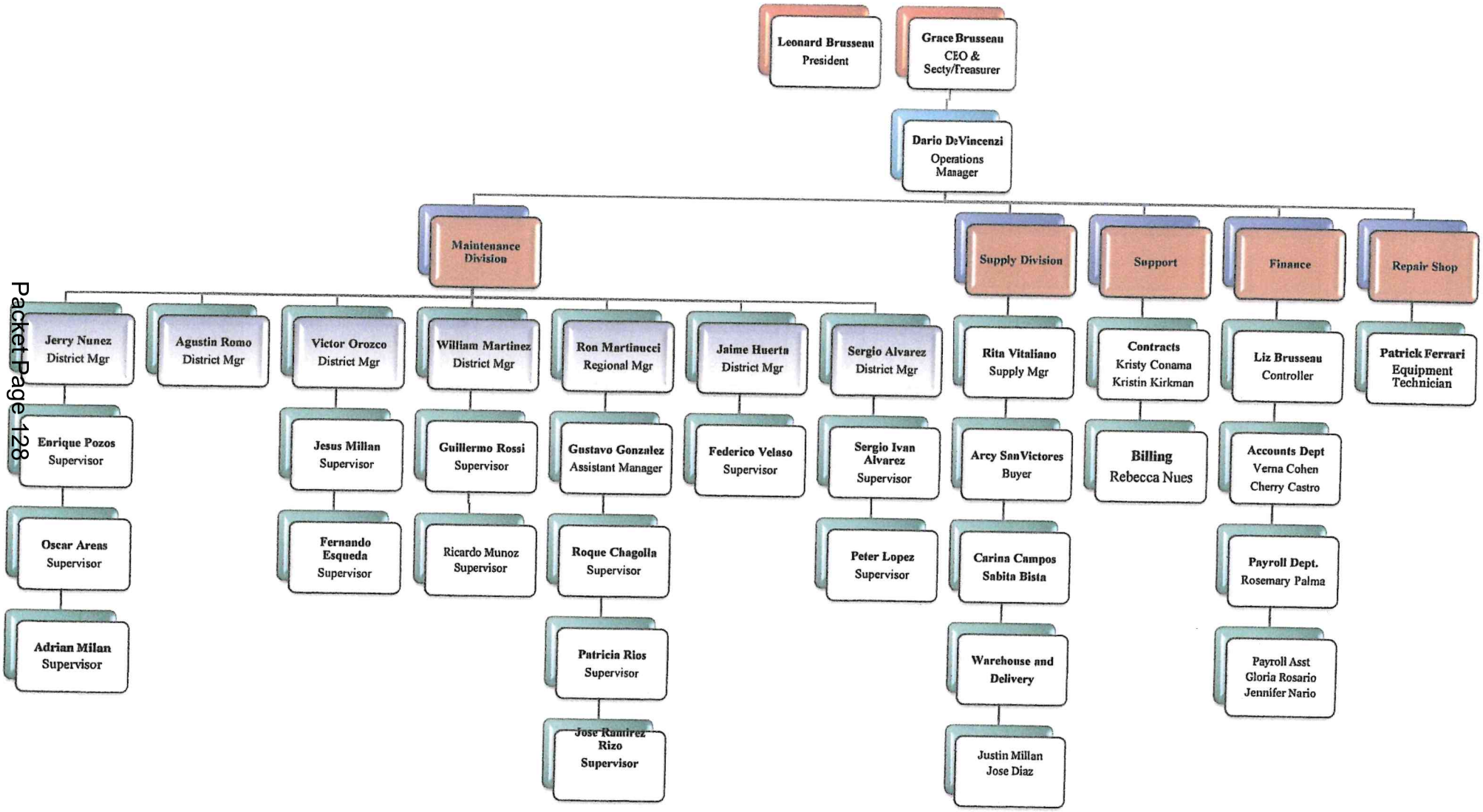
Mr. Fernando Esqueda is Universal Building Services and Supply Co.'s Supervisor who will be assigned to the City of Newark's account if awarded to UBS. Fernando has been with UBS for over 30 years, the last 25 of which have been in a supervisory capacity. Fernando is experienced in every aspect of the janitorial trade, including all types of floor-cleaning procedures, carpet cleaning, and window cleaning. His supervisory responsibilities include inspecting janitors' cleaning and safety performances, coaching and training the janitors, ensuring supply inventories are maintained, and ensuring that periodic work is performed as scheduled.

Dario DeVincenzi, ***Operations Manager***
3120 Pierce Street
Richmond, CA 94804
(510) 527-1078
dario@ubsco.com

Mr. Dario DeVincenzi is Universal Building Services and Supply Co.'s Operations Manager. Mr. DeVincenzi works closely with UBS Regional Managers, District Managers, and Customer Representatives to ensure that both customer standards and UBS standards are met at all times. Mr. DeVincenzi started his career with UBS in 1972 and has more than 50 years of experience in all aspects of the building maintenance profession.

Mr. DeVincenzi is thoroughly familiar with the operations and management of large projects and route management. He has a reputation for excellent quality control and successful operations. Mr. DeVincenzi is responsible for the overall performance of UBS. He audits the performance of all UBS personnel, enforces quality standards, and makes on-site visitations and inspections.

Universal Building Services and Supply Co.
2022 Organization Chart



CITY OF NEWARK
QUESTIONNAIRE

Please list below companies or agencies currently being serviced by your firm.

Company Name, Address, E-mail Address, Contact Person and Telephone Number	Job Description and Length of Service
1. **The City of San Ramon** 7000 Bollinger Canyon Road, San Ramon Sandy Martin – Parks & Facilities Manager 925-973-2807 smartin@sanramon.ca.gov	Provides janitorial services to 17 locations, including City Hall, Community Center, Gym, Senior Center Administration Center for approximately 296,735 square feet. 2011-Present
2. **The City of Concord** 1455 Gasoline Avenue, Concord Justin Ezell – Public Works Director 925-671-3231 Justin.ezell@cityofconcord.org	Provides janitorial services to 16 locations, including Police Dept., Library, Corporation Yard, Preschool, Park Facilities for approximately 548,826 square feet. 2008-Present
3. **The City of Mountain View** P.O. Box 7355, Mountain View, CA 94039 Toni D'Amico – Contracts Coordinator 650-903-6314 toni.damico@mountainview.gov Dale Adams – Facilities Maintenance Supervisor 650-903-6879 Dale.adams@mountainview.gov	Provides janitorial services to 27 locations including Police Stations, Sports Centers, Libraries, City Hall, Pool, Parks, Restrooms for approximately 287,980 square feet. 2021-Present
4. **City of Sacramento** 915 I Street, New City Hall, Sacramento, CA 95814 Gary O'Neill, Finance Department 916-808-7432 goneill@cityofsacramento.org	Provides janitorial services to 50 locations including Parking Garage, Metal Shop, Water District Valley Stations, City Hall, Swim Center for approximately 350,000 square feet. 2020-Present

PROPOSER'S STATEMENT OF FINANCIAL RESPONSIBILITY, TECHNICAL ABILITY, AND EXPERIENCE

The Proposer submits, below (or attached), a statement of projects of similar character to that described in the proposed contract that have been successfully performed by the Proposer. The statement shall include a brief description, approximate cost, and applicable references associated with each project listed, and shall be of sufficient detail to enable the City Council to judge the responsibility, experience, skill, and business standing of the Proposer.

UBS has been the Janitorial service provider for the **City of San Ramon** for over 10 years. We clean approximately 296,735 square feet at 17 locations, which include City Hall, the Community Center, the Gym, the Senior Center, and the Administration Center, to name a few. There is a dedicated supervisor who monitors the janitorial work daily. The approximate cost per year is $550K.**

UBS has provided Janitorial service to the **City of Concord** for over 14 years. We clean 16 locations for approximately 198,000 square feet, including the Police Department, the Library, The Corporation Yard, the Preschool, and Park Facilities. The approximate cost per year is $425K.**

UBS provides Janitorial service to 27 locations in the **City of Mountain View**. The Police Stations, the Sports Center, The Libraries, City Hall, the Pool, and Parks and Restrooms are just a few of the sites serviced. As with all of our accounts, there is a dedicated Supervisor that monitors and trains the janitorial staff on a daily basis. We clean approximately 287,980 square feet with an annual cost of $1.9M.**

The Parking Garage, the Metal Shop, the Water District Valley Stations, City Hall, and the Swim Center are a few of the 50 locations where UBS provides janitorial services for the **City of Sacramento**. There is a dedicated Supervisor who trains and inspects all work performed at the City's locations. UBS cleans approximately 350,000 square feet for an annual cost of $1.4M.**

CONFIDENTIAL-PLEASE DO NOT DISTRUBT
PAGE TO PUBLIC

****Please see the preceding page, "City of Newark Questionnaire", for names and numbers of references for the above accounts.**

LIST OF SUBCONTRACTORS

The Proposer shall list the names and addresses of each subcontractor to whom the Proposer proposes to subcontract portions of the work in excess of one-half percent (0.5%) of the total bid or $10,000 whichever is greater, in accordance with the Subletting and Subcontracting Fair Practice Act, commencing with Section 4100 of the Public Contract code. The Proposer's attention is directed to other provisions of said act related to the impositions of penalties for a failure to observe its provisions by using unauthorized subcontractors or by making unauthorized substitutions. Provide all information requested below. If none, so indicate.

If the Proposer fails to specify a Subcontractor, or if the proposer specified more than one Subcontractor for any portion of the work to be performed under the contract in excess of one-half of one percent (0.5%) of the Proposer's total bid or $10,000 whichever is greater, he/she agrees that he/she is fully qualified to perform that portion of work himself/herself, and that he/she will perform that portion himself/herself.

SUBCONTRACTOR NAME AND LICENSE NUMBER	ADDRESS	DESCRIPTION OF WORK SUBCONTRACTED	AMOUNT SUBCONTRACTED*
Will not be using Subcontractors			

*Use cost amount representing actual work to be performed by the representative subcontractor

WORK PLAN

Our service begins with a thorough examination of the City of Newark's required scope of work and layout of all required responsibilities prior to the commencement of services. Our detailed work plan will be as follows:

WORK

- Janitors are given specific work assignments.
- Hours worked will be in accordance with the State of California Labor Code and in agreement with the City of Newark's scheduled hours for cleaning services.
- All services will be performed by a dedicated and supervised janitorial staff.
- Periodic services will be scheduled on a calendar a year in advance.
- Cleaning is in accordance with Green Seal GS-42.

MATERIALS AND EQUIPMENT

- Chemicals used by UBS are Green Seal Certified.
- All equipment and cleaning supplies follow Green Seal recommendations.
- UBS will maintain a consumable supply inventory. UBS will notify The City's staff when orders are needed.
- **Cleaning equipment and supplies are commonly kept in the custodial closet of each building unless specified otherwise.**

QUALITY ASSURANCE

- All work is inspected regularly for quality assurance by managers and supervisors.
- UBS will conduct monthly training meetings for the janitorial staff.
- Meetings will cover:
    - Safety
    - Cleaning procedures
    - Product knowledge
    - Company notices

SAFETY

- On-board training covers all aspects of personal, chemical, and equipment safety.
- Personal safety training includes proper methods of lifting heavy objects, being cognizant of potentially hazardous and dangerous situations, and ensuring that high visibility barrier tape or wet floor signs are in place where necessary.
- Chemical safety training includes the wearing of proper eye, hand, and skin protection necessary for the assigned task.
- Equipment safety training includes proper care and handling of vacuums, mops, floor machines, extractors, and other such machinery.
- Safety Data Sheets/SDS will be placed in each janitor closet.

INSPECTIONS

Because cleaning specifications and scopes of work differ from customer to customer, Universal Building Services and Supply Co. works with each customer to create and design checklists, inspection forms, and log sheets that are specific to each customer's needs. UBS will meet with The City to generate forms that are specific to the City of Newark's facilities.

All Universal Building Services and Supply Co. accounts are monitored through the company's internal quality control and assurance program. The purpose of this is to maintain Universal Building Services and Supply Co.'s high level of service to its customers. Universal Building Services and Supply Co. takes a proactive approach with regard to customer contact and service. All cleaning programs are tailored to each account and site since all have specific and unique needs.

Transition Plan Upon Award of Contract

Universal Building Services and Supply Co.'s Transition Plan includes the following steps:

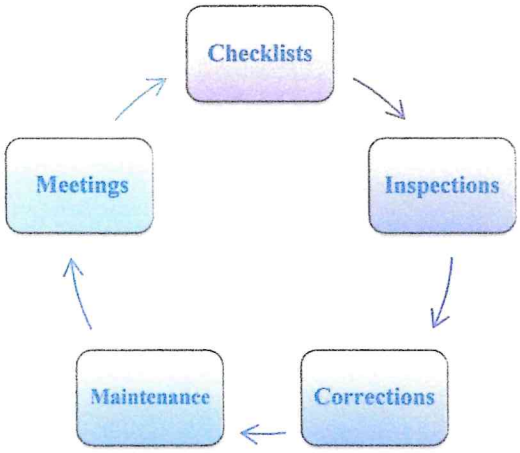
Basic Transition - Pre-Commencement:

1. Two weeks before start of contract - Survey facilities in detail to determine needs by area
2. Two weeks before start of contract - Meet with the City of Newark's management to discuss special needs and known problem areas
3. Two weeks before start of contract - Order equipment and supplies
4. Two weeks before start of contract - Meet with existing crews to determine existing schedules and assignments
5. One week before start of contract - Develop specific plans for each worker and for the entire crew
6. One week before start of contract - Write specific job descriptions by area
7. One week before start of contract - Set up all periodic schedules
8. One week before start of contract - **Hire workers, taking into consideration California Labor Code Chapter 4.5 Displaced Janitor Opportunity Act, Sections 1060-1065.**
9. One day before start of contract - Label and deliver equipment and supplies the day before or day of start of service

Basic Transition - Upon start of contract:

1. Completed upon end of week one - Orientation of workers
2. Completed upon end of week one - Make station assignment changes as necessary
3. Completed upon end of week one - Orientation training of workers in UBS methods (re. tools, supplies, safety, security, etc.)
4. Completed upon end of week two - Daily on-site monitoring and inspection of janitors and their performances until standards of cleaning are met

UBS QUALITY CONTROL & ASSURANCE PROGRAM



Universal Building Services and Supply Co.'s quality control and assurance program begin with standardized onboarding and training of newly hired employees. Monthly employee meetings deal with safety, service, products, equipment, and company policies. Day-long Managers' and Supervisors' meetings are held at least quarterly and cover the contents of upcoming monthly meetings and additional operations topics. High levels of service are realized through the implementation of the meetings' material, regular quality control inspections by all levels of UBS supervisory staff, and constant communication with the customer.

Our quality control and assurance program are as follows:

1. MEETING & EXCEEDING CUSTOMER EXPECTATIONS

Measurements of delivering quality janitorial service are the basic foundation of UBS's Total Quality Program. While the Contract terms normally spell out the detailed specifications required to be performed, our task does not stop with merely the knowledge of what has to be done.

Instead, our Program procedures incorporate various tools to ensure that the following milestones are achieved:

- **Maintain a high awareness level of what is required to be serviced**
  All required routines are spelled out in detailed task or checklist sheets used by janitors and monitored weekly by section foremen and supervisors. This assures that no task completion has been left to chance.

- **Weekly audit inspections performed by foremen and supervisors**
  All required routines are inspected to monitor their proper completion under UBS standards. These staff use the unique inspection forms for that facility to measure qualitative and

quantitative service criteria including commenting on the completeness, consistency, and effectiveness of the service.

- **Spell out corrective action, where discovered, and follow up**
  Where inspections reveal deficiencies, make employee(s) aware through incident and/or warning reports to control future reoccurrence. Instruction, coaching, and re-training are provided. Follow-up is made the next day and one week later to ensure correct procedures and performance compliance are realized.

- **Communicate non-routine activities so that they can be completed**
  Request for extra service is expedited using forms that clearly spell out the task and time of completion. The site supervisors can then better plan or reprioritize schedules to expedite completion as well as expedite obtaining approval of charges and billing.

- **Regular review of service with facility manager or representative**
  Review on a routine basis with customer their observations of the service. Review our efforts to assure completion and resolution of deficiencies.

2. MAINTAINING QUALITY PERFORMANCE

All work performed is inspected weekly by our on-site foremen and supervisors. Leaving nothing to chance is one of their principal goals, and they work to communicate their efforts both to their workers, so that corrective action is taken, as well as to our customer, to communicate our efforts and listen to their observations.

Regular training of the cleaning staff both on corrective as well as new technologies, procedures, and products is a key to not only maintaining but also improving the quality of our service.

Through regular and persistent efforts to review service and upgrade techniques and products, UBS is able to provide consistent quality service.

3. QUALITY PROCESS IMPROVEMENTS

It is UBS' practice to keep up with the latest improved technology, procedures, and products available in our trade. This is facilitated through our exposure and networking with other members of our trade. It is also accomplished through our Janitorial Supply Division activities with its national suppliers. Through this program, our suppliers provide their representatives to demonstrate and educate our staff on the latest products available, including equipment as well as supplies.

In turn, our staff is able to transfer these developments to our own cleaning customers' facilities in order to enhance the quality of our service and the general appearance of their buildings and their profits.

In addition, Universal Building Services and Supply Co. maintain efforts to monitor its quality of service. For example, as noted, deficiencies are documented through weekly inspection reports, and various quality criteria incidents are tracked and measured for selected locations. The frequency distribution of the measurements is identified over time so that information is obtained as to erring employees, most commonly difficult tasks, etc. It may also lead to identifying that the problem is due to a basic problem with the building, such as a bad air conditioning system requiring communication with the facility staff to resolve.

All Universal Building Services and Supply Co. accounts are monitored through the company's internal quality control and assurance program. The purpose of this is to maintain Universal Building Services and Supply Co.'s high level of service to its customers. Universal Building Services and Supply Co. takes a proactive approach with regard to customer contact and service. All cleaning programs are tailored to each account and site since all have specific and unique needs.

EMERGENCY RESPONSE

Universal Building Services and Supply Co. maintains a 24/7 staffed answering service for the purpose of off-hours contact in the event of emergencies and other unforeseen events. To minimize customer confusion with multiple numbers, UBS uses its normal office phone number, which is forwarded to the 24/7 staffed answering service during weekends and off-hours. The answering service can immediately reach a UBS manager, who will be speaking with the customer within minutes.

For emergencies, UBS expects deployment of supervised workers, equipment, and supplies and on-site presence within 30-60 minutes. UBS has fifty-nine **(59)** years of experience in resolving issues/emergencies, mitigating damages, and providing repairs in the janitorial services industry and will be prepared for any unpreventable incidents that may occur. The customer will always be kept apprised of situational occurrences, progress toward results, and final resolution.

UBS has a large pool of employees (600) which means that company-trained replacements are available to fill in for emergencies, absences due to vacations, illnesses, special events, and other unpreventable reasons.

UBS GREEN CLEANING

Universal Building Services and Supply Co. has been a member of the U.S. Green Building Council since 2009. The USGBC establishes LEED building standards and certifications. UBS performs cleaning services in compliance with LEED v4 for Existing Building Operations and Maintenance Indoor Environmental Quality (EQ) Green Cleaning for Custodial Effectiveness, Products and Materials, and Equipment. The company also follows Green Seal GS-42 guidelines. UBS' Janitorial Division uses Green Seal Certified cleaning chemical products, and the company's Supply Sales Division sells and distributes Green Seal Certified cleaning chemical products. UBS is also a member of ISSA (Worldwide Cleaning Industry Association), which establishes CIMS cleaning standards. Chemicals used by UBS are Green Seal Certified.

Universal Building Services and Supply Co. has employed green cleaning practices and products since the mid-1990s. To assist in improving indoor air quality and improve the environment, Universal Building Services and Supply Co. uses Green Seal Certified chemicals, EPA-compliant paper products, color-coded microfiber cleaning cloths, and Carpet and Rug Institute (CRI) approved vacuum cleaners.

Corresponding GHS Safety Data Sheets (SDS) in compliance with OSHA's New Globally Harmonized System of Classification and Labeling of Chemicals (GHS) Rule will be bound in a booklet and placed in each janitor closet and chemical storage site at every location. Universal Building Services and Supply Co. is in compliance with GHS.

The Universal Building Services and Supply Co.'s Supply Sales Division sells and distributes Green Seal Certified cleaning chemical products. UBS is a member of ISSA (International Sanitary Suppliers Association) and receives the most up-to-date information about green cleaning products and procedures.

Universal Building Services and Supply Co. is an environmentally responsible company that is committed to providing reliable, responsive service and high-quality work. Because of its membership in the U.S. Green Building Council, its Supply Division, and its relationship with manufacturers and vendors, Universal Building Services and Supply Co. will always be at the forefront of the use of environmentally responsible products and cleaning services.

The following are Green Seal Certified cleaning products and equipment that may be used in the fulfillment of this contract. Specific supplies will be determined by the requirements of each individual worksite.

Chemicals:

- Diversey - Glance NA (Glass & Multi-Purpose Cleaner Non-Ammoniated)
- Diversey – Perdiem (General Purpose Cleaner with Hydrogen Peroxide)
- Diversey – Crew (Bathroom Cleaner & Scale Remover)
- Diversey – Stride – Citrus scent (Neutral pH Cleaner)
- Diversey - Pro Strip SC (High Efficiency Floor Stripper)
- Diversey - Aquaria (Floor Finish)

Equipment:

UBS Standard Station Janitor Set-Up:

- CRI Approved Commercial Vacuum Cleaner - ProTeam ProForce 1500 HEPA or Electrolux Sanitaire SC888-K
- CRI Approved Backpack detail vacuum - ProTeam QuarterVac
- Rubbermaid Brute 44 gallon w/ gear caddy
- Rubbermaid castered dolly for Brute 44 gallon
- Microfiber Towels
- Dust mops
- Wet mops
- Mop buckets with wringers
- Wet floor signs
- Janitor's cart for specific assignments (e.g. restroom cleaner)
- Trigger sprayers w/ Green Seal Certified cleaning solutions

UBS Utility Crew Set-Up (Station Janitor equipment plus the following):

- High-speed glazers
- Floor machines
- Large and small carpet extractors
- Pressure washers
- Wet/Dry vacuums
- High volume air blowers
- Assorted floor pads and bonnets
- Other specialized equipment for specific cleaning assignments

Carpets and Upholstered Furniture

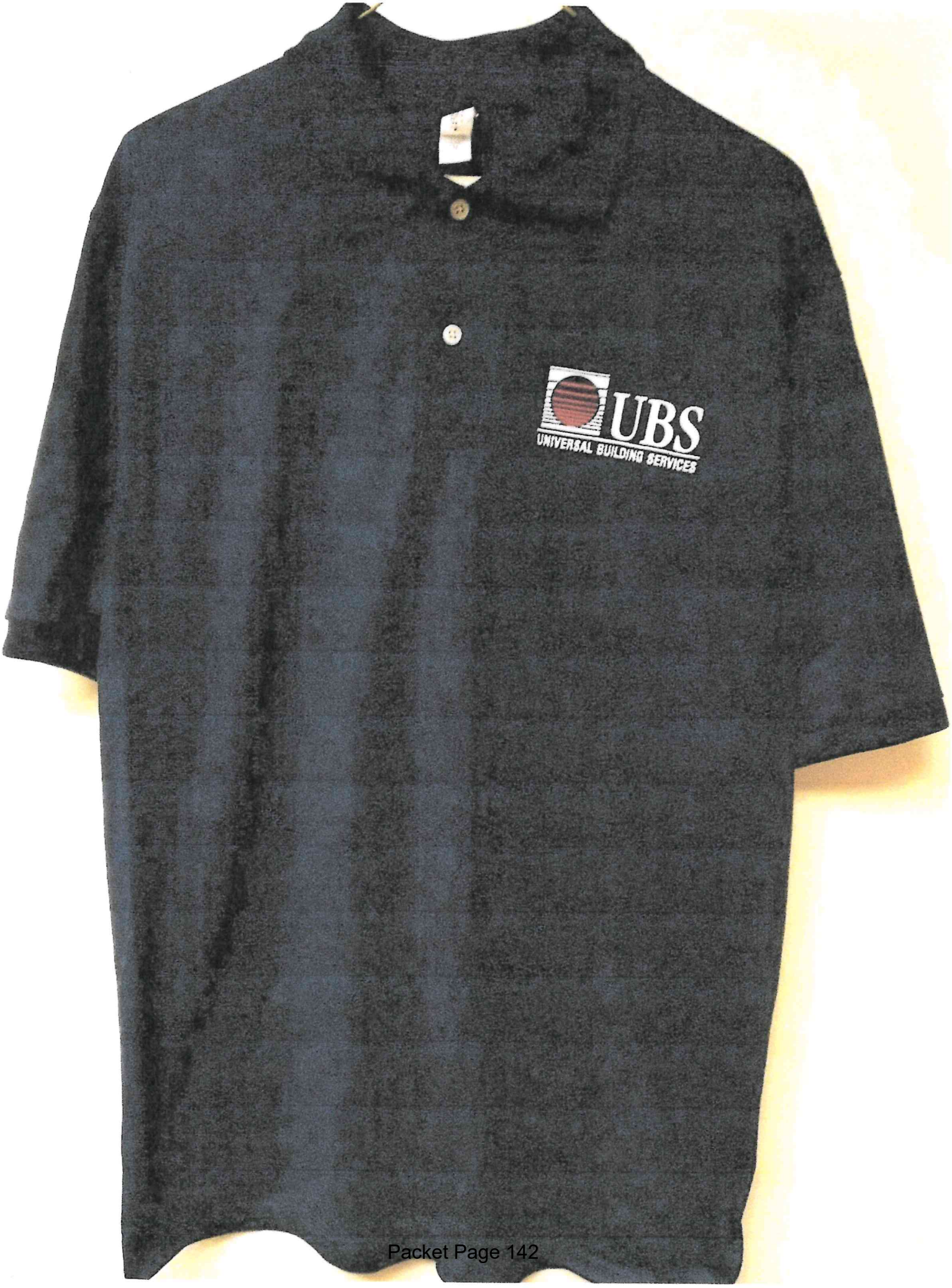
To assist in improving indoor air quality and improve the environment, Universal Building Services and Supply Co. use Carpet and Rug Institute (CRI) approved HEPA vacuum cleaners.

Methods used for the shampooing of carpets are predicated upon carpet type and material, the customer's cleaning specifications, and the carpet manufacturer's recommendations. Universal Building Services and Supply Co. utility crews are experienced in hot water extraction, bonnet cleaning, **dry chemical cleaning**, and hand cleaning. Spot cleaning is performed by the station janitor rather than the utility crews.

UNIFORM

Universal Building Services and Supply Co. provides all of our employees' uniforms. Janitorial and utility workers wear company-provided powder blue button-down shirts with dark blue pin-striping. The company logo patch is sewn on the shirt and each employee has a visible photo identification card. A navy blue baseball-style hat with a company patch on the front may be worn.

UBS managers and supervisors have the option of wearing company-provided polo shirts displaying the UBS logo on the chest.


UBS
UNIVERSAL BUILDING SERVICES

LICENSE TO PRACTICE IN CALIFORNIA

Universal Building Services and Supply Co. has been performing janitorial cleaning services in the State of California for over 59 (fifty-nine) years. UBS was founded on March 1st, 1963, and incorporated in the State of California on April 10th, 1969. **Our State of California Corporation Entity ID is C0567075. Our Federal Tax ID number is 94-1692591. Our DIR Registration number is JS-LR-000015724.** UBS has all the necessary licenses and certifications to perform the required janitorial services as per the City of Newark.

The State of California does not have a Janitorial Contractor license requirement. Universal Building Services and Supply Co. maintains city and county business licenses as required by local laws and contract requirements.

Universal Building Services and Supply Co. is a distributor of cleaning supplies and equipment and therefore holds a State of California Reseller's License.

BUSINESS LICENSES

An actual City of Newark Business License is provided.

INSURANCE

Please see Universal Building Services and Supply Co.'s Sample Certificate of Insurance attached immediately following this proposal. An actual certificate will be provided upon award of the contract.

FINANCIAL STABILITY

Universal Building Services and Supply Co. is a large, privately-held janitorial corporation that has been providing over fifty-nine (59) years of continuous janitorial services to public agencies and to commercial and industrial accounts of all sizes. UBS is still run day-to-day by its founders. This assures the City of Newark that UBS will not suddenly cease operations.

Upon the customer's request, UBS will provide our company's financial statements for the last three years for further proof of financial stability.

COMPLIANCE

Universal Building Services and Supply Co. complies with all Federal, State, and local laws and regulations, including the State of California's Labor Code, and Chapter 4.5 Displaced Janitor Opportunity Act. Universal Building Services and Supply Co has or can obtain all insurance coverages, licenses, certifications, and bonds required to perform cleaning services within its scope of operations. We are not, nor have we ever been, involved in any litigation, bankruptcy, or reorganization.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/1/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Heffernan Insurance Brokers
44 Montgomery Street, Suite 1950
San Francisco CA 94104

License#: 0564249

CONTACT NAME: Brittney Blankenship
PHONE (A/C, No, Ext): 415-778-0300 FAX (A/C, No): 415-778-0301
E-MAIL ADDRESS: BrittneyB@heffins.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Hiscox Insurance Company Inc.	10200
INSURER B : Middlesex Insurance Company	23434
INSURER C : Liberty Mutual Fire Insurance Company	23035
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Universal Building Services & Supply Co.
3120 Pierce Street
Richmond CA 94804

UNIVBUI-12

COVERAGES

CERTIFICATE NUMBER: 626407490

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	Y		A0191445004	4/1/2022	4/1/2023	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
							PRODUCTS - COMP/OP AGG	$ 2,000,000
								$
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY X SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY	Y		A0191445001	4/1/2022	4/1/2023	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
B	UMBRELLA LIAB X OCCUR X EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 0			A0191445005	4/1/2022	4/1/2023	EACH OCCURRENCE	$ 5,000,000
							AGGREGATE	$ 5,000,000
								$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	Y	WC2Z91474203012	4/1/2022	4/1/2023	X PER STATUTE OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
A	CRIME, EMPLOYEE THEFT CLIENT'S PROPERTY			UC2409514122	4/1/2022	4/1/2023	EMPLOYEE DISHONESTY DEDUCTIBLE	1,000,000 5,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Avetta. Bank of America, N.A. and Jones Lang LaSalle Americas, Inc. are included as an additional insured on General Liability and Automobile Liability policies per the attached endorsements, if required. Waiver of Subrogation is included on Workers Compensation policy, if required. The Waiver endorsement has been requested for the Workers Compensation policy from the insurance company and if approved will be forwarded when received.

CERTIFICATE HOLDER

Sample

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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BUSINESS LICENSE TAX CERTIFICATE

Issuance of license is not an endorsement, nor certification of compliance with other ordinances or laws, nor an assurance that the proposed use is in conformance with the city zoning regulations. The license is issued without verification that the taxpayer is subject to or exempt from licensing by the State of California.

Business Name: Universal Building Services & Supply Co

Business Location: 3120 PIERCE ST
RICHMOND, CA 94804-5996

Business Owner/Officers: Leonard Brusseau
Grace Brusseau

UNIVERSAL BUILDING SERVICES & SUPPLY CO
3120 PIERCE ST
RICHMOND, CA 94804-5996

Starting January 1, 2021, Assembly Bill 1607 requires the prevention of gender-based discrimination of business establishments. A full notice is available in English or other languages by going to: https://www.dca.ca.gov/publications/

TO BE POSTED IN A CONSPICUOUS PLACE

CITY OF NEWARK

37101 Newark Boulevard, Newark, CA 94560-3796
(510) 578-4264 FAX (510) 578-4358

BUSINESS CLASS : Gross Receipts

DESCRIPTION: Janitorial Services

Business License Number: 111078

Effective Date: 1/1/2022

Expiration Date: 12/31/2022

NOT TRANSFERABLE

CERTIFICATION AND SIGNATURES

CERTIFICATION - GENERAL

The Proposer's execution on the signature portion of this proposal shall also constitute an endorsement and execution of those certifications which are part of this proposal.

MINOR INFORMALITIES

The City reserves the right to waiver minor informalities and/or non-responsiveness that does not influence the competitive nature of the proposal.

PROPOSAL FORM

The proposal form is not to be detached or removed from this bound set of specifications. The entire bound set of Specifications and Proposal are to be submitted to the City. If this Proposal is removed, the signature(s) of the Proposer constitutes acknowledgement that the set of Specifications used in preparing his/her bid is complete and the intent of the Proposer is to comply with all provisions of the Specifications. With this acknowledgement, the City will consider removal of the proposal from the bound set of specifications as minor-non-responsiveness on the part of the Proposer.

ADDENDA

This proposal is submitted with respect to changes to the contract included in Addendum Number(s)

Addendum 1, Information and Response to Questions

(fill in addendum number(s) if addenda have been received)

Warning: If addendum or addenda have been issued by the City and not noted above as being received by the Proposer, this proposal may be rejected.

NONCOLLUSION DECLARATION

The undersigned declares: I am the **Operations Manager**_____ [title] of **Universal Building Services and Supply Co.**_____ [company], the party making the foregoing bid. The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham bid. The Proposer has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham bid, or to refrain from bidding. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the bid price, or of that of any other Proposer. All statements contained in the bid are true. The Proposer has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the proposer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on **October 27, 2022**_____[date], at **El Cerrito**_____[city], California.

SIGNATURE BLOCK

The names of all persons interested in the foregoing proposal as principals are as follows:

IMPORTANT NOTICE: If the proposer or another person is a corporation, state the legal name of the corporation, also the names of the president, secretary, treasurer, and manager thereof; if a partnership, state the true name of the firm, also the names of all individual copartners composing firm; if the proposer or other interested person is an individual, state the first and the last names in full.

Universal Building Services and Supply Co.

President – Leonard, Brusseau **Secretary/Treasurer – Grace Brusseau**

Operations Manager – Dario DeVincenzi

SIGN HERE

Date: **10-25-2022**

Signature of Proposer

Business address: 3120 Pierce Street, Richmond, CA 94804

Place of business: Richmond, CA

Place of residence: _____

Form of company (circle one)

California Corporation Limited Partnership Other (specify) _____

NOTE: ***Signatures of those executing Noncollusion Declaration must be properly notarized.***

See Acknowledgment
JL 10/27/2022

CALIFORNIA ACKNOWLEDGMENT CERTIFICATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State Of: **California**
County Of: Contra Costa

On October 27, **2022** before me, **J. Labra,** Notary Public, personally appeared, Dario Devincenzi who proved to me on the basis of satisfactory evidence to be the person(~~s~~) whose name(~~s~~) is/are subscribed to the within instrument and acknowledged to me that she/he/they executed the same in her/his/their authorized capacity(~~ies~~), and that by her/his/their signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: **J. Labra**

J. LABRA
COMM. # 2388438
NOTARY PUBLIC • CALIFORNIA
SANTA CLARA COUNTY
MY COMMISSION EXPIRES
DECEMBER 27, 2025

JAS1 JAS1

Title of Document: Request for Proposal Janitorial Services to City Buildings

Total Number of Pages: 72

Notary Commission Expiration Date: December 27, 2025

Notary Commission Number: #2388438

STAFF REPORT

Item E. 1.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Matthew Farrell, Chief Building Official
SUBJECT	Conduct a public hearing and waive second reading and adopt an Ordinance to repeal and replace certain chapters of Title 15 of the Newark Municipal Code in order to adopt by reference, with modification to address unique local conditions, the 2022 California Building Standards Code

SUMMARY AND RECOMMENDATION

The California Building Standard Commission has adopted the 2022 California Building Standards Code which includes various building construction codes that will become effective in all California jurisdictions on January 1, 2023. The California Health and Safety Code requires local jurisdictions to adopt the building standards contained in the uniform statewide codes, but allows modification of the codes to reflect local conditions. On October 13, 2022 the City Council adopted a resolution approving findings regarding the need for local amendments to provisions in the California Building Standards Code as adopted by the State of California, in the California Code of Regulations, Title 24, to be adopted by reference in the Newark Municipal Code and introduced the proposed ordinance. Also on October 13, 2022, the City Council set November 10, 2022 as the date for a public hearing to be conducted in advance of adoption of the 2022 California Building Standards Code.

Staff recommends that the City Council take the following action: Conduct a public hearing and waive second reading and adopt the proposed Ordinance, by title only, repealing and replacing Chapters 15.02, 15.08, 15.09, 15.10, 15.12, 15.16, 15.17, 15.18, 15.20, 15.21, 15.22 and 15.23 of Title 15 "Buildings and Construction" of the Newark Municipal Code in order to adopt by reference, with modifications to address unique local conditions pursuant to the findings under City Council Resolution No. 11,415, the 2022 editions of the California Administrative Code, the California Building Code, the California Residential Code, the California Mechanical Code, the California Electrical Code, the California Plumbing Code, the California Fire Code, the California Referenced Standards Code, the California Historical Building Code, the California Existing Building Code, the California Energy Code, and the California Green Building Standards Code, collectively the 2022 California Building Standards Code.

BACKGROUND

The State of California, through the California Building Standards Commission has adopted new editions of existing building construction codes under a new Title 24 of the California Code of Regulations, referred to collectively as the 2022 California Building Standards Code (CBSC). This process typically takes place every three years and new codes will become effective January 1, 2023. The City previously incorporated and modified the 2019 CBSC which is currently in use. The sections included in the 2022 CBSC are the California Administrative Code, the California Building Code, the California Residential Code, the California Mechanical Code, the California Electrical Code, the California Plumbing Code, the California Fire Code, the California Reference Standards Code, the California Historical Building Code, the California Energy Code, the California Existing Building Code, and the California Green Building Standards Code. As required by state law, applications for a building permit made after December 31, 2022 will be subject to the new codes. Section 17922 of the California Health and Safety Code requires local agencies to adopt the building standards contained in the 2022 CBSC. Under Section 17958.7 of the California Health and Safety Code, local jurisdictions have the opportunity to make limited amendments to the new state codes provided the local jurisdiction makes appropriate findings such modifications are reasonably necessary because of local climatic, geological or topographical conditions. The City previously adopted its current building codes by incorporating and modifying the 2019 California Building Standards Code.

As required by state law, applications for a building permit made after December 31, 2022 will be subject to the new codes. Section 17922 of the California Health and Safety Code requires local agencies to adopt the building standards contained in the 2022 CBSC. Under Section 17958.7 of the California Health and Safety Code, local jurisdictions have the opportunity to make limited amendments to the new state codes provided the local jurisdiction makes appropriate findings such modifications are reasonably necessary because of local climatic, geological or topographical conditions. On October 13, 2022, the City Council adopted Resolution No. 11,415, approving findings regarding the need for such local amendments to provisions in the California Building Standards Code as adopted by the State of California, in the California Code of Regulations, Title 24, to be adopted by reference in the Newark Municipal Code.

DISCUSSION/ANALYSIS

Currently, Title 15 "Buildings and Construction" Article I "Building Regulations" of the Newark Municipal Code (NMC) includes the building standards contained in the 2019 edition of the CBSC. Staff is recommending a repeal and replacement of certain chapters of Title 15, Article I, in order to adopt, by reference, with modifications to appropriately address unique local conditions, the 2022 edition of the CBSC.

As noted during the October 13, 2022 City Council meeting, staff is recommending technical changes to the Building, Residential, Plumbing, Electrical, Mechanical, and Fire codes. There are no technical changes recommended to the Administrative, Reference Standards, Historical Building, Energy, Existing Building, and Green Building Standards codes. Many of the proposed technical changes were incorporated into the NMC in previous code cycles and/or as clarification for safety measures added to certain code sections. A significant portion of the recommended local amendments

relate to language location changes. These amendments will allow the City to carry forward the same standards currently in use. Some of the other proposed changes merely accommodate new numbering systems.

The proposed modifications to the 2022 CBSC with the recommended repeal and replacement of Title 15, Article I are summarized as follows:

Chapter 15.02 - California Administrative Code
There are no proposed changes to the California Administrative Code.

Chapter 15.08 - California Building Code

Sections 402.5, 404.3, 407.6, 410.6, 903.2 903.2.1, 903.2.1.2, 903.2.2, 903.2.4, 903.2.7, 903.2.8, 903.2.9, 903.2.10, and 903.2.22 Automatic Fire Sprinkler Systems.
These various code sections should be modified to provide consistency with the City's fire sprinkler and alarm ordinance.
Section 501.1, Site Addressing.
This modification should be made to provide consistency with other sections of the current NMC.
15.08.042 Licensed professional.
This modification should be continued from prior local code adoptions to preserve minimum safety standards.

Chapter 15.09 - California Residential Code

Section R301.1.3.2.1, Engineering Required. This recommended modification is a continuation of existing NMC standards added in previous code cycles. The California Residential Code allows the Building Official to require drawings for dwellings taller than two stories be designed by a licensed professional. The recommended NMC change is to increase the standard to include dwellings taller than one story. This is the standard the City has been using for many years.
Section R313, Automatic Fire Sprinkler Systems.
This recommended modification is also a continuation of existing NMC standards added in previous code cycles. The California Residential Code requires automatic fire sprinkler systems in all new one and two family dwellings and townhouses. For one and two family dwellings and townhomes, the code language is proposed to change in order to match fire code requirements for existing structures.
Section R328.8, R328.8.1, and R328.8.3. Protection from Impact for ESS (Energy Storage Systems).
These code sections are proposed to be modified to clarify the safety intent as needed to prevent damage to the equipment which could result in house fires.
Chapter 10, Wood Burning Fireplaces.
R1000 section was added to complement existing Bay Area wide prohibition on new wood burning fireplaces. There are no changes to the previous ordinance.
Appendix K, Sound Transmission.
This proposed section modification is a carryover from the previous ordinance.

Chapter 15.10 - California Mechanical Code

15.10.030, Connection of Natural Gas Utilities.
This proposed section is provided in the previous ordinance as a modification and gives the Building Official options to assist developers in obtaining utility connections.

Chapter 15.12 - California Electrical Code

15.12.090, Temporary Connection of Electrical Utilities.
This proposed section is also in the previous ordinance as a modification to give the Building Official options to assist developers in obtaining utility connections.
15.12.120, Building Official Authority.
This proposed section is provided in the previous ordinance and gives the Building Official authority to disconnect an electrical service if conditions are unsafe. In practice this authority has not been exercised in the last two decades.
15.12.190, Electrical Service Connections.
This proposed section clarifies standards that are not well described in the California Electrical Code and does not change the modifications provided in the previous ordinance.

Chapter 15.16 - California Plumbing Code

Sections 412.3, Privacy in Public Multiple Accommodation Toilet Rooms.
This item is a continuation of existing NMC standards added in previous code cycles. It is generally understood that persons using water closets or urinals in multiple accommodation toilet rooms should be afforded some degree of privacy. The current California Plumbing Code and California Building Code do not specifically address this issue. Some designers have in the past proposed designing multiple accommodation toilet rooms without privacy partitions around water closets or placing urinals in full view of persons outside the toilet room.
Section 422.2 Dealing with separate toilet facilities.
This proposed section modification would clarify how one would establish the total number of plumbing fixtures required when all the facilities would be single-use such as gender-neutral or family-assisted facility.
Section 612 Dealing with residential fire sprinkler systems.
This proposed section modification would also continue a current requirement in the NMC. The plumbing code provides a number of exceptions for requiring the connection of waste lines to a public sanitary sewer system. One of the exceptions allows for private septic systems, which in Newark would be unacceptable. The change would prohibit septic systems. All waste lines must connect to Union Sanitary District sanitary sewer system mains. There are no proposed language changes from the previous NMC ordinance.
Section 1101.12, Roof Drainage.
This proposed modification would prohibit, if practical, direct connection of roof drains to storm drains, which complements current requirements in the City's Stormwater Management and Discharge Control Ordinance and associated stormwater permit issued by the Regional Water Quality Control Board. There are no proposed changes

from the previous ordinance.

Chapter 15.17 - California Fire Code

Section 15.17.010, California Fire Code adopted by reference.
A number of individual sections are proposed to supplement individual sections not adopted by the State Fire Marshal, but desired by the Alameda County Fire Department.
Chapter 2, Definitions.
Four definitions are proposed to be added, amended, and/or relocated to better clarify terms used by the Alameda County Fire Department. There are no significant changes from the previously adopted ordinance.
Chapter 9, Fire Protection, Alarms, and Detection Systems.
This chapter relates to the City's fire sprinkler, fire alarm, and fire detection standards which are more restrictive than State codes. These are proposed to be modified for consistency with building code and fire department language.
Section 5614, Safe and Sane Fireworks.
This item is a continuation of existing NMC standards added in previous code cycles. Because of a major change to the California Fire Code it was appropriate to reformat the City's fireworks ordinance. The City's safe and sane fireworks ordinance would remain unchanged except for minor editing and numbering changes. There are no recommended technical changes.
Appendix D, Fire Department Access.
Appendix D has been a part of the ordinance for several code cycles. The Fire Department is recommending adopting the appendix without modifications.
Chapter 15.17.190, Permit Fees.
This chapter should be eliminated because fees are covered in other parts of the ordinance.
Chapter 15.17.200, Violation deemed infraction.
This chapter should be eliminated because this subject is covered in other parts of the ordinance.

Chapter 15.18 - California Referenced Standards Code
There are no proposed changes to the California Referenced Standards Code.

Chapter 15.20 - California Historical Building Code
There are no proposed changes to the California Historical Building Code.

Chapter 15.21 - California Existing Building Code
There are no proposed changes to the California Existing Building Code.

Chapter 15.22 - California Energy Code
There are no proposed changes to the California Energy Code.

Chapter 15.23 - California Green Building Standards Code
There are no proposed changes to the California Green Building Standards Code.

The findings associated with these recommended modifications for local climate, geologic and topographical conditions in accordance with California Health Code Section 17958.7 are included in Resolution No. 11,415, adopted by the City Council on October 13, 2022.

FISCAL IMPACT

There is no direct fiscal impact as a result of adopting the 2022 CBSC. The City's costs related to implementation of the 2022 CBSC would be recovered through the building permit fees in the current Master Fee Schedule.

REVIEW AND APPROVAL

Prepared by - Matthew Farrell, Chief Building Official
Reviewed by - Soren Fajeau, Public Works Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Ordinance

Resolution No. 11,415

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK REPEALING AND REPLACING CHAPTERS 15.02, 15.08, 15.09, 15.10, 15.12, 15.16, 15.17, 15.18, 15.20, 15.21, 15.22, AND 15.23 OF TITLE 15 "BUILDINGS AND CONSTRUCTION" OF THE NEWARK MUNICIPAL CODE IN ORDER TO ADOPT BY REFERENCE, WITH MODIFICATIONS TO ADDRESS UNIQUE LOCAL CONDITIONS, THE 2022 EDITIONS OF THE CALIFORNIA ADMINISTRATIVE CODE, THE CALIFORNIA BUILDING CODE, THE CALIFORNIA RESIDENTIAL CODE, THE CALIFORNIA MECHANICAL CODE, THE CALIFORNIA ELECTRICAL CODE, THE CALIFORNIA PLUMBING CODE, THE CALIFORNIA FIRE CODE, THE CALIFORNIA REFERENCED STANDARDS CODE, THE CALIFORNIA HISTORICAL BUILDING CODE, THE CALIFORNIA EXISTING BUILDING CODE, THE CALIFORNIA ENERGY CODE, AND THE CALIFORNIA GREEN BUILDING STANDARDS CODE.

WHEREAS, the California Building Standards Commission has adopted a new Title 24 of the California Code of Regulations, also referred to as the 2022 California Building Standards Code, that will become effective statewide on January 1, 2023; and

WHEREAS, currently Title 15 "Buildings and Construction" Article I "Building Regulations" of the City of Newark Municipal Code adopted the building standards contained in the 2019 versions of the California Building Code, the California Residential Code, the California Fire Code, the California Green Building Standards Code, the California Plumbing Code, the California Mechanical Code, and the California Electrical Code, California Administrative Code, as such Codes are approved by the State Building Standards Commission (collectively, the "California Building Standards Code"); and

WHEREAS, the updated California Building Standards Code becomes effective within the City on January 1, 2023, and Title 15 is updated by default to incorporate the California Building Standards Code without local amendments; and

WHEREAS, Section 17922 of the California Health and Safety Code requires local agencies to adopt the building standards contained in the California Building Standards Code; and

WHEREAS, Section 17958.7 of the California Health and Safety Code allows local agencies to enact modifications to those building standards provided that such modifications are reasonably necessary because of local climatic, geological or topographical conditions so long as a local agency adopts such findings; and

WHEREAS, the City adopted findings, by resolution, justifying local modifications based on local climatic, geologic, and topographic conditions; and

WHEREAS, a duly noticed public hearing was advertised as required by Government Code sections 6066 and 65090; and

WHEREAS, the City Council held a public hearing related to this Ordinance on November 10, 2022 and considered the staff report and public testimony received; and

WHEREAS, the City Council finds that no additional environmental review is necessary because this Ordinance is not a project that has the potential to cause substantial or potentially substantial, adverse change in the environment and qualifies for an exemption under the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), and further, the Ordinance establishes standards for the approval of ministerial projects that are not themselves subject to CEQA review; and

WHEREAS, the City Council finds that the adoption of 2022 Edition of the California Building Standards Code helps protect public health, safety, and welfare.

THE CITY COUNCIL OF THE CITY OF NEWARK DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals.

The forgoing Recitals are true and correct and incorporated herein by this reference.

SECTION 2. Code Revisions.

Chapters 15.02,15.08, 15.09, 15.10, 15.12, 15.16, 15.17, 15.18, 15.20, 15.21, 15.22, and 15.23 of Title 15, Buildings and Construction, of the Newark Municipal Code are hereby repealed and replaced in their entirety by the following:

Title 15
BUILDINGS AND CONSTRUCTION

Article:

I. Building Regulations

15.02	California Administrative Code
15.08	California Building Code
15.09	California Residential Code
15.10	California Mechanical Code
15.12	California Electrical Code
15.16	California Plumbing Code
15.17	California Fire Code
15.18	California Referenced Standards Code
15.20	California Historical Building Code
15.21	California Existing Building Code
15.22	California Energy Code
15.23	California Green Building Standards Code

Chapter 15.02

CALIFORNIA ADMINISTRATIVE CODE

Sections

15.02.010 California Administrative Code adopted by reference.

A certain document, entitled "2022 California Administrative Code," Chapters 1 through 13 inclusive, published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Administrative Code, is adopted by reference as the building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.08

CALIFORNIA BUILDING CODE

Sections

15.08.010 California Building Code adopted by reference.
15.08.020 Amendments.
15.08.042 Licensed professional.
15.08.060 Drainage disposal.

15.08.010 California Building Code adopted by reference.

A certain document, entitled "2022 California Building Code, Volumes 1 and 2," including Appendix Chapter F relating to rodent proofing, Appendix Chapter I relating to patio covers, published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Building Code, is adopted by reference as the building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter which includes all items adopted by BSC, SFM, HCD1, HCD2, HCD1/AC, and DSA/AC of the adoption matrices.

15.08.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

A. Section 402.5 dealing with automatic fire sprinkler systems in malls is amended by deleting the exception.

B. Section 404.3 dealing with automatic fire sprinkler systems in atriums is amended by deleting all exceptions.

C. Section 410.6 dealing with automatic sprinkler systems at stages is amended by deleting all exceptions.

D. Section 501.2, which deals with address identification, by adding; Addressing shall also comply with Chapter 15.06.110 of Newark's Municipal Code.

E. Section 903.2, 903.2.1, 903.2.1.2, 903.2.2, 903.2.4, 903.2.7, 903.2.8, 903.2.9, 903.10, 903.2.13 are amended to read as follows and 903.2.22 is added to read as follows:

   903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in locations described in Sections 903.2.1 and 902.2.13.

903.2.1 Group A Occupancies. An automatic sprinkler system shall be installed in all Group A occupancies exceeding 1000 square feet.

903.2.2 Ambulatory care facilities. Every facility as specified herein, regardless of floor area, wherein more than six clients or patients are housed or cared for on a 24-hour per-day-basis or where one or more care recipients are incapable of self-preservations. Shall have installed and maintained in an operable condition throughout the entire building an automatic fire sprinkler system.

903.2.3 Group E Occupancies. An automatic sprinkler system shall be installed in all Group E Occupancies exceeding 1000 square feet.

903.2.4 Group F Occupancies. An automatic sprinkler system shall be installed in all Group F occupancies exceeding 1000 square feet.

903.2.7 Group M Occupancies. An automatic sprinkler system shall be installed in all Group M occupancies greater than 1000 square feet.

903.2.8 Group R Occupancies. An automatic sprinkler system shall be installed in all Group R occupancies.

903.2.9 Group S-1. An automatic sprinkler system shall be installed in all S-1 occupancies exceeding 1000 square feet.

903.2.10 Group S-2. An automatic sprinkler system shall be installed in all S-2 occupancies exceeding 1000 square feet.

903.2.2.22 Group B and U occupancies. An automatic sprinkler system shall be installed in all B and U occupancies exceeding 1000 square feet.

15.08.042 Licensed professional.

While the nature of the work applied for affects the safety of a building or its occupants, design documents shall be prepared by an engineer or architect licensed by the state to practice as such as required by State of California Business and Professions Code Sections 5500 and 6700. In other buildings the Building Official is authorized to require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.

Chapter 15.09

CALIFORNIA RESIDENTIAL CODE

Sections

15.09.010 California Residential Code adopted by reference.
15.09.020 Amendments.

15.09.010 California Residential Code adopted by reference.

A certain document, entitled 2022 California Residential Code published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Residential Code, is adopted by reference as the residential code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, adopt chapters 1 through 10, chapter 44, and appendix AK except as modified in this chapter including.

15.09.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

A. Section R301.1.3.2 is amended by adding the following section;
R301.1.3.2.1 Woodframe structures two stories in height. The building official is authorized to require the structural portions of construction documents to be prepared, stamped and signed by a California licensed architect, civil engineer, or structural engineer for all dwellings with two stories.

B. Section R313 dealing with automatic fire sprinkler systems is amended follows;
a. R313.1 deleting the exception,
b. R313.2 replacing Exception 1 with:

An automatic sprinkler system shall be required where additions or alterations result in either of the following conditions:
More than 50% of the exterior walls and the roof are being removed or replaced.
Where an addition to a single-family home or townhome results in a square footage exceeding 3600 square feet.

C. Section R328.8 Protection from impact is amended as follows;
R328.8 Protection from impact. ESS installed in a location subject to vehicle damage in accordance with R328.8.1 or R328.8.2 or as declared by the Building Official shall be provided with impact protection in accordance with section R328.8.3.

D. Section R328.8.1 Garages is amended as follows;
a. Deleting the "(See Figure R328.8.1)" reference.
b. Item 1 is replaced with "On the interior face of the back wall and/or located within 36 inches (914 mm) to the left or to the right of the normal driving path."
c. Deleting the exception.

E. Section R328.8.3 Impact protection options, option 2.2 is amended by adding the following; Premanufactured wheel barriers shall be placed 54" in front of the ESS and designed for resisting 2000-lb impact.

F. Chapter 10 dealing with chimneys and fireplaces is amended by adding the following section:

R1000 Prohibited Fireplaces. Open hearth masonry and factory built wood burning fireplaces are prohibited. Prohibition applies to new construction, additions, and existing fireplace replacements.

Chapter 15.10

CALIFORNIA MECHANICAL CODE

Sections:

15.10.010 California Mechanical Code adopted by reference.
15.10.030 Temporary connection of natural gas utilities.

15.10.010 California Mechanical Code adopted by reference.

A certain document entitled, "2022 California Mechanical Code," including Appendix B and C, published by the International Association of Plumbing and Mechanical Officials and amended and adopted by the state of California as the 2022 edition California Mechanical Code, is adopted by reference as the Mechanical Code of the City pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.10.030 Temporary connection of natural gas utilities.

The Building Official may authorize temporary connection of natural gas utilities for a construction project prior to final inspection approval and issuance of the Certificate of Occupancy. The request for such connection shall be in writing on a form provided by the City. The request shall include the reason the temporary connection is necessary, the length of time the connection is needed, and a statement, signed by the property owner and tenant of the premises, authorizing the City to disconnect the natural gas utilities if final inspection approval and Certificate of Occupancy have not been issued by the expiration date of the request.

Chapter 15.12

CALIFORNIA ELECTRICAL CODE

Sections:

15.12.010 California Electrical Code adopted by reference.
15.12.090 Temporary connection of electric utilities.
15.12.120 Building official authority.
15.12.190 Connection to installation.

15.12.010 California Electrical Code adopted by reference.

A certain document, entitled "2022 California Electrical Code," published by the National Fire Protection Association amended and adopted by the state of California as the 2022 edition California Electrical Code, is adopted by reference as the electrical code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter, including adoption per matrices by BSC, HCD-1, HCD-2, DSA-AC, and entirety of Articles 110, 517, and 550.

15.12.090 Temporary connection of electric utilities.

The building official may authorize temporary connection of electric utilities for a construction project prior to final inspection approval and issuance of the certificate of occupancy. If required by the Building Official the request for such connection shall be in writing. The request shall include the reason the temporary connection is necessary, the length of time the connection is needed and a statement, signed by the property owner, tenant of the premises, or contractor, authorizing the city to disconnect the electric utilities if final inspection approval and certificate of occupancy have not been issued by the expiration date of the request.

15.12.120 Building official authority.

A. The building official is authorized to disconnect or order discontinuance of electrical service to any electric wiring, devices, appliances or equipment found to be in violation of this chapter under any of the following conditions:
1. Failure of the owner or his agent to secure the required electrical permit;
2. Hazardous electrical work found to be dangerous to life or property due to defective wiring, devices, appliances or equipment;
3. Electrical work connected to service without the approval of the building official.

