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, March 23, 2023
7:00 P.M.

A. ROLL CALL

B. PRESENTATIONS

1. Commending the City of Newark Maintenance Division for their outstanding storm response efforts

2. Proclaiming March as American Red Cross Month

3. Presentation on Eden I & R, Inc. 2-1-1 information and referral services

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 March 9, 2023, minutes

3. Adopt a resolution to amend the position allocations in the 2022-2024 Biennial Budget and Capital Improvement Plan to delete one Cashier and add one Accounting Assistant I-II

4. Approval of the plans and specifications, adopt a resolution accepting the bid, and award of contract for the total bid to American Asphalt Repair & Resurfacing Company Inc. for FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 and amending the 2022-2024 Biennial Budget and Capital Improvement Plan. Exempt from CEQA Review per CEQA Guidelines Section 15301 (Existing Facilities).

5. Adopt a resolution authorizing the City Manager to issue a purchase order and execute related documents with Environmental Systems Research Institute (Esri), Inc., for software and support in an amount not to exceed $89,400 and authorizing a budget amendment to the 2022-2024 biennial budget and capital improvement plan for fiscal year 2023

6. Resolution approving the reappointment of Senior Advisory Committee Members

7. Adopt a resolution authorizing the acceptance of the Officer Wellness and Mental Health Grant through the State of California Office of State and Community Corrections and amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $34,402.05 to the California Board of State and Community Corrections Fund

8. Adopt a resolution approving a ten year extension of the current Alameda County Vehicle Abatement Program agreement

9. Mid-year Budget Review and Adopt a Resolution Amending the 2022-2022 Biennial Budget and Capital Improvement Plan for Fiscal Year 2023.

E. PUBLIC HEARINGS

1. Adopt a resolution to authorize the allocation of a $12 million funding award from the Affordable Housing Impact Fee Fund to Satellite Affordable Housing Associates and authorize the City Manager to execute the Affordable Housing Loan Agreement and all related loan documents to effectuate the approval of the funding award for an affordable housing project at 6347-6375 Thornton Avenue. Exempt from CEQA Review per CEQA Guidelines Section 15061(b)(3).

F. OTHER BUSINESS

1. Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Government Technology Group, LLC for development of a Citywide Broadband Master Plan and amend the 2022-2024 Biennial Budget and Capital Improvement Plan

G. CITY COUNCIL MATTERS

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

H. CLOSED SESSION

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

I. ADJOURNMENT

MEETING INFORMATION

Members of the public may attend the meeting in person, virtually via Zoom, or watch it via YouTube or Cable Channel 26. If you attend the meeting in person, a face covering is recommended but not required.

How to view the meeting remotely:
Livestream online at YouTube: https://www.youtube.com/channel/UC383NGSxaPwZP1lkJbo2T8A
Copy/paste the YouTube URL into your browser if the link does not automatically open.

How to participate in the meeting remotely, via Zoom Webinar:
From a PC, Mac, iPad, iPhone or Android device: Zoom Meeting https://us06web.zoom.us/j/85831172791

From a telephone dial 1- 669-900-9128, Webinar ID Number 858 3117 2791

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	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Commending the City of Newark Maintenance Division for their outstanding storm response efforts

Over the last three months, City of Newark Maintenance Division has prepared for and responded to serious storm events. They have worked tirelessly for extended hours, including overnight hours, in order to clear downed trees and branches, resolve flooding issues, help residents obtain sandbags, and keep City streets clear and safe.

A commendation has been prepared to honor the Maintenance Division for their ongoing dedication to the City of Newark and the Newark community and thank them for their outstanding storm response efforts.

Attachments

Commendation

COMMENDING THE CITY OF NEWARK MAINTENANCE DIVISION

WHEREAS, a continuous series of powerful winter storms with multiple atmospheric rivers have poured across the Bay Area region and State of California in the last several months, providing much needed rainfall and welcomed drought relief; and

WHEREAS, these storms have also seriously impacted most California jurisdictions with ongoing rain and/or snow, high-intensity precipitation events, and multiple windstorms resulting in catastrophic flooding, downed trees, and in many cases permanent significant damage to homes, businesses and public infrastructure; and

WHEREAS, many of the major storm events in the Bay Area that occurred between late December, 2022 through Tuesday, March 14, 2023 have impacted the City of Newark; these include several windstorm events with sustained winds up to 50 miles per hour and wind gusts approaching 70 miles per hour, multiple lengthy periods of significant rainfall, and several extremely high-intensity rainfall events all of which resulted in localized flooding, full flood control channels, many downed trees and branches, and debris scattered through local streets and parks; and

WHEREAS, the City of Newark's Maintenance Division has responded to each of these storm events by working tirelessly for extended hours, including overnight hours in many cases, in order to clear downed trees and branches, resolve flooding issues, help residents obtain sandbags, and keep City streets clear and safe, among other duties; and

WHEREAS, advanced storm preparation efforts by the Maintenance Division helped prevent any serious permanent damage to the City's infrastructure and minimized the overall adverse impact to residents and businesses; and

WHEREAS, all Maintenance Division team members are to be recognized for their outstanding efforts, including Francisco Aguirre, Warren Antida, Jason Avery, Luis Bailon, Dan Cianciarulo, Tonya Connolly, Thomas Curtis, Brandon Gordon, Neal Hornbeck, Lorenzo Houle, Nick Icasiano, Brian Lewis, Josue Lopez-Duenas, Gustavo Perez, Ryan Perez, Jackson Posadas, Jose Rodriguez, Raymundo Ruiz, Miguel Sanchez-Casillas, Jennifer Tran and Mark Valdez.

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

The entire City of Newark Maintenance Division

for their ongoing dedication to the City of Newark and the Newark community and thank them for their outstanding efforts over the last three months in responding to these serious storm events.

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 Twenty-third Day of March, Two Thousand Twenty-Three.

MICHAEL K. HANNON
Mayor

STAFF REPORT

Item B. 2.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Proclaiming March as American Red Cross Month

The American Red Cross shelters, feeds and provides comfort to victims of disasters; supplies about 40% of the nation's blood; teaches skills that save lives; distributes international humanitarian aid; and supports veterans, military members and their families. A proclamation has been prepared proclaiming March as American Red Cross Month. A member of the Red Cross will accept the proclamation at the City Council meeting.

Attachments

Proclamation

PROCLAMATION NO. 1886

AMERICAN RED CROSS MONTH 2023

***WHEREAS**, the American Red Cross was founded in May 1881 by Clara Barton and this year marks its 142nd Anniversary; and*

***WHEREAS**, the American Red Cross is a volunteer agency chartered and authorized by Congress to act in times of need, provide compassionate assistance afflicted by personal, local or national disasters; and*

***WHEREAS,** people have counted on the Red Cross for the information and skills they need to be safe at home, at work, at school, and at play, training people in lifesaving skills in CPR, first aid, fire prevention and water safety; and*

***WHEREAS,** with over 1,500 volunteers in Alameda County, the American Red Cross assisted or responded to 239 disaster operations in 2022; received nearly 31,000 blood donations in 1,258 blood drives from citizens throughout Alameda County; and trained 2,975 people in aquatics and water safety.*

***WHEREAS,** the American Red Cross installed 690 smoke alarms, trained 9,659 citizens in first aid, CPR and AED; and through the Pillowcase Project and Home Fires Campaign 1,391 local individuals and families received fire prevention, training and supplies; and responded to 583 members of the Armed Forces.*

***WHEREAS,** for over 100 years, United States Presidents have called on the American people to support the Red Cross and its humanitarian mission. Our community depends on the American Red Cross, and because it is not a government agency, the Red Cross depends on support from the public to continue its humanitarian work.*

***NOW, THEREFORE,** I, Michael K. Hannon, Mayor of the City of Newark, on behalf of the Newark City Council, do hereby proclaim March 2023 as*

AMERICAN RED CROSS MONTH 2023

in Newark and urge all citizens to reach out and support its humanitarian mission.

***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 Twenty-third Day of March, Two Thousand Twenty-three*

MICHAEL K. HANNON
Mayor

STAFF REPORT

Item B. 3.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Presentation on Eden I & R, Inc. 2-1-1 information and referral services

Alison DeJung is the Executive Director of Eden I&R, Inc. the nonprofit agency designated by the California Public Utilities Commission to be the provider of the 2-1-1 services for Alameda County. 2-1-1 is a free, three - digit dialing code available 24 hours a day, in multiple languages, to connect people to critical health, housing, human service, and disaster preparedness and response information. Ms. DeJung will give a presentation (draft copy attached) on 2-1-1 services.

Attachments

Presentation

Call 211 Help Starts Here

Eden I&R, Inc.

"linking people and resources" throughout Alameda County



Presentation to Newark City Council

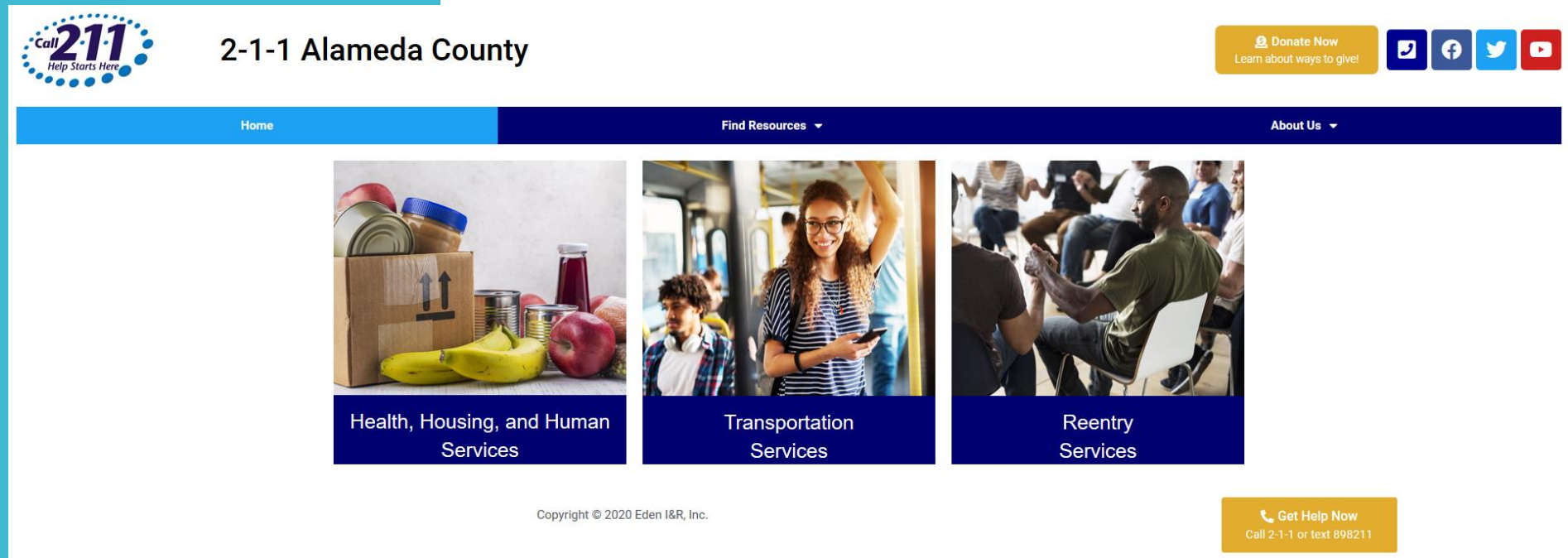
March 23, 2023

Connecting people to hope, 24/7. Multilingual staff assess callers' needs and provide referrals from our services and housing databases.

Proactive outreach to programs such as CalFresh, Medi-Cal, EITC, etc.



211alamedacounty.org





achousingchoices.org

211 and Disasters

- Designated seat at the County EOC
- Emergency shelters, access to food and water, safe transportation routes, open hospitals, how to locate a missing loved one
- Overflow calls for other 211s
- Covid-19
- PSPS
- Free disaster preparedness trainings





FY21/22

81,599 total contacts

1,084 from Newark

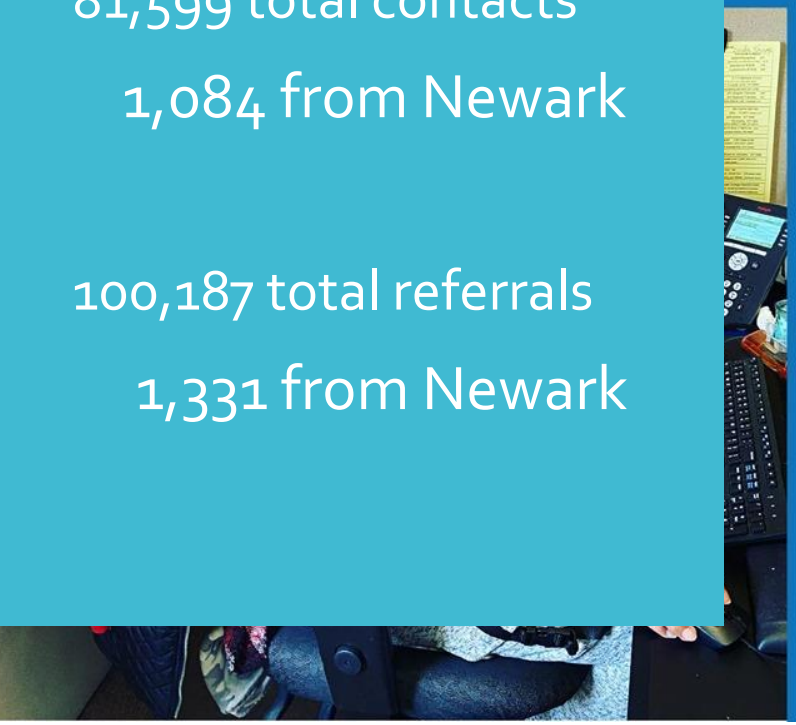
100,187 total referrals

1,331 from Newark







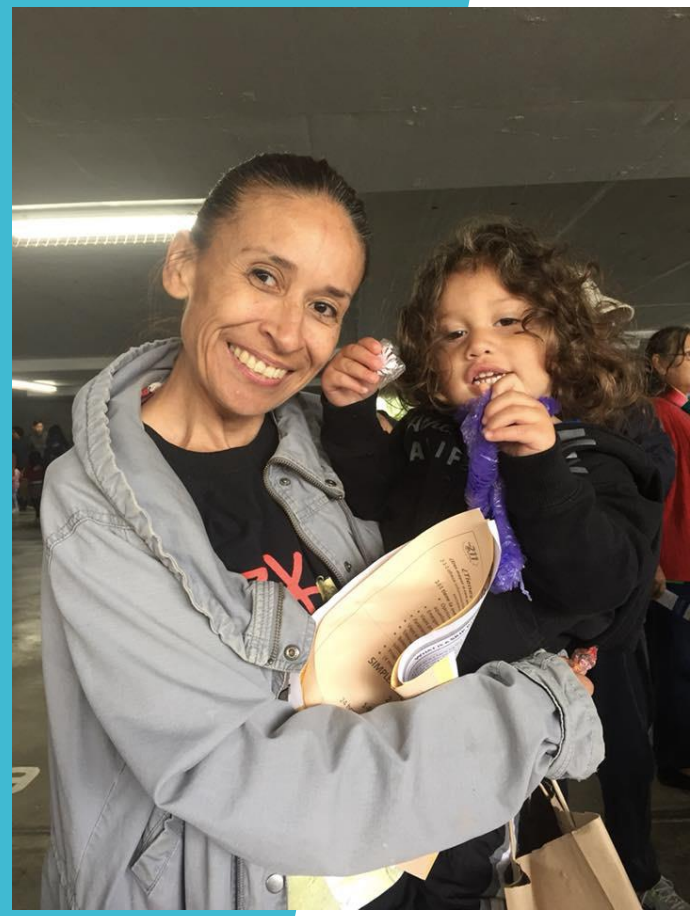






Top Needs of Newark Callers

- Housing
- Utility Assistance
- Legal Services
- Substance Use Disorder Services
- Food
- Mental Health
- Tax organizations and services
- Public Assistance Programs
- Individual and Family Support Services



NEWARK
California

Demographics of Newark Callers

51% Living with a disability

15% Seniors

65% women, 35% men

25% single mothers with minor children

99% extremely low income, very low income, or low income

28% Latinx, 26% African American, 23% White, 13% AAPI, 8% Other/Multi-race, 1% Native American


ALL
OF US
VS.
HATE


Welcome to the
2·1·1
KICK IT
Conference
SAN DIEGO CONFERENCE - FEBRUARY 1-2, 2023
HELPING CALIFORNIA TOBACCO USERS THROUGH 2·1·1

What's New

Questions?

Alison DeJung
adejung@edenir.org
510-537-2710 x514



https://www.youtube.com/watch?v=HEht_HxEVJY

STAFF REPORT

Item D. 1.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Krysten Lee, Finance Director
SUBJECT	Approval of Audited Demands

Attachments

Audited Demands

LIVE Newark CA LIVE

Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 02/23/2023

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE					
Check	02/23/2023	7744 Accounts Payable	ABACUS PRODUCTS INC		669.18
	Invoice	Date	Description		Amount
	B70721	02/06/2023	CITY LETTERHEAD/ENVELOPES - WINDOW		669.18
Check	02/23/2023	7745 Accounts Payable	ACCESS		100.00
	Invoice	Date	Description		Amount
	9995477	01/31/2023	SHREDDING SVCS JAN 2023		100.00
Check	02/23/2023	7746 Accounts Payable	HEALTH AND HUMAN RESOURCE CENTER, INC		247.86
	Invoice	Date	Description		Amount
	E0286091	02/02/2023	EMPLOYEE ASSISTANT PROGRAM (EAP)		247.86
Check	02/23/2023	7747 Accounts Payable	AIRGAS USA, LLC		86.06
	Invoice	Date	Description		Amount
	9994845282	01/31/2023	CYL ACETYLENE RENTAL 01/31/23		86.06
Check	02/23/2023	7748 Accounts Payable	ALESHIRE & WYNDER, LLP		1,138.50
	Invoice	Date	Description		Amount
	73619	02/10/2023	FY 22/23 INVESTIGATION & LEGAL SERVICES THROUGH 01/31/23		1,138.50
Check	02/23/2023	7749 Accounts Payable	ALPINE AWARDS INC		749.77
	Invoice	Date	Description		Amount
	6101569	02/21/2023	STAFF NAME BADGES		749.77
Check	02/23/2023	7750 Accounts Payable	ALTA LANGUAGE SERVICES, INC.		66.00
	Invoice	Date	Description		Amount
	IS634618	01/31/2023	BILINGUAL TESTS SERVICES		66.00
Check	02/23/2023	7751 Accounts Payable	BAY AREA BARRICADE SERVICE INC		1,135.69
	Invoice	Date	Description		Amount
	0037875	01/30/2023	SAFETY VESTS		1,135.69
Check	02/23/2023	7752 Accounts Payable	BLAISDELL'S BUSINESS PRODUCTS		1,144.07
	Invoice	Date	Description		Amount
	FEB'23	02/01/2023	OFFICE SUPPLIES		1,144.07
Check	02/23/2023	7753 Accounts Payable	CAL-WEST LIGHTING & SIGNAL MAINTENANCE		2,659.17

	Invoice	Date	Description	Amount
	230103	01/31/2023	TRAFFIC LIGHT MAINTENANCE 01/23	2,659.17
Check	02/23/2023	7754 Accounts Payable	CAPPO	88.00
	Invoice	Date	Description	Amount
	200007380	02/16/2023	ON-DEMAND RECORDED WEBINAR 39	39.00
	200007381	02/16/2023	ON-DEMAND RECORDED WEBINAR 49	49.00
Check	02/23/2023	7755 Accounts Payable	CALIFORNIA BUILDING OFFICIALS	215.00
	Invoice	Date	Description	Amount
	16112	02/04/2023	CALBO - MEMBERSHIPS AND DUES	215.00
Check	02/23/2023	7756 Accounts Payable	KIMBERLEE CATON	85.50
	Invoice	Date	Description	Amount
	020823EXP	02/21/2023	EXP REIMB FOR CHILD CARE SUPPLIES. CITY CARD NOT WORKING.	85.50
Check	02/23/2023	7757 Accounts Payable	CENTRAL VETERINARY HOSPITAL	232.25
	Invoice	Date	Description	Amount
	491530	01/31/2023	VET SVCS 01/31/2023	232.25
Check	02/23/2023	7758 Accounts Payable	CINDY K. HULL & ASSOCIATES - FORENSIC CONSULTING	642.50
	Invoice	Date	Description	Amount
	137	01/31/2023	LATENT PRINT ANALYSIS JANUARY 2023	642.50
Check	02/23/2023	7759 Accounts Payable	CSMFO	250.00
	Invoice	Date	Description	Amount
	300011604	02/14/2023	FY23 MEMBERSHIP DUES MANAGEMENT - G. DEL ROSARIO	125.00
	300011385	02/06/2023	FY23 MEMBERSHIP DUES MANAGEMENT I. QUON	125.00
Check	02/23/2023	7760 Accounts Payable	ECS IMAGING, INC.	7,134.16
	Invoice	Date	Description	Amount
	17493	01/12/2023	DOCUMENT SCANNING SERVICES PROJECT 884C	7,134.16
Check	02/23/2023	7761 Accounts Payable	MATTHEW FARRELL	1,903.00
	Invoice	Date	Description	Amount
	0305-030923ADV	02/21/2023	CALBO CONFERENCE ADVANCE	1,903.00
Check	02/23/2023	7762 Accounts Payable	FREMONT ALARM	2,580.00
	Invoice	Date	Description	Amount
	62-507	01/25/2023	CITYWIDE FIRE ALARM MONITORING 1/1/23-6/30/23	2,580.00
Check	02/23/2023	7763 Accounts Payable	FREMONT CDJR	220.00
	Invoice	Date	Description	Amount
	218066	02/07/2023	VEH DIAGONOSTIC #127 2/2/23	220.00
Check	02/23/2023	7764 Accounts Payable	GACHINA LANDSCAPE MANAGEMENT, INC.	17,507.40
	Invoice	Date	Description	Amount
	E 205555A	01/31/2023	TREE MAINTENANCE 1/1-1/31/23	17,507.40
Check	02/23/2023	7765 Accounts Payable	HOME DEPOT CREDIT SERVICES	1,937.62
	Invoice	Date	Description	Amount

	JAN ' 23	01/13/2023	HOME DEPOT CC PURCHASE 12/15/22-01/12/23	1,937.62
Check	02/23/2023	7766 Accounts Payable	JEFF'S MOBILE GLASS INC.	477.20
	Invoice	Date	Description	Amount
	IJMG-0124-79837	01/24/2023	FLEET WINDSHIELD REPLACEMENT	477.20
Check	02/23/2023	7767 Accounts Payable	KELLCO SERVICES INC	1,350.00
	Invoice	Date	Description	Amount
	2301-030201	02/01/2023	SERVICE CENTER ASBESTOS/LEAD CONSULT 01/23/23	1,350.00
Check	02/23/2023	7768 Accounts Payable	LEGACY ROOFING & WATERPROOFING	895.00
	Invoice	Date	Description	Amount
	6009288-WO	02/07/2023	ROOF REPAIRS-SERVICE CENTER 1/5/23	895.00
Check	02/23/2023	7769 Accounts Payable	LEXISNEXIS RISK DATA MANAGEMENT INC.	424.20
	Invoice	Date	Description	Amount
	1415640-20230131	01/31/2023	BACKGROUND CHECKS JAN 2023	424.20
Check	02/23/2023	7770 Accounts Payable	LEXISNEXIS RISK SOLUTIONS FL INC	50.00
	Invoice	Date	Description	Amount
	1845802-20230131	01/31/2023	INVESTIGATIVE INFO RESEARCH - 1/23	50.00
Check	02/23/2023	7771 Accounts Payable	MIKE YORKS INVESTIGATIONS	975.00
	Invoice	Date	Description	Amount
	2023-03	01/29/2023	BACKGROUND INVESTIGATIONS 01/12-01/27/23	975.00
Check	02/23/2023	7772 Accounts Payable	OCCU-MED LTD	40.00
	Invoice	Date	Description	Amount
	0223050	01/31/2023	PRE-EMPLOYMENT PHYSICALS-12/21/2022	40.00
Check	02/23/2023	7773 Accounts Payable	PERFORMANCE PEST MANAGEMENT	267.00
	Invoice	Date	Description	Amount
	66760	01/30/2023	PEST SERVICES - CITY HALL #102699 1/30/23	267.00
Check	02/23/2023	7774 Accounts Payable	REDFLEX TRAFFIC SYSTEMS, INC.	17,400.00
	Invoice	Date	Description	Amount
	INV0048445	01/31/2023	REDLIGHT CAMERA MONITORING JAN 2023	17,400.00
Check	02/23/2023	7775 Accounts Payable	ROSAS BROTHERS CONSTRUCTION	332,450.22
	Invoice	Date	Description	Amount
	1790	02/13/2023	FY21/22 CURB, GUTTER AND SIDEWALK REPLACEMENT, PROJECT 1279	332,450.22
Check	02/23/2023	7776 Accounts Payable	RUTAN & TUCKER, LLP	420.00
	Invoice	Date	Description	Amount
	945327	02/01/2023	LEGAL SERVICES REVIEW AUDITOR'S LETTER THROUGH OCT 31, 2022	420.00
Check	02/23/2023	7777 Accounts Payable	SAFETY COMPLIANCE MANAGEMENT INC	2,095.00
	Invoice	Date	Description	Amount
	6664	01/31/2023	HAZWOPER TRAINING 1/25/23	2,095.00
Check	02/23/2023	7778 Accounts Payable	SFPUC	3,729.48
	Invoice	Date	Description	Amount

	57578	01/24/2023	SFPUC RENT WATER AC#3642 2/1/23	931.14
	57609	01/24/2023	SFPUC RENT WATER AC#2866 2/1/23	2,798.34
Check	02/23/2023	7779 Accounts Payable	WILLE ELECTRIC SUPPLY CO., INC	1,421.61
	Invoice	Date	Description	Amount
	S2114974.001	11/07/2022	SILLIMAN LIGHTS	1,421.61
Check	02/23/2023	7780 Accounts Payable	TARGET SPECIALTY PRODUCTS	9,303.00
	Invoice	Date	Description	Amount
	INVP501042250	02/01/2023	TARGET PROSEEDS - PROSEEDS 02/01/23	9,303.00
Check	02/23/2023	7781 Accounts Payable	UNIVERSAL BUILDING SERVICES & SUPPLY	41,736.00
	Invoice	Date	Description	Amount
	510316	01/31/2023	JANITORIAL SERVICES - LIBRARY 01/31/23	4,965.00
	2023-0101	01/31/2023	JANITORIAL SERVICES JANUARY 2023	36,771.00
Check	02/23/2023	7782 Accounts Payable	U.S. BANK ST. PAUL	10,735.13
	Invoice	Date	Description	Amount
	2210702	01/23/2023	LOIB AID #26 REASSESSMENT & REFUND OF 2013	10,735.13
Check	02/23/2023	7783 Accounts Payable	VISTA UNIVERSAL INC	4,907.55
	Invoice	Date	Description	Amount
	T514304	02/01/2023	BIRCH GROVE LIGHTS	4,907.55
Check	02/23/2023	7784 Accounts Payable	WASHINGTON HOSPITAL	50.00
	Invoice	Date	Description	Amount
	0123-NPD-LB	02/01/2023	LAB TESTS JAN 2023	50.00
Check	02/23/2023	7785 Accounts Payable	WEST COAST ARBORISTS INC	15,617.10
	Invoice	Date	Description	Amount
	196287	01/31/2023	STREET TREE MAINTENANCE 101/16/23-01/31/23	2,265.60
	196286	01/31/2023	PARk TREE MAINT 01/16/23-01/31/23	13,351.50
Check	02/23/2023	7786 Accounts Payable	WEX BANK	887.75
	Invoice	Date	Description	Amount
	87055816	02/06/2023	CHEVRON CC 02/06/23	887.75
Check	02/23/2023	7787 Accounts Payable	AHN , ANNA	24.00
	Invoice	Date	Description	Amount
	667886	02/16/2023	CUSTOMER WAS DOUBLE CHARGED	24.00
Check	02/23/2023	7788 Accounts Payable	AYYAGARI , HARITA	119.00
	Invoice	Date	Description	Amount
	667847	02/15/2023	CREDIT SITTING ON ACCOUNT REFUND TO CUSTOMER	119.00
Check	02/23/2023	7789 Accounts Payable	GALLAGHER , BILMA	91.50
	Invoice	Date	Description	Amount
	668221	02/21/2023	UNABLE TO MAKE RESERVATION AT REQUESTED TIME	91.50
Check	02/23/2023	7790 Accounts Payable	LIAO , JOANNA	150.00
	Invoice	Date	Description	Amount

	668250		02/21/2023	REFUND FOR CANCELLED CLASSES	150.00
Check	02/23/2023	7791 Accounts Payable		SEN , MICHELLE	500.00
	Invoice		Date	Description	Amount
	668238		02/21/2023	REFUND FOR COMM CTR RENTAL DEPOSIT	500.00
AP ZBA ACCOUNTS PAYABLE Totals:				Transactions: 48	$486,907.47

Checks:	48	$486,907.47

LIVE Newark CA LIVE

Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE

Batch Date: 03/02/2023

Type	Date	Number Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE					
Check	03/02/2023	7792 Accounts Payable	AFLAC		1,840.96
	Invoice	Date	Description		Amount
	364975	02/28/2023	AFLAC - JANUARY PREMIUMS		920.48
	702552	02/28/2023	AFLAC - FEBRUARY PREMIUMS		920.48
Check	03/02/2023	7793 Accounts Payable	ALAMEDA COUNTY FIRE DEPARTMENT		985,729.83
	Invoice	Date	Description		Amount
	2022-23-242	02/27/2023	CONTRACT FIRE SERVICES - 02/23		985,729.83
Check	03/02/2023	7794 Accounts Payable	TREASURER OF ALAMEDA COUNTY		2,019.75
	Invoice	Date	Description		Amount
	JAN 23	02/02/2023	CRIME LAB FEES JAN 2023		2,019.75
Check	03/02/2023	7795 Accounts Payable	ALL CITY MANAGEMENT SERVICES, INC.		7,699.20
	Invoice	Date	Description		Amount
	83183	02/08/2023	SCHOOL CROSSING GUARD SVCS 1/22-2/04/23		7,699.20
Check	03/02/2023	7796 Accounts Payable	BAY AREA BARRICADE SERVICE INC		408.40
	Invoice	Date	Description		Amount
	0038333	02/07/2023	STREET SIGNS-30 NMINUTE PARKING		408.40
Check	03/02/2023	7797 Accounts Payable	BAY CENTRAL PRINTING		128.54
	Invoice	Date	Description		Amount
	194544	02/09/2023	BUSINESS CARD IMPRINTING-J HUNTER		64.27
	194564	02/09/2023	BUSINESS CARD IMPRINTING-SALVADOR SANDOVAL		64.27
Check	03/02/2023	7798 Accounts Payable	BURTON'S FIRE INC		70.52
	Invoice	Date	Description		Amount
	S 58652	02/06/2023	FLEET PARTS - HANDLE AXLE AND BRACKET		70.52
Check	03/02/2023	7799 Accounts Payable	CALIFORNIA SEXUAL ASSAULT INVESTIGATORS ASSOCIATIO		525.00
	Invoice	Date	Description		Amount
	0307-031023-CW	02/22/2023	CSAIA ANNUAL SPRING CONF 2023		525.00
Check	03/02/2023	7800 Accounts Payable	CATO		325.00
	Invoice	Date	Description		Amount
	0313-031423-JM	02/24/2023	CRITICAL INCIDENT LEADERSHIP -SANTA ROSA 03/13 - 03/14/23		325.00

Check	03/02/2023	7801 Accounts Payable	APRO LLC	90.00
	Invoice	Date	Description	Amount
	010123-013123	01/31/2023	CAR WASH 01/01-01/31/23	90.00
Check	03/02/2023	7802 Accounts Payable	CITY OF FREMONT	13,861.00
	Invoice	Date	Description	Amount
	327954	02/06/2023	SHELTER OPERATING EXPS FEB 2023	13,861.00
Check	03/02/2023	7803 Accounts Payable	TECHNICAL SAFETY SERVICES, LLC	351.00
	Invoice	Date	Description	Amount
	IN0334104	02/09/2023	PD FUME HOOD TESTING 01/24/23	351.00
Check	03/02/2023	7804 Accounts Payable	DELTA DENTAL OF CALIFORNIA	35,687.60
	Invoice	Date	Description	Amount
	BE005355026	02/28/2023	DELTA PPO FEBRUARY PREMIUMS	17,939.32
	BE005381346	02/28/2023	DELTA PPO MARCH PREMIUMS	17,748.28
Check	03/02/2023	7805 Accounts Payable	DELTA DENTAL INSURANCE COMPANY	407.74
	Invoice	Date	Description	Amount
	BE005353121	02/28/2023	DELTA CARE FEBRUARY PREMIUMS	203.87
	BE005379439	02/28/2023	DELTA CARE MARCH PREMIUMS	203.87
Check	03/02/2023	7806 Accounts Payable	ALHAMBRA	310.59
	Invoice	Date	Description	Amount
	15734365021323	02/13/2023	PRODUCTS AND RENTALS WATER SERVICE 1/14/23 - 1/24/23	310.59
Check	03/02/2023	7807 Accounts Payable	EPLUS TECHNOLOGY, INC.	12,060.70
	Invoice	Date	Description	Amount
	V2655531	12/19/2022	CROWDSTRIKE SOFTWARE	12,060.70
Check	03/02/2023	7808 Accounts Payable	FEDEX	41.79
	Invoice	Date	Description	Amount
	8-041-87161	02/17/2023	FEDEX - 020923	41.79
Check	03/02/2023	7809 Accounts Payable	FIDELITY SECURITY LIFE INSURANCE/EYEMED	2,428.56
	Invoice	Date	Description	Amount
	165627585	02/28/2023	EYEMED FEBRUARY PREMIUMS	2,369.37
	165615577	02/28/2023	EYEMED COBRA FEBRUARY PREMIUMS	59.19
Check	03/02/2023	7810 Accounts Payable	FITGUARD, INC	105.00
	Invoice	Date	Description	Amount
	0000195942	01/25/2023	PREVENTATIVE MAINTENANCE 01/25/23	105.00
Check	03/02/2023	7811 Accounts Payable	KARL FREDSTROM	93.29
	Invoice	Date	Description	Amount
	020823 EXP	02/22/2023	MEAL CSI MEETING 02/08/23	93.29
Check	03/02/2023	7812 Accounts Payable	FREMONT FORD	98.62
	Invoice	Date	Description	Amount
	211864	02/14/2023	FLEET PARTS-COIL ASY IGNITION	98.62

Check	03/02/2023	7813 Accounts Payable	HYATT REGENCY MONTEREY	19,803.63

Invoice	Date	Description	Amount
0320-032223TBW	02/21/2023	TEAM BUILDING WORKSHOP - 3/20-3/22/2023	19,803.63

Check	03/02/2023	7814 Accounts Payable	GACHINA LANDSCAPE MANAGEMENT, INC.	21,007.40

Invoice	Date	Description	Amount
E 206221A	02/01/2023	TREE MAINTENANCE CONTRACT -FEBRUARY 2023	17,507.40
E 206221B	02/01/2023	TREE MAINTENANCE CONTRACT CH/PD/LIB -FEBRUARY 2023	3,500.00

Check	03/02/2023	7815 Accounts Payable	GAIL M. GOLDMAN ASSOCIATES, LLC	15,050.00

Invoice	Date	Description	Amount
1	02/27/2023	PUBLIC ART CONSULTING SERVICES - PHASE I	15,050.00

Check	03/02/2023	7816 Accounts Payable	GRAINGER	478.02

Invoice	Date	Description	Amount
9587988412	01/26/2023	PD SUPPLIES-LTD EXT	478.02

Check	03/02/2023	7817 Accounts Payable	HIROSHI ICHIMURA	3,481.20

Invoice	Date	Description	Amount
0107-22523	02/27/2023	PAYMENT FOR KENDO 01/07-2/25/23	3,481.20

Check	03/02/2023	7818 Accounts Payable	HOME DEPOT CREDIT SERVICES	720.81

Invoice	Date	Description	Amount
FEB' 23	02/13/2023	HD CC PURCHASE 01/13/23-02/10/23	720.81

Check	03/02/2023	7819 Accounts Payable	IXII GROUP, INC	296.00

Invoice	Date	Description	Amount
0327-032923-LUZ	02/24/2023	TACTICL DISPATCHER-CAMPBELL PD 03/27 - 03/29/23	296.00

Check	03/02/2023	7820 Accounts Payable	KBA DOCUMENT SOLUTIONS, LLC	2,275.74

Invoice	Date	Description	Amount
55Y1340256	01/25/2023	COPIER LEASE YEAR 1 OF 5 - OVERAGES 12/21/22-1/20/23	1,102.00
55Y1334056	12/29/2022	COPIER LEASE YEAR 1 OF 5 - LEASE JAN '23	863.60
55Y1345153	02/10/2023	COPIER LEASE YEAR 1 OF 5 - SUPPLIES	138.45
55Y1345152	02/10/2023	COPIER LEASE YEAR 1 OF 5 - SUPPLIES	138.45
55Y1344785	02/09/2023	COPIER LEASE YEAR 1 OF 5 - SUPPLIES	16.62
55Y1344555	02/08/2023	COPIER LEASE YEAR 1 OF 5 - SUPPLIES	16.62

Check	03/02/2023	7821 Accounts Payable	KBA DOCUMENT SOLUTIONS	8,685.20

Invoice	Date	Description	Amount
68003	01/24/2023	COPIER LEASE YEAR 1 OF 5 - LEASE 01/15-02/14/2023	4,342.60
62186	12/23/2022	COPIER LEASE YEAR 1 OF 5 12/15-1/14/2023	4,342.60

Check	03/02/2023	7822 Accounts Payable	KIM TURNER	449.00

Invoice	Date	Description	Amount
INVOICE-2550	02/02/2023	SCHOOL VIOLENCE-2/24/23-AH	149.00
INVOICE-2548	02/02/2023	DE-ESCALATION FOR DISPATCHERS-2/18/23-AH	175.00
INVOICE-2549	02/02/2023	PROFESSIONAL STANDARDS 2/23/23 -AH	125.00

Check	03/02/2023	7823 Accounts Payable	LANGUAGE LINE SERVICES	279.41

Invoice	Date	Description	Amount

	10731505	01/31/2023	INTERPRETATION SVCS JAN 2023	279.41
Check	03/02/2023	7824 Accounts Payable	LC ACTION POLICE SUPPLY LTD	4,472.35
	Invoice	Date	Description	Amount
	446679	12/12/2022	SWAT SUPPLIES	3,448.60
	446680	12/12/2022	SWAT SUPPLIES	1,023.75
Check	03/02/2023	7825 Accounts Payable	LEAGUE OF CALIFORNIA CITIES	16,971.00
	Invoice	Date	Description	Amount
	643449	01/20/2023	MEMBERSHIP DUES FOR CY2023	16,971.00
Check	03/02/2023	7826 Accounts Payable	Meyers Nave	3,055.20
	Invoice	Date	Description	Amount
	202884	02/17/2023	LEGAL SERVICES (THROUGH 01/31/23)	3,055.20
Check	03/02/2023	7827 Accounts Payable	MNS ENGINEERS INC	33,291.65
	Invoice	Date	Description	Amount
	82157	01/18/2023	ON-CALL PUBLIC WORKS CONSTRUCTION INSPECTION SRVS 12/01-12/31/22	20,010.00
	82323	02/13/2023	ON-CALL PUBLIC WORKS CONSTRUCTION INSPECTION SRVS 01/01-01/31/23	13,281.65
Check	03/02/2023	7828 Accounts Payable	MFCP INC	420.49
	Invoice	Date	Description	Amount
	8611827	02/06/2023	FLEET SUPPLIES - PRO TEC TO WRAP POLY	420.49
Check	03/02/2023	7829 Accounts Payable	MUNICIPAL MAINTENANCE EQUIPMENT INC	176.32
	Invoice	Date	Description	Amount
	005664	02/08/2023	FLEET SUPPLIES-HYDRANT FILL HOSE	176.32
Check	03/02/2023	7830 Accounts Payable	ANDREW MUSANTRY	579.86
	Invoice	Date	Description	Amount
	0207-020923 EXP	02/22/2023	CA ROBBERY INVESTIGATIONS CONFERENCE	579.86
Check	03/02/2023	7831 Accounts Payable	NATIONAL DATA & SURVEYING SERVICES,	2,525.00
	Invoice	Date	Description	Amount
	23-080022	02/08/2023	TRAFFIC SURVEY - APA #23-92	2,525.00
Check	03/02/2023	7832 Accounts Payable	NAVIA BENEFIT SOLUTIONS CLIENT PAY	107.80
	Invoice	Date	Description	Amount
	10679037	02/28/2023	FY 22/23 COBRA ADMINISTRATION FEES-02/01/23 To 02/28/23	107.80
Check	03/02/2023	7833 Accounts Payable	NET TRANSCRIPTS INC	4,967.37
	Invoice	Date	Description	Amount
	NT12125	08/15/2022	TRANSCRIPTION SVCS 1/1/22-8/15/22	4,967.37
Check	03/02/2023	7834 Accounts Payable	PERFORMANCE PEST MANAGEMENT	267.00
	Invoice	Date	Description	Amount
	66759	01/16/2023	PEST SERVICES - CITY HALL #102699 1/16/23	267.00
Check	03/02/2023	7835 Accounts Payable	PIVOT INTERIORS, INC	3,178.20
	Invoice	Date	Description	Amount
	D-82867	02/22/2023	DISPATCH OFFICE CHAIRS	3,178.20

Check	03/02/2023	7836 Accounts Payable	TRACKSTAR	24,000.00
	Invoice	Date	Description	Amount
	INV-007734	12/30/2022	MULTI-PRODUCT HR SOFTWARE 12/2022-12/2023	24,000.00
Check	03/02/2023	7837 Accounts Payable	PROVIDENT LIFE & ACCIDENT INSURANCE	261.24
	Invoice	Date	Description	Amount
	UNUM FEBRUARY	02/28/2023	UNUM - UNUM INSURANCE*	261.24
Check	03/02/2023	7838 Accounts Payable	QUINT & THIMMIG LLP	5,000.00
	Invoice	Date	Description	Amount
	FEBRUARY 1, 2023	02/01/2023	LEGAL SERVICES RENDERED AS BOND COUNSEL	5,000.00
Check	03/02/2023	7839 Accounts Payable	REVENUE & COST SPECIALIST, LLC	8,745.00
	Invoice	Date	Description	Amount
	9097	12/14/2022	PROFESSIONAL SERVICES FOR COST ALLOCATIONS & USER FEE STUDY	8,745.00
Check	03/02/2023	7840 Accounts Payable	ROBERT MOWAT ASSOCIATES	3,450.40
	Invoice	Date	Description	Amount
	#6 & #7	03/01/2023	LAKESHORE PARK PROJECT #1146	3,450.40
Check	03/02/2023	7841 Accounts Payable	SFPUC	4,660.62
	Invoice	Date	Description	Amount
	57860	02/23/2023	SFPUC RENT WATER AC#3642 03/01/23	1,862.28
	57888	02/23/2023	SFPUC RENT WATER AC#2866 3/1/23	2,798.34
Check	03/02/2023	7842 Accounts Payable	ARIEL SAN PEDRO	41.27
	Invoice	Date	Description	Amount
	011123EXP	02/01/2023	EXPENSE REIMBURSEMENT-SCHOOL SAFETY SYMPOSUM	41.27
Check	03/02/2023	7843 Accounts Payable	SMITH & SONS ELECTRIC, INC.	2,151.00
	Invoice	Date	Description	Amount
	22081	02/22/2023	FIRE STATION 1 DRYER OUTLET REPAIR 2/22/23	2,151.00
Check	03/02/2023	7844 Accounts Payable	STANDARD INSURANCE COMPANY	5,066.40
	Invoice	Date	Description	Amount
	BILLING- JAN '23	01/01/2023	EMPLOYEE LIFE INSURANCE AND AD&D COVERAGE PREMIUMS-01/23	990.00
	BILLING- FEB '23	02/01/2023	EMPLOYEE LIFE INSURANCE AND AD&D COVERAGE PREMIUMS- 02/2023	990.00
	FEBRUARY PREMIUM	02/28/2023	STANDARD - STANDARD INSURANCE COMPANY*	1,492.36
	MARCH PREMIUM	02/28/2023	STANDARD - STANDARD INSURANCE COMPANY*	1,594.04
Check	03/02/2023	7845 Accounts Payable	STAPLES	1,797.32
	Invoice	Date	Description	Amount
	8069108171	01/31/2023	OFFICE SUPPLIES	1,797.32
Check	03/02/2023	7846 Accounts Payable	THE TACTICAL ADVANTAGE POLICE SUPPLY	1,080.99
	Invoice	Date	Description	Amount
	7158	02/08/2023	BULLETPROOF VESTS JENNA Q; APPROVAL #2023-12	1,080.99
Check	03/02/2023	7847 Accounts Payable	TIREHUB, LLC	2,066.17
	Invoice	Date	Description	Amount

	31691120		12/15/2022	TIRES - GY EAGLE RS		1,053.05
	24343353		12/06/2022	TIRES		183.41
	31676202		12/14/2022	TIRES-GY EAGLE ENFORCER		829.71
Check	03/02/2023	7848 Accounts Payable		TURBO DATA SYSTEMS, INC		706.00
	Invoice		Date	Description		Amount
	39434		01/31/2023	E-CITATION HARDWARE AND TRAFFIC PROCESSING SERVICES		706.00
Check	03/02/2023	7849 Accounts Payable		U.S. BANK CORPORATE PAYMENT SYSTEMS		40,728.51
	Invoice		Date	Description		Amount
	022223STMT		02/22/2023	CC PAYMENT 02/22/23		40,728.51
Check	03/02/2023	7850 Accounts Payable		UTILITY TELECOM GROUP, LLC		19,668.92
	Invoice		Date	Description		Amount
	FEB '23		02/16/2023	TELEPHONE & NETWORK PROVIDER - FEB '23		19,668.92
Check	03/02/2023	7851 Accounts Payable		VERIZON WIRELESS		3,877.21
	Invoice		Date	Description		Amount
	9927237389		02/09/2023	CELL SVC FOR MDC'S 01/10-02/09/23		237.85
	9927989452		02/18/2023	IPHONE SVC 01/19-02/18/2023		3,639.36
Check	03/02/2023	7852 Accounts Payable		WEISSMAN'S DESIGNS FOR DANCE		3,820.61
	Invoice		Date	Description		Amount
	234242023		02/10/2023	DANCE COSTUMES		3,820.61
Check	03/02/2023	7853 Accounts Payable		WEST COAST ARBORISTS INC		21,372.65
	Invoice		Date	Description		Amount
	196577		02/15/2023	PARk TREE MAINT 02/01/23-02/15/23		5,812.75
	196576		02/15/2023	STREET TREE MAINTENANCE 2/1/23-2/15/23		15,559.90
Check	03/02/2023	7854 Accounts Payable		ORION SECURITY		1,444.00
	Invoice		Date	Description		Amount
	120073		01/14/2023	UNARMED, UNIFORMED SECURITY OFFICER 01/09/2023-01/13/2023		1,444.00
Check	03/02/2023	7855 Accounts Payable		JIANG , JASON		68.00
	Invoice		Date	Description		Amount
	668273		02/22/2023	STUDENT HAD TO WITHDRAW DUE TO SKI INJURY		68.00
EFT	03/02/2023	505 Accounts Payable		PET BENEFIT SOLUTION	021000021 / 238821802	107.50
	Invoice		Date	Description		Amount
	117079		03/02/2023	TOTAL PET PLAN - TOTAL PET PLAN DISCOUNT PROGRAM*		53.75
	114618-REVISED		03/02/2023	TOTAL PET PLAN		53.75
EFT	03/02/2023	506 Accounts Payable		SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.	121000248 / 4942808510	17,170.13
	Invoice		Date	Description		Amount
	SF-8510-01257253		03/01/2023	FY 22/23 WORKERS COMPENSATION CLAIMS -02/01/23-02/28/23		17,170.13
AP ZBA ACCOUNTS PAYABLE Totals:				Transactions: 66		$1,374,105.68

Checks:	64	$1,356,828.05
EFTs:	2	$17,277.63

STAFF REPORT

Item D. 2.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Approval of the March 9, 2023, minutes

Attachments

03/09/2023 minutes

Minutes

Thursday, March 9, 2023
7:00 P.M.

A. ROLL CALL

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

B. PRESENTATIONS

1. Commending Katie Thepkaisone

Mayor Hannon presented a commendation to Katie Thepkaisone in honor of her contributions to the Newark Memorial High School Interact Club.

2. Proclaiming March 2023 as the 21st Annual March for Meals Month

Mayor Hannon presented a proclamation to Tammy Duran, Meals on Wheels program manager for Life Elder Care.

C. PUBLIC COMMENT

No one requested to speak.

D. CONSENT CALENDAR

Council Member Bucci moved, Council Member Jorgens seconded, to approve Consent Calendar Items D.1 through D.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption. The motion

passed, 4 AYES, 1 ABSENT.

1. Approval of Audited Demands

2. Approval of the February 23, 2023, minutes

3. Adopt a resolution authorizing the City Manager to execute the Third Amendment to the Contractual Services Agreement with 4Leaf Inc. to provide temporary professional planning services
Resolution No. 11469
Contract No.21045

4. Adopt a resolution approving an amendment to Resolution No. 11,383, the Compensation and Benefit Plan for the Management, Supervisory, and Professional Employee Group dated July 1, 2022 through June 30, 2025, to increase the salary range for the Community Preservation Manager classification, from range 12 to 15 and approve an amendment to the City's Salary Schedule in conformance with California Code of Regulations, Title 2, Section 570.5
Resolution No. 11470

E. PUBLIC HEARINGS

F. OTHER BUSINESS

1. Adopt a resolution approving a Memorandum of Understanding for the development of a Multi-jurisdictional Local Hazard Mitigation Plan
Resolution No. 11471
Contract No. 23008

Emergency Services Coordinator Martinez gave the report (presentation on file with City Clerk).

No one requested to speak.

Council Member Bucci stated he was happy that CERT classes were being reinstated.

In answer to Mayor Hannon's question, City Manager Benoun stated that if any kind of disaster were to occur the city manager would act as the director of emergency services and is authorized by the municipal code to declare a local state of emergency and take any necessary action to address the situation.

Council Member Bucci moved, Council Member Freitas seconded, to adopt a resolution approving the City of Newark to enter into a Memorandum of Understanding with the cities of Fremont, and Union City, Alameda County Water District, and Union Sanitary District for the development of a multi-jurisdictional Local Hazard Mitigation Plan. The motion passed, 4 AYES, 1 ABSENT.

G. CITY COUNCIL MATTERS

Mayor Hannon announced that he would be adjourning this meeting in memory of former City Attorney Gary Galliano who passed away recently.

Council Member Freitas expressed his condolences to the Galliano family. He congratulated Mayor Hannon for his excellent presentation at the Alameda County Mayors' Conference.

Council Member Bucci also expressed his condolences to the Galliano family. He reminded everyone that March 17 is St. Patrick's Day and to not drink and drive. He also announced that there are still tickets available for LUV Newark's Casino Night fundraiser on April 1, 2023.

Mayor Hannon thanked City Manager Benoun and staff for organizing the Alameda County Mayors' Conference.

City Manager Benoun provided a weather update and advised that Public Works staff would be working throughout the night. He stated that staff would meet in the morning to review any storm damages and would update online maps if there were any street closures.

H. CLOSED SESSION

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

No one requested to speak.

At 7:42 p.m. the City Council recessed to a closed session.

At 7:53 p.m. the City Council convened in closed session.

At 9:39 p.m. the City Council reconvened in open session with all Council Members present, with the exception of Vice Mayor Collazo.

I. ADJOURNMENT

At 9:39 p.m. Mayor Hannon adjourned the meeting, in memory of Gary Galliano.

STAFF REPORT

Item D. 3.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Jennifer Solito, Human Resources Director
SUBJECT	Adopt a resolution to amend the position allocations in the 2022-2024 Biennial Budget and Capital Improvement Plan to delete one Cashier and add one Accounting Assistant I-II

SUMMARY AND RECOMMENDATION

The Cashier position was recently vacated, resulting in a review of the classification and duties of the position. Following evaluation, the Accounting Assistant I-II classification was updated to incorporate the duties of the Cashier position to provide more flexibility and utilization within the Finance Department. Accordingly, staff recommends that the City Council, by resolution, amend the position allocations in the 2022-2024 Biennial Budget and Capital Improvement Plan to delete the Cashier allocation and replace it with an Accounting Assistant I-II allocation.

BACKGROUND

The Cashier position is a single position within the Finance Department responsible for front-line customer service and cash handling. The position was recently vacated, prompting a review of the classification and utilization, prior to recruitment. Staff determined that a single-class position is not the most efficient use of staff resources for this function, and the Finance Department would be better served by utilizing a broader classification with greater range of duties and responsibility, that could also encompass the Cashier duties. As a result, the Accounting Assistant I-II classification has been updated to incorporate the Cashier duties, and the Cashier classification has been abolished. While classification description changes can be changed at a staff level, position allocation changes in the budget require City Council approval.

DISCUSSION/ANALYSIS

The City is in the process of conducting a citywide Classification and Compensation Study (Study), which includes updating all active classifications to reflect current job duties and requirements, abolishing classifications no longer in use, and creating new classifications where appropriate. The Study is still in progress and City staff is currently reviewing draft classification descriptions and proposed updates.

The Cashier position recently became vacant as the result of an internal staff promotion. In preparing to recruit for the position, staff reviewed the proposed updates from the Study. It is not common in the labor market for comparable cities to have a

single-purpose classification such as the Cashier classification. Typically, comparable agencies accomplish cashier-related duties through the utilization of more general finance and accounting positions with a wider range of duties and functions. This is beneficial in providing coverage and flexibility to use similar positions within the department to cover multiple duties and functions.

The Accounting Assistant classification series performs a variety of finance and accounting-related para-professional and professional work and performs a similar scope of duties and responsibilities as the Cashier classification. It was recommended that the Cashier position be abolished, and the duties incorporated into the existing Accounting Assistant I-II dual-level classification. This will provide flexibility in staffing and coverage as the Finance Department currently includes multiple allocations of the Accounting Assistant I-II classification.

In order to fill the vacant position as an Accounting Assistant I-II, the position allocations must be amended in the budget to reflect this reallocation.

FISCAL IMPACT

The fiscal impact of amending the position allocation from Cashier to Accounting Assistant I-II is approximately $10,000, if staffed at the top of the salary range of the journey-level classification. Due to the salary savings which have occurred as a result of the vacancy, there will be no fiscal impact this current fiscal year. Any adjustments needed upon conclusion of the recruitment, will be included in the budget adjustments for the Fiscal Year 2024 budget, if necessary.

REVIEW AND APPROVAL

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

Attachments

Resolution Position Allocation Change

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE DELETION OF ONE FULL-TIME EQUIVALENT POSITION OF CASHIER AND THE ADDITION OF ONE FULL-TIME EQUIVALENT ACCOUNTING ASSISTANT I-II TO THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN.

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

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

WHEREAS, the City seeks to organize staff positions and labor in the most efficient and productive manner possible, in order to provide this superior customer service; and

WHEREAS, the City seeks to amend the 2022-2024 Biennial Budget and Capital Improvement Plan to delete one full-time equivalent position of Cashier and add one full-time equivalent position of Accounting Assistant I-II.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the certain document entitled “2022-2024 Biennial Budget and Capital Improvement Plan of the City of Newark”, adopted by Resolution 11,379 on June 23, 2022, and subsequently amended by resolutions, is hereby amended to remove one full-time equivalent position of Cashier and add one full-time equivalent position of Accounting Assistant I-II.

STAFF REPORT

Item D. 4.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Alex Tat, Senior Civil Engineer
SUBJECT	Approval of the plans and specifications, adopt a resolution accepting the bid, and award of contract for the total bid to American Asphalt Repair & Resurfacing Company Inc. for FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 and amending the 2022-2024 Biennial Budget and Capital Improvement Plan. Exempt from CEQA Review per CEQA Guidelines Section 15301 (Existing Facilities).

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council by motion, approve the plans and specifications and by resolution, accept the bid and award the contract to American Asphalt and Resurfacing Company Inc. for FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 and amend the 2022-2024 Biennial Budget and Capital Improvement Plan.

FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 will rehabilitate damaged park pathways at Jerry Raber Ash Street Park, Birch Grove Park, and Lakeshore Park; rehabilitate outdoor basketball court surfaces and accessories at Jerry Raber Ash Street Park, Community Center Park, Birch Grove Park, and Byington Park; seal coat pathways at Civic Center Park; and upgrade curb ramps at Birch Grove Park in compliance with current ADA standards.

Bids for FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 were opened on February 28, 2023. Because the apparent low monetary bidder, DRT Grading & Paving Company, provided a non-responsive bid by failing to acknowledge Addendum No. 1, their bid was rejected. The next lowest monetary bidder, American Asphalt Repair and Resurfacing Co. Inc., provided a responsive bid, is experienced in this type of project and is a responsible contractor. Staff recommends that the City Council accept the bid and award the contract to the lowest responsive and responsible bidder, American Asphalt Repair and Resurfacing Co. Inc., for the Total Bid in the amount of $365,649.

Staff also recommends including an additional $34,351 in construction contingency, bringing the recommended allocation for the project to $400,000.

BACKGROUND

The Community Development Block Grant (CDBG) is a funding source provided by the U.S. Department of Housing and Urban Development (HUD) that is available annually to local agencies for Jurisdictional Improvements that benefit primarily low- and moderate-income households, senior citizens, or disabled citizens. The Alameda County Housing and Community Development Department (HCD) is the local grant recipient for “Urban County” CDBG Jurisdictional Improvement funds for cities with populations under 50,000.

Based on final allocation amounts provided by the Alameda County HCD, staff anticipates a total of $394,992 of CDBG funds will be made available to the City through the end of fiscal year 2024. This total amount reflects the remaining balance of CDBG Jurisdictional Improvement Funds distributed to the City of Newark in fiscal year 2022 ($211,340.87) and the current distribution for fiscal year 2023 ($183,651.22).

On March 24, 2022, City Council approved the allocation of CDBG Jurisdictional Improvement Funds to the Citywide ADA Compliance Improvements program, which addresses ADA compliance at City-owned parks, facilities, and parking lots. As part of the Citywide ADA Compliance program, FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 will rehabilitate damaged park pathways at Jerry Raber Ash Street Park, Birch Grove Park, and Lakeshore Park; rehabilitate outdoor basketball court surfaces and accessories at Jerry Raber Ash Street Park, Community Center Park, Birch Grove Park, and Byington Park; seal coat pathways at Civic Center Park; and upgrade curb ramps at Birch Grove Park in compliance with current ADA standards. The project will remove tripping hazards along pathways, rehabilitate outdoor court surfaces, provide improved pathway connectivity, and result in more accessible pathways for all members of the community.

DISCUSSION/ANALYSIS

Bids for FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 were opened on February 28, 2023. The City received a total of seven bids as follows:

Bidder	Total Bid
DRT Grading & Paving Company*	$290,873.47**
American Asphalt Repair & Resurfacing Company, Inc.	$365,649.00
Silicon Valley Paving, Inc.	$367,166.00
Tri Valley Excavating Co., Inc.	$436,368.75
O'Grading Paving, Inc.	$505,410.00**
Catos Engineering, Inc.	$516,776.00**
R&M Paving Contractors, Inc.	$551,615.00**
Engineer's Estimate	$406,000.00

*Bidder was determined to be non-responsive and therefore bid was rejected.
**Corrected for mathematical error

After examination of the bids received, staff determined that the apparent low monetary bidder, DRT Grading & Paving Company, provided a non-responsive bid by failing to acknowledge Addendum No. 1. Therefore, staff recommends that the City Council reject the bid from DRT Grading & Paving Company as non-responsive. The next lowest monetary bidder, American Asphalt Repair and Resurfacing Co. Inc., provided a responsive bid, is experienced in this type of project and is a responsible contractor. Staff recommends that the City Council accept the bid and award the contract to the lowest responsive and responsible bidder, American Asphalt Repair and Resurfacing Co. Inc., for the Total Bid in the amount of $365,649.

FISCAL IMPACT

In addition to the $365,649 contract amount, staff recommends including $34,351 in construction contingency, equivalent to approximately ten percent of the contract amount, to account for any unanticipated construction costs. The added contingency would bring the recommended allocation for the project to $400,000.

Staff recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $394,992 of CDBG Jurisdictional Improvement funds (Fund 214) to FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297.

Staff also recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $5,008 of Capital Funds (Fund 610) from Jerry Raber Ash Street Park Basketball Court Resurfacing, Project 1209 to FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297.

ENVIRONMENTAL/PLANNING COMMISSION REVIEW

The repair and maintenance of existing facilities is categorically exempt under the California Environmental Quality Act (CEQA) section 15301 (Existing Facilities).

REVIEW AND APPROVAL

Prepared by - Alex Tat, Senior Civil Engineer
Reviewed by - Jayson Imai, Assistant City Engineer
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

Reso
Public Works Contract

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ACCEPTING THE BID AND AWARDING THE CONTRACT FOR THE TOTAL BID TO AMERICAN ASPHALT REPAIR AND RESURFACING CO., INC. FOR FY 2021-2022 CITYWIDE PARK PATHWAYS RESURFACING FOR ADA ACCESS, PROJECT 1297 AND AMENDMENT OF THE 2022-2024 BIENNIAL BIDGET AND CAPITAL IMPROVEMENT PLAN

WHEREAS, the Public Works Department invited sealed bids for the construction of public improvements for FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297 (the "Project"); and

WHEREAS, the City has upon due notice, received a total of seven bids for the Project that were reviewed by staff for responsiveness and responsibility; and

WHEREAS, American Asphalt Repair and Resurfacing Co., Inc. was determined by staff to be the lowest responsive and responsible bidder with a bid of $365,649; and

WHEREAS, staff recommends allocating an additional $34,351 in construction contingency, which would bring the total allocation for the Project to $400,000.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Newark does hereby find that American Asphalt Repair and Resurfacing Co., Inc. is the lowest responsive and responsible bidder for the FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297, in the City of Newark.

BE IT FURTHER RESOLVED that the City Council does hereby accept said bid of said company and does hereby authorize the City Manager to execute an agreement with said company, in a form approved by the City Attorney, for the construction of FY 2021-2022 Citywide Park Pathways Resurfacing for ADA Access, Project 1297, according to the plans, specifications, and terms of said bid in an amount not to exceed $365,649.

BE IT FURTHER RESOLVED that the City Council does hereby approve a construction contingency in the amount of $34,351, resulting in a total allocation of $400,000 for the Project and authorizes the City Manager, or their designee, to execute any change orders necessary to account for unanticipated construction costs within the total allocation for the Project.

BE IT FURTHER RESOLVED that the City Council does hereby approve an amendment of the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $394,992 of Community Development Block Grant Jurisdictional Improvement Funds (Fund 214), and $5,008 of Capital Funds (Fund 610) to project account 1297 as follows:

Account	Description	Amount
TO: 214.90.092.920.6221.CIP1297	Park Pathways Resurfacing-ADA Access	$394,992
FR: 214.90.092.920.4793	CDBG Federal Grants & Awards	$394,992

TO: 610.90.094.940.6221.CIP1297	Park Pathways Resurfacing-ADA Access	$5,008
FR: 610.90.094.940.6221.CIP1209	Ash Street Park Basketball Court Resurfacing	$5,008

BE IT FURTHER RESOLVED that the City Manager is authorized to take any actions necessary to effectuate the intent of this Resolution.

AGREEMENT (PUBLIC WORKS CONTRACT)

THIS AGREEMENT, made and entered into this ___ day, of _____, 2023, and between the CITY OF NEWARK, a municipal corporation and the General Law Class, State of California, hereinafter called the "CITY" and AMERICAN ASPHALT REPAIR AND RESURFACING COMPANY, INC., a California Corporation, hereinafter called the "CONTRACTOR":

WITNESSETH:

That the City and Contractor for the consideration, hereinafter named, agree as follows:

1. That complete Contract includes all of the Contract Documents as if set forth in full herein, to wit: the Notice to Contractors; the Proposal to the City of Newark; the Accepted Bid (Unit Price Schedule); the Bidder's Statement of Subcontractors'; the Performance Bond; the Payment Bond; the Plans and Specifications; this Agreement; and all Addenda setting forth any modifications or interpretations of any of said Documents.

2. The Contractor will furnish all materials except as otherwise provided in the Specifications and on the Plans and will perform all the work necessary to construct and complete in a good workmanlike and substantial manner, and to the satisfaction of the Engineer, public improvements in accordance with that certain document headed:

FY 2021-2022 PARK PATHWAYS RESURFACING FOR ADA ACCESS, PROJECT NO. 1297

and the Standard Specifications and Plans of the Department of Transportation, State of California, dated May 2006.

All of the above work is on City property, and under the direction of the Engineer or other official designated by the City to supervise said work, all as provided in and subject to the Contract Documents.

1. The Contractor shall comply with all applicable local, state, and federal regulations.

2. The Contractor shall maintain a valid Class A California Contractor License throughout the performance of work under this contract.

3. The Contractor shall submit a receipt copy or other evidence showing payment of the current City of Newark Business License fee.

4. The Contractor shall provide a Certificate of Insurance to show proof of Comprehensive General Liability Insurance of (minimum) $1,000,000 combined single limit per occurrence for bodily injury, personal injury, and bodily damage; and Workers

Compensation and Employers Liability Insurance as required by the Labor Code of the State of California.

5. As of July 1, 2014, all contractors bidding on this project are required to register with the Department of Industrial Relations (DIR) and to pay the required annual fee. Under California Labor Code section 1771.1, as amended by SB 854, unless registered with the DIR, a contractor may not bid, nor be listed as a subcontractor, for any bid proposal submitted for public works projects on or after March 1, 2015. The Contractor will be required to submit certified payrolls during the course of this project. This project is subject to compliance enforcement and monitoring by the State of California DIR.

6. The City will pay the Contractor in current funds for the performance of the Contract on the basis of the accepted unit prices and the actual measured quantities of work done at such time as are stated in the Specifications, and will otherwise fulfill its obligations thereunder.

7. All time limits stated in the Contract Documents are of the essence of this Agreement.

8. The statement of prevailing wages appearing in the Equipment Rental Rates and General Prevailing Wage Rates is hereby specifically referred to and by this reference is made a part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of said terms of said proposal conflicting herewith.

9. By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

10. If any action shall be brought by the City for the enforcement of any of the conditions, covenants or agreements herein the prevailing party shall recover reasonable attorney's fees.

11. The Contractor hereby agrees to defend, indemnify, and save harmless City, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, injury, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, City, its Council, boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of Contractor, its officers, employees or agents in the performance of any service or work pursuant to this Contract.

    The duty of Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided,

however, that nothing herein contained shall be construed to require Contractor to indemnify City, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

It shall be required 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 the Agreement; or (2) the broader coverage and maximum limits of coverage of any Insurance policy or proceeds available to the named Insured; whichever is greater.

Approval of the insurance contracts does not relieve the Contractor or subcontractors from liability under this paragraph, including but not limited to the duty to indemnify City set forth herein. By execution of this Contract Contractor acknowledges and agrees that it has read and understands the provisions hereof and that this paragraph is a material element of consideration.

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

CITY OF NEWARK
a Municipal Corporation

By_____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

FOR THE CONTRACTOR:

_____

_____

By_____

STAFF REPORT

Item D. 5.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Ed Miranda, Information Technology Director/CIO
SUBJECT	Adopt a resolution authorizing the City Manager to issue a purchase order and execute related documents with Environmental Systems Research Institute (Esri), Inc., for software and support in an amount not to exceed $89,400 and authorizing a budget amendment to the 2022-2024 biennial budget and capital improvement plan for fiscal year 2023

SUMMARY AND RECOMMENDATION

The City recognizes Geographic Information Systems (GIS) as a powerful tool to visually display data that will enhance strategies and transparency in implementing service to the community, and requires purchasing licenses, software, and training to implement an effective GIS program. Staff recommends that the City Council, by resolution, authorize the City Manager to issue a purchase order and execute related documents with Environmental Systems Research Institute (Esri), Inc., for software and support in an amount not to exceed $89,400 and authorize a budget amendment to the 2022-2024 biennial budget and capital improvement plan for fiscal year 2023.

BACKGROUND

The City of Newark's Information Technology Department supports Geographic Information Systems (GIS) to design, develop, and maintain citywide geographic and tabular data sets. The use of GIS technology offers the City powerful information tools to spatially display a wide variety of information such as streets, parcels, addresses, parks and city facilities, land hazards/constraints, and aerial photos. This visual display of information provides intelligent maps and resources for staff to use in their daily work as well as for emergency service response.

The City last used Esri GIS software products in 2015 but ceased license renewals due to lack of resources to support GIS. In November 2020, City Council adopted an Information Technology Strategic Framework with an action to address a GIS strategy and Master Plan. In 2022, to support implementation of the framework, City Council approved the creation of an Information Technology Department and a Capital Improvement Plan project titled "Citywide Geographic Information Systems - Phase 2". The project was funded to provide for necessary hardware and software upgrades, specialized training for employees, expanded software licensing, and other data additions to the GIS to meet current needs.

The City of Newark has been leveraging the Southern Alameda County GIS Authority (SACGISA) Joint Powers Authority to access shared GIS services along with other member agencies. Those agencies have standardized the use of Esri GIS products to create applications and provide GIS tools and data that are used by departments citywide, including Police, to map incidents and to collect and analyze data. Due to the demand and need for GIS data, tools and services, the City's GIS architecture, licensing model and services are currently limited. Establishing Esri licensing and GIS professional services will help address the current and ever-growing GIS needs of public safety, engineering services, asset maintenance and other City functions.

DISCUSSION/ANALYSIS

Esri offers a Small Municipal and County Government Enterprise Agreement (SGEA), a three-year agreement in the amount of $89,400 that grants the City access to Esri software on an unlimited basis and maintenance on all software products. The SGEA also provides Esri user conference registration for three staff members and unlimited self-paced eLearning.

The advantage of an Esri SGEA is that the City will gain access to Esri's full suite of GIS products and hosted services for the entire City organization, rather than a limited number of named users. The SGEA will enable all departments to continue to apply GIS technology in technical and operational areas and to use the software products to develop new applications. This is essential for City departments such as Police, Public Works, Community Development, and Recreation who depend heavily on GIS technology to provide services to the community. The features offered through the SGEA would also directly benefit the City's Emergency Operations Center (EOC) by providing unlimited licenses so the GIS data can be stored in multiple locations to ensure that the EOC can continue to access GIS data in the event of a major disaster.

All of these resources require the correct architecture, licensing and services to be in place to provide critical GIS resources needed at a moment's notice. The SGEA will provide the flexibility to deploy software products on an unlimited basis when and where needed. To assist staff in setting up the correct GIS architecture, cloud storage procurement and other technical support is needed. Staff identified Pro-West & Associates as an organization that can fill this gap as they have over 30 years of experience working with Esri on similar projects. Staff believes purchasing a technical support package of 160 hours from Pro-West & Associates in the amount of $20,900 will be sufficient during the first year of implementation. A copy of the proposed agreement with Pro-West & Associates is attached for information.

The proposed resolution also includes a budget amendment to the 2022-2024 biennial budget and capital improvement plan for fiscal year 2023 to authorize an appropriation of $110,300.00 from Account 610.90.094.940, unappropriated Capital Improvement Plan fund balance, to Project No. 1331, Citywide Geographic Information Systems - Phase 2 (Account No. 610.90.094.940.1331).

