



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, February 9, 2023
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. Commending Tali Fa'i
2. Commending Officer Alexandria Riddles

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 the January 26, 2023 minutes

3. 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 January 12 Pursuant to AB 361
4. Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Storm Water Inspection & Maintenance Services, Inc. (SWIMS) to conduct installation, inspection and maintenance of full trash capture devices in the City's storm drain system and amend the 2022-2024 Biennial Budget and Capital Improvement Plan
5. Adopt a resolution approving a Contractual Services Agreement with Hinderliter De Llamas and Associates (HdL) for Utility Users Tax (UUT) Administration and Audit Services and Amend the 2022-2024 Biennial Budget and Capital Improvement Plan
6. Adopt a resolution approving a Second Amendment to the Consulting Services Agreement with Greensfelder Commercial Real Estate, LLC

E. PUBLIC HEARINGS

F. OTHER BUSINESS

G. CITY COUNCIL MATTERS

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

H. CLOSED SESSION

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 Hannon, Vice Mayor Collazo, and Council Members Jorgens, Bucci, 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/UC383NGSxaPwZP1IkJbo2T8A>

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/88145877653>

From a telephone dial 1- 669-900-9128, Webinar ID Number 881 4587 7653

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 02/09/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Commending Tali Fa'i

Tai Fa'i was named the Bay Area News Group "Girls Athlete of the Week" for the week of January 2 – 7, 2023, for her outstanding performance during the 35th Annual Newark Optimist Club Holiday Basketball Tournament. A commendation, in honor of this achievement, will be presented to Ms. Fa'i at the City Council meeting.

Attachments

Commendation

COMMENDATION

COMMENDING TALIILIGA FA'I

WHEREAS, TALIILIGA (TALI) FA'I is a senior student-athlete at Newark Memorial High School and point-guard of the Girls Varsity Basketball Team; and

WHEREAS, TALI FA'I was named the Bay Area News Group "Girls Athlete of the Week" for the week of January 2 – 7, 2023, for her outstanding performance during the 35th Annual Newark Optimist Club Holiday Tournament; and

WHEREAS, during the three-game, eight-team tournament at Newark Memorial High School, TALI FA'I averaged 18 points and nine rebounds, leading the Cougars to two wins, and capturing the Consolation Trophy. For her efforts, Tali was selected to the All-Tournament Team; and

WHEREAS, TALI FA'I is an exceptional student, assists the Athletic Director with a number of school and community projects, and has been a valued "Teammate", providing encouragement to players on and off the court.

NOW THEREFORE, I, Michael K. Hannon, Mayor of the City of Newark, on behalf of the Newark City Council, do hereby commend

TALIILIGA FA'I

on this recognition and for making us all proud of her accomplishments.

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

*MICHAEL K. HANNON
Mayor*



STAFF REPORT

Item B. 2.

DATE 02/09/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Commending Officer Alexandria Riddles

Officer Alexandria Riddles noticed a crime pattern of high-end vehicles being stolen or recovered in the city of Newark. As a result of her efforts, a large-scale, multiple location operation was organized with multiple agencies that resulted in the arrest of criminals, seizure of firearms, and the return of stolen vehicles and property to their rightful owners. A commendation has been prepared to honor Officer Riddles for her commitment to the safety of the Newark community.

Attachments

Commendation

COMMENDATION

OFFICER ALEXANDRIA RIDDLES

WHEREAS, OFFICER ALEXANDRIA RIDDLES was assigned to the graveyard shift in June of 2022 and quickly noticed a pattern of high-end vehicles being stolen or recovered in the City of Newark. She investigated the eight cases over three months and suspected a high-end vehicle theft ring; and

WHEREAS, OFFICER RIDDLES worked with the Investigations Unit and initiated a Community Oriented Policing and Problem-Solving project to identify and dismantle the auto theft ring and return stolen property to their owners; and

WHEREAS, OFFICER RIDDLES noticed similarities with an attempted vehicle theft in the City of San Pablo that led to a shooting and it was quickly determined that the suspects were linked to both department investigations; and

WHEREAS, a large-scale, multi-agency, operation was organized to locate and arrest the suspects. The results of the total operation were the search of eight multi city locations, six suspects arrested, 19 stolen vehicles recovered, and 12 firearms recovered. Specific to Newark, OFFICER RIDDLES was responsible for searching three locations, arresting four suspects, seizing ten firearms, recovering three stolen vehicles, bullet-proof vests, high-capacity magazines, stolen property, and instruments used to steal vehicles.

NOW, THEREFORE, I, Michael K. Hannon, Mayor of the City of Newark, on behalf of the Newark City Council, do hereby commend:

OFFICER ALEXANDRIA RIDDLES

who went above and beyond the duties of patrol and exemplified her overall work ethic and commitment to the safety of the Newark community.

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

MICHAEL K. HANNON
Mayor



STAFF REPORT

Item D. 1.

DATE 02/09/2023
TO Honorable Mayor and City Council Members
FROM Krysten Lee, Finance Director
SUBJECT Approval of Audited Demands

Attachments

Approval of Audited Demands

LIVE Newark CA LIVE

Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 01/12/2023

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	01/12/2023	7434	Accounts Payable	ALFREDO TRINIDAD		1,900.00
Invoice	Date			Description		Amount
	1205202201		12/02/2022	12/5/22 STAGE RENTAL FOR TREE LIGHTING EVENT		1,900.00
Check	01/12/2023	7435	Accounts Payable	ALL CITY MANAGEMENT SERVICES, INC.		17,200.01
Invoice	Date			Description		Amount
	81998		12/13/2022	SCHOOL CROSSING GUARD SVCS 11/27-12/10/22		7,300.77
	81655		11/29/2022	SCHOOL CROSSING GUARD SVCS 11/13-11/26/22		3,409.78
	81302		11/16/2022	SCHOOL CROSSING GUARD SVCS 10/30-11/12/22		6,489.46
Check	01/12/2023	7436	Accounts Payable	ALLIED AUTO STORES INC		67.07
Invoice	Date			Description		Amount
	DEC'22		12/31/2022	AAS - AUTO PARTS 12/31/22		67.07
Check	01/12/2023	7437	Accounts Payable	GUSTAVO ARROYO		1,188.19
Invoice	Date			Description		Amount
	1109-111222 EXP		12/26/2022	CATO CONFERENCE 11/9-11/12/22 RENO		1,188.19
Check	01/12/2023	7438	Accounts Payable	BAY CENTRAL PRINTING		3,400.66
Invoice	Date			Description		Amount
	194021		12/06/2022	PRINT WINTER ISSUE CITY NEWSLETTER		3,400.66
Check	01/12/2023	7439	Accounts Payable	BAY ISLAND OFFICIALS ASSOCIATION		955.00
Invoice	Date			Description		Amount
	NOVEMBER302022		01/03/2023	11/2-11/30/22 SPORTS OFFICIATING FOR BASKETBALL & VOLLEYBALL		955.00
Check	01/12/2023	7440	Accounts Payable	CALIFORNIA ROBBERY INVESTIGATORS ASSOCIATION		375.00
Invoice	Date			Description		Amount
	07913		01/04/2023	POST - CRIA TRAINING CONFERENCE, 02/07-02/09/23; MUSANTRY		375.00
Check	01/12/2023	7441	Accounts Payable	CARBONIC SERVICE		163.00
Invoice	Date			Description		Amount
	471369		12/16/2022	POOL CHEMICALS		163.00
Check	01/12/2023	7442	Accounts Payable	CHILDCARE CAREERS, LLC		287.60
Invoice	Date			Description		Amount
	580450		12/30/2022	12/20/22 CHILDCARE SUBSTITUTE		287.60

Check	01/12/2023	7443 Accounts Payable		CITY OF UNION CITY	7,011.17
Invoice	Date		Description		Amount
Check	2023-02-05	12/01/2022	50% OF EMERGENCY SERVICES COORDINATORY SALARY DECEMBER 2022	7,011.17	
01/12/2023	7444 Accounts Payable		COUNTY OF ALAMEDA	712.50	
Invoice	Date		Description	Amount	
Check	DECEMBER22	01/05/2023	CITATION PROCESSING FEES - DECEMBER22	712.50	
01/12/2023	7445 Accounts Payable		DALE HARDWARE	192.84	
Invoice	Date		Description	Amount	
Check	DEC22	12/25/2022	DALE SUPPLIES 12/25/22	192.84	
01/12/2023	7446 Accounts Payable		DMV	23.00	
Invoice	Date		Description	Amount	
Check	DMV50285V1	01/04/2023	APPLICATION FOR REPLACEMENT STICKER 50285V1	23.00	
01/12/2023	7447 Accounts Payable		ALHAMBRA	328.55	
Invoice	Date		Description	Amount	
Check	15734365 121322	12/13/2022	11/14-12/11/22 WATER SERVICE	328.55	
01/12/2023	7448 Accounts Payable		ANGELA GALLEGOS-CASTILLO	7,350.00	
Invoice	Date		Description	Amount	
Check	#4	01/03/2023	10/3-12/13/22 CONSULTING FOR PROMOTORES	7,350.00	
01/12/2023	7449 Accounts Payable		GRAINGER	281.76	
Invoice	Date		Description	Amount	
Check	9535950399	12/06/2022	SILLIMAN SUPPLIES	49.56	
9535543343	12/06/2022		SILLIMAN SUPPLIES	13.42	
9536183081	12/06/2022		PD SUPPLIES-MOP WRINGER	218.78	
01/12/2023	7450 Accounts Payable		GYM DOCTORS	719.83	
Invoice	Date		Description	Amount	
Check	00135677	10/06/2022	10/5/22 SILLIMAN FITNESS CENTER MONTHLY MAINTENANCE	719.83	
01/12/2023	7451 Accounts Payable		JUAN HERRERA	794.89	
Invoice	Date		Description	Amount	
Check	1109-111222 EXP	12/26/2022	CATO CONFERENCE 11/9-11/12/22 RENO	794.89	
01/12/2023	7452 Accounts Payable		HIROSHI ICHIMURA	2,826.00	
Invoice	Date		Description	Amount	
Check	1029-121722	01/03/2023	10/29-12/17/22 KENDO CLASSES	2,826.00	
01/12/2023	7453 Accounts Payable		ISH AMITOU KAUR	6,564.00	
Invoice	Date		Description	Amount	
Check	0911-121822	01/03/2023	9/11-12/18/22 CHARLIE & CHOC FACTORY THEATER CLASS	6,564.00	
01/12/2023	7454 Accounts Payable		NAPA AUTO PARTS	1,423.44	
Invoice	Date		Description	Amount	
Check	DEC22	12/31/2022	NAPA-SUPPLIES 12/31/22	1,423.44	
01/12/2023	7455 Accounts Payable		LEGACY ROOFING & WATERPROOFING	410.00	
Invoice	Date		Description	Amount	

Check	6008970-WO	12/28/2022	ROOF REPAIR - SERVICE CENTER	410.00
	01/12/2023	7456 Accounts Payable	LOOMIS	788.38
	Invoice	Date	Description	Amount
Check	13167502	12/31/2022	ARMORED CAR SERVICE - 12/22	788.38
	01/12/2023	7457 Accounts Payable	BRICK TECH	198.00
	Invoice	Date	Description	Amount
	1176	01/03/2023	11/11/22 LEGO MINECRAFT CLASS	198.00
Check	01/12/2023	7458 Accounts Payable	METROPOLITAN PLANNING GROUP	1,093.75
	Invoice	Date	Description	Amount
Check	2003558	12/28/2022	CEDAR/ROBSON HOMES PROJECT-SVCS THRU 11/30/22	1,093.75
	01/12/2023	7459 Accounts Payable	MEYERS NAVE, A PROFESSIONAL CORPORATION	2,402.90
	Invoice	Date	Description	Amount
Check	199021	10/20/2022	LEGAL SVCS - FMC WILLOW - SERVICES THRU 9/30/22	2,402.90
	01/12/2023	7460 Accounts Payable	MIKE YORKS INVESTIGATIONS	2,925.00
	Invoice	Date	Description	Amount
	2022-23	12/19/2022	BACKGROUND INVESTIGATIONS 10/20-12/18/22	975.00
	2022-26	12/22/2022	BACKGROUND INVESTIGATIONS 12/02-12/21/22	975.00
	2022-27	12/22/2022	BACKGROUND INVESTIGATIONS 12/02-12/21/22	975.00
Check	01/12/2023	7461 Accounts Payable	MUNI SERVICES/AVENU HOLDINGS, LLC	10,000.00
	Invoice	Date	Description	Amount
Check	INV06-015612	12/19/2022	UT AUDIT & ANALYSIS - FIXED FEE OCT - DEC '22	10,000.00
	01/12/2023	7462 Accounts Payable	NATIONAL DATA & SURVEYING SERVICES,	175.00
	Invoice	Date	Description	Amount
Check	22-080365	12/22/2022	TRAFFIC SURVEY - APA #23-92	175.00
	01/12/2023	7463 Accounts Payable	PACIFIC GAS & ELECTRIC	3,210.34
	Invoice	Date	Description	Amount
	9045-123022	12/30/2022	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 11/24-12/23/22	226.46
	2305-010323	01/03/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 11/28-12/26/22	119.59
	7460-121522	12/15/2022	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 10/26-11/23/22	2,864.29
Check	01/12/2023	7464 Accounts Payable	PAKPOUR CONSULTING GROUP, INC.	2,905.89
	Invoice	Date	Description	Amount
	4000	01/09/2023	ON-CALL CIVIL ENGINEERING PLAN REVIEW SERVICES (12/01-12/31/22)	2,905.89
Check	01/12/2023	7465 Accounts Payable	PHANT'S SMOG STATION	80.00
	Invoice	Date	Description	Amount
	045144	12/20/2022	SMOG VEH 1102	40.00
	045173	12/21/2022	SMOG VEH 173	40.00
Check	01/12/2023	7466 Accounts Payable	PHOENIX GROUP INFORMATION SYSTEMS	299.00
	Invoice	Date	Description	Amount
	112022101	12/21/2022	PARKING CITATION PROGRAM NOVEMBER 2022	299.00