B. Any order issued pursuant to this section may be made either to the person using and maintaining the condition or to the person responsible for its use and maintenance and shall specify the date or time for compliance with its terms.

15.12.190 Connection to installation.

A. It is unlawful for any person, firm or corporation to make connection from a source of electrical energy or to supply electric service to any electric wiring, devices, appliances or equipment for the installation of which a permit is required, unless such person, firm or corporation has obtained a certificate of approval issued by the building official.

B. It is unlawful for any person, firm or corporation to make connections from a source of electrical energy or to supply electric service to any electric wiring, devices, appliances or equipment which has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered by the building official to be discontinued until a certificate of approval has been issued by authorizing the reconnection and use of such wiring, devices, appliances or equipment. The building official shall notify the serving utility of the order to discontinue use.

C. When electrical service to a commercial occupancy or place of employment is de-energized for any reason, approval of the building official must be secured by the serving utility prior to re-energizing of said service. “Commercial occupancy” or “place of employment,” for the purposes of this chapter, shall include dwellings used as model homes and/or tract offices.

D. Any order issued pursuant to this section shall be in writing and shall be made to the person, firm or corporation using and maintaining the condition or to the person, firm or corporation responsible for its use and maintenance, and to the utility company providing the service. Delivery of the order shall be accomplished upon deposit in the United States mail or written notice directed to the person, firm or corporation using, maintaining or responsible for the use and maintenance of the condition at the last known address of the person, firm or corporation. Failure to comply with the order of the building official, as set out above, is a misdemeanor subject to the penalties as set out in Chapter 15.28 of this title.

Chapter 15.16

CALIFORNIA PLUMBING CODE

Sections:

15.16.010 California Plumbing Code adopted by reference.
15.16.020 Amendments.

15.16.010 California Plumbing Code adopted by reference.

A certain document entitled, "2022 California Plumbing Code," including all Appendix Chapters published by the International Association of Plumbing and Mechanical Officials and adopted by the state of California as the 2022 edition California Plumbing Code, is adopted by reference as the Plumbing Code of the City pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.16.020 Amendments.

The California Plumbing Code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

A. Section 412.3 Added stating, In public multiple accommodation toilet rooms urinals shall be located so the urinal and the person using the urinal can not be viewed from outside the toilet room.

B. Section 422.2 dealing with separate toilet facilities is amended by adding the following.
422.2.3 Single Use, Family or Assisted-Use , and Gender Neutral/All-Gender. The total count for single use facilities shall be calculated as the full occupant load counted as females in the use/occupancy of the space per table 422.1.

C. Section 612 dealing with residential fire sprinkler systems is amended to read: Refer to Chapter 15.09 of the Newark Municipal Code.

D. Section 1101.12 dealing with roof drains is amended by adding the following:
1101.12.3 Roof Drainage Discharge. Roof drainage shall discharge to an approved location by the City Engineer.

Chapter 15.17

CALIFORNIA FIRE CODE

Sections

15.17.010 California Fire Code adopted by reference.
15.17.020 Amendments.

15.17.010 California Fire Code adopted by reference.

A certain document, entitled "2022 California Fire Code" including Sections 104, 113, 311.2, 503, Appendix Chapter D relating to fire apparatus access roads, published by the International Code Council and amended and adopted by the state of California as the 2022 edition California Fire Code, is adopted by reference as the fire code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.17.020 Amendments.

A. Section 104.6 Official Records is amended by replacing it in its entirety with the following:

The fire department shall keep a record of fires occurring within the City of Newark and of facts concerning the same, including statistics as the extent of such fires and the damage caused thereby.

The City of Newark shall keep the records of approvals, inspections, permits, and alternative means.

B. Chapter 2, Definitions is amended by adding the following definitions:

Fire Department. The City of Newark Fire Department or a duly authorized fire department as contracted by the City of Newark.

Alarm User. An alarm user means any person of whose premises an alarm system is maintained within the City.

C. Chapter 2, Definitions is amended by replacing the following definitions:

False Alarm. A false alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, maintenance or operation or the negligence of

the owner, lessee, or their employees or agents. Such terminology does not include, for example, alarm activation caused by earthquakes, violent storms, power fluctuations, or other violent uncontrollable acts or nature.

Fire Code Official. The Fire Code official shall be appointed by the Fire Chief of the jurisdiction.

D. Section 903.2, 903.2.1, 903.2.1.2, 903.2.2, 903.2.4, 903.2.7, 903.2.8, 903.2.9, 903.10, 903.2.13 are amended to read as follows and 903.2.22 is added to read as follows:

903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in locations described in Sections 903.2.1 and 902.2.13.

903.2.1 Group A Occupancies. An automatic sprinkler system shall be installed in all Group A occupancies exceeding 1000 square feet.

903.2.2 Ambulatory care facilities. Every facility as specified herein, regardless of floor area, wherein more than six clients or patients are housed or cared for on a 24-hour per-day-basis or where one or more care recipients are incapable of self-preservations. Shall have installed and maintained in an operable condition throughout the entire building an automatic fire sprinkler system.

903.2.3 Group E Occupancies. An automatic sprinkler system shall be installed in all Group E Occupancies exceeding 1000 square feet.

903.2.4 Group F Occupancies. An automatic sprinkler system shall be installed in all Group F occupancies exceeding 1000 square feet.

903.2.7 Group M Occupancies. An automatic sprinkler system shall be installed in all Group M occupancies greater than 1000 square feet.

903.2.8 Group R Occupancies. An automatic sprinkler system shall be installed in all Group R occupancies.

903.2.9 Group S-1. An automatic sprinkler system shall be installed in all S-1 occupancies exceeding 1000 square feet.

903.2.10 Group S-2. An automatic sprinkler system shall be installed in all S-2 occupancies exceeding 1000 square feet.

903.2.2.22 Group B and U occupancies. An automatic sprinkler system shall be installed in all B and U occupancies exceeding 1000 square feet.

E. Section 903.6 dealing with the requirement for fire sprinkler systems in existing buildings and structures is amended by replacing subsection 903.6 in its entirety with the following:

903.6 Where Required. An automatic sprinkler system shall be provided in existing buildings and structures when required by Chapter 11, another section of this code, or when one of the following conditions exists:

More than 50% of the exterior walls and the roof are being removed or replaced.

Where the occupancy of an existing building changes to include H, I, L, S-1, or S-2.

Where an addition to a single-family home or townhome results is a square footage exceeding 3600 square feet.

F. Section 907 Fire Alarm and Detection Systems is amended by adding the following:

907.11 False Alarms

907.11.1 Malfunctions of any sprinkler alarm, or other fire protection or emergency alarm system resulting in an alarm and emergency dispatch of the Fire Department will be subject to a "false alarm" fee as established by resolution of the City Council.

907.11.2 During the thirty days following any new alarm installation, the Fire Code Official shall determine if the false alarms emanating from such new installation are excessive.

907.11.3 After the initial thirty day period following a new alarm installation, more than three false alarms within a calendar year are excessive and will be charged as false alarms.

G. Section 914.2.1 dealing with automatic fire sprinkler system in malls is amended by deleting the exception.

H. Section 914.4.1 dealing with automatic fire sprinkler systems in atriums is amended by deleting all exceptions.

I. Section 914.6.1 dealing with automatic fire sprinkler systems at stages is deleted.

J. Chapter 56 is amended by adding Section 5614 as follows.

5614 Fireworks

5614.1 Definitions. For the purpose of this Chapter the phrases "fireworks," "dangerous fireworks," and "safe and sane fireworks" shall have the meanings ascribed to them in Sections 12511, 12505, and 12529 of the Health and Safety Code of the state of California.

5614.2 Storage of safe and sane fireworks:

5614.2.1 Safe and sane fireworks in excess of five pounds shall not be stored at any one location in the City of Newark.

EXCEPTIONS:

1. A maximum of one day's sales supplies of safe and sane fireworks, per stand, may be stored in a safe and sane fireworks stand for which a permit has been issued, or in a tamper resistant metal container approved by the Fire Code Official, pursuant to this Article.

2. If the stand closes at any time, the safe and sane fireworks, in excess of five pounds, may be stored in the booth with an adult guard, 18 years or older on the premises at all times.

3. Safe and sane fireworks stands shall not be located in areas zoned residential or General Industrial.

4. The City Community Development Director shall determine that the locations of the safe and sane fireworks stands do not have unsightly, undesirable, or obnoxious qualities that are not harmonious with, or are not properly related to their sites, surroundings and traffic circulation in the vicinity, or which would not meet the specific intent of the Zoning Code.

5614.3 Prohibition

5614.3.1 The manufacture, sale, or discharge of safe and sane fireworks within the jurisdictional area is prohibited except under special permits as are required by local and state regulations.

EXCEPTIONS

1. A permit is not required for the discharge of safe and sane fireworks as described in Section 12529 of the Health and Safety Code.

2. Nothing in this section shall be construed to prohibit the discharge of safe and sane fireworks by railroads or other transportation agencies for signal purposes of illumination, or discharge of blank cartridges for a show or theater, or for use by military organizations.

5614.4 Sale of safe and sane fireworks

5614.4.1 Annual permit required: any organization desiring to sell or to offer for sale safe and sane fireworks shall annually make application to the Fire Code Official for a permit to sell safe and sane fireworks.

5614.4.2 Application for Permit:

1. Shall be made in writing at the office of the Fire Marshal of the City of Newark, accompanied by the permit fee.

2. Shall be made during regular office hours, between the fifteenth day of April and the fifteenth day of May of each year.
3. Shall set forth the proposed location of the safe and sane fireworks stand applied for.

4. Shall be accompanied by an assurance that if the permit is issued to the applicant, applicant shall, at the time of receipt of such permit, deliver to the Fire Code Official a general liability insurance policy or endorsement adding or specifying the City, its officers, employees, and volunteers as "insureds" and within the scope and limits as set by the Fire Chief.

5614.5 Annual Permit. An annual permit shall only be issued to any organization meeting the following requirements:

5614.5.1 Nonprofit organization organized primarily for veteran, patriotic, welfare, youth activity, civic betterment, or charitable purpose within the City of Newark.

5614.5.2 The organization shall have its principal place of business and permanent meeting place within the City limits of the City of Newark.

5614.5.3 The organization shall have been organized for a minimum of one (1) year continuously preceding the filing of the application for the permit.

5614.5.4 The organization shall have at least twenty (20) regular and active participants, volunteers, or members with a minimum of fifty percent (50%) of those regular and active participants, volunteers, or members being bona fide residents of the City of Newark. For purposes of this section, a "member" need not be a "member" as defined by California Corporations Code Section 5056.

5614.5.5 The organization shall obtain a business license from the City of Newark.

5614.6 Operation of Stand

5614.6.1 No person other than the permittee organization shall operate the stand for which the permit is issued or share or otherwise participate in the profits of the operation of such stand.

5614.6.2 No person other than individuals who are members, regular and active participants, volunteers, or other persons supportive of the activities of the permittee organizations, or a spouse or adult child of such a person, shall sell or otherwise participate in the sale of safe and sane fireworks at such stand.

5614.6.3 No person shall be paid any money or other consideration for selling or otherwise participating in the sale of safe and sane fireworks at such stand.

5614.6.4 All retail sales of safe and sane fireworks shall be permitted only from within a temporary safe and sane fireworks stand. The sale from any other building or structure is hereby prohibited.

5614.7 Temporary Safe and Sane fireworks Stands

5614.7.1 No safe and sane fireworks stand shall be located within 25 feet of another building or within 100 feet of any flammable liquid or gas storage or dispensing unit.

5614.7.2 All safe and sane fireworks stands shall be erected in a manner approved by the Fire Marshal in order to reasonably ensure the safety of attendants and patrons.

5614.7.3 No stand shall have a floor area in excess of 300 square feet.

5614.7.4 Each stand shall have at least two remote exits three feet in width and not less than six feet eight inches in height. All doors shall swing out.

5614.7.5 Each stand shall be provided with two 2-A rated fire extinguishers bearing a valid inspection tag and in good working order. Extinguishers shall be easily accessible for use in case of fire.

5614.7.6 "No smoking" signs shall be conspicuously posted at the stand.

5614.7.7 Merchandise shall be displayed in such a manner that it cannot be handled by patrons reaching over the selling counter or through other openings in the stand.

5614.7.8 All electrical wiring will require a permit from the City Building Inspection Division prior to any installation.

5614.7.9 Decorative material, canvas tops, screening, etc., shall be flame retardant or rendered to the satisfaction of the Fire Code Official.

5614.7.10 All weeds and combustible material shall be cleared from within a 25 foot minimum area surrounding the stand.

5614.7.11 Each stand shall be located only at those locations in compliance with the City Zoning Ordinance.

5614.7.12 A maximum of one day's sales supplies of safe and sane fireworks, per stand, may be stored in a safe and sane fireworks stand for which a permit has been issued, or in a tamper resistant metal container approved by the Fire Code Official, pursuant to this Chapter.

5614.7.13 If the stand closes at any time, the safe and sane fireworks, in excess of five pounds, may be stored in the booth with an adult guard, 18 years or older on the premises at all times.

5614.7.14 Safe and sane fireworks stands shall not be located in areas zoned residential or General Industrial.

5614.7.15 The Fire Code Official shall determine that the locations of the safe and sane fireworks stands do not have unsightly, undesirable, or obnoxious qualities that are not harmonious with, or are not properly related to their sites, surroundings and traffic circulation in the vicinity, or which would not meet the specific intent of the Zoning Code.

5614.8 General Requirements

5614.8.1 The sale of safe and sane fireworks shall be from 12:00 noon to 9:00 p.m. on the 28th day of June and 8:00 a.m. to 9:00 p.m. June 29 through July 4. The use of safe and sane fireworks shall be from midnight June 30 to midnight July 4.

5614.8.2 All unsold stock and accompanying litter shall be removed from the location by 12 Noon on the sixth day of July.

5614.8.3 The safe and sane fireworks stand shall be removed from the location by the twelfth of July.

5614.8.4 The sale of safe and sane fireworks shall not be made to any person or persons under the age of 18.

5614.8.5 Prior to the sale, in the event that a prospective purchaser appears or would appear to a reasonable person to be under the age of thirty (30), the permittee shall require the prospective purchaser to show proof of age by displaying a motor vehicle operator's license, a registration certificate issued by the Federal Selective Service Act, an identification card issued to a member of the Armed Forces, or a similar document bearing the picture or likeness of the purchaser. Any permittee that sells safe and sane fireworks to any person under the age of 18 or, in the event that a prospective purchaser appears or would appear to a reasonable person to be under the age of thirty (30), fails to require the prospective purchaser to show proof of age as required herein, shall be guilty of an infraction. Pursuant to Title 7 of the Newark Municipal Code, an Administrative Citation may be issued for the violation. Each sale to any person under the age of 18 shall be deemed a separate violation. In addition the sale of safe and sane fireworks to any person under the age of 18 is declared a public nuisance subject to abatement pursuant to Title 7 of this Code subjecting the permittee to administrative penalties up to $1,000 per day per violation to a maximum of $100,000, and to recovery of all costs of abatement and enforcement as provided in Title 7.

5614.8.6 In addition to the foregoing, in the event of multiple violations or other evidence of a course of conduct in conscious or reckless disregard of the requirements of this section,

the permittee may be deemed ineligible for a safe and sane fireworks booth permit in subsequent years. The Fire Code Official shall make the decision of ineligibility. The permittee may appeal that decision by requesting an administrative hearing to be held by the City Manager's designated Hearing Officer. The hearing shall be conducted pursuant to the rules of procedure set forth in Chapter 7.22 of the Newark Municipal Code. The Hearing Officer's decision shall be the final decision of the City of

5614.9 Fireworks Display

5614.9.1 General. Outdoor fireworks displays, use of pyrotechnics before a proximate audience and pyrotechnic special effects in theatrical and group entertainment productions shall comply with California Code of Regulations, Title 19, Division 1, Chapter 6 Fireworks.

5614.9.2 Scope. Fireworks and temporary storage, use, and handling of pyrotechnic special effects material used in motion pictures, television, and theatrical and group entertainment productions shall be in accordance with California Code of Regulations, Title 19, Division 1, Chapter 6 Fireworks.

5614.9.3 Permits Required. The permittee shall furnish a general liability insurance policy of endorsement adding the City, its officers, employees, and volunteers as "insureds" and within the scope and limits as set by the Community Development Director. Said policy is to cover payments for all damages, which may be caused to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees, or subcontractors.

5614.9.4 Fireworks other than safe and sane fireworks prohibited.

Except as provided in this section, it is unlawful for any person, corporation, or entity to possess, store, offer for sale, expose for sale, sell at retail or wholesale, use, discharge, or explode any fireworks except "safe and sane fireworks" as described in Section 12529 of the Health and Safety Code. Violation of this section is punishable as an infraction.

Chapter 15.18

CALIFORNIA REFERENCED STANDARDS CODE

Sections:

15.18.010 California Referenced Standards Code adopted by reference.

A certain document entitled, ”2022 California Referenced Standards Code,” published by the International Code Council is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.20

CALIFORNIA HISTORICAL BUILDING CODE

Section:

15.20.010 California Historical Building Code adopted by reference.

A certain document entitled, "2022 California Historical Building Code," published by the International Code Council and amended and adopted by the state of California as the 2022 edition of the California Historical Code, is adopted by reference as the historical building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.21

CALIFORNIA EXISTING BUILDING CODE

Sections:

15.21.010 California Existing Building Code adopted by reference.
15.21.020 Amendments

15.21.010 California Existing Building Code adopted by reference.

A certain document entitled, "2022 California Existin Building Code," including Appendix Chapter A1, relating to unreinforced masonry buildings, Appendix Chapter A3, relating to anchorage of wood framed residential buildings, and Appendix Chapter A4, relating to risk reduction in soft story wood framed buildings Appendix Chapter A5, relating to the building standards, published by the International Code Council and amended and adopted by the state of California is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

15.21.020 Amendments

The existing building code adopted by reference in this chapter is amended by any reference in the code language referencing sections of the "International Building Code" is replaced to be the "California Building Code", as adopted in chapter 15.08 of Newark's Municipal Code.

Chapter 15.22

CALIFORNIA ENERGY CODE

Section:

15.22.010 California Energy Code adopted by reference.

A certain document entitled, "2022 California Energy Code," published and adopted by the state of California is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.23

CALIFORNIA GREEN BUILDING STANDARDS CODE

Sections

15.23.010 California Green Building Standards Code adopted by reference.

A certain document, entitled "2022 California Green Building Standards Code", published and adopted by the state of California, is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California. Including all matrices BSC-CG, HCD-1, HCD-2, and CEC.

SECTION 3. References To Prior Uniform Building and Construction Codes.

Unless superseded and expressly repealed, references in City forms, documents, and regulations to chapters and sections of the prior adopted Uniform Building Codes shall be construed to apply to the corresponding provisions contained in the chapters and sections of Title 15 of the Newark Municipal Code adopted by this Ordinance and all other ordinances or parts of ordinances in conflict herewith are hereby superseded and expressly repealed.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 5. Adoption.

This Ordinance shall take effect on the later of thirty (30) days after passage or on January 1, 2023, and shall within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California.

RESOLUTION NO. 11,415

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING FINDINGS REGARDING THE NEED FOR LOCAL AMENDMENTS TO PROVISIONS IN THE CALIFORNIA BUILDING STANDARDS CODE AS ADOPTED BY THE STATE OF CALIFORNIA, IN THE CALIFORNIA CODE OF REGULATIONS, TITLE 24, TO BE ADOPTED BY REFERENCE IN THE NEWARK MUNICIPAL CODE

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the "Commission"), or at a later date established by the Commission; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 establish the authority for the City to adopt and make local amendments and modifications to the building standards in the California Building Standards Code to establish more restrictive building standards than those contained in the California Building Standards Code; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 permit the City to make such local amendments and modifications as the city determines are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 require the City, before making any amendments and modifications to the California Building Standards Code, make an express finding that such amendments and modifications are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of this Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and

WHEREAS, the City Council of the City of Newark intends to adopt an Ordinance adopting by reference provisions of the California Building Standards Code, with local amendments; and

WHEREAS, the City Council has reviewed the reasons for proposed changes to the California Building Standards Code set forth in Exhibit A, attached hereto and hereinafter incorporated by reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby declares and finds that the local amendments to the provisions of the California Building Standards Code set forth in Exhibit A are reasonably necessary because of local climatic, geologic, or topographical conditions in accordance with Health and Safety Code Section 17958.7 as further set forth in Exhibit A.

BE IT FURTHER RESOLVED that a copy of this Resolution, including Exhibit A, shall be filed with the California Building Standards Commission in accordance with Health and Safety Code Section 17958.7.

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on October 13, 2022, by Council Member Collazo who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

AYES:	Council Members Collazo, Freitas, Vice Mayor Hannon, and Mayor Nagy
NOES:	None
ABSENT:	Council Member Bucci
SECONDED:	Vice Mayor Hannon

APPROVED:

s/ALAN L. NAGY
Mayor

ATTEST:

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
City Attorney

EXHIBIT A

STATEMENT OF FINDINGS
LOCAL AMENDMENTS TO 2022 CALIFORNIA BUILDING STANDARDS CODE
CITY OF NEWARK
October 13, 2022

GENERAL FINDINGS

The City Council of the City of Newark makes the following general findings regarding local climatic, geologic, and topographical conditions, which the City Council finds necessitates the local modifications to the California Building Standards Code set forth below:

1. **Local Climatic Conditions.** Local climatic conditions include a low amount of average yearly rainfall, an average of 14 inches, which tends to be concentrated from October through April. From May through September, a dry period occurs where daily temperatures remain high and there is little measurable precipitation. In addition, the local climate frequently includes high winds which sweep across the City from San Francisco Bay. As a result of the high summer temperatures, average load demand and peak load demand of energy used in Newark and surrounding areas are important factors impacting public safety and creating the potential for adverse economic impacts due to power outages or power reductions (i.e. "brownouts").

   As a result of the low precipitation, the area is subject to occasional drought. In developed areas of the City, fires can occur in buildings, rubbish, automobiles, and grass fires on vacant lots. In the undeveloped areas of the City, there is a risk of large brush and grass fires. If a fire occurs in either a developed or undeveloped area of the City, the local dry conditions combined with high winds, creates the risk of a potential fire storm. In addition, some local residential development is occurring in previously undeveloped areas adjacent to potential wildfire hazard areas. These new developments increase the chance of fire while simultaneously being located further from fire stations, delaying critical response times. This potential problem can be mitigated by requiring initial fire control through the installation of automatic fire protection systems.

2. **Local Geologic Conditions.** Local geologic conditions include a risk of earthquake. The City of Newark is directly impacted by earthquakes from the Hayward Fault and is subjected to fault activity from the San Andreas and Calaveras faults, among others. The largest recorded earthquakes in the Newark area occurred during a sequence of earthquakes in January and February 1980. They reached magnitudes that ranged between 5.5 and 5.9 on the Richter scale. In August 1989 a trembler was recorded with a magnitude in excess of 5.0 on the Richter scale. These potential earthquakes influence fire protection planning in several ways. First, a major seismic event would create a citywide demand on fire protection service that would be beyond response capability of the Fire Department without sprinklerization. This potential problem could be mitigated by requiring the initial fire control be provided throughout the City by the installation of automatic fire sprinkler protection systems. Structural damage to overpasses connecting cities of various areas will seriously delay emergency vehicle access through the City. At present the City is not able to reach all existing areas within five minutes or less due to traffic congestion during peak hours. Fire Station #28

is blocked by railroad tracks leaving the Newark Boulevard overpass as the only way to get through in the event trains are on the track. Based on the following general findings, the amendments herein contained providing a modified standard for fire extinguishing systems are necessary to serve the public interest by reducing risk of life and property of the citizens of the City of Newark.

In the event of an earthquake, damage to structures can be expected. In residential and commercial areas, this could include significant damage or collapse of buildings. Secondary impacts could include ruptured electric or gas connections and/or breaks in water distribution lines. The potential for a major seismic event would create a Citywide demand for emergency response and fire protection service which would exceed staff response capacity. This potential problem can be mitigated by requiring initial fire control through the installation of automatic fire protection systems.

To provide modified standards to better serve the public interest by reducing the risk to life and property of the citizens of the City of Newark resulting from the local conditions identified herein. The following are additional findings applicable to multiple code sections:

A. Nationwide and local experience and records have proven that early warning and detection and built-in fire protection are essential in saving lives and reducing property loss from fire.

B. There are fire problems reflected in the records of the Fire Department.

C. The growth patterns of the City indicate a high level of need for protection.

D. There are limitations of Fire Department manpower and equipment.

E. Legislative economic restraints adversely affect the ability of the Fire Department to greatly expand its manpower and equipment.

F. Early detection, warning, and built-in fire protection will greatly assist the Fire Department in saving lives and property.

3. **Local Topographical Conditions.** The City of Newark is generally very flat with no substantial hills or extensive elevation changes. The City is traversed by railroad tracks across the major arterials: Thornton Avenue, Central Avenue, Jarvis Avenue, Cedar Boulevard, Cherry Street, and Sycamore Street. Entrance to the City is limited by the 880 overpass and the traffic coming from Highway 84, the Dumbarton Bridge. This configuration effectively divides the City in such a manner that a major accident on any one of these streets at any one time will prevent access to fire service within a reasonable response time. Present response time is sometimes in excess of five minutes due to traffic conditions. Traffic throughout the City is channeled into several major thoroughfares that must ultimately cross railroad tracks

and freeways by means of bridges and overpasses, creating a significant barrier to fire and emergency equipment responding in less than five minutes. In the event of an accident or other emergency at one of the key points of intersection between a highway and the railroad tracks or a freeway entrance to the City, the City could be isolated and the response time would be sufficiently slowed so as to increase the risk of substantial injury or damage

Based on the local climatic, geologic, and topographical conditions outlined above, there is a real risk that emergency response could be significantly delayed in the event of an accident or emergency. Therefore, it is necessary to address this problem through the requirement of additional mitigation measures to: (a) prevent the chance of accident or injury by requiring standards more stringent than required by the current codes; and (b) require additional built-in automatic fire protection systems which will provide for early detection and initial fire control.

SPECIFIC FINDINGS

The City Council of the City of Newark makes the following specific findings, which, in addition to the general findings regarding local climatic, geologic, and topographical conditions set forth above, the City Council finds necessitate the local modifications to the
California Building Standards Code set forth below:

Chapter 15.02 - California Administrative Code

No local amendments.

Chapter 15.08 - California Building Code

Sections 402.5, 404.3, 407.6, 410.6, 903.2 903.2.1, 903.2.1.2, 903.2.2, 903.2.4, 903.2.7, 903.2.8, 903.2.9, 903.2.10, and 903.2.22 Automatic Fire Sprinkler Systems.
These various code sections should be modified to provide consistency with the City's fire sprinkler and alarm ordinance.
Section 501.1, Site Addressing.
This modification should be made to provide consistency with other sections of the current NMC.
15.08.042 Licensed professional.
The modification should be continued from prior local code adoptions to preserve minimum safety standards.

Findings for Chapter 15.08 amendments: Reference is made to General Findings 1, 2 and 3.

Chapter 15.09 - California Residential Code

Section R301.1.3.2.1, Engineering Required.
This recommended modification is a continuation of existing NMC standards added in previous code cycles. The California Residential Code allows the Building Official to require drawings for dwellings taller than two stories be designed by a licensed professional. The recommended NMC change is to increase the standard to include dwellings taller than one story. This is the standard the City has been using for many years.
Section R313, Automatic Fire Sprinkler Systems.
This recommended modification is also a continuation of existing NMC standards added in previous code cycles. The California Residential Code requires automatic
fire sprinkler systems in all new one and two family dwellings and townhouses. For one and two family dwellings and townhomes, the code language is proposed to change in order to match fire code requirements for existing structures.
Section R328.8, R328.8.1, and R328.8.3. Protection from Impact for ESS (Energy Storage Systems). These code sections are proposed to be modified to clarify the safety intent as needed to prevent damage to the equipment which could result in house fires.
Chapter 10, Wood Burning Fireplaces.
R1000 section was added to complement existing Bay Area wide prohibition on new wood burning fireplaces. No change to previous ordinance.
Appendix K, Sound Transmission.
This proposed section modification is a carryover from the previous ordinance.

Findings for Chapter 15.09 amendments: Reference is made to General Findings 1, 2 and 3.

Chapter 15.10 - California Mechanical Code

15.10.030, Connection of Natural Gas Utilities.
This proposed section is provided in the previous ordinance as a modification and gives the Building Official options to assist developers in obtaining utility connections.

Findings for Chapter 15.10 amendments: Reference is made to General Findings 1, 2 and 3.

Chapter 15.12 - California Electrical Code

15.12.090, Temporary Connection of Electrical Utilities.
This proposed section is also in the previous ordinance as a modification to give the Building Official options to assist developers in obtaining utility connections.
15.12.120, Building Official Authority.

This proposed section is provided in the previous ordinance and gives the Building Official authority to disconnect an electrical service if conditions are unsafe. In practice this authority has not been exercised in the last two decades.

15.12.190, Electrical Service Connections.

This proposed section clarifies standards that are not well described in the California Electrical Code and does not change the modifications provided in the previous ordinance.

Findings for Chapter 15.12 amendments: Reference is made to General Findings 1, 2 and 3.

Chapter 15.16 - California Plumbing Code

Sections 412.3, Privacy in Public Multiple Accommodation Toilet Rooms.

This item is a continuation of existing NMC standards added in previous code cycles. It is generally understood that persons using water closets or urinals in multiple accommodation toilet rooms should be afforded some degree of privacy. The current California Plumbing Code and California Building Code do not specifically address this issue. Some designers have in the past proposed designing multiple accommodation toilet rooms without privacy partitions around water closets or placing urinals in full view of persons outside the toilet room.

Section 422.2 Dealing with separate toilet facilities.

This proposed section modification would clarify how one would establish the total number of plumbing fixtures required when all the facilities would be single-use such as gender-neutral or family-assisted facility.

Section 612 Dealing with residential fire sprinkler systems.

This proposed section modification would also continue a current requirement in the NMC. The plumbing code provides a number of exceptions for requiring the connection of waste lines to a public sanitary sewer system. One of the exceptions allows for private septic systems, which in Newark would be unacceptable. The change would prohibit septic systems. All waste lines must connect to Union Sanitary District sanitary sewer system mains. There are no proposed language changes from the previous NMC ordinance.

Section 1101.12, Roof Drainage.

This proposed modification would prohibit, if practical, direct connection of roof drains to storm drains, which complements current requirements in the City's Stormwater Management and Discharge Control Ordinance and associated stormwater permit issued by the Regional Water Quality Control Board. There are no proposed changes from the previous ordinance.

Findings for Chapter 15.16 amendments: Reference is made to General Findings 1, 2 and 3.

Chapter 15.17 – California Fire Code

Section 15.17.010, California Fire Code adopted by reference.
A number of individual sections are proposed to supplement individual sections not adopted by the State Fire Marshal, but desired by the Alameda County Fire Department.
Chapter 2, Definitions.
Four definitions are proposed to be added, amended, and/or relocated to better clarify terms used by the Alameda County Fire Department. There are no significant changes from the previously adopted ordinance.
Chapter 9, Fire Protection, Alarms, and Detection Systems.
This chapter relates to the City's fire sprinkler, fire alarm, and fire detection standards which are more restrictive than State codes. These are proposed to be modified for consistency with building code and fire department language.
Section 5614, Safe and Sane Fireworks.
This item is a continuation of existing NMC standards added in previous code cycles. Because of a major change to the California Fire Code it was appropriate to reformat the City's fireworks ordinance. The City's safe and sane fireworks ordinance would remain unchanged except for minor editing and numbering changes. There are no recommended technical changes.
Appendix D, Fire Department Access.
Appendix D has been a part of the ordinance for several code cycles. The Fire Department is recommending adopting the appendix without modifications.
Chapter 15.17.190, Permit Fees.
This chapter should be eliminated because fees are covered in other parts of the ordinance.
Chapter 15.17.200, Violation deemed infraction.
This chapter should be eliminated because this subject is covered in other parts of the ordinance.

Findings for Chapter 15.17 amendments: Reference is made to General Findings 1, 2 and 3.

Chapter 15.18 - California Referenced Standards Code

No local amendments.

Chapter 15.20 - California Historical Building Code

No local amendments.

Chapter 15.21 - California Existing Building Code

No local amendments

Chapter 15.22 - California Energy Code

No local amendments

Chapter 15.23 - California Green Building Standards Code

No local amendments.

STAFF REPORT

Item F. 1.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Roya Gonzalez, Administrative Analyst
SUBJECT	Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Group 4 Architecture Research + Planning, Inc. (Group 4) for the development of a Citywide Facilities Master Plan and approving an amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan

SUMMARY AND RECOMMENDATION

The City Council allocated funds in the previous budget cycle to develop the first Citywide Facilities Master Plan in order to assess current facilities and community needs, and strategically prepare for future growth and proper maintenance of City facilities. Staff issued a Request for Proposals to retain a consultant and proposals were evaluated by City staff. Staff recommends that City Council authorize the City Manager to execute a Contractual Services Agreement with Group 4 Architecture Research + Planning, Inc. in an amount not-to-exceed $248,800 for development of a Citywide Facilities Master Plan, and approve an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $148,800 from the Community Development Maintenance Fund to Citywide Facilities Master Plan, Project 1274.

BACKGROUND

The City of Newark owns and maintains twenty-four (24) building structures ranging from a 300 square foot boat house to a 32,000 square foot aquatic center. The current facilities are maintained within the City's staffing levels and allocated financial resources, and according to preventative maintenance schedules. Planning for future needs have been siloed versus creating and following a comprehensive long-term plan with all City facilities in mind based on expert assessments and anticipated growth in our community. A comprehensive plan will survey the needs of the community and identify spaces needed to serve the community's needs; the City's current and estimated future financial and personnel resources required to provide services; and identify priority projects to address the most pressing community needs.

The City has seen tremendous growth in the last 10 years and expects continued growth for at least the next 10 years. A long-term plan to support that growth and change in the community is a strategic tool used to guide decision-making pertaining to renovation and justification for development of new and needed facilities. Also, as the City's structures continue to age, the ability to prepare long-term for maintenance needs will become a vital part of preserving City facilities, allocating appropriate resources, and ensuring City facilities serve the community adequately and for as long

as possible.

During the recent development of the new Civic Center, it became even more apparent that the City needed a Citywide Facilities Master Plan ("Plan") for planning the future development and maintenance of its buildings to meet community needs. As part of the 2020-2022 Biennial Budget and Capital Improvement Plan process, City Council approved $100,000 in funding for a Citywide Facilities Master Plan ("Plan") through Community Development Maintenance Fees. These fees are collected on building permits, charging 0.5% of the construction value. Community Development Maintenance Fees are restricted funds, and may only be used for implementation or maintenance of the City's General Plan and Zoning Ordinance. The $100,000 cost was a rough estimate for limited consultant services in 2020. With many competing priority projects and limited staff resources, the process to identify a consultant to develop the Plan was delayed until this summer.

DISCUSSION/ANALYSIS

In July 2022, staff issued an RFP for consultant services to develop the Citywide Facilities Master Plan. The City received four (4) proposals by the submittal deadline. One (1) proposal was received after the submittal deadline, and therefore was not considered. Accepted proposals were received from the following consultants:

- The KPA Group
- MAKERS architecture and urban design
- Facility Engineering Associates, P.C.
- Group 4 Architecture Research + Planning, Inc.

After evaluating the proposals and conducting interviews will all four firms, staff from the City Manager’s Office and the Community Development, Public Works and Recreation and Community Services Departments determined Group 4 was the most responsive to the City’s needs. Among other professional experience, Group 4 demonstrated their commitment to expansive and direct community outreach, an important component to developing the Plan.

After negotiations with Group 4, a not-to-exceed cost of $248,800 was agreed upon. The cost exceeds the initial $100,000 City Council allocation in 2020, as Group 4's scope of work includes individual assessment reports of each current City facility and a survey of existing facilities' major equipment components and anticipated future maintenance costs of the equipment in each building. These additional activities, along with general cost increases over the past two years and Group 4's exemplary experience, justify the higher cost and will produce a more accurate Plan.

FISCAL IMPACT

There is no fiscal impact to the City's operating budget. Staff requests authorization to amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $148,800 from the Community Development Maintenance Fund to the Citywide Facilities Master Plan, Project 1274 for a total not-to-exceed amount of $248,800. This amount represents less than 6% of the current Community Development Maintenance Fund balance.

REVIEW AND APPROVAL

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

Attachments

Agreement

Resolution

Presentation

CONTRACTUAL SERVICES AGREEMENT

CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this day of NOVEMBER, 2022 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and GROUP 4 ARCHITECTURE RESEARCH + PLANNING, a [Enter business type here] ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including: preparation of the Citywide Facilities Master Plan.

WHEREAS, in response to City's request, Consultant submitted a proposal and, after negotiations, Consultant agreed to perform the Services more particularly described in Exhibit "A" ("Services"), in return for the compensation described in this Agreement and Exhibit "B".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in Exhibit "C", City finds that Consultant has demonstrated the requisite qualifications, experience, training, to perform the requested Services.

NOW, THEREFORE, the Parties hereto agree as follows:

1. CONSULTANT'S SERVICES. Consultant shall perform Services described, and in the time, place, and manner specified in Exhibit "A" in accordance with the terms and conditions of this Agreement. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit "A", the Agreement shall control.

2. TIME FOR PERFORMANCE. Time is of the essence in the performance of Services under this Agreement and Consultant shall generally adhere to the schedule set forth in Exhibit "A"; provided, that City shall grant reasonable extensions of time for the performance of such Services occasioned by governmental reviews of Consultant's work product or other unavoidable delays occasioned by circumstances, provided, further, that such unavoidable delays shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Consultant. Consultant shall not be held responsible for delays beyond its reasonable control.

Consultant acknowledges the importance to City of City's performance schedule and agrees to put forth its best professional efforts to perform its Services under this Agreement in a manner consistent with that schedule. City understands, however, that Consultant's performance must be governed by sound professional practices.

3. COMPENSATION.

A. "Not to Exceed" Compensation. City shall compensate Consultant for all Services performed by Consultant hereunder in an amount based upon Consultant's hourly or other

rates set forth in Exhibit "B". The payments specified in Exhibit "B" shall be the only payments to be made to Consultant for Services rendered pursuant to this Agreement.

Notwithstanding the foregoing, the combined total of compensation and costs payable hereunder shall not exceed the sum of two hundred forty-eight thousand eight hundred and No/100 Dollars ($248,800.00) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by City, evidenced in writing authorizing such additional amount.

B. Method of Billing. To request payment, Consultant shall submit monthly invoices to City identifying Services performed and the charges therefore (including an identification of personnel who performed Services, hours worked, hourly rates, and reimbursable expenses), based upon Consultant's billing rates (set forth on Exhibit "B" hereto).

Consultant shall submit all billings for said Services to City in the manner specified in Exhibit "B"; or, if no manner is specified in Exhibit "B", then according to the usual and customary procedures and practices which Consultant uses for billing clients similar to City.

Invoices shall be sent to:

City of Newark
Attn: Finance Department
37101 Newark Blvd.
Newark, CA 94560

Upon completion of Services, City shall sign off and acknowledge that all terms and conditions have been satisfactorily met; upon which, unless waived by City in writing, Consultant shall prepare an itemized statement, briefly describing by task and/or labor category the items billed.

C. Payment. Upon receipt of an invoice, City shall make payments to Consultant on a monthly basis, or at such other times as may be specified in Exhibit "B", for Services, which are performed in accordance with this Agreement to the satisfaction of City.

D. Consultant's Failure to Perform. In the event that Consultant performs Services that do not comply with the requirements of this Agreement and the standard of care, Consultant shall, upon receipt of written notice from City, re-perform the services (without additional compensation to Consultant). If Consultant's failure to perform in accordance with this Agreement causes damages to City, Consultant shall reimburse City for the damages incurred (which may be charged as an offset to Consultant's payment).

4. ADDITIONAL SERVICES. In the event City desires the performance of additional services not otherwise included within Services, such services shall be authorized by written task order approved in advance of the performance thereof. Such task order shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefore, the time of performance thereof, and such other matters as the Parties deem appropriate for the accomplishment of such services. Except to the

extent modified by a task order, all other terms and conditions of this Agreement shall be deemed incorporated in each such task order.

5. INDEPENDENT CONSULTANT. At all times during the term of this Agreement, Consultant shall be, and is an independent consultant and shall not be an employee or agent of City. Consultant shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's Services; however, City shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement.

Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

6. PERSONNEL. Consultant understands that, in entering into this Agreement, City has relied upon Consultant's ability to perform in accordance with its representations regarding the qualifications of Consultant, including the qualifications of its Authorized Representative, its designated personnel, and its Subconsultants, if any, identified in Exhibit "C". Therefore, Consultant shall not replace its Authorized Representative, or any of the designated personnel or Subconsultants identified in Exhibit "C", without the prior written consent of City. All Services shall be performed by, or under, the direct supervision of Consultant's Authorized Representative.

Consultant agrees to include with all Subconsultants in their subcontract the same requirements and provisions of this Agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subconsultant's work. Subconsultants hired by Consultant agree to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under this Agreement. Subconsultant further agrees to include these same provisions with any Sub-subconsultant. A copy of this Agreement's Indemnity and Insurance provisions will be furnished to the Subconsultant upon request. The Consultant shall require all Sub-subconsultants to provide a valid certificate of insurance and the required endorsements included in this Agreement prior to commencement of any Services and will provide proof of compliance to the City.

In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any of Consultant's designated personnel or Subconsultants, Consultant shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.

7. FACILITIES AND EQUIPMENT. Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing Services.

8. INFORMATION AND DOCUMENTATION.

A. Information from City. City has made an effort to provide Consultant with all information necessary for Consultant's performance of Services. If Consultant believes

additional information is required, Consultant shall promptly notify City and City will provide to Consultant all relevant non-privileged information in City's possession.

B. Consultant's Accounting Records. Consultant shall maintain all accounting records related to this Agreement in accordance with generally accepted accounting principles and state law requirements, and in no event for less than four (4) years. Consultant's accounting records shall include, at a minimum, all documents which support Consultant's costs and expenses related to this Agreement, including personnel, subconsultants' invoices and payments, and reimbursable expenses. Consultant's accounting records shall be made available to City within a reasonable time after City's request, during normal business hours.

C. Ownership of Work Product. All original documents prepared by Consultant (including its employees and subconsultants) for this Agreement ("Work Product"), whether complete or in progress, are the property of City and shall be given to City at the completion of Consultant's Services, or upon demand of City. Consultant shall have a right to make and keep copies of the Work Product except for any confidential information. Consultant shall not reveal the Work Product or the confidential information contained in the Work Product, or make it available, to any third party without the prior written consent of City.

9. CONFLICTS OF INTEREST PROHIBITED. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. Consultant shall comply with all requirements of the Political Reform Act (California Government Code Section 81000, *et seq.*) and other laws relating to conflicts of interest, including: (a) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on Consultant's economic interest, and (b) if required by law, Consultant shall file financial disclosure forms with the City Clerk. If Consultant maintains or acquires a conflicting interest, any contract with City (including this Agreement) involving Consultant's conflicting interest may be terminated by City.

10. NONDISCRIMINATION. Consultant shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Consultant shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, sex, age, or any other basis, as defined in California Civil Code Section 51.

11. COMPLIANCE WITH LAW AND STANDARD OF CARE. Consultant shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly stated in this Agreement. Consultant shall perform Services using a standard of care consistent with but not limited to, the degree of skill and diligence ordinarily used by reputable professionals, with a level of experience and training similar to Consultant, performing under circumstances similar to those required by this Agreement. Consultant makes no warranties, guarantees, express or implied, under this Agreement or otherwise in connection with consultants services.

12. RESERVED.

13. RESERVED.

14. INSURANCE. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. Verification of Coverage.

Consultant shall furnish City with original certificates of insurance and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences.

Proof of Insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City Risk Manager:

CITY OF NEWARK
Attn: Risk Manager
37101 Newark Boulevard
Newark, CA 94560

City reserves the right to require and obtain complete, certified copies of all required insurance policies and endorsements at any time. Failure to exercise this right at any time shall not constitute a waiver of right to exercise later. Consultant shall immediately furnish City with certificates of renewal for each policy that is renewed during the term of this Agreement.

B. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01 or insurer's equivalent, covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and

2. Insurance Services Office Form Number CA 00 01 or insurer's equivalent, covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and

4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to

be endorsed to include contractual liability for liability that would exist in the absence of the agreement.

C. <u>Minimum Limits of Insurance</u>.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

1. General Liability: (including products and completed operations, property damage, bodily injury, and personal and advertising injury)	**$2,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:	**$1,000,000** per accident for bodily injury and property damage.
3. Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
4. Errors and Omissions Liability:	**$2,000,000** per occurrence or claim; $4,000,000 aggregate.

D. <u>Deductibles and Self-Insured Retentions</u>.

Any deductibles or self-insured retentions must be declared to and approved by the City Risk Manager. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its officers, officials, directors, employees, contractors, agents, and volunteers, or (2) Consultant shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses in an amount specified by the City Risk Manager or designee.

E. <u>Claims Made Policies</u>.

For all "claims made" coverage, in the event that Consultant changes insurance carriers Consultant shall purchase "tail" coverage or otherwise provide for continuous coverage covering the Term of this Agreement and not less than five (5) years thereafter. Proof of such "tail" or other continuous coverage shall be required at any time that the Consultant changes to a new carrier.

F. Wasting Policies.

No policy required by this paragraph 14 except errors and omissions shall include a "wasting" policy limit (ie. limit that is eroded by the cost of defense).

G. Remedies.

In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

2. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

3. Terminate this Agreement.

H. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City Risk Manager. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

I. Other Insurance Provisions.

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insureds. City, its officers, officials, directors, employees and volunteers ("Additional Insureds") are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant; including materials, parts or equipment furnished in connection with such work or operations.

2. Primary Coverage. For any claims related to Services, Consultant's insurance coverage shall be primary insurance as respects City, its officers, officials, directors, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, directors, employees, or volunteers shall be excess of Consultant's insurance and shall not be contribute with it. Consultant's policy will not seek contribution from the City's insurance or self-insurance.

3. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled during the term of this Agreement without notice to City.

4. Civil Code § 2782. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.

5. Deductibles and Self-Insured Retentions (SIR). All deductibles and self-insured retentions must be disclosed to the City Risk Manager for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

6. Subconsultants. Consultant shall include all subconsultants as insureds under its policies or shall require and verify separate certificates and endorsements have been obtained for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

7. Waiver of Subrogation. With respect to Workers' Compensation and Employer's Liability Coverage, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, directors, employees, and volunteers for losses arising from work performed by Consultant for City.

8. Coverage is Material Element. Maintenance of proper insurance coverage in conformity with the provision of this paragraph 14 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

9. Variation. The City Risk Manager may approve a variation in these insurance requirements upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available or that City's interests are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

15. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 19, herein below) a written report (in a form acceptable to City) with the following information: (a) name(s) and address(es) of the injured or deceased person(s), (b) name(s) and address(es) of witnesses, (c) name(s) and address(es) of Consultant's insurance company(ies), and (d) a detailed description of the damage(s) and whether any City property was involved.

16. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subconsultants. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and

Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the active negligence or willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

In the event that Consultant or any employee, agent, or subconsultant of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

The review, acceptance or approval of Consultant's work or work product by any indemnified party shall not affect, relieve or reduce Consultant's indemnification obligations. This paragraph survives completion of Services or the termination of this contract. The provisions of this paragraph are not limited by and do not affect the provisions of this contract relating to insurance.

Consultant/Subconsultant's responsibility for such indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

17. <u>LICENSES, PERMITS, ETC</u>. Consultant represents and warrants to City that it has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. In addition to the foregoing, Consultant shall obtain and maintain during the term hereof a valid City of Newark Business License.

18. <u>TERM/TERMINATION</u>.

A. The term of this Agreement shall commence upon the date first hereinabove written and shall expire upon completion of performance of Services hereunder by Consultant.

B. Notwithstanding the provisions of paragraph 18 Section A above, City may terminate this Agreement at any time and without cause upon written notification to Consultant. Consultant may cancel this Agreement upon thirty (30) days' written notice to City and shall include in such notice the reasons for cancellation. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

19. CONTRACT ADMINISTRATION. This Agreement shall be administered by ROYA GONZALEZ, ADMINISTRATIVE ANALYST, of the City of Newark ("Administrator"). All correspondence shall be directed to or through the Administrator or his/her designee.

20. NOTICES. Written notices required or convenient hereunder shall be delivered personally or by depositing the same with the United States Postal Service, first class (or equivalent) postage prepaid and addressed, in the case of Consultant, to:

GROUP 4 ARCHITECTURE RESEARCH + PLANNING	**CITY OF NEWARK**
ANDREA GIFFORD **Consultant**	ROYA GONZALEZ **Administrator**
Address: 211 LINDEN AVENUE SO. SAN FRANCISCO, CA 94080	CITY OF NEWARK ATTN: ROYA GONZALEZ 37101 NEWARK BOULEVARD NEWARK, CA 94560

21. PARAGRAPH HEADINGS. Paragraph headings used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

22. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

23. SEVERABILITY. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement.

24. GOVERNING LAW, JURISDICTION, AND VENUE. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

In the event of any dispute between the Parties related to this Agreement or this Project, the Parties agree to first negotiate in good faith toward a resolution with participation by representatives of each Party holding sufficient authority to resolve the dispute. If such dispute cannot be resolved in this manner, before any action or litigation is initiated other than as required to secure lien rights, the dispute may, upon mutual agreement of the Parties, be submitted to mediation using the American Arbitration Association or another mediator as mutually selected by the Parties. Such mediation shall be completed within a reasonable period of time following either Party's written

demand with each Party to bear an equal share of the mediation fees and its own respective attorney and consultant fees and costs

25. ATTORNEY'S FEES. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

26. ASSIGNABILITY. Neither Consultant nor City shall subconsult, assign, sell, mortgage, hypothecate, or otherwise transfer their respective interests or obligations in this Agreement without the express prior written consent of the non-transferring party.

27. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

28. WAIVERS. Waiver of breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

29. ENTIRE AGREEMENT. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the Parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

30. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

31. COVENANT AGAINST CONTINGENT FEES. Consultant hereby warrants that Consultant has not employed or retained any company or person, other than a *bona fide* employee working for Consultant, to solicit or secure this Agreement, and Consultant has not paid or agreed to pay any company or person, other than a *bona fide* employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, City shall have the right to annul this Agreement without liability or, at City's discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF NEWARK, a municipal corporation	GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC.
By _____	By _____
City of Newark	Consultant
Date _____	Date _____

_____
Printed Name

Attest:

_____
City Clerk

Date _____

Approved as to form:

_____
City Attorney

Date _____

EXHIBIT A – SCOPE OF SERVICES

I. THE PROJECT

The City of Newark, with its approximately 48,000 residents encompassing approximately 13 square miles, is seeking to evaluate its 24 current municipal facilities including government offices, fire and police facilities, recreation, senior and community center including a new Civic Center consisting of the Alan L. Nagy Library, David W. Smith City Hall and Police Station building. More than 175 employees representing 8 departments currently work in these facilities.

As Newark has witnessed tremendous growth over the past 15 years, City programs and services continue to evolve and expand. Technology has advanced greatly, and a pandemic has shifted our conventional way of providing services and programs – introducing many new opportunities for program styles, applications, communication, and collaboration.

Today, the City seeks to develop a Facilities Master Plan to assess facility needs and condition; calculate growth and future needs; analyze gaps and develop an associated action plan; and develop options and recommendations with supporting cost estimates to guide future decision making, timelines and steps forward. All in all, this effort will improve program and service efficiencies, workflow, and facility modernization to position the City for future years of effective municipal administration.

The successful delivery of a collaboratively developed Facilities Master Plan for Newark will guide the City to move future capital improvement projects into design and then construction. This initial phase will be a determinant for the ultimate short-term, mid-term and long-term vision; and these elements must be designed with a clear financial plan and funding strategies; deliver on the City's ambitions, and leverage opportunities uncovered in the planning process.

II. SCOPE OF BASIC SERVICES

1. General :

    1.A The intent of the Consultant's Basic Services is to develop a Facilities Master Plan for its 24 current facilities.

    1.B Consultant's Basic Services include the services of subconsultants, including Bureau Veritas, Ten Over Studio, Aquatic Design Group and TBD Consultants.

    1.C In selecting the Consultant, the Client recognizes that the Consultant has the qualifications to provide full planning, architecture, and interior design services including conceptual design, schematic design, design development, construction documents, bidding, construction administration, and post-construction phase services. The Client, at its discretion, may choose to amend this contract to add services to the Consultant's Scope of Services for Additional Compensation if mutually agreed to by the Client and Consultant.

    1.D The Client shall provide the following for the Project as needed:
        1. A Client representative who can render decisions on behalf of the Project in a timely manner.
        2. Scheduling and invitations for public meetings.

3. Information about:
    a. Existing site and floor plans for each of the 24 facilities, if available.
    b. Relevant previous studies prepare by or for the City of Newark.
    c. Relevant community development information, including current and projected populations.
4. Services of other specialized consultants if mutually agreed upon.
5. Any other information not included in Consultant's Basic Services or Additional Services that is reasonably needed for the Project.

1.E During each phase of the project, direction will be given to the Consultant in Project Management Team (PMT) meetings. Attending these meetings will be the Consultant, City representatives, the City's Project Manager, and others as determined by the City. Agreements and action items will be documented in meeting minutes.

1.F Except where otherwise specified in this agreement, summaries of decisions, design direction, establishment of project requirements may be communicated and documented through written meeting minutes and e-mails.

2. Consultant's Basic Services: Basic Services includes the services described in this Section II.2 including subsections and subparagraphs.

2.A Task 1 Existing Conditions Evaluation. The Consultant shall:

1. Facilitate a kickoff meeting with the PMT where we will confirm project goals and objectives; review the project work plan, schedule, and budget; and confirm project management and communications tools and protocols. We will also confirm the project participation plan, and potentially set target dates for the Workshops.
2. Review City-provided documents, including existing site and floor plans for each of the facilities; relevant previous studies (e.g., organizational, staffing, facility studies); and relevant community development information, including current and projected populations.
3. Provide a Facilities Condition Assessment (FCA) for each of the 24 city-owned facilities.
4. Confirm the format, including individual and summary reports, with the City prior to commencing any assessments. One the format is confirmed, we will conduct a pilot FCA for a facility of the City's choosing to confirm deliverable format individually and in summary. Once the pilot FCA format and accuracy is confirmed, the reminder of the FCAs will be performed. Each FCA will include the evaluation of the following building and site systems, as required, for each facility:
    a. site and infrastructure
    b. exterior systems including structural frame, building envelope, wall evaluation, curtain wall, and roofing
    c. mechanical/HVAC, electrical, lighting, plumbing
    d. fire protection and life safety
    e. elevators, vertical transportation as well as specialized systems and equipment
    f. interior elements, food service spaces and equipment
    g. limited accessibility compliance
    h. fungal growth, environmental features, lead-based paint and asbestos
    i. energy conservation analysis
5. Assessment of maintenance efforts to date compared with preventative maintenance recommendations including minimum day-to-day maintenance and associated costs based on industry standards. The Consultant will confirm all sources of existing data with

City staff and where applicable City staff will provide existing studies and reports to be included in the FCA report.