FISCAL IMPACT

City Council approved $150,000 for the project titled "Citywide Geographic Information Systems - Phase 2" in Fiscal Year 2023 of the 2022-2024 Biennial Budget and Capital Improvement Plan. The total cost associated with the actions recommended in this staff report over a three-year period is $110,300, which leaves $39,700 remaining in the project budget for additional training, software, or other eligible GIS needs. The Fiscal Year 2023 first year cost is $30,900, and the second and third year costs are $39,700 each year.

REVIEW AND APPROVAL

Prepared by - Edwin J. Miranda, Information Technology Director
Reviewed by - Lenka Hovorka, Assistant City Manager
Reviewed by - Krysten Lee, Finance Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution GIS Agreements

Enterprise Agreement

CSA Pro-West

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE A SMALL MUNICIPAL AND COUNTY GOVERNMENT ENTERPRISE AGREEMENT (SGEA) WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE (ESRI), INC. AND TO EXECUTE A CONTRACTUAL SERVICES AGREEMENT WITH PRO-WEST ASSOCIATES TO PROVIDE GEOGRAPHIC INFORMATION SYSTEMS (GIS) LICENSING AND TECHNICAL SERVICES, AND AUTHORIZING A BUDGET AMENDMENT TO THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 2023

WHEREAS, the City Council adopted the Information Systems Division Strategic Framework on November 12, 2020; and

WHEREAS, an action item in the Strategic Framework includes a GIS Master Plan and Department centric GIS/Self-service software to provide the ability for departments to access and utilize web mapping or GIS applications to perform ad hoc inquiries and for customized citizen access; and

WHEREAS, staff identified Esri as the global leader in GIS software, location intelligence, and mapping with Esri; and

WHEREAS, Esri is the sole source provider of all U.S. domestic Small Municipal and County Government Enterprise Agreements that provides a number of uncapped quantities of ArcGIS software licenses and maintenance that apply to many operational and technical areas within the City of Newark; and

WHEREAS, Pro-West & Associates partners with Esri to assist with GIS assessments, implementation, deployment and technical services; and

WHEREAS, the City finds that the products, maintenance and benefits provided by the Esri Small Municipal and County Government Enterprise Agreement (SGEA) and the scope of services described in the Pro-West & Associates proposal are necessary to provide GIS solutions; and

WHEREAS, City Council approved funding the Capital Improvement Plan project titled “Citywide Geographic Information Systems - Phase 2” in the amount of $150,000 in the 2022-2024 Biennial Budget and Capital Improvement Plan; and

WHEREAS, the agreements with Esri and Pro-West & Associates will not exceed a total cost of $110,300.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby authorizes the City Manager to execute the Esri Small Municipal and County Government Enterprise Agreement and Contractual Services Agreement with Pro-West &

Associates, in forms approved by the City Attorney, to provide GIS licensing and technical services in an amount not to exceed $110,300.00.

BE IT FURTHER RESOLVED that the City Council does hereby authorize an appropriation of $110,300.00 from Account 610.90.094.940, unappropriated Capital Improvement Plan fund balance, to Project No. 1331, Citywide Geographic Information Systems - Phase 2 (Account No. 610.90.094.940.1331).

Quotation # Q-488901

Date: January 23, 2023

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

Customer # 151923 **Contract #**

City of Newark
Public Works Dept
37101 Newark Blvd
Newark, CA 94560-3727

ATTENTION: Edwin Miranda
PHONE: (505) 578-4893
EMAIL: ed.miranda@newark.gov

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 1/23/2023 To: 4/23/2023

Material	Qty	Term	Unit Price	Total
168178	1	Year 1	$10,000.00	$10,000.00
Populations of 25,001 to 50,000 Small Government Enterprise Agreement Annual Subscription				
168178	1	Year 2	$39,700.00	$39,700.00
Populations of 25,001 to 50,000 Small Government Enterprise Agreement Annual Subscription				
168178	1	Year 3	$39,700.00	$39,700.00
Populations of 25,001 to 50,000 Small Government Enterprise Agreement Annual Subscription				

Subtotal:	$89,400.00
Sales Tax:	$0.00
Estimated Shipping and Handling (2 Day Delivery):	$0.00
Contract Price Adjust:	$0.00
Total:	$89,400.00

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:	Email:	Phone:
Jesse Gonzalez	jesse_gonzalez@esri.com	(909) 793-2853 x1106

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.

GONZALEZJ **This offer is limited to the terms and conditions incorporated and attached herein.**

Quotation # Q-488901

Date: January 23, 2023

Environmental Systems Research Institute, Inc.
380 New York St
Redlands, CA 92373-8100
Phone: (909) 793-2853
DUNS Number: 06-313-4175 CAGE Code: 0AMS3

Customer # 151923 Contract #

City of Newark
Public Works Dept
37101 Newark Blvd
Newark, CA 94560-3727

ATTENTION: Edwin Miranda
PHONE: (505) 578-4893
EMAIL: ed.miranda@newark.gov

To expedite your order, please attach a copy of this quotation to your purchase order.
Quote is valid from: 1/23/2023 To: 4/23/2023

If you have made ANY alterations to the line items included in this quote and have chosen to sign the quote to indicate your acceptance, you must fax Esri the signed quote in its entirety in order for the quote to be accepted. You will be contacted by your Customer Service Representative if additional information is required to complete your request.

If your organization is a US Federal, state, or local government agency; an educational facility; or a company that will not pay an invoice without having issued a formal purchase order, a signed quotation will not be accepted unless it is accompanied by your purchase order.

In order to expedite processing, please reference the quotation number and any/all applicable Esri contract number(s) (e.g. MPA, ELA, SmartBuy, GSA, BPA) on your ordering document.

BY SIGNING BELOW, YOU CONFIRM THAT YOU ARE AUTHORIZED TO OBLIGATE FUNDS FOR YOUR ORGANIZATION, AND YOU ARE AUTHORIZING ESRI TO ISSUE AN INVOICE FOR THE ITEMS INCLUDED IN THE ABOVE QUOTE IN THE AMOUNT OF $_____, PLUS SALES TAXES IF APPLICABLE. DO NOT USE THIS FORM IF YOUR ORGANIZATION WILL NOT HONOR AND PAY ESRI'S INVOICE WITHOUT ADDITIONAL AUTHORIZING PAPERWORK.

Please check one of the following:

___ I agree to pay any applicable sales tax.

___ I am tax exempt, please contact me if exempt information is not currently on file with Esri.

_____ _____
Signature of Authorized Representative **Date**

_____
Name (Please Print)

_____
Title

The quotation information is proprietary and may not be copied or released other than for the express purpose of system selection and purchase/license. This information may not be given to outside parties or used for any other purpose without consent from Environmental Systems Research Institute, Inc. (Esri).

Any estimated sales and/or use tax reflected on this quote has been calculated as of the date of this quotation and is merely provided as a convenience for your organization's budgetary purposes. Esri reserves the right to adjust and collect sales and/or use tax at the actual date of invoicing. If your organization is tax exempt or pays state tax directly, then prior to invoicing, your organization must provide Esri with a copy of a current tax exemption certificate issued by your state's taxing authority for the given jurisdiction.

Esri may charge a fee to cover expenses related to any customer requirement to use a proprietary vendor management, procurement, or invoice program.

For questions contact:	**Email:**	**Phone:**
Jesse Gonzalez	jesse_gonzalez@esri.com	(909) 793-2853 x1106

The items on this quotation are subject to and governed by the terms of this quotation, the most current product specific scope of use document found at https://assets.esri.com/content/dam/esrisites/media/legal/product-specific-terms-of-use/e300.pdf, and your applicable signed agreement with Esri. If no such agreement covers any item quoted, then Esri's standard terms and conditions found at https://go.esri.com/MAPS apply to your purchase of that item. If any item is quoted with a multi-year payment schedule, then unless otherwise stated in this quotation, Customer is required to make all payments without right of cancellation. Third-party data sets included in a quotation as separately licensed items will only be provided and invoiced if Esri is able to provide such data and will be subject to the applicable third-party's terms and conditions. If Esri is unable to provide any such data set, Customer will not be responsible for any further payments for the data set. US Federal government entities and US government prime contractors authorized under FAR 51.1 may purchase under the terms of Esri's GSA Federal Supply Schedule. Supplemental terms and conditions found at https://www.esri.com/en-us/legal/terms/state-supplemental apply to some US state and local government purchases. All terms of this quotation will be incorporated into and become part of any additional agreement regarding Esri's offerings. Acceptance of this quotation is limited to the terms of this quotation. Esri objects to and expressly rejects any different or additional terms contained in any purchase order, offer, or confirmation sent to or to be sent by buyer. Unless prohibited by law, the quotation information is confidential and may not be copied or released other than for the express purpose of system selection and purchase/license. The information may not be given to outside parties or used for any other purpose without consent from Esri. Delivery is FOB Origin for customers located in the USA.

GONZALEZJ **This offer is limited to the terms and conditions incorporated and attached herein.**

Esri Use Only:
Cust. Name _____
Cust. # _____
PO # _____
Esri Agreement # _____

SMALL ENTERPRISE AGREEMENT
COUNTY AND MUNICIPALITY GOVERNMENT
(E214-2)

This Agreement is by and between the organization identified in the Quotation (**"Customer"**) and **Environmental Systems Research Institute, Inc.** (**"Esri"**).

This Agreement sets forth the terms for Customer's use of Products and incorporates by reference (i) the Quotation and (ii) the Master Agreement. Should there be any conflict between the terms and conditions of the documents that comprise this Agreement, the order of precedence for the documents shall be as follows: (i) the Quotation, (ii) this Agreement, and (iii) the Master Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state in which Customer is located without reference to conflict of laws principles, and the United States of America federal law shall govern in matters of intellectual property. The modifications and additional rights granted in this Agreement apply only to the Products listed in Table A.

Table A
List of Products

Uncapped Quantities

Desktop Software and Extensions (Single Use)
ArcGIS Desktop Advanced
ArcGIS Desktop Standard
ArcGIS Desktop Basic
ArcGIS Desktop Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Publisher, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager, ArcGIS Data Reviewer

Enterprise Software and Extensions
ArcGIS Enterprise (Advanced and Standard)
ArcGIS Monitor
ArcGIS Enterprise Extensions: ArcGIS 3D Analyst, ArcGIS Spatial Analyst, ArcGIS Geostatistical Analyst, ArcGIS Network Analyst, ArcGIS Schematics, ArcGIS Workflow Manager, ArcGIS Data Reviewer

Enterprise Additional Capability Servers
ArcGIS Image Server

Developer Tools
ArcGIS Runtime Standard
ArcGIS Runtime Analysis Extension

Limited Quantities
One (1) Professional subscription to ArcGIS Developer
Two (2) ArcGIS CityEngine Single Use Licenses
100 ArcGIS Online Viewers
100 ArcGIS Online Creators
17,500 ArcGIS Online Service Credits
100 ArcGIS Enterprise Creators
3 ArcGIS Insights in ArcGIS Enterprise
3 ArcGIS Insights in ArcGIS Online
10 ArcGIS Location Sharing for ArcGIS Enterprise
10 ArcGIS Location Sharing for ArcGIS Online
3 ArcGIS Parcel Fabric User Type Extensions (Enterprise)
3 ArcGIS Utility Network User Type Extensions (Enterprise)
3 ArcGIS Trace Network User Type Extensions (Enterprise)

OTHER BENEFITS

Number of Esri User Conference registrations provided annually	**3**
Number of Tier 1 Help Desk individuals authorized to call Esri	**3**
Maximum number of sets of backup media, if requested*	**2**
Five percent (5%) discount on all individual commercially available instructor-led training classes at Esri facilities purchased outside this Agreement	

*Additional sets of backup media may be purchased for a fee

Customer may accept this Agreement by signing and returning the whole Agreement with (i) the Quotation attached, (ii) a purchase order, or (iii) another document that matches the Quotation and references this Agreement ("**Ordering Document**"). **ADDITIONAL OR CONFLICTING TERMS IN CUSTOMER'S PURCHASE ORDER OR OTHER DOCUMENT WILL NOT APPLY, AND THE TERMS OF THIS AGREEMENT WILL GOVERN.** This Agreement is effective as of the date of Esri's receipt of an Ordering Document, unless otherwise agreed to by the parties ("**Effective Date**").

Term of Agreement: Three (3) years

This Agreement supersedes any previous agreements, proposals, presentations, understandings, and arrangements between the parties relating to the licensing of the Products. Except as provided in Article 4—Product Updates, no modifications can be made to this Agreement.

Accepted and Agreed:

_____
(Customer)

By: _____
Authorized Signature

Printed Name: _____

Title: _____

Date: _____

CUSTOMER CONTACT INFORMATION

Contact: _____

Address: _____

City, State, Postal Code: _____

Country: _____

Quotation Number (if applicable): _____

Telephone: _____

Fax: _____

E-mail: _____

1.0—Additional Definitions

In addition to the definitions provided in the Master Agreement, the following definitions apply to this Agreement:

"Case" means a failure of the Software or Online Services to operate according to the Documentation where such failure substantially impacts operational or functional performance.

"Deploy", "Deployed" and "Deployment" mean to redistribute and install the Products and related Authorization Codes within Customer's organization(s).

"Fee" means the fee set forth in the Quotation.

"Maintenance" means Tier 2 Support, Product updates, and Product patches provided to Customer during the Term of Agreement.

"Master Agreement" means the applicable master agreement for Esri Products incorporated by this reference that is (i) found at https://www.esri.com/en-us/legal/terms/full-master-agreement and available in the installation process requiring acceptance by electronic acknowledgment or (ii) a signed Esri master agreement or license agreement that supersedes such electronically acknowledged master agreement.

"Product(s)" means the products identified in Table A—List of Products and any updates to the list Esri provides in writing.

"Quotation" means the offer letter and quotation provided separately to Customer.

"Technical Support" means the technical assistance for attempting resolution of a reported Case through error correction, patches, hot fixes, workarounds, replacement deliveries, or any other type of Product corrections or modifications.

"Tier 1 Help Desk" means Customer's point of contact(s) to provide all Tier 1 Support within Customer's organization(s).

"Tier 1 Support" means the Technical Support provided by the Tier 1 Help Desk.

"Tier 2 Support" means the Esri Technical Support provided to the Tier 1 Help Desk when a Case cannot be resolved through Tier 1 Support.

2.0—Additional Grant of License

2.1 Grant of License. Subject to the terms and conditions of this Agreement, Esri grants to Customer a personal, nonexclusive, nontransferable license solely to use, copy, and Deploy quantities of the Products listed in Table A—List of Products for the Term of Agreement (i) for the applicable Fee and (ii) in accordance with the Master Agreement.

2.2 Consultant Access. Esri grants Customer the right to permit Customer's consultants or contractors to use the Products exclusively for Customer's benefit. Customer will be solely responsible for compliance by consultants and contractors with this Agreement and will ensure that the consultant or contractor discontinues use of Products upon completion of work for Customer. Access to or use of Products by consultants or contractors not exclusively for Customer's benefit is prohibited. Customer may not permit its consultants or contractors to install Software or Data on consultant, contractor, or third-party computers or remove Software or Data from Customer locations, except for the purpose of hosting the Software or Data on Contractor servers for the benefit of Customer.

3.0—Term, Termination, and Expiration

3.1 Term. This Agreement and all licenses hereunder will commence on the Effective Date and continue for the duration identified in the Term of Agreement, unless this Agreement is terminated earlier as provided herein. Customer is only authorized to use Products during the Term of Agreement. For an Agreement with a limited term, Esri does not grant Customer an indefinite or a perpetual license to Products.

3.2 No Use upon Agreement Expiration or Termination. All Product licenses, all Maintenance, and Esri User Conference registrations terminate upon expiration or termination of this Agreement.

3.3 Termination for a Material Breach. Either party may terminate this Agreement for a material breach by the other party. The breaching party will have thirty (30) days from the date of written notice to cure any material breach.

3.4 Termination for Lack of Funds. For an Agreement with government or government-

owned entities, either party may terminate this Agreement before any subsequent year if Customer is unable to secure funding through the legislative or governing body's approval process.

3.5 Follow-on Term. If the parties enter into another agreement substantially similar to this Agreement for an additional term, the effective date of the follow-on agreement will be the day after the expiration date of this Agreement.

4.0—Product Updates

4.1 Future Updates. Esri reserves the right to update the list of Products in Table A—List of Products by providing written notice to Customer. Customer may continue to use all Products that have been Deployed, but support and upgrades for deleted items may not be available. As new Products are incorporated into the standard program, they will be offered to Customer via written notice for incorporation into the Products schedule at no additional charge. Customer's use of new or updated Products requires Customer to adhere to applicable additional or revised terms and conditions in the Master Agreement.

4.2 Product Life Cycle. During the Term of Agreement, some Products may be retired or may no longer be available to Deploy in the identified quantities. Maintenance will be subject to the individual Product Life Cycle Support Status and Product Life Cycle Support Policy, which can be found at https://support.esri.com/en/other-resources/product-life-cycle. Updates for Products in the mature and retired phases may not be available. Customer may continue to use Products already Deployed, but Customer will not be able to Deploy retired Products.

5.0—Maintenance

The Fee includes standard maintenance benefits during the Term of Agreement as specified in the most current applicable Esri Maintenance and Support Program document (found at https://www.esri.com/en-us/legal/terms/maintenance). At Esri's sole discretion, Esri may make patches, hot fixes, or updates available for download. No Software other than the defined Products will receive Maintenance. Customer may acquire maintenance for other Software outside this Agreement.

a. Tier 1 Support

1. Customer will provide Tier 1 Support through the Tier 1 Help Desk to all Customer's authorized users.

2. The Tier 1 Help Desk will be fully trained in the Products.

3. At a minimum, Tier 1 Support will include those activities that assist the user in resolving how-to and operational questions as well as questions on installation and troubleshooting procedures.

4. The Tier 1 Help Desk will be the initial point of contact for all questions and reporting of a Case. The Tier 1 Help Desk will obtain a full description of each reported Case and the system configuration from the user. This may include obtaining any customizations, code samples, or data involved in the Case.

5. If the Tier 1 Help Desk cannot resolve the Case, an authorized Tier 1 Help Desk individual may contact Tier 2 Support. The Tier 1 Help Desk will provide support in such a way as to minimize repeat calls and make solutions to problems available to Customer’s organization.

6. Tier 1 Help Desk individuals are the only individuals authorized to contact Tier 2 Support. Customer may change the Tier 1 Help Desk individuals by written notice to Esri.

b. Tier 2 Support

1. Tier 2 Support will log the calls received from Tier 1 Help Desk.

2. Tier 2 Support will review all information collected by and received from the Tier 1 Help Desk including preliminary documented troubleshooting provided by the Tier 1 Help Desk when Tier 2 Support is required.

3. Tier 2 Support may request that Tier 1 Help Desk individuals provide verification of information, additional information, or answers to additional questions to

supplement any preliminary information gathering or troubleshooting performed by Tier 1 Help Desk.

4. Tier 2 Support will attempt to resolve the Case submitted by Tier 1 Help Desk.

5. When the Case is resolved, Tier 2 Support will communicate the information to Tier 1 Help Desk, and Tier 1 Help Desk will disseminate the resolution to the user(s).

6.0—Endorsement and Publicity

This Agreement will not be construed or interpreted as an exclusive dealings agreement or Customer's endorsement of Products. Either party may publicize the existence of this Agreement.

7.0—Administrative Requirements

7.1 OEM Licenses. Under Esri's OEM or Solution OEM programs, OEM partners are authorized to embed or bundle portions of Esri products and services with their application or service. OEM partners' business model, licensing terms and conditions, and pricing are independent of this Agreement. Customer will not seek any discount from the OEM partner or Esri based on the availability of Products under this Agreement. Customer will not decouple Esri products or services from the OEM partners' application or service.

7.2 Annual Report of Deployments. At each anniversary date and ninety (90) calendar days prior to the expiration of this Agreement, Customer will provide Esri with a written report detailing all Deployments. Upon request, Customer will provide records sufficient to verify the accuracy of the annual report.

8.0—Ordering, Administrative Procedures, Delivery, and Deployment

8.1 Orders, Delivery, and Deployment

a. Upon the Effective Date, Esri will invoice Customer and provide Authorization Codes to activate the nondestructive copy protection program that enables Customer to download, operate, or allow access to the Products. If this is a multi-year Agreement, Esri may invoice the Fee up to thirty (30) calendar days before the annual anniversary date for each year.

b. Undisputed invoices will be due and payable within thirty (30) calendar days from the date of invoice. Esri reserves the right to suspend Customer's access to and use of Products if Customer fails to pay any undisputed amount owed on or before its due date. Esri may charge Customer interest at a monthly rate equal to the lesser of one percent (1.0%) per month or the maximum rate permitted by applicable law on any overdue fees plus all expenses of collection for any overdue balance that remains unpaid ten (10) days after Esri has notified Customer of the past-due balance.

c. Esri's federal ID number is 95-2775-732.

d. If requested, Esri will ship backup media to the ship-to address identified on the Ordering Document, FOB Destination, with shipping charges prepaid. Customer acknowledges that should sales or use taxes become due as a result of any shipments of tangible media, Esri has a right to invoice and Customer will pay any such sales or use tax associated with the receipt of tangible media.

8.2 Order Requirements. Esri does not require Customer to issue a purchase order. Customer may submit a purchase order in accordance with its own process requirements, provided that if Customer issues a purchase order, Customer will submit its initial purchase order on the Effective Date. If this is a multi-year Agreement, Customer will submit subsequent purchase orders to Esri at least thirty (30) calendar days before the annual anniversary date for each year.

a. All orders pertaining to this Agreement will be processed through Customer's centralized point of contact.

b. The following information will be included in each Ordering Document:

(1) Customer name; Esri customer number, if known; and bill-to and ship-to addresses
(2) Order number
(3) Applicable annual payment due

9.0—Mergers, Acquisitions, or Divestitures

If Customer is a commercial entity, Customer will notify Esri in writing in the event of (i) a consolidation, merger, or reorganization of Customer with or into another corporation or entity; (ii) Customer's acquisition of another entity; or (iii) a transfer or sale of all or part of Customer's organization (subsections i, ii, and iii, collectively referred to as "**Ownership Change**"). There will be no decrease in Fee as a result of any Ownership Change.

9.1 If an Ownership Change increases the cumulative program count beyond the maximum level for this Agreement, Esri reserves the right to increase the Fee or terminate this Agreement and the parties will negotiate a new agreement.

9.2 If an Ownership Change results in transfer or sale of a portion of Customer's organization, that portion of Customer's organization will transfer the Products to Customer or uninstall, remove, and destroy all copies of the Products.

9.3 This Agreement may not be assigned to a successor entity as a result of an Ownership Change unless approved by Esri in writing in advance. If the assignment to the new entity is not approved, Customer will require any successor entity to uninstall, remove, and destroy the Products. This Agreement will terminate upon such Ownership Change.

CONTRACTUAL SERVICES AGREEMENT

CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this ___ day of March, 2023 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and Pro-West & Associates, ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including: Professional Services to support the City of Newark, CA for Geographic Information Systems (GIS) infrastructure & software, system integration, geodatabase, solution configuration, assessment, desktop GIS, custom development, GIS data development, and GIS data conversion on an as-needed basis.

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 $20,900.00 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. RESERVED.

13. RESERVED.

14. INSURANCE. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. Verification of Coverage.

Consultant shall furnish City with original certificates of insurance and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences.

Proof of Insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City Risk Manager:

CITY OF NEWARK
Attn: Risk Manager
37101 Newark Boulevard
Newark, CA 94560

City reserves the right to require and obtain complete, certified copies of all required insurance policies and endorsements at any time. Failure to exercise this right at any time shall not constitute a waiver of right to exercise later. Consultant shall immediately furnish City with certificates of renewal for each policy that is renewed during the term of this Agreement.

B. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and

2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and

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. <u>INDEMNIFICATION/SAVE HARMLESS</u>. 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 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:

		CITY OF NEWARK
Kendis Scharanbroich, kscharen@prowestgis.com		Ed Miranda, ed.miranda@newark.org
Consultant		**Administrator**
Address:	8239 State 371 NW PO Box 812 Walker, MN 56484	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

CITY OF NEWARK, a municipal corporation

By: _____
Lenka Hovorka
Title: Assistant City Manager
Date: _____

CONSULTANT

By: _____
Karen Scharenbroich
Title: CEO, President
Date: _____

ATTEST:

_____
By: Sheila Harrington
Title: City Clerk
Date: _____

APPROVED AS TO FORM:

_____
By: Kristopher Kokotaylo
Title: City Attorney

EXHIBIT A

SCOPE OF SERVICES

This Scope of Services, Exhibit "A," is hereby incorporated by reference into the Agreement, under Agreement Paragraph 1.

PWA will provide the following services on an as-needed basis and limited to the 160 hours in the technical support package. This is not an all-inclusive list and additional services may be requested as needed by the city.

1. Infrastructure & Software
    a. Hardware/Software analysis
    b. Esri software upgrades
    c. Service packs/patches
    d. System design and best practices
    e. Esri Enterprise deployment support
        i. ArcGIS Server
        ii. GeoEvent
        iii. Portal
        iv. Pro
        v. Data Store
        vi. Web Adaptor
    f. Troubleshooting
    g. Training

2. System Integration
    a. Third party system Integration with GIS solutions and/or databases
        i. Including Tax Databases
    b. Strategic planning
    c. Third party system assessment
    d. Training
    e. Troubleshooting

3. Geodatabase
    a. Management best practices
    b. Data management, including fabric support
    c. SQL management
    d. Training
    e. Troubleshooting

4. Solution Configuration
    a. Departmental and interdepartmental workflow assessment and design
    b. Solution configuration using Esri out-of-the-box solution templates
    c. Open Data
    d. Story maps

e. Training
f. Troubleshooting
g. Best practices

5. Assessment
    a. Needs assessments
    b. Implementation plans
    c. Strategic direction and planning

6. Desktop GIS
    a. Training
    b. Troubleshooting
    c. Custom tools

7. Custom development
    a. Automation tasks
    b. Application development
        i. Widget development

8. GIS Data Development
    a. Any ongoing data maintenance required throughout the city (a few examples below)
        i. Address or road updates
        ii. Zoning data
        iii. Parcel updates
        iv. Landuse data
        v. Streetlight data

9. GIS Data Conversion
    a. Data conversion from other systems to Esri supported features (such as CAD or MicroStation)

EXHIBIT B

COMPENSATION

This compensation schedule, Exhibit "B," is hereby incorporated by reference into the Agreement, under Agreement Paragraph 3.

For all services identified in Exhibit "A", Scope of Services, the City agrees to pay, and Consultant agrees to accept as total compensation the following:

Technical Support Package – 160 hours: $20,900

Total support package cost will be invoiced at time of contract signing.

** Payment is due within 45 days of an invoice date. If payments are not received within 45 days of the invoice date, a late fee of 1.5% of the invoice amount will be charged for each 45-day cycle that the payment is late.*

*** 3% convenience fee will be added for payment by credit card*

EXHIBIT C

QUALIFICATIONS

These Consultant Qualifications, Exhibit "C," are incorporated by reference into the Agreement, under Agreement Paragraph 6.

Pro-West makes its customers successful with location technology. Pro-West has been serving federal, state and local government, and private industry, with geographic information systems (GIS) consulting, data services, and application development for over 30 years.

Pro-West's team is made up of certified Geographic Information System Professionals (GISPs), Esri-certified technical and programming staff, and Project Management Professionals (PMPs).

Pro-West has been an Esri Business Partner for as long as the Esri Business Partner program has existed – over 30 years. The value Pro-West brings to clients using Esri technology has been recognized with Esri specialty designations and 6 partner awards. Customer success is regularly recognized with Esri Special Achievement in GIS (SAG) Awards.

Pro-West is certified in the following categories:

- Small Business
- Historically Underutilized Business Zone (HUBZone) small business
- Women-Owned Small Business (WOSB)
- Economically Disadvantaged Small Business

Services Provided

- GIS Services Packages
- Esri GIS Solution Configuration
- Enterprise GIS Implementation
- Geospatial Data Services
- Parcel Fabric Implementation
- Application Development
- GIS System Integration
- Parcel Fabric
- End-to-End GIS Packages
- GIS Training

STAFF REPORT

Item D. 6.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Sheila Harrington, City Clerk
SUBJECT	Resolution approving the reappointment of Senior Advisory Committee Members

The Senior Citizen Standing Advisory Committee researches senior issues within the City of Newark and identifies those needs which require assistance. The Committee makes recommendations to the City Council and provides information which they feel is pertinent to the well-being of Newark's senior citizens.

The appointed terms of Committee Members Kathleen Lemos, Eileen McDonald, and Glen Wickizer expire on April 14, 2023. They have each requested a two-year reappointment.

Mayor Hannon has approved the re-appointments for terms expiring April 2025, which should be confirmed by the City Council via resolution.

Attachments

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING THE REAPPOINTMENTS OF KATHLEEN LEMOS, EILEEN MCDONALD, AND GLEN WICKIZER TO THE SENIOR CITIZEN STANDING ADVISORY COMMITTEE

WHEREAS, the appointments of Kathleen Lemos, Eileen McDonald, and Glen Wickizer to the Senior Citizen Standing Advisory Committee will expire on April 14, 2023; and

WHEREAS, the Mayor of the City of Newark has reappointed Kathleen Lemos, Eileen McDonald, and Glen Wickizer to the Senior Citizen Standing Advisory Committee for terms expiring April 14, 2025;

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

STAFF REPORT

Item D. 7.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Kamini Kumar, Administrative Analyst
SUBJECT	Adopt a resolution authorizing the acceptance of the Officer Wellness and Mental Health Grant through the State of California Office of State and Community Corrections and amend the 2022-2024 Biennial Budget and Capital Improvement Plan to appropriate $34,402.05 to the California Board of State and Community Corrections Fund

SUMMARY AND RECOMMENDATION

The Newark Police Department has been selected to receive an Officer Wellness and Mental Health Grant, in the amount of $34,402.05. The City of Newark Police Department is committed to improving employee wellness through programs intended to improve physical and mental health and fitness.

Staff recommends that the City Council, by resolution, authorize the city to accept the 2022-2023 Officer Wellness and Mental Health Grant through the California Board and Community Corrections (BSCC) and amend the 2022-2024 Biennial Budget and Capital Improvement Plan as follows:

Increase Revenue: 234.30.030.300.4792

Increase Appropriation: 234.30.030.300.6221.BSCC.AB178

BACKGROUND

The Police Department developed a wellness program aimed to reduce employee injury and mitigate the stressors that are unique to law enforcement. The Department's wellness program currently includes peer support, critical incident stress management, a chaplain, ergonomic desk options, a sleep room, a lactation room, and an on-duty workout program.

The Officer Wellness and Mental Health Grant, established in the State's 2022 Budget Act (Assembly Bill 178, Chapter 45, Statutes of 2022), provides $50 million for city and county law enforcement agencies for the purpose of improving officer wellness and expanding mental health sources. All eligible law enforcement agencies received a portion of the funds based on the number of eligible officers as described in Penal Code section 830.1.

The City of Newark's allocation is $34,402.05.

DISCUSSION/ANALYSIS

Staff recommends that the City Council, by resolution, authorize the city to accept the 2022-23 Officer Wellness and Mental Health Grant to purchase wellness services that will further improve employee physical and mental health and fitness, aid in employee retention, and assist in recruitment.

According to the Office of Community Oriented Policing Services, “Policing is a difficult and stressful job, with higher physical and mental health risks than many other professions. Studies have shown that when officers’ physical and mental health issues go unaddressed, job performance decreases, decision-making abilities are impaired, and agency costs increase.” The Department recognizes these challenges and wishes to increase and enhance our current wellness program to further provide for the mental and physical wellness of staff.

The Officer Wellness and Mental Health Grant requires that the funding, in the amount of $34,402.05, will be used for any of the following purposes:

- Establishing or expanding officer wellness units
- Establishing or expanding peer support units
- Services provided by a licensed mental health professional, counselor or other professional that works with law enforcement.
- Expanding multi agency mutual aid programs focused on officer wellness and mental health.
- Other programs and services that are evidence-based or have a successful track record of enhancing officer wellness.

The Department already has an established wellness program and intends to expand the existing program offerings. The Department has a Peer Support Team comprised of employees nominated by their peers based on their integrity and ability to listen to others. They receive specialized training in critical incident stress management and work with a licensed mental health professional to help employees mitigate and process the stresses experienced during critical incidents.

The Department has researched several options to expand the employee wellness program, as well as expand the scope of services provided by the mental health professional staff that works with the Department to educate and support employee mental wellness.

Per the Officer Wellness and Mental Health Grant Program Reporting Guide, the Department will submit an annual expenditure reports to Board of State and Community Corrections (BSCC) through an online reporting portal by December 1, 2023, and December 1, 2024. A final impact and expenditure report describing how funding was used and the impact of the resources will be submitted to the BSCC by December 1, 2025.

FISCAL IMPACT

Staff recommends amending the 2022-2024 Biennial Budget and Capital Improvement Plan to reflect the increased revenue and appropriations as follows:
Increase Revenue: 234.30.030.300.4792
Increase Appropriation: 234.30.030.300.6221.BSCC.AB178

REVIEW AND APPROVAL

Prepared by - Kamini Kumar, Administrative Analyst
Reviewed by - Gina Anderson, Police Chief
Reviewed by - Krysten Lee, Finance Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Grant Resolution
Grant Program

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY TO ACCEPT THE 2023-2024 OFFICER WELLNESS AND MENTAL HEALTH GRANT THROUGH THE STATE OF CALIFORNIA OFFICE OF STATE AND COMMUNITY CORRECTIONS AND AMEND THE 2022-2024 BIENNIAL BUDGET.

WHEREAS, the Newark Police Department has been selected to receive the Officer Wellness and Mental Health Grant to further improve employee physical and mental health and fitness, aid in employee retention, and assist in recruitment; and

WHEREAS, funding in the amount of $34,402.05 has been allocated to the Newark Police Department aiming to reduce employee injury and mitigate stressors that are unique to law enforcement; and

WHEREAS, the Newark Police Department will submit information related to the Officer Wellness grant annually and will be required to submit an annual expenditure report no later than December 1, 2023, and December 1, 2024; and

WHEREAS, the Newark Police Department will submit a final impact and expenditure report describing how funding was used and the impact of the resources by December 1, 2025. The expenditure portion of the final report will be an Excel file that will be attached to the Final Impact Report form. Excel files will be customized for each grantee and emailed to each agency individually; and

WHEREAS, the Officer Wellness and Mental Health Grant Program, established in the 2022 Budget Act (Assembly Bill 178, Chapter 45, Statutes of 2022), provides $50 million for city and county law enforcement agencies for the purpose of improving officer wellness and expanding mental health sources. The funding may be used for any of the following purposes:

- Establishing or expanding officer wellness units
- Establishing or expanding peer support units
- Services provided by a licensed mental health professional, counselor or other professional that works with law enforcement.
- Expanding multiagency mutual aid programs focused on officer wellness and mental health.
- Other programs and services that are evidence-based or have a successful track record of enhancing officer wellness; and

WHEREAS, the 2022-2023 Officer Wellness and Mental Health Grant to purchase wellness services will further improve employee physical and mental health and fitness, aid in employee retention, and assist in recruitment.

Mlr1

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark authorizes the City to accept the 2022-2023 officer wellness and mental health grant through the California Board and Community Corrections (BSCC).

BE IT FURTHER RESOLVED that the City Council of the City of Newark approves an amendment to the 2022-2024 Biennial Budget and Capital Improvement Program as follows:

Increase Revenue: 234.30.030.300.4792
Increase Appropriation: 234.30.030.300.6221.BSCC.AB178

Mlr1

Officer Wellness and Mental Health Grant Program

Overview

The Officer Wellness and Mental Health Grant Program, established in the 2022 Budget Act (Assembly Bill 178, Chapter 45, Statutes of 2022), provides $50 million for city and county law enforcement agencies for the purpose of improving officer wellness and expanding mental health sources. The funding may be used for any of the following purposes:

- Establishing or expanding officer wellness units
- Establishing or expanding peer support units
- Services provided by a licensed mental health professional, counselor or other professional that works with law enforcement
- Expanding multiagency mutual aid programs focused on officer wellness and mental health
- Other programs and services that are evidence-based or have a successful track record of enhancing officer wellness

Frequently Asked Questions

Answers to frequently asked questions (FAQs) are available to assist grant recipients. FAQs – updated 02/14/23

Funding Allocations and Disbursement

The allocation of funds was determined by the number of peace officers described in Penal Code section 830.1. Funding allocation for each eligible agency can be found here.

A check for the full funding allocation will be sent to eligible law enforcement agencies.

The funding allocation and disbursement of grant funds was announced by BSCC Chair Linda Penner in a memo that was sent to all police chiefs and sheriffs. memo

Reporting Requirements

Recipients will submit information related to the Officer Wellness grant annually. A Data Reporting Guide has been created to assist with the reporting requirements.

A webinar to review reporting requirements will be held in Spring 2023. Additional information will be emailed out to grantees in the coming weeks.

Data Reporting Guide

Annual Report

- Recipients of the funds will submit a brief, annual expenditure report due **December 1, 2023** and **December 1, 2024**.
- Link to Annual Report form: https://app.smartsheet.com/b/form/b436ae94bd1145bc80415d1ee199ed8e

https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-W0863

- ***Making Officer Safety and Wellness Priority One*** – *A Guide to Educational Campaigns: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-P300*

- *U.S. Department of Justice, Community Oriented Policing Services (COPS) – Resource Center: https://cops.usdoj.gov/RIC/ric.php*
  - ***Law Enforcement Mental Health and Wellness Programs*** – *Eleven Case Studies: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-P371*
  - ***Law Enforcement Mental Health and Wellness Act*** – *Report to Congress: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-P370*
  - ***Promising Strategies for Strengthening Police Department Wellness Programs*** – *Findings and Recommendations from the Officer Safety and Wellness Technical Assistance Project: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-W0964*
  - ***Preparing for the Unimaginable*** – *How Chiefs Can Safeguard Officer Mental Health Before and After Mass Casualty Events: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-P347*
  - *Officer Safety and Wellness Group Meeting Summary:* ***Improving Law Enforcement Resilience*** – *Lessons and Recommendations: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-P362*
  - ***Wellness Provider Vetting Guide****: https://cops.usdoj.gov/RIC/ric.php?page=detail&id=COPS-W0963*

- *California Department of Corrections and Rehabilitation (CDCR) – Office of Employee Wellness: https://www.cdcr.ca.gov/wellness/*

- *Society for Human Resource Management (SHRM) –* ***How to Establish and Design a Wellness Program****: https://www.shrm.org/resourcesandtools/tools-and-samples/how-to-guides/pages/howtoestablishanddesignawellnessprogram.aspx*

Questions

If you have additional questions about BSCC's Officer Wellness and Mental Health Grant Program, please send them to OfficerWellnessGrant@bscc.ca.gov

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STAFF REPORT

Item D. 8.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Brian Simon, Lieutenant
SUBJECT	Adopt a resolution approving a ten year extension of the current Alameda County Vehicle Abatement Program agreement

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council, by resolution, authorize the extension of the current Alameda County Vehicle Abatement Program (ALCO AVA) agreement for 10 years until May 2033.

This agreement allows the City of Newark to collect reimbursement funds from the county for vehicle abatement activities conducted by the police department within the city limits.

BACKGROUND

In 1990, the California State Legislature enacted legislation allowing for the creation of county-based vehicle service authorities, pursuant to the provisions of Section 22710 of the California Vehicle Code. In 1993, the Alameda County Abandoned Vehicle Abatement Authority (ALCO AVA) was formed and imposed a one-dollar annual vehicle registration fee on vehicles registered to an owner with an address in the County of Alameda.

Vehicle registration fees are collected by the Department of Motor Vehicles and allocated to the ALCO AVA by the State Controller's Office pursuant to Section 9250.7 of the Vehicle Code. Fees are then allocated to the ALCO AVA participating agencies based on an adopted formula involving their individual percentage of vehicles abated, population, and land area in relation to the totals for these factors in the ALCO AVA as a whole. The current participating agencies are the County of Alameda and all Alameda County cities except Albany and Emeryville. Since the inception of the program almost 30 years ago, the ALCO AVA has received approximately $34.8 million, which has allowed staff in the participating agencies to abate approximately 465,000 abandoned vehicles.

The current program is set to expire at the end of May 2023. The legislation allows the local service authorities to extend the programs every 10 years with the approval of the County and the majority of the cities comprising the majority of the population of the incorporated areas.

DISCUSSION/ANALYSIS

The City of Newark has been a part of the ALCO AVA since 1993. The City extended participation in the Authority in 2013. Over the last 10 years, the City has received approximately $500,000 in reimbursement funds from the authority. The Newark Police Department has towed approximately 3,473 vehicles under the AVA. The funds received from the authority assist in funding the City's vehicle abatement officer position.

Abandoned vehicles continue to be a blight upon our community, constitute a public nuisance, reduce the value of private property, create a poor city image, pose a health and safety hazard, and allow valuable resources to go to waste. The Alameda County Abandoned Vehicle Abatement Program continues to benefit the populace of the City and the entire county.

FISCAL IMPACT

Funds received from the Alameda County Vehicle Abatement Authority will be used to offset the salary of the police department's vehicle abatement officer position. On average since 2012, the City of Newark has received approximately $46,000 per year from ALCO AVA.

REVIEW AND APPROVAL

Prepared by - Brian Simon, Police Lieutenant
Reviewed by - Gina Anderson, Police Chief
Reviewed by - Krysten Lee, Finance Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE EXTENSION OF THE ABANDONED VEHICLE ABATEMENT PROGRAM THROUGH MAY 2033

WHEREAS, the Alameda County Abandoned Vehicle Abatement Authority was formed in 1993; and

WHEREAS, since 1993, the Alameda County Abandoned Vehicle Abatement Authority and Program has provided approximately $34.8 million county-wide, which has supported the participating agencies in the abatement of approximately 465,000 abandoned vehicles in Alameda County; and

WHEREAS, on average since 2012, the City of Newark receives approximately $46,000 per year for approximately 3473 abated vehicles; and

WHEREAS, the Alameda County Abandoned Vehicle Abatement Program is set to expire on May 31, 2023; and

WHEREAS, legislation allows for an extension of the program with the approval of the County and a majority of the cities comprising a majority of the population of the incorporated areas; and

WHEREAS, it is beneficial to the City of Newark to have the program continue;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Council authorize the extension of the Alameda County Abandoned Vehicle Abatement Program through May 2033.

STAFF REPORT

Item D. 9.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Krysten Lee, Finance Director
SUBJECT	Mid-year Budget Review and Adopt a Resolution Amending the 2022-2022 Biennial Budget and Capital Improvement Plan for Fiscal Year 2023.

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council, by Resolution, amend the 2022-2024 Biennial Budget and Capital Improvement Plan for the Fiscal Year (FY) 2023 according to the recommended amendments for each fund presented as Exhibit A.

The total projected year-end General Fund revenues and transfers are $81.64 million, and projected expenditures and transfers are $81.56 million. For FY 2023, Staff estimates a modest General Fund year-end surplus of approximately $80 thousand after transfers. This year-end surplus is $1.10 million (107%) higher than the anticipated $1.02 million deficit in the Amended Budget and $366 thousand (125%) over the prior fiscal year.

Revenue Sources	FY 2022 Actual	FY 2023 Amended Budget	FY 2023 Projection
PROPERTY TAX	25.83	27.29	28.91
SALES TAX	15.71	14.47	16.51
MEASURE GG	7.97	5.96	7.29
TRANSIENT OCCUPANCY TAX	4.15	3.84	4.59
UTILITY USERS TAX	3.74	3.31	3.80
OTHER TAXES	2.31	2.05	2.14
LICENSES PERMITS & FEES	10.61	9.96	10.57
OTHER REVENUES	2.18	2.11	2.70
TOTAL REVENUES	$ 72.50	$ 68.99	$ 76.51
Expenditures by Category			
PERSONNEL	33.22	36.01	36.39
PENSION/OPEB ADP CONTRIBUTION	5.00	-	3.00
ACFD FIRE SERVICES	11.91	11.83	11.91
NON-PERSONNEL EXPENDITURES	13.66	18.34	18.67
TOTAL EXPENDITURES	$ 63.79	$ 66.18	$ 69.97
NET OPERATING RESULTS BEFORE TRANSFERS	**$ 8.71**	**$ 2.81**	**$ 6.54**
TRANSFERS IN [1]	6.25	2.13	5.13
TRANSFERS OUT [2]	16.50	5.96	11.59
NET OPERATING RESULTS AFTER TRANSFERS	**$ (1.54)**	**$ (1.02)**	**$ 0.08**

(1) Transfer In from Pension/OPEB Reserve of $3.0M for CEPPT 115 Trust (FY 2023).

(1) Transfer In from ARPA Fund $2.13M (FY 2023).

(2) Transfer Out Measure GG revenue earmarked for debt service & Civic Center expenditures. $7.29M + $4.30M = $11.59M (FY 2023)

Each year, as part of the mid-year budget review process, Staff reports on trends and actions subsequent to adopting the Biennial Budget and addresses any newly identified budget changes anticipated before the end of the fiscal year (June 30).

This report analyzes the unaudited financial status of the City's General Fund revenues and expenditures. In addition, it provides year-end projections based on actual data through the second quarter of FY 2023 and these projections are compared to the Amended Budget.

A summary of significant amendments to the General Fund operating budget for FY 2023 include:

1. Increase General Fund major revenue sources such as Property Tax, Sales Tax,

TOT, and UUT revenues to better align the budget with current projections and economic updates ($6.23M).
2. Increase appropriation for Information Technology Cybersecurity software subscriptions ($192K).
3. Increase appropriation for the purchase of Information Technology software and licenses ($32K).
4. Increase appropriation for Information Technology Cloud storage costs ($30K).
5. Increase appropriation for the additional annual cost of Microsoft 365 subscription ($121K).
6. Increase appropriation for additional training and travel costs for IT, Community Development, and Public Works staff ($57K).
7. Increase appropriation for additional consultant costs for Truck Route Study and Citywide Traffic Counts ($90K).
8. Increase appropriation for higher utility costs ($19K).
9. Add appropriation for purchasing additional computer equipment for new staff ($50K).
10. Add appropriation for the contract with Environmental Logistics for the removal of hazardous waste ($45K).
11. Add appropriation for the State Water Resources Control Board annual permit fee ($18K).
12. Add appropriation for the city's share of the Alameda County Clean Water Program ($75K).
13. Add appropriation for additional consultant costs for Street Light and Traffic Signal maintenance due to a greater amount of outages ($75k).
14. Add appropriation for purchasing annual maintenance costs for the legacy Trakit system ($26K).
15. Add appropriation for purchasing Engineering virtual project management software ($20K).

Notable transfers include:
- Transfers In $3.0 million from the Pension Reserve to participate in the California Employers' Pension Prefunding Trust (CEPPT) Program.
- Transfer In $2.13 million from the ARPA Fund to reimburse the City for ARPA-eligible expenditures.
- Transfer Out $11.59 of Measure GG revenue earmarked for Debt Service and Civic Center capital expenditures.

Other minor amendments and associated details are in the attachment, Exhibit A.

BACKGROUND

The City Council adopted the 2022-2024 Biennial Budget and Capital Improvement Plan on June 23, 2022. Budget amendments occur throughout the year when unanticipated events result in an increase or decrease in revenue projections and appropriations. Regular practice is to present mid-year budget amendments to the City Council for consideration.

During the mid-year budget review, updates are made to the available City resources based on 1) the audited financial statements for the FY 2022 (which was presented to the City Council on January 26, 2023), 2) the City's unaudited financial position through the second quarter of FY 2023, and 3) year-end projections based on the most recent economic trends.

DISCUSSION/ANALYSIS

FY 2023 is the first year of the City's biennial budget cycle. As part of the mid-year review process, a number of amendments are proposed to align budgeted revenues and expenditures with the most current information. These amendments are identified where changes have occurred since adopting the Biennial Budget in June of 2022.

Economic Indicators

The annual inflation rate for the US is 6.4% for the 12 months that ended January 2023. This is a drop from the previous 12-month average annual inflation rate, which from January through December 2022 was 8.0%. The next inflation rate is scheduled for release on March 14, and the rate of inflation over the 12 months ended February 2023 will be presented.

The Consumer Price Index (CPI) for the San Francisco-Oakland-Hayward area decreased 0.3% for the two months ending in December 2022 but is still up 4.9% from a year ago. The two-month decrease is said to be influenced by lower prices for gasoline. While food prices increased 0.8% for the same time period, the energy index decreased 15% which is mainly attributable to lower prices for gasoline. Prices for natural gas services declined 6.8%, while prices for electricity were unchanged for the same time period.

The City’s median household income has consistently been significantly higher than both the California State and the United States medians. According to the United States Census Bureau, Newark’s median household income is $144,011, compared to the Alameda County median income of $112,017.

As of January 2023, the United States unemployment rate has fallen to 3.4%, down from 4.0% from a year ago and bettering the pre-pandemic unemployment rate of 3.8% in February 2020. However, the State of California is higher at 4.1% as of December 2022. Unemployment rates for California are only available up to December 2022.

The second estimate of gross domestic product (GDP) for the fourth quarter showed that the U.S. economy grew at an annual rate of 2.7% in the fourth quarter of 2022. The increase in the fourth quarter primarily reflected increases in inventory investment and consumer spending that were partly offset by a decrease in housing investment.

Growth in home sales remained strong through the summer of 2021. Many cities saw median price increases due to low-interest rates, high demand, and limited properties for sale. Sales price increases in 2021 are reflected on the FY 2023 tax rolls.

The statewide median home price was $774,580, down 0.4% from November and

down 2.8% from December 2021. The median home price of Newark detached single-family homes from January through December 2022 was $1.12 million a decrease of $130,000 (10.4%) from the median sale price of $1.25 million in the same period for 2021.

General Fund: Operating Revenues

The Fiscal Year 2023 mid-year report includes projections for all General Fund revenue sources. Overall, General Fund revenues are estimated at $76.51 million, an increase of $4.0 million (5.5%) from FY 2022 and $7.52 million (10.9%) above the FY 2023 Amended Budget. This report includes recommended amendments to bring the budgeted revenue estimates more in line with current projections.

The following table provides revenue comparisons for FY 2023. The year-end projections are compared to the Amended Budget and to the FY 2022 Actuals.

Revenue Sources	FY 2022 Actual	FY 2023 Amended Budget	FY 2023 Projection
PROPERTY TAX	25.83	27.29	28.91
SALES TAX	15.71	14.47	16.51
MEASURE GG	7.97	5.96	7.29
TRANSIENT OCCUPANCY TAX	4.15	3.84	4.59
UTILITY USERS TAX	3.74	3.31	3.80
OTHER TAXES	2.31	2.05	2.14
LICENSES PERMITS & FEES	10.61	9.96	10.57
OTHER REVENUES	2.18	2.11	2.70
TOTAL REVENUES	$ 72.50	$ 68.99	$ 76.51

Property Taxes

The General Fund's largest revenue source, property tax, is estimated at $28.91 million and is performing 5.9% ($1.6 million) higher than the Amended Budget, with expected growth of 11.9% ($3.1 million) over the prior year.

Property tax revenue is generally the most stable source of revenue due to a combination of higher assessed valuations on properties due to ownership changes and annual inflation adjustments allowed under Proposition 13. Under Proposition 13, the annual real estate tax on a parcel of property is limited to 1% of its assessed value. This assessed value may be increased only by a maximum of 2% per year until, and unless, the property has a change of ownership. Increases in assessed values are often related to changes in ownership and new development.

The information provided by the Alameda County Assessor indicates the assessed value for the FY 2023 tax roll for Newark increased a net 10.4%, which is higher than the countywide increase of 8.1%. The 10.4% increase reflects growth in both the secured and unsecured assessed valuation, coupled with an increase in new construction during the calendar year 2022.

Property tax receipts lag the transactions by 12-18 months. Property Tax distributions from the County are largely received in December, March, and April. The Fiscal Year 2023 values were set as of January 1, 2022, and based on sales and new construction during the calendar year 2022. Even though growth in the number of home sales slowed, sale prices continue to remain high due to low inventory.

Staff reviewed the estimates using the information provided by the County Assessor's office and recommends an increase of $1.62 million to the property tax budget at this time.

Sales Tax
Sales tax, constituting the General Fund's second-largest revenue source, is projected to be $16.51 million, which is $2.04 million (14.1%) above budget and trending 5.0% higher than last fiscal year.

Newark's receipts from July through September were 9.4% above the third sales period in 2021. Net of the countywide pools, place of sale collections increased 10%. Even with the pressures of inflation and interest rates, many sales tax groups maintained growth during the busy summer months.

Sales of warehouse and construction equipment helped boost the business-industry group. Vehicles sold during the summer months drove up autos and transportation revenues by 14%. For the sixth consecutive quarter, casual dining led to an increase in restaurant revenues as consumers are still dining out despite increased menu prices.

The cost of crude oil kept fuel prices high during the third quarter, with pumping service station receipts up 25.4%. The City's share of the countywide use tax pool, which is largely supported by third-party vehicle sales and eCommerce, improved by almost 1.0%.

Conversely, the general consumer goods group dropped almost 15% as retail sales showed signs of slowing. Building construction receipts also dipped as building materials sales decreased. Voter-approved Measure GG posted strong results, bolstered by a large allocation in the business-industry group.

Staff reviewed the estimates with the City's sales tax consultants (HdL) and recommends an increase of $2.04 million to the Bradley Burns sales tax budget and an increase of $1.33 million to the Measure GG half-cent sales tax revenue at this time.

Transient Occupancy Tax (TOT)
The City has eleven hotels (ALoft Silicon Valley, Chase Suites, Comfort Inn, Courtyard by Marriott, DoubleTree Hilton, E-Z8 Hotel, Homewood Suites Hilton, Newark Residence Inn by Marriott, Town Place Suites, Staybridge Suites, and SpringHill Suites by Marriott). These hotels remit a 10% transient occupancy tax (TOT) to the City. Since November 2022 the City stopped receiving TOT payments from Town Place Suites as this property is currently being repurposed as the Project Homekey Cedar Community Apartments.

The primary economic drivers for TOT revenues are room rates, occupancy, and overnight visitor growth. While there was a significant decline in TOT revenue in FY 2020 and FY 2021 due to the Pandemic, the projected year-end revenue for FY 2023 is $4.59 million, which is $0.75 million (19.5%) higher than the Amended Budget and $44,000 (10.6%) more favorable than last fiscal year. This tax revenue is projected to increase as business and leisure travel continues to rebound. Staff recommends an increase of $750,000 to the TOT revenue budget.

Utility Users Tax (UUT)
The City of Newark imposes a UUT on the use of cable, electric, gas, wired telecom, and wireless telecom services at a rate of 3.25%. The UUT generates approximately 5.0% of the General Fund revenues. During FY 2022, UUT revenues were approximately $3.74 million. This year the City is projected to receive $3.80 million, a modest increase of $60,000 (1.6%) from last fiscal year and $490,000 (14.8%) higher than budgeted. The budgeted amount factored in a combination of service delivery and consumption pattern changes, where these changes may result in higher or lower gross receipts from utility providers. Staff recommends an increase of $490,000 to the UUT revenue budget.

Licenses, Permits, and Fees
This category includes recreation fees, franchise fees, animal licenses, construction permits, encroachment permits, and building permits. The Licenses, Permits & Fees category is projected to end the year at $10.57 million, a $610,000 (6.1%) increase from the Amended Budget, and is in line with prior year actuals of $10.61 million.

The City collects Franchise Fees from utility service providers for the use of city streets and rights-of-way. Franchise fees are currently received on cable TV, garbage, electricity, and natural gas. Historically, franchise payments are not remitted equally throughout the fiscal year: therefore, mid-year receipts are not necessarily predictive of year-end actuals. Total Franchise Fee revenues are projected at $4.82 million a $553,000 (13%) increase from the Amended Budget and $90,000 (1.9%) higher than last fiscal year.

License, Permits, and Fees are projected at $4.2 million, which is in line with the Amended Budget of $4.18 million and $387,000 less than prior year actuals of $4.6 million. These revenues include zoning review fees, code enforcement fees, and construction, encroachment, and building permits. Notable increases compared to the prior fiscal year are in zoning review fees and code enforcement fees. Notable decreases are in building construction permits and building plan review fees. This decrease reflects the drop in issued permits between the comparative periods (894 permits from July 2022 thru December 2022, and 1,121 permits from July 2021 through December 2021). Currently, there are 148 permit cases that are approved and not issued, perhaps reflecting a pause on projects by residents due to economic uncertainties.

Recreation charges for services are projected at $1.55 million, which is in line with the Amended Budget of $1.51 million but $260,000 more than prior year actuals of $1.29 million.

Staff recommends increasing Licenses, Permits, and Fees by a total of $609,000 based on current trends.

General Fund: Expenditures (Appropriations)
The following table provides through second-quarter actual expenditure comparisons and compares the Fiscal Year 2022 actual results with the FY 2023 Amended Budget and Staff's FY 2023 mid-year estimate for year-end.

Expenditures by Category	FY 2022 Actual	FY 2023 Amended Budget	FY 2023 Projection
PERSONNEL	33.22	36.01	36.39
PENSION/OPEB ADP CONTRIBUTION	5.00	-	3.00
ACFD FIRE SERVICES	11.91	11.83	11.91
NON-PERSONNEL EXPENDITURES	13.66	18.34	18.67
TOTAL EXPENDITURES	$ 63.79	$ 66.18	$ 69.97

The General Fund expenditures for FY 2023 are projected to be $69.97 million at the end of the fiscal year, which includes a planned $3.0 million contribution from the Pension Reserve to participate in the California Employers' Pension Prefunding Trust (CEPPT) Program.

The projected $69.97 million expenditures for FY 2023 are $3.79 million higher, or 5.7%, above the Amended Budget largely as a result of this new CEPPT Program which is funded by a transfer-in from the Pension and OPEB reserve fund. Also, while the Adopted Budget was prepared using a 1.5% cost-of-living adjustment (COLA), the increase in salary expenditures using the 4.0% approved COLA and FY 2023 overtime has been largely offset by salary savings from vacancies mainly in the Police Department as hiring challenges continue, similar to other cities nationwide.

Internal Services Funds:
The Internal Service Funds include Equipment Maintenance, Building Maintenance, and Office Support. The revenues in these funds are derived from charges to the departments and divisions receiving their services. There are mid-year amendments for increased expenditure costs due to significant increases in hourly rates and parts associated with heavy-duty equipment maintenance and building maintenance. In addition, there are also unanticipated HVAC repairs for the Police and Library facilities.

Optimism and Prudence Spending
The City's major revenue sources for FY 2023 are more favorable than initially forecasted when Council approved the original FY 2022-2024 budget. In summary, the total projected year-end General Fund revenues are $76.51 million, and projected expenditures are $69.97 million. For FY 2023, Staff estimates a modest General Fund year-end surplus of approximately $80,000 after transfers. The projected FY 2023 year-end surplus is $1.1 million more favorable than the anticipated $1.02 million deficit in the Amended Budget.

Staff will continue conservative fiscal planning efforts and closely monitor the General Fund revenue sources.

FISCAL IMPACT

The recommended amendments included in the mid-year review increase or decrease the Fiscal Year 2023 budgeted revenues, appropriations, and available resources of various funds as presented in Exhibit A.

REVIEW AND APPROVAL

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

Attachments

FY 2023 Mid-Year Budget RESO

FY2023 Mid-Year Exhibit A

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING THE 2022-2024 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 2023

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

WHEREAS, as part of the mid-year budget review for Fiscal Year 2023, staff has identified and proposed changes to the budget since the original adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the certain document entitled "2022-2024 Biennial Budget and Capital Improvement Plan of the City of Newark" adopted by Resolution No. 11,379 on June 23, 2022, and subsequently amended by resolutions, is hereby amended as set forth in Exhibit A attached.

Gdr1

Exhibit A
Mid-year Budget Amendments for Fiscal Year 2023

Revenue:

General Fund:			Increase	Decrease	
110	00.000.0000	4010	1,923,000		PROPERTY TAX
110	00.000.0000	4011	19,000		PROPERTY TAX - MVLF
110	00.000.0000	4012		187,000	UNSECURED (CURRENT)
110	00.000.0000	4013		53,000	SECURED (PRIOR YEAR)
110	00.000.0000	4014	5,000		UNSECURED (PRIOR YEAR)
110	00.000.0000	4015	55,000		PTAX (SUPPLEMENTAL)
110	00.000.0000	4017		142,000	PTAX (RDA)
110	00.000.0000	4020	2,039,000		SALES & USE TAX
110	00.000.0000	4030	745,000		TRANSIENT OCCUPANCY TAX
112	00.000.0000	4021	1,331,000		TRANSACTIONS AND USE TAX (Measure GG)
115	00.000.0000	4040	498,000		UTILITY USERS TAX
GF		3000	6,233,000		UNAPPROPRIATED FUND BALANCE

Special Revenue Funds:			Increase	Decrease	
233	30.031.310	4793		70,000	TRAFFIC SAFETY OTS - True up budget
SRF				70,000	UNAPPROPRIATED FUND BALANCE

Expenditures:

General Fund:			Increase	Decrease	
110	21.021.200	6150	12,000		Text My Gov Software
110	21.021.200	6150	30,000		Axero Intranet
110	21.021.200	6150	30,000		DLT Solution AutoDesk
110	21.021.200	6150	22,000		ECS Imaging Laserfiche
110	21.021.200	6150	50,000		ePlus Artic Wolf
110	21.021.200	6150	49,000		ePlus Varonis Active Directory Security tool
110	21.021.200	6150	30,000		GIS Cloud Storage
110	21.021.200	6150	35,000		Six Degrees Harmony Email Scanning
110	21.021.200	6150	5,000		SHI Red hat Software
110	21.021.200	6150	14,000		GHA Automox/Netmotion
110	21.021.200	6150	22,000		ePlus KnowBe4 IT Training tool
110	21.021.200	6150	121,000		MS 365 - RESO 11374
110	21.021.200	6440	10,000		IT Travel/Lodging/Meals
110	21.021.200	6450	30,000		IT Training
110	21.021.200	8051	4,000		Nutanix RAM
110	21.021.200	8051	68,000		Additional Laptops/Monitors
110	50.051.510	6430	10,000		State of the Valley
110	50.051.510	6440	7,000		Urban Land Institute
110	80.080.800	6280	80,000		Bank Analysis Fee
120	60.061.611	6221	20,000		Engr Virtual Project Management Software
120	60.061.611	6140	1,000		Rain gear for emergency response
120	60.061.611	6220	43,000		Carryforward traffic & transportation planning Services
120	60.061.611	6220	90,000		Truck Route/Citywide Traffic Counts
120	60.061.611	6440	15,000		APWA Conference
120	60.062.620	6220	26,000		CentralSquare annual maintenance for legacy Trakit
130	70.071.710	6211	20,000		Recreation special mailing
130	70.072.720	6220	30,000		Increase Recreation contract classiInstructors
130	70.074.740	6120	6,000		Increase childcare supplies
130	70.075.750	6120	4,000		Increase Sr. Center supplies
140	60.063.631	6221	45,000		Enviormental Logistic - Removal of hazardous waste
140	60.063.632	6220	18,000		State Water Resources Control Board
140	60.063.632	6220	75,000		City's share of the Alameda County Clean Water Program
140	60.064.612	6300	70,000		Increased energy cost
140	60.064.642	6120	25,000		Street signs
140	60.064.643	6221	45,000		Civic Center Landscape
140	60.064.643	6221	52,000		Emergency tree trimming & removal
140	60.064.643	6221	75,000		Citywide park tree pruning & playground surface material installation
GF		3000		1,289,000	UNAPPROPRIATED FUND BALANCE

Exhibit A
Mid-year Budget Amendments for Fiscal Year 2023

Special Revenue Funds:			**Increase**	**Decrease**	
201	90.091.910	6221/CIP1201	30,000		Citywide Traffic Signal Street Name Signs
SRF		3000		30,000	UNAPPROPRIATED FUND BALANCE

Capital Project Funds:			**Increase**	**Decrease**	
610	90.094.940	6221.CIP001298	400,000		City Council Chambers Audio/Video Upgrades
CIP		3000	-	400,000	UNAPPROPRIATED FUND BALANCE

Internal Service Funds			**Increase**	**Decrease**	
703	87.703.671	6120	50,000		Increased supplies for equipment maintenance
703	87.703.671	6120	100,000		Increased fuel cost
703	87.703.671	6140	-		Uniforms for new employees
703	87.703.671	6221	3,000		Increased hourly rates for PPW service requests
703	87.703.671	6261	120,000		Increase cost of labor for heavy equipment
704	87.704.672	6120	30,000		Increased costs of Citywide maintenance supplies
704	87.704.672	6251	100,000		Increased hourly rates for outside repairs
704	87.704.672	6241	27,000		SFPUC Annual Licensing Agreement
704	87.704.674	6251	40,000		HVAC preventative maintenace for PD Bldg.
704	87.704.675	6251	40,000		HVAC preventative maintenace for Library
ISF		3000		510,000	UNAPPROPRIATED FUND BALANCE

Transfers:			**DR**	**CR**	*** All Transfers are up to the amount proposed.**
110	00.000.000	9999	3,000,000		California Employers' Pension Prefunding Trust (CEPPT) Program.
103	00.000.000	4999		3,000,000	California Employers' Pension Prefunding Trust (CEPPT) Program.
112	00.000.000	9999	4,304,000		Measure GG reimbursement for Civic Center Expenditures
610	00.000.000	4999		4,304,000	Measure GG reimbursement for Civic Center Expenditures
503	00.000.000	9999	4,736,000		Reimburse Civic Center expenditures with 2019 COP Reserve Funds
610	00.000.000	4999		4,736,000	Reimburse Civic Center expenditures with 2019 COP Reserve Funds

STAFF REPORT

Item E. 1.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Carmelisa Lopez, Senior Planner
SUBJECT	Adopt a resolution to authorize the allocation of a $12 million funding award from the Affordable Housing Impact Fee Fund to Satellite Affordable Housing Associates and authorize the City Manager to execute the Affordable Housing Loan Agreement and all related loan documents to effectuate the approval of the funding award for an affordable housing project at 6347-6375 Thornton Avenue. Exempt from CEQA Review per CEQA Guidelines Section 15061(b)(3).

SUMMARY AND RECOMMENDATION

The City Council adopted the Affordable Housing Work Plan in May 2021, establishing priority programs for the City to provide more housing options affordable to the Newark community such as developing the 2023-2031 Housing Element, establishing an inclusionary housing ordinance, establishing a local preference policy, and making city funds available for new affordable housing. In June 2022, a Notice of Funding Availability (NOFA) inviting developers of deed-restricted affordable new-construction multifamily rental housing projects in the Bay Area to apply for funding assistance was released and made up to $12,000,000 available from the Housing Impact Fee Fund.

The City received one response from Satellite Affordable Housing Associates (SAHA) for a 57-unit multifamily apartment building at 6347-6375 Thornton Avenue that would meet the need for family-sized units, including 15 two-bedroom apartments and 16 three-bedroom apartments, and include numerous family-friendly common area amenities. SAHA requests $12,000,000 of local gap financing from the City of Newark, comprising approximately 25 percent of the total development cost. SAHA requests that approximately $4,300,000 of this funding be a loan for a pre-development/site acquisition loan that would allow SAHA to acquire the three properties early in the development process and cover some project planning and design costs. SAHA proposes to leverage this funding with standard and reliable affordable housing funding sources. On January 19, 2023, the Community Development Advisory Committee reviewed and recommended that City Council approve the proposed funding allocation.

Staff recommends that the City Council authorize the allocation of $12,000,000 from the Affordable Housing Impact Fee Fund to SAHA and authorize the City Manager to execute the Affordable Housing Loan Agreement and all related loan documents to effectuate the approval of the funding award for an affordable housing project at 6347-6375 Thornton Avenue.

BACKGROUND

Newark's Affordable Housing Work Plan

Newark has long been considered one of the most livable and relatively affordable cities in the high-cost Bay Area, but recent rising housing costs and income levels threaten that relative affordability. Newark needs housing for all segments of the community.

The City retained the services of Baird and Driskell Community Planning (B+D), a planning firm specializing in local government housing programs, to assist staff with developing and implementing an Affordable Housing Work Plan (see Attachment A). To help shape the Work Plan, B+D and staff conducted a set of stakeholder interviews, providing key information to develop the Work Plan. The Work Plan identified the following priority housing needs, priority housing types, and priority housing programs to help address the needs of Newark residents.

- *Priority Housing Needs: "Newark needs housing for all segments of the community"*
  - Young families
  - Key workers (teachers, first responders)
  - People and families at risk of homelessness
  - People with disabilities and other special housing needs
  - Low-income seniors
- *Priority Housing Types: "We need all types of housing but in the right places"*
  - Rental Apartments (medium- to high-density in select areas)
  - Condominiums and townhomes (including for first-time homebuyers)
  - Missing middle housing types (housing such as duplexes, tri-plexes, and four-plexes)
- *Priority Housing Programs*
  - Create an Inclusionary Housing Ordinance (requiring on-site production of units rather than payment of an in-lieu or impact fee)
  - Partner with affordable housing developers to develop affordable rental housing (including issuing a NOFA to incentivize new developments consistent with the City's goals)
  - Acquire sites, potentially with other local organizations.
  - Create an affordable homeownership program.
  - Create a Local Preference ordinance

Since the adoption of the Affordable Housing Work Plan, staff has made progress on multiple fronts such as developing the 2023-2031 Housing Element, working on a Local Preference study, and issuing an affordable multifamily rental new-construction NOFA.

NOFA Process

The City's NOFA process officially launched with the release of the NOFA (see Attachment B) on June 2, 2022. The City made a maximum of $12,000,000 available from the Affordable Housing Impact Fee Fund to interested developers and sponsors of

affordable housing. Responses were due by August 5, 2022, and the City received one submission from SAHA (see Attachment C).

City staff and B+D reviewed this proposal to confirm it meets the NOFA requirements. The proposal was evaluated based on the Selection Criteria identified below. The NOFA stated that projects would be scored relative to the competition using these priorities.

1. *Financial Feasibility*
    - Cost-effectiveness (lower development cost per unit)
    - Number of units (maximizing the number of affordable units as feasibly possible)
    - Leverage other financing sources to maximize the City's funding (ratio of total other financing sources compared to City's contribution)
2. *Public Benefits (City's Priorities)*
    - Income targeting (targets lower average area median income (AMI))
    - Population targeting (targets families by proposing larger number of 3+ bedroom units)
3. *Quality and Completeness of Proposal*
4. *Quality and Completeness of Budget*

The Community Development Advisory Committee (CDAC) reviewed the proposed funding allocation on January 19, 2023. City staff and SAHA answered questions from the CDAC regarding the project and process, the City's local preference policy, potential traffic impacts, and how the project may change after SAHA conducts community outreach and if adjacent property could be acquired. The CDAC members shared supportive comments overall and unanimously recommended City Council approval of the funding allocation.

Developer Team

SAHA is a nonprofit housing development corporation with over 50 years of experience in the field of developing and managing affordable housing. SAHA specializes in creating residential and mixed-use developments throughout the Bay Area for low and very low-income families, seniors, and people with special needs including those experiencing homelessness. SAHA has developed and manages over 70 affordable apartment communities that serve families, seniors, and special needs groups. The communities in Newark include Newark Gardens I and II where SAHA was the developer and is the current owner and property manager. SAHA would be the developer and owner (through a limited partnership structure) and would also provide property management and resident services coordination for the proposed project.

Property Management

SAHA Property Management employs a staff of over 115 professionals, including property managers, assistant property managers, maintenance technicians, and custodians. The site staff is supported and trained by property supervisors and the director and the associate director of property management. SAHA Property

Management also has an experienced compliance department that oversees the regulatory requirements for its properties. SAHA's Facilities Department oversees capital improvement projects and facilities maintenance technicians.