Check	01/12/2023	7467 Accounts Payable	RELIABLE TRANSLATIONS INC.	15,331.43
Invoice	Date	Description	Amount	
22344	07/20/2022	TRANSLATION SVCS - 7/21/22 - MANDARIN & VIETNAMESE	462.00	
22468M	08/04/2022	TRANSLATION SVCS-8/4/22-TRAINING ON MARKETING FOR SMALL BUSINESS	486.00	
22553M	08/15/2022	TRANSLATION SVCS-8/15/22-REVIEW OF MARKETING MATERIALS	729.00	
23051	10/19/2022	TRANSLATION SVCS-10/19/22-ALAMEDA CO. SMALL BUS. RECOVERY GRANT	106.11	
23094M	10/20/2022	TRANSLATION SVCS-10/20/22-ESCORT VISITS TO BUSINESS OWNERS	450.38	
23314M	11/17/2022	TRANSLATION SVCS-11/17/22-FIN. RESILIENCE WORKSHOP	76.56	
23365M	11/28/2022	TRANSLATION SVCS-11/28/22-FIN. RESILIENCE WRKSH REHEARSAL	1,944.00	
23490M	12/12/2022	TRANSLATION SVCS-12/12/22-FINANCIAL WORKSHOPS	1,620.00	
23515M	12/13/2022	TRANSLATION SVCS-12/13/22-FINANCIAL WORKSHOPS	1,458.00	
23101M	10/21/2022	TRANSLATION SVCS-10/21/22- MORE ESCORT VISITS TO BUSINESS OWNERS	1,385.38	
22468S	08/04/2022	INTERPRETATION SVCS-8/4/22-TRAIN. MARKETING FOR SMALL BUSINESSES	162.00	
22553S	08/15/2022	INTERPRETATION SVCS-8/15/22-REMOTE INTERPRETING OVER ZOOM	243.00	
23094S	10/20/2022	INTERPRETATION SVCS-10/20/22-SPANISH INTERPRETER 10:00AM-5:00PM	791.00	
23101S	10/21/2022	INTERPRETATION SVCS-10/21/22-SPANISH INTERPRETER 10:00AM-6:11PM	926.00	
23138	10/26/2022	INTERPRETATION SVCS-10/26/22-INTERVIEW/SPANISH INTERPRETER	540.00	
23150	10/27/2022	INTERPRETATION SVCS-10/27/22-INTERVIEW/SPANISH INTERPRETER	864.00	
23318	11/17/2022	INTERPRETATION SVCS-11/17/22-SPANISH INTERPRETER 9AM-6PM	1,007.00	
23314S	11/17/2022	INTERPRETATION SVCS-11/17/22-SPA FIN. RESILIENCE WRKSHP ANNOUNMT	75.00	
23329	11/18/2022	INTERPRETATION SVCS-11/18/22-INTERPRETER 9AM-12PM	359.00	
23365S	11/28/2022	INTERPRETATION SVCS-11/28/22-FRW REHEARSAL W/INTERPRETERS	621.00	
23490S	12/12/2022	INTERPRETATION SVCS-12/12/22-FINANCIAL WORKSHOPS	540.00	
23515S	12/13/2022	INTERPRETATION SVCS-12/13/22-FINANCIAL WORKSHOPS	486.00	
Check	01/12/2023	7468 Accounts Payable	ROBERT HALF	19,945.20
Invoice	Date	Description	Amount	
61113892	11/22/2022	TEMPORARY STAFF-GARY 11/18/2022	2,772.00	
61126768	11/23/2022	TEMPORARY STAFF- KHADAR 11/18/2022	4,950.00	
61159993	11/30/2022	TEMPORARY STAFF- KHADAR 11/25/2022	2,640.00	
61188030	12/06/2022	TEMPORARY STAFF- KHADAR 12/02/2022	4,400.00	
61237993	12/14/2022	TEMPORARY STAFF- KHADAR 12/09/2022	1,430.00	
61133874	11/28/2022	TEMPORARY STAFF- GARY 11/25/2022	1,663.20	
61305464	12/28/2022	TEMPORARY STAFF - KHADAR 12/23/2022	440.00	
61276502	12/21/2022	TEMPORARY STAFF - KHADAR 12/16/2022	1,650.00	
Check	01/12/2023	7469 Accounts Payable	KIS	49,889.95
Invoice	Date	Description	Amount	
76400	12/21/2022	ARCTIC WOLF MDR ONBOARDING 02/04/23-02/04/24	49,889.95	
Check	01/12/2023	7470 Accounts Payable	SFPUC	3,729.48
Invoice	Date	Description	Amount	
57323	12/21/2022	SFPUC RENT WATER AC#2866	2,798.34	
57291	12/21/2022	SFPUC RENT WATER AC#3642	931.14	
Check	01/12/2023	7471 Accounts Payable	SCHINDLER ELEVATOR CORPORATION	2,058.11
Invoice	Date	Description	Amount	
8106140752	01/01/2023	FIRE STATION 1 QUARTERLY BILLING 1/1/23-3/31/23	2,058.11	
Check	01/12/2023	7472 Accounts Payable	ANCHOR AUDIO OUTLET	1,610.25

	Invoice	Date	Description	Amount
Check	9070	12/14/2022	ADDITIONAL RECREATION SOUND SYSTEM EQUIPMENT	1,610.25
	01/12/2023	7473 Accounts Payable	SIMON & COMPANY INC	1,720.00
	Invoice	Date	Description	Amount
Check	12-2022	12/22/2022	PROFESSIONAL FEDERAL AFFAIRS ASSISTANCE	1,720.00
	01/12/2023	7474 Accounts Payable	JENNIFER SOLITO	1,385.43
	Invoice	Date	Description	Amount
Check	112022EXP	11/20/2022	CALPLERA CONFERENCE HOTEL	1,385.43
	01/12/2023	7475 Accounts Payable	STAPLES	1,616.53
	Invoice	Date	Description	Amount
Check	8068601447	12/15/2022	OFFICE SUPPLIES	1,616.53
	01/12/2023	7476 Accounts Payable	ANNE STEDLER	160.00
	Invoice	Date	Description	Amount
Check	010923EXP	01/09/2023	ANNE'S BUSINESS JOURNALS SUBSCRIPTION	160.00
	01/12/2023	7477 Accounts Payable	STEVE G. HOOS	145.00
	Invoice	Date	Description	Amount
Check	36170	11/22/2022	NFD VALVE REPAIR	145.00
	01/12/2023	7478 Accounts Payable	SYSERCO INC	8,844.00
	Invoice	Date	Description	Amount
Check	11000	10/10/2022	SOFTWARE IMPLEMENTATION	8,844.00
	01/12/2023	7479 Accounts Payable	T-MOBILE	139.04
	Invoice	Date	Description	Amount
Check	966241989122022	12/21/2022	IPHONE SVC 11/21-12/20/22	139.04
	01/12/2023	7480 Accounts Payable	TARGET SPECIALTY PRODUCTS	3,487.57
	Invoice	Date	Description	Amount
Check	INVP501012923	12/21/2022	PESTICIDES	3,487.57
	01/12/2023	7481 Accounts Payable	TEMPERATURE TECHNOLOGY INC.	390.00
	Invoice	Date	Description	Amount
Check	12229	12/02/2022	THERMOSTAT SERVICE	390.00
	01/12/2023	7482 Accounts Payable	THE ED JONES CO INC	2,909.13
	Invoice	Date	Description	Amount
Check	51882	09/07/2022	BADGES & GOLD KLAD - CHIEF, CAPTIAN OFFICER 514S	2,909.13
	01/12/2023	7483 Accounts Payable	THE HDL COMPANIES	4,081.25
	Invoice	Date	Description	Amount
Check	SINO22308	01/09/2023	PROPERTY TAX CONSULTING - OCT - DEC 2022	4,081.25
	01/12/2023	7484 Accounts Payable	TIREHUB, LLC	1,134.59
	Invoice	Date	Description	Amount
	22443632	08/30/2022	TIRES	489.28
	22603110	09/08/2022	TIRES	401.69

Check	24999801	01/11/2022	TIRES	243.62
Check	01/12/2023	7485 Accounts Payable	URBAN PLANNING PARTNERS, INC.	918.75
Invoice		Date	Description	Amount
Check	22002-220731	08/15/2022	PROJECT MGMT SERVICES LEPAKSHI AT THORTON 7/31/22	918.75
Check	01/12/2023	7486 Accounts Payable	ORION SECURITY	7,454.65
Invoice		Date	Description	Amount
	119365	11/19/2022	UNARMED, UNIFORMED SECURITY OFFICER 11/14/22 - 11/18/22	1,444.00
	119410	11/26/2022	UNARMED, UNIFORMED SECURITY OFFICER 11/21/22 - 11/23/22	866.40
	119624	12/03/2022	UNARMED, UNIFORMED SECURITY OFFICER 11/28/2022 - 12/2/22	1,444.00
	119693	12/10/2022	UNARMED, UNIFORMED SECURITY OFFICER 12/5/22 - 12/8/2022	1,155.20
	119740	12/17/2022	UNARMED, UNIFORMED SECURITY OFFICER 12/12/22 - 12/16/22	1,444.00
	119779	12/24/2022	UNARMED, UNIFORMED SECURITY OFFICER 12/19/22 - 12/22/2022	1,101.05
Check	01/12/2023	7487 Accounts Payable	BEAN, RICHARD	1,000.00
Invoice		Date	Description	Amount
Check	2023-00002907	01/09/2023	RETURNING SECURITY DEPOSIT TAKEN FOR DANCE PERMIT 12/31/22	1,000.00
Check	01/12/2023	7488 Accounts Payable	CATANCIO, JEFFREY	500.00
Invoice		Date	Description	Amount
	664945	01/03/2023	REFUND FOR COMM CTR RENTAL DEPOSIT	500.00
Check	01/12/2023	7489 Accounts Payable	AXERO HOLDINGS LLC	29,353.50
Invoice		Date	Description	Amount
	869707	11/28/2022	AXERO INTRANET SOFTWARE AS A SERVICE	29,353.50
EFT	01/12/2023	456 Accounts Payable	CLIENTFIRST TECHNOLOGY CONSULTING 122037760 / 001064667052	6,566.25
Invoice		Date	Description	Amount
	14463	12/31/2022	IT SUPPORT - 12/1 - 12/31/2022	6,566.25
EFT	01/12/2023	457 Accounts Payable	SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.	46,694.26
Invoice		Date	Description	Amount
	CC20230105100816	01/05/2023	CC-WC-CLAIM#4A22103GDS30001	9,354.16
	CC20230105100711	01/05/2023	CC-WC-CLAIM#4A22103GDS30001	23,540.10
	CC20230105100541	01/05/2023	CC-WC-CLAIM#4A22103GDS30001	13,800.00
AP ZBAACCOUNTS PAYABLE Totals:				\$289,317.14
Transactions: 58				
Checks:	56	\$236,056.63		
EFTs:	2	\$53,260.51		

LIVE Newark CA LIVE Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE
Batch Date: 01/12/2023

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	01/12/2023	7490	Accounts Payable	HDL COREN & CONE		4,081.25
Invoice						
			Date	Description		Amount
		SIN022308	01/09/2023	PROPERTY TAX CONSULTING - OCT - DEC 2022		4,081.25
EFT	01/12/2023	459	Accounts Payable	AXERO HOLDINGS LLC	111000614 / 730296727	29,353.50
Invoice						
			Date	Description		Amount
		869707	11/28/2022	AXERO INTRANET SOFTWARE AS A SERVICE		29,353.50
EFT	01/12/2023	460	Accounts Payable	SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.	121000248 / 4942808510	34,519.58
Invoice						
			Date	Description		Amount
		SF-8510-01225748	01/02/2023	FY 22/23 WORKERS COMPENSATION CLAIMS -12/01/22-12/31/22		34,519.58
AP ZBA ACCOUNTS PAYABLE Totals:						Transactions: 3
						\$67,954.33
Checks:						1 \$4,081.25
EFTs:						2 \$63,873.08