6. Comprehensive inspections will be limited to observable areas and systems as well as utilizing input from City staff regarding details of current conditions and facilities background. Inspectors will gather information for each property regarding the building systems components, characteristics, quantity, install date, life cycle, current condition, and level of repair necessary to achieve optimal condition.
7. Prepare a draft FCA Report for the City's review and comment. Consultant will incorporate the City's comments and prepare a final FCA Report.
8. Meetings:
   a. PMT meetings #1-2
   b. Facility tours
9. Deliverables:
   a. Project work plan and schedule
   b. FCA Report
   c. Meeting agendas, exhibits, and summary notes

2.B Task 2 Future Space Needs Assessment. The Consultant shall:

1. Conduct an analysis of the City's existing operations at the current facilities. We will start by touring each facility with City representatives knowledgeable about current services, programs and operations; the purpose of these tours will be to generally familiarize our team with the opportunities and constraints of each building.
2. Measure the facilities current utilization and intended role and whether it is over or underutilized in its current use and capacity. We will also note the ability of each facility to not only serve its current needs but also its ability to accommodate the number of employees housed.
3. Summarize industry standards, trends, and best practices in community programs and services including, discussing opportunities for operational and facility efficiencies and other benefits, and compiling recommendations aligned with City goals. We will compare and analyze communities of similar size and density, using both regional and national accepted standards, to get a better understanding of how Newark compares.
4. Review the City's projected growth and assess the demand for services. We will develop draft department staff space needs surveys for City review and confirmation before digital distribution. The City staff survey will give us greater insight regarding current and projected department staffing; current and anticipated future services and work trends; inter-department collaboration needs and goals and current and future participation rates of residents in City services.
5. Work with City department staff through PMT meetings, interviews and surveys to review and confirm information about current and projected use, space needs and staffing levels for each facility and new development within the City that may impact service and staffing needs and any known deficiencies currently affecting these needs.
6. Compile and summarize the results of the survey for the PMT's review. We will also conduct follow-up interviews (in person or via web conference) with key department representatives to confirm our understanding of current and future organizational, service, staffing, and program needs and trends that will shape the development of the facilities' options.
7. Summarize current space allocations and prepare a draft Space Needs Assessment Report of current and projected space and adjacency needs for each City facility for the City's review and comment. We will incorporate City feedback into a final Space Needs Assessment Report.
8. Meetings:

a. PMT meetings #3-4
b. Department interviews

9. Deliverables:
   a. Program inventory and analysis
   b. Survey instruments
   c. Space Needs Assessment Report
   d. Meeting agendas, exhibits, and summary notes

2.C Task 3 City Alternative Facilities Options. The Consultant shall:

1. Prepare at a minimum two (2) strategic space planning options for City facilities for review and confirmation by the PMT. One will address the renovation of existing facilities while the other will consider demolition and full reconstruction and/or new construction. The Consultant will also, as required, prepare an option that combines both renovation and new construction. Each option will summarize the proposed facility location and space allocation for each department/division, including summary tables and bubble diagrams as appropriate to communicate key features and distinctions between options, and areas in square feet.
2. Establish a set of evaluation criteria including but not limited to cost, schedule, phasing, and alignment with City goals, that will be used to compare and evaluate the options. This process allows a subjective evaluation that can be vetted, confirmed, and shared with key stakeholders and City leadership.
3. Review the feedback and outcomes work to date with the PMT and confirm the City's preferred space plan option(s).
4. Refine the recommended strategy to reflect City input.
5. Meetings:
   a. PMT meetings #5-6
6. Deliverables:
   a. Space plan options
   b. Recommended Space Plan(s)
   c. Evaluation criteria
   d. Meeting agendas, exhibits, and summary notes

2.D Task 4 Cost Estimate and Implementation Plan. The Consultant shall:

1. Develop a project budget reflecting the recommended option(s) including a rough order of magnitude cost, proposed phases/timelines and associated next steps, as appropriate,
2. Prepare an implementation plan summarizing the project process, evaluation, analysis, and recommendations, for the City's review and comment. The plan will contain all necessary elements including issues and challenges, strategies, analysis of budget support and funding mechanics to meet the City's short-term, mid-term and long-term vision
3. Incorporate the City's comments and prepare a final Implementation Plan
4. Prepare a presentation to City Council of both the draft and final Implementation Plan summarizing the process, recommendations, and next steps for review and approval.
5. Meetings:
   a. PMT meetings #7
   b. (2) City Council presentations
6. Deliverables:
   a. Comparative Cost Estimates
   b. Implementation Plan
   c. City Council presentation exhibits
   d. Meeting agendas, exhibits, and summary notes

2.E Task 5 Public Participation. The Consultant shall:

1. Public Workshop/Meeting #1
   a. Facilitate a workshop with key stakeholders and community members to review the draft needs assessment and the facilities analysis. Consultant will review the current and projected program and service needs, workflow and adjacencies, support space, and inter-department adjacencies. Consultant will review trends and best practices and discuss how these may enhance space planning for City departments and divisions. Consultant will obtain feedback from community members on community space needs. Consultant will also explore opportunities for shared programs and services with the City's partners.
2. Public Workshop/Meeting #2
   a. Review and discuss each of the options at the second workshop with key stakeholders and community members. Workshop participants will provide feedback on the options and help evaluate each option according to the evaluation criteria.
3. Meetings:
   a. (2) Public Workshops.
4. Deliverables:
   a. Meeting agenda, exhibits and summary notes.

III. OPTIONAL ADDITIONAL SERVICES

1. The following services are not included in the Consultant's Scope of Basic Services and shall be provided if requested by the Client. The Consultant shall be compensated for Optional and Additional Services in addition to compensation for Basic Services and Reimbursable Expenses.

   1.A Additional meetings beyond those identified in Exhibit A, Section II.
   1.B Engineering and specialist consultants
   1.C Sustainability strategy / planning
   1.D Organizational consulting services
   1.E Real estate consulting
   1.F Environmental studies
   1.G Traffic engineering
   1.H The services of consultants other than those listed above.
   1.I EIR services
   1.J Cost estimates, other than those listed above.
   1.K Scale models
   1.L Computer animation.
   1.M Preparation and conducting focus groups and follow up
   1.N Making revisions to drawings, designs, or other documents when such revisions are inconsistent with approvals or directions previously given by the Client, made necessary by determination by the Client or its other consultants, or made necessary by the Client's failure to render decisions in a timely manner.
   1.O Any other service not included in Section II. Basic Services.

SCHEDULE OF SERVICES

Consultant shall complete all Basic Services Tasks 1 through 4, as described in Exhibit A, by end of December 2023.

The draft schedule for Tasks 1 through 4 of Basic Services is as follows.

Task 1: Existing Conditions Assessment	2 month from NTP
Task 2: Future Space Needs Assessment	2 months from completion of Task 1
Task 3: City Alternative Facilities Option	2 months from completion of Task 2
Task 4: Cost Estimate and Implementation Plan	2 months from completion of Task 3
Public Participation	Concurrent with Task 1-4

The schedule for the project overall or any phase(s) may be adjusted upon mutual agreement of the City and the Consultant to meet changing project needs.

EXHIBIT B – PAYMENT

1. **PAYMENT FOR BASIC SERVICES**

1.A Compensation to the Consultant for Basic Services described in Exhibit A, shall be a stipulated sum of Two Hundred Forty-Eight Thousand, Eight Hundred Dollars ($248,800.00).

1.B Basic Compensation per project phase shall not exceed the following portions of the Basic Services compensation unless approved in advance by the City.

Task 1: Existing Conditions Assessment	$ 83,200
Task 2: Future Space Needs Assessment	$ 50,300
Task 3: City Alternative Facilities Option	$ 46,900
Task 4: Cost Estimate and Implementation Plan	$ 43,400
Total Basic Compensation for Tasks 1-4:	*$223,800*
Public Participation	$ 15,000
Reimbursable Expenses Maximum Allowance (See 3.A)	$ 10,000
Total Maximum Compensation	**$248,800**

2. PAYMENT FOR ADDITIONAL SERVICES

2.A Compensation to the Consultant for Additional Services described in Exhibit A is in addition to compensation for Basic Services and shall be either at the following hourly rates, or made as a negotiated stipulated sum. The rates below will be in effect through December 31st, 2022 and are subject to annual revisions at the start of each calendar year.

Principal in Charge	$255.00
Principal	$245.00
Associate	$225.00
Project Manager	$190.00
Architect III	$185.00
Architect II	$175.00
Architect I	$165.00
Architectural Staff III	$155.00
Architectural Staff II	$145.00
Architectural Staff I	$135.00
Interior Designer II / Planner II	$145.00
Interior Designer I / Planner I	$135.00
Project Support	$110.00 -$240.00
Consulting Principal	$320.00

3. PAYMENT FOR REIMBURSABLE EXPENSES

3.A Reimbursable expenses related to the Project, whether for consultant, subconsultant, or City use, and are billable at 1.10 times direct cost. Reimbursable expenses are in addition to compensation for Basic Services in Exhibit A and shall not exceed **Ten Thousand Dollars ($10,000)** without approval by the City. Reimbursable expenses include expenses incurred by the

Architect and subconsultants in the interest of the Project. Such costs include, but are not necessarily limited to:

- Plotting of check sets and presentation drawings.
- Outside service scanning, printing, copying of drawings and documents of any size.
- In-house project-related printing/copying (black/white and color), including draft and final reports, specifications, and drawings.
- Outside telephone conferencing services.
- Postage, delivery and messenger service.
- Overtime expenses with prior client approval.
- Architectural renderings, physical and digital scale models and animations.
- Videos, web services, opinion surveys.
- Travel expenses, including mileage, tolls, lodging and meals.
- Sub-consultant costs.
- Presentation boards.
- Facilitation tools.
- Workshop accessories and facilitation materials.
- Software purchase and licensure on behalf of the client.
- Additional consultant services.

EXHIBIT C

QUALIFICATIONS

ANDREA GIFFORD RA LEED

PRINCIPAL-IN-CHARGE; PRINCIPAL PROJECT MANAGER

Andrea Gifford works with clients and communities to create functional spaces, fluid circulation, and vibrant design solutions. Her designs are as unique and diverse as the communities they serve, reflecting and celebrating distinctive local culture and values. Andrea excels at working with staff, stakeholders, and community members of all ages, with an engaging facilitation style that helps participants imagine new possibilities for community facilities.

Andrea has developed a specialization in civic facilities master planning and design. Recent projects include master plans for civic facilities in Elk Grove, Mountain View, Milpitas, and East Palo Alto. She has planning and designed more than 350,000 SF of office spaces for Santa Clara County as well as administrative office planning for San Mateo County Library, Contra Costa Water District, and other agencies.

EDUCATION AND REGISTRATION

Bachelor of Science, Architectural Studies, University of Illinois, Urbana-Champaign
Registered Architect, State of California, C32830
LEED Accredited Professional ID+C

REPRESENTATIVE PROJECTS

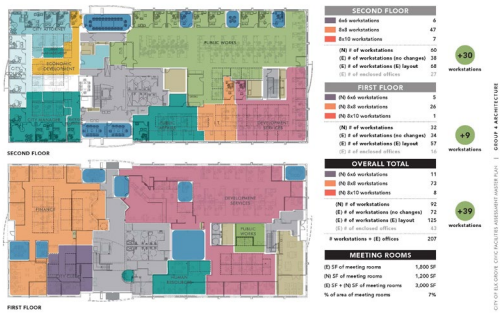
- *Elk Grove Civic Facilities Master Plan*
- *East Palo Alto Civic Facilities Master Plan*
- *Mountain View City Facilities Master Plan*
- *Newark Civic Center Master Planning*
- *San Mateo County Library Administration Spaces*
- *Contra Costa Water District Center Bldg. Modernization*
- *Santa Clara County A/E Services On-Call Contract*
  - *70 West Hedding 7th Floor Redesign*
  - *70 West Hedding 9th Floor Counsel Office Space*
  - *70 West Hedding 10th Floor BOS Space Planning*
  - *Berger Campus Space Planning*
  - *BHSD Space Design*
  - *DOR Credit Union Space Design*
- *South San Francisco City Hall Annex*
- *Delta Diablo Water District Administrative Space Planning*
- *Dayton Metro Library (OH) Operations Center*
- *San Jose Environmental Innovation Center*
- *San Jose Roosevelt Community Center*
- *San Rafael Albert J. Boro Community Center*
- *West Sacramento Community Center*
- *Brookfield Recreation Center*

References:

Patrick Heisinger
Assistant City Manager
City of East Palo Alto
p: (650) 853-3193
e: pheisinger@cityofepa.org

Jason Behrmann
City Manager
City of Elk Grove
p: (916) 627-3423
e: jbehrmann@elkgrovecity.org

Damian Skinner
Assistant Public Works Director
City of Mountain View
p: (650) 903-6237
e: damian.Skinner@mountainview.gov



Elk Grove City Facilities Master Plan

JONATHAN HARTMAN RA LEED
PRINCIPAL ARCHITECT

Jonathan Hartman leads Group 4's technical design and construction administration team, helping clients and designers evaluate and incorporate innovative and proven architectural strategies. Jonathan's projects are characterized by excellent budget and schedule performance, and he builds effective and collaborative partnerships with consultant and construction teams.

Jonathan's projects are characterized by excellent budget and schedule performance, and he builds effective and collaborative partnerships with consultant and construction teams. He has also managed projects with innovative and complex sustainable design elements, such as the multiple award-winning LEED-NC Gold Roosevelt Community Center in San Jose and the LEED-NC Platinum Mitchell Park Community Center in Palo Alto.

EDUCATION AND REGISTRATION

Master of Architecture, University of California, Berkeley
Bachelor of Architecture, Cal Poly Pomona
Registered Architect, State of California, C30361
LEED Accredited Professional BD+C

REPRESENTATIVE PROJECTS

- *Delta Diablo Water District Space Planning*
- *Contra Costa Water District Center Bldg. Modernization*
- *East Bay MUD Main WWTP Maintenance Retrofit*
- *Santa Clara Valley Water District Winfield Campus Renovation*
- *San Mateo County Transit District — 20+ projects 2015-ongoing*
- *Santa Cruz Public Libraries FCA*
- *San Jose Environmental Innovation Center*
- *San Jose Fire Department Training Center*
- *San Jose Police Department Training Center/Academy*
- *San Jose Roosevelt Community Center*
- *Brookfield Boulevard Recreation Center*
- *Anaheim Euclid + Sunkist Library Renovations*
- *Carlsbad Cole + Dove Library Modernizations*
- *Elk Grove Community Center at District56*
- *Palo Alto Mitchell Park Center*
- *Palo Alto Downtown Library Renovation*
- *Palo Alto Rinconada Library Renovation/Expansion*
- *San Rafael Pickleweed Park Center Expansion*
- *Skyline College B19 Assessment + Adaptive Reuse*
- *West Sacramento Community + Arts Center*
- *Yorba Linda Library + Community Arts Center*

References:

Margaret Glomstad
Director of Park & Recreation Dept.
City of Burlingame
p: (650) 558-7300
e: mglomstad@burlingame.org

Rachel Murphy
Assistant General Manager -Engineering
Contra Costa Water District
p: (925) 688-8070
e: rmurphy@ccwater.com

Alvin Piano
Senior Project Manager
San Mateo County Transit District
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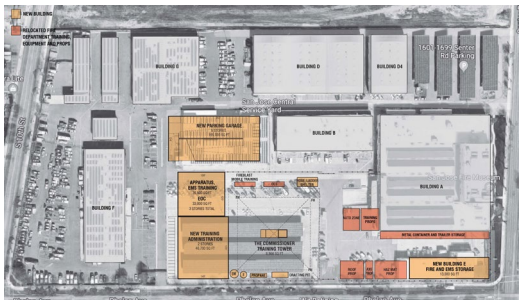
e: pianoa@samtrans.com



San Jose Fire Department Training Center

DAWN MERKES AIA LEED
CONSULTING PRINCIPAL

Award-winning architect Dawn Merkes has excellent experience planning and designing a wide range of community projects, including administrative, office, and civic facilities space plans and public safety projects.

Dawn's design and planning projects are characterized by a high degree of functionality and operational efficiency, and excellent budget and schedule performance. The foundation for the success of Dawn's projects is her commitment to active communication with client project management at every phase. She is highly skilled at helping clients envision, develop, and implement successful projects, including complex, multi-facility civic campuses.

EDUCATION AND REGISTRATION

Bachelor of Architecture, Montana State University, Bozeman
Registered Architect, State of California, C24206
LEED Accredited Professional BD+C

REPRESENTATIVE PROJECTS

- *San Bruno Recreation & Aquatic Center*
- *South San Francisco Civic Center Master Plan*
- *Santa Clara County Fire Department Master Plan*
- *Elk Grove Civic Center South Campus Master Plan*
- *Elk Grove Community Senior Center*
- *Larkspur Rose Garden Community Facilities Master Plan*
- *Alameda Parks & Recreation Facilities Master Plan*
- *San Mateo Recreation Facilities Master Plan*
- *San Rafael Essential Facilities + Civic Center Plan*
- *Newark Civic Center Master Plan*
- *Menlo Park Police Station + City Hall*
- *Campbell Civic Center East Master Plan*
- *Foster City Civic Center Master Plan*
- *San Anselmo Community Facilities Master Plan*
- *Palo Alto Mitchell Park Library + Community Center*
- *Palo Alto Rinconada Library Renovation + Expansion*
- *Palo Alto Downtown Library*
- *Walnut Creek Library*
- *Milpitas Public Library*
- *San Leandro Senior Community Center*
- *West Sacramento Community Center*

References:

Margaret Glomstad
Director of Park & Recreation Dept.
City of Burlingame
p: (650) 558-7300
e: mglomstad@burlingame.org

Christopher Jordan
Director of Strategic Planning and Innovation
City of Elk Grove
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Jovan Grogan
City Manager
City of San Bruno
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e: jgrogan@sanbruno.ca.gov

Fairfield Recreation Center

CANDICE WONG, PRINCIPAL, LEED AP BD+C

PRINCIPAL IN CHARGE/PROJECT MANAGER

10

Candice is a public safety design professional. She has dedicated the past 20 years of her career to the strategic planning, design and implementation of public safety projects. She develops cohesive and operational driven design solutions for her clients. Her extensive knowledge of sustainable design strategies in every component of a project has resulted in completed LEED®-certified public safety projects and lower utility costs to operate these new facilities for her clients. Candice maintains focus on the overall and operational goals of the client and provides durable and low-maintenance design solutions that balance and enhance the project.

CONTACT INFORMATION

W 805-541-1010
M 805-459-4422
candicew@tenoverstudio.com

YEARS OF EXPERIENCE | 26

WITH CURRENT FIRM | 7

EDUCATION

BACHELOR OF ARCHITECTURE
California Polytechnic University,
San Luis Obispo, CA

ARCHITECT REGISTRATION

State of California | C-28461

LEED ACCREDITATION

LEED AP, BD+C

REFERENCES

Domenic Oronato, Senior Capital Project Manager
408.535.8407 |
domenic.onorato@sanjoseca.gov

Matt Horn, Public Works Operations Manager
805.781.7191 | mhorn@slocity.org

Aaron Fryler, Deputy Fire Chief, City of San Jose Fire Department
408.794.6987 | aaron.freyler@sanjoseca.gov

SAN LUIS OBISPO FACILITIES MASTER PLAN UPDATE
San Luis Obispo, CA
Project Role | Assessment and Master Planning Architect
Candice is the assessment and master planning architect for this project. She worked with the City to develop the project budgets, timelines and capital improvement plan for all of the facilities in the Master Plan Update.

The Master Plan update will help the City better understand if their facilities have outlived their original purpose and what each facility might require to continue to serve staff and the citizens of San Luis Obispo. The Master Plan update includes needs assessment and programming for four existing fire stations.

SAN JOSE FIRE TRAINING FACILITY RELOCATION FEASIBILITY STUDY San Jose, CA
Project Role | Public Safety Consultant
Candice is working with the City of San Jose to analyze strategies for the relocation of their Fire Department Training Center to the Central Services Yard. The new Fire Department Training Center will occupy approximately 6.5 acres of the 22 acres at the Central Services Yard.

Candice is working with the City team to validate the preliminary program and prepare a high-level development scheme(s) to analyze fire training needs. The project will include a Fire Training Building for fire training administration, the fire academy and in-service personnel training. A 5-story fire training tower and support spaces will be designed for both Class A and Class B training props and scenarios.

A 5-story parking structure is anticipated to eliminate existing surface parking to make room for the new fire training center and potentially a new Emergency Operations Center as well. Storage of existing essential equipment and materials is a high priority.

CANDICE WONG, LEED AP BD+C

PRINCIPAL IN CHARGE/PROJECT MANAGER - CONTINUED 10

PRESENTATIONS

EOC Activation Readiness and Public Safety Facilities Design Considerations
Station Design Conference, St. Louis, MO, 2021

Operations Based Design
Station Design Conference, Fort Worth, TX 2018, Chicago, IL 2019, and St. Louis, MO 2021

LEED Certified and Green Fire Stations
Firehouse Station Design Conference, Fort Worth, TX 2017

Particulars on Particulates: Air Quality Systems in Fire Stations
Panel Discussion, Firehouse Station Design Conference, Anaheim, CA 2016

Cal Green and LEED
Presentation to Los Angeles Department of Water and Power, Los Angeles, CA 2013

Air Quality in Fire Stations
Panel Discussion, Station Style Conference, Phoenix, AZ 2013

PUBLICATIONS

"Operations Based Design," Officer Magazine, October 2020

"Room to Grow," Fire Chief Magazine, July 2013

"Privacy in the Modern Firehouse," iWomen Newsletter, July 2012

"Fire Station: Architectural Insight to Planning, Design & Construction," International Association of Fire Chiefs Foundation, 2010

SAN JOSE FIRE DEPARTMENT FIRE FACILITIES PROGRAM

San Jose, CA

Project Role | Program Manager

Candice Wong was the project manager in charge of preparing the San Jose Fire Facilities Program. The City wanted a strategic plan and operational procedures for all of the new fire stations built under the Fire Bond. Candice worked with the Fire Department to identify the operational criteria to guide the development of three prototype fire stations. The programming process included workshops with many City staff members, visits to existing facilities, and discussions with San Jose Fire Department leadership. The program focused on operational practices, methods for obtaining better operational efficiencies and creating flexibility in the space planning to allow for future changes in operating procedures and increases in service levels.

ADDITIONAL RELEVANT EXPERIENCE

San Jose Fire Station 34, San Jose, CA*

San Jose Fire Station 35, San Jose, CA - LEED-NC Silver Certified*

San Jose Police Southside Substation Peer Review and Implementation Support Services, San Jose, CA - LEED-NC Silver Certified*

Calexico Fire Headquarters Station, Calexico, CA

Calexico Public Safety Center Needs Assessment, Calexico, CA

Marin County Emergency Operations Facility, San Rafael, CA

Emeryville Fire Station No. 35 and EOC Renovation, Emeryville, CA

PG&E DCPP Kendall Road Campus, San Luis Obispo, CA – LEED-NC Platinum Certification*

Napa Joint Public Safety Center Needs Assessment and Site Feasibility Study, Napa, CA

Lompoc Police Station Needs Assessment, Lompoc, CA

San Jose Police Training Feasibility Study, San Jose, CA

Purissima-McCann Operation Center Improvements - Feasibility & Conceptual Design, Los Altos Hills, CA

Brisbane Fire Station, Brisbane, CA

ECCFPD & Ironhouse Joint Facility, Oakley, CA

Mineta San Jose International Airport ARFF Facility, San Jose, CA

KARL LUNDEEN

SENIOR PROJECT DESIGNER | ASSISTANT PROJECT MANAGER

10

CONTACT INFORMATION
W 805-541-1010
karll@tenoverstudio.com

YEARS OF EXPERIENCE | 12

WITH CURRENT FIRM | 8

EDUCATION
Bachelor of Architecture
California Polytechnic State University,
San Luis Obispo, CA

Minor in Construction Management
California Polytechnic State University,
San Luis Obispo, CA

REFERENCES

Aaron Fryler, Deputy Fire Chief, City of San Jose Fire Department
408.794.6987 | aaron.freyler@sanjoseca.gov

Diego Favila, Fire Chief, City of Calexico Fire Department
760.768.2150 | dfavila@calexico.ca.gov

Anthony Stoloski, Operations Manager, Purissima Hills Water District
650.948.1217 | astoloski@purrisimawater.org

Karl graduated from Cal Poly with a degree in Architecture and a minor in Construction Management. His varied background, with experience in commercial and residential design and over ten years of woodworking and construction experience, gives him a unique understanding and approach to all aspects of the design and construction process.

Clients value Karl's easy-going demeanor and concise communication style. Karl listens carefully during conversations and integrates what he learns into his relationships and projects. A team player, Karl seeks timely, efficient and effective solutions: he enjoys finding ways to bring together seemingly unrelated components or ideas into a cohesive whole.

RELEVANT EXPERIENCE

Purissima-McCann Operation Center Improvements - Feasibility & Conceptual Design, Los Altos Hills, CA

San Jose Police Department Air Support Unit Hangar, San Jose, CA

Calexico Fire Headquarters Station, Calexico, CA

Emeryville Fire Station No. 35 and EOC Renovation, Emeryville, CA

PG&E Corporation Yard Tenant Improvement, Templeton, CA

PG&E Corporation Yard Tenant Improvement, King City, CA

Octagon Barn Center, San Luis Obispo, CA

San Luis Obispo Council of Governments Site Improvements, San Luis Obispo, CA

SRAM Tenant Improvement and Maintenance Shop, San Luis Obispo, CA

Mineta San Jose International Airport Arff Facility, San Jose, CA

San Jose Fire Department Training Center And Emergency Operations Center, San Jose, CA

San Jose Fire Department Training Center and Emergency Operations Center, San Jose, CA | Tracking LEED Gold Certification

San Jose Police Department Training Center & Academy, San Jose, CA | Tracking LEED Silver Certification

San Miguel Community Services District Wastewater Treatment Facility Upgrade and Expansion, San Miguel, CA

Brisbane Fire Station, Brisbane, CA

ECCFPD & Ironhouse Joint Facility, Oakley, CA

CAITLIN MILICH
PROJECT ARCHITECT

10

CONTACT INFORMATION

W 805-541-1010
caitlinm@tenoverstudio.com

YEARS OF EXPERIENCE | 6

CURRENT FIRM EXPERIENCE | 3

EDUCATION

Master of City and Regional Planning, California Polytechnic University, San Luis Obispo, CA

Bachelor of Architecture, California Polytechnical University, San Luis Obispo, CA

Minor in Sustainable Environments, California Polytechnic University, San Luis Obispo, CA

ARCHITECT REGISTRATION

State of California | C-39898

REFERENCES

Diego Favila, Fire Chief, City of Calexico Fire Department
760.768.2150 | dfavila@calexico.ca.gov

Anthony Stoloski, Operations Manager, Purissima Hills Water District
650.948.1217 | astoloski@purrisimawater.org

George Haynes, CEO, Search Dog Foundation
805.229.0084 | george@searchdogfoundation.org

Caitlin is an architect who understands what it means to respect the impact the designed environment has on its users. She appreciates the level of detail that is necessary in the design and development of essential service facilities and how that design impacts those people who serve their community. As a team member, Caitlin enjoys diving into the details of code research and participating in meetings with stakeholders, clients and consultants.

RELEVANT EXPERIENCE

San Jose Police Department Training Center and Academy, San Jose, CA

San Jose Police Department Air Support Unit Hangar, San Jose, CA

Search Dog Foundation Training Facility, Santa Paula, CA

Calexico Fire Headquarters Station, Calexico, CA

Monterey Peninsula Regional Park District Ranger Station, Dog Park, and Restrooms, Carmel, CA

Mineta San Jose International Airport ARFF Facility, San Jose, CA | Tracking LEED certification

San Jose Fire Training Facility and Emergency Operations Center, San Jose, CA | Tracking Gold LEED certification

San Luis Obispo City Hall Tenant Improvements, San Luis Obispo, CA

San Luis Obispo Facilities Master Plan Update, San Luis Obispo, CA

San Luis Obispo Fire Station 1 HVAC Replacement, San Luis Obispo

San Luis Obispo Mechanical Replacement Projects, San Luis Obispo, CA

Purissima-McCann Operation Center Improvements - Feasibility & Conceptual Design, Los Altos Hills, CA

California Polytechnic State University Kinesiology Building HVAC and Roof Replacement*

San Miguel Community Service District Wastewater Treatment Facility Upgrade and Expansion, San Miguel, CA

**Work completed prior to joining TEN OVER STUDIO*

ANAS SADKHI, PE, CEM, PMP

SENIOR PROJECT MANAGER

Mr. Sadkhi is a project management professional and certified energy manager with 16 years of experience. He conducts and leads teams for Physical Needs Assessments, Facility Condition Assessments, Energy Audits & Surveys and other related services of properties in accordance with ASTM standards and client specific scopes of work. He supervises and trains junior architects and engineers conducting building assessments and energy audits. He also supports program managers to coordinate proposals, train, and develop and review final deliverables to the client. Anas will lead BVTA's onsite efforts for the duration of the project.

PROJECT EXPERIENCE:

City of Covina, CA
Facility Condition Assessment

Menlo Park, CA
Facility Condition Assessment & Energy Audit

Southern California Gas, CA
Facility Condition Assessment, Inventory & Energy Audit

County of El Dorado, CA
Facility Condition Assessment & Inventory

Montebello Transit, CA
Facility Condition Assessment

San Mateo Community College, CA
Facility Condition Assessment

El Rancho Unified School District, CA
Facility Condition Assessment

City of Mesa, AZ
Facility Condition Assessment

City of Aspen, CO
Facility Condition Assessment

City of Seattle Dept. of Transportation, WA
Facility Condition Assessment

Pierce County Transit, WA
Facility Condition Assessment

Sound Transit, WA
Facility Condition Assessment

University of Utah, UT
Facility Condition Assessment

YEARS OF EXPERIENCE: 16

Education
Master of Science, Electrical Engineering, Whichita State University
MBA, Salisbury University

Licenses
Professional Engineer | KS | 25743
Certified Energy Manager
Project Management Professional

MOUAZ ALRAYES

SENIOR PROJECT MANAGER

Mr. Alrayes is a Senior Project Manager with 17 years of experience. He conducts and leads teams for Physical Needs Assessments, Facility Condition Assessments, Energy Audits & Surveys and other related services of properties in accordance with ASTM standards and client specific scopes of work. He supervises and trains junior architects and engineers conducting building assessments and energy audits. He also supports program managers to coordinate proposals, train, and develop and review final deliverables to the client. Mr. Alrayes will lead BVTA's onsite efforts for the duration of the project. He is the main point of contact for the client throughout the project.

PROJECT EXPERIENCE:

City of Concord, CA
Facility Condition Assessment

City of Fresno, CA
Facility Condition Assessment

City of El Segundo, CA
Facility Condition Assessment

City of Garden Grove, CA
Facility Condition Assessment, ADA Assessment

City of Pico Rivera, CA
Facility Condition Assessment, Inventory

City of Poway, CA
Facility Condition Assessment

City of Brea, CA
Facility Condition Assessment, ADA Assessment

City of Covina, CA
Facility Condition Assessment

El Dorado County, CA
Facility Condition Assessment, Inventory

Golden Empire Transit Authority, CA
Facility Condition Assessment

Catalina Island, CA
Facility Condition Assessment, Inventory

Conejo Valley Schools, CA
Facility Condition Assessment, Inventory

Simi Valley Unified School District, CA
Facility Condition Assessment, Inventory

Sacramento Metropolitan Fire District, CA
Facility Condition Assessment, Inventory

YEARS OF EXPERIENCE: 17

Education
Bachelor of Arts, Mechanical Power of Engineering, Damascus University

tbd consultants
more value, less risk

GARY HOLLAND

Project Manager

PROFILE

Gary Holland is a Project Manager and Senior Cost Estimator for TBD Consultants working on all aspects of Cost Planning focusing on Public, Healthcare and Institutional sectors.

Prior to joining TBD, he was an Associate Director and Senior Estimator at Davis Langdon and AECOM, where he spent 32 years working for the worldwide construction cost planning and management firm providing cost management services to architects, design professionals, owners, institutions and government agencies throughout the United States.

CONTACT

PHONE:
(916) 742-1770

WEBSITE:
www.tbdconsultants.com

EMAIL:
Gholland@tbdconsultants.com

ADDRESS:
6518 Lonetree Blvd. #164
Rocklin, CA 95765

EDUCATION

Architecture and Construction Management, West Valley College, Saratoga, California, 1982

CERTIFICATIONS/AFFILIATONS

Certified Professional Estimator (CPE) with the American Society of Professional Estimators (ASPE)
Member of the American Institute of Architects (AIA)
OVER 35 YEARS OF INDUSTRY EXPERIENCE

REFERENCES

Jason Hull, Anderson Brule' Architects
(408)-298-1885
Dawn Merkes, Group 4 Architecture, Research + Planning, Inc.
(650)-871-0709
Brian Wright, TLCD Architecture
(707)-525- 5600

EXPERIENCE

San Mateo Recreation Facilities Master Plan Study, San Mateo, California
City of San Bruno Community Facilities Master Plan, San Bruno, California
City of Mountain House Planned Community Civic Buildings, Mountain House, California
Napa Valley College Bond Modernization Study, Napa, California
Sonoma City Library Master Plan, Sonoma, California
San Diego Public Library Master Plan, San Diego, California

POTENTIAL SITES FOR A NEW CIVIC CENTER

A Community Park Site	**B** Silliman Center Site	**C** Silliman Center Site E	**D** Silliman Center Site W
E Shirley Sisk Grove Site	**F** Junior High School Site	**G** Old Town Site	**H** Existing Civic Center Site

NEWARK CIVIC CENTER MASTER PLAN

The Newark Civic Center, a 7.5 acre campus consisting of a City Hall administrative tower and expansion, police headquarters, and public library, was built between the 1960s and 1980s, and has been subject of expansion and replacement strategies since 2000. The City commissioned Group 4 to work with the Newark community, City department heads from Recreation and Community Services, Police, and Public Works, and Alameda County Library to generate a new vision for the Newark Civic Center that meets current and future community needs.

Facilities evaluation, departmental coordination, and community outreach and needs assessment informed the New Civic Center vision, the identification of potential sites, site strategy, and conceptual building programs. Group 4 also developed a construction phasing plan, cost model, and financing strategies for the preferred site and site strategy.

Client contact:

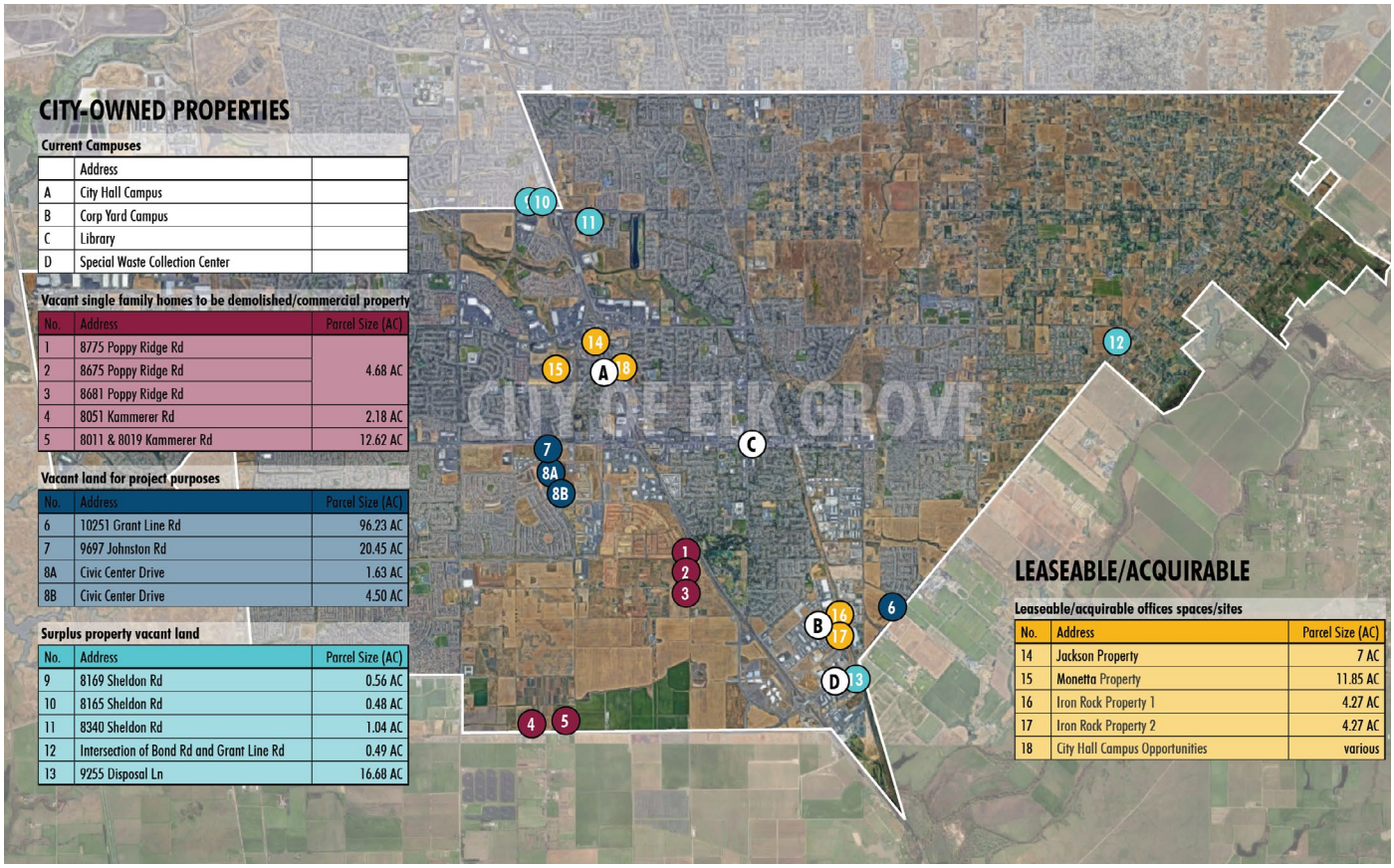
Dr. Cindy Chadwick
County Librarian,
Alameda County Library
(510) 745-1510
cchadwick@aclibrary.org

Key personnel:

- Dawn Merkes - PIC/PM
- Andrea Gifford - Director of Interiors (for Newark Library)
- Jonathan Hartman - Consulting Architect

Subconsultants:

- SWA Group - Landscape
- Garavaglia Architecture



CITY OF ELK GROVE CIVIC FACILITIES MASTER PLAN

Group 4 worked with the City of Elk Grove to study administrative space needs and consolidation feasibility for eight City departments currently split between seven facilities totaling over 190,000 square feet. Current properties include two multi-facility campuses, a corporation yard, a special waste and collection center, and a city library building.

Group 4 coordinated department and staff space needs assessment with the City Manager, City Clerk, City Attorney, Development Services, Finance and Administration, Economic Development, Public Works, and the Police departments through surveys, department head interviews, and a series of workshops. Current and projected department space needs and adjacency requirements informed development of space planning options (addressing growth and recession scenarios, campus and co-location concepts, and options for both current and prospective facilities), leading to a preferred strategy, summary report, Council presentation, and positioning for implementation.

We also worked with the City to develop standards for open workstations. Work included a fit-out study of open workstations and graphic floor plans to determine efficient layouts for each floor, allowing for 39 additional workstations and additional meeting spaces.

Client contact:

Jason Behrmann, City Manager
City of Elk Grove
916-627-3423
jbehrmann@elkgrovecity.org

Key personnel:
Andrea Gifford - PIC/PM
Dawn Merkes - Consulting Principal

Subconsultants:
BSW - Architecture
TBD - Cost Consulting

PACIFICA CIVIC FACILITIES STUDY/ CIVIC CENTER RENOVATION

The Pacifica Civic Center project will renovate Pacifica's City Hall, a re-purposed 1920s historic schoolhouse (5,900 sf), and adjacent staff building (5,700 sf) into a cohesive civic campus for the City, with co-located staff departments, meeting and collaboration spaces, and a one-stop shop for permitting. The site will be transformed with a new pocket park and gathering space for the community along with pedestrian-friendly walkways, upgraded parking, and native landscaping. The exterior of City Hall will be rehabilitated to its original historic schoolhouse look, preserving this treasured piece of local history for years to come.

The exterior of the adjacent staff building will be modernized with a new façade that creates a civic presence and complements the adjacent City Hall. The interior of both buildings will be renovated, significantly improving functionality and use, and creating welcoming, comfortable, spaces for visitors and City staff.

The current project, which is in the construction documents phase, builds on and continues Group 4's work with the City in the 2020 Pacifica Civic Facilities Study. The project bid successfully and construction will begin in summer of 2022.

Client contact:

Sam Bautista, P.E., OSD/P
City Engineer, City of Pacifica
(650) 738-3771
sbautista@pacifica.gov

Key personnel:

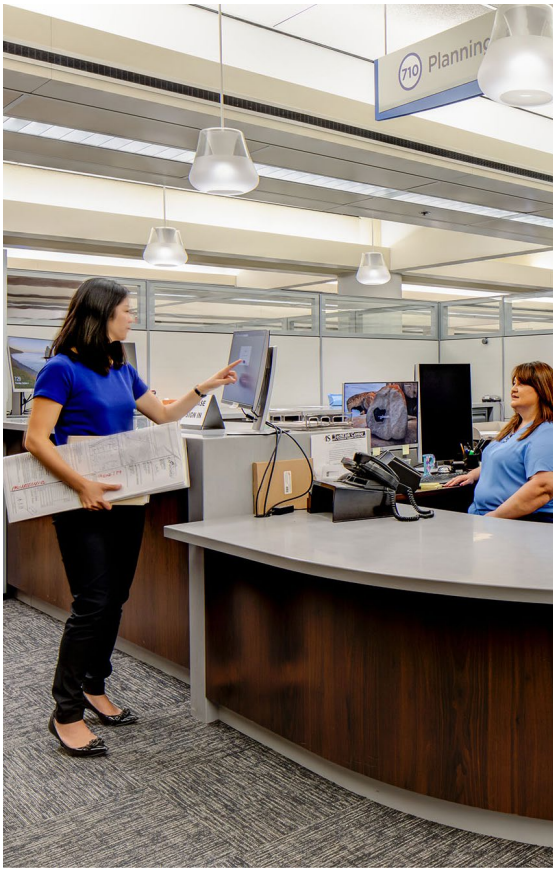
- Dawn Merkes - PIC/PM
- Andrea Gifford - Director of Interiors
- Jonathan Hartman - Principal Architect

Subconsultants:

- BKF Engineers - Civil
- TBD Consultants - Cost
- Atium Engineering - Electrical
- Capital Engineering Consultants - Mechanical
- OLMM Consulting Engineers - Strucutral
- ProTech Consulting & Engineering - Hazmat
- Roning Engineers - Geotech
- Garavaglia Architecture - Historic

LITIGATION HISTORY

Group 4 is not currently engaged in any pending or ongoing litigation, and has not been for the past 10 years. Group 4 has not had a contract terminated within the past 10 years (or ever) for default, non-performance, or litigation. We are proud of our record of long-term relationships with our clients built on our commitment to responsive service and quality work.

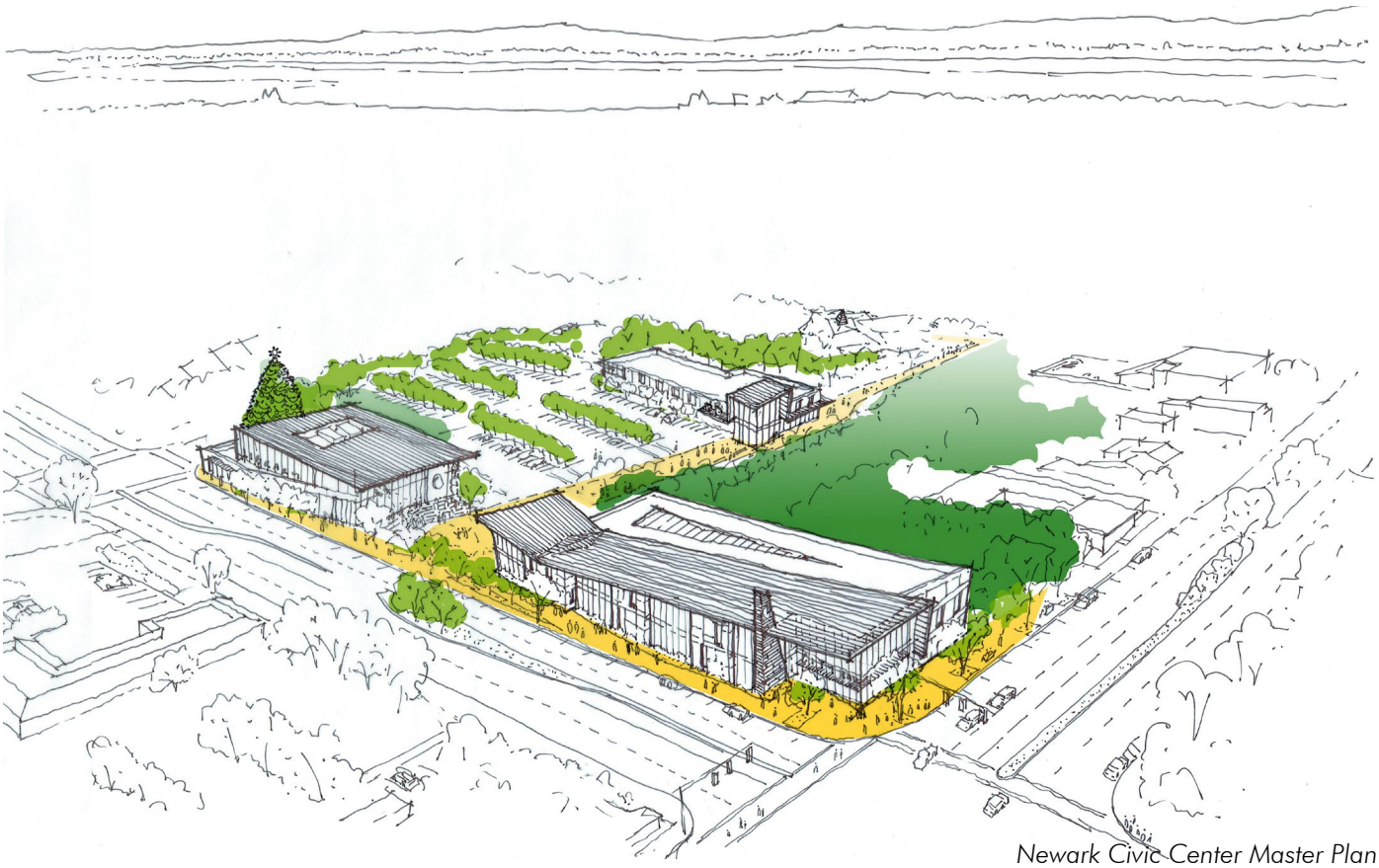


INTRODUCTION TO GROUP 4

Group 4 Architecture, Research + Planning, Inc. is a full-service architecture firm dedicated to creating places for communities to gather, grow, and thrive. Since 1974, our inspired and talented staff has provided quality services to public clients and the communities they serve. Our distinctly inclusive design process engages staff, stakeholder, and citizens in shaping the future of their communities.

Exceeding our clients' expectations for facilities that reflect and celebrate their vision of community is a key reason behind our project success. We are proud of the long-term relationships we build with our clients through project excellence and responsive service. Group 4 has enjoyed previous collaboration with the City of Newark on the Newark Civic Center Master Plan.

We are a California corporation and state-certified Small Business. Our 30-person staff includes licensed architects, planners, interior designers, and technical and construction support specialists. Based in South San Francisco CA, Group 4 has satellite offices in Philadelphia, Seattle, and Lexington KY. We are active in professional organizations such as the California Park & Recreation Society, the American Institute of Architects, the US Green Building Council, and the Environmental Design Research Association.



Newark Civic Center Master Plan

OVERVIEW OF GROUP 4 SERVICES

Group 4 has more than four decades of experience working with public agencies on important community and infrastructure projects. We understand the unique concerns of public clients, including the multi-agency approvals process and the need to demonstrate fiscal responsibility with public funds. Our architectural services range from pre-design through design, construction documents, bidding, construction administration, and post-construction support. Pre-design services include master planning, site selection and analysis, needs assessment, feasibility studies, and programming. We also provide comprehensive interior design services, including FFE, casework, signage and graphics, and more.

Over the course of our practice, we have planned and designed hundreds of public facilities, from government offices, libraries, recreation and community centers, and public safety buildings to corporation yards, maintenance facilities, and transportation projects. Our portfolio includes new buildings, renovations, expansions, adaptive reuse, interior redesigns, and tenant improvement projects.

The projects listed opposite are just a few examples of our planning and design experience relevant to the City of Newark's Facilities Master Planning Process. More information about selected examples of our experience are included later in this SOQ.

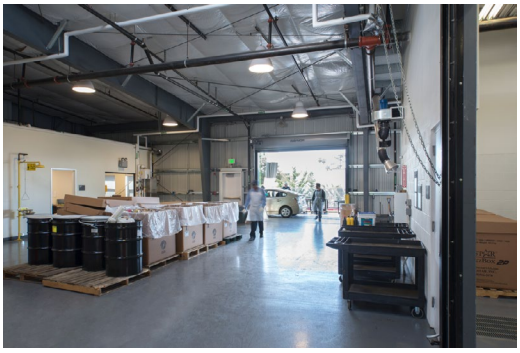
Civic Centers and City Facility Master Plans

- *Elk Grove City Facilities Master Plan*
- *Elk Grove Civic Center District Master Plan*
- *East Palo Alto City Facilities Master Plan*
- *Newark Civic Center Master Plan*
- *Solano County Library Facilities Master Plan*
- *South San Francisco Civic and Community Facilities Master Plan*
- *Salinas Parks, Recreation & Library Master Plan*
- *San Mateo Recreation Facilities Master Plan*
- *Cincinnati-Hamilton County Public Library Facility Master Plan*
- *Campbell Civic Center Master Plan*
- *Belmont Civic Center Master Plan*
- *Foster City Civic Master Plan*
- *Menlo Park Civic Center Master Plan*

San Jose Environmental Innovation Center

Municipal Government Offices

- *Pacifica City Hall Renovation*
- *Santa Clara County Department of Finance Offices*
- *Santa Clara County Department of Planning & Development Offices*
- *Santa Clara County Office of County Counsel*
- *Santa Clara County Berger Campus*
- *San Mateo County Library Administration Building*
- *Manteca One-Stop Permit Center*
- *South San Francisco City Hall Annex*



Santa Clara County Household Hazardous Waste Collection Facility, San Jose CA

Corporation Yard, Maintenance, and Utilities

- *Santa Clara Valley Water District Winfield Maintenance Campus*
- *East Bay Municipal Utility District Wastewater Treatment Center Retrofit*
- *Contra Costa Water District Administration Building Renovation*
- *San Jose Central Service Yard Master Plan*
- *Delta Diablo Sanitary District Space Study*

Winfield Maintenance Campus
Santa Clara Valley Water District, San Jose CA

Transportation and Transit

- *Santa Cruz METRO Pacific Transit Station*
- *C. Paul Bettini Transit Center*
- *SamTrans North and South Base Retrofit*
- *SamTrans North and South Base Electrification*
- *WestCat Bus Parking Site Expansion Study*
- *Santa Clara County PEV Readiness Study*
- *BART Castro Valley Station*
- *BART Colma Station*

Colma BART Station

Parks, Recreation, and Library

- *Dublin Cultural Arts Center*
- *Elk Grove Community Center at District56*
- *Fairfield Cordelia Library*
- *Elk Grove Library*
- *Granada Community Center*
- *Krusi Park Recreation Building*
- *San Bruno Recreation & Aquatic Center*
- *Westborough Park Picnic Shelter*
- *West Sacramento Community Center*
- *Belmont Barrett Community Center Conceptual Design*
- *Belmont Twin Pines Senior and Community Center*
- *Foster City Walker Recreation and Senior Center*
- *Millbrae Community Center*
- *San Bruno Recreation and Aquatic Center*
- *San José Roosevelt Community Center*
- *San Leandro Senior/Community Center*
- *San Rafael Albert J. Boro Community Center Expansion*

Boulevard Recreation Center, Dublin CA

Fire, Police, and Public Safety

- *Santa Clara County Fire Department Master Plan*
- *Scotts Valley Fire Facilities Master Plan*
- *San Jose Police Department Training Center/ Police Academy*
- *San Jose Fire Department Training Facility*
- *Burlingame Fire Station No. 34*
- *San Francisco International Airport Fire Station No. 2*
- *Menlo Park Police Station and City Hall*

San Francisco International Airport Fire Station No. 2

FIRM OVERVIEW

Profile

Bureau Veritas Technical Assessments LLC ("Bureau Veritas" or "BVTA") is a professional services consulting firm providing comprehensive architectural, engineering, energy, and environmental solutions. Our team includes over 700 building professionals nationwide, including Registered Architects, Professional Engineers, Certified Energy Managers, Project Managers, Environmental Professionals, Building Systems Consultants, and Code Compliance Experts.

Annually, Bureau Veritas conducts thousands of assessments for Multifamily, Commercial, Industrial, Government, and Educational clients. Having successfully completed billions of square feet of building assessments, we have developed a proven and efficient methodology for the performance of field assessments and data collection.

Bureau Veritas' recommendations are based on knowledge of property conditions, life-cycle analysis, regulations, and client objectives. Bureau Veritas' subject matter expertise and understanding of buildings, parks, and property sites forms the foundation on which we team with clients to create and implement facility and portfolio management solutions.

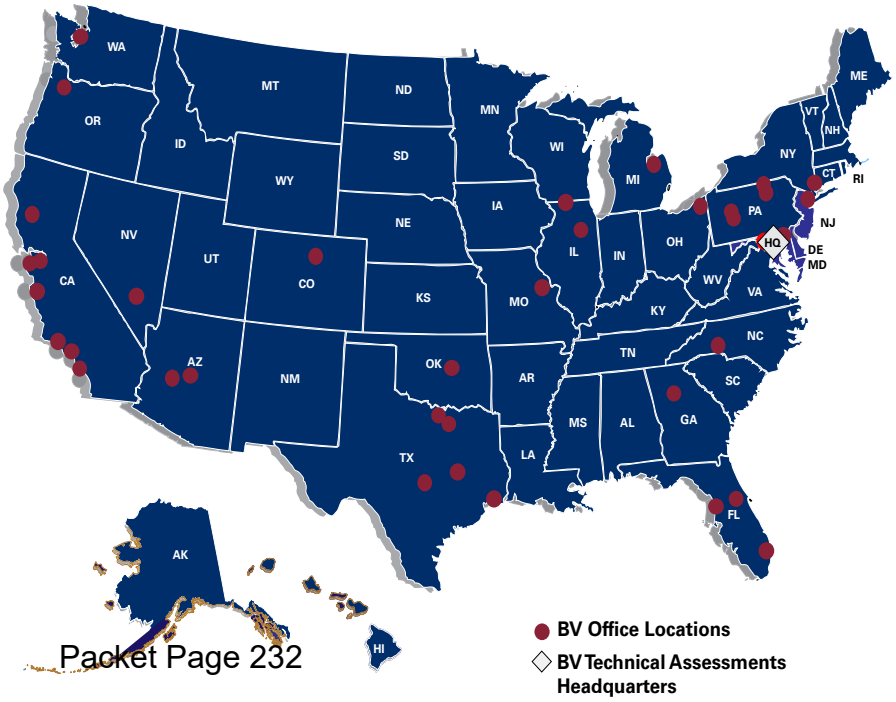
ASSET MANAGEMENT SERVICES

- Facility Condition Assessments
- Capital Planning Reports
- Accessibility Compliance
- Equipment and Asset Inventory
- Barcoding, QR Coding, and Tagging
- CMMS Consulting
- Preventive Maintenance Plans
- Space Analysis Studies
- Energy Audits and Modeling
- Commissioning (Cx and Rx)
- Construction Monitoring
- Project Management
- Plan and Document Review

What We Do

Company Information

Name of Company:	Bureau Veritas Technical Assessments LLC
Year Founded:	1986 (Parent: 1828)
Headquarters Address:	10461 Mill Run Circle, Suite 1100 Owings Mills, MD 21117
Regional Office:	220 Technology Drive Irvine, CA 92618
Primary Contact:	**Erik Piller** Senior Vice President
Telephone:	**(800) 733-0660, ext. 2704**
Email:	**erik.piller@bureauveritas.com**
Website:	bvna.com



BUREAU VERITAS

FIRM PROFLE

TEN OVER STUDIO

PUBLIC SAFETY DESIGN AND SERVICE – 40 YEARS IN THE MAKING

While TEN OVER STUDIO is relatively new, its Public Studio is the culmination of 40+ years of experience. Prior to forming TEN OVER, Jim Duffy and Candice Wong managed the Public Studio at another firm. Together, they successfully completed 150+ public sector projects. These projects include fire and police stations, fire administration and headquarters stations, fire training facilities, aviation facilities, maintenance and operations facilities, fueling stations, emergency operation centers, and communication centers.

In 2014, Jim and Candice teamed with Joel Snyder to form TEN OVER STUDIO, focusing on unrivaled design and the highest levels of client service. Headquartered in San Luis Obispo, our fresh, nimble, and energetic team provides architecture, landscape and interior design with all the technical experience and horsepower of a 40-year firm, wrapped in a package of sustainability and operations-based design.

The TEN OVER STUDIO team has been serving fire departments and municipalities with a deep understanding of fire operational needs and assessment skills to evaluate infrastructure, code, and systems deficiencies.

TEN OVER STUDIO has put together an experienced team of architects, engineers, and cost estimators for this project. These team members have extensive experience with building condition assessments and how to turn the data collected into systems and code-based analysis that lead to solutions for rehabilitation, expansion, or new construction.

YEARS IN OPERATION: 8

NUMBER OF EMPLOYEES: 42

YEAR FIRM WAS ESTABLISHED: 2014

FIRM PRINCIPALS:
Jim Duffy
Candice Wong
Joel Snyder
Julia Oberhoff
Jessie Skidmore

TEN OVER IS A STATE OF BEING

TEN OVER reflects our firm's philosophy and our goal of giving 110% in everything we do. We strive to lead by example, go the extra mile, take responsibility and do the right thing, even when no one is looking.

Just like our clients, we believe in "we before me." We know working as a team improves everything we do. We go out of our way to help others succeed; we understand that listening, humility and empathy are some of our greatest tools.

TEN OVER STUDIO IS DIFFERENT

We are architects, landscape architects and interior designers whose passion is to think outside the box. When we design, we offer thoughtful, honest solutions with an emphasis on sustainability; those qualities come through in our work.

TEN OVER TREADS LIGHTLY

By utilizing common materials in uncommon ways, our spaces surprise and inspire. As a Certified B Corp, we use our business as a force for good, reinforcing our mission to leave the world a better place than we found it.

tbd consultants
more value, less risk

CONTACT US

San Francisco, CA
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San Francisco, CA 94111
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Fax: (415) 981-9434

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Redmond, WA 98052
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Los Angeles, CA
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Los Angeles, CA 90028
Phone : (424) 343-2652

Dublin, Ireland
78 Heathervue,
Greystones, Wicklow, A63Y997
Phone : +353 86-600-1352

WEBSITE:
www.tbdconsultants.com

EMAIL:
info@tbdconsultants.com

OUR PROFILE

We are a certified small business enterprise dedicated to the provision of excellence in construction cost management and project management services to owners and their professional consultants.

