



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, April 27, 2023
7:00 P.M.

A. ROLL CALL

B. PRESENTATIONS

1. Proclaiming Water Safety Month
2. Proclaiming April 2023 as Sikh Awareness and Appreciation Month

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. April 13, 2023, meeting minutes
3. Adopt a resolution authorizing the City Manager to execute an agreement with *What's Happening's Tri-City Voice* for legal advertising services in Fiscal Year 2024
4. Adopt a resolution authorizing the City Manager to execute a third amendment to the contractual services agreement with Abbe and Associates, LLC for Commercial Organics Collection Program Consulting Services and amend the 2022-2024 Biennial Budget and Capital Improvement Plan

5. Accept recommendation from the Community Development Advisory Committee for allocation of anticipated Community Development Block Grant Jurisdiction Improvement Project funds for Fiscal Year 2024
6. Adopt resolutions confirming compliance with the Surplus Land Act and State Housing Laws and authorizing the filing of an Application for Funding Assigned to the Metropolitan Transportation Commission for Old Town Streetscape and Complete Streets Improvements, Project 1258, Committing any Necessary Matching Funds and Stating Assurance to Complete the Project
7. Adopt a resolution initiating the 2023 Weed Abatement Program and setting May 25, 2023, for a public hearing
8. Adopt a resolution designating, by title, the City Manager, Assistant City Manager, and Finance Director as Authorized Agents and authorizing the California Governor's Office of Emergency Services (Cal OES) Form 130 - Designation of Applicant's Agent Resolution for Non-State Agencies

E. PUBLIC HEARINGS

F. OTHER BUSINESS

1. Resolution Initiating Proceedings for the Levy and Collection of Assessments for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19 for Fiscal Year 2024

G. CITY COUNCIL MATTERS

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

H. CLOSED SESSION

I. ADJOURNMENT

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/UC383NGSxaPwZP1IkJbo2T8A>

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

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

From a PC, Mac, iPad, iPhone or Android device: <https://us06web.zoom.us/j/87046844467>

From a telephone dial 1- 669-900-9128, Webinar ID 870 4684 4467

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 04/27/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Proclaiming Water Safety Month

In recognition of the popularity of swimming and other water related recreational activities, and the resulting need for ongoing public education on safer water practices, the month of May has been designated as National Water Safety Month. Recreation and Community Services staff will be at the meeting to accept the proclamation.

Attachments

Proclamation No. 1889

PROCLAMATION NO. 1889

NATIONAL WATER SAFETY MONTH

WHEREAS, individual and organized forms of recreation and the creative use of free time are vital to the happy lives of all our citizens; and

WHEREAS, citizens of the City of Newark recognize the vital role that swimming and aquatic-related activities play in good physical and mental health and enhance the quality of life for all people; and

WHEREAS, the citizens of Newark understand the essential role that education regarding the topic of Water Safety plays in preventing drowning and recreational water-related injuries; and

WHEREAS, the City of Newark is extremely proud of the George M. Silliman Community Activity Center and aquatic programs of this community and their contribution to providing critical life skills, a safe and healthy place to recreate, a place to learn and grow, to swim, build self-esteem, confidence, and sense of self-worth which contributes to the quality of life in our community;

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

NATIONAL WATER SAFETY MONTH

in Newark and urge all Newark residents to enjoy, recognize, and help promote the benefits derived from quality water safety programs and recreation resources, which provide something of value to everyone.

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

MICHAEL K. HANNON
Mayor



STAFF REPORT

Item B. 2.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Proclaiming April 2023 as Sikh Awareness and Appreciation Month

Historically, the month of April is Sikh Awareness and Appreciation Month. A proclamation has been prepared and members of the Sikh community will be in attendance to accept it.

Attachments

Proclamation No. 1890

PROCLAMATION NO. 1890

SIKH AWARENESS AND APPRECIATION MONTH

WHEREAS, Sikhs have been living in the United States for more than 120 years, and during the early 20th century, thousands of Sikh Americans worked on farms, in lumber mills and mines, and on the Western Pacific Railroad lines; and

WHEREAS, Sikhism is the fifth-largest religion in the world and today there are more than 25 million Sikhs worldwide and more than 500,000 Sikh Americans; and

WHEREAS, Sikh Americans pursue diverse professions and make rich contributions to the social, cultural, and economic vibrancy of the United States including service as members of the United States Armed Forces and significant contributions to our great nation in agriculture, information technology, small businesses, the hotel industry, trucking, medicine, and technology; and

WHEREAS, Sikh Americans distinguished themselves by fostering respect among all people through faith and service; and

WHEREAS, the City of Newark is committed to educating citizens about the world's religions, the value of religious diversity, tolerance grounded in First Amendment principles, a culture of mutual understanding, and the diminishing of violence.

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

SIKH AWARENESS AND APPRECIATION MONTH

in Newark and urge all Newark residents to take the opportunity to better understand, recognize, and appreciate the rich history and shared experiences of Sikh Americans.

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

MICHAEL K. HANNON
Mayor



STAFF REPORT

Item D. 1.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Krysten Lee, Finance Director
SUBJECT Approval of Audited Demands

Approval of Audited Demands

Attachments

Audited Demands

LIVE Newark CA LIVE Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE
Batch Date: 03/30/2023

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	03/30/2023	8011	Accounts Payable	HEALTH AND HUMAN RESOURCE CENTER, INC		247.86
Invoice						
				Description		Amount
		E0289179	03/08/2023	EMPLOYEE ASSISTANT PROGRAM (EAP)-APRIL 23		247.86
Check	03/30/2023	8012	Accounts Payable	ALAMEDA COUNTY FIRE DEPARTMENT		985,729.83
Invoice						
				Description		Amount
		2022-23-271	03/24/2023	CONTRACT FIRE SERVICES - 03/23		985,729.83
Check	03/30/2023	8013	Accounts Payable	ALAMEDA COUNTY WATER DISTRICT		24,597.47
Invoice						
				Description		Amount
		122822-030223	03/10/2023	CITYWIDE WATER 12/28/22-03/02/23		24,597.47
Check	03/30/2023	8014	Accounts Payable	ALL CITY MANAGEMENT SERVICES, INC.		6,887.90
Invoice						
				Description		Amount
		83877	03/08/2023	SCHOOL CROSSING GUARD SVCS 2/19-3/04/23		6,887.90
Check	03/30/2023	8015	Accounts Payable	ATI RESTORATION, LLC		3,659.94
Invoice						
				Description		Amount
		FAU8504250-001	03/14/2023	MOLD REMEDIATION - SERVICE CENTER 3/14/23		3,659.94
Check	03/30/2023	8016	Accounts Payable	BEAR ELECTRICAL SOLUTIONS, INC.		23,328.98
Invoice						
				Description		Amount
		17596	12/29/2022	FY22-23 STREET LIGHT MAINTENANCE - 12/22		14,500.00
		18349	02/28/2023	FY22-23 STREET LIGHT MAINTENANCE - 02/23		8,828.98
Check	03/30/2023	8017	Accounts Payable	CAL-WEST LIGHTING & SIGNAL MAINTENANCE		50,124.32
Invoice						
				Description		Amount
		230358	03/24/2023	STREETLIGHT KNOCKDOWN REPLACEMENT POLE #4459		4,966.87
		230350	03/24/2023	TRAFFIC SIGNAL KNOCKDOWN REPLACEMENT PD# 22-02663		4,703.11
		230351	03/24/2023	TRAFFIC SIGNAL KNOCKDOWN REPLACEMENT PD# 22-04907		4,865.61
		230352	03/24/2023	STREETLIGHT KNOCKDOWN REPLACEMENT POLE #2948		5,681.87
		230353	03/24/2023	STREETLIGHT KNOCKDOWN REPLACEMENT POLE #3018		5,406.87
		230354	03/24/2023	STREETLIGHT KNOCKDOWN REPLACEMENT POLE #4010		5,406.87
		230355	03/24/2023	TRAFFIC SIGNAL KNOCKDOWN REPLACEMENT PD# 23-00279		5,843.76
		230356	03/24/2023	STREETLIGHT KNOCKDOWN REPLACEMENT POLE PD# 22-03537		7,780.47
		230357	03/24/2023	STREETLIGHT KNOCKDOWN REPLACEMENT POLE #4692		5,468.89

Check	03/30/2023	8018 Accounts Payable	EURO SCHOOL OF TENNIS	973.00
Invoice	Date	Description		Amount
	10/22-12/10/22	CLASSES FOR 10/22-12/10/22		973.00
Check	03/30/2023	8019 Accounts Payable	CITY OF FREMONT	13,861.00
Invoice	Date	Description		Amount
	328240	03/08/2023	SHELTER OPERATING EXP MARCH 2023	13,861.00
Check	03/30/2023	8020 Accounts Payable	COUNTY OF ALAMEDA	1,192.50
Invoice	Date	Description		Amount
	FEBRUARY '23	03/04/2023	CITATION PROCESSING FEES - FEBRUARY '23	1,192.50
Check	03/30/2023	8021 Accounts Payable	DEPARTMENT OF TRANSPORTATION	8,119.23
Invoice	Date	Description		Amount
	SL200166	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (JULY 2019-SEPT 2019)	1,047.65
	SL201056	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (APRIL 2020-JUNE 2020)	1,225.45
	SL210448	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (OCT 2020-DEC 2020)	1,341.78
	SL221369	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (APR 2022-JUNE 2022)	1,032.82
	SL221067	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (JAN 2022-MAR 2022)	1,208.14
	SL220463	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (JULY 2021-SEPT 2021)	1,092.02
	SL220162	03/23/2023	SHARED COSTS FOR TRAFFIC SIGNALS (APR 2021-JUNE 2021)	1,171.37
Check	03/30/2023	8022 Accounts Payable	ALHAMBRA	314.57
Invoice	Date	Description		Amount
	15734365031323	03/13/2023	WATER SERVICE 02/14-03/11/23	314.57
Check	03/30/2023	8023 Accounts Payable	EAST BAY LAWN MOWER	1,157.93
Invoice	Date	Description		Amount
	38019	03/24/2023	REBUILD THROTTLE AND SERVICE ENGINE ON POLE SAW	723.00
	41426	03/23/2023	CHAINSAW FUEL MIX 3/23/23	105.39
	38017	03/21/2023	REPLACEMENT CHAINSAW CHAINS 3/21/23	329.54
Check	03/30/2023	8024 Accounts Payable	FIDELITY SECURITY LIFE INSURANCE/EYEMED	4,786.76
Invoice	Date	Description		Amount
	165670095	03/30/2023	EYEMED - MARCH PREMIUMS	2,359.11
	165711934	03/30/2023	EYEMED - APRIL PREMIUMS	2,309.27
	165657466	03/30/2023	EYEMED COBRA - MARCH PREMIUMS	59.19
	165699038	03/23/2023	EYEMED COBRA - APRIL PREMIUMS	59.19
Check	03/30/2023	8025 Accounts Payable	FRONTIER BUILDING PRODUCTS PACIFIC, INC	2,561.85
Invoice	Date	Description		Amount
	3-7-842400	03/07/2023	PD GATE REPAIR 3/7/23	1,592.85
	3-7-836973	03/07/2023	SERVICE CENTER DOOR SPRINGS AND CABLE REPAIR 03/07/23	969.00
Check	03/30/2023	8026 Accounts Payable	GRAINGER	178.24
Invoice	Date	Description		Amount
	9619596985	02/23/2023	CHERRY FIRE METERING CARTRIDGE 2/23/23	178.24
Check	03/30/2023	8027 Accounts Payable	JACK JAMES TOW SERVICE, INC.	60.00
Invoice	Date	Description		Amount

	256291	03/05/2023	TOWING SVCS 03/05/2023	60.00
Check	03/30/2023	8028 Accounts Payable	JOCELYN E. ROLAND	475.00
	Invoice	Date	Description	Amount
	21392	03/24/2023	PRE-EMPLOYMENT PSYCHOLOGICAL SCREENING -03/20/23	475.00
Check	03/30/2023	8029 Accounts Payable	LEXISNEXIS RISK SOLUTIONS FL INC	50.00
	Invoice	Date	Description	Amount
	1845802-20230228	02/28/2023	INVESTIGATIVE INFO RESEARCH - 02/23	50.00
Check	03/30/2023	8030 Accounts Payable	MANUEL FERNANDEZ CONSTRUCTION	3,942.10
	Invoice	Date	Description	Amount
	2020180	02/10/2023	SILLMAN FOUNTAIN REPAIR 2/10/23	2,808.46
	2020181	02/14/2023	CONCRETE REPAIRS 2/14/23	1,133.64
Check	03/30/2023	8031 Accounts Payable	ORIGINAL WATERMEN, INC	1,635.58
	Invoice	Date	Description	Amount
	S80631	03/08/2023	POOL EQUIPMENT	1,635.58
Check	03/30/2023	8032 Accounts Payable	OTIS ELEVATOR COMPANY	817.00
	Invoice	Date	Description	Amount
	SK25188001	03/09/2023	TROUBLESHOOT ELEVATOR 7/11/22	817.00
Check	03/30/2023	8033 Accounts Payable	PACIFIC GAS & ELECTRIC	109,912.10
	Invoice	Date	Description	Amount
	7578-031023	03/10/2023	CITYWIDE ELECTRICAL 3/10/23	109,912.10
Check	03/30/2023	8034 Accounts Payable	CAL COAST TELECOM	428.40
	Invoice	Date	Description	Amount
	S23A00951	02/15/2023	PD PANIC BUTTON REPAIR 2/15/23	428.40
Check	03/30/2023	8035 Accounts Payable	RELIABLE TRANSLATIONS INC.	14,227.64
	Invoice	Date	Description	Amount
	23947S	02/09/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	236.16
	23948S	02/09/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	108.96
	23978S	02/13/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	900.68
	23982S	02/14/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	792.68
	24056S	02/20/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	432.00
	24143S	02/28/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	846.68
	24151	03/01/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	216.00
	24160S	03/02/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	702.00
	24200S	03/07/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	252.68
	24212S	03/08/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	252.68
	24242S	03/15/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV//ARPA	614.02
	23947M	02/09/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	708.48
	23948M	02/09/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	326.88
	23978M	02/13/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	1,393.01
	23982M	02/14/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	1,223.01
	24056M	02/20/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	680.00
	24095	02/24/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	255.00
	24143M	02/28/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	1,223.01

	24160M	03/02/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	1,020.00
	24200M	03/07/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	373.01
	24212M	03/08/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	750.35
	24242M	03/15/2023	TRANSLATION AND INTERPRETATION SERVICES FOR BUSINESS OUTREACH	920.35
Check	03/30/2023	8036 Accounts Payable	SFPUC	5,394.18
	Invoice	Date	Description	Amount
	58587	03/22/2023	SFPUC RENT WATER AC#4347 04/01/23	2,595.84
	58412	03/22/2023	SFPUC RENT WATER AC#2866 04/01/23	2,798.34
Check	03/30/2023	8037 Accounts Payable	YORK RISK SERVICE GROUP, INC. A SEDGWICK COMPANY	12,324.00
	Invoice	Date	Description	Amount
	400000127674	03/07/2023	FY 22/23 WORKERS COMPENSATION CLAIMS 03/01/23-03/31/23	3,528.00
	400000127671	03/07/2023	FY 22/23 WORKERS COMPENSATION CLAIMS 01/01/23-01/31/23	3,528.00
	400000127673	03/07/2023	FY 22/23 WORKERS COMPENSATION CLAIMS 02/01/23-02/28/23	3,528.00
	400000127672	03/07/2023	WORKERS COMPENSATION CLAIMS 01/01/23-12/31/2023 RMIS OTHER	1,740.00
Check	03/30/2023	8038 Accounts Payable	SIX DEGREES CONSULTING	32,760.00
	Invoice	Date	Description	Amount
	3907	03/09/2023	HARMONY EMAIL SCANNING 03/08/23 - 03/07/26	32,760.00
Check	03/30/2023	8039 Accounts Payable	JESSENNIA TAIMANI	64.71
	Invoice	Date	Description	Amount
	03192023EXP	03/19/2023	MILEAGE REIMBURSEMENT 02/22 - 03/19/23	64.71
Check	03/30/2023	8040 Accounts Payable	HDL SOFTWARE, LLC	8,826.15
	Invoice	Date	Description	Amount
	SIN019128	07/13/2022	BL SOFTWARE RENEWAL & PAYMENT SERVICES ANNUAL FEE	8,826.15
Check	03/30/2023	8041 Accounts Payable	TIREHUB, LLC	798.98
	Invoice	Date	Description	Amount
	32168779	01/11/2023	TIRES	798.98
Check	03/30/2023	8042 Accounts Payable	JENNIFER TRAN	65.24
	Invoice	Date	Description	Amount
	0201-022823EXP	02/28/2023	MILEAGE REIMBURSEMENT 2/1/23-2/28/23	65.24
Check	03/30/2023	8043 Accounts Payable	U.S. BANK CORPORATE PAYMENT SYSTEMS	49,040.72
	Invoice	Date	Description	Amount
	032223STMT	03/22/2023	CC PAYMENT 03/22/23	49,040.72
Check	03/30/2023	8044 Accounts Payable	U.S. BANK	7,000.00
	Invoice	Date	Description	Amount
	6829090	02/08/2023	2019 COP ADMINISTRATIVE FEE 09/01/22-08/31/23	7,000.00
Check	03/30/2023	8045 Accounts Payable	UTILITY TELECOM GROUP, LLC	19,658.18
	Invoice	Date	Description	Amount
	MAR '23	03/16/2023	TELEPHONE & NETWORK PROVIDER - MARCH '23	19,658.18
Check	03/30/2023	8046 Accounts Payable	WHITEWATER WEST INDUSTRIES LTD	7,594.00
	Invoice	Date	Description	Amount

Check	PJIN-004218	03/22/2023	SILLMAN PLAY STRUCTURE INSPECTION	7,594.00
	03/30/2023	8047 Accounts Payable	WILLIAM D. WHITE CO. INC.	427.50
	Invoice	Date	Description	Amount
Check	459835NW	01/04/2023	PD GATE REPAIR 12/28/22	427.50
	03/30/2023	8048 Accounts Payable	ZOOM VIDEO COMMUNICATIONS, INC	13,306.29
	Invoice	Date	Description	Amount
Check	INV191937721	03/07/2023	ONLINE VIDEO COMMUNICATIONS/WEBINARS 03/07/23 - 03/06/24	12,074.06
	INV192382000	03/09/2023	ONLINE VIDEO COMMUNICATIONS/WEBINARS 03/09/23 - 03/06/24	1,232.23
Check	03/30/2023	8049 Accounts Payable	AHMADYAR , SORAYA	49.66
	Invoice	Date	Description	Amount
Check	2023-00000579	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8050 Accounts Payable	BEN FRANKLIN PLUMBING	1,000.00
	Invoice	Date	Description	Amount
Check	2022-0260	03/23/2023	ENCP2021-0266 RFND	1,000.00
	03/30/2023	8051 Accounts Payable	BUCCI , MIKE	49.66
	Invoice	Date	Description	Amount
Check	2023-00000611	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8052 Accounts Payable	E R PLUMBING AND CONSTRUCTION INC	1,000.00
	Invoice	Date	Description	Amount
Check	2022-2247	03/23/2023	ENCP2021-0364 RFND	1,000.00
	03/30/2023	8053 Accounts Payable	GEORGE & TERESA PROUTY AND ERWIN LUKAS	1,000.00
	Invoice	Date	Description	Amount
Check	2022-0258	03/23/2023	ENCP2021-0263 RFND	1,000.00
	03/30/2023	8054 Accounts Payable	GRINDALL , TERENCE	49.66
	Invoice	Date	Description	Amount
Check	2023-00000607	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8055 Accounts Payable	GUJRAL , TARANJIT	49.66
	Invoice	Date	Description	Amount
Check	2023-00000702	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8056 Accounts Payable	HANNON , MICHAEL K	49.66
	Invoice	Date	Description	Amount
Check	2023-00000608	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8057 Accounts Payable	JORGENS , MATTHEW	49.66
	Invoice	Date	Description	Amount
Check	2023-00000609	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8058 Accounts Payable	MIGUEL , JASON	49.66
	Invoice	Date	Description	Amount
Check	2023-00000701	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
	03/30/2023	8059 Accounts Payable	TAIMANI , BARRY	49.66