LIVE Newark CA LIVE

Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 01/19/2023

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	01/19/2023	7491	Accounts Payable	4LEAF INC		11,880.00
	Invoice		Date	Description		Amount
	J1118A55		01/18/2023	TEMPORARY PROFESSIONAL CODE ENFORCEMENT SVCS-12/5/22-12/23/22		11,880.00
Check	01/19/2023	7492	Accounts Payable	ABACUS PRODUCTS INC		344.13
	Invoice		Date	Description		Amount
	B70382		12/27/2022	CITY LETTERHEAD/ENVELOPES - WINDOW		344.13
Check	01/19/2023	7493	Accounts Payable	AGAS MFG INC		452.00
	Invoice		Date	Description		Amount
	IN224007455		11/29/2022	FLAGS		452.00
Check	01/19/2023	7494	Accounts Payable	AIRGAS USA, LLC		86.06
	Invoice		Date	Description		Amount
	9994128587		12/31/2022	CYL ACETYLENE RENTAL 12/31/22		86.06
Check	01/19/2023	7495	Accounts Payable	ALESHIRE & WYNDER, LLP		5,856.00
	Invoice		Date	Description		Amount
	72758		01/07/2023	FY 22/23 INVESTIGATION & LEGAL SERVICES-SERVICES THROUGH12/31/22		5,856.00
Check	01/19/2023	7496	Accounts Payable	ALL CITY MANAGEMENT SERVICES, INC.		6,929.28
	Invoice		Date	Description		Amount
	82329		12/28/2022	SCHOOL CROSSING GUARD SVCS 12/11-12/24/22		6,929.28
Check	01/19/2023	7497	Accounts Payable	BAY CENTRAL PRINTING		64.27
	Invoice		Date	Description		Amount
	194238		01/09/2023	BUSINESS CARD SHELL IMPRINTING		64.27
Check	01/19/2023	7498	Accounts Payable	BLAISDELL'S BUSINESS PRODUCTS		629.20
	Invoice		Date	Description		Amount
	JAN23		12/31/2022	OFFICE SUPPLIES		629.20
Check	01/19/2023	7499	Accounts Payable	CALIFORNIA DEPT. OF TAX & FEE ADMINISTRATION		263.00
	Invoice		Date	Description		Amount
	0-030-715-800		12/31/2022	UNDERGROUND STORAGE TANK MAINT		263.00
Check	01/19/2023	7500	Accounts Payable	CENTRAL VALLEY TOXICOLOGY, INC.		585.00
	Invoice		Date	Description		Amount

	325019	12/30/2022	LAB TESTS 12/30/22	75.00
	325018	12/30/2022	LAB TESTS 12/30/22	40.00
	324967	12/23/2022	LAB TESTS 12/23/22	40.00
	324823	12/19/2022	LAB TESTS 12/19/22	40.00
	324625	12/09/2022	LAB TESTS 12/9/22	40.00
	324496	12/05/2022	LAB TESTS 12/05/22	160.00
	324494	12/05/2022	LAB TESTS 12/05/22	75.00
	324495	12/05/2022	LAB TESTS 12/5/22	40.00
	324493	12/05/2022	LAB TESTS 12/5/22	75.00
Check	01/19/2023	7501 Accounts Payable	CENTRAL VETERINARY HOSPITAL	566.05
	Invoice	Date	Description	Amount
	484865	09/06/2022	CANINE SVCS 09/02/2022	566.05
Check	01/19/2023	7502 Accounts Payable	CINDY K. HULL & ASSOCIATES - FORENSIC CONSULTING	1,325.00
	Invoice	Date	Description	Amount
	136	12/30/2022	LATENT PRINT ANALYSIS DECEMBER 2022	1,325.00
Check	01/19/2023	7503 Accounts Payable	CITY OF UNION CITY	7,011.17
	Invoice	Date	Description	Amount
	2023-0206	12/12/2022	50% OF EMERGENCY SERVICES COORDINATORY SALARY JANUARY 2023	7,011.17
Check	01/19/2023	7504 Accounts Payable	TONYA CONNOLLY	102.71
	Invoice	Date	Description	Amount
	010723EXP	01/07/2023	FOOD FOR MAINT CREW OVERNIGHT	102.71
Check	01/19/2023	7505 Accounts Payable	DUKE DE LEON	165.00
	Invoice	Date	Description	Amount
	4167	12/18/2022	BROADCAST 12/08/2022 CITY COUNCIL MEETING	165.00
Check	01/19/2023	7506 Accounts Payable	EQUIFAX INFORMATION SVCS LLC	50.96
	Invoice	Date	Description	Amount
	2053854104	12/13/2022	CREDIT BUREAU REPORT FEES	50.96
Check	01/19/2023	7507 Accounts Payable	FEHR & PEERS	720.00
	Invoice	Date	Description	Amount
	161055	12/14/2022	ON-CALL ENGINEERING & TRANSPORTATION PLANNING 10/29-11/25/22	720.00
Check	01/19/2023	7508 Accounts Payable	GACHINA LANDSCAPE MANAGEMENT, INC.	21,007.40
	Invoice	Date	Description	Amount
	E 204836A	12/01/2022	TREE MAINTENANCE -DEC 2022	17,507.40
	E 204836B	12/01/2022	TREE MAINTENANCE -DEC 2022	3,500.00
Check	01/19/2023	7509 Accounts Payable	GRAINGER	204.08
	Invoice	Date	Description	Amount
	9542523759	12/12/2022	SILLIMAN SUPPLIES	6.65
	9543773585	12/13/2022	SILLIMAN SUPPLIES	10.70
	9547847013	12/16/2022	SILLIMAN SUPPLIES	186.73
Check	01/19/2023	7510 Accounts Payable	HWA POWER	1,005.00

	Invoice	Date	Description	Amount
Check	60286 01/19/2023 Invoice	12/28/2022 12/28/2022 Date	PRE CONTRACT AUDIT JOCELYN E. ROLAND Description	1,005.00 475.00 Amount
Check	21068 01/19/2023 Invoice	12/22/2022 12/22/2022 Date	PRE-EMPLOYMENT PSYCHOLOGICAL SCREENING - 12/19/22 KELLY-MOORE PAINT COMPANY Description	475.00 64.03 Amount
Check	617-00000714070 01/19/2023 Invoice	01/10/2023 01/10/2023 Date	SILLIMAN PAINT-POINT OF SALE KNORR SYSTEMS INC Description	64.03 10,440.00 Amount
Check	S1244280 PWSV1-8198 PWSV1-8163 01/19/2023 Invoice	12/28/2022 12/28/2022 12/28/2022 Date	SILLIMAN HEATER MAINTENANCE/SERVICE SILLIMAN HEAT TILE REPLACEMENT SILLIMAN BOOSTER REPLACEMENT LANCE, SOL & LUNGARD LLP Description	6,516.58 992.32 2,931.10 9,588.00 Amount
Check	54254 01/19/2023 Invoice	12/30/2022 12/30/2022 Date	AUDITING SERVICES - 2022 GOVERNMENT AUDIT LEXISNEXIS RISK SOLUTIONS FL INC Description	9,588.00 50.00 Amount
Check	1845802-20221231 01/19/2023 Invoice	12/31/2022 12/31/2022 Date	INVESTIGATIVE INFO RESEARCH 12/22 MEYERS NAVE, A PROFESSIONAL CORPORATION Description	50.00 685.50 Amount
Check	199854 200819 01/19/2023 Invoice	11/08/2022 12/07/2022 Date	LEGAL SVCS - FMC WILLOW - SERVICES THRU 10/31/22 LEGAL SVCS - FMC WILLOW - SERVICES THRU 11/30/22 MISSION LINEN SUPPLY - UNIFORM Description	375.90 309.60 2,291.92 Amount
Check	DEC22 01/19/2023 Invoice	12/30/2022 12/30/2022 Date	MISSION LINEN UNIFORMS AND MATS NATIONAL ASSOCIATION OF SCHOOL RESOURCE OFFICERS Description	2,291.92 600.00 Amount
Check	37797 01/19/2023 Invoice	01/16/2023 01/16/2023 Date	2023 NASRO SCHOOL SAFETY CONFERENCE 6/28-7/3/23 NAVIA BENEFIT SOLUTIONS CLIENT PAY Description	600.00 211.40 Amount
Check	10547434 10535273 01/19/2023 Invoice	12/28/2022 11/30/2022 Date	FY 22/23 COBRA ADMINISTRATION FEES 12/01/22-12/31/22 FY 22/23 COBRA ADMINISTRATION FEES-11/01/22-11/30/22 NEWMARK VALERO #7117 Description	105.70 105.70 873.37 Amount
Check	0214-110122 01/19/2023 Invoice	12/07/2022 12/07/2022 Date	VALERO FUEL 02/14/22-11/01/22 CONCENTRA MEDICAL CENTERS Description	873.37 198.00 Amount
	77774828 12/21/2022	12/21/2022	PRE-EMPLOYMENT/ DOT PHYSICALS-12/21	198.00

Check	01/19/2023	7522 Accounts Payable	PACIFIC GAS & ELECTRIC	31,944.37
Invoice	Date	Description	Amount	
	7578-011023	01/10/2023	PGE CITYWIDE 01/10/2023	29,316.28
	0870-010623	01/06/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 12/01-12/29/22	72.02
	0552-010423	01/04/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 11/29-12/27/22	74.59
	3926-010523	01/05/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 11/30-12/28/22	108.07
	1859-010523	01/05/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 11/30-12/28/22	2,373.41
Check	01/19/2023	7523 Accounts Payable	MORGAN PEDERSEN	19.83
Invoice	Date	Description	Amount	
	120422EXP	01/10/2023	SUPPLIES FOR ECON. DEV. DIVISION FOR RETAIL FIELD INVENTORY	19.83
Check	01/19/2023	7524 Accounts Payable	PERFORMANCE PEST MANAGEMENT	5,150.50
Invoice	Date	Description	Amount	
	64401	07/26/2022	PEST SERVICES - FIRE STATION #3 102701	385.00
	64436	07/26/2022	PEST SERVICES - VIOLA BLYTHE #102704	670.00
	64435	07/26/2022	PEST SERVICES - SENIOR CENTER #102706	285.00
	64400	07/26/2022	PEST SERVICES - FIRE STATION #2 #102709	385.00
	64469	08/16/2022	PEST SERVICES - SILLMAN #102710	502.50
	63903	07/07/2022	PEST SERVICES - CITY HALL #102699	259.00
	63904	07/12/2022	PEST SERVICES - CITY HALL #102699	259.00
	64437	07/26/2022	PEST SERVICES - CITY HALL #102699	285.00
	64377	08/05/2022	PEST SERVICES - CITY HALL #102699	259.00
	64378	08/16/2022	PEST SERVICES - CITY HALL #102699	259.00
	64888	09/01/2022	PEST SERVICES - CITY HALL #102699	267.00
	64889	09/19/2022	PEST SERVICES - CITY HALL #102699	267.00
	65397	10/18/2022	PEST SERVICES - CITY HALL #102699	267.00
	65818	11/07/2022	PEST SERVICES - CITY HALL #102699	267.00
	65819	11/30/2022	PEST SERVICES - CITY HALL #102699	267.00
	66309	12/15/2022	PEST SERVICES - CITY HALL #102699	267.00
Check	01/19/2023	7525 Accounts Payable	PROVIDENT LIFE & ACCIDENT INSURANCE	261.24
Invoice	Date	Description	Amount	
	DECEMBER PREMIUM	01/03/2023	UNUM - UNUM INSURANCE*	261.24
Check	01/19/2023	7526 Accounts Payable	R3 CONSULTING, INC	33,160.00
Invoice	Date	Description	Amount	
	122405	01/04/2023	WASTE HAULER FRANCHISE AGREEMENT NEGOTIATION SERVICES - 12/22	5,005.00
	122154	09/02/2022	WASTE HAULER FRANCHISE AGREEMENT NEGOTIATION SERVICES - 08/31/22	18,790.00
	122183	10/03/2022	WASTE HAULER FRANCHISE AGREEMENT NEGOTIATION SERVICES - 09/30/22	9,365.00
Check	01/19/2023	7527 Accounts Payable	JOSE RODRIGUEZ	269.32
Invoice	Date	Description	Amount	
	011623EXP	01/16/2023	BOOT REIMBURSEMENT 1/16/23	269.32
Check	01/19/2023	7528 Accounts Payable	WILLE ELECTRIC SUPPLY CO., INC	363.81
Invoice	Date	Description	Amount	
	S2121281.001	12/20/2022	SILLMAN LIGHTS	363.81
Check	01/19/2023	7529 Accounts Payable	SAVAGE TRAINING GROUP LLC	404.00