We specialize in developing construction cost estimates based on the most conceptual information as well as the detailed and complex later stages of design. We are also expert in project delivery, schedule analysis, and project controls services.

Our clients rely on our ability to provide them with defensible and reliable information at all stages of their project. They also depend on our expertise to control time and budget and manage risks throughout the project, from inception to completion.

OUR PROJECT & COST MANAGEMENT EXPERIENCE

- Cost Management
- Project Management
- Project Controls
- Scheduling
- Constructability Reviews
- Claims Settlement
- Dispute Resolution
- Quantity Surveys/Audits

OUR PROJECT EXPERIENCE

- Health Care Facilities
- K-12 & Higher Education Facilities
- Research Laboratories
- Hi-Tech Office Facilities & Data Centers
- Multi-Family & Luxury Residential
- Hospitality & Entertainment Facilities
- Aviation Facilities
- Museums & Art Galleries
- Commercial Office Buildings
- Industrial & Manufacturing Facilities

AQUATIC DESIGN GROUP

Since 1984, Aquatic Design Group has worked with clients from around the globe to help bring their dreams to reality. This experience has resulted in quality, efficient design solutions that lead to projects delivered on time and on budget. We have worked on projects of all shapes and sizes in 44 states and 25 countries around the world. We specialize in all types of water including competitive, recreation and leisure pools, resort hotel pools, aquatic therapy / wellness facilities, and fountains/ decorative water features such as lakes, streams, cascades, lagoons, and waterfalls.

Aquatic Design Group sets the standard for quality swimming pool and water feature architectural, structural, mechanical, and electrical design and consulting services within the aquatics industry. We are dedicated and committed to providing the highest possible level of customer satisfaction delivered in a professional manner by a team of talented individuals who simply love what they do.

Our staff includes, among others: a third-generation pool designer; a former distributor of pool equipment and chemicals; an All-American swimmer; and a pool contractor with more than 28 years' experience building pools. We are a highly trained group of talented designers, project managers, technicians, and administrative staff, all guided by a passion for aquatic facilities and those who experience them.

Plain and simple: we love what we do, and we do it well. Our drive to be innovative combined with our commitment to work with the entire team helps deliver projects that are unique, special, sustainable, and stand the test of time. Our ideas have helped our clients implement aquatics with a view toward streamlined approaches, appropriate application of technology, and continuous improvement.

SERVICES OFFERED

- Full Design Services – New Construction
- Energy Efficiency Assessments
- Facility Expansion and Renovation Design
- Preliminary Construction Cost Estimates
- Facility Assessments
- Preliminary Operating Cost Estimates
- Programming / Master Planning
- Peer Review
- Feasibility Studies
- Commissioning
- Revenue Enhancement Studies
- AFO / CPO Training

GROUP 4

ARCHITECTURE
RESEARCH +
PLANNING, INC

211 LINDEN AVENUE
SO. SAN FRANCISCO
CA 94080 USA
T: 650.871.0709

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACTUAL SERVICES AGREEMENT WITH GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC. AND APPROVING AN AMENDMENT OF THE BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN TO PROVIDE ADDITIONAL FUNDING FOR THE CITYWIDE FACILITIES MASTER PLAN, PROJECT 1274

WHEREAS, development of a Citywide Facilities Master Plan, Project 1274 ("the Project") was approved as part of the 2020-2022 Biennial Budget and Capital Improvement Plan; and

WHERAS, $100,000 was allocated from the Community Development Maintenance Fund to fund the Project; and

WHEREAS, staff issued a Request for Proposal (RFP) for consultant services for the Project; and

WHEREAS, the City received four (4) responsive submittals to the RFP; and

WHEREAS, based on staff's evaluation, Group 4 Architecture Research + Planning, Inc was determined to be the most qualified firm for the Project; and

WHEREAS, Group 4 Architecture Research + Planning, Inc's. costs associated with the Project are not-to-exceed $248,800; and

WHEREAS, staff recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan appropriating an additional $148,800 from the Community Development Maintenance Fund (625) to the Project.

NOW THEREFORE, BE IT RESOLVED that the City Council herby authorizes the City Manager to execute the Contractual Services Agreement, attached hereto, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council of the City of Newark hereby approves an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan by appropriating $148,800 as follows:

FROM:

Description	Account	Amount
Community Development Fund Balance	625.3000	$148,800

TO:

Description	Account	Amount
CIP Project 001274 Citywide Facilities Master Plan	610.90.094.6220.CIP001274	$148,800

CITYWIDE FACILITIES MASTER PLAN

GROUP 4 ARCHITECTURE PLANNING + RESEARCH, INC.

WITH

BUREAU VERITAS TECHNICAL ASSESSMENTS

TEN OVER STUDIOS

AQUATIC DESIGN GROUP

TBD CONSULTANTS

Process and Approach

- Facility Conditions Assessment
- Future Space Needs
- Community Engagement
- Alternative Facilities Options
- Cost Estimates and Implementation
- City Council Input and Approval

Schedule

Fall/Winter 2022	Spring 2023	Summer 2023	Fall 2023
FACILITY CONDITION ASSESSMENT			
	FUTURE SPACE NEEDS		
		ALTERNATIVE FACILITY OPTIONS	
		COST ESTIMATES AND IMPLEMENTATION	
Community Engagement	★	★	
City Council		▲	▲

STAFF REPORT

Item F. 2.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Roya Gonzalez, Administrative Analyst
SUBJECT	Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Gail M. Goldman Associates for the update of the 2001 Public Art Master Plan and approving an amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan.

SUMMARY AND RECOMMENDATION

In 2001, City Council approved the Public Art Master Plan (attached) that is in need of an update, including the 5-year Project Plan. The Request for Proposals (RFP) process is now complete, and staff recommends that City Council authorize the City Manager to execute a Contractual Services Agreement with Gail M. Goldman Associates in the amount not-to-exceed $85,000 for the update to the Public Art Master Plan and amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $85,000 from the Art in Public Places Fund to fund this agreement.

BACKGROUND

In 1992, the City Council adopted a series of resolutions to create an Art in Public Places and Private Development Program, establish a nexus between private development and a public art impact fee, and to set the Art in Public Places and Private Development Fee for new residential, office, light manufacturing, and high technology development. The program set forth basic goals and parameters for the expenditures of the fee, including a list of target sites for public artwork. This program also called for the creation of the Public Arts Master Plan to guide the future art fee expenditures and strengthen the overall program. In 2001, the City Council adopted the Plan, including the 5-year Public Arts Projects Plan. It has been 20 years since adoption, and the plan is in need of an update.

DISCUSSION/ANALYSIS

The adopted Public Art Master Plan includes five (5) goals, each of which contains several program objectives. The most significant goal objective is the development of the 5-year Public Art Projects Plan. The 5-Year Public Arts Project Plan will analyze public art opportunities for the City and determine which projects best achieve the goals of the Public Art Master Plan and, should therefore, be brought before City Council for review and approval.

The full list of goals are as follows:

1. Approach the entire City as a canvas for public art.
2. Cultivate public art audiences and community support.
3. Develop projects in which public art can play a role in achieving other community-building goals and objectives.
4. Establish a formal structure for the Public Art Program.
5. Encourage art that is accomplished, and which maintains professional standards commensurate with the region's national standing as a center for arts and culture.

The 5-Year Public Art Projects Plan has not been updated since its adoption in 2001. Because the majority of the projects listed have not been completed and the landscape and demographics of the City have evolved over the last 20 years, it is imperative to update the plan, so the projects recommended reflect the wishes of the community before moving forward with the procurement and installation of any public art. The existing Public Art Master Plan requires all public art projects, including temporary public arts projects, be defined in this plan.

In addition to the updates to the 5-Year Project Plan, the consultant will review and recommend and necessary changes to the procurement and maintenance procedures to ensure that the City is using the best industry practices for the procurement and maintenance of public art. The consultant will also make recommendations for the administration of the Public Art Master Plan.

In September 2022, staff issued a Request for Proposals (RFP) for consultant services for the update of the Public Art Master Plan. The City received one (1) proposal from Gail M. Goldman Associates with Art Builds Community. Staff from the City Manager's Office and Community Development reviewed the proposal and interviewed potential project staff from Gail M. Goldman Associates with Art Builds Community. Staff determined the firm was well qualified to provide the requested scope of work. After negotiations with the consultant, a not-to-exceed cost of $85,000 was agreed upon.

Use of the restricted Art in Public Places Fund is available for the Public Art Master Plan update and related costs, and may also be used to implement projects identified in the Public Art Master Plan. The fees collected for the Art in Public Places fund may not be used for any other purpose.

FISCAL IMPACT

There is no impact to the operational budget. Staff requests authorization to amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $85,000 from the Art in Public Places Fund to fund this agreement.

REVIEW AND APPROVAL

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

Attachments

Resolution
Contractual Service Agreement
Public Art Master Plan
Presentation

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACTUAL SERVICES AGREEMENT WITH GAIL M. GOLDMAN ASSOCIATES AND AUTHORIZING AN AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN TO PROVIDE FUNDING FOR THE PUBLIC ART MASTER PLAN UPDATE

WHEREAS, City Council established an Art in Public Places Fund in 1992 for new construction to contribute to the creation of art in public places and private development in a manner that will offset the impacts of the urbanized society; and

WHEREAS, City Council approved a Public Art Master Plan in 2001 to enhance the City of Newark's visual and cultural environment with the provision of art in publicly visible areas; and

WHEREAS, the Public Art Master Plan has not been updated since its adoption; and

WHEREAS, staff issued a Request for Proposal (RFP) for consultant services for an update to the Public Art Master Plan; and

WHEREAS, the City received one (1) responsive submittal to the RFP; and

WHEREAS, based on staff's evaluation, Gail M. Goldman Associates was determined to be a qualified firm for the Project; and

WHEREAS, Gail M. Goldman Associates' costs associated with this Project are not-to-exceed $85,000; and

WHEREAS, staff recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan appropriating $85,000 from the Art and Public Places Fund (626) to provide funding for the Public Art Master Plan Update.

NOW THEREFORE, BE IT RESOLVED that the City Council herby authorizes the City Manager to execute the Contractual Services Agreement, attached hereto, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council of the City of Newark hereby authorizes an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan by appropriating $85,000 as follows:

FROM:

Description	Account	Amount
Art in Public Places Fund Balance	626.3000	$85,000

TO:

Description	Account	Amount
Art in Public Places Contractual Services	626.20.020.200.6221	$85,000

CONTRACTUAL SERVICES AGREEMENT

CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this day of NOVEMBER, 2022 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and GAIL M. GOLDMAN, a Limited Liability Company ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including: an update to the Public Art Master Plan.

WHEREAS, in response to City's request, Consultant submitted a proposal and, after negotiations, Consultant agreed to perform the Services more particularly described in Exhibit "A" ("Services"), in return for the compensation described in this Agreement and Exhibit "B".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in Exhibit "C", City finds that Consultant has demonstrated the requisite qualifications, experience, training, and expertise to perform the requested Services.

NOW, THEREFORE, the Parties hereto agree as follows:

1. CONSULTANT'S SERVICES. Consultant shall perform Services described, and in the time, place, and manner specified in Exhibit "A" in accordance with the terms and conditions of this Agreement. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit "A", the Agreement shall control.

2. TIME FOR PERFORMANCE. Time is of the essence in the performance of Services under this Agreement and Consultant shall generally adhere to the schedule set forth in Exhibit "A"; provided, that City shall grant reasonable extensions of time for the performance of such Services occasioned by governmental reviews of Consultant's work product or other unavoidable delays occasioned by circumstances, provided, further, that such unavoidable delays shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Consultant.

Consultant acknowledges the importance to City of City's performance schedule and agrees to put forth its best professional efforts to perform its Services under this Agreement in a manner consistent with that schedule. City understands, however, that Consultant's performance must be governed by sound professional practices.

3. COMPENSATION.

A. "Not to Exceed" Compensation. City shall compensate Consultant for all Services performed by Consultant hereunder in an amount based upon Consultant's hourly or other rates set forth in Exhibit "B". The payments specified in Exhibit "B" shall be the only payments to be made to Consultant for Services rendered pursuant to this Agreement.

Notwithstanding the foregoing, the combined total of compensation and costs payable hereunder shall not exceed the sum of eight-five thousand and No/100 Dollars ($85,000.00) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by City, evidenced in writing authorizing such additional amount.

B. Method of Billing. To request payment, Consultant shall submit monthly invoices to City identifying Services performed and the charges therefore (including an identification of personnel who performed Services, hours worked, hourly rates, and reimbursable expenses), based upon Consultant's billing rates (set forth on Exhibit "B" hereto).

Consultant shall submit all billings for said Services to City in the manner specified in Exhibit "B"; or, if no manner is specified in Exhibit "B", then according to the usual and customary procedures and practices which Consultant uses for billing clients similar to City.

Invoices shall be sent to:

City of Newark
Attn: Roya Gonzalez
37101 Newark Blvd.
Newark, CA 94560

Upon completion of Services, City shall sign off and acknowledge that all terms and conditions have been satisfactorily met; upon which, unless waived by City in writing, Consultant shall prepare an itemized statement, briefly describing by task and/or labor category the items billed.

C. Payment. Upon receipt of an invoice, City shall make payments to Consultant on a monthly basis, or at such other times as may be specified in Exhibit "B", for Services, which are performed in accordance with this Agreement to the satisfaction of City.

D. Consultant's Failure to Perform. In the event that Consultant performs Services that do not comply with the requirements of this Agreement, Consultant shall, upon receipt of written notice from City, re-perform the services (without additional compensation to Consultant). If Consultant's failure to perform in accordance with this Agreement causes damages to City, Consultant shall reimburse City for the damages incurred (which may be charged as an offset to Consultant's payment).

4. ADDITIONAL SERVICES. In the event City desires the performance of additional services not otherwise included within Services, such services shall be authorized by written task order approved in advance of the performance thereof. Such task order shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefore, the time of performance thereof, and such

other matters as the Parties deem appropriate for the accomplishment of such services. Except to the extent modified by a task order, all other terms and conditions of this Agreement shall be deemed incorporated in each such task order.

5. INDEPENDENT CONSULTANT. At all times during the term of this Agreement, Consultant shall be, and is an independent consultant and shall not be an employee or agent of City. Consultant shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's Services; however, City shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement.

Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

6. PERSONNEL. Consultant understands that, in entering into this Agreement, City has relied upon Consultant's ability to perform in accordance with its representations regarding the qualifications of Consultant, including the qualifications of its Authorized Representative, its designated personnel, and its Subconsultants, if any, identified in Exhibit "C". Therefore, Consultant shall not replace its Authorized Representative, or any of the designated personnel or Subconsultants identified in Exhibit "C", without the prior written consent of City. All Services shall be performed by, or under, the direct supervision of Consultant's Authorized Representative.

Consultant agrees to include with all Subconsultants in their subcontract the same requirements and provisions of this Agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subconsultant's work. Subconsultants hired by Consultant agree to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under this Agreement. Subconsultant further agrees to include these same provisions with any Sub-subconsultant. A copy of this Agreement's Indemnity and Insurance provisions will be furnished to the Subconsultant upon request. The Consultant shall require all Sub-subconsultants to provide a valid certificate of insurance and the required endorsements included in this Agreement prior to commencement of any Services and will provide proof of compliance to the City.

In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any of Consultant's designated personnel or Subconsultants, Consultant shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.

7. RESERVED.

8. INFORMATION AND DOCUMENTATION.

A. Information from City. City has made an effort to provide Consultant with all information necessary for Consultant's performance of Services. If Consultant believes additional information is required, Consultant shall promptly notify City and City will provide to Consultant all relevant non-privileged information in City's possession.

B. Consultant's Accounting Records. Consultant shall maintain all accounting records related to this Agreement in accordance with generally accepted accounting principles and state law requirements, and in no event for less than four (4) years. Consultant's accounting records shall include, at a minimum, all documents which support Consultant's costs and expenses related to this Agreement, including personnel, subconsultants' invoices and payments, and reimbursable expenses. Consultant's accounting records shall be made available to City within a reasonable time after City's request, during normal business hours.

C. Ownership of Work Product. All original documents prepared by Consultant (including its employees and subconsultants) for this Agreement ("Work Product"), whether complete or in progress, are the property of City and shall be given to City at the completion of Consultant's Services, or upon demand of City. Consultant shall have a right to make and keep copies of the Work Product except for any confidential information. Consultant shall not reveal the Work Product in progress without prior consent of City.

9. CONFLICTS OF INTEREST PROHIBITED. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. Consultant shall comply with all requirements of the Political Reform Act (California Government Code Section 81000, *et seq.*) and other laws relating to conflicts of interest, including: (a) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on Consultant's economic interest, and (b) if required by law, Consultant shall file financial disclosure forms with the City Clerk. If Consultant maintains or acquires a conflicting interest, any contract with City (including this Agreement) involving Consultant's conflicting interest may be terminated by City.

10. NONDISCRIMINATION. Consultant shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Consultant shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, sex, age, or any other basis, as defined in California Civil Code Section 51.

11. COMPLIANCE WITH LAW AND STANDARD OF CARE. Consultant shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly stated in this Agreement. Consultant shall perform Services using a standard of care equal to, or greater than, the degree of skill and diligence ordinarily used by reputable professionals, with a level of experience and training similar to Consultant, performing under circumstances similar to those required by this Agreement.

12. RESERVED.

13. RESERVED.

14. INSURANCE. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may

arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. <u>Verification of Coverage</u>.

Consultant shall furnish City with original certificates of insurance and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences.

Proof of Insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City Risk Manager:

CITY OF NEWARK
Attn: Risk Manager
37101 Newark Boulevard
Newark, CA 94560

City reserves the right to require and obtain complete, certified copies of all required insurance policies and endorsements at any time. Failure to exercise this right at any time shall not constitute a waiver of right to exercise later. Consultant shall immediately furnish City with certificates of renewal for each policy that is renewed during the term of this Agreement.

B. <u>Minimum Scope of Insurance</u>.

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and

2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and

C. <u>Minimum Limits of Insurance</u>.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the

broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

1. General Liability: (including products and completed operations, property damage, bodily injury, and personal and advertising injury)	**$2,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:	**$1,000,000** per accident for bodily injury and property damage.
3. Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
4. Errors and Omissions Liability:	**$1,000,000** per occurrence or claim; $2,000,000 aggregate.

D. <u>Deductibles and Self-Insured Retentions</u>.

Any deductibles or self-insured retentions must be declared to and approved by the City Risk Manager. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its officers, officials, directors, employees, contractors, agents, and volunteers, or (2) Consultant shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses in an amount specified by the City Risk Manager or designee.

E. <u>Claims Made Policies</u>.

For all "claims made" coverage, in the event that Consultant changes insurance carriers Consultant shall purchase "tail" coverage or otherwise provide for continuous coverage covering the Term of this Agreement and not less than five (5) years thereafter. Proof of such "tail" or other continuous coverage shall be required at any time that the Consultant changes to a new carrier.

F. <u>Wasting Policies</u>.

No policy required by this paragraph 14 shall include a "wasting" policy limit (ie. limit that is eroded by the cost of defense).

G. <u>Remedies</u>.

In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

2. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

3. Terminate this Agreement.

H. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City Risk Manager. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

I. Other Insurance Provisions.

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insureds. City, its officers, officials, directors, employees and volunteers ("Additional Insureds") are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant; including materials, parts or equipment furnished in connection with such work or operations.

2. Primary Coverage. For any claims related to Services, Consultant's insurance coverage shall be primary insurance as respects City, its officers, officials, directors, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, directors, employees, or volunteers shall be excess of Consultant's insurance and shall not be contribute with it. Consultant's policy will not seek contribution from the City's insurance or self-insurance.

3. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled during the term of this Agreement without notice to City.

4. Civil Code § 2782. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.

5. Deductibles and Self-Insured Retentions (SIR). All deductibles and self-insured retentions must be disclosed to the City Risk Manager for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

6. Subconsultants. Consultant shall include all subconsultants as insureds under its policies or shall require and verify separate certificates and endorsements have been obtained for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

7. Waiver of Subrogation. With respect to Workers' Compensation and Employer's Liability Coverage, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, directors, employees, and volunteers for losses arising from work performed by Consultant for City.

8. Coverage is Material Element. Maintenance of proper insurance coverage in conformity with the provision of this paragraph 14 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

9. Variation. The City Risk Manager may approve a variation in these insurance requirements upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available or that City's interests are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

15. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 19, herein below) a written report (in a form acceptable to City) with the following information: (a) name(s) and address(es) of the injured or deceased person(s), (b) name(s) and address(es) of witnesses, (c) name(s) and address(es) of Consultant's insurance company(ies), and (d) a detailed description of the damage(s) and whether any City property was involved.

16. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subconsultants. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

In the event that Consultant or any employee, agent, or subconsultant of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by City immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Consultant from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

The review, acceptance or approval of Consultant's work or work product by any indemnified party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This paragraph survives completion of Services or the termination of this contract. The provisions of this paragraph are not limited by and do not affect the provisions of this contract relating to insurance.

Consultant/Subconsultant's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

17. <u>LICENSES, PERMITS, ETC</u>. Consultant represents and warrants to City that it has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. In addition to the foregoing, Consultant shall obtain and maintain during the term hereof a valid City of Newark Business License.

18. <u>TERM/TERMINATION</u>.

A. The term of this Agreement shall commence upon the date first hereinabove written and shall expire upon completion of performance of Services hereunder by Consultant.

B. Notwithstanding the provisions of paragraph 18 Section A above, City may terminate this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon thirty (30) days' written notice to City and shall include in such notice the reasons for cancellation. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

19. CONTRACT ADMINISTRATION. This Agreement shall be administered by **ROYA GONZALEZ, ADMINSTRATIVE ANALYST** of the City of Newark ("Administrator"). All correspondence shall be directed to or through the Administrator or his/her designee.

20. NOTICES. Written notices required or convenient hereunder shall be delivered personally or by depositing the same with the United States Postal Service, first class (or equivalent) postage prepaid and addressed, in the case of Consultant, to:

GAIL M. GOLDMAN ASSOCIATES	**CITY OF NEWARK**
GAIL M. GOLDMAN	ROYA GONZALEZ
Consultant	**Administrator**
Address: 7660 FAY AVENUE SUITE H PMB 330 LA JOLLA, CA 92037	City of Newark Attn: Roya Gonzalez 37101 Newark Boulevard Newark, CA 94560

21. PARAGRAPH HEADINGS. Paragraph headings used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

22. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

23. SEVERABILITY. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement.

24. GOVERNING LAW, JURISDICTION, AND VENUE. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

25. ATTORNEY'S FEES. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

26. ASSIGNABILITY. Neither Consultant nor City shall subconsult, assign, sell, mortgage, hypothecate, or otherwise transfer their respective interests or obligations in this Agreement without the express prior written consent of the non-transferring party.

27. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

28. WAIVERS. Waiver of breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

29. ENTIRE AGREEMENT. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the Parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

30. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

31. COVENANT AGAINST CONTINGENT FEES. Consultant hereby warrants that Consultant has not employed or retained any company or person, other than a *bona fide* employee working for Consultant, to solicit or secure this Agreement, and Consultant has not paid or agreed to pay any company or person, other than a *bona fide* employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, City shall have the right to annul this Agreement without liability or, at City's discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF NEWARK, a municipal corporation	GAIL M. GOLDMAN ASSOCIATES, a Limited Liability Company
By _____ City of Newark	By _____ Consultant
Date _____	Date _____

_____
Printed Name

Attest:

_____
City Clerk

Date _____

Approved as to form:

_____
City Attorney

Date _____

EXHIBIT A

Gail M.Goldman associates
PUBLIC ART PLANNING
& PROJECT DEVELOPMENT

7660 FAY AVENUE · SUITE H · PMB 330 · LA JOLLA, CA · 92037 · TEL 858.490.9270 · FAX 858.490.1200 · email gail@gmgassoc.com

CITY OF NEWARK, CA
PUBLIC ART MASTER PLAN UPDATE

Gail M. Goldman Associates and Art Builds Community
October 26, 2022

UPDATED SCOPE OF WORK, SCHEDULE, AND COSTS NTE $85,000

NOTE: *The following steps may be concurrent and all are interrelated. The range in the proposed timeline acknowledges the capacity of the consultant team to complete the proposed scope of work, augmented by an estimated amount of time the City of Newark may need to review and respond to the consultant team deliverables. The estimated project costs are inclusive of travel, materials, graphic design, and overhead.*

A. Project Initiation and Research

NTE $16,000

- Meet with City Manager's Office to refine scope of work, timeline, and outreach strategies.
- Meet with appropriate City departments to discuss their vision and goals for public art, City protocols, and organizational structure among other topics.
- Assess Newark's existing public art.
- Review the 2001 Public Art Master Plan and other community and urban design plans, and policies and procedures related to placement of art on City and private property.
- In consultation with City staff, identify and invite potential PAMP Steering Committee members to participate in the planning process.
- Develop community outreach strategy.
- Make presentations to City Manager's Office, PAMP Steering Committee, and City Council members as appropriate.

Deliverable: *Work Plan including timeline; draft statement of goals and objectives, and refined outreach strategy.*

Timeframe: *8-10 weeks*

B. Community Outreach and Public Participation

NTE $39,000

Needed from the City: *Introductions to City staff, policy makers, and other key stakeholders; assistance in securing venues and equipment for interviews, focus group meetings, and outreach activities; and media support for public notifications and updates.*

- Interview select internal City department staff to identify opportunities for including art in City projects and in private development.
- Interview up to 10 key stakeholders to hear their ideas about how art can enhance Newark's public realm.
- Conduct 3-4 PAMP Steering Committee meetings to explore public art goals and opportunities.
- Conduct up to eight focus group meetings to discuss public art goals and opportunities, including artists, arts organizations, business owners/tenants, youth, neighborhood associations, educators, and historians among others.
- Conduct several activity-based community outreach events to solicit community input on public art, including artist-led community engagement, social media campaign, and online survey, among others.

Deliverable: *Written summary of emerging themes, draft goals and objectives, and draft recommendations.*

Timeframe: *16-20 weeks*

C. Development of Draft and Final Public Art Master Plan Update

NTE $30,000

- Based on feedback received, develop draft public art plan that includes:
  - Goals and Objectives.
  - Potential public art locations and opportunities.
  - Updated five-year Action Plan including priority projects, implementation strategies, sites, budgets, and appropriate types of artwork.
  - Updated administrative guidelines and procedures, including artist and artwork selection and approval processes.
  - Update of policies and procedures.
  - City funding strategies and staffing needs.
  - Partnership and external funding opportunities.
- Review draft plan with City staff and PAMP Steering Committee.
- Present draft plan to City Council for input.
- Revise draft plan based on feedback.
- Present revised plan for approval by City Council.

Deliverable: *Draft and final plans.*

Timeframe: *16-22 weeks*

EXHIBIT B

PAYMENT

The Consultant team will bill on a monthly basis, based of the percent of each task completed for an amount to exceed $85,000.

Task A: Project Initiation and Research	$16,000
Task B: Community Outreach and Public Participations	$39,000
Task C: Development of Draft and Final Public Art Master Plan Update	$30,000
Total Compensation not-to-exceed:	**$85,000**

B. Key Personnel

Gail Goldman will lead the City of Newark public art master plan team, serving as Project Manager and key contact.

Gail Goldman is a consultant specializing in public art planning, policy development, and project management for government agencies, non-profit organizations, and private developers. On a national, state, and regional level, Goldman has conducted 30 city, county, and transportation-related public art master plans that include policy and legislative analysis, development of administrative guidelines, identification of artwork locations and project goals, artist selection methodology, project implementation, and community engagement.

In addition, Goldman provides expert services in project management for a variety of public art and community engagement initiatives in the public and private sectors. These range from the extensive art collection at The County of San Diego Operations Center, multiple artworks integrated into the Southwest Terminal at Oakland International Airport, and, in partnership with Elwood & Associates, the planning and artist selection for the 298-acre Los Angeles Sports and Entertainment District in Inglewood, CA that houses SoFi Stadium.

Prior to establishing Gail M. Goldman Associates in June 2000, Goldman was the founding director of the Public Art Program for the City of San Diego and the director of the Art in Public Places Program for the State of Colorado. She began her career in the Design Program at the National Endowment for the Arts in Washington, DC.

Goldman co-founded the Public Art Network (PAN) in Washington, DC, and served as a member of the inaugural PAN Council. She helped establish the National Task Force on Public Art for the National Assembly of Local Arts Agencies (now Americans for the Arts) and served as its first chair. She is the founder and past chair of the Public Art Coalition of Southern California (PAC/SoCal) and recently helped establish Public Art Exchange, a national cohort of artists, designers, and public art professionals.

Barbara Goldstein will be primarily responsible for developing key themes, organizational structure, and funding strategies.

Barbara Goldstein is the founder of Art Build Community, a consulting firm that focuses on creative placemaking and public art planning. She is the former Public Art Director for the City of San Jose Office of Cultural Affairs and editor of Public Art by the Book, a primer published by Americans for the Arts and the University of Washington Press. Goldstein has directed the public art programs in Seattle and Los Angeles, worked as a cultural planner, architectural and art critic, editor, and publisher. She has lectured and participated in workshops on public art in the United States, Japan, China, Taiwan, Korea, Canada the Netherlands and Abu Dhabi. She is past chair of the Public Art Network for Americans for the Arts.

Goldstein has consulted with cities, developers and public agencies including Bay Area Rapid Transit (BART); Chattanooga, TN; Fort Worth, TX; Glendale, CA; Palo Alto CA; Orlando, FL; Pasadena, CA;

Pittsburgh, PA; Charlotte, NC; Las Vegas, NV; Belmont, CA, Livermore, CA, Contra Costa County, and San Jose, CA. In 2013, she led a series of webinars entitled Creative Placemaking and Public Art for Americans for the Arts.

Goldstein has written extensively about public art and architecture and was editor and publisher of Arts + Architecture magazine from 1980 to 1985. She has served on the Board of Directors for ArtSpace and Friends of the Schindler House and the Advisory Board for Forecast Public Art. She was a former board chair for ZERO1: The Art and Technology Network and currently serves as a Board member of MACLA, Movimiento de Arte y Cultural Latino Americana. In 2015 Goldstein was a Fellow in Stanford University's Distinguished Careers Institute where she also served as Scholar in Residence for the School of Chemical and Systems Biology.

Amanda Rawson will be primarily responsible for communications and identifying and assessing potential locations and opportunities for workshops and popup events.

Amanda Rawson has participated in the cultural art sector for more than ten years. She joined Art Builds Community in 2019. She has worked as the Major Gifts Officer for the San Jose Museum of Art and the Donor and External Relations Manager at the San Jose Museum Quilts & Textiles. Rawson's background in art history, development, and program management enables her to create space to bring community together. She is a 2017 Fellow of the Emerging Arts Professionals Bay Area, recent chair of genArts Silicon Valley, served on the boards for Local Color in San Jose and the Triton Museum of Art in Santa Clara and is a core founder of the local arts advocacy group San Jose Arts Advocates. She is currently a member of the Exhibition and Collections Committees at the San Jose Museum of Quilts and Textiles.

Quynh-Mai Nguyen will be primarily responsible for community outreach and managing the marketing, social media, and outreach efforts.

Quynh-Mai Nguyen is a social practice artist, poet, musician, curator, community organizer, and event producer leading projects that focus on storytelling and building cultural awareness around the narratives of women, people of color, and underrepresented minority groups. In 2018, KQED Arts Bay Brilliant named her one of 10 recognized movement builders for the arts and culture in the Bay Area. She was honored as San Jose's 8 80 Emerging City Champion, a national leadership network of civic community changemakers make a difference in their hometown.

Quynh-Mai has worked as executive event producer for Sonido Clash Music Fest, All-Womxn's Showcase, art director and graphic designer for Kooltura Marketing, producer and marketing consultant for SV De-Bug, and web/graphic designer for the County of Santa Clara Office of LGBTQ Affairs. She produces intimate to large-scale cultural arts and music events and art exhibitions that nurture emerging artists and showcase their work in public spaces such as local businesses, coffeeshops, and cultural venues. She also is an alumnus to the Multicultural Arts Leadership Institute, a leadership network and program for artists and arts administrators of color.

Gail M.Goldman associates
PUBLIC ART PLANNING
& PROJECT DEVELOPMENT

ur

7660 FAY AVENUE · SUITE H · PMB 330 · LA JOLLA, CA · 92037 · TEL 858.490.9270 · FAX 858.490.1200 · email gail@gmgassoc.com

PUBLIC ART MASTER PLANNING
Long-term public art strategic master plans that identify potential permanent, temporary, and performative sites, opportunities, and goals for public artwork; detail operational and funding strategies; address maintenance, community engagement and education; identify sustainable staffing and funding mechanisms; define artist and artwork selection methods and criteria; establish systems, procedures, and policies that support public art efforts with both internal and external partners; address potential community partnerships and funding partners. A partial list of clients appears below.

MUNICIPALITIES

- **South San Francisco,** *Current*
- **Santa Monica**, 2019
- **Chattanooga**, 2019
- **Palmdale,** 2019
- **Richmond,** VA, 2018
- **Palo Alto,** 2016
- **Oklahoma City, 2015**
- **Claremont,** CA, 2014
- **West Hollywood**, CA, 2011
- **Calgary,** Alberta, 2009
- **San Antonio**, 2007
- **Pasadena**, CA, 2007
- **Chapel Hill,** NC, 2006

TRANSPORTATION

- **Austin-Bergstrom** International Airport, 2018
- **San Diego** International Airport, 2012
- **Los Angeles** Metro Gold Line, 2009
- **San Jose** International Airport, 2004
- **Port of Oakland**, 2002

AREA SPECIFIC PROJECT PLANS
Project-specific master plans that identify opportunities, site issues, and criteria for artist selection and placement of public art. A partial list of clients appears below.

- **County of San Diego Operations Center**, 2014
  Subconsultant to Lowe Enterprises Real Estate
- **San Diego Horton Plaza**, 2012
- **Centre City Downtown Neighborhood Design Guidelines**, San Diego, 2009
  Subconsultant to Perkins + Will
- **Measure DD: Lake Merritt, Channel, and Oakland Estuary**, CA, 2005 and 2007
- **Three Rivers Park**, Pittsburgh, 2005
- **Town Lake Park**, Austin, TX, 2002
- **Horton Plaza Improvement Project**, San Diego, 2012
  Subconsultant to Walker-Macy

COMPREHENSIVE PROJECT PLANNING & IMPLEMENTATION
A comprehensive public art planning process involving regular meetings with the developer, officials, staff, community residents, and other multiple project stakeholders to tailor a public art program to the specific needs and requirements of the client and users. Includes review and analysis of architectural and landscape plans, siting and scripting of art opportunities, determination of artwork project budget, and criteria for artist selection.

Project Implementation includes identification and solicitation of qualified artists, contract preparation, oversight of the design, fabrication, and installation of site-specific artwork, coordination with the project design team and contractors, and organization of media information.

Los Angeles Stadium and Entertainment District (Lased) At Hollywood Park, 2018-2021
Kroenke Sports & Entertainment (KSE)

- Responsible for the creation of a comprehensive campus-wide public art plan and subsequent project implementation for the $5B, 298-acre, multi-phase, multi-purpose development in Inglewood, CA that is transforming the site of the former Hollywood Park Racetrack. Project elements include, but are not limited to, a new 70,200-seat Rams and Chargers Stadium, 6,000-seat indoor performance venue, 12-acre central park with a 7.5-acre lake, retail, residential, hotels, offices, retail, and NFL Media Headquarters.

- The $38M public art budget complies with the City of Inglewood's percent for art in private development ordinance. In partnership with Elwood & Associates, accountable for commissioning artwork for the outdoor public areas and indoor performance venue with an emphasis on global and Inglewood-based artists. Includes oversight of a Curatorial Advisory Committee and studio visits with 46 Inglewood-based artists.

County of San Diego Operations Center, 2009-2012
Lowe Enterprises Real Estate

- Developed and implemented a comprehensive public art project plan for the new 47-acre administration center in Kearny Mesa. The $1.8M public art collection includes 25 two- and three-dimensional commissioned artworks.

ARTIST SELECTION & PROJECT MANAGEMENT
Artist selection, contract negotiations, and oversight of the design, fabrication, and installation of site-specific artwork integrated into the building construction. Includes close collaboration with project designers, engineers, construction contractors, and community stakeholders. A partial list of clients appears below.

PRIVATE DEVELOPMENT

- Pierpoint Management, Carte Hotel, San Diego, 2019
- Cape Point Development, One South Mixed-Use, Redondo Beach, CA, 2019
- Target Corporation, Mini-Target Store, San Diego, 2018
- Burbank-Glendale-Pasadena Airport Authority, Hollywood Burbank Airport, 2018
- Marriott International, Westin Hotel Horton Plaza, San Diego, 2012
- Narven Enterprises, Hilton Garden Inn and Homewood Suites, San Diego, 2011

TRANSPORTATION

- Oakland International Airport, CA, 2004

THE COUNTY OF SAN DIEGO

- Lakeside Branch Library (current)
- Ohio Street Probation Building (current)
- Sherriff Technology and Information Center, San Diego, 2020
- East County Assessor/Recorder/City Clerk, Santee, 2020
- Crime Lab, San Diego, San Diego, 2018
- North Coastal Health and Human Services Agency, Oceanside, 2018
- Health and Human Services Agency, San Diego, 2016
- County Administration Building, San Diego, 2016
- Cedar/Kettner Parking Garage, San Diego, 2015
- Waterfront Park, San Diego, 2014
- Registrar of Voters, San Diego, 2013

CITY OF SAN DIEGO COMMISSION FOR ARTS AND CULTURE
Public Art Director (1989-2000)

Developed and implemented a pioneering City Council policy that promotes artist involvement at the inception of City-funded design and building projects; directed the public art process for 46 construction projects, resulting in 99 public artworks commissioned for $5.5 million.

COLORADO COUNCIL ON THE ARTS AND HUMANITIES, Denver
Director, Art in Public Places and Individual Artist Programs (1982-1989)

NATIONAL ENDOWMENT FOR THE ARTS, Washington, D.C.
Program Officer, Design Arts Program (1977-1982)

PROFESSIONAL AFFILIATIONS

- Member, Americans for the Arts
- Board Member, Art Produce, 2015-2021
- Curator, *2011 Public Art Year in Review* by reviewing 439 public art project submissions from throughout North America and Europe and selecting 47 for presentation to the 2011 Americans for the Arts Annual Convention; with artists Richard Turner and Kendall Henry.
- Co-Founder (2000), Public Art Network, Americans for the Arts, Washington, D.C.
- Founder (1995), Public Art Coalition of Southern California

BARBARA GOLDSTEIN

Consulting

B City of South San Francisco, CA 2021- Present

Developing a public art plan in collaboration with Gail M. Goldman Associates, including program and project recommendations, guidelines and ordinance recommendations.

Santa Clara County Office of Women's Policy, 2020 to Present

Developing a project entitled Womanhood that is employing public art to honor women from all identities, generations and backgrounds, who have contributed to the region and beyond.

City of Livermore, CA 2021-22

Developed a comprehensive arts plan for the City of Livermore in collaboration with Cusick Consulting, including recommendations for public art, facilities and services, and a toolkit outlining model programs to achieve equity and diversity in funding program.

ART Berryessa and North First Street Urban Village Plans, San Jose, CA, 2019-21

Worked as public art sub-consultant to SOM and the City of San Jose on the development of two Urban Village Plans.

Vietnamese American Service Center, San Jose, CA, 2019-22

Conducted community engagement and commissioning public art for Vietnamese American Service Center.

City of Chattanooga, 2018-19

Created a public art plan for City of Chattanooga, TN, in collaboration with Gail Goldman Associates, including identification of public art opportunities, funding and partnership strategies, and development of opportunities for permanent and changing artwork.

Bay Area Rapid Transit (BART), 2017 to Present

Creating a public art and cultural plan for Bay Area Rapid Transit, including identification of public art opportunities, cultural asset mapping, funding and partnership strategies, and development of opportunities for permanent and changing artwork.

City of Glendale, CA 2017-2018

Worked with Community Arts Resources to create an Urban Art Program for Glendale, including employing innovative web-based mapping as an outreach tool.

Arts Council of Fort Worth and Tarrant County, 2016-2017

Partnered with Cusick Consulting and ACT UNITED artists to update public art master plan that we wrote in 2002.

Creative Village Public Art Guidelines

Developed public art framework for Creative Village, a 70-acre public private partnership that includes mixed-income housing, office space for knowledge-based industry, retail, parks, transit and downtown campuses for Valencia College and University of Central Florida.

University of Central Florida, Orlando, 2015-16

Creating public art master plan for UCF including recommendations for the inclusion of art in the University's planned Downtown Creative Village.

City of Palo Alto, CA 2015 -16

Partnered with Gail M. Goldman Associates to create public art master plan for City of Palo Alto including vision, implementation plan, policies and procedures.

City of Morgan Hill, CA 2014

Facilitated Creative Placemaking symposium, a Park(ing) Day project, grant writing, integration of artwork into a new parking structure and awards of 10 art projects for a Creative Placemaking mini-grant program that will be integrated in the city's Downtown Placemaking Investment Strategy.

Charlotte Center City Partners 2013-14

Provided consulting services for public art element of Charlotte Rail/Trail project and assisted Charlotte Center City Partners in securing $412,000 grant from ArtPlace America

City of Las Vegas: 2013

Completed 5-year Public Art Master Plan for the City of Las Vegas including development of new guidelines, procedures and financial mechanisms.

Americans for the Arts 2013

Organized and hosted a seven session webinar series on Creative Placemaking and Public Art

City of Pittsburgh, PA: 2012-2014

Developed ARTSPGH, the public art element of Pittsburgh PA's Comprehensive Plan in collaboration with Urban Design Associates who are developing DESIGNPGH.

City of Pasadena: 2010 -2018

Developed Public Art Plan and implementation strategies for City of Pasadena

City of Los Angeles, Cultural Affairs Department: January 1989-October 1993

Coordinated and implemented City's Cultural Master Plan, arts ordinances, public art program development and Commission design review processes.

Other Professional Experience

Director, Public Art Program
City of San José Office of Cultural Affairs, October 2004 to January 2013
Directed planning, budgeting, advocacy, policy development and implementation of the City of San José and San José Redevelopment Agency's public art programs. Key projects included the
$6 million plus Art + Technology Program at Mineta San Jose International Airport, site- integrated art in 24 new libraries, six community centers, Happy Hollow Park and Zoo, and art in private development for Adobe Systems and The 88 condominiums. As a result of this work, in 2011, San José Public Art was recognized as the first Program of the Year by Americans for the Arts.

Director, Public Art Program
City of Seattle Office of Arts & Cultural Affairs: October 1993- September 2004
Directed planning, budgeting, educational outreach, maintenance, programming and implementation of the Office of Arts & Cultural Affairs' extensive sited public artworks, portable collection and development of the annual Municipal Art Plan.

Publisher/Editor-in-Chief
Arts and Architecture Magazine: 1981-85
Founded, published and edited award-winning, national non-profit (501[c]3) quarterly magazine on contemporary architecture and the arts.

Publications and Lectures

Magazine Editorial
Los Angeles Correspondent, Progressive Architecture, 1979-1989 Editor, LA Architect Newsletter, 1979-1988

Books
Contributor, *Artists Reclaim the Commons,* ISC Press, 2013
Editor/Author*, Public Art by the Book*, University of Washington Press, 2005 Editor/Author, *Arts and Architecture*, 1940-1962, The Entenza Years, MIT Press, 1990 and 1998 Editor, *How the Arts Made a Difference*, Hennessey & Ingalls, 1989

Magazines
Nieman Report, Architectural Design, RIBA Journal, Architectural Review, Building Design, Domus, Architectural Digest, Progressive Architecture, LA Architect, Arts and Architecture, Glass Art Journal, LA Herald Examiner
Teaching
Associate Professor, USC, Fine Arts Department, Public Arts Program, 1993 Lecturer, Southern California Institute of Architecture, 1980
Lecturer, School of Environmental Design, California State Polytechnic University, Pomona, 1978 /Lecturer, University of Southern California, School of Architecture, 1978-79

Lectures, Workshops and Symposia
Cal State Long Beach, Netherlands Arts Council, Abu Dhabi Urban Planning Council, Arts Council of Korea, USIA Japan Tour, China National School of Art, Shanghai University School of Art, Creative Cities Conference (Canada), Winnipeg Arts Council, Americans for the Arts, College Art Association, PARTI (Los Angeles Public Art Conference), UCLA Extension, LACMA Contemporary Arts Council, Santa Monica Arts Commission, Association of Collegiate Schools of Architecture, American Craft Council, University of Nebraska School of Architecture, AIA Pasadena Chapter, Las Vegas Chapter and Los Angeles Chapters, Association of Women in Architecture, Pasadena Chapter, Architectural Association School of Architecture, CSU Fullerton, and others.

Honors

Leadership Award: Public Art Network, Americans for the Arts, 20016
Mayor's Pride of San Jose Award, January 2007, for development of Employee Values Project Commendation, Seattle City Council, September 2004 for arts leadership Recognition Plaque, Los Angeles City Council, October 1993 for arts leadership Nominated for AIA/California Council Grant in Community Planning, June 1993 Certificate of Commendation, Los Angeles City Council, August 1992 for arts leadership

Organizational Affiliations

Board Chair, ZERO1: The Art and Technology Network
Board Member, Movimiento de Arte y Cultura Latino Americana
Public Art Network Council, Americans for the Arts, 2006 to 2011, Chair, 2010-11 Board of Directors, Artspace Projects, 2001 to 2005
National Advisory Board, Artspace Projects, Inc., 1992- 2001

Education

Fellow, Stanford University Distinguished Careers Institute, 2015 BFA, B Arch, Rhode Island School of Design
European Honors Program, Rhode Island School of Design, Rome, Italy

AMANDA RAWSON (she | her)

PROJECT MANAGER + RESEARCH DIRECTOR

Amanda Rawson is an active participant in public art and cultural work and believes the strength of a community derives from the art and culture experienced within it. She joined Barbara Goldstein & Associates, currently Art Builds Community, in 2019. Previously, Amanda worked as the Major Gifts Officer for the San Jose Museum of Art and the Donor and External Relations Manager at the San Jose Museum of Quilts & Textiles. Rawson's background in art history, development, and program management enables her to create spaces that bring together community. She is a 2017 Fellow of the Emerging Arts Professionals Bay Area with a focus on the topic Creative City where she worked with her team to develop public engagement at potential BART stations in Oakland. Amanda is an alum of The Silicon Valley Organization's Leadership San Jose program in 2018 and is a founding member of San Jose Arts Advocates.

EDUCATION

Bachelor of Arts in Art History
University of California, Berkeley

SELECTED AFFILIATIONS

Member, San Jose Arts Advocates, 2018 - Present

Secretary, Board of Directors, Local Color, 2017- 2021

Steering Committee, genARTS Silicon Valley, 2017- 2021

Board of Directors, California Association of Museums, 2018- 2019

SVO Leadership San Jose Class of 2018

Emerging Arts Professionals, San Francisco Bay Area, Round VI, 2016

SELECTED TALKS

Interacting Mapping, Speaker, October 28, 2021, International Association for Public Participation, Virtual / Canada

Community Conversations: Recognizing Women through Public Art & Policy, Speaker, July 29, 2021, NUMU, New Museum Los Gatos, CA / Virtual

Artists Honoring Women, Host, April 2021 - October 2021, Womanhood, Santa Clara County, CA / Virtual

SELECTED EXPERIENCE

Womanhood
Research, Project Management, Public Art Planning & Consulting
County of Santa Clara, CA

Vietnamese American Service Center (VASC)
Research, Public Art Consulting & Planning
County of Santa Clara, CA

Livermore Cultural Arts Vision Public Art Plan
Project Management, Research, Community Engagement, Public Art Planning & Consulting,
Livermore, CA

Veggielution AgriCultural Roots Project
Research, Community Engagement, Public Art Planning & Consulting
San Jose, CA

Bay Area Rapid Transit (BART) Art Master Plan
Research, Planning & Consulting
San Francisco, Bay Area

California Avenue District Public Art Plan
Project Management, Research, Community Engagement, Public Art Planning & Consulting
Palo Alto, CA

City of Belmont Public Art Plan
Project Management, Research, Community Engagement, Policy, Public Art Planning & Consulting
Belmont, CA

amanda@artbuildscommunity.com
408.598.9726
artbuildscommunity.com

QUYNH-MAI NGUYEN (she | her | chi | em)

CREATIVE DIRECTOR + SOCIAL PRACTICE ARTIST

Quynh-Mai Nguyen is a multidisciplinary social practice artist, poet, musician, community organizer, and creative producer. She has over 10 years of experience leading projects that focus on art-based storytelling and building cultural awareness around the narratives of women, AAPI, people of color, and other underrepresented groups. She believes that creating access through art for people to determine their own narratives, preserve their culture, and create new cultural artifacts to replace ones that have either been outdated, appropriated, or erased will ultimately foster more thriving and equitable communities. In 2018, KQED Arts Bay Brilliant named her one of 10 recognized movement builders for arts and culture in the Bay Area.

She is a 2020 Emerging City Champion for San José and is also an alumni to the Multicultural Arts Leadership Institute, a leadership network of artists and arts administrators of color. She is also honored as Honorary Santa Clara County Poet Laureate for the month of December 2021.

EDUCATION

Bachelor of Science, Advertising, Creative Track, minor in Graphic Design, San Jose State University

HONORS + AWARDS

Honorary Santa Clara County Poet Laureate, December 2021

8 80 Emerging City Champion, San Jose, CA, 2020- 2021

KQED Arts Bay Brilliant, Bay Area, 2018

SELECTED AFFILIATIONS

Senior Fellow, Urbanism Class XL, American Leadership Forum (ALF), San Jose, CA, 2018

Member, AAPI Caucuas, ALF, San Jose, CA

Alumni Class 7, Multicultural Arts Leadership Institution (MALI), San Jose, CA, 2014

SELECTED TALKS

Interacting Mapping, Speaker, October 28, 2021, International Association for Public Participation, Virtual / Canada

Community Conversations: Recognizing Women through Public Art & Policy, Speaker, July 29, 2021, NUMU, New Museum Los Gatos, CA / Virtual

MALI Art / Life Forum, Speaker, October 18, 2021, San Jose, CA

Connecting People Through Collective Action, Speaker, March 7, 2020, Annual Integrated Learning Conference, Arts in Your Classroom, Montalvo Arts Center, Saratoga, CA

SELECTED EXPERIENCE

Womanhood
Research, Creative Direction, Public Art Planning & Consulting, Social Practice, Community Engagement, Marketing
County of Santa Clara, CA

Vietnamese American Service Center (VASC)
Community Engagement, Public Art Consulting & Planning,
County of Santa Clara, CA

Livermore Cultural Arts Vision Public Art Plan
Community Engagement, Marketing, Public Art Planning & Consulting,
Livermore, CA

Veggielution AgriCultural Roots Project
Research, Project Coordination, Community Engagement, Public Art Planning & Consulting
San Jose, CA

California Avenue District Public Art Plan
Graphic Design, Community Engagement, Public Art Planning & Consulting
Palo Alto, CA

City of Belmont Public Art Plan
Graphic Design
Belmont, CA

SELECTED SOCIAL PRACTICE ART

Equitable & Just National Climate Platform: Build Back With Justice Campaign, *2021 - 2022*
Social Practice, Illustration, Temporary Public Art, Campaign
National, USA

Community Healing Altar, Avenida de Altares, *2021*
Community Engagement, Social Practice, Design, Temporary Public Art
East San Jose, CA

Lips Uncurled, Eyes Forward: AAPI Social Art Exhibition, *2018 - 2021*
Community Engagement, Event Programming, Temporary Public Art, Social Practice
San Jose, CA

Sonido Clash Music Fest, *2016 - 2019*
Graphic Design, Social Practice, Community Engagement, Programming
East San Jose, CA

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408.387.2446
artbuildscommunity.com

C. Firm Experience

1. CITY OF CHATTANOOGA PUBLIC ART MASTER PLAN
Art Builds Community and Gail M. Goldman Associates

Client
City of Chattanooga
Kat Wright, Public Art Director
(423) 643-7823
kwright@chattanooga.gov

Performance Period
2018-2019

Role and Responsibilities
Responsibilities included conducting public outreach to neighborhood groups, business leaders, educators, youth, environmentalists, community activists, and artists; development of vision and mission statements; identification of potential permanent, temporary, and performative sites, opportunities, and goals for public artwork; detailing operational and funding strategies; addressing maintenance, community engagement and education; identifying sustainable staffing and funding mechanisms; defining artist and artwork selection methods and criteria; establishing systems, procedures, and policies that support public art efforts with both internal and external partners; and preparation of short and long-term action plans.

2. CITY OF PALO ALTO PUBLIC ART MASTER PLAN
Art Builds Community and Gail M. Goldman Associates

Client
City of Palo Alto
Elise DeMarzo, Public Art Director
Community Services Department
650) 617-3517
Elise.DeMarzo@CityofPaloAlto.org

Performance Period
2015-2016

Role and Responsibilities
Responsibilities included conducting public outreach to neighborhood groups, business leaders, educators, youth, environmentalists, community activists, and artists; development of vision and mission statements; identification of potential permanent, temporary, and performative sites, opportunities, and goals for public artwork; detailing operational and funding strategies; addressing maintenance, community engagement and education; identifying sustainable staffing and funding mechanisms; defining artist and artwork selection methods and criteria; establishing systems, procedures, and policies that support public art efforts with both internal and external partners; and preparation of short and long-term action plans.

3. CITY OF OKLAHOMA CITY PUBLIC ART MASTER PLAN
Gail M. Goldman Associates

Client
Randy Marks
Public Art Project Manager
Office of Arts & Cultural Affairs
City of Oklahoma City
(405) 297-1274
randy.marks@okc.gov

Performance Period
2013-2015

Role and Responsibilities
Responsibilities included conducting public outreach to neighborhood groups, business leaders, educators, youth, environmentalists, community activists, and artists; development of vision and mission statements; identification of potential permanent, temporary, and performative sites, opportunities, and goals for public artwork; detailing operational and funding strategies; addressing maintenance, community engagement and education; identifying sustainable staffing and funding mechanisms; defining artist and artwork selection methods and criteria; establishing systems, procedures, and policies that support public art efforts with both internal and external partners; and preparation of short and long-term action plans.

4. CALIFORNIA AVENUE DISTRICT PUBLIC ART PLAN
Art Builds Community

Client
City of Palo Alto
Elise DeMarzo, Public Art Director
Community Services Department
(650) 617-3517
Elise.DeMarzo@CityofPaloAlto.org

Performance Period
2015-2016

Role and Responsibilities
Responsibilities included conducting public outreach to neighborhood groups, business leaders, educators, youth, environmentalists, community activists, and artists; facilitated “Boot Camp” to educate City Commissioners and Department staff about the process of commissioning and maintaining public art; commissioned artist-led outreach through Mobile Art Platform; development of vision and mission statements; identification of potential permanent, temporary, and performative sites, opportunities, and goals for public artwork; detailing operational and funding strategies; addressing maintenance, community engagement and education; identifying sustainable staffing and funding mechanisms; defining artist and artwork selection methods and criteria; establishing systems, procedures, and policies that support public art efforts with both internal and external partners; and preparation of short and long-term action plans.

City of Newark
Public Art Master Plan

Prepared by

Marc Pally and Carol Goldstein

May 10, 2001

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Executive Summary

This document, the City of Newark Public Art Master Plan, represents the continuing evolution of the City's efforts to enhance its visual and cultural environment with the provision of art works in publicly visible areas.

BACKGROUND

The 1992 General Plan Update called for a program of "Art in Public Places and Private Development" (Land Use Goal 2, Policy a, Program 2). Later that same year, the City Council adopted a series of resolutions to create the program (Resolution 6582), to establish a nexus to substantiate a public art development impact fee (Resolution 6583), and to set the "Art in Public Places and Private Development" fee for new residential, retail, office, light manufacturing, and high technology development (Resolution 6584).

Resolution 6582 set forth some basic goals and parameters for the expenditure of collected in-lieu fees, including a list of target sites for public art works. However, this resolution also called for the creation of a public art master plan to more formally guide future public art fund expenditures and strengthen the overall program.

To this end, the City contracted in August 2000 with Marc Pally and Carol Goldstein, consultants experienced in the development of public art master plans and cultural planning. Pally and Goldstein interviewed numerous community members and worked closely with city staff in the development of this plan.

The Public Art Master Plan builds from the directives of Resolution 6582. The plan sets forth broad goals and detailed objectives concerning the locations of and standards for public art, the cultivation of public interest and support for public art programs and projects, and the integration of public art into a variety of other city sponsored or city related programs. See below for the list of all goals and objectives.

5-YEAR PUBLIC ART PROJECTS PLAN

One of the most significant aspects of the plan is the development of a 5-Year Public Art Projects Plan. The 5-Year plan sets forth the numerous steps needed over the next several years that will result in the creation of:

- significant artworks at Newark Community Park, the gateways of Thornton Avenue/Interstate 880 and the Highway 84 area, and Shirley Sisk Grove;

- pedestrian-oriented public artworks at various locations within Old Town;
- functional artworks or "furniture" (benches, kiosks, etc.) for various city parks;
- a program to fund temporary public art projects; and
- a program to facilitate the involvement of non-profit organizations and schools in public art projects.

Upon passage, the Public Art Master Plan will serve as the City's guiding policy statement for public art matters, particularly the expenditure of public art funds, but it is not an element of the General Plan.