Resident Services
SAHA's Resident Services team of more than 30 non-clinical resident services coordinators works at nearly every SAHA site, supporting physical, emotional, and cognitive health and social connections. For residents with more acute needs, SAHA provides services that allow residents to remain comfortably within their apartments despite changing abilities and to live as independently as possible.

Resident Services provides case management to residents and meets basic needs through meal programs, public benefits access, health screening and access to care, and transportation services. SAHA then addresses individual needs by providing a wide range of services that include help with immigration and naturalization, medical-related planning and services including home health care and advance directives, legal assistance and mediation, and financial education. Activities planned by the Resident Services team may include a wide variety of on-site classes and groups such as exercise classes, bicycle skills, and repairs, crafts and music groups, and ESL classes. Tenant associations also provide a vehicle for socializing as well as advocacy and communication between management and residents.

Architect
SAHA has selected Van Meter Williams Pollack Architects (VMWP) as the project architect. VMWP has partnered with SAHA on several past projects, including Arboleda in Walnut Creek, Jack Capon Villa in the city of Alameda, and Albany Family Housing. VMWP was also the architect for the Timber Street Senior Housing Project at 37660 Timber Street in Newark approved by the City Council in October 2021. VMWP has a strong reputation and proven expertise within the affordable housing community, particularly related to urban design and designing infill housing that matches the character of an existing neighborhood.

Proposed Site & Project
The proposed project is located on three (3) existing parcels located at 6347, 6361, and 6375 Thornton Avenue in Newark, totaling 23,650 square feet in area. The sites are currently occupied by single-family homes built in 1951 and 1952, and the current commercial uses include: a tax preparation office and auto broker office, a beauty salon, and a remodeling contractor/real estate agent/loan broker.

The three (3) parcels are zoned for Residential High Density (RH) and have a General Plan land use designation of High-Density Residential. The RH zoning district is intended for residential densities from 25 to 60 units per net acre and provides for apartment and condominium complexes that are generally three stories or more. This district implements the high density residential general plan land use designation.

SAHA proposes to develop 57 apartments within a five-story building. The building would include 26 one-bedroom, 15 two-bedroom, and 16 three-bedroom apartments. The community is programmed with significant indoor and outdoor community space,

including a courtyard, a large community room with a kitchenette, a computer lab that can accommodate all the residents of the building, and an acoustically insulated music practice room.

The proposed use, multi-unit development, is permitted in the RH zoning district and is consistent with the envisioned land use in the High-Density Residential General Plan land use designation. However, the proposed density of 105 units per net acre exceeds the maximum density of 60 units per net acre. Later this year, SAHA will request a density bonus (consistent with state law) to allow the proposed density (as well as certain waivers and concessions to certain zoning requirements).

The building would also include a two-level parking garage (one subgrade level and one above grade level) with 52 vehicle spaces as well as 30 spaces for bicycles and scooters and a bicycle repair station. As currently proposed, the project requires 130 vehicles spaces. As part of the density bonus application, SAHA will request a concession from the parking requirements to allow the 52 parking spaces.

Additionally, the building would be 60 feet tall from the top of the parapet, which would require the approval of a Minor Use Permit. The RH zoning district allows a building height up to 100 feet, but heights over 35 feet require a Minor Use Permit.

The proposed design is specifically intended to fit with the neighborhood context. For example, the three ground-floor apartments with individual stoops would enable the building to relate to passersby on the street level. A significant factor in SAHA's selection of the architect is the firm's particular skill and sensitivity fitting into the neighborhood context.

This all-electric building would be designed with sustainability and energy efficiency in mind, and the project is expected to score platinum on the GreenPoint Rated scale, a sustainability rating and certification system. The project would include a photovoltaic array and a solar thermal hot water pre-heating system. The building would use a variety of strategies to reduce energy and water use, and it would be designed to be resilient to climate change impacts, including extreme weather events, blackouts, and brownouts, etc.

DISCUSSION/ANALYSIS

Proposal Review Against NOFA Criteria

Staff reviewed SAHA's proposal against the criteria described in the NOFA and noted above. This project is sponsored by a developer with a strong balance sheet and track record, and the assumptions behind this project proposal are in line with current industry standards and market conditions. Staff would like to highlight a few notable details about this proposal:

- *Project Size*: SAHA has committed to contacting the property owners of two adjacent underutilized properties that have the potential for expanding the project footprint. If SAHA is successful, this would have implications for the project

proposal, including the overall development cost and the development cost and operating costs per unit.

- *Family-Sized Units*: SAHA understands the City's interest in providing family-sized units and is committed to reviewing different unit mixes in order to meet the City's housing goals. Including more family-sized units may result in a lower overall unit count, depending on the building footprint and unit configurations.
- *Local Preference Ordinance*: SAHA has experience implementing local preferences and will accommodate the City of Newark's future local preference requirements, subject to fair housing legal guidance.

SAHA has indicated an overall willingness to be flexible in order for the project to succeed and meet the needs of the Newark community. The project can and will change over the course of the development process, based on several factors such as possibly acquiring the adjacent properties, City requirements such as those from the Department of Public Works (Building Inspection and Engineering Divisions), Alameda County Fire, and most importantly, community feedback. Please note that changes to projects during the development process are typical and expected.

Financial Feasibility
Staff reviewed SAHA's proposal to assess financial feasibility as well as the prudent and effective use of the City's limited resources. Overall, the proposal looks to be in line with current industry standards in its assumptions about obtaining financing as follows:

Sources	**Amount**
4% Federal Tax Credits	$24,812,767
City of Newark	***$12,000,000***
State HCD MHP	$8,420,033
Permanent Mortgage	$2,590,659
Federal Home Loan Bank AHP	$855,000
Deferred Developer Fee	$150,000
Total Sources	**$48,828,459**

Federal tax credits and the state Multifamily Housing Program (MHP) are both competitive funding programs, but they are allocated on a regular schedule and have clear regulations and competitive standards. The Federal Home Loan Bank Affordable Housing Program (AHP) is also generally predictable for projects that meet the program requirements. Deferred Developer Fee is funding that SAHA will contribute out of its project developer fee to close the budget gap; repayment of that fee will take priority in the early years of project operations cash flow.

- *Cost Effectiveness:* The projected development cost per unit ($856,640) is significant but not out of line with steeply rising development costs for comparable projects in the Bay Area. Staff reviewed several recent comparable (large family) tax credit projects in Fremont and Union City to understand how these costs

compare. (Source: California Tax Credit Allocation Committee staff reports)

Project Name	Development Cost Per Unit	Development Cost per Unit (adjusted for inflation)*	Date for Costs*	AMI Level	Notes**
Osgood Apartments South (Fremont)	$657,079	$656,769***	Jun-22	30-70%	100 Total Units 50 SRO/Studio 25 2-Bedroom 25 3-Bedroom
Stevenson Place Apartments (Fremont)	$572,594	$692,314	Jun-17	30-60%	80 Total Units 30 1-Bedroom 26 2-Bedroom 24 3-Bedroom
Granite Ridge Apartments (Fremont)	$635,695	$723,495	Nov-20	20-60%	73 Total Units 32 1-Bedroom 22 2-Bedroom 19 3-Bedroom
Warm Springs Affordable TOD Apartments II (Fremont)	$650,847	$763,598	Sep-18	30-60%	61 Total Units 12 1-Bedroom 33 2-Bedroom 16 3-Bedroom No City contribution (master developer project)
Warm Springs Affordable TOD Apartments I (Fremont)	$659,370	$772,370	Oct-18	30-60%	71 Total Units 19 1-Bedroom 32 2-Bedroom 20 3-Bedroom No City contribution (master developer project)
Station Center Phase II (Union City)	$580,753	$787,415	Sep-10	30-50%	57 Total Units 17 1-Bedroom 20 2-Bedroom 20 3-Bedroom Local gap funding equals the sum of Union City RDA, RDA Land Loan, and Infrastructure

					Contribution
Thornton Avenue (Proposed Project)	***$856,640***	***$856,640***	***Aug-22***	***30-60%***	***57 units***

** Staff used the Consumer Price Index Inflation Calculator from the United States Bureau of Labor Statistics to adjust for the timing of these projects, but note the amounts are all from tax credit staff reports that are drafted at the time of award, not actuals.*

*** All unit counts are total units including the manager's unit.*

**** The lower development per unit cost adjusted for inflation compared to the development cost per unit is likely attributed to the CPI being reviewed (June 2022) within a few months of when the proposal was submitted (August 2022).*

SAHA notes in their response to staff queries (see Attachment D) that this development cost per unit is comparable to other current affordable housing developments in the Bay Area that utilize State funding, project-based Section 8, or other funding sources that require payment of prevailing wages at the construction site. A requirement to pay prevailing wage is a critical cost driver for affordable housing projects.

Additionally, the proposed size of the development, construction type (Type 5A over Type 1A ground floor and parking), and structured parking increase the development costs. This project is somewhat smaller than the ideal size for tax credit projects, though still in the feasible range, so it is not surprising that costs per unit may be higher.

As noted above, SAHA has committed to again contacting the property owners of two adjacent underutilized properties that have the potential for expanding the project footprint. While this would result in higher total development costs, it would also result in cost efficiencies and a lower development cost per unit.

- *Number of Units:* The project includes 57 units, including one manager's unit. The NOFA did not specify a minimum threshold, but it incentivized larger projects through the scoring criteria. With a site size of 0.54 acres (23,650 sf), the project has a density of 105 units per acre.

A project size of 57 units falls within the typical range of what is viable and cost-effective in the industry from both a development and operations point of view.

As noted above, SAHA has committed to contacting the property owners of two adjacent underutilized properties that have the potential for expanding the project footprint. This could increase the total number of units or the number of large

family units included in the project.

- *Leveraging the City's Resources*: The proposed local subsidy per unit ($210,526) is also on the higher end of typical local gap financing requests for comparable projects in Alameda County. While this number is on the higher side compared to the comparable projects in neighboring cities, it is not out of the range of typical funding requests for the Bay Area, particularly not in recent months as development costs have continued to rise due to inflationary pressures on labor and construction materials.

The table below displays examples of local gap financing in comparable projects in neighboring cities. As shown, local contributions range from a low of $60,000 per unit up to $291,000 per unit for a project that also included a land donation.

Project Name***	Local Gap Funding Per Unit	AMI Level	Notes
Osgood Apartments South (Fremont)	$60,000	30-70%	100 units
Stevenson Place Apartments (Fremont)	$149,386	30-60%	80 units
Granite Ridge Apartments (Fremont)	$104,167	20-60%	73 units
Thornton Avenue (Proposed Project)	***$210,526***	***30-60%***	***57 units***
Station Center Phase II (Union City)	$261,385	30-50%	57 units; Local gap funding equals the sum of Union City RDA, RDA Land Loan, and Infrastructure Contribution

**** The Warm Springs projects are not included in this table, as they are being led by a master developer who was expected to cover the funding gap and there is no local public contribution.*

In their written response (see Attachment D), SAHA notes that they are currently exploring partnering with the Regional Center of the East Bay to tap into 2022/2023 Community Placement Plan funds provided by the state's Department of Development Services. Additionally, this project would apply for any Alameda County HCD funding that might become available in the future. The Regional Center funding scenario in particular seems like a promising avenue for further exploration.

Overall, staff concurs with SAHA's statement that this project proposal is based on a conservative financing plan. SAHA is confident they will not need to return to the City for additional funds.

Public Benefits
The City's Affordable Housing Workplan process identified several key housing needs, housing types, and housing programs, which led to the development of the June 2022 NOFA. For this NOFA, the City's identified income targeting priority was to address the needs of lower-income households, prioritizing a lower average AMI (Minimum eligibility: 100% of the units must be restricted to households with incomes at or below 80% AMI and the average AMI for the project must be at or below 60% of AMI. The City seeks the deepest affordability possible). The City also wanted to prioritize the new construction of affordable multifamily rental apartments for families with children.

1. *Income Targeting*: SAHA's response meets and exceeds the minimum eligibility for the NOFA, with all households at or below 60% of the area median income and an average income of 45% of AMI.
2. *Population Targeting*: SAHA's current proposal includes 31 units with 2 or 3 bedrooms, making up 54% of the total unit count. The project includes 16 3-bedroom units or 28% of the total number of units. These percentages meet the California Tax Credit Allocation Committee's eligibility for a "Large Family" special needs project (at least 25% 3-bedrooms and at least 25% 2-bedrooms).

The NOFA did not specify a threshold number of larger units but incentivized proposals with a larger number of 3 bedrooms through the scoring criteria. SAHA has committed to exploring the feasibility of including more 3-bedroom units in the unit mix since that is a City priority, but this would come at the cost of the overall number of units since 3-bedroom units typically have a larger footprint.

Quality/Completeness of Proposal
Staff reviewed the submission from SAHA against the NOFA checklist and has deemed SAHA's submission complete, addressing all the required questions and including all the required attachments. The proposal is clear, and SAHA has been responsive to follow-up questions.

1. *Proposed Site and Project Design*: The results of SAHA's physical due diligence – environmental report, preliminary title report, and appraisal – do not include substantive concerns for the City. The conceptual program and design are in line with best practices in the industry and suitable for the proposed target population.
2. *Overall Sponsor Financial Strength*: SAHA is well-known in the affordable housing sector as a strong and well-managed affordable housing nonprofit in the Bay Area. They have a healthy balance sheet and strong management and financial practices that are consistent with top performing nonprofit housing developers. Their submitted audited financial statements for three years show no irregularities or material deficiencies, consistent with their overall reputation and track record.

Quality/Completeness of Budget
The information provided in the proposal is complete and typical in the level of detail provided at this stage in the development process. Please note that the budget and financing plan for affordable housing projects inevitably evolve over the life of a

development project, but at this time the development costs and ongoing operating assumptions conform to market realities and standard best practices for affordable housing projects in the Bay Area.

Loan Terms
The agreement between the City and SAHA, including the terms of the City loan to the project and SAHA's current project delivery expectations, are memorialized through the loan documents in Attachment F through J of this report. Staff expects to revise these documents at the time of the construction loan closing to reflect the final project more accurately. The main terms of the City loan are as follows:

Loan Amount	$12,000,000
Interest Rate	3%
Term	57th anniversary of final certificate of occupancy
Repayment	City's prorata share of residual receipts (the excess of annual Operating Revenues over annual Operating Expenses for the property)
Affordability	The City's regulatory agreement and forthcoming state density bonus and California Tax Credit Allocation Committee (TCAC) regulatory agreements will protect the affordability of 100% of the units (except for the manager's unit).
Affordability Levels	Approximately 33% of the regulated units will be restricted to extremely low-income households, approximately 44% of the units will be restricted to very low-income households, and approximately 22% of the units will be restricted to low-income households. This mirrors the planned affordability of the overall project.
City Preference	To the extent permitted by law and funding regulations, the owner shall give a preference to applicants who live or work in Newark.
Covenants Run With The Land	The Regulatory Agreement remains in place even if the property is transferred to another owner.
Subordination	It is standard practice for commercial lenders (construction and permanent lenders) to require local government lenders to subordinate their loans to the commercial loan. In the rare and unlikely event of foreclosure, the City's affordability restrictions would be eliminated. The documents currently reflect the City's interest in avoiding subordination and remaining in first position, but it is possible that this will have to be renegotiated in order to obtain a construction loan commitment. To support this, the City will commit to meeting and conferring with the successor owner (foreclosing entity) to discuss whether the rents of some units will need to increase to 60% AMI rents to protect the viability of the development. This draws upon (but does not mirror) language successfully used on a recent Alameda County project. As noted above, the affordability of the project will also be protected by a density bonus regulatory agreement which staff believes will survive foreclosure under state density bonus law.

The loan documents are typical for affordable housing projects and formalize the exchange of commitments and expectations between the City and SAHA. The documents refer to Thornton, L.P. as the Developer and Owner. Following standard industry practice for affordable housing real estate projects, SAHA has created a limited partnership, Thornton, L.P., to serve as the legal entity for this project. SAHA is the general partner for the limited partnership. A brief description of each document is provided below.

- *Affordable Housing Loan Agreement*: This agreement generally documents the agreement between the City and developer/borrower, including expectations about the housing project, expectations for SAHA's performance, required City approvals, the City's loan terms, conditions of disbursement, limitations on use of the property, security for the city's loan and the process in the event of default and remedies.
- *Regulatory Agreement and Declaration of Restrictive Covenants*: This agreement will be recorded against the property to document the owner's affordability covenants and other commitments. This agreement governs affordability restrictions, how rent is calculated, rent increases, over-income tenants, income certification and the operation and management of the project.
- *Deed of Trust with Assignment of Rents, Security Agreement, and Fixture Filing*: The Deed of Trust protects the City's loan. It is recorded against the property and memorializes the borrower's pledge of property as security for the loan.
- *Promissory Note*: The Promissory Note documents the borrower's promise to repay a certain amount of money at a specified time.

Next Steps

The City Council is now reviewing the proposal and proposed funding decision. If approved by the City Council, the adopted resolution would authorize the funding allocation and authorize the City Manager to execute the Affordable Housing Loan Agreement and all related documents. City staff would then disburse funds to SAHA pursuant to the Affordable Housing Loan Agreement and all related loan documents to complete the acquisition of the Thornton Avenue properties in late April, prior to the deadlines in the purchase agreements.

After the properties are acquired, SAHA will conduct community outreach and use the feedback received to further refine the proposal. SAHA is expected to submit a formal entitlement application for the required entitlements in the Summer of 2023.

As currently proposed, the project will require a Design Review, Minor Use Permit for the proposed building height, and a density bonus request with incentives, concessions, and waivers. The California Density Bonus Law provides developers with tools to encourage the development of affordable housing. The law includes incentives, concessions, and waivers intended to help make the development of affordable housing

economically feasible. Examples include reduced parking standards and setbacks and other standards that would result in identifiable, financially sufficient, and actual cost reductions. The specific incentives, concessions, and waivers requested for the project will be identified in the formal entitlement application, expected to be submitted by SAHA later this year.

Consideration of these entitlements would come before the Planning Commission and City Council in the Fall/Winter 2023. The NOFA process and the overall project timeline are illustrated in Attachment E of this report.

FISCAL IMPACT

The recommended allocation of funding from the Affordable Housing Fee Fund would result in the fund balance being reduced by $12 million, consistent with direction from the City Council as documented in the Affordable Housing Workplan. There is no impact on the City's General Fund or other program funds.

There is some risk in providing funds to the developer for site acquisition and other predevelopment costs prior to the approval of project entitlements and the start of construction. The loan documents will provide protection for the City to reduce risk in the event of default and remedies and the borrower's pledge of property as security for the loan.

ENVIRONMENTAL/PLANNING COMMISSION REVIEW

The City's provision of financial assistance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that the approval of financial assistance will have no significant effect on the environment.

REVIEW AND APPROVAL

Prepared by - Carmelisa Lopez, Senior Planner
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

Attachment A - Affordable Housing Work Plan
Attachment B - NOFA June 2022
Attachment C - SAHA Project Proposal
Attachment D - Written Response from SAHA
Attachment E - Process Flow Charts
Attachment F - Draft Affordable Housing Loan Agreement

Attachment G - Preliminary Financing Plan
Attachment H - Draft Promissory Note
Attachment I - Draft Deed of Trust
Attachment J - Regulatory Agreement
Attachment K - Draft Resolution
Staff Presentation

RESOLUTION NO. 11,201

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING AN AFFORDABLE HOUSING WORK PLAN

WHEREAS, in May 2015, the City Council approved Resolution 10,361 approving an amendment of the Newark General Plan, adopted December 12, 2013, by replacing the Housing Element with the Housing Element Update 2015; and

WHEREAS, the purpose of the Housing Element is to support the vision of assuring the provision of safe, decent, affordable shelter for all Newark residents. The Housing Element places a particular emphasis on lower income Newark residents and residents with special needs, including seniors and persons with disabilities. The Housing Element includes an evaluation of housing needs in the City, based on demographics and housing conditions. As required by state law, it identifies sites sufficient to accommodate the City's share of the region's housing needs over an eight-year period, the Regional Housing Need Allocation (RHNA), developed by the Association of Bay Area Governments (ABAG); and

WHEREAS, the State of California continues to suffer a housing affordability crisis, which also manifests at the regional and local level. Based on data from ABAG, median rents in the Bay Area have increased over 44% between 2010 and 2015, while median household income has increased by 5% over same period. In 2017, over 40% of Alameda County renters spent 35% or more of their household income on rent; and

WHEREAS, the 2015-2023 RHNA for the Bay Area identifies a total housing need of 187,990 units, distributed among very-low, low-, moderate-, and above-moderate income levels. The City of Newark's RHNA allocation for the 2015-2023 period is 1,078 units (which shall be accommodated through the General Plan and Zoning Ordinance, but not necessarily constructed) and includes:

a) 330 units for very-low income households, with incomes at or below 50% of the Average Median Income (AMI)

b) 167 units for low income families, with incomes ranging from 51% or 80% of AMI

c) 158 units for moderate-income households, with incomes from 80% to 120%, and

d) 423 units for above-moderate-income households with an AMI of greater than 120%; and

WHEREAS, between the period of 2015-2020, the number of residential units constructed in the City or have had building permits issued for construction, includes 36 units of housing affordable for moderate-income households and 1,062 units of housing affordable to above moderate-income households, for a total of 1,098 units. The City has not produced units affordable to low-income or very-low-income households within the 2015-2020 period, and

WHEREAS, although the City has produced housing that exceeds the goal for above-moderate housing, the production goals for very-low, low, and moderate housing have not been met; and

WHEREAS, the City recognizes the importance of continuing to proactively develop affordable housing in Newark to meet he needs of families who live and work in the City, consisted with the adopted Housing Element; and

WHEREAS, in November 2020, the City Council approved a contractual services agreement with Baird + Driskell Community Planning (Consultant) to provide affordable housing program management services to the City; and

WHEREAS, City staff directed the Consultant to conduct interviews with the City Council, the Planning Commission, and the Community Development Advisory Committee to assess the affordable housing needs of the community and prepare a work plan that would guide the efforts of City staff and the Consultant over a two-year period; and

WHEREAS, based on the results of the interviews, City staff and the Consultant have produced an affordable housing work plan that includes activities for the preparation of new affordable housing requirements, polices, and actions intended to significantly incentivize the production of affordable housing within the City, particularly at the very-low and low-income levels.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby adopts the 2021-2023 Affordable Housing Work Plan as attached as Exhibit A.

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on May 13, 2021, by Council Member Hannon who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

AYES:	Council Members Collazo, Freitas, Hannon, Vice Mayor Bucci and Mayor Nagy
NOES:	None
ABSENT:	None
SECONDED:	Council Member Collazo

APPROVED:

s/ALAN L. NAGY
Mayor

ATTEST:

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
Interim City Attorney

Newark Affordable Housing Work Plan, 2021-2023

		I. Housing Element Update	II. Inclusionary Housing and Nexus Study and Ordinance	III. Funding NOFA	IV. Local Preferences Policy	V. First-Time Homebuyer Program	V. Sites Acquisition and Other
Timeframe/Budget*		**$150,000-$200,000, depending on extent of re-zoning**	**$100,000**	**40% of Housing Fund**	**$50K**	**$50,000 for Initial Program Structure + 5% of Housing Fund**	**40% of Housing Fund**
Spring/Summer2021		Issue RFP/begin community engagement, review of previous housing element, needs assessment and overall update process	Develop Scope/Issue RFP/Retain Consultant and initiate study process	Develop NOFA outline and determine initiate funding be offered	Coordinate with Eden Housing re: local preferences analysis for proposed 79-unit senior housing development	Develop draft program parameters for first-time homebuyer program.	1) Due diligence and background research for potential acquisition of sites for affordable housing development. 2) assist staff with ongoing real state and affordable housing analysis, developer negotiations other key tasks related to affordable housing.
Fall 2021		Community engagement continues + sites inventory and analysis	Conduct Study	Issue NOFA and review applications	Develop analysis and guidelines for local preferences policy	Conduct additional due diligence for program and present drat program for Council consideration.	1) Develop sites acquisition strategy; 2) affordable housing program and policy support.
Winter 2021/22		Assess rezoning needs	Finalize Study and make recommendations to Council/adopt updated Program/Ordinance	Make funding commitments	Adopt local preferences policy	Adopt and begin implementation of program.	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.

Newark Affordable Housing Work Plan, 2021-2023

		I. Housing Element Update	II. Inclusionary Housing and Nexus Study and Ordinance	III. Funding NOFA	IV. Local Preferences Policy	V. First-Time Homebuyer Program	V. Sites Acquisition and Other
Spring 2022		Rezoning + Programs and Policies	Implementation	Manage/oversee funding allocations	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.
Summer 2022		Public Hearings	Implementation	Manage/oversee funding	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.
Fall 2022		Submit Draft to HCD	Implementation	Manage/oversee funding	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.
Winter 2022/23		Approve and Adopt Housing Element	Implementation	Manage/oversee funding	Implementation	Implementation	Implementation of sites acquisition strategy; other affordable housing program and analytical tasks.

*Estimated budget or Housing Fund allocaton percentage. Specific funding requests would be reviewed and approved by Council

City of Newark
Multifamily Rental Housing
Notice of Funding Availability (NOFA)

NOFA Issuance Date: June 2, 2022
NOFA Response Deadline: August 5, 2022, 5:00 pm Pacific

1. Background

The City of Newark invites developers of deed-restricted affordable new-construction multifamily rental housing projects located within the Bay Area to submit applications for funding assistance under this Notice of Funding Availability (NOFA). A total of **approximately $12 million** of funding assistance is available under this NOFA for the types of affordable housing projects described below. The funding in this NOFA comes from the City's Affordable Housing Impact Fee Fund.

Newark has long been considered one of the most livable and relatively affordable cities in the high-cost Bay Area, but recent rising housing costs and income levels threaten that relative affordability. Newark needs housing for all segments of the community. For this NOFA, the City of Newark is interested in soliciting proposals for deed-restricted affordable rental housing that serves:

- Families with children[1]
- Key workers (including teachers/educators, first responders, childcare workers)
- People and families at risk of homelessness
- People with disabilities and other special housing needs

The City of Newark has hired Baird + Driskell Community Planning to administer this NOFA. They will work closely with city staff throughout the process and will be the main point of contact for applicants.

2. NOFA Process and Timeline

a. **Deadline: August 5, 2022, 5:00 pm Pacific**

Project applications must be complete by the deadline date to ensure consideration for funding eligibility. Applications that do not include all required information, or do not have complete answers to all applicable questions, may, at the City's sole discretion, be deemed ineligible for funding.

b. **Submission Format:** Proposals must be submitted as electronic PDF files via a filesharing service like Dropbox or Box.

[1] This category is meant to align with CTCAC's definition of large-family projects.

c. **Pre-Proposal Q&A Session:** The City of Newark will hold a Q&A session with prospective applicants on June 15, 2022 from 10-11 am Pacific. The session will be held remotely on Zoom. Email newarknofa@bdplanning.com to request info. Attendance is not mandatory but recommended.

d. **Questions:** Please do not call the City with questions regarding this NOFA. Submit all questions relating to this NOFA or content of the application by emailing newarknofa@bdplanning.com. Applicants will receive responses via email. All questions and responses from the City will also be posted on the City's website (https://www.newark.org/departments/community-development/planning-division/housing-programs-and-assistance). The final day to email questions to the City is July 22, 2022.

e. **Process and Timeline:** City staff and technical consultants will review all proposals submitted that meet the NOFA requirements and interview selected applicants. Proposals will be evaluated based on the Selection Criteria identified below. Proposals that receive favorable staff review will be presented to the Community Development Advisory Committee, who will make a recommendation to the City Council for a funding decision. Once the City Council has made a final decision, staff will begin negotiation of loan documents with the selected Applicant(s).

Milestone / Activity	**Target Date**
NOFA Issuance	June 2, 2022
Q&A session	June 15, 2022, 10-11 am
Final date for emailed questions	July 22, 2022
NOFA Responses due	August 5, 2022, 5:00 pm
Interviews Committee meet to discuss recommendation	September (estimated)
Committee make recommendation to Council Council make funding commitments	October (estimated)
Document negotiation	November (estimated)
City final approval of documents	December (estimated)

3. Summary of Eligibility

a. **Eligible Applicants:** Non-profit or mission-driven for-profit developers, other non-profit sponsoring agencies, tax credit limited partnerships and limited liability companies, and joint ventures among any of these entities. Joint ventures that include smaller community organizations or emerging developers are encouraged, but the team must include a lead developer that meets the below requirements. Governmental agencies are not eligible applicants.

Applicants must have affordable housing experience within the nine-county Bay Area (San Mateo, San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, and Santa Clara) ("Bay Area") and a successful track record of at least two (2) years of ownership[2] and management[3] of at least two (2) affordable housing projects within the Bay Area in which 100% of the Units, except for the manager(s) Unit(s), are targeted to tenants at or below 80% of the Area Median Income.

b. Eligible Projects: Eligible projects must be new construction multifamily rental housing projects in which 100% of the units are restricted to households with incomes at or below 80% AMI[4] and the average AMI for the project is at or below 60% of AMI.

Supportive Housing Projects/Units and projects/units serving special needs populations are eligible. However, Eligible Projects must provide permanent affordable housing rather than transitional housing.

c. **Eligible Use of Funds:** Eligible Uses of Funds include, but are not limited to, acquisition of property and property rights, cost of construction, including costs associated with planning, administration, and design, as well as actual building or installation, as well as any other costs associated with the construction or financing of affordable housing.

i. **Predevelopment:** Eligible predevelopment costs may include, but are not limited to, costs of local, state- and federally-mandated tenant relocation, site plan and other site design studies, architecture and engineering fees, soils testing and other environmental review costs, legal fees, costs of other eligible consultants, planning fees, and other project management expenses.

- City funds are available to reimburse predevelopment costs once the Project receives entitlement approval.
- City funds are not available to pay for Applicant's staffing, overhead and general costs of operation or site search costs.
- Eligible costs initially paid with Applicant's own or borrowed funds may be reimbursed with City loan proceeds within a reasonable period of time at the City's discretion.

ii. **Site Acquisition:** The Applicant may request funds to apply toward site acquisition costs such as appraisals, purchase agreement deposits, option payments, other site control costs, the purchase price of the site, repayment of the loan(s) that originally financed the purchase of the site

[2] Ownership by an affiliated entity, limited partnership or limited liability corporation for tax credit purposes will qualify as ownership of the project, at the City's discretion

[3] Management by an affiliated or contracted property management entity will qualify as management of the Project, at the City's discretion

[4] With the exception of the manager's unit(s).

(i.e., take- out financing), and other acquisition costs such as buyer's share of closing costs. The City will not disburse funds for acquisition costs for the land and improvements in excess of the value of the property appraised within six months of disbursement.

- Eligible site acquisition costs also include site clearance, environmental remediation costs associated with environmental hazards, and preliminary site grading in preparation for construction of the Units.
- Eligible site acquisition costs may be reimbursed with City loan proceeds within a reasonable period of time at the City's discretion, as long as the costs were incurred by the Applicant or Project Developer as part of acquiring the property.

iii. **Construction:** Eligible construction costs include: demolition; on- and off-site improvements; construction of new residential Units and non-commercial common areas that are an integral part of a residential development and that are LIHTC basis eligible costs; and other direct construction costs. Should the Project include the construction or rehabilitation of commercial spaces, the Project proforma which is submitted with the application must indicate how the construction or rehabilitation of the commercial spaces will be financed.

- Certain indirect or soft costs are also eligible, including architectural and engineering fees, local permit and impact fees, legal fees, eligible consultant and professional fees, and property taxes and insurance.
- Costs of local-, state-, and federally-mandated tenant relocation, to the extent such relocation is required but not funded by other funding sources.
- City loan proceeds may not be used to pay late or penalty fees or the Applicant's or Project Developer's staffing, overhead and general costs of operation.
- Eligible costs may be reimbursed with City loan proceeds within a reasonable period of time at the City's discretion.

iv. **Operating Costs:** Eligible operating costs may include a capitalized operating subsidy reserve needed to support general operating costs including supportive services in Projects. For Projects that will serve incomes below 30%, the reserve may be used to support rents.

d. Threshold Criteria: In addition to meeting the above eligibility requirements, the City has the following threshold priorities and requirements:

i. Minimum number of units: No minimum threshold, but the City is seeking as many affordable units as possible.

ii. Affordability
    - Minimum Affordability: 100% of the units must be restricted to households with incomes at or below 80% AMI and the average AMI for the project must be at or below 60% of AMI. The City seeks the deepest affordability possible.
    - Term of Affordability: Housing units must remain affordable for at least 55 years.

iii. Site Control: At the time of proposal submission, the Applicant must have site control of the property for the proposed Project for which funding is requested. The Applicant must show that if the proposal is selected, site control can be maintained until the property can be acquired. As evidence of site control, one of the following documents must be submitted with the application:
    - Purchase and Sales Agreement, including evidence that the agreement is for a term that is sufficient to hold the property until the anticipated date of purchase;
    - Option to purchase or lease, binding on seller or landlord, including evidence that options are renewable until the anticipated date of purchase;
    - A long-term lease agreement with a term of not less than 75 years;
    - Executed land sales contract or other enforceable agreement for acquisition; or
    - Other evidence that Applicant has site control acceptable and as determined by the City.

    The City has no publicly owned sites currently available for development or redevelopment as affordable housing. However, the City has adopted three specific plans that may offer potential for new multifamily: the NewPark Place Specific Plan, Bayside Newark (formerly The Dumbarton Transit-Oriented Development), and the Old Town Newark Specific Plan.

iv. Financing
    - Projects must demonstrate financial feasibility and ability to compete well in securing other funding sources
    - Projects must have reasonable cost and underwriting assumptions
    - Projects must leverage other sources of funding
    - Underwritten rents shall be at least 10% below market rents for all project units based upon an approved Appraisal

v. Planning: Projects shall be consistent with the goals and objectives of the City's General Plan, Specific Plans (as applicable) and other local and state goals. The City is currently undergoing the process of updating its Housing Element, which will be completed by January 31, 2023. Applicants should reference the City's affordable housing workplan

(included in Appendix) to ensure that proposed projects are in line with the City Council's direction on housing policy.

Resources:
https://www.newark.org/departments/community-development/planning-division/housing-programs-and-assistance

https://newarkhousingupdate.org

vi. Design & Services
- Projects must incorporate high quality design and amenities
- Projects must be designed to be compatible and properly integrate with neighborhood scale, massing and setting
- Projects must incorporate appropriate community spaces, amenities and services for the target population
- Projects should include supportive services appropriate for the expected tenant population as an integral component of the project including identification as to how the provided services will be funded long-term.

vii. Experience: Applicant must have demonstrated experience with successful development and property/asset management of affordable housing projects, the ability to timely secure funding sources that minimizes the City's contribution of local funds, and the capacity to work cooperatively with the community in the design and development of the Project.

viii. Financial Capacity: Applicant must demonstrate sufficient financial strength and capacity by providing audited financial statements.

4. **Scoring Criteria:** Projects will be scored relative to the competition using the below priorities**.**

a. Financial Feasibility
   i. Cost effectiveness (higher score for lower total development cost per unit) (up to 10 points)
   ii. Number of units (higher score for a greater number of units) (up to 10 points)
   iii. Leverage other financing sources (higher score for higher ratio of total other financing sources compared to the city's contribution) (up to 10 points)
b. Public benefits (city's priorities)
   i. Income targeting (higher score for lower average AMI for the project) (up to 20 points)
   ii. Population targeting (higher score for a larger number of units with three or more bedrooms) (up to 25 points)
c. Quality and completeness of proposal (up to 15 points)

d. Quality and completeness of budget (up to 10 points)

5. City Financial Participation and Requirements

Depending upon the financial need of the Project, the City will generally provide a capital contribution in the form of a 55-year loan (City Loan) with an interest rate of 3% simple-interest, payable from residual receipts. The selected Applicant must provide adequate security for a to-be-determined predevelopment component of the City Loan, including but not limited to assignment of the purchase agreement and plans and specifications. The City Loan will be secured by a promissory note and recorded deed of trust and will be conditioned upon additional security in the form of a recorded rent regulatory agreement and a notice of affordability restrictions. The City Loan may not be used to fund operating subsidies or supportive services other than the capitalized reserves outlined above.

The Deed of Trust for the City Loan will initially be recorded in second lien position junior to any private lender acquisition/construction trust deed, and further may be subordinated to other state or federal public agency financing, if required by law. The selected developer will be required to start construction within three years from the date the Loan Agreement is executed or risk losing the City's funding commitment.

Predevelopment Loan: As security for a Predevelopment Loan, selected Applicants are required to assign to the City its rights and obligations with respect to certain agreements (including purchase agreement), plans and specifications and approvals. If the project is proceeding and subsequent financing is approved; the Predevelopment Loan shall be rolled into the subsequent loan. If the project proves infeasible, the predevelopment loan may be forgiven in certain circumstances pursuant to the terms of the Predevelopment Loan Agreement.

Predevelopment costs: Predevelopment costs are upfront project costs necessary to determine project feasibility and include: costs of an initial feasibility study; consulting fees; legal fee; architectural and engineering fee; soil and environmental review services; and other upfront expenses incurred during the preconstruction phase. Predevelopment costs do not include option deposits to acquire site control.

a. Key Underwriting Guidelines

- Loan Repayment – Generally, the City will require 50% of Net Cash Flow for residual receipts payments.
- Capitalized Operating Reserve – Minimum three-months of operating expenses, reserves, and debt service.
- Rental Income During Construction – Net rental income from operations from lease-up prior to permanent loan conversion shall be included in the calculation of project cost savings.
- Total Development Budget Savings – Total project cost savings shall be determined in an accounting report prepared by a third party certified public

accountant and shall show Project Development Costs and Project Income Sources through the date of the report as well as estimated through the Conversion Date. In the case of a tax credit development, total project cost savings shall be disbursed first to cover reductions in the tax credit equity contribution amounts if any and then to pay interest and principal on the City loan.

- Commercial Space – Commercial spaces will be excluded from the City underwriting assumptions. The financing plan for nonresidential space shall be provided to and approved by the City and the associated costs must be listed separately.
- Vacancy Rate Assumptions – City assumptions generally mirror those of the California Tax Credit Allocation Committee (CTCAC) policy: (5%) for family and seniors; and ten percent (10%) for permanent supportive housing, other special needs, and SROs.
- Total Operating Expenses – Minimum operating expenses will generally be consistent with those set by TCAC per region and project type (not including property taxes, replacement reserves, depreciation or amortization expense, or the costs of any service amenities). Maximum operating expenses may be approved by the City in its sole discretion based on portfolio surveys and developer information.
- Replacement Reserves – For new construction a minimum of $250 per unit annually and a maximum of $350 per unit annually. For rehabilitation projects, a minimum of $300 per unit annually and a maximum of $400 per unit annually as determined by a 20-year replacement schedule based on a Physical Needs Assessment. Exceptions may be granted for other financing or project requirements. Reserves must remain with the project when the investor exits the owner entity.
- Operating Reserve Withdrawals and Replenishment – Operating Reserve replenishment to be funded from developer's share of Net Cash Flow.
- On-Site Property Management – All proposed projects must include, at a minimum, on-site management staff during normal business hours.
- Qualifications for Property Managers – The proposed management firm, or a principal in the firm, is required to submit evidence of successfully managing at least five projects, each with over ten units and subject to a recorded regulatory agreement for at least three years prior to the loan application.
- Management Plan – A draft management plan, lease agreement, and related documents will be submitted with final approval from the City prior to construction loan closing.
- Security Plan – Developers will be required to submit a security assessment and a plan for review and approval by the City prior to construction loan closing.
- Supportive and/or Special Needs Housing – Properties with supportive/special needs occupancy will submit a plan that addresses the needs of the population prior to construction loan closing.

The ability to satisfy the Project Threshold Criteria and the Key Underwriting Guidelines does not guarantee City project funding and the City reserves the right in its sole and absolute discretion to modify or waive any of these requirements without further notice to Applicants or potential Applicants.

b. **Allowable Partnership/Asset Management Fees:** For tax credit projects, the annual Partnership Management Fee and Asset Management Fee may not exceed $15,000 and $10,000, respectively, and may increase at up to 3% per year.

c. **City Legal Fees:** Charges incurred by the City's outside counsel during the negotiation and execution of loan documents, including both the predevelopment loan and the construction loan will be paid directly by the developer.

d. **Environmental Review and Assessment:** Projects must comply with the requirements of the California Environmental Quality Act. If federal funding is involved, the Project will also be assessed in accordance with the National Environmental Policy Act (NEPA) requirements.

e. **Insurance Requirements:** The selected Applicant will be required to comply with the City's insurance requirements, summarized as follows:

1. Workers' Compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than $1 million each accident.
2. Commercial General Liability insurance with limits not less than $2 million each occurrence.
3. Comprehensive Automobile Liability insurance with limits not less than $1 million for each occurrence.
4. Property insurance, including during the course of construction builder's risk insurance, covering the development, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value.
5. Commercial Crime Insurance covering all officers and employees, for loss of City Loan proceeds caused by dishonesty, in an amount not less than the amount of the City Loan naming the City as a Loss Payee, as its interests may appear.
6. The general contractor, subcontractor, or agent working on the development must maintain insurance of the types and in at least the minimum amounts described in items a, b, and c above, except that the limit of liability for commercial general liability insurance for sub-contractors is $1 million.
7. All policies, both during construction and after completion, must name the City as an additional insured.

The above summary covers general requirements and does not include comprehensive detail about the City's insurance requirements. For specific questions and exact insurance requirements, the Applicant should contact newarknofa@bdplanning.com.

f. **Marketing Plan:** Applicant is responsible for tenant selection and waitlist management. A Marketing and Management Plan will be required 180 days prior to construction completion (for rental projects) and must be approved before marketing can begin.

g. **Local Preference:** The City is currently undertaking a process to consider a local live/work preference policy. If the policy is adopted, funded Projects will be required to adhere to this policy.

6. Submittal Requirements

	Requirement	Check
1.	**Cover Letter:** Provide a brief summary of the proposed Project and discuss your firm's qualifications, why you are uniquely qualified to merit the City's investment, and why your proposal should be selected for funding.	
2.	**Completed Project Information Form (Excel document) with required data**	
3.	**Development Team** a. Identify the entity with the legal authority to contract directly with the City, including all joint ventures/limited partners and their percentage ownership interest (if applicable). b. Include resumes of key individuals and their roles. c. Identify person who has the legal authority to enter into a contractual agreement with the City on behalf of the Applicant. d. Identify any known partners and provide resumes. This must include the proposed management firm, or a principal in the firm. Provide a list of rental projects that are currently under the company's management. Include each property's location, number of units and number of affordable units. The management entity is required to submit evidence of successfully managing at least five projects, each with over ten units and subject to a recorded regulatory agreement for at least three years prior to the loan application.	
4.	**Financial Statements:** In order to assess the financial soundness of the Applicant's proposed principal development entity, the submittal shall include copies of the three most recent audited financial statements of the Applicant and each proposed development entity/joint venture partner, as applicable.	

	Requirement	Check
5.	**Experience** a. Provide evidence of past project experience, particularly with developing affordable rental housing projects. For three (3) projects include: a brief narrative description of the project, the Applicant's role, the cost of the project, amounts and sources of funds used to finance the project, the date the project was completed, audited financial statements for the three most recent years of each projects operations, and indicate if the project was completed on time and within budget. b. For each of the projects identified above for past project experience, provide a reference with the applicable city or redevelopment agency/redevelopment successor agency including name, email address and phone number.	
6.	**Project Description** a. Provide a written description of the proposed Project, scale of development (stories, type of construction, size, number of buildings, use of proposed tenants of commercial component (if applicable), occupancy restrictions, number and bedroom size of units, number of parking spaces, and type of amenities). The City strongly encourages new construction approaches/ technology with a proven track record of significant cost savings and compatibility with the need of the proposed tenant population. b. Provide basic site information such as property address; Assessor Parcel Number; square footage; existing uses; an initial assessment for the need to relocate existing commercial and/or residential tenants, as may be applicable; current General Plan land use designation and zoning; indicate if the proposed Project is consistent with the existing zoning, or if rezoning is required. c. Describe the property location, neighborhood, transportation options, local services and amenities (full-service grocery store, neighborhood park, pharmacy, medical facility, schools, etc.) within close proximity to the site (include distance, e.g., 1⁄4 mile, 1⁄2 mile). d. Provide a graphic depiction of the proposed Project consisting of a preliminary site plan and elevation. Overly detailed architectural renderings are discouraged in response to this NOFA. e. Describe the Project's design and amenities, including community spaces, and how the Project will integrate into the neighborhood and meet the needs of the target population f. Describe how the Project will be managed.	

	Requirement	Check
7.	**Financing Plan and Proforma:** Provide a narrative description of the proposed method of financing the proposed Project including all sources of debt and equity. In the case of a proposed tax credit project, identify the assumed tax credit pricing/cents on the dollar projected in the proposed project's Sources and Uses. Given the competitive nature of many of the available County, state and federal funding programs, the narrative should describe the Applicant's approach to alternative financing scenarios as a contingency to the preferred plan. The proposal should also include a complete preliminary financing pro forma of the proposed Project including: a. Total development cost budget, itemized for each component of the Project, identifying predevelopment costs, estimates of land acquisition and site preparation costs (if applicable), direct construction costs (for each component) and all indirect and financing costs, including the developer fee, construction escalation, design contingency, and construction contingency of no less than 10%. b. For mixed-use projects, a development budget with the costs attributable to the commercial/retails component clearly delineated from those for the residential component. c. A complete, phased, sources and uses of funds table for acquisition/predevelopment, construction and permanent financing for each component of the Project. The table should clearly indicate the amount of requested City Affordable Housing financial assistance and the proposed repayment terms of such assistance. d. An initial 15-year operating pro forma with estimated income and expenses including rents for each unit type and assumed inflation factors for both revenues and expenses; assumed vacancy rate; projected debt service with commercial lender assumed interest rate, loan term and amortization, as appropriate; and all distributions of remaining cash flow. The pro forma should clearly detail assumptions on rents for all unit types including utility allowance factors and other sources of income.	
8.	**Evidence of site control:** At the time of proposal submission, the Applicant must have site control of the property for the proposed Project for which funding is requested. The Applicant must show that if the proposal is selected, site control can be maintained until the property can be acquired. As evidence of site control, one of the following documents must be submitted with the application:	

	Requirement	Check
	• Purchase and Sales Agreement, including evidence that the agreement is for a term that is sufficient to hold the property until the anticipated date of purchase; • Option to purchase or lease, binding on seller or landlord, including evidence that options are renewable until the anticipated date of purchase; • A long-term lease agreement with a term of not less than 75 years; • Executed land sales contract or other enforceable agreement for acquisition; or • Other evidence that Applicant has site control acceptable and as determined by the City.	
9.	**Appraisal:** An appraisal is required that has been completed within six months of the application deadline. The appraisal must conform to the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which includes the Uniform Standards of Professional Appraisal Practice. All appraisers must be California State licensed/certified.	
10.	**Preliminary Title Report:** A preliminary title report dated within 30 days of the application deadline.	
11.	**Phase I:** Applicants must provide a copy of the completed Phase I Environment Assessment prepared by a qualified environmental firm.	
12.	**Conceptual Relocation Plan (if needed):** Any Applicant proposing to acquire land or rehabilitate existing structures using City funds that may result in the displacement of residential or commercial tenants must fully comply with both federal and state relocation laws. If the Project involves temporary or permanent relocation of residential or commercial tenants, please provide a narrative Relocation Plan and Relocation Budget. Also, provide the name, resume, and contact information of the proposed qualified relocation consultant. The Relocation Plan should include: a. A description of the applicable relocation requirements and relocation benefits to be provided; b. A cost estimate of relocation expenses; c. Identification of the number of households or businesses to be displaced; d. The current rent roll; and e. A description of the proposed advisory services that will be provided to the displaced households/businesses.	

	Requirement	Check
13.	**Community Outreach Plan:** Provide a plan for conducting community outreach to neighbors of the proposed Project and community groups. The outreach plan should describe how the Applicant intends to build support for the Project and address community concerns. The outreach plan should also discuss any anticipated community concerns and how they would be handled.	
14.	**Services Plan:** If applicable, provide a services plan that describes services proposed to be provided to tenants (e.g., child care, computer training, etc.) and demonstrates how supportive services for the target tenant population will be provided and funded.	
	Proposed Project Schedule: Provide a preliminary project schedule identifying the estimated date of achieving key milestones including: securing of all financing commitments; acquisition of the site; start of construction; completion of construction; and lease-up and stabilization of residential and commercial operations (if applicable). Project schedule should start within 30 days of date the Applicant's project is selected.	

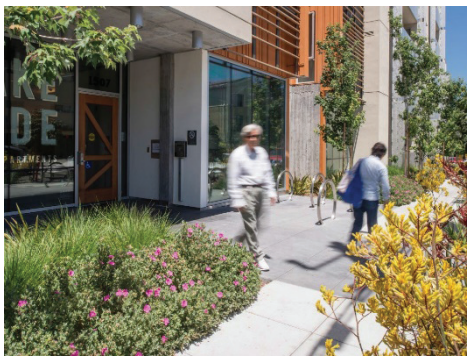
ATTACHMENT C











RESPONSE TO NOTICE OF FUNDING AVAILABILITY (NOFA)

Affordable Multifamily Rental Housing
6347-6375 Thornton Avenue

City of Newark Planning Division

August 5, 2022

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

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1/Cover Letter

August 5, 2022

VIA EMAIL
City of Newark Planning Division
newarknofa@bdplanning.com

RE: Affordable Housing Development NOFA (6347-6375 Thornton Avenue)

To Whom It May Concern:

On behalf of Satellite Affordable Housing Associates (SAHA), I am pleased to present this application for funding assistance to develop 6347, 6361 and 6375 Thornton Avenue in partnership with the City. This NOFA presents an exciting opportunity for SAHA to make an important contribution toward the City's affordable housing needs. We would be honored to be selected to join with the City in the creation of a welcoming community that brings diverse housing opportunities to the people of Newark.

SAHA is a nonprofit housing development corporation with over 50 years of experience in the field of developing and managing affordable housing. SAHA specializes in creating residential and mixed-use developments throughout the Bay Area for low and very low income families, seniors, and people with special needs including those experiencing homelessness.

SAHA begins from the idea that every person deserves a home. Our work is inspired by a belief that quality homes and empowering services should be in reach for all members of our community and that despite the many obstacles to providing housing for people with modest incomes and special needs, this goal is possible. We currently house over 4,000 residents.

With a commitment to high-quality design and thoughtful, ongoing supportive services, we empower our residents to build better lives and create healthier, safer neighborhoods. With 70 affordable communities completed in the Bay Area and a pipeline of new projects in development, SAHA is one of the most impactful community-based nonprofit housing organizations in the region.

1/Cover Letter



EXPERIENCED TEAM

For the development of the Thornton Avenue site, SAHA has assembled an experienced and resourceful team. Satellite Affordable Housing Associates (SAHA) will be the Developer and Owner (through a Limited Partnership structure) and will also provide Property Management and Resident Services coordination. Van Meter Williams Pollack Architects (VMWP), a firm with which SAHA has previously partnered on several projects including Arboleda, Jack Capon Villa and Albany Family Housing, will be the project architect. VMWP has proven expertise designing affordable housing that matches the character of the existing neighborhood.

SAHA Property Management employs a staff of over 115 professionals. Our property managers, assistant property managers, maintenance technicians, and custodians are supported and trained by property supervisors and the Director and Associate Director of Property Management. SAHA PM also include a Compliance Department overseeing the regulatory requirements for our properties. Our Facilities Department oversees capital improvement projects and facilities maintenance technicians.

Our team of more than 30 non-clinical resident service service coordinators works at nearly every SAHA site, with the aim of fostering physical, emotional and cognitive health, authentic social connections, and a feeling that we live and work not just in a beautiful apartment building, but in a community where we are each known and valued. For residents with more acute needs, we provide services that allow residents to remain comfortably within their apartments despite changing abilities, and to live as independently as possible.

1/Cover Letter

Resident Services begin with case management and meeting basic needs through meal programs, public benefits access, health screening and access to care, and transportation services. From there we address a wide variety of individual needs including help with immigration and naturalization, medical-related planning and services including home health care and advance directives, legal assistance and mediation, and financial education. Activities may include a wide variety of on-site classes and groups including exercise classes, bicycle skills and repairs, quilting and embroidery, drum circles, choirs, dancing, walk groups, book clubs, meditation, Feldenkrais, intercultural potlucks, men's groups and ESL classes. Tenants Associations provide a vehicle for socializing as well as advocacy and communication between management and residents.

SAHA Transportation provides wheelchair-accessible van service between many of SAHA's residential communities and destinations in the community. Residents sign up for and receive transportation to shopping, medical appointments and recreational trips. Among low-income seniors, transportation provides critical access to medical providers and lifeline services, food access, and socialization activities. Transportation thus provides an enormous benefit to the quality of resident life at the buildings it serves, increases independence, and addresses conditions of isolation which create mental and physical health risks for seniors.

VISION FOR THE DEVELOPMENT

At 6347-6375 Thornton Avenue, SAHA will transform three underutilized parcels into a vibrant community of 57 deeply affordable homes targeted to individuals and families including 15 two-bedroom apartments and 16 three-bedroom apartments. SAHA proposes to develop a five-story building using Type 5A wood-frame construction for the upper four floors over a Type 1A concrete ground floor and parking garage. The design includes numerous family-friendly common area amenities such as a computer lab, an acoustically-insulated music practice room, a bicycle repair station, buildingwide wireless internet service free to residents, an outdoor tot play area and wheelchair- accessible raised garden beds in a sunny spot where SAHA's Resident Services team will expand its successful gardening program.

To fund this transformation, SAHA requests $12M of seed capital from the City of Newark which will cover approximately 25% of the total development cost. SAHA proposes to leverage this funding with tried and true funding sources: 4% Federal and State tax credits, California Department of Housing and Community Development's Multifamily Housing Program, Federal Home Loan Bank of San Francisco's Affordable Housing Program, deferred developer fee, and a conventional, fixed-rate fully amortizing mortgage.

1/Cover Letter

CARE AND COMMITMENT

As a long-term owner manager, SAHA stewards its community assets through generations. Our recent renovation of our original developments from the late 1960s and, for example our 2011 renovation of Newark Gardens which was completed in 1983, underscored to us the importance of designing buildings with "good bones": durable construction techniques and timeless, high-quality design. At 6347-6375 Thornton Avenue, SAHA will participate in the GreenPoint program and aims to achieve the highest Platinum level of certification through the use of a comprehensive suite of environmentally sustainable building features that considers everything from site selection to finish materials, from the foundation to the roof and everything in between. Additionally SAHA will capitalize on its resident feedback loop to inform design with an eye toward accessibility by people of all abilities and uplifting, light-filled apartments.

We believe we are exceptionally qualified to assist you as a result of our extensive experience developing and managing affordable infill housing for families and special needs groups as well as our long history of collaborative partnerships with Cities and Counties. The attached materials describe in detail SAHA's vision for this site as well as our experience and capabilities.

If you have questions about our proposal during the NOFA process, please direct them to me by phone 510-809-2754 or email estewart@sahahomes.org.

Sincerely,



Eve Stewart

Vice President of Real Estate Development
1835 Alcatraz Avenue, Berkeley, California 94703
estewart@sahahomes.org / 510-809-2754

"Affordable Homes are the building blocks to transforming lives."

-Susan Friedland, SAHA Chief Executive Officer

Newark Multifamily Housing NOFA Project Information Sheet

APPLICANT INFORMATION

Applicant Name	Satellite Affordable Housing Associates
Check one:	
Applicant is current owner and will retain ownership.	
Applicant is the project developer and will be part of the final ownership entity.	✓
Applicant is the project developer and will NOT be part of the final ownership entity.	
Applicant Address	1835 Alcatraz Avenue Berkeley, CA 94703
Contact Person	Eve Stewart, Vice President of Real Estate Development
Phone Number	(510) 809-2754
Email Address	estewart@sahahomes.org
Property Management Company	Satellite Affordable Housing Associates Property Management
Property Management Contact Person	Angela Cavanaugh, Vice President of Property Management
Phone Number	(510) 809-2751
Email Address	acavanaugh@sahahomes.org
Legal Status of Applicant (check one)	
General Partnership	
Individual	
Limited Partnership	
Corporation	
Nonprofit Organization	✓
Joint Venture	
Other, please specify	
Status of Organization	
Currently exists (provide Federal Tax ID Number)	94-3186770
To be formed (provide estimated date)	
Developer Type	
Nonprofit	✓
For Profit	
Joint Venture, please explain	

PROPOSED PROJECT INFORMATION

Project Name	To be determined
Project Address(es)	6347-6375 Thornton Avenue Newark, California
Zip Code	94560
Census Tract	6001444400
Assessor Parcel Number(s)	6347 Thornton Ave APN: 92A-919-16-2 6361 Thornton Ave APN: 92A-919-17-2 6375 Thornton Ave APN: 92A-919-18
Site Area (sf)	6347 Thornton Ave is a 7,700 s.f. parcel with a 1,516 s.f. home built in 1952. 6361 Thornton Ave is a 7,700 s.f. parcel with a 1,144 s.f. home built in 1951. 6375 Thornton Ave is a 8,250 s.f. parcel with a 1,144 s.f. home built in 1951.
Current Site Use(s)	6347 Thornton is a tax preparation office and a used car dealership. 6361 Thornton is a beauty salon. 6375 Thornton is an office for a kitchen/bathroom remodeler/real estate agent/loan broker.
Current residential use? Briefly describe	No
Current commercial use? Briefly describe	Yes
Current General Plan Land Use Designation	High-Density Residential
Current Zoning	RH: Residential High Density
Is proposed project consistent with existing zoning? Or is rezoning required?	Yes, the proposed project is consistent with the existing zoning.
Total Number of Housing Units	57
Total Number of Affordable Units	56 (net of manager's unit as required by State law)
Total Number of Bedrooms	104
Target Population (s)	Families and individuals
# of Buildings	1
Construction Type	4 stories of Type 5A over Type 1A ground floor and parking.
Density (Units per Acre)	105.0
Total lot square footage	23650
Total square footage of all structures	87717
Total gross residential square footage	63128
Total square footage of all residential units	47355
Total gross commercial square footage	0
Total net leasable commercial square footage	0
Total parking structure square footage	24589
Total parking spaces	52
Open parking spaces	0
Covered parking spaces	52
Structured parking spaces	52
Other parking (specify)	0
Total bicycle parking spaces	30

UNIT BREAKDOWN

Unit Type (# of Bedrooms), add rows as needed	# of Units	Average Square Feet	% AMI (as restricted)
1	3	515	30%
1	5	515	30%
1	11	515	50%
1	7	515	60%
2	2	846	30%
2	3	846	30%
2	7	846	50%
3	3	846	60%
3	2	1020	30%
3	4	1020	30%
3	6	1020	50%
3	3	1020	60%
3	1	1020	MGR
Total	**57**		

PROPOSED SOURCES & USES

	$ Amount
City of Newark Funds Requested	$12,000,000
Other Expected Sources of Permanent Funding	
9% Tax Credits	
4% Tax Credits/CDLAC	$24,812,767
Federal (Other), please specify:	
AHP	$855,000
Project-Based Section 8	
CalHFA	
MHP	$8,420,033
Infill Infrastructure Grant (IIG)	
Transit Oriented Development (TOD)	
AHSC	
MHSA	
State (Other), please specify:	
Bank Permanent Loan	$2,590,659
Other: Deferred Developer Fee	$150,000
Other	
Total Development Costs (Affordable Residential only)	**$48,828,459**
Total Development Costs per Affordable Unit (Affordable Residential only)	**$856,640**
Total Development Costs (all uses and AMI levels)	**$48,828,459**
Total Development Costs per Unit (all uses and AMI levels)	**$856,640**
Leveraging (Total Residential Costs/Newark Funds Requested)	**407%**

3/Development Team

3a/Responsible Entity

Satellite Affordable Housing Associates (SAHA) will be the Developer. The project will be owned by a to-be-formed single purpose Limited Partnership that will be a SAHA affiliate.

3b/Resumes of Key Individuals and Their Roles

Following please find resumes for the following people:

1. Susan Friedland, Chief Executive Officer
2. Tom Earley, Chief Operating Officer
3. Eve Stewart, Vice President of Real Estate Development
4. Jonathan Astmann, Senior Project Manager
5. Angela Cavanaugh, Vice President of Property Management
6. Cristi Ritschel, Vice President of Resident Services
7. Benjamin Chuaqui, Architect, Van Meter Williams Pollack

3c/Person with Legal Authority

Chief Executive Officer Susan Friedland has the legal authority to enter into a contractual agreement with the City of Newark on behalf of Satellite Affordable Housing Associates.

3b/Resumes



Susan J. Friedland

Chief Executive Officer

510/809-2762 sfriedland@sahahomes.org

Susan Friedland was recently named SAHA's Chief Executive Officer after having served as its Executive Director since 2005. Previously, Susan was the Director of Housing Development with Fifth Avenue Committee, a community-based development corporation in Brooklyn, NY. She holds a Masters of City Planning degree from U.C. Berkeley and graduated Phi Beta Kappa with a BA in Urban Studies from Brown University. She received the National Award for Women in Planning from the American Planning Association and was honored by the Girl Scouts for her work promoting green building. Susan was a member of the Board of Directors of the Nonprofit Housing Association of Northern California (NPH), and currently serves on the Board of Directors for Enterprise's Community Leadership Committee and for California Housing Consortium. She supports her local community as Chair of the Albany Music Fund and formerly as a Planning Commissioner.

PROFESSIONAL EXPERIENCE

2004-present **SAHA / Affordable Housing Associates, Berkeley, CA** Chief Executive Officer
Directs regional nonprofit housing development company with 220 employees. Oversees all aspects of affordable housing development and property management of 75 residential buildings across the Bay Area. Implements and maintains fiscal oversight of organizational resources. Establishes and maintains personnel policy. Develops and implements organizational business plan. Actively participates in formulating municipal housing policy to implement goals of general and area plans.

1997-2004 **Fifth Avenue Committee, Brooklyn, NY** Director of Housing Development
Managed all aspects of housing development for nonprofit community development corporation, including project concept development, architectural schematic development, financial feasibility assessment, site selection, identification of funding sources, funding application preparation, selection of contractors and architects, coordination with governmental agencies, creation of necessary documents and coordination of loan closing, oversight of construction, and management of rent-up. Directed the development of 15 multi-unit housing and two community facility projects with over $75 million total capital budget.

1995-1996 **U.S. Agency for International Development, Moscow** Housing Reform Advisor

1994-1995 **Urban Planning Consultant, Berkeley, CA**

EDUCATION

Masters of City and Regional Planning, University of California at Berkeley
Bachelors of Arts, Urban Studies (Honors Program), Brown University, Phi Beta Kappa, Magna cum laude



Tom Earley

Chief Operating Officer

510/809-2742 tearley@sahahomes.org

Tom Earley joined SAHA in 2014 as Chief Operating Officer, bringing more than 23 years of experience in nonprofit management and community design, planning and development. During his 13 years at BRIDGE Housing, Tom worked on a diverse portfolio of mixed-use and mixed-income projects on urban infill sites in the greater Bay Area and took on positions of increasing responsibility. In his most recent role as Officer and Senior Vice President his focus included divisional and organizational platform building and collaborative interdepartmental work models. Tom's early career included work for national homebuilder Richmond American Homes, infill developer Panoramic Interests, and the Office of the City Architect for San Francisco. He holds a Master of Science degree in Engineering/Construction Management and a Bachelor of Arts in Architecture degree, both from the University of California at Berkeley.

PROFESSIONAL EXPERIENCE

2014-present **SAHA, Berkeley, CA** — Chief Operating Officer

Manage the operations of SAHA. Oversee Resident Services, Property Management, Human Resources, Information Technology and Facilities/Operations groups. Design and implement final merger activities of SAHA's two successor organizations. Lead development and implementation of strategic plan and development of new programs and business opportunities. Responsible for creating and implementing cross-departmental policies and procedures and monitoring effectiveness. Oversee development and monitoring of departmental, project, and program budgets and forecasting in conjunction with the CFO.

2000-2014 **BRIDGE Housing Corporation, San Francisco, CA** — Senior Vice President

Progressive levels of authority and management responsibilities for one of the country's largest non-profit housing developers and managers. Responsibilities grew from development project management through group operations management to group head. Part of five member executive team with broader organizational leadership responsibilities including strategic planning, budgeting and forecasting, risk management, information technology and human resources.

1998-2000 **Richmond American Homes** — Director of Land and Planning

Responsible for land acquisition, due diligence and forward planning for publicly traded homebuilding company. Territory included North Bay, East Bay and Sacramento areas.

EDUCATION

1994 MS Engineering, Construction Management, University of California Berkeley

1991 Bachelor of Arts, Architecture, University of California Berkeley

Eve Stewart



Vice President of Real Estate Development

510/809-2754 estewart@sahahomes.org

Eve Stewart has been in real estate development and finance with SAHA since 2003. During her tenure, Eve has directly managed or overseen the completion of 1,800 housing units, financed primarily using low-income housing tax credits (LIHTC) combined with additional State and local funding programs. Eve oversees SAHA's Real Estate Development team and activities. She is responsible for 1,200+ units in SAHA's predevelopment pipeline and is a member of SAHA's executive team charged with broader organizational leadership functions including strategic planning and budgeting. Eve is a former board member of East Bay Housing Organizations (EBHO), a nonprofit advocacy and policy group and has held leadership roles with EveryOne Home, Alameda County's initiative to end homelessness. Eve holds a Masters degree in City & Regional Planning from the UNC -Chapel Hill and graduated magna cum laude from Harvard.

PROFESSIONAL EXPERIENCE

2003-present	**SAHA / Affordable Housing Associates, Berkeley, CA**	VP Real Estate Development
2000-2003	**Economic & Planning Systems, Inc.**	Senior Associate
2000	**Dept. of City & Regional Planning, UNC**	Teaching Assistant, Real Estate Investment & Affordable Housing Finance (graduate level)

REPRESENTATIVE PROJECTS

The Savoy, Oakland
101 units | Permanent housing for homeless and special needs; mixed use

Lakeside Senior Housing, Oakland
92 units | Permanent supportive housing for chronically homeless

Strawberry Creek Lodge, Berkeley
150 units | Senior housing

Ashby Lofts, Berkeley
54 units | Mixed-use family housing

Carmen Avenue Apartments, Livermore
30 units | Supportive & Special Needs family housing

Harmon Gardens, Berkeley
16 units | Supportive housing units for transition-age youth

EDUCATION

2000	Master of City & Regional Planning, Real Estate and Housing Development, University of North Carolina at Chapel Hill
1995	Bachelor of Arts, Anthropology/Archaeology, Harvard University, magna cum laude

3b/Resumes



Jonathan Astmann

Senior Project Manager

510/809-2769 jastmann@sahahomes.org

Jonathan Astmann has over 15 years of experience in affordable housing management, development and finance. During his tenure at SAHA, Jonathan has managed the development of over 250 units of housing with total development costs over $125 million. Prior to joining SAHA in 2013, Jonathan identified and worked to acquire sites for new affordable housing projects and provided acquisition and underwriting analysis for the National Equity Fund, a non-profit tax credit syndicator. Jonathan holds California Real Estate Broker license #01908574.

PROFESSIONAL EXPERIENCE

2013-present	**Satellite Affordable Housing Associates, Berkeley CA**	Senior Project Manager
2011-2013	**Palm Communities, Irvine, CA**	Project Manager
2010-2011	**National Equity Fund, Los Angeles, CA**	Acquisition and Underwriting Analyst
2004-2009	**BRIDGE Housing, San Francisco, CA**	Assistant Project Manager

REPRESENTATIVE PROJECTS

Sunflower Hill at Irby Ranch, Pleasanton
31 units | Developmentally Disabled
Completed September 2020

Grayson Apartments
23 units | Special Needs housing
Completed October 2019

Tabora Gardens Senior Apartments, Antioch, CA
85 units | Senior and Special Needs housing
Completed March 2018

Arboleda, Walnut Creek
48 units | Family and Special Needs housing
Completed March 2015

EDUCATION

2011	Masters of Business Administration, UCLA, Anderson School of Management
2002	Bachelor of Science with Honors, Urban and Regional Studies, Cornell University



Angela Cavanaugh

Vice President of Property Management

510/809-2751 acavanaugh@sahahomes.org

Angela Cavanaugh has worked in the affordable housing industry for over 20 years. She began on the construction and maintenance team of Affordable Housing Associates, and quickly became proficient in all aspects of construction rehabilitation. She was then promoted to Property Manager, a position she held for three years. For the next thirteen years, Angela was Director of Property Management, where she oversaw the operations of the entire Property Management department. Currently she holds the position of Vice President of Property Management for SAHA, and leads the management of 65 buildings in the SAHA portfolio.

Angela has experience with multiple funding programs such as TCAC, HUD, MHSA and CalHFA, and has extensive knowledge of Berkeley and Oakland rent board regulations and laws. Throughout her tenure with SAHA, she has developed a keen sense for fair housing practices and works to uphold the mission of Satellite Affordable Housing Associates. Furthermore, Angela has mastered the management of affordable housing with all of its intricate human issues and has developed an intuitive sense of which policies and procedures work to maintain livable and desirable housing in diverse communities.

PROFESSIONAL EXPERIENCE

2000-present	**SAHA / Affordable Housing Associates, Berkeley, CA** Property Manager	VP Property Management
1995-2000	**Affordable Housing Associates, Berkeley, CA** Maintenance Supervisor	Construction Worker
1989-1995	**Landmark Theatre Corporation, Berkeley, CA**	Manager

3b/Resumes



Cristi Ritschel

Vice President of Resident Services

510/809-2719 critschel@sahahomes.org

Cristi Ritschel joined SAHA in 2014 as the Associate Director of Resident Services. Prior to SAHA, Cristi worked as a therapist, victim advocate, and program supervisor for Human Options, Inc., a non-profit leader in the field of family violence prevention and intervention. She has worked in various social service settings from group homes, university mental health systems, family violence centers, interdisciplinary coalitions, and community based mental health clinics. She brings her clinical lens and diverse direct service experience to inform the design of service coordination and community engagement programs, staff development, and partnerships to ensure SAHA's Resident Services department delivers services that are person-centered, inclusive, trauma-informed, and impactful. Cristi holds California Clinical Social Worker license #28301.

PROFESSIONAL EXPERIENCE

2014-present **Satellite Affordable Housing Associates, Berkeley, CA** VP Resident Services

2007-2013 **Human Options, Irvine, CA** Program Supervisor

Safe Options for Seniors, Center for Children & Families

Managed day-to-day program operations at multiple sites including a field-based program for victims of elder abuse, outpatient mental health clinic for children and adult victims of domestic violence and community based family resource centers. Supervised staff and interns, monitored contracts, wrote grants, built partnerships and coalitions and provided direct clinical services.

2013 **California State University, Fullerton, CA** Lecturer, Human Services

Taught and developed a curriculum for an upper division undergraduate class, created a positive learning environment, collaborated with colleagues, identified outside learning activities in order for students to earn the 40hr Domestic Violence Advocate Certificate, evaluated student performance, and coached students to support their academic achievement.

2009-2010 **University of California, Irvine, CA** Help Central Line Counselor, Student Affairs

Developed a brand new program and services under the direction of the Associate Director, identified community resources, provided social services referrals and resources to support student success.