	Invoice	Date	Description	Amount
Check	1815	10/22/2022	SUPERVISORS SEMINAR-1/26-1/27/23-M WARREN	404.00
	01/19/2023	7530 Accounts Payable	SILVER & WRIGHT LLP	211.50
	Invoice	Date	Description	Amount
Check	30672	12/01/2022	LEGAL SERVICES THROUGH NOVEMBER 15, 2022	211.50
	01/19/2023	7531 Accounts Payable	SITEONE LANDSCAPE SUPPLY, LLC	86.70
	Invoice	Date	Description	Amount
Check	125980451-001	12/21/2022	CRUSHED STONE	86.70
	01/19/2023	7532 Accounts Payable	STANDARD INSURANCE COMPANY	1,986.00
	Invoice	Date	Description	Amount
Check	BILLING-NOV 22	11/01/2022	EMPLOYEE LIFE INSURANCE AND AD&D COVERAGE PREMIUMS-11/22	996.00
	BILLING- DEC 22	12/01/2022	EMPLOYEE LIFE INSURANCE AND AD&D COVERAGE PREMIUMS-12/22	990.00
	01/19/2023	7533 Accounts Payable	STAPLES	320.12
	Invoice	Date	Description	Amount
Check	8068767656	12/31/2022	OFFICE SUPPLIES	320.12
	01/19/2023	7534 Accounts Payable	LEHR	114.01
	Invoice	Date	Description	Amount
Check	SIB2151	10/28/2022	FLEET SUPPLIES-SEAT BELT	114.01
	01/19/2023	7535 Accounts Payable	SUMMIT UNIFORMS CORP	727.34
	Invoice	Date	Description	Amount
Check	123022	12/30/2022	TRAINEE UNIFORMS-PBUN	727.34
	01/19/2023	7536 Accounts Payable	THE ED JONES CO INC	787.99
	Invoice	Date	Description	Amount
Check	52091	10/05/2022	514E BADGE-HAND ENGRAVEDLT/CPT/CHIEF	787.99
	01/19/2023	7537 Accounts Payable	TMT ENTERPRISES INC	673.45
	Invoice	Date	Description	Amount
Check	14981	12/19/2022	CRUSHED STONE	673.45
	01/19/2023	7538 Accounts Payable	TURBO DATA SYSTEMS, INC	702.00
	Invoice	Date	Description	Amount
Check	39208	12/31/2022	E-CITATION HARDWARE AND TRAFFIC PROCESSING SERVICES	702.00
	01/19/2023	7539 Accounts Payable	TURF & INDUSTRIAL EQUIPMENT CO	109.73
	Invoice	Date	Description	Amount
Check	IV44813	12/12/2022	FLEET SUPPLIES-PIN AND BUSHING	109.73
	01/19/2023	7540 Accounts Payable	WEX BANK	1,443.98
	Invoice	Date	Description	Amount
Check	86302708	01/06/2023	CHEVRON CC 01/06/23	1,443.98
	01/19/2023	7541 Accounts Payable	ORION SECURITY	415.15
	Invoice	Date	Description	Amount
	120046	01/07/2023	UNARMED, UNIFORMED SECURITY OFFICER 01/03/23 - 01/04/23	415.15

Check	01/19/2023	7542 Accounts Payable	NORTHERN CA LEGAL SUPPORT SERVICES, INC	275.00
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	Invoice	Date	Description	Amount
	RG19031933	12/14/2022	CIVIL SUBPOENA REFUND-CASE # RG1903133	275.00
EFT	01/19/2023	469 Accounts Payable	SPECTRUM SMALL BUSINESS SERVICES, 325084426 / 5348560846 LLC	8,241.75

	Invoice	Date	Description	Amount
	01062023-GENERAL	01/06/2023	CONSULTING AND REFERRAL TO BUSINESS SUPPORT AGENCIES-3RD AMEND	6,629.25
	01062023-ARPA	01/06/2023	CONSULTING & REFERRAL TO BUSINESS SUPPORT AGENCIES-ARPA RELATED	1,612.50

AP ZBAACCOUNTS PAYABLE Totals:			Transactions: 53	\$172,391.32
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Checks:	52	\$164,149.57
EFTs:	1	\$8,241.75



STAFF REPORT

Item D. 2.

DATE 02/09/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Approval of the January 26, 2023 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

Draft

Thursday, January 26, 2023

A. ROLL CALL

Mayor Hannon called the meeting to order at 7:00 p.m. Vice Mayor Collazo, Council Members Freitas, Bucci, and Jorgens were noted present.

B. PRESENTATIONS

1. Proclaiming January 14 - 29, 2023 as Sun Salutation Awareness Period

Mayor Hannon presented the proclamation to Rashmi Patil, Ashwini Satyanarayana and Siya Singh of the Hindu Swayamsevak Sangh (HSS).

Ms. Singh spoke on her positive experience with HSS.

C. PUBLIC COMMENT

No one requested to speak.

D. CONSENT CALENDAR

Council Member Bucci moved, Council Member Freitas seconded, to approve Consent Calendar Items D.1 through D.3, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption. The motion passed, 5 AYES.

1. Approval of Audited Demands
2. Approval of January 12, 2023, minutes
3. Approval of Motion for acceptance of the Annual Comprehensive

Financial Report (ACFR) for the period ended June 30, 2022

E. PUBLIC HEARINGS

F. OTHER BUSINESS

1. Adopt resolutions initiation of proceedings for the formation of Area Improvement District No. 35 for Lindsay Tract, providing preliminary approval of the Engineer's Report, declaring intention to order formation of the assessment district and to levy and collect assessments, establishing Property Owner Assistance Program for City-Sponsored Assessment Districts, and setting a public hearing date of March 23, 2023

Vice Mayor Collazo announced that she had a conflict of interest due to property ownership near this project and would recuse herself from this item. Vice Mayor Collazo exited the City Council Chambers.

Assistant City Engineer Imai gave the presentation. Presentation on file with City Clerk. He stated that the project would improve neighborhood aesthetics, eliminate the ponding/flooding, improve walkability, and enhance property values. The estimated cost of \$9.6 million would be paid with funding from the City, the Alameda County Water District, and the adjacent property owners through a proposed Assessment Improvement District. Property owners would pay for curb and sidewalk improvements in front of their homes.

Ed Espinoza of Francisco and Associates reviewed the proposed assessment district and how they prepared the benefit analysis for the parcels.

Assistant City Engineer Imai reviewed the Property Owner Assistance Program for certain qualified owner-occupied parcels and the construction timeline.

Ana Semedo stated that she could not pay the assessment and would vote no.

Guillermo Sanchez stated that the assessment would be a hardship for his single income family of 5. He stated that the low-income thresholds need to be raised. He is in favor of the improvements, but too much money is asked from the property owners.

Sondra Mascardo stated that it was unfair to have a lien placed on their properties. Nobody wants \$1400 added to their property tax and it would be a

hardship. She stated that she and her neighbors opposed the project.

Marietta Madieros asked how much interest would be charged with the assessments. She stated that she has a corner lot, which would be more than the average assessment. She stated that she was against this project and that it would be a burden.

Rosemary Gaunt stated that she has lived in her home for 65 years. She stated that the City caused the water problems by raising the land with newer properties and retaining walls. She asked how the Birch Street neighbors stopped a similar project. She would like the water issues fixed, but they didn't need sidewalks.

Gabriel Fonseca (via Zoom) asked if the streets could be fixed without adding sidewalks and do corner lots have more weight on the votes.

In response to citizen questions, Assistant City Engineer Imai stated that in order to fix the water drainage issue, they would need to gut and rebuild the street with sidewalks to fix the slope. The vote is weighted by the amount of the assessment per property. Mr. Espinoza stated that the interest rate would be determined during the bond sale and that the bond counsel estimated 5%.

Council Member Bucci stated the had concerns with the project and understood the financial burden to the residents. He stated that he did not like the assessment plan that put too much burden on the residents, and that more palatable numbers needed to be provided. He stated that he did not think he would support the project as currently written.

Mayor Hannon state that their proposed action tonight would give the vote to the community in the Lindsay Tract whether to proceed with an assessment.

Council Member Jorgens moved, Mayor Hannon seconded to adopt the following resolutions: 1) Intention to make acquisitions and improvements for the proposed Area Improvement District No. 35 (Lindsay Tract); and 2) Approving Preliminary Engineer's Report and directing related actions for the proposed Area Improvement District No. 35 (Lindsay Tract); and 3) Approving a policy for a property owner assistance program for city-sponsored assessment districts. The motion did not pass, 2 AYES (Hannon and Jorgens), 1 NO (Bucci), 1 ABSTENTION (Freitas), and 1 RECUSED (Collazo).

Vice Mayor Collazo returned to the City Council Chambers.

2. Adopt a resolution terminating the local emergency due to COVID-19 effective February 28, 2023
Resolution No. 11459

Vice Mayor Collazo and Council Member Freitas each announced that they had conflicts of interest due to property ownership and income and would recuse from this item. They each left the City Council Chambers.

City Manager Benoun gave the staff report recommending terminating the local emergency.

No one requested to speak.

Council Member Bucci moved, Council Member Jorgens seconded, to adopt a resolution terminating the local emergency due to COVID-19 effective February 28, 2023. The motion passed, 3 AYES, 2 RECUSED (Collazo and Freitas).

Vice Mayor Collazo and Council Member Freitas returned to the City Council Chambers.

G. CITY COUNCIL MATTERS

Vice Mayor Collazo hoped everyone enjoyed the nice weather. She wished everyone a wonderful week, enjoy the football game on Sunday, and shop Newark.

Council Member Bucci stated that the Ohlone Wildlife Rehabilitation Center is preparing to reopen and he will be leading a team to help with improvements. Email him or meet at the Ohlone Wildlife Rehabilitation Center on Hickory Street around 9 am on February 4th.

Council Member Jorgens asked how residents report the unfriendly odor in the Birch Grove area. City Manager Benoun stated that residents who smell natural gas should call 911. For non-natural gas odors, complaints may be filed with the Bay Area Air Quality Management District. There is information on the City website on the reporting process.

Mayor Hannon announced that former Mayor Nagy's retirement event will be held on February 5 beginning at 1 pm at City Hall.

H. CLOSED SESSION

I. ADJOURNMENT

Mayor Hannon adjourned the meeting at 8:47 p.m.



STAFF REPORT

Item D. 3.

DATE 02/09/2023
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 January 12 Pursuant to AB 361

SUMMARY AND RECOMMENDATION

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

On September 23, 2021, the City Council made the necessary findings pursuant to AB 361 to continue to conduct virtual meetings. AB 361 requires that the City Council revisit the need to continue conducting virtual meetings every 30 days. The City Council last made the necessary findings on January 12, 2022.

Staff recommends that the City Council adopt a resolution making the necessary findings pursuant to AB 361 to continue conducting virtual meetings. Staff anticipates that this will be the last time that the City Council will adopt a resolution to continue conducting meeting pursuant to AB 361 as Governor Newsom has indicated his intent to end that statewide state of emergency on February 28, 2023. Without the statewide emergency, the City cannot conduct meetings pursuant to AB 361. The proposed resolution provides that meetings pursuant to AB 361 may occur until February 28, 2023.

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. Currently, state and local officials still recommend wearing masks for certain individuals and under certain circumstances.

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.

Notably, on October 17, 2022, Governor Newsom announced that the COVID-19 state of emergency will end on February 28th, 2023. The City will not be able to conduct meetings pursuant to AB 361 after the end of the state of emergency.

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.

The City Council has previously acted to make continued findings pursuant to AB 361, however, the end of that period of time is quickly approaching.

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. Staff anticipates that this will be the last time that the City Council is asked to do so and, effective the end of the state of emergency on February 28, 2023, the City will no longer be able to conduct meetings pursuant to AB 361. As explained above, this aligns with the Governor's indication that he will end the State of Emergency on February 28, 2023.

FISCAL IMPACT

There is no direct fiscal impact of adopting this Resolution.

ENVIRONMENTAL/PLANNING COMMISSION REVIEW

N/A.

REVIEW AND APPROVAL

Prepared by - Kristopher J. Kokotaylo, City Attorney
Reviewed by - Krysten Lee, Finance Director
Approved by - David J. Benoun, City Manager

Attachments

AB 361 Resolution February 2023

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 FEBRUARY 9 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, CalOSHA recommends social distancing under certain circumstances and maintaining six feet of distance can avoid close contacts requiring quarantine; 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, the City Council finds that the imminent risks of the City's legislative bodies holding in person meetings to the health or safety of attendees continues to exist due to the Delta and Omicron variants of COVID-19; and

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

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

1. The above recitals are true and correct, and incorporated into this Resolution.
2. In compliance with AB 361 (2021), and in order to continue to conduct teleconference meetings without complying with the usual teleconference meeting requirements of the Brown Act, the City Council makes the following continued findings:
 - a) The City Council has reconsidered the circumstances of the state of emergency; and
 - b) The state of emergency, as declared by the Governor and City Council, continues to directly impact the ability of the City Council and the City's legislative bodies, as well as staff and members of the public, from meeting safely in person; and

- c) The CDC continues to recommend physical distancing of at least six feet due to COVID-19, state and local officials continue to recommend wearing masks and physical distancing under certain circumstances, and as a result of the presence of COVID-19 and the increase of cases due to the Delta and Omicron variants, meeting in person would present imminent risks to the health or safety of attendees, the legislative bodies and staff.
- 3. City Council and City's legislative bodies may continue to meet remotely in compliance with AB 361, in order to better ensure the health and safety of the public.
- 4. The City Council will not revisit the need continue conducting meetings pursuant to AB 361 as the Governor will end the State of Emergency on February 28, 2023 and the approval to conduct meetings pursuant to AB 361 shall end on that date.



STAFF REPORT

Item D. 4.

DATE 02/09/2023
TO Honorable Mayor and City Council Members
FROM James Scanlin, Environmental Services Manager
SUBJECT Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Storm Water Inspection & Maintenance Services, Inc. (SWIMS) to conduct installation, inspection and maintenance of full trash capture devices in the City's storm drain system and amend the 2022-2024 Biennial Budget and Capital Improvement Plan

SUMMARY AND RECOMMENDATION

As part of the ongoing effort to reduce the discharge of trash to local creeks and the San Francisco Bay and to comply with the requirements of the Municipal Regional Stormwater Permit (MRP), the City has installed 755 full trash capture (FTC) devices in storm drain inlets throughout the city. The previous MRP required that these FTC devices be inspected and maintained (i.e., remove the debris from the storm drain inlets and clean the device screens) once each fiscal year. The newly reissued MRP (effective date 7/1/22) requires that these devices be maintained twice each fiscal year. City Maintenance Division staff have been and will continue to maintain these devices once each year. Due to constraints on Maintenance Division staff and equipment, staff recommends that the City Council authorize the City Manager to execute a Contractual Services Agreement (Agreement) with Storm Water Inspection and Maintenance Service, Inc. to conduct inspection and maintenance of the existing FTC devices once each fiscal year and conduct and analysis of potential locations for additional FTC devices and to install devices in locations where appropriate. Staff also recommends that City Council amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate \$170,000.00 in FY 2023 for the maintenance of existing and installation of additional FTC devices and \$100,000.00 in FY 2024 for annual inspection and maintenance of installed devices. An additional \$100,000.00 would need to be appropriated as part of the FY 2024-2026 Biennial Budget and Capital Improvement Plan for the FY 2025 annual inspection and maintenance of installed devices. The total not-to-exceed amount of the agreement is \$370,000.00.