GOALS AND OBJECTIVES

The Public Art Master Plan has five goals, each of which contains a number of program objectives. Many of the objectives serve as operating principles—such as Goal One, Objective Two: "Commission public art appropriate to site and context." However, other objectives suggest more direct action—such as Goal Four, Objective Five: "Maintain and conserve the City's public art collection." Most notably, Goal One, Objective One lays out the 5-Year Public Art Projects Plan, discussed above.

The full list of goals and objectives is as follows.

GOAL ONE: *Approach the entire City as a canvas for public art.*

OBJECTIVES:

1. Identify priority sites in civic places, gateways, public gathering places, Old Town, and residential neighborhoods.
2. Commission public art appropriate to site and context.
3. Foster collaboration between artists and other design professionals.
4. Support temporary art work projects and installations.

GOAL TWO: *Cultivate public art audiences and community support.*

OBJECTIVES:

1. Ensure that public art is highly visible and accessible to residents and visitors.
2. Support and encourage a heterogeneous collection of public art and a variety of expression, media, content, and form.
3. Include artworks that represent the diverse cultures, heritage and traditions of Newark and its region.
4. Include artworks that represent a timeline of the life of Newark extending from the past to the future.

5. Communicate the program's successes and projects to the public; promote the appreciation of public art.

GOAL THREE: *Develop projects in which public art can play a role in achieving other community-building goals and objectives.*

OBJECTIVES:

1. Align public art objectives with those of other long-rang City growth, design, and development policies.
2. Encourage the use of local talents and civic/community-based organizations in the development of public art projects.
3. Encourage opportunities for private sector sponsorship and partnership of public art projects.
4. Consider coordination of public art projects with capital improvement projects.

GOAL FOUR: *Establish a formal structure for the Public Art Program.*

OBJECTIVES:

1. Develop an orderly and manageable program for public art projects.
2. Create more stringent criteria for extraordinary architectural design to warrant reductions in private sector public art obligations.
3. Provide training and opportunities for existing staff to become familiar with public art issues. And, whenever possible, utilize a professional knowledgeable in the field of public art to direct the development and implementation of the Public Art Program.
4. Encourage dissemination of public art information to residents.
5. Maintain and conserve the City's public art collection.

GOAL FIVE: *Encourage art that is accomplished and which maintains professional standards commensurate with the region's national standing as a center for arts and culture.*

OBJECTIVES:

1. Utilize a fair, thorough, and balanced process to select artists whose accomplishments, skills, and vision are most appropriate to the project.
2. Commission both large and smaller scale projects to attract artists of various experiences and capabilities.
3. As need is demonstrated, assist local artists in developing skills required to qualify for commissions and to produce public art.
4. Provide assistance to developers in fulfilling their public art obligations.

Introduction

The City of Newark has over a decade of experience incorporating public art into its physical features. The City is prepared to adjust and enhance its program and approach with planning guidelines and procedures. This document, the Newark Public Art Master Plan, uses the original program as a foundation from which new options and opportunities are recommended to take the program forward into its second decade.

Newark joined a small group of California cities in the early 1990s requiring private development projects to enhance their city's physical character through art in public places. Resolution No. 6583 was adopted by the City of Newark in 1992 and establishes the State of California mandated nexus between development projects and adverse visual impact on the built environment. One remedy for the impact is the provision of art in public places. Developers have two options to fulfill their obligation:

- contribute to the City's Public Art Fund
- sponsor a public artwork on the development site.

Since adoption of the nexus mitigation, Newark has begun to develop a significant collection of public art. Some public art-- for instance, the sculptures in front of the Silliman Center--was purchased by the City using its Public Art Fund, made possible through developer contributions. Other artwork, such as the gateway feature on Newark Boulevard near Jarvis Avenue, was funded and selected directly by developers in fulfillment of their public art obligation.

Like other cities in Silicon Valley and the adjacent San Francisco Bay Area, Newark places a high value on creating and sustaining a quality environment for its residents, business community and visitors. Newark is unique in the region for its relatively small population (approximately 43,000) and the availability of some large, desirable tracts of land for development. The historic economic engine of the high tech industry has created stresses and opportunities for all cities in the region, including Newark. Newark is well placed to benefit from this robust economy and the Public Art Master Plan is but one small strategy to insure that the physical character of the city provides pleasure and meaning to residents and other users.

Newark benefits from proximity to astonishing regional resources especially in terms of cultural amenities and human capital. Silicon Valley and the Bay Area attract professionals of the highest achievement anywhere in the world. The field of art is especially blessed by esteemed institutions and traditions in the region, including such fine examples as the Rodin Sculpture Garden at Stanford

University and the museums and galleries of San Francisco and the East Bay. These institutional resources are augmented by a population rich in artists and arts professionals. Newark will manifest its own values, aspirations and history through public art. It will also be able to access and take advantage of resources in San Francisco, Alameda and Santa Clara Counties.

The Public Art Master Plan is the product of interviews and/or meetings with over 30 people. (See Appendix B). Interviewees represent a broad cross-section of the Newark community, including those involved in school and children's issues, the arts and culture, civic affairs, planning, economic development, private sector and small business, as well as elected officials and City staff. The consultants to the City for the Public Art Master Plan reviewed planning documents and historical material to understand not only Newark's past, but also plans for its future. They conducted on-site research throughout the city to evaluate the potential of public art locations. An ad-hoc citizen's advisory committee (see Appendix C) contributed front-end input on cultural priorities of Newark residents and resources available within the local arts community.

The Public Art Master Plan offers a set of Goals and Objectives that fit the aspirations of Newark, as well as its current capacity to manage a Public Art Program. Indeed, one of Newark's greatest assets is the trust its residents have in both local elected officials and City staff. The Public Art Master Plan offers a set of procedures to establish an on-going and vital Public Art Program, one that satisfies Newark's desire for a quality program and respects current financial realities.

The Public Art Master Plan outlines a number of policy issues, program guidelines and implementation options as a template for the Public Art Program and the creation of a 5 year Public Art Projects Plan. The 5-year Public Art Projects Plan will analyze public art opportunities for the City and determine which projects can best achieve the goals and objectives outlined in this document. The money for these projects will be provided by developers contributing to the Public Art Fund in lieu of including public art on their project site. Additional funds may also become available for the support of public art through additional public and private sources. The Public Art Fund is managed by the Community Development Department, which will use the Public Art Master Plan as a policy guide to implement the Public Art Program. Specific projects will be announced in the 5 year Public Art Projects Plan to be reviewed and approved by City Council. The City Council may elect to update the 5-year Public Art Projects Plan on a basis more frequent than every 5 years. At its option, the City Council may to delegate to a committee (a Public Art Advisory Committee, as described in more detail within Goal Four of this document) the task of reviewing and making recommendations for updating the 5-year plan.

Goal One: Approach the entire city as a canvas for public art.

Objective One:
Identify priority sites in civic places, gateways, public gathering places, Old Town, and residential neighborhoods

Objective Two:
Commission public art appropriate to site and context.

Objective Three:
Foster collaboration between artists and other design professionals.

Objective Four:
Support temporary artwork projects and installations.

Objective One:
Identify priority sites in civic places, gateways, public gathering places, Old Town, and residential neighborhoods.

Discussion:

There was clear consensus in interviews and meetings with elected officials, staff and residents that gateways, parks and Old Town were preferred sites for public art. Each site has specific audiences, which can provide one set of the criteria in allocating the budget to particular sites. The Nexus Report (Resolution No. 6583), adopted by the City Council in 1992, identifies a number of public sites for artworks. Gateways, major intersections, public buildings and parks are mentioned as suitable locations. The Resolution does not prioritize those sites. The proposed 5-year plan below, however, sets forth clear goals for the next several years.

Old Town

Economic development is the key to creating a viable Old Town and to that end the City adopted the Historic Newark Area Plan in 1990. In 1999 the City commissioned an economic development strategy for Old Town, made commitments for a history museum to be created within historic Watkins Hall and authorized construction of a new fire station at the corner of Thornton Avenue and Ash Street.

These investments, together with new adjacent housing, commercial activities and a proposed nearby campus for Ohlone College, will provide a substantial

base for continued growth. Old Town has the potential once again to be a true center for Newark and provide a vital link to the community's unique history. Artwork that refers to this history would be most relevant in the Old Town area. The presence of the San Francisco Bay Trail on Thornton Avenue suggests references to the region's ecology as well.

There will be significant open space along the pedestrian right-of-way. The City's Conceptual Plan proposes extensive upgrading of Old Town's streetscape and pedestrian environment, including construction of entrance features and pocket parks along Thornton Avenue.

Many towns use their streetscape to great advantage - to tell their stories through artists' work and create a lively pedestrian environment. Artworks can serve as seating, clocks, lighting, planters and other functional elements. Small fountains can be placed in setbacks and park space. The scale of Old Town is relatively intimate, compared to other retail areas in the city. Artworks in Old Town must be appropriate in size and respectful of historic architectural contexts. Artworks should be scaled for viewing by the sizeable audience driving along Thornton Avenue, yet should also be rewarding for closer pedestrian viewing.

Potential locations for artwork along Thornton Avenue identified in the Conceptual Plan include:

- Entrance element at Ash Street
- Entrance element at Olive Street
- Public art in the parks and plazas at Magnolia, Olive, and Sycamore Streets

Presently most of the users of Old Town are local residents and workers having a meal in area restaurants. The History Museum will provide a new destination for school groups as well as out-of-town visitors, who may be attracted to walk along Thornton and patronize businesses. Therefore, other potential public art sites include a series of work themed as an interpretive trail of documenting Newark's historic industrial base, developed as a series of discoveries along the sidewalks and in the pocket parks. The new fire station scheduled for construction at Thornton and Ash is also an appropriate site for artwork allowing for close coordination between the building's architect and an artist.

Gateways

Newark residents have a strong sense of and affection for their community, particularly its manageable scale and sense of neighborliness. However, within the regional dynamic of Silicon Valley and the Bay Area, the identity of Newark is not always clear. Locally, the City wishes to visually distinguish itself from the neighboring communities of Fremont, Union City, and Hayward. The establishment of strong gateway public art features would provide identity and a sense of place for Newark.

There are numerous points of entry into Newark. The two most significant warrant gateways: Thornton Avenue at Interstate 880 and Thornton Avenue adjacent to the entrance to the Dumbarton Bridge. These two key locations bookend a critical axis through Newark and its historic core. They also will draw a significant, large audience for public art, including Newark residents, visitors and others driving through.

The gateway sites are quite different. One gateway site, at the eastern end of Thornton Avenue, provides a very developed setting adjacent to Interstate 880. The northwestern end of Thornton Avenue, at the intersection of Gateway Boulevard, provides an interesting pivot between the technological futures of the region represented by the Sun Microsystems campus to the east and the San Francisco Bay to the west. The public right-of-way area in the vicinity of Thornton Avenue and Gateway Boulevard serves an ideal location for an artwork visible to drivers entering Newark from the freeway or leaving town northbound on Thornton.

The area of Newark visible along Highway 84 between Thornton Avenue and Newark Boulevard has more options for siting public art. However, this area is still undergoing development. A specific location for public art should be part of the larger development plan with a commitment to place the art in an advantageous setting, easily visible from vehicles and separated from competing visuals, particularly signage.

Gateways must be of significant height to be visible to viewers in moving traffic. The challenge to artists working on gateways is to create a strong statement carrying a widely appealing image. As artworks, gateways must engage viewers beyond the mere function of identifying signage. Artists must create designs that recognize, celebrate and/or symbolize the history, spirit and future of Newark.

Parks

Newark is remarkably rich in park space. Parks are well used by the community for casual recreation, sports, barbecues, birthday parties and community celebrations. The parks are significant community gathering sites and have a sizeable built-in audience for public art. Newark residents identify strongly with their neighborhoods. The geographic distribution of the parks ensures easy access for all neighborhood residents to some form of communal open space. Many of the parks are adjacent to schools, providing convenient access for children and parents.

Some of the parks are small and/or neighborhood oriented, such as Ash Street Park, Bridgepoint Park and Mirabeau Park, while others provide resources for the entire community. Newark Community Park is home to the Newark Community Center, Ohlone College Annex and MacGregor Playfield, all of which attract a substantial number of users. Additionally, the Community Park is the site of the annual Newark Days, a major series of celebrations, including a parade and carnival that attracts over 100,000 visitors during the course of one week. Lakeshore Park attracts joggers and walkers to its attractive open spaces and shoreline. The George M. Silliman Recreational Complex offers many activities and resources to the community and with the future aquatic center will further establish it as one of Newark's most popular community assets. The Silliman Center is the site of the first artwork commissioned by the City with money from the Public Art Fund.

To benefit the greatest number of residents without having to select one park over another for funding, commissioned prototype artworks could be fabricated as multiples and distributed among smaller parks. For example, a picnic table, barbecue, bench insert or community kiosk/ bulletin board could be designed by artists within the parameters of City maintenance requirements.

Larger parks should be designated as sites for more ambitious large-scale commissions. Newark Community Park is the most logical site and should be given the highest priority. The historic celebratory nature of Newark Days, coupled with the forward-looking and distinguished architecture of the Community Center set a thematic approach for an artist to create a major community icon. Shirley Sisk Grove should also be considered for public artwork, in collaboration with proposed landscape and outdoor performance space upgrades.

Schools

Residents care deeply about services for children and the role of arts and culture in building children's pride, creativity and self-esteem. Newark justly prides itself on its school system and City's services for youth. Schools and the parks adjacent to many of them are community hubs. Public art projects placing artists in schools to work with children in the development of either temporary or permanent public art could achieve many community goals. A number of schools have artworks, essentially murals, executed by children. Projects can be expanded with artists-in-residence or with existing teachers. Such programs need to be designed on a project-by project basis with each school. Non-profit organizations currently working with the school districts sponsoring youth arts and heritage awareness programs should be invited to sponsor related public art projects.

City Buildings

City buildings, such as libraries, police and fire stations, recreation centers and administrative centers offer opportunities for both interior and exterior artworks. Many cities mandate a small percentage of their capital improvement projects budget for artwork for new construction. Newark might consider such a requirement in the future, but for the time being it relies upon funds from developers and/or direct appropriations from City Council for including artworks in its construction projects.

Such facilities as libraries and community centers have major audiences of residents and viewers and should be considered as secondary location opportunities below the primary outdoor locations discussed above. One distinct advantage that buildings offer is the opportunity for smaller commissions and purchased artwork. While smaller works are easily dwarfed by the scale of the outdoors, interior artworks can be well framed by architectural features and be appropriate in scale. In new construction, through the early involvement of artists in the building design process, it is frequently possibly to have integrated artwork included in at little additional cost to the construction budget.

Implementation:

The 5-year Public Art Projects Plan will identify specific sites and budgets for artists' commissions. There is currently an undesignated fund balance of approximately $400,000. The 2000-2005 Five Year Forecast assumes an annual $63,000 in income to the Public Art Fund. This sum does not factor in the City's intention to upgrade criteria for art fee exemptions due to extraordinary design, which could lead to increased developer contributions to the Public Art Fund. It

is, however, likely that with the more stringent criteria, many developers will choose to place artwork on site, rather than contribute to the City's Public Art Fund.

The administrative capacity for public art should not be unduly stressed. Goal Four, Objective Three recommends that to manage its program, the City should retain the services of a professional consultant on an as-needed basis and expand the expertise of full time existing staff. Therefore, it is advisable that the City proceeds with at most a few commissions per year in the start-up phase of the program, equal to the administrative capacity available.

The following five-year scenario assumes a minimum of $63,000 in the annual budget for hard costs only, ability to allocate the current balance in the fund and sufficient personnel to:

- Administer a City-sponsored annual program budget of between $90,000 and $150,000.
- Coordinate City-sponsored Public Art Master Planning and project development of 3 to 5 projects per year.
- Coordinate community relations, public information and technical assistance to regional artists.
- Coordinate and monitor compliance of developer-sponsored (i.e. on the development site) artwork of 3 to 5 projects per year.
- Direct and monitor a biennial matching grants program of between $5,000 - 10,000.
- Direct and monitor an annual temporary art program of between $5,000 - 10,000.

The year-by-year project schedule outlined below does not include capital improvement projects such as the Aquatic Center, the History Museum and the new fire station. Once funding for these projects is secured and a schedule for design and construction set in place, the Community Development Department will undertake a review to determine the feasibility of including public art in any of these projects. These projects may be allocated monies from the Public Art Fund for artists' design fees only. Fabrication costs for integrated art will be covered by the project construction budget.

The following constitutes an initial five-year program and commission budget for City-sponsored public art projects, based on the location and program

priorities outlined in this document. At its discretion, the City Council may wish to convene a Public Art Advisory Committee for the review and/or updating of the project list.

Year One:

- RFP, artist selection and proposal approval for a major artwork at Newark Community Park. (commission range: $50 – 75,000).
- RFP, artist selection and proposal approval for a gateway feature at Thornton Avenue and Interstate 880 (commission range: $75 -100,000).
- Program design and feasibility analysis for a series of pedestrian-oriented public artworks in Old Town, based on themes relating to community history (concept design fee range: $5 -10,000).

Year Two:

- Fabrication and installation of Newark Community Park artwork.
- Fabrication and installation of gateway feature at Thornton Avenue and Interstate 880.
- RFP, artist selection and proposal for prototype design of limited edition, functional artworks for City parks (design fee range: $5 – 7,500).
- Program design for Neighborhood Schools and Parks Matching Grants Program: local non-profit organization sponsorship of public art projects (annual program budget: $5 -10,000).
- Program design for temporary public art projects (between $5,000 -10,000).

Year Three:

- Fabrication of limited edition "street furniture" artworks for City parks (fabrication budget: $10 – 50,000).
- RFP, artist selection and proposal approval for first round of Neighborhood Schools and Parks Matching Grants Program (total grants of $5,000 -10,000).
- RFP, artist selection and proposal approval for initial phase of Old Town "interpretive trail" public art program (commission range: $75 -100,000).

- Annual temporary public art program of between $5,000 -10,000).

Year Four:

- RFP, artist selection and proposal approval for a major artwork at Shirley Sisk Grove (commission range: $25 -35,000).

- RFP, artist selection and proposal approval for a gateway feature at Thornton Avenue adjacent to Dumbarton Bridge approach (commission range: $75 - 100,000).

- Installation of limited edition, functional artworks for City parks.

- Fabrication and installation of Old Town public artworks.

- Coordination and monitoring of Neighborhood Schools and Parks Matching Grants Program.

- Annual temporary public art program of between $5,000 -10,000.

Year Five:

- Fabrication/installation of gateway feature at Thornton Avenue adjacent to Dumbarton Bridge entrance.

- Fabrication and installation of Shirley Sisk Grove artwork.

- RFP, artist selection and proposal approval for second round of Neighborhood Schools and Parks Matching Grants Program (total grants of $5,000 -10,000).

- Annual temporary public art program of between $5,000 -10,000.

- RFP, artist selection and proposal approval for second phase of Old Town "interpretive trail" public art program for small fountain or other signature element (commission range: $75 -100,000).

- Completion and evaluation of Neighborhood Schools and Parks Matching Grants Program.

Objective Two:
Commission public art appropriate to site and context.

Discussion:

Artists working in public art will typically dedicate a period to research and reconnaissance before beginning the design process. Much of this research will be about gaining understanding of the artwork's site and context:

- Social and economic demographics of a neighborhood may offer inspiration.
- Activity patterns throughout the day or week may provide a sequence of audiences.
- Natural habitat, landscape, hardscape and surrounding buildings may affect choice of materials.
- Views and vistas may alter perceptions of scale and perspective.
- Historic landmarks or historic memories may provide content.
- Weather conditions and the path of the sun may contribute to kinetics and shadow play.

Not all public art should blend in and be consonant with everything around it. In fact, much public art is successful because it purposefully stands apart from its surroundings, literally, figuratively and conceptually. But even, and perhaps especially in such cases, the artist benefits from recognizing, analyzing and understanding the site.

Newark offers a wide range of approaches to site and context. The City as a whole has a remarkable history and bright future, which allows for a broad set of stylistic possibilities. Artists will be attracted to such historical aspects of Newark as the railroad, foundries and associated businesses, and the colorful histories related to Wedgewood stove production, chemical companies and salt works. The natural environment also offers inspirational starting points. From the foothills and the San Francisco Bay, such ecological features as monarch butterflies and herons provide local legend and color. The present moment of great change and growth brings an additional layer of material to the artist palette.

Some existing public art projects in Newark were initiated and conceptualized before artists were selected for the commission or purchase. In some cases, staff and other sponsors, rather than artists, determined the precise theme, content

and siting of the work. However, artists' experiences in bringing the artistic process to a variety of sites and contexts can be most useful in making the final determination about a project's direction. Working in this way allows maximum advantage of the artist's particular skills and can produce a fruitful dialogue between the community and the artist.

In the future, the City's art collection should be developed with the sense of uniqueness that characterizes the individual nature and aspirations of the community. Commissioned artwork, rather than the purchase of pre-existing artwork, allows artists opportunities to create one of a kind, or limited edition work customized to the setting.

Artists are often also the best judges of where their commissioned artwork should be sited, such as within the broad parameters of a neighborhood park. Not only are such works completely unique, they appreciate in value, often more so than unlimited production of artists' multiples. It therefore follows that in the future, public artwork should be commissioned for a site, rather than purchased as a ready-made object.

Implementation:

Each City-sponsored public art project will be defined in the 5-Year Public Art Projects Plan. The Plan will include the following information for each project:

- Total project budget
- Project location
- Project timeline
- Relationship to the CIP project/site, if applicable
- Site and context information relevant for the artist
- Thematic issues which the artist should consider

In addition, a comprehensive description of the goals set for individual projects will lay the groundwork for selecting the most appropriate artist. Some projects will be appropriate for historic interpretation (such as the historic Old Town area) while for other projects the artist may propose a new approach. For example, gateways adjacent to Interstate 880 or the along Thornton Avenue near the Dumbarton Bridge approach (as discussed in Objective Three) offers many thematic directions for symbolizing a formal announcement of entry, including history, the environment or the future.

Where there is leeway in determining the nature of the artwork's thematic direction, current professional practice dictates that the artist should be included and may lead the discussion. It will be the responsibility of the City, as client, to assist the artist in gaining insight into the needs and desires of the community and in understanding the site and its context. Staff will brief artists on the parameters and possibilities for their projects and provide vital contextual information. Review of artists' proposals and subsequent designs, are milestones within the design review process. Inevitable adjustments required for public art project designs or related site design changes should allow the artist ample time to redesign and at the same time, allow the City ample time to review and comment.

Objective Three:
Foster collaboration between artists and other design professionals.

Discussion:

The revival of a centuries-old tradition of artist-architect collaboration is bringing great change to the nature of public art. Artists are no longer confined to creating sculptures to be moved from their studio to a public location. Now many artists work with architects and engineers from the first days of a project's design and contribute their ideas in a collaborative process. This approach results in more diverse, integrated and successful public art projects. Collaboration can only occur when artists are included from the initial phase of a project. Artists who join development projects once schematic design is complete have much less opportunity to contribute and affect the project's visual character.

Collaborative, multi-disciplinary work takes many forms, including artists working with computers and software programs to create interactive video projects; creating gardens with landscape architects; designing seating, lighting standards, bicycle racks and trash can prototypes with park staff; and, creating outdoor performance spaces (that can be sculpture as well). Successful collaboration depends upon the active participation of the Public Works Department staff, whose expertise is essential.

Artists also work with industrial designers and businesses. The benefits to private industry are notable. Artists test prototypes and demonstrate innovative tools. Manufacturing industries may use novel fabrication techniques that could be translated to artwork. The computer field offers additional possibilities for artists, if not for the finished artwork certainly for design generation. The adjacency of Silicon Valley and the local presence of Sun Microsystems among other hi-tech firms may open doors to collaborative possibilities for artists and industry. The model for such an approach was started thirty years ago by the Xerox Corporation at its Palo Alto campus.

The degree of collaboration or cooperation required will vary from project to project. It is likely in Newark that City-sponsored public art will be autonomous elements rather than integrated features and/or other infrastructure elements. Cooperation between design professionals is still necessary in these circumstances but will be driven by the artwork. In developer-sponsored public art, there may be more integration of art and architecture because the construction of new buildings provides opportunities for all design professionals.

Implementation:

Whenever possible in newly constructed City capital improvement projects, the City will select artists at the same time architects, landscape architects and other designers are selected. Projects that include artists will have contract language for all consultants stipulating that an artist(s) will be part of the design team. Architects who favor collaboration will be given high priority in the architect's selection process.

The Public Art Coordinator will encourage private developers to synchronize selection of artists and architects. Application forms filed by developers will state a timeline and criteria for artist selection. The private sector will also be encouraged to consider sponsoring collaborative and multi-disciplinary work. Collaboration between local industries and businesses and artists will be facilitated through the City's compilation of a list of local businesses' materials, skills and fabrication resources. This list will be shared with artists as they begin to conceptualize their projects.

City funds distributed to other arts' sponsors (such as through the matching grants program cited above in Objective Two) will stipulate an artist selection timeline and guidelines for design team collaboration.

Objective Four:
Support temporary artwork projects and installations.

Discussion:

Temporary public art projects are often more easily implemented than permanent public art. Regulatory restrictions are not nearly as cumbersome, budgets are significantly smaller and long-term concern for maintenance and community acceptance is not as burdensome. Artists with little or no previous public art experience can create temporary projects of a smaller scale. In this way, temporary art serves as a training ground and learning experience, helping to widen the pool of candidates for permanent projects.

Funding for temporary projects may be appropriated from sources of funding outside the Public Art Fund and augmented by underwriting by the private sector. For example, the City's budgets for Newark Days could include a day-long children's project in cooperation with local schools to help fabricate and decorate tiles for a ceramic fountain or wall. Businesses often sponsor projects that meet their community giving objectives or result in a public relations benefit. Civic groups, from the PTA to gardening clubs, as well as individuals may wish to support a project and can often be approached for in-kind donations of goods and services as well as money.

City residents come together for various celebrations throughout the year. Events include musical concerts, arts and crafts shows, parades, holiday extravaganzas, fundraisers, and commemorative festivals. Most of these events are held in publicly accessible locations and many are held in public parks. Patrons comprise a built in, receptive audience, in some cases representing the broadest demographic of Newark. As such, these events are the perfect opportunity to introduce a public artwork (either temporary or permanent) in conjunction with the events. School sites also offer an ideal location for subsidized, changing exhibitions and installations to supplement the students' cultural exposure.

Implementation:

The 5-year Public Art Projects Plan will identify temporary projects for the coming year. These should vary from year to year so that over time temporary public art will occur in settings throughout Newark and will involve a variety of residents, both in the making and in the viewing of the art projects. Sponsorship partners for temporary art projects will be identified as well as the budget and other resources available from the City. The Public Art Coordinator will be responsible for supervising the projects but may work in partnership with other City departments, community groups and /or individuals.

The nature of the participants in temporary public art projects must be identified in the 5-year Public Art Projects Plan, and then further refined by the Public Art Coordinator. The Public Art Coordinator will consult with other City staff to ascertain what development projects and special events are scheduled that might be partnership opportunities for temporary public art projects. For instance, if there is a project with a construction fence, students can paint a mural. A very similar project was created by students as part of construction of the Yerba Buena Center for the Arts in San Francisco.

Street improvement projects can feature a photography or banner project. Festivals and major sports' events scheduled in the City parks can include temporary public art, produced by students, professional artists, community members or combinations of all three.

In planning civic celebrations, special events and festivals, such as Newark Days, Las Posadas, the Sunday Afternoon Art Series, Music at the Grove, the Winter Festival, etc. studio, public, folk, ethnic, traditional and artisan work appropriate to the themes of the event will be considered for public art commissions. Commissions could also include adaptation of designs for banners, site ornamentation, exhibit and display, design of awards, etc.

Goal Two: Cultivate public art audiences and community support.

Objective One:
Ensure that public art is highly visible and accessible to residents and visitors.

Objective Two:
Support and encourage a heterogeneous collection of public art and a variety of expression, media, content and form.

Objective Three:
Include artworks that represent the diverse cultures, heritage and traditions of Newark and its region.

Objective Four:
Include artworks that represent a timeline of the life of Newark extending from the past to the future.

Objective Five:
Communicate the program's successes and projects to the public; promote the appreciation of public art.

Objective One:
Ensure that public art is highly visible and accessible to residents and visitors.

Discussion:

Sites for public art should be selected for maximum visibility. The 5-Year Public Art Projects Plan should place highest priority on recommending sites that have the greatest visual access by potential audiences. For the most part outdoor sites are more accessible, though interior pieces also have an important role to play, especially when they can be incorporated into the building's design. The stained glass panels in Newark's City Hall's façade relief sculpture offer an excellent example of integrated art.

The nature of public art sites and the nature of each site's audience will also vary. For instance, some sites might have their greatest impact on those passing by in cars, while other sites attract people walking, shopping, and engaging in active sports or passive recreation. Sites in the Old Town area, neighborhoods and outlying business parks reach different audiences. Residents and visitors who travel widely throughout Newark could have the advantage of seeing many public artworks in a variety of settings.

Implementation:

Goal One, Objective Two identifies specific locations that have been identified as priorities for artwork. Within these parameters, the City will consider the following criteria regarding visibility and access issues for both City and developer sponsored projects:

- General public viewing: For example, if the artwork is located in a business park development, vantage points should be identified from which the public can view the work. If the project is located in the public right of way, passing traffic should be able to view the work without compromising public safety. If the artwork is placed in an interior location, it should be open to the public for a minimum of eight hours a day and should have sufficient viewing to warrant its interior placement. See Objective 5.

- Identification of primary and secondary audiences: The major users of the site and environs and their related behavioral characteristics should inform the artwork's scale, placement, adjacencies, etc. For example, the work should be viewed by pedestrian passersby, as well as by vehicular travelers from a greater distance.

- Adjacencies: Views of the work should fit within existing or planned landscape and hardscape features and public improvements. For example, as adjacent foliage matures, sight lines should not be obscured.

- Operational characteristics: The artwork should be visible from vantage points outside the property whether or not the site itself is open to the public. For example, if the work is on a site with limited physical access or no public visitation hours, the artwork should be visible from publicly accessible locations.

Objective Two:
Support and encourage a heterogeneous collection of public art and a variety of expression, media, content and form.

Discussion:

The resolution creating the Public Art Program suggests that artwork is primarily limited to the visual arts, but also states that the City Council has the discretion to determine if a particular work satisfies the intent of the ordinance.[1] Current studio art produced by regional artists employs a wide range of materials, both traditional and recently developed. The City's overall art collection should reflect this diversity of creative expression. More importantly, to maintain public enthusiasm and appreciation for the program, the City should commission artwork that is varied, unexpected and fresh, to complement rather than repeat the nature of previous commissions. To limit the program to one particular theme or approach, such as work that is all realistic, or work that is produced only of cast metals, would be counterproductive to the underlying mission of the Program.

The Program should not be limited to artists trained in the formal fine art and studio traditions. Many artisans working in ethnic, folk and traditional crafts reside in the region. These artists may work in textiles, clay, paper, foodstuffs, dyes, beads, salvage or other materials. The city history quilt located in the lobby of the Newark Community Center is a good example of craft as public artwork. Though some folk art is often ephemeral or created for one-time special events and celebrations, these artists have much to contribute to a public art program. The Program can facilitate projects and collaborations that adapt artisans' work to more permanent media suitable for indoor and outdoor public locations.

Implementation:

In considering the potential for individual commissions, the Public Art Coordinator and the Selection Panel will strive for an overall balanced representation in a variety of media, content and genre throughout the City's public art collection.

In the early years of the program, the City will limit the number of commissions per artist so as to ensure the broadest participation and promote diversity of expression.

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[1] The preamble of Resolution 6582 states that the public art is needed to "offset the impacts of urbanized society." Performance-based arts, such as theater, music, and dance are not clearly eligible or ineligible for funding under this ordinance. The resolution states that the City Council has final discretion in determining if an artwork meets the intent of the resolution.

The City will distribute RFQs and RFPs broadly, taking advantage of the strong professional organizations representing artists and comprised of artist members in the Silicon Valley, Bay Area and East Bay. Such organizations as Pro Arts, Alameda County Arts Commission and Arts Council Silicon Valley can be good allies in reaching out to artist communities.

Objective Three:
Include artworks that represent the diverse cultures, heritage and traditions of Newark and its region.

Discussion:

Newark residents are proud of their diversity and multi-faceted heritage. There are many organizations in the City that celebrate, commemorate and keep history and heritage alive. They sponsor scholarships, special holiday events and programs in the schools to ensure that people of all ages recognize, appreciate and sustain traditions of and pride in their ancestors. The performing arts and entertainment events presented at Newark Days reflect the multi-cultural foundations and histories of the City's residents. Similarly, the League of Volunteers'/Newark Arts Council's Arts in the Schools Multi-Cultural Assemblies give Tri-City students exposure to cultural expression from many different communities.

Public art can portray the community's shared and inherited traditions and foundations and it may also highlight differences. Artwork can educate viewers about aspects of the City's and neighborhoods' environment, personalities, events, institutions, creativity and identity. The artwork may call out, protest or reflect upon the subtexts of issues that previously have not been mentioned in the public arena. One of art's most compelling values is its ability to tell a story, speaking to the variety of people who make up the greater Newark community.

Implementation:

The City will include a range of artworks so that the overall collection reflects and celebrates the many and diverse cultural traditions which contribute to the vitality of Newark. The ability of an artwork to contribute to the composite diversity of City's overall collection will be criteria for reviewing proposals for commissions and purchases of artwork.

The City will encourage co-sponsorship of public art projects commemorating and celebrating diversity. These may be temporary visual arts projects adjunct to special events, or as permanent installations. Resources and partners include the School District, Latinos Unidos des Newark, the Afro-American Cultural and Historical Society, the Newark Library League and the South Bay Chinese Club.

Objective Four:
Include artworks that represent a timeline of the life of Newark extending from the past to the future.

Discussion:

Certain themes emerge from the multiple histories of the city, from Native American original settlements, through successive waves of immigration, historic regional industries and recent regional influences from changing residential demographics and the new local economy of research and development business. Some of the stories are less well known than others. Public art is often an appropriate vehicle to revive memories, interpret historical data, and commemorate legendary people and events. Artists continually find rich information and context for their work researching the life and times past.

There is additional material to be gleaned from the future as well. Many residents and workers believe that Newark is in the midst of a major transition and an evolution to a next stage of development. Some feel the healthy indicators of growing economic and cultural diversity are leading this trend. Others see the increasing numbers of new, diverse residents to be shaping the future, through their expectations for a high quality of life and their demand for an array of cultural amenities. A third body of opinion is that a new sense of self determination is in its formation stages: that Newark has always internally distinguished itself from Fremont, Hayward and other southern Alameda County communities and that its identity is only beginning to be realized and appreciated by outside visitors. The question "Who are we now and what will we be?" provides much food for thought in the city today and can be a primary consideration in an artist's research and development of a public art proposal.

The economic engine of the region is based on advanced technology and Newark students must be prepared for a rapidly changing world. New ideas, new materials and new attitudes reflect this reality and give it visible form. Artists are particularly adept at translating abstract or experimental ideas into concrete forms – this is an ideal challenge for public art.

Implementation:

Potential themes and sources of content related to the City's heritage include:

- Open space history – the monarch butterflies, herons and other features of the wetlands

- Industrial history – salt, truck farming, Wedgewood stoves, railroad back shops and roundhouse, freight car construction, foundries and chemical companies

The City will prepare and make available to artists a bibliography of books, articles, oral histories and ephemeral materials on the general and specific histories of Newark that are available in the public library. The City's curator at the new museum will be available to assist artists in research on specific topics. A contact list of local residents wishing to share more detailed knowledge on specific communities or historical periods may be prepared. The City will also prepare briefing materials to help artists understand the importance of Newark within the framework of the high technology industry and the adjacency of Silicon Valley.

Objective Five:
Communicate the program's successes and projects to the public; promote the appreciation of public art.

Discussion:

Residents should feel that the Public Art Program makes Newark a more livable city. Without their support the Program cannot succeed. Every effort should be made to communicate the Program's activities to the public. This can happen through the Public Art Coordinator, as well as through direct contact between City staff and community groups, business associations and other points of contact in the city.

The public relations function of the Public Art Program is central to its community support and long-term existence. Helping people to become aware of the Program's achievements will create interest and lays the foundation for further growth.

Implementation:

The Public Art Coordinator will maintain a current mailing list, which will be used to send out periodic updates on the program to interested residents. Both post and e-mail updates will be sent to best ensure that pertinent information is readily communicated to the public. Additionally, the City's website will contain current news on the Public Art Program. Another important source of communication will be press releases to local newspapers.

Each new artwork will be celebrated with a public ceremony and publicized with a press release. A presentation by the artist at a local community meeting, City Council meeting, or special event at the site will be scheduled to publicize the program and celebrate the latest addition.

Local schools throughout the city will receive press releases or brochures on the artwork for distribution to teachers who may desire to incorporate the artwork as a learning tool or as part of a neighborhood field trip.

Each project will be identified with a plaque identifying the artist, title, date and recognition of the City as sponsor, as well as other major contributors.

Tourist, business and economic development publications will be encouraged to include public art images, as will the City in its brochures. Guides to the City's cultural, recreational and entertainment resources will include public art information and images.

Eventually, as the collection reaches a critical mass, the City will publish an independent guide, with a tour map to publicly and privately sponsored public art, perhaps including interior artwork and ornamentation in religious facilities and office lobbies, as appropriate.

Public art information, including on line publication of the 5-year Public Art Projects Plan will be posted on the City's web site in concert with scheduling and design of on line publications of similar City information. Over time, a public art page will be developed to highlight the City's public art collection, including a map/guide, photographs of the artwork, descriptive text and artist information. The "Newark News" will also be used as a vehicle to reach residents with public art information. Press releases to local and regional newspapers will ensure distribution over a large geographic and demographic sample.

Goal Three: Develop projects in which public art can play a role in achieving other community-building goals and objectives.

Objective One:
Align public art objectives with those of other long-range City growth, design and development policies.

Objective Two:
Encourage the use of local talents and civic/community-based organizations in the development of public art projects.

Objective Three:
Encourage opportunities for private sector sponsorship and partnership of public art projects.

Objective Four:
Consider coordination of public art projects with Capital Improvement Projects.

Objective One:
Align public art objectives with those of other long-range City growth, design and development policies.

Discussion:

In past years, public art projects were selected on a case-by-case basis. The establishment of a planning program through the 5-year Public Art Projects Plan will provide opportunities for greater coordination between art projects and other City initiatives

For instance, there can be a significant link between redevelopment area objectives and public art objectives. Many cities, including Newark, are incorporating public art requirements for capital infrastructure in development agreements with the private sector. The rationale for this decision is that artwork is one of many improvements and value-added amenities increasing patronage and business investment interest. Similarly, as Old Town and other CIP-funded improvements evolve there will be many opportunities for including public art among streetscape and landscape components. In some cases, the City may decide to include a public art component funded from within the project budget, rather than from the Public Art Fund.

The aesthetic nature of the built environment can affect community identity, sense of place and economic well being. The City outlines its long-range view of urban design and development in Area Plans, Specific Plans, Urban Design Plans and a General Plan, each detailing attainable aesthetic and visual qualities. In some cases, public art can be considered integral to those planning efforts, though it may not be explicitly stated in the documents.

Civic and community-based organizations, such as LOV, Latinos Unidos des Newark, the Newark Library League, the African American Cultural and Historical Society and the Chinese-American Historical Society demonstrate how the role of culture can promote long-range goals of building community identity and engendering participation. The work of several local non-profits in the city integrates cultural objectives into a long-range vision for community solidarity. The Public Art Master Plan will help set the stage for considering how artists can be full partners in this process.

Implementation:

The goals of the Public Art Master Plan will be compatible with other plans that may emerge in the near future. However, the Public Art Master Plan assumes a more prominent role for public art in achieving design and aesthetic objectives than text in the other current documents. Appropriate excerpts from the Public Art Master Plan will be incorporated into future planning documents and neighborhood-based design guidelines, to ensure consistency and consensus of approach. In the case of existing documents, amendments or updates will include a discussion of public art objectives and projects, as appropriate.

The "Newark Old Town Economic Development Strategy" reflects the objective that Old Town Newark will once again become a primary gathering place for both residents and visitors. While some of its historic retail function has dispersed to shopping centers, there is a primary objective to reaffirm the area's symbolic role as the heart and soul of the community. Future development of cultural attractions and a range of pedestrian amenities will assist in this effort and form an ideal environment for development of the Public Art Program.

(For a discussion regarding the potential impact of Capital Improvement Projects upon Old Town see Goal Three, Objective Four.)

Public art projects will be considered as integral to community design improvements, neighborhood revitalization and resident amenities. For example:

- Funds accrued may be used to underwrite master artist/apprentice youth internships as a component of public art commissions at Recreation Centers.

- A "catalog" of street furniture prototypes designed by artists for future city-wide sidewalk improvements along major thoroughfares may be funded by public art monies.

- A series of artist-designed kiosks or pavilions for special events and performances may be placed in strategic locations along public spaces and parks.

Objective Two:
Encourage the use of local talents and civic/community-based organizations in the development of public art projects.

Discussion:

Newark is a city of neighborhoods, and residents tend to identify closely with their own neighborhood infrastructure. While everyone recognizes the central role of Old Town and the shopping and business districts, much of residents' lives center on neighborhood schools, parks, recreation and shopping amenities.

The specific nature of the primary audiences and art consumers will vary from site to site, and their reaction to public art will vary as well. To assist in achieving successful public art projects, it is highly desirable to involve the public at the earliest possible stage. The need for additional creative and constructive outlets for youth cannot be overemphasized. For example:

- City-wide organizations including LOV, the Newark Arts Council and more locally-based groups such as individual PTAs and the Friends of Ash Street Community Enrichment (FACE) might be interested in supporting educationally-themed public art projects.

- Joint sponsorships between the school district and the Public Art Program can reap many benefits for the City's youth. For example, in a highly successful competition project at the Las Vegas International Airport, students' paintings of world cities were transferred onto large-scale tile murals at a high-profile location.

- Public art projects can be integrated into the curriculum or can be treated as an after-school enrichment activity.

- Neighborhood-based public art projects can engage students, centered around the public park/public school system as identified in Goal One, Objective Two.

- Sites adjacent to or near schools and after-school programs at libraries and recreation centers are suitable for student projects.

- Educational materials, in-class presentations by artists and architects and field trips to public artworks can help students see their city in a new light and appreciate the many ways art can be incorporated into the built environment.

Implementation:

The City will establish an annual grants program for neighborhood public art proposals, available to incorporated, tax-exempt, non-profit organizations. Eligible organizations will reflect and serve their communities and may do so in a multiple of capacities and under a variety of organizational structures. For example, one neighborhood may consider working on a public art project in a community garden, while another may consider ways for public art to enhance the area's appeal to visitors. Among the kinds of organizations that will be encouraged to apply are:

- Community organizations including, but not limited to, those working with social service, cultural, environmental and public health issues
- Educational institutions, including those at the primary, secondary and college levels, as well as other institutions committed to an educational mission
- Faith-based institutions and the numerous associations and groups that such institutions frequently sponsor
- Arts and artists' organizations

The program's focus may change from year to year, and may include permanent work, temporary work, and/or special events related public art. Submitting organizations will be required to show evidence of feasibility, such as site control, neighborhood support, matching funds, completion and management capacity and an artist coordinator. The City will offer technical workshops in the early years of the program to develop the skills and resources within the non-profit community on such issues as:

- Working with artists and inter-disciplinary teams
- Fundraising, donations, in-kind services and volunteer recruitment
- Site control and legal agreements
- Artist selection
- Design, engineering, risk management and project feasibility
- Project budgets and project management

- Fabrication and installation
- Maintenance, repair and conservation

Depending upon the scale and/or location of the project, project selection will be under the auspices of a Selection Panel convened to review applications. The Panel will include the same composite of members as Panels under the Public Art Program, with the addition of two civic volunteers/community leaders. The Panel's recommendation will be forwarded to the Public Art Coordinator for review and recommendation to City Council. In addition to the criteria established for reviewing City-sponsored public art proposals, criteria should include:

- Organizational capacity and adequate project management to successfully complete the project
- Evidence of matching funds, in-kind services, donations, volunteerism
- Representative leadership and participation
- Understanding of community assets and needs
- Socio-economic and geographic distribution throughout the City
- Feasibility of artwork within budget
- Secured owner consent, site control and/or required easements
- Adequate visual/physical access for viewers

Objective Three:
Encourage opportunities for private sector sponsorship and partnership of public art projects.

Discussion:

Everyone in Newark can participate in the Public Art Program. Residents, workers and visitors are not only audiences, they are vested consumers. Local artists and arts professionals are not only reviewers and critics, they are potential jurors. Newark's business community is comprised of many active, caring citizens. The success of many community events is due in great part to the generous support of local businesses. The business community also recognizes the value of the arts and entertainment in an overall economic development strategy. Due to the City's priority for a higher quality visual environment, recent construction projects have included greater attention to design issues and urban context. One benefit of the active participation of the private sector is that the range of sites for public art can be more varied, especially in the area of artist participation in building design and construction.

The large-scale changes envisioned for Specific Plan Area 2 (generally, the tracts west of Willow Street) and General Plan Area 4 (the lands between Mowry Avenue and Stevenson Boulevard west of the railroad tracks) will have a major impact and represent a significant opportunity to increase the City's cultural resources through public art. Street improvements, coupled with private development, will completely change the use and visual character of these areas. Cooperation between the City and private sector sponsors could produce notable public art in these locations.

While developers must include public art in their projects, pay an in-lieu fee, reduce their fee by incorporating extraordinary design features, or some combination of the above, other business owners and individuals may be interested in contributing to City-initiated public art projects in locations of high visibility. They are far more likely to donate work or funds if the City has policies and procedures structuring philanthropic activity of this nature. Occasionally there will be opportunities for the sponsorship of temporary public art projects. These add dynamism to the environment and make for a livelier city. Temporary projects can use materials, such as wood and fabrics that are not reliable for permanent artworks. Therefore, the review of proposals for temporary artworks is less stringent than that for permanent pieces.

Implementation:

The City will facilitate sponsorship by the private sector, beyond those developers with existing obligations for new construction. Unrestricted donations of funds will be designated for the Public Art Fund. Projects developed using those donations will be subject to the identical procedures and criteria as publicly funded projects. Temporary projects need not meet all the requirements set for permanent pieces, but must be accepted with full understanding regarding the length of exhibition time and identification of the party responsible for removal of the artwork and restoration of the site.

In the case of gifts and loans of artwork, the guidelines discussed in Appendix D (attached) will apply.

Objective Four:
Consider coordination of public art projects with Capital Improvement Projects.

Discussion:

With full-scale implementation of the Public Art Program, the City will be seen as a major benefactor of fine art and the City's collection of public art will grow rapidly. Participants must be cultivated as full partners in the effort. Other City departments can serve not only as clients of the Program, but also as custodians. In cities with percent for art mandates on capital improvement projects, departments and divisions as varied as libraries, parks, water and waste management, police and fire act as clients in the implementation of public art.

Interdepartmental coordination at every stage is absolutely essential. Sponsors are the best source of knowledge about the limits, challenges and opportunities of their projects, and will have much to offer in educating artists, whether on the science of wastewater treatment, the porosity of various paving surfaces, or the drought tolerance of native plant materials.

Until and unless Newark adopts a percent for art for its own capital improvement projects, public art will be sponsored by the City through the Public Art Fund and/or other identified funds on a voluntary, case-by-case basis.

Implementation:

The City will create partnerships among its departments to foster public art projects in a variety of settings and conditions. While the administration of the Public Art Program and the conservation of artwork are within the purview of the Community Development Department, all sponsoring departments will absorb major responsibilities once they agree to include artwork in their projects.

The Sponsoring Department will have the following responsibilities:

- Determine with the Community Development Department, the project architect and/or engineer whether works of art are desirable and in the public interest for specific projects.

- Participate ex-officio in the Selection Panel review process.

- Review and approve general contractor bid documents as they pertain to the implementation.

- Coordinate with the Community Development Department regarding lead responsibility in development and implementation of public art projects at departmental sites.

- Inform the Community Development Department of any advisory groups, neighborhood groups, or other groups that may be impacted by or be interested in the development of a public art project.

- Request and receive permission from the Community Development Department before moving, altering or in any manner changing artwork.

- Recommend community members to serve on selection panels.

- Monitor the need for routine maintenance of artwork located on its sites and facilities, and report findings to the Public Art Coordinator.

The better part of coordination between artists and other construction team members will be the job of the sponsoring department's project managers. Therefore it is critical that all sponsoring departments familiarize their staff with the details of the Program's operations and that agreements are structured on the management of each project.

Goal Four: Establish a formal structure for the Public Art Program.

Objective One:
Develop an orderly and manageable annual program for public art projects.

Objective Two:
Create more stringent criteria for extraordinary architectural design to warrant reductions in private sector public art obligations.

Objective Three:
Provide training and opportunities for existing staff to become familiar with public art issues. And, whenever possible, utilize a professional knowledgeable in the field of public art to direct the development and implementation of the Public Art Program.

Objective Four:
Encourage dissemination of public art information to residents.

Objective Five:
Maintain and conserve the City's public art collection.

Objective One:
Develop an orderly and manageable annual program for public art projects.

Discussion:

Dependable and knowledgeable administration of the Public Art Program is essential to achieve the goals and objectives outlined in this document. Just as importantly, residents will develop confidence and pride in the program if it is professionally managed. Every project should be structured as a collaboration between the City's Public Art Coordinator, the artist, the sponsoring department, and if applicable, the co-sponsoring entity (such as a school, non-profit organization or private developer). Much of the day-to-day work of the Public Art Program is administrative, performed by staff and consultants. Responsibilities include:

- Soliciting the interest, participation and support of private sector sponsors, artists, sponsoring departments and community organizations
- Coordinating technical assistance for regional artists
- Coordinating selection panels and artist selection

- Tracking implementation milestones
- Serving as City liaison to design teams and artists
- Preparing and monitoring contracts and budgets
- Advising sponsoring departments, project managers, contractors and engineers
- Serving the public as point-of-contact and in disseminating information
- Providing professional expertise on public art to City staff, elected officials and the public
- Reviewing projects sponsored by private developers at key stages in planning, artist selection, design and fabrication phases

Artists and public art personnel work within the parameters of urban planning, architecture and construction. Sponsoring departments need to be familiarized with curatorial decision-making, the creative process of artists and the administrative regulations of the public art program.

Implementation:

Program Management

The Community Development Department will be the Lead Department for all phases of the Public Art Program, from proposals through implementation. Projects sponsored by other departments may require a partnership with the Community Development Department, with the sponsoring department taking the lead for implementation and the Community Development Department lending its expertise for artist selection. In most circumstance, the Community Development Department will:

- Coordinate efforts of other City departments
- Coordinate Selection Panels and technical consultants
- Serve as primary contact and staff to private sector sponsors
- Sponsor technical workshops for artists

- Shepherd projects through review and approval milestones

Project Development and Implementation

The Building Division and the Maintenance Division of the Public Works Department will work with the Community Development Department in project planning and project implementation. The Public Works Department will:

- Ensure compliance with public safety and site feasibility criteria
- Monitor construction, fabrication and installation
- Review artists' proposals for technical and operational design and fabrication feasibility
- Verify artists' analyses and projections for maintenance and long-term care

City Interdepartmental Work Group

City personnel, such as legal counsel, Public Works Department staff and the Recreation Department staff will also be involved, for example when artwork is placed in public parks. The Community Development Department will schedule and coordinate meetings with an Interdepartmental Work Group to coordinate upcoming milestones and staff responsibilities.

Objective Two:
Create more stringent criteria for extraordinary architectural design to warrant reductions in private sector public art obligations.

Discussion:

Under Resolution 6582, adopted 1992, the City may excuse up to one half of art obligation fees to developers creating buildings with enhanced architecture. This mechanism has resulted in many buildings of merit and detail beyond industry standards. Developers know that Newark requires and will reward excellence in design. The City has acknowledged its success in this area and has raised the baseline for architectural and urban design standards, thus encouraging even greater care and attention to the physical environment. In January 2001, the City issued a series of design guidelines that simultaneously illustrate standards expected of all new developments as well as the design criteria that the Community Development Department will utilize in granting art fee reductions. The adoption of these more stringent design standards may result in fewer credits with more dollars deposited by developers into the Public Art Fund and available for City-sponsored public art projects. Public art projects are also more likely to be sponsored by developers on their own property than in the past.

Implementation:

The Public Art Coordinator will be the key City staff person (either as staff or consultant) involved with developers regarding fulfillment of their public art obligations. City Staff in charge of pending private development projects and negotiations with developers will work with the Public Art Coordinator to develop procedures for negotiations regarding the public art requirement.

The Community Development Department will schedule regular meetings between the Public Art Coordinator and supervising development project staff to ensure that all parties are fully briefed. The Public Art Coordinator will seek counsel regarding approaches to negotiation and implementation.

The Public Art Coordinator will keep a current list of all pending projects and track those for which a developer may apply for the architectural credit. The Public Art Coordinator will meet with each developer as early in the process as possible to outline and discuss the City's Public Art Program. Developers will also be informed regarding the services the City will provide to assist in compliance with the Public Art Program. As soon as each application for exemption is accepted or denied, the Public Art Coordinator will adjust the annual projection for the City's Public Art Fund budget accordingly.

Objective Three:
Provide training and opportunities for existing staff to become familiar with public art issues. Whenever possible, utilize a professional knowledgeable in the field of public art to direct the development and implementation of the Public Art Program.

Discussion:

Professional administration and management will assist Newark in attaining a public art program commensurate in stature with the City's other design and development objectives. The field of public art is relatively new; most percent for art programs are less than twenty years old. Formal academic training for public art administration is limited. Many professionals now heading public art programs entered the field with degrees in art history and arts management, augmented by on the job training.

Public art administrators are called upon to provide expertise in art history, contemporary art, public administration, community relations, contract negotiation and management, education and maintenance. The orderly and productive incorporation of artwork into the city building process is fraught with complexities and challenges, often unique and requiring specialized experience. Public art management requires an unusual complement of knowledge and skills to work successfully with the public, artists, architects and engineers, elected officials, city staff and other technical professionals in the realization of a specific artwork.

Public art programs are typically managed within cultural affairs departments or divisions. Specialized staff is charged to implement public art programs in not only large Bay Area cities such as San Francisco, Oakland and San Jose, but also smaller cities such as Santa Cruz, Walnut Creek, Pleasanton and Palo Alto. Cities of under 100,000 population with smaller public art programs may train their arts and culture staff to include public art responsibilities as part of a more general set of responsibilities. In cities with no arts and culture professionals on staff, or even when operational duties are assumed by permanent staff, public art consultants are retained to administer a public art program or specific projects on an as needed basis.

The annual public art budget in Newark over the next five years is estimated to range between approximately $60,000 and $200,000. These funds will provide for significant additions to Newark's public art collection. Efforts of this magnitude require specialized expertise in the field. To some extent, such experience and knowledge can be developed with current staff through training, if augmented by periodic retention of consultants. Alternatively, it may be

obtained through a staff position. The size of the public art budget and the scale of the Public Art Program will create demands upon the City that must be evaluated by staff to determine the most effective administrative approach.

Implementation:

Near term administrative functions will most likely be managed by existing staff. They may work with consultants contracted to provide services for specific projects. Fortunately, Newark is situated in a region rich in public art programs and public art professionals. Should the City decide the scope of the Public Art Program is sufficiently small and entailing the administration of only one or two small-scale projects annually, it may proceed with existing staff and consultants. However, all professionals working as lead agents for public art projects will have expertise in the field and a proven track record implementing current best practices. Whether staff or consultant, a Public Art Coordinator will be established as the lead point person for all aspects of the program, rather than splitting this function among staff.

Staff training can be accomplished through a variety of ways. For example:

- The Public Art Network (affiliated with American For the Arts) is a source for several helpful documents on public art and an annual public art conference. The conference is an opportunity for more experienced professionals in the field to share their experiences with newcomers. Seminars include nuts and bolts issues as well as art-related content issues and developments.

- The Seattle Arts Commission offers a three-day workshop in public art administration and is another option for basic training in the field.

- The California Assembly of Local Arts Agencies (CALAA) maintains a database of arts and culture programs in the state and can be another source of information for professionals in need of increased knowledge regarding the field of public art.

Although conferences and seminars are excellent ways for City staff to gain basic knowledge of the field and exposure to best practices, they do not provide on-going, on-site mentoring for newcomers to the field. As is the case with other specialized planning functions such as transportation and environmental review, there will be many issues requiring experience and knowledge beyond the elementary level.

Expertise for such purposes will be obtained through consulting services. Several areas of project management are particularly challenging and will best be

implemented under the guidance of an experienced consultant, if no professional staff exists. These areas are:

- Policy formulation
- Plan development
- Artist selection
- Contract negotiation
- Schematic and design development
- Fabrication and installation
- Public relations

Objective Four:
Disseminate public art information to residents.

Discussion:

Goal Two, Objective Six discusses cultivation of the general public's awareness and appreciation for artwork after installation of specific projects and as the overall collection develops. This Objective concerns decisions regarding implementation of the program made each year, as appropriations from the Public Art Fund are considered.

Given the diverse nature of Newark's population, and their range of aesthetic preferences, it is wise from both a strategic and practical perspective to develop over time as diverse a collection of public art as possible. As artworks are commissioned and purchased, it will be increasingly likely that there will be something for every taste. Some people respond to traditional memorial figures. Others are intrigued by projects responding to environmental conditions or work offering opportunities for audience interaction. Some favor abstraction; others prefer representation. Some prefer to celebrate Newark's history; others desire to acknowledge its future.