	Invoice	Date	Description	Amount
	2023-00000606	03/21/2023	PARTIAL REFUND 2022 ELECTION STATEMENT	49.66
Check	03/30/2023	8060 Accounts Payable	WIZARD PLUMBING AND DRAIN INC	1,000.00
	Invoice	Date	Description	Amount
	2022-0269	03/23/2023	ENCP2021-0261 RFND	1,000.00
EFT	03/30/2023	527 Accounts Payable	PET BENEFIT SOLUTION	53.75
	Invoice	Date	Description	Amount
	119537	03/13/2023	TOTAL PET PLAN - TOTAL PET PLAN DISCOUNT PROGRAM*	53.75

AP ZBAACCOUNTS PAYABLE Totals: Transactions: 51 \$1,420,980.18

Checks: 50 \$1,420,926.43
EFTs: 1 \$53.75

LIVE Newark CA LIVE Payment Batch Register

Bank Account: AP - ZBA ACCOUNTS PAYABLE
Batch Date: 04/06/2023

Type	Date	Number	Source	Payee Name	EFT Bank/Account	Transaction Amount
Bank Account: AP - ZBA ACCOUNTS PAYABLE						
Check	04/06/2023	8061	Accounts Payable	ABBE & ASSOCIATES LLC		4,600.00
	Invoice		Date	Description		Amount
Check	N-17	04/06/2023	8062	Accounts Payable	RECYCLING/ORGANICS CONSULTANT (THROUGH 02/28/23)	4,600.00
	Invoice		Date	Description		Amount
Check	2022-23-294	04/06/2023	8063	Accounts Payable	ALAMEDA COUNTY FIRE DEPARTMENT	3,313.47
	Invoice		Date	Description		Amount
Check	FEB 23	04/06/2023	8064	Accounts Payable	FIRE TRUCK REPAIR #243N/241N	3,313.47
	Invoice		Date	Description	TREASURER OF ALAMEDA COUNTY	426.50
Check	04/06/2023	8065	Accounts Payable	CARBONIC SERVICE		809.70
	Invoice		Date	Description		Amount
Check	490639	04/06/2023	8066	Accounts Payable	POOL CHEMICALS	809.70
	Invoice		Date	Description	BEACON VETERINARY SPECIALISTS	500.00
Check	136794	04/06/2023	8067	Accounts Payable	VET SVCS 2/4/23	200.00
	136795	04/06/2023	8068	Accounts Payable	VET SVCS 2/6/23	150.00
	138046	04/06/2023	8069	Accounts Payable	VET SVCS 2/20/23	150.00
Check	04/06/2023	8066	Accounts Payable	CLEARGOV INC.		18,006.75
	Invoice		Date	Description		Amount
Check	2023-12717	04/06/2023	8067	Accounts Payable	BUDGET BUILDER 03/17/2023-03/16/2024	18,006.75
	Invoice		Date	Description	COMCAST	846.16
Check	8821-041523	04/06/2023	8068	Accounts Payable	TELEVISION & PUBLIC WIFI ACCESS 03/29-04/28/23	846.16
	Invoice		Date	Description	COSTA NOVA WINES	479.60
Check	1378	04/06/2023	8069	Accounts Payable	WINE FOR MARCH 8, 2023 ALAMEDA COUNTY MAYORS' CONFERENCE	479.60
	Invoice		Date	Description	ALAMEDA COUNTY INFORMATION TECHNOLOGY DEPARTMENT	3,407.50
Check	112-2302036	03/10/2023			AWS ACCESS FEE FEBRUARY 2023	3,407.50

Check	04/06/2023	8070 Accounts Payable	DEPARTMENT OF TRANSPORTATION	1,175.91
	Invoice	Date	Description	Amount
Check	SL230470	01/30/2023	SHARED COSTS FOR TRAFFIC SIGNALS (OCT 2022-DEC 2022)	1,175.91
	04/06/2023	8071 Accounts Payable	DUKE DE LEON	165.00
	Invoice	Date	Description	Amount
Check	4171	04/02/2023	03/23/23 CC LIVE BROADCAST AND STREAMING	165.00
	04/06/2023	8072 Accounts Payable	BIKE EAST BAY	2,500.00
	Invoice	Date	Description	Amount
Check	BTWD2023CON	04/04/2023	BIKE TO WHEREVER DAY BRONZE SPONSORSHIP 2023	2,500.00
	04/06/2023	8073 Accounts Payable	EAST BAY REFRIGERATION	556.79
	Invoice	Date	Description	Amount
Check	23538	03/07/2023	REFRIGRATOR MAINTENANCE MARCH 2023	556.79
	04/06/2023	8074 Accounts Payable	EQUIFAX INFORMATION SVCS LLC	50.72
	Invoice	Date	Description	Amount
Check	2054522956	03/13/2023	CREDIT BUREAU REPORT FEES	50.72
	04/06/2023	8075 Accounts Payable	GRAINGER	180.68
	Invoice	Date	Description	Amount
Check	9622689744	02/27/2023	BLDG TRASH GRABBER 02/27/23	74.03
	9624117629	02/28/2023	COMMUNITY RESTROOM DUCT 02/28/23	106.65
Check	04/06/2023	8076 Accounts Payable	GROUP 4 ARCHITECTURE RESEARCH + PLANNING, INC.	55,792.60
	Invoice	Date	Description	Amount
Check	11587	01/31/2023	FACILITIES MASTER PLAN CONSULTANT, PROJECT 1274 (THROUGH 1/31)	28,008.12
	11625	02/28/2023	FACILITIES MASTER PLAN CONSULTANT, PROJECT 1274 (THROUGH 2/28)	27,784.48
Check	04/06/2023	8077 Accounts Payable	JAYSON IMAI	124.27
	Invoice	Date	Description	Amount
Check	021523EXP	04/04/2023	EXPENSE REIMBURSEMENT	124.27
	04/06/2023	8078 Accounts Payable	ISH AMITOU KAUR	5,506.20
	Invoice	Date	Description	Amount
Check	0108-031923	03/23/2023	PAYMENT FOR THEATER FACTORY CLASSES 1/8 - 3/19/23	5,506.20
	04/06/2023	8079 Accounts Payable	JEFF'S MOBILE GLASS INC.	398.06
	Invoice	Date	Description	Amount
Check	LJMG-0313-80330	03/13/2023	WINSHIELD REPLACEMENT	398.06
	04/06/2023	8080 Accounts Payable	KIM TURNER	149.00
	Invoice	Date	Description	Amount
Check	INVOICE-2527	01/30/2023	ACTIVE SHOOTER-04/28/2023-P LOPEZ	149.00
	04/06/2023	8081 Accounts Payable	NAPA AUTO PARTS	1,220.76
	Invoice	Date	Description	Amount
Check	FEB' 23	02/28/2023	NAPA-FLEET SUPPLIES 02/01-02/28/23	1,220.76
	04/06/2023	8082 Accounts Payable	LEAGUE OF CALIFORNIA CITIES	500.00

	Invoice	Date	Description	Amount
	INV-02338	02/15/2023	2023 LOCAL STREETS AND ROADS NEEDS ASSESSMENT	500.00
Check	04/06/2023	8083 Accounts Payable	LOOMIS	316.98
	Invoice	Date	Description	Amount
	13223366	03/31/2023	ARMORED CAR SERVICE - 03/23	316.98
Check	04/06/2023	8084 Accounts Payable	JOLIE MACIAS	1,152.00
	Invoice	Date	Description	Amount
	032323MACIAS	04/03/2023	EE COMPUTER LOAN PROGRAM	1,152.00
Check	04/06/2023	8085 Accounts Payable	CAPRICORN FOTO	475.00
	Invoice	Date	Description	Amount
	CF2184	04/01/2023	PHOTOGRAPHIC SERVICES - FAMILY DAY	475.00
Check	04/06/2023	8086 Accounts Payable	MANUEL FERNANDEZ CONSTRUCTION	5,847.92
	Invoice	Date	Description	Amount
	2020177	02/03/2023	CITY HALL WINDOW BLINDS	5,847.92
Check	04/06/2023	8087 Accounts Payable	MARK GOTHARD	4,389.60
	Invoice	Date	Description	Amount
	032323	03/23/2023	KID SAFE KARATE CLASSES 1/5/23-3/23/23	4,389.60
Check	04/06/2023	8088 Accounts Payable	Meyers Nave	28,008.63
	Invoice	Date	Description	Amount
	203433	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	442.13
	203439	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	10,972.00
	203440	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	228.90
	203441	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	1,635.00
	203442	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	2,105.70
	203446	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	8,566.00
	203448	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	3,601.10
	203447	03/27/2023	LEGAL SERVICES THROUGH FEBRUARY 28, 2023	457.80
Check	04/06/2023	8089 Accounts Payable	MOMENTIVE INC.	13,000.00
	Invoice	Date	Description	Amount
	INV-SM-00037620	07/11/2022	SURVEY MONKEY ENTERPRISE 07/18/2022-07/17/2023	13,000.00
Check	04/06/2023	8090 Accounts Payable	MUNICIPAL MAINTENANCE EQUIPMENT INC	1,025.13
	Invoice	Date	Description	Amount
	006822	03/15/2023	SWEEPER 5 STAGE DIAPHRAM PUMP	1,025.13
Check	04/06/2023	8091 Accounts Payable	NAVIA BENEFIT SOLUTIONS CLIENT PAY	107.80
	Invoice	Date	Description	Amount
	10685820	03/30/2023	FY 22/23 COBRA ADMINISTRATION FEES-03/01/23-03/31/23	107.80
Check	04/06/2023	8092 Accounts Payable	NEWMARK UNIFIED SCHOOL DISTRICT	3,329.85
	Invoice	Date	Description	Amount
	INV-23-00085	03/14/2023	NEWMARK UNIFIED ACWD BILLING 1/5/23-3/2/23	3,329.85
Check	04/06/2023	8093 Accounts Payable	PACIFIC GAS & ELECTRIC	31,171.48

Invoice	Date	Description	Amount
7786-032223	03/22/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 02/15-03/16/23	28,285.73
7460-031623	03/16/2023	ANNUAL ELECTRICITY FOR STREET/TRAFFIC LIGHTS 01/26-02/24/23	2,885.75
Check	04/06/2023	8094 Accounts Payable	391.25
		PHOENIX GROUP INFORMATION SYSTEMS	
Invoice	Date	Description	Amount
022023101	03/17/2023	PARKING CITATION PROGRAM FEB 2023	391.25
Check	04/06/2023	8095 Accounts Payable	280.00
		CAL COAST TELECOM	
Invoice	Date	Description	Amount
S23A01901	03/17/2023	TECH LABOR 03/15/2023	280.00
Check	04/06/2023	8096 Accounts Payable	4,416.27
		RELIABLE TRANSLATIONS INC.	
Invoice	Date	Description	Amount
24309	03/22/2023	TRANSLATION SERVICES OLD TOWN & CITYWIDE SERVICES	883.01
24335	03/23/2023	TRANSLATION SERVICES OLD TOWN & CITYWIDE SERVICES	1,053.01
24354	03/24/2023	TRANSLATION SERVICES OLD TOWN & CITYWIDE SERVICES	713.01
24308	03/22/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV/ARPA	613.88
24334	03/23/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV/ARPA	684.68
24353	03/24/2023	INTERPRETATION/TRANSLATION SERVICES - ECON. DEV/ARPA	468.68
Check	04/06/2023	8097 Accounts Payable	14,193.29
		SAITECH INC	
Invoice	Date	Description	Amount
52089	02/22/2023	CISCO SWITCHES	14,193.29
Check	04/06/2023	8098 Accounts Payable	676.02
		WILLE ELECTRIC SUPPLY CO., INC	
Invoice	Date	Description	Amount
S2112840.002	01/04/2023	SILLIMAN LIGHT BULBS - ADV 71A8041001D	367.58
S2124054.001	01/12/2023	SILLIMAN SUPPLIES-HUBBELL GFRST20W AND U-BENT	308.44
Check	04/06/2023	8099 Accounts Payable	337.92
		SALVADOR SANDOVAL	
Invoice	Date	Description	Amount
0302-0309EXP	03/15/2023	POST MANAGEMENT COURSE-MONTEREY	337.92
Check	04/06/2023	8100 Accounts Payable	3,528.00
		YORK RISK SERVICE GROUP, INC. A SEDGWICK COMPANY	
Invoice	Date	Description	Amount
400000131194	04/03/2023	FY 22/23 WORKERS COMPENSATION CLAIM-04/01/23-04/30/23	3,528.00
Check	04/06/2023	8101 Accounts Payable	1,230.14
		STAPLES	
Invoice	Date	Description	Amount
8069596086	03/15/2023	OFFICE SUPPLIES	1,230.14
Check	04/06/2023	8102 Accounts Payable	139.68
		T-MOBILE	
Invoice	Date	Description	Amount
966241989-032123	04/05/2023	IPHONE SVC 2/21-3/20/23	139.68
Check	04/06/2023	8103 Accounts Payable	4,825.22
		HINDERLITER DE LLAMAS & ASSOCIATES	
Invoice	Date	Description	Amount
SIN025929	03/13/2023	SALES TAX AUDIT SERVICES Q3/2022	4,525.22

SIN026887		03/31/2023	TRANSACTION TAX - Q3/2022	300.00
Check	04/06/2023	8104 Accounts Payable	THE TACTICAL ADVANTAGE POLICE SUPPLY	2,161.98
Invoice		Date	Description	Amount
	7027	11/15/2022	BULLETPROOF VESTS JOSEPH HUNTER, APPROVAL #2023-12	1,080.99
	7142	02/03/2023	BULLETPROOF VESTS YAMA H, APPROVAL #2023-12	1,080.99
Check	04/06/2023	8105 Accounts Payable	TURF STAR, INC.	594.56
Invoice		Date	Description	Amount
	7269553-00	03/15/2023	FLEET SUPPLIES-FILTERS	594.56
Check	04/06/2023	8106 Accounts Payable	VERIZON WIRELESS	4,580.72
Invoice		Date	Description	Amount
	9930396245	03/18/2023	IPHONE SVC 02/19-03/18/23	3,547.79
	9929639409	03/09/2023	CELL SVC FOR MDC'S 02/10-03/11/23	1,032.93
Check	04/06/2023	8107 Accounts Payable	ARTEMIS SELF DEFENSE, LLC	12,402.33
Invoice		Date	Description	Amount
	03082023-JM	03/08/2023	PRE-ESCALATION INSTRUCTOR RE-CERT MARCH 2023 - JOLIE M	12,402.33
Check	04/06/2023	8108 Accounts Payable	AQUINO, JODI	1,000.00
Invoice		Date	Description	Amount
	2023-00004264	04/05/2023	RETURNING SECURITY DEPOSIT TAKEN FOR DANCE PERMIT	1,000.00
Check	04/06/2023	8109 Accounts Payable	HOFF-BREWER, KERRI	205.00
Invoice		Date	Description	Amount
	2023-00004049RFD	03/10/2023	NO LONGER NEEDS ENCROACHMENT PERMIT FOR DEBRIS BOX	205.00
EFT	04/06/2023	531 Accounts Payable	QUADIENT FINANCE USA, INC.	6,991.48
Invoice		Date	Description	Amount
	4857-MARCH '23	02/13/2023	MARCH POSTAGE	3,651.91
	4857-APRIL '23	03/16/2023	APRIL POSTAGE	3,339.57
AP ZBAACCOUNTS PAYABLE Totals:			Transactions: 50	\$247,487.92
Checks:		49	\$240,496.44	
EFTs:		1	\$6,991.48	



STAFF REPORT

Item D. 2.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT April 13, 2023, meeting minutes

Attachments

April 13 minutes



CITY OF NEWARK

CITY COUNCIL

City Administration Building, City Council Chambers

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



DRAFT Minutes

Thursday, April 13, 2023
7:00 P.M.

A. ROLL CALL

Mayor Hannon called the meeting to order at 7:02 p.m. Council Members Bucci, Jorgens and Vice Mayor Collazo were present. Council Member Freitas was noted absent.

B. PRESENTATIONS

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

Mayor Hannon presented commendations to the Maintenance Division staff.

2. Proclaim April as Fair Housing Month

Mayor Hannon presented the proclamation to members of the Bay East Association of REALTORS Bill Espinola and Barbara Clemons.

3. Proclaim April 23rd to April 29th as National Crime Victims' Rights Week

Mayor Hannon presented the proclamation to Victims Advocate Celina Amezcua.

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 nonagenda items.

No one requested to speak.

D. CONSENT CALENDAR

Mayor Hannon requested the removal of Items D.4 and D.9 for separate consideration.

Council Member Bucci moved, Council Member Collazo seconded, to approve Consent Calendar Items D.1 through D.3 and D.5 through D.8, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption. The motion passed, 4 AYES, 1 ABSENT (Freitas).

1. Audited Demands
2. Approval of March 23, 2023, minutes
3. Adopt a Resolution Approving a First Amendment to Contractual Services Agreement with Metropolitan Planning Group for On-Call Planning Services
RESOLUTION NO. 11481
CONTRACT NO. C20066
4. Removed from Consent Calendar for separate consideration
5. Adopt a resolution accepting work with Rosas Brothers Construction for FY 2021-2022 Curb, Gutter and Sidewalk Replacement, Project 1279. Exempt from CEQA Review per CEQA Guidelines Section 15301 (Existing Facilities)
RESOLUTION NO. 11482
6. Adopt a Resolution authorizing the City Manager to execute the first amendments to the Contractual Services Agreements with Baird + Driskell Community Planning (Community Planning Collaborative) and Environmental Sciences Associates, Inc. and authorizing amendment of the 2022-2024 Biennial Budget for Fiscal Year 2023 to provide funding for consultant services related to the 2023-2031 Housing Element
RESOLUTION NO. 11483
CONTRACT NO. C22011
RESOLUTION NO. 11484
CONTRACT NO. 22001

7. Approval of plans and specifications and adopt a resolution accepting the bid and awarding the contract for the Base Bid and Additive Alternate Bid No. 1 to VSS International, Inc. for Cherry Street Class IV Separated Bikeways, Project 1254 and amending the 2022-2024 Biennial Budget for Fiscal Year 2023; Exempt from CEQA Review per CEQA Guidelines Section 1530
RESOLUTION NO. 11485
CONTRACT NO. 23015
8. Approval of the plans and specifications and adopt a resolution accepting the bid and awarding the contract for the total bid to Contract Decor, Inc. for Window Coverings for Newark Civic Center, Project 1353 and amending the 2022-2024 Biennial Budget for Fiscal Year 2024; Exempt from CEQA Review per CEQA Guidelines Section 15301 (Existing Facilities)
RESOLUTION NO. 11486
CONTRACT NO. 23016
9. Removed from Consent Calendar for separate consideration

NONCONSENT

4. Adopt a Resolution approving an agreement with the County of Alameda for participation in the County of Alameda Strategic Vision Initiative – VISION 2026 Community Grant program and amending the 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Year 2023
RESOLUTION NO. 11487
CONTRACT NO. 23017
9. Adopt a resolution authorizing the City Manager to execute an Agreement with Alameda County to restore library service hours and amend the Fiscal Year 2024 budget
RESOLUTION NO. 11488
CONTRACT NO. 23018

Vice Mayor Collazo moved, Council Member Jorgens seconded, to approve Items D.4 and D.9 that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption. The motion passed, 4 AYES, 1 ABSENT (Freitas).

E. PUBLIC HEARINGS

1. Public hearing pursuant to Government Code Sections 4217.10, et seq. to adopt certain findings and to adopt a resolution authorizing the City Manager to

execute an energy services agreement with Syserco Energy Solutions (SES) in an amount not to exceed \$1,598,265 and approving an amendment to the biennial budget and to adopt a resolution authorizing the City Manager to apply for the Energy Conservation Assistance Act (ECAA) loan from the California Energy Commission and to execute any necessary loan documents. Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines

Administrative Analyst Gonzalez gave the staff report recommending approval.