BACKGROUND

The State of California, through the San Francisco Bay Regional Water Quality Control Board (Water Board), issues stormwater discharge permits to municipalities in the Bay Area. Most Bay Area municipalities, including the City of Newark, are subject to what is referred to as the Municipal Regional Permit (MRP). These permits require municipalities to conduct numerous activities to reduce pollutants in their stormwater discharges. Due to potential effects on marine life, there is significant focus on reducing

the level of trash in stormwater discharges. Under the terms of the previous permit (MRP 2) the City was required to reduce its discharge of trash by 80% by July 1, 2019. The City was able to accomplish this by installing 755 full trash capture (FTC) devices in storm drain inlets in areas throughout the city with moderate or high levels of trash, banning single-use grocery bags, and removing trash from local flood control channels. Under the terms of the reissued stormwater discharge permit (MRP 3) that went into effect on July 1, 2022, the City is required to reduce the discharge of trash by 90% by June 30, 2023 and 100% by June 30, 2025. To help meet this requirement staff proposes to have up to 60 additional FTC devices installed in storm drain inlets. MRP 3 also requires increased maintenance of FTC devices from once to twice per year. Maintenance Division staff have been conducting inspection and maintenance of the existing 755 FTC devices as well as the inspection and cleaning of the additional 820 storm drain inlets in the City that do not have FTC devices installed. This requires a two-person crew with a vacuum truck for approximately three months. This is usually conducted from October through December. Staff resources are directed to other essential activities at other times of the year.

DISCUSSION/ANALYSIS

Regulatory Issues/Schedule: The services agreement scope of work includes the inspection and maintenance of the existing 755 FTC devices and the installation of up to 60 additional devices prior to June 30, 2023. Execution of the agreement will allow the City to meet the immediate requirement to inspect and maintain the FTC devices twice per year prior to June 30, 2023 (Maintenance Division staff have already conducted inspection and maintenance of the FTC devices once this fiscal year) and the installation of additional FTC devices will assist the City in its effort to meet the 90% and 100% trash reduction requirements by June 30, 2023 and June 30, 2025 respectively.

Selection Process/Competitive Pricing: To ensure a competitive process the City released a request for proposals. Two proposals were received and reviewed by staff. Both proposals received were from qualified firms. The selected firm, Storm Water Inspection and Maintenance Service, Inc. (SWIMS) provided a much more competitive cost structure.

FISCAL IMPACT

Staff requests authorization to amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate \$170,000.00 in FY 2023 and \$100,000.00 in FY 2024. An additional \$100,000.00 will be appropriated in the FY 2024-2026 Biennial Budget and Capital Improvement Plan. A budget amendment is necessary to appropriate funds in the following accounts:

For Fiscal Year 2023

From Account	140.3000	Unappropriated Fund Balance	\$170,000
To Account	140.60.063.632.6221	Other Contractual Services	\$170,000

For Fiscal Year 2024

From Account	140.3000	Unappropriated Fund Balance	\$100,000
To Account	140.60.063.632.6221	Other Contractual Services	\$100,000

REVIEW AND APPROVAL

Prepared by - James Scanlin, Environmental Services Manager

Reviewed by - Soren Fajeau, Public Works Director

Reviewed by - Krysten Lee, Finance Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

SWIMS RESO

SWIMS CSA

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE CITY MANAGER TO
EXECUTE A CONTRACTUAL SERVICES AGREEMENT
WITH STORM WATER INSPECTION AND MAINTENANCE
SERVICES, INC. FOR THE INSTALLATION, INSPECTION
AND MAINTENANCE OF FULL TRASH CAPTURE DEVICES
AND AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET
AND CAPITAL IMPROVEMENT PLAN

WHEREAS, the City is subject to the requirements of the Municipal Regional Stormwater NPDES Permit (MRP) issued by the State of California; and

WHEREAS, the reissued MRP (effective July 1, 2022) requires the City to reduce the discharge of trash in its stormwater discharge by 90% by June 30, 2023 and 100% by June 30, 2025 and to increase the frequency of inspections and maintenance of the City's full trash capture devices; and

WHEREAS, the City released a request for proposals for conducting the inspection and maintenance of the City's existing 755 full trash capture devices and the installation of up to 60 additional full trash capture devices; and

WHEREAS, after review of the proposals received, Storm Water Inspection and Maintenance Services, Inc. was selected to provide the requested services; and

WHEREAS, an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal year 2023 and fiscal year 2024 will be necessary to appropriate funds for this agreement; and

WHEREAS, an additional \$100,000.00 will be appropriated in the FY 2024-2026 Biennial Budget and Capital Improvement Plan for work conducted in fiscal year 2025.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Manager is hereby authorized to execute the Contractual Services Agreement with Storm Water Inspection and Maintenance Services, Inc., in a form approved by the City Attorney, to provide for the inspection and maintenance of the existing 755 full trash capture devices and the installation and maintenance of up to an additional 60 full trash capture devices in the City's storm drain system with a not to exceed amount of \$370,000.00.

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 \$170,000.00 of unallocated fund balance in fiscal year 2023 and \$100,000.00 of unallocated fund balance from in fiscal year 2024.

A budget amendment is necessary to appropriate funds in the following accounts:

For Fiscal Year 2023

From Account	140.3000	Unappropriated Fund Balance	\$170,000
To Account	140.60.063.632.6221	Other Contractual Services	\$170,000

For Fiscal Year 2024

From Account	140.3000	Unappropriated Fund Balance	\$100,000
To Account	140.60.063.632.6221	Other Contractual Services	\$100,000

**CONTRACTUAL SERVICES AGREEMENT
CONSULTANTS**

This Service Agreement (hereinafter "Agreement") is made and entered into this day of _____, 20____ by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and **STORM WATER INSPECTION & MAINTENANCE SERVICES, INC.**, a California corporation, ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including: The installation of storm drain inlet based full trash capture devices and the maintenance of inlet based full trash capture devices.

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 Three Hundred Seventy Thousand and No/100 Dollars (\$370,000.00) 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: 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, 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 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. PUBLIC WORKS REQUIREMENTS. Because the services described in Exhibit A include “work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work,” the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the California Labor Code applicable to public works, to the extent set forth in Exhibit D.

13. PUBLIC WORKS CONTRACTOR REGISTRATION. Consultant agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Consultant agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

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 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 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 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. 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) 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. 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 14 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 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. LICENSES, PERMITS, ETC. 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. TERM/TERMINATION.

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 the Environmental Services Manager 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:

SWIMS INC.

CITY OF NEWARK

GAVIN EDGELL
Consultant

ENVIRONMENTAL SERVICES____
Administrator

Address: P.O. Box 1627
Discovery Bay
CA, 94505

City of Newark
Attn: James Scanlin_
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

Storm Water Inspection &
Maintenance Services

By _____
David J. Benoun, City Manager

By _____
Todd Hudson, Vice-President

Date _____

Date _____

Printed Name

Attest:

Sheila Harrington, City Clerk

Date _____

Approved as to form:

Kristopher Kokotaylo, City Attorney

Date _____

EXHIBIT A
SCOPE OF SERVICES

City of Newark

Scope of work SERVICE	DESCRIPTION
CATCH BASIN FILTER	Inspect, Service, Maintain Catch Basin Filters One Time Per Year. Power vacuum all sediment and surface debris. Inspect and replace media as needed. Dispose of sediment/debris per EPA Standards. Dated drain tags to be installed after each service. Detailed digital report with before/after pictures included. Reporting through Clean Water Program ArcGIS.
STORMTEK CPS	Estimate for design, fabrication and installation for StormTek CPS Full Trash Capture device or catch basin inlet filter. Final pricing to be provided once inlets have been measured and sizing has been determined. Pricing is used as an estimate and can change once sumps have been evaluated.
LITTATRAP CATCH BASIN FILTER	Furnish & Installation of new full trash capture certified LittaTrap 24"X24" Catch Basin Filter. Final pricing to be provided once inlets have been measured and sizing has been determined. Pricing is used as an estimate and can change once sumps have been evaluated.
INLET TRASH CAPTURE FILTER FEASIBILITY	Assess 60 catch basin inlets to determine feasibility of installing FTC devices. Pricing per catch basin inspected.
TRAFFIC CONTROL - PER DAY	Traffic control to be performed by C31 certified company where lane closures are needed. Pricing includes all labor, materials and 2 man crew to assist SWIMS in safely servicing these units. \$2,095 per 8 hour day @ prevailing wage rates. Total necessary days will be determined once full site walk has been conducted and traffic control plan has been established. Based on RFP Question, 0 lane closures expected
TRAFFIC CONTROL PLAN - PER SHEET	Site specific traffic control plan will be developed and submitted to the cities Traffic Control Engineer for approval of any area requiring lane closures. The price will be \$315 per page and will be determined once fill site walk has been conducted to determine total

	lane closures. \$620 per page for a PE stamped traffic control plan.
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EXHIBIT B

PAYMENT

City of Newark

Rate Sheet SERVICE	RATE
CATCH BASIN FILTER	\$110.00
STORMTEK CPS	\$1,450.00
LITTATRAP CATCH BASIN FILTER	\$1,135.00
INLET TRASH CAPTURE FILTER FEASIBILITY	\$55.00
TRAFFIC CONTROL - PER DAY	\$2,095.00
TRAFFIC CONTROL PLAN - PER SHEET	\$350.00 / \$620.00

EXHIBIT C
QUALIFICATIONS

SWIM'S has extensive knowledge and experience maintaining and inspecting Stormwater devices. We have been providing Stormwater services to the State of California for over 20 years. With our proven track record of completing jobs on time and on budget we are committed to providing the best service for our customers at a fair price.

With over 20 years of industry experience we have seen a wide variety of stormwater devices. We service hundreds of sites annually with CPS/Catch Basin Inlet filters and are well qualified to perform the necessary maintenance with the proper equipment to ensure a timely and efficient job. With our maintenance yard based in Livermore we are local and able to respond to requests promptly.

SWIMS is the owner of StormTek, a CA State Waterboard Full Trash Capture Certified Connector Pipe Screen Filter, with hundreds of devices installed and serviced in the Bay Area. We have seen and serviced dozens of different catch basin filters and have firsthand knowledge of the maintenance requirements and the ability to inspect the devices structural integrity to ensure they are functioning as intended.

EXHIBIT D

PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 ET SEQ.

HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Consultant and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Consultant and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services described in Exhibit A.
- B. In accordance with California Labor Code Section 1775, the Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes a penalty for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Consultant or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or subcontractor in meeting applicable prevailing wage

obligations, or the willful failure by the Consultant or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Consultant or subcontractor had knowledge of their obligations under the California Labor Code. The Consultant or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Consultant is not liable for any penalties therefore unless the Consultant had knowledge of that failure or unless the Consultant fails to comply with all of the following requirements:

1. The contract executed between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 2. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
 4. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
 2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be submitted directly to the Labor Commission, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- E. In case it becomes necessary for the Consultant or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Consultant or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

3331575.1



STAFF REPORT

Item D. 5.

DATE 02/09/2023
TO Honorable Mayor and City Council Members
FROM Krysten Lee, Finance Director
SUBJECT Adopt a resolution approving a Contractual Services Agreement with Hinderliter De Llamas and Associates (HdL) for Utility Users Tax (UUT) Administration and Audit Services and Amend the 2022-2024 Biennial Budget and Capital Improvement Plan

SUMMARY AND RECOMMENDATION

The City of Newark imposes a UUT on the consumption of utility services, including electricity, gas, telephone (including cell phone and long distance), and cable television at a rate of 3.25%.

The UUT generates approximately \$3.5 million per year in general taxes and represents 5% of the City's general fund revenue. Further, the UUT supports a number of critical programs and services in the City including adequate public safety staffing, park landscaping and maintenance, street repairs, community preservation, and school crossing guards.

The UUT is a vital element in the funding of critical city services and given the complexity of the process, the current and projected service demands for UUT administration remain high and will continue to remain high for the foreseeable future.

Since the inception of the UUT measure in 2010, staff from both the City Manager's Office and the Finance Department allocate an average of 12 hours per month, toward the management of low-income and senior exemptions, exemption renewals, and exemption updates. This is in addition to time spent on the preparation of annual mass renewals for nearly 1,000 residents on an Excel spreadsheet. The Finance Department dedicates an average of 10 additional hours per month to process payments, financial tracking, and reporting of the tax payments from the service providers. The City needs a more efficient way of processing, managing, and tracking exemptions, payments, and audits.