Dialogue is integral to public art master planning, involving community representatives from a variety of perspectives, as customers and stakeholders. This dialogue should take place as part of developing the 5-year Public Art Projects Plan or on a more frequent basis that the City Council may establish. Community input and a healthy dialogue always assist in the absorption and acceptance of "controversial" work. A structured process for obtaining community perspectives should be instituted. There are also myriad ways to disseminate information and as many as are practical should be considered, to ensure inclusion and responses from Newark's residents.

Implementation:

The 5-year Public Art Project's Plan will be developed from the project list set forth in Goal One, Objective Two. Input from the community is important and will be considered as the City Council establishes the 5-year plan. The City Council may in the future wish to establish a more formal public review procedure, such as the creation of a Public Art Advisory Committee, which could meet on an ad-hoc basis or as determined by the City Council. The committee's input will help to refine appropriate project criteria for the selection of sites, and review criteria for artist and artwork selection.

It is advised that such a committee be comprised of no less than 5 and up to 9 individuals, selected by the Public Art Coordinator, in consultation with the Community Development Director.

Public Art Advisory Committee Qualifications:

The make up of the Public Art Advisory Committee ought to include: a City staff member or members working on public art projects, the Public Art Coordinator, an artist, an arts professional working for a local or regional non-profit cultural organization, one or more neighborhood or community representatives, and a professional in the building arts, (e.g. architecture, urban design or landscape architecture) practicing in Newark

Public Art Advisory Committee Duties:

The City Council and/or the Community Development Director may convene a Committee for special meetings to address additional issues as either sees appropriate.

Prior to any such committee meetings, the Public Art Coordinator will prepare, in consultation with other City staff, a list of potential projects and projected issues, a project status report and an implementation schedule for the Committee's review and input. The Committee will provide input on program priorities, project approaches, community perspectives and community resources.

Objective Five:
Maintain and conserve the City's public art collection.

Discussion:

Newark is developing a collection of public artworks, which will, over time, become a significant asset to the City. Cities take great pride in their cultural resources and must be active in their preservation and maintenance. Like all physical assets, artworks are adversely affected by environmental conditions and normal wear and tear. Often artworks are composed of unusual materials, or fabricated with unusual techniques, creating further challenges for maintenance and conservation and requiring specialized technical expertise. Each artwork must have a maintenance manual so that proper and timely care can be given. As with any investment the City makes, artwork requires regular attention to prevent more serious and difficult problems from arising.

In some cases, it may be necessary to formally and permanently remove a public artwork. Newark must be prepared to consider such issues of de-accession, which will inevitably arise as its public art collection grows. The primary circumstances that drive de-accession pressures are:

- Aesthetic evaluations
- Content issues
- Severe damage to the artwork
- Re-definition or dedication of the artwork's location

The two most common causes of calls for the removal of an artwork are displeasure with the merits of its artistic worth or the appropriateness of its content. The City can insulate itself from these pressures through the use of the public review procedures outlined in Goal One, Objective Three. The inevitable differences of opinion occasioned by public art are similar to the discussions which occur around library acquisition policies and curriculum development. They should be handled in a similar and fair manner, in which community members are encouraged to speak out, but within the context of an established process.

Occasionally the site for an artwork must be changed or altered, such as the demolition or remodel of a building housing an artwork, or the redesign of a street or park which hosts an artwork. In these circumstances every effort must be made to conform to applicable California law concerning the duties of

property owners and the rights of artists.[2] At the very least, artists must be notified regarding any action effecting the location and/or integrity of their artwork.

Implementation:

The Public Art Coordinator will develop a maintenance schedule and plan for all artworks in the City's collection. The maintenance plan will include standards identifying methods and materials for maintenance and conservation and identification of all materials and techniques used in each artwork. All new commissions and purchases will require artists to prepare and transmit a Maintenance Manual to the City. If there are artworks in the City's current collection without such manuals, the artist or a professional conservator will be contacted to supply one.

A professional conservator will be retained to assist the Public Art Coordinator in finalizing the collection maintenance schedule and in determining who is capable of providing regular maintenance. The conservator will also establish criteria for an annual inspection and documentation of the City's collection. This is an essential step to ensure repairs are made as soon as possible. In addition to obtaining advice from a professional conservator, the Public Art Coordinator can use manuals produced by the non-profit organization Save Outdoor Sculpture, to gain better understanding of the issues in collection management.

Some artworks may require only routine cleaning with ordinary techniques and materials used by the Recreation Department and the Public Works Department. With training it may be possible for City staff to maintain much of the art collection. Where more complicated conservation measures are required, the City must obtain the services of a recognized expert in art conservation. The Bay Area has many qualified professionals in the field.

The Public Art Coordinator will develop a set of policy guidelines for the City for de-accessioning and/or relocating works of art. These policies will reflect current best practices in the field of public art as reflected in literature published by Americans for the Arts and Save Outdoor Sculpture. Conformance to state and federal laws governing the preservation of artworks and the rights of artists must be observed. All de-accession or relocation decision will be reviewed by the Public Art Advisory Committee (if formed) with ultimate approval by the City Council.

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[2] The California Art Preservation Act (Civil Code 986 et seq.) establishes certain rights to the makers of fine art when an artwork is sold or is physically removed from real property. The Act also penalizes the defacement of artwork and strictly limits the ability to alter an artwork without express permission of the artist.

Goal Five: Encourage art that is accomplished and which maintains professional standards commensurate with the region's national standing as a center for arts and culture.

Objective One:
Utilize a fair, thorough and balanced process to select artists whose accomplishments, skills and vision are most appropriate to the project.

Objective Two:
Commission both large and smaller scale projects to attract artists of various experiences and capabilities.

Objective Three:
As need is demonstrated, assist local artists in developing skills required to qualify for commissions and to produce public art.

Objective Four:
Provide assistance to developers in fulfilling their public art obligations.

Objective One:
Utilize a fair, thorough and balanced process to select artists whose accomplishments, skills and vision are most appropriate to the project.

Discussion:

A decision-making structure, process and criteria for artist and artwork selection must be designed and implemented as consistent, equitable and inclusive. The Public Art Program should follow guidelines for the competitive selection of artists' proposals, similar to services provided to the City from outside private contractors in other fields.

Curatorial knowledge of the public art field is a niche area of expertise similar to other specialized work the City is involved with which is likely to require outside technical assistance, e.g., environmental planning, sports facility design, xeriscaping and transportation demand management. Choosing artists and evaluating their proposals requires professional knowledge of and exposure to current best practices in the field. The experiences of public art sponsors across the country prove that for a public art program to succeed, the selection of artists and artwork must be performed by professionals with extensive knowledge of artists working in the field and expertise regarding the range of expressions and materials with which such artists work.

Involving professionals to select artists and artwork on a one time, as-needed basis also helps to protect sponsors from potential liability that may arise. Newark's position within Silicon Valley and the San Francisco Bay Area also establish levels of professionalism that warrant serious consideration. Standards of excellence and attitudes toward innovation that drive the region's technology revolution are reflected in other avenues of creation. The arts are no exception and Newark can take its place among cities in the region through the cultivation and development of a notable and professionally driven public art program.

Implementation:

Significant new public art projects will have a selection panel, convened only for that project. The need for the creation of a selection panel will be determined at the discretion of the Community Development Director. Selection Panels should be convened for large and/or prominent projects, or when the Community Development Director determines that other conditions merit significant public review and input. If several very small and/or related, similar projects come on line simultaneously, one panel may select artists for several projects. Smaller projects may be selected through coordination between the Community Development Director, the Public Art Coordinator, and other staff members as appropriate.

The project scope, as outlined in the 5-year Public Art Projects Plan, will guide the selection process for and the composition of selection panels. A pool of potential panelists will be compiled and maintained by the Public Art Coordinator. The Public Art Coordinator will recommend specific panel compositions.

Panels will contain members with the experience and expertise relevant to each project. Successful panel functioning is dependent upon the thoroughness of the briefing process, which will be the responsibility of the Public Art Coordinator. Panelists will be briefed not only on the specific project, but the overall goals of the Public Art Program and the relationship of the immediate project to the Program.

Criteria for Selection Panel composition and some guiding principles are in Appendix E, attached.

Methods of Selection for Artists and Artwork

The Selection Panel or Community Development Department (both are referred to as the Selector in the following descriptions) will recommend an artist for a specific commission of artwork, for participation in the design of a construction project or for purchase of existing work.

One of the following methods may be used for the selection process. Suggestions for when each method might best be used are included with each description.

1. **Request for Qualifications**
   The City will notify artists regarding the specific project. Artists will submit their qualifications and work samples. The first round selection of finalists will be based on artists' submittals of past work. A short list of finalists will be invited to meet the Selector for an interview. The Selector will choose one artist and recommend an alternate from the interview. This method will also be considered appropriate for selecting an artist for a design team. If desired, the Selector may ask each of the finalists to develop a Conceptual Proposal which will be evaluated in a second round of Selector review including interviews with the artists and reviews of proposals. Staff will recommend an honorarium for the artists to be deducted from the project budget.

2. **Request for Proposals (Open Competition)**
   A Request for Proposals will be considered appropriate for smaller projects that might interest artists who have not yet entered the public art field. Reviewing proposals rather than qualifications will allow the Selector a reliable insight into the artist's vision and approach. The Selector will ask a small group of finalists to meet for interviews prior to the final selection. Artists will not be compensated for submitting proposals in an open competition.

3. **Invitational Competition**
   The Selector will invite a limited number of artists of their choosing to submit qualifications or proposals. This may also be conducted in two phases. The first phase will be based on qualifications; the second phase will be based on a proposal. This is helpful when a project is extremely complex and only a limited number of artists may be capable of completing the job successfully. Staff will recommend an honorarium for the artists to be deducted from the project budget.

4. **Direct Selection**
   In rare circumstances, the City may need to move forward without delay and ask a Selector to recommend one artist and a list of alternates. This option will be used only when there is no time or opportunity for a more competitive approach.

The criteria for artist selection and the review of individual artwork proposals are listed in Appendix F.

Objective Two:
Commission both large and smaller scale projects to attract artists of various experiences and capabilities.

Discussion:

Large-scale projects can be icons for a community, creating instant identification. Many people expressed a strong interest in using some of the art funds for a singular artistic "statement" denoting Newark's identity. Such an undertaking (perhaps in the range of $100,000 to $200,000) would necessarily require the services of a very experienced artist, one who works with large budgets and whose ability to complete the job could be measured by a significant record of professional achievement.

Smaller projects (less than $10,000) can bring texture and variety to the City through placement in dispersed sites. Smaller commissions also offer opportunities for artists who do not have extensive experience with large budgets and/or complex construction. Smaller projects can be ideal for local artists who want to enter the public art field and are looking for their first or second commission. Many local and regional artists fall into this category and could compete for these smaller projects.

Implementation:

The City will commission a range of public art projects varying in size, scale, complexity and budget. Priority locations for all types of permanent commission are identified in Goal Four, Objective Two. Notification of RFQs and RFPs for smaller commissions should be circulated widely in Newark and in Alameda and Santa Clara counties. RFP's and RFQs for larger projects (over $10,000) should be circulated regionally and nationally. Smaller projects (under $10,000) should be subject to geographic restrictions on a case-by-case basis, depending on location, extent of local and regional knowledge, on site requirements, etc.

Objective Three:
Assist local artists in developing skills required to qualify for commissions and to produce public art.

Discussion:

Many artists wish to practice public art but do not have some of the artistic and business skills needed to compete for and successfully complete projects. The Public Art Program can be of great service by offering free or at-cost workshops to help artists understand the business of public art, develop and present proposals, manage budgets and contracts, read blueprints, locate and supervise fabrication specialists, work with citizen groups and deal with regulatory and bureaucratic structures.

Implementation:

The Public Art Program may give priority to Tri-City area artists or to artists in Alameda and Santa Clara counties for commissions valued less than $10,000. Some requests for qualifications, special projects or proposals may be limited to residents of the Tri-City area or Alameda and Santa Clara counties. All other commissions will be determined entirely upon the artistic merits of the applicants and their suitability for the specific commission. Selection panels, if used, will include experts, such as curators and public art administrators, both local and from outside Newark, so that the work of regional artists may be called to the attention of a large pool of arts professionals.

In the near term, until the process is familiar to the broad range of artists in the region for each request for qualifications or proposals the City will hold a public workshop structured to help artists complete a competitive application. Responses to frequently asked questions may be made available on the City's web site.

Objective Four:
Provide assistance to developers in fulfilling their public art obligations.

Discussion:

Newark's development community is comprised of many active, caring corporate citizens. The business community also recognizes the value of the arts and entertainment in an overall economic development strategy. Recent construction projects have shown notable attention to design quality issues and urban context. It follows that the potential interest of some developers to include public art in their projects could be high. Others may be interested in contributing to City-initiated public art projects in locations of high visibility, as part of corporate citizenship efforts. Guidelines for this option are in Goal Five, Objective Four, under "Gifts and Loans".

There are three options available to developers whose projects require fulfillment of a public art obligation:

- They may choose to reduce the dollar amount of their obligation by providing extraordinary architectural design in their project.
- They may contribute funds to the City's Public Art Fund for use in the City sponsored Public Art Program.
- They may dedicate their full dollar obligation to public artwork on the site of their project.

Developers prefer clear-cut guidelines and a structure that enables them to comply with public art obligations with the least complication. Procedures for the first two compliance options cited in the above paragraph are covered in Goal One, Objective Two. For those developers who choose to commission work for their project site, the following procedures will apply.

Implementation:

The City will publish a brochure of guidelines for developers that will discuss and include the following:

- Eligible and ineligible artwork, locations and expenditures
- Financial obligation and project completion milestones
- Artist/artwork selection process

- Application Forms for proposal review
- Approval criteria for artists and artwork
- Maintenance, ownership, copyright, identification and publicity issues

The developer may choose any of the following methods to select an artist or artwork: a selection panel; professional art advisor; public art consultant; or, direct selection by the developer or their representative.

The developer will file a series of application forms with the City at certain milestones in the development process specifying the selection process, location, timeline, cost, artist and proposed artwork for the intended public art project. The City will transmit application forms, timeline milestones and a written summary of the Public Art Program to developers at the earliest possible date in the development process. The developer may request to meet with the Public Art Coordinator for clarification and discussion.

If the artwork is a site-specific commission, the developer will submit the artist's schematic designs and design development drawings for the project to the City. If the artwork is a purchase, a representation or image of the work will be submitted with the application forms. The City will approve or deny each application within a specified time period, corresponding to other project development approvals. The Public Art Coordinator, and the Community Development Department Director, will approve or deny applications after consultation with other City staff. Developers may request reconsideration of their request for approval should they be denied or they may seek appeal to the City Council.

The following criteria will be used in reviewing developer applications in cases where the developer commissions an artist to create a site-specific commission or when the developer proposes the purchase of an existing artwork:

Criteria for Approval of Proposed Artists

1. Artists' credentials, experience, training, and professional recognition.

2. The artist's ability to successfully complete the project within the proposed budget.

3. The artist's ability to respond to the project's contextual issues, its community, audiences and users.

Criteria for Approval of Artwork Proposals (concepts, schematics, design development)

1. The creativity and originality of the artist's response to the project opportunity

2. The artist's response to the physical context of the site, including such indicators as choice of scale, materials, form and content, and the proposed relationship of the artwork to existing or anticipated environmental conditions, including architecture, landscaping, urban design and development, traffic and circulation

3. The artists' response to the social context of the site, which may include: local demographics, history, intended function of the artwork and visual access for the general public

4. An analysis of the artist's proposed method of fabrication and installation of the artwork and an evaluation of safety and structural factors involved

5. Evaluation of the artist's proposed budget and schedule for completion

6. Evaluation of the proposed materials and their appropriateness to the project, including issues of structural and surface integrity, protection against theft and vandalism, public safety and weathering, and an analysis of long term maintenance needs

7. If the artwork is part of a larger construction project, feasibility within the limitations of the overall development schedule

8. The artist's statement as to whether or not the artwork is a unique, site-specific edition of one and has not and will not be duplicated, or, alternatively, is one of a limited edition of multiples. No unlimited editions or mass-produced artwork will be approved

APPENDIX A
GLOSSARY

5-year Public Art Projects Plan - A plan formulated on a 5 year basis by the Community Development Department to designate funds from the Public Art Fund for specific public art projects to be undertaken in the relevant year. The Plan may be reviewed and/or updated more frequently at the discretion of the Community Development Director or the City Council. The 5-year Public Art Projects Plan uses the Goals and Objectives of the Public Art Master Plan as its framework. The Plan may, upon recommendation of the City Council, be reviewed by a Public Art Advisory Committee. The City Council adopts the 5-year Public Art Projects Plan.

Art in Public Places – artwork that is located in a public location and different from public art, as it may not entail any public process and/or review in its creation.

Artist – an individual with training and/or professional experience in the visual arts and crafts who is recognized by peers and validated by degrees from accredited colleges and/or by a record of professional exhibitions and/or public art projects under the aegis of a credible sponsor.

Public Art – artworks created by artists and/or design teams of artists and other design professionals that have been developed with some degree of public participation and review and which are placed in sites which provide visual accessibility to the public.

Public Art Advisory Committee – a committee appointed by the City Council charged to review and/or advise City staff on matters pertinent to its implementation.

Public Art Coordinator - the staff and/or consultant within the Community Development Department designated as the City's lead professional for managing the Public Art Program.

Public Art Fund – an account within the Community Development Department, which includes funds deposited by private developers in fulfillment of the public art obligation as well as other funds the City might obtain from, grants and donations dedicated and restricted to public art. The City technically refers to this account as the Art in Public Places Cost Center.

Public Art Professional – an individual with training and/or professional experience in the field of public art (and such allied disciplines as art history and urban design).

Public Art Program – the aggregate of those projects and responsibilities undertaken by the Community Development Department to promote public art in the City and to maintain public relations about its achievements and progress.

APPENDIX B
List of interviewees

Charlotte Allison	Newark resident
Gerald Au	Newark dentist
Arun Bhojani	Hypnosis therapist
Susan Boggs	City of Newark Vice Mayor
Jack Burgess	City of Newark Senior City Engineer
John Cook	Planning consultant
John Copley	Newark Chamber of Commerce
Lenka Diaz	City of Newark Recreation Coordinator
Jean Ficklin	Retired schoolteacher
Jo Lynn Hanke	Newark resident
Irene Hentschke	Newark resident
Helen Jaslow	Newark resident
Fred Jueneman	Newark resident
Joel Kislingsbury	Newark business owner
Karen Kristiansson	Planning consultant
Russell Mauk	Program Manager, Workplace Resources, Sun Microsystems
Miranda Miller	Newark resident
Ed Moore	Pastor, Newark Community Church
Ray Panek	Kaufman & Broad
Jerry Raber	Friends for Ash St. Community Enrichment
James Reese	Community Development Director
Darryl Reina	City of Newark Recreation Director
Bo Rogers	Craft shop proprietor
John Shenk	Sobrato Development
Ken Sherer	Superintendent, Newark Unified School District
Shirley Sisk	Community activist, former Council member
David Smith	City of Newark Mayor

APPENDIX C
Ad-hoc citizens' advisory committee to the Public Art Master Plan

Helen Jaslow
Irene Hentschke
Fred Jueneman
Miranda Miller
Nancy Pratt

APPENDIX D

Review process for acceptance of gifts, bequests and loans

- A written proposal or letter of intent from the project sponsor will be submitted to the Community Development Department from the donor applicant. The proposal must include:

  - Information on the purpose of the gift/bequest/loan, the artist, artwork specifications and donor

  - If the project is a commission, materials specified in Goal Two, Objective One for proposals, schematics and/or final design submissions, depending on the status of the proposed artwork to be donated.

  - If it is a pre-existing work, a representative image.

  - Additional information regarding the criteria below, to the extent possible. If the proposal is in the concept development stage, indication of a commitment to submit additional information must accompany the letter.

- The Public Art Coordinator will convene representatives from other appropriate departments (i.e. Public Works, Recreation and Community Services) to provide a technical review as to the project's feasibility.

- The Public Art Coordinator will respond in writing to the potential donor, and will include input from other Departments and list additional information needed and revisions to be made prior to presentation of a formal proposal to City Council.

- The Department of jurisdiction for the proposed site for the artwork and the Department responsible for maintenance of the proposed artwork must each provide conceptual or provisional approval to the Public Art Coordinator

- The potential donor will prepare a formal proposal for review by City Council. The proposal will include:

  - If a proposed commission, materials and information on schematics and/or final design in accordance with requirements outlined below

- If completed or pre-existing, the actual artwork should be submitted for review which may first be done in photographic representation, followed by first hand review of the artwork by City Council.

- The City Council will vote to accept or reject the proposed donation, based on criteria outlined below.

  - If the proposal is submitted as a concept, and is not accompanied by schematics and/or final design, or if the schematics and/or final design do not meet the review criteria, the City Council may choose to vote to accept or reject the project concept only.

  - The proposal will then be remanded to the Public Art Coordinator. The applicant will be required to revise and complete applications for schematic and final design development and return to staff for project review and City Council vote.

  - The final City Council vote in which a resolution is made to accept the artwork. The date of Council action constitutes the date of accession to the City Collection.

  - Approval of acceptance of gifts of artwork must be voted and accepted by the City Council prior to fabrication or installation (if the artwork is pre-existing).

  - No gift will be accepted requiring the City's guarantee in perpetuity or with conditions that are deemed unacceptable by City Council.

  - A legal instrument of transmittal and conveyance, transferring all title or loan of the artwork and defining the rights and responsibilities of all parties, must accompany all gifts or loans of artwork.

Aesthetic Criteria for Consideration of Gifts and Loans

- Accepted artwork must complement and further the principles, goals, and collection development objectives outlined in the Public Art Master Plan.

- Accepted artwork must comply with the quality, style, media and artist eligibility criteria outlined in the Public Art Master Plan.

- In the case of memorials, the honored person, subject or topic will be judged according to the following additional criteria:

- the honored person, subject and/or topic is significant enough to the residents of the City of Newark to merit a memorial on City property

- there is a geographic relationship and justification for the proposed location

- the event which the memorial commemorates has occurred at least five years before the proposal letter date

Financial Criteria for Consideration of Gifts and Loans

- All costs of design, construction, fabrication, installation and other fees must be underwritten by the donor/project sponsor and itemized in the project budget. Additional ancillary costs to construction must also be included, such as: engineering and structural support (e.g. bases, site preparation, landscaping, armatures, lighting, pedestals); utility hardware; installation; text; attribution plaques; and, insurance.

- A mandatory maintenance endowment budget will include costs of routine and extraordinary maintenance, conservation and insurance coverage over the life of the artwork and the site area. The fund amount will be determined in agreement with the City and be provided by the donor prior to commencement of site preparation and installation.

Context, Installation, Placement and Siting of Artwork

Accepted artwork must comply with the site and context criteria outlined in this document, including, but not limited to:

- Appropriate relationship to landscape, streetscape, surrounding architecture and urban design

- Compatibility with surrounding uses, users and public safety needs

- Adequate visibility and access

- Compatibility with future development plans and neighborhood objectives

- Consideration of environmental impacts

- Feasibility and efficiency of site modifications, preparation, and engineering requirements

- Public infrastructure requirements

- Compatibility with existing artwork in the environs of the proposed site
- Compatibility with the City's collection as a whole, in particular the filling of gaps in subject matter, materials, technique, etc.

Maintenance and Liability Criteria for Consideration of Gifts and Loans

- The proposal and final artwork must include a plan for maintenance, conservation and long-term care. The City may enter into a maintenance agreement with the project sponsor that includes specifications for the project sponsor to maintain the artwork.
- The Community Development Department will determine if the proposal meets the risk management requirements for the project prior to project approval by the City Council.
- The Department of jurisdiction for the proposed site for the artwork and the Department responsible for maintenance of the proposed artwork must approve the maintenance plan for the project.

Exceptions to the Review Process for Acceptance of Gifts and Loans

Gifts to the City from foreign governments and foreign public institutions as part of official City business will be accepted unconditionally. Location decisions, siting, structural support, maintenance plans and site enhancement for gifts from these sources will be prepared by the department in charge according to the procedures and criteria outlined in this document and submitted to the Public Art Coordinator for review and Council approval. Maintenance responsibilities will rest with the department in charge or by agreement, a department with jurisdiction over the site of the artwork.

APPENDIX E
Selection Panel member qualifications

1. The Community Development Department will, as needed, convene artist selection panels for commissioning of permanent artwork. The Public Art Coordinator will present a recommended list of panelists to the Community Development Director for approval. The Public Art Coordinator will coordinate the Selection Panel's appointment and serve as a non-voting panel chair. The Selection Panel for each project will be composed of at least five and not more than nine voting members, relative to the dollar value, size and complexity of the project. A majority of the panelists will have a professional understanding of the visual arts. Priority will be given to Newark residents for panel membership consideration. The composite membership of the panel will, to the maximum feasible extent, reflect the current demographics of the City. The panel will include:

- At least one artist

- At least one arts professional or experienced amateur (designer, curator, collector, art historian, arts volunteer, etc.)

- At least one representative from the neighborhood or community in which the project will be located (with no required background in arts or design)

2. The Selection Panel may also include one or more non-voting advisors, including the City's project and/or consulting architect, engineer or designer, additional community representatives, and a representative from the Sponsoring Department or sponsoring entity.

3. The Public Art Coordinator will transmit written instructions, a project description and a list of duties and responsibilities to the Selection Panel prior to their first meeting

4. Panels will meet in open session and may choose to either reach a consensus or if none exists, to take votes in closed session. In voting, a simple majority will carry the decision. Staff will prepare a memorandum for City Council requesting action on the recommendations of the Selection Panel. Panelists may elect not to reach a decision, in which case staff will recommend a new selection process or action to the City Council.

5. Anyone in a position to receive financial gain from the selection of artists will be ineligible to serve on a selection panel. Any artist serving on a selection panel will not have his or her work considered for any other City-sponsored public art project during the tenure of service on the selection panel.

APPENDIX F
Criteria for the selection of artists and artwork

Criteria for Selecting Artists

1. Artists' credentials in experience, training, and professional recognition
2. The artist's ability to successfully complete the project within the proposed budget
3. The artist's ability to respond to the project's contextual issues, community, audiences and users
4. Place of work or residence, if geographic restrictions are outlined in the RFP or RFQ
5. Diversity objectives for representation of the City's demographics
6. Additional criteria may be added if agreed by Panel consensus

Criteria for Reviewing Artwork Proposals (concepts, schematics, design development)

1. The creativity and originality of the artist's response to the project opportunity.
2. The artist's response to the physical context of the site, including such indicators as choice of scale, materials, form and content.
3. The proposed relationship of the artwork to existing or anticipated environmental conditions, including architecture, landscaping, urban design and development, traffic and circulation.
4. The artists' response to the social context of the site, which may include: local demographics, history, intended function of the artwork, views and public access.
5. The contribution of the artwork toward achieving the City's overall curatorial and public art collection development objectives, including the desire to achieve a reflection of Newark's many cultures.

6. An analysis of the artist's proposed method of fabrication and installation of the artwork and an evaluation of safety and structural factors involved.

7. Evaluation of the artist's proposed budget and schedule for completion.

8. Evaluation of the proposed materials and their appropriateness to the project, including issues of structural and surface integrity, protection against theft and vandalism, public safety and weathering, and long term maintenance requirements.

9. If the artwork is part of a larger construction project, feasibility within the limitations of the overall development schedule.

10. An artist's statement as to whether or not the artwork is a unique, site-specific edition of one and has not and will not be duplicated, or alternatively, is one of a limited edition of multiples.

11. Mass-produced artwork, artwork from catalogue ordering outlets and artwork that is not of museum quality will not be purchased or commissioned.

12. Additional criteria may be added if the Selector so recommends.

Public Art Master Plan Update

Gail M. Goldman Associates &
Art Builds Community

Background

- 1992 City Council adoption of Art in Public Place and Private Development Program
- City Council Resolution Establishes the Art in Public Places Fee
- 2001 City Council Adoption of the Public Art Master Plan
  - 5-year Public Art Project Plan

Process & Schedule

Winter 2022

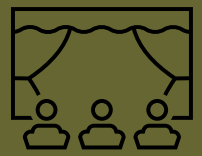
Project Initiation & Research

Spring 2023

Community Outreach & Public Participation

Summer/Fall 2023

Development of Draft & Final Update



STAFF REPORT

Item F. 3.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	James Scanlin, Environmental Services Manager
SUBJECT	Adopt a resolution authorizing the City Manager to execute a contract amendment with R3 Consulting Group, Inc. to assist staff with negotiations for a potential extension of the Franchise Agreement with Republic Services Inc. for solid waste collection services

SUMMARY AND RECOMMENDATION

The City entered into a ten-year Franchise Agreement (Agreement) with Allied Waste Services of North America LLC (Republic Services) for collection of solid waste and collection and processing of source separated recyclable materials, organic materials, and construction and demolition debris (Collection Services) in 2013. The Agreement ends on May 31, 2023. The City needs to have an extension or new agreement in place for Collection Services by May 31, 2023.

The City executed a Contractual Services Agreement (CSA) with R3 Consulting Group, Inc. (R3) to review Republic Services implementation of the existing Agreement (Phase I) and, if authorized, assist with contract negotiations on an extension to the Agreement (Phase II). The original contract amount for Phase I was $44,480.00. The original CSA for Phase I is almost fulfilled, and additional funds are needed to complete Phase II.

Staff recommends that the City Council, by resolution, authorize the City Manager to execute a contract amendment with R3 Consulting Group, Inc. to assist staff with contract negotiations on an extension to the Agreement with Republic Services. The contract amendment for Phase II would be in the additonal amount of $48,889.00 to bring the total not-to-exceed amount for the contract to $93,369.00

R3 Consulting Group, Inc. will be in attendance at the November 10, 2022 City Council meeting to provide a presentation to the City Council related to the current Agreement with Republic Services and framework for a potential extension.

BACKGROUND

Republic Services currently has approximately 500 commercial accounts for solid waste and recycling service and 300 commercial accounts for organics service as well as approximately 70 multi-family and 11,000 single-family accounts for solid waste, recycling, and organics service within the City of Newark. Republic Services also provides for collection of construction and demolition (C&D) debris and bulky item pickup. The solid waste and bulky items are brought to the BLT Transfer Station in

Fremont. The recycling, organics, and C&D debris are brought to the Newby Island Resource Recovery Park in Milpitas.

Prior to 2013 the City had a franchise agreement with Waste Management Inc. In 2012 the City conducted an extensive RFP process. Four proposals were received. Staff reviewed and ranked the proposals and recommended to City Council that the City enter into an agreement with Republic Services. City Council approved a ten-year agreement with Republic Services in January 2013. The Agreement ends on May 31, 2023. The Agreement states that the contract may be extended with the prior written consent of both parties. The City has a separate agreement with BLT Enterprises of Fremont LLC for transfer services that expires in 2037.

On June 27, 2022 the City released an RFP for professional services to assist with an assessment of Republic Services' rates and implementation of the Agreement (Phase I) and, if authorized, to assist with contract negotiations (Phase II). R3 was the only firm that responded to the RFP. The City entered into a Contractual Services Agreement (CSA) with R3 in the amount of $44,480.00 for the completion of Phase I. Completion of contract negotiations with Republic Services (Phase II) will require an amendment to the CSA.

DISCUSSION/ANALYSIS

Cost of Service: The City contracted with R3 Consulting Group, Inc. (R3) to conduct an assessment of Republic Services' current rates. R3 conducted a rate survey and compared Republic Services' current rates in Newark to five representative Bay Area communities. The survey found that the City's residential rates for basic service are all lower than the surveyed average and that the rate for the most popular 32 gallon cart size is 15.88% lower than the average. The City's commercial garbage rates are consistently lower than the average and the City's commercial recycling rates are very low compared to the surveyed communities. However, the rates for organics service are higher than the surveyed average (See attached Franchise Agreement Assessment Report for details).

Customer Service: In the City's September 2021 survey of residents 75% of respondents stated that they were either satisfied or very satisfied with their service. However, there have been complaints from residents regarding missed pickups and not placing bins back into the enclosures after servicing. Complaints were particularly numerous during the peak of the COVID-19 pandemic. According to Republic Services this was due in large part to drivers being out on COVID leave. Complaints have decreased significantly over the past several months.

Environment: A primary objective of the waste management program is to divert as much material as possible from landfill disposal to reuse. State regulations have set aggressive targets for diversion of recyclables, organics, and construction and demolition debris. The Agreement has numerous provisions intended to help the City meet these targets. The passage of SB 1383 will require the franchise hauler to provide additional assistance to the City including, for example, audits of the commercial and residential accounts' waste sorting practices and notices to account holders not sorting

their material properly.

Delinquent Accounts: There are currently over 1,400 delinquent accounts (approximately 12%) with over 600 accounts that are more than six months past due. Over 97% of the past due accounts are residential accounts. This rate is higher than industry standards. The current agreement allows for Republic to reduce the level of service for past-due accounts with the approval of the City, but that approach has not been pursued to date. Other approaches that could be considered include additional outreach to and tracking of past-due accounts.

Process/Schedule: Pending City Council adoption of the Resolution, staff will work with R3 to initiate contract negotiations with Republic Services. Staff intends to bring a proposed extension to the Agreement to City Council in April 2023.

R3 will be in attendance at the November 10, 2022 City Council meeting to provide a presentation to Council. The presentation will provide background on the Republic Services Agreement, background on current legislation related to solid waste management, a framework for a potential extension of the Agreement, and a brief financial evaluation.

FISCAL IMPACT

The not-to-exceed amount of the First Amendment to the R3 contract would be an increase of $48,889.00 for a total CSA not-to-exceed amount of $93,369.00. Funding for these additional services will be derived from unallocated Measure D funds. An amendment to the 2022-2024 Biennial Budget and Capital Improvement plan is required in the amount of $48,889.00.

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

R3 Resolution

First Amendment

Franchise Agreement Assessment Report

R3 Presentation

R3 signed contract

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE CONTRACTUAL SERVICES AGREEMENT WITH R3 CONSULTING GROUP, INC. FOR WASTE HAULER FRANCHISE AGREEMENT NEGOTIATING SERVICES AND AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN

WHEREAS, the City and R3 Consulting Services, Inc. ("Consultant") entered into an agreement between City and Consultant for Waste Hauler Franchise Agreement Consulting Services effective July 15, 2022 (Agreement); and

WHEREAS, Consultant has satisfactorily completed Phase I of the scope of services in the Agreement including a comparison of the current rates charged by the franchise hauler for collection and processing of solid waste, recyclables, and organics to other comparable Bay Area municipalities; and

WHEREAS, additional funding is needed to complete Phase II of the scope of services including assisting with negotiating an extension to the franchise agreement; and

WHEREAS, a budget amendment is necessary to allocate additional Measure D funding for this scope of activity; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Manager is hereby authorized to execute the first amendment to the Contractual Services Agreement with Consultant, in a form approved by the City Attorney, to assist with negotiating and extension to the franchise agreement with Republic Services and to increase the not to exceed amount of the Agreement by Forty-Eight Thousand Eight Hundred Eighty-Nine ($48,889.00) for a revised total not to exceed amount of Ninety-Three Thousand Three Hundred Sixty-Nine ($93,369.00).

BE IT FURTHER RESOLVED by the City Council of the City of Newark hereby approves an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan for the appropriation of $48,889.00 of unallocated fund balance from Fund 215 (Measure D) to expenditure account 215.60.063.631.6221 in Fiscal Year 2022-2023.

FIRST AMENDMENT TO THE CONTRACTUAL SERVICES AGREEMENT BETWEEN THE CITY OF NEWARK AND R3 CONSULTING GROUP, INC.

This First Amendment to Contractual Services Agreement between the City of Newark, a municipal corporation, ("City") and R3 Consulting Group, Inc, ("Consultant") dated November 10, 2022 (the "Agreement"), is entered into as of _____, 2022 for Waste Hauler Franchise Agreement Negotiation Consulting Services.

RECITALS

WHEREAS, the City and R3 Consulting Group, Inc. ("Consultant") entered into an Consulting Services Agreement (CSA) between City and Consultant for Waste Hauler Franchise Agreement Consulting Services effective July 15, 2022 (Agreement); and

WHEREAS, Consultant has satisfactorily completed the scope of services in Phase I of the Agreement including an assessment of the current franchise hauler's rates and performance; and

WHEREAS, additional funds are needed for Consultant to complete Phase II of the Agreement which includes assisting with negotiating an extension to the current waste hauler franchise agreement.

NOW, THEREFORE, inconsideration of the foregoing recitals and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

(1) Notwithstanding Section 1 of the Agreement, the parties hereby agree to add the additional services as contained in Exhibit A.

(2) Notwithstanding Section 3 of the Agreement, the parties hereby agree to increase the not to exceed amount of the Agreement by Forty-Eight Thousand Eight Hundred Eighty-Nine ($48,889.00) from Forty-Four Thousand Four Hundred Eighty ($44,480.00) for a revised not to exceed amount of Ninety-Three Thousand Three Hundred Sixty-Nine ($93,369.00).

The First Amendment of the Agreement for Franchise Agreement Consulting Services has been executed by the parties as of the date first set forth above.

City of Newark

_____

David J. Benoun
City Manager

Dated_____

Consultant

_____

Garth Schultz
President
R3 Consulting Group

Dated_____

Attest:

_____

Sheila Harrington
City Clerk

Approved as to Form:

_____

Kristopher J. Kokotaylo
City Attorney

Exhibit A

1. WORK PLAN

Project Approach

R3 is ready to share our extensive experience and knowledge in procurement and negotiation processes to assist the City. We are confident that we will meet the City's schedule needs. Additionally, we are in a strong position to provide the City with insight on the rationale behind the SB 1383 regulations and what will be needed in a new Agreement due to our extensive experience working with CalRecycle.

Undertaking agreement negotiations is a complex and time-consuming effort. R3 recognizes that the City has limited staff to take on a project of this importance to the community. The R3 Project Team has assisted numerous cities and counties on comparable projects within the past 2 years, including the City's neighbors Newark, Pleasant Hill and Martinez (which all contract with Republic Services) and we are prepared to work closely with the City's Project Manager to complete all required tasks now and in the future.

R3 will work with City staff and Republic to establish key "deal points" that would be the basis for an extended Franchise Agreement and will seek City direction regarding preparation of an Agreement Amendment. Upon receiving City direction to prepare the Agreement Amendment, R3 will prepare the document with review and involvement of City staff and Republic Services and will present the Amendment to the City Council for consideration and approval.

Scope of Work

Task 1 Establish City Interests for Long-Term Extension

When determining the best contracting option, the City should consider the following:

- **Current Performance:** Is Republic in compliance with the current contract? Is Republic's current and past performance acceptable to the City?
- **Surrounding Area Market Conditions:** Are there other qualified haulers within the geographic area who may show interest in a competitive procurement process?
- **Customer Rates:** How do the City's residential and commercial customers' rates compare to those in surrounding communities?
- **Confidentiality Agreement:** Signing a confidentiality agreement between the City, Republic, and the consultants to ensure that proper protocols are followed throughout the negotiation process.

The intent of this task is to receive clear direction from the City regarding its wants and needs with respect to the Franchise Agreement extension with Republic. Clear direction will facilitate efficient and cost-effective negotiations; lack of clear direction could result in complicated and costly negotiations with Republic.

Task 1.1 Review Franchise Agreement and Current Services

R3 understands that the City and Republic maintain a good working relationship under the current Collection Services Agreement (Agreement). R3 will compare the City's current solid waste collection programs and services, performance standards, and operational requirements to solid waste industry standard best practices. We will also directly analyze the City's ability to achieve the extensive requirements of SB 1383 (dedicated task below).

Task 1.2 Develop a Timeline, Priorities, and Objectives

R3 will conduct an analysis of solid waste extension options that will allow the City to make informed decisions regarding the future of its solid waste system. Specifically, R3 will work with City staff to establish a negotiation team, which may consist of City Staff, members of any commissions as applicable, and R3 team members.

It is anticipated that the negotiation team will assist R3 in developing a timeline for negotiations, an outline of key steps and issues, and identify priorities and objectives. This process will involve the drafting of a summary of items to be incorporated into the amended Agreement with Republic.

We expect the following main priorities:

- Maintaining low, stable customer rates
- Increasing diversion of materials from landfill
- Increasing revenues to the City through Franchise, AB 939, or other administrative fees
- Incorporating new legislative changes as mandated by AB 341, AB 1594, AB 1826, and SB 1383
- Implementing innovative new collection programs and services
- Limiting procurement costs to the City
- Enhancing public education and community outreach programs

Task 2 Franchise Agreement Negotiation for 10-Year Extension

Task 2.1 Deal Points

R3 will work with City staff to develop "deal points" to guide the negotiation process with Republic. The final list of deal points will be presented to City staff for approval and incorporated into the negotiation process. In instances where proposed contractual requirements will be significantly different from those in the current agreement, we will prepare draft language for Republic to consider during the negotiation process.

The deal points may include matters such as:

- Estimated "value" to Republic for extending the Agreement under both options.
- Value of outreach and education services in existing Agreement.
- Requested/desired outcomes (programs, rates, franchise/pavement impact fee payments, reimbursement for the negotiation process, etc.) to be provided by Republic as a condition of a new Agreement under each option.
- Updated Agreement language to incorporate industry best practices and new legislative requirements such as AB 1594, AB 1826, and SB 1383.
- Adding new/expanded recycling or organic waste programs and services – a detailed analysis will be undertaken on Republic's cost proposal for residential green waste to compost and SB 1383 implementation.
- Modifying the current agreement based on the outcome of the negotiations.
- A schedule for concluding negotiations / terminating negotiations that allows for the City to pursue a competitive proposal process if negotiations are not successful.

R3 will lead the negotiation team throughout the negotiation process. This will include meeting preparation, agendas, attending meetings with City staff, preparation of negotiation session agendas, and attendance at negotiation sessions (phone and in-person).

During the negotiation process, R3 will review and analyze cost and program data presented by Republic. To the extent required, written responses will be prepared and presented. In addition, we will maintain a journal of items under discussion and items that have been agreed to. We will also monitor and track proposed changes to the Agreement to maintain an "audit trail." We will meet regularly with City staff during the negotiation process.

Task 2.2 Present Franchise Deal Points and Summary Report to City Council

Upon successful conclusion of Task 1.1 above, R3 will prepare a summary letter report and present the findings and recommendations of our analysis from Task 1.1 at a City Council meeting. Prior to the actual presentation, R3 will prepare a draft PowerPoint presentation for review and approval by City staff. Based on any comments and revisions suggested by City staff, R3 will finalize the presentation and present to the City Council.

It is anticipated that the City Council will then provide direction on the preferred option to staff and R3 and whether to continue to prepare an amendment to the current Agreement for potential City Council approval (as based on the results of the prior tasks) or use alternative procurement options.

Task 2.3 Prepare Agreement Amendment and Restatement

If, at the conclusion of Task 2.2 above, the City Council directs staff and R3 to continue to negotiate an Agreement Amendment with Republic, R3 will draft the revised/new Agreement Amendment for review by the City and Republic. The Agreement Amendment will establish the scope of services to be provided by the contractor, including the "deal points" established in Task 1.1.

This is an extensive effort, as it involves turning the key concepts identified in Task 1.1 (Deal Points) into concrete Agreement Amendment language subject to the review, comment, and revision of both parties until such time as both parties are comfortable agreeing to the terms of agreement (not just the basic concepts). The Agreement Amendment will also encompass and detail, to the satisfaction of both parties (City and Republic) the City interests established in conjunction with Task 1. Once comments from the parties have been received and resolved, R3 will finalize the Agreement Amendment for City Council approval.

Task 2.4 Finalize Agreement Amendment for City Council Approval

R3 will present the results of Task 2.3 to the Staff and/or City Council, including recommendations made by the contract negotiation team, up to three (3) times, as needed to satisfy the City's interests. This will include a summary of the negotiation process and the results and recommendations for award of the Agreement.

Total Project Deliverables

- Meet with City staff virtually
- Deal points term sheet
- Preliminary negotiation schedule
- One (1) virtual kick-off meeting with City
- One (1) virtual kick-off meeting with City and Republic
- Weekly check-in meetings by phone with City and/or Republic
- Preparation of negotiation session agendas
- Preparation and virtual attendance at negotiation sessions (up to 6)
- Preparation and virtual attendance at meetings with City staff
- Agreement language tracking
- Electronic copies of the draft Agreement Amendment
- Public meetings/City Council presentations (up to 3)

Handout Materials for City Council

- An electronic copy of the final Agreement Amendment
- One (1) Powerpoint presentation

2. BUDGET

We propose to complete the Scope of Work, for a cost of **$48,889,** in accordance with the table below.

TASK	HOURS	COST
1. **Establish City Interests**	40	$ 8,000
2. **Franchise Agreement Negotiation for 10-Year Extension**	180	$ 36,000
10% Contingency		$ 4,889
TOTAL	**220**	
		$ 48,889

FINAL REPORT

City of Newark

Franchise Agreement Recommendations

Submitted electronically: October 11, 2022

R3 CONSULTING GROUP, INC.
RESOURCES · RESPECT · RESPONSIBILITY

October 11, 2022

Mr. Jim Scanlin, Environmental Services Manager
City of Newark
37101 Newark Boulevard, Newark, CA 94560
submitted via email: james.scanlin@newark.org

SUBJECT: Final Report – Franchise Agreement Recommendations

Dear Mr. Scanlin,

R3 Consulting Group (R3) is pleased to submit this Final Report on our recommendations for the City of Newark's franchise agreement with Republic Services. This report provides a comparative analysis of the City's rates against other comparable cities, identifies the current legislative requirements and responsibilities, summarizes improvements to the existing franchise agreement, and provides a preliminary financial analysis focusing on uncollected accounts receivable.

In summary, we found that the City's current rates are very competitive, the existing services in the franchise agreement are generally in alignment with regulatory requirements (with some opportunities for improvement, which we identified), and that action should be taken to decrease the incidence of bad debt. We recommend that the City staff proceed with a recommendation to negotiate an agreement extension with Republic Services.

* * * * *

We appreciate the opportunity to be of service to the City of Newark and look forward to the next steps in this project. Should you have any questions on our Final Report, please don't hesitate to reach out directly.

Sincerely,

Rose Radford | *Practice Area Lead*
R3 Consulting Group, Inc.
415.347.9536 | rradford@r3cgi.com

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1. BACKGROUND

Solid Waste in Newark

The City of Newark's (City) population is approximately 49,000 and the City is approximately 13 square miles in size. Solid waste, which includes garbage, recycling, and organics, is collected by Republic Services (Republic) under the terms of a Franchise Agreement (Agreement) for solid waste collection and recycling services for a period of 10 years which expires on May 31, 2023. In 2018, organics collection service was added. The City has a separate agreement with BLT Enterprises of Fremont for Transfer Services. Republic currently services approximately 500 commercial accounts, 70 multi-family (greater than 4 units) accounts and 11,000 single-family accounts.

The City is a part of a Joint Powers Authority, StopWaste, which provides its members a range of services including legislative compliance assistance, guidance, and even on-the-ground technical assistance. In additional to StopWaste's regular activities, the City benefits from a full-time recycling coordinator dedicated to Newark from Republic Services, and a range of other services also provided by Republic. Republic has been providing solid waste collection service in Newark for over nine years, after having been awarded the Agreement via a competitive Request for Proposals process.

SB 1383 – Short-Lived Climate Pollutants (SLCP)

During the process of decomposition of organic materials, the chemical methane is released into the atmosphere. Methane has been identified as one of the most harmful Green House Gases (GHG) (and is 25 times more potent than carbon dioxide over a one-hundred-year period[1]), and methane from organic decomposition currently accounts for 21% of all methane emissions from the State of California annually.

In an effort to reduce these emissions, Senate Bill 1383 (SB 1383) requires jurisdictions to implement food recovery programs, targeting a 2025 statewide goal of recovering 20 percent of edible food that would otherwise be sent to landfill or compost processing. Regulations require jurisdictions to educate food generators and food recovery organizations, estimate the local capacity for recovering available edible food, and implement programs to increase edible food recovery capacity in jurisdictions found to have deficient capacity.

On November 3, 2020, CalRecycle received a Notice of Approval of Regulatory Action from the Office of Administrative Law on Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016). The regulations are final and went into effect on January 1, 2022.

R3 Scope of Work

The City engaged R3 Consulting on the first phase of its evaluation of the potential to extend the existing Agreement with Republic, with the stated intention of promoting increased diversion rates, implementing Senate Bill 1383 requirements, improving tracking and reporting, and providing very competitive rates. This report is intended to assist City staff in determining whether staff recommends to the City Council, proceeding with extension negotiations with Republic Services, and if so, what the City's desired deal points should be.

To assist City staff in their decision, R3 undertook the following actions, which are described in the subsequent pages of this report:

1. Market rate survey and analysis for solid waste services performed by Republic Services (Republic). R3 surveyed 6 jurisdictions to compare residential and commercial rates as well as solid waste services.

[1] https://www.epa.gov/ghgemissions/overview-greenhouse-gases#methane

2. Review the City's franchise agreement with Republic Services and suggest agreement improvements; and review the City's current implementation of SB 1383 and suggest programmatic improvements to facilitate compliance.
3. Examine the City's rates, rate structure, revenues and expenses for solid waste collection, and specifically uncollected accounts receivable (bad debt) and propose improvements to stabilize rates and facilitate cost reductions.

2. RATE SURVEY

Rate Comparison Assumptions and Limitations

Many factors can affect the rates in a given community, including prior historical decisions, the rate structure (e.g., variable can rate or unlimited service), the type, frequency and level of services, and the amount of fees. We have not attempted to adjust rates for any such differences.

Summary of Findings

After comparing the City's current rates to the surveyed communities, the following information has been concluded:

- The City's residential service rates are 2.81% lower than the surveyed communities for a 20-gallon cart, 15.88% lower for a 30- to 35-gallon cart, 5.70% lower for a 60- to 64-gallon cart, and 3.47% lower for a 90- to 96- gallon cart;
- The City's commercial garbage and recycling service rates for carts and bins are substantially lower than the average of the surveyed communities while the City's commercial organics service rates are higher;
- The City currently receives a high level of additional services, which is substantially comparable to the surveyed communities.

The City's residential rates for basic service are all lower than the surveyed average. The City's rate for the most popular 32-gallon is particularly lower (15.88%) than the surveyed average. Furthermore, the City's current rate structure incentives the 32-gallon cart as the most volume for the cost.

The City's commercial garbage rates are consistently lower than the surveyed average and the City's commercial recycling rates are very low when compared to the surveyed communities. The City's commercial organics bin rates are higher than the surveyed average, indicating that there may be avenues for cost savings.

The City is receiving a comparable number of additional services (of those included herein) among the surveyed communities, although all communities surveyed had similar levels. The cities of Hayward, Milpitas, and San Ramon fund street sweeping through service rates which further increases said rates.

Overall, R3 believes the City's current rates, especially in the commercial sector, are competitive with respect to similar jurisdictions, and are validated by the level of services provided.

Market Rate and Services Survey

For comparison purposes, R3 worked with the City to select six (6) communities comparable to Newark and located in Alameda County or the immediately surrounding region. Three of the communities were chosen for having franchise agreements older than five (5) years and three communities were chosen that recently underwent a competitive procurement. An attempt was also made to select communities representing a range of haulers and hauler ownership groups.

The following communities selected have franchise agreements older than five years:

- City of Hayward[2]
- City of Milpitas
- City of Union City

[2] The City of Hayward is in the process of signing a new franchise agreement with Waste Management with services anticipated to start March 1, 2023. This survey used Waste Management's proposed rates starting March 1, 2023.

The following communities selected have franchise agreements newer than five years:

- Castro Valley Sanitary District
- City of Fremont
- City of San Ramon

Rates were obtained along with various service information, including but not limited to recycling and green waste collection type and frequency, bulky item and other collection services. Survey results were based on information obtained from city staff and websites, and/or provided by participating jurisdictions through telephone interviews and emails conducted by R3.

Rate Comparison

Residential Rates
The City offers four residential container sizes: 20-gallon cart, 32-gallon cart, 64-gallon cart, and a 96-gallon cart.

Table 1, next page, provides a comparison of the residential solid waste rates in each of the jurisdictions surveyed. The City's current residential rate is 2.81% lower than the average of the other six jurisdictions for a 20-gallon cart, 15.88% lower for a 30-35 gallon cart, 5.70% lower for a 60-64 gallon cart, and 3.47% lower for a 90-96 gallon cart. The residential rates for all surveyed cities are bundled with the exception of Union City, meaning recycling and green waste services are included in the garbage rate structure. The City of Union City has a bundled residential rate for garbage and organics and a separate rate for recycling. Union City's residential rate shown below is the sum of those two rates.

The City's rates are below the surveyed average for all basic residential service cart sizes. Note however that four of the six surveyed communities have adjusted rates more recently than the City has. Although the solid waste services provided slightly differ between community, this result shows that the City's rates are reasonable compared to nearby communities.

Table 1: Residential Rates (Monthly)

Residential (Garbage, Recycling, & Organics	20 Gallon	30-35 Gallon	60-64 Gallon	90-96 Gallon
Residential Average	$ 34.10	$ 43.78	$ 69.18	$ 96.98
Newark $ compared to Average	$ (0.96)	$ (6.95)	$ (3.95)	$ (3.36)
Newark % compared to Average	-2.81%	-15.88%	-5.70%	-3.47%
Residential (Garbage, Recycling, & Organics	20 Gallon	30-35 Gallon	60-64 Gallon	90-96 Gallon
Newark (Current)	$ 33.14	$ 36.83	$ 65.23	$ 93.62
Castro Valley SD	$ 32.49	$ 50.37	$ 87.48	$ 124.57
Fremont	$ 41.39	$ 42.23	$ 46.02	$ 66.44
Hayward	$ 29.45	$ 43.05	$ 76.77	$ 110.45
Milpitas	$ 34.76	$ 44.44	$ 51.04	$ 43.13
San Ramon	$ 34.05	$ 42.05	$ 72.54	$ 115.53
Union City	$ 32.45	$ 40.57	$ 81.21	$ 121.77

Commercial Rates

R3 compiled and analyzed the commercial sector rates, shown in **Tables 2-4**. The City's current commercial cart and bin rates are substantially lower than the average of the surveyed jurisdictions for garbage and recycling services. The City's commercial organic services are higher than the average of the surveyed jurisdictions.