EDUCATION

2008 Masters of Social Work, California State University, Long Beach

2003 Bachelor of Arts, Human Development, University of California, San Diego

PARTNER RESUMÉ

Benjamin Chuaqui

Architect



PROFESSION

- Architect, Licensed in the State of California # C28297
- LEED Accredited Professional

EDUCATION

- University of California, Berkeley; Master of Architecture
- University of California, Berkeley; Master of City and Regional Planning
- University of California, Santa Cruz; Bachelor of Arts, Music (piano)

PERSONAL PROFILE

Ben joined VMWP in 2002 and became an Associate of the firm in 2009. He holds master degrees in both Architecture and in City Planning from UC Berkeley. Prior to attending graduate school, Ben was an accomplished classical pianist, earning an undergraduate degree in Music. Ben has been involved with all phases of the design and construction process, and his interest as a designer is focused on not just creating good buildings but creating good spaces around the buildings. Being both bicultural and bilingual (Chilean-American), Ben brings multiple perspectives to each architectural project. As a design professional, Ben's interests in the social landscape as well as the more technical and idiosyncratic aspects of wood construction have influenced his work.

AWARDS

- Governor's Historic Preservation Awards; Hana Gardens, 2019
- Walnut Creek Action for Beauty Award; Arboleda, 2015
- ABAG Growing Smarter Together Award; Jack Capon Villa, 2011
- Gold Nugget, Award of Merit; Jack Capon Villa, 2011
- Gold Nugget, Award of Merit; Arroyo Point Family Housing, 2008.
- CA Dept. Health Services, Richmond California AIA Citation Award 2008, Architectural Record March 2007

VMWP PROJECT EXPERIENCE

- Hana Gardens, El Cerrito, CA - *affordable, historic, mixed-use senior housing*
- Ohlone Gardens, El Cerrito, CA - *affordable, mixed-use housing*
- Westbourne Park Warm Springs TOD, Fremont, CA - *mixed-income, mixed-use housing*
- 180 Jones, San Francisco, CA - *affordable, supportive housing, LBC lead*
- 4840 Mission St., San Francisco, CA - *affordable, mixed-use housing*
- Arboleda, Walnut Creek, CA - *affordable, mixed-use, senior housing*
- Jack Capon Villa, Alameda, CA - *affordable, special needs supportive housing*
- Jennings Avenue Housing, Santa Rosa, CA - *affordable renovation*
- Dominican Sisters House of Formation, San Rafael CA - *institutional*
- Eastmont Court, Oakland CA - *affordable, special needs supportive housing*

COMMUNITY OUTREACH

- Chair of Design Review Board and Vice Chair of the Parks and Recreation Department Commission of El Cerrito

VAN METER WILLIAMS POLLACK LLP

3d/Partners

For the development of the Thornton Avenue site, Satellite Affordable Housing Associates (SAHA) has assembled an experienced and resourceful team. SAHA will be the Developer and Owner (through a Limited Partnership structure) and will also provide Property Management and Resident Services coordination. Van Meter Williams Pollack will be the project architect.

DEVELOPER

SAHA is a California 501(c)3 public benefit corporation with over 50 years of experience developing, owning, and managing affordable housing in the Bay Area. Over the years, SAHA has developed over 70 affordable apartment communities to serve families, seniors, and special needs groups. We specialize in high-density infill development and work closely with the local community to plan and design buildings that are contextual and that will meet the needs of neighborhood stakeholders as well as future residents. We have also developed over 40,000 square feet of retail/commercial space, with the majority located in mixed-used residential buildings.

As a mid-sized non-profit with a focus on Bay Area counties, SAHA is able to respond to local housing needs by creating beautiful, efficient, and affordable developments that serve households who would otherwise face limited or dire alternatives. Our residents are able to thrive and achieve goals around health, education, and employment once they are stably housed. Currently we provide housing for more than 4,000 residents.

We are proud that year after year our developments win national recognition for quality and innovation. A complete list of awards is provided in Section 5, Experience.

SAHA is led by CEO Susan Friedland and is overseen by a volunteer Board of Directors recruited from a diversity of professional and personal backgrounds. Susan Friedland has the authority to represent and make legally binding commitments for the development entity. SAHA is a HUD-approved Community Housing Development Organization (CHDO) with one-third of our Board of Directors comprised of low-income members. We also have a goal of significant resident representation on the Board and currently three seats are filled by SAHA residents. Our Board meets regularly on the second Tuesday of every month to provide strategic direction and fiduciary oversight for the organization and its assets. We employ over 200 highly skilled and committed full-time staff.

Our organization supports three primary program areas: real estate development, property management, and resident services. By acting as owner, developer, property manager and services coordinator, SAHA is deeply committed to the long-term health, maintenance, and quality of each of our properties and our residents.

SAHA REAL ESTATE DEVELOPMENT

Led by Eve Stewart, Vice President of Real Estate Development, the SAHA Real Estate Development team is highly skilled in all phases of project development including site acquisition, managing design and entitlements, securing project financing, and overseeing construction completion. Each potential development site is evaluated closely to ensure it is located near quality-of-life amenities; is eligible and feasible in the current funding environment; and is reflective of community needs and priorities. On every

project, the architectural team is carefully selected to ensure it has the right design aesthetic for the surrounding neighborhood as well as the appropriate experience. As a result of our early and rigorous analysis, we have an outstanding legacy of completed projects. A complete project list is included in this section below, and profiles for recent, comparable projects are included in Section 5a.

We especially enjoy working in partnership with local governments and community members to plan and design housing communities that meet local affordable housing needs, integrate into the existing architectural context, minimize energy and water consumption, and contribute to the community at-large. We work with stakeholders very early in the site planning and design process to ensure that their voices are heard. Much of our new construction work involves close partnership with local agencies.

SAHA PROPERTY MANAGEMENT

SAHA's track record for providing professional, high-quality property management stretches back to 1971 and across seven Northern California counties. We currently manage over 70 properties (including three third-party management contracts) serving low-income families, seniors, and people with special needs with the goal of ensuring a high quality of life for our residents and strong property stewardship.

The property management staff of SAHA, led by Angela Cavanaugh, Vice President of Property Management, is highly skilled and experienced in the affordable housing field.

SAHA property management employs 125 full time staff including supervisors, site managers, maintenance and janitorial staff. Staff are responsible for providing a wide range of services including responding to resident requests and concerns, carrying out day-to-day maintenance, and coordinating capital improvements such as roof replacements. Property Managers monitor property waiting lists, fill vacancies promptly when they occur, perform tenant screening, and carry out annual income certifications.

The many buildings in SAHA's portfolio represent a tremendous community asset, one that staff has pledged to protect. This commitment and care is evident in the excellent condition of SAHA's properties, including those that have been in operations for four decades or more. SAHA has created and implemented preventative maintenance programs, management control systems, and emergency preparedness programs for all of our properties.

During predevelopment, key SAHA staff from Property Management include Angela Cavanaugh, VP of Property Management, and Daniel Ponce, Regional Property Supervisor. Angela and Daniel will prepare operating budgets, participate in community outreach activities, and provide guidance of fair housing practices and marketing strategies. Resumes for Daniel and Angela are included in Section 3b.

SAHA RESIDENT SERVICES

As a housing provider for over 50 years, SAHA has seen the tremendous impact that our services program has made in lives of our residents, helping them to achieve their life goals and maintain stable housing. Our

3d/Partners

program provides personalized, supportive services to all families and individuals living in our housing communities. Currently, SAHA employs thirty full time services staff and conducts a robust volunteer program that incorporates over 250 volunteers per year.

Each of our properties is staffed with resident service coordinators who provide one-to-one individualized case management for residents who need additional support. In addition, SAHA delivers a comprehensive array of programs designed to help families and individuals form and strengthen social connections, develop new skills, and maintain the best possible physical, emotional, and cognitive health. These programs include social and recreational activities, community gardening, exercise and health classes, civic engagement opportunities, after-school activities, intergenerational interaction, and service linkages.

SAHA's team of Resident Services Coordinators (overseen by a licensed clinical social worker) work on-site at our properties to support our residents' social, emotional, cognitive, and physical well-being by providing case management, coordination & referrals to community-based services and providers, and through community building activities.

Resident Services begin with case management and meeting basic needs through meal programs, public benefits access, health screening and access to care, and transportation services. From there we address a wide variety of individual needs including help with immigration and naturalization, medical-related planning and services, legal assistance and mediation, and financial education.

Activities are tailored to meet residents' needs and interests and may include a wide variety of on-site classes and groups including exercise classes, quilting and embroidery, drum circles, choirs, dancing, walk groups, book clubs, meditation, Feldenkrais, intercultural potlucks, men's groups and ESL classes. Tenants Associations provide a vehicle for socializing as well as advocacy and communication between management and residents. For family buildings, on-site youth programs provide young people a safe and supportive environment to build skills and resilience. Our youth development staff and volunteers provide structured, engaging programming that focuses on social-emotional learning skills, homework assistance, and positive role models from the community. SAHA uses the School Age Program Quality Assessment to guide staff training, curriculum and the physical environment. Youth programming includes a range of activities including homework help, tutoring, art projects, gardening, cooking, dance, and storytelling. In addition, SAHA's services team organizes a back-to-school supplies drive and holiday toys drive annually. This year, we distributed over 300 backpacks with school supplies to children living in our properties and in the community at-large.

SAHA has over 30 community gardens and counting and intends to expand its successful community gardening program at the proposed development. This program gives residents an opportunity to participate and be part of the community that they live in. It encourages residents to get outdoors and stay active. In the senior population, the community gardens helps reduce social isolation which has been linked to depression, declining in mental and physical

health. The gardening program includes nutrition education, on-going support and quarterly check-ins to make sure each resident's garden plot is thriving.

During predevelopment, key SAHA staff from Resident Services include Cristi Ritschel, VP of Resident Services. Cristi will prepare services plans & budgets, participate in community outreach activities, assist with preparing competitive funding applications and involve strategic service partners, such as a third party services provider for the potential veteran and formerly homeless households, as needed to best serve our target tenant population. Service partners are not currently anticipated for this project. Cristi's resume is provided in Section 3b.

3d/Partners

SAHA PROJECT LIST

The following communities are all 100% affordable rental housing.

Completion/ Start of Management	Development Name	Address	Number of Units	Population	Development Cost	Role of SAHA
Feb-22	Veterans Square	901 Los Medanos St. Pittsburg, CA	30	Veterans/Experiencing Homelessness	$20M	Developer, Owner, Property Manager, Services Provider
Feb-22	Jordan Court	1601 Oxford St. Berkeley, CA	35	Seniors/Experiencing Homelessness	$28M	Developer, Owner, Property Manager, Services Provider
Nov-21	Manzanita	2951 Soscol Ave Napa, CA	51	Family/Experiencing Homelessness	$33.2M	Developer, Owner, Property Manager, Services Provider
April-21	Alta Madrone	1269 Broadway Sonoma, CA	48	Families/Veterans	$29M	Developer, Owner, Property Manager, Services Provider
Jan-21	Monarch Senior Homes	3268 San Pablo Ave Oakland, CA	51	Seniors/ Veterans/ Experiencing Homelessness	$36.8M	Developer, Owner, Property Manager, Services Provider
July-20	Hookston Senior Homes Renovation	80 W. Hookston Rd Pleasant Hill, CA	100	Seniors	$44.9M	Developer, Owner, Property Manager, Services Provider
July-20	Sunflower Hill at Irby Ranch	3701 Nevada St. Pleasanton, CA	31	Intellectual/Develop-mental Disabilities	$23.8M	Developer, Owner, Property Manager
Nov-19	Camino 23	1245 23rd Ave Oakland, CA	37	Families	$25.3M	Developer, Owner, Property Manager, Services Provider
Oct-19	Grayson Apartments	2740 San Pablo Ave Berkeley, CA	23	Families/ Special Needs/ Transition-Aged Youth	$18.2M	Developer, Owner, Property Manager, Services Provider
May-19	Redwood Hill Townhomes	4868 Calaveras Road Oakland, CA	28	Family / Special Needs/ Experiencing Homelessness	$26.2M	Developer, Owner, Property Manager, Services Provider
Feb-19	Valley View	1 Natalie Drive American Canyon, CA	70	Seniors/ Veterans/ Experiencing Homelessness	$26.6M	Developer, Owner, Property Manager, Services Provider
Mar-18	Tabora Gardens	3701 Tabora Drive Antioch, CA	85	Seniors/ Veterans/Special Needs/ Experiencing Homelessness	$33.9M	Developer, Owner, Property Manager, Services Provider
Oct-17	Casa Montego Renovation	1485 Montego Walnut Creek, CA	80	Seniors	$35.9M	Developer, Owner, Property Manager, Services Provider
Sept-17	Harper Crossing	3132 MLK Jr. Way Berkeley, CA	42	Seniors	$16.3M	Developer, Owner, Property Manager, Services Provider
Jul-15	Strawberry Creek Lodge	1320 Addison Street Berkeley, CA	150	Seniors	$23.4M	Developer, Owner, Property Manager, Services Provider

3d/Partners

Feb-15	Arboleda	1550 Third Ave, Walnut Creek, CA	48	Family / Special Needs/ I/DD	$25.8M	Developer, Owner, Property Manager, Services Provider
Dec-14	Lakeside Senior Apartments	1507 2nd Ave. Oakland, CA	92	Seniors/Special Needs/Experiencing Homelessness	$25.0M	Developer, Owner, Property Manager, Services Provider
April-14	Robin Lane	1149 Meadow Lane & 1890 Robin Lane Concord, CA	16	Family / Special Needs /MHSA	$2.4M	Developer, Owner, Property Manager, Services Provider
Dec-13	Jack Capon Villa	2216 Lincoln Avenue, Alameda, CA	18	Special Needs/ I/DD	$13.9M	Developer, Owner, Property Manager, Services Provider
April-13	The Savoy	1424 Jefferson Street Oakland, CA	101	Special Needs/Experiencing Homelessness	$28.0M	Developer, Owner, Property Manager, Services Provider
Mar-13	Valley Oak Homes	875 Lyon Street Sonoma, CA	43	Family	$17.5M	Developer, Owner and Property Manager
Mar-13	Kenneth Henry Court	6475 Foothill Blvd. Oakland, CA	51	Family	$12.3M	Developer, Owner, Property Manager, Services Provider
Jun-12	Merritt Crossing	609 Oak St., Oakland, CA	70	Seniors/ Special Needs/Experiencing Homelessness	$28.4M	Developer, Owner, Property Manager, Services Provider
Aug-11	Harmon Gardens	3240 Sacramento St., Berkley, CA	16	Transition-Age Youth	$6.3M	Developer, Owner, Property Manager, Services Provider
Apr-11	Fairmount	401 Fairmount Ave., Oakland, CA	30	Family/ Special Needs	$12.2M	Developer, Owner, Property Manager, Services Provider
Mar-11	Amistad House	2050 Delaware Berkeley, CA	60	Seniors	$8.4M	Developer, Owner, Property Manager, Services Provider
Jan-11	Newark Gardens	35300 Cedar Street Newark, CA	150	Seniors/Special needs	$9.4M	Developer, Owner, Property Manager, Services Provider
Jul-09	St. Patrick's Terrace	1212 Center Street Oakland, CA	66	Seniors	$8.8M	Developer, Owner, Property Manager, Services Provider
Jun-09	Montego Place	1485 Montego Walnut Creek, CA	33	Seniors	$8.0M	Developer, Owner, Property Manager, Services Provider
Feb-09	Petaluma Avenue Homes	565-577 Petaluma Ave., Sebastopol, CA	45	Family	$17.0M	Developer, Owner and Property Manager
Sep-08	Orchards on Foothill	2719 Foothill Blvd., Oakland, CA	65	Seniors	$18.2M	Developer, Owner, Property Manager, Services Provider
Apr-08	Madison @ 14th Street Apartments	160 14th St Oakland, CA	79	Family/Transition-Age Youth	$30.9M	Developer, Owner, Property Manager, Services Provider
Jan-08	Carmen Avenue Apartments	2891 Carmen Ave Livermore, CA	30	Family/Special Needs/ Experiencing Homelessness	$12.6M	Co-Developer, Co-Owner and Property Manager

3d/Partners

Dec-07	Allston House	2121 7th St Berkeley, CA	47	Family	$9.3M	Developer, Owner, Property Manager, Services Provider
Jul-07	Ashby Lofts	1001 Ashby Ave Berkeley, CA	54	Family/Special Needs	$21.8M	Developer, Owner, Property Manager, Services Provider
Jul-07	Helios Corner	1531 University Ave Berkeley, CA	80	Seniors/Special Needs	$22.7M	Developer, Owner, Property Manager, Services Provider
Nov-06	Sacramento Senior Homes	1501 Blake St., Berkeley, CA	40	Seniors	$12.1M	Developer, Owner, Property Manager, Services Provider
Oct-05	Eastside Arts & Housing	2283 International Blvd., Oakland, CA	19	Family	$5.0M	Co-Developer, Co-Owner and Property Manager
Jun-05	University Neighborhood Apartments	1725 University Ave., Berkeley, CA	27	Family / Special Needs	$11.6M	Developer, Co-Owner, Property Manager, Services Provider
Dec-04	Oak Street Terrace	1109 Oak St., Oakland, CA	39	Seniors	$7.7M	Developer, Owner, Property Manager, Services Provider
Mar-04	Acalanes Court	1988 Trinity Ave Walnut Creek, CA	17	Family / Special Needs	$7.4M	Developer, Owner, Property Manager, Services Provider
Apr-05	Fremont Oak Gardens	2681 Driscoll Road Fremont, CA	51	Seniors	$19.3M	Developer, Owner, Property Manager, Services Provider
Jan-02	Adeline Lofts	1131 24th St. Oakland, CA	38	Live Work Artist Housing	$9.5M	Developer, Owner, Property Manager, Services Provider
Jun-01	Hillegass Avenue Apartments	2500 Hillegass Ave., Berkeley, CA	19	Family	$2.5M	Developer, Owner, Property Manager, Services Provider
Dec-99	Hookston Senior Homes	80 W. Hookston Rd., Pleasant Hill, CA	100	Seniors	$8.8M	Developer, Owner, Property Manager, Services Provider
Sep-98	Shattuck Senior Homes	2425 Shattuck Ave., Berkeley, CA	27	Seniors	$2.7M	Developer, Owner, Property Manager, Services Provider
Aug-98	Ashby Courts Apartments	1222-1228 Ashby Ave., Berkeley, CA	20	Multi-family	$0.9M	Developer, Owner, Property Manager, Services Provider
Sep-97	Prince Street Apartments	1534 Prince Street Berkeley, CA	6	Family	$0.3M	Developer, Owner, Property Manager, Services Provider
Nov-96	Sierra Gardens	150-170 Sierra Dr., Walnut Creek, CA	29	Family	$2.3M	Developer, Owner, Property Manager, Services Provider
Mar-96	Peter Babcock House	2350 Woolsey St., Berkeley, CA	6	Special Needs	$0.5M	Developer, Owner, Property Manager, Services Provider
Nov-95	Ashby Apartments	1317 Ashby Ave., Berkeley, CA	12	Family	$0.5M	Developer, Owner, Property Manager, Services Provider
Nov-95	Ashby Studios	1303-1311 1/2 Ashby Ave. Berkeley, CA	6	Family	$0.5M	Developer, Owner, Property Manager, Services Provider

3d/Partners

Jul-95	Columbia Park Manor	1780 Chester Dr., Pittsburg, CA	79	Seniors	$7.1M	Developer, Owner, Property Manager, Services Provider
Mar-95	Alcatraz Apartments	1900 Alcatraz St. Berkeley, CA	9	Family	$0.5M	Developer, Owner, Property Manager, Services Provider
Dec-94	Allston Commons	828-836 Allston Way & 2203-2207 6th St. Berkeley, CA	12	Family	$0.6M	Developer, Owner, Property Manager, Services Provider
Jul-94	Heart Studios	950 Hearst Ave. Berkeley, CA 94710	12	Family	$0.4M	Developer, Owner, Property Manager, Services Provider
Apr-93	Newark Gardens II	35322 Cedar Blvd. Newark, CA	50	Seniors	$4.7M	Developer, Owner, Property Manager, Services Provider
Jul-87	Casa Montego	1485 Montego, Walnut Creek, CA	80	Seniors	$3.9M	Developer, Owner, Property Manager, Services Provider
Feb-79	Valdez Plaza	280 - 28th St. Oakland, CA	150	Seniors/Special Needs	$15.2M	Developer, Owner and Property Manager
Jun-78	Newark Gardens I	35300 Cedar Blvd. Newark, CA	150	Seniors/Special needs	$8.4M	Developer, Owner and Property Manager
Nov-71	Otterbein Manor	5375 Manila Ave. Oakland, CA	39	Seniors	$2.2M	Developer, Owner and Property Manager
Jul-71	Lawrence Moore Manor	1909 Cedar St. Berkeley, CA	46	Seniors	$2.5M	Developer, Owner and Property Manager
Apr-71	Linda Glen	32 Linda Ave. Oakland, CA	42	Seniors	$2.1M	Developer, Owner, Property Manager, Services Provider
Feb-71	Saint Andrew's Manor	3250 San Pablo Ave. Oakland, CA	60	Seniors	$3.0M	Developer, Owner, Property Manager, Services Provider
Jan-71	Beth Asher	3649 Dimond Ave Oakland, CA	50	Seniors	$2.4M	Developer, Owner, Property Manager, Services Provider
Jan-71	Saint Patrick's Terrace	1212 Center St. Oakland, CA	66	Seniors	$7.3M	Developer, Owner, Property Manager, Services Provider
Apr-69	Park Blvd	4135 Park Blvd. Oakland, CA	42	Seniors	$2.4M	Developer, Owner, Property Manager, Services Provider
Jan-69	Doh On Yuen	211 Eighth St. Oakland, CA	48	Seniors	$2.8M	Developer, Owner, Property Manager, Services Provider
Feb-68	Satellite Central	540-21st St. Oakland, CA	152	Seniors	$8.1M	Developer, Owner, Property Manager, Services Provider
Dec-67	Stuart Pratt Manor	2020 Durant Ave. Berkeley, CA	44	Seniors	$2.5M	Developer, Owner, Property Manager, Services Provider
Aug-67	Glen Brook Terrace	4030 Panama Ct. Oakland, CA	66	Seniors	$3.1M	Developer, Owner, Property Manager, Services Provider

3d/Partners

VAN METER WILLIAMS POLLACK

Van Meter Williams Pollack (VMWP) is an award-winning Architecture and Urban Design firm. San Francisco-based since 1989, VMWP has provided a full range of comprehensive design and planning services for a variety of project types, scales and clients. VMWP's innovative design approach considers environmental, social, economic, and client needs to create buildings and communities that resonate with people. VMWP plans, designs and builds a wide variety of affordable housing from high-density urban communities to small-lot single-family housing. As cost and quality of life are primary concerns in housing, we use simple elements of construction, building materials and scale to create beautiful spaces.

GUBB & BARSHAY

Gubb & Barshay LLP, established in 1993 by Natalie Gubb (1948-2016) and Scott Barshay, is widely-known as one of the top law firms specializing in the field of affordable housing. Based in Oakland, California, the firm is recognized nationally for its expertise in the low income housing tax credit program and in other affordable housing finance programs. Gubb & Barshay LLP has been involved in the structuring and closing of over 500 low income housing tax credit program transactions in California and other states on behalf of affordable housing developers. The firm has worked on projects with a wide variety of direct and syndicated investors and negotiated transactions involving nearly every major lender and investor in the area. They have extensive experience on both new construction and acquisition/rehabilitation developments, with a particular expertise in resyndications of existing LIHTC developments. In addition to their thorough review of the syndication documents, they also closely review the financial projections to structure the transaction to maximize syndication proceeds. They provide all certifications required by tax credit allocating agencies and have acted as special tax counsel on highly specialized tax credit issues.

Sarah Perez, Partner, will be the attorney for the project. Sarah will lead all transactional legal aspects of the project. Sarah has extensive experience representing nonprofit affordable housing developers. A triple Bruin, Sarah holds a B.A. in History from UCLA, an M.P.P. from the UCLA School of Public Affairs and a J.D. from the UCLA School of Law.

4/Financial Statements

SAHA’s 2019, 2020 and 2021 audited financial statements are provided as standalone PDF files.

5a/Evidence of Past Project Experience

Following please find information about three recent comparable developments: Lakeside Senior Apartments in Oakland, Arboleda in Walnut Creek and Manzanita Family Apartments in Napa. SAHA is the developer, owner, property manager and services provider at all three communities. SAHA developed all three communities on time and within budget. 2019, 2020 and 2021 audited financial statements for Lakeside and Arboleda are provided as standalone PDF files. Because it was just completed in November 2021, audits are not yet available for Manzanita.

Also included please find examples of recent comparable work by Van Meter Williams Pollack.

PERMANENT FINANCING SOURCES: LAKESIDE SENIOR APARTMENTS

Limited Partner Tax Credit Equity	$21,232,843
General Partner Equity	$5,100
California Community Reinvestment Corp. Conventional loan	$3,300,000
California HCD Multifamily Housing Program	$4,794,400
Oakland Housing Authority	$3,443,000
FHLB SF Affordable Housing Program	$890,000
TOTAL:	$33,665,343

PERMANENT FINANCING SOURCES: ARBOLEDA

Limited Partner Tax Credit Equity	$15,070,897
General Partner Equity	$386,241
California Community Reinvestment Corp. Conventional loan	$1,523,360
City of Walnut Creek	$4,216,377
County of Contra Costa	$2,720,088
CalHFA MHSA	$1,361,078
FHLB SF Affordable Housing Program	$470,000
Energy Incentive Rebates	$68,474
TOTAL:	$25,816,515

PERMANENT FINANCING SOURCES: MANZANITA FAMILY APARTMENTS

Limited Partner Tax Credit Equity	$11,495,409
General Partner Equity	$267,757
California Community Reinvestment Corp. Conventional loan	$3,076,000
California HCD Affordable Housing & Sustainable Communities	$4,400,000
California HCD National Housing Trust Fund	$4,543,887
California HCD HOME	$3,858,812
City of Napa	$2,754,730
County of Napa	$1,313,320
FHLB SF Affordable Housing Program	$500,000
Energy Incentive Rebates	$10,710
Deferred Developer Fee	$1,300,000
TOTAL:	$33,520,625

LAKESIDE SENIOR APARTMENTS

1507 SECOND AVENUE, OAKLAND, CA

COMPLETION DATE
December 2014

TOTAL COST
$33,663,876

DENSITY
138 Units per Acre

NUMBER OF UNITS
92

INCOME LEVELS
20-50% AMI

ARCHITECT
David Baker Architects

GENERAL CONTRACTOR
James E. Roberts-Obayashi Corp

FINANCING PARTNERS
Oakland Housing Authority
9% Tax Credits
HCD MHP
FHLB AHP
Wells Fargo

PROPERTY MANAGER
SAHA PM

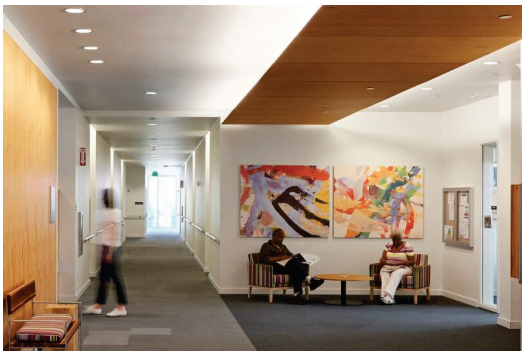
SERVICE COORDINATOR
SAHA



Lakeside Senior Apartments includes 92 apartments affordable to seniors with incomes between 20% and 50% AMI. It includes 91 one-bedroom units and one two-bedroom manager's unit. Thirty-two units are reserved for homeless seniors with special needs. The project received a fifteen-year commitment for 91 Oakland Housing Authority project-based Section 8 vouchers that will ensure that the apartments are affordable to seniors with even lower incomes, including those living on SSI. Lakeside is 5 stories with a one story below-grade garage. The 20,718 SF garage provides 23 parking spaces.

The building includes a number of areas where residents can interact with each other throughout their daily activities. The first floor community room (1,349 SF) includes a community kitchen, dining area, and television lounge. It opens onto a large patio with vibrant landscaping and patio tables to encourage social interactions among residents. Other amenities include a library with computer workstations, a fifth floor community room that includes a second community kitchen and dining room, and a Wellness Room for physical exercise. Two ground floor services offices and a multipurpose room provide space for SAHA service coordinators to conduct health outreach and case management. The building is certified LEED Platinum.





ARBOLEDA

1550 THIRD AVENUE, WALNUT CREEK

COMPLETION DATE
February 2015

TOTAL COST
$25,816,515

DENSITY
57 Units per Acre

NUMBER OF UNITS
48

INCOME LEVELS
20-50% AMI

ARCHITECT
Van Meter Williams Pollack LLP

GENERAL CONTRACTOR
James E. Roberts-Obayashi Corp

FINANCING PARTNERS
City of Walnut Creek
Contra Costa County
CalHFA
Wells Fargo Bank
CTCAC

PROPERTY MANAGER
SAHA PM

SERVICE COORDINATOR
SAHA



Arboleda is a 48-unit community for very low-income families and individuals. Located in Walnut Creek, Arboleda provides permanent affordable housing for households whose income is at or below 50% of the area median.

15 units are reserved for families in which at least one member has an intellectual or developmental disability. Two units are reserved for families in which at least one member is living with HIV/AIDS. The Housing Authority of the County of Contra Costa is providing 29 project-based Section 8 vouchers, which will be assigned to the units described above and 12 additional units. In addition, five units are reserved for families in which at least one member has a serious mental illness.

Arboleda is a three story structure built over a subterranean parking garage on a 0.84 acre site. The homes are a mix of one, two and three bedroom apartments and include both two story townhomes and flats. Common amenities include a community room opening onto a generously sized internal courtyard, a computer room, a children's play structure and informal seating areas. This environmentally sustainable building includes a 44.2kW photovoltaic system, a solar hot water heating system, ample bicycle storage and individual water meters for each unit. Arboleda is certified LEED Platinum.





MANZANITA FAMILY APARTMENTS

2951 SOSCOL AVENUE, NAPA



COMPLETION DATE
November, 2021

TOTAL COST
$33,193,541

DENSITY
28 Units per Acre

NUMBER OF UNITS
51

INCOME LEVELS
30-60% AMI

ARCHITECT
Dahlin Group Architects

GENERAL CONTRACTOR
Sunseri Construction

FINANCING PARTNERS
City of Napa
County of Napa
California HCD (HOME & NHTF)
Federal Home Loan Bank AHP

PROPERTY MANAGER
SAHA PM

SERVICE COORDINATOR
SAHA

The City of Napa selected SAHA through a competitive RFP process to develop Manzanita. Targeted to families, the handsome community consists of 51 apartments, including one manager's unit, within a single three-story building. Two units are targeted to people transitioning from homelessness. The development's generous community room with computer lab opens onto spacious grounds that include a play structure, dining tables and chairs, informal seating areas, raised wooden vegetable beds and carport parking.

The property is well located with respect to local services, amenities and public transit, with a grocery store, CVS pharmacy and park within a 0.5 mile, a major regional hospital and shopping center, three major grocery chains, and a Target within 1.5 miles of the site, and bus service to Downtown Napa located within easy walking distance.

Manzanita Family Apartments is GreenPoint Rated at the Gold level.



GreenPoint RATED

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES













48 Unit Family Housing, including the developmentally disabled and people with mental illnesses

Client: Satelite Affordable Housing Associates

Site Area: 82,662 S.F. / 0.96 acre

Density: 48 units - 50 DUA

Completion: February 2015

Contact: Jonathan Astmann
SAHA
510.809.2769

Arboleda is located at the crossroads of a residential and light industrial neighborhoods. It replaces abandoned and dilapidated housing, and unifies what were previously four separate properties. The character of the building changes from 3-story to 2-story residential, as you turn the corner from Third Avenue to Baldwin Street. This change relates to both neighborhood types, respecting the scale and rhythm of the existing residential neighborhood.

Two individual buildings sit atop a concrete podium, with both private and visitor parking. One corridor building facing the street allows for all accessible units, while the back courtyard building features flats and two-story town homes. Units vary between 1 bedroom, 2 bedrooms, and 3 bedrooms. These units feature: plank resilient flooring, granite countertops, energy efficient appliances and lighting. Common areas include a large two story community room with open kitchen, and three sided fireplace, a computer lab, laundry room, and a lobby with ample light and opportunity for art display.

Design Features

- Two buildings featuring accessible units, flats and townhomes
- Ample common areas to encourage interaction, including a safe interior courtyard and playground
- Three and two story facades, respecting neighborhood context and character

Green Features

- Drought tolerant landscaping
- Low VOC finishes
- Pervious hardscape surfaces to minimize runoff & stormwater mitigation
- On site storm-water treatment through infiltration planters
- Post consumer recyled materials











Client: Eden Housing
Building Size/Acres: 97,734 sq.ft./ 0.99 acre
Density: 80 du/ac, 79 units
Parking: 65 spaces, 0.8, 2:1

Contact: Samarth Kohli
Project Developer
Eden Housing
510.931.8171
Samarth.Kohli@edenhousing.org

Responive Design, Affordable Senior Housing

Timber Street Senior Housing is a 79 unit affordable apartment community proposed for 37660 Timber Street. The site for the proposed project is a 0.99 Acre parcel bordered by a one story retail center, Interstate 880, and an existing one story industrial use.

The proposed building responds to its challenging adjacencies. The primary design strategy is to place a single-loaded corridor along I-880 with units fronting onto the courtyard. This configuration shelters units from pollution and freeway noise, while allowing for a larger shared open space at the courtyard. This courtyard is oriented to the Southeast to take advantage of morning sunlight and provide significant space for resident garden beds. The building height is reduced by one story on Timber Street to respond to the typical townhouse rhythm expressed in recent surrounding developments.

The 79 units of affordable senior housing provided in Timber Street Senior Housing are designed to be an asset to the community and to help Newark residents age gracefully on fixed incomes.

Design Features

- Two activity rooms for residents
- On-site sevices
- Bike storage
- Large Courtyard with raised garden beds and wellness/activity area
- 15 foot setback along Timber Street to respond to context

Green Features

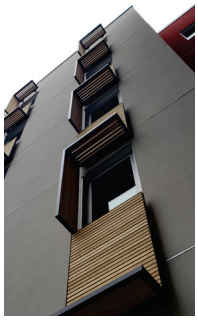
- Maximized roof area for solar photovoltaic production
- Extensive stormwater treatment and landscaped area
- Anticipated all-electric building















A Model of High-Density Affordable Housing

Client: Bridge Housing
Site Area: 111,370 S.F. / 0.69 acre
Density: 72 units - 104 DUA
Completion: April 2019
Construction est.: $40M
Contact: Samuel Knutson
Development Project Manager
Bridge Housing
415.321.3566
sknutson@bridgehousing.com

1101 Connecticut is the first building in the redevelopment of the 38 acre Potrero Public Housing site in San Francisco. It is the result of a multi year effort working with the residents and surrounding community to shape the redevelopment master plan in what will be a 1700 unit mixed use, mixed income neighborhood. The building is located on a vacant steeply sloping site and offers views across San Francisco Bay and toward the South San Francisco hills. The massing steps with the topography and complements the buildings in the surrounding neighborhood. The common spaces and apartments take advantage of the views with a large south facing courtyard designed for play, interaction, and barbecue.

As part of the significant revitalization effort 1101 Connecticut offers a model of high density affordable housing on a steep hillside and symbolizes the rejuvenation of the neighborhood. The building includes 72 units of family housing, property management offices, services office, sub-grade parking for 29 cars, extensive bicycle parking, and multiple laundry facilities.

Gold Nugget AWARDS
AWARD OF MERIT

U.S. GREEN BUILDING COUNCIL LEED PLATINUM USGBC

Design Features

- Corner plaza at main building entry
- South facing common courtyard
- Entry stoops for units at ground level
- Distinct stepping architecture

Green Features

- LEED Platinum for Homes Midrise
- Extensive use of photovoltaic panels
- Solar thermal hot water system
- 100% of stormwater treatment onsite
- Rain water cistern for irrigation









LUNA VISTA
MOUNTAIN VIEW, CA

Client: Alta Housing

Building Size/Acres: 50,449 S.F./ 0.61 acre

Density: 71 units / 116 DUA

Completion: November 2021

Construction Est.: 25M

Website: VMWP

Contact: Carlos Castellanos
Alta Housing
650.321.9709
ccastellanos@altahousing.org

LEED Platinum 100% Affordable Community for Adults with Disabilities

Luna Vista provides an oasis of 100% affordable, stable, high-quality housing to some of Mountain View's most vulnerable residents -- low-income households making between 50-70% of the AMI and adults with developmental disabilities. Services offered through Housing Choices include: an on-site service coordinator to help with job readiness programs, educational assistance, financial planning courses, independent living skills, counseling services, and community building programs. Universal design has been incorporated into the LEED Platinum building and residential units are accessible/ adaptable as required by the UFAS, including local and state codes.

The design of the building was inspired by the "streamline moderne" buildings with futuristic curved shapes and zoomy designs that sat on the strip in the 1950s-1960s. The design follows the principles of the El Camino Real Precise Plan and supports an active street frontage through a tall first floor with plentiful storefront windows, an inviting entry area with an architectural art feature. Designed by clients of the Morgan Autism Center, sixty-four pieces of colorful and bold artwork were photographed, printed on glass panels, and mounted in the entryway and community lounge spaces. Residents and passersby experience the sunlight cast a stained-glass effect of these works in celebration of Luna Vista's residents.

SILICON VALLEY STRUCTURES AWARDS

Design Features

- Naturally ventilated lobby
- Multiple common decks with perforated metal screen
- Distinct vertical tower element
- Recessed transparent element with colored glass panels connecting shared living spaces with main entry
- Large roof deck

Green Features

- LEED Platinum
- Extensive use of photovoltaic panels to offset energy use
- Energy efficient appliances
- Recycled materials with low VOC content
- Drought tolerant landscaping
- 100% of stormwater treatment onsite









EAGLE PARK
MOUNTAIN VIEW, CA

Client: Alta Housing
Site Area: 48,950 S.F. / 0.49 acre
Density: 67 units - 138 DUA
Completion: 2019
Contact: Jennifer Wong
Alta Housing
650.219.2687
jwong@altahousing.org

Affordable Rental Apartments with Services for Veterans

Eagle Park at 701 El Camino Real is a new 67 unit affordable housing community that includes studios and one-bedrooms, with 30 units reserved for veterans. Located on El Camino Real between Rich Avenue and El Monte Avenue, the 0.49 acre site is a transit-friendly, walkable neighborhood with a mix of commercial and residential uses. Included amenities are three common roof decks, a community room, lounge, subgrade parking and bicycle storage, and resident storage lockers for each unit. Property management and supportive services will be provided on site. The entry plaza at the corner of El Camino Real and Rich Avenue welcomes residents into the lobby with a distinctive architectural element and geometric raised planters. The rear open space includes seating, gathering areas, outdoor fitness equipment, and gardening to encourage casual social interactions

Design Features

- Landscaped open area for social activities, gardening, and fitness
- Roof decks overlooking common open space below
- Distinctive corner element and raised geometric planters at main entrance plaza

Green Features

- Energy Star appliances
- Solar Thermal System
- Shading of exterior windows and walls
- Post consumer recycled materials

Awards

- Silicon Valley Structures Awards Winner, Community Impact, 2020

5b/References

Following please find local government references for these developments:

LAKESIDE SENIOR APARTMENTS:

Deni Adaniya
Acting Assistant Director, Oakland Housing Authority, Office of Real Estate Development
Phone: 510/ 587-2149
Email: dadaniya@oakha.org

ARBOLEDA:

Margot Ernst
Manager of Housing and Community Services, City of Berkeley – Dept. of HHCS
Phone: 510-282-9020
Email: Mernst@cityofberkeley.info
Margot was the Housing Division Manager for the City of Walnut Creek at the time of Arboleda's development.

MANZANITA FAMILY APARTMENTS:

Stephanie Gaul
Assistant Housing Manager, City of Napa
Phone: 707-257-7628
Email: Sgaul@cityofnapa.org

6/Project Description

On the Thornton Avenue site, we propose to build a contextual and durable multigenerational community with rich community-centered amenities and wellness resources. The community will include 57 deeply affordable apartment homes for families and individuals along with a host of amenities to support physical and spiritual wellbeing.

NEIGHBORHOOD

6347-6375 Thornton Avenue is centrally located about ½ block north of the Old Town Newark Specific Plan Area and ½ block south of Civic Center Park and Newark Civic Center and Library. The amenity-rich neighborhood includes a pharmacy 0.16 miles away, a Grocery Outlet supermarket 0.30 miles away, Coyote Hills Elementary School 0.56 miles away, a medical clinic and pharmacy (Newark Health Center) 0.27 miles away, restaurants and various other neighborhood-serving retail. Thornton Avenue is a major arterial with an interstate 880 interchange 1.0 miles directly north of the site. AC Transit bus route 200 runs along this stretch of Thornton Avenue with direct service to BART and stops about 0.05 miles from the site.

SITE

The 0.54 acre, 23,560 square foot site is essentially flat with no notable, special or particularly unique features, topographical or otherwise, that may increase project costs. Its rectangular shape facilitates efficient layout and its Residential High Density zoning designation accommodates the proposed development.

Currently onsite are three single family homes under separate ownership that have all been used for business purposes for 20+ years. 6347 Thornton Avenue is used as a tax practice and a used car dealer/broker, 6361 Thornton Avenue is used as a hair salon, and 6375 Thornton Avenue is leased to a remodel contractor and real estate agent. 6347 Thornton has a history of code enforcement issues. All three sites will be delivered vacant at the close of escrow and therefore will not require any business relocation.

The proposed development is permissible under the existing zoning subject to State Density Bonus Law and will not require rezoning. During the entitlement process, SAHA intends to invoke State Density Bonus Law (California Government Code Sections 65915 – 65918) which requires local jurisdictions to provide waivers and concessions in their application of existing zoning law during the entitlement of new housing developments comprised partially or entirely of affordable housing. SAHA intends to request concessions/waivers to the zoning requirements around density (units per acre), site coverage, landscape coverage, useable open space and vehicle parking.

RESIDENT POPULATION

One home will be occupied by SAHA staff as required by State law for all communities with 16 or more units. The remaining 56 homes will be deeply affordable. All homes will be affordable for households with incomes at or below 60% of the area median and on average, they will be affordable to households with incomes at or below 45% of the area median. In addition, SAHA proposes to apply a leasing preference for Section 8 voucher holders which will likely result in an

6/Project Description

even deeper affordability, thereby increasing the public benefit of the community. The proposed leasing preference will also help the Housing Authority of Alameda County deploy its vouchers because in recent years, a portion of Section 8 vouchers in high cost areas such as Newark regularly go unused because there are simply not enough quality homes with landlords willing to accept vouchers.

BUILDING

SAHA proposes to develop 57 apartment homes in a single five-story building. The building will include 26 one-bedroom apartments, 15 two-bedroom apartments and 16 three-bedroom apartments for a total of 104 bedrooms. The units are mostly laid out along double-loaded corridors for efficiency. The community is programmed with ample community space both inside and out. Inside there is a large, approximately 1,350 square foot community room with kitchenette and a computer lab that can accommodate all the residents of the building for hosting community wide meetings, game nights, movie nights and other activities. The Community Room is an indoor-outdoor space that spills out through a moveable glass wall into a spacious courtyard. Eight wheelchair-accessible raised beds are located in a sunny spot for residents who enjoy growing their own herbs and vegetables. The courtyard also includes a tot play area and landscaping. Located on the ground floor are both a computer lab and an acoustically insulated music practice room. The back of the first floor is slightly depressed to accommodate its split into a two-level parking garage with 52 vehicle spaces as well as 30 spaces for bicycles and scooters and a bicycle repair station.

Peace of mind is considered in every aspect of the building and program design. Residents will enter the building through a gracious lobby. An inviting open staircase will draw residents in and help encourage an active lifestyle. As safety is also a priority, the manager's office is located at the main entry to have a view of the front door, the garage door, the elevators, and the street. A service provider's office also has a direct view of the entry area. At each floor, the corridors are short and they end at a window for pleasant views and natural light within sight of each apartment door.

The size and scale of the building allows for affordable construction costs, as well as efficient operations and maintenance of the building. While the proposed building is larger than its immediate neighbors, its massing is fitting for its location on a major arterial street and the proposed 60' building height is well below the 100' allowed in the Residential High Density zoning district.

The proposed design is intended to fit seamlessly with the neighborhood context. For example, the three ground floor apartments with individual stoops enable the building to relate to passersby on the street level. A significant factor in our architect selection of Van Meter Williams Pollack is the firm's particular skill and sensitivity fitting into the neighborhood context. VMWP relishes infill development opportunities such as this to transform underused urban areas into inviting public realms. Responsive infill gives a place new life, making it more functional, exciting, beautiful and

6/Project Description

sustainable, while at the same time preserving its character and history. VMWP's aim is to create straightforward, comfortable spaces, using good design and intimate scale to evoke a unique sense of renewal.

GREEN BUILDING & CLIMATE RESILIENCY

This building will pursue an aggressive approach to sustainability and energy efficiency, and score platinum on the GreenPoint Rated scale. The rooftop will include both a photovoltaic array as well as a solar thermal hot water pre-heating system. The all-electric building will not use any fossil fuels and will have high efficiency heat pumps to provide hot water as well as air conditioning, and will use heat recapture strategies to minimize any energy losses. Passive strategies like sun-shading of windows, and installing extra insulation and insulated glass, also prevent overheating or excessive heat loss. LED lighting and low-water plumbing fixtures will minimize the use of other resources. The landscaping will include native and low-water plant selections with smart irrigation that limits over-watering when soils are moist or there has been recent rainfall. Stormwater is naturally filtered on-site through raised planters before being released to recharge the groundwater system.

The building will be designed for resiliency due to climate change. Certain electric circuits designated as essential will be prioritized in the event of a brown out, powered by a battery backup system in the event of a blackout, and powered by a conventional gas generator in the event of an extended blackout. The community room air conditioning and electricity will be on prioritized circuits so that this room may function as a resiliency hub during extreme weather events. Offices, fire alarm and electronic key fob entry systems will also be on prioritized circuits.

Health of the residents is a priority, with each unit receiving mechanically filtered fresh air and having plenty of operable windows. The podium courtyard is west-facing and with its communal vegetable garden, ping-pong table, and multiple seating areas, will be pleasant all day long for active and passive activities. In the common areas, rooms and offices have multiple doors for cross-ventilation and safety. The Community Room is an indoor-outdoor space that spills out through a moveable glass wall into a long enclosed patio. Indoor Air Quality is a priority for the long-term health of residents with the use of natural and durable finish materials with zero off-gassing.

SAHA does not currently envision using modular construction techniques for the proposed building simply because cost savings have been inconsistent at recent comparable developments. SAHA will continue to track the industry's evolution. If conditions mature, or if the City desires, SAHA will gladly perform a cost comparison analysis of modular vs. stick-built construction techniques for the proposed development.

COMMUNITY PROCESS

A community engagement process will be necessary to confirm the assumptions made in this conceptual building design. Workshops to interact with the community at large, as well as community stakeholders including neighbors, resident advocates, and other local leaders, will be

6/Project Description

necessary. Through this process, our development team can identify architectural style choices that are appropriate and representative, and uncover other ways that this new community can truly serve Newark and become a vital participant in neighborhood life.

Following please find conceptual plans that include basic site information.



ZONING SUMMARY		
Subject Site Address	6347, 6361, 6375 Thornton Avenue	
APNs	92A-919-16-2, 92A-919-17-2, 92A-919-18	
Site Area	0.54 acre (23,650 sf)	
Zoning Designation	RH - Residential High Density	
General Plan Designation	High Density Residential	
	REQUIREMENT PER ZONING	PROPOSED PROJECT
FAR	n/a	2.7
Height	100' maximum (35' within 20' of RS of RL district)	60' to top of parapet
Density	25 - 60 dwelling units per acre (14 - 32 units)	105 dwelling units per acre *waiver or concession needed
Front Setback	15' minimum	15'
Interior Side Setback	5' minimum	10'
Rear Setback	10' minimum	10'
Site Coverage	55% maximum	69% *waiver or concession needed
Landscape Coverage	25% minimum	21% *waiver or concession needed
Usable Open Space	• 200 sf per unit minimum (50% min. must be common) • Private ground floor open space must be at least 10'x10' • Private upper floor open space must be at least 6'x6'	50 sf per unit *waiver or concession needed
Multifamily Parking	• 1.5 space per studio or 1 bedroom • 2 spaces per 2 bedroom or more • Guest parking - 0.5 space per unit • (130 spaces needed per unit mix shown)	52 spaces *waiver or concession needed
Short-Term Bicycle Parking	At least 5% of the amount of auto parking spaces required (7 needed)	7 spaces
Long-Term Bicycle Parking	1 space required per every 5 units (11 spaces needed)	30 spaces

0 15' 30'

6347, 6361, 6375 THORNTON AVENUE | AERIAL + ZONING SUMMARY WITH PROPOSED STATS COMPARISON

NEWARK, CA | AUGUST 3, 2022 | SAHA

SAHA SATELLITE AFFORDABLE HOUSING ASSOCIATES

VAN METER WILLIAMS POLLACK LLP



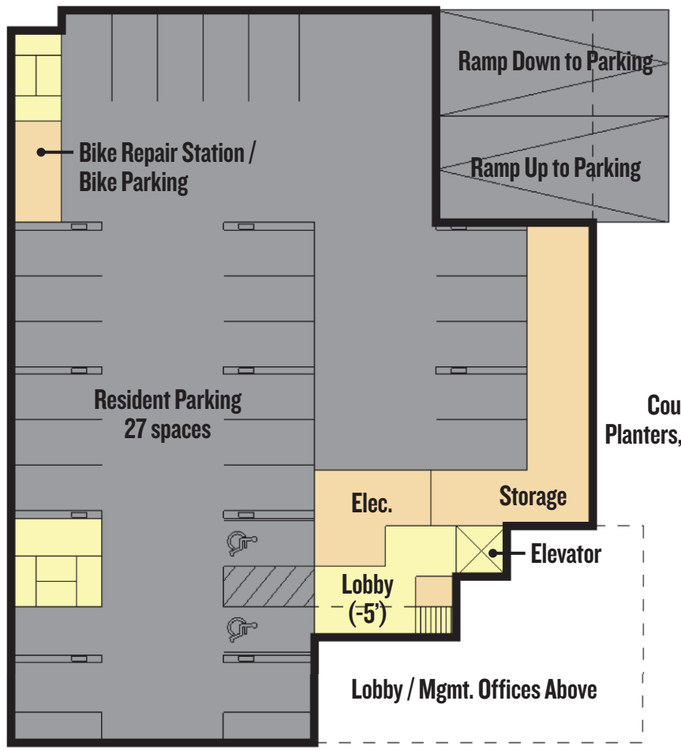
Ground Floor Site Plan

0 15' 30'

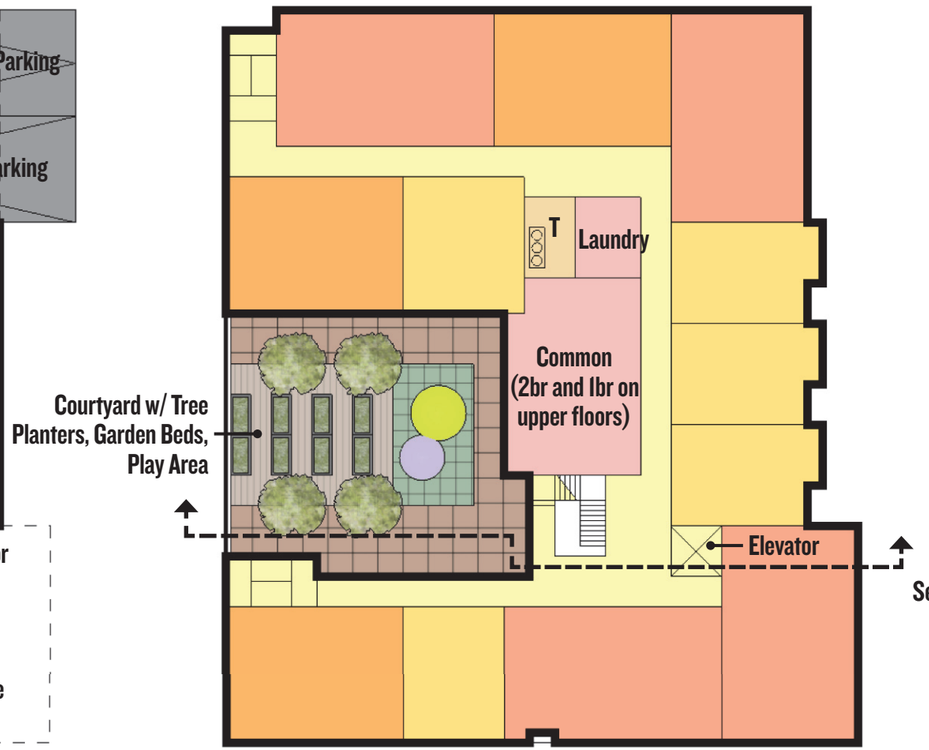
PROGRAM SUMMARY	
Site Area	0.54 acre (23,650 sf)
Building Height	5 stories (±60' to top of parapet)
Construction Type	4 stories of Type 5A over 1 story of Type 1A
Above Grade Building Area	63,014 gsf
Above Grade Garage Area	9,939 gsf
Subgrade Garage Area	14,602 sf
Site Coverage	69%
Front Setback	15'
Side Setbacks	10'
Rear Setback	10'
1 Bedroom	26 (46% - 515 sf avg. leasable)
2 Bedroom	15 (26% - 846 sf avg. leasable)
3 Bedroom	16 (28% - 1,020 sf avg. leasable)
UNIT COUNT	57 units
Residential Parking	52 spaces (on two levels)
	0.9 space per unit
Bicycle Parking	30 spaces (0.5 per unit)
FAR	2.7
Density	105 dwelling units per acre

- One Bedroom
- Two Bedroom
- Three Bedroom
- Property Management and Resident Services Offices
- Common Amenity
- Circulation
- Service

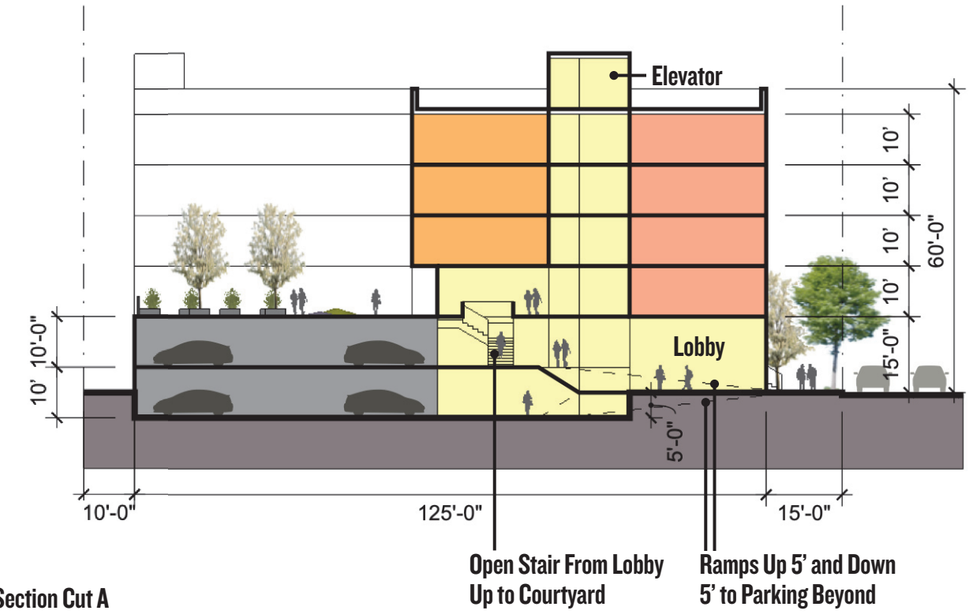
Subgrade Plan



2nd Floor Plan (3rd - 5th Floor Plans Similar)



Section A



- One Bedroom
- Two Bedroom
- Three Bedroom
- Management Offices
- Common Amenity
- Circulation
- Service

PROGRAM DETAILS												
Unit Count	1 br	2 br	3 br			Gross Area	Residential	Common	Office	Circ. / Service	Parking	
Subgrade	-	-	-			14,602 sf	-	-	-	-	14,602 sf	27 spaces
Ground	3	-	-			16,335 sf	1,620 sf	846 sf	576 sf	3,354 sf	9,939 sf	25 spaces
Floor 2	5	3	4			14,127 sf	10,358 sf	1,233 sf	-	2,536 sf	-	-
Floor 3	6	4	4			14,375 sf	11,923 sf	208 sf	-	2,244 sf	-	-
Floor 4	6	4	4			14,375 sf	11,923 sf	208 sf	-	2,244 sf	-	-
Floor 5	6	4	4			14,277 sf	11,289 sf	208 sf	-	2,244 sf	-	-
TOTAL	26	15	16	57 units		63,014 sf	47,113 sf	2,703 sf	576 sf	12,622 sf	24,541 sf	52 spaces
Unit Mix	46%	26%	28%									

NOTE: Parking areas not counted in building gross area total or FAR calculation.



6347, 6361, 6375 THORNTON AVENUE | BIRDSEYE VIEW FACING NORTHWEST

NEWARK, CA | AUGUST 3, 2022 | SAHA



A) Upper Floor Stepbacks





All-Electric Building



B) Courtyard Social Spaces



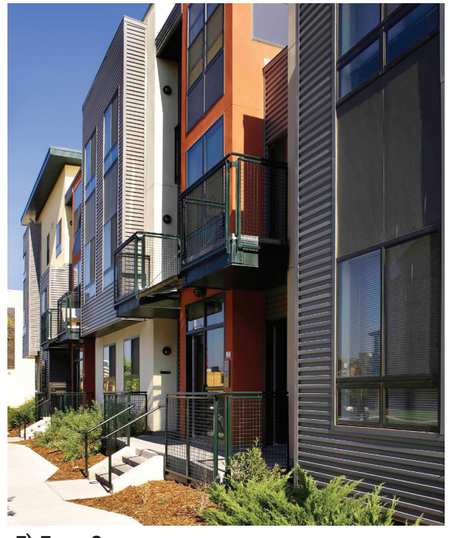
Prominent Entry Lobby Stair



C) Rooftop Photovoltaic Panels



D) Special Corner Frame Elements



E) Entry Stoops



Dedicated Bicycle Parking

6347, 6361, 6375 THORNTON AVENUE | ARCHITECTURAL + SUSTAINABLE FEATURES

NEWARK, CA | AUGUST 3, 2022 | SAHA

7/Financing Plan and Proforma

To finance the build-out of the Thornton Avenue community, SAHA proposes to use Low-Income Housing Tax Credits and a soft loan from the City of Newark, along with several other gap sources.

LOW-INCOME HOUSING TAX CREDITS

SAHA anticipates generating approximately $24,812,767 of tax credit equity. This breaks down into $20,953,003 from Federal tax credits and $3,859,764 from State tax credits. We are able to layer both State and Federal tax credits on the project because HUD designated the City of Newark as a 2022 Difficult Development Area. SAHA is assuming an all-in investor pay-in rate of $0.95 per federal tax credit and $0.70 per state tax credit. These are conservative assumptions based on our two most recent investor negotiations.

CITY OF NEWARK SOFT LOAN

SAHA requests a 55-year soft loan of $12M from the City of Newark for site acquisition, construction and permanent financing. This funding will cover approximately 25% of the total development cost. We recognize that this is a substantial ask. SAHA keeps abreast of local, regional, state and federal affordable housing funding opportunities and commits to leverage this precious funding opportunistically as much as possible.

MULTIFAMILY HOUSING PROGRAM

SAHA anticipates receiving a $8,420,033 Multifamily Housing Program loan from California Department of Housing and Community Development. To help ensure competitiveness, SAHA intends to request the loan on the 30% AMI units and a portion of the 50% AMI units only.

CONVENTIONAL PERMANENT LOAN

SAHA anticipates originating a $2,591,781, tax-exempt, 20-year, fully amortizing permanent loan from a to-be-determined private lender. We assume an interest rate of 5.75%.

AFFORDABLE HOUSING PROGRAM

SAHA anticipates that the proposed project will be competitive for $855,000 of funding from the Federal Home Loan Bank of San Francisco's Affordable Housing Program.

DEFERRED DEVELOPER FEE

To round out the funding mix, SAHA proposes to voluntarily defer a $150,000 portion of its developer fee to be paid from a priority distribution of surplus cash flow during operations.

CONSTRUCTION LOAN

SAHA will fund construction with a tax-exempt construction loan. The term is projected to be 24 months, and the interest rate 5.5%. The loan will be paid off at permanent financing conversion with tax credit syndication proceeds and additional soft debt and conventional debt.

Financing Plan

Construction

Uses

$	50,000	Land / Acquisition
$	35,527,443	Construction
$	517,470	Architecture
$	376,956	Survey & Engineering
$	2,095,000	Construction Interest & Fees
$	-	Permanent Financing
$	32,500	Legal
$	-	Reserves
$	2,069,832	Other Costs
$	661,030	Bond Financing Costs
$	1,336,870	Developer Costs
$	146,890	Syndication Costs
$	**42,813,991**	**Total Uses**

Sources

$	-	Perm Loan - 20 yr term & amort.
$	2,095,300	Federal Tax Credit Equity
$	385,976	State Tax Credit Equity
$	-	HCD MHP
$	855,000	FHLB AHP
$	7,877,586	Local Funds: City of Newark
$	-	Deferred Developer Fee
$	31,600,128	Construction Loan
$	**42,813,991**	**Total Sources**

Permanent

Uses

$	3,470,000	Land / Acquisition
$	35,527,443	Construction
$	862,450	Architecture
$	718,490	Survey & Engineering
$	2,095,000	Construction Interest & Fees
$	40,000	Permanent Financing
$	32,500	Legal
$	463,054	Reserves
$	2,085,732	Other Costs
$	661,030	Bond Financing Costs
$	2,650,870	Developer Costs
$	221,890	Syndication Costs
$	**48,828,459**	**Total Uses**

Sources

$	2,590,659	Perm Loan - 20 yr term & amort.
$	20,953,003	Federal Tax Credit Equity
$	3,859,764	State Tax Credit Equity
$	8,420,033	HCD MHP
$	855,000	FHLB AHP
$	12,000,000	Local Funds: City of Newark
$	150,000	Deferred Developer Fee
$	**48,828,459**	**Total Sources**

Unit Mix (Rent and Income Levels)

Bedrooms	AMI	Subsidy Name	Section 8	MHP	Special Needs per TCAC	Total Units	Gross Rent	Utility Allowance	Net Rent	Proposed Rent	Annual Rental Income	FMR/ Contract Rents	Section 8 Payment	Annual Section 8 Income
1	30%	HACA	Yes	Yes		3	$ 803	$ 76	$ 727	$ 727	$ 26,186	$ 1,899	$ 1,096	$ 39,442
1	30%			Yes		5	$ 803	$ 76	$ 727	$ 727	$ 43,644			
1	50%			Yes		5	$ 1,339	$ 76	$ 1,263	$ 1,263	$ 75,780			
1	50%					6	$ 1,339	$ 76	$ 1,263	$ 1,263	$ 90,936			
1	60%					7	$ 1,607	$ 76	$ 1,531	$ 1,531	$ 128,587			
2	30%	HACA	Yes	Yes		2	$ 964	$ 106	$ 858	$ 858	$ 20,597	$ 2,385	$ 1,421	$ 34,099
2	30%			Yes		3	$ 964	$ 106	$ 858	$ 858	$ 30,895			
2	50%			Yes		4	$ 1,607	$ 106	$ 1,501	$ 1,501	$ 72,048			
2	50%					3	$ 1,607	$ 106	$ 1,501	$ 1,501	$ 54,036			
2	60%					3	$ 1,928	$ 106	$ 1,822	$ 1,822	$ 65,606			
3	30%	HACA	Yes	Yes		2	$ 1,114	$ 126	$ 988	$ 988	$ 23,702	$ 3,282	$ 2,168	$ 52,042
3	30%			Yes		4	$ 1,114	$ 126	$ 988	$ 988	$ 47,405			
3	50%			Yes		3	$ 1,856	$ 126	$ 1,730	$ 1,730	$ 62,280			
3	50%					3	$ 1,856	$ 126	$ 1,730	$ 1,730	$ 62,280			
3	60%					3	$ 2,227	$ 126	$ 2,101	$ 2,101	$ 75,643			
3	MGR					1	$ -	$ 126	$ -	$ -	$ -			
Avg AMI:	44.74%	Total:	7		0	57					$ 879,626			$ 125,582

@ 30% AMI:	34%
@ 40% AMI:	0%
@ 50% AMI:	43%
@ 60% AMI:	23%

Square Footage of Units

Unit Type (# of bedrooms)	Count	Rough average square feet per unit type	Residential Area	# of bedrooms
1	26	515	13,390	26
2	15	846	12,690	30
3	16	1,020	16,320	48
Total:	57		42,400	104

TCAC 9% Minimum square footages
500
750
1,000

Cash Flow

			Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Income												
Rent	2.5%	$	879,626	$ 901,617	$ 924,157	$ 947,261	$ 970,943	$ 995,217	$ 1,020,097	$ 1,045,599	$ 1,071,739	$ 1,098,533
Section 8 Rental Subsidy	2.5%	$	125,582	$ 128,722	$ 131,940	$ 135,239	$ 138,619	$ 142,085	$ 145,637	$ 149,278	$ 153,010	$ 156,835
Laundry & Vending Income	2.5%	$	4,104	$ 4,207	$ 4,312	$ 4,420	$ 4,530	$ 4,643	$ 4,759	$ 4,878	$ 5,000	$ 5,125
POTENTIAL GROSS INCOME:		$	1,009,313	$ 1,034,546	$ 1,060,409	$ 1,086,919	$ 1,114,092	$ 1,141,945	$ 1,170,493	$ 1,199,756	$ 1,229,750	$ 1,260,493
LIHTC Units Vacancy	5.0%	$	(44,187)	$ (45,291)	$ (46,423)	$ (47,584)	$ (48,774)	$ (49,993)	$ (51,243)	$ (52,524)	$ (53,837)	$ (55,183)
Section 8 Units Vacancy	5.0%	$	(6,279)	$ (6,436)	$ (6,597)	$ (6,762)	$ (6,931)	$ (7,104)	$ (7,282)	$ (7,464)	$ (7,650)	$ (7,842)
EFFECTIVE GROSS INCOME:		$	958,847	$ 982,818	$ 1,007,389	$ 1,032,574	$ 1,058,388	$ 1,084,848	$ 1,111,969	$ 1,139,768	$ 1,168,262	$ 1,197,469
Expenses												
Operating Expenses	3.5%	$	639,981	$ 662,380	$ 685,563	$ 709,558	$ 734,392	$ 760,096	$ 786,699	$ 814,234	$ 842,732	$ 872,228
Replacement Reserve Deposits		$	28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500
TOTAL EXPENSES		$	668,481	$ 690,880	$ 714,063	$ 738,058	$ 762,892	$ 788,596	$ 815,199	$ 842,734	$ 871,232	$ 900,728
NET OPERATING INCOME		**$**	**290,367**	**$ 291,939**	**$ 293,326**	**$ 294,516**	**$ 295,496**	**$ 296,251**	**$ 296,769**	**$ 297,034**	**$ 297,030**	**$ 296,741**
Hard Debt Service												
Perm Loan - 20 yr term & amort. Principal & Interes		$	218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263
Required Payments												
Bond Fees		$	4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000
HCD Required Debt Service	$35,364	$	35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364
CASH FLOW:		**$**	**32,739**	**$ 34,311**	**$ 35,698**	**$ 36,888**	**$ 37,868**	**$ 38,624**	**$ 39,142**	**$ 39,407**	**$ 39,403**	**$ 39,114**
DSCR:			1.15	1.16	1.16	1.17	1.17	1.18	1.18	1.18	1.18	1.18
Investor Management Fee	0% $5,000	$	5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Deferred Developer Fee		$	27,739	$ 29,311	$ 30,698	$ 31,888	$ 30,362	$ -	$ -	$ -	$ -	$ -
GP Pshp Management Fee	3% $ 25,000	$	-	$ -	$ -	$ -	$ 2,506	$ 28,982	$ 29,851	$ 30,747	$ 31,669	$ 32,619
Incentive Management Fee	50%	$	-	$ -	$ -	$ -	$ -	$ 1	$ 1	$ 1	$ 1,367	$ 747
Residual Receipts (50%)												
City of Newark	59%	$	-	$ -	$ -	$ -	$ -	$ 2,728	$ 2,521	$ 2,151	$ 803	$ 439
California HCD	41%	$	-	$ -	$ -	$ -	$ -	$ 1,914	$ 1,769	$ 1,509	$ 564	$ 308

Cash Flow

	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
Income										
Rent	$ 1,125,996	$ 1,154,146	$ 1,183,000	$ 1,212,575	$ 1,242,889	$ 1,273,961	$ 1,305,810	$ 1,338,456	$ 1,371,917	$ 1,406,215
Section 8 Rental Subsidy	$ 160,756	$ 164,775	$ 168,894	$ 173,117	$ 177,445	$ 181,881	$ 186,428	$ 191,088	$ 195,866	$ 200,762
Laundry & Vending Income	$ 5,253	$ 5,385	$ 5,519	$ 5,657	$ 5,799	$ 5,944	$ 6,092	$ 6,245	$ 6,401	$ 6,561
POTENTIAL GROSS INCOME:	$ 1,292,006	$ 1,324,306	$ 1,357,414	$ 1,391,349	$ 1,426,133	$ 1,461,786	$ 1,498,331	$ 1,535,789	$ 1,574,184	$ 1,613,538
LIHTC Units Vacancy	$ (56,562)	$ (57,977)	$ (59,426)	$ (60,912)	$ (62,434)	$ (63,995)	$ (65,595)	$ (67,235)	$ (68,916)	$ (70,639)
Section 8 Units Vacancy	$ (8,038)	$ (8,239)	$ (8,445)	$ (8,656)	$ (8,872)	$ (9,094)	$ (9,321)	$ (9,554)	$ (9,793)	$ (10,038)
EFFECTIVE GROSS INCOME:	$ 1,227,405	$ 1,258,091	$ 1,289,543	$ 1,321,781	$ 1,354,826	$ 1,388,697	$ 1,423,414	$ 1,458,999	$ 1,495,474	$ 1,532,861
Expenses										
Operating Expenses	$ 902,756	$ 934,352	$ 967,054	$ 1,000,901	$ 1,035,933	$ 1,072,191	$ 1,109,717	$ 1,148,557	$ 1,188,757	$ 1,230,363
Replacement Reserve Deposits	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500
TOTAL EXPENSES	$ 931,256	$ 962,852	$ 995,554	$ 1,029,401	$ 1,064,433	$ 1,100,691	$ 1,138,217	$ 1,177,057	$ 1,217,257	$ 1,258,863
NET OPERATING INCOME	**$ 296,150**	**$ 295,238**	**$ 293,988**	**$ 292,380**	**$ 290,393**	**$ 288,006**	**$ 285,197**	**$ 281,942**	**$ 278,217**	**$ 273,998**
Hard Debt Service										
Perm Loan - 20 yr term & amort. Principal & Inter	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263
Required Payments										
Bond Fees	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000
HCD Required Debt Service	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364
CASH FLOW:	**$ 38,523**	**$ 37,611**	**$ 36,361**	**$ 34,753**	**$ 32,766**	**$ 33,379**	**$ 30,570**	**$ 27,315**	**$ 23,590**	**$ 19,371**
DSCR:	1.18	1.17	1.17	1.16	1.15	1.15	1.14	1.13	1.11	1.09
Investor Management Fee	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Deferred Developer Fee	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
GP Pshp Management Fee	$ 33,523	$ 32,611	$ 31,361	$ 29,753	$ 27,766	$ 28,379	$ 25,570	$ 22,315	$ 18,590	$ 14,371
Incentive Management Fee	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Residual Receipts (50%)										
City of Newark	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
California HCD	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

Input Page

Overview

Version:	City NOFA August 2022
Project Name	Thornton Ave family
Property Size	0.53 acres
Density	108 units per acre
Total # of affordable units:	56 units
Total # of units:	57 units
Total # of parking spaces:	100

Income

Subsidy Name		0 BR	1 BR	2 BR	3 BR	
2022	TCAC 100% AMI Rents		$ 2,678	$ 3,214	$ 3,712	Click here for rent limits
HACA	Contract Rent 1		$ 1,899	$ 2,385	$ 3,282	Source: https://www.haca.net/wp-content/u
	Utility Allowance 1		$ 76	$ 106	$ 126	Source: https://www.haca.net/wp-content
Laundry & Vending Income:		$6 PUPM				

Conventional Debt

Conventional Loan?	Yes	
Cash flow prior to conventional debt service:		$ 251,003
Annual debt service:		$ 218,263
Interest Rate:		5.75%
Amortization Period		20 Years
DSCR:		1.15
Loan Amount:		$ 2,590,659

Tax Credits

9% or 4% Credits?	4%	
Acquisition Credits?	No	
QCT or DDA?	Yes	Click here for QCT & DDA status
Housing Type	Large Family	
Applicable Fraction:	100.00%	
Federal Credit Price:	$ 0.95	
State Credit Price:	$ 0.70	
Limited Partner Ownership %	99.99%	
Rural?	No	
Opportunity Area Designation:	loderate & Below	Click here for designation

Opportunity Area boost is not available for inclusionary deals.