Staff recommends that the Council authorize an agreement with Hinderliter Llamas and Associates (HdL) for Utility Users Tax(UUT) Administration and Audit Services. The HdL Tax and Fee Administration Team has grown to include UUT administration services in the long list of operations management services they currently provide. Transferring the City's UUT administration services to HdL would provide enhanced administration services compared to the services of the existing provider (Avenu) at a comparable cost, streamline the administrative process for both the City Manager's

Office and the Finance Department which result in the City being more cost-effective, and efficient, and allow staff to reappropriate their hours toward other projects that have been put on hold.

HdL's UUT administration services encompass all aspects of the City's program, including the filing process, educating utility providers, return monitoring and compliance audits, industry and legislative monitoring and updates, and City management support. HdL's tax administration professionals are available as needed to support both the City's team and the City's utility providers and taxpayers. The City is kept up to date, with 24x7 online access to HdL's client portal containing real-time access to registration and filing data, and management reporting.

Staff recommends that the City Council by resolution approve the contractual services agreement with HdL for UUT administration and audit services and amend the 2022-2024 Biennial Budget and Capital Improvement Plan.

BACKGROUND

The UUT was first introduced to voters as a new local tax to be assessed toward utility services. The purpose of this new tax was to generate a local revenue, in which the State could not touch to balance the budget. The funds could only be spent in Newark and would allow the City to maintain and restore many important City services and programs that were eliminated due to recessionary budget cuts.

In 2010, Newark voters approved a three and one-half percent (3.5%) UUT on utility services (electricity, natural gas, telephone, cell phone, and cable T.V.) that would sunset at the end of December 2015.

In 2014, the City received voter approval to amend and extend the ordinance. The revised ordinance 479 continued the tax on utility services, however, the rates were decreased from 3.5% to 3.25% effective January 1, 2016 and continued at that rate for five (5) years.

In 2020, the City of Newark received voter approval to adopt and codify the Utility Users Tax into Newark Municipal Code Chapter 3.18. This adoption extended the UUT at the existing 3.25% tax rate on charges for utility services for nine more years, starting January 1, 2020, and ending December 31, 2029.

The UUT generates approximately \$3.5 million per year in general taxes and represents 5% of the City's general fund revenue. Further, the UUT supports a number of critical programs and services in the City including adequate public safety staffing, park landscaping and maintenance, street repairs, community preservation, and school crossing guards.

On April 9, 2020, Council approved a contractual services agreement with Avenu (formerly MuniServices, LLC) to provide UUT administration and auditing services. The City is currently on a month-to-month basis term with Avenu for UUT administration services and to date, there has not been an audit conducted on UUT revenue.

DISCUSSION/ANALYSIS

The UUT administration services cover a wide range of activities that include but are not limited to, tax registration, UUT filings, payment processing, customer support compliance monitoring, monthly financial reporting, and exemption processing.

The City currently utilizes Excel for the critical function of the UUT administration and there have not been any software programs designed nor implemented throughout its 12-year history. Since the inception of the UUT measure in 2010, staff from both the City Manager's Office and the Finance Department allocate an average of 12 hours per month, toward the management of low-income and senior exemptions, exemption renewals, and exemption updates. This is in addition to time spent on the preparation of annual mass renewals for nearly 1,000 residents on an Excel spreadsheet. The Finance Department dedicates an average of 10 additional hours per month to process payments, financial tracking, and reporting of the tax payments from the service providers. The City needs a more efficient way of processing, managing, and tracking exemptions, payments, and audits.

Transferring our UUT administration services to HdL not only provides enhance administration services compared to Avenu's but also for a comparable cost. HdL's UUT administration service encompasses all aspects of the City's program, including the filing process, educating utility providers, return monitoring and compliance audits, industry and legislative monitoring and updates, and City management support.

HdL's tax administration professionals are available as needed to offer customer support to the City's team, utility providers, and taxpayers via multiple support options (email, fax, online or phone) for registering, filing returns, making payments, and for general inquiries. The City is kept up to date, with 24x7 online access to HdL's client portal containing real-time access to registration and filing data, and management reporting.

The City's position in the implementation schedule and transition of services will be determined when a signed agreement is received. As part of the transition of services, HdL will transfer the City's existing databases (excel) as they relate to UUT into HdL's internal administration tools and will maintain the data in the HdL's client portal and provide reports to the City.

Staff recommends that the City Council by resolution approve the contractual services agreement with HdL for UUT administration and audit services and amend the 2022-2024 Biennial Budget and Capital Improvement Plan.

FISCAL IMPACT

A budget amendment is necessary to appropriate \$88,000 in fiscal year 2023 and \$75,000 for FY 2024 to account 110.80.080.800.6220. This is a multi-year agreement with the remaining years to be appropriated in the next biennial budget process.

The following table proposes budgets based upon cooperation from City staff as well

as HdL and are aligned with the fee schedule in the attached contract. If significant additional time is necessary, HdL will discuss it with the City and arrive at a new fee estimate before any additional costs are incurred.

	FY23	FY24	FY25	FY26	FY27	
HdL Utility Users Tax Administration	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Costs						
Administrative Services:						
Utility Users Tax Administration (\$2,000 x 12 mos.)	24,000	24,960	25,958	26,997	28,077	101,915
Payment Processing (\$10/per trans. x 12 mos. X 175 est. returns)	21,000	21,840	22,714	23,622	24,567	89,176
Exemption - Senior Renewal	16,000		16,640		17,306	32,640
Exemption - Low-Income	1,000	1,040	1,082	1,125	1,170	4,246
Exemption - New Application	400	416	433	450	468	1,699
Utility Users Tax Audit Services - Optional	25,000	26,000	27,040	28,122	29,246	106,162
TOTAL	87,400	74,256	93,866	80,316	100,834	335,838

*CPI Adjustment 4% annually ; Senior Renewals once every 2 years

REVIEW AND APPROVAL

Prepared by - Michelle Villanueva, Senior Accountant
Reviewed by - Gloria del Rosario, Accounting Manager
Reviewed by - Krysten Lee, Finance Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

HdL Resolution
Newark HdL UUT CSA 2023.01.25 FINAL

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF NEWARK APPROVING A CONTRACTUAL
SERVICE AGREEMENT WITH HINDERLITER DE
LLAMAS AND ASSOCIATES (HDL) TO PROVIDE
UTILITY USER TAX ADMINISTRATION,
CONSULTING, AND AUDIT SERVICES AND
AMENDING THE 2022-2024 BIENNIAL BUDGET
AND CAPITAL IMPROVEMENT PLAN FOR FISCAL
YEARS 2023 AND 2024

WHEREAS, the City of Newark ("City") is in need of audits to verify that proper fees are collected from utility providers; and

WHEREAS, HdL will provide utility providers multiple options for submitting registrations, tax returns, payments, or support requests including via website, email, mail, phone, and fax; and

WHEREAS, HdL will provide an online payment platform and web portal; and

WHEREAS, HdL will receive and process registrations, tax returns and payments in a timely fashion; and

WHEREAS, the HdL will provide exemption application and renewal services for low-income and seniors individuals.

NOW, THEREFORE, BE IT RESOLVED that the City Council does approve the Contractual Services Agreement with HdL for Utility User Tax administration, consulting, and audit services, in a form approved by the City Attorney, for an amount not to exceed \$440,000.

BE IT FURTHER RESOLVED that the City Council does hereby authorize an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan by appropriating as follows:

Fiscal Year 2023

To: 110.80.080.800.6220	Professional Services	\$88,000
From: 110.3000	Unallocated Fund Balance	\$88,000

Fiscal Year 2024

To: 110.80.080.800.6220	Professional Services	\$75,000
From: 110.3000	Unallocated Fund Balance	\$75,000

**CONTRACTUAL SERVICES AGREEMENT
CONSULTANTS**

This Service Agreement (hereinafter "Agreement") is made and entered into this 1st day of JULY, 2022 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and Hinderliter De Llamas & Associates (HdL), a California 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: **UTILITY USERS TAX ADMINISTRATION SERVICES, OPERATIONS MANAGEMENT SERVICES, EXEMPTIONS MANAGEMENT AND AUDITNG SERVICES; AND**

WHEREAS, in response to City's request, Consultant has the programs, equipment and personnel required to deliver the services referenced herein the submitted 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 "A".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in Exhibit "B", 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 "A". The payments specified in Exhibit "A" 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 Four hundred and forty thousand dollars and No/100 Dollars (\$440,000.00) 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. For payment, Consultant will submit monthly Remittance Reports identifying all processed payments made for new and existing utility providers and shall submit monthly updates with payment information and revenues that will be remitted to the City net Consultant's fees, on no less than a monthly basis. Consultant shall provide reports 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 "A" hereto).

Consultant shall submit monthly Remittance Reports net Consultant's fees for said Services to City in the manner specified in Exhibit "A"; or, if no manner is specified in Exhibit "A", then according to the usual and customary procedures and practices which Consultant uses for billing City 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 Remittance Report, 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 "A", 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 "A". Therefore, Consultant shall not replace its Authorized Representative, or any of the designated personnel or Subconsultants identified in Exhibit "A", 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.

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. **CONFIDENTIALITY; SOFTWARE USE AND WARRANTY; RECORDS.**

A. Consultant will comply with the requirements of the applicable laws, ordinances and/or regulations concerning the confidentiality of tax records. Consultant may publicly state that it performs Services for City.

B. As used herein, the term “proprietary information” means all information, techniques, processes, services or material that has or could have commercial value or other utility for Consultant, including without limitation, (i) software, computer or data processing programs; (ii) data processing applications, routines, subroutines, techniques or systems; (iii) desktop or web-based software; (iv) audit, tax or fee collection/administration or business processes, methods or routines; (v) marketing plans, analyses and strategies; (vi) materials, techniques and intellectual property used; and (vii) the Software and the Software’s documentation. Except as otherwise required by law, including the disclosure requirements under the California Public Records Act (Cal. Gov. Code Sections 6250, *et seq*), City must hold in confidence and may not use (except as expressly authorized by this Agreement) or disclose to any other party any proprietary information provided, learned of or obtained by City in connection with this Agreement. The terms of this Section do not apply to information that is public information; provided, however, that proprietary information will not qualify as public information if it became public due to City’s (or its employees’ or agents’) disclosure.

C. If access to any software which Consultant owns is provided to City as part of the Services under this Agreement (including, without limitation, if City chooses to subscribe to such software and/or related reports as part of the Services pursuant to a Schedule to this Agreement) (such Consultant-owned software is, collectively, the “Software”), Consultant hereby provides a limited, non-exclusive, non-transferable license to City (including such of its staff as may be designated from time to time by City and approved by Consultant in writing) to use the Software pursuant to and during the Term of this Agreement.

D. The Software must only be used by such authorized City staff, and City must not sublicense, sublet, duplicate, modify, decompile, reverse engineer, disassemble, or attempt to derive the source code of the Software. The license granted hereunder does not imply ownership by Client or any of City’s staff of the Software nor any rights of City or any of City’s staff to sublicense, transfer or sell the Software, or rights to use the Software for the benefit of others. City may not create (or allow the creation of) any derivative work or product based on or derived from the Software or the Software’s documentation, nor modify (or allow the modification of) the Software or the Software’s documentation without the prior written consent of Consultant. In the event of a breach of this provision (and without limiting Consultant’s remedies), such modification, derivative work or product based on the Software or the Software’s documentation is hereby deemed assigned to Consultant. Upon termination of this Agreement or this Software license, this Software license will be deemed to have expired, and City must immediately deactivate, cease using and remove, delete and destroy all the Software (including, without limitation, from City’s computers and network). Consultant warrants that the Software will perform in accordance with the Software’s documentation.

E. Notwithstanding anything to the contrary in this Agreement (including any Schedule hereto), if access to any software which Consultant does not own is provided to City as part of the Services pursuant to this Agreement (including pursuant to any Schedule hereto), City hereby agrees (i) to comply with all of the terms and conditions imposed on City’s access to such

software (including, without limitation, by Consultant, such software's owner, and pursuant to applicable law), and (ii) Consultant has no obligation during the Term of this Agreement or thereafter to provide City with access to such software.

F. All documents, preliminary drafts, communications and any and all other work product related to the Services and provided by Consultant to City either in hard copy or electronically are the joint property of City and Consultant. This does not include the Software or any other software, any programs, any methodologies or any systems used in the creation of such work product, nor does it include any drafts, notes or internal communications prepared by Consultant in the course of performing the Services that were not otherwise provided to City in either hardcopy or electronic form, all of which may be protected by Consultant or third party copyrights or other intellectual property and remain Consultant's or such third parties' exclusive property (as the case may be). It is possible that any documents, drafts, communications or other work product provided to City may be public records under applicable law and/or may be discoverable through litigation. City must notify Consultant in writing about any request unless prohibit from doing so under applicable law.

Subject to applicable law, Consultant is responsible for retaining all final documents and other final work product related to the Services for a period of not less than three (3) years from the date provided to City. Retention of any other documents, preliminary drafts, communications and any and all other work product provided to City by Consultant is the responsibility of City. Consultant has no responsibility to retain any drafts, notes, communications, emails or other writings created or received by City in the course of performing the Services (other than the final documents and other final work product related to the Services and provided to City for the term of years referenced above).

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 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 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 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. 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) 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. 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 14 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 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.

In no event will CONSULTANT be liable for any CITY monies not collected by CONSULTANT, or any special, incidental, or consequential damages of any nature. CONSULTANT's duty to indemnify and hold harmless CITY shall not apply to claims for liability which arise from the issuance or non-issuance of any registration, license or permit.