Table 2: Commercial Garbage Rates (1 YD – 6 YD)

Commercial Garbage	90-96 Gallon	1 YD Bin		2 YD Bin		3 YD Bin		4 YD Bin		6 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Newark Gabage Rate	$71.22	$149.25	$465.66	$279.29	$763.28	$394.85	$1,076.80	$517.39	$1,426.84	$773.15	$2,137.29
Commercial Garbage Average	$94.70	$170.44	$512.49	$301.43	$882.11	$422.35	$1,270.98	$556.22	$1,704.83	$800.32	$2,481.11
Newark $ compared to Average	-$23.48	-$21.19	-$46.83	-$22.14	-$118.83	-$27.50	-$194.18	-$38.83	-$277.99	-$27.17	-$343.82
Newark % compared to Average	-24.79%	-12.43%	-9.14%	-7.34%	-13.47%	-6.51%	-15.28%	-6.98%	-16.31%	-3.39%	-13.86%
Commercial Garbage	90-96 Gallon	1 YD Bin		2 YD Bin		3 YD Bin		4 YD Bin		6 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Newark (Current)	$71.22	$149.25	$465.66	$279.29	$763.28	$394.85	$1,076.80	$517.39	$1,426.84	$773.15	$2,137.29
Castro Valley SD	$85.68	$214.15	$642.59	$375.32	$943.61	$520.81	$1,374.08	$799.52	$2,251.49	$1,175.14	$3,353.08
Fremont	Not Offered	$115.12	$0.00	$186.95	$0.00	$258.79	$0.00	$330.57	$0.00	$474.25	$0.00
Hayward	$104.21	$183.11	$496.39	$330.72	$884.23	$471.73	$1,301.92	$620.61	$1,727.56	$907.57	$2,567.91
Milpitas	$44.42	$125.37	$308.74	$197.82	$546.80	$284.73	$806.02	$334.15	$929.34	$462.32	$1,342.63
San Ramon	$116.84	$216.34	$649.14	$401.82	$1,205.50	$556.31	$1,669.04	$679.90	$2,039.75	$927.03	$2,781.19
Union City	$122.35	$168.57	$465.58	$315.92	$830.41	$441.73	$1,203.84	$572.54	$1,576.01	$855.58	$2,360.73

Table 3: Commercial Recycling Rates (1 YD - 4 YD)

Commercial Recycling	90-96 Gallon	1 YD Bin		2 YD Bin		3 YD Bin		4 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Newark Recycling Rate	$ 35.62	$ 59.70	$ 186.26	$ 111.72	$ 305.30	$ 157.93	$ 430.72	$ 206.96	$ 570.74
Commercial Recycling Average	$ 40.25	$ 93.74	$ 266.19	$ 172.22	$ 508.67	$ 245.51	$ 740.90	$ 314.10	$ 917.32
Newark $ compared to Average	$ (4.63)	$ (34.04)	$ (79.93)	$ (60.50)	$ (203.37)	$ (87.58)	$ (310.18)	$ (107.14)	$ (346.58)
Newark % compared to Average	-11.50%	-36.31%	-30.03%	-35.13%	-39.98%	-35.67%	-41.87%	-34.11%	-37.78%
Commercial Recycling	90-96 Gallon	1 YD Bin		2 YD Bin		3 YD Bin		4 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Newark (Current)	$ 35.62	$ 59.70	$ 186.26	$ 111.72	$ 305.30	$ 157.93	$ 430.72	$ 206.96	$ 570.74
Castro Valley SD	$ 79.61	$ 143.89	$ 431.66	$ 287.84	$ 863.54	$ 431.75	$ 1,295.23	$ 559.35	$ 1,525.00
Fremont	Not Offered	$ 86.34	$ -	$ 140.21	$ -	$ 194.09	$ -	$ 247.93	$ -
Hayward	$ 52.11	$ 91.56	$ 248.20	$ 165.35	$ 442.12	$ 235.87	$ 650.96	$ 310.31	$ 863.78
Milpitas	$ 11.10	$ 31.34	$ 77.18	$ 49.46	$ 136.70	$ 71.18	$ 201.50	$ 83.54	$ 232.33
San Ramon	$ 58.42	$ 108.17	$ 324.57	$ 200.91	$ 602.75	$ 275.16	$ 834.52	$ 339.95	$ 1,019.87
Union City	$ -	$ 101.13	$ 249.33	$ 189.57	$ 498.25	$ 265.02	$ 722.29	$ 343.53	$ 945.62

Table 4: Commercial Organics Bin Rates (1 YD - 3 YD)

Commercial Organics	60-96 Gallon	1 YD Bin		2 YD Bin		3 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Newark Organics Rate	$ 47.77	$ 143.67	$ 448.26	$ 268.85	$ 734.75	Not Offered	Not Offered
Commercial Organics Average	$ 50.14	$ 128.75	$ 379.52	$ 229.57	$ 664.31	$ 325.15	$ 966.60
Newark $ compared to Average	$ (2.37)	$ 14.92	$ 68.74	$ 39.28	$ 70.44		
Newark % compared to Average	-4.72%	11.59%	18.11%	17.11%	10.60%		
Commercial Organics	**90-96 Gallon**	**1 YD Bin**		**2 YD Bin**		**3 YD Bin**	
		1x / Week	**3x / Week**	**1x / Week**	**3x / Week**	**1x / Week**	**3x / Week**
Newark (Current)	$ 47.77	$ 143.67	$ 448.26	$ 268.85	$ 734.75	Not Offered	Not Offered
Castro Valley SD	$ 68.38	$ 266.18	$ 798.51	$ 492.51	$ 1,341.01	$ 707.68	$ 1,980.44
Fremont	$ 42.02	$ 105.14	$ -	$ 170.79	$ -	$ 236.39	$ -
Hayward	$ 52.11	$ 91.56	$ 248.20	$ 165.36	$ 442.12	$ 235.87	$ 650.96
Milpitas	$ 30.94	$ 100.30	$ 246.99	$ 158.26	$ 437.44	$ 227.78	$ 644.81
San Ramon	$ 58.42	$ 108.17	$ 324.57	$ 200.91	$ 602.75	$ 278.16	$ 834.52
Union City	$ 48.95	$ 101.13	$ 279.33	$ 189.57	$ 498.25	$ 265.02	$ 722.29

Service Comparison

Table 5 below provides an overview of the jurisdictions, haulers, and types of residential carts offered. The jurisdictions that do not have separate food waste carts allow for the commingling of food waste in green waste carts.

Table 5: Overview of Community Information and Residential Services

General Overview					Cart Structure	
Community	**County**	**Population**	**Garbage Facility Used**	**Hauler**	**Recycling**	**Organics**
Newark	Alameda	47,229	BLT/ Fremont Transfer Station	Republic	Commingled	Commingled
Castro Valley SD	Alameda	87,110	ACI Transfer Station	ACI	Commingled	Commingled
Fremont	Alameda	229,476	Altamont	Republic	Commingled	Commingled
Hayward	Alameda	160,591	Altamont	WM	Commingled	Commingled
Milpitas	Santa Clara	80,839	GreenWaste Recovery	MSI	Split	Greenwaste and Foodwaste Carts
San Ramon	Contra Costa	83,820	Vasco Road	ACI	Commingled	Commingled
Union City	Alameda	68,150	Altamont	Republic/Tri-CED	Commingled	Commingled

R3 surveyed and compared additional solid waste services, as shown below in **Table 6**.

As shown below, of those communities surveyed, for services that the City offers:

- Only the cities of Fremont and Milpitas also offer senior rates;
- Three jurisdictions do not charge extra for backyard service to seniors and disabled; three jurisdictions do not charge extra for disabled only;
- In one community the hauler provides street sweeping services, and in three communities there is a street sweeping fee on solid waste services;
- All communities offer free on-call bulky waste pickup but only the City of Milpitas offers more pickups per year (4) than the City (3);
- All communities offer curbside pickup for motor oil/filters; and
- Three communities offer curbside collection of used cooking oil.

Table 6: Additional Services Provided

Jurisdiction	Senior Rates	No Extra Charge for Backyard Service for Seniors/Disabled	Hauler Street Sweeping	Free Bulky Waste Pick-up	Used Motor Oil/Filters Collection	Used Cooking Oil Collection
Newark	Yes	Disabled	No	Yes, 3x per year	Yes	No
Castro Valley SD	No	Disabled	No	Yes, 1x per year	Yes	Yes
Fremont	Yes	Disabled	No	Yes, 2x per year	Yes	No
Hayward	No	Yes	Fee paid to City	Yes, 2x per year	Yes	No
Milpitas	Yes	Yes	Yes	Yes, 4x per year	Yes	Yes
San Ramon	No	Disabled	Fee paid to City	Yes, 3x per year	Yes	Yes
Union City	No	Yes	No	Yes, 2x per year	Yes	No

While the City has a comparable level of additional services provided, higher levels of additional service will correlate to higher service rates. The communities that fund street sweeping through service rates have higher rates.

Commercial Services

Table 7, below, shows that all surveyed communities offer stand-alone rates for commercial recycling and organics. However, commercial customers in the City of San Ramon receive up to 1 cubic yard per week of recycling and 96 gallons of organic services with subscription to garbage service.

Table 7: Commercial Service Structure

Jurisdiction	Rate Structure	
	Recycling	Organics
Newark	Stand Alone	Stand Alone
Castro Valley Sanitary District	Stand Alone	Stand Alone
Fremont	Stand Alone	Stand Alone
Hayward	Stand Alone	Stand Alone
Milpitas	Stand Alone	Stand Alone
San Ramon	Stand Alone	Stand Alone
Union City	Stand Alone	Stand Alone

3. FRANCHISE AGREEMENT REVIEW AND SB 1383 READINESS

Franchise Agreement Analysis

The following items are key items and collection programs included in the Agreement. R3 found that the Agreement's services, programs, terms, and conditions are comparable to the industry standards with a few exceptions. The collection rates programs are on par with the regional averages and the industry standards. The City has a comparable package with respect to additional services provided by Republic Services in the rest of the region. The following is a summary of the services, programs, terms, and conditions of the Agreement:

- **Term Length:** January 2013 through May 31, 2023, with option to extend with prior written consent of both parties (no term specified).
- **Collection Frequency:** Residential, including multi-family, customers are provided with weekly garbage, recyclable material and organic waste collection. Commercial customers are provided with garbage and recyclable material collection with organic waste collection upon request and can subscribe to the collection size and frequency as needed.
- **Bulky Waste:** Residential customers have three times per year free of charge bulky item collection. Up to 3 cubic yards of Solid Waste, Source-Separated Recyclable Materials, Source-Separated Organic Materials, Reusable Materials, C&D or E-Waste OR up to 1 Appliance or Bulky Item for SFD and MFD customers collected upon request.
- **Holiday Trees:** Collection 10 business days following New Year's Day.
- **Special Events:** Republic will provide collection services at events as requested by the City at no cost to the event or City. Republic also provides sponsorships and complimentary services to community events and charitable organizations, respectively.
- **Household Hazardous Waste:** Collected upon request, including motor oil and filters.
- **Billing:** Republic is responsible for conducting the billing and collection of charges for residential and commercial customers.
- **Regulatory Compliance:** The Agreement requires that Republic comply with Applicable Laws and provide services in a manner that is safe to the public and the Contractor's employees. Should the State regulations (Change in Law) result in change in the cost to carry out collection operations, Republic has the right to request an adjustment to the maximum rates.
- **Rates**: All annual Rate adjustments shall be performed using an index-based Rate adjustment approach as defined in Exhibit D1 of the Agreement, with the exception that in place of the Index adjustment, the City and/or the Contractor may each request one cost-based Rate adjustment as defined in Exhibit D2 of the Agreement.
- **Customer Service:** Republic shall provide two (2) full-time Customer service representatives in its Fremont office at 42600 Boyce Road that are available from 8:00 a.m. to 5:00 p.m. Monday through Friday. The customer service operation must keep record of all customer complaints, and must attempt, within commercially reasonable efforts, to resolve all customer service problems.
- **Collection Vehicles:** The collection vehicles utilized by Republic must be compliant with the State's regulatory standards and shall operate on compressed natural gas (CNG). The collection vehicles must be clean, maintained in good repair and uniformly painted. Republic's contact information must be clearly visible on the collection vehicles, and the vehicles must be washed on a regular basis to maintain a clean appearance.
- **Recordkeeping:** Republic must maintain records accurately reflecting business done under this Agreement. These records include customers lists, billing records, maps, AB 939 and AB 341 records, and written customer complaints for the full term of this Agreement, and no less than three years after the Agreement has ended.

However, the Agreement could be improved in a few ways, including:

- **Base Service Level** – The lack of bundled service with organics included for commercial and multi-family customers can impact the City's ability to comply with SB 1383.

- **Diversion Standards** – There are currently no Diversion Standards in the Agreement to hold Republic accountable for addressing low diversion numbers.
- **Sustainability Coordinator** – While the Agreement does require Republic to employ a dedicated Recycling Coordinator, the City may consider adding a site visit checklist and specific and measurable actions and goals to be completed by the Recycling Coordinator into the Agreement.
- **Regulatory Compliance** – The City may consider adding some provisions to the Agreement that directly require actions to be taken by Republic to assist the City in SB 1383 regulatory compliance, such as bin lid color requirements; route reviews, etc.
- **Performance Reviews** – R3 recommends adding a Performance Review requirement that is tied to future contract extensions.

Extensive new State regulatory requirements on solid waste operations went into effect on January 1, 2022 via Senate Bill (SB) 1383 (which are discussed in the Regulatory Analysis section of this report, below).

The current Agreement expires on May 31, 2023, limiting the option to undertake a Request for Proposals (RFP) process to procure a new solid waste services agreement. Republic is requesting to renegotiate a new, 10-year agreement, which the City Council may choose to pursue.

Regulatory Analysis

The State has continued to set ambitious recycling goals via new legislation which primarily places responsibility for implementing new recycling programs on local jurisdictions. The primary State laws that apply to the City include:

- **AB 939,** which set a Statewide diversion goal of 50% from 1990 levels by 2000, which must be maintained by jurisdictions on an ongoing basis. The law requires a comprehensive diversion planning effort and annual reporting on recycling programs, as well as establishing the enforcement framework still in place today.
- **AB 341,** which set a goal of 75% diversion Statewide by the year 2020 and requires businesses that generate more than 4 cubic yards of commercial solid waste per week and multifamily residential dwellings of 5 units or more to arrange for recycling services, on and after July 1, 2012. The law also requires local jurisdictions to promote recycling by taking certain actions, including informing covered businesses of the requirement.
- **AB 1826,** which set a goal of reducing organic waste by 50% by 2020, and required local jurisdictions to arrange an organics collection program that includes food scraps on and after July 1, 2016. Currently, AB 1826 requires businesses and multifamily residential dwellings of 5 units that generate more than 2 cubic yards of commercial solid waste per week or more to arrange for organics diversion services. The law also requires local jurisdictions to promote organics diversion by taking certain actions, including informing covered businesses of the requirement.
- **SB 1383,** which was motivated by the Statewide limit on greenhouse gas emissions to 1990 levels and sets a Statewide goal to reduce organic waste by 50% from the 2014 level by 2020 and 75% from the 2014 level by 2025. SB 1383 also establishes a target of recovering 20% of currently disposed edible food for human consumption by 2025. SB 1383's requirements took effect January 1, 2022, and include extensive requirements for businesses, State agencies, and local jurisdictions.

These regulations set forth a variety of programmatic and policy related requirements for multiple entities including jurisdictions, residential and commercial generators, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of State-wide organic waste disposal reduction targets. SB 1383 requirements go beyond AB 1826 and AB 341, in that there is a significant amount of specific program implementation, monitoring and enforcement requirements on jurisdictions, as well as a new required program component: an edible food recovery program. SB 1383 also significantly increases the reporting requirements on jurisdictions.

The State agency's enforcement of the minimum programmatic requirements has been stringent in recent years leading up to SB 1383 implementation, which began January 1, 2022. Republic has already demonstrated value to the City by assisting in AB 939, AB 341, AB 1826 and Alameda County Waste Management Authority Mandatory Recycling ordinance compliance. It is not feasible for Republic to directly contribute to the implementation of all SB 1383 requirements, although the City may request assistance with the collections-related components of the law. The City is directly responsible for meeting requirements such as enforcing the law, ensuring the internal procurement of recycled content paper, record keeping and reporting, and facilitating the edible food recovery program.

The City can choose to negotiate an amendment to the Agreement to meet regulatory requirements and/or accommodate improvements to the Agreement such as those identified in this report.

4. FINANCIAL ANALYSIS

Overview

The City requested that R3 review the existing rate structure, costs and revenue and propose potential revisions to reduce costs, resolve outstanding debt, and increase City revenue.

The bulk of the current costs analysis is under review; however, based upon the results of the rate survey (Section 1 of this report), Newark's rates are competitive and we expect them to remain so under a future negotiated agreement. Moreover, Newark recently completed a detailed rate review during which the rates were set equal to the costs of providing service at the time, and in alignment with the requirements of the franchise agreement. The detailed rate review resulted in a rate increase of 6.51% for rates effective January 1, 2020. Since then, we understand that Republic has negotiated a collective bargaining agreement extension with its workers that has added some additional cost increases.

Bad Debt

Of particular note is Republic's request for relief for bad debt expenses. During the detailed rate review, bad debt was accounted for, but capped at 2% of gross revenue. At that time, Republic reported bad debt of only about $150,000, which did not exceed the 2% cap.

Prior to Republic Services taking ownership of Newark's billing process, city staff managed the invoicing and collection operations, including the management of delinquent accounts. The City used the lien process where debts owed are attached to the service recipient's property tax bill. The City Council approved this process.

When Republic Services assumed billing and collection responsibilities, the ability to establish liens on delinquent payments was not an option provided to Republic. In addition, stopping service for non-payment is allowed per the terms of the franchise agreement after 120 days of non-payment, upon City staff approval.

These two conditions have led to higher delinquent payments than industry standards. Delinquent accounts include a total of over 1,400 customers, with over 600 customers over 183 days late on payments. Residential customers make up 97.4% of the outstanding balance.

City of Newark

Republic Franchise Agreement Consideration

November 10, 2022

R3 CONSULTING GROUP, INC.

RESOURCES · RESPECT · RESPONSIBILITY

AGENDA

- Background
- Rate Survey
- Franchise Agreement
- Financial Evaluation
- Next Steps

R3

BACKGROUND – Franchise & City

- Republic won competitive bidding process
- Current Agreement began June 1, 2013, and will expire May 31, 2023
- Separate agreement with BLT for transfer of garbage
- Rate adjustment based upon hauler's actual costs of providing service in 2020
- City is member of StopWaste JPA
- September 2021 survey of residents – 75% of respondents stated that they were either satisfied or very satisfied

NEWARK california R3

BACKGROUND – Services

- Base service
  - Residential garbage, recycling and organics
  - Commercial garbage and recycling, with the ability to request organics
- 3 bulky item pickups, 3 CY OR 1 appliance
- City events & litter container service free
- Containers are gray/blue/green (compliant)
- CNG trucks
- Guaranteed capacity for organics & recycling
- Annual compost giveaway in Fremont
- Full-time recycling coordinator

NEWARK california R3

BACKGROUND – Legislation

Senate Bill (SB) 1383:

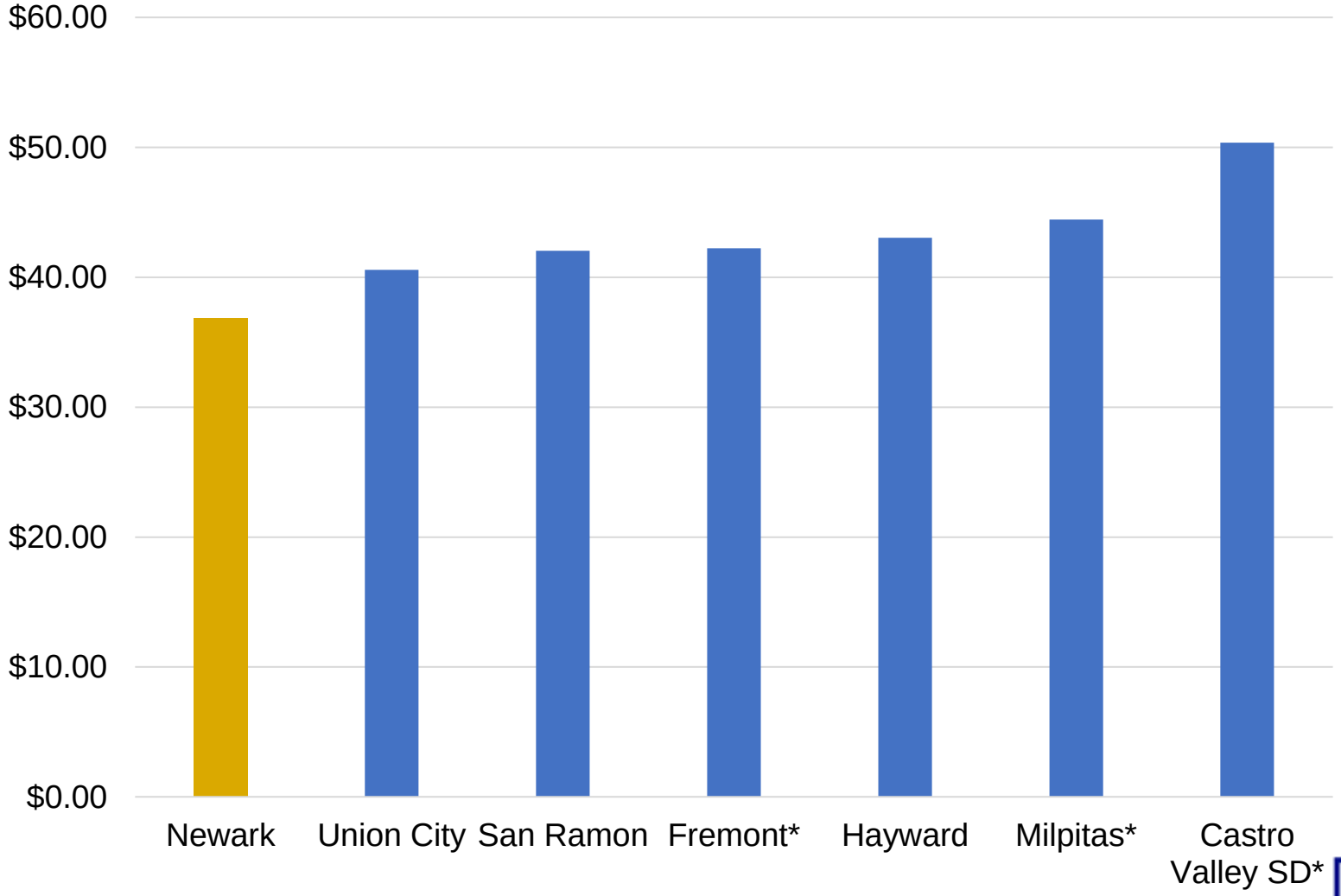
- Sets **statewide mandates** for organics recovery efforts
- Builds on prior law to **incrementally reduce disposal** of organic waste
- Requires **all generators** to be provided organic waste recycling services
- **Edible food recovery**
- **Unfunded** State mandate

BACKGROUND – New Agreement?

- SB 1383 has caused most jurisdictions in California to expand their diversion programs or face penalties and significant rate increases
- Contract extensions are currently common
- Recent RFPs in the Bay Area have resulted in high cost increases
- Republic's current rates and services are competitive with neighboring communities
- Current inflationary climate and likely alternatives do not guarantee a better deal from other companies
- Republic desires to remain Newark's solid waste management company & requested 10 year extension

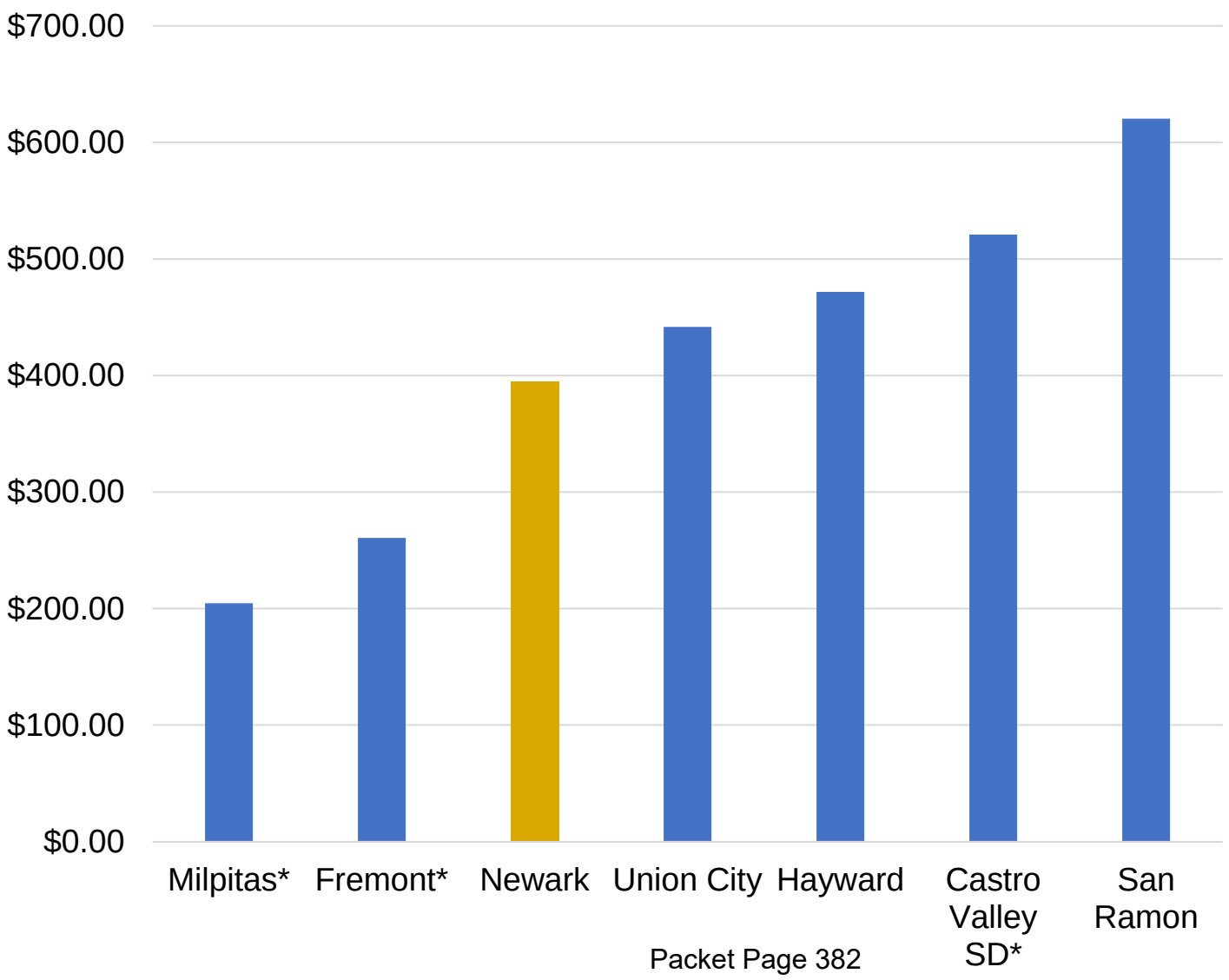
NEWARK california R3

RATE SURVEY – Residential 32 gallon



* Means jurisdictions that have newer agreements

RATE SURVEY – Commercial 3 CY



NEWARK california R3

FRANCHISE AGREEMENT

- 10-year term
- All current services would continue
- Continued exclusive agreement for all services
- For compliance with SB 1383:
  - Organic waste collection service for all customers
  - Diversion standards
  - Reporting and compliance provisions
  - Performance reviews

NEWARK california R3

FINANCIAL EVALUATION

- Rates are competitive
- Recent detailed rate review
- Known cost additions since:
  - Uncollected accounts/bad debt
  - Updated labor agreement
  - City-requested program adjustments, including hiring additional staff & legislative compliance

NEWARK california R3

NEXT STEPS

- Staff recommendation to authorize commencing negotiations with Republic for extension of agreement

NEWARK
california
R3

Questions & Comments

R3

C22044

CONTRACTUAL SERVICES AGREEMENT

CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this 15TH day of July, 2022 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and R3 Consulting Group, Inc., a California corporation ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform Waste Hauler Franchise Agreement Negotiation Services.

WHEREAS, in response to City's request, Consultant submitted a proposal (hereinafter "Proposal"), now on file with the City Public Works Department and incorporated herein by reference; and, after negotiations, Consultant agreed to perform the "Services" more particularly described in Exhibit "A" ("Services"), in return for the compensation described in this Agreement and Exhibit "B".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in the Proposal, City finds that Consultant has demonstrated the requisite qualifications, experience, training, and expertise to perform the requested Services.

NOW, THEREFORE, the Parties hereto agree as follows:

1. CONSULTANT'S SERVICES. Consultant shall perform Services described, and in the time, place, and manner specified in Exhibit "A" in accordance with the terms and conditions of this Agreement. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit "A", the Agreement shall control.

2. TIME FOR PERFORMANCE. Time is of the essence in the performance of Services under this Agreement and Consultant shall generally adhere to the schedule set forth in Exhibit "A"; provided, that City shall grant reasonable extensions of time for the performance of such Services occasioned by governmental reviews of Consultant's work product or other unavoidable delays occasioned by circumstances, provided, further, that such unavoidable delays shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Consultant.

Consultant acknowledges the importance to City of City's performance schedule and agrees to put forth its best professional efforts to perform its Services under this Agreement in a manner consistent with that schedule. City understands, however, that Consultant's performance must be governed by sound professional practices.

3. **COMPENSATION.**

A. **"Not to Exceed" Compensation.** City shall compensate Consultant for all Services performed by Consultant hereunder in an amount based upon Consultant's hourly or other rates set forth in Exhibit "B". The payments specified in Exhibit "B" shall be the only payments to be made to Consultant for Services rendered pursuant to this Agreement.

Notwithstanding the foregoing, the combined total of compensation and costs payable hereunder shall not exceed the sum of Forty-Four Thousand Four Hundred Eighty Dollars ($44,480.00) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services and/or incurring such costs and expenses by City, evidenced in writing as Additional Services by Task Order (see Section 4. Additional Services of this Agreement).

B. **Method of Billing.** To request payment, Consultant shall submit monthly invoices to City identifying Services performed and the charges therefore (including an identification of personnel who performed Services, hours worked, hourly rates, and reimbursable expenses), based upon Consultant's billing rates (set forth on Exhibit "B" hereto).

Consultant shall submit all billings for said Services to City in the manner specified in Exhibit "B"; or, if no manner is specified in Exhibit "B", then according to the usual and customary procedures and practices which Consultant uses for billing clients similar to City.

Invoices shall be sent to:

City of Newark
Public Works Department
37101 Newark Blvd.
Newark, CA 94560

Upon completion of Services, City shall sign off and acknowledge that all terms and conditions have been satisfactorily met; upon which, unless waived by City in writing, Consultant shall prepare an itemized statement, briefly describing by task and/or labor category the items billed.

C. **Payment.** Upon receipt of invoice, City shall make payments to Consultant on a monthly basis, or at such other times as may be specified in Exhibit "B", for Services, which are performed in accordance with this Agreement to the satisfaction of City.

D. **Consultant's Failure to Perform.** In the event that Consultant performs Services that do not comply with the requirements of this Agreement, Consultant shall, upon receipt of written notice from City, re-perform the services (without additional compensation to Consultant). If Consultant's failure to perform in accordance with this Agreement causes damages to City, Consultant shall reimburse City for the damages incurred (which may be charged as an offset to Consultant's payment).

4. **ADDITIONAL SERVICES.** In the event City desires the performance of additional services not otherwise included within Services, such services shall be authorized by

written Task Order approved in advance of the performance thereof. Such Task Order shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefore, the time of performance thereof, and such other matters as the Parties deem appropriate for the accomplishment of such services. Except to the extent modified by a Task Order, all other terms and conditions of this Agreement shall be deemed incorporated in each such task order.

5. INDEPENDENT CONSULTANT. At all times during the term of this Agreement, Consultant shall be, and is an independent consultant and shall not be an employee or agent of City. Consultant shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's Services; however, City shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement.

Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

6. PERSONNEL. Consultant understands that, in entering into this Agreement, City has relied upon Consultant's ability to perform in accordance with its representations regarding the qualifications of Consultant, including the qualifications of its Authorized Representative, its designated personnel, and its subconsultants, if any, identified in the Proposal. Therefore, Consultant shall not replace its Authorized Representative, or any of the designated personnel or subconsultants identified in the Proposal, without the prior written consent of City. All Services shall be performed by, or under, the direct supervision of Consultant's Authorized Representative.

In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any of Consultant's designated personnel or subconsultants, Consultant shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.

7. FACILITIES AND EQUIPMENT. Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing Services.

8. INFORMATION AND DOCUMENTATION.

A. Information from City. City has made an effort to provide Consultant with all information necessary for Consultant's performance of Services. If Consultant believes additional information is required, Consultant shall promptly notify City and City will provide to Consultant all relevant non-privileged information in City's possession.

B. Consultant's Accounting Records. Consultant shall maintain all accounting records related to this Agreement in accordance with generally accepted accounting principles and state law requirements, and in no event for less than four (4) years. Consultant's accounting records shall include, at a minimum, all documents which support Consultant's costs and expenses related to this Agreement, including personnel, subconsultants' invoices and

payments, and reimbursable expenses. Consultant's accounting records shall be made available to City within a reasonable time after City's request, during normal business hours.

C. **Ownership of Work Product.** All original documents prepared by Consultant (including its employees and subconsultants) for this Agreement ("Work Product"), whether complete or in progress, are the property of City and shall be given to City at the completion of Consultant's Services, or upon demand of City. Consultant shall have a right to make and keep copies of the Work Product except for any confidential information. Consultant shall not reveal the Work Product or the confidential information contained in the Work Product, or make it available, to any third party without the prior written consent of City.

9. **CONFLICTS OF INTEREST PROHIBITED.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. Consultant shall comply with all requirements of the Political Reform Act (California Government Code Section 81000, *et seq.*) and other laws relating to conflicts of interest, including: (a) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on Consultant's economic interest, and (b) if required by law, Consultant shall file financial disclosure forms with the City Clerk. If Consultant maintains or acquires a conflicting interest, any contract with City (including this Agreement) involving Consultant's conflicting interest may be terminated by City.

10. **NONDISCRIMINATION.** Consultant shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Consultant shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, sex, age, or any other basis, as defined in California Civil Code Section 51.

11. **COMPLIANCE WITH LAW AND STANDARD OF CARE.** Consultant shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly stated in this Agreement. Consultant shall perform Services using a standard of care equal to, or greater than, the degree of skill and diligence ordinarily used by reputable professionals, with a level of experience and training similar to Consultant, performing under circumstances similar to those required by this Agreement.

12. **INSURANCE.** Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. **Verification of Coverage.**

Consultant shall furnish City with original certificates of insurance and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be

signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences. City reserves the right to require and obtain complete, certified copies of all required insurance policies and endorsements at any time. Failure to exercise this right at any time shall not constitute a waiver of right to exercise later. Consultant shall immediately furnish City with certificates of renewal for each policy that is renewed during the term of this Agreement.

B. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising inquiry; and

2. Insurance Services Office Form Number CA 00 01 covering Code 1 (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and

4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

C. Minimum Limits of Insurance.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

1. General Liability: (including products-completed operations, property damage, bodily injury, and personal and advertising injury)	**$2,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:	**$1,000,000** per accident for bodily injury and property damage.
3. Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
4. Errors and Omissions Liability:	**$1,000,000** per occurrence or claim; **$2,000,000** aggregate.

D. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its officers, officials, directors, employees, contractors, agents, and volunteers, or (2) Consultant shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses in an amount specified by the City.

E. Claims Made Policies.

For all "claims made" coverage, in the event that Consultant changes insurance carriers Consultant shall purchase "tail" coverage or otherwise provide for continuous coverage covering the Term of this Agreement and not less than five (5) years thereafter. Proof of such "tail" or other continuous coverage shall be required at any time that the Consultant changes to a new carrier.

F. Wasting Policies.

No policy required by this paragraph 12 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

G. Remedies.

In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

2. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

3. Terminate this Agreement.

H. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

I. Other Insurance Provisions.

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insureds. City, its officers, officials, directors, employees and volunteers ("Additional Insureds") are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant; including materials, parts or equipment furnished in connection with such work or operations.

2. Primary Coverage. For any claims related to Services, Consultant's insurance coverage shall be primary insurance as respects City, its officers, officials, directors, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, directors, employees, or volunteers shall be excess of Consultant's insurance and shall not be contribute with it. Consultant's policy will not seek contribution from the City's insurance or self-insurance.

3. Notice of Cancellation. Each insurance policy required above shall provide that coverage and shall not be canceled during the term of this Agreement without notice to the City.

4. Civil Code § 2782. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.

5. Deductibles and Self-Insured Retentions (SIR). All deductibles and self-insured retentions must be disclosed to the City for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

6. Subconsultants. Consultant shall include all subconsultants as insureds under its policies or shall require and verify separate certificates and endorsements have been obtained for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

7. Waiver of Subrogation. With respect to Workers' Compensation and Employer's Liability Coverage, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, directors, employees, and volunteers for losses arising from work performed by Consultant for City.

8. Coverage is Material Element. Maintenance of proper insurance coverage in conformity with the provision of this paragraph 12 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

9. Variation. The City Risk Manager may approve a variation in these insurance requirements upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available or that City's interests are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

13. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 18, hereinbelow) a written report (in a form acceptable to City) with the following information: (a) name(s) and address(es) of the injured or deceased person(s), (b) name(s) and address(es) of witnesses, (c) name(s) and address(es) of Consultant's insurance company(ies), and (d) a detailed description of the damage(s) and whether any City property was involved.

14. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subconsultants. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

In the event that Consultant or any employee, agent, or subconsultant of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERs as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by City immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Consultant from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

The review, acceptance or approval of Consultant's work or work product by any indemnified party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This paragraph survives completion of Services or the termination of this contract. The provisions of this paragraph are not limited by and do not affect the provisions of this contract relating to insurance.

Consultant/Subconsultant's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

15. <u>LICENSES, PERMITS, ETC</u>. Consultant represents and warrants to City that it has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. In addition to the foregoing, Consultant shall obtain and maintain during the term hereof a valid City of Newark Business License.

16. <u>TERM/TERMINATION</u>.

A. The term of this Agreement shall commence upon the date first hereinabove written and shall expire on <u>June 30, 2024</u>. At the end of the term, the City may

renew this Agreement for two (2) one-year terms as authorized by the by the Public Works Director, City Manager, or City Council.

B. Notwithstanding the provisions of paragraph 16 section A above, City may terminate this Agreement at any time and without cause upon written notification to the Consultant. Consultant may cancel this Agreement upon thirty (30) day's written notice to City and shall include in such notice the reasons for cancellation. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

17. CONTRACT ADMINISTRATION. This Agreement shall be administered by the Public Works Director of the City of Newark ("Administrator"). All correspondence shall be directed to or through the Administrator or his/her designee.

18. NOTICES. Written notices required or convenient hereunder shall be delivered personally or by depositing the same with the United States Postal Service, first class (or equivalent) postage prepaid and addressed, in the case of Consultant, to:

R3 CONSULTING GROUP, INC.	**CITY OF NEWARK**
Garth Schultz **President**	PUBLIC WORKS DIRECTOR **Administrator**
Address: R3 Consulting Group, Inc. 405 14th Street Suite 350 Oakland, CA 94612	City of Newark Attn: Public Works Director 37101 Newark Boulevard Newark, CA 94560

19. PARAGRAPH HEADINGS. Paragraph headings used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

20. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

21. SEVERABILITY. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement.

22. GOVERNING LAW, JURISDICTION, AND VENUE. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

23. ATTORNEY'S FEES. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

24. ASSIGNABILITY. Neither Consultant nor City shall subconsult, assign, sell, mortgage, hypothecate, or otherwise transfer their respective interests or obligations in this Agreement without the express prior written consent of the non-transferring party.

25. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

26. WAIVERS. Waiver of breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

27. ENTIRE AGREEMENT. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the Parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

28. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

29. COVENANT AGAINST CONTINGENT FEES. Consultant hereby warrants that Consultant has not employed or retained any company or person, other than a *bona fide* employee working for Consultant, to solicit or secure this Agreement, and Consultant has not paid or agreed to pay any company or person, other than a *bona fide* employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, City shall have the right to annul this Agreement without liability or, at City's discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

City of Newark

David J. Benoun

City Manager

Dated 7-14-22

R3 Consulting Group, Inc.

Garth Schultz

President

Dated 7/5/2022

Attest:

Sheila Harrington, City Clerk

Dated 7/15/2022

Approved as to form:

Kristopher Kokotaylo, City Attorney

Dated 7/14/22

EXHIBIT A

F. WORK PLAN & BUDGET

Work Plan

Task 1 Franchise Agreement Assessment

Task 1.1 Review Franchise Agreement and Current Services

Upon City authorization to proceed, R3 will facilitate a virtual project kick-off meeting with City staff. The meeting will provide an opportunity to review the project objectives, R3's project approach, schedule, and data availability. The kick-off meeting will serve to set the expectations and timeline for the Scope of Work and establish the best means for ongoing communication and collaboration between R3 and the City for the duration of this engagement.

One item of importance for discussion during the kick-off meeting will be how R3 and the City staff will work collaboratively to ensure that this project provides the best possible outcomes for customers and ratepayers, while still achieving meaningful compliance with the law. After the Project Kick-off Meeting, R3 will provide meeting minutes including notes, schedule and milestones. Ongoing coordination will continue bi-weekly throughout the project with the City Contract Manager either through virtual meetings or status reports.

R3 will provide the City with a preliminary list of documents to review in support of this scope of work. R3 will provide an overview of current services and analyze those services as compared to the latest solid waste and recycling trends, best management practices related to both franchise agreement services and terms and conditions, and updates of recent legislation (AB 341, AB 1826, SB 1383), all of which should be addressed in an extended franchise agreement. Because the current agreement expires May 31, 2023, we would discuss the possibility of a short-term extension to allow for adequate time to negotiate or procure new services.

Requested documents may include, but will not necessarily be limited to, the following:

- Hauler tonnage and diversion reports.
- Prior Year Indexed and Cost Based Rate Review Reports.

The requested items, along with documents already in R3's files, will assist with our analysis of the City's current agreement and solid waste program. R3 will provide a matrix of services that will be used to guide future negotiations and the findings presented in Tasks 3 and 4.

As a part of this task, we will review the existing Agreement and the Agreement with BLT, and identify revisions or additions that would advance the following City objectives:

a. Increase diversion rates
b. Implement requirements of SB 1383 (described in more detail in Task 1.3 below)
c. Improve tracking and reporting of activities
d. Improve tracking and reporting of expenditures and revenue
e. Improve tracking and reporting of complaints and complaint resolution
f. Streamline SB 1383 reporting (described in more detail in Task 1.3 below)

Based on our understanding of recent state legislation, we will advise the City on the latest state and international solid waste trends as they pertain to both franchised services and the Agreement development. This information will be discussed during our kick-off meeting, as well as in follow-up correspondence.

In order to guide negotiations or develop an RFP, R3 will prepare a draft "deal points" document for City review that includes the following key elements:

- Results of our analysis of the current franchise agreement and services, including recommendations for cost effective updates to the Agreement that align with industry best practices, to be discussed with the City.

- Modifications to collection services and programs to incorporate recent legislative regulations and remain flexible enough to adapt to significant changes in the future.
- Cost effective, efficient, and environmentally friendly designed program requirements, including zero emission vehicles.
- Industry best practices that focus on compliant collection programs, high levels of customer service, and ensure transparency in rate setting and contractor performance.

As part of this task, we will provide an electronic version of the draft deal points document to the City for comments. At City staff's preference, we will be available for one additional meeting to review findings and address the City's comments on the draft document. Following discussion with the City and using a single compiled document with comments from the City Contract Manager, R3 will compile our final deal points document which will serve as the basis for the new scope of services.

At this point in time, with SB 1383 already in effect, we have been focusing efforts to improve diversion around the State's expectations for SB 1383 implementation. Overall, our approach will identify and recommend improvements in Republic's programmatic implementation of the applicable State laws, rather than setting a diversion rate requirement, as we have found that a focus on programmatic implementation is most effective. Setting clear programmatic requirements, such as the universal subscription to organics and recycling service for all customers, with benchmarking to assist in achieving outcomes, has been an effective way to improve customer participation in diversion programs – and is likely the same set of actions that the hauler would need to take in order to meet a diversion requirement goal anyway. We would also include improvements and refinements on the agreement language for reporting to facilitate benchmarking and compliance with the extensive recordkeeping and reporting requirements of SB 1383.

Task 1.2 Analysis of Market Conditions and Diversion Performance

R3 will compare the City's current customer rates, rate structure, and solid waste services to those of up to six selected neighboring or other similar jurisdictions in the Bay Area or California, as applicable. Three franchises will be chosen which were executed more than five years ago (like the City's agreement), and three will be selected that recently underwent competitive procurement, as available and appropriate.

This analysis will not only compare the rates on a per container basis (which is how rates are usually compared) but will also provide an assessment of the degree to which the relative distribution of containers (between smallest and largest container sizes) impacts the rates, which is an important measure of the costs actually paid by ratepayers overall. We will prepare an overview of haulers, landfills and transfer stations operating in the surrounding area. This will provide the City an effective comparison between the City's solid waste operations and the current operations of other similar communities. As a part of this market conditions analysis, we will do a detailed comparison of diversion performance for the six communities selected for this analysis on the basis of the CalRecycle Pounds Per Person Per Day disposal number, as well as actual franchised diversion tonnages if made available by the surveyed agencies.

Finally, we will compile a survey of waste haulers providing service to neighboring communities to provide the City with additional information on current market and the haulers that might be interested in responding to an RFP, if one is eventually released.

Task 1.3 SB 1383 Preparedness Analysis

Based on our experience currently throughout the State, R3 has provided cost-effective SB 1383 preparedness planning support by analyzing the requirements of SB 1383 and assisting agencies in planning for and implementing these requirements.

In order to evaluate compliance, R3 has developed a summarized matrix and planning exercise that divides the SB 1383 requirements into functional categories, including:

- Education and outreach
- Inspection and enforcement, including the assessment of penalties and contamination monitoring
- Edible food recovery programs
- Regulation of self-haul sector
- Purchasing Policy Changes
- Municipal Code Updates
- Container Color and Labeling Requirements

R3 will assist the City in evaluating the City's current programs and Republic's proposed activities to achieve legislative compliance, including any language proposed by Republic, to identify gaps in coverage, reduce or eliminate costs proposed by Republic as appropriate, and advise the City on how to implement changes to City policies to achieve legislative compliance. As a value add to the City, we will complete this analysis for all required activities (not just those that the hauler can help you with) so that upon conclusion of our work, the City will have a clear idea of what will remain for the City to complete. Please note, R3 has not proposed to assist in implementation of any requirements under this task. However, we would happily consider implementation support as a follow-on task.

Task 2 Review City Fees and Republic's Finances

In combination with Task 1.2 above, R3 will review Republic's rate structure as well as the outstanding bad debt and Republic's financial status as it relates to costs and revenues. This analysis will also provide pathways for increasing City revenues for SB 1383 implementation.

In addition to reviewing Republic's finances to identify opportunities to improve revenues, R3 will also create a cost estimate for SB 1383 implementation which can be used as a basis for a new SB 1383 implementation fee payable to the City by Republic and funded by rates as allowed by SB 1383. Our proposal assumes that there is readily available information from prior rate reviews, both indexed and cost based. If these are unavailable, R3 will put together a request for information that would allow us to verify the actual current costs to provide the services and which provides the financial basis for any future extension or changes to the current rates. Pursuant to the Agreement, the City could also consider a cost-based review if they have not performed four such reviews under this agreement and we can revise our proposal based on performing a detailed review.

Task 3 Draft Report

Upon conclusion of Tasks 1 and 2 above, R3 will prepare a report describing the results. This report will describe potential enhancements to the Agreement and make recommendations regarding the advantages and disadvantages of a long-term extension to the existing Agreement or issuing a request for proposals for a new franchise agreement or ultimately doing both. The report will prepare the City staff and Council on what specific items the City needs to include in the exclusive negotiations or new agreement for services to be up to date and regulatory compliant. Based on our most recent experience, negotiations with the current franchisee are often the most cost-effective and stable way to proceed assuming rates are ultimately competitive and provide long-term stability.

Task 4 Final Report and Presentation to City Council

R3 will present the findings and recommendations of our analysis from Tasks 1 and 2 at a City Council meeting. Prior to the actual presentation, R3 will prepare a draft PowerPoint presentation for review and approval by City staff. Based on any comments and revisions suggested by City staff, R3 will finalize the presentation and present to the City Council. It is anticipated that the City Council will then provide direction to staff and R3 regarding whether to continue to prepare an amendment to the current Agreement for potential City Council approval (as based on the results of the prior tasks) or use alternative procurement options.

Budget & Schedule

R3's proposed schedule, below, incorporates tentative dates and are subject to change. We propose to complete the Work Plan on a time-and-materials basis for a not-to-exceed budget totaling $44,480. Our project budget includes labor, travel, and project expenses for the work and deliverables as listed in Tasks 1 – 4. We would be happy to discuss changes to our scope, budget, and/or schedule as may be needed.

	Task	Completion Date	Staff Hours	Budget
1	**Franchise Agreement Assessment**	August 31, 2022	60	$ 16,390
2	**Review City Fees & Republic Finances**	August 31, 2022	76	$ 16,540
3	**Draft Report**	September 15, 2022	36	$ 7,830
4	**Final Report**	October 19, 2022	16	$ 3,720
	Presentation to City Council	November 2022		
		Totals	**216**	**$ 44,480**

EXHIBIT B

G. RATE SCHEDULE

Hourly Billing Rates

In the table below, we have provided the updated hourly billing rates for the R3 Project Team that may be involved in providing solid waste consultant services. These hourly rates are subject to periodic adjustments based on CPI.

Unless otherwise agreed in writing, fees for work completed will be billed monthly at the first of each month for the preceding month and will be payable within 30 days of the invoice date.

CLASSIFICATION	HOURLY RATE
Principal	$ 285
Sr. Director	$ 285
Director	$ 240
Sr. Managing Consultant	$ 220
Managing Consultant	$ 200
Sr. Consultant	$ 190
Consultant	$ 170
Associate Consultant	$ 155
REIMBURSABLE COSTS	
Consultants/Subcontractors	Cost plus 10%
Lodging and meals	Direct cost
Travel — Private or company car	At Current Federal Rate
Travel — Other	Direct cost
Delivery and other expenses	Direct cost

STAFF REPORT

Item F. 4.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Nicholas Cuevas, Recreation and Community Services Manager
SUBJECT	Adopt a resolution approving the Newark Community Nonprofit Service Organization Grant Program and authorizing an amendment to the 2022-2024 Biennial Budget for FY 2022 to provide American Rescue Plan Act (ARPA) funding of $300,000 for the Community Nonprofit Grant Program

SUMMARY AND RECOMMENDATION

In October 2021, the City Council adopted the City of Newark's American Rescue Plan Act (ARPA) Recovery Plan, which allocates $11.8 million in Federal relief, including $300,000 towards a non-profit grant program. Following the allocation from City Council, staff conducted a community needs survey and program research. The survey identified many organizations that support the Newark community that have suffered from the ongoing pandemic due to increased demand for services, lack of fundraising opportunities, and desire to serve more Newark residents. Staff has developed a non-profit grant program to address the community's needs based on the survey results.

This staff report provides an overview of the survey findings, summarizes a proposed non-grant program for Council consideration, and recommends the Council adopt a resolution approving the non-profit grant program.

BACKGROUND

On March 11, 2021, the Federal Government passed the American Rescue Plan Act, commonly referred to as "ARPA", a $1.9 trillion relief package aimed to stimulate the economy. Under ARPA, the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) was established to provide aid to various governmental agencies throughout the Nation. The sum of $11.8 million was awarded to the City of Newark.

The Newark City Council held a work session on October 7, 2021, to discuss options to spend the City of Newark's $11.8 million allocation. The Council solicited input from the public and provided feedback to City staff. The City Council adopted the final City of Newark ARPA Recovery Plan on October 28, 2021.

The City Council allocated $300,000 towards Newark community non-profit grant program. As further explained below, many non-profit agencies have been unable to raise funds due to the pandemic, and the pandemic has caused disproportionate impacts on specific segments of our community.

Community Needs Survey Findings:
In March 2022, Recreation & Community Services Department staff developed and issued a survey to identify the needs of non-profit organizations that serve the Newark community. The department received over 30 responses from community groups with a proven history of providing services to the Newark community. The survey responses showed a need for funding to meet the growing needs of the Newark community.

Survey respondents' categories:
Below represents a summary of the types of organizations that responded.

- Food Pantries
- Counseling/Human Services
- Homeless services
- Emergency shelter
- Wildlife Rehabilitation
- Community service organizations
- Performing arts organizations
- Historical organizations
- Cultural organizations
- Parent Teacher Student Associations
- Community sports organizations
- Substance abuse providers

Survey respondent's requested funding examples:
Below is a summary of what organizations would spend grant funds on if received.

- Enhance homeless shelter services, transportation, and job readiness training capabilities.
- Assist with historical organizations to preserve Newark's history.
- Capital cost for an animal shelter.
- Provide additional funding to host local sports tournaments and clinics, including sports scholarships.
- Job readiness training services for those who are low-income or homeless needing assistance.
- Replace lost income to support youth summer camps, arts in schools, community concerts, and meal programs.
- Community bike and safety equipment program.
- Career training for graduating high school seniors and parenting workshops.
- Fund community scholarships across multiple organizations for youth and low-income students.
- Increase Newark youth's interest in STEAM programming.
- Cost for food pantry organizations.
- Provide funding to continue a community voucher program to provide quick access to funds for clothing, food, and other necessities.
- Support a music program for youth and help offset facility rental costs.

After evaluating the community survey results and reviewing similar regional programs, staff has developed a proposed non-profit grant program that would address the community's needs and honor the spirit and intent of the ARPA legislation.

Staff recommends investing these funds in projects that will:

- Align with strategic priorities
- Address community needs
- Support equitable outcomes for most impacted populations
- Leverage and align with other funding sources
- Make the best use of this one-time infusion of resources
- Have a lasting impact

Staff also recommends funding non-profits that have a demonstrated history of successful programs.

DISCUSSION/ANALYSIS

The following is an overview of the proposed program, including grant eligibility, selection process, and criteria and reporting requirements.

Program Eligibility:

All applicants should meet eligibility and submit the required information to be considered for a funding recommendation. To be considered for funding, applicants would be required to:

- Submit a complete and responsive application
- Be a 501(c)3 non-profit organization with recognized legal status equal under the United States Internal Revenue Code
- Submit a current W-9 Request for Taxpayer Identification Number and Certification
- Serve Newark residents or businesses through their services or programs
- Have up-to-date business filings, including a business license and no outstanding taxes
- Be capable of administering grant funds in compliance with federal funding guidelines
- Grant must be used for specific projects or services

Program Selection Process and Criteria:

To develop Newark's application process, staff conducted extensive research into similar programs, their scoring metrics, and general processes, as well as reviewing information obtained from the survey. The application is designed to assist applicants in providing the required information about their organization, eligibility, and proposal requirements to apply for grant funding.

If City Council approves the program, staff will immediately provide the program applications to all community non-profits that completed the survey and advertise the program. A proposed grant application has been prepared and is attached. Staff anticipates that the application period would be open for 30-60 days.

After the application period closes, an ad-hoc committee consisting of City staff members from various departments would review the proposals and score them based on the criteria identified below.

In evaluating the community survey results and researching similar grant programs, staff recommends that grants be awarded in the range of $500 - $25,000, depending

on the needs of the organization and the strength of the application based on the criteria below.

Staff would consider the following metrics when scoring applications:

- Tangible Impact: The extent of the benefit Newark residents would receive from the grant.
- Long-Term Impact: The long-term impacts of the proposed project/service on the Newark community
- Community Need: The project/service will reach populations that the pandemic has disproportionately impacted.
- Alignment: The project is aligned with the City's strategic plan goals.
- Leveraging: The project will leverage matching funds to expand the impact of the grant with grant funds already received from another organization.
- Transformative Change: The project will not be possible without grant funds.
- Organizational Capacity: The non-profits have the capacity and experience to implement project deliverables and manage grant funds.

As mentioned earlier, grant funds should be used for specific projects or services.

Program Reporting Requirements:

Any selected non-profit organization would need to sign a grant agreement to receive grant funds. A template grant agreement has been prepared in consultation with City Attorney and Finance staff and is attached.

In summary, the grant agreement awards the funds to the non-profit, requires the non-profit organization to use the funds for a specified purpose within an agreed-upon time period (generally one year), indemnifies the City, requires the organization to maintain appropriate insurance for their program, and requires the organization to regularly report the expenditure of grant funds to the City of Newark. The agreement also requires the organization to return funds to the City if they are not used within the time established or if the organization violates the terms of the agreement or ceases operations.

Awardees will be required to provide monthly qualitative and quantitative reports detailing how funds are used. The information provided will be reviewed by the Finance Department and included in the quarterly State and Local Funds Recovery Funds (SLFRF) compliance reports submitted to the U.S. Department of the Treasury.

Implementation:

If this grant program is approved by Council, City staff will immediately advertise the program application, hold a 30-60 day application period, and immediately review applications upon receipt. The goal is to have grants issued no later than 120 days after Council approval. Finance staff will require grant awardees to sign an agreement and report on how funds were spent by the 15th of each month.

FISCAL IMPACT

There is no fiscal impact on the City's General Fund associated with this item because the existing budget includes the City of Newark's ARPA Recovery Plan, which provides $300,000 in funding for this program.

The proposed resolution amends the 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2023 as follows:

- Increase 382.70.079.790.6950 Economic/Public Assistance by $300,000
- Decrease 382.3000 Other Federal Grants and Awards by $300,000

REVIEW AND APPROVAL

Prepared by - Nicholas Cuevas, Recreation & Community Services Manager
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

ARPA Nonprofit Community Grant Presentation

ARPA Nonprofit Community Grant Resolution

ARPA Nonprofit Community Grant Application

ARPA Nonprofit Community Grant Agreement Template

NEWARK COMMUNITY NON-PROFITS GRANT PROGRAM

11.10.2022

City of Newark

City Council Meeting

Newark Community Non-Profit Grant Program

Newark City Council adopted the City of Newark's American Rescue Plan Act (ARPA) Recovery Plan, which allocates $11.8 million in Federal relief, including $300,000 for Newark Community Non-Profits.

Community Non-Profit Needs Survey Results

Survey respondents' categories:

- Food Pantries
- Counseling/Human Services
- Homeless services
- Emergency shelter
- Wildlife Rehabilitation
- Community service organizations
- Performing arts organizations
- Historical organizations
- Cultural organizations
- Parent Teacher Student Associations
- Community sports organizations
- Substance abuse providers

Survey respondent's requested funding examples:

Survey respondent's requested funding examples:

Community Survey Evaluation & Program

Staff recommends investing these funds in projects that will:

- Align with strategic priorities
- Address community needs
- Support equitable outcomes for most impacted populations
- Leverage other funding sources
- Make the best use of this one-time infusion of resources
- Have a lasting impact

Family Day at The Park 2022
Newark Community Center Patio

Program Eligibility

- Submit a complete and responsive application
- Be a 501(c)3 non-profit organization with recognized legal status equal under the United States Internal Revenue Code
- Submit a current W-9 Request for Taxpayer Identification Number and Certification
- Serve Newark residents or businesses through their services or programs
- Have up-to-date business filings, including a business license and no outstanding taxes
- Be capable of administering grant funds in compliance with federal funding guidelines
- Grant must be used for specific projects or services

Program Selection Process & Criteria

01 Application Submission Period

02 Application reviewed for completeness

03 Application reviewed by an ad-hoc committee

04 Application approved or denied

05 Sign agreement & receive funds

Grant Awards Range From : $500 - $25,000

Program Selection Process & Criteria

Metrics considered when scoring

- Tangible Impact: The extent of the benefit Newark residents would receive from the grant.
- Long-Term Impact: The long-term impacts of the proposed project/service on the Newark community
- Community Need: The project/service will reach populations that the pandemic has disproportionately impacted.
- Alignment: The project is aligned with the City's strategic plan goals.
- Leveraging: The project will leverage matching funds to expand the impact of the grant with grant funds already received from another organization.
- Transformative Change: The project will not be possible without grant funds.
- Organizational Capacity: The non-profits have the capacity and experience to implement project deliverables and manage grant funds.