Permanent Sources

Permanent Sources

Description	Totals	% of TDC	Per Unit	Predev	Constr	Perm Closing
Perm Loan - 20 yr term & amort.	$ 2,590,659	5%	$ 45,450			$ 2,590,659
Federal Tax Credit Equity	$20,953,003	43%	$ 367,597		$ 2,095,300	$ 18,857,703
State Tax Credit Equity	$3,859,764	8%	$ 67,715		$ 385,976	$ 3,473,787
HCD MHP	$ 8,420,033	17%	$ 147,720			$ 8,420,033
FHLB AHP	$ 855,000	2%	$ 15,000		$ 855,000	
Local Funds: City of Newark	$ 12,000,000	25%	$ 210,526	$ 4,122,414	$ 7,877,586	
Deferred Developer Fee	$ 150,000	0%	$ 2,632			$ 150,000
Non-Permanent Sources						
Construction Loan	$ 31,600,128		$ 554,388		$ 31,600,128	$ (31,600,128)
Total Sources	$ 48,828,459			$ 4,122,414	$ 42,813,991	$ 1,892,054
Total Uses	$ 48,828,459			$ 4,122,414	$ 42,813,991	$ 1,828,054
Funding surplus/gap:	$ -					

Description		Budgeted	NC/Rehab Eligible Basis	Per Unit	Per SF	Predev Total	Constr Total	Perm Closing
LAND/ACQUISITION								
Land Cost		$ 3,390,000	X	$ 59,474	$ 54	$ 3,390,000	$ -	
Building Costs			X	$ -	$ -		$ -	
Acq Loan Fee	0%		X	$ -	$ -		$ -	
Acq Loan Interest			X	$ -	$ -		$ -	
Acq Legal Fees		$ 5,000	X	$ 88	$ 0	$ 5,000	$ -	
Acq Lender Costs			X	$ -	$ -		$ -	
Acquisition Title & Recording		$ 15,000	X	$ 263	$ 0	$ 15,000	$ -	
Acquisition Holding Costs		$ 10,000	X	$ 175	$ 0	$ 10,000	$ -	
Predevelopment Loan Fees	0%		X	$ -	$ -		$ -	
Predevelopment Loan Interest		$ 50,000	X	$ 877	$ 1		$ 50,000	
LAND/ACQUISITION TOTAL		$ 3,470,000	$ -	$ 60,877	$ 55	$ 3,420,000	$ 50,000	$ -
CONSTRUCTION								
Demolition		$ 125,000	X	$ 2,193	$ 2		$ 125,000	
Construction Sign		$ 400	X	$ 7	$ 0		$ 400	
Remediation		$ 10,000	$ 10,000	$ 175	$ 0		$ 10,000	
Offsite Improvements		$ 379,950	X	$ 6,666	$ 6		$ 379,950	
Unit Construction	$400 psf	$ 25,251,204	$ 25,251,200	$ 443,004	$ 400		$ 25,251,204	
Site Work		$ 3,625,408	$ 3,625,407	$ 63,604	$ 57		$ 3,625,408	
Landscape		$ 402,823	$ 402,823	$ 7,067	$ 6		$ 402,823	
Contractor Overhead & Profit		$ 1,262,560	$ 1,262,560	$ 22,150	$ 20		$ 1,262,560	
General Conditions		$ 1,404,980	$ 1,404,980	$ 24,649	$ 22		$ 1,404,980	
Contractor Insurance & Bonds		$ 286,865	$ 286,865	$ 5,033	$ 5		$ 286,865	
Owner Furnishings		$ 75,000	$ 75,000	$ 1,316	$ 1		$ 75,000	
PV System		$ 303,132	$ 303,132	$ 5,318	$ 5		$ 303,132	
Tenant Improvements			$ -	$ -	$ -		$ -	
Hard Cost Contingency	10%	$ 2,525,120	$ 2,525,120	$ 44,300	$ 40		$ 2,525,120	
CONSTRUCTION TOTAL		$ 35,527,443	$ 35,147,087	$ 623,288	$ 563	$ -	$ 35,527,443	$ -
ARCHITECTURAL FEES								
Architecture		$ 862,450	$ 862,450	$ 15,131	$ 14	$ 344,980	$ 517,470	
Landscape Architecture			$ -	$ -	$ -		$ -	
Conceptual Arch			$ -	$ -	$ -		$ -	
Schematic Arch			$ -	$ -	$ -		$ -	
Design Devt			$ -	$ -	$ -		$ -	
Construction Docs			$ -	$ -	$ -		$ -	
Construction Admin			$ -	$ -	$ -		$ -	
Arch Reimbursables			$ -	$ -	$ -		$ -	
ARCHITECTURAL FEES TOTAL		$ 862,450	$ 862,450	$ 15,131	$ 14	$ 344,980	$ 517,470	$ -
SURVEY & ENGINEERING								
Survey			$ -	$ -	$ -		$ -	
Engineering		$ 628,260	$ 628,260	$ 11,022	$ 10	$ 251,304	$ 376,956	
Engineering - Structural			$ -	$ -	$ -		$ -	
Engineering - MEP			$ -	$ -	$ -		$ -	
Engineering - Civil			$ -	$ -	$ -		$ -	
Engineering - Geotechnical			$ -	$ -	$ -		$ -	
Enviro Assessment &Testing		$ 90,230	$ 90,230	$ 1,583	$ 1	$ 90,230	$ -	
Construction Testing & Inspec			$ -	$ -	$ -		$ -	
SURVEY & ENGINEERING TOTAL		$ 718,490	$ 718,490	$ 12,605	$ 11	$ 341,534	$ 376,956	$ -

Description		Budgeted	NC/Rehab Eligible Basis	Per Unit	Per SF	Predev Total	Constr Total	Perm Closing
CONST INTEREST & FEES								
Construction Loan Fees			$ -	$ -	$ -		$ -	
Construction Lender Costs			$ -	$ -	$ -		$ -	
Construction Lender Legal			0	$ -	$ -		$ -	
Legal -Construction Closing		$ 25,000	24999.99604	$ 439	$ 0		$ 25,000	
Contruction Loan Interest		$ 1,980,000	989999.8432	$ 34,737	$ 31		$ 1,980,000	
Accrued Interest - City			0	$ -	$ -			$ -
Accrued Interest - County			0	$ -	$ -			$ -
Prevailing Wage Monitoring		$ 30,000	$ 30,000	$ 526	$ 0		$ 30,000	
Construction Title & Recording		$ 60,000	$ 60,000	$ 1,053	$ 1		$ 60,000	
CONST INTEREST & FEES TOTAL		$ 2,095,000	$ 1,105,000	$ 36,754	$ 33	$ -	$ 2,095,000	$ -
PERM FINANCING COSTS								
Perm Loan Fee	0%		X	$ -	$ -			$ -
Perm Title & Recording		$ 20,000	X	$ 351	$ 0			$ 20,000
Perm Lender Costs			X	$ -	$ -			$ -
Perm Closing Legal Fee		$ 20,000	X	$ 351	$ 0			$ 20,000
Soft Perm Loan Fee	0%		X	$ -	$ -			$ -
Soft Perm Loan Costs	0%		X	$ -	$ -			$ -
PERM FINANCING TOTAL		$ 40,000	$ -	$ 702	$ 1	$ -	$ -	$ 40,000
OWNER LEGAL								
Owner Legal - Construction			$ -	$ -	$ -		$ -	
Owner Legal - Org, RE, Synd & Perm Loan		$ 32,500	X				$ 32,500	
LEGAL TOTAL		$ 32,500	$ -	$ 570	$ 1	$ -	$ 32,500	$ -
RESERVES								
Operating Reserve	6 mos	$ 463,054	X	$ 8,124	$ 7			$ 463,054
ReplacementReserve			X	$ -	$ -			$ -
RESERVES TOTAL		$ 463,054	$ -	$ 8,124	$ 7	$ -	$ -	$ 463,054
OTHER COSTS								
RE Taxes	0.0%	$ -	$ -	$ -	$ -		$ -	
Const Op Deficits			$ -	$ -	$ -		$ -	
Other Taxes			$ -	$ -	$ -		$ -	
Permit Fees - Planning			$ -	$ -	$ -		$ -	
Permit Fees - Building		$ 406,094	$ 406,094	$ 7,124	$ 6		$ 406,094	
Impact Fees		$ 768,400	$ 768,400	$ 13,481	$ 12		$ 768,400	
Utility Connection Fees		$ 150,000	$ 150,000	$ 2,632	$ 2		$ 150,000	
Green Certifications		$ 38,000	$ 38,000	$ 667	$ 1		$ 38,000	$ -
GL Insurance			$ -	$ -	$ -		$ -	
Builders Risk Insurance		$ 189,498	$ 189,498	$ 3,325	$ 3		$ 189,498	
Softcost Contingency_Other			$ -	$ -	$ -		$ -	
First Yr Operating Insurance		$ 26,000	$ 26,000	$ 456	$ 0		$ 26,000	
Community Outreach		$ 5,000	X	$ 88	$ 0	$ 5,000	$ -	
PNA			$ -	$ -	$ -		$ -	
Security		$ 46,200	$ 46,200	$ 811	$ 1		$ 46,200	
Relocation			$ -	$ -	$ -		$ -	
Operating Costs during Constr			$ -	$ -	$ -		$ -	
Appraisal		$ 4,500	$ 4,500	$ 79	$ 0	$ 4,500	$ -	
Market Study		$ 6,400	X	$ 112	$ 0	$ 6,400	$ -	
Marketing & Leasing		$ 75,000	X	$ 1,316	$ 1		$ 75,000	
Soft Cost Contingency	10%	$ 370,640	$ 370,640	$ 6,502	$ 6		$ 370,640	
Other: Condominium setup			$ -	$ -	$ -		$ -	
Other: (specify)			$ -	$ -	$ -		$ -	
OTHER COSTS TOTAL		$ 2,085,732	$ 1,999,332	$ 36,592	$ 33	$ 15,900	$ 2,069,832	$ -
BOND FINANCING COSTS								
Bond Fees		$ 650,820	X	$ 11,418	$ 10		$ 650,820	
CDLAC Fees		$ 10,210	X	$ 179	$ 0		$ 10,210	
TOTAL BOND FINANCING COSTS		$ 661,030	$ -	$ 11,597	$ 10	$ -	$ 661,030	$ -
DEVELOPER COSTS								
Developer Fee		$ 2,500,000	$ 2,500,000	$ 43,860	$ 40		$ 1,250,000	$ 1,250,000
Construction Management		$ 86,870	$ 86,870	$ 1,524	$ 1		$ 86,870	
Other Consultants		$ 64,000	$ 64,000	$ 1,123	$ 1		$ 64,000	
DEVELOPER COSTS TOTAL		$ 2,650,870	$ 2,586,870	$ 46,506	$ 42	$ -	$ 1,336,870	$ 1,250,000
SYNDICATION COSTS								
Syndication Consultant		$ 92,000	X	$ 1,614	$ 1		$ 92,000	
Syndication Legal		$ 50,000	X	$ 877	$ 1			$ 50,000
Accountant Fee		$ 25,000	X	$ 439	$ 0			$ 25,000
Transit Passes			X	$ -	$ -		$ -	$ -
TCAC Fees		$ 54,890	X	$ 963	$ 1		$ 54,890	
TCAC Fees - Deferred			X	$ -	$ -			$ -
Investor Costs			X				$ -	
SYNDICATION COSTS TOTAL		$ 221,890	$ -	$ 3,893	$ 4	$ -	$ 146,890	$ 75,000
		$ 48,828,459	$ 42,419,228	$ 856,640	$ 773	$ 4,122,414	$ 42,813,991	$ 1,828,054

8/Evidence of Site Control

Attached please find three Purchase and Sale Agreements for 6347, 6361 and 6375 Thornton Avenue. These six documents (the selling broker is only able to provide them in counterpart) are provided as standalone PDF files.

SAHA has full site control of the three parcels at least through April 27, 2023. The earliest of the three escrows is scheduled to close on January 27, 2023, or 210 days after Acceptance. In case of any delay deploying the acquisition financing, SAHA negotiated three optional 30-day extensions, the first of which would expire on April 27, 2023.

9/Appraisal

The appraisal, prepared by Novogradac & Company LLP and provided as a standalone PDF file, estimates a $3,300,000 market value of the fee simple interest in the development site, free and clear of financing, as of July 15, 2022.

10/Preliminary Title Reports

Three preliminary title reports dated July 12, 2022 for the three subject properties are provided as standalone PDF files.

11/Phase I Environmental Site Assessment

A Phase I Environmental Site Assessment prepared by ACC Environmental Consultants and dated July 28, 2022 is provided as a standalone PDF file. The investigation does not identify any recognized environmental conditions which means that the site does not require either remediation or any further investigation.

12/Relocation Plan – Not Applicable

The three properties comprising the development site will be delivered vacant at the close of escrow. Therefore relocation will not be required. Addendum A of the three Purchase and Sale Agreements attached in Section 8 above reads in part, “No Leases. The Property will be delivered vacant and unencumbered by leases at the close of escrow.”

13/Community Outreach Plan

We believe that participatory community engagement makes projects better, and we can point to many successful features in our buildings that have come about through conversations with the community.

SAHA's development team will conduct extensive outreach to community members and key constituents to inform the development concept, build community support for a successful entitlement process, and ensure the project becomes an asset for the surrounding community. Input will help determine the project's final unit mix, architecture, community amenities and affordability levels.

Outreach and engagement will emphasize collaboration with community members, elected officials and neighborhood advocacy groups, beginning with identifying the relevant stakeholders and the best methods for engagement. Incorporating best practices from recent outreach efforts, SAHA will host a series of community meetings to introduce the project to all parties and determine the housing needs of the future residents. Follow up meetings may include one-on-one meetings, focus groups, community design workshops and/or open house-style meetings. To increase reach to those who are not inclined to attend the community meetings, we plan to leverage a variety of outreach and engagement strategies, including meeting community members where they are—distributing flyers along Thornton Avenue and in the neighborhood, at community events, local schools, presenting at existing community meetings and maintaining a project web page to communicate progress updates to the general public. Translation services will be available for all meetings and printed materials.

SAHA and VMWP look forward to developing a community engagement process that is curated to the needs and voices of the stakeholders for this project.

14/Resident Services Plan

Satellite Affordable Housing Associates (SAHA) will act as the lead Service Provider and will provide a 0.5 FTE part-time Service Coordinator to provide onsite services as well as linkages to community-based services for all tenants at Thornton Apartments. The following is a detailed description of services planned for the community.

Satellite Affordable Housing Associates (SAHA) proposes to develop 57 units of affordable family rental housing on a site located at 6347-6375 Thornton Avenue. All units, with the exception of one manager's unit, will be affordable to families with incomes at or below 60% of the area median. Residents will enjoy a beautiful community that incorporates the highest standards of green building and sustainable design as well as a robust selection of on-site services and activities to support family wellness and community engagement.

Satellite Affordable Housing Associates (SAHA) will act as the Lead Service Provider and will provide onsite services as well as linkages to community-based services for all tenants at Thornton Apartments. Currently SAHA provides outstanding service coordination to 3,000 tenants at over 60 distinct properties. These services are essential to our residents, providing a wide range of supports such as food access programs, health screenings, benefit application assistance, system navigation and advocacy, group exercise classes, and social events.

The Services Coordinator at Thornton Apartments will focus on the following: 1) individual and family case management, 2) organizing on-site group activities, and 3) connecting tenants to community-based services.

1. CASE MANAGEMENT

The Service Coordinator will provide individual and family case management services to residents who are interested in receiving these services. Case management services will consist of individual meetings to establish a plan with follow-up meetings every few weeks as needed. Individual plans will emphasize linking tenants to health care providers, food access programs, life skills training, employment services, benefit application and advocacy, and educational programs. The Service Coordinator will also offer direct assistance with budgeting, resolution of late rent payments, connection to community based providers and encouragement in participating in social and community activities.

2. ON-SITE GROUP ACTIVITIES

The Service Coordinator will develop group activities available to all residents that include both educational workshops and social activities. Educational workshops address a range of topics such as nutrition, chronic health conditions, parenting support groups, as well as safety, disaster preparedness, and budgeting. Workshops will be hosted in the building's spacious community room. Other planned activities that are very popular with our residents include dance classes, yoga and stretching, arts and crafts workshops, table games, weekly movie nights, and coffee hour.

14/Resident Services Plan

The Service Coordinator will also facilitate activities that take advantage of the development's community garden and shared open space. The Services Coordinator will help to facilitate a resident gardening club, bring master gardeners on-site to teach workshops and assist with planting schedules, and solicit donations of soil, seeds, mulch, and plants from local nurseries.

3. CONNECTING TENANTS TO COMMUNITY BASED SERVICES

The SAHA Service Coordinator will work with all households to identify resources appropriate to their needs. Service Coordinator's address and follow-up on identified needs with referrals to community resources such as subsidized child care, food distributions, rental assistance, legal services, health care providers, and substance use and mental health treatment.

ON-SITE SPACE FOR SERVICES

Thornton Apartments includes several spaces for resident services and activities, including:

- Multipurpose community space. The development includes an approximately 1,350 SF multipurpose community room equipped with full kitchen facilities and a computer lab. The community room provides options for large group meetings and activities as well as opportunities for smaller groups to gather simultaneously (for coffee hour, crafts, book club, etc.)
- Services office. The building will include a centrally-located Services Coordinator office with sight lines to the main entryway, providing easy access for residents to meet with the Service Coordinator and visiting service providers. The Service Coordinator will be responsible for arranging activities onsite as well as connecting individuals to any of the number of services within the community.
- Central outdoor courtyard. The proposed development's central courtyard provides a combination of open space, outdoor seating, a children's play area and raised garden beds to create gathering areas where every resident may engage in the project's positive community atmosphere.

15/Proposed Project Schedule

Due to the Bay Area's housing crisis, an expedited timeline is vital. We anticipate being able to complete the project in approximately 3 years.

The development team anticipates utilizing SB 35, a streamlined entitlement process, to obtain all necessary land use approvals in a time frame of approximately five months from application to final approval. The development team has employed the SB 35 process successfully on three recent projects. A full Environmental Impact Review (EIR) is not necessary for the proposed development.

Milestone	Date
Developer Selection	October 2022
Begin Community Engagement	November 2022
Acquire Site	December 2022
Complete Schematic Design	March 2023
Planning Application Submittal	March 2023
Planning Approval	August 2023
Begin Design Development	September 2023
All financing commitments secured	November 2023
Begin Construction Drawings	December 2023
Submit Building Permit Application	February 2024
Close Financing	July 2024
Start Construction	July 2024
Complete Demo, Shoring & Grading	September 2024
Complete Concrete Podium	December 2024
Complete Wood Framing	May 2025
Complete Exterior/Interior Finishes	September 2025
Complete Construction	October 2025
100% occupancy	January 2026
Permanent Financing Conversion	July 2026

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

1835 Alcatraz Ave
Berkeley, CA 94703
P 510.647.0700
F 510.647.0820
WWW.SAHAHOMES.ORG

September 19, 2022

VIA EMAIL
Baird + Driskell Community Planning
Attn: Kristy Wang
wang@bdplanning.com

RE: 6347-6375 Thornton Avenue, Newark - Response to Questions

Dear Kristy:

Thank you for your interest in our development proposal for the subject property. Following please find responses to the questions that you emailed me on September 9th, 2022.

1. The City has a strong interest in large-family units. Can you share more details on the proposed unit breakdown and whether it would be viable to increase the number of units with three or more bedrooms given the local market, site plan, etc.?

Subject to funding availability, it is possible to increase the number of units with three or more bedrooms. Following are brief descriptions of two potential scenarios and we are happy to explore other scenarios or combinations of these scenarios.

One option is to increase the unit sizes while maintaining the approximate overall building square footage which would result in an overall lower unit count. For example, we could convert nine 1-BR apartments to three 2-BR apartments and two 3-BR apartments which would reduce the unit count from 57 to 53. This change would also create a funding gap of approximately $400,000, mainly because rental income is a bit weaker in this scenario which reduces our borrowing power for the conventional loan. The MHP and AHP loans will also be a bit smaller since both programs size their loans on a per unit basis.

Another option is to increase the size of the building, for example by adding another floor. This will increase the overall project cost and necessitate identifying additional funding sources. It may increase the per square foot construction costs as well because the current design is 60' tall as measured to the top of the roof parapet and exceeding this threshold would trigger the need for a temporary elevator during construction which would cost approximately $800,000.

2. How do the proposed development cost per unit, unit count, and incomes targeted compare to other affordable housing projects approved in the Bay Area?

The proposed community's per unit total development cost of $857K is comparable to other current affordable housing developments in the Bay Area that utilize State HCD, Project-Based Section 8 or other funding sources that require payment of Prevailing Wages at the construction site.

3. This project proposal utilizes the full amount of the funding offered in this NOFA. Can we be confident that SAHA won't be coming back to request additional subsidy from the City?

The proposed development financing plan is relatively conservative overall. Therefore we are comfortable committing to not requesting additional funding from the City. SAHA will proactively pursue all proposed funding sources. In addition, SAHA's relatively flat organizational structure and comfort serving various special needs populations enable us to nimbly and opportunistically evaluate and pursue new funding opportunities that arise.

4. Are there other financing sources that SAHA can tap into to lower the City of Newark loan request ($12M)? Is this loan amount per unit comparable to other similar affordable housing projects in the Bay Area?

SAHA's competitive value proposition is to leverage the City's initial seed investment 3:1 to deliver 57 units of deeply and permanently affordable housing at a cost to the City of only $211k per unit. Generally speaking this proposition is comparable to other similar current developments in the area.

SAHA is investigating partnering with the Regional Center of the East Bay to tap into 2022/2023 Community Placement Plan funds provided by the California Department of Developmental Services. Alameda County HCD may also release funds for which this project would be eligible to apply. SAHA will closely monitor these and other funding opportunities. But the proposed development would likely be infeasible without the financial support requested.

5. Has SAHA made efforts to purchase the adjacent vacant properties (6319 and 6333 Thornton Ave)?

SAHA inquired with the owners of this site on December 3, 2021 via mail, but the owners did not respond. If we secure City funding, we will redouble our efforts to meet with both neighbors (6389 Thornton Avenue as well) to explore acquisition.

6. Can you elaborate more on the scope of the 0.5 FTE resident services coordinator? Is this comparable to SAHA's other properties given the size/location/population of this project?

A 0.5 FTE staffing level is comparable to other SAHA projects in the initial year of occupancy. With new communities, even those without homes set aside for people with special needs, it is helpful to have some additional FTE since we do not know who will

move-in, the level and types of needs, and the composition of the community. A 0.4 FTE staffing level is a solid middle ground that enables the Resident Services Coordinator to provide individual services including case management, youth development activities, and benefits navigation and assistance.

While the California Tax Credit Allocation Committee would allow a 0.17 FTE for the proposed project's Services Specialist (1 FTE to 600 bedrooms,) SAHA considers 0.2 FTE the bare minimum that would reduce the scope of services to only crisis response, housing stability interventions (i.e. follow-up after lease violations), and socialization activities (e.g. game nights and coffee hours.) We have found that a minimum of two days on-site (0.4 FTE) in order to build rapport is crucial to provide effective services. Without the two days it is challenging to get to know residents in order to design programming, build enough trust in order to provide support, and be available to respond to crises.

Participation in services is voluntary and not a condition of tenancy, but following please find more detail about the services that the Resident Services Coordinator will provide to willing tenants:

Individual Services/Case Management

- Annual assessment that covers access to health insurance, childcare, benefits/entitlement programs, and income.
- Assistance in applying for benefits and entitlement programs such as CalFresh, Child Care Assistance, Medi-Cal, General Assistance, SSI/SSDI and WIC.
- Application and program enrollment assistance for education and employment programs.
- Goal setting and warm referrals to community resources that support residents in meeting their goals.
- Connection to mental health treatment, support groups, and care.
- Collaborative Problem Solving model to address difficult behaviors that threaten housing stability and interfere with residents reaching their goals.
- Address underlying concerns that generate lease violations or critical incidents such as hoarding behaviors, domestic violence, mental health crises, loss of income or employment, loss of benefits, substance use, etc.

Community Building and Educational Activities

- Conduct community needs and interest assessment through surveys and community meetings.
- Design community programming based on resident interests and needs.
- Identify and coordinate with other CBOs, programs, and volunteers to provide activities. Examples from other communities include:
    - Parent and Child Music Class (0-5 years old)
    - Breastfeeding Workshop
    - Homework Club
    - Technology Tutoring

- Voter registration, education, and advocacy groups
- Family Game or Movie Nights
- Grocery/Food Distributions
- Credit repair and financial planning workshop
- School supplies distributions
- Neighborhood Watch and Community Safety

7. What are the typical responsibilities of the on-site property manager? Does the onsite manager have any responsibilities for resident services?

The Property Manager is responsible for the day-to-day operation of the property and for the supervision of assigned Property Management staff, which on this project will be an Assistant Property Manager and a Maintenance Technician. The Property Manager does not have any responsibilities for resident services but they work in concert with Resident Services staff in developing a supportive environment for all residents within the property. The Property Manager ensures the property is well-maintained within established operating and fiscal policies and ensures compliance with all regulatory agencies and investor requirements.

8. Will there be any other SAHA staff aside from the service coordinator and on-site manager?

There will also be an Assistant Property Manager and a Maintenance Technician working regularly onsite.

Note: Section A on page 43 of the proposal may be a little misleading to people unfamiliar with architectural drawing conventions. Can the section be drawn to reflect the exterior facade of the portion that extends to within 10' of the rear property line?

Please see attached revised drawing.

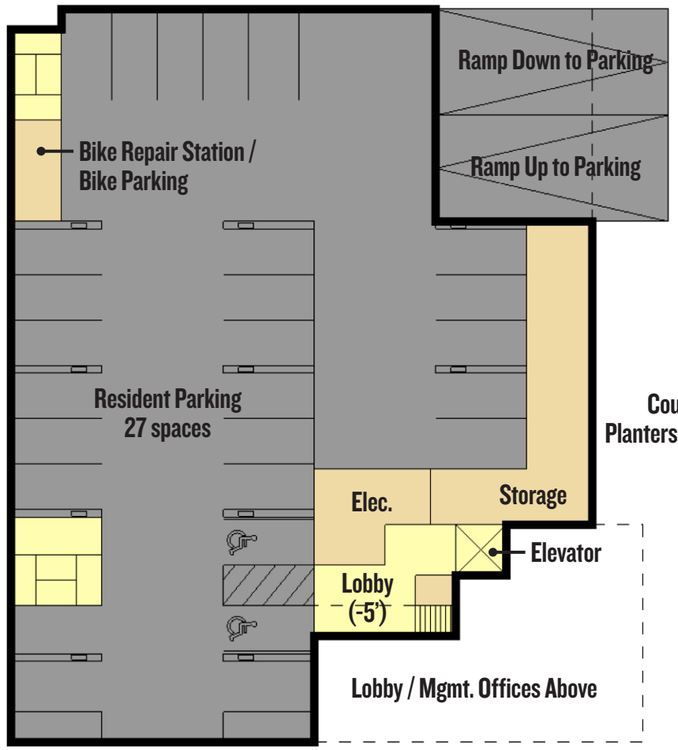
Thank you for the thoughtful questions. Please do not hesitate to contact me with any further questions, concerns or follow up thoughts.

Sincerely,

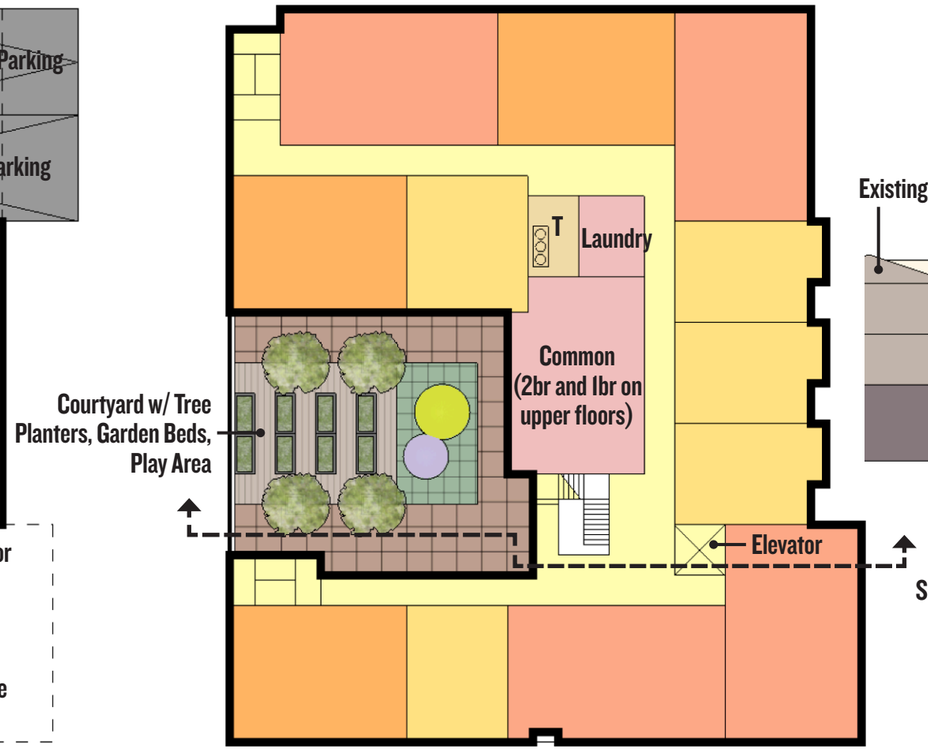
Jonathan Astmann
Associate Director, Real Estate Development

Enclosure

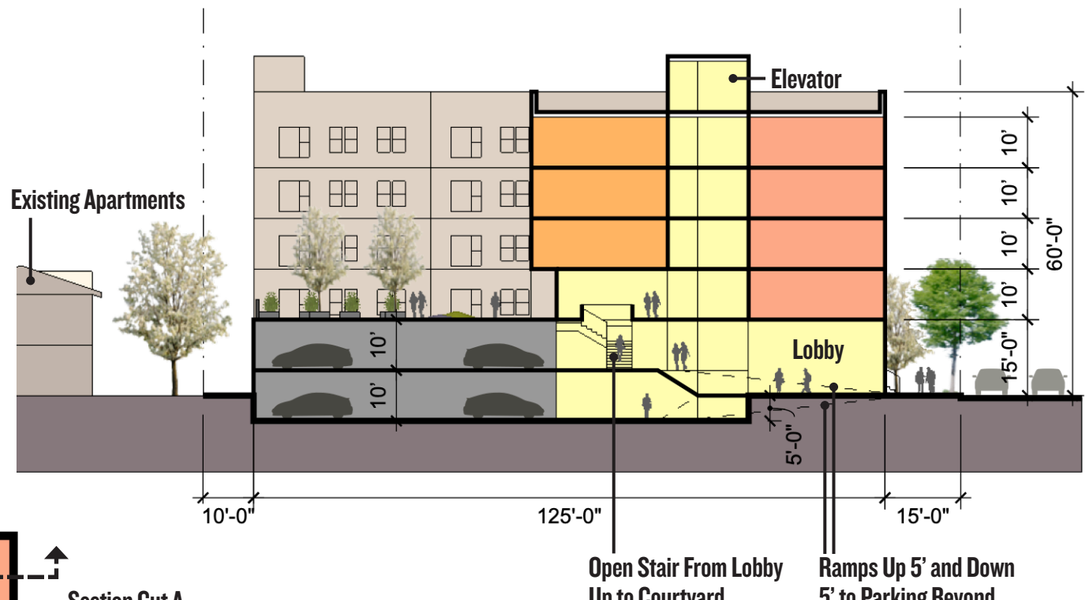
Subgrade Plan



2nd Floor Plan (3rd - 5th Floor Plans Similar)



Section A



- One Bedroom
- Two Bedroom
- Three Bedroom
- Management Offices
- Common Amenity
- Circulation
- Service

PROGRAM DETAILS												
Unit Count	1 br	2 br	3 br			Gross Area	Residential	Common	Office	Circ. / Service	Parking	
Subgrade	-	-	-			14,602 sf	-	-	-	-	14,602 sf	27 spaces
Ground	3	-	-			16,335 sf	1,620 sf	846 sf	576 sf	3,354 sf	9,939 sf	25 spaces
Floor 2	5	3	4			14,127 sf	10,358 sf	1,233 sf	-	2,536 sf	-	-
Floor 3	6	4	4			14,375 sf	11,923 sf	208 sf	-	2,244 sf	-	-
Floor 4	6	4	4			14,375 sf	11,923 sf	208 sf	-	2,244 sf	-	-
Floor 5	6	4	4			14,277 sf	11,289 sf	208 sf	-	2,244 sf	-	-
TOTAL	26	15	16	57 units		63,014 sf	47,113 sf	2,703 sf	576 sf	12,622 sf	24,541 sf	52 spaces
Unit Mix	46%	26%	28%									

NOTE: Parking areas not counted in building gross area total or FAR calculation.

Immediate Next Steps for Project

JANUARY 2023

CDAC meeting

Negotiate agreements with developer

FEBRUARY/MARCH 2023

City Council approval of developer selection and City loan to project

MARCH/APRIL 2023

Developer to purchase property using City loan

Overall Project Timeline



2023

Developer Selection

Property Acquisition

Schematic Design

Community Engagement

Planning Application/Approval



2024

Design Development

Funding Applications (AHP and MHP)



2025

Construction Drawings

Funding Application (Tax Credits)

Building Permit Application/Approval

Begin Construction



2026

Construction



2027

Complete Construction

Reach 100% Occupancy

AFFORDABLE HOUSING LOAN AGREEMENT

by and between

THE CITY OF NEWARK

and

THORNTON, L.P.

(Thornton Avenue Apartments)

AFFORDABLE HOUSING LOAN AGREEMENT
(Thornton Avenue Apartments)

THIS AFFORDABLE HOUSING LOAN AGREEMENT (this "**Agreement**") is entered into effective as of March 23, 2023 ("**Effective Date**") by and between the City of Newark, a California municipal corporation ("**City**"), and **THORNTON, L.P.,** a California limited partnership ("**Borrower**"). City and Borrower are hereinafter collectively referred to as the "**Parties**."

RECITALS

A. In May 2021, the City Council approved Resolution 10,201 approving an Affordable Housing Work Plan that includes activities for the preparation of new affordable housing requirements, policies, and actions intended to significantly incentivize the production of affordable housing within the City, particularly at the very-low and low-income levels.

B. In June 2022, the City released a Notice of Funding Availability for multifamily affordable housing rental projects, inviting developers of deed-restricted affordable new-construction multifamily rental housing projects in the Bay Area to apply for funding assistance. Satellite Affordable Housing Associates ("SAHA"), an affiliate of Borrower, submitted a proposal for the City's provision of financial assistance to Borrower for its acquisition of three parcels of real property located at 6347, 6361 and 6375 Thornton Avenue in the City of Newark (the "Property"), and construction and operation of an affordable multifamily housing development thereon. SAHA has entered into agreements for the purchase of the Property, which agreements have been assigned to Borrower. The Property is described in the Legal Description attached hereto as Exhibit A.

C. The City and the Borrower desire for the Borrower to acquire the Property and to develop a multifamily rental housing development on the Property with not less than fifty-seven (57) apartment units, which would be subject to long-term affordability requirements (the "Development"). To effectuate this purpose, the City desires to provide a loan to Borrower (the "City Loan") pursuant to the terms and conditions set forth in this Agreement.

D. The City and the Borrower desire for the Borrower to also attempt to acquire additional real property located adjacent to the Property, and if Borrower is successful in acquiring such additional real property, to increase the size and number of apartment units to be constructed and operated in the Development.

E. Borrower has represented to the City, and the City has determined that the Borrower has the necessary expertise, skill and ability to carry out the commitments set forth in this Agreement. The City has further determined that this Agreement is in the best interests of the City, and will materially contribute to the improvement of the City by improving the supply of affordable housing therein.

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

ARTICLE I
DEFINITIONS

1. Definitions. The following terms shall have the meanings set forth in the Sections referenced below whenever used in this Agreement and the Exhibits attached hereto. Additional terms are defined in the Recitals and text of this Agreement.

(a) “Additional Properties” means the real property located adjacent to the Property which Borrower will attempt to acquire pursuant to Section 5.1 hereof.

(b) "Agreement" means this Affordable Housing Loan Agreement, including the attached Exhibits and all subsequent amendments to this Agreement and implementation agreements.

(c) "Borrower" means Thornton, L.P., a California limited partnership, and its permitted successors and assigns as set forth herein.

(d) “Certificate of Completion” means the certificate to be provided by City to Borrower in accordance with Section 3.13, in the form attached hereto as Exhibit H.

(e) "City" means the City of Newark, a California municipal corporation.

(f) "City Documents" means, collectively, this Agreement, the City Promissory Note, the City Deed of Trust, the City Regulatory Agreement, and all other documents required to be executed by the Borrower in connection with the transaction contemplated by this Agreement.

(g) "City Loan" means the loan from the City to the Borrower in the amount of Twelve Million Dollars ($12,000,000), evidenced by the City Promissory Note.

(h) "City Promissory Note" means the promissory note that will evidence the Borrower's obligation to repay the City Loan, substantially in the form attached hereto as Exhibit C and incorporated herein.

(i) "City Deed of Trust" means the deed of trust that will encumber the Borrower's interest in the Property to secure repayment of the City Promissory Note, and will be recorded against the Property at the Property Acquisition Closing, substantially in the form attached hereto as Exhibit D and incorporated herein.

(j) "City Manager" means the City Manager of the City.

(k) "City Prorata Percentage" has the meaning set forth in Section 4.9(b).

(l) "City Regulatory Agreement" means the regulatory agreement and declaration of restrictive covenants to be executed by the Parties, and recorded against the Property at the Property Acquisition Closing, substantially in the form attached hereto as Exhibit G and incorporated herein.

(m) “Conditions of Approval” has the meaning set forth in Section 3.2.

(n) "Construction Loan Closing" means the close of escrow for the Borrower’s construction financing for the construction of the Development.

(o) “Construction Loan Component” means the portion of the City Loan Proceeds to be used to pay for the cost of construction of the Development, and development fees and other cost related to the construction of the Development, as provided in Section 4.2.

(p) “Construction Plans” has the meaning set forth in Section 3.9.

(q) "Council Members" means the members of the City Council of the City.

(r) “County” means the County of Alameda, California.

(s) "Development" means the Property and the Improvements.

(t) "Environmental Laws" has the meaning set forth in Section 9.4.

(u) "Escrow" means each of the escrows established with the Title Company for the purpose of Borrower’s acquisition of fee title to the Property.

(v) "Event of City Default" has the meaning set forth in Section 10.2.

(w) "Event of Borrower Default" has the meaning set forth in Section 10.1.

(x) "Hazardous Materials" has the meaning set forth in Section 9.3.

(y) "Improvements" means: (i) fifty-seven (57) apartment units, including one (1) manager's unit, to be constructed in accordance with this Agreement, and (ii) related onsite improvements, parking, landscaping and other onsite improvements located or to be located on the Property, and all onsite and offsite improvements required by the City, all as more particularly set forth in the Scope of Development attached as Exhibit F.

(z) “Indemnitees” means the City and its elected and appointed officers, officials, employees, agents, consultants, and contractors.

(aa) "Investor" means a tax credit investor to be identified by written notice from Borrower to City.

(bb) "Parties" means the City and the Borrower. "Party" means either the City or the Borrower.

(cc) "Partnership" means the Borrower’s limited partnership which was formed to own, construct, and operate the Development, and in which affiliates of Borrower are the sole general partner and initial limited partner, to be replaced by the Investor upon syndication of the low income housing tax credits for the Development.

(dd) "Partnership Agreement" means the limited partnership agreement of the Partnership, as it may be amended and restated.

(ee) “Predevelopment Loan Component” means the portion of the City Loan Proceeds to be used to fund the costs of Borrower’s acquisition of the Property, closing, escrow and other costs approved by the City, and predevelopment costs of the Development as described in Section 4.2.

(ff) "Preliminary Financing Plan" means the Borrower's Financing Plan for financing the acquisition of the Property and the construction of the Development in the form attached hereto as Exhibit B and incorporated herein.

(gg) “Prevailing Wage Law” has the meaning set forth in Section 3.15.

(hh) "Property" means the real property to be acquired by the Borrower and developed by the Borrower pursuant to this Agreement, which real property is more particularly described in the Legal Description attached hereto as Exhibit A which is incorporated herein.

(ii) "Property Acquisition Closing" means the close of escrow for the Borrower’s acquisition of fee title to the Property.

(jj) "Residual Receipts" means the excess of annual Operating Revenues over annual Operating Expenses for the Development. "Operating Revenues" means all income derived from the Development, and includes, without limitation: (i) rents; (ii) rent subsidy payments received on behalf of tenants; and (iii) receipts from laundry, parking, vending, or other services in which a fee is charged. "Operating Expenses" means all direct costs and expenses necessary to operate the Development including: (1) debt service on any loans secured by the Property as described in the Revised Financing Plan or otherwise approved by City, provided that such loans have been used to develop or improve the Development (or to refinance loans used for development or improvement of the Development); (2) resident service program and property management fees and costs; (3) property taxes and assessments (if any); (4) insurance premiums; (5) maintenance and repair; (6) reasonable payments to reserves for operating contingencies, replacement of capital items, and other reserve uses in such amounts as are required by the loans described in paragraph (1); (7) deferred developer fee to the Borrower or its affiliate for development services for the Development in such amount as set forth in the Revised Financing Plan, as such amount may be updated by the final cost certification upon completion of construction; (8) credit adjuster payments, limited partner loans, and developer loans, all as set forth in the Partnership Agreement; and (9) payments for partnership management fee, asset management fees, and other fees payable to a partner of the Partnership pursuant to the Partnership Agreement, in such amounts as are set forth in the Revised Financing Plan, including any annual inflationary increases included in the Revised Financing Plan.

(kk) "Revised Financing Plan" means the Borrower's updated and revised Financing Plan for financing the acquisition of the Property and the construction of the Development approved by the City pursuant to Section 4.5 hereof.

(ll) "Schedule of Performance" means the summary schedule of actions to be taken by the Parties pursuant to this Agreement to achieve the construction of the Improvements. The Schedule of Performance is attached to this Agreement as Exhibit E.

(mm) "Scope of Development" means the description of the Development which is attached to this Agreement as Exhibit F.

(nn) "Security Financing Interest" has the meaning set forth in Section 8.1.

(oo) "Term" means the term of this Agreement, which shall commence on the Effective Date and shall continue until expiration or termination of the City Regulatory Agreement, except for such provisions hereof which survive the expiration or termination of the City Regulatory Agreement.

(pp) "Title Company" means Old Republic Title Company.

(qq) "Title Reports" means the preliminary title reports for the Property prepared by the Title Company, as they may be updated from time to time.

(rr) "Transfer" has the meaning set forth in Section 7.2.

ARTICLE II
REPRESENTATIONS; EFFECTIVE DATE AND TERM

2.1 Borrower's Representations. Borrower represents and warrants to City as follows, and Borrower covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.1 not to be true, Borrower shall immediately give written notice of such fact or condition to City. Borrower acknowledges that City shall rely upon Borrower's representations made herein notwithstanding any investigation made by or on behalf of City.

(i) Authority. Borrower is a limited partnership duly formed and in good standing under the laws of the State of California. Borrower has the full right, power and authority to undertake all obligations of Borrower as provided herein, and Borrower's execution, performance and delivery of this Agreement and the City Documents have been duly authorized by all requisite actions.

(ii) No Conflict. Borrower's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Borrower is a party or by which it is bound.

(iii) No Litigation or Other Proceeding. No litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of Borrower to perform its obligations under this Agreement.

(iv) No Borrower Bankruptcy. Borrower is not the subject of a bankruptcy

or insolvency proceeding.

2.2 City Representations. City represents and warrants to Borrower as follows, and City covenants that until the expiration or earlier termination of this Agreement, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 2.2 not to be true, City shall immediately give written notice of such fact or condition to Borrower. City acknowledges that Borrower shall rely upon City's representations made herein notwithstanding any investigation made by or on behalf of Borrower.

(i) Authority. City is a municipal corporation duly organized and in good standing under the laws of the State of California. City has the full right, power and authority to undertake all of the respective obligations as provided herein, and the execution, performance and delivery of this Agreement by City has been duly authorized by all requisite actions on the part of the City.

(ii) No Conflict. City's execution, delivery and performance of its obligations under this Agreement will not constitute a default or a breach under anycontract, agreement or order to which City is a party or by which it is bound.

(iii) No Litigation or Other Proceeding. No litigation or other proceeding (whether administrative or otherwise) is outstanding or has been threatened which would prevent, hinder or delay the ability of City to perform its obligations under this Agreement.

(iv) No Bankruptcy. City is not the subject of a bankruptcy or insolvency proceeding.

2.3 Effective Date. The representations and warranties of Borrower and City hereunder shall beeffective as of the Effective Date.

ARTICLE III
DEVELOPMENT OF THE PROJECT

3.1 The Property. Borrower shall acquire fee simple title to the Property upon or prior to the date set forth in the Schedule of Performance.

3.2 Scope of Development. Borrower shall develop the Development on the Property substantially in accordance with the terms and conditions of this Agreement, the Scope of Development attached hereto as Exhibit F (subject to the last sentence of this Section 3.2), and in compliance with the terms and conditions of all approvals, entitlements and permits that the City or any other governmental body or agency with jurisdiction over the Development or the Property has granted or issued as of the date hereof or may hereafter grant or issue in connection with development of the Development, including without limitation, all mitigation measures imposed in connection with environmental review of the Property and the Development and all conditions of approval imposed in connection with any entitlements, approvals or permits (all of the foregoing approvals, entitlements, permits, mitigation measures and conditions of approval are hereafter collectively referred to as the "**Conditions of Approval**"). Notwithstanding the

foregoing, City acknowledges that the Development is currently in the conceptual design phase and that aspects of the Scope of Development may need to be changed, and therefore agrees to reasonably discuss such proposed changes to the Scope of Development with Borrower in good faith, and shall not unreasonably withhold consent to such proposed changes to the Scope of Development.

3.3 Development Approvals. Borrower acknowledges and agrees that execution of this Agreement by City does not constitute approval for the purpose of the issuance of building permits for the construction of the Development, does not limit in any manner the discretion of City in such approval process, and does not relieve Borrower from the obligation to obtain all necessary entitlements, approvals, and permits for the construction of the Development, including without limitation, the approval of architectural plans, and the completion of any required environmental review of the Development pursuant to CEQA.

Borrower covenants that it shall: (i) obtain all necessary permits and approvals which may be required by City and any other governmental agency having jurisdiction over the construction of the Development or the development of the Property, (ii) comply with all Conditions of Approval, (iii) comply with all mitigation measures, if any, imposed in connection with any environmental review of the Property or the Development, and (iv) not commence construction of the Development prior to issuance of required permits.

3.4 Fees. Borrower shall be solely responsible for, and shall promptly pay when due, all customary and usual fees and charges of City in connection with obtaining building permits and other approvals for the Development, including without limitation, those related to the processing and consideration of amendments, if any, to the current entitlements, any related approvals and permits, environmental review, architectural review, historic review, and any subsequent approvals for the Development or the development of the Property.

3.5 Schedule of Performance. Borrower shall commence and complete construction of the Development and shall satisfy all other obligations of Borrower under this Agreement within the time periods set forth herein and in the Schedule of Performance attached hereto as Exhibit E, as such time periods may be extended upon the mutual written consent of the Parties. Borrower's failure to commence or complete construction of the Development in accordance with the foregoing schedule as such may be amended by the written consent of the Parties shall constitute a default hereunder. The Borrower shall provide quarterly progress reports to the City regarding the status of the construction of the Development. The Borrower shall provide the reports and information required under this Section until the Development is fully leased up.

3.6 Cost of Acquisition and Construction. Except as expressly set forth herein, Borrower shall be solely responsible for all direct and indirect costs and expenses incurred in connection with the acquisition of the Property, the design, development and construction of the Development and compliance with the Conditions of Approval, including without limitation the installation and construction of all off-site or on-site improvements required by City in connection therewith, and none of such costs and expenses shall be the obligation of the City.

3.7 Rights of Access; Books and Records. For the purpose of ensuring that the Development is developed in compliance with this Agreement, Borrower shall permit representativesof the City to enter upon the Property to inspect the Development following 48 hours' written notice (except in the case of emergency in which case such notice as may be practical under the circumstances shall be provided). Upon request, Borrower shall permit the City to inspect at reasonable times and on a confidential basis those books, records and all other documents of Borrower necessary to determine Borrower's compliance with the terms of this Agreement.

3.8 City Disclaimer. Borrower acknowledges that the City is under no obligation, and City neither undertakes or assumes any responsibility or duty to Borrower or to any third party, to in any manner review, supervise, or inspect the progress of construction or the operation of the Development. Borrower and all third parties shall rely entirely upon its or their own supervisionand inspection in determining the quality and suitability of the materials and work, the performance of architects, subcontractors, and material suppliers, and all other matters relating tothe construction and operation of the Development. Any review or inspection undertaken by the City is solely for the purpose of determining whether Borrower is properly discharging its obligations under this Agreement, and shall not be relied upon by Borrower or any third party as a warranty or representation by the City as to the quality of the design or construction of the Development and other improvements constructed on the Property (collectively, the **"Improvements**") or otherwise.

3.9 Construction Plans. Borrower shall submit to City detailed construction plans for the Development (the "**Construction Plans**") for City's approval. As used herein "**Construction Plans**" means all construction documents upon which Borrower and Borrower's contractors shall relyin the construction of the Development and development of the Property and shall include, without limitation, final architectural drawings and materials specifications. The Construction Plans shall be based upon the Scope of Development and upon the development approvals issued by the City for the Development, and shall not materially deviate therefrom without the express written consent of City. Such approval of the Construction Plans by the City shall not relieve Borrower's obligation to obtain any and all approvals and permits required by the City or the City Building Division.

If rejected by the City in whole or in part, Borrower shall submit new or corrected Construction Plans within forty-five (45) days after notification of the City's rejection and the reasons therefor. The City shall then have thirty (30) days to review and approve Borrower's new or corrected Construction Plans. The provisions of this Section relating to time periods for approval, rejection, or resubmission of new or corrected Construction Plans shall continue to apply until the Construction Plans have been approved by the City.

3.10 Construction Pursuant to Plans. Borrower shall construct and develop the Development in accordance with the approved Construction Plans, the Conditions of Approval, and all other permits and approvals granted by the City pertaining to development of the Development. Borrower shall comply with all directions, rules and regulations of any fire marshal, health officer, building inspector or other officer of every governmental agency having jurisdiction over the Property or the Development. Each element of the work shall proceed only after procurement of each permit, license or other authorization that may be required for such

element by any governmental agency having jurisdiction. All design and construction work on the Development shall be performed by licensed contractors, engineers or architects, as applicable.

3.11 Change in Construction Plans. If Borrower desires to make any material change in the approved Construction Plans, Borrower shall submit the proposed change in writing to the City for its written approval, which approval shall not be unreasonably withheld or delayed if the Construction Plans, as modified by any proposed change, conform to the requirements of this Agreement and any approvals issued by City after the Effective Date. The Parties shall meet in good faith to discuss the changes if the City propose to reject the changes. Any change in the Construction Plans required in order to comply with applicable codes shall be deemed approved, so long as such change does not substantially nor materially change the design, function, use, or amenities of the Development as shown on the latest approved Construction Plans. For purposes of this section, a "material change" means a change order that would result in a change of costs of a single item of work of Seventy-Five Thousand Dollars ($75,000) or any set of changes in the work the costs of which cumulatively exceeds One Hundred Fifty Thousand Dollars ($150,000) or more.

3.12 Defects in Plans. City shall not be responsible to Borrower or to any third party for any defect in the Construction Plans or for any structural or other defect in any work done pursuant to the Construction Plans. Borrower shall indemnify, defend (with counsel approved by City, such approval not to be unreasonably withheld) and hold harmless the Indemnitees from and against allClaims arising out of, or relating to, or alleged to arise from or relate to defects in the Construction Plans or defects in any work done pursuant to the Construction Plans whether or not any insurance policies shall have been determined to be applicable to any such Claims. Borrower's indemnification obligations set forth in this Section shall survive the expiration or earlier termination of this Agreement and the recordation of a Certificate of Completion. It is further agreed that City does not, and shall not, waive any rights against Borrower which it mayhave by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Borrower's deposit with City of any of the insurance policies described in this Agreement. Borrower's indemnification obligations pursuant to this Section shall not extend to Claims arising due to the gross negligence or willful misconduct of the Indemnitees.

3.13 Certificate of Completion for Development. Promptly after completion of construction of the Development, issuance of a final Certificate of Occupancy (or other applicable final City Building Department approval) by the City, and the written request of Borrower, the City will provide an instrument ("**Certificate of Completion"**) so certifying. The Certificate of Completion shall be conclusive evidence that Borrower has satisfied itsobligations regarding the construction and development of the Property.

The Certificate of Completion shall be issued substantially in the form attached hereto as Exhibit H, and at Borrower's option, shall be recorded in the official records of Alameda County. The Certificate of Completion shall not constitute evidence of compliance with or satisfaction of any obligationof Borrower to any holder of a deed of trust or mortgage securing money loaned to finance the Development or any part thereof and shall not be deemed a notice

of completion under the California Civil Code, nor shall such Certificate provide evidence that Borrower has satisfied any obligation that survives the expiration of this Agreement, including without limitation, Borrower's obligations pursuant to the City Regulatory Agreement.

3.14 Equal Opportunity. During the construction of the Development, there shall be no discrimination on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decisionmaking, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of any person in the hiring, firing, promoting or demoting of any person engaged in construction of the Development, and Borrower shall direct its contractors and subcontractors to refrain from discrimination on such basis.

3.15 Prevailing Wage Requirements. If and to the extent required by state and federal prevailing wage laws, Borrower and its contractors and agents shall pay prevailing wages for all construction, alteration, demolition, installation, and repair work performed with respect to the construction of the Development as required herein and described in the Scope of Development, in compliance with Labor Code Section 1720, et seq., and its implementing regulations, and perform all other obligations including the employment of apprentices in compliance with Labor Code Section 1770, et seq., keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, and fulfilling all duties under the Civil Code or any other provision of law pertaining to providing, obtaining and maintaining all bonds to secure the payment of wages to workers required to be paid prevailing wages, all as may be amended from time to time (the "**Prevailing Wage Law**"). City does not make any representations to Borrower as to the applicability of the Prevailing Wage Law to the construction of the Development, and Borrower agrees and acknowledges that it is not relying on any representations of City in making its determination as to the applicability of the Prevailing Wage Law. It is agreed by the Parties that, in connection with the construction of the Development, as between City and Borrower, Borrower shall be solely responsible for determining whether the Prevailing Wage Law is applicable to the construction of the Development, and Borrower shall bear all risks of payment or non-payment of prevailing wages under the Prevailing Wage Law and/or the implementation of Labor Code Section 1781, as the same may be amended from time to time, and/or any other similar law. For purposes of this paragraph, "construction" includes work performed during the design and preconstruction phases of construction, including, but not limited to, inspection and land surveying work, and work performed during the postconstruction phases of construction, including, but not limited to, all cleanup work at the jobsite. The Borrower shall periodically, upon request of the City, certify to the City that, to its knowledge, it is in compliance with the requirements of this paragraph.

Borrower shall indemnify, defend (with counsel approved by City, such approval not to be unreasonably withheld) and hold the City, and its respective elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the **"Indemnitees"**), harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") which directly or indirectly, in whole or in part, are caused by, arise in

connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages or the requirement of competitive bidding in the construction of the Development, the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited to the Prevailing Wage Laws, or any act or omission of Borrower related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such Claims. It is further agreed that City does not and shall not waive any rights against Borrower which it may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or Borrower's deposit with City of any of the insurance policies described in this Agreement. The provisions of this Section 3.15 shall survive the expiration or earlier termination of this Agreement and the issuance of a Certificate of Completion for the Development. Borrower's indemnification obligations under this Section 3.15 shall not apply to any Claim which arises as a result of an Indemnitee's gross negligence or willful misconduct.

3.16 Compliance with Laws. Borrower shall carry out and shall cause its contractors to carry out the construction of the Development in conformity with all applicable federal, state and local laws, rules, ordinances and regulations, including without limitation, all applicable federal and state labor laws and standards, the City zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq*., Government Code Section 4450, *et seq*., Government Code Section 11135, *et seq*., and the Unruh Civil Rights Act, Civil Code Section 51, *et seq*..

3.17 Liens and Stop Notices. Until the expiration of the term of the City Regulatory Agreement and full repayment of the City Loan, Borrower shall not allow to be placed on the Property or any part thereof any lien or stop notice on account of materials supplied to or labor performed on behalf of Borrower. If a claim of a lien or stop notice is given or recorded affecting the Development, Borrower shall within thirty (30) days of such recording or service: (a) pay and discharge (or cause to be paid and discharged) the same; or (b) effect the release thereof by recording and delivering (or causing to be recorded and delivered) to the party entitled thereto a surety bond in sufficient form and amount or provide other assurance satisfactory to City that the claim of lien or stop notice will be paid or discharged.

3.18 Right of City to Satisfy Liens on the Property. If Borrower fails to satisfy or discharge any lien or stop notice on the Property pursuant to Section 3.17 above, the City shall have the right, but not the obligation, to satisfy any such liens or stop notices at Borrower's expense and without further notice to Borrower. In such event Borrower shall be liable for and shall immediately reimburse City for such paid lien or stop notice. Alternatively, the City may require Borrower to immediately deposit with City the amount necessary to satisfy such lien or claim pending resolution thereof. The City may use such deposit to satisfy any claim or lien that is adversely determined against Borrower. Borrower shall file a valid notice of cessation or notice of completion upon cessation of construction of the Development for a continuous period of thirty (30) days or more, and shall take all other reasonable steps to forestall the assertion of

claims or liens against the Property or the Development. The City may (but has no obligation to) record any notices of completion or cessation of labor, or any other notice that the City deems necessary or desirable to protect its interest in the Property and the Development.

ARTICLE IV
CITY FINANCIAL ASSISTANCE

4.1 City Loan. The City shall provide a loan in the amount of Twelve Million Dollars ($12,000,000) (the "**City Loan**") to Borrower upon the terms and conditions and for the purposes set forth in this Agreement. The City Loan shall be evidenced by a promissory note (the "**City Promissory Note**") substantially in the form attached hereto as Exhibit C, and shall be secured by a deed of trust (the "**City Deed of Trust**") executed by Borrower as Trustor substantially in the form attached hereto as Exhibit D and recorded against the Property and subordinate only to such liens as City shall approve in writing. The outstanding principal balance of the Note will accrue simple interest at the rate of three percent (3%) per annum.

Provided that Borrower has complied with all conditions precedent to disbursement of the City Loan set forth in Section 4.6, the proceeds of the City Loan ("**City Loan Proceeds"**) shall be disbursed in accordance with Section 4.2 hereof. The Parties agree that City shall disburse City Loan Proceeds only for the purposes set forth in Section 4.2.

4.2 Use and Disbursement of Proceeds. The City Loan Proceeds shall be used as follows: (a) a portion of the City Loan Proceeds shall be used to fund the costs of Borrower's acquisition of the Property, closing, escrow and other costs approved by the City, and predevelopment costs of the Development, which shall be funded at the close of escrow for Borrower's acquisition of the Property, and in accordance with the Predevelopment Loan Component Budget included in the Preliminary Financing Plan (the "**Predevelopment Loan Component**"), and (b) the remainder of the City Loan Proceeds shall be used to pay for the cost of construction of the Development, and development fees and other costs related to the construction of the Development, in accordance with the Construction Loan Component Budget included in the Revised Financing Plan, to be funded through monthly City Loan draws after the Construction Loan Closing (the "**Construction Loan Component**"). The Predevelopment Loan Component shall not exceed Four Million Three Hundred Thousand Dollars ($4,300,000). City Loan Proceeds shall not be used or disbursed for Borrower fee, overhead or profit.

4.3 Security. As security for repayment of the City Promissory Note, Borrower shall execute the City Deed of Trust, pursuant to which City shall be provided a lien against the Property and the Improvements. The City Deed of Trust shall be recorded in the Official Records concurrently with Borrower's acquisition of the Property. Prior to the Construction Loan Closing, the City Deed of Trust shall be in first lien priority and shall not be subordinate to any other financing. Upon the Construction Loan Closing, the City Deed of Trust may be subordinated to such construction and permanent financing which are designated as senior loans in the Revised Financing Plan approved by the City, pursuant to any subordination agreements agreed upon by the City and senior lenders, as applicable.

4.4 Title Policy. The Title Company shall issue a lender's policy of title insurance

naming City as the insured, in a policy amount not less than the principal amount of the City Loan, showing Borrower as holding fee title to the Property and insuring the City Deed of Trust to be a valid lien on the Property subject only to exceptions approved by City (the "**City Title Policy**"), together with such endorsements as are required by the City.

4.5 Financing Plan. As set forth in the attached Exhibit D, Borrower has provided City with a preliminary financing plan for the Development (**"Preliminary Financing Plan")** which describes (i) the estimated costs of development, including predevelopment costs, acquisition costs, and hard and soft construction costs, (ii) an operating pro forma which describes projected revenue and expenses for the Development, and (iii) identification of sources of acquisition, predevelopment, construction and permanent financing. The Parties acknowledge that certain proposed forms of funding in the Preliminary Financing Plan are available through competitive funding programs, and that the Development may not be successful in actually obtaining one or more of such forms of financing. The Borrower shall submit timely and complete applications for each of the forms of financing which are included in the Preliminary Financing Plan, in a manner that maximizes the competitiveness thereof. In the event any of Borrower's applications therefor are disapproved, Borrower shall continue to submit such applications in each subsequent application round until successful. The Parties anticipate that the types and amounts of financing for the Development will change and be refined during the period between the Effective Date and the Construction Loan Closing. Accordingly, following the disbursement of the Predevelopment Loan Component of the City Loan Proceeds, Borrower shall submit quarterly updated and revised financing plans (each, a "**Revised Financing Plan**") which shall include a revised development budget, updated amounts for each of the foregoing funding sources and any other funding sources obtained, and copies of written commitments received for each funding source. Borrower shall submit the first Revised Financing Plan no more than three (3) months following the date on which the Predevelopment Loan Component of the City Loan Proceeds are disbursed and shall continue to provide the City a Revised Financing Plan on a quarterly basis thereafter until the Construction Loan Closing. The City shall promptly review and shall provide Borrower written approval or disapproval of each Revised Financing Plan in writing within thirty (30) days, provided that the Revised Financing Plan under review conforms to the terms of this Agreement. The City's review of each Revised Financing Plan shall be limited to (i) determining if the financing contemplated therein will be reasonably available and will provide sufficient funds to undertake and complete construction of the Development, and (ii) determining if the updates to the Revised Financing Plan then under review are consistent with the terms of this Agreement. If the City disapproves an update to the Revised Financing Plan, the City shall specify in writing the reasons for the disapproval within thirty (30) days of receipt. Within thirty (30) days of receiving the City's written notification of disapproval, the Borrower shall thereafter resubmit a further amended Revised Financing Plan to the City for review. The City shall either approve or disapprove the resubmitted Revised Financing Plan from Borrower within thirty (30) days of receiving the resubmission. If the City approves of the resubmitted Revised Financing Plan, Borrower will resume quarterly submission of Revised Financing Plans with the subsequent Revised Financing Plan to be submitted not less than three (3) months after receiving the City's approval of the prior Revised Financing Plan. In the event the City disapproves the

resubmitted Revised Financing Plan, the City and the Borrower agree to negotiate in good faith to develop a submission that is reasonably acceptable to both the City and the Borrower within a reasonable period of time.

4.6 Conditions to Disbursement of Predevelopment Loan Component. City's obligation to fund the Predevelopment Loan Component for the purposes of Section 4.2(a) above is conditioned upon the satisfaction of all of the following conditions:

(a) Borrower's delivery to City of each of the following: (i) certificate of good standing, certified by the Secretary of State indicating that Borrower is properly organized, in good standing, and authorized to do business in the State of California, and (ii) a certified resolution indicating that Borrower has authorized to consummate this transaction and that the persons executing this Agreement and the City Documents on Borrower's behalf have been duly authorized to do so.

(b) The close of escrow for Borrower's acquisition of the Property has occurred or will occur concurrently with the disbursement of the Predevelopment Loan Component.

(c) Borrower's delivery to the City of evidence of insurance coverage pertaining to property insurance and commercial general liability (but not builder's risk or other insurance associated with the construction of the Development) in accordance with the requirements set forth in Section 11.2.

(d) Borrower's delivery of the City Promissory Note, City Deed of Trust and City Regulatory Agreement, each fully executed and acknowledged as applicable.

(e) Recordation of the City Regulatory Agreement and the City Deed of Trust in the Official Records simultaneously with the disbursement of the first City Loan Proceeds.

(f) The Title Company's issuance of the City Title Policy, together with such endorsements as are required by the City, in accordance with Section 4.10 hereof.

(g) There exists no Event of Borrower Default nor any act, failure, omission or condition that would constitute an Event of Borrower Default under this Agreement.

(h) The City's receipt of a written requisition for disbursement of funds from Borrower specifying the amount and use of the requested funds for the initial disbursement, accompanied by the title company's estimated settlement statement showing the acquisition price, closing costs and all other amounts due in escrow for Borrower's acquisition of the Property.

(i) The proposed use of the funds is in accordance with the Predevelopment Loan Component Budget in the Preliminary Financing Plan.

4.7 Conditions to Disbursement of Construction Loan Component. City's obligation to

disburse the Construction Loan Component of the City Loan Proceeds for the purposes of Section 4.2(b) above is conditioned upon the satisfaction of all of the following conditions:

(a) The City's receipt of a written draw request for disbursement of funds from Borrower specifying the amount and use of the requested funds, setting forth the proposed uses of funds consistent with the Revised Financing Plan, the amount of funds needed, and, where applicable, a copy of the bill or invoice covering a cost incurred or to be incurred, and City's inspection of the work and determination that the work for which payment is requested has been performed in compliance with the requirements of this Agreement.

(b) The Borrower has submitted to the City all applications and materials for the permits and approvals necessary for the construction of any Improvements which are proposed to be funded through the City Loan, the application fees therefor have been paid to the City, and such applications shall have been approved by the City.

(c) The proposed use of the funds is in accordance with the Construction Loan Component Budget in the Revised Financing Plan.

(d) The Title Company's issuance of such endorsements to the City Title Policy as are required by the City.

4.8 No Obligation to Disburse Proceeds Upon Default. Notwithstanding any other provision of this Agreement, the City shall have no obligation to disburse or authorize the disbursement of any portion of the City Loan Proceeds following:

(i) the failure of any of Borrower's representations and warranties made in this Agreement or in connection with the City Loan to be true and correct as of the date made in all material respects;

(ii) the termination of this Agreement by mutual agreement of the Parties;

(iii) the conditions to disbursement of the City Loan set forth in Sections 4.6 or 4.7 have not been satisfied within the time frame set forth in the Schedule of Performance, unless an extension of such date is approved by City in writing; or

(iv) the occurrence of a Borrower Event of Default under this Agreement, the City Regulatory Agreement, or any of the City Documents which remains uncured beyond any applicable cure period.

4.9 Repayment of the City Loan.

(a) Annual Payments. The Borrower shall make annual payments of principal and interest to the City in the amount of the City Prorata Percentage of fifty percent (50%) of the Residual Receipts. Such annual payments shall be due and payable in arrears no later than May 1 of each year with respect to the previous calendar year, commencing on May 1st of the first year after the City's issuance of a certificate of occupancy for the Development. The Borrower shall provide the City with any documentation reasonably requested by the City to substantiate the

Borrower's determination of Residual Receipts. Repayments shall be credited first to interest, then to principal.

(b) Sharing of Residual Receipts with Other Lenders. The City acknowledges that the California Department of Housing and Community Development ("**HCD**") and other lenders to be set forth in the Financing Plan may provide additional financing for the Development. The City agrees to share pro rata in the Residual Receipts, in proportion to the amount of City Loan and the financing provided by HCD and such other lenders (the "**City Prorata Percentage**").

(c) Payment of Remaining Balance. Borrower shall pay all outstanding principal and accrued interest on the City Loan, in full, on the earliest to occur of (i) a Borrower Event of Default for which the City exercises its right to cause the City Loan indebtedness to become immediately due and payable, and (ii) the expiration of the Term.

4.10 Prepayment; Acceleration

(a) Prepayment. Borrower shall have the right to prepay the City Loan at any time and from time to time, without penalty or premium, provided that any prepayment of principal must be accompanied by interest accrued but unpaid to the date of prepayment. Prepayments shall be applied first to accrued but unpaid interest and then to principal. Any such prepayment shall have no effect upon Borrower's obligations under the City Regulatory Agreement which shall survive for the full term of the City Regulatory Agreement.

(b) Due On Sale or Encumbrance. Unless City agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the City Promissory Note shall be due and payable upon a Transfer (as defined in Section 7.2) absent the prior written consent of City of all or any part of or interest in the Property, except for a Transfer permitted under Section 7.3 of this Agreement or as otherwise permitted pursuant to this Agreement.

4.11 Nonrecourse. Except as expressly provided in this Section 4.11, Borrower and the general and limited partners of the Borrower shall have no personal liability for payment of the principal of, or interest on the City Promissory Note, and the sole recourse of City with respect to the payment of the principal of, and interest on the City Promissory Note shall be to the Property and the Improvements and any other collateral held by City as security for the City Promissory Note; provided however, nothing contained in the foregoing limitation of liability shall: (i) limit or impair the enforcement against all such security for the City Promissory Note of all the rights and remedies of the City thereunder; (ii) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the City Promissory Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto; or (iii) be deemed in any way to limit the rights of the City to obtain specific performance by the Borrower of its covenants under the City Documents, other than the covenants to pay the City principal and interest due under the City Promissory Note.