In an effort to reduce the City's carbon footprint, reduce energy consumption and maintenance costs City staff began looking into upgrading the City's streetlights in 2022. The City owns and maintains approximately 2,800 streetlights, most of which are high-pressure sodium. Switching to LED will reduce power consumption by 67%, reduce maintenance costs, and improve lighting. The new lights will have a longer useful life.

In response to Vice Mayor Collazo's question, Administrative Analyst Gonzalez stated that only the lights will be replaced, not the poles.

Council Member Jorgens asked how many lights will be replaced? Administrative Analyst Gonzalez responded that with the exception of the lights in Old Town, all others will be replaced. Because of the pending plan for Old Town it was determined that it would not be efficient to replace them at this time.

Mayor Hannon opened the public hearing at 7:37 p.m. There was no public testimony and Mayor Hannon closed the public hearing at 7:37 p.m.

Council Member Bucci moved, Vice Mayor Collazo seconded, to adopt resolutions authorizing the City Manager to execute an energy services agreement with Syserco Energy Solutions (SES) in an amount not to exceed \$1,598,265 and approving an amendment to the biennial budget and to adopt a resolution authorizing the City Manager to apply for the Energy Conservation Assistance Act (ECAA) loan from the California Energy Commission and to execute any necessary loan documents. Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines. The motion passed, 4 AYES, 1 ABSENT.

RESOLUTION NO. 11489

CONTRACT NO. 23019

RESOLUTION NO. 11490

CONTRACT NO. 23020

F. OTHER BUSINESS

1. Adopt a Resolution amending the 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Year 2023 for Capital Improvement Plan budget rollovers

Vice Mayor Collazo announced she would recuse due to ownership of various properties.

Vice Mayor Collazo exited the City Council Chambers.

City Manager Benoun explained this item is ordinarily placed on the Consent Calendar as it involves a simple rollover of existing CIP projects. Because of the conflict of interest, it was moved to Other Business.

No one spoke.

Council Member Bucci moved, Council Member Jorgens seconded, to adopt a Resolution amending the 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Year 2023 for Capital Improvement Plan budget rollovers. The motion passed 3 AYES, 1 RECUSED (Collazo), 1 ABSENT (Freitas)
RESOLUTION NO. 11491

2. Adopt a resolution approving a ten-year extension to the Franchise Agreement with Allied Waste Services of North America LLC (Republic Services) for collection of solid waste and collection and processing of source separated recyclable material, organic materials, and construction and demolition debris and revising the maximum limit for rates for solid waste collection, recycling, organics, and construction and demolition debris services starting on June 1, 2023

Environmental Services Manager Scanlin gave the staff report.

Rose Radford, R3 Consulting Group, gave a presentation on the Republic Services Franchise Agreement Extension.

Council Member questioned the CPI metric being changed; there is a separate one for refuse (water, sewer, trash – based on industry costs). The five-year comparison showed the industrial index was lower than the all-consumer price index.

In answer to Vice Mayor Collazo's question, Ms. Radford explained that backyard service means the driver picks up the trash receptacle from where the homeowner keeps it, not curbside. Vice Mayor Collazo also commented on multi-family bulk waste pickups and more recycling education for residents.

Mike Di Bene, a driver for Republic Services, thanked the City Council for the chance to serve the community the last 10 years and hopes to continue.

Joe Chu, Republic Services General Manager, also thanked the City Council for the chance to serve the City for another 10 years.

Council Member Bucci is happy to see that the lock fees were reduced. He was also glad to see the issue of delinquent accounts going in a new direction and teaming up with Code Enforcement to reach out to those with delinquent accounts.

Mayor Hannon congratulated Republic Services on a 77% approval rating. He also said he experienced outstanding customer service and likes the multi-family bulky waste program. He also asked about electric garbage trucks in the future.

Mayor Hannon thanked Republic Service for the organics container they will distribute. He also stated that SB1383 was not welcomed by most jurisdictions. There was little direction provided to governmental agencies as far as what their expectations were. The City received \$0 to implement a significant program.

Council Member Bucci moved, Council Member Jorgens seconded, to adopt a resolution approving a ten-year extension to the Franchise Agreement with Allied Waste Services of North America LLC (Republic Services) for collection of solid waste and collection and processing of source separated recyclable material, organic materials, and construction and demolition debris and revising the maximum limit for rates for solid waste collection, recycling, organics, and construction and demolition debris services starting on June 1, 2023. The motion passed, 4 AYES, 1 ABSENT.

RESOLUTION NO. 11492

CONTRACT NO. C13002

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.

Council Member Bucci stated that Ohlone Wildlife Rehabilitation Center Executive Director Kelly Di Bene has been working to re-open the center. The center relies on volunteers, and he thanked local boy scout troops for all the work they have done over the past two months to get the center running again.

Council Member Jorgens stated that he had fun at Family Day at the Park. He thanked the Recreation Department for sponsoring an event that many families enjoy and said he is looking forward to future events.

Vice Mayor Collazo stated that she was informed at the Alameda County Library Advisory Commission that in 2022 there were 1,269 attempts by organized groups to ban some literature from our libraries. She urged citizens to unite against the book bans. Shop Newark!

Mayor Hannon recognized the HERS Breast Cancer Foundation's 25th Anniversary of community service.

City Manager Benoun thanked the Recreation Department for hosting Family Day at the Park. He announced that from OBAG 3 MTC the City received approval for the \$5.14M requested for Old Town streetscape improvements. There will be an item on the next City Council agenda approving the funds. Lastly, immediately prior to the next City Council meeting on April 27 Mayor Hannon will deliver his first State of the City address at 5:00 pm in the Council Chambers. A reception will immediately follow in the lobby and the City Council meeting will commence at 7:00 pm.

H. CLOSED SESSION

1. Conference with legal counsel - Existing Litigation
Pursuant to California Government Code Section 54956.9(d)(1)
Name of Case: In re National Prescription Opiate Litigation, Northern District of Ohio (National opioid litigation involving Teva, Allergan, CVS, Walgreens, and Walmart)
Case No. 1:17-MD-2804

At 8:33 pm the City Council recessed to a closed session.

At 8:43 pm the City Council convened in closed session, with the exception of Council Member Freitas.

At 8:56 pm the City Council reconvened in open session with all Council Members present, with the exception of Council Member Freitas.

I. ADJOURNMENT

At 8:56 pm Mayor Hannon adjourned the meeting.



STAFF REPORT

Item D. 3.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Sheila Harrington, City Clerk
SUBJECT Adopt a resolution authorizing the City Manager to execute an agreement with *What's Happening's Tri-City Voice* for legal advertising services in Fiscal Year 2024

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council adopt a resolution awarding an agreement to and authorizing the City Manager to execute an agreement with *What's Happening's Tri-City Voice* for legal advertising services in Fiscal Year 2024.

BACKGROUND

The California Public Contract Code requires the City to invite bids for legal advertising services and award the contract on a fiscal year basis. A Request for Proposals was issued for legal advertising services in March. One proposal was received from the *What's Happening's Tri-City Voice*, offering the same publication rate as Fiscal Year 2023.

DISCUSSION/ANALYSIS

The California Government Code requires that the City of Newark print legal notices in an adjudicated newspaper of general circulation. An adjudicated newspaper of general circulation does not exist in the City and the City is legally required to use an adjudicated newspaper that is published nearest to the City. The Public Contract Code requires the City to invite bids for legal advertising and award the contract on a fiscal year basis. The *Bay Area News Group/East Bay Times* and the *What's Happening's Tri-City Voice* are the only newspapers that currently meet the legal requirements for publishing legal notices.

In March, the City issued a Request for Proposals (RFP) for legal advertising services. Courtesy copies were sent to the *Bay Area News Group/East Bay Times* and the *What's Happening's Tri-City Voice*. The RFP issuance was also advertised on the City website.

The *What's Happening's Tri-City Voice* was the only newspaper to submit a proposal by the published deadline. The quote for advertising of \$1.12 per column line is the same as the last two years' quotes.

FISCAL IMPACT

The 2022-2024 Biennial Budget and Capital Improvement Plan include sufficient funds for FY2023 and FY2024 (\$4,000) in the City Clerk's City Clerk's departmental operating budget.

REVIEW AND APPROVAL

Prepared by - Sheila Harrington, City Clerk

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

Agreement

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AWARDING AN AGREEMENT TO, AND
AUTHORIZING THE CITY MANAGER TO EXECUTE AN
AGREEMENT WITH, *WHAT'S HAPPENING'S TRI-CITY
VOICE* FOR LEGAL ADVERTISING SERVICES FOR FISCAL
YEAR 2024

WHEREAS, the California Government Code requires that the City of Newark print legal notices in an adjudicated newspaper of general circulation or an adjudicated newspaper that is published nearest to the City; and

WHEREAS, the City issued a Request for Proposals (RFP) for legal advertising services, sent courtesy copies to the *Bay Area News Group/East Bay Times* and the *What's Happening's Tri-City Voice*, and advertised the RFP on the City website; and

Whereas, the City received one response to the RFP, by the published deadline, from the *What's Happening's Tri-City Voice*; and

WHEREAS, the City has a strong desire to provide easy and transparent access to matters affecting the community and staff recommends awarding the legal advertising agreement to the *What's Happening's Tri-City Voice* for fiscal year 2024.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby awards the agreement for legal advertising services for Fiscal Year 2024 to *What's Happening's Tri-City Voice* and authorizes the City Manager to execute the agreement, on file with the City Clerk, and incorporated herein by reference.

BE IT FURTHER RESOLVED that this resolution supersedes previous resolutions awarding legal advertising services.

**CONTRACTUAL SERVICES AGREEMENT
CONSULTANTS**

This Service Agreement (hereinafter “Agreement”) is made and entered into this day of April, 2023 by and between the **CITY OF NEWARK**, a municipal corporation (“City”), and, What’s Happening Inc, dba: Tri-City Voice (“Consultant”), collectively the “Parties”.

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including. Legal Advertising Services for Fiscal Year 2023-2024.

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.

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 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and
2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and
4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

C. Minimum Limits of Insurance.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1)

the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

- | | |
|---|---|
| 1. General Liability:
(including products and
completed operations,
property damage, bodily
injury, and personal and
advertising injury) | \$2,000,000 per occurrence for
bodily injury, personal injury, and
property damage. If a general
aggregate limit applies, either the
general aggregate limit shall apply
separately to this project/location or
the general aggregate limit shall be
twice the required occurrence limit. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily
injury and property damage. |
| 3. Employer's Liability: | \$1,000,000 per accident for bodily
injury or disease. |
| 4. Errors and Omissions
Liability: | \$1,000,000 per occurrence or
claim; \$2,000,000 aggregate. |

D. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by the City Risk Manager. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its officers, officials, directors, employees, contractors, agents, and volunteers, or (2) Consultant shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses in an amount specified by the City Risk Manager or designee.

E. Claims Made Policies.

For all "claims made" coverage, in the event that Consultant changes insurance carriers Consultant shall purchase "tail" coverage or otherwise provide for continuous coverage covering the Term of this Agreement and not less than five (5) years thereafter. Proof of such "tail" or other continuous coverage shall be required at any time that the Consultant changes to a new carrier.

F. Wasting Policies.

No policy required by this paragraph 14 shall include a "wasting" policy limit (ie. limit that is eroded by the cost of defense).

G. Remedies.

In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
2. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
3. Terminate this Agreement.

H. Acceptability of Insurers.

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City Risk Manager. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

I. Other Insurance Provisions.

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. Additional Insureds. City, its officers, officials, directors, employees and volunteers ("Additional Insureds") are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant; including materials, parts or equipment furnished in connection with such work or operations.

2. Primary Coverage. For any claims related to Services, Consultant's insurance coverage shall be primary insurance as respects City, its officers, officials, directors, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, directors, employees, or volunteers shall be excess of Consultant's insurance and shall not be contribute with it. Consultant's policy will not seek contribution from the City's insurance or self-insurance.

3. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled during the term of this Agreement without notice to City.

4. Civil Code § 2782. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the California Civil Code.

5. Deductibles and Self-Insured Retentions (SIR). All deductibles and self-insured retentions must be disclosed to the City Risk Manager for approval and shall not reduce the limits of liability. Policies containing any SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named Insured or the City.

6. Subconsultants. Consultant shall include all subconsultants as insureds under its policies or shall require and verify separate certificates and endorsements have been obtained for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.

7. Waiver of Subrogation. With respect to Workers' Compensation and Employer's Liability Coverage, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, directors, employees, and volunteers for losses arising from work performed by Consultant for City.

8. Coverage is Material Element. Maintenance of proper insurance coverage in conformity with the provision of this paragraph 14 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

9. Variation. The City Risk Manager may approve a variation in these insurance requirements upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available or that City's interests are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

15. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 19, herein below) a written report (in a form acceptable to City) with the following information: (a) name(s) and address(es) of the injured or deceased person(s), (b) name(s) and address(es) of witnesses, (c) name(s) and address(es) of Consultant's insurance company(ies), and (d) a detailed description of the damage(s) and whether any City property was involved.

16. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subconsultants. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

In the event that Consultant or any employee, agent, or subconsultant of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by City immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Consultant from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

The review, acceptance or approval of Consultant's work or work product by any indemnified party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This paragraph survives completion of Services or the termination of this contract. The provisions of this paragraph are not limited by and do not affect the provisions of this contract relating to insurance.

Consultant/Subconsultant's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

17. LICENSES, PERMITS, ETC. Consultant represents and warrants to City that it has all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. In addition to the foregoing, Consultant shall obtain and maintain during the term hereof a valid City of Newark Business License.

18. TERM/TERMINATION.

A. The term of this Agreement shall commence upon the date first hereinabove written and shall expire upon completion of performance of Services hereunder by Consultant.

B. Notwithstanding the provisions of paragraph 18 Section A above, City may terminate this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon thirty (30) days' written notice to City and shall include in such notice the reasons for cancellation. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

19. CONTRACT ADMINISTRATION. This Agreement shall be administered by 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:

Tri-City Voice

WILLIAM MARSHAK

Consultant

Address: What's Happening, Inc.
dba Tri-City Voice
39737 Paseo Padre Parkway,
Suite B
Fremont, CA 94538

CITY OF NEWARK

SHEILA HARRINGTON

Administrator

City of Newark
Attn: City Clerk
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

By _____
City Manager

Date _____

By _____
William Marshak, Consultant

Date _____

Attest:

City Clerk

Date _____

Approved as to form:

City Attorney

Date _____

EXHIBIT A
SCOPE OF SERVICES

Services provided by What's Happening's Tri-City Voice (TCV) and, by extension, it's subcontractor, The Dily Journal Corporation, include:

1. Assistance and training of city personnel to become comfortable and utilize the ADTECH electronic submission and filing system.
2. Typeset all submissions for legal advertising in a timely and accurate manner.
3. Proofread all submissions.
4. Print and distribute approved city public notices weekly in TCV.
5. Allow timely retrieval and filing of submissions through ADTECH or local TCV office personnel.
6. Provide accurate billing and accounting of legal notice submissions.

All listed major components of service shall be completed in a timely manner to complement workflow requirements of City of Newark personnel.

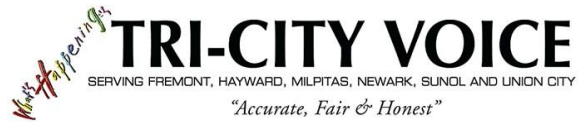
EXHIBIT B

PAYMENT

Billing by What's Happening's Tri-City Voice (TCV) and, by extension, its subcontractor, The Daily Journal, include:

1. Accurate and itemized billing through The Daily Journal Corporation.
 2. Instant access to billing information of all submissions through ADTECH system.
 3. Services related to acceptance, assemblage, typesetting publishing and distribution of public notices, included in contract rate of \$1.12 per line per column (Column Size 1.875 inches) This is a "not to exceed" cost for performance of these services.
- B.** Billing services shall be completed in a timely manner to complement work flow requirements of City of Newark personnel.

EXHIBIT C
QUALIFICATIONS



March 22, 2023
Sheila Harrington, City Clerk
City of Newark 37101 Newark
Blvd.
Newark, CA 94560

Dear Sheila:

I am pleased to respond to the City of Newark's Request for Proposal for Legal Advertising, Fiscal Year 2023-2024.

On April 22, 2015, a petition for adjudication of What's Happening's Tri-City Voice newspaper (TCV) was granted by Judge Evelio Grillo in Department 14, Superior Court of the State of California for the County of Alameda as a "newspaper of general circulation" for the City of Fremont, County of Alameda and State of California.

In order to accommodate and support the accurate and timely placement of public notices, The Daily Journal Corporation and its publication, The Inter-City Express has been retained to assist TCV. Through this arrangement, TCV customers also may use an electronic system that allows instant access for placing, billing and archiving public notices. Staff at the TCV office in Fremont is also available to assist with placement of legal notices.

Unlike many regional newspapers owned and operated by distant management, our newspaper continues to focus on local news and increase readership. In contrast, many metropolitan newspapers are controlled by large corporations with little interest in local news and are suffering severe declines in subscriptions and readership as a result. TCV is locally owned and published with a basic philosophy of support for our community. Claims by competition newspaper chains of audits by Alliance for Audited Media (previously Audit Bureau of Circulation) use a variety of methods to embellish subscription counts; audits are intermingled with other "branded" newspapers outside the area as well as digital subscriptions.

We publish our newspaper, including public notices, in its entirety on our website. Use of our public notice service has increased dramatically with no major problems. Municipalities, public offices and others have found the Adtech system efficient method for placing and retrieving legal notices. We have found our relationship with The Daily Journal Corporation to be beneficial for all parties. There is actually a secondary system of proof reading since this is done by The Daily Journal and TCV before notices are published.

As your local newspaper and an integral, supportive part of the Newark community, TCV would be pleased and honored to represent the City of Newark.

Best Regards,

William Marshak
Publisher



STAFF REPORT

Item D. 4.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM James Scanlin, Environmental Services Manager
SUBJECT Adopt a resolution authorizing the City Manager to execute a third amendment to the contractual services agreement with Abbe and Associates, LLC for Commercial Organics Collection Program Consulting Services and amend the 2022-2024 Biennial Budget and Capital Improvement Plan

SUMMARY AND RECOMMENDATION

SB 1383 requires the City to implement an organic material collection service for all residents and to implement a program to ensure that organic material is being disposed of properly. To promote proper sorting and disposal of organic material from residents, staff intends to purchase and distribute a kitchen food-scrap pail to each residence. The pails will include a label with graphics depicting the appropriate materials to be discarded in the pails and a flyer with instructions in English, Spanish, and Chinese. Approval of this contract modification will allow Abbe and Associates, LLC to purchase and distribute the food-scrap pails.

Staff recommends that the City Council approve a resolution authorizing the City Manager to execute a third amendment to the contractual services agreement with Abbe and Associates, LLC for Commercial Organics Collection Program Consulting Services and amend the 2022-2024 Biennial Budget and Capital Improvement Plan. The cost of the additional services is \$85,850 and can be funded with the City's current accumulated Measure D fund balance.

BACKGROUND

The City previously released a request for proposals for Commercial Organics Collection Program Services. After a review of the proposals received, Abbe and Associates, LLC was selected to provide the requested services. The City contracted with Abbe and Associates, LLC in February 2017 for a not to exceed amount of \$63,440. On April 12, 2018, Council approved the First Amendment to the contract for a revised not to exceed amount of \$213,440. On July 28, 2022, Council approved the Second Amendment to the contract for a new revised not to exceed amount of \$312,660. Abbe and Associates has successfully completed the scope of work in the Agreement and the First Amendment and Second Amendment. Due to the need to complete an additional task related to recycling and organics services in a timely manner, staff recommends a Third Amendment to the agreement to implement the additional related task and increase the contract amount by \$85,850 for a revised not to

exceed amount of \$398,510.