Program Application Process

NEWARK COMMUNITY NON-PROFIT
501 (c)(3) SERVICE ORGANIZATIONS

Grant Program Application

SECTION I – ORGANIZATION INFORMATION

Community Based Organizations Information (Applicant Information):

Name of Organization: _____

Organization Address: _____

Website: _____ Phone: _____

Organization Email: _____

Executive Director: _____ Email: _____

Does your organization have a 501(c)(3) tax status: Y N (attach proof)

Organization Mission Statement:

Primary Contact for This Application:

Name: _____ Title: _____

Phone: _____ Email: _____

Proposed Program/Project Budget Information:

Program/Project Budget: $ _____

Amount of Grant Funds Requested: $ _____

Current Organizational Budget: $ _____

Program/Project Information:

Program/Project Title: _____

% of Newark Residents Served By Current Program: _____

3-PART APPLICATION REQUIRED

- **Section 1:** Organization Information
- **Section 2:** Program/Project Description
- **Section 3:** Project Impact and Goals+

If the grant recipient is approved, additional documents will be required:

- Scope of Work
- Grant Agreement Report
- Insurance Requirements
- W9 Request for Taxpayer Identification
- Verification of 501(c)3 status

Program Reporting Requirements

Exhibit B
Grant Agreement Report

Organization		Agreement No.	
Contact Person		Contact Title	
Phone Number		Email	
Report Type	☐ Monthly	Reporting Period	
	☐ Other		

Grantee Information

Grant Amount	
Funding expended during the reporting period	
Funding expended to date	
Remaining award amount	

Award Details

Receipts and thorough documentation of grant fund expenditures should be maintained and provided to the City of Newark by the 15th of each month. ☐ yes ☐ no

Performance Measures & Outcomes

Please provide outcomes that were accomplished through the grant funds

Part I: Quantitative Outcomes

Number of Individuals Served	
Population(s) Served	
Performance Measures per Agreement	

Narrative – description of how the funds were used and what was accomplished.

Program Implementation

If approved:

- Advertise the grant program to the Newark Community
- Hold a 30–60-day application period
- Immediately review applications
- Grants issued no later than 120 days after council approval
- Grantees have 1 year to spend funds

Program Fiscal Impact

There is no fiscal impact to the City's General Fund associated with this item because the existing budget includes the City of Newark's ARPA Recovery Plan, which provides $300,000 in funding for this program.

Newark Community Non-Profit Grant Program

Thank you!

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING THE NEWARK COMMUNITY NON-PROFIT SERVICES ORGANIZATION GRANT PROGRAM FOR NEWARK BASED OR NEWARK SERVING NONPROFITS AND AUTHORIZING A BUDGET ADJUSTMENT TO THE BIENNIAL BUDGET 2022-2024 FOR FISCAL YEAR 2023 TO FUND THE NONPROFIT GRANT PROGRAM FROM THE AMERICAN RECOVERY PLAN ACT (ARPA) REVENUE

WHEREAS, the City Council held a work session on October 7, 2021, to consider options for the use of Newark's $11.8 million of the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) allocation and the City of Newark's ARPA Recovery Plan was formally approved on October 28, 2021; and

WHEREAS, the Recovery Plan designates $300,000 for the Newark Community Non-profit Services Organization Grant Program; and

WHEREAS, the Newark Community Non-profit Services Organization Grant Program costs supported by this ARPA allocation need to be authorized by budget adjustment; and

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby approves $300,000 for the Newark Community Non-profit Services Organization Grant Program , for a total appropriation of $300,000 from ARPA Funds (Fund 382).

BE IT FURTHER RESOLVED that the City Manager is authorized to take all actions necessary to effectuate the intent of this Resolution.

BE IT FURTHER RESOLVED that the City Council does hereby approve an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2023 as follows:

- Increase 382.70.079.790.6950 Economic/Public Assistance by $300,000
- Decrease 382. 3000 Other Federal Grants and Awards by $300,000

NEWARK COMMUNITY NON-PROFIT 501 (c)(3) SERVICE ORGANIZATIONS GRANT PROGRAM APPLICATION

ISSUE DATE: XX
DEADLINE FOR SUBMISSIONS: XX

Contents

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ARPA State and Fiscal Recovery Funds Overview 3

Tentative Timeline: 4

Eligibility and Proposal Requirements: 5

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GRANT PROGRAM APPLICATION 8

SECTION I – ORGANIZATION INFORMATION 8

SECTION 2 – PROGRAM/PROJECT DESCRIPTION 10

SECTION 3 – PROJECT IMPACT AND GOALS 11

Attachments:

Grant Agreement Template, including the following exhibits:

Exhibit A - Scope of Work
Exhibit B - Grant Agreement Report Exhibit
Exhibit C - Insurance Requirements
Exhibit D - W9 Request for Taxpayer Identification Number and Certification

Introduction:

The City of Newark is pleased to announce the availability of grant funding for local non-profits through the American Rescue Plan Act (ARPA) Coronavirus State and Local Fiscal Recovery Funds (SLFRF).

The City is accepting Grant Applications from registered non-profits for projects and/or services that are aligned with the City's goals and priorities or meet the needs of the underserved community.

Background:

On March 11, 2021, the Federal Government passed the American Rescue Plan Act, commonly referred to as "ARPA", a $1.9 trillion relief package aimed to stimulate the economy. Under ARPA, the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) was established to provide aid to various governmental agencies throughout the Nation. The sum of $11.8 million was awarded to the City of Newark.

The Newark City Council held a work session on October 7, 2021, to discuss options to spend the City of Newark's $11.8 million allocation. The Council solicited input from the public and provided feedback to City staff. The City Council adopted the final City of Newark ARPA Recovery Plan on October 28, 2021.

The City Council allocated $300,000 towards a Newark Community non-profit grant program. The City Council is aware that many non-profit agencies have been unable to raise funds due to the pandemic and the pandemic has caused disproportionate impacts on specific segments of our community

The City of Newark is committed to investing these funds in projects that:

- Align to strategic priorities and address community needs
- Support equitable outcomes for most impacted populations
- Leverage other funding sources
- Make the best use of this one-time infusion of resources
- Have a lasting impact
- The organization has a demonstrated history of successful programs

In ensuring that we are broadly supporting our community through these funds, we provide the following information to help non-profits determine their potential eligibility and outline the process, funding amounts, and funding requirements.

ARPA State and Fiscal Recovery Funds Overview

On March 11, 2021, President Biden signed the $1.9 trillion dollar American Rescue Plan Act of 2021 to address the COVID-19 pandemic and the corresponding economic crisis. The American Rescue Plan established the Coronavirus State and Local Fiscal Recovery Funds, which allocated

$350 billion in emergency funding for eligible state, local, territorial, and Tribal governments to support their response to and recovery from the COVID-19 public health emergency.

The Coronavirus State and Local Fiscal Recovery Funds are designed to bolster agencies' responses to the COVID-19 pandemic and its economic impacts by supporting the immediate pandemic response, bringing back jobs, and laying the groundwork for a strong and equitable recovery.

The Coronavirus State and Local Fiscal Recovery Funds may only be used as outlined in the Final Rule and Compliance and Reporting Guidance issued by the U.S. Treasury Department. Grant recipients should review all guidance to ensure compliance.

Tentative Timeline:

Date	Activity
XX	Grant Application Released
XX	Informational Session
XX	Deadline for Submitting GRANT APPLICATION (4 p.m.)
XX	Review and Evaluation Process
XX	Recommendations Presented to the City Council

Questions or Technical Assistance
Upon request, general assistance is available through XX, by noon (PDT).

All questions and requests for technical assistance concerning the Grant Application are to be directed to the official contact person via email or mail:

Email: nicholas.cuevas@newark.org

Mail:
Attn: Nick Cuevas
Recreation & Community Services Manager
City of Newark
6800 Mowry Ave
Newark, Ca 94560

Eligibility and Proposal Requirements:

All applicants must meet eligibility and submit the required information to be considered for a funding recommendation. To be considered for funding, applicants must:

- Submit a complete and responsive application
- Be a 501(c)3 non-profit organization with recognized legal status equal under the United States Internal Revenue Code
- Submit a current W-9 Request for Taxpayer Identification Number and Certification
- Serve Newark residents or businesses through their services or programs
- Have up-to-date filings (business license, taxes, etc.)
- Capable of administering grant funds in compliance with federal funding guidelines

Each proposal shall include the following information:

A. Application form, containing:

- General Information
  - a) Name of Project/Program
  - b) Name of Organization
  - c) Organization's Address
  - d) Primary Contact Name, Title, Email, Phone Number
  - e) Mission Statement
- Project Description
  - a) Amount of Funds Requested (up to $25,000)
  - b) Briefly describe the program/project you are requesting funds for.
  - c) Have you received other COVID-19 relief funding related to this program or project?
- Community Benefits
  - a) Describe the need for the program/project you're proposing.
  - b) What populations will benefit from the proposed project and how? How many individuals, families, or other populations be served by this program/project?
  - c) Describe 2-3 anticipated measurable outcomes for your proposed project/program.

B. Verification of 501(c) status

Selection Process and Criteria:

An ad-hoc committee consisting of City staff members from various departments will review the proposals and score them based on the criteria identified below.

Grants will be awarded in the range of $500 - $25,000, depending on the needs of the organization and the strength of the application based on the criteria below.

Staff would consider the following metrics when scoring applications:

- Tangible Impact: The extent of the benefit Newark residents would receive from the grant.
- Long-Term Impact: The long-term impacts of the proposed project/service on the Newark community.
- Community Need: The project/service will reach populations that the pandemic has disproportionately impacted.
- Alignment: The project is aligned with the City's strategic plan goals.
- Leveraging: The project will leverage matching funds to expand the impact of the grant with grant funds already received from another organization.
- Transformative Change: The project will not be possible without grant funds.
- Organizational Capacity: The non-profits have the capacity and experience to implement project deliverables and manage grant funds.

Grant funds should only be applied to projects or services. Grant funds should not be used for religious or political purposes.

Proposal Submission Information:

An electronic version of the proposal in portable document format (.pdf) must be submitted by, **XXXX,** by email to:

Nicholas.cuevas@newark.org

Proposals received after this deadline will not be accepted. Early submissions are recommended and encouraged. The City reserves the right to reject any and all proposals submitted, request clarification of any part of a proposal, request additional information from competitors, and waive any irregularity in the proposal.

Terms and Conditions:

- All responses to this Grant Application become the property of the City and, as such, may be subject to the Public Records Act.
- Any costs and expenses incurred by an organization in preparing or submitting responses are the sole responsibility of the respondent.
- This Grant Application does not commit the City to award funds or fund proposals at the requested level.
- The City reserves the right to request additional information and clarification from any respondents to this Grant Application, including references.
- A respondent must be prepared to present evidence to their responses to satisfactorily meet the requirements set forth or implied in the Grant Application.
- Respondents may be asked to attend a meeting or be interviewed to provide further explanation to the City's Grant Application Evaluation Committee.
- Respondents agree that, if awarded, quantitative and qualitative information will be required for ARPA reporting requirements, which is submitted by the City at the end of the month following each quarter. As such, detailed accounting and receipts for expenses need to be provided to the City of Newark by the 15th of each month, so City staff have ample time to review each month's expenditures prior to report submission to the Federal government.
- All respondents to the Grant Application must conform to instructions. Failure to include required signatures, meet deadlines, answer all questions, follow the required format, or failure to comply with other requirements of the Grant Application may be considered cause for rejection of the response.
- Agree to the terms outlined in the "Grant Agreement Template."

NEWARK COMMUNITY NON-PROFIT
501 (c)(3) SERVICE ORGANIZATIONS

GRANT PROGRAM APPLICATION

SECTION I – ORGANIZATION INFORMATION

Community Based Organizations Information (Applicant Information):

Name of Organization: _____

Organization Address: _____

Website: _____ Phone: _____

Organization Email: _____

Executive Director: _____ Email: _____

Does your organization have a 501(c)(3) tax status: Y N (attach proof)

Organization Mission Statement:

Primary Contact for This Application:

Name: _____ Title: _____

Phone: _____ Email: _____

Proposed Program/Project Cost Information:

Program/Project Cost: $ _____

Amount of Grant Funds Requested: $ _____

Program/Project Information:

Program/Project Title: _____

% of Newark Residents Served By Current Program: _____

1. Describe the need for the program/project you're proposing:
2. Will your program/project serve youth in the Newark community?
3. Will your program or project serve an underserved community?

Please Select one (1) category that BEST describes the type of project or program that your organization plans to provide with the requested grant funds:

Food Pantry Homeless Outreach Youth Services Underserved Community

Community/Human Services Other: _____

SECTION 2 – PROGRAM/PROJECT DESCRIPTION

1. How did the COVID-19 pandemic impact your operations, funding, staffing, and general services that you offer to the public?
2. Provide information about your organization (e.g., number of years in operation, description of services provided, and the population served).
3. Describe the program or project your organization is proposing to implement with the grant funds in detail. Clearly list the major components or aspects of your program or project.

4. Provide a timeline for project implementation. Include specific tasks/activities that will be accomplished within your set timeline.

SECTION 3 – PROJECT IMPACT AND GOALS

1. Describe the target population and geographic area that your organization plans to serve with the grant funds and what impact the proposed program or project will have on the target population.
2. What populations will benefit from the proposed project and how? How many individuals, families, or other populations be served by this program/project?
3. Describe the need for the program/project you're proposing.

4. How will your organization assess/gauge the success of your program/project at its completion or on an ongoing basis?
5. How do you plan to sustain the program or project after expending grant funds?
6. Describe your entity's experience and capacity to manage, implement, measure, and report on grant use of funds.

Newark Community Nonprofit
501 (c)(3) Service Organizations
Grant Agreement Template

Project Name: _____

This Agreement ("Agreement"), dated this XX/XX/XX, by and between the City of Newark, a municipal corporation("CITY"), and [NONPROFIT LEGAL NAME] ("GRANTEE"), a non-profit 501(c)(3) organization:

RECITALS

WHEREAS, GRANTEE, as a non-profit organization that [NONPROFIT MISSION STATEMENT]; and

WHEREAS, GRANTEE's provision of such services [IMPACT/BENEFIT OF GRANT] the City of Newark; and

WHEREAS, CITY wishes to award a grant to GRANTEE to support a program that provides [PROJECT/PROGRAM DESCRIPTION].

NOW, THEREFORE, the parties agree as follows:

SECTION 1. Status of GRANTEE. GRANTEE represents and warrants that it is a non-profit 501(c)(3)organization in good standing under the law and shall remain as such for the term of this Agreement. GRANTEE further represents and warrants that its signatory is authorized to bind GRANTEE and execute this Agreement on GRANTEE's behalf.

SECTION 2. Payment of Grant Award. CITY hereby agrees to pay GRANTEE an amount not to exceed [$XX,XXX] ("Grant Award") according to the schedule set forth in Exhibit A and subject to the terms and conditions of this Agreement. CITY may elect in its sole discretion to withhold payment of Grant Award if GRANTEE defaults under any of the provisions of this Agreement.

SECTION 3. Expenditure of Grant Award. GRANTEE shall expend the Grant Award solely on the programs and/or projects set forth in Exhibit A. An expenditure that does not comply with this Agreement shall constitute a disallowed cost ("disallowed cost") and be subject to reimbursement as specified in Section 15 of this Agreement. Under no circumstances shall GRANTEE expend any portion of the Grant Award for religious or

political purposes or for any other purpose prohibited under law, including but not limited to promoting or inhibiting religion in general or any religion in particular, conveying a religious message, or advocating for or against a political candidate or ballot measure.

SECTION 4. Acknowledgment of Funding Source. Unless otherwise agreed upon in writing between the parties, the GRANTEE agrees that any publications, studies, or reports which are made possible by or derived, in whole or in part, from the Grant Award and any news articles, brochures, seminars, or other promotional materials or media or events through which GRANTEE publicizes the programs or projects funded in whole or in part by CITY will acknowledge the CITY's support in the following manner: "Funding for this project has been provided by/contributed by the City of Newark.

SECTION 5. The Parties' Relationship. This Agreement shall not be construed as giving rise to any agency, partnership, joint venture, or employment relationship between CITY and GRANTEE. GRANTEE shall have no ability to bind the CITY and shall not hold itself out as having any such ability. Neither GRANTEE nor any of GRANTEE's officers, employees, agents, or subcontractors, if any, is an employee of CITY by virtue of this Agreement. GRANTEE's employees and agents shall not be entitled to any salary or benefits relating to CITY employment.

SECTION 6. No Assignment. GRANTEE shall not assign this Agreement without CITY's written authorization. Any unauthorized assignment shall be void and shall be considered a material breach of this Agreement.

SECTION 7. Indemnification. GRANTEE shall indemnify, hold harmless, and defend CITY, its City Council, boards and commissions, officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, attorney's fees, Grantee's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with this Agreement, GRANTEE's performance hereunder, GRANTEE's or subcontractor's negligence including active or passive, or strict liability, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of GRANTEE, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless of any limitation of coverage by insurance, with the exception of the sole negligence or willful misconduct of the City.

The provisions of this section shall survive the expiration or termination of this Agreement.

SECTION 8. Insurance Requirements. GRANTEE agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for GRANTEE." Failure to maintain the required insurance at all times shall constitute a default and material breach.

SECTION 9. Non-Discrimination. In performing this Agreement, GRANTEE, shall not, and shall ensure that any and all contractors or subcontractors, employees, agents, volunteers, officers, officials, directors, volunteers, and affiliates, also shall not

discriminate, harass, or allow harassment against any person on the basis of sex, race, color, ancestry, religious creed, national origin, physical disability, mental disability, medical condition, age, marital status, sexual orientation, actual or perceived gender identity, or any other basis prohibited under law. GRANTEE shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this Agreement.

SECTION 10. Compliance with All Applicable Laws. In performing this Agreement, GRANTEE warrants it shall comply with all applicable state and federal laws, rules, and regulations, whether now in force or hereinafter enacted.

SECTION 11. Accounting. For purposes of performance under this Agreement and receipt and expenditure of Grant Award, GRANTEE shall at all times maintain an accounting system that comports with generally accepted accounting principles.

SECTION 12. Financial Records and Financial Report. GRANTEE shall maintain satisfactory financial accounts, books, records, documents, and other evidence sufficient to properly reflect the amount, receipt, and expenditure of Grant Award.

Grantee shall submit to CITY a monthly report in the form identified in Exhibit B, for American Rescue Plan Act reporting requirements. Said monthly reports shall be submitted to City within fifteen (15) calendar days following each month of reported expenditures.

All financial records and financial reports shall be prepared in accordance with general accounting principles. The monthly report shall be public records and may be posted on the CITY's website. Failure to maintain proper financial records and submittal of timely financial reports shall be cause for termination as outlined in this agreement (See Section 17).

SECTION 13. Audit and Examination. Upon request, CITY's authorized representatives shall be provided with access and shall have the right to examine all financial records, documents, facilities, and activities related to GRANTEE's performance of this Agreement and to the receipt and expenditure of the Grant Award. Failure to comply with the request for audit, or a lack of documentation and records, may cause termination of this agreement (See Section 17). Termination of this agreement for failure to comply will require all unused or disallowed funds provided to GRANTEE to be refunded to the CITY.

SECTION 14. Preservation of Records. GRANTEE shall preserve and make available all records related to performance of this Agreement and related to the receipt and expenditure of the Grant Award until the expiration of [RETENTION PERIOD] from the date of final payment to GRANTEE or as required by applicable law, whichever is longer.

SECTION 15. Reimbursement of Disallowed Costs. Within ten (10) business days of the date of CITY's written notice to GRANTEE, GRANTEE agrees to reimburse to CITY any portion of the Grant Award paid by the CITY which CITY has in its sole discretion determined constitutes a disallowed cost.

SECTION 16. Term. This Agreement shall be for a term of one (1) year commencing on [INSERT DATE] and expiring on [INSERT DATE] unless terminated sooner per this Agreement.

SECTION 17. Termination. This Agreement may be terminated with or without cause by either CITY or GRANTEE with thirty (30) calendar days' written notice of termination. No later than ten (10) calendar days of transmission of the termination notice from CITY, GRANTEE shall refund any unused or disallowed portion of the Grant Award. In the event of a breach of this Agreement, CITY may elect to provide written notice of such breach and a reasonable time period in which GRANTEE must cure the breach. If GRANTEE fails to cure the breach in accordance with said notice, CITY may terminate this Agreement for cause, and any unused or disallowed portions of the Grant Funds shall be returned to the City within ten (10) calendar days of said termination date.

SECTION 18. Notice. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective five (5) calendar days from the date of mailing or if personally delivered, from the date of personal delivery. If notice is given by mail, it shall be delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

CITY: Nick Cuevas
Recreation & Community Services Manager
City of Newark
6800 Mowry Avenue
Newark, CA 94561
(510) 578-4405
nicholas.cuevas@newark.org

GRANTEE: NAME
TITLE
ORGANIZATION
ADDRESS
PHONE NUMBER
EMAIL

SECTION 19. Severability. If any provision of this Agreement or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to this end the provisions of this Agreement are severable.

SECTION 20. Waiver. No term or provision hereof will be considered waived by either party, and no breach is excused or consented to by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No express or implied consent by either party to, waiver of, or failure of a party to enforce its rights with respect to a breach by the other party shall constitute consent to or, waiver of any subsequent or other breach by the other party.

Section 21. Amendment. This Agreement may be amended by mutual agreement in writing between the GRANTEE and the CITY. Any request by the GRANTEE for amendments must be in writing stating the amendment request and reason for the request. The GRANTEE shall make requests in a timely manner and in no event less than thirty (30) calendar days before the effective date of the proposed amendment.

Section 22. List of Exhibits:

- Exhibit A - Scope of Work
- Exhibit B - Grant Agreement Report Exhibit
- Exhibit C - Insurance Requirements

Section 23. Entire Agreement. This Agreement and any attached Exhibits shall constitute the entire Agreement between the parties hereto relating to the Grant Award and may not be modified except by an instrument in writing signed by the parties hereto.

(Signatures on next page)

IN WITNESS WHEREOF, the parties have entered into this Agreement on the day and year first herein above appearing.

[NONPROFIT NAME],
a non-profit organization

By:_____
NAME
TITLE

DATE: _____

By:_____
David Benoun
City Manager

DATE:_____

(City Seal)

ATTEST:

By:_____
Sheila Harrington
City Clerk

APPROVED AS TO CONTENT:

_____
Nick Cuevas
Recreation & Community Services Manager

APPROVED AS TO FORM:

_____
Kristopher
Kokotaylo
City Attorney

EXHIBIT A

SCOPE OF WORK

Project Description:

Deliverables & Performance Measures:

Payment Schedule & Eligible Expenditures:

All expenditures must comply with the Coronavirus State and Local Recovery Funds Final Rule. Funding used for ineligible expenditures will require repayment to the City. All expenditures must occur within one year.

The grant funds will be used to support the [PROGRAM NAME]. Eligible expenditures under this grant agreement include:

The grant funds will be dispersed in a lump sum following the full execution of this agreement.

Timeline:

All funds shall be expended within one (1) year of contract execution.

Exhibit B
Grant Agreement Report

Organization			Agreement No.	
Contact Person		Contact Title		
Phone Number		Email		
Report Type	☐ Monthly	Reporting Period		
	☐ Other			

Grantee Information

Grant Amount	
Funding expended during the reporting period	
Funding expended to date	
Remaining award amount	

Award Details

Receipts and thorough documentation of grant fund expenditures should be maintained and provided to the City of Newark by the 15th of each month. ☐ yes ☐ no

Performance Measures & Outcomes

Please provide outcomes that were accomplished through the grant funds

Part I: Quantitative Outcomes

Number of Individuals Served	
Population(s) Served	
Performance Measures per Agreement	

Narrative – description of how the funds were used and what was accomplished.

Grantee Representative Signature

I hereby declare under the penalty of perjury that the goods or materials covered by this report have been performed with the project specifications, are complete and accurate, and are eligible under the agreement.

Printed Name			
Title			
Signature		Date	

EXHIBIT C

INSURANCE REQUIREMENTS

INSURANCE:
GRANTEE shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Grantee, his agents, representatives, subGrantees, or employees.

Verification of Coverage
Grantee shall furnish City with original certificates of insurance and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences.

Proof of Insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City Risk Manager:

CITY OF NEWARK
Attn: Risk Manager
37101 Newark Boulevard
Newark, CA 94560

City reserves the right to require and obtain complete, certified copies of all required insurance policies and endorsements at any time. Failure to exercise this right at any time shall not constitute a waiver of right to exercise later. Grantee shall immediately furnish City with certificates of renewal for each policy that is renewed during the term of this Agreement.

Minimum Scope of Insurance
Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and
2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if Grantee has no owned autos; and
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and
4. Errors and Omissions Liability insurance appropriate to the Grantee's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

Minimum Limits of Insurance

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be

available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Grantee shall maintain limits no less than:

1. General Liability: (including products and completed operations, property damage, bodily injury, and personal and advertising injury)	**$2,000,000** per occurrence for bodily injury, personal injury, and property damage. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:	**$1,000,000** per accident for bodily injury and property damage.
3. Employer's Liability:	**$1,000,000** per accident for bodily injury or disease.
4. Errors and Omissions Liability:	**$1,000,000** per occurrence or claim; $2,000,000 aggregate.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City Risk Manager. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its officers, officials, directors, employees, contractors, agents, and volunteers, or (2) Grantee shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses in an amount specified by the City Risk Manager or designee.

Claims Made Policies

For all "claims made" coverage, in the event that Grantee changes insurance carriers Grantee shall purchase "tail" coverage or otherwise provide for continuous coverage covering the Term of this Agreement and not less than five (5) years thereafter. Proof of such "tail" or other continuous coverage shall be required at any time that the Grantee changes to a new carrier.

STAFF REPORT

Item F. 5.

DATE	11/10/2022
TO	Honorable Mayor and City Council Members
FROM	Anne Stedler, Economic Development Manager
SUBJECT	Transient Occupancy Tax (TOT) Informational Report

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council receive an informational report on Newark's Transient Occupancy Tax (TOT) and the Newark hotel market.

BACKGROUND

The COVID-19 pandemic interrupted hotel patronage beginning in the first quarter of calendar year 2020, causing an unprecedented, precipitous drop in hotel revenue and associated city TOT revenue. City TOT revenue dropped from almost $7 million per year in pre-COVID fiscal year 2019 to slightly under $3 million per year in fiscal year 2021. The Newark hotel market, although recovering, is still far from pre-COVID occupancy levels and room rates. In fact, the American hotel market is not expected to fully recover until 2025 (adjusted for inflation). These facts show the severity of pandemic-related losses.

As a hotel market, Newark is distinctive in several ways. Newark has an unusually large number of competitive business-serving hotels for a city of its size, and the resulting TOT revenue is important to the city. In addition, Newark hotels serve the historically robust business travel demand from companies in Newark and the surrounding area. From a business perspective, Newark hotels are an important and attractive amenity for many local companies that rely on national and international business travelers. Finally, hotel guests spend money on goods and services at local businesses. Clearly, the Newark hotel market provides multiple benefits to the city and other members of the Newark community.

DISCUSSION/ANALYSIS

The presentation describes TOT's importance to the city and the legal basis to collect TOT. It describes the market factors that contribute to successful hotels and strong TOT revenue with a focus on hotel business recovery following COVID-19. The presentation also explains choices available to the city to increase TOT. Market factors described include key strengths and vulnerabilities of Newark's hotel market, it's recovery from the COVID-19 pandemic compared with other parts of the Bay Area, and opportunities to strengthen hotel success and resulting TOT revenues.

The report is a collaboration of the Finance and Community Development departments and the Embarcadero Hotel Group expert consultants, Sondra Storm and Mark Keller. The consultants maintain a diverse practice in hotel market analysis, hotel development and hotel operations for both private and public clients.

FISCAL IMPACT

As this is an informational report, there is no fiscal impact.

REVIEW AND APPROVAL

Prepared by - Anne Stedler, Economic Development Manager
Reviewed by - Krysten Lee and Steven Turner, Finance and Community Development Directors
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

FINAL TOT Update 2022.11.03-KVL

NEWARK
california

TRANSIENT OCCUPANCY TAX (TOT) UPDATE TO CITY COUNCIL

November 10, 2022

AGENDA

1. TOT ORDINANCE OVERVIEW
2. TOT REVENUE UPDATE
3. HOTEL DEVELOPMENT UPDATE
4. NEWARK HOTEL MARKET ANALYSIS
5. NEXT STEPS

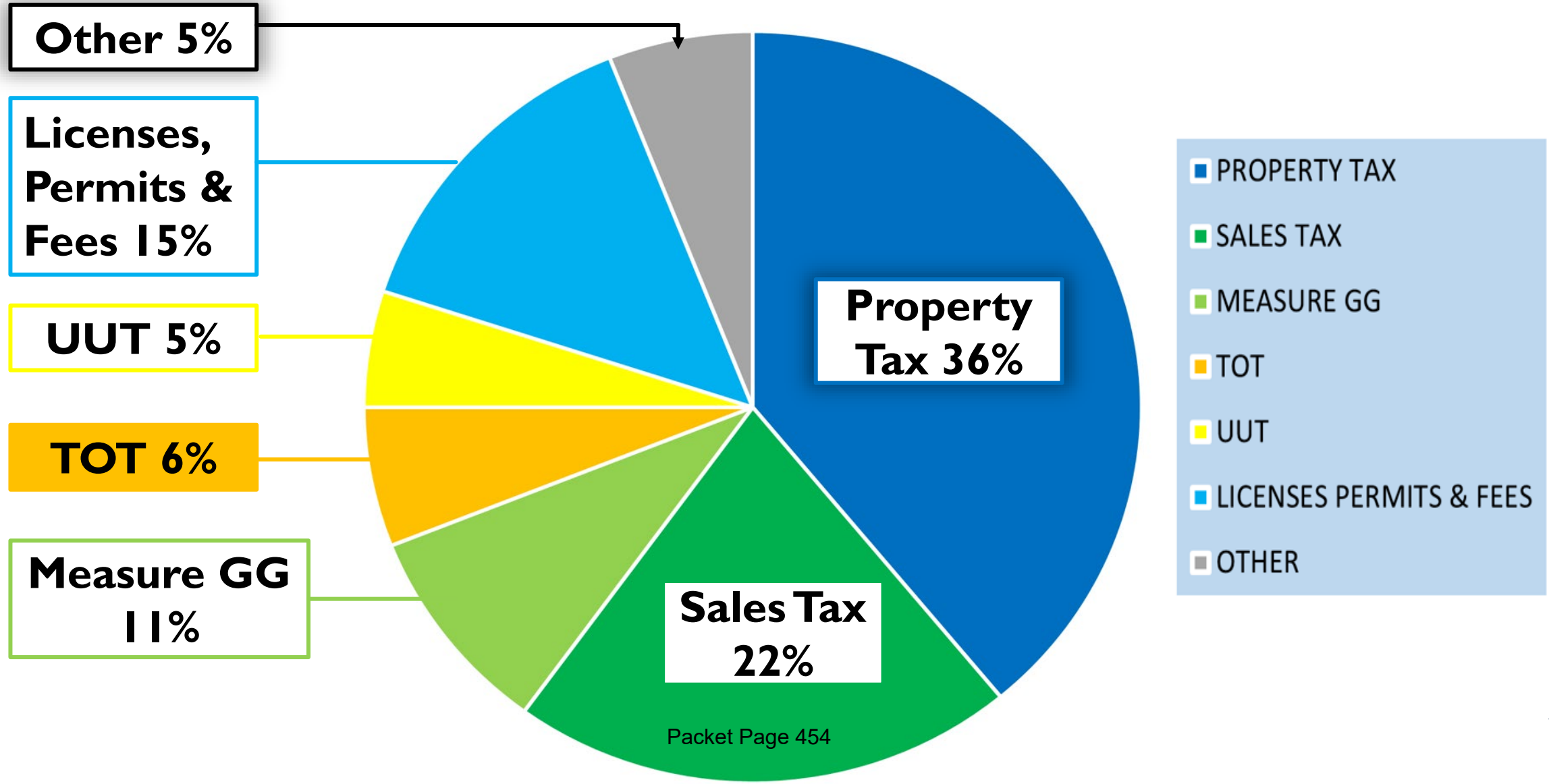
TRANSIENT OCCUPANCY TAX (TOT)

- A tax imposed on occupants for the privilege of occupying rooms in hotels and any structure intended for transient occupancy.
  - Who pays TOT?
    - The guest, for each overnight stay
    - Less than 30 days = transient occupancy
  - Hotel operators collect and remit to the city
    - Monthly and Quarterly

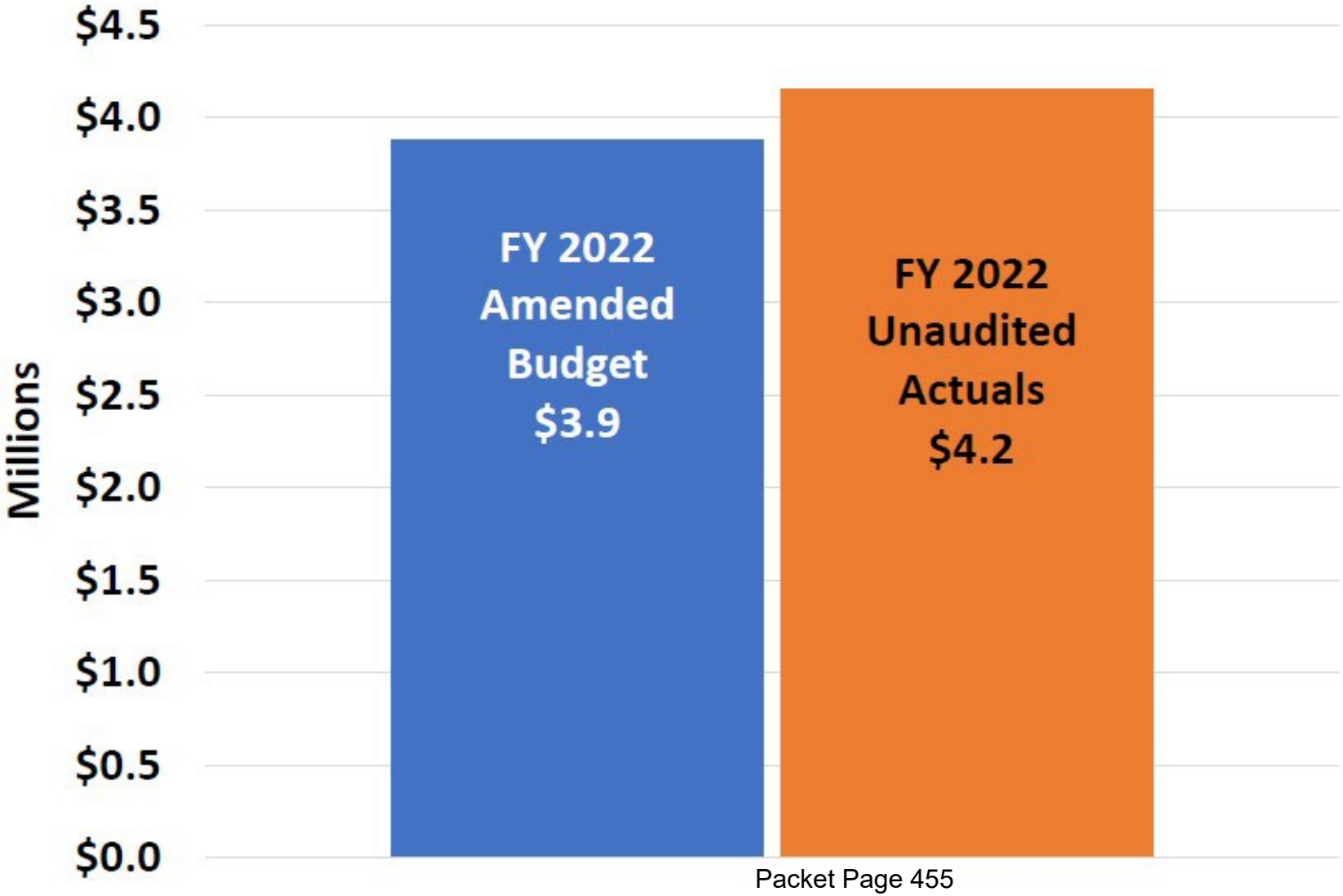
ORDINANCE OVERVIEW

- California Revenue and Taxation Code 7280-7281
  - Authorizes general law city to impose a transient occupancy tax
  - Tax Imposed
    - Increase, expansion or extension requires voter approval
    - General Tax requires a majority vote
    - Newark's current rate = 10%
  - Exemptions:
    - Any federal or state officer on official business
    - Any officer or employee of a foreign government exempt by federal law or international treaty

REVENUE UPDATE – FY 2022 RESULTS

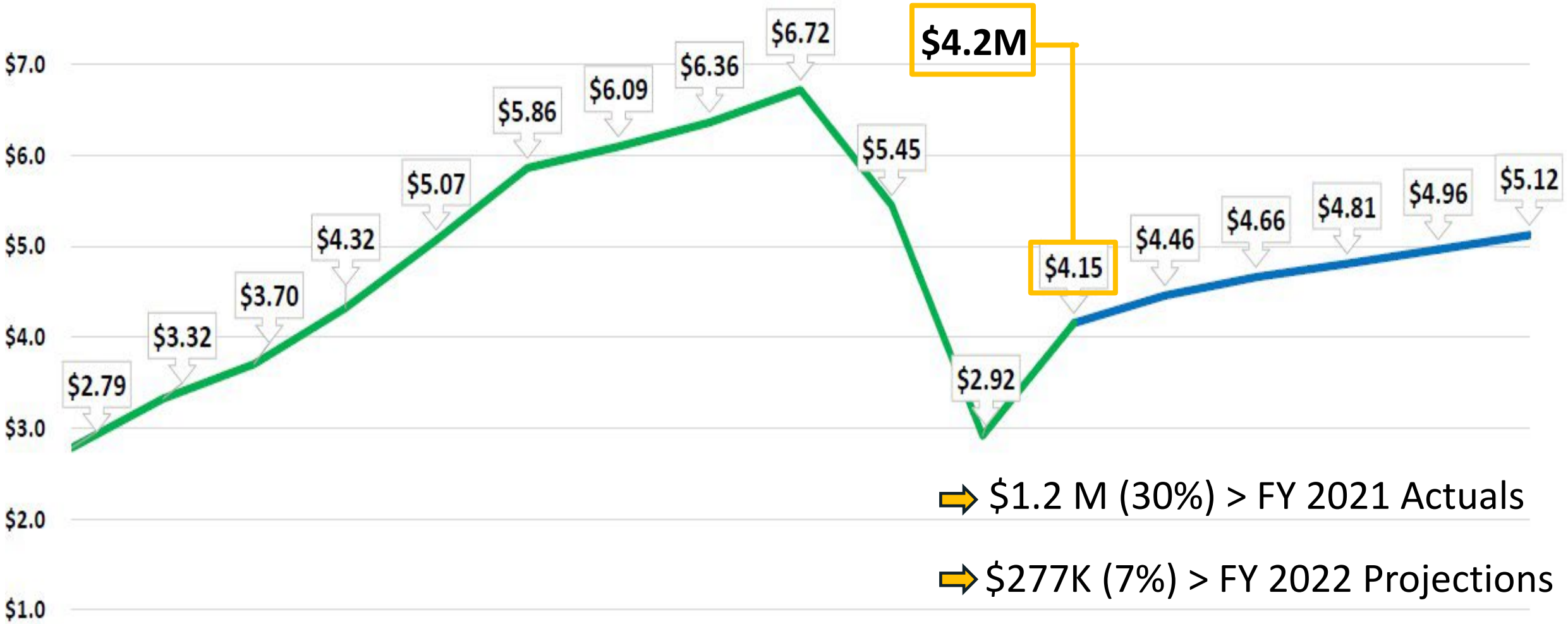


REVENUE UPDATE – FY 2022 RESULTS



7% Above Budget

10-YEAR HISTORICAL & 5-YEAR FORECAST



- $1.2 M (30%) > FY 2021 Actuals
- $277K (7%) > FY 2022 Projections

HOTEL DEVELOPMENT UPDATE

MARRIOT AC HOTEL

HOTEL DEVELOPMENT UPDATE
HYATT PLACE HOTEL

NEWARK'S HOTEL MARKET – RESILIENCY THROUGH COVID

THE NEWARK HOTEL MARKET ANALYSIS – NOVEMBER 2022

01

Pre and post Covid 19

02

Compared to nearby markets

03

TOT rates compared to nearby markets

04

Next Steps

NEWARK HOTEL MARKET – PRE-COVID

Grew faster than most US hotel markets, due to:

- Companies locating in Newark and Fremont.
- Companies, Meta, Google, Apple, and others, in the greater region.
- Convenient location to Bay Area cities and airports.
- Proximity to San Francisco and the San Jose Convention Center.

IMPACT OF COVID 19 ON HOTEL MARKETS:

- National
- Regional
- How Newark compares

NATIONAL HOTEL MARKET

- Business and leisure travel nearly stopped in March 2020.
- Percentage of 2019 (pre-Covid) revenue:

Year	Revenue	Occupancy	Average Daily Rate
2020	52%	67%	79%
2021	83%	87%	95%

- 2022 projections anticipate return to 2019 revenues for U.S market (2025 when adjusted for inflation).

**Sources CoStar, STR, Embarcadero Hospitality and other sources.*

REGIONAL HOTEL MARKET:

BAY AREA FARED WORSE THAN NATIONAL MARKET

In 2020, Bay Area and Silicon Valley losses included:

- Travel associated with concentration of high-tech headquarters.
- Conventions and special events.
- Foreign and domestic leisure travel to the Bay Area.
- Relocations of high-tech workers away from the Bay Area.

REGIONAL HOTEL MARKET:

BAY AREA STILL FARES WORSE THAN NATIONAL MARKET

- In 2022, the regional hotel market lags significantly behind the national market recovery.
- Silicon Valley is outperforming San Francisco, proper, but still well behind national levels.
- Long-term impacts on business travel are still unknown due to remote working trends.

NEWARK BUSINESS CLASS HOTELS COMPARED

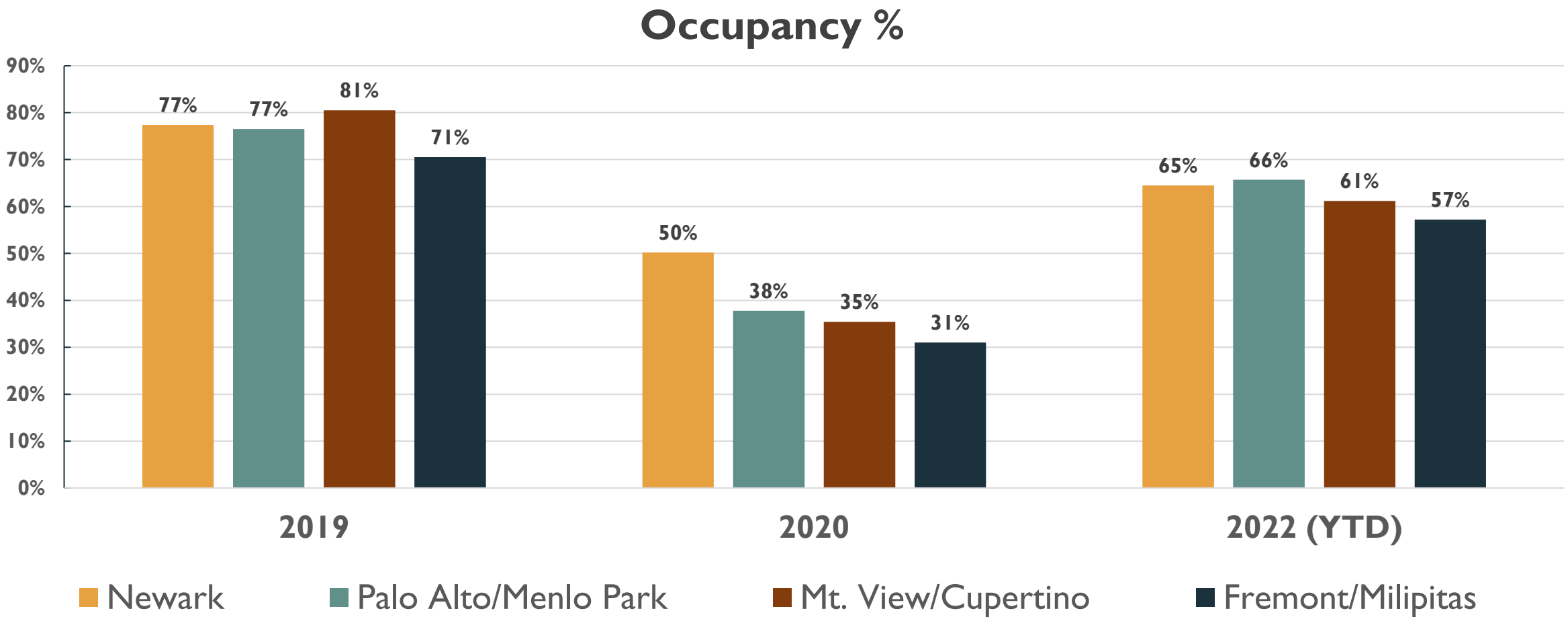
To selected nearby markets:

- Fremont/Milpitas
- Mountain View/Cupertino
- Palo Alto/Menlo Park

Performance Measures:

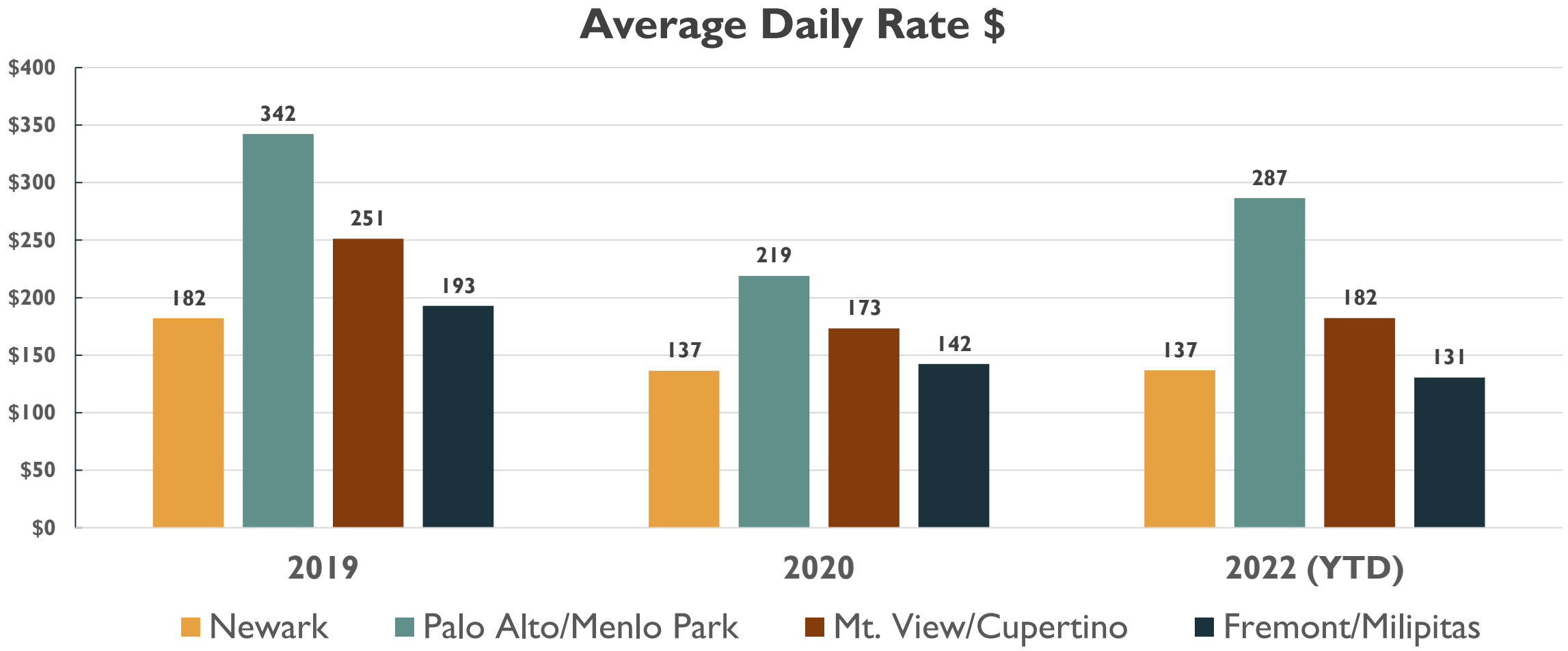
- Occupancy
- Average Daily Rate (ADR)
- Revenue Per Available Room (RevPAR)

OCCUPANCY
2019 – 2022 (YTD)



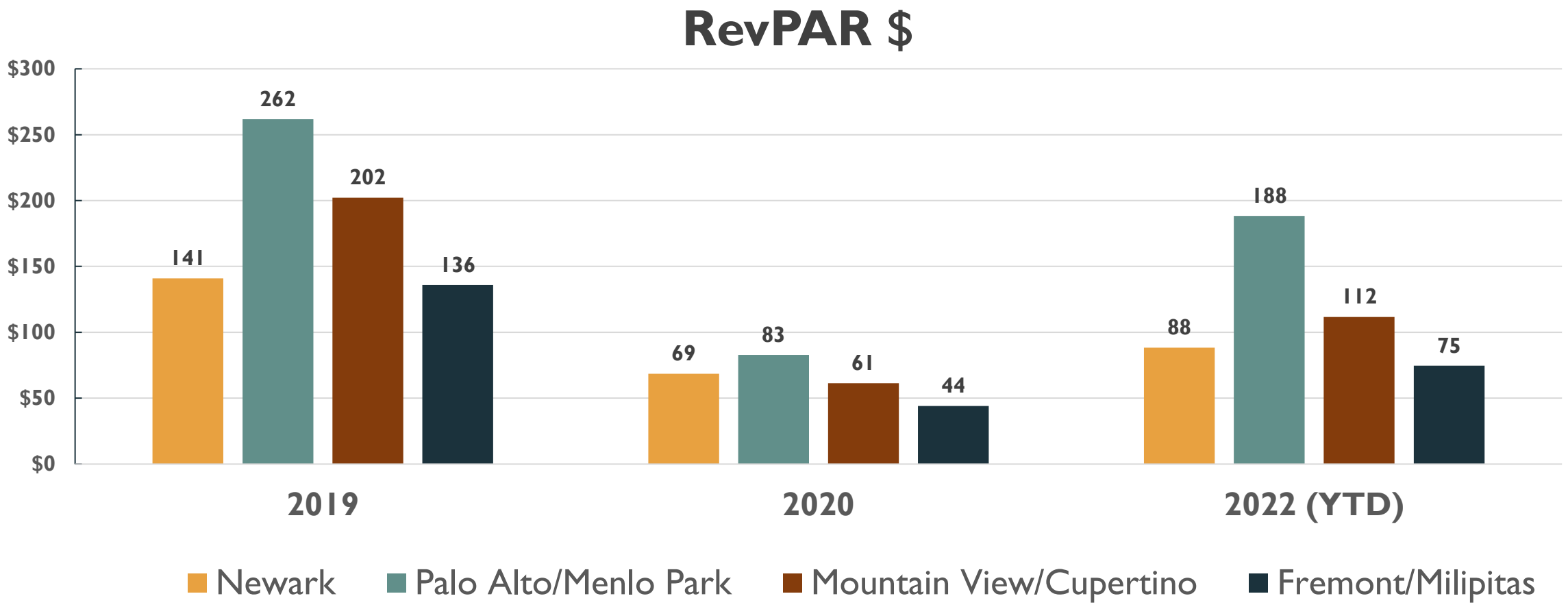
*Sources CoStar/STR, Embarcadero Hospitality Group

AVERAGE DAILY RATE
2019 – 2022 (YTD)



*Sources CoStar/STR, Embarcadero Hospitality Group

REVENUE PER AVAILABLE ROOM (REVPAR) 2019 – 2022 (YTD)



*Sources CoStar/STR, Embarcadero Hospitality Group

SINCE 2020, NEWARK HAS PERFORMED BETTER THAN BAY AREA, BUT WORSE THAN NATIONAL AVERAGE

Percentage of 2019 (pre-Covid) revenue:

	Newark	Fremont/ Milpitas	Mt. View/ Cupertino	Palo Alto/ Menlo Park
2020	49%	32%	30%	35%
2021	48%	35%	28%	38%
2022*	63%	55%	55%	72%

*2022 represents the last 12 months through Sept. 2022

NEWARK'S RESILIENCY EVEN WITH 2 NEW HOTELS IN 2019

- In 2019, Newark added more new hotel rooms (as a %), but still outperformed its competitors during Covid, due to:
  - Convenient location.
  - New and expanded businesses near Newark.
  - Newark's hotels cost less.
  - More of Newark's hotels have extended-stay features.
  - Newark is perceived as a nicer, safer place to stay than other Bay Area options at similar price-points.

NEWARK – POST COVID RECOVERY STRENGTHS

- Recent expansion in biotech and EV industries will generate overnight stays:
  - Allogene, Atum, Cepheid, Gissing, FreeWire, Lucid Motors, Meta and Vector Laboratories
  - Almost 1.8 million sq ft industrial building area
- Attractive, new hotels

NEWARK – POST COVID RECOVERY OPPORTUNITIES

- Potential to add more industry.
- Potential to attract more leisure travelers with restaurants, strong location, event spaces, shopping, and proximity to bike trails and Don Edwards Wildlife Refuge.

NEWARK – POST COVID RECOVERY CHALLENGES

- New hotel rooms dilute revenue per hotel.
- Meta has faced transition challenges in 2022.
- Delay of the Dumbarton Railway bridge project.
- Dependent on business travel.

TRANSIENT OCCUPANCY TAXES

BENEFITS OF STRONG HOTEL PERFORMANCE TO NEWARK

NEWARK SUPPLY INVENTORY – 10 HOTELS (1493 ROOMS)

Property	Rooms	Parent Brand	Class
Doubletree by Hilton	315	Hilton	Upscale
Homewood Suites	192	Hilton	Upscale Extended Stay
Courtyard	181	Marriott	Upscale
Aloft	172	Marriott	Upscale (custom Ex. Stay)
Residence Inn	168	Marriott	Upscale Extended Stay
EZ8 Motel	141	Independent	Economy
Chase Suites	140	Independent	Upscale Extended Stay
SpringHill Suites	119	Marriott	Upscale
Staybridge Suites	104	IHG	Upscale Extended Stay
Comfort Inn and Suites	101	Choice Hotels	Upper midscale

*Note the planned conversion of the TownPlace Suites to residential in 2022 removed 125 rooms from the market.

NEWARK SUPPLY INVENTORY – 2 NEW HOTELS (242 ROOMS)

Property	Rooms	Parent Brand	Class
Hyatt Place (opening 2/23)	110	Hyatt	Upscale
Marriott AC (Planning Review11/22)	132	Marriott	Upscale

TRANSIENT OCCUPANCY TAX RATES

City	Current Hotel Taxes Rates
Campbell	12%
Cupertino	12%
Fremont	10%
Menlo Park	14%
Milpitas	14%
Newark	10%
Oakland	14%
Palo Alto	15.50%
Redwood City	12%
San Carlos	14%
Santa Clara	11.5% and 13.5% (2% CFD near Levi's Stadium)
San Francisco	16.25% (14% city + convention & additional location fees)
San Jose	14% (10% city + 4% convention center)
San Leandro	14%
Sunnyvale	12%
Union City	13.54% (As of July 1, 2022)

TRANSIENT OCCUPANCY TAXES

Three nearby cities have TOT increases on the ballot in November 2022:

- Alameda 14% (from 10%)
- Belmont 14% (from 12%)
- Millbrae 14% (from 12%)

Current and Potential Newark Transient Occupancy Taxes @ 10% to 14%

FY 2019 (pre Covid)	Existing 10% Rate	If 12%	If 14%
Collected	$6,700,000	$8,040,000	$9,380,000
Difference		+ $1,340,000	+ $2,680,000

Projected FY 2023*	Existing 10% Rate	If 12%	If 14%
Collected	$3,800,000	$4,560,000	$5,320,000
Difference		+ $760,000	+ $1,520,000

Projection based on Newark's 2022 – 2024 Biennial Budget and Capital Improvement Plan

ECONOMIC ACTIVITY AND CITY BENEFITS OF HOTELS

- Hotels generate TOTs and other economic benefits:
  - Hotel guests in the U.S. spend an additional $1.22 in the community for every $1 they spend on their hotel bill*.
  - Great hotels help Newark attract businesses.
  - Hotels generate construction and ongoing hotel jobs.

* 2019 Oxford Economics

HOTEL PERFORMANCE
TOT REVENUES @ 10% FOR 100 ROOM HOTEL

Performance	Weaker	Stronger
Occupancy	75%	90%
Average Rate	$120	$140
Annual Revenue	$3,285,000	$4,599,000
TOT at 10%	**$328,500**	**$459,900**

$131,400 difference:
Strong hotel performance benefits owners and community

NEXT STEPS

- Regularly check hotel statistics.
- Interview hotels to understand challenges, strengths and opportunities.
- Consider increase in TOT rate to contribute to Newark's General Fund and update ordinance.

AYBRIDGE
SUITES

QUESTIONS?

Residence
Inn
Marriott
COURTYARD
Marriott

HOMEWOOD
SUITES
Hilton
39270