17. LICENSES, PERMITS, ETC. 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. TERM/TERMINATION.

A. The term of this Agreement shall commence upon the date first hereinabove written and shall continue each year thereafter until termination is requested.

B. Notwithstanding the provisions of paragraph 19 Section A above, City or Consultant 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 **KRYSTEN LEE** 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:

Hindeliter De Llamas & Associates (HdL)

ROBERT GRAY

Consultant

Address: Hinderliter De Llamas &
Associates (HdL)
120 South State College Blvd.
Suite 200
Brea, CA 92821

CITY OF NEWARK

KRYSTEN LEE

Administrator

City of Newark
Attn: Krysten Lee
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

32. City acknowledges and agrees that any other public agency (including, without limitation, any participating government agency) located within or outside of the State (e.g., city, municipality, county, district, public authority or other political subdivision) may procure services for fees and other terms and conditions that are substantially similar to any of the Services, Fees and other terms and conditions set forth in this Agreement, provided that such

other public agency executes a separate agreement with Consultant wherein the services rendered to such other public agency, the fees payable by such other public agency, and the other terms and conditions of such separate agreement are the responsibility of Consultant and such other public agency and not City.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF NEWARK,
a municipal corporation

Hinderliter De Llamas & Associates

By _____
City of Newark

By _____
Robert Gray, CIO

Date _____

Date _____

Printed Name

Attest:

City Clerk

Date _____

Approved as to form:

City Attorney

Date _____

EXHIBIT A SCOPE OF SERVICES

Utility Users Tax Fee Administration Services

HdL's utility users tax (UUT) service encompasses all aspects of the City's program, including the filing process, educating utility providers, return monitoring and compliance audits, industry and legislative monitoring and updates, and City management support. HdL's tax administration professionals are available as needed to support both the City's team and the City's utility providers. The City is kept up to date, with 24x7 online access to HdL's client portal containing real-time access to registration and filing data, and management reporting.

HdL's service incorporates all of the following:

- Tax Registration Database Management – HdL will transfer the City's existing databases as they relate to UUT into HdL's internal administration tools. Hd will maintain the data and provide reports to the City.
- Return Processing – HdL will process UUT filings within 5 days of submission. Accounts will receive all applicable forms necessary to complete the filing process.
- New Account Processing – HdL will process registrations for all new utility providers.
- Payment Posting / Processing – HdL will process all payments made for new and existing utility providers. Accounts will be updated with payment information and revenues will be remitted to the City net HdL's fees on no less than a monthly basis.
- Customer Support Center – HdL will offer utility providers multiple support options for registering, filing returns, making payments, and for general inquiries. A toll-free number will provide access to one of our tax specialists Monday-Friday 8:00am to 5:00pm Pacific. Providers will also have access to support via, e-mail, fax, and via the Support Center On-Line.
- On-Line Filing & Payment Processing – With input from the City, HdL creates a custom website and domain for taxpayers to submit online forms, returns, and payments along with other customer support related items.
- Reporting – HdL offers a variety of hardcopy, electronic, and online reports which provide information regarding operations, returns, and revenue trends. HdL's reporting contains a wealth of knowledge compiled from interactions with taxpayers, City information, and HdL proprietary databases. HdL will work with the City during implementation to identify the standard and custom reports required by the City as well as establish the frequency of the delivery.
- Annual Reporting – In addition to standard monthly reports, HdL will provide the City with analysis reports designed to provide key insights on the utility provider community and the reporting details of each provider, including utility trends, provider trends, revenue trends, and a revenue forecast.
- Industry and Legislative Updates – HdL will actively monitor federal and state industry and legislative events which may impact UUT revenues, keeping the City and business community informed, and making recommendations regarding advocacy of other response as appropriate.

- Compliance Monitoring – HdL will consistently monitor returns in order to ensure accurate filings of UUT.
- Exemption Processing – HdL will process utility user tax exemption renewals and new applications for low-income and senior citizens. Accounts will receive all applicable forms necessary to complete the renewal process.
- Exemption Notification – HdL will notify applicable utility providers of valid resident exemptions on a monthly basis and validate as-needed exemptions on file with utility providers on an annual basis.
- Exemption Database Management – HdL will transfer the City’s existing databases as they relate to active utility user tax exemptions for low income and senior citizens into HdL’s internal administration tools. HdL will maintain the data and provide reports to the City.

Service	Compensation
Utility Users Tax Administration	\$2,000.00/month + CPI
Support & Industry Monitoring	\$10.00/processed return + CPI
Included Items	\$20/exemption application/renewal + CPI Data Conversion Implementation Customized Forms (includes exemption and standard remittance forms)

NOTE: Optional Audit Services and Pricing are detailed separately.

Utility User Tax and Franchise Fee (optional) Audit Services

HdL can also provide reviews of franchise fees, PEG fees and utility users’ taxes (UUT) paid by the cable, electric, gas, and telecommunications providers as mutually agreed to by the City and HdL, which includes the following:

- Ordinance and Filing Procedure Review – Analysis of UUT and franchise fee ordinances and City procedures, in order to identify possible deficiencies or other administration-related issues. Specifically, HdL will:
 - Review City’s ordinance to identify possible deficiencies, areas subject to legal challenge, or missing provisions;
 - Review City’s franchise agreements;
 - Review City’s procedures in applying the ordinance to identify potential challenges based on administration of the ordinance;
- Audit Notification & Scheduling – Utility providers selected by HdL and approved by the City are sent a letter and scheduled for a Compliance Analysis Audit. Every effort is made to promote a positive utility provider experience. Utility providers are afforded the opportunity to schedule flexible appointment times by contacting the Business Support Center or visiting our online support center.

- **Compliance Analysis & Audit** – The HdL audit team coordinates with the utility provider regarding data and information required for the audit process. Key components of this process include:
 - UUT audit
 - Audit gross revenue calculations to ensure proper taxes from local users are calculated and remitted accurately; and
 - Calculate tax, penalty and interest as appropriate on any reporting deficiencies.
 - Franchise Fee audit
 - Verify that the accounting methodologies and procedures used by the franchisee accurately identified utility service delivered within the City during the review period;
 - Audit franchise fee and PEG fee (if applicable) calculations to ensure proper calculation and remittance to the City; and
 - Calculate fees, penalty and interest as appropriate on any reporting deficiencies.
- **Audit & Compliance Report** – Upon completion of the audit and analysis, and prior to additional actions, a compliance report is generated and reviewed with the City. The report indicates specific results of the reviews and recommended actions. Documentation will be included with the report to assist the City and HdL in determining next steps.
- **Deficiency and Commendation Notification** – Upon final review with the City, utility providers which are found to have deficiencies are notified of the findings as well as payment and appeal processes. Appointments are also scheduled to review the findings and educate utility providers on proper filing procedures designed to prevent future errors and deficiencies. Utility providers found to be compliant are sent a commendation letter thanking them for their cooperation and compliance.
- **Invoicing & Collections** – Utility providers found to be underreporting are invoiced through the standard City approved collections process. Utility providers will have access to all of the services provided including the Business Support Center and online support systems. Balances are collected and remitted along with supporting documentation to the City through approved remittance processes.

Franchise Fee Service	Proposed not-to-exceed budget price
Review of Utility Users' Taxes – electric, wireline, cellular, gas [B]	Up to \$25,000.00
Review of Cable Franchise and PEG Fees – AT&T/DirecTV [C]	\$13,500.00
Review of Cable Franchise and PEG Fees – Comcast [C]	\$20,000.00
Review of Cable Franchise and PEG Fees – Other companies [C]	Up to \$20,000.00
[A] – May be adjusted for any unforeseen circumstances. [B] – Budgets depending on company and type of review, possible to have multiple reviews with separate budgets of the same company, e.g., Comcast for franchise and PEG fees and telecom service (VOIP or cellular or both). [C] – In California under DIVCA, there is a 3-year limitation on the period subject to review and adjustment for franchise and PEG fees.	

- A separate report shall be drafted outlining our findings after each review of each company to include any applicable interest and penalties due to the City.
- Actual costs may be less than the proposed budgets. Any savings shall be passed to the City.
- Proposed budgets were based upon anticipated cooperation from City staff as well as company staff with the assumption that we will not encounter any unexpected circumstances during the project. If significant additional time is necessary, we will discuss it with the City and arrive at a new fee estimate before we incur any additional costs.

Personnel Hourly Billing Rates

- Discounted hourly billing rate applies - \$200.00 per hour

Payment Processing Services – Consultant will configure payment processing services to utilize either a taxpayer funded model (convenience fee), or Client funded interchange pass-through model. Client may switch between these models upon written request to Consultant.

EXHIBIT B

QUALIFICATIONS

The HdL Companies is a pioneer and leader of auditing, operations and revenue solutions for public agencies. HdL partners with over 600 government agencies across the U.S. and has recovered more than \$3 billion in revenue for our clients.

Founded by local government leaders in 1983, HdL maintains a unique government perspective and dedication to supporting clients, resulting in a 99.6% client retention rate since inception. The HdL Companies brings a comprehensive and tailored approach to maximizing and understanding public agency revenues by providing a variety of financial and compliance audits, analytical services, and software solutions.

HdL maintains the largest privately held sales, property, and business tax databases in California. The firm constantly improves and enhances the California Department of Tax and Fee Administration (CDTFA) raw registration data. This highly enhanced database serves as the base for identifying emerging economic trends and developing budget projections that take those trends into account.

The database also includes constantly updated registration data for every seller in California, allocation data for 520 of the state's 538 agencies and 239 transactions tax districts, business license data for 668,000 businesses, property tax data for every jurisdiction in the 38 largest counties, a constantly updated automated telephone directory for all of California and thousands of business contacts developed through three decades of audit and business development activity.

HdL monitors an annual sales tax base of over \$5.0 billion encompassing incredibly complex industrial, e-commerce, inventory/delivery, and out-of-state sales and use tax issues. The Company submits an average of 6,000 errors for correction each year with a total value generally ranging from \$40 million to \$50 million. To date, HdL has recovered more than \$3 billion in new sales and use tax revenues for City agencies. HdL's commitment to innovative solutions and quality customer service is valued by their customers, as demonstrated by their 99.6% City retention rate and the over 60 municipalities that have switched to HdL from other service providers.

HdL is the leading provider of local tax revenue administration services and compliance in California. Currently partnering with over 75 cities and counties in California for services business licensing and occupational tax, business discovery and compliance, lodging tax and short-term rentals, utility users tax, cannabis tax, rental registration, parking tax, animal licensing, cyclical miscellaneous billing, and processes over \$120 million in revenues annually from locally collected taxes.



STAFF REPORT

Item D. 6.

DATE 02/09/2023
TO Honorable Mayor and City Council Members
FROM Anne Stedler, Economic Development Manager
SUBJECT Adopt a resolution approving a Second Amendment to the Consulting Services Agreement with Greensfelder Commercial Real Estate, LLC

SUMMARY AND RECOMMENDATION

Staff highlighted the importance of the retail sector during the recent Economic Development Update presentation to the City Council on January 12, 2023. The presentation identified the work underway through the City's consultant, Greensfelder Commercial Real Estate LLC (Consultant), to address both large retail vacancies and opportunities to improve Newark's retail centers within the current market environment.

This staff report provides background information regarding a recommendation that the City Council approve a Second Amendment to the Consulting Services Agreement (CSA) with the Consultant to continue these commercial real estate services. It also outlines progress to date and explains the proposed work under a proposed Second Amendment.

Staff recommends that the City Council adopt a Resolution approving the Second Amendment to the Consulting Services Agreement with the Consultant to provide retail consulting services and authorize a budget amendment of \$75,000 to the 2022-2024 Biennial Budget for FY 2023.

BACKGROUND

On March 25, 2021, the City and Consultant entered into a CSA with a not-to-exceed amount of \$35,000 for commercial real estate consulting services focused on large retail vacancies and retail areas. An amendment to the CSA (the First Amendment) and FY 2023 budget was approved by City Council on April 28, 2022, and added \$40,000 for a total not-to-exceed amount of \$75,000.

The CSA and the First Amendment required the Consultant to analyze underlying causes of long-standing vacancies. This analysis included researching legal documents that are typically recorded when retail real estate leases are signed. These documents limit property owner choices when re-tenanting vacancies, and sometimes even limit improvements that might be important to attracting new tenants. These recorded documents are available for a fee from title companies, and the City has now purchased them through the Consultant contract for major Newark shopping centers at

a total cost of \$6,750.

The Consultant completed the legal document research for two priority areas: (1) Newark Boulevard and Jarvis Avenue centers known as Four Corners where there are long-standing large vacancies, and (2) retail properties outside the NewPark Mall 'Ring Road,' which are subject to the NewPark Specific Plan and include two development sites: the 13-acre NewPark Plaza adjacent to Balentine Drive, and the pad for a 9,000-square foot (sf) restaurant adjacent to SpringHill Inn and Suites (See attached map).

In addition, the Consultant helped staff assess market and retail industry implications of new uses or tenants proposed by owners or developers. These private sector proposals were diverse, including technical questions regarding Conditions, Covenants and Restrictions (CC&R's) for ground floor retail which Brookfield will develop at NewPark Mall, proposed retail and residential uses at NewPark Plaza, and outreach to retail property owners considering residential uses in conjunction with the City's upcoming Housing Element. The Consultant also assisted when private sector proposals had possible implications for Newark such as Big Lots' closing announcement in December 2022 at the northeast corner of Cedar and Thornton Avenues and the Fremont Sprouts closing in Summer 2022. Fortunately, the Fremont Sprouts closure did not affect the Newark Sprouts store at the northwest corner of Newark Boulevard and Jarvis Avenue.