DISCUSSION/ANALYSIS

Environmental Impacts

Methane is a potent greenhouse gas (GHG) that results from the anaerobic decomposition of organic material, and emissions from landfills are a significant source of methane to the atmosphere. Senate Bill 1383 (SB 1383) requires municipalities to reduce the volume of organic material being disposed of in landfills and thereby reduce GHG emissions. A major source of organic material to landfills is food scraps and food contaminated paper products that are being disposed of in trash carts rather than in organics/green carts. To improve the diversion of organic material from the landfill, residents need to be provided with a quality food scrap pail to make proper sorting and disposal as easy as possible. Providing these food scrap pails with easily understandable graphics and instructions in English, Spanish, and Chinese to each residence should significantly improve the diversion of organic material from the landfill.

Schedule/Timing

The City receives approximately \$175,000 per year in funding from Measure D. These funds must be used to promote the diversion of recyclable and organic material from the landfill. In previous years the City did not spend enough of its funding and is currently over the allowable fund balance limit. Future Measure D funding may be withheld if the City does not reduce its fund balance. The City submitted an expenditure plan to the Alameda County Waste Management Authority (StopWaste) describing how it will reduce its fund balance to below the allowable limit. Approval of this contract amendment will allow the City to reduce its fund balance to below the allowable limit by the end of Fiscal Year 2023. In addition, although most residents already receive organics/green-cart service, there are some residents that do not. The recently approved Franchise Agreement Extension requires Republic Services to provide organics service to all residents. Providing food scrap pails at this time will line up well with the provision of the organics/green-carts.

Selection Process

Staff had previously analyzed the food scrap pails available on the market for durability and convenience and selected this model. This container is a dishwasher-safe 1.9 gallon container with a vented locking lid and a conveniently wide opening. This model is only manufactured by Sure-Close Inc. The pails will be purchased directly from Sure-Close Inc. for \$4.25 per pail.

FISCAL IMPACT

An amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan is necessary to appropriate an additional \$85,850 of Measure D funds from the unappropriated fund balance for the proposed contractual services with Abbe and Associates, LLC.

REVIEW AND APPROVAL

Prepared by - James Scanlin, Environmental Services Manager

Reviewed by - Soren Fajeau, Public Works Director

Reviewed by - Krysten Lee, Finance Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

Abbe Resolution

Abbe 3rd Amendment

Abbe Contract and Amendments

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE CITY MANAGER TO
EXECUTE THE THIRD AMENDMENT TO THE
CONTRACTUAL SERVICES AGREEMENT WITH ABBE &
ASSOCIATES FOR COMMERCIAL ORGANICS
COLLECTION PROGRAM CONSULTING SERVICES AND
AMENDMENT OF THE 2022-2024 BIENNIAL BUDGET AND
CAPITAL IMPROVEMENT PLAN

WHEREAS, the City and Abbe & Associates ("Consultant") entered into an Agreement for Commercial Organics Collection Program Consulting Services effective February 23, 2017 ("Agreement"); and

WHEREAS, pursuant to Resolution No. 10768 the City Council approved an amendment to the Agreement effective April 12, 2018 ("First Amendment"); and

WHEREAS, pursuant to Resolution No. 11396 the City Council approved a second amendment to the Agreement effective August 3, 2022 ("Second Amendment"); and

WHEREAS, Consultant satisfactorily completed the scope of services in the Commercial Organics Collection Program Consulting Services Agreement and the First Amendment and Second Amendment to the Agreement; and

WHEREAS, a budget amendment is necessary to allocate additional Measure D funding for this scope of activity; and

WHEREAS, the City intends, upon mutual written agreement by both parties to add tasks assisting with the implementation of commercial organics collection requirements of SB 1383.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Manager is hereby authorized to execute the third amendment to the Agreement, in a form approved by the City Attorney, to provide assistance with implementation of commercial organics collection requirements of SB 1383 and to increase the not to exceed amount of the Agreement by \$85,850 for a total not to exceed amount of \$398,510.

BE IT FURTHER RESOLVED by the City Council of the City of Newark hereby approves an amendment to the 2022-2024 Biennial Budget and Capital Improvement Plan for the appropriation of \$85,850 of unallocated fund balance from Fund 215 to expenditure account 215.60.063.631.6221 in fiscal year 2023.

TO: 215.60.063.631.6221

\$85,850

FR: 215.3000

\$85,850

THIRD AMENDMENT TO THE CONTRACTUAL SERVICES AGREEMENT BETWEEN THE CITY OF NEWARK AND ABBE AND ASSOCIATES

This Third Amendment to Contractual Services Agreement between the City of Newark, a municipal corporation, ("City") and Abbe and Associates., ("Consultant") dated February 23, 2017 (the "Agreement"), is entered into as of _____, 2023 for the provision of Commercial Organics Collection Program Consulting Services.

RECITALS

WHEREAS, the City and Abbe & Associates ("Consultant") entered into an Agreement between City and Consultant for Commercial Organics Collection Program Consulting Services effective February 23, 2017 (Agreement); and

WHEREAS, the City and Abbe & Associates amended the Agreement between City and Consultant for Commercial Organics Collection Program Consulting Services effective April 12, 2018 (First Amendment); and

WHEREAS, the City and Abbe & Associates again amended the Agreement between City and Consultant for Commercial Organics Collection Program Consulting Services effective August 3, 2022 (Second Amendment); and

WHEREAS, Abbe & Associates have satisfactorily completed the scope of services in the Commercial Organics Collection Program Consulting Services Agreement and the First and Second Amendments to the Agreement; and

WHEREAS, the City intends, upon mutual written agreement by both parties to add tasks assisting with completion of the implementation of commercial organics collection requirements of SB 1383.

NOW, THEREFORE, inconsideration of the foregoing recitals and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- (1) Notwithstanding Section 1 of the Agreement, the parties hereby agree to add the additional services as contained in Exhibit A and additional funding in the amount of \$85,850.00 to the Agreement for a new not to exceed amount of \$398,510.00.

The Second Amendment of the Agreement for Commercial Organics Services has been executed by the parties as of the date first set forth above.

City of Newark

Consultant

David J. Benoun
City Manager

Ruth Abbe
President
Abbe and Associates

Dated _____

Dated _____

Attest:

Sheila Harrington
City Clerk

Approved as to Form:

Kristopher J. Kokotaylo
City Attorney

Third Amendment Exhibit A

Recycling and Organics Compliance Assistance – Kitchen Pail Distribution

DISTRIBUTE KITCHEN PAILS TO ALL RESIDENTIAL HOUSEHOLDS IN NEWARK

To enhance residential participation in the organics recycling requirements of Senate Bill 1383, distribute one-gallon kitchen pails to approximately 11,000 single family households and 3,000 multifamily households (including townhomes and condominiums within Home Owner Associations).

- Order pails
- Print and affix stickers with illustrations to each pail
- Print and insert flyers with instructions within each pail
- Receive and warehouse pails
- Deliver pails to each household
- Coordinate with property managers at multifamily complexes for pail delivery

TASK	DESCRIPTION	COST
Distribute kitchen pails to all households in Newark	\$925 per 1,000 households (14,000 households total), includes receiving, warehousing and transportation to Newark from the San Jose warehouse	\$12,950
Coordinate with property managers at multifamily complexes for pail delivery	\$100 per hour for 50 hours	\$5,000
Equipment		
Kitchen Pails (Sure-Close)	\$4.25 per pail, includes shipping (14,000 pails) to the San Jose warehouse	\$59,500
Stickers with illustrations	\$0.40 per pail, includes affixing stickers to each pail	\$5,600
Flyers with instructions	\$0.20 per pail, includes inserting instructions into each pail	\$2,800
TOTAL		\$85,850

C17004
R 10595

CONTRACTUAL SERVICES AGREEMENT
CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this 23 day of FEBRUARY, 2017 by and between the CITY OF NEWARK, a municipal corporation ("City"), and ABBE & ASSOCIATIONS, a Limited Liability Company ("Consultant"), collectively the "Parties".

WITNESSETH:

WHEREAS, City requested proposals to perform the services generally including: PREPARE A LONG-TERM RECYCLING PLAN, ASSIST WITH IMPLEMENTING THE COMMERCIAL ORGANICS COLLECTION PROGRAM AND AUDIT OF MATERIAL STREAM REPORTING.

WHEREAS, in response to City's request, Consultant submitted a proposal and, after negotiations, Consultant agreed to perform the Services more particularly described in Exhibit "A" ("Services"), in return for the compensation described in this Agreement and Exhibit "B".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in Exhibit "C", City finds that Consultant has demonstrated the requisite qualifications, experience, training, and expertise to perform the requested Services.

NOW, THEREFORE, the Parties hereto agree as follows:

1. CONSULTANT'S SERVICES. Consultant shall perform Services described, and in the time, place, and manner specified in Exhibit "A" in accordance with the terms and conditions of this Agreement. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit "A", the Agreement shall control.

2. TIME FOR PERFORMANCE. Time is of the essence in the performance of Services under this Agreement and Consultant shall generally adhere to the schedule set forth in Exhibit "A"; provided, that City shall grant reasonable extensions of time for the performance of such Services occasioned by governmental reviews of Consultant's work product or other unavoidable delays occasioned by circumstances, provided, further, that such unavoidable delays shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Consultant.

Consultant acknowledges the importance to City of City's performance schedule and agrees to put forth its best professional efforts to perform its Services under this Agreement in a manner consistent with that schedule. City understands, however, that Consultant's performance must be governed by sound professional practices.

3. COMPENSATION.

A. "Not to Exceed" Compensation. City shall compensate Consultant for all Services performed by Consultant hereunder in an amount based upon Consultant's hourly or other rates set forth in Exhibit "B". The payments specified in Exhibit "B" shall be the only payments to be made to Consultant for Services rendered pursuant to this Agreement.

Notwithstanding the foregoing, the combined total of compensation and costs payable hereunder shall not exceed the sum of Sixty Three thousand, four hundred and forty and No/100 Dollars (\$63,440.00) 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. **INSURANCE.** Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. **Verification of Coverage.**

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

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

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

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

B. **Minimum Scope of Insurance.**

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and
2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and
4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

C. Minimum Limits of Insurance.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

1. General Liability: \$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.
(including products and completed operations, property damage, bodily injury, and personal and advertising injury)
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 12 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 12 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

9. Variation. The City Risk Manager may approve a variation in these insurance requirements upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available or that City's interests are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

13. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 18, hereinbelow) a written report (in a form acceptable to City) with the following information: (a) name(s) and address(es) of the injured or deceased person(s), (b) name(s) and address(es) of witnesses, (c) name(s) and address(es) of Consultant's insurance company(ies), and (d) a detailed description of the damage(s) and whether any City property was involved.

14. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type

arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subconsultants. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by City immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Consultant from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

The review, acceptance or approval of Consultant's work or work product by any indemnified party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This paragraph survives completion of Services or the termination of this contract. The provisions of this paragraph are not limited by and do not affect the provisions of this contract relating to insurance.

Consultant/Subconsultant's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

15. 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.

16. 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 16 Section A above, either party may terminate this Agreement without cause by giving written notice thereof not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

17. CONTRACT ADMINISTRATION. This Agreement shall be administered by _____ of the City of Newark ("Administrator"). All correspondence shall be directed to or through the Administrator or his/her designee.

18. NOTICES. Written notices required or convenient hereunder shall be delivered personally or by depositing the same with the United States Postal Service, first class (or equivalent) postage prepaid and addressed, in the case of Consultant, to:

Abbe & Associates, LLC

CITY OF NEWARK

Ruth Abbe, Principal
Consultant

Administrator

Address: 1028 Fair Oaks Ave
Alameda, CA 94501

City of Newark
Attn: Susie Woodstock
37101 Newark Boulevard
Newark, CA 94560

19. PARAGRAPH HEADINGS. Paragraph headings used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

20. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

21. SEVERABILITY. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement.

22. GOVERNING LAW, JURISDICTION, AND VENUE. The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

23. ATTORNEY'S FEES. In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

24. ASSIGNABILITY. Neither Consultant nor City shall subconsult, assign, sell, mortgage, hypothecate, or otherwise transfer their respective interests or obligations in this Agreement without the express prior written consent of the non-transferring party.

25. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

26. WAIVERS. Waiver of breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

27. ENTIRE AGREEMENT. This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the Parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

28. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

29. COVENANT AGAINST CONTINGENT FEES. Consultant hereby warrants that Consultant has not employed or retained any company or person, other than a *bona fide* employee working for Consultant, to solicit or secure this Agreement, and Consultant has not paid or agreed to pay any company or person, other than a *bona fide* employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, City shall have the right to annul this Agreement without liability or, at City's discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

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

CITY OF NEWARK,
a municipal corporation

Abbe & Associates, LLC

By [Signature]
City of Newark

By [Signature]
Consultant

Date 2/23/2017

Date 2-16-17

Ruth C. Abbe, Principal

Printed Name

Attest: [Signature]
City Clerk

Date 2/23/2017

Approved as to form:

[Signature]
City Attorney

Date 2-22-17

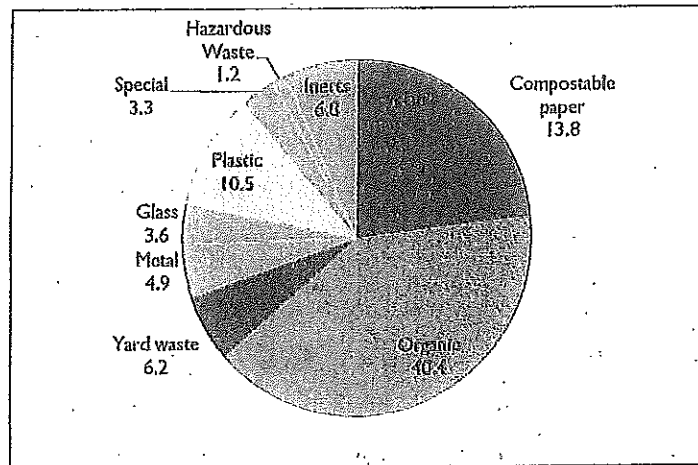
EXHIBIT A
SCOPE OF SERVICES

I. IDENTIFY TARGET SECTORS

Objective: Identify goals and objectives of the Recycling Plan by evaluating opportunities by generator sector.

Approach: There are a number of useful data sources for profiling the generator sectors in the City: reports from Republic Services, recycling reports or invoices prepared for Newark Unified, 2008 Alameda County waste characterization study, the CalRecycle 2014 generator-based waste composition study and community profiles based on local demographics, and benchmark studies performed by Stopwaste, among others. We do not anticipate that data from the 2017 Alameda County waste characterization study will be available during the 6-8 month period that the City anticipates for the Recycling Plan. It is unclear whether the methodology

2008 Aggregate Waste Composition
by Major Material Group



Source: 2008 Alameda County Waste Characterization Study Stopwaste.org
Note: Over 60% of discarded material is compostable.

to be used in the countywide study will provide enough specific information about the City's generator sectors to be useful for the Recycling Plan. Therefore, we will review available data and create a profile for each generator sector in the City, including: single family, multifamily, commercial, roll-off and schools. Based on these profiles and including information from the Task 6 review of current hauler reporting (discussed below), we will identify the generator sectors that should be targeted for the Recycling Plan. The results of this task will inform the development of the goals and objectives for the Recycling Plan.

Deliverables: One draft and one final memo identifying the targeted sectors, goals and objectives. We anticipate that the memo will be incorporated into a section of the Recycling Plan.

II. REVIEW CURRENT PROGRAMS

Objective: Prepare a description of the City's existing policies, programs and regional facilities and identify opportunities for expansion or improvement.

Approach: For this task, we will prepare a description of each of the City's existing policies, programs and regional facilities. Based on available information provided by City staff and Republic, we will identify the participation and capture rates, historic recycling and refuse tonnage over time, the years when programs were implemented, and the successes achieved (in tons and dollars, where available). We will provide a brief evaluation and identify the opportunities for expansion and enhancement, where appropriate.

Deliverables: One draft and one final memo describing the current programs and identifying opportunities for expansion and enhancement to contribute to the sector-specific goals and objectives identified in task 1. We anticipate that the memo will be incorporated into a section of the Recycling Plan.

Deliverables: One draft and one final memo presenting the diversion and economic analysis and implementation plan. We anticipate that the memo will be incorporated into a section of the Recycling Plan. Compilation of the memos, findings and research into the Recycling Plan are included in this task. We anticipate preparing one draft and one final of the Recycling Plan.

V. EVALUATE RATE STRUCTURE

Objective: Determine whether changes in collection rates would increase recycling behaviors.

Approach: We know that the City's rates are tiered to incentivize customers to right-size their containers. Single-family residential customers pay more for more refuse volume and recycling and organics collection are included in the refuse rates. Commercial rates include a lower rate for recycling and organics collection compared to the same size container for refuse. The City and Republic have taken a step toward a cost of service model that would stabilize rates over time as customers migrate to smaller refuse containers. This avoids the "death spiral" where rate revenues do not match the costs to provide service. However, based on the current commercial and industrial recycling rates, it is possible that changes to the rate structure could change recycling behavior. Alternative approaches for keeping cost of service rates intact while also providing an incentive to recycling have been hard to achieve. For this task, we will survey 8 to 10 local



The Death Spiral

governments about the success of different rate structures and profile each approach, discussing the pros and cons. For example, the Central Contra Costa Solid Waste Authority's contract with Republic provides commercial recycling and organics collection at no extra charge to the commercial customers (similar to single family). As a result, all of the schools in the service area are now fully participating in recycling and composting collection services and have collectively achieved a 56% diversion rate. San Francisco has been experimenting with commercial rates by having Recology charge by volume for all services and then providing a discount for more recycling or organics collection (similar to Newark's approach). San Francisco is also having Recology enforce their mandatory recycling and compost collection ordinance by charging a 50% surcharge to customers who contaminate their refuse with recyclables or compostables or contaminate their recycling and composting with refuse.

Deliverables: One draft and one final memo presenting the results of the survey and recommendations for the City. We anticipate that the profiles for each community will be incorporated into an appendix of the Recycling Plan.

VI. REVIEW AND EVALUATE CURRENT HAULER REPORTING

Objective: Establish current diversion rates, compare these to other similar communities, and identify areas where the City and Republic can improve diversion.

Approach: For this task we will review all of the reports that the City currently receives from Republic and request additional available data from Republic, if appropriate. We will calculate the citywide franchise diversion rate and the diversion rate for each generator sector (single family, multi-family, commercial and roll-off/industrial). Year-to-date 2016 reports provided by the City show an approximately 50-53% diversion rate for residential customers and a 5-8% diversion rate for roll-off and front load service,

resulting in a 27% diversion rate citywide. We will dig more deeply into this data to understand the factors that are contributing to these diversion rates and identify opportunities for program improvement. Using City staff input we will identify 8 to 10 "peer cities" based on demographics and similar basic collection programs. Then we will compare diversion results, program implementation strategies, and contract provisions that could improve diversion in the City and meet state mandates.

Deliverables: One draft and one final report detailing the findings and recommendations.

VII. REVIEW CURRENT COMMERCIAL ORGANICS COLLECTION PROGRAM PROPOSAL

Objective: Evaluate the current commercial organics collection program proposal and identify the most cost-effective means for implementing the program and meeting the objectives of state and local mandates.

Approach: We will review the current commercial organics collection program proposal provided by Republic and compare this to other successful organics collection programs that have been implemented in our area. In our experience, organics collection program implementation requires hand-holding and technical assistance. Training in languages other than English may be desirable based on the demographics of the City. We will evaluate Republic's approach for meeting the needs of its customers and identify opportunities from ensuring that the program is successful. A key issue is Republic's plans for charging organics collection rates to its customers and the opportunities for "right-sizing" trash collection. The City and Republic will need to balance the incentives to the rate-payers with the need to ensure that enough revenue is generated to cover the system costs.

Deliverables: One draft and one final report detailing the findings and recommendations.