The foregoing limitation of liability is intended to apply only to the obligation for the

repayment of the principal of, and payment of interest on the City Promissory Note; nothing contained herein is intended to relieve the Borrower of its obligation to indemnify the City under this Agreement, or liability to the extent of any loss for: (i) fraud or intentional misrepresentation, or bad faith, waste, willful misrepresentation by the Borrower; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the City Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the City Deed of Trust; and/or the misappropriation of any proceeds by the Borrower under any insurance policies orawards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Development.

ARTICLE V
ADDITIONAL PROPERTY

5.1 Acquisition of Additional Property; Changes to Agreement. The Parties desire, if feasible, to increase the size and number of apartment units to be constructed and operated within the Development. Borrower agrees to use good faith efforts to enter into agreements to acquire additional real property located adjacent to the Property which could be incorporated into the Development (the "**Additional Property**"). If the Borrower is successful in obtaining rights to acquire any Additional Property, the City and the Borrower shall discuss and negotiate in good faith with respect to such changes to this Agreement and the City Documents which may be necessary to accommodate the Additional Property as part of the Development. Such changes may include, without limitation, changes to the Financing Plan and the amount of the Predevelopment Component of the City Loan. Any such changes shall be subject to the approval of the City, which approval shall not unreasonably be withheld.

ARTICLE VI
USE OF THE PROPERTY

6.1 Use; Affordable Housing. Borrower covenants and agrees for itself and its successors and assigns that the Property shall be used for the development and operation of the Development in accordance with the terms and conditions of this Agreement and the City Regulatory Agreement.

6.2 Affordable Housing. Borrower covenants and agrees for itself, its successors and assigns that twenty-eight (28) of the fifty-seven (57) residential units developed within the Development shall be occupied by and rented at an affordable rent to households of Extremely Low Income, Very Low Income and Lower Income (as defined in the Regulatory Agreement) in accordance with the terms hereof and the City Regulatory Agreement. The Parties shall execute the City Regulatory Agreement, substantially in the form attached hereto as Exhibit G, concurrently with the execution of this Agreement. The City Regulatory Agreement shall be recorded in the Official Records of Alameda County ("**Official Records**") on the date that Borrower acquires the Property. Upon request of Borrower, City shall reasonably consider changes to or subordination of the Regulatory Agreement as proposed by the lender and/or

Investor.

6.3 Maintenance. Borrower shall at its own expense, maintain the Property, the Improvements and related landscaping and common areas in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations, consistent with the standards of maintenance of similar multifamily apartment complexes in Alameda County. Without limiting the foregoing, Borrower agrees to maintain the Improvements and the Property (including without limitation, the residential units, common areas, landscaping, driveways, parking areas and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Development. Borrower shall prevent and/or rectify any physical deterioration of the Property and the Improvements and shall make all repairs, renewals and replacements necessary to keep the Property and the Improvements in good condition and repair. Borrower shall provide adequate security services for occupants of the Development.

6.4 Taxes and Assessments. Borrower shall pay all real and personal property taxes, assessments and charges and all franchise, income, payroll, withholding, sales, and other taxes assessed against the Property and payable by Borrower, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Borrower shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event the Borrower exercises its right to contest any tax, assessment, or charge, the Borrower, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest. Borrower shall have the right to apply for all applicable tax exemptions, including, without limitation, the welfare exemption from property tax for low-income housing.

6.5 Obligation to Refrain from Discrimination. Borrower shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Borrower covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Development or part thereof, nor shall Borrower or any person claiming under or through Borrower establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in, of, or for the Development or part thereof. Borrower shall include such provision in all deeds, leases, contracts and other instruments executed by Borrower, and shall enforce the same diligently and in good faith.

ARTICLE VII

LIMITATIONS ON CHANGE IN OWNERSHIP, MANAGEMENT AND CONTROL OF DEVELOPER

7.1 Change Pursuant to this Agreement. Borrower has represented that it possesses the necessary expertise, skill and ability to carry out the development and operation of the Development on the Property pursuant to this Agreement. The qualifications, experience, financial capacity and expertise of Borrower is of particular concern to the City. It is because of these qualifications, experience, financial capacity and expertise that the City has entered into this Agreement with Borrower. No voluntary or involuntary successor, assignee or transferee of Borrower shall acquire any rights or powers under this Agreement, except as expressly provided herein.

7.2 Prohibition on Transfer. Prior to the later of expiration of the term of the City Regulatory Agreement and the payment in full of the City Promissory Note, Borrower shall not, except as expressly permitted by this Agreement, directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, "**Transfer**") of the whole or any part of the Property, the Development, the Improvements, or this Agreement or any of the City Documents, without the prior written approval of City, which approval shall not be unreasonably withheld. Any such attempt to assign this Agreement without the City's consent shall be null and void and shall confer no rights or privileges upon the purported assignee. In addition to the foregoing, prior to the later of expiration of the term of the City Regulatory Agreement and the payment in full of the City Promissory Note, except as expressly permitted by this Agreement, Borrower shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a "significant change of ownership" shall mean a transfer of the beneficial interest of more than twenty-five percent (25%) in aggregate of the present ownership and/or control of Borrower, taking all transfers into account on a cumulative basis.

7.3 Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions set forth in this Article VII shall not be deemed to prevent: (i) the granting of utility easements or permits to facilitate development of the Property; (ii) the dedication of any propertyrequired pursuant to this Agreement; (iii) the lease of individual units to tenants for occupancy as their principal residence in accordance with the City Regulatory Agreement; (iv) assignments creating security interests for the purpose of financing the acquisition, construction or permanent financing of the Development or the Property in accordance with the approved Financing Plan and subject to the requirements of Article VIII, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; and (v) a Transfer to an entity which is under the direct control or under common control with Satellite Affordable Housing Associates ("SAHA") or Satellite AHA Development, Inc. ("SADI"), or in which SAHA, SADI, or one of their affiliates, is the general partner or sole member of the general partner ("**Controlled Affiliate**").

The City hereby approves the initial Transfer, if any, of the limited partnership interest in Borrower to an investor limited partner (the "**Investor Limited Partner**") and approves future

Transfers of the limited partner interest in Borrower provided that: (i) such Transfers do not affect the timing and amount of the limited partner capital contributions provided for in the Partnership Agreement of Borrower approved by the City; and (ii) in subsequent Transfers, the initial limited partner or an affiliate of the initial limited partner retains a membership or partnership interest and the general partner of the Investor Limited Partner or a wholly-owned affiliate thereof serves as a managing member or managing general partner of the successor limited partner.

In the event the general partner of Borrower is removed by the Investor Limited Partner of Borrower for cause following default under the Partnership Agreement, the City hereby approves the Transfer of the general partner interest to a nonprofit corporation that is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (the "**Code**"), or a limited liability company whose sole member is a nonprofit corporation exempt from federal income taxation pursuant to Section 501(c)(3) of the Code, selected by the Investor Limited Partner and approved by the County in writing, which approval shall not be withheld unreasonably.

7.4 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property or portion thereof if all of the following requirements are met (provided however, the requirements of this Section 7.4 shall not apply to Transfers described in Section 7.3):

(i) The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently complete construction and operation of the Development and to otherwise fulfill the obligations undertaken by the Borrower under this Agreement.

(ii) The Borrower and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transferof this Agreement, the Property or interest therein together with such documentation ofthe proposed transferee's qualifications and development capacity as the City may reasonably request.

(iii) The proposed transferee shall expressly assume all of the rights and obligations of the Borrower under this Agreement, the City Regulatory Agreement, the City Documents and all obligations of Borrower arising prior to the effective date of the Transfer (unless Borrower expressly remains responsible for such obligations) and shall agree to be subject to and assume all of Borrower's obligations pursuant to the Conditions of Approval and all other conditions, and restrictions set forth in this Agreement and the City Regulatory Agreement.

(iv) The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

Consent to any proposed Transfer may be given by the City Manager unless the City Manager, in his or her discretion, refers the matter of approval to the City Council. If the City

rejects a proposed Transfer, the City, as applicable, shall provide the reasons for such rejection in writing within thirty (30) days following receipt of written request by Borrower, and representatives of the City shall meet with Borrower and the proposed transferee to discuss in good faith the reasons for the rejection and Borrower's and transferee's responses thereto.

7.5 Effect of Transfer without City Consent.

7.5.1 In the absence of specific written agreement by the City, no Transfer by Borrower shall be deemed to relieve the Borrower or any other party from any obligation under this Agreement or the City Regulatory Agreement.

7.5.2 Without limiting any other remedy City may have under this Agreement, or under law or equity, this Agreement may be terminated by City if without the prior written approval of the City, Borrower assigns or Transfers this Agreement or the Property. This Section 7.5.2 shall not apply to Transfers permitted under Section 7.3.

7.6 Recovery of City Costs. Borrower shall reimburse City for all costs, including but not limited to attorneys' fees, incurred in reviewing instruments and other legal documents proposed to affect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten days following City's delivery to Borrower of an invoice detailing such costs. This Section 7.6 shall not apply to Transfers permitted under Section 7.3.

ARTICLE VIII
SECURITY FINANCING AND RIGHTS OF MORTGAGEES

8.1 Mortgages and Deeds of Trust for Development. Mortgages and deeds of trust, or any other reasonable security instrument are permitted to be placed upon the Property only for the purpose of securing loans approved pursuant to the approved Financing Plan for the purpose of financing the acquisition of the Property, the design and construction of the Improvements, other expenditures reasonably necessary for development of the Property pursuant to this Agreement, and the construction and/or refinancing of the Development. Borrower shall not enter into any conveyance for such financing without the prior written approval of the City Manager or his or her designee. As used herein, the terms "mortgage" and "deed of trust" shall mean any security instrument used in financing real estate acquisition, construction and land development.

8.2 Holder Not Obligated to Construct. The holder of any mortgage or deed of trust authorized by this Agreement shall not be obligated to construct or complete the Improvements or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to permit or authorize any such holder to devote the Property or any portion thereof to any uses, or to construct any improvements thereon, other than those uses or improvements provided for or authorized by this Agreement.

8.3 Notice of Default and Right to Cure. Whenever City delivers any notice of default hereunder, City shall concurrently deliver a copy of such notice to each holder of record of any mortgage or deed of trust secured by the Property, and the Investor Limited Partner,

provided that City has been provided with the address for delivery of such notice. City shall have no liability to any such holder for any failure by the City to provide such notice to such holder. Each such holder shall have the right, but not the obligation, at its option, to cure or remedy any such default or breach, and City will accept tender of such cure as if delivered by the Borrower.

8.4 City Right to Cure Defaults. In the event of a breach or default by Borrower under a mortgage or deed of trust secured by the Property, City may (but has no obligation to) cure the default, without acceleration of the subject loan, following prior notice thereof to the holder of such instrument and Borrower. In such event, Borrower shall be liable for, and City shall be entitled to reimbursement from Borrower, for all costs and expenses incurred by City associated with and attributable to the curing of the default or breach and such sum shall constitute a part of the indebtedness secured by the City Deed of Trust.

8.5 Holder to be Notified. Borrower, for itself, its successors and assigns, hereby warrants and agrees that each term contained herein dealing with security financing and rights of holders shall be either inserted into the relevant deed of trust or mortgage or acknowledged by the holder prior to its creating any security right or interest in the Property.

8.6 Modifications to Agreement. City shall not unreasonably withhold its consent to modifications of this Agreement requested by Development lenders or investors, provided such modifications do not alter City's substantive rights and obligations under this Agreement.

8.7 Estoppel Certificates. Any Party shall, at any time, and from time to time, within thirty (30) days after receipt of written request from the other Party, execute and deliver to such Party a written statement certifying that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties (if such be the case), (ii) this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature of any such defaults.

ARTICLE IX
ENVIRONMENTAL MATTERS

9.1 No City Liability; Borrower's Covenants. City shall not be responsible for the cost of any soil, groundwater or other environmental remediation or other response activities for any Hazardous Materials, if any, existing or occurring on the Property or any portion thereof, and Borrower shall be solely responsible for all actions and costs associated with any such activities required by any regulatory agency with jurisdiction over the Property and/or required for the construction of the Development and the development of the Property, or any portion thereof. Upon receipt of any notice regarding the presence, release or discharge of Hazardous Materials in, on or under the Property, or any portion thereof, Borrower agrees to timely initiate and diligently pursue and complete all appropriate response, remediation and removal actions for the presence, release or discharge of such Hazardous Materials within such deadlines as specified by applicable Environmental Laws. Borrower hereby covenants and agrees that:

(1) Borrower shall not knowingly permit the Development or the

Property or any portion of either to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence or release of Hazardous Materials in, on, under, about or from the Development or the Property with the exception of any previously disclosed existing conditions on the Property and cleaning supplies and other materials customarily used in construction, construction, use or maintenance of residential property and used, stored and disposed ofin compliance with Environmental Laws, and

(2) Borrower shall keep and maintain the Development and the Property and each portion thereof in compliance with, and shall not cause or permit the Development or the Property or any portion of either to be in violation of, any Environmental Laws.

9.2 Environmental Indemnification. Borrower shall indemnify, defend (with counsel approved by City) and hold the Indemnitees harmless from and against any and all Claims, including without limitation any expenses associated with the investigation, assessment, monitoring, response, removal, treatment, abatement or remediation of Hazardous Materials and administrative, enforcement or judicial proceedings resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, storage or disposal or the alleged presence, release, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Property, or (ii) the failure of Borrower, Borrower's employees, agents, contractors, subcontractors, or any person acting on behalf of any of the foregoing to comply with Environmental Laws or the covenants set forth in Section 9.1. The foregoing indemnity shall further apply to any residual contamination in, on, under or about the Property or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Environmental Laws. The provisions of this Section 9.2 shall survive the issuance of a Certificate of Completion for the Development and the expiration or earlier termination of this Agreement. Borrower's indemnification obligation under this Section 9.2 shall not apply to acts described in clause (i) above caused by the gross negligence orwillful misconduct of an Indemnitee.

9.2.1 No Limitation. Borrower hereby acknowledges and agrees that Borrower's duties, obligations and liabilities under this Agreement, including, without limitation, under Section 9.2 above, are in no way limited or otherwise affected by any information the City may have concerning the Property and/or the presence in, on, under or about the Property of any Hazardous Materials, whether the City obtained such information from the Borrower or from its own investigations. It is further agreed that City do not and shall not waive any rights against Borrower that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Borrower, of any of the insurance policies described in this Agreement.

9.3 Hazardous Materials. As used herein, the term **"Hazardous Materials"** means any substance, material or waste which is or becomes regulated by any federal, state or local

governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a "hazardous substance", "hazardous material", "hazardous waste", "toxic waste", "toxic pollutant", "toxic substance", "solid waste" or "pollutant or contaminant" in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as they now exist or are hereafter amended, together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any "Superfund" or "Superlien" law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

9.4 Environmental Laws. As used herein, the term "**Environmental Laws**" means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to Hazardous Materials (as defined above) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (iv) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwater or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic

Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as each of the foregoing now exist or are hereafter amended, together with any regulations promulgated thereunder.

ARTICLE X
DEFAULTS, REMEDIES AND TERMINATION

10.1 Event of Borrower Default. The following events shall constitute an event of default on the part of Borrower ("**Event of Borrower Default**"):

(a) Subject to force majeure, Borrower fails to commence or complete construction of the Development within the times set forth in Section 3.5, or abandons or suspends construction of the Development prior to completion for a period of sixty (60) days or more;

(b) Borrower fails to pay when due the principal and interest (if any) payable underthe City Promissory Note and such failure continues for thirty (30) days after City notifies Borrower thereof in writing;

(c) A Transfer occurs, either voluntarily or involuntarily, in violation of Article VII;

(d) Borrower fails to maintain insurance on the Property and the Development as required pursuant to this Agreement, and Borrower fails to cure such default within ten (10) days following notice thereof from the City;

(e) Subject to Borrower's right to contest the following charges pursuant to Section 6.4, if Borrower fails to pay prior to delinquency taxes or assessments due on the Property or the Development or fails to pay when due any other charge that may result in a lien on the Property or the Development, and Borrower fails to cure such default within thirty (30) days of date of delinquency, but in all events upon the imposition of any such tax or other lien;

(f) A default is declared in writing under any loan secured by a mortgage, deed of trust or other security instrument recorded against the Property and remains uncured beyond any applicable cure period such that the holder of such security instrument has the right to acceleratere payment of such loan;

(g) Any representation or warranty contained in this Agreement or in any financial statement, certificate or report submitted to the City in connection with this Agreement or Borrower's request for the City Loan proves to have been false in any material and adverse respect when made and continues to be materially adverse to the City;

(h) If, pursuant to or within the meaning of the United States Bankruptcy Code or any other federal or state law relating to insolvency or relief of debtors ("**Bankruptcy Law**"), Borrower (i) commences a voluntary case or proceeding; (ii) consents to the entry of an order for relief against Borrower in an involuntary case; (iii) consents to the appointment of a trustee,

receiver, assignee, liquidator or similar official for Borrower; (iv) makes an assignment for the benefit of its creditors; or (v) admits in writing its inability to pay its debts as they become due;

(i) A court of competent jurisdiction shall have made or entered any decree or order:

(1) adjudging the Borrower to be bankrupt or insolvent,

(2) approving as properly filed a petition seeking reorganization of the Borrower or seeking any arrangement for Borrower under bankruptcy law or any other applicable debtor's relief law or statute of the United States or any state or other jurisdiction,

(3) appointing a receiver, trustee, liquidator, or assignee of the Borrower in bankruptcy or insolvency or for any of its properties, or

(4) directing the winding up or liquidation of the Borrower;

(j) Borrower shall have assigned its assets for the benefit of its creditors (other than pursuant to a mortgage loan) or suffered a sequestration or attachment of or execution on any substantial part of its property, unless the property so assigned, sequestered, attached or executedupon shall have been returned or released within sixty (60) days after such event (unless a lesser time period is permitted for cure under any other mortgage on the Property, in which event such lesser time period shall apply under this subsection as well) or prior to any sooner sale pursuant to such sequestration, attachment, or execution;

(k) The Borrower shall have voluntarily suspended its business or Borrower shall have been dissolved or terminated;

(l) An event of default arises under this Agreement or any City Document and remains uncured beyond any applicable cure period; or

(m) Borrower defaults in the performance of any term, provision, covenant or agreement contained in this Agreement other than an obligation enumerated in this Section 10.1 and unless a shorter cure period is specified for such default, the default continues for ten (10) days in the event of a monetary default or thirty (30) days in the event of a nonmonetary default after the date upon which City shall have given written notice of the default to Borrower; provided however, if the default is of a nature that it cannot be cured within thirty (30) days, a Borrower Event of Default shall not arise hereunder if Borrower commences to cure the default within thirty (30) days and thereafter prosecutes the curing of such default with due diligence and in good faith to completion and in no event later than ninety (90) days after receipt of notice of the default or such longer period as the City may allow.

10.2 City Default. An event of default on the part of City ("**Event of City Default**") shall arise hereunder if City fails to keep, observe, or perform any of its covenants, duties, or obligations under this Agreement, and the default continues for a period of thirty (30) days after written notice thereof from Borrower to City, or in the case of a default which cannot with due diligence be cured within thirty (30) days, City fails to commence to cure the default within

thirty (30) days of such notice and thereafter fails to prosecute the curing of such default with due diligence and in good faith to completion.

10.3 City's Right to Terminate Agreement. If an Event of Borrower Default shall occur and be continuing beyond any applicable cure period, then City shall, in addition to other rights available to it under law or this Agreement, have the right to terminate this Agreement. If City makes such election, City shall give written notice to Borrower and to any mortgagee entitled to such notice specifying the nature of the default and stating that this Agreement shall expire and terminate on the date specified in such notice, and upon the date specified in the notice, this Agreement and all rights of Borrower under this Agreement, shall expire and terminate.

10.4 City's Remedies and Rights Upon an Event of Borrower Default. Upon the occurrence of an Event of Borrower Default and the expiration of any applicable cure period, City shall have all remedies available to them under law or equity, including, but not limited to the following, City may, at its election, without notice to or demand upon Borrower, except for notices or demands required by law or expressly required pursuant to this Agreement or the City Documents, exercise one or more of the following remedies:

(a) Accelerate and declare the balance of the City Promissory Note and interest accrued thereon immediately due and payable;

(b) Seek specific performance to enforce the terms of this Agreement or City Documents;

(c) Foreclose on the Property pursuant to the City Deed of Trust;

(d) Pursue any and all other remedies available under law to enforce the terms of thethis Agreement and the City Documents and City's rights thereunder.

10.5 Borrower's Remedies Upon an Event of City Default. Upon the occurrence of an City Event of Default, in addition to pursuing any other remedy allowed at law or in equity or otherwise provided in this Agreement, Borrower may bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking to obtain any other remedy consistent with the purpose of this Agreement.

10.6 Remedies Cumulative; No Consequential Damages. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different time, of any other rights or remedies for the same or any other default by the other Party. Notwithstanding anything to the contrary set forth herein, a party's right to recover damages in the event of a default shall be limited to actual damages and shall exclude consequential damages.

10.7 Inaction Not a Waiver of Default. No failure or delay by any Party in asserting

any of its rights and remedies as to any default shall operate as a waiver of such default or of any such rights or remedies, nor deprive any Party of its rights to institute and maintain any action or proceeding which it may deem necessary to protect, assert or enforce any such rights or remedies in the same or any subsequent default.

ARTICLE XI
INDEMNITY AND INSURANCE.

11.1 Indemnity. Borrower shall indemnify, defend (with counsel approved by City, such approval not to be unreasonably withheld) and hold Indemnitees harmless from and against any and all Claims, including without limitation, Claims arising directly or indirectly, in whole or in part, as a result of or in connectionwith Borrower's or Borrower's contractors, subcontractors, agents or employees development, construction, improvement, operation, ownership or maintenance of the Development or the Property, or any part thereof or otherwise arising out of or in connection with Borrower's performance under this Agreement. Borrower's indemnification obligations under this Section 11.1 shall not extend to Claims resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 11.1 shall survive the issuance of a Certificate of Completion for the Development and the expiration or earlier termination of this Agreement. It is further agreed that City do not and shall not waive any rights against Borrower that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Borrower, of any of the insurance policies described in this Agreement.

11.2 Insurance.

(a) Borrower and all contractors working on behalf of Borrower on the Development shall maintain the insurance coverage as described in the City Insurance Requirements attached hereto Exhibit I and incorporated herein.

(b) Prior to closing of the City Loan, Borrower shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. Each certificate shall contain all provisions required in the City Insurance Requirements.

(c) If any insurance policy or coverage required hereunder is canceled or reduced, Borrower shall, within fifteen (15) days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at Borrower's expense,and Borrower shall promptly reimburse City for such expense upon receipt of billing from City.

ARTICLE XII
MISCELLANEOUS PROVISIONS

12.1 Brokers. Borrower agrees to pay any real estate commission, brokerage fee, finder's fee, or othercompensation due with respect to the acquisition of the Property, and agrees to defend, indemnify and hold harmless the City from any claims, expenses, costs or liabilities arising in connection with a breach of this warranty and representation. The terms of this Section shall survive the expiration or earlier termination of this Agreement.

12.2 Enforced Delay; Extension of Times of Performance. Subject to the limitations setforth below, performance by any Party shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended where delays are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, governmental restrictions or priority, litigation, including court delays, unusually severe weather, acts or omissions of the other Parties, acts or failures to act of any other public or governmental agency or entity (other than the acts or failures to act of City which shall not excuse performance by City), or any other cause beyond the affected Party's reasonable control. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent to the other Parties within thirty (30) days of the commencement of the cause and such extension is not rejected in writing by the other Parties within ten (10) days of receipt of the notice. None of theParties shall unreasonably withhold consent to an extension of time pursuant to this Section.

Times of performance under this Agreement may also be extended in writing by the mutual agreement of Borrower and City (acting in the discretion of its City Manager unless he or she determines in his or her discretion to refer such matter to the City Council). City and Borrower acknowledge that adverse changes in economic conditions, either of the affected Party specifically or the economy generally, changes in market conditions or demand, and/or inability to obtain financing to complete the work of Improvements shall not constitute grounds of enforced delay pursuant to this Section. Each Party expressly assumes the risk of such adverse economic or market changes and/or financial inability, whether or not foreseeable as of the Effective Date.

12.3 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service;

City: City of Newark
37101 Newark Blvd.
Newark, CA 94560
Attention: Community
Development Director
(with copy to City Attorney)

Borrower: Thornton, L.P.
c/o Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, California 94703
Attention: Chief Executive Officer

With a copy to: Satellite AHA Development, Inc.
1835 Alcatraz Avenue
Berkeley, California 94703
Attention: Chief Executive Officer

The City agrees that it shall provide Borrower's Investor Limited Partner a duplicate copy of all notices of default that the City may give to or serve in writing upon Borrower pursuant to the terms of the Loan Documents, at an address provided to the City; provided, the City shall have no liability to the Investor Limited Partner for its failure to do so. The Investor Limited Partner shall have the right, but not the obligation, to cure any Default of Borrower set forth in such notice, during any applicable cure period described in the Loan Documents, and the City will accept tender of such cure as if delivered by Borrower.

12.4 Attorneys' Fees. If any Party fails to perform any of its obligations under this Agreement, or if any dispute arises between the Parties concerning the meaning or interpretation of any provision hereof, then the prevailing party in any proceeding in connection with such dispute shall be entitled to the costs and expenses it incurs on account thereof and in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements.

12.5 Waivers; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the waiving party. This Agreement may be amended or modified only by a written instrument executed by the Parties.

12.6 Binding on Successors. Subject to the restrictions on Transfers set forth in Article VII, this Agreement shall bind and inure to the benefit of the Parties and their respective permitted successors and assigns. Any reference in this Agreement to a specifically named party shall be deemed to apply to any permitted successor and assign of such party who has acquired an interest in compliance with this Agreement or under law.

12.7 Construction. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since all of the Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

12.8 Action or Approval. Except as may be otherwise specifically provided in this Agreement, whenever any approval, notice, direction, finding, consent, request, waiver, or other action by the City is required or permitted under this Agreement, such action may be given, made, or taken by the City Manager, or by any person who shall have been designated in writing by the City, without further approval by the City Council. Any such action shall be in writing. The Borrower acknowledges that nothing in this Agreement (including any approval by the City Manager in accordance with this Agreement) shall limit, waive, or otherwise impair the authority and discretion of: (i) the City's Community Development Department, in connection with the review and approval of the proposed construction plans for the Development (or any change to such plans), or any use, or proposed use, of the Property, (ii) the City's issuance of a building permit, or (iii) any other office or department of the City acting in its capacity as a governmental regulatory authority with jurisdiction over the development, use, or operation of the Development.

12.9 Entire Agreement. This Agreement, including the exhibits listed below, which are attached hereto and incorporated herein by this reference, together with the other City Documents, contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof.

Exhibit A	Legal Description of the Property
Exhibit B	Preliminary Financing Plan
Exhibit C	City Promissory Note
Exhibit D	City Deed of Trust
Exhibit E	Schedule of Performance
Exhibit F	Scope of Development
Exhibit G	City Regulatory Agreement
Exhibit H	Certificate of Completion
Exhibit I	City Insurance Requirements

12.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Amendment may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

12.11 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

12.12 No Third Party Beneficiaries. Nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

12.13 Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

12.14 Non-Liability of Officials, Employees and Agents. No officer, official, employee or agent of City shall be personally liable to Borrower or its successors in interest in the event of any default or breach by City or for any amount which may become due to Borrower or its successors in interest pursuant to this Agreement.

12.15 Time of the Essence; Calculation of Time Periods. Time is of the essence for each condition, term, obligation and provision of this Agreement. Unless otherwise specified, in computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a business day, in which event the period shall run until the next business day. The final day of any such period shall be deemed to end at 5:00 p.m., local time at the Property. For purposes of this Agreement, a "business day" means a day that is not a Saturday, Sunday, a federal holiday or a state holiday under the laws of California.

12.16 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed in the Superior Court of Alameda County, California or in the Federal District Court for the Northern District of California.

SIGNATURES ON FOLLOWING PAGE.

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date first written above.

DEVELOPER:

THORNTON, L.P.,
a California limited partnership

By: Satellite AHA Development, Inc.,
a California nonprofit public benefit corporation,
its general partner

By: _____
Name: Susan Friedland
Its: Chief Executive Officer

CITY:

CITY OF NEWARK,
a California municipal corporation

By: _____
David Benoun, City Manager

ATTEST:

By: _____
Sheila Harrington, City Clerk

APPROVED AS TO FORM:

By: _____
Kristopher Kokotaylo, City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

6361 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page 11, Alameda County Records, described as follows:

Beginning at a point on the N/W line of Thornton Avenue distance thereon North 33° 00' East 440 feet from the point of intersection thereof with the N/W line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Newark:

The Southeasterly 10 feet of that certain parcel of land described in the Deed from Clyde W. Lindsay and Marie T. Lindsay, his wife, to Edward C. Jackson and. Eunice M. Jackson, his wife, recorded October 2, 1952 in the Office of the County Recorder of Alameda County in Book 6839, Page 514, Official Records of Alameda County.

APN: 092A-0919-017-02

6347 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page 11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue distance thereon North 33° 00' East 495.00 feet from the Northeastern line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55.00 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.

EXCEPTING THEREFROM the Southeastern 10 feet, as granted to the City of Newark recorded September 10, 1969, Series No. 101382 in Book 2474, Page 50 of Official Records.
6375 Thornton Avenue

APN: 092A-0919-016-02

6375 Thornton Avenue:

A portion of Lots 22 and 23 in Block J, map of Newark Acres, filed December 8, 1916, in Book 16 of Maps, Page 11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue, distant thereon North 33° 00’ East 385 feet from the point of intersection thereof with the Northeastern line of Cherry road, as said Avenue and Road are shown on said map; running thence along said line of Thornton Avenue North 33° 00’ East 55.00 feet; thence North 56° 58’ West 150.00 feet; thence South 33° 00’ West 55.00 feet; thence South 56° 58’ East 150.00 feet to the point of beginning.

APN: 092A-0919-018

EXHIBIT B

PRELIMINARY FINANCING PLAN

[To Be Attached]

EXHIBIT C

CITY PROMISSORY NOTE

[To Be Attached]

EXHIBIT D

CITY DEED OF TRUST
[To Be Attached]

EXHIBIT E

SCHEDULE OF PERFORMANCE

Performance Milestones	**Milestone Completion Date**
Borrower satisfaction of Conditions Precedent to Predevelopment Loan Component of City Loan.	By July 1, 2023
Close of escrow for acquisition of Property	By July 1, 2023
Borrower satisfaction of Conditions Precedent to Construction Loan Component of City Loan.	By January 31, 2026
Close of escrow for Construction Financing	Within 30 days after Borrower satisfaction of Conditions Precedent to Construction Loan Component of City Loan, and not later than February 28, 2026
Commencement of construction and development work on Development	Within 30 days after Construction Loan Closing, and not later than March 31, 2026
Completion of construction and development work on Development	Not later than May 31, 2028
Commencement of occupancy of apartment units	Not later than June 30, 2028
Full occupancy of apartment units	Not later than August 31, 2028

EXHIBIT F

SCOPE OF DEVELOPMENT

At 6347, 6361 and 6375 Thornton Avenue, Borrower proposes to build, own and manage a single five-story building with approximately 57 rental apartments. One home will be occupied by Property Management staff and the remaining 56 homes will be affordable for households with incomes at or below 60% of the area median. The building will include 26 one-bedroom apartments, 15 two-bedroom apartments and 16 three-bedroom apartments. The community will be programmed with ample community space including an approximately 1,350 square foot community room with kitchenette and a spacious courtyard that will include wheelchair-accessible raised gardening beds, a tot play area, ornamental landscaping and seating. Additional amenities will include a computer lab, an acoustically insulated music practice room, property management and resident services offices, secure structured parking, bicycle and scooter parking and a bicycle repair station. Borrower will pursue an aggressive approach to sustainability and energy efficiency and score platinum on the GreenPoint Rated scale.

EXHIBIT G

CITY REGULATORY AGREEMENT

[To Be Attached]

EXHIBIT H

CERTIFICATE OF COMPLETION

Recording requested by and when recorded mail to: City of Newark 37101 Newark Blvd. Newark, CA 94560 Attn: City Clerk EXEMPT FROM RECORDING FEES PER GOVERNMENT CODE §§6103, 27383	

Space above this line for Recorder's use.

CERTIFICATE OF COMPLETION

This Certificate of Completion (this "**Certificate**") is made by the City of Newark, a California municipal corporation ("**City**"), effective as of _____, 202__.

RECITALS

A. City and Thornton, L.P., a California limited partnership ("**Owner**"), entered into that certain Affordable Housing Loan Agreement dated as of [March 23, 2023] ("**Loan Agreement**") concerning the development of a fifty-seven (57) unit affordable housing development (the "**Development**") on certain real property located in the City of Newark, California and more particularly described in Exhibit A attached hereto (the "**Property**"). Capitalized terms used herein without definition shall have the meaning ascribed to such terms in the Loan Agreement.

B. Pursuant to Section 3.13 of the Loan Agreement, the City is required to furnish the Owner or its successors with a Certificate of Completion upon completion of construction and development of the Development in accordance with the Loan Agreement.

C. The City has determined that the construction and development of the Development has been satisfactorily completed in accordance with the Loan Agreement.

NOW, THEREFORE, the City hereby certifies as follows:

1. Construction and development of the Development has been satisfactorily completed in conformance with the Loan Agreement.

2. All use, maintenance and nondiscrimination covenants contained in the Loan Agreement and the City Regulatory Agreement recorded in the Official Records on

_____, 2023 as Instrument No._____ in connection therewith shall remain in effect and enforceable in accordance therewith. This Certificate does not constitute evidence of Owner's compliance with those covenants in the Loan Agreement or City Regulatory Agreement that survive the issuance of this Certificate.

3. This Certificate does not constitute evidence of compliance with or satisfaction of any obligation of Owner to any holder of a deed of trust securing money loaned to finance the Improvements or any part thereof (except City) and does not constitute a notice of completion under the California Civil Code.

4. Nothing contained in this instrument shall modify any provisions of the Loan Agreement, City Regulatory Agreement or any other document executed in connection therewith.

IN WITNESS WHEREOF, City has executed and issued this Certificate of Completion as of the date first written above.

THE CITY OF NEWARK

By: _____

Name: _____
[Title]

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

SIGNATURES MUST BE NOTARIZED.

Exhibit A

LEGAL DESCRIPTION OF PROPERTY

6361 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page 11, Alameda County Records, described as follows:

Beginning at a point on the N/W line of Thornton Avenue distance thereon North 33° 00' East 440 feet from the point of intersection thereof with the N/W line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Newark:

The Southeasterly 10 feet of that certain parcel of land described in the Deed from Clyde W. Lindsay and Marie T. Lindsay, his wife, to Edward C. Jackson and. Eunice M. Jackson, his wife, recorded October 2, 1952 in the Office of the County Recorder of Alameda County in Book 6839, Page 514, Official Records of Alameda County.

APN: 092A-0919-017-02

6347 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page 11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue distance thereon North 33° 00' East 495.00 feet from the Northeastern line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55.00 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.

EXCEPTING THEREFROM the Southeastern 10 feet, as granted to the City of Newark recorded September 10, 1969, Series No. 101382 in Book 2474, Page 50 of Official Records.
6375 Thornton Avenue

APN: 092A-0919-016-02

6375 Thornton Avenue:

A portion of Lots 22 and 23 in Block J, map of Newark Acres, filed December 8, 1916, in Book 16 of Maps, Page 11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue, distant thereon North 33° 00’ East 385 feet from the point of intersection thereof with the Northeastern line of Cherry road, as said Avenue and Road are shown on said map; running thence along said line of Thornton Avenue North 33° 00’ East 55.00 feet; thence North 56° 58’ West 150.00 feet; thence South 33° 00’ West 55.00 feet; thence South 56° 58’ East 150.00 feet to the point of beginning.

APN: 092A-0919-018

EXHIBIT I

CITY INSURANCE REQUIREMENTS

Prior to issuance of building permits for the Project and throughout the term of this Agreement, Owner shall obtain and maintain, at Owner's expense, the following policies of insurance.

A. Property Insurance. Insurance for the risks of direct physical loss, with minimum coverage being the perils insured under the standard Causes of Loss - Special form (ISO Form CP 10 30) or its equivalent, covering all improvements, all fixtures, equipment and personal property, located on or in, or constituting a part of, the Property ("Improvements"), in an amount equal to one hundred percent (100%) of the full replacement cost of all such property.

1. The insurance shall:

(a) Cover explosion of steam and pressure boilers and similar apparatus, if any, located on the Property,

(b) Cover floods if the Property is in a Special Hazard Area, as determined by the Federal Emergency Management City or as shown on a National Flood Insurance Program flood map;

2. The insurance required hereunder shall be in amounts sufficient to prevent Owner from becoming a co-insurer under the terms of the applicable policies, with not more than a Ten Thousand Dollars ($10,000) deductible (or such higher deductible approved by the City, which approval shall not be unreasonably withheld) from the loss payable for any casualty.

3. The policies of insurance carried in accordance with this Paragraph A shall contain a "replacement cost endorsement" and an "increased cost of construction endorsement."

B. Liability Insurance. Commercial general liability insurance on an "occurrence basis" covering all claims with respect to injury or damage to persons or property occurring on, in or about the Property and the Improvements. The limits of liability under this Paragraph B shall be not less than Two Million Dollars ($2,000,000) combined single limit per occurrence, with a deductible no greater than Ten Thousand Dollars ($10,000) or such higher deductible as may be approved by City, which approval shall not be unreasonably withheld.

1. The insurance shall also include coverage for:

(a) Liability for bodily injury or property damage arising out of the use, by or on behalf of Owner, of any owned, non-owned, leased or hired automotive equipment in the conduct of any and all operations conducted in connection with the Project or the Property;

(b) Premises and operations including, without limitation, bodily injury, personal injury, death or property damage occurring upon, in or about the Property or the Improvements on any elevators or any escalators therein and on, in or about the adjoining sidewalks, streets and passageways;

(c) Environmental liability and indemnification of City therefore;

(d) Broad form property damage liability;

(e) Additional insured and primary insured endorsements protecting the City and its respective elected and appointed officials, officers, employees and agents;

(f) Personal injury endorsement.

C. Worker's Compensation Insurance. Worker's compensation insurance, in the amount required under then applicable state law, covering Owner's employees, if any, at work in or upon the Property or engaged in services or operations in connection with the Project or the Property. Owner shall require that any contract entered into by Owner with regard to work to be undertaken on the Property include a contractual undertaking by the contractor to provide worker's compensation insurance for its employees in compliance with applicable state law.

D. Course of Construction Insurance. Course of construction insurance in the same amount as required in Paragraph A above for property insurance, covering all construction activities on the Property.

E. General Insurance Provisions.

1. All policies of insurance provided for in this Exhibit shall be provided under valid and enforceable policies, in such forms and amounts as hereinbefore specified, issued by insurers licensed to do business in the State of California (or approved to do business in California and listed on the California Department of Insurance list of Eligible Surplus Lines Insurers or successor listing) and having a rating of A-VII or better in Best Insurance Guide or, if Best Insurance Guide is no longer in existence, a comparable rating from a comparable rating service. Prior to the issuance of building permits for the Project, and thereafter, not less than thirty (30) days prior to the expiration date of each policy furnished pursuant to this Exhibit D, Owner shall deliver to City certificates evidencing the insurance required to be carried by Owner under this Exhibit D. If requested by City, Owner shall deliver within ten (10) days following such request, certified, complete copies of the insurance policies required hereunder. Insurance policies to be provided hereunder shall meet the following requirements:

2. Each policy of insurance obtained pursuant to this Agreement, other than worker's compensation insurance, shall contain endorsements which provide:

(a) A waiver by the insurer of the right of subrogation against City, Owner or any tenant of the Project for negligence of any such person,

(b) A statement that the insurance shall not be invalidated should any insured waive in writing prior to the loss any or all right of recovery against any party for loss accruing to the property described in the insurance policy, and

(c) A provision that no act or omission of Owner which would otherwise result in forfeiture or reduction of the insurance therein provided shall affect or limit the obligation of the insurance company to pay the amount of any loss sustained.

(d) By endorsements, City, and its elected and appointed officials, officers, employees and agents shall be named as additional insured under the liability insurance required to be maintained by Owner hereunder. City shall be named as loss payee on the property insurance policies required to be maintained hereunder.

3. Each policy required hereunder shall include a Notice of Cancellation or Change in Coverage Endorsement which shall provide that such policy shall not be cancelled or materially changed without at least thirty (30) days' prior written notice by registered or certified mail to City.

4. All insurance policies shall provide that there shall be no exclusion from coverage for cross liability among the listed insureds.

5. Any certificate of insurance applicable to course of construction insurance to be maintained shall be deposited with City prior to commencement of construction of any Improvements.

6. Each policy shall contain an endorsement that provides that the insurance applies separately to each insured that is seeking coverage or against whom a claim is made, except with respect to the limits of liability

7. Each policy shall be written as a primary policy not contributing with and not in excess of coverage that City may carry.

8. Each policy shall expressly provide that City shall not be required to give notice of accidents or claims and that City shall have no liability for premiums.

F. Blanket Policies. Any insurance provided for in this Exhibit F-3 may be placed by a policy or policies of blanket insurance; provided, however, that such policy or policies provide that the amount of the total insurance allocated to the Property and the Project shall be such as to furnish protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects any such policy or policies shall comply with the other provisions of this Agreement

G. Waiver of Subrogation. To the extent permitted by law and the policies of insurance required to be maintained hereunder, and without affecting such insurance coverage, City and Owner each waive any right to recover against the other:

1. Damages for injury or death of persons,

2. Damage to property,

3. Damage to the Property or the Improvements or any part thereof, or

4. Claims arising by reason of any of the foregoing, to the extent that such damages and/or claims are covered (and only to the extent of such coverage) by insurance actually carried by either City or Owner.

This provision is intended to restrict each party (as permitted by law) to recover against insurance carriers to the extent of such coverage, and waive fully, and for the benefit of each, any rights and/or claims which might give rise to a right of subrogation in any insurance carrier.

Compliance with Policy Requirements. Owner shall observe and comply with the requirements of all policies of public liability, fire and other policies of insurance at any time in force with respect to the Property, and Owner shall so perform and satisfy the requirements of the companies writing such policies that at all times companies of good standing shall be willing to write or to continue such insurance.

Exhibit B/Preliminary Financing Plan

To finance the build-out of the Thornton Avenue community, SAHA proposes to use Low-Income Housing Tax Credits and a soft loan from the City of Newark, along with several other gap sources.

LOW-INCOME HOUSING TAX CREDITS

SAHA anticipates generating approximately $24,812,767 of tax credit equity. This breaks down into $20,953,003 from Federal tax credits and $3,859,764 from State tax credits. We are able to layer both State and Federal tax credits on the project because HUD designated the City of Newark as a 2022 Difficult Development Area. SAHA is assuming an all-in investor pay-in rate of $0.95 per federal tax credit and $0.70 per state tax credit. These are conservative assumptions based on our two most recent investor negotiations.

CITY OF NEWARK SOFT LOAN

SAHA requests a 55-year soft loan of $12M from the City of Newark for site acquisition, construction and permanent financing. This funding will cover approximately 25% of the total development cost. We recognize that this is a substantial ask. SAHA keeps abreast of local, regional, state and federal affordable housing funding opportunities and commits to leverage this precious funding opportunistically as much as possible.

MULTIFAMILY HOUSING PROGRAM

SAHA anticipates receiving a $8,420,033 Multifamily Housing Program loan from California Department of Housing and Community Development. To help ensure competitiveness, SAHA intends to request the loan on the 30% AMI units and a portion of the 50% AMI units only.

CONVENTIONAL PERMANENT LOAN

SAHA anticipates originating a $2,591,781, tax-exempt, 20-year, fully amortizing permanent loan from a to-be-determined private lender. We assume an interest rate of 5.75%.

AFFORDABLE HOUSING PROGRAM

SAHA anticipates that the proposed project will be competitive for $855,000 of funding from the Federal Home Loan Bank of San Francisco's Affordable Housing Program.

DEFERRED DEVELOPER FEE

To round out the funding mix, SAHA proposes to voluntarily defer a $150,000 portion of its developer fee to be paid from a priority distribution of surplus cash flow during operations.

CONSTRUCTION LOAN

SAHA will fund construction with a tax-exempt construction loan. The term is projected to be 24 months, and the interest rate 5.5%. The loan will be paid off at permanent financing conversion with tax credit syndication proceeds and additional soft debt and conventional debt.

Financing Plan

Construction

Uses

$	3,470,000	Land / Acquisition
$	35,527,443	Construction
$	862,450	Architecture
$	718,490	Survey & Engineering
$	2,095,000	Construction Interest & Fees
$	-	Permanent Financing
$	32,500	Legal
$	-	Reserves
$	2,085,732	Other Costs
$	661,030	Bond Financing Costs
$	1,336,870	Developer Costs
$	146,890	Syndication Costs
$	**46,936,405**	**Total Uses**

Sources

$	-	Perm Loan - 20 yr term & amort.
$	2,095,300	Federal Tax Credit Equity
$	385,976	State Tax Credit Equity
$	-	HCD MHP
$	855,000	FHLB AHP
$	7,877,586	Local Funds: City of Newark
$	-	Deferred Developer Fee
$	31,550,128	Construction Loan
$	**42,763,991**	**Total Sources**

Permanent

Uses

$	3,470,000	Land / Acquisition
$	35,527,443	Construction
$	862,450	Architecture
$	718,490	Survey & Engineering
$	2,095,000	Construction Interest & Fees
$	40,000	Permanent Financing
$	32,500	Legal
$	463,054	Reserves
$	2,085,732	Other Costs
$	661,030	Bond Financing Costs
$	2,650,870	Developer Costs
$	221,890	Syndication Costs
$	**48,828,459**	**Total Uses**

Sources

$	2,590,659	Perm Loan - 20 yr term & amort.
$	20,953,003	Federal Tax Credit Equity
$	3,859,764	State Tax Credit Equity
$	8,420,033	HCD MHP
$	855,000	FHLB AHP
$	12,000,000	Local Funds: City of Newark
$	150,000	Deferred Developer Fee
$	**48,828,459**	**Total Sources**

Unit Mix (Rent and Income Levels)

Bedrooms	AMI	Subsidy Name	Section 8	MHP	Special Needs per TCAC	Total Units	Gross Rent	Utility Allowance	Net Rent	Proposed Rent	Annual Rental Income	FMR/ Contract Rents	Section 8 Payment	Annual Section 8 Income
1	30%	HACA	Yes	Yes		3	$ 803	$ 76	$ 727	$ 727	$ 26,186	$ 1,899	$ 1,096	$ 39,442
1	30%			Yes		5	$ 803	$ 76	$ 727	$ 727	$ 43,644			
1	50%			Yes		5	$ 1,339	$ 76	$ 1,263	$ 1,263	$ 75,780			
1	50%					6	$ 1,339	$ 76	$ 1,263	$ 1,263	$ 90,936			
1	60%					7	$ 1,607	$ 76	$ 1,531	$ 1,531	$ 128,587			
2	30%	HACA	Yes	Yes		2	$ 964	$ 106	$ 858	$ 858	$ 20,597	$ 2,385	$ 1,421	$ 34,099
2	30%			Yes		3	$ 964	$ 106	$ 858	$ 858	$ 30,895			
2	50%			Yes		4	$ 1,607	$ 106	$ 1,501	$ 1,501	$ 72,048			
2	50%					3	$ 1,607	$ 106	$ 1,501	$ 1,501	$ 54,036			
2	60%					3	$ 1,928	$ 106	$ 1,822	$ 1,822	$ 65,606			
3	30%	HACA	Yes	Yes		2	$ 1,114	$ 126	$ 988	$ 988	$ 23,702	$ 3,282	$ 2,168	$ 52,042
3	30%			Yes		4	$ 1,114	$ 126	$ 988	$ 988	$ 47,405			
3	50%			Yes		3	$ 1,856	$ 126	$ 1,730	$ 1,730	$ 62,280			
3	50%					3	$ 1,856	$ 126	$ 1,730	$ 1,730	$ 62,280			
3	60%					3	$ 2,227	$ 126	$ 2,101	$ 2,101	$ 75,643			
3	MGR					1	$ -	$ 126	$ -	$ -	$ -			
Avg AMI:	44.74%	Total:	7		0	57					$ 879,626			$ 125,582

@ 30% AMI:	34%
@ 40% AMI:	0%
@ 50% AMI:	43%
@ 60% AMI:	23%

Square Footage of Units

Unit Type (# of bedrooms)	Count	Rough average square feet per unit type	Residential Area	# of bedrooms
1	26	515	13,390	26
2	15	846	12,690	30
3	16	1,020	16,320	48
Total:	57		42,400	104

TCAC 9% Minimum square footages
500
750
1,000

Cash Flow

			Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Income												
Rent		2.5%	$ 879,626	$ 901,617	$ 924,157	$ 947,261	$ 970,943	$ 995,217	$ 1,020,097	$ 1,045,599	$ 1,071,739	$ 1,098,533
Section 8 Rental Subsidy		2.5%	$ 125,582	$ 128,722	$ 131,940	$ 135,239	$ 138,619	$ 142,085	$ 145,637	$ 149,278	$ 153,010	$ 156,835
Laundry & Vending Income		2.5%	$ 4,104	$ 4,207	$ 4,312	$ 4,420	$ 4,530	$ 4,643	$ 4,759	$ 4,878	$ 5,000	$ 5,125
POTENTIAL GROSS INCOME:			$ 1,009,313	$ 1,034,546	$ 1,060,409	$ 1,086,919	$ 1,114,092	$ 1,141,945	$ 1,170,493	$ 1,199,756	$ 1,229,750	$ 1,260,493
LIHTC Units Vacancy		5.0%	$ (44,187)	$ (45,291)	$ (46,423)	$ (47,584)	$ (48,774)	$ (49,993)	$ (51,243)	$ (52,524)	$ (53,837)	$ (55,183)
Section 8 Units Vacancy		5.0%	$ (6,279)	$ (6,436)	$ (6,597)	$ (6,762)	$ (6,931)	$ (7,104)	$ (7,282)	$ (7,464)	$ (7,650)	$ (7,842)
EFFECTIVE GROSS INCOME:			$ 958,847	$ 982,818	$ 1,007,389	$ 1,032,574	$ 1,058,388	$ 1,084,848	$ 1,111,969	$ 1,139,768	$ 1,168,262	$ 1,197,469
Expenses												
Operating Expenses		3.5%	$ 639,981	$ 662,380	$ 685,563	$ 709,558	$ 734,392	$ 760,096	$ 786,699	$ 814,234	$ 842,732	$ 872,228
Replacement Reserve Deposits			$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500
TOTAL EXPENSES			$ 668,481	$ 690,880	$ 714,063	$ 738,058	$ 762,892	$ 788,596	$ 815,199	$ 842,734	$ 871,232	$ 900,728
NET OPERATING INCOME			**$ 290,367**	**$ 291,939**	**$ 293,326**	**$ 294,516**	**$ 295,496**	**$ 296,251**	**$ 296,769**	**$ 297,034**	**$ 297,030**	**$ 296,741**
Hard Debt Service												
Perm Loan - 20 yr term & amort. Principal & Interes			$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263
Required Payments												
Bond Fees			$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000
HCD Required Debt Service		$35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364
CASH FLOW:			**$ 32,739**	**$ 34,311**	**$ 35,698**	**$ 36,888**	**$ 37,868**	**$ 38,624**	**$ 39,142**	**$ 39,407**	**$ 39,403**	**$ 39,114**
DSCR:			1.15	1.16	1.16	1.17	1.17	1.18	1.18	1.18	1.18	1.18
Investor Management Fee	0%	$5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Deferred Developer Fee			$ 27,739	$ 29,311	$ 30,698	$ 31,888	$ 30,362	$ -	$ -	$ -	$ -	$ -
GP Pshp Management Fee	3%	$ 25,000	$ -	$ -	$ -	$ -	$ 2,506	$ 28,982	$ 29,851	$ 30,747	$ 31,669	$ 32,619
Incentive Management Fee		50%	$ -	$ -	$ -	$ -	$ -	$ 1	$ 1	$ 1	$ 1,367	$ 747
Residual Receipts (50%)												
City of Newark		59%	$ -	$ -	$ -	$ -	$ -	$ 2,728	$ 2,521	$ 2,151	$ 803	$ 439
California HCD		41%	$ -	$ -	$ -	$ -	$ -	$ 1,914	$ 1,769	$ 1,509	$ 564	$ 308

Cash Flow

	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20
Income										
Rent	$ 1,125,996	$ 1,154,146	$ 1,183,000	$ 1,212,575	$ 1,242,889	$ 1,273,961	$ 1,305,810	$ 1,338,456	$ 1,371,917	$ 1,406,215
Section 8 Rental Subsidy	$ 160,756	$ 164,775	$ 168,894	$ 173,117	$ 177,445	$ 181,881	$ 186,428	$ 191,088	$ 195,866	$ 200,762
Laundry & Vending Income	$ 5,253	$ 5,385	$ 5,519	$ 5,657	$ 5,799	$ 5,944	$ 6,092	$ 6,245	$ 6,401	$ 6,561
POTENTIAL GROSS INCOME:	$ 1,292,006	$ 1,324,306	$ 1,357,414	$ 1,391,349	$ 1,426,133	$ 1,461,786	$ 1,498,331	$ 1,535,789	$ 1,574,184	$ 1,613,538
LIHTC Units Vacancy	$ (56,562)	$ (57,977)	$ (59,426)	$ (60,912)	$ (62,434)	$ (63,995)	$ (65,595)	$ (67,235)	$ (68,916)	$ (70,639)
Section 8 Units Vacancy	$ (8,038)	$ (8,239)	$ (8,445)	$ (8,656)	$ (8,872)	$ (9,094)	$ (9,321)	$ (9,554)	$ (9,793)	$ (10,038)
EFFECTIVE GROSS INCOME:	$ 1,227,405	$ 1,258,091	$ 1,289,543	$ 1,321,781	$ 1,354,826	$ 1,388,697	$ 1,423,414	$ 1,458,999	$ 1,495,474	$ 1,532,861
Expenses										
Operating Expenses	$ 902,756	$ 934,352	$ 967,054	$ 1,000,901	$ 1,035,933	$ 1,072,191	$ 1,109,717	$ 1,148,557	$ 1,188,757	$ 1,230,363
Replacement Reserve Deposits	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500	$ 28,500
TOTAL EXPENSES	$ 931,256	$ 962,852	$ 995,554	$ 1,029,401	$ 1,064,433	$ 1,100,691	$ 1,138,217	$ 1,177,057	$ 1,217,257	$ 1,258,863
NET OPERATING INCOME	**$ 296,150**	**$ 295,238**	**$ 293,988**	**$ 292,380**	**$ 290,393**	**$ 288,006**	**$ 285,197**	**$ 281,942**	**$ 278,217**	**$ 273,998**
Hard Debt Service										
Perm Loan - 20 yr term & amort. Principal & Inter	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263	$ 218,263
Required Payments										
Bond Fees	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 4,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000
HCD Required Debt Service	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364	$ 35,364
CASH FLOW:	**$ 38,523**	**$ 37,611**	**$ 36,361**	**$ 34,753**	**$ 32,766**	**$ 33,379**	**$ 30,570**	**$ 27,315**	**$ 23,590**	**$ 19,371**
DSCR:	1.18	1.17	1.17	1.16	1.15	1.15	1.14	1.13	1.11	1.09
Investor Management Fee	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000	$ 5,000
Deferred Developer Fee	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
GP Pshp Management Fee	$ 33,523	$ 32,611	$ 31,361	$ 29,753	$ 27,766	$ 28,379	$ 25,570	$ 22,315	$ 18,590	$ 14,371
Incentive Management Fee	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
Residual Receipts (50%)										
City of Newark	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -
California HCD	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -

Input Page

Overview

Version:	City NOFA August 2022
Project Name	Thornton Ave family
Property Size	0.53 acres
Density	108 units per acre
Total # of affordable units:	56 units
Total # of units:	57 units
Total # of parking spaces:	100

Income

Subsidy Name		0 BR	1 BR	2 BR	3 BR	
2022	TCAC 100% AMI Rents		$ 2,678	$ 3,214	$ 3,712	Click here for rent limits
HACA	Contract Rent 1		$ 1,899	$ 2,385	$ 3,282	Source: https://www.haca.net/wp-content/u
	Utility Allowance 1		$ 76	$ 106	$ 126	Source: https://www.haca.net/wp-content
Laundry & Vending Income:		$6 PUPM				

Conventional Debt

Conventional Loan?	Yes	
Cash flow prior to conventional debt service:		$ 251,003
Annual debt service:		$ 218,263
Interest Rate:		5.75%
Amortization Period		20 Years
DSCR:		1.15
Loan Amount:		$ 2,590,659

Tax Credits

9% or 4% Credits?	4%	
Acquisition Credits?	No	
QCT or DDA?	Yes	Click here for QCT & DDA status
Housing Type	Large Family	
Applicable Fraction:	100.00%	
Federal Credit Price:	$ 0.95	
State Credit Price:	$ 0.70	
Limited Partner Ownership %	99.99%	
Rural?	No	
Opportunity Area Designation:	loderate & Below	Click here for designation

Opportunity Area boost is not available for inclusionary deals.

Permanent Sources

Permanent Sources

Description	Totals	% of TDC	Per Unit	Predev	Constr	Perm Closing
Perm Loan - 20 yr term & amort.	$ 2,590,659	5%	$ 45,450			$ 2,590,659
Federal Tax Credit Equity	$20,953,003	43%	$ 367,597		$ 2,095,300	$ 18,857,703
State Tax Credit Equity	$3,859,764	8%	$ 67,715		$ 385,976	$ 3,473,787
HCD MHP	$ 8,420,033	17%	$ 147,720			$ 8,420,033
FHLB AHP	$ 855,000	2%	$ 15,000		$ 855,000	
Local Funds: City of Newark	$ 12,000,000	25%	$ 210,526	$ 4,122,414	$ 7,877,586	
Deferred Developer Fee	$ 150,000	0%	$ 2,632			$ 150,000
Non-Permanent Sources						
Construction Loan	$ 31,600,128		$ 554,388		$ 31,600,128	$ (31,600,128)
Total Sources	$ 48,828,459			$ 4,122,414	$ 42,813,991	$ 1,892,054
Total Uses	$ 48,828,459			$ 4,122,414	$ 42,813,991	$ 1,828,054
Funding surplus/gap:	$ -					

Description		Budgeted	NC/Rehab Eligible Basis	Per Unit	Per SF	Predev Total	Constr Total	Perm Closing
LAND/ACQUISITION								
Land Cost		$ 3,390,000	X	$ 59,474	$ 54	$ 3,390,000	$ -	
Building Costs			X	$ -	$ -		$ -	
Acq Loan Fee	0%		X	$ -	$ -		$ -	
Acq Loan Interest			X	$ -	$ -		$ -	
Acq Legal Fees		$ 5,000	X	$ 88	$ 0	$ 5,000	$ -	
Acq Lender Costs			X	$ -	$ -		$ -	
Acquisition Title & Recording		$ 15,000	X	$ 263	$ 0	$ 15,000	$ -	
Acquisition Holding Costs		$ 10,000	X	$ 175	$ 0	$ 10,000	$ -	
Predevelopment Loan Fees	0%		X	$ -	$ -		$ -	
Predevelopment Loan Interest		$ 50,000	X	$ 877	$ 1		$ 50,000	
LAND/ACQUISITION TOTAL		$ 3,470,000	$ -	$ 60,877	$ 55	$ 3,420,000	$ 50,000	$ -
CONSTRUCTION								
Demolition		$ 125,000	X	$ 2,193	$ 2		$ 125,000	
Construction Sign		$ 400	X	$ 7	$ 0		$ 400	
Remediation		$ 10,000	$ 10,000	$ 175	$ 0		$ 10,000	
Offsite Improvements		$ 379,950	X	$ 6,666	$ 6		$ 379,950	
Unit Construction	$400 psf	$ 25,251,204	$ 25,251,200	$ 443,004	$ 400		$ 25,251,204	
Site Work		$ 3,625,408	$ 3,625,407	$ 63,604	$ 57		$ 3,625,408	
Landscape		$ 402,823	$ 402,823	$ 7,067	$ 6		$ 402,823	
Contractor Overhead & Profit		$ 1,262,560	$ 1,262,560	$ 22,150	$ 20		$ 1,262,560	
General Conditions		$ 1,404,980	$ 1,404,980	$ 24,649	$ 22		$ 1,404,980	
Contractor Insurance & Bonds		$ 286,865	$ 286,865	$ 5,033	$ 5		$ 286,865	
Owner Furnishings		$ 75,000	$ 75,000	$ 1,316	$ 1		$ 75,000	
PV System		$ 303,132	$ 303,132	$ 5,318	$ 5		$ 303,132	
Tenant Improvements			$ -	$ -	$ -		$ -	
Hard Cost Contingency	10%	$ 2,525,120	$ 2,525,120	$ 44,300	$ 40		$ 2,525,120	
CONSTRUCTION TOTAL		$ 35,527,443	$ 35,147,087	$ 623,288	$ 563	$ -	$ 35,527,443	$ -
ARCHITECTURAL FEES								
Architecture		$ 862,450	$ 862,450	$ 15,131	$ 14	$ 344,980	$ 517,470	
Landscape Architecture			$ -	$ -	$ -		$ -	
Conceptual Arch			$ -	$ -	$ -		$ -	
Schematic Arch			$ -	$ -	$ -		$ -	
Design Devt			$ -	$ -	$ -		$ -	
Construction Docs			$ -	$ -	$ -		$ -	
Construction Admin			$ -	$ -	$ -		$ -	
Arch Reimbursables			$ -	$ -	$ -		$ -	
ARCHITECTURAL FEES TOTAL		$ 862,450	$ 862,450	$ 15,131	$ 14	$ 344,980	$ 517,470	$ -
SURVEY & ENGINEERING								
Survey			$ -	$ -	$ -		$ -	
Engineering		$ 628,260	$ 628,260	$ 11,022	$ 10	$ 251,304	$ 376,956	
Engineering - Structural			$ -	$ -	$ -		$ -	
Engineering - MEP			$ -	$ -	$ -		$ -	
Engineering - Civil			$ -	$ -	$ -		$ -	
Engineering - Geotechnical			$ -	$ -	$ -		$ -	
Enviro Assessment &Testing		$ 90,230	$ 90,230	$ 1,583	$ 1	$ 90,230	$ -	
Construction Testing & Inspec			$ -	$ -	$ -		$ -	
SURVEY & ENGINEERING TOTAL		$ 718,490	$ 718,490	$ 12,605	$ 11	$ 341,534	$ 376,956	$ -

Description		Budgeted	NC/Rehab Eligible Basis	Per Unit	Per SF	Predev Total	Constr Total	Perm Closing
CONST INTEREST & FEES								
Construction Loan Fees			$ -	$ -	$ -		$ -	
Construction Lender Costs			$ -	$ -	$ -		$ -	
Construction Lender Legal			0	$ -	$ -		$ -	
Legal -Construction Closing		$ 25,000	24999.99604	$ 439	$ 0		$ 25,000	
Contruction Loan Interest		$ 1,980,000	989999.8432	$ 34,737	$ 31		$ 1,980,000	
Accrued Interest - City			0	$ -	$ -			$ -
Accrued Interest - County			0	$ -	$ -			$ -
Prevailing Wage Monitoring		$ 30,000	$ 30,000	$ 526	$ 0		$ 30,000	
Construction Title & Recording		$ 60,000	$ 60,000	$ 1,053	$ 1		$ 60,000	
CONST INTEREST & FEES TOTAL		$ 2,095,000	$ 1,105,000	$ 36,754	$ 33	$ -	$ 2,095,000	$ -
PERM FINANCING COSTS								
Perm Loan Fee	0%		X	$ -	$ -			$ -
Perm Title & Recording		$ 20,000	X	$ 351	$ 0			$ 20,000
Perm Lender Costs			X	$ -	$ -			$ -
Perm Closing Legal Fee		$ 20,000	X	$ 351	$ 0			$ 20,000
Soft Perm Loan Fee	0%		X	$ -	$ -			$ -
Soft Perm Loan Costs	0%		X	$ -	$ -			$ -
PERM FINANCING TOTAL		$ 40,000	$ -	$ 702	$ 1	$ -	$ -	$ 40,000
OWNER LEGAL								
Owner Legal - Construction			$ -	$ -	$ -		$ -	
Owner Legal - Org, RE, Synd & Perm Loan		$ 32,500	X				$ 32,500	
LEGAL TOTAL		$ 32,500	$ -	$ 570	$ 1	$ -	$ 32,500	$ -
RESERVES								
Operating Reserve	6 mos	$ 463,054	X	$ 8,124	$ 7			$ 463,054
ReplacementReserve			X	$ -	$ -			$ -
RESERVES TOTAL		$ 463,054	$ -	$ 8,124	$ 7	$ -	$ -	$ 463,054
OTHER COSTS								
RE Taxes	0.0%	$ -	$ -	$ -	$ -		$ -	
Const Op Deficits			$ -	$ -	$ -		$ -	
Other Taxes			$ -	$ -	$ -		$ -	
Permit Fees - Planning			$ -	$ -	$ -		$ -	
Permit Fees - Building		$ 406,094	$ 406,094	$ 7,124	$ 6		$ 406,094	
Impact Fees		$ 768,400	$ 768,400	$ 13,481	$ 12		$ 768,400	
Utility Connection Fees		$ 150,000	$ 150,000	$ 2,632	$ 2		$ 150,000	
Green Certifications		$ 38,000	$ 38,000	$ 667	$ 1		$ 38,000	$ -
GL Insurance			$ -	$ -	$ -		$ -	
Builders Risk Insurance		$ 189,498	$ 189,498	$ 3,325	$ 3		$ 189,498	
Softcost Contingency_Other			$ -	$ -	$ -		$ -	
First Yr Operating Insurance		$ 26,000	$ 26,000	$ 456	$ 0		$ 26,000	
Community Outreach		$ 5,000	X	$ 88	$ 0	$ 5,000	$ -	
PNA			$ -	$ -	$ -		$ -	
Security		$ 46,200	$ 46,200	$ 811	$ 1		$ 46,200	
Relocation			$ -	$ -	$ -		$ -	
Operating Costs during Constr			$ -	$ -	$ -		$ -	
Appraisal		$ 4,500	$ 4,500	$ 79	$ 0	$ 4,500	$ -	
Market Study		$ 6,400	X	$ 112	$ 0	$ 6,400	$ -	
Marketing & Leasing		$ 75,000	X	$ 1,316	$ 1		$ 75,000	
Soft Cost Contingency	10%	$ 370,640	$ 370,640	$ 6,502	$ 6		$ 370,640	
Other: Condominium setup			$ -	$ -	$ -		$ -	
Other: (specify)			$ -	$ -	$ -		$ -	
OTHER COSTS TOTAL		$ 2,085,732	$ 1,999,332	$ 36,592	$ 33	$ 15,900	$ 2,069,832	$ -
BOND FINANCING COSTS								
Bond Fees		$ 650,820	X	$ 11,418	$ 10		$ 650,820	
CDLAC Fees		$ 10,210	X	$ 179	$ 0		$ 10,210	
TOTAL BOND FINANCING COSTS		$ 661,030	$ -	$ 11,597	$ 10	$ -	$ 661,030	$ -
DEVELOPER COSTS								
Developer Fee		$ 2,500,000	$ 2,500,000	$ 43,860	$ 40		$ 1,250,000	$ 1,250,000
Construction Management		$ 86,870	$ 86,870	$ 1,524	$ 1		$ 86,870	
Other Consultants		$ 64,000	$ 64,000	$ 1,123	$ 1		$ 64,000	
DEVELOPER COSTS TOTAL		$ 2,650,870	$ 2,586,870	$ 46,506	$ 42	$ -	$ 1,336,870	$ 1,250,000
SYNDICATION COSTS								
Syndication Consultant		$ 92,000	X	$ 1,614	$ 1		$ 92,000	
Syndication Legal		$ 50,000	X	$ 877	$ 1			$ 50,000
Accountant Fee		$ 25,000	X	$ 439	$ 0			$ 25,000
Transit Passes			X	$ -	$ -		$ -	$ -
TCAC Fees		$ 54,890	X	$ 963	$ 1		$ 54,890	
TCAC Fees - Deferred			X	$ -	$ -			$ -
Investor Costs			X				$ -	
SYNDICATION COSTS TOTAL		$ 221,890	$ -	$ 3,893	$ 4	$ -	$ 146,890	$ 75,000
		$ 48,828,459	$ 42,419,228	$ 856,640	$ 773	$ 4,122,414	$ 42,813,991	$ 1,828,054

PROMISSORY NOTE
(Thornton Avenue)

$12,000,000 Newark, California
_____, 2023

FOR VALUE RECEIVED, the undersigned Thornton, L.P., a California limited partnership ("Borrower"), hereby promises to pay to the order of the City of Newark, a California municipal corporation ("Holder"), 37101 Newark Blvd., Newark, California, 94560, Attn: City Manager, the principal amount of Twelve Million Dollars ($12,000,000), plus interest thereon pursuant to Section 2 below (the "City Loan").

1. Borrower's Obligation. This promissory note (the "Note") evidences Borrower's obligation to pay Holder the principal amount of up to Twelve Million Dollars ($12,000,000) with interest for the funds loaned to Borrower by Holder pursuant to the Affordable Housing Loan Agreement between Borrower and Holder dated [March 23, 2023] (the "AHLA"). The source of funds for the City Loan is the City of Newark Affordable Housing Fund, from affordable housing impact fees received by the City pursuant to the City's inclusionary housing ordinance. All capitalized terms not otherwise defined in this Note shall have the meanings set forth in the AHLA.

2. Interest. The City Loan bears interest from the date of this Note at three percent (3%) interest, until full repayment of the outstanding balance of the City Loan.

3. Term and Repayment Requirements. Principal and interest under this Note in the amount of the City Prorata Percentage of Fifty Percent (50%) of the Residual Receipts is due and payable as set forth in Section 4.6 of the AHLA. The unpaid principal balance hereunder, together with accrued interest thereon, is due and payable no later than the date that is the fifty-seventh (57^{th}) anniversary of the date that a final certificate of occupancy is issued by the City of Newark to certify that the construction of the Development is complete and the Development may be legally occupied (the "Completion Date"), provided, however, if a record of the Completion Date cannot be located or established, the City Loan is due and payable on the fifty-seventh (57^{th}) anniversary of the date of this Note. Notwithstanding the above, if the AHLA is terminated prior to the Closing, upon the assignment and delivery to Holder of the materials as provided in Section 4.7 of the AHLA, the portion of the City Loan disbursed as of that date shall be forgiven.

4. Disbursements. No more than Four Million Three Hundred Thousand Dollars ($4,300,000) of the City Loan shall be disbursed to the Borrower prior to the Construction Loan Closing as defined in the AHLA. All disbursements shall be in accordance with the terms of the AHLA.

5. Prepayment. Borrower may prepay the City Loan at any time without penalty or fee.

6. Assumption. This Note shall not be assumable by the successors and assigns of Borrower without the prior written consent of Holder unless the assignment complies with Section 7.3 of the AHLA. Holder may assign its interest in the Note to any person or entity in Holder's sole discretion.

7. Security. This Note shall be secured by an assignment of architect and engineering agreements and the Deed of Trust on the Property, wherein Borrower is the trustor and Holder is the beneficiary. The terms of the Deed of Trust are hereby incorporated into this Note and made a part hereof. This Note is nonrecourse to Borrower and the general and limited partners of the Borrower, and the sole recourse of Holder with respect to the payment of the principal of, and interest on this Note shall be to the Property and the Improvements and any other collateral held by Holder as security for this Note; provided however, nothing contained herein is intended to relieve the Borrower of liability to the extent of any loss for fraud or intentional misrepresentation, or bad faith, waste, willful misrepresentation by the Borrower; or the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); or be deemed in any way to limit the rights of the Holder to obtain specific performance by the Borrower of its covenants under the City Documents, other than the covenants to pay the Holder principal and interest due under this Note.