The Consultant work described above would continue under the Second Amendment, which is discussed under Discussion/Analysis.

DISCUSSION/ANALYSIS

Scope of Services and Costs

The Second Amendment would focus on the work of filling large retail vacancies and supporting Newark's retail market by identifying and proposing potential tenants for large vacancies, helping prospective tenants identify spaces, providing introductory support to Newark property owners, and facilitating problem-solving that could delay lease negotiations. The City facilitates leases because the City benefits from new leases, but the City does not negotiate leases on behalf of private parties. This task of working with tenants and property owners to fill retail spaces is expected to be a large portion of the Second Amendment.

The Consultant tasks proposed in the Second Amendment also continue the two types of work described earlier in this report:

1. Researching and analyzing recorded documents for additional retail centers followed by briefings and discussion with staff would be prioritized on an as-needed basis especially in anticipation of private sector proposals or leasing opportunities. Research from these recorded documents is public information and would be shared with respective property owners as appropriate.
2. Assessing new proposals from developers or tenants. Such proposals cannot necessarily be anticipated in advance. However, staff expects business activity to

increase as COVID-19 pandemic restrictions wane.

The proposed Amendment would provide an additional \$75,000 in consulting services, which equates to 322 hours of consulting services under the rate of \$233/hour as specified in the Fee Schedule of the original CSA. This amount is based on the importance and complexity of work required to fill large vacancies and the anticipated increase in private sector proposals. Further, the lead time to carry out retail work requires a multi-year commitment, and this Second Amendment would likely extend over the next two years. All work would be authorized by Task Orders approved by the Community Development Director.

Long Lead Time for New Retail Store Openings

The proposed retail recruitment process is lengthy and subject to factors beyond the City's control. The first steps include efforts to secure a retailer's serious interest in any of the large vacant retail spaces. Then, corporate approvals are typically required for large space retailers, with extensive due diligence and investment committee approval. The process is also typically held in confidence by interested retailers until a lease is signed to protect their interests during the long lease negotiation period. Third, typically the retail space requires tenant improvements with both a design and construction phase. This will be a multi-year effort. During the process, Economic Development staff and the Consultant guide and serve as links between prospective retailers and the City's approval process and continue to promote Newark and facilitate the recruitment process.

Retail Sites Now Attractive for Residential Developers

In addition to the traditional challenges of leasing retail space described above, there is a new challenge posed by state laws intended to increase and accelerate construction of much needed housing statewide. Effective July 1, 2023, Senate Bill 6 and Assembly Bill 2011 require cities to issue ministerial, not discretionary, approval of new residential developments that meet certain criteria even on sites that are zoned for retail or commercial uses.

These new laws intentionally encourage new residential projects. In today's market it is already financially attractive to build residential projects because they are more lucrative and less risky than building retail. The new laws arguably make residential development even more financially attractive by adding certainty and speed to the residential entitlement process. Therefore, staff anticipates residential development proposals for commercial sites under these laws.

Senate Bill 6 and Assembly Bill 2011 merit analysis and review separate and apart from this retail report and are cited here because they will likely affect Newark retail and the Consultant's work. It is not clear whether the laws would negatively affect Newark retail overall, and it may be premature to comment on that. However, the laws are likely to affect Newark's retail options on a site-by-site basis.

Staff anticipates providing a report to the City Council at a future Council meeting summarizing the analysis and work performed by the Consultant to address commercial vacancies.

FISCAL IMPACT

The proposed Second Amendment increases the CSA not-to-exceed amount by \$75,000 for a total of \$150,000. The current Economic Development Budget lacks the funds for the amendment and a Budget Amendment to the 2022-2024 Biennial Budget for FY 2023 is requested.

A budget amendment is necessary to appropriate an additional \$75,000 from General Fund Unallocated Fund Balance in FY 2023 to Professional Services account 110.50.051.510.6220. This is a multi-year agreement with any remaining unspent appropriations to be carried forward to FY 2024.

Increase Professional Services (110.50.051.510.6220) by \$75,000

Decrease General Fund Unallocated Fund Balance (110.3000) by \$75,000

The Consultant's work has multiple purposes; to secure productive uses and tenants for large retail vacancies in Newark Retail Centers; to support retail vitality and sustain the City sales tax revenue. The amount of retail sales tax will not be known until later in the process when tenants identify and lease space.

REVIEW AND APPROVAL

Prepared by - Anne Stedler, Economic Development Manager

Reviewed by - Steven Turner, Community Development Director

Reviewed by - Krysten Lee, Finance Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

Greensfelder CSA 2nd Amendment

Resolution Item F.2.

Restaurant Pad Map

**SECOND AMENDMENT TO THE
CONTRACTUAL SERVICES AGREEMENT
BETWEEN THE CITY OF NEWARK AND
GREENSFELDER COMMERCIAL REAL ESTATE LLC**

This Second Amendment to Contractual Services Agreement between the City of Newark, a municipal corporation, (“City”) and GREENSFELDER COMMERCIAL REAL ESTATE LLC, a Limited Liability Company (“Consultant), (together sometimes referred to as “Parties”) dated March 25, 2021, as amended by that certain First Amendment to the Contractual Services Agreement Between the City of Newark and Greensfelder Commercial Real Estate LLC dated April 29, 2022 (the “First Amendment”) is entered into as of February ____, 2023 (collectively, the “Agreement”).

RECITALS

WHEREAS, the Parties executed the Agreement for Consultant to perform a variety of urban planning, economic, and real estate advisory and implementation services for the improvement of the retail sales tax base and retail services to the Newark community as was anticipated to be defined by the Parties from time to time (the “Services”); and

WHEREAS, Section 27 of the Agreement allows the Parties to amend the Agreement provided that the amendment is in writing signed by the Parties; and

WHEREAS, the Parties desire to amend the Agreement effective February 9, 2023; and

WHEREAS, the Parties desire to amend the Services to include the items specified in Exhibit A, the Scope of Services for the Second Amendment; and

WHEREAS, the Agreement, provides a not to exceed compensation of Thirty-five Thousand Dollars (\$75,000.00); and

WHEREAS, the not to exceed amount proposed in this amendment is an additional Eighty Thousand Dollars (\$80,000.00) for a total not to exceed amount of One Hundred Fifty-five Thousand Dollars (\$155,000,000); and

WHEREAS, City staff is authorized to execute this Amendment in a form approved by the City Attorney.

NOW, THEREFORE, the Parties hereby agree as follows:

1. Section 3.A. “Not to Exceed” Compensation, of the Agreement is amended to increase the combined total of compensation and cost payable under the Agreement by Eighty-Thousand Dollars (\$80,000.00) from Seventy-Five Thousand Dollars (\$75,000.00) to a total of One-Hundred and Fifty-five Thousand Dollars (\$155,000.00).

2. Exhibit A, the Scope of Services, is amended to add the Scope of Services for this Second Amendment that is attached to this Second Amendment.

3. With the exception of the foregoing, all other terms and conditions in the Agreement, as amended, remain in force and effect. This Second Amendment may be executed in counterparts, all of which shall constitute the same agreement, notwithstanding that all parties to this Second Amendment are not signatory to the same or original counterpart. Delivery of an executed counterpart of this Second Amendment by facsimile or .pdf e-mail attachment shall be equally as effective as delivery of an original executed counterpart. Unless defined in this Second Amendment, all words commencing with initial capital letters shall have the same meaning prescribed to such words in the Agreement

IN WITNESS WHEREOF, City and Consultant have executed this Second Amendment to be effective as of the date first written above.

City of Newark

Greensfelder Commercial
Real Estate a California
Limited Liability Company

By _____
David J. Benoun
City Manager

By _____
David Greensfelder
Consultant

Dated: _____

Dated: _____

Attest:

Sheila Harrington
City Clerk

Dated: _____

Approved as to Form:

Kristopher J. Kokotaylo
Interim City Attorney

Exhibit A

Scope of Services for Second Amendment

The Scope of Services for this Second Amendment may include, but shall not be limited to the following:

1. NewPark to FoodMaxx Area (approx. 71 hours; presentations ready as follows:
a. ready 2023.03.20; b. ready 2023.03.20; c. and d. ready 2023.04.30; e. and f. ready 2023.05.30.) :
 - a. Complete title review and present the Food Maxx Center opportunities and constraints, in the context of adjacent properties.
 - b. Determine whether documents related to NewPark Specific Plan Area II or the area from NewPark Plaza south to Stevenson constrain possibility of a concentration of electric vehicle sales rooms
 - c. Prepare a presentation that defines and refines the retail opportunity(ies) that exist in the areas, i.e., what is possible, and most effective to reduce default development, including inclusion of industrial uses as well as retail. Include considerations relative to adjacencies and the urban design opportunities from NewPark Plaza to Stevenson, between I-880 and Cedar that support retail.
 - d. Frame the market case for Part II of the NewPark Specific Plan and the area from NewPark Plaza south to Stevenson, organizing opportunities and actions that might need to be taken in the area outside the ring road and going south to Balentine with respect to a variety of uses including performing arts, hotels, destination retail, and with a focus on a creating a "3rd place" in the City.
 - e. Give feedback about infrastructure (e.g. flood control channel path, bike connection, etc.). Note, this task is included in this First Amendment #2 Task Order for ease of administration, however, Consultant will not commence work until the City gives direction to do so.
 - f. Evaluate potential reuse for the strip center facing Magazine between NewPark Mall Road and Cedar Blvd.
 - g. Note, tasks c., d., and e, above are included in this Second Amendment to forecast work, however, Consultant will not commence work until the City gives direction and schedule and estimated hours to do so.
2. Four Corners Area (approx. 20 hours; as required by staff):
 - a. Engage property owners with large vacancies or spaces about alternative uses or retail tenanting opportunities.

3. Tenant Attraction and Relocation (approx. 71 hours total of which 29 hours is estimated time for sub-task “d”; commence 2023.01.11 and ongoing):
 - a. Big Lots - identify potential uses that could backfill and would be a good fit for this space, and coordinate as needed with property owners and with Home Depot
 - b. Large retail vacancies and spaces: identify potential uses that could backfill and would be a good fit, improving retail vitality and customer amenities
 - c. Identify alternative locations for retailers seeking sites and compile a list of possible retailers / active uses. Introduce tenants to prospective property owners.
 - d. ICSC Monterey 2022 Conference – prepare materials for and represent the City at the Monterey ICSC conference
 - e. Assist as requested with research about what transactions would be taxable in the City of Newark.
4. Development Applications in All Areas (approx. 20 hours; as requested):

Continue to provide feedback and industry expertise on development applications, strategies with owners and developers, and related issues as requested by staff.
5. Other Tasks (approx. 20 hours, allowance; as required by staff): The Parties understand and agree that from time-to-time unanticipated tasks arise that the City may want Consultant to address more quickly than a further Task Order might be drafted. In this case, each task will be detailed in an email describing the task and the number of hours approved, and Consultant will acknowledge its acceptance of the task via return email.
6. Related administrative tasks (approx. 6 hours; as agreed to by staff).

Staff shall issue Task Orders for the various tasks described above, and staff and Consultant will agree upon delivery dates for each task as it's assigned. Staff may direct additional tasks by written Task Order signed by the Community Development Director. Hours listed are estimates and may be revised by a Task Order signed by the Community Development Director.

RESOLUTION NO

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK
APPROVING THE SECOND AMENDMENT TO THE CONSULTING SERVICES
AGREEMENT WITH GREENSFELDER COMMERCIAL REAL ESTATE LLC AND
AUTHORIZING A BUDGET AMENDMENT TO THE BIENNIAL BUDGET 2022-
2024 FOR FISCAL YEARS 2023 AND 2024

WHEREAS, consultant expertise is sometimes needed to carry out goals, policies and actions stated in the approved Economic Development Element (the “Element”) of the General Plan; and

WHEREAS, the Element supports wise use of commercial properties, and addressing impediments to achieve dynamic retail properties that serve the public, provide sales tax revenue; and

WHEREAS, existing multi-year retail vacancies undermine retail vitality and tax proceeds; and

WHEREAS, more vacancies could occur due to current retail market conditions and the effects of the COVID-19 pandemic; and

WHEREAS, both retail tenancing to fill such vacancies and related changes at retail properties such as renovations are subject to recorded public records available from title companies; and

WHEREAS, understanding the relevant provisions of recorded documents would enable the City to better plan, support and encourage wise use and re-tenancing by private sector property owners; and

WHEREAS, Greensfelder Commercial Real Estate LLC has extensive experience analyzing such documents for both public and private clients.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby:

- (1) Approve the Second Amendment to the Consulting Services Agreement with Greensfelder Commercial Real Estate LLC to increase the existing not-to-exceed amount of \$75,000 by \$75,000 for a total not-to-exceed amount of \$150,000, and to revise the scope of work and authorize the City Manager to execute the First Amendment as approved to form by the City Attorney.
- (2) Approve an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan for fiscal years 2023 and 2024 as follows:
 - Increase General Fund Professional Services (110.50.051.510.6220) by \$75,000
 - Decrease Fund Balance (110.3000) by \$75,000

RESTAURANT PAD: I-880 VISIBILITY