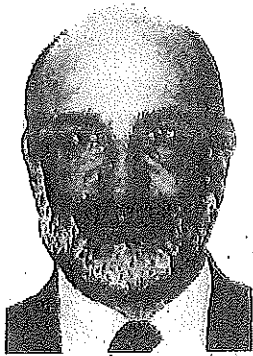
Task	Deliverable	Meeting	Schedule
I. Identify Target Sectors	Memo	Kickoff	Month 1
II. Review Current Programs	Memo		Month 2
III. Recommend Programs	Memo	Community or Council	Month 3
IV. Estimate Diversion Potential and Costs	Memo Report	Staff	Month 4 (memo) Month 6 (report)
V. Evaluate Rate Structure	Memo Appendix		Month 5
VI. Review and Evaluate Current Hauler Reporting	Report	Staff	Month 1
VII. Review Current Commercial Organics Collection Program Proposal	Report	Staff	Month 2

EXHIBIT B

PAYMENT

Task	Hours	Cost	Lead	Support
I. Identify Target Sectors	48	6800	Ruth	Gary
II. Review Current Programs	48	6200	Richard	Portia Ruth
III. Recommend Programs	80	10000	Portia	Richard Ruth
IV. Estimate Diversion Potential and Costs	64	10320	Ruth	Kevin
V. Evaluate Rate Structure	64	11040	Kevin	Ruth
Subtotal Recycling Plan	304	44,360		
VI. Review and Evaluate Current Hauler Reporting	60	10,380	Gary	Kevin Ruth
VII. Review Current Commercial Organics Collection Program Proposal	60	8700	Rich	Ruth
Total	424	63,440		

Staff	Rate
Ruth	150
Kevin	180
Rich	125
Richard	125
Portia	125
Gary	125



Education

B.A., M.A., Political Science (Public Administration), California State University, Long Beach, California

Professional Affiliations

Board of Directors Grassroots Recycling Network (1996-present)
Board of Directors; California Resource Recovery Association (1975-1979, 1980-1993, 1994-96, 2000-present)

Board of Directors; Keep California Beautiful (1991-present)

Board of Directors; Mount Carmel Soccer Booster Club dba Sun Devil Recycling (1991-96)

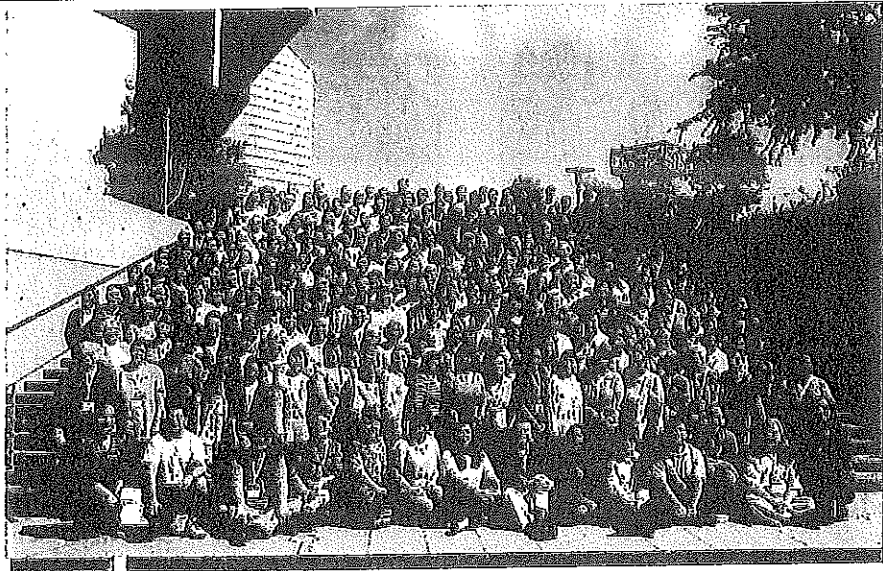
Founding member and former Board of Director; National Recycling Coalition (1980-1993)

California State University Long Beach, Associated Students Ecology Commission (1971-1974)

Board of Directors; Zero Waste International Alliance (ZWIA) (2003-present)

Expertise

- Economic and Community Development
- Market Development
- Policy Development and Analysis
- Program Planning and Management

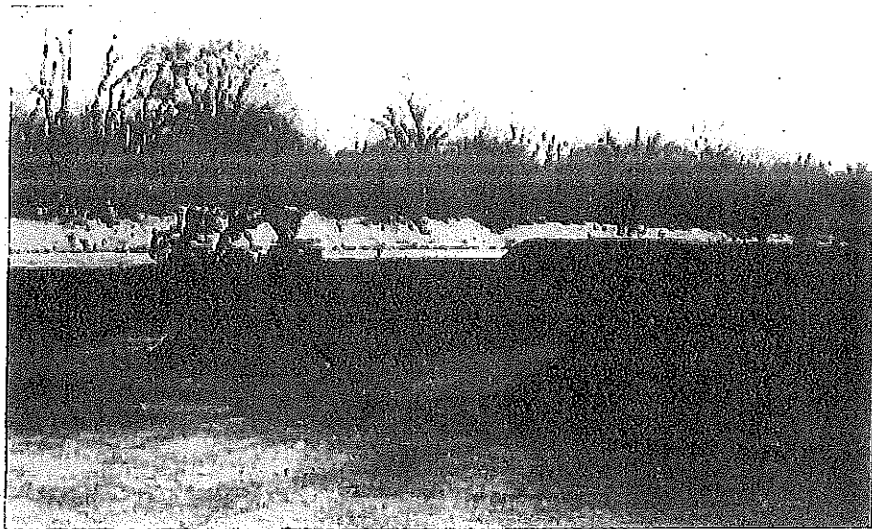
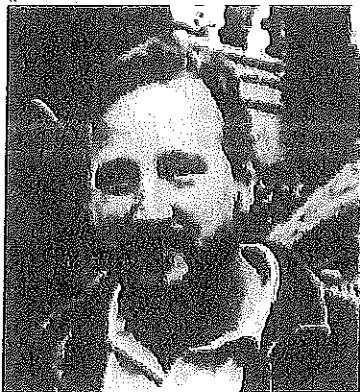


RICHARD ANTHONY, SERVICE OPPORTUNITIES

Richard V. Anthony began his career in Public Administration in 1971 as a manager of the California State University Long Beach Recycling Center. He received a MS in Public Administration in 1974. Rick has worked his entire career in environmental program management positions, beginning in Fresno County. As a Solid Waste Manager he wrote and then implemented Solid Waste plans for Fresno County (1979-1987). While in Fresno County, he supported the development of the American Avenue Landfill and staffed the County's solid waste commissions. He hosted the first National Recycling Congress in Fresno County, which highlighted the County's policies and programs. He was the Solid Waste Manager for San Diego County (1987-1998) and expanded the County's recycling programs and solid waste infrastructure.

He has participated in developing high diversion and Zero Waste plans as a consultant since 1998.

He is an internationally recognized and published expert in the area of Resource Management using the Zero Waste Systems approach. He has led International Dialogs on Zero Waste in Nanaimo Canada, Berkeley and San Francisco USA, Florianopolis, Brazil, Puerto Princesa, Philippines, and Naples, Italy. Richard Anthony is a founder and member of the Board of Directors of the California Resource Recovery Association, the Grassroots Recycling Network, the Zero Waste International Alliance, and the U.S. Zero Waste Business Council. He has been a Professor of Zero Waste at Irvine Valley College and an Instructor in the California Resource Recovery Association Certificate Program.



Education

B.A., in Communications, with concentration in Public Relations from the University of Dayton

Professional Affiliations

Zero Waste San Diego, President
California Organics Recycling Council

California Resource Recovery Association

Expertise

- Composting
- Resource Management
- Sustainable Farming
- Public Relations

RICH FLAMMER, ORGANICS ANALYSIS

Rich has more than 25 years of hands-on composting experience working extensively in nine U.S. states and Mexico. He has designed, managed, permitted, evaluated, and/or remediated more than 75 large-scale composting facilities for both private and public sector clients. He has also been involved in public policy formation, rulemaking development for state composting regulation, composting technology assessment and development, and regional studies evaluating organic resource management.

With extensive experience in permitting and regulatory compliance, Rich has provided permitting and regulatory compliance services for more than 30 private and public sector clients in the continental U.S., Hawaii and Mexico, and is familiar with OMRI and NOP rules, CEQA, CalRecycle composting

regulations, US EPA Part 503, NPDES, zoning and local land use rules in various regions of the state, as well as air and water board rules and composting regulations in other states.

A specialist in public relations and education, Rich does frequent outreach work, writes instructional manuals, promotional materials, editorial pieces, and gives lectures and workshops on a regular basis. He is Contributing Editor, BioCycle, Journal of Composting & Organics Recycling. He has designed three permanent home composting exhibits and has appeared in two instructional videos, one of which won an Emmy.

Rich is President and founding board member of Zero Waste San Diego. He is also a member of the San Diego County Farm Bureau and the Surfrider Foundation.



Education

B.S., Environmental Policy Analysis and Planning, University of California at Davis

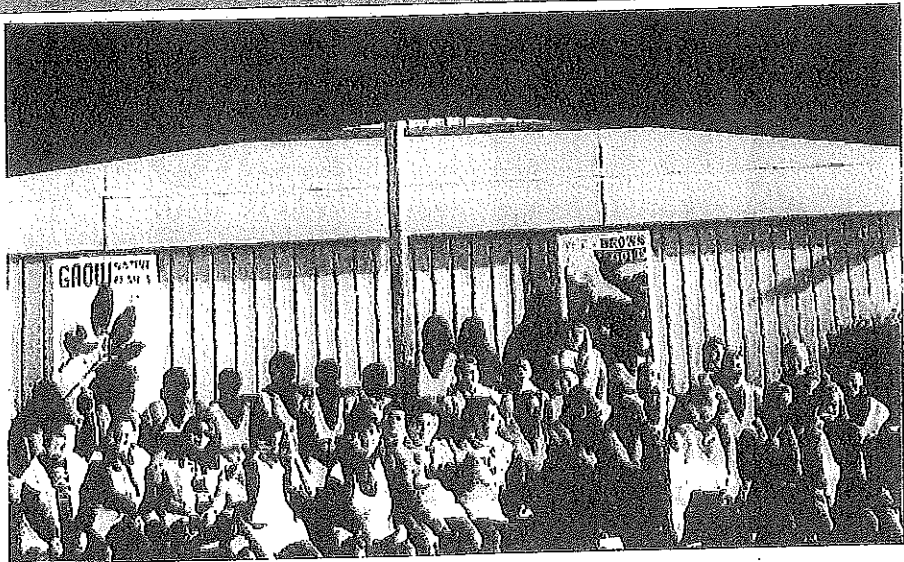
Professional Affiliations

California Resource Recovery Association

Solid Waste Association of North American, Gold Rush Chapter

Expertise

- Executive and Program Management
- Diversion Program Analysis, Long Range Planning and Implementation
- Contract Negotiation and Management
- Facility Operations and Master Planning
- Financial Analysis and Budgeting



KEVIN MCCARTHY, RATES AND SERVICE ANALYSIS

Kevin McCarthy has over 27 years of experience in both the private and public sector developing and implementing environmentally and economically sustainable programs, notably in the areas of recycling and solid waste management, and environmental education.

Kevin has served in a variety of private and public sector recycling/solid waste planning roles including: providing operational oversight, management and environmental compliance at solid waste transfer stations and material recovery facilities (MRFs); management of a national electronics recycling business; and Executive Director for a twelve member public joint powers agency (SBWMA/RethinkWaste) in

California representing nearly 500,000 residents and 10,000 businesses. He is a results-oriented manager with skills and advanced knowledge and expertise in: executive management, contract negotiation and management, program management, financial analysis, facility operations and master planning, public speaking and communications, and public policy development.

Kevin is currently managing facility operations procurement in Boulder, Colorado and supporting San Benito County with a wide range of projects including contract negotiations with a landfill operator, collection services franchise agreement support and ongoing diversion program technical assistance.



Education

B.A., Philosophy and Fine Arts,
Amherst College

Professional Affiliations

Solid Waste Association of North
American, Gold Rush Chapter, Past
President

Californians Against Waste, Board of
Directors

Grassroots Recycling Network,
President

California Resource Recovery
Association, Global Recycling
Council, Co-Chair

Northern California Recycling
Association, Past President

Expertise

- High Diversion Programs and
Infrastructure
- Composition Analysis, Waste
Diversion and Generation
Projections
- Collection and Facility
Procurement, Negotiations, and
Contract Development
- Economic Analysis and Financial
Planning
- Organics Management,
Composting and Anaerobic



RUTH ABBE, PROJECT MANAGER

Ruth Abbe is a senior management consultant with 25 years of experience in program planning and implementation, facility and collection procurement, contract negotiation, financial analysis, and stakeholder engagement. She is a national leader in Zero Waste planning and works with municipalities across the country to develop the social and physical infrastructure to achieve high diversion. Ruth has worked with more than 50 communities and private sector clients to plan and implement their recycling, organics, construction and demolition debris programs and high diversion strategies. She has provided planning and program implementation services to the Cities of Austin and Dallas, and Fort Collins (CO); Mecklenburg County (NC); and the Cities of Los Angeles, Palo

Alto, Pasadena, and San Jose. She has supported the City of San Francisco in Zero Waste Analysis since 2001. She has assisted the Cities of Austin (TX) and Los Angeles to evaluate the feasibility of implementing their mandatory recycling and composting ordinances. She is negotiating new collection and processing contracts for Fresno County, California State University, and the East Bay Regional Park District. She has developed an award-winning recycling and composting program for the Alameda schools (the Alameda Green Schools Challenge) and supports the "Miss Alameda Says, 'Compost!'" program to help implement mandatory recycling and composting requirements at Alameda restaurants and multifamily buildings.

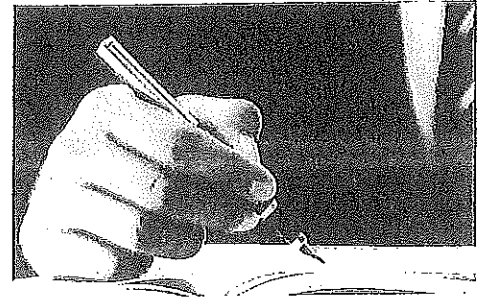
ABBE & ASSOCIATES FIRM QUALIFICATIONS

Abbe & Associates is a full-service management consulting firm specializing in solid waste management program development, economic analysis, collection and processing procurement, contract negotiations, and stakeholder engagement. We work with municipal clients and institutional and commercial generators to plan and implement the social and physical infrastructure needed to reach 75 percent.

Abbe & Associates also has expertise in program analysis, data collection and management, CalRecycle compliance assistance, contract development, and rate analysis. We have performed these services for clients including the Castro Valley Sanitary District; the cities of Fremont, San Francisco and Stockton; the Counties of Fresno, Santa Cruz, and Sonoma; and the South Bayside Waste Management Authority, among others.

Abbe & Associates has extensive experience working with communities to develop solid waste plans and programs similar to those requested by the City. The following table summarizes recent solid waste planning projects undertaken by our team.

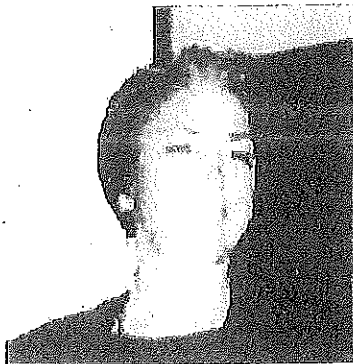
Project	Stakeholder Outreach	Program Evaluation	Financial Analysis	Implementation Plan
Austin Resource Recovery Plan	✓	✓	✓	✓
Alameda Zero Waste Plan	✓	✓	✓	✓
Castro Valley Sanitary District Zero Waste Strategic Plan	✓	✓	✓	✓
Dallas Local Solid Waste Management Plan	✓	✓	✓	✓
Fort Collins Road to Zero Waste Plan	✓	✓	✓	✓
Menlo Park Zero Waste Plan	✓	✓	✓	✓
Louisville/Jefferson County Solid Waste Master Plan	✓	✓		
Los Angeles Solid Waste Integrated Resources Plan	✓	✓	✓	✓
Mecklenburg County Solid Waste Management Plan	✓	✓		
Pasadena Zero Waste Strategic Plan	✓	✓	✓	✓
Santa Monica Zero Waste Strategic Operations Plan	✓	✓	✓	✓



OUR SERVICES INCLUDE

- Sustainability services, including high diversion planning and green house gas accounting
- Independent assessments of waste management technologies and projects
- Waste prevention, reuse, and recycling, including processing and recovery facilities and marketing recovered materials
- Local and regional integrated waste management master plans
- Siting, environmental assessment, and permitting for solid waste facilities
- Economic, environmental, and feasibility analyses
- System and facility procurements
- Organics management
- Collection efficiency studies, rate review, and hauler procurements and negotiations assistance
- Diversion and disposal studies
- Waste composition and generation projections
- Waste reduction technical assistance to large commercial and institutional generators
- In-service training and certification
- CalRecycle compliance assistance
- Construction and demolition debris ordinance development and compliance assistance

EXHIBIT C
QUALIFICATIONS



Education

B.A., Interdisciplinary Social Science,
San Francisco State University

Professional Affiliations

Northern California Recycling
Association, Editor and Past
President and Board Member

Global Recycling Council of the
California Resource Recovery
Association, Executive Committee
Member

Zero Waste USA, Program Director

Zero Waste Brain Trust, Convener

LITE Initiatives - Zero Waste
Sonoma County and Community
Bikes, Founder and Executive
Director

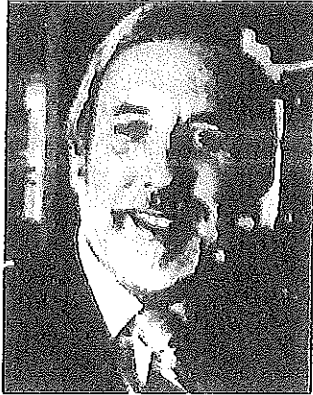
Expertise

- Project Management, Data
Management And Programming
- Event and Meeting Production
and Facilitation
- Research, Planning And Field
Studies
- Public Outreach and Education,
Websites and Social Media
- Program Analysis, Design,
Implementation And Monitoring
- Reuse and Repair Program
Development and Directory
Production
- Commercial and Multi-Family

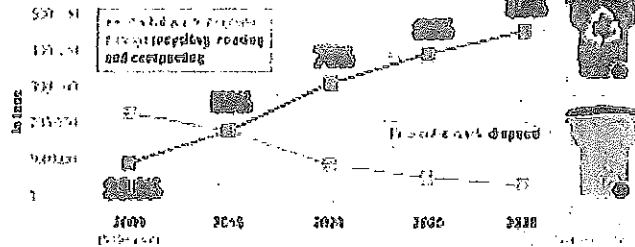
PORTIA SINNOTT, PROGRAM ANALYSIS

Portia is the owner of Micro Services Plus (MS+), an environmental consultancy committed to the principles of sustainability. Established in 1983, MS+ specializes in innovative, cutting edge projects designed to serve as models for others. MS+ also provides research, data management, programming and project services to US and European agencies including U.S. EPA, City of San Francisco, StopWaste.Org, WASTE (Holland), UN Habitat (Kenya) and USAID (Bulgaria) as well as other consulting firms. Past accomplishments include writing for Resource Recycling Magazine: "The Value of Understanding -- Reuse and Repair", "Fine-Tuning Your Multi-Family Recycling Program" and "State of the Art" a national survey of multi-family recycling programs, plus numerous websites, on-line surveys and directories.

A certified federal contractor, recent projects include a resource guide for EPA Region 1 - New England and an assessment framework and contracting best practices for EPA Region 9 -- Pacific Southwest. These large and comprehensive multi-year contracts provided content for the new EPA website: Managing and Transforming Waste Streams -- A Tool for Communities (2015). Portia was the data manager for UN Habitat's 2010 Solid Waste Management in the World's Cities publication and wrote the chapters on the City of San Francisco and Tompkins County New York. She also initiated, co-designed and coordinated the San Francisco State University Extended Education Integrated Waste Management Certificate Program which was used as a model for similar programs at U. C. Berkeley and U. C. Santa Cruz.