8. Terms of Payment.

(a) All payments due under this Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

(b) All payments on this Note shall be paid to Holder at the address set forth in the first paragraph of this Note, or to such other place as Holder of this Note may from time to time designate.

(c) All payments on this Note shall be without expense to Holder, and Borrower agrees to pay all costs and expenses, including re-conveyance fees and reasonable attorney's fees of Holder, incurred in connection with the payment of this Note and the release of any security hereof.

(d) Notwithstanding any other provision of this Note, or any instrument securing the obligations of Borrower under this Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Note would result in the payment of interest which would exceed the amount that Holder may legally charge under the laws of the State of California, then the amount by which payments exceed the lawful interest rate shall automatically be deducted from the principal balance owing on this Note, so that in no event shall Borrower be obligated under the terms of this Note to pay any interest which would exceed the lawful rate.

9. Default.

(a) Any of the following shall constitute an event of default under this Note:

(i) Any failure to pay, in full, any payment required under this Note when due following written notice by the Holder of such failure and ten (10) days opportunity to cure;

(ii) Any failure in the performance by Borrower of any term, condition, provision or covenant set forth in this Note subject to the notice and cure period set forth in Section 7.3 of the AHLA; and

(iii) The occurrence of any Borrower event of default under the AHLA, the Deed of Trust, the Regulatory Agreement, or other instrument securing the obligations of Borrower under this Note or under any other promissory notes hereafter issued by Borrower to Holder pursuant to the AHLA or the Deed of Trust (the "City Loan Documents"), subject to notice and cure periods, if any, set forth therein.

(b) Upon the occurrence of one or more of the foregoing events of default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Note and the Deed of Trust shall at the option of Holder become immediately due and payable upon written notice by Holder to Borrower without further demand.

(c) Holder's failure to exercise the remedy set forth in Subsection 9(b) above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by Holder hereof of any payment which is less than the total of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time, or nullify any prior exercise of any such remedy or option, without the express consent of Holder, except as and to the extent otherwise provided by law.

(d) Notwithstanding anything herein to the contrary, Holder hereby agrees that any cure of any default made or tendered by one or more of Borrower's limited partners shall be deemed a cure by Borrower and shall be accepted or rejected on the same basis as if made or tendered by Borrower. Copies of all notices which are sent hereunder to Borrower shall be sent to Borrower's limited partners at the address set forth in Section 9.1 of the AHLA.

10. Waivers.

(a) Borrower hereby waives diligence, presentment, protest and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Note. Borrower expressly agrees that this Note or any payment hereunder may be extended from time to time, and that Holder may accept further security or release any security for this Note, all without in any way affecting the liability of Borrower.

(b) Any extension of time for payment of this Note or any installment hereof made by agreement of Holder with any person now or hereafter liable for payment of this Note shall not operate to release, discharge, modify, change or affect the original liability of Borrower under this Note, either in whole or in part.

(c) The obligations of Borrower under this Note shall be absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reason whatsoever.

11. Miscellaneous Provisions.

(a) All notices to Holder or Borrower shall be given in the manner and at the addresses set forth in the AHLA, or to such addresses as Holder and Borrower may therein designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by Holder in the enforcement of the provisions of this Note, regardless of whether suit is filed to seek enforcement.

(c) This Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Note shall be governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder shall be strictly construed, time being of the essence.

(f) This document, together with the City Loan Documents, contains the entire agreement between the parties as to the City Loan. It may not be modified except upon written consent of the parties.

IN WITNESS WHEREOF, Borrower is executing this Promissory Note as of the date first above written.

THORNTON, L.P.,
a California limited partnership

By: Satellite AHA Development, Inc.,
a California nonprofit public benefit corporation,
its general partner

By: _____
Name: Susan Friedland
Its: Chief Executive Officer

5267131.3

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Newark
37101 Newark Blvd.
Newark, CA 94560
Attn: Community Development Director

No fee for recording pursuant to
Government Code Section 27383 and 27388.1

A.P.N. 092A-0919-017-02; 092A-0919-017-02; 092A-0919-018

DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (Thornton Avenue Apartments)

THIS DEED OF TRUST WITH ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("Deed of Trust") is made as of _____, 2023, by and among Thornton, L.P., a California limited partnership ("Trustor"), Old Republic Title Company ("Trustee"), and the City of Newark, a California municipal corporation ("Beneficiary").

FOR GOOD AND VALUABLE CONSIDERATION, including the indebtedness herein recited and the trust herein created, the receipt of which is hereby acknowledged, Trustor hereby irrevocably grants, transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions hereinafter set forth, Trustor's interest in the property located in the County of Alameda, State of California, that is described in the attached Exhibit A, incorporated herein by this reference (the "Property");

TOGETHER WITH all interest, estates or other claims, both in law and in equity which Trustor now has or may hereafter acquire in the Property and the rents;

TOGETHER WITH all easements, rights-of-way and rights used in connection therewith or as a means of access thereto, including (without limiting the generality of the foregoing) all tenements, hereditaments and appurtenances thereof and thereto;

TOGETHER WITH any and all buildings and improvements of every kind and description now or hereafter erected thereon, and all property of the Trustor now or hereafter affixed to or placed upon the Property;

TOGETHER WITH all building materials and equipment now or hereafter delivered to said property and intended to be installed therein;

TOGETHER WITH all right, title and interest of Trustor, now owned or hereafter acquired, in and to any land lying within the right-of-way of any street, open or proposed,

adjoining the Property, and any and all sidewalks, alleys and strips and areas of land adjacent to or used in connection with the Property;

TOGETHER WITH all estate, interest, right, title, other claim or demand, of every nature, in and to such property, including the Property, both in law and in equity, including, but not limited to, all deposits made with or other security given by Trustor to utility companies, the proceeds from any or all of such property, including the Property, claims or demands with respect to the proceeds of insurance in effect with respect thereto, which Trustor now has or may hereafter acquire, any and all awards made for the taking by eminent domain or by any proceeding or purchase in lieu thereof of the whole or any part of such property, including without limitation, any awards resulting from a change of grade of streets and awards for severance damages to the extent Beneficiary has an interest in such awards for taking as provided in Paragraph 4.1 herein;

TOGETHER WITH all of Trustor's interest in all articles of personal property or fixtures now or hereafter attached to or used in and about the building or buildings now erected or hereafter to be erected on the Property which are necessary to the complete and comfortable use and occupancy of such building or buildings for the purposes for which they were or are to be erected, including all other goods and chattels and personal property as are ever used or furnished in operating a building, or the activities conducted therein, similar to the one herein described and referred to, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are, or shall be attached to said building or buildings in any manner; and

TOGETHER WITH all of Trustor's interest in all building materials, fixtures, equipment, work in process and other personal property to be incorporated into the Property; all goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, signs and other personal property now or hereafter appropriated for use on the Property, whether stored on the Property or elsewhere, and used or to be used in connection with the Property; all rents, issues and profits, and all inventory, accounts, accounts receivable, contract rights, general intangibles, chattel paper, instruments, documents, notes drafts, letters of credit, insurance policies, insurance and condemnation awards and proceeds, trade names, trademarks and service marks arising from or related to the Property and any business conducted thereon by Trustor; all replacements, additions, accessions and proceeds; and all books, records and files relating to any of the foregoing.

All of the foregoing, together with the Property, is herein referred to as the "Security." To have and to hold the Security together with acquittances to the Trustee, its successors and assigns forever.

FOR THE PURPOSE OF SECURING THE FOLLOWING OBLIGATIONS (the "Secured Obligations"):

(a) Payment to Beneficiary of all sums at any time owing under or in connection with the Note (defined in Section 1.3 below) until paid or cancelled and any other amounts owing under the Loan Documents (defined in Section 1.2 below). Said principal and other payments shall be due and payable as provided in the Note or other Loan Documents, as applicable. The

Note and all its terms are incorporated herein by reference, and this conveyance shall secure any and all extensions thereof, however evidenced;

(b) Payment of any sums advanced by Beneficiary to protect the Security pursuant to the terms and provisions of this Deed of Trust following a breach of Trustor's obligation to advance said sums and the expiration of any applicable cure period, with interest thereon as provided herein;

(c) Performance of every obligation, covenant or agreement of Trustor contained herein and in the Loan Documents; and

(d) All modifications, extensions and renewals of any of the Secured Obligations (including without limitation, (i) modifications, extensions or renewals at a different rate of interest, or (ii) deferrals or accelerations of the required principal payment dates or interest payment dates or both, in whole or in part), however evidenced, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

AND TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS AND AGREES:

ARTICLE 1
DEFINITIONS

In addition to the terms defined elsewhere in this Deed of Trust, the following terms shall have the following meanings in this Deed of Trust:

Section 1.1 The term "Loan Agreement" means that certain Affordable Housing Loan Agreement between Trustor and Beneficiary, dated [March 23, 2023], providing for the Beneficiary to loan to Trustor Twelve Million Dollars ($12,000,000).

Section 1.2 The term "Loan Documents" means this Deed of Trust, the Note, the Loan Agreement, the Regulatory Agreement, and any other debt, loan or security instruments between Trustor and the Beneficiary relating to the Property.

Section 1.3 The term "Note" means the promissory note in the principal amount of Twelve Million Dollars ($12,000,000), of even date herewith, executed by Trustor in favor of the Beneficiary, as it may be amended or restated, the payment of which is secured by this Deed of Trust. (A copy of the Note is on file with the Beneficiary and terms and provisions of the Note are incorporated herein by reference.)

Section 1.4 The term "Principal" means the amount required to be paid under the Note.

Section 1.5 The term "Regulatory Agreement" means the Regulatory Agreement and Declaration of Restrictive Covenants of even date herewith by and between the Beneficiary and the Trustor.

ARTICLE 2
MAINTENANCE AND MODIFICATION OF THE PROPERTY AND SECURITY

Section 2.1 Maintenance and Modification of the Property by Trustor.

The Trustor agrees that at all times prior to full payment and performance of the Secured Obligations, the Trustor will, at the Trustor's own expense, maintain, preserve and keep the Security or cause the Security to be maintained and preserved in good condition, reasonable wear and tear excepted. The Trustor will from time to time make or cause to be made all repairs, replacements and renewals deemed proper and necessary by it. The Beneficiary shall have no responsibility in any of these matters or for the making of improvements or additions to the Security.

Trustor agrees to pay fully and discharge (or cause to be paid fully and discharged) all claims for labor done and for material and services furnished in connection with the Security, diligently to file or procure the filing of a valid notice of cessation upon the event of a cessation of labor on the work or construction on the Security for a continuous period of thirty (30) days or more, and to take all other reasonable steps to forestall the assertion of claims of lien against the Security of any part thereof. Trustor irrevocably appoints, designates and authorizes Beneficiary as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file for record any notices of completion or cessation of labor or any other notice that Beneficiary deems necessary or desirable to protect its interest in and to the Security or the Loan Documents; provided, however, that Beneficiary shall exercise its rights as agent of Trustor only in the event that Trustor shall fail to take, or shall fail to diligently continue to take, those actions as hereinbefore provided.

Upon demand by Beneficiary, Trustor shall make or cause to be made such demands or claims as Beneficiary shall specify upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the Security. Nothing herein contained shall require Trustor to pay any claims for labor, materials or services which Trustor in good faith disputes and is diligently contesting provided that Trustor shall, within thirty (30) days after the filing of any claim of lien, record in the Office of the Recorder of Alameda County, a surety bond in an amount 1 and 1/2 times the amount of such claim item to protect against a claim of lien.

Section 2.2 Granting of Easements.

Trustor may not grant easements, licenses, rights-of-way or other rights or privileges in the nature of easements with respect to any property or rights included in the Security except those required or desirable for installation and maintenance of public utilities including, without limitation, water, gas, electricity, sewer, telephone and telegraph, or those otherwise required by law, and as approved, in writing, by Beneficiary.

Section 2.3 Assignment of Rents.

As part of the consideration for the indebtedness evidenced by the Note, Trustor hereby absolutely and unconditionally assigns and transfers to Beneficiary all the rents and revenues of the Property including those now due, past due, or to become due by virtue of any lease or other agreement for the occupancy or use of all or any part of the Property, regardless of to whom the rents and revenues of the Property are payable. Trustor hereby authorizes Beneficiary or Beneficiary's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Beneficiary or Beneficiary's agents; provided, however, that prior to written notice given by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, Trustor shall collect and receive all rents and revenues of the Property as trustee for the benefit of Beneficiary and Trustor to apply the rents and revenues so collected to the Secured Obligations with the balance, so long as no such breach has occurred, to the account of Trustor, it being intended by Trustor and Beneficiary that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents, and without the necessity of Beneficiary entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Beneficiary shall immediately be entitled to possession of all rents and revenues of the Property as specified in this Section 2.3 as the same becomes due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Trustor as trustee for the benefit of Beneficiary only; provided, however, that the written notice by Beneficiary to Trustor of the breach by Trustor shall contain a statement that Beneficiary exercises its rights to such rents. Trustor agrees that commencing upon delivery of such written notice of Trustor's breach by Beneficiary to Trustor, each tenant of the Property shall make such rents payable to and pay such rents to Beneficiary or Beneficiary's agents on Beneficiary's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Trustor.

Trustor hereby covenants that Trustor has not executed any prior assignment of said rents, that Trustor has not performed, and will not perform, any acts or has not executed and will not execute, any instrument which would prevent Beneficiary from exercising its rights under this Section 2.3, and that at the time of execution of this Deed of Trust, there has been no anticipation or prepayment of any of the rents of the Property for more than two (2) months prior to the due dates of such rents. Trustor covenants that Trustor will not hereafter collect or accept payment of any rents of the Property more than two (2) months prior to the due dates of such rents. Trustor further covenant that Trustor will execute and deliver to Beneficiary such further assignments of rents and revenues of the Property as Beneficiary may from time to time request.

Upon Trustor's breach of any covenant or agreement of Trustor in the Loan Documents, Beneficiary may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Beneficiary's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or

termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Deed of Trust. In the event Beneficiary elects to seek the appointment of a receiver for the Property upon Trustor's breach of any covenant or agreement of Trustor in this Deed of Trust, Trustor hereby expressly consents to the appointment of such receiver. Beneficiary or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Beneficiary to Trustor of the breach by Trustor of any covenant or agreement of Trustor in the Loan Documents shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorney's fees, receiver's fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligation or liability of Trustor as lessor or landlord of the Property and then to the sums secured by this deed of Trust. Beneficiary or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Beneficiary shall not be liable to Trustor, anyone claiming under or through Trustor or anyone having an interest in the Property by reason of anything done or left undone by Beneficiary under this Section 2.3.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Beneficiary for such purposes shall become part of the Secured Obligations pursuant to Section 3.3 hereof. Unless Beneficiary and Trustor agree in writing to other terms of payment, such amounts shall be payable upon notice from Beneficiary to Trustor requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in Section 3.3.

Any entering upon and taking and maintaining of control of the Property by Beneficiary or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Beneficiary under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Deed of Trust ceases to secure the Secured Obligations.

ARTICLE 3
TAXES AND INSURANCE; ADVANCES

Section 3.1 Taxes, Other Governmental Charges and Utility Charges.

Trustor shall pay, or cause to be paid, prior to the date of delinquency, all taxes, assessments, charges and levies imposed by any public authority or utility company which are or may become a lien affecting the Security or any part thereof; provided, however, that Trustor shall not be required to pay and discharge any such tax, assessment, charge or levy so long as (a) the legality thereof shall be promptly and actively contested in good faith and by appropriate proceedings, and (b) Trustor maintains reserves adequate to pay any liabilities contested pursuant to this Section 3.1. With respect to taxes, special assessments or other similar governmental charges, Trustor shall pay such amount in full prior to the attachment of any lien therefor on any

part of the Security; provided, however, if such taxes, assessments or charges may be paid in installments, Trustor may pay in such installments. Except as provided in clause (b) of the first sentence of this paragraph, the provisions of this Section 3.1 shall not be construed to require that Trustor maintain a reserve account, escrow account, impound account or other similar account for the payment of future taxes, assessments, charges and levies.

In the event that Trustor shall fail to pay any of the foregoing items required by this Section to be paid by Trustor, Beneficiary may (but shall be under no obligation to) pay the same, after the Beneficiary has notified the Trustor of such failure to pay and the Trustor fails to fully pay such items within seven (7) business days after receipt of such notice. Any amount so advanced therefor by Beneficiary, together with interest thereon from the date of such advance at the maximum rate permitted by law, shall become part of the Secured Obligations secured hereby, and Trustor agrees to pay all such amounts.

Section 3.2 Provisions Respecting Insurance.

Trustor agrees to provide insurance conforming in all respects to that required under the Loan Documents during the course of construction and following completion, and at all times until all amounts secured by this Deed of Trust have been paid and all Secured Obligations secured hereunder fulfilled, and this Deed of Trust reconveyed.

All such insurance policies and coverages shall be maintained at Trustor's sole cost and expense. Certificates of insurance for all of the above insurance policies, showing the same to be in full force and effect, shall be delivered to the Beneficiary upon demand therefor at any time prior to Trustor's satisfaction of the Secured Obligations.

Section 3.3 Advances.

In the event the Trustor shall fail to maintain the full insurance coverage required by this Deed of Trust or shall fail to keep the Security in accordance with the Loan Documents, the Beneficiary, after at least seven (7) days prior notice to Trustor, may (but shall be under no obligation to) take out the required policies of insurance and pay the premiums on the same or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced therefor by the Beneficiary shall become part of the Secured Obligations (together with interest as set forth below) and shall be secured hereby, which amounts the Trustor agrees to pay on the demand of the Beneficiary, and if not so paid, shall bear interest from the date of the advance at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

ARTICLE 4
DAMAGE, DESTRUCTION OR CONDEMNATION

Section 4.1 Awards and Damages.

All judgments, awards of damages, settlements and compensation made in connection with or in lieu of (1) taking of all or any part of or any interest in the Property by or under

assertion of the power of eminent domain, (2) any damage to or destruction of the Property or in any part thereof by insured casualty, and (3) any other injury or damage to all or any part of the Property (collectively, the "Funds") shall be used to repair or restore the Property, but if the property cannot be repaired or restored such Funds are hereby assigned to and shall be paid to the Beneficiary by a check made payable to the Beneficiary. The Beneficiary is authorized and empowered (but not required) to collect and receive any Funds and is authorized to apply them in whole or in part upon any indebtedness or obligation secured hereby, in such order and manner as the Beneficiary shall determine at its sole option. The Beneficiary shall be entitled to settle and adjust all claims under insurance policies provided under this Deed of Trust and may deduct and retain from the proceeds of such insurance the amount of all expenses incurred by it in connection with any such settlement or adjustment. All or any part of the amounts so collected and recovered by the Beneficiary may be released to Trustor upon such conditions as the Beneficiary may impose for its disposition. Application of all or any part of the Funds collected and received by the Beneficiary or the release thereof shall not cure or waive any default under this Deed of Trust. The rights of the Beneficiary under this Section 4.1 are subject to the rights of any senior mortgage lender. The Beneficiary shall release the Funds to Trustor to be used to reconstruct the improvements on the Property provided that Beneficiary reasonably determines that Trustor (taking into account the Funds) has sufficient funds to rebuild the improvements in substantially the form they existed prior to the casualty or condemnation.

ARTICLE 5
AGREEMENTS AFFECTING THE PROPERTY; FURTHER ASSURANCES; PAYMENT OF PRINCIPAL AND INTEREST

Section 5.1 Other Agreements Affecting Property.

The Trustor shall duly and punctually perform all terms, covenants, conditions and agreements binding upon it under the Loan Documents and any other agreement of any nature whatsoever now or hereafter involving or affecting the Security or any part thereof.

Section 5.2 Agreement to Pay Attorneys' Fees and Expenses.

In the event of any Event of Default (as defined in Section 7.1) hereunder, and if the Beneficiary should employ attorneys or incur other expenses for the collection of amounts due or the enforcement of performance or observance of an obligation or agreement on the part of the Trustor in this Deed of Trust, the Trustor agrees that it will, on demand therefor, pay to the Beneficiary the reasonable fees of such attorneys and such other reasonable expenses so incurred by the Beneficiary; and any such amounts paid by the Beneficiary shall be added to the Secured Obligations, and shall bear interest from the date such expenses are incurred at the lesser of ten percent (10%) per annum or the maximum rate permitted by law.

Section 5.3 Payment of the Principal.

The Trustor shall pay to the Beneficiary the Principal and any other payments as set forth in the Note in the amounts and by the times set out therein.

Section 5.4 Personal Property.

To the maximum extent permitted by law, the personal property subject to this Deed of Trust shall be deemed to be fixtures and part of the real property and this Deed of Trust shall constitute a fixtures filing under the California Commercial Code. As to any personal property not deemed or permitted to be fixtures, this Deed of Trust shall constitute a security agreement under the California Commercial Code.

Section 5.5 Financing Statement.

The Trustor shall execute and deliver to the Beneficiary such financing statements pursuant to the appropriate statutes, and any other documents or instruments as are required to convey to the Beneficiary a valid perfected security interest in the Security. The Trustor agrees to perform all acts which the Beneficiary may reasonably request so as to enable the Beneficiary to maintain such valid perfected security interest in the Security in order to secure the payment of the Note in accordance with its terms. The Beneficiary is authorized to file a copy of any such financing statement in any jurisdiction(s) as it shall deem appropriate from time to time in order to protect the security interest established pursuant to this instrument.

Section 5.6 Operation of the Security.

The Trustor shall operate the Security (and, in case of a transfer of a portion of the Security subject to this Deed of Trust, the transferee shall operate such portion of the Security) in full compliance with the Loan Documents.

Section 5.7 Inspection of the Security.

At any and all reasonable times upon seventy-two (72) hours' notice, the Beneficiary and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right, without payment of charges or fees, to inspect the Security.

Section 5.8 Nondiscrimination.

The Trustor herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, age, sex, sexual orientation, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Security, nor shall the Trustor itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Security. The foregoing covenants shall run with the land.

ARTICLE 6
HAZARDOUS WASTE

Trustor shall keep and maintain the Property in compliance with, and shall not cause or permit the Property to be in violation of any federal, state or local laws, ordinances or regulations

relating to industrial hygiene or to the environmental conditions ("Environmental Laws") on, under or about the Property including, but not limited to, soil and ground water conditions. Trustor shall not use, generate, manufacture, store or dispose of on, under, or about the Property or transport to or from the Property any flammable explosives, radioactive materials, hazardous wastes, toxic substances or related materials, including without limitation, any substances defined as or included in the definition of "hazardous substances," hazardous wastes," "hazardous materials," or "toxic substances" under any applicable federal or state laws or regulations (collectively referred to hereinafter as "Hazardous Materials") except (a) as permitted under Environmental Laws; or (b) such of the foregoing as may be customarily used in construction or operation of a multi-family residential development.

Trustor shall immediately advise Beneficiary in writing if at any time it receives written notice of (i) any and all enforcement, cleanup, removal or other governmental or regulatory actions instituted, completed or threatened against Trustor or the Property pursuant to any applicable federal, state or local laws, ordinances, or regulations relating to any Hazardous Materials, ("Hazardous Materials Law"); and (ii) all claims made or threatened by any third party against Trustor or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from any Hazardous Materials (the matters set forth in clauses (i) and (ii) above are hereinafter referred to as "Hazardous Materials Claims").

Beneficiary shall have the right to join and participate in, as a party if it so elects, any legal proceedings or actions initiated in connection with any Hazardous Materials Claims. Beneficiary shall have its reasonable attorneys' fees in connection therewith paid by Trustor, provided Trustor has failed, based on reasonable evidence produced by Beneficiary, to adequately defend such Hazardous Materials Claims. Trustor shall indemnify, defend, and hold harmless Beneficiary and its councilmembers, supervisors, directors, officers, employees, agents, successors and assigns from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, storage, release, threatened release, discharge, disposal, or presence of Hazardous Materials on, under, or about the Property, including without limitation: (a) all foreseeable consequential damages; (b) the costs of any required or necessary repair, cleanup or detoxification of the Property and the preparation and implementation of any closure, remedial or other required plans; and (c) all reasonable costs and expenses incurred by Beneficiary in connection with clauses (a) and (b), including but not limited to reasonable attorneys' fees and consultant's fees. This indemnification applies whether or not any government agency has issued a cleanup order. Losses, claims, costs, suits, liability, and expenses covered by this indemnification provision include, but are not limited to: (1) losses attributable to diminution in the value of the Property; (2) loss or restriction of use of rentable space on the Property; (3) adverse effect on the marketing of any rental space on the Property; and (4) penalties and fines levied by, and remedial or enforcement actions of any kind issued by any regulatory agency (including but not limited to the costs of any required testing, remediation, repair, removal, cleanup or detoxification of the Property and surrounding properties).

Without Beneficiary's prior written consent, which shall not be unreasonably delayed or withheld, Trustor shall not take any Environmental Measure or other remedial action in response to the presence of any Hazardous Materials on, under or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any Hazardous Material Claims, which remedial action, settlement, consent decree or compromise might, in Beneficiary's

reasonable judgement, impair the value of the Beneficiary's security hereunder; provided, however, that Beneficiary's prior consent shall not be necessary in the event that the presence of Hazardous Materials on, under, or about the Property either poses an immediate threat to the health, safety or welfare of any individual or is of such a nature that an immediate remedial response is necessary and it is not reasonably possible to obtain Beneficiary's consent before taking such action, provided that in such event Trustor shall notify Beneficiary as soon as practicable of any action so taken. Beneficiary agrees not to withhold its consent, where such consent is required hereunder, if (i) a particular remedial action is ordered by a court of competent jurisdiction, (ii) Trustor will or may be subjected to civil or criminal sanctions or penalties if it fails to take a required action; (iii) Trustor establishes to the reasonable satisfaction of Beneficiary that there is no reasonable alternative to such remedial action which would result in less impairment of Beneficiary's security hereunder; or (iv) the action has been agreed to by Beneficiary.

The Trustor hereby acknowledges and agrees that (i) this Article is intended as the Beneficiary's written request for information (and the Trustor's response) concerning the environmental condition of the Property as required by California Code of Civil Procedure Section 726.5, and (ii) each representation and warranty in this Deed of Trust or any of the other Loan Documents (together with any indemnity applicable to a breach of any such representation and warranty) with respect to the environmental condition of the property is intended by the Beneficiary and the Trustor to be an "environmental provision" for purposes of California Code of Civil Procedure Section 736.

In the event that any portion of the Property is determined to be "environmentally impaired" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(3)) or to be an "affected parcel" (as that term is defined in California Code of Civil Procedure Section 726.5(e)(1)), then, without otherwise limiting or in any way affecting the Beneficiary's or the Trustee's rights and remedies under this Deed of Trust, the Beneficiary may elect to exercise its rights under California Code of Civil Procedure Section 726.5(a) to (1) waive its lien on such environmentally impaired or affected portion of the Property and (2) exercise (a) the rights and remedies of an unsecured creditor, including reduction of its claim against the Trustor to judgment, and (b) any other rights and remedies permitted by law. For purposes of determining the Beneficiary's right to proceed as an unsecured creditor under California Code of Civil Procedure Section 726.5(a), the Trustor shall be deemed to have willfully permitted or acquiesced in a release or threatened release of hazardous materials, within the meaning of California Code of Civil Procedure Section 726.5(d)(1), if the release or threatened release of hazardous materials was knowingly or negligently caused or contributed to by any lessee, occupant, or user of any portion of the Property and the Trustor knew or should have known of the activity by such lessee, occupant, or user which caused or contributed to the release or threatened release. All costs and expenses, including (but not limited to) attorneys' fees, incurred by the Beneficiary in connection with any action commenced under this paragraph, including any action required by California Code of Civil Procedure Section 726.5(b) to determine the degree to which the Property is environmentally impaired, plus interest thereon at the default rate specified in the Loan Agreement until paid, shall be added to the indebtedness secured by this Deed of Trust and shall be due and payable to the Beneficiary upon its demand made at any time following the conclusion of such action.

ARTICLE 7
EVENTS OF DEFAULT AND REMEDIES

Section 7.1 Events of Default.

The following shall constitute events of default ("Events of Default") following the expiration of any applicable notice and cure periods: (1) failure to make any payment to be paid by Trustor under the Loan Documents; (2) failure to observe or perform any of Trustor's other covenants, agreements or obligations under the Loan Documents, including, without limitation, the provisions concerning discrimination; (3) failure to make any payment or observe or perform any of Trustor's other covenants, agreements, or obligations under any other debt instrument or regulatory agreement secured by the Property, which default shall not be cured within the times and in the manner provided therein; or (4) a default is declared under the Approved Financing by the lender of such Approved Financing. Notwithstanding anything to the contrary contained herein, Beneficiary hereby agrees that any cure of any default made or tendered by one or more of Trustor's limited partners shall be deemed a cure by the Trustor and shall be accepted or rejected on the same basis as if made or tendered by Trustor. Copies of all notices which are sent to Trustor hereunder shall be sent to Investor Limited Partner at the address set forth in the Loan Agreement, and the Investor Limited Partner shall have the right, but not the obligation to cure an Event of Default hereunder, and Beneficiary will accept tender of such cure as if delivered by Trustor.

Section 7.2 Acceleration of Maturity.

If an Event of Default shall have occurred and be continuing, then at the option of the Beneficiary, the amount of any payment related to the Event of Default and all unpaid Secured Obligations shall immediately become due and payable, upon written notice by the Beneficiary to the Trustor (or automatically where so specified in the Loan Documents), and no omission on the part of the Beneficiary to exercise such option when entitled to do so shall be construed as a waiver of such right.

Section 7.3 The Beneficiary's Right to Enter and Take Possession.

If an Event of Default shall have occurred and be continuing, the Beneficiary may:

(a) Either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court, and without regard to the adequacy of its security, enter upon the Security and take possession thereof (or any part thereof) and of any of the Security, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value or marketability of the Property, or part thereof or interest therein, increase the income therefrom or protect the security thereof. The entering upon and taking possession of the Security shall not cure or waive any Event of Default or Notice of Sale (as defined below) hereunder or invalidate any act done in response to such Event of Default or pursuant to such Notice of Sale, and, notwithstanding the continuance in possession of the Security, Beneficiary shall be entitled to exercise every right provided for in this Deed of

Trust, or by law upon occurrence of any Event of Default, including the right to exercise the power of sale;

(b) Commence an action to foreclose this Deed of Trust as a mortgage, appoint a receiver, or specifically enforce any of the covenants hereof;

(c) Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Trustor's interest in the Security to be sold ("Notice of Sale"), which notice Trustee or Beneficiary shall cause to be duly filed for record in the Official Records of Alameda County; or

(d) Exercise all other rights and remedies provided herein, in the instruments by which the Trustor acquires title to any Security, or in any other document or agreement now or hereafter evidencing, creating or securing the Secured Obligations.

Section 7.4 Foreclosure By Power of Sale.

Should the Beneficiary elect to foreclose by exercise of the power of sale herein contained, the Beneficiary shall deliver to the Trustee the Notice of Sale and shall deposit with Trustee this Deed of Trust which is secured hereby (and the deposit of which shall be deemed to constitute evidence that the Secured Obligations are immediately due and payable), and such receipts and evidence of any expenditures made that are additionally secured hereby as Trustee may require.

(a) Upon receipt of the Notice of Sale from the Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Sale as then required by law and by this Deed of Trust. Trustee shall, without demand on Trustor, after lapse of such time as may then be required by law and after recordation of such Notice of Sale having been given as required by law, sell the Security, at the time and place of sale fixed by it in the Notice of Sale, whether as a whole or in separate lots or parcels or items as Trustee shall deem expedient and in such order as it may determine unless specified otherwise by the Trustor according to California Civil Code Section 2924g(b), at public auction to the highest bidder, for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed or any matters of facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee or Beneficiary, may purchase at such sale.

(b) After deducting all reasonable costs, fees and expenses of Trustee, including costs of evidence of title in connection with such sale, Trustee shall apply the proceeds of sale to payment of: (i) the unpaid Principal amount of the Note; (ii) all other Secured Obligations owed to Beneficiary under the Loan Documents; (iii) all other sums then secured hereby; and (iv) the remainder, if any, to Trustor.

(c) Trustee may postpone sale of all or any portion of the Property by public announcement at such time and place of sale, and from time to time thereafter, and without

further notice make such sale at the time fixed by the last postponement, or may, in its discretion, give a new Notice of Sale.

Section 7.5 Receiver.

If an Event of Default shall have occurred and be continuing, Beneficiary, as a matter of right and without further notice to Trustor or anyone claiming under the Security, and without regard to the then value of the Security or the interest of Trustor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers of the Security (or a part thereof), and Trustor hereby irrevocably consents to such appointment and waives further notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases, and all the powers and duties of Beneficiary in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Security, unless such receivership is sooner terminated.

Section 7.6 Remedies Cumulative.

No right, power or remedy conferred upon or reserved to the Beneficiary by this Deed of Trust is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity.

Section 7.7 No Waiver.

(a) No delay or omission of the Beneficiary to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy, or shall be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Deed of Trust to the Beneficiary may be exercised from time to time and as often as may be deemed expeditious by the Beneficiary. Beneficiary's express or implied consent to breach, or waiver of, any obligation of the Trustor hereunder shall not be deemed or construed to be a consent to any subsequent breach, or further waiver, of such obligation or of any other obligations of the Trustor hereunder. Failure on the part of the Beneficiary to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall not constitute a waiver by the Beneficiary of its right hereunder or impair any rights, power or remedies consequent on any Event of Default by the Trustor.

(b) If the Beneficiary (i) grants forbearance or an extension of time for the payment or performance of any Secured Obligation, (ii) takes other or additional security or the payment of any sums secured hereby, (iii) waives or does not exercise any right granted in the Loan Documents, (iv) releases any part of the Security from the lien of this Deed of Trust, or otherwise changes any of the terms, covenants, conditions or agreements in the Loan Documents, (v) consents to the granting of any easement or other right affecting the Security, or (vi) makes or consents to any agreement subordinating the lien hereof, any such act or omission shall not release, discharge, modify, change or affect the original liability under this Deed of Trust, or any other obligation of the Trustor or any subsequent purchaser of the Security or any part thereof, or any maker, co-signer, endorser, surety or guarantor (unless expressly released); nor shall any

such act or omission preclude the Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in any Event of Default then made or of any subsequent Event of Default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Beneficiary shall the lien of this Deed of Trust be altered thereby.

Section 7.8 Suits to Protect the Security.

The Beneficiary shall have power to (a) institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Security and the rights of the Beneficiary as may be unlawful or any violation of this Deed of Trust, (b) preserve or protect its interest (as described in this Deed of Trust) in the Security, and (c) restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement for compliance with such enactment, rule or order would impair the Security thereunder or be prejudicial to the interest of the Beneficiary.

Section 7.9 Trustee May File Proofs of Claim.

In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting the Trustor, its creditors or its property, the Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of the Beneficiary allowed in such proceedings and for any additional amount which may become due and payable by the Trustor hereunder after such date.

Section 7.10 Waiver.

The Trustor waives presentment, demand for payment, notice of dishonor, notice of protest and nonpayment, protest, notice of interest on interest and late charges, and diligence in taking any action to collect any Secured Obligations or in proceedings against the Security, in connection with the delivery, acceptance, performance, default, endorsement or guaranty of this Deed of Trust.

ARTICLE 8
MISCELLANEOUS

Section 8.1 Amendments.

This Deed of Trust cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by Beneficiary and Trustor.

Section 8.2 Reconveyance by Trustee.

Upon written request of Beneficiary stating that all Secured Obligations have been paid or forgiven, and all obligations under the Loan Documents have been performed in full, and upon surrender of this Deed of Trust to Trustee for cancellation and retention, and upon payment

by Trustor of Trustee's reasonable fees, Trustee shall reconvey the Security to Trustor, or to the person or persons legally entitled thereto.

Section 8.3 Notices.

Formal notices, demands, and communications between the Parties shall be sufficiently given if and shall not be deemed given unless (a) dispatched by registered or certified mail, postage prepaid, return receipt requested, (b) delivered by express delivery service, return receipt requested, (c) delivered personally, or (d) sent by electronic mail, provided that any notice sent by electronic mail must be followed by notice delivered under either (a), (b), or (c) within 2 business days. All such notices shall be delivered to the principal office of the Parties as follows:

Borrower: Thornton, L.P.
c/o Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, CA 94703

City: City of Newark
37101 Newark Blvd.
Newark, CA 94560
Attn: Community Development Director

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable) except that any electronic mail received after 5:00 p.m. shall be deemed to have been received on the next business day.

Section 8.4 Successors and Joint Trustors.

Where an obligation created herein is binding upon Trustor, the obligation shall also apply to and bind any transferee or successors in interest. Where the terms of the Deed of Trust have the effect of creating an obligation of the Trustor and a transferee, such obligation shall be deemed to be a joint and several obligation of the Trustor and such transferee. Where Trustor is more than one entity or person, all obligations of Trustor shall be deemed to be a joint and several obligation of each and every entity and person comprising Trustor.

Section 8.5 Captions.

The captions or headings at the beginning of each Section hereof are for the convenience of the parties and are not a part of this Deed of Trust.

Section 8.6 Invalidity of Certain Provisions.

Every provision of this Deed of Trust is intended to be severable. In the event any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court or other body of competent jurisdiction, such illegality or invalidity shall not affect the balance of

the terms and provisions hereof, which terms and provisions shall remain binding and enforceable. If the lien of this Deed of Trust is invalid or unenforceable as to any part of the debt, or if the lien is invalid or unenforceable as to any part of the Security, the unsecured or partially secured portion of the debt, and all payments made on the debt, whether voluntary or under foreclosure or other enforcement action or procedure, shall be considered to have been first paid or applied to the full payment of that portion of the debt which is not secured or partially secured by the lien of this Deed of Trust.

Section 8.7 Governing Law.

This Deed of Trust shall be governed by and construed in accordance with the laws of the State of California.

Section 8.8 Gender and Number.

In this Deed of Trust the singular shall include the plural and the masculine shall include the feminine and neuter and vice versa, if the context so requires.

Section 8.9 Deed of Trust, Mortgage.

Any reference in this Deed of Trust to a mortgage shall also refer to a deed of trust and any reference to a deed of trust shall also refer to a mortgage.

Section 8.10 Actions.

Trustor agrees to appear in and defend any action or proceeding purporting to affect the Security.

Section 8.11 Substitution of Trustee.

Beneficiary may from time to time substitute a successor or successors to any Trustee named herein or acting hereunder to execute this Trust. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers, and duties conferred upon any Trustee herein named or acting hereunder. Each such appointment and substitution shall be made by written instrument executed by Beneficiary, containing reference to this Deed of Trust and its place of record, which, when duly recorded in the proper office of the county or counties in which the Property is situated, shall be conclusive proof of proper appointment of the successor trustee.

Section 8.12 Statute of Limitations.

The pleading of any statute of limitations as a defense to any and all obligations secured by this Deed of Trust is hereby waived to the full extent permissible by law.

Section 8.13 Acceptance by Trustee.

Trustee accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made public record as provided by law. Except as otherwise provided by law the Trustee is not

obligated to notify any party hereto of pending sale under this Deed of Trust or of any action of proceeding in which Trustor, Beneficiary, or Trustee shall be a party unless brought by Trustee.

Section 8.14 Tax Credit Provisions.

Notwithstanding anything to the contrary contained herein or in any documents secured by this Deed of Trust or contained in any subordination agreement, the Beneficiary acknowledges and agrees that in the event of a foreclosure or deed-in-lieu of foreclosure (collectively, "Foreclosure") with respect to the Security encumbered by this Deed of Trust, the following rule contained in Section 42(h)(6)(E)(ii) of the Internal Revenue Code of 1986 (26 USC 42 (h)(6)(E)(ii)), as amended, shall apply:

For a period of three (3) years from the date of Foreclosure, with respect to any unit that had been regulated by a Regulatory Agreement with the California Tax Credit Allocation Committee, (i) none of the tenants occupying those units at the time of Foreclosure may be evicted or their tenancy terminated (other than for good cause), (ii) nor may any rent be increased except as otherwise permitted under Section 42 of the Code.

[SIGNATURES TO FOLLOW ON NEXT PAGE]

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the day and year first above written.

TRUSTOR:

THORNTON, L.P.,
a California limited partnership

By: Satellite AHA Development, Inc.,
a California nonprofit public benefit corporation,
its general partner

By: _____
Name: Susan Friedland
Its: Chief Executive Officer

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

_____
Name: _____
Notary Public

EXHIBIT A

LEGAL DESCRIPTION

6361 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page 11, Alameda County Records, described as follows:

Beginning at a point on the N/W line of Thornton Avenue distance thereon North 33° 00' East 440 feet from the point of intersection thereof with the N/W line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Newark:

The Southeasterly 10 feet of that certain parcel of land described in the Deed from Clyde W. Lindsay and Marie T. Lindsay, his wife, to Edward C. Jackson and. Eunice M. Jackson, his wife, recorded October 2, 1952 in the Office of the County Recorder of Alameda County in Book 6839, Page 514, Official Records of Alameda County.

APN: 092A-0919-017-02

6347 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page
11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue distance thereon North 33° 00' East 495.00 feet from the Northeastern line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55.00 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.
EXCEPTING THEREFROM the Southeastern 10 feet, as granted to the City of Newark recorded
September 10, 1969, Series No. 101382 in Book 2474, Page 50 of Official Records.
6375 Thornton Avenue

APN: 092A-0919-016-02

6375 Thornton Avenue:

A portion of Lots 22 and 23 in Block J, map of Newark Acres, filed December 8, 1916, in Book 16 of Maps, Page 11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue, distant thereon North 33° 00’ East 385 feet from the point of intersection thereof with the Northeastern line of Cherry road, as said Avenue and Road are shown on said map; running thence along said line of Thornton Avenue North 33° 00’ East 55.00 feet; thence North 56° 58’ West 150.00 feet; thence South 33° 00’ West 55.00 feet; thence South 56° 58’ East 150.00 feet to the point of beginning.

APN: 092A-0919-018

5267165.3

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Newark
37101 Newark Blvd
Newark, CA 94560
Attn: Community Development Director

No fee for recording pursuant to
Government code Section 27383

REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (Thornton Avenue Apartments)

This Regulatory Agreement and Declaration of Restrictive Covenants (the "Agreement") is made and entered into as of _____, 2023, by and between the City of Newark, a California municipal corporation (the "City"), and Thornton, L.P., a California limited partnership (the "Owner"). City and Owner are hereinafter collectively referred to as the "Parties."

RECITALS

A. Owner owns that certain property located at 6347 – 6375 Thornton Avenue in the City of Newark, as more particularly described in Exhibit A (the "Property"). Owner intends to construct an approximately fifty-seven (57) unit multifamily rental housing development on the Property for rental to extremely low, very low and low income households, including one (1) manager's unit that is not subject to affordability restrictions. Together the Property and its improvements are referred to herein as the "Development".

B. City has entered into an Affordable Housing Loan Agreement with Owner dated [March 23, 2023] ("AHLA") pursuant to which the City agreed to loan to the Owner Twelve Million Dollars ($12,000,000) ("City Loan") to assist with the construction of the Development.

C. The City has agreed to make the City Loan on the condition that the Owner construct, maintain and operate the Development in accordance with restrictions set forth in this Regulatory Agreement for a fifty-seven year term, and in related documents including the AHLA.

D. The Owner may apply for and receive a density bonus pursuant to the State Density Bonus Law (Government Code Sections 65915-65918) ("Density Bonus Law"). The Density Bonus Law requires the City to ensure and the Owner to agree to continued affordability of the apartment units subject to the density bonus. In the event that Owner applies for and receives a density bonus, Owner and City will enter into a "Density Bonus Regulatory Agreement" which would satisfy the requirements and obligations of the Density Bonus Law.

E. In consideration for the City Loan at an interest rate substantially below the market rate, Owner agrees to observe all of the terms and conditions set forth below.

THEREFORE, City and Owner hereby agree as follows.

ARTICLE 1.
DEFINITIONS

Section 1.1 Definitions. When used in this Agreement, the following terms shall have the respective meanings assigned to them in this Article 1.

(a) "Actual Household Size" shall mean the actual number of persons in the applicable household.

(b) "Affordable Units" shall mean the Extremely Low Income Units, the Very Low Income Units and the Lower Income Units.

(c) "Agreement" shall mean this Regulatory Agreement and Declaration of Restrictive Covenants.

(d) "Affiliate" means any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Owner which, if Owner is a partnership or limited liability company, shall include each of the constituent members or partners, respectively thereof. The term "control" as used in the immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of more than fifty percent (50%) of the voting rights attributable to the shares of the controlled corporation, with respect to a person that is a nonprofit corporation, the right to appoint more than fifty percent of the board of directors, and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

(e) "AHLA" shall mean the Affordable Housing Loan Agreement entered into by and between the City and Owner and dated of [March 23, 2023].

(f) "Area Median Income" shall mean the median gross yearly income adjusted for Actual Household Size or Assumed Household Size as specified herein, in Alameda County, California, as published from time to time and periodically updated in Title 25, California Code of Regulations, Section 6932 (or successor provision) by HCD. In the event that such income determinations are no longer published or are not updated for a period of at least eighteen (18) months, City shall provide the Owner with other income determinations which are reasonably similar with respect to methods of calculation to those previously published by HCD.

(g) "Assumed Household Size" means the household size "adjusted for family size appropriate to the unit" in accordance with California Health and Safety Code Section 50053.

(h) "City" shall mean the City of Newark, a California municipal corporation.

(i) "City Loan" shall mean all funds loaned to Owner pursuant to the AHLA.

(j) "Completion Date" means the date a final certificate of occupancy is issued by the City to certify that the construction of the Development is complete and the Development may be legally occupied.

(k) "Deed of Trust" shall mean the Deed of Trust with Assignment of Rents, Security Agreement and Fixture Filing of even date herewith by and among Owner, as Trustor, Old Republic Title Company, as trustee, and the City as beneficiary, that encumbers the Property to secure repayment of the City Loan and Owner's performance of the Loan Documents.

(l) "Development" shall mean the Property and the fifty-seven (57) units to be developed on the Property, and any additional improvements and all landscaping, roads and parking spaces existing thereon, as the same may from time to time exist.

(m)"Extremely Low Income Household" shall mean a household with a Household Income that does not exceed thirty percent (30%) of Area Median Income.

(n) "Extremely Low Income Units" shall mean the Units which, pursuant to Section 2.1(a) below, are required to be occupied by Extremely Low Income Households.

(o) "Fifteen Year Compliance Period" means the fifteen (15) year compliance period as described in Section 42(i)(1) of the Internal Revenue Code of 1986, as amended.

(p) "Household Income" shall mean the total anticipated annual income of all persons in a household, as calculated in accordance with the California Tax Credit Allocation Committee rules and regulations or pursuant to a successor State housing program that utilizes a reasonably similar method of calculation of adjusted income. In the event that no such program exists, City shall provide the Owner with a reasonably similar method of calculation of gross income as provided in 25 California Code of Regulations Section 6914.

(q) "Investor Limited Partner" means the limited partner or partners of the Owner.

(r) "Loan Documents" shall mean this Agreement, the AHLA, the Note, and the Deed of Trust.

(s) "Low Income Household" shall mean household, with a Household Income which does not exceed that does not exceed eighty percent (80%) of Area Median Income.

(t) "Low Income Unit" shall mean the Units which pursuant to Section 2.1(c) below, are required to be occupied by Low Income Households.

(u) "Note" shall mean the promissory note from the Owner to City evidencing all or any part of the City Loan.

(v) "Owner" shall mean Thornton, L.P., a California limited partnership, and its successors and assigns to the Development.

(w) "Partnership Agreement" means the Agreement of Limited Partnership, as it may be amended and restated from time to time, which governs the operation and organization of Owner, as a California limited partnership.

(x) "Property" shall mean the real property described in Exhibit A attached hereto and incorporated herein.

(y) "Rent" shall mean the total of monthly payments by the tenants of a Unit for the following: use and occupancy of the Unit and land and associated facilities (including parking if applicable), any separately charged fees or service charges assessed by Owner which are required of all tenants, other than security deposits; the cost of an adequate level of service for utilities paid by the tenant, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuel, but not cable or telephone service; any other interest, taxes, fees or charges for use of the land or associated facilities and assessed by a public or private entity other than Owner, and paid by the Tenant. Utility allowances may be determined by use of the utility allowance published by the local public housing authority or the California Utility Allowance Calculator ("CUAC") model allowed by the California Tax Credit Allocation Committee regulations, if the Property qualifies.

(z) "Tenant" shall mean a household occupying a Unit.

(aa) "Term" means the term of this Regulatory Agreement, which commences as of the date of this Regulatory Agreement and shall remain in effect until the fifty-seventh (57^{th}) anniversary of the Completion Date.

(bb) "Units" shall mean the fifty-seven (57) rental units to be constructed by the Owner on the Property.

(cc) "Very Low Income Household" shall mean a household with a Household Income that does not exceed fifty percent (50%) of Area Median Income.

(dd) "Very Low Income Units" shall mean the Units which, pursuant to Section 2.1(b) below, are required to be occupied by Very Low Income Households.

ARTICLE 2.
AFFORDABILITY COVENANTS

Section 2.1 Occupancy Requirements.

(a) Extremely Low Income Units. Nine (9) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Extremely Low Income Households.

(b) Very Low Income Units. Twelve (12) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Very Low Income Households.

(c) Low Income Units. Six (6) of the Units shall be rented to and occupied by or, if vacant, available for occupancy by Low Income Households.

(d) Manager's Unit. One (1) Unit shall be reserved for an on-site manager and shall not be subject to affordability or occupancy restrictions.

(e) Intermingling of Units. All Affordable Units shall be intermingled and of comparable quality. Tenants in all Affordable Units shall have equal access to and enjoyment of all common facilities of the Development.

(f) Disabled Persons Occupancy.

(1) Owner shall cause the Development to be operated at all times in compliance with all applicable federal, state, and local disabled persons accessibility requirements including, but not limited to the applicable provisions of: (i) the Unruh Act, (ii) the California Fair Employment and Housing Act, (iii) the United States Fair Housing Act, as amended, (iv) the Americans With Disabilities Act of 1990, and (vi) Chapters 11A and 11B of Title 24 of the California Code of Regulations, which relate to disabled persons access (collectively, the "Accessibility Requirements").

(2) Owner shall indemnify, protect, hold harmless and defend (with counsel reasonably satisfactory to the City) the City, and its city council, officers and employees, from all suits, actions, claims, causes of action, costs, demands, judgments and liens arising out of Owner's failure to comply with the Accessibility Requirements. This obligation to indemnify survives termination of this Regulatory Agreement, repayment of the City Loan, cancellation of the Promissory Note, and the reconveyance of the Deed of Trust.

Section 2.2 Allowable Rent.

(a) Extremely Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent charged to Tenants of the Extremely Low Income Units shall not exceed one-twelfth (1/12th) of thirty percent (30%) of thirty percent (30%) of Area Median Income, adjusted for Assumed Household Size.

(b) Very Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent charged to Tenants of the Very Low Income Units shall not exceed one-twelfth (1/12th) of thirty percent (30%) of fifty percent (50%) of Area Median Income, adjusted for Assumed Household Size.

(c) Low Income Rent. Subject to the provisions of Section 2.3 below, the Rent charged to Tenants of the Low Income Units shall not exceed one-twelfth (1/12th) of thirty percent of sixty percent (60%) of Area Median Income, adjusted for Assumed Household Size.

(d) Compliance with TCAC Requirements. During the term of any regulatory agreement associated with the provision of low income housing tax credits by the California Tax

Credit Allocation Committee ("TCAC") and recorded against the Property (the "TCAC Regulatory Agreement"), Owner may use the occupancy standards, assumed household sizes, income limits, rent levels and rent increases that are permitted by TCAC in the TCAC Regulatory Agreement, in place of such requirements imposed by this Regulatory Agreement. During the term of the TCAC Regulatory Agreement, compliance with the TCAC Regulatory Agreement as it pertains to occupancy standards, assumed household sizes, income limits, rent levels and rent increases shall be deemed compliance with such requirements of this Agreement.

Section 2.3 Rent Increases.

(a) Rent Amount. The initial Rent for all Affordable Units must be approved by the City prior to occupancy. The utility allowance schedule will be determined either by use of the CUAC or Housing Authority schedule. Notwithstanding the approved schedule of maximum rents, Owner shall not be obligated to reduce rents for any existing tenants should maximum rents decrease, or utility allowances increase for any Units which must conform to the approved schedule of maximum rents.

(b) Rent Increases. No later than sixty (60) days prior to the proposed implementation of any Rent increase affecting an Affordable Unit, Owner shall submit to the City a schedule of any proposed increase in the Rent charged for the Affordable Units. The Rent for such Affordable Units may be increased no more than once annually based upon updated rent schedules corresponding to the updated Area Median Income. Any rent increase resulting from use of the CUAC model for utility allowances shall comply with the TCAC limitation. Owner shall give Tenants of Affordable Units written notice at least thirty (30) days prior to any Rent increase, following completion of the City approval process set forth above. Notwithstanding the above, in no event will any annual rent increase exceed the annual rent increase allowed pursuant to Civil Code Section 1947.12, although the parties acknowledge that the Affordable Units are not subject to such restrictions pursuant to Civil Code Section 1947.13. For purposes of this Agreement, if any rent subsidy is terminated or reduced, an increase in the tenant's total monthly payment toward rent to offset the terminated or reduced rent subsidy shall not constitute a Rent increase as long as the Rent for the Affordable Unit is not increased above the maximum allowable Rent.

(c) Rent During Term of TCAC Regulatory Agreement. Notwithstanding the foregoing, Section 2.2 (d) shall apply to the rent amounts and rent increases during the term of the TCAC Regulatory Agreement.

Section 2.4 Increased Income of Occupying Households.

(a) Increased Income Below 80% of Area Median Income.

(1) In the event that, upon recertification of an occupant household's income, the income of a Very Low Income Household increases above the qualifying limit for a Very Low Income Household, but not above the qualifying income for a Low Income Household, the rent shall increase to thirty percent (30%) of sixty percent (60%) of Area Median Income, the Unit shall qualify as a Low Income Unit, and the next available Unit shall be rented

to a Very Low Income Household, as applicable, as necessary to meet the requirements of Section 2.1 above.

(b) Non-Qualifying Household. If, upon recertification of a Tenant's income, the Owner determines that a Tenant has an Adjusted Income exceeding the qualifying income for Low Income Household, adjusted for Actual Household Size, such Tenant shall be permitted to continue to occupy the Unit at a Rent not exceeding one-twelfth of thirty percent (30%) of one hundred ten percent (110%) of Area Median Income, and the Unit shall continue to be classified as a Low Income Unit until the Tenant vacates the Unit, at which time the Unit shall be re-rented to a Very Low Income Household or Low Income Household as applicable, to meet the requirements of Section 2.1 above. Notwithstanding the above, if the Owner determines that a Tenant has an Adjusted Income exceeding One Hundred Twenty Percent (120%) of Area Median Income, the Owner may elect to increase the Rent to the maximum permissible.

(c) Termination of Occupancy. Upon termination of occupancy of an Affordable Unit by a Tenant, such Unit shall be deemed to be continuously occupied by a household of the same income level (e.g., Extremely Low Income Household, Very Low Income Household, or Low Income Household) as the initial income level of the vacating Tenant, until such Affordable Unit is reoccupied, at which time the income character of the Affordable Unit (e.g., Extremely Low Income Unit, Very Low Income Unit, or Low Income Unit) shall be redetermined.

(d) Continued Compliance. In the event an occupant household's income increases and the rent is increased as set forth in Sections (a) and (b) above, the Affordable Unit shall continue to be classified as an Extremely Low Income Unit, a Very Low Income Unit, or a Low Income Unit, as applicable, until such time as the Affordable Unit is either vacated by the occupant or another Affordable Unit is rented at the applicable income limit.

(e) Income Limits During Term of TCAC Regulatory Agreement. Notwithstanding the foregoing, during the term of the TCAC Regulatory Agreement, compliance with the TCAC Regulatory Agreement as it pertains to increased income of occupying households shall be deemed compliance with this Agreement.

Section 2.5 Lease Provisions. Owner shall include in leases for all Affordable Units provisions which authorize Owner to immediately terminate the tenancy of any household one or more of whose members has misrepresented any fact material to the household's qualification as an Extremely Low Income Tenant, Very Low Income Household or Low Income Unit. Each lease or rental agreement shall also provide that the household is subject to annual certification in accordance with Section 3.1 below, and that, if the household's income increases above the applicable limits for a Very Low Income Household or Low Income Household, as applicable, such household's Rent may be subject to increase.

Section 2.6 Condominium Conversion. The Owner shall not convert the Development or any Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights to the Property during the Term of this Agreement.

Section 2.7 Loss of Subsidy.

(a) It is anticipated that certain Affordable Units in the Development will receive rental subsidies throughout the Term from governmental project based vouchers or other sources ("Subsidy Units"), as reflected in the operating pro forma contained in the Revised Financing Plan approved by the City. If any change in federal law occurs, or any action (or inaction) by Congress or any federal or state agency occurs, which results in a material reduction, termination, or nonrenewal of the rental subsidy through no fault of the Borrower, such that the rental subsidy shown on the annual operating pro forma approved by the City is no longer available, Borrower shall, in anticipation of such loss of rental subsidy, use good faith efforts for a period of sixty (60) days, to obtain alternative sources of rental subsidies and shall provide the City weekly progress reports on Borrower's efforts to obtain alternative sources of rental subsidies. If at the end of such sixty (60) day period Borrower is unable to secure an alternate source of rental subsidy, notwithstanding Section 2.3, Borrower may increase the Rent on one or more of the Affordable Units that are Subsidy Units, to the TCAC rent limit for a 60% AMI unit, subject to the following requirements:

(1) Any such Rent increase must be pursuant to a transition plan approved by the City showing how the Rent increase will be phased in, and which Affordable Units will be subject to the increase, and if applicable, be consistent with remedial measures set forth in California Code of Regulations Title 4, Division 17, Chapter 1, Section 10337(a)(3) or such successor regulation applicable to California's Federal and State Low Income Housing Tax Credit Program.

(2) At the time Borrower requests an increase in the Rent, Borrower shall provide the City with a copy of the proposed annual, operating budget showing the impact of the loss or reduction of the rental subsidy.

(3) Any subsequent Rent increases remain subject to Section 2.3 above.

(4) The number of Affordable Units subject to the Rent increases and the level of Rent increase may not be greater than the amount required to ensure that the Development generates sufficient income to cover its operating costs and debt service as shown in the annual operating pro forma, and as is necessary to maintain the financial stability of the Development.

(b) Borrower shall continue to use good faith efforts to obtain alternative sources of rental subsidies and shall provide the City with annual progress reports on efforts to obtain alternative sources of rental subsidies that would allow the Rents on the Affordable Units to be reduced back to the Rents set forth in Section 2.2. Upon receipt of any alternative rental subsidies, Borrower shall reduce the Rents on the Affordable Units back to the Rents set forth in Section 2.2, to the extent that the alternative rental subsidies provide sufficient income to cover the operating costs and debt service of the Development as shown in the annual operating pro forma.

Section 2.8 Foreclosure. After a foreclosure of a loan or deed in lieu of foreclosure, the City agrees to meet and confer with the successor owner of the Development upon its request to determine if the maximum Rent on one or more of the Affordable Units needs to be increased to the TCAC 60% AMI rent (together with rent increases on Units other than the Affordable Units) in order to cover operating costs and debt service, and maintain the financial stability of the Development, subject to a mutually acceptable transition plan approved by the City showing how the Rent increase will be phased in and which Affordable Units would be subject to the increase. The City agrees to reasonably consider and shall not unreasonably disapprove such changes to the Rent requirements of this Agreement, consistent with the foregoing, as necessary to maintain the financial stability of the Development.

ARTICLE 3.
INCOME CERTIFICATION AND REPORTING

Section 3.1 Income Certification. The Owner shall obtain, complete and maintain on file, immediately prior to initial occupancy and annually thereafter, income certifications from each Tenant renting any of the Affordable Units (excluding the manager's Unit). The Owner shall make a good faith effort to verify that the income provided by an applicant or occupying household in an income certification is accurate by taking one or more of the following steps as a part of the verification process: (1) obtain a pay stub for the most recent pay period; (2) obtain an income tax return for the most recent tax year; (3) conduct a credit agency or similar search; (4) obtain an income verification form from the applicant's current employer; (5) obtain an income verification form from the Social Security Administration and/or the California Department of Social Services if the applicant receives assistance from either of such agencies; or (6) if the applicant is unemployed and has no such tax return, obtain another form of independent verification or utilize a self-certified statement. Copies of tenant income certifications shall be available to City upon request.

Section 3.2 Annual Report to City. Each year by July 1 Owner shall submit an annual report to City, in a form approved by City. The annual report shall include for each Affordable Unit covered by this Agreement, the Rent and the income and household size of the household occupying the Affordable Unit and shall have the income certifications for each Tenant, prepared pursuant to Section 3.1 above available upon request. The report shall also state the date the tenancy commenced for each Affordable Unit, the number of bedrooms in such Affordable Unit, and such other information as City may be required by law to obtain.

Section 3.3 Additional Information. Owner shall provide any additional information reasonably requested by City. City shall have the right to examine and make copies of all books, records or other documents of Owner which pertain to any Affordable Unit.

Section 3.4 Records.

(a) Owner shall keep and maintain at the principal place of business of the Owner set forth in Section 6.11 below, or elsewhere with the City's written consent, full, complete and appropriate books, records and accounts relating to the Development. Owner shall cause all books, records and accounts relating to the Development to be kept and maintained in

accordance with generally accepted accounting principles consistently applied, and to be consistent with requirements of this Regulatory Agreement. Owner shall cause all books, records, and accounts to be open to and available for inspection and copying by the City, its auditors or other authorized representatives at reasonable intervals during normal business hours. Owner shall cause copies of all tax returns and other reports that Owner may be required to furnish to any government agency to be open for inspection by the City at all reasonable times at the place that the books, records and accounts of Owner are kept. Owner shall preserve such records for a period of not less than five (5) years after their creation. If any litigation, claim, negotiation, audit exception, monitoring, inspection or other action relating to the use of the Development is pending at the end of the record retention period stated herein, then Owner shall retain the records until such action and all related issues are resolved. Such records are to include but are not limited to:

(1) Records documenting compliance with the fair housing, equal opportunity, and affirmative fair marketing requirements;

(2) Financial records; and

(3) Records demonstrating compliance with the marketing, tenant selection, affordability, and income requirements.

(b) The City shall notify Owner of any records it deems insufficient. Owner has fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City in such notice, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then Owner must begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

ARTICLE 4.
OPERATION OF THE DEVELOPMENT

Section 4.1 Residential Use. The Development shall be operated only for residential use. No part of the Development shall be operated as transient housing.

Section 4.2 Compliance with Loan Documents and Development Regulatory Agreements. Owner shall comply with all the terms and provisions of the Loan Documents and any other regulatory requirement imposed on the Development, including but not limited to regulatory agreements associated with the Low Income Housing Tax Credits provided by the California Tax Credit Allocation Committee (the "Development Regulatory Documents"). Owner shall promptly notify the City in writing of the existence of any default under any Development Regulatory Documents and provide the City with copies of any such notice of default.

Section 4.3 Property Tax Exemption. Owner shall not apply for a property tax exemption for the Property under any provision of law other than Revenue and Taxation Section 214(g) without City's prior written consent.

Section 4.4 Taxes and Assessments. Owner shall pay all real and personal property taxes, assessments, if any, and charges and all franchise, income, employment, withholding, sales, and other taxes assessed against it, or payable by it, at such times and in such manner as to prevent any penalty from accruing, or any lien or charge from attaching to the Property; provided, however, that Owner shall have the right to contest in good faith, any such taxes, assessments, or charges. In the event Owner exercises its right to contest any tax, assessment, or charge against it, Owner, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered against it, together with all costs, charges and interest.

Section 4.5 Nondiscrimination. All of the Units shall be available for occupancy on a continuous basis to members of the general public who are income eligible. Owner shall comply with state and federal fair housing laws in the marketing and rental of the Units in the Project. There shall be no discrimination against or segregation of any person or group of persons, on account of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, disability, veteran or military status, or genetic information, or any other basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of any Unit nor shall Owner or any person claiming under or through the Owner, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees of any Unit or in connection with the employment of persons for the operation and management of the Development. All deeds, leases or contracts made or entered into by Owner as to the Units or the Development or portion thereof, shall contain covenants concerning discrimination as prescribed by the AHLA.

Section 4.6 City Preference. To the extent permitted by law and consistent with the program regulations for funding sources used for the development of the Units, Owner shall give a preference in the rental of any Units to eligible households in which at least one member lives or works in the City. The preference stated in this section applies to the rentals of Units throughout the Term.

Section 4.7 Section 8 Certificate Holders. The Owner shall accept as tenants, on the same basis as all other prospective tenants, persons who are recipients of federal certificates for rent subsidies pursuant to the existing housing program under Section 8 of the United States Housing Act, or its successor, or similar programs. The Owner shall not apply selection criteria to holders of Section 8 certificate or similar certificates or vouchers that is more burdensome than criteria applied to all other prospective tenants, nor shall the Owner apply or permit the application of management policies or lease provisions with respect to the Development which have the effect of precluding occupancy of Units by such prospective tenants.

Section 4.8 Marketing Plan. No later than nine (9) months prior to the date construction of the Development is projected to be complete, Owner shall submit to the City for approval its plan for marketing the Development to income-eligible households as required by this Regulatory Agreement (the "Marketing Plan"). The Marketing Plan shall be in compliance

with all applicable fair housing, equal opportunity and affirmative fair marketing laws and requirements.

Upon receipt of the Marketing Plan, the City shall promptly review the Marketing Plan and shall approve or disapprove it within fifteen (15) days after receipt. If the Marketing Plan is not approved, the City shall give Owner specific reasons for such disapproval and Owner shall submit a revised Marketing Plan within fifteen (15) days of notification of the City's disapproval. Owner shall follow this procedure for resubmission of a revised Marketing Plan until the Marketing Plan is approved by the City. The City understands that the Owner needs to have the Marketing Plan approved at least six (6) months prior to the date construction of the Development is projected to be complete in order to timely lease up the Development. If the Owner does not submit a revised Marketing Plan that is approved by the City at least three (3) months prior to the date construction of the Development is projected to be complete, Owner will be in default of this Regulatory Agreement.

Section 4.9 Environmental Requirements. Owner shall comply with the environmental requirements set forth in Section 6.7 of the AHLA and Article 6 of the Deed of Trust, which are incorporated herein.

ARTICLE 5.
PROPERTY MANAGEMENT AND MAINTENANCE

Section 5.1 Management Responsibilities. The Owner is responsible for all management functions with respect to the Development, including without limitation the selection of tenants, certification and recertification of household size and income, evictions, collection of rents and deposits, maintenance, landscaping, routine and extraordinary repairs, replacement of capital items, and security. City shall have no responsibility over management of the Development. The Owner shall retain a professional property management company approved by City in its reasonable discretion to perform its management duties hereunder. A resident manager shall also be required.

Section 5.2 Approval of Management Agent. The Development shall at all times be managed by an experienced management agent reasonably acceptable to City, with demonstrated ability to operate residential facilities like the Development in a manner that will provide decent, safe, and sanitary housing (as approved, the "Management Agent"). The Owner shall submit for City's approval the identity of any proposed Management Agent. The City has approved Satellite Affordable Housing Associates Property Management, a California nonprofit public benefit corporation, as the Management Agent. The Owner shall also submit such additional information about the background, experience and financial condition of any proposed Management Agent as is reasonably necessary for the City to determine whether the proposed Management Agent meets the standard for a qualified Management Agent set forth above. If the proposed Management Agent meets the standard for a qualified Management Agent set forth above, City shall approve the proposed Management Agent by notifying the Owner in writing. Unless the proposed Management Agent is disapproved by City within thirty (30) days, which disapproval shall state with reasonable specificity the basis for disapproval, it shall be deemed approved.

Section 5.3 Performance Review. City reserves the right to conduct an annual (or more frequently, if deemed reasonably necessary by City) review of the management practices and financial status of the Development. The purpose of each periodic review will be to enable City to determine if the Development is being operated and managed in accordance with the requirements and standards of this Agreement. The Owner shall cooperate with City in such reviews.

Section 5.4 Replacement of Management Agent. If, as a result of a periodic review, City determines in its reasonable judgement that the Development is not being operated and managed in accordance with any of the material requirements and standards of this Agreement, City shall deliver notice to Owner of its intention to cause replacement of the Management Agent, including the reasons therefor. Within fifteen (15) days of receipt by Owner of such written notice, City staff and Owner shall meet in good faith to consider methods for improving the financial and operating status of the Development. If after a reasonable period as determined by City (not to exceed sixty (60) days), City determines that the Owner is not operating and managing the Development in accordance with the material requirements and standards of this Agreement, City may require replacement of the Management Agent.

If, after the above procedure, City requires in writing the replacement of the Management Agent, Owner shall promptly dismiss the then Management Agent, and shall appoint as the Management Agent a person or entity meeting the standards for a Management Agent set forth in Section 5.2 above and approved by City pursuant to Section 5.2 above.

Any contract for the operation or management of the Development entered into by Owner shall provide that the contract can be terminated as set forth above. Failure to remove the Management Agent in accordance with the provisions of this Section shall constitute default under this Agreement, and City may enforce this provision through legal proceedings as specified in Section 6.5.

Section 5.5 Management Policies. The Owner shall submit its written management plan with respect to the Development to City for its review, and shall amend such policies in any way necessary to ensure that such policies comply with the provisions of this Agreement.

Section 5.6 Property Maintenance. Throughout the term of this Agreement, Owner shall at its own expense, maintain the Property and the Project in good physical condition, in good repair, and in decent, safe, sanitary, habitable and tenantable living conditions in conformity with all applicable state, federal, and local laws, ordinances, codes, and regulations. Without limiting the foregoing, Owner agrees to maintain the Project and the Property (including without limitation, the Units, common meeting rooms, common areas, landscaping, driveways and walkways) in a condition free of all waste, nuisance, debris, unmaintained landscaping, graffiti, disrepair, abandoned vehicles/appliances, and illegal activity, and shall take all reasonable steps to prevent the same from occurring on the Property or at the Project. Owner shall prevent and/or rectify any physical deterioration of the Property and the Project and shall make all repairs, renewals and replacements necessary to keep the Property and the improvements located thereon in good condition and repair. Owner shall provide adequate safety and security services for occupants of the Project, including without limitation parking lot and pathway lighting and security cameras. To the extent feasible, Owner shall employ

defensible space design principles and crime prevention measures in the operation of the Project. Owner shall conduct a yearly security inspection, employing Crime Prevention Through Environmental Design (CPTED) principles, and shall participate in an illegal activity review with Newark Police Department (provided that the Newark Police Department agrees to participate in such review). Owner shall maintain an on-site contact, during normal business hours, to receive complaints and concerns from the community, and Owner shall promptly respond to and address such complaints and concerns. Documents and reports relating to security inspections, community complaints and concerns, and illegal activities on the Property shall be maintained and available for inspection by the City.

a. Yard Area. Owner shall not leave any yard areas on the Property unmaintained, including broken or discarded furniture, appliances and other, household equipment stored in yard areas for a period exceeding one (1) week; packing boxes, lumber trash, dirt and other debris in areas visible from public property or neighboring properties; and vehicles parked or stored in other than approved parking areas.

b. Buildings. Owner shall not leave any buildings located on the Property in an unmaintained condition so that any of the following exist: violations of state law, uniform codes, or City ordinances; conditions that constitute an unsightly appearance that detracts from the aesthetics or value of the Property or constitutes a private or public nuisance; broken windows; graffiti (must be removed within 72 hours); and, conditions constituting hazards and/or inviting trespassers, or malicious mischief.

c. Safety and Security. Owner acknowledges that it is a priority of the City to facilitate the security and safety of the residents and surrounding community. Owner shall implement and maintain throughout the Term the following security measures in the Project:

i. Owner shall provide adequate safety and security services for occupants of the Project, including without limitation parking areas and pathway lighting and security cameras.

ii. Owner shall use best efforts to work with the City of Newark Police Department to implement and operate an effective neighborhood watch program.

iii. Owner shall provide added security including dead-bolt locks for every entry door, and where entry doors are damaged, replace them with solid-core doors.

d. City Right to Enter Property. The City shall have the right to enter on the Property and/or contact the City of Newark Police Department if it becomes aware of or is notified of any conditions that pose a danger to the peace, health, welfare or safety of the Tenants and/or the surrounding community, and to perform or cause to be performed such acts as are necessary to correct the condition. The City shall provide Owner notice of its contact with the City of Newark Police Department.

e. Documents and Reports. Documents and reports relating to security inspections, community complaints and concerns, and illegal activities on the Property shall be maintained and available for inspection by the City.