Austin Resource Recovery MASTER PLAN INVESTMENT INITIATIVES



WITH THE EDUCATE

Education is the key to success in the waste management industry.

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GARY LISS, PROGRAM AND REPORTING ANALYSIS

Education

Masters in Public Administration,
Rutgers University
B.S., Civil Engineering
(Environmental Engineering major),
Tufts University

Professional Affiliations

Vice President, U.S. Zero Waste
Business Council
Programs Chair, Zero Waste USA
Policy Chair, Zero Waste
International Alliance
Board Member, National Recycling
Coalition

Expertise

- Zero Waste and High Diversion Planning
- RFPs and Contracts
- Resource Recovery Parks

Gary has more than 42 years of experience in the solid waste and recycling field. He has been President of Gary Liss & Associates since 1998 (18 years), which helps clients on procurement of refuse and recycling systems, strategic analyses of refuse rates and solid waste fees, development of commercial recycling incentives and programs, integrated waste management systems design, community-wide Zero Waste plans, project management, program planning and implementation, policy and program analysis and advocacy, and organizing resource recovery parks.

Gary is the former Solid Waste Manager for the City of San Jose and oversaw the implementation of

many of that City's state-of-the-art policies and programs. He has negotiated multiple franchise agreements and operating agreements designed to maximize diversion.

Gary is a leading advocate of Zero Waste and has helped more communities develop Zero Waste plans than anyone else in the U.S. He is a founder and President of the U.S. Zero Waste Business Council that is developing a third party certification program for Zero Waste Businesses. The California Resource Recovery Association selected him as Recycler of the Year in 2005. In 2008 he was elected to Council in Loomis, California and was Mayor in 2010.

FIRST AMENDMENT TO THE AGREEMENT BETWEEN THE
CITY OF NEWARK AND ABBE & ASSOCIATES FOR
ADDITIONAL RECYCLING CONSULTING SERVICES

This Amendment to the Agreement for Recycling Consultant Services is effective as of April 12, 2018, by and between the City of Newark and Abbe & Associates.

RECITALS

WHEREAS, the City and Abbe & Associates ("Consultant") entered into a certain Agreement between City and Consultant for Recycling Consulting Services effective February 23, 2017 (Agreement); and

WHEREAS, Abbe & Associates have satisfactorily prepared a Long-Term Range Diversion Plan for the City and assisted with auditing the material stream and negotiation the Commercial Organics Collection Program with Republic Services; and

WHEREAS, the City intends, upon mutual written agreement by both parties to add the tasks of preparing outreach material, providing technical assistance and assisting with creating a page on the City's web page devoted to recycling and diversion information.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- (1) Notwithstanding Section 1 of the Agreement, the parties hereby agree to add the additional services to the scope of the Agreement as contained in Exhibit A.
- (2) The cost data listed for the additional services is contained in **Exhibit A**.

The First Amendment of the Agreement for Recycling Consulting Services has been executed by the parties as of the date first set forth above.

CITY OF NEWARK
a municipal corporation

BY Alan L. Nagy
Alan L. Nagy
Mayor

Date 4/12/2018

Attest: Sheila Harrington
City Clerk

Date 4/12/2018

Approved as to form:

[Signature]
City Attorney

Date: 4-13-18

Abbe & ASSOCIATES
a California professional corporation

By Ruth C Abbe
Name: RUTH C. ABBE

Title: PRINCIPAL

Date: 4-19-18

First Amendment to the Agreement between the City of Newark and Abbe & Associates for Additional Recycling Consulting Services

Exhibit A: Scope of Work for Short-Term Programs

The City of Newark is considering implementation of a Long-Range Plan to comply with new state laws and county ordinances requiring increases in recycling and composting, including food waste reduction and food recovery. The City has expanded its organics program to include multifamily and commercial customers and will be rolling out new programs to the Newark schools. The cost estimates for implementing the short-term programs identified in the plan are included in the table below along with some additional first-year costs associated with new programs (organics collection at schools and events recycling).

Recommended Programs	Cost Estimate	Annual Cost
Enhanced Outreach Materials and Website	200 hours at \$125/hour	\$25,000
Enhanced Outreach and Technical Assistance	1,000 hours at \$75/hour	\$75,000
Recycling Equipment and Containers	500 internal recycling and composting containers at \$25 each	\$12,500
	1,200 stickers and posters at \$5 each	\$6,000
	Miscellaneous custodial carts, pickers and aprons	\$1,500
Newark Green Schools Initiative	30 hours per school at \$50/hour	\$18,000
Events Recycling Support	Policy development 16 hours at \$165/hour	\$2,640
	Outreach support at 4 City events (5 staff at \$35/hour)	\$5,600
	Recycling equipment (Clearstreams, bags, signage)	\$3,760
Total		\$150,000

Enhanced outreach materials and website

For this task, we will expand the information available on the City's website to provide more social media and marketing to its residents and businesses. We will provide content for the City's webmaster to post a dedicated webpage within the City's website. We will develop on-line information about the recycling and composting programs, food waste prevention and food donation opportunities in the local area, develop Frequently Asked Questions (and answers), provide announcements about local activities (including the Fix-It Clinics at the Newark Library), and provide other relevant information to ensure that the City's residents and businesses have easy access to the information that they need to fully comply with the City's programs.

Enhanced Outreach and Technical Assistance

For this task, we will partner with Republic Services to provide outreach and technical assistance to the City's commercial businesses and multifamily complexes. We will assist customers with information about the new organics program and help them to "right-size" their recycling, organics and trash collection service. Our goal will be to help customers to cost-effectively comply with the new program. We will

provide information to food generating business about food waste prevention and food donation opportunities (pursuant to Senate Bill 1383). We will also provide on-site training for commercial businesses and door-to-door outreach to multifamily complexes.

Newark Green Schools Initiative

For this task, we will help the Newark Unified School District to fully implement the recycling and composting programs required under state law and countywide ordinances. Schools require an increased amount of hand-holding and technical assistance. We will recruit on-site green team members, and train custodial staff, faculty, and students in best management practices for recycling and composting. There are 12 schools within Newark Unified, including the pre-school and adult school. Each of the district's sites will be targeted for implementation. Should time and resources allow, we will expand our assistance to private and parochial schools within the City.

Events Recycling Support

The City has identified Events Recycling Requirements as a short-term policy for implementation. For this task, we propose to work with City staff to develop the new policy which could require event sponsors to provide recycling at all permitted events. We will also provide outreach assistance at four public events in Newark during the first year of implementation to demonstrate best practices and assist event organizers in planning and implementing recycling (and potentially composting) at events within the City.

CONTRACTUAL SERVICES AGREEMENT
CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this 23 day of FEBRUARY, 2017 by and between the CITY OF NEWARK, a municipal corporation ("City"), and ABBE & ASSOCIATIONS, a Limited Liability Company ("Consultant"), collectively the "Parties".

WITNESSETH:

WHEREAS, City requested proposals to perform the services generally including: PREPARE A LONG-TERM RECYCLING PLAN, ASSIST WITH IMPLEMENTING THE COMMERCIAL ORGANICS COLLECTION PROGRAM AND AUDIT OF MATERIAL STREAM REPORTING.

WHEREAS, in response to City's request, Consultant submitted a proposal and, after negotiations, Consultant agreed to perform the Services more particularly described in Exhibit "A" ("Services"), in return for the compensation described in this Agreement and Exhibit "B".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in Exhibit "C", City finds that Consultant has demonstrated the requisite qualifications, experience, training, and expertise to perform the requested Services.

NOW, THEREFORE, the Parties hereto agree as follows:

1. CONSULTANT'S SERVICES. Consultant shall perform Services described, and in the time, place, and manner specified in Exhibit "A" in accordance with the terms and conditions of this Agreement. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit "A", the Agreement shall control.

2. TIME FOR PERFORMANCE. Time is of the essence in the performance of Services under this Agreement and Consultant shall generally adhere to the schedule set forth in Exhibit "A"; provided, that City shall grant reasonable extensions of time for the performance of such Services occasioned by governmental reviews of Consultant's work product or other unavoidable delays occasioned by circumstances, provided, further, that such unavoidable delays shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, Consultant's officers or employees. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Consultant.

Consultant acknowledges the importance to City of City's performance schedule and agrees to put forth its best professional efforts to perform its Services under this Agreement in a manner consistent with that schedule. City understands, however, that Consultant's performance must be governed by sound professional practices.

3. COMPENSATION.

A. "Not to Exceed" Compensation. City shall compensate Consultant for all Services performed by Consultant hereunder in an amount based upon Consultant's hourly or other rates set forth in Exhibit "B". The payments specified in Exhibit "B" shall be the only payments to be made to Consultant for Services rendered pursuant to this Agreement.

Notwithstanding the foregoing, the combined total of compensation and costs payable hereunder shall not exceed the sum of Sixty Three thousand, four hundred and forty and No/100 Dollars (\$63,440.00) 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. **INSURANCE**. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. **Verification of Coverage.**

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

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

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

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

B. **Minimum Scope of Insurance.**

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and
2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and
4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

C. Minimum Limits of Insurance.

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

- | | |
|---|--|
| 1. General Liability:
(including products and
completed operations, property
damage, bodily injury, and
personal and advertising
injury) | \$2,000,000 per occurrence for bodily
injury, personal injury, and property
damage. If a general aggregate limit
applies, either the general aggregate
limit shall apply separately to this
project/location or the general
aggregate limit shall be twice the
required occurrence limit. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily
injury and property damage. |
| 3. Employer's Liability: | \$1,000,000 per accident for bodily
injury or disease. |
| 4. Errors and Omissions Liability: | \$1,000,000 per occurrence or claim;
\$2,000,000 aggregate. |

D. Deductibles and Self-Insured Retentions.

Any deductibles or self-insured retentions must be declared to and approved by the City Risk Manager. At the option of City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to City, its officers, officials, directors, employees, contractors, agents, and volunteers, or (2) Consultant shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses in an amount specified by the City Risk Manager or designee.

E. Claims Made Policies.

For all "claims made" coverage, in the event that Consultant changes insurance carriers Consultant shall purchase "tail" coverage or otherwise provide for continuous coverage covering the Term of this Agreement and not less than five (5) years thereafter. Proof of such "tail" or other continuous coverage shall be required at any time that the Consultant changes to a new carrier.

F. Wasting Policies.

No policy required by this paragraph 12 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 12 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

9. Variation. The City Risk Manager may approve a variation in these insurance requirements upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available or that City's interests are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

13. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 18, hereinbelow) a written report (in a form acceptable to City) with the following information: (a) name(s) and address(es) of the injured or deceased person(s), (b) name(s) and address(es) of witnesses, (c) name(s) and address(es) of Consultant's insurance company(ies), and (d) a detailed description of the damage(s) and whether any City property was involved.

14. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type

arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subconsultants. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

The duty to defend is a separate and distinct obligation from Consultant's duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by City immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Consultant from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Consultant may submit a claim to City for reimbursement of reasonable attorneys' fees and defense costs.

The review, acceptance or approval of Consultant's work or work product by any indemnified party shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This paragraph survives completion of Services or the termination of this contract. The provisions of this paragraph are not limited by and do not affect the provisions of this contract relating to insurance.

Consultant/Subconsultant's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

15. 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.

16. 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 16 Section A above, either party may terminate this Agreement without cause by giving written notice thereof not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

17. CONTRACT ADMINISTRATION. This Agreement shall be administered by _____ of the City of Newark ("Administrator"). All correspondence shall be directed to or through the Administrator or his/her designee.

18. NOTICES. Written notices required or convenient hereunder shall be delivered personally or by depositing the same with the United States Postal Service, first class (or equivalent) postage prepaid and addressed, in the case of Consultant, to:

Abbe & Associates, LLC

CITY OF NEWARK

Ruth Abbe, Principal
Consultant

Administrator

Address: 1028 Fair Oaks Ave
Alameda, CA 94501

City of Newark
Attn: Susie Woodstock
37101 Newark Boulevard
Newark, CA 94560

19. PARAGRAPH HEADINGS. Paragraph headings used herein are for convenience only and shall not be deemed to be a part of such paragraphs and shall not be construed to change the meaning thereof.

20. EXHIBITS. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.

21. SEVERABILITY. If any term of this Agreement (including any phrase, provision, covenant, or condition) is held by a court of competent jurisdiction to be invalid or unenforceable, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect; provided, however, this paragraph shall not be applied to the extent that it would result in a frustration of the Parties' intent under this Agreement.

22. **GOVERNING LAW, JURISDICTION, AND VENUE.** The interpretation, validity, and enforcement of this Agreement shall be governed by and interpreted in accordance with the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of Alameda.

23. **ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.

24. **ASSIGNABILITY.** Neither Consultant nor City shall subconsult, assign, sell, mortgage, hypothecate, or otherwise transfer their respective interests or obligations in this Agreement without the express prior written consent of the non-transferring party.

25. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

26. **WAIVERS.** Waiver of breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.

27. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the Parties concerning the Services. This Agreement supersedes all prior negotiations, agreements, and understandings regarding this matter, whether written or oral. The documents incorporated by reference into this Agreement are complementary; what is called for in one is binding as if called for in all.

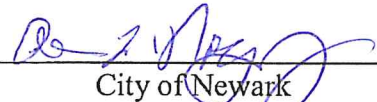
28. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Consultant and City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

29. **COVENANT AGAINST CONTINGENT FEES.** Consultant hereby warrants that Consultant has not employed or retained any company or person, other than a *bona fide* employee working for Consultant, to solicit or secure this Agreement, and Consultant has not paid or agreed to pay any company or person, other than a *bona fide* employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or formation of this Agreement. For breach or violation of this warranty, City shall have the right to annul this Agreement without liability or, at City's discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

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

CITY OF NEWARK,
a municipal corporation

Abbe & Associates, LLC

By 
City of Newark

By 
Consultant

Date 2/23/2017

Date 2-16-17

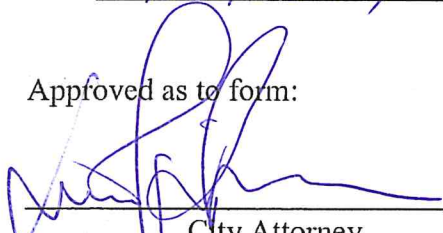
Ruth C. Abbe, Principal

Printed Name

Attest: 
City Clerk

Date 2/23/2017

Approved as to form:


City Attorney

Date 2-27-17

EXHIBIT A
SCOPE OF SERVICES

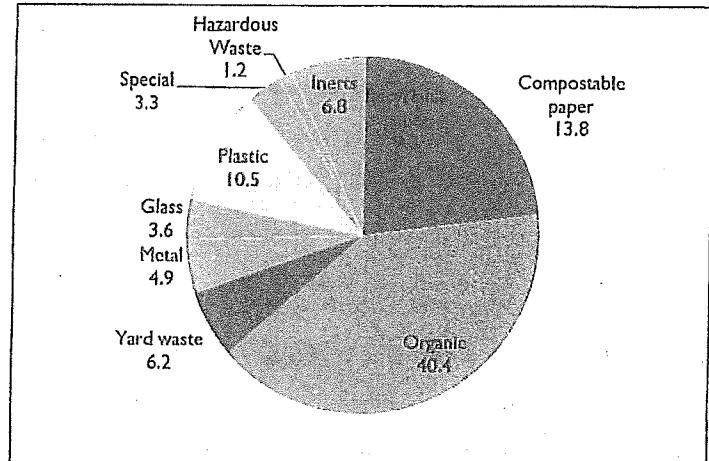
I. IDENTIFY TARGET SECTORS

Objective: Identify goals and objectives of the Recycling Plan by evaluating opportunities by generator sector.

Approach: There are a number of useful data sources for profiling the generator sectors in the City: reports from

Republic Services, recycling reports or invoices prepared for Newark Unified, 2008 Alameda County waste characterization study, the CalRecycle 2014 generator based waste composition study and community profiles based on local demographics, and benchmark studies performed by Stopwaste, among others. We do not anticipate that data from the 2017 Alameda County waste characterization study will be available during the 6-8 month period that the City anticipates for the Recycling Plan. It is unclear whether the methodology

2008 Aggregate Waste Composition
by Major Material Group



Source: 2008 Alameda County Waste Characterization Study Stopwaste.org
Note: Over 60% of discarded material is compostable.

to be used in the countywide study will provide enough specific information about the City's generator sectors to be

useful for the Recycling Plan. Therefore, we will review available data and create a profile for each generator sector in the City, including: single family, multifamily, commercial, roll-off and schools. Based on these profiles and including information from the Task 6 review of current hauler reporting (discussed below), we will identify the generator sectors that should be targeted for the Recycling Plan. The results of this task will inform the development of the goals and objectives for the Recycling Plan.

Deliverables: One draft and one final memo identifying the targeted sectors, goals and objectives. We anticipate that the memo will be incorporated into a section of the Recycling Plan.

II. REVIEW CURRENT PROGRAMS

Objective: Prepare a description of the City's existing policies, programs and regional facilities and identify opportunities for expansion or improvement.

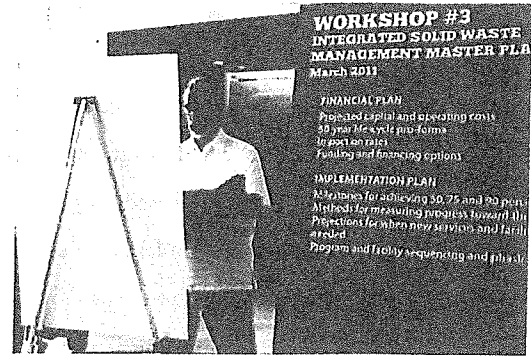
Approach: For this task, we will prepare a description of each of the City's existing policies, programs and regional facilities. Based on available information provided by City staff and Republic, we will identify the participation and capture rates, historic recycling and refuse tonnage over time, the years when programs were implemented, and the successes achieved (in tons and dollars, where available). We will provide a brief evaluation and identify the opportunities for expansion and enhancement, where appropriate.

Deliverables: One draft and one final memo describing the current programs and identifying opportunities for expansion and enhancement to contribute to the sector-specific goals and objectives identified in task 1. We anticipate that the memo will be incorporated into a section of the Recycling Plan.

III. RECOMMEND PROGRAMS

Objective: Based on discarded materials generation, characterization, local markets, and demographic data, we will identify the opportunities for decreasing the volume of discarded materials generated by: single-family, multi-family, commercial, roll-off and schools.

Approach: We will review and discuss the opportunities for increased diversion from each generator sector. We will discuss program improvement opportunities and options for increasing diversion. We are familiar with the City's collection contract services and will discuss opportunities for increasing incentives for diversion by the contractor and the generators. We will review the current service contracts and identify opportunities for future changes in the service contract, rate structure or compensation mechanism.



Our team members were key staff to the U.S. EPA in the development of a new website: *Managing and Transforming Waste Streams – A Tool for Communities* (See: <http://www2.epa.gov/managing-and-transforming-waste-streams-tool-communities>).

This website includes a tool that highlights best practices for community-wide procurement and contracting for solid waste and recycling services at: <http://www2.epa.gov/managing-and-transforming-waste-streams-tool-communities/contracting-best-practices-resources-used>. We will review this tool with City staff and identify the programs recommended for implementation.

Deliverables: One draft and one final memo identifying the recommended programs. We anticipate that the memo will be incorporated into a section of the Recycling Plan. One public meeting, either a Council study session or community workshop, is included in this task to present the recommendations and receive community input.

IV. ESTIMATE DIVERSION POTENTIAL AND COSTS

Objective: Prepare diversion estimate, economic analysis and implementation plan, highlighting the Recycling Plan steps for meeting the goals and objectives identified pursuant to Task 1.

Approach: For this task, we will identify the planning level costs associated with each of the proposed policy, program and facility initiatives and identify an appropriate funding source for each initiative. We will estimate the potential diversion rates and greenhouse gas reductions based on diverted tons using the U.S. EPA Waste Reduction Model.

We will also develop an implementation plan, identifying all of the action steps required to implement the Recycling Plan elements. The implementation plan will include an estimate of staff time necessary for implementation along with the opportunities for partnerships. The implementation plan will include a phasing schedule and diversion estimate by goal year and will serve as the “workbook” for City staff.

May 18, 2011 Policy, Program, and Facility Plan Summary

COUNTY OF LOS ANGELES
A Solid Waste Planning and Assessment Plan
City of Los Angeles, Department of Public Works
May 18, 2011

Phase 1 Recap
The City of Los Angeles (City) initiated a Solid Waste Integrated Assessment (SWIPA) in the spring of 2007. SWIPA was a multi-phase process to develop a 20-year master plan to address the waste management challenges the City faces. The master plan will be developed in three phases: Phase 1: Assessment, Phase 2: Policy Development, and Phase 3: Implementation. During Phase 1, the City conducted a comprehensive assessment of its waste management system, including a review of its waste management policies, programs, and facilities. The assessment identified key areas for improvement and provided a foundation for the development of the master plan. The master plan will be developed in three phases: Phase 1: Assessment, Phase 2: Policy Development, and Phase 3: Implementation. During Phase 1, the City conducted a comprehensive assessment of its waste management system, including a review of its waste management policies, programs, and facilities. The assessment identified key areas for improvement and provided a foundation for the development of the master plan.



Phase 1 Guiding Principles

1. Education to decrease consumption
2. City leadership as a model for zero waste practices
3. Education to increase recycling
4. City leadership to increase recycling
5. Manufacturer responsibility

6. Consumer responsibility
7. Convenience
8. Incentives
9. New, safe, technology
10. Protect public health and the environment
11. Equity
12. Economic efficiency

**ZERO
WASTE PLAN**

Deliverables: One draft and one final memo presenting the diversion and economic analysis and implementation plan. We anticipate that the memo will be incorporated into a section of the Recycling Plan. Compilation of the memos, findings and research into the Recycling Plan are included in this task. We anticipate preparing one draft and one final of the Recycling Plan.

V. EVALUATE RATE STRUCTURE

Objective: Determine whether changes in collection rates would increase recycling behaviors.

Approach: We know that the City's rates are tiered to incentivize customers to right-size their containers. Single-family residential customers pay more for more refuse volume and recycling and organics collection are included in the refuse rates. Commercial rates include a lower rate for recycling and organics collection compared to the same size container for refuse. The City and Republic have taken a step toward a cost of service model that would stabilize rates

over time as customers migrate to smaller refuse containers. This avoids the "death spiral" where rate revenues do not match the costs to provide service. However, based on the current commercial and industrial recycling rates, it is possible that changes to the rate structure could change recycling behavior. Alternative approaches for keeping cost of service rates intact while also providing an incentive to recycling have been hard to achieve. For this task, we will survey 8 to 10 local



The Death Spiral

governments about the success of different rate structures and profile each approach, discussing the pros and cons. For example, the Central Contra Costa Solid Waste Authority's contract with Republic provides commercial recycling and organics collection at no extra charge to the commercial customers (similar to single family). As a result, all of the schools in the service area are now fully participating in recycling and composting collection services and have collectively achieved a 56% diversion rate. San Francisco has been experimenting with commercial rates by having Recology charge by volume for all services and then providing a discount for more recycling or organics collection (similar to Newark's approach). San Francisco is also having Recology enforce their mandatory recycling and compost collection ordinance by charging a 50% surcharge to customers who contaminate their refuse with recyclables or compostables or contaminate their recycling and composting with refuse.

Deliverables: One draft and one final memo presenting the results of the survey and recommendations for the City. We anticipate that the profiles for each community will be incorporated into an appendix of the Recycling Plan.

VI. REVIEW AND EVALUATE CURRENT HAULER REPORTING

Objective: Establish current diversion rates, compare these to other similar communities, and identify areas where the City and Republic can improve diversion.

Approach: For this task we will review all of the reports that the City currently receives from Republic and request additional available data from Republic, if appropriate. We will calculate the citywide franchise diversion rate and the diversion rate for each generator sector (single family, multi-family, commercial and roll-off/industrial). Year-to-date 2016 reports provided by the City show an approximately 50-53% diversion rate for residential customers and a 5-8% diversion rate for roll-off and front load service,

resulting in a 27% diversion rate citywide. We will dig more deeply into this data to understand the factors that are contributing to these diversion rates and identify opportunities for program improvement. Using City staff input we will identify 8 to 10 "peer cities" based on demographics and similar basic collection programs. Then we will compare diversion results, program implementation strategies, and contract provisions that could improve diversion in the City and meet state mandates.

Deliverables: One draft and one final report detailing the findings and recommendations.

VII. REVIEW CURRENT COMMERCIAL ORGANICS COLLECTION PROGRAM PROPOSAL

Objective: Evaluate the current commercial organics collection program proposal and identify the most cost-effective means for implementing the program and meeting the objectives of state and local mandates.

Approach: We will review the current commercial organics collection program proposal provided by Republic and compare this to other successful organics collection programs that have been implemented in our area. In our experience, organics collection program implementation requires hand-holding and technical assistance. Training in languages other than English may be desirable based on the demographics of the City. We will evaluate Republic's approach for meeting the needs of its customers and identify opportunities from ensuring that the program is successful. A key issue is Republic's plans for charging organics collection rates to its customers and the opportunities for "right-sizing" trash collection. The City and Republic will need to balance the incentives to the rate-payers with the need to ensure that enough revenue is generated to cover the system costs.

Deliverables: One draft and one final report detailing the findings and recommendations.

Task	Deliverable	Meeting	Schedule
I. Identify Target Sectors	Memo	Kickoff	Month 1
II. Review Current Programs	Memo		Month 2
III. Recommend Programs	Memo	Community or Council	Month 3
IV. Estimate Diversion Potential and Costs	Memo Report	Staff	Month 4 (memo) Month 6 (report)
V. Evaluate Rate Structure	Memo Appendix		Month 5
VI. Review and Evaluate Current Hauler Reporting	Report	Staff	Month 1
VII. Review Current Commercial Organics Collection Program Proposal	Report	Staff	Month 2

EXHIBIT B

PAYMENT

Task	Hours	Cost	Lead	Support
I. Identify Target Sectors	48	6800	Ruth	Gary
II. Review Current Programs	48	6200	Richard	Portia Ruth
III. Recommend Programs	80	10000	Portia	Richard Ruth
IV. Estimate Diversion Potential and Costs	64	10320	Ruth	Kevin
V. Evaluate Rate Structure	64	11040	Kevin	Ruth
Subtotal Recycling Plan	304	44,360		
VI. Review and Evaluate Current Hauler Reporting	60	10,380	Gary	Kevin Ruth
VII. Review Current Commercial Organics Collection Program Proposal	60	8700	Rich	Ruth
Total	424	63,440		

Staff	Rate
Ruth	150
Kevin	180
Rich	125
Richard	125
Portia	125
Gary	125



Education

B.A., M.A., Political Science (Public Administration), California State University, Long Beach, California

Professional Affiliations

Board of Directors Grassroots Recycling Network (1996-present)
Board of Directors; California Resource Recovery Association (1975-1979, 1980-1993, 1994-96, 2000-present)

Board of Directors; Keep California Beautiful (1991- present)

Board of Directors; Mount Carmel Soccer Booster Club dba Sun Devil Recycling (1991-96)

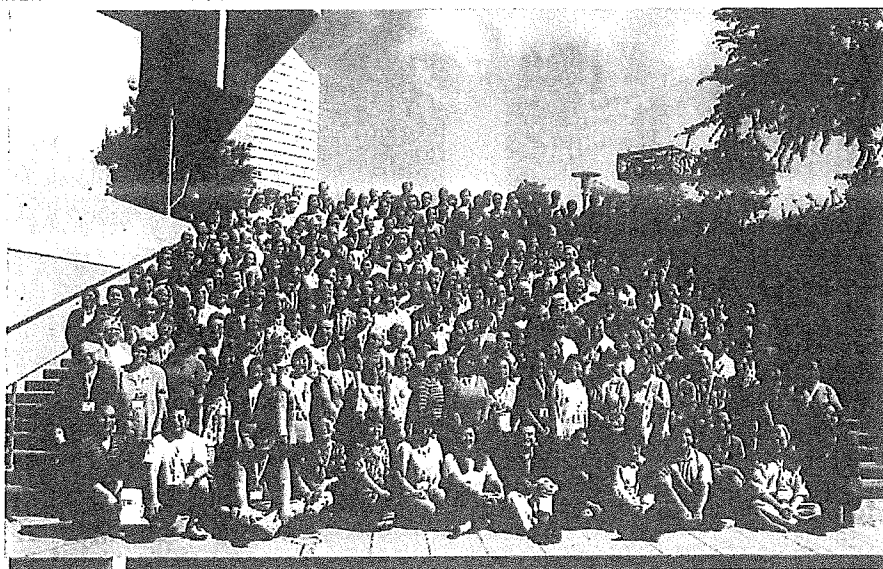
Founding member and former Board of Director; National Recycling Coalition (1980-1993)

California State University Long Beach, Associated Students Ecology Commission (1971-1974)

Board of Directors; Zero Waste International Alliance (ZWIA) (2003-present)

Expertise

- Economic and Community Development
- Market Development
- Policy Development and Analysis
- Program Planning and Management



RICHARD ANTHONY, SERVICE OPPORTUNITIES

Richard V. Anthony began his career in Public Administration in 1971 as a manager of the California State University Long Beach Recycling Center.

He received a MS in Public Administration in 1974. Rick has worked his entire career in environmental program management positions, beginning in Fresno County.

As a Solid Waste Manager he wrote and then implemented Solid Waste plans for Fresno County (1979-1987). While in Fresno County, he supported the development of the American Avenue Landfill and staffed the County's solid waste commissions. He hosted the first National Recycling Congress in Fresno County, which highlighted the County's policies and programs. He was the Solid Waste Manager for San Diego County (1987-1998) and expanded the County's recycling programs and solid waste infrastructure.

He has participated in developing high diversion and Zero Waste plans as a consultant since 1998.

He is an internationally recognized and published expert in the area of Resource Management using the Zero Waste Systems approach. He has led International Dialogs on Zero Waste in Nanaimo Canada, Berkeley and San Francisco USA, Florianopolis, Brazil, Puerto Princesa, Philippines, and Naples, Italy. Richard Anthony is a founder and member of the Board of Directors of the California Resource Recovery Association, the Grassroots Recycling Network, the Zero Waste International Alliance, and the U.S. Zero Waste Business Council. He has been a Professor of Zero Waste at Irvine Valley College and an Instructor in the California Resource Recovery Association Certificate Program.



Education

B.A., in Communications, with concentration in Public Relations from the University of Dayton

Professional Affiliations

Zero Waste San Diego, President
California Organics Recycling Council
California Resource Recovery Association

Expertise

- Composting
- Resource Management
- Sustainable Farming
- Public Relations

RICH FLAMMER, ORGANICS ANALYSIS

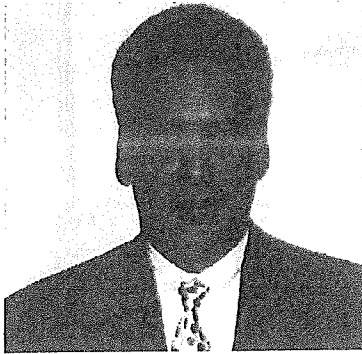
Rich has more than 25 years of hands-on composting experience working extensively in nine U.S. states and Mexico. He has designed, managed, permitted, evaluated, and/or remediated more than 75 large-scale composting facilities for both private and public sector clients. He has also been involved in public policy formation, rulemaking development for state composting regulation, composting technology assessment and development, and regional studies evaluating organic resource management.

With extensive experience in permitting and regulatory compliance, Rich has provided permitting and regulatory compliance services for more than 30 private and public sector clients in the continental U.S., Hawaii and Mexico, and is familiar with OMRI and NOP rules, CEQA, CalRecycle composting

regulations, US EPA Part 503, NPDES, zoning and local land use rules in various regions of the state, as well as air and water board rules and composting regulations in other states.

A specialist in public relations and education, Rich does frequent outreach work, writes instructional manuals, promotional materials, editorial pieces, and gives lectures and workshops on a regular basis. He is Contributing Editor, BioCycle, Journal of Composting & Organics Recycling. He has designed three permanent home composting exhibits and has appeared in two instructional videos, one of which won an Emmy.

Rich is President and founding board member of Zero Waste San Diego. He is also a member of the San Diego County Farm Bureau and the Surfrider Foundation.



Education

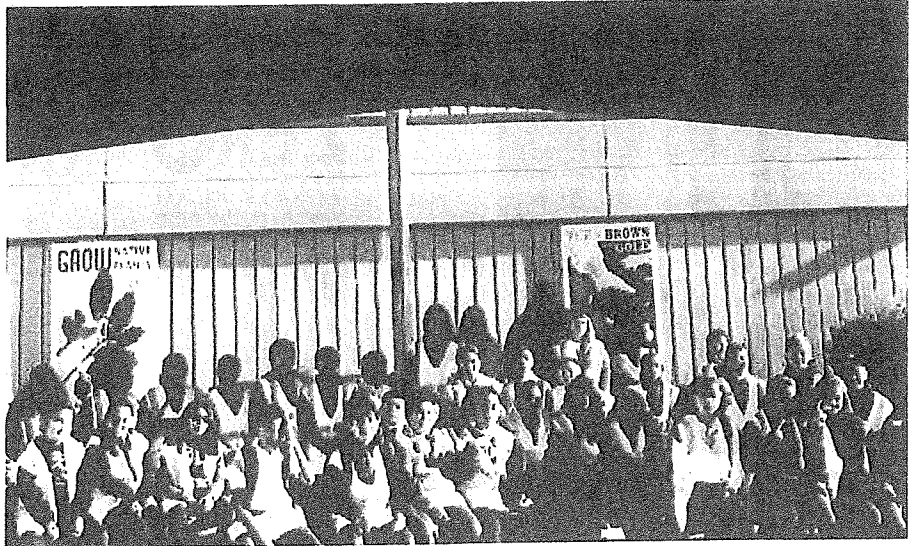
B.S., Environmental Policy Analysis and Planning, University of California at Davis

Professional Affiliations

California Resource Recovery Association
Solid Waste Association of North American, Gold Rush Chapter

Expertise

- Executive and Program Management
- Diversion Program Analysis, Long Range Planning and Implementation
- Contract Negotiation and Management
- Facility Operations and Master Planning
- Financial Analysis and Budgeting



KEVIN MCCARTHY, RATES AND SERVICE ANALYSIS

Kevin McCarthy has over 27 years of experience in both the private and public sector developing and implementing environmentally and economically sustainable programs, notably in the areas of recycling and solid waste management, and environmental education.

Kevin has served in a variety of private and public sector recycling/solid waste planning roles including: providing operational oversight, management and environmental compliance at solid waste transfer stations and material recovery facilities (MRFs); management of a national electronics recycling business; and Executive Director for a twelve member public joint powers agency (SBWMA/RethinkWaste) in

California representing nearly 500,000 residents and 10,000 businesses. He is a results-oriented manager with skills and advanced knowledge and expertise in: executive management, contract negotiation and management, program management, financial analysis, facility operations and master planning, public speaking and communications, and public policy development.

Kevin is currently managing facility operations procurement in Boulder, Colorado and supporting San Benito County with a wide range of projects including contract negotiations with a landfill operator, collection services franchise agreement support and ongoing diversion program technical assistance.



Education

B.A., Philosophy and Fine Arts,
Amherst College

Professional Affiliations

Solid Waste Association of North
American, Gold Rush Chapter, Past
President

Californians Against Waste, Board of
Directors

Grassroots Recycling Network,
President

California Resource Recovery
Association, Global Recycling
Council, Co-Chair

Northern California Recycling
Association, Past President

Expertise

- High Diversion Programs and
Infrastructure
- Composition Analysis, Waste
Diversion and Generation
Projections
- Collection and Facility
Procurement, Negotiations, and
Contract Development
- Economic Analysis and Financial
Planning
- Organics Management,
Composting and Anaerobic



RUTH ABBE, PROJECT MANAGER

Ruth Abbe is a senior management consultant with 25 years of experience in program planning and implementation, facility and collection procurement, contract negotiation, financial analysis, and stakeholder engagement. She is a national leader in Zero Waste planning and works with municipalities across the country to develop the social and physical infrastructure to achieve high diversion. Ruth has worked with more than 50 communities and private sector clients to plan and implement their recycling, organics, construction and demolition debris programs and high diversion strategies. She has provided planning and program implementation services to the Cities of Austin and Dallas, and Fort Collins (CO); Mecklenburg County (NC); and the Cities of Los Angeles, Palo

Alto, Pasadena, and San Jose. She has supported the City of San Francisco in Zero Waste Analysis since 2001. She has assisted the Cities of Austin (TX) and Los Angeles to evaluate the feasibility of implementing their mandatory recycling and composting ordinances. She is negotiating new collection and processing contracts for Fresno County, California State University, and the East Bay Regional Park District. She has developed an award-winning recycling and composting program for the Alameda schools (the Alameda Green Schools Challenge) and supports the "Miss Alameda Says, 'Compost!'" program to help implement mandatory recycling and composting requirements at Alameda restaurants and multifamily buildings.

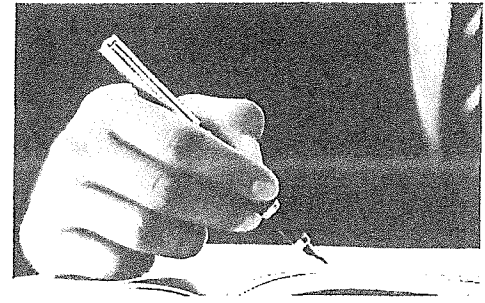
ABBE & ASSOCIATES FIRM QUALIFICATIONS

Abbe & Associates is a full-service management consulting firm specializing in solid waste management program development, economic analysis, collection and processing procurement, contract negotiations, and stakeholder engagement. We work with municipal clients and institutional and commercial generators to plan and implement the social and physical infrastructure needed to reach 75 percent.

Abbe & Associates also has expertise in program analysis, data collection and management, CalRecycle compliance assistance, contract development, and rate analysis. We have performed these services for clients including the Castro Valley Sanitary District; the cities of Fremont, San Francisco and Stockton; the Counties of Fresno, Santa Cruz, and Sonoma; and the South Bayside Waste Management Authority, among others.

Abbe & Associates has extensive experience working with communities to develop solid waste plans and programs similar to those requested by the City. The following table summarizes recent solid waste planning projects undertaken by our team.

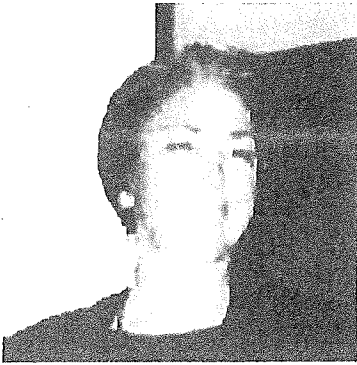
Project	Stakeholder Outreach	Program Evaluation	Financial Analysis	Implementation Plan
Austin Resource Recovery Plan	✓	✓	✓	✓
Alameda Zero Waste Plan	✓	✓	✓	✓
Castro Valley Sanitary District Zero Waste Strategic Plan	✓	✓	✓	✓
Dallas Local Solid Waste Management Plan	✓	✓	✓	✓
Fort Collins Road to Zero Waste Plan	✓	✓	✓	✓
Menlo Park Zero Waste Plan	✓	✓	✓	✓
Louisville/Jefferson County Solid Waste Master Plan	✓	✓		
Los Angeles Solid Waste Integrated Resources Plan	✓	✓	✓	✓
Mecklenburg County Solid Waste Management Plan	✓	✓		
Pasadena Zero Waste Strategic Plan	✓	✓	✓	✓
Santa Monica Zero Waste Strategic Operations Plan	✓	✓	✓	✓



OUR SERVICES INCLUDE

- Sustainability services, including high diversion planning and green house gas accounting
- Independent assessments of waste management technologies and projects
- Waste prevention, reuse, and recycling, including processing and recovery facilities and marketing recovered materials
- Local and regional integrated waste management master plans
- Siting, environmental assessment, and permitting for solid waste facilities
- Economic, environmental, and feasibility analyses
- System and facility procurements
- Organics management
- Collection efficiency studies, rate review, and hauler procurements and negotiations assistance
- Diversion and disposal studies
- Waste composition and generation projections
- Waste reduction technical assistance to large commercial and institutional generators
- In-service training and certification
- CalRecycle compliance assistance
- Construction and demolition debris ordinance development and compliance assistance

EXHIBIT C
QUALIFICATIONS



Education

B.A., Interdisciplinary Social Science,
San Francisco State University

Professional Affiliations

Northern California Recycling
Association, Editor and Past
President and Board Member

Global Recycling Council of the
California Resource Recovery
Association, Executive Committee
Member

Zero Waste USA, Program Director

Zero Waste Brain Trust, Convener

LITE Initiatives - Zero Waste
Sonoma County and Community
Bikes, Founder and Executive
Director

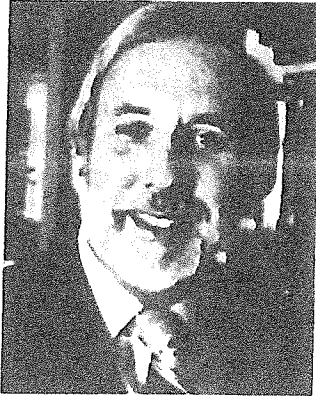
Expertise

- Project Management, Data Management And Programming
- Event and Meeting Production and Facilitation
- Research, Planning And Field Studies
- Public Outreach and Education, Websites and Social Media
- Program Analysis, Design, Implementation And Monitoring
- Reuse and Repair Program Development and Directory Production
- Commercial and Multi-Family

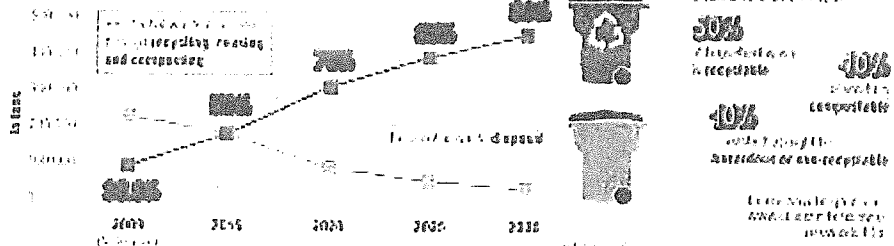
PORTIA SINNOTT, PROGRAM ANALYSIS

Portia is the owner of Micro Services Plus (MS+), an environmental consultancy committed to the principles of sustainability. Established in 1983, MS+ specializes in innovative, cutting edge projects designed to serve as models for others. MS+ also provides research, data management, programming and project services to US and European agencies including U.S. EPA, City of San Francisco, StopWaste.Org, WASTE (Holland), UN Habitat (Kenya) and USAID (Bulgaria) as well as other consulting firms. Past accomplishments include writing for Resource Recycling Magazine: "The Value of Understanding — Reuse and Repair", "Fine-Tuning Your Multi-Family Recycling Program" and "State of the Art" a national survey of multi-family recycling programs, plus numerous websites, on-line surveys and directories.

A certified federal contractor, recent projects include a resource guide for EPA Region 1- New England and an assessment framework and contracting best practices for EPA Region 9 — Pacific Southwest. These large and comprehensive multi-year contracts provided content for the new EPA website: Managing and Transforming Waste Streams — A Tool for Communities (2015). Portia was the data manager for UN Habitat's 2010 Solid Waste Management in the World's Cities publication and wrote the chapters on the City of San Francisco and Tompkins County New York. She also initiated, co-designed and coordinated the San Francisco State University Extended Education Integrated Waste Management Certificate Program which was used as a model for similar programs at U. C. Berkeley and U. C. Santa Cruz.



Austin Resource Recovery MASTER PLAN DIVERSIFICATION



Education

Masters in Public Administration,
Rutgers University
B.S., Civil Engineering
(Environmental Engineering major),
Tufts University

Professional Affiliations

Vice President, U.S. Zero Waste
Business Council
Programs Chair, Zero Waste USA
Policy Chair, Zero Waste
International Alliance
Board Member, National Recycling
Coalition

Expertise

- Zero Waste and High Diversion Planning
- RFPs and Contracts
- Resource Recovery Parks

GARY LISS, PROGRAM AND REPORTING ANALYSIS

Gary has more than 42 years of experience in the solid waste and recycling field. He has been President of Gary Liss & Associates since 1998 (18 years), which helps clients on procurement of refuse and recycling systems, strategic analyses of refuse rates and solid waste fees, development of commercial recycling incentives and programs, integrated waste management systems design, community-wide Zero Waste plans, project management, program planning and implementation, policy and program analysis and advocacy, and organizing resource recovery parks.

Gary is the former Solid Waste Manager for the City of San Jose and oversaw the implementation of

many of that City's state-of-the-art policies and programs. He has negotiated multiple franchise agreements and operating agreements designed to maximize diversion.

Gary is a leading advocate of Zero Waste and has helped more communities develop Zero Waste plans than anyone else in the U.S. He is a founder and President of the U.S. Zero Waste Business Council that is developing a third party certification program for Zero Waste Businesses. The California Resource Recovery Association selected him as Recycler of the Year in 2005. In 2008 he was elected to Council in Loomis, California and was Mayor in 2010.

SECOND AMENDMENT TO THE CONTRACTUAL SERVICES
AGREEMENT BETWEEN THE CITY OF NEWARK AND
ABBE AND ASSOCIATES

This Second Amendment to Contractual Services Agreement between the City of Newark, a municipal corporation, ("City") and Abbe and Associates., ("Consultant") dated February 23, 2017 (the "Agreement"), is entered into as of Aug. 3, 2022 for the provision of Commercial Organics Collection Program Consulting Services.

RECITALS

WHEREAS, the City and Abbe and Associates ("Consultant") entered into an Agreement between City and Consultant for Commercial Organics Collection Program Consulting Services effective February 23, 2017 (Agreement); and

WHEREAS, the City and Consultant amended the Agreement between City and Consultant for Commercial Organics Collection Program Consulting Services effective April 12, 2018 (First Amendment); and

WHEREAS, Consultant has satisfactorily completed the scope of services in the Commercial Organics Collection Program Consulting Services Agreement and First Amendment to the Agreement; and

WHEREAS, the City intends, upon mutual written agreement by both parties to add tasks assisting with completion of the implementation of commercial organics collection requirements of AB 1826 and the development and adoption of a sustainable food ware ordinance.

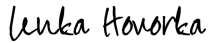
NOW, THEREFORE, inconsideration of the foregoing recitals and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

- (1) Notwithstanding Section 1 of the Agreement, the parties hereby agree to add the additional services to the scope of the Agreement as contained in Exhibit A.
- (2) Notwithstanding Section 3 of the Agreement, the parties hereby agree to revise the payment schedule of the Agreement to the payment schedule as contained in Exhibit B for a revised not to exceed amount of \$312,660.00.

The Second Amendment of the Agreement for Commercial Organics Services has been

executed by the parties as of the date first set forth above.

City of Newark

DocuSigned by:

3DAB6ABE4F2D491...
David J. Benoun
City Manager

Dated 8/3/2022

Consultant

DocuSigned by:

5E00AF9DCE2041E...
Ruth Abbe, President
Abbe and Associates

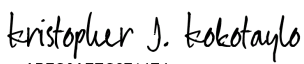
Dated 8/3/2022

Attest:

DocuSigned by:

AD90989DBABE45E...
Sheila Harrington
City Clerk

Approved as to Form:

DocuSigned by:

ABFC8AFEC9714E4...
Kristopher J. Kokotaylo
City Attorney

Second Amendment

Exhibit A

Recycling and Organics Compliance Assistance FY 2022-23

TASK 1: AB 1826/SB 1383 TECHNICAL ASSISTANCE

Work with Republic Services to provide outreach and technical assistance to the City's 287 commercial customers that are not currently in compliance with AB 1826. Assist customers with information about the recycling and organics program and help them to "right-size" their recycling, organics and trash collection service. Provide on-site training and door-to-door outreach. Assist customers to cost-effectively comply with the requirements of state law and the countywide mandatory recycling and composting ordinance. We will also provide information to food generating business about food waste prevention and food donation opportunities (pursuant to SB 1383).

Our team is available 16-20 hours per week through October 31st. We will work with Republic Services to divide the customer list and prioritize based on need and availability. Our goal will be to work with all 287 customers and assist them to implement the organics collection program.

TASK 2: ELECTRONIC ANNUAL REPORT

Provide as-needed technical assistance to City staff in completion of the City's Electronic Annual Report. Our team assumes up to 28 hours to provide support through August 1st.

TASK 3: CONSTRUCTION AND DEMOLITION ORDINANCE ASSESSMENT

Assess the City's construction and demolition (C&D) program status and compliance with California building code requirements, make recommendations for improvements to the program to ensure that the City is in compliance with California's CALGreen code and republic is meeting C&D diversion requirements. Review current C&D practices at the city level, at the contractor level, review disposal reports from Republic, interview City staff and Republic staff regarding their C&D diversion requirements. Document findings and develop recommendations in a memorandum to the City, with detail on potential improvements. Our team is available to implement these recommendations and can provide this work on a separate scope of work. Develop self-haul outreach and education and compliance documents to ensure compliance with state and ordinance requirements.

TASK 4: SUSTAINABLE FOODWARE ORDINANCE

Develop sustainable foodware ordinance, staff report, and power point presentation materials for City Council consideration and approval. Develop outreach and education materials, develop website content to include ordinance requirements and resources to purchase compliant foodware.

TASK 5: EVENTS RECYCLING SUPPORT

The City has identified Events Recycling Requirements as a short-term policy for implementation. For this task, we propose to work with City staff to develop the new policy which could require event sponsors to provide recycling at all permitted events. We will also provide outreach assistance at four public event/days in Newark during the first year of implementation to demonstrate best practices and assist event organizers in planning and implementing recycling (and potentially composting) at events within the City. Provide support to the City's biannual cleanup day (typically scheduled in October and May of each year). Arranged for tire and electronics recycling services from San Jose Conservation Corps and reusable goods and furniture collection from Urban Ore.

TASK 6: AS-NEEDED TECHNICAL ASSISTANCE

Provide additional technical assistance to City staff on an as-needed basis to support the implementation for the City short-term recycling programs and compliance with state and county requirements.

TASK	HOURS	COST
Task 1: AB 1826/SB 1383 Technical Assistance	340 hours at \$105/hour	\$35,700
Task 2: Electronic Annual Report	28 hours at \$200/hour	\$5,600
Task 3: Construction and Demolition Ordinance Assessment	49 hours at \$200/hour	\$9,800
Task 4: Sustainable Foodware Ordinance	37 hours at \$200 hour	\$7,400
Task 5: Events Recycling Support	Policy development 16 hours at \$165/hour	\$2,640
	Outreach support at 4 City event/days (5 staff at \$50/hour)	\$8,000
	Recycling equipment (Clearstreams, bags, signage)	\$3,760
	Cleanup events/days (2 staff at \$105/hour)	\$3,360
	Subtotal	\$17,760
Task 6: As-needed technical assistance	40 hours at \$165/hour	\$6,600
	40 hours at \$200/hour	\$8,000
	80 hours at \$105/hour	\$8,400
	Subtotal	\$23,000
TOTAL		\$99,260

Second Amendment**Exhibit B****Abbe & Associates Rate Sheet – City of Newark 2022**

Staff	Position	Rate/Hour
Ruth Abbe	Project Manager	\$165
Kathleen Gallagher	Senior Consultant	\$200
Randall Russell	Technical Assistance Organics, Community Cleanup	\$105
John Hanscom	Technical Assistance, Organics, Community Cleanup	\$105
Staff Support	On-site outreach at public events	\$50



STAFF REPORT

Item D. 5.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Art Interiano, Deputy Community Development Director
SUBJECT Accept recommendation from the Community Development Advisory Committee for allocation of anticipated Community Development Block Grant Jurisdiction Improvement Project funds for Fiscal Year 2024

SUMMARY AND RECOMMENDATION

The city is expected to receive a Community Development Block Grant (CDBG) award in the amount of approximately \$210,042. A portion of those funds is allocated for the Alameda County minor home repairs program and CDBG administrative costs. The remainder of the balance, \$150,358, is recommended to be used for jurisdictional improvements. The jurisdictional improvement funds will be used on a variety of park projects, repairing pathways in Mayhews Landing Park, repairing sidewalks, installing new curb ramps, and upgrading existing curb ramps in Birch Grove. The Community Development Advisory Committee (CDAC) met on April 5, 2023, and voted 7-0 (two members absent) in favor of the recommended improvements. Staff recommends that the City Council, by motion, accept the recommendation from the Community Development Advisory Committee to approve the allocation of Community Development Block Grant Jurisdiction Improvement funds for Fiscal Year 2024 to the Citywide ADA Compliance Improvements.

BACKGROUND

Newark receives Community Development Block Grant (CDBG) funds as part of the Alameda County Urban County. These are federal funds provided through the United States Department of Housing and Urban Development (HUD) to jurisdictions with a population of 50,000 or fewer. To qualify for funds, Newark and the cities of Albany, Dublin, Emeryville, and Piedmont, along with the unincorporated areas of Alameda County, have formed an entity (the Urban County) that, together, constitutes a population size large enough to qualify for funds. The Urban County receives an amount of money each year that is determined by Congress's allocation to the CDBG program and a federal formula for dividing the overall funding between qualifying communities. The total funds the Urban County receives are then allocated between member jurisdictions using a formula that considers the overall population, poverty levels, and similar factors. CDBG funds are distributed among various categories of uses: Jurisdiction Improvements, General Administration, and Minor Home Repairs.

Jurisdictional Improvement Funds - HUD requires that the funds be used for projects

primarily benefiting low and moderate-income households, senior citizens, or disabled citizens. The City must provide proof of this when applying for and after completing a project. In the past, the city has preferred to use CDBG funds for capital improvement projects because those projects provide infrastructure with long-term benefits to residents. Since Newark receives a relatively small amount of CDBG funds, spending these funds on capital improvement projects helps to maximize their benefit.

General Administration - As the name suggests, the funds are used for administrative expenses related to managing the CDBG program.

Minor Home Repairs - This program funds minor home repairs such as minor plumbing, carpentry, and electrical repairs and can be used for railings, grab bars, toilets, water heaters, doors, locks, and more. The Alameda County, Healthy Homes Department, administers this program and assists low-income homeowners with grants and contractors.

DISCUSSION/ANALYSIS

Based on the City's anticipated total CDBG allocation and the maximum percentages allowed per activity, the City's allotment of CDBG funds for Fiscal Year 2024 in these three categories are as follows: General Administration (\$7,800), Minor Home Repairs (\$51,884) and Jurisdiction Improvement Projects (\$150,358). In order to meet the deadlines for approval by the U.S. Department of Housing and Urban Development (HUD), the City Council must accept a recommendation from the Community Development Advisory Committee (CDAC) to allocate the anticipated Jurisdiction Improvement Funds. The CDAC is the recommending committee for the CDBG Program and assists with evaluating and assessing proposed and implemented programs to meet community needs at the citywide level. The CDAC assists in developing realistic goals and objectives to meet identified needs. The CDAC also helps implement the CDBG program and reviews any program modifications as determined by community assessments and/or HUD program requirements. Thus, CDAC makes recommendations for the use of Jurisdiction Improvement Project Funds to the City Council.

Recommendations for the use of 2023-24 Jurisdiction Improvement Project Funds

The CDAC met on April 5, 2023, to review the status of CDBG projects and to determine the recommended allocation of Jurisdiction Improvement funds for Fiscal Year 2024. The CDAC voted, 7-0 (2 members absent), to recommend that the City Council allocate \$150,358 in anticipated Jurisdiction Improvement Project funds to the Citywide ADA Compliance Improvements. The scope of work could include ADA parking accessibility, pathway and sidewalk repairs, curb ramp installations and upgrades, and other exterior surface improvements. These improvements would provide accessibility benefits for the entire community. Specifically, the city will be looking to spend the FY 2024 funds on repairing pathways in Mayhews Landing Park, repairing sidewalks, installing new curb ramps, and upgrading existing curb ramps in Birch Grove Park. The Jurisdiction Improvement Project would address ADA compliance needs at City-owned parks, facilities, and parking lots as identified in the City's Disabled Access Transition Plan. These improvements would provide

accessibility benefits for the entire community.

FISCAL IMPACT

There is no fiscal impact for this item. However, staff will bring forward an agreement to officially accept the grant award and add budget appropriation at a later date.

REVIEW AND APPROVAL

Prepared by - Art Interiano, Deputy Community Development Director

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



STAFF REPORT

Item D. 6.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Jayson Imai, Assistant City Engineer
SUBJECT Adopt resolutions confirming compliance with the Surplus Land Act and State Housing Laws and authorizing the filing of an Application for Funding Assigned to the Metropolitan Transportation Commission for Old Town Streetscape and Complete Streets Improvements, Project 1258, Committing any Necessary Matching Funds and Stating Assurance to Complete the Project

SUMMARY AND RECOMMENDATION

The City is in position to receive \$5,141,000 from the third round of the One Bay Area Grant (OBAG3) program to be used toward the construction of streetscape and complete streets improvements developed with the Old Town Specific Plan. In order to be eligible to receive the OBAG3 funding, General Law cities are required to adopt a resolution affirming their compliance with the Surplus Land Act and State Housing Laws. In addition, the City Council must adopt a second resolution authorizing the filing of an application for the OBAG3 funds, committing the necessary local match funds, and providing the City's assurance to complete the project.

It is recommended that the City Council, by resolutions: 1) confirm compliance with the Surplus Land Act and State Housing Laws; and 2) authorize the filing of an application for funding assigned to the Metropolitan Transportation Commission for Old Town Streetscape and Complete Street Improvements, Project 1258, commit any necessary matching funds and state assurance to complete the project.

BACKGROUND

The One Bay Area Grant (OBAG), now in its third iteration, guides how the Metropolitan Transportation Commission (MTC) distributes federal transportation funding from the Federal Highway Administration (FHWA) to projects and programs that improve safety, spur economic development and help the Bay Area meet air quality improvement goals. The third round of One Bay Area Grant funding (OBAG3) was adopted by MTC in January 2022 and includes more than \$750 million in federal funding for projects from 2023 to 2026.

The City is in position to receive \$5,141,000 from the OBAG3 program to be used toward the construction of streetscape and complete streets improvements identified and developed through the Old Town Specific Plan, adopted in September 2021. In order to be eligible to receive OBAG3 funding, MTC requires General Law cities to adopt a resolution affirming their compliance with the Surplus Land Act and State

Housing Laws.

MTC further requires jurisdictions to adopt a second resolution authorizing the filing of an application for the OBAG3 funds, committing the necessary local match funds, and providing the jurisdiction's assurance to complete the project.

DISCUSSION/ANALYSIS

Surplus Land Act

The Surplus Land Act (California Government Code Sections 54220, et seq.) requires local agencies to prioritize affordable housing, parks and open space when disposing of surplus land. Specifically, the Surplus Land Act prescribes a process for disposing of surplus land to certain entities for preferred purposes prior to offering the land on the open market. When local agencies dispose of surplus land, they are required to first give notice to specified entities, such as housing authorities, affordable housing developers, parks and recreation agencies, or school districts. If a preferred entity expresses interest, the parties must enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

Assembly Bill 2135, which was