In the event that Owner breaches any of the covenants contained in this Section 5.6, and such default continues for a period of ten (10) days after written notice from City (with respect to graffiti, debris, and waste material) or thirty (30) days after written notice from City (with respect to landscaping, building improvements and general maintenance), then City, in addition to any other remedy it may have under this Agreement or at law or in equity, shall have the right, but not the obligation, to enter upon the Property and perform all acts and work necessary to protect, maintain, and preserve the improvements and the landscaped areas on the Property. All costs expended by City in connection with the foregoing, shall constitute an indebtedness secured by the Deed of Trust, and shall be paid by Owner to City upon demand. All such sums remaining unpaid thirty (30) days following delivery of City's invoice therefor shall bear interest at the rate of 10% per annum.

Section 5.7 Social Services. Owner shall provide a variety of social services at the Development. Such social services are subject to the prior written approval of the City, in its reasonable discretion. Owner shall use its best efforts to create a comprehensive social service program that is targeted to the needs of the residents of the Development which may include, but is not limited to, the following services: after-school programs of an ongoing nature for school age children, financial planning skills, job coaching, and/or the availability of a bona fide services coordinator to the tenants. Owner shall ensure that all personnel providing or coordinating all social services shall be adequately trained and counseled, including with respect to the appropriate means and methods of communicating and interacting with residents. Any substantive decrease in the amount of social services to be provided at the Property shall be subject to prior reasonable approval of City and approval shall not be unreasonably withheld.

ARTICLE 6.
MISCELLANEOUS

Section 6.1 Transfers.

(a) For purposes of this Agreement, "Transfer" means any sale, assignment, or transfer, whether voluntary or involuntary, of: (i) any rights and/or duties under the Loan Documents; and/or (ii) any interest in the Development, including (but not limited to) a fee simple interest, a joint tenancy interest, a life estate, a partnership interest, a leasehold interest, a security interest, or an interest evidenced by a land contract by which possession of the Development is transferred and Owner retains title. The term "Transfer" excludes the leasing of any single Unit in the Development to an occupant in compliance with this Regulatory Agreement.

(b) Except as otherwise permitted in this Section 6.1, no Transfer is permitted without the prior written consent of the City, which the City may withhold in its sole discretion. The City Loan shall automatically accelerate and be due in full upon any Transfer made without the prior written consent of the City.

(c) The City hereby approves the admission of the Investor Limited Partner to Owner as limited partner. The City hereby approves future Transfers of the limited partner

interest of Owner provided that: (i) such Transfers do not affect the timing and amount of the Investor Limited Partner capital contributions provided for in the Partnership Agreement (as such capital contributions may be adjusted pursuant to the terms of the Partnership Agreement); and (ii) in subsequent Transfers, the Investor Limited Partner or an Affiliate thereof, retains a membership or partnership interest and serves as a managing member or managing general partner of the successor limited partner.

(d) The City hereby approves a Transfer of the Property from Owner to Satellite Affordable Housing Associates, or a non-profit Affiliate of Satellite Affordable Housing Associates, and an assumption of the City Loan by such transferee at or prior to the end of the Fifteen Year Compliance Period, provided that: (i) such Transfer is pursuant to an option or right of first refusal agreement referenced in the Partnership Agreement, (ii) the assignment and assumption agreement evidencing such Transfer requires the transferee to expressly assume the obligations of Owner under the Loan Documents, and (iii) the City is provided executed copies of all documents evidencing the Transfer.

(e) The City hereby approves the purchase of the Investor Limited Partner interest by Satellite Affordable Housing Associates, or a non-profit Affiliate of Satellite Affordable Housing Associates, at or prior to the end of the Fifteen Year Compliance Period, provided that (i) such Transfer is pursuant to an option or right of first refusal agreement referenced in the Partnership Agreement, and (ii) the City is provided executed copies of all documents evidencing the Transfer.

(f) In the event the general partner of Owner is removed by the limited partner of Owner for cause following default under the Partnership Agreement, the City hereby approves the Transfer of the general partner interest to (i) a 501(c)(3) tax exempt nonprofit corporation or other entity with a 501(c)(3) tax exempt nonprofit corporation member or partner, with significant experience in the ownership and operation of affordable housing projects similar to the Development, and with financial resources sufficient for the ownership of the Development, as selected by the Investor Limited Partner and approved by the City, and (ii) the Investor Limited Partner or an Affiliate thereof, but only for a period not to exceed ninety (90) days from the date of removal of the general partner, during which time such entity shall diligently seek a replacement general partner meeting the requirements of subsection (i) above.

(g) The City hereby approves the grant of the security interests in the Development for financing approved pursuant to the AHLA.

Section 6.2 Term. The provisions of this Agreement shall apply to the Property for the entire Term even if the entire City Loan is paid in full prior to the end of the Term. This Agreement shall bind any successor, heir or assign of Owner, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise, except as expressly released by City. City makes the City Loan on the condition, and in consideration of, this provision, and would not do so otherwise.

Section 6.3 Notice of Expiration of Term.

(a) At least six (6) months prior to the expiration of the Term, Owner shall provide by first-class mail, postage prepaid, a notice to all Tenants containing (a) the anticipated date of the expiration of the Term, (b) any anticipated increase in Rent upon the expiration of the Term, (c) a statement that a copy of such notice will be sent to City, and (d) a statement that a public hearing may be held by City on the issue and that the Tenant will receive notice of the hearing at least fifteen (15) days in advance of any such hearing. The Owner shall also file a copy of the above-described notice with City.

(b) In addition to the notice required above, Owner shall comply with the requirements set forth in California Government Code Sections 65863.10 and 65863.11. Such notice requirements include: (i) a three (3) year notice to existing tenants, prospective tenants and Affected Public Agencies (as defined in California Government Code Section 65863.10(a)) prior to the expiration of the Term, (ii) a twelve (12) month notice to existing tenants, prospective tenants and Affected Public Agencies prior to the expiration of the Term, (iii) a six (6) month notice requirement to existing tenants, prospective tenants and Affected Public Agencies prior to the expiration of the Term; (iv) a notice of an offer to purchase the Development to "qualified entities" (as defined in California Government Code Section 65863.11(d)), if the Development is to be sold within five (5) years of the end of the Term; and (v) a notice of right of first refusal within the one hundred eighty (180) day period that qualified entities may purchase the Development.

Section 6.4 Covenants to Run with the Land. City and Owner hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land, and shall bind all successors in title to the Property, provided, however, that on the expiration of the Term of this Agreement said covenants and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or any portion thereof shall be held conclusively to have been executed, delivered and accepted subject to such covenants and restrictions, regardless of whether such covenants or restrictions are set forth in such contract, deed or other instrument, unless City expressly releases such conveyed portion of the Property from the requirements of this Agreement.

Section 6.5 Enforcement by the City.

(a) If Owner fails to perform any obligation under this Agreement, and fails to cure the default within 30 days after City has notified the Owner in writing of the default or, if the default cannot be cured within 30 days, fails to commence to cure within 30 days and thereafter diligently pursue such cure, City shall have the right to enforce this Agreement by any or all of the following actions, or any other remedy provided by law:

(1) Calling the Loan. City may declare a default under the Note, accelerate the indebtedness evidenced by the Note, and proceed with foreclosure under the Deed of Trust.

(2) Action to Compel Performance or for Damage. City may bring an action at law or in equity to compel Owner's performance of its obligations under this Agreement, and/or for damages.

(3) Remedies Provided Under Loan Documents. City may exercise any other remedy available at law or provided under the Loan Documents.

(b) The City shall provide notice of a default to the Investor Limited Partner and any limited partner of Owner who has requested written notice from the City in the manner set forth in Section 6.1 of the Loan Agreement, and the Investor Limited Partner shall have the right, but not the obligation to cure such event of default.

Section 6.6 Attorney's Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees. This section shall be interpreted in accordance with California Civil Code Section 1717 and judicial decisions interpreting that statute.

Section 6.7 Recording and Filing. City and Owner shall cause this Agreement, and all amendments and supplements to it, to be recorded against the Property in the Official Records of the County of Alameda.

Section 6.8 Governing Law. This Agreement shall be governed by the laws of the State of California.

Section 6.9 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the real property records of the County of Alameda, California. The City agrees to amend this Agreement at the Construction Loan Closing to reflect any changes made to the affordability levels and other factual changes and to make other reasonable amendments as requested by the Investor Limited Partner or lenders included in the approved Financing Plan (as those terms are defined in the AHLA).

Section 6.10 Notice. All notices given or certificates delivered under this Agreement shall be in writing and be deemed received on the delivery or refusal date shown on the delivery receipt, if: (i) personally delivered by a commercial service which furnishes signed receipts of delivery or (ii) mailed by certified mail, return receipt requested, postage prepaid, addressed as shown on the signature page. Any of the parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or communications shall be sent. Notices shall be sent to:

City: City of Newark
37101 Newark Blvd.
Newark, CA 94560
Attention: Community Development Director
(with copy to City Attorney)

Developer: Thornton, L.P.
c/o Satellite Affordable Housing Associates
1835 Alcatraz Avenue
Berkeley, California 94703
Attention: _____

With a copy to: Gubb & Barshay
235 Montgomery Street, Suite 1110
San Francisco, CA 94104
Attention: Erica Williams Orcharton

Section 6.11 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

Section 6.12 Multiple Originals; Counterparts. This Regulatory Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts.

Section 6.13 Revival of Agreement after Foreclosure. In the event there is a foreclosure of the Property, this Regulatory Agreement will revive according to its original terms if, during the Term, the owner of record before the foreclosure, or deed in lieu of foreclosure, or any entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Development or a leasehold interest in the Property.

Section 6.14. Indemnification. Owner shall defend, indemnify and hold the City and its officials, officers, directors, employees, and agents (collectively, the "Indemnified Parties") harmless from and against any and all losses, damages, liabilities, claims, demands, judgments, actions, court costs, and legal or other expenses (including reasonable attorneys' fees) which an Indemnified Party may incur as a result of Owner's failure to perform any obligation as and when required by this Agreement, or any act or omission by Owner, or any of Owner's contractors, subcontractors, agents, employees, licensees or suppliers with respect to the Development or the Property, except to the extent that such losses are caused by the gross negligence or willful misconduct of such Indemnified Party. Owner shall pay immediately upon an Indemnified Party's demand any amounts owing under the indemnity provided under this Section 6.14. The duty of Owner to indemnify includes the duty to defend the Indemnified Party in any court action, administrative action, or other proceeding brought by any third party arising in connection with the Development or the Property with counsel reasonably approved by City. Owner's duty to indemnify the Indemnified Parties shall survive the expiration or earlier termination of this Agreement.

Section 6.15. Non-Liability of City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Owner or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Owner or its successor or for any obligation of City under this Agreement.

Section 6.16. Action by the City. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Manager or designee, without further approval by the City Council.

Section 6.17. Time is of the Essence. Time is of the essence in the performance of this Agreement.

Section 6.18. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

IN WITNESS WHEREOF, the City and Owner have executed this Agreement by duly authorized representatives, all on the date first written above.

[signatures on following page]

CITY:

CITY OF NEWARK, a California municipal corporation

By: _____
David Benoun, City Manager

Attest:

By: _____
Sheila Harrington, City Clerk

Approved as to Form:

By: _____
Kris Kokotaylo, City Attorney

OWNER:

THORNTON, L.P.,
a California limited partnership

By: Satellite AHA Development, Inc.,
a California nonprofit public benefit corporation,
its general partner

By: _____
Name: Susan Friedland
Its: Chief Executive Officer

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

_____
Name: _____
Notary Public

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

_____
Name: _____
Notary Public

EXHIBIT A
Property Description

6361 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page
11, Alameda County Records, described as follows:

Beginning at a point on the N/W line of Thornton Avenue distance thereon North 33° 00' East 440 feet from the point of intersection thereof with the N/W line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.

EXCEPTING THEREFROM that portion conveyed to the City of Newark:

The Southeasterly 10 feet of that certain parcel of land described in the Deed from Clyde W. Lindsay and Marie T. Lindsay, his wife, to Edward C. Jackson and. Eunice M. Jackson, his wife, recorded October 2, 1952 in the Office of the County Recorder of Alameda County in Book 6839, Page 514, Official Records of Alameda County.

APN: 092A-0919-017-02

6347 Thornton Avenue:

Portion of Lot 23, Block "J", Map of Newark Acres, flied December 8, 1916, Map Book 16, Page
11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue distance thereon North 33° 00' East 495.00 feet from the Northeastern line of Cherry Road, as said avenue and road are shown on said map; running thence along the said line of Thornton Avenue, North 33° 00' East 55.00 feet; thence North 56° 86' West 150.00 feet; thence South 33° 00' West 55.00 feet; thence South 56° 66' East 150.00 feet to the point of beginning.
EXCEPTING THEREFROM the Southeastern 10 feet, as granted to the City of Newark recorded
September 10, 1969, Series No. 101382 in Book 2474, Page 50 of Official Records.
6375 Thornton Avenue

APN: 092A-0919-016-02

6375 Thornton Avenue:

A portion of Lots 22 and 23 in Block J, map of Newark Acres, filed December 8, 1916, in Book 16 of Maps, Page 11, Alameda County Records, described as follows:

Beginning at a point on the Northwestern line of Thornton Avenue, distant thereon North 33° 00’ East 385 feet from the point of intersection thereof with the Northeastern line of Cherry road, as said Avenue and Road are shown on said map; running thence along said line of Thornton Avenue North 33° 00’ East 55.00 feet; thence North 56° 58’ West 150.00 feet; thence South 33° 00’ West 55.00 feet; thence South 56° 58’ East 150.00 feet to the point of beginning.

APN: 092A-0919-018

RESOLUTION NO. ____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING A LOAN IN THE AMOUNT OF $12,000,000 OF CITY OF NEWARK AFFORDABLE HOUSING IMPACT FEE FUND TO SATELLITE AFFORDABLE HOUSING ASSOCIATES FOR DEVELOPMENT OF A MULTIFAMILY AFFORDABLE HOUSING RENTAL DEVELOPMENT AT 6347-6375 THORNTON AVENUE

WHEREAS, in May 2021, the City Council approved Resolution 10,201 approving an Affordable Housing Work Plan that includes activities for the preparation of new affordable housing requirements, policies, and actions intended to significantly incentivize the production of affordable housing within the City, particularly at the very-low and low-income levels; and

WHEREAS, in June 2022, the City released a Notice of Funding Availability ("NOFA") for multifamily affordable housing rental projects, inviting developers of deed-restricted affordable new-construction multifamily rental housing projects in the Bay Area to apply for funding assistance; and

WHEREAS, the NOFA invited developers to request a total of up to $12,000,000 from the City of Newark Affordable Housing Fund; and

WHEREAS, the City received one response from Satellite Affordable Housing Associates ("SAHA"); and

WHEREAS, SAHA is in contract to purchase three contiguous parcels of real property located at 6347-6378 Thornton Avenue, and proposes to seek approvals for a multifamily affordable housing rental project with no less than 57 units thereon (the "Thornton Avenue project"); and

WHEREAS, SAHA is seeking a loan in the amount of $12,000,000 from the City of Newark Affordable Housing Impact Fee Fund to help support acquisition of the site and construction of the Thornton Avenue project; and

WHEREAS, on January 19, 2023, the Community Development Advisory Committee ("CDAC") reviewed the project and recommended that the City Council approve the allocation of $12,000,000 from the City of Newark Affordable Housing Impact Fee Fund to SAHA to help support acquisition of the site and construction of the Thornton Avenue project.

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

Section 1. That the forgoing recitals are true and correct and made part of this Resolution.

Section 2. That the City Council does hereby authorize the City to provide up to $12,000,000 of the City of Newark Affordable Housing Impact Fee Fund to the Thornton Avenue project proposed

by SAHA.

Section 3. The City Council hereby authorizes and directs City staff to negotiate and prepare such documents as are necessary and appropriate to provide a loan to the developer of the Thornton Avenue project, in such form as may be approved by the City Community Development Director and the City Attorney.

Section 4. The City Council authorizes the City Manager (or his designee), on behalf of the City, to execute the foregoing loan documents, and to take such other actions as are necessary to carry out the City's obligations under such documents, including the execution of escrow instructions and closing documents.

Section 5. The City Council finds that the City's provision of financial assistance pursuant hereto is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, as it can be seen with certainty that the approval of financial assistance will have no significant effect on the environment. City staff is authorized and directed to file a Notice of Exemption from CEQA with the California Office of Planning and Research and the County Clerk of the County of Alameda in the manner specified in Subdivisions (b) and (c) of Section 21152 of the Public Resources Code.

This Resolution was introduced at the City of Newark City Council's March 23, 2023 regular meeting by Council Member _____, seconded by Council Member _____, and passed as follows:



$12 Million Funding Award Allocation to Satellite Affordable Housing Associates

March 23, 2023
City Council Meeting
Carmelisa Lopez, Senior Planner

Agenda

1. Introductions
2. Notice of Funding Availability (NOFA) Overview
3. Project Proposal
4. Review of Project Against NOFA Priorities
5. Loan Terms
6. Staff Recommendation
7. Q&A

Introductions

City of Newark
Steven Turner, Community Development Director
Art Interiano, Deputy Community Development Director
Carmelisa Lopez, Senior Planner

Community Planning Collaborative
Kristy Wang, Principal
Paul Peninger, Principal, Bay Area Economics

Satellite Affordable Housing Associates
Jonathan Astmann, Associate Director, Real Estate Development

Affordable Housing Work Plan

- City Council adopted the Affordable Housing Work Plan in May 2021

- Identifies the priority housing needs, types, and programs to help address the needs of Newark residents

- Staff has made progress on multiple fronts such as:
  - Developing the 2023-2031 Housing Element
  - Working on a Local Preference study
  - Issuing an affordable multifamily rental new-construction Notice of Funding Availability

NOFA

- Released the Notice of Funding Availability (NOFA) on June 2, 2022

- Priority Housing Needs from Affordable Housing Work Plan:
  - Families with children
  - Key workers (including teachers/educators, first responders, childcare workers)
  - People and families at risk of homelessness
  - People with disabilities and other special housing needs

- Funding comes from the City's Affordable Housing Impact Fee Fund

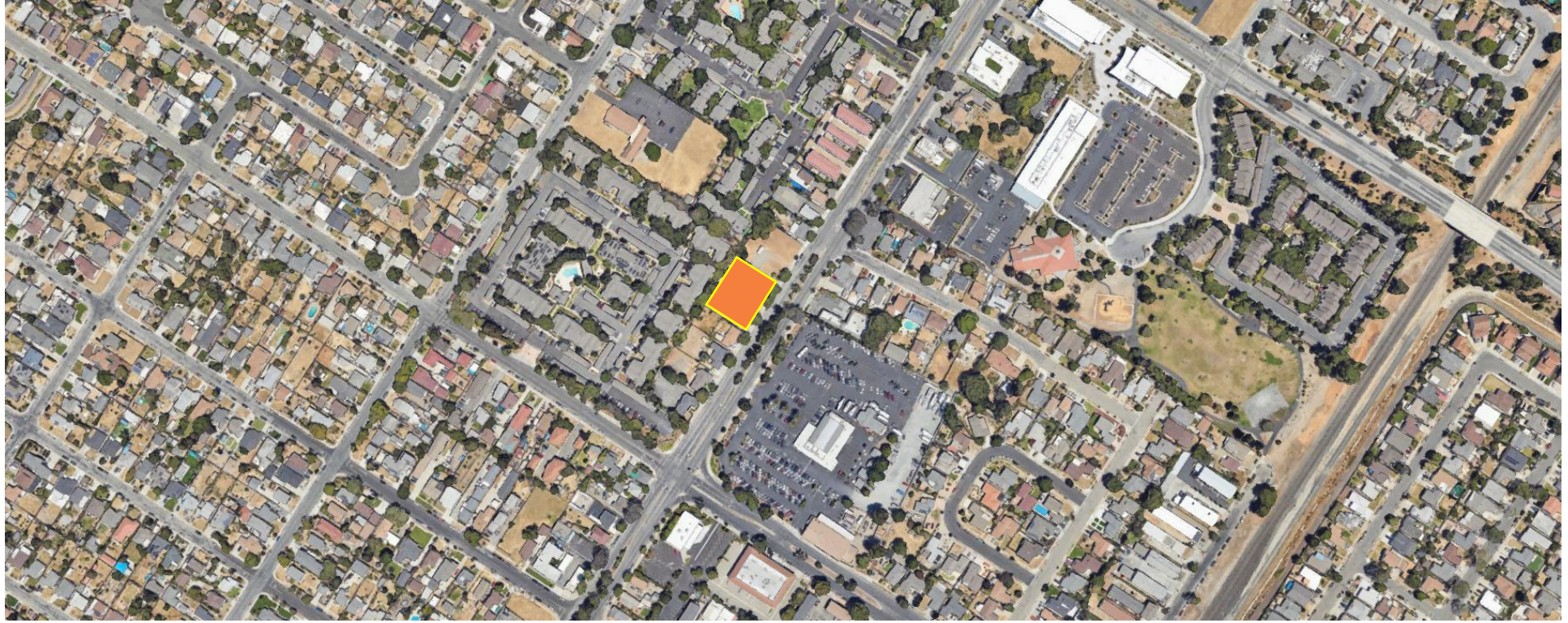
CDAC Review

- On January 19, 2023, the Community Development Advisory Committee (CDAC) considered the following priorities when reviewing the proposal:
  - Consistency with Newark's Housing Element
  - Consideration of Design
  - Provides Public Benefits in line with Newark's Priorities
  - Strong Team Experience/Approach
  - Financial Feasibility

- The CDAC shared support overall and unanimously recommended City Council approval of the funding allocation

NOFA Process to Date

1. Released in June 2022
2. Submissions due August 2022
3. One submission received from Satellite Affordable Housing Associates (SAHA)
4. CDAC meeting on January 19, 2023
5. City Council meeting for funding decision



6347-6375 Thornton Avenue Affordable Housing

March 23, 2023

SAHA
SATELLITE AFFORDABLE HOUSING ASSOCIATES

About SAHA

- Multidisciplinary, mission-based nonprofit
- 50+ years experience
- 70 properties developed
- 4,000+ residents served
- Pipeline: $445 million/1,200 units
- Experience in Newark







Development Summary

Project Summary

- 57 units (mix of 1 - , 2- , 3- bedroom)
- Rents will be affordable at range of incomes 30-60% AMI ($727-$2,101 vs. $1,850-$3,800 current market rates).
- Amenities
  - Community room with kitchenette
  - Spacious courtyard
  - Gardening program
  - Outdoor tot play area
  - Computer lab
  - Acoustically insulated music practice room
  - Bicycle repair station
  - Bicycle storage
  - Secure parking

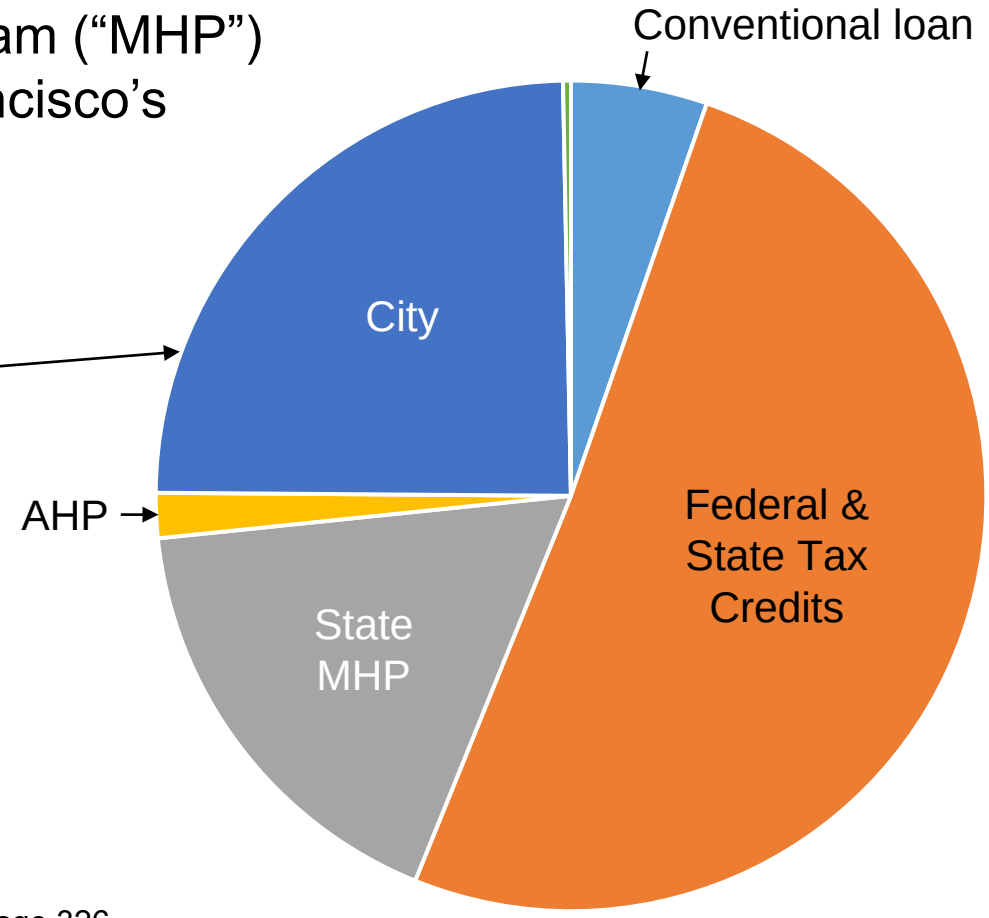
Financing

$48,828,459 total cost

- City of Newark seed capital conventional mortgage
- Federal and State tax credit equity
- State HCD Multifamily Housing Program (“MHP”)
- Federal Home Loan Bank of San Francisco’s Affordable Housing Program (“AHP”)

$12 million City loan

- ~4.2 million for predevelopment costs (land/acquisition, permit fees, etc.)
- ~7.8 million for construction costs



Design Features












C) Rooftop Photovoltaic Panels



D) Special Corner Frame Elements


E) Entry Stoops


Community Garden

SAHA SATELLITE AFFORDABLE HOUSING ASSOCIATES

VAN METER WILLIAMS POLLACK LLP

Preliminary Site Plan



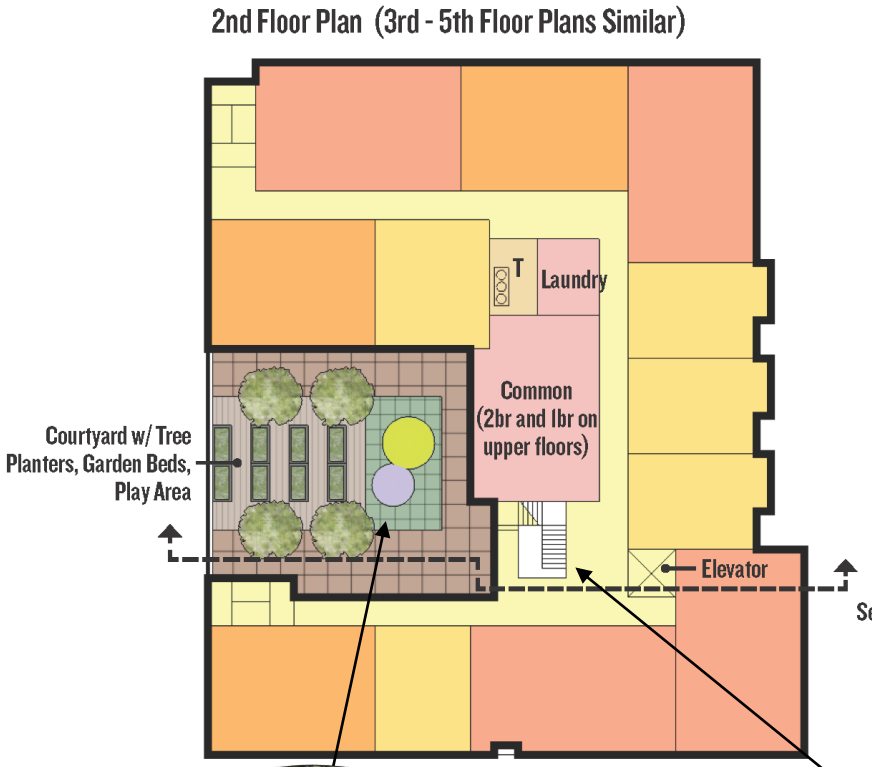


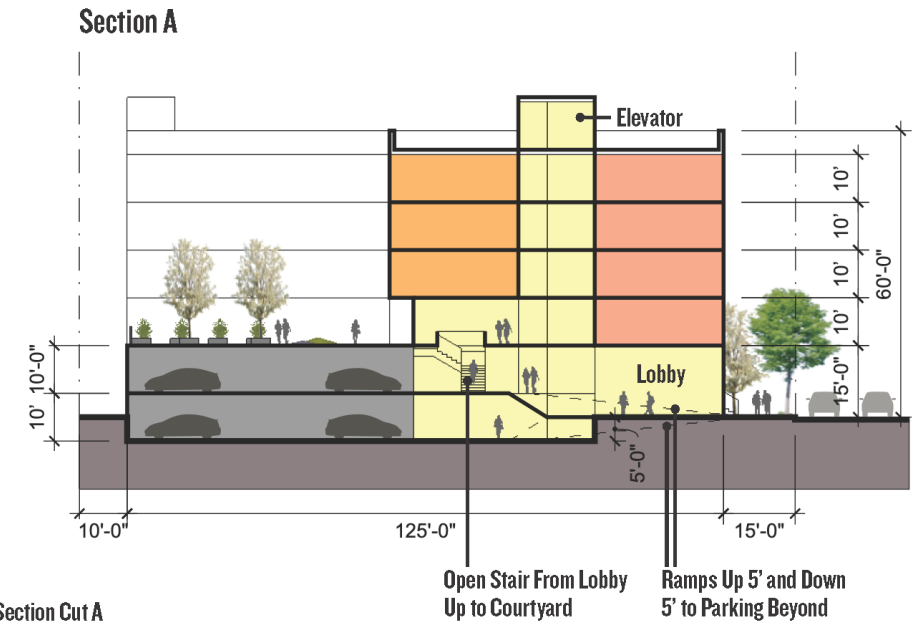






Preliminary Second Floor Plan









Next Steps

JANUARY 2023

CDAC meeting

Negotiate agreements with developer

MARCH 2023

City Council approval of developer selection and City loan to project

MARCH/APRIL 2023

Developer to purchase property using City loan

Overall Project Timeline

2023

Developer Selection

Property Acquisition

Schematic Design

Community Engagement

Planning Application/Approval

2024

Design Development

Funding Applications (AHP and MHP)

2025

Construction Drawings

Funding Application (Tax Credits)

Building Permit Application/Approval

Begin Construction

2026

Construction

2027

Complete Construction

Reach 100% Occupancy

NOFA Review Priorities

- Consistency with Newark's Housing Element
- Consideration of Design
- Provides Public Benefits in line with Newark's Priorities
- Strong Team Experience/Approach
- Financial Feasibility

Review of Project Against NOFA Priorities

Consistency with Newark's **Housing Element**

- Will provide safe, decent, affordable shelter for Newark residents
- Consistent with Housing Element Priorities
- Consistent with High Density Residential designation in General Plan

Review of Project Against NOFA Priorities

Consideration of **Design**

- Consistent with city's vision for community
- Includes design features that speak to the existing context
- Developer and architect have strong track record for community-oriented design

Review of Project Against NOFA Priorities

Provides **Public Benefits** in line with Newark's Priorities

- Income Targeting: All units serve lower-income (30-60% AMI) households; averaging <45% AMI
- Population Targeting: Focus on family-sized units; includes 15 2BRs, 16 3BRs out of 57 total units

Review of Project Against NOFA Priorities

Strong **Team Experience/Approach**

- Community-oriented developer/owner
- Architect with urban design focus
- Team is open to the project evolving to meet city and community needs

Review of Project Against NOFA Priorities

Financial Feasibility

- Overall: in line with industry standards
- Cost Effectiveness/ Value: $850K/unit
- Number of Units: 57
- Leverage Other Financing Sources: $210K/unit in city subsidy; reliable plan for obtaining tax credits and other subsidy sources

Review of Project Against NOFA Priorities

- Consistency with Newark's **Housing Element**
- Consideration of **Design**
- Provides **Public Benefits** in line with Newark's Priorities
- Strong **Team Experience/Approach**
- **Financial Feasibility**

Loan Documents

- The documents formalize the exchange of commitments and expectations between the City and SAHA
  - Affordable Housing Loan Agreement
  - Regulatory Agreement
  - Deed of Trust
  - Promissory Note

Main Terms of City Loan

Loan Amount	$12,000,00
Interest Rate	3%
Term	57th anniversary of Final CoO
Repayment	City's prorata share of residual receipts
Affordability	Regulatory Agreement will regulate 28 of the 57 units because of Article 34. 100% affordability enforced through state density bonus and TCAC regulatory agreements.

Main Terms of City Loan

Affordability Levels	33% Extremely Low Income, 44% Very Low Income, 22% Low Income
City Preference	To the extent permitted by law and funding regulations, preference will be given to applicants who live or work in Newark
Covenants Runs With The Land	The Regulatory Agreement remains in place even if the property is transferred to another owner
Subordination	Commitment to meet and confer with the successor owner to discuss need for rent increases to 60% AMI

Staff Recommendation

Staff recommends that the City Council authorize the allocation of $12,000,000 from the Affordable Housing Impact Fee Fund to SAHA and authorize the City Manager to execute the Affordable Housing Loan Agreement and all related loan documents to effectuate the approval of the funding award for an affordable housing project at 6347-6375 Thornton Avenue.

STAFF REPORT

Item F. 1.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Ed Miranda, Information Technology Director/CIO
SUBJECT	Adopt a resolution authorizing the City Manager to execute a Contractual Services Agreement with Government Technology Group, LLC for development of a Citywide Broadband Master Plan and amend the 2022-2024 Biennial Budget and Capital Improvement Plan

SUMMARY AND RECOMMENDATION

In order to provide and form an implementation strategy for citywide high-speed internet access that includes access to all communities in Newark, a Citywide Broadband Master Plan is required. Staff recommends that the City Council, by Resolution, authorize the City Manager to execute a Contractual Services Agreement with Government Technology Group, LLC for the development of a Citywide Broadband Master Plan and amend the 2022-2024 Biennial Budget and Capital Improvement Plan by appropriating $200,000 of American Rescue Plan Act (ARPA) funding to the ARPA Fund 382.

BACKGROUND

On March 11, 2021, the Federal Government passed the American Rescue Plan Act, commonly referred to as “ARPA”, a $1.9 trillion relief package aimed to stimulate the economy. Under ARPA, the Coronavirus State and Local Fiscal Recovery Fund (SLFRF) was established and $11.8 million was awarded to the City of Newark. The City Council held a work session on October 7, 2021 to discuss options to spend the City’s $11.8 million allocation. On October 28, 2021, the City Council adopted Resolution No. 11275, the American Rescue Plan Act (ARPA) Recovery Plan, to guide staff on expenditure of the funds. This plan approved two initiatives to ensure sufficient infrastructure is in place to provide robust broadband services to all residents, businesses, and other organizations. The first initiative, development of a Citywide Broadband Master Plan, was allocated $200,000. The second initiative, broadband infrastructure (partial implementation of the Master Plan), was allocated $1,000,000.

The City of Newark is receiving $1.8 million from the State of California through Assembly Bill 179, largely due to the legislative efforts of Assemblymember Alex Lee, 24th District. The use of these funds will follow findings, recommendations and strategies of the Broadband Master Plan and will focus on the priorities developed through the master plan process to improve the existing network.

The City issued a Request for Proposals (RFP) for development of a Citywide

Broadband Master Plan on December 1, 2022 through January 31, 2023 and received a proposal from Government Technology Group, LLC (GTG). GTG was deemed a qualified consultant as a technology consulting firm comprised of public service information technology leaders with extensive experience in local government with practical, hands-on, real-life expertise delivering fiber optic, broadband and Smart City technologies. The team identified for the Citywide Broadband Master Plan development has developed and implemented fiber plans for the City of Modesto, City of Merced, City of Concord, County of Ventura, County of Marin, City of El Monte as well as many others. GTG has partnered with Young Fiber for their industry expertise and advice in planning, designing, project managing and building out fiber/broadband infrastructure. The GTG and Young Fiber professionals identified for this project include Jeff Lewis, Mark Guenther, Clancy Priest and Preston Young. Jeff Lewis and Clancy Priest were part of the GTG team that assisted the City in 2022 with an assessment of the City's Information Systems Division, which led to the formation of the City's first Information Systems Department and the hiring of several new IT analysts.

DISCUSSION/ANALYSIS

The scope of the Broadband Master Plan is to help the City of Newark explore competitive, reliable and cost-effective broadband technologies to address the needs of the community at large, with a focus on unserved and underserved areas. Broadband infrastructure enables innovation in business and operational processes and citizens are demanding new communication speeds to simplify or speed their work. Fiber infrastructure provides efficient error free communications that allow for real time-sharing of information between City facilities, including traffic signals and public safety while improving internet services for the community including residents, businesses (commercial and industrial), schools and health services, and other organizations.

GTG, with the support of Young Fiber, a firm with extensive fiber optic planning experience, will provide the City of Newark a Broadband Master Plan that will assist in the City's ability to obtain funding, improve access/inclusivity, provide high speed communications that are reliable at a reasonable cost. The Broadband Master Plan will be designed with input from current local internet service providers, business and other community stakeholders. The results will provide a broadband solution that will improve innovation and be positioned for future Smart City solutions that can support the collective network of connected devices and the technology that facilitates communication between devices and the cloud, and the devices themselves (also known as "IoT", the Internet of Things).

GTG plans to accomplish the Broadband Master Plan through a structured, phased approach that builds upon earlier stages and findings to discover and resolve foundational gaps in the communications needs of the City with recommendations, roadmaps and prioritizations to support broadband technologies. The planning methodology for the Broadband Master Plan will be a collaborative effort with staff and community input through conversations, surveys, meetings, workshops and reviews, supplemented by subject-matter expertise and awareness of industry best practices

and evolving trends. Extensive communication is key, and the project initiation process ensures that joint expectations are fully understood and met throughout the project with regular meetings and reporting. The schedule is targeted to include thirty weeks of project phases and memorialized in a milestone to be flexible to meet City staffing and operational requirements. Background preparatory activities for each milestone are continuous throughout the project to meet the stated objectives and deliverables.

With the combined efforts of both GTG and Young Fiber, they will prepare a Broadband Master Plan that will position the City of Newark to embrace the advancements while improving broadband services in the community. The study will articulate a mission and vision to accommodate the City's current and future "Smart City" projects.

The City of Newark's Broadband Master Plan will become a framework for the next 10 years that will facilitate the City's mission of providing superior public services that enhance the quality of life for the community. The plan will assist with the rapid growth of the Internet of Things (IoT) and the need for Smart City services due to the proliferation of connected devices, including utility assets, streetlights, traffic signals and surveillance cameras. In addition, the plan will enhance economic development, education, healthcare and the quality of life for the residents and businesses of Newark while allowing the City to target investments and develop capabilities that contribute to achieving strategic and organizational objectives. The Broadband Master Plan will guide and enable decisions on how fiber optic technologies support City and community needs. In addition, it will enhance operational and business processes to help staff collaborate within and across divisional boundaries. The Broadband Master Plan will lay out steps for the City to use broadband services to improve efficiencies in delivering services to the community including broadband friendly policies that support the Citywide Broadband Master Plan.

Phase One establishes the foundation for effective communication and the successful completion of the project. Phase Two focuses on the assessment of the City's current environment and how fiber optic communications support the City's needs while identifying gaps, opportunities, and long-term provision of a broadband communications system. This discovery and assessment phase will result in a gap analysis between vision and the current fiber infrastructure realities by means of working closely with stakeholders to perform a comprehensive assessment. Surveys will be conducted to assess and determine overall satisfaction in terms of broadband and broadband service delivery and support. In addition, GTG will assist with gathering information on all city and private assets to incorporate into the plan (asset inventory, stakeholder outreach, market analysis, governance discussions).

Phase Three builds the tools and vision for the future of Newark including high level design, cost and funding analysis. Workshops and road maps contribute to the understanding of how that future can be achieved. The culmination of the assessment of the current environment, combined with the needs and goals of all the stakeholders, this phase focuses on planning the future with a supporting fiber optic network. The vision requires an understanding of the needs, goals, and funding opportunities the City of Newark will be able to leverage to complete the overall project goals and objectives.

The final step, follows a structured methodology to develop a Broadband Master Plan that is supported by the information gathered in the "Discovery" and "Vision" phases to develop actionable recommendations and projections for future broadband improvements that support residents, local business and services, regionalism and Smart City technologies. Work products and memorandums from previous tasks will be the foundation for the development of the City of Newark's Broadband Master Plan. Upon completion and acceptance of the final Broadband Master Plan, GTG will provide a professional presentation summary to multiple audiences, including the City Council.

FISCAL IMPACT

The City Council allocated $200,000 of American Rescue Plan Act (ARPA) Recovery Plan funding toward the development of a Citywide Broadband Master Plan. An amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan for the fiscal year 2023 would appropriate $200,000 to the professional services line item in the ARPA Fund (382) for FY 2023.

REVIEW AND APPROVAL

Prepared by - Edwin J. Miranda, Information Technology Director
Reviewed by - Lenka Hovorka, Assistant City Manager
Reviewed by - Krysten Lee, Finance Director
Reviewed by - Kristopher J. Kokotaylo, City Attorney
Approved by - David J. Benoun, City Manager

Attachments

Broadband Master Plan Resolution

Agreement Broadband Master Plan

Presentation Broadband Master Plan

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACTUAL SERVICES AGREEMENT WITH GOVERNMENT TECHNOLOGY GROUP, LLC TO PROVIDE A BROADBAND MASTER PLAN AND AMEND THE 2022-2023 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN

WHEREAS, the City Council held a work session on October 7, 2021 to consider options for use of the City of Newark's $11.8 million of the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) allocation and the City of Newark's American Rescue Plan Act (ARPA) Recovery Plan was formally approved on October 28, 2021; and

WHEREAS, the ARPA Recovery Plan designates $200,000 for development of a Broadband Master Plan under the infrastructure expense category; and

WHEREAS, a Citywide Broadband Master Plan will ensure sufficient infrastructure is in place to provide robust broadband services to all residents, business and other organizations that will support and expand the City's Smart City efforts; and

WHEREAS, the City released a request for proposals for the development of a Citywide Broadband Master Plan; and

WHEREAS, after review of the proposal received, Government Technology Group, LLC was selected to provide the requested services.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby authorizes the City Manager to execute the Contractual Services Agreement with Government Technology Group, LLC, in a form approved by the City Attorney, to develop a Broadband Master Plan for an amount not to exceed $200,000.00.

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

TO: 382.21.021.200.6220	Professional Services	$200,000
FR: 382.3000	ARPA Unappropriated Fund Balance	$200,000

CONTRACTUAL SERVICES AGREEMENT

CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this ____ day of _____ by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and Government Technology Group, LLC, ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including: Development of a Citywide Broadband Master Plan and SmartCities Roadmap

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 $200,000.00 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. RESERVED.

13. RESERVED.

14. INSURANCE. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. Verification of Coverage.

Consultant shall furnish City with original certificates of insurance and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by City before work commences.

Proof of Insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City Risk Manager:

CITY OF NEWARK
Attn: Risk Manager
37101 Newark Boulevard
Newark, CA 94560

City reserves the right to require and obtain complete, certified copies of all required insurance policies and endorsements at any time. Failure to exercise this right at any time shall not constitute a waiver of right to exercise later. Consultant shall immediately furnish City with certificates of renewal for each policy that is renewed during the term of this Agreement.

B. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and

2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and

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)	**$1,000,000** 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:	**$500,000** 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. <u>INDEMNIFICATION/SAVE HARMLESS</u>. 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 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:

CITY OF NEWARK

_____	_____
Consultant	**Administrator**
Address: _____	City of Newark
_____	Attn:
_____	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

CITY OF NEWARK, a municipal corporation

By: _____

Title:

Date: _____

CONSULTANT

By: _____

Title:

Date: _____

ATTEST:

_____

By: Sheila Harrington

Title: City Clerk

Date: _____

APPROVED AS TO FORM:

_____

By: Kristopher Kokotaylo

Title: City Attorney

EXHIBIT A

SCOPE OF SERVICES

This Scope of Services, Exhibit "A," is hereby incorporated by reference into the Agreement, under Agreement Paragraph 1.

Broadband Master Plan

1. Project Management & Meetings

GTG's team will hold bi-weekly meetings with the city of Newark's project team to discuss the project status, deliverables, and any other topics to keep the project moving forward. Keeping the project moving forward without delays is key to the success of the overall project. The meetings will be preceded by agendas, handouts, and other documentation as needed.

In addition to the bi-weekly meetings, GTG will be available for workshops, meetings, and interviews with city staff and other stakeholders relevant to the project. These meetings would be used primarily for providing progress updates, goals, direction of project, etc.

At the present time, due to COVID restrictions and uncertainty about the future, it is assumed that all meetings will be conducted virtually until such time as in-person meetings are practical.

Kick-Off Meeting & Project Management Plan -The project will begin with a kickoff meeting between the GTG team and the City of Newark's project team. Prior to the kickoff, GTG will put together a Project Management Plan (PMP) including a project outline, timeframe, deliverables, and other milestones. After the meeting, based on feedback from the stakeholders GTG will revise the PMP accordingly. GTG will deliver the updated PMP within 7 days following the meeting.

2. Asset Inventory

We will conduct an asset inventory to gain an understanding of the current infrastructure that can be leveraged for this project. These assets include but not limited to:

- Any existing conduit, abandoned infrastructure, traffic signal interconnect, or other
- City owned fiber optic cables including access points
    - With strand count and availability
- Any building or cabinet space available for cable terminations and patch panels
- Traffic lights
- Streetlights
- Any existing wi-fi access points

- All camera locations: Public safety, Traffic, Automatic License Plate Readers, and/or Building security cameras
- Any capital improvement projects
- Site list of all facilities to connect to the network
- GIS maps including City-owned property, right of way, easements
- Economic development zones, low/moderate income areas, un/underserved areas
- Other as needed

GTG can utilize this information in any form including GIS, PDF, Excel, Word, Pictures, KMZ, etc. This information will be requested as soon as possible after the project begins and put into a master GIS database. The GIS database will be turned over to the city upon completion of the project.

GTG will also use the available contacts and websites to gain an understanding of the existing fiber throughout Newark that could be leveraged as part of the Broadband Planning Study. The local Internet Service Providers (ISPs) will be contacted with the hopes of gaining an understanding of their current networks and future plans for the area. It is assumed that most providers will not share maps of their networks for proprietary reasons but in the spirit of the project they will typically verbally share information that can be used in the study. The analysis will include as much of this information as possible and will lead to a better understanding of the local networks and how the community is being served and show the inequalities that exist in all markets. These talks should yield an understanding to both the city and the providers of the current needs of the community and a greater understanding of how to solve these issues. The providers will also have needs and goals that should be considered in the designing of the network as they too are stakeholders in Newark and should be viewed that way.

After all this information is collected and put into a comprehensive map, GTG will conduct a gap analysis indicating the areas of the city that will require new fiber optic infrastructure to extend services where needed/desired.

Per the RFP, a technical memorandum will be provided to the city at the end of this phase.

3. Technology and Trends Review

Our team of experts maintain a presence in many forums and groups that help influence the direction of broadband. These nationwide groups: current state of broadband, what technologies have been successful and not successful. They are knowledgeable about the trends that are helping municipalities become smarter and more efficient, and the types of networks needed to support these technologies.

The internet of things, or IoT, is a system of interrelated computing devices, mechanical and digital machines, objects, animals, or people that are provided with unique identifiers (UIDs) and the ability to transfer data over a network without requiring human-to-human or human-to-computer interaction. IoT is quickly becoming such an integral part of our lives. IoT is the

innovation that is bringing together various smart systems, frameworks, intelligent devices, and sensors meant to make our lives better, more efficient, safer, longer, and easier.

We will bring this knowledge to the city of Newark and highlight the technologies and trends that are of particular importance to municipalities.

4. Broadband Availability and Market Analysis

Within the city of Newark, there are multiple private companies that are providing broadband services to their residences and businesses. We will research and use many different resources to find what is available, the cost, and who is providing those services.

As part of the analysis, we will interview the private sector companies and ascertain what networks exist and if there are plans for the future that would have an impact. We will contact the wireless, wireline, fixed wireless, and cellular companies with a presence in Newark. It is expected that these companies will not share maps or detailed plans, however, they typically will cooperate as much as they can. It should also provide an insight into the idea of partnerships and the level of interest these companies have.

There are several resources on the state and Newark levels that will be used to obtain coverage maps and availability. Every facility-based provider must report, every 6 months, FCC Form 477 every census block that they provide services and the speeds of that services. The FCC takes this information and provides maps that show the reported information.

5. Needs and Goals Assessments

Determining the State of Broadband in Newark will occur during this phase. We will perform outreach with the community and stakeholders within the City of Newark's departments, focus groups, major employers, neighboring agencies etc. to determine the needs of these groups. The first step for knowing where to expand broadband and having a smart city is to satisfy the needs of the community and constituents.

We will also identify use cases and key issues that impact the community, economic development, education, healthcare, public safety and City operations in this phase in addition to broadband solutions that assist unserved and underserved areas of the City.

Goals are a major driving force for increasing broadband and fiber networks. It is imperative to know the technologies, IoT, programs, smart city applications, 5G and 6G, among many others. No two cities are the same and they all have different goals, objectives, and needs in order to make the city the best it can be. We will use our extensive experience to guide the interviews to learn how to best serve the city.

The needs and goals assessment will include bifurcated residential and commercial surveys per deliverable section V.A.

GTG will assess City policies and business practices during this phase.

6. Gap Analysis

During the discovery phases of the project, we will document and compare the current infrastructure with the network that will be needed to meet the needs and goals of the city. We will take all this information and develop an analysis of the gaps, or missing pieces that will be needed to complete the network.

Between private networks, future plans, and current city assets a comprehensive road map will be outlined on how to fill the gaps.

7. High-level Broadband Design – Conceptual Routing

Following the gap analysis, we will put together a conceptual HLD (high-level design) that will fill the gaps. We will work with the city's team to find the most appropriate network type and design to fit the business model. We will create a design that will include expected construction types and costs, cable sizes, strand counts, route diversity, and redundancy to support an inclusive, high speed and reliable service at reasonable cost.

The HLD will include area data centers and colocation spaces and how and if the city of Newark should connect to these locations. It will include the most efficient and direct routing focusing on the most reliable and cost-effective construction methods. We will include technical specifications and a cost estimation should construction of a network be a feasible option.

8. Business Model & Financial Analysis

GTG will incorporate findings from the asset inventory, needs assessment, and partnership opportunities to develop a business model that fits the framework of financial, operational, and organizational requirements of Newark that will have the greatest chance of success and will be the most financially sustainable. We will present this business case to the City's team and provide an analysis of how it meets Newark's goals in the project. Each city is unique, and through our proven process we will work with Newark to find the model that is most feasible and presents the best opportunity for its unique community.

Some considerations for the business model may include:

Public-Owned

- City-owned "middle mile" infrastructure with potential partnership opportunities for "last mile" connections

Open Access

- Proceed with the intent to lease or otherwise make available, fiber infrastructure (conduit, dark or lit fiber, vertical and other assets) to other municipal entities, telecommunications carriers, other service providers or businesses
- Connect to an internet Point of Presence (POP) and offer a choice of Internet Service Providers (ISPs) to partnership entities and end-users on the network through either wholesale, retail, revenue sharing or passive network access

Demand-Driven

- Deploying the network and associated services where areas of demand (both social and economic) will be strongest
- Realizing a financial return on investment in terms of economic development impact, infrastructure enhancement, leased line or other communications service savings and revenue generation
- Focusing on social return on investment in terms of enhancing Quality of Life via educational, Public Safety, and Smart City initiatives

Incremental Build

- City/municipal buildings and facilities, evaluating leased-line savings, communications, and operational enhancements
- Community Anchor Institutions (CAIs) such as large businesses, hospitals, learning institutions, etc.
- Business economic development zones or corridors and the broader business community
- Public Wi-Fi areas, public safety and other smart city services requiring a fiber backbone or otherwise enhanced by high-speed access

- Eventual possibility of residential communities including multi-dwelling units (MDUs), low-income housing and the broader community at large.

Other considerations

- Leverage the existing network, including adding redundancy and resiliency, building the network to carrier-grade levels, monetizing current assets including leasing infrastructure
- Capitalize on joint-trench opportunities and other right-of-way access opportunities in conjunction with other Public Works projects and private development agreements to expand network infrastructure

After the best business model option has been selected, GTG proposes using our Broadband Financial Sustainability Model to ensure that Newark has a full understanding of the business and financial sustainability of the program. Using our financial tools, we suggest using the following process to conduct the business model analysis and make recommendations. We would propose using a 10-year period to analyze the project:

- Develop the cost model for the network, including one-time and ongoing capital expenditures to build the network. This will include an assessment of current facility locations, City owned land and the City right-of-way for construction, and the need to purchase any land or equipment.

- Develop the cost model for operations, including O&M, network operations, field services, staffing, billing, and customer service.
- From the market analysis and outreach, determine the customer segmentation and growth on the network, across each type of customer (business, school, hospital, etc.).
- Determine customer growth rates for the network, based on benchmarking analysis from other utility and municipal providers.
- Provide a phased deployment approach, including prioritization and costs for each phase.
- Determine a proposed competitive rate schedule for potential services, using pricing information from the market analysis and benchmarking information.
- Develop financial statements including:
    - Operating income and cash flow
    - Net present value analysis
    - Projected revenues and benefits
    - Uses and sources of funds
    - Operational expenses
    - Depreciation schedule
    - Debt service analysis
    - Key assumptions
- Conduct comprehensive financial analysis on the project to determine overall financial sustainability using key metrics such as free cash flow, debt service coverage, operating margin, and net income.

We will incorporate findings, review them with the City's team and provide direction for the final business case.

9. Phased Implementation Plan

The culmination of the study will lay out the core strategies for Newark to identify solutions for improved broadband services to unserved and underserved areas and that support Smart City/IoT initiatives. We believe a phased approach to implementing such a project is key. GTG's team will help you develop a prioritized, phased approach that uses a "crawl, walk, run" approach to broadband communications expansion. We will identify near term, high-impact projects that will demonstrate capabilities and competence for the City, while minimizing capital investment. These small steps are important to help you build toward larger goals. Building on the initial successes, we will provide a year-by-year roadmap to meet the City's broadband needs, based on the priorities of your community and with clear milestones that should be achieved along the

way. We will also help you determine what activities, funding, resources, and partnerships you will need along the way to be successful at developing the City's broadband Infrastructure to meet short term, mid-term and long-term goals of the City.

10. Grants and funding opportunities

Newark's geographic location and population will limit the grant opportunities. However, within SB 156 there may be provisions for urban areas that will have opportunities for Newark.

11. Digital inclusion

One of the most paramount problems that has come to the forefront of the technology world is as technology advances the public has to be educated in how to use it. Most of the aged population does not have the skillset to access telehealth, distance learning, and other technologies and this must be addressed if Newark wants to become a smarter city.

12. Final report and presentation

Upon completion of the project, GTG will present the final report to the City Council if desired. This presentation will encompass the methodology, findings, and recommendations.

The final report will include study findings for a proposed broadband mission and value statement that drives annual budget initiatives to achieve stated goals and milestones in the plan.

Other Services:

- **Public Private Partnerships RFP Development**
- **Digital Inclusion Program Development**
- **SmartCities Roadmap (Scope of Services tied in with Broadband Master Plan Development) –** Build a roadmap and provide a strategy for a SmartCities Initiative to include:
    - **Initiatives**
        - SmartCities Goals for Newark
        - Inventory of SmartCities Initiatives Completed and Planned
        - Innovation Roadmap
        - Definition and Plan for a SmartCities Program
        - High-level Implementation Plan with Prioritized List of Initiatives
        - High-level Cost Estimates for each initiative within the Plan where available

- **High-level Implementation Plan –** Develop a comprehensive and sustainable SmartCities Program with attainable outcomes that includes an innovation/initiatives roadmap, high-level strategic and implementation plan along with high-level budget estimates to achieve the goals. Once adopted, the roadmap will be a guiding document for the City of Newark.

    - Innovation and SmartCities priorities based upon gathered current state and future state needs from all City departments and reflecting the City's Vision, Community Goals and the ITSP.

    - Consideration for current or planned work, including listing potential projects that would fit into or build on the City's current initiatives (e.g, WiFi or traffic).

    - Identification of key tools, platforms, policies, processes and/or programs required to build the City's SmartCities Program, including governance, skills and competencies.

        - Governance models, policies, processes and programs will include ways to inclusively engage and collaborate with the City's diverse community, stakeholders and staff.

    - Recommendations on how to develop the SmartCities Program including:

        - Core partnerships to build/grow to scale our efforts and meet goals (local and regional).

        - Recommendations for financial and business models to support innovation/SmartCities portfolio over the short, medium and long term.

    - Proposed KPIs and methods for measurement and evaluation of the roadmap and implementation plan.

- **Requirements/Deliverables**

    - Current State Analysis and Discovery. Deliverable: Current State Report

        - Conduct an environmental scan of municipalities and similar local government agencies and best practices with regards to innovation/SmartCities to determine what the City's current state is compared to others.

        - Provide core definitions around SmartCities and the best fit for Newark

        - Review and analysis of the City's accomplishments to date that meet SmartCities definitions.

- Review and analysis of the City's current strengths and assets related to innovation and SmartCities (e.g., current partnerships, programs, policies, skills, technologies, governance models, etc.).

- Review and analysis of the City's barriers and weaknesses related to innovation and SmartCities.

- Provide an understanding of internal and external stakeholders.

- Future State Analysis and Recommendations Deliverable: Future State Analysis Report

    - Conduct an environmental scan of other municipalities and similar local government agencies' best practices with regards to innovation/SmartCities in order to determine what has proven successful, what can the City build upon from other's experiences, define what is realistic and achievable for the City, and help identify opportunities for the City's strategy/program

    - Review and analysis of the City's needed future strengths and assets related to innovation and SmartCities (e.g., potential partnerships, programs, policies, skills, technologies, governance models, etc.).

    - Review and analysis of the City's barriers and weaknesses related to future innovation and SmartCities.

    - Provide a prioritized inventory of recommended initiatives with high-level cost and resource estimates for implementation.

- Roadmap and Program Development. Deliverable: Road Map for SmartCities, Smart City Program Defined, High-level Implementation Plan

- Collaborate with key staff and community members to:

    - Define SmartCities goals, priorities, themes that will guide our strategy and effort.

    - Define principles that help guide the City's Innovation and SmartCities efforts in the community and aligned with organizational values.

    - Define criteria that helps the City prioritize investment choices in the future about how innovation and transformation is incorporated in workplans as the SmartCities program and IT Strategic Plan evolves over time.

- Establish processes, policies and programs required to build the City's Innovation and SmartCities Program to include governance, staff skills, organizational culture and competencies.

- Identify key tools, platforms and programs that will help innovate and leverage SmartCities opportunities.

- Recommend initiatives and projects to support our SmartCities goals.

- Provide a resource plan and matrix of skills and staff (City or vendor) required for initiatives to be successfully implemented.

- Recommend how to establish and maintain a SmartCities Program including resource, fiscal and operations management.

- Recommend how to roll out the SmartCities program with Roadmap.

- Consistent project management meetings based on best practices

- Draft documents and presentations for IT governance review

EXHIBIT B

COMPENSATION

This compensation schedule, Exhibit "B," is hereby incorporated by reference into the Agreement, under Agreement Paragraph 3.

For all services identified in Exhibit "A", Scope of Services, the City agrees to pay, and Consultant agrees to accept as total compensation the following:

The total fixed cost to the City of Newark for a Citywide Broadband Master Plan is $179,992.00 and includes all work to be completed by GTG as stated in this proposal. GTG will invoice Newark in eight equal monthly payments of $22,499.00. Invoices are payable on net 30 terms from the date of invoice.

The Government Technology Group will be available to assist with project managing an RFI or RFQ to assist the City in selecting a vendor if this model is selected by the City.

Description	Cost
Project Management	$8,970.00
Project Initiation	
Project Kickoff Meeting	
Project Management Plan	
Discovery	$75,075.00
Asset Inventory	
Physical Inspection and Evaluation of City-owned conduit	
Technology Trends and Review	
Broadband Availability and Market Analysis	
Needs and Goals Assessment	
Review City Policies and Business Practices	
Gap Analysis	
Provide Ongoing Knowledge of SB 156 and other funding sources	
Vision	$47,190.00
High - Level Network Design - Conceptual Routing	
Business Model & Financial Analysis	
Phased Implementation Plan	
Grants and Funding	
Opportunities	
Digital Inclusion	
Technology Master Plan Final with Smart City Foundation	$27,300.00
Master Plan Draft	
Report Out to Board, Mgmt, Divisions	
Incidentals & Travel	$1,950.00
Broadband Master Plan Sub-total	$160,492.00

Description – PPP or Digital Inclusion Program	Cost
Depending on Plan Outcome, one of the following will be completed:	
Public Private Partnership (PPP) RFP Development and Oversight "or"	$19,500.00
Digital Inclusion Program	$19,500.00
Broadband Master Plan + PPP or Digital Inclusion Program	$179,992.00

Description - Contingency	Cost
Should work outside of the fixed fee agreement herein be requested and authorized by the City of Newark, the Government Technology Group will bill only for actual hours worked at a rate of $195 per hour.	$20,008.00
Total Not-To-Exceed	$200,000.00

EXHIBIT C

QUALIFICATIONS

These Consultant Qualifications, Exhibit "C," are incorporated by reference into the Agreement, under Agreement Paragraph 6.

Project Team

JEFF LEWIS, PMP, CGEIT – Principal Consultant for Overall Project Management and Fiber Optic Planning

Jeff Lewis is a veteran in the field of Information Technology and has a career that spans over thirty- eight years in public, private, and non-profit sectors including positions in local government, medical, and IT consulting. He has served as Chief Information Officer for multiple local government and non-profit agencies, is a founding member of the Government Technology Group (www.GovTechGroup.net) and has served as the Director of Smart Region Initiative at Joint Venture Silicon Valley.

As a CIO Jeff has led Smart City, broadband, IT strategic and GIS planning, enterprise architecture, policy, and research initiatives for local government. Specific areas of responsibility included developing and advancing Smart City initiatives, digital government, security policy, innovation, and emerging technologies. During this tenure, he served as the lead executive for numerous enterprise IT initiatives, broadband/fiber projects, and efforts to improve business processes.

Jeff is a lifetime member of the Municipal Information Systems Association of California (MISAC) and has won the MISAC Excellence award 10 years in a row for implementing best practices in local government. Jeff has served as President of MISAC, and currently serves on the Education and Smart City committees.

MARK GUENTHER, CGCIO – Principal Consultant for Project Review and Evaluation

Mr. Guenther is also a recently retired municipal Chief Information Officer who has been part of several organizations as detailed in his résumé. Mr. Guenther is currently an independent technology consultant offering a wide range of technical expertise. In both the CIO and consulting roles, he has overseen the successful implementation of citywide enterprise systems including finance (AP, GL, PR, Budget), community development (Permits) and utility billing functions including online access to permit and utility accounts for customers (Tyler Munis) for Hayward, California and Danville, California. Prior to focusing on IT management, he implemented numerous systems, both those which were developed in-house and others that were configured commercial packages which created automated systems for financial and community development functions.

CLANCY PRIEST, IEEE – Principal Consultant for Project Review and Evaluation

Mr. Priest is a retired 30+ year municipal Chief Information Officer who has been part of several organizations as detailed in his résumé. Mr. Priest is currently an independent technology consultant offering a wide range of technical expertise. His education is in the technical field with a baccalaureate in engineering. He has a wide range of technical abilities with an emphasis on project and program management, with extensive experience in various forms of information

technology and executive management. He has a vast knowledge base of the various forms of automation and of the continual technological evolutions that prevail in the technology profession.

PRESTON YOUNG – Senior Broadband Consultant
San Francisco Bay Area has been Mr. Young's home for most of his career. He has worked in construction management, project, and program management, and been part of and managed internal teams of 10+ as well as vendor teams. He has been responsible for communications to executive level management on project status and risk management. Main area of career focus has been broadband deployment through fiber optics and fiber optic networking.

Mr. Young is an accomplished and respected Senior Broadband Consultant passionate about creating a culture of integrity and excitement in an organization. He is recognized for accelerating operational initiatives while partnering with senior executives in defining long-term initiatives, goals, and objectives.

WILLIAM PUGH – Project Consultant
SMART CONNECTIONS CONSULTING LLC
Mr. Pugh has over 25 years of experience in wired/wireless strategy of platform development and deployment of networking technologies for several private and public companies. Most recently over the past 7 years, working with cities on strategies for executing Smart City initiatives around Street lights, Smart Parking, Intelligent Traffic and Security. Several technologies include, but not limited to:

- Wireless solutions
- Digital Twins
- Distributed Ledger Technologies
- Standards and Interoperability
- Cloud strategy and distributed Networking

Project References

References that best support the proposed teams' stated qualifications:

Holli Thier
Tiburon Town Council
HThier@TownofTiburon.org (415)407-4843
Broadband Master Plan – Preston Young, Young Fiber/Magellan Project Manager

Steve Hargis, PhD
Strategic Initiatives Manager City of Moreno Valley steveh@moval.org (951)413-3401
Fiber Master Plan – Preston Young, Young Fiber/Magellan

Thomas Fitchner IT Director
City of Federal Way, Washington thomas.fichtner@cityoffederalway.com (253)835-2547
Broadband Feasibility Study

Joe Haggard Senior IT Manager

City of Lancaster (formerly with the City of Victorville) jhaggard@cityoflancasterca.org
(661) 723-6060
Victorville IT Master Plan, 2021

Scott Wiggins
IT Manager Network and Security City of Shafter, California swiggins@shafter.com
(209) 661-3662
Broadband Planning Assistance

Chris Skelly
Information Technology Manager South Tahoe Public Utility District cskelly@stpud.us
(530) 543-6281
Strategic Planning and LATA Grant Assistance



Broadband Master Plan Award
Government Technology Group

City Council: March 23, 2023

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Broadband Master Plan Award
Agenda

Background	About GTG	Process	Focus Areas	Recommendation
Slide 1	Slide 3	Slide 4	Slide 5	Slide 10

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Broadband Master Plan Award

Background – Broadband Master Planning

American Rescue Plan Act (ARPA)

- $200,000 to develop a Citywide Broadband Master Plan

Request for Proposals (RFP)

- December 1, 2022 through January 31, 2023
- Proposal received from Government Technology Group, LLC

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Broadband Master Plan Award

Background – Additional Project Funding

PLAN

ARPA Broadband Master Planning
$200,000

IMPLEMENTATION

ARPA Broadband Infrastructure Project
$1,000,000

Federal Appropriation (Asm. Alex Lee)
$1,800,000

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Clancy Priest


Jeff Lewis


Preston Young


Mark Guenther

About The Government Technology Group

- Over 85 years as Chief Information Officers
- Extensive experience in local government
- Developed multiple Broadband Master Plans:
  Cities of Modesto, Merced, Concord and San Leandro

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Broadband Master Plan Award

Broadband Master Planning - Process

- Needs Assessment
- Inventory of Assets and Policies
- Gap and Feasibility Analyses
- Broadband Initiatives
- Grants, Funding and Partnerships

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Broadband Master Plan Award

Addressing Community Member Needs



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Broadband Master Plan Award

Enhancing Public Services



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7 Broadband Master Plan Award

Leveraging Local and Regional Assets

- Freeways, Highways, Roads & Sidewalks
- Conduit Infrastructure & Fiber
- Towers & Antenna
- Hilltops, Rooftops, Parks & Open Space
- Light Rail & Track Easements
- Utility, Street Light & Traffic Signal Poles
- Service Provider Assets



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8 Broadband Master Plan Award

Working with Local & Regional Partners

- Telecommunications Providers
- Medical Community
- Neighboring Communities
- Educational Institutions
- Service Districts
- Utilities



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Broadband Master Plan Award

Economic Development

- Understand the needs of businesses
- Attract and retain key industries
- Encourage growth



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Broadband Master Plan Award

Project Schedule

TASK	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
Kickoff	■							
Inventory Providers & Fiber Paths	■	■	■					
Asset Inventory	■	■	■					
Plan Engagement with Providers		■	■	■				
Identify Obstacles	■	■	■	■				
Identify Anchors	■	■	■	■				
Gap Analysis				■	■	■		
Broadband Policies				■	■	■		
Assess Need Smart Applications	■	■	■	■	■	■		
Funding Sources					■	■	■	
Final Broadband Master Plan							■	■

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Broadband Master Plan Award

Staff Recommendations

Resolution

Authorize the City Manager to execute a Contractual Services Agreement with Government Technology Group not to exceed $200,000

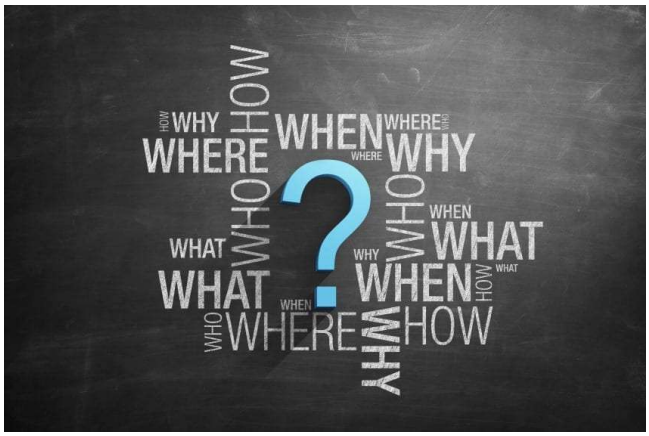
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Broadband Master Plan Award

City Council: March 23, 2023

Questions?



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STAFF REPORT

Item H. 1.

DATE	03/23/2023
TO	Honorable Mayor and City Council Members
FROM	Jennifer Solito, Human Resources Director
SUBJECT	Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: City Manager Benoun, Assistant City Manager Hovorka, and Human Resources Director Solito; Employee Groups: the Newark Association of Miscellaneous Employees; the Newark Police Management Association; the Newark Police Association; the Confidential Employee Group; and City Officials and the Management, Supervisory, and Professional Employee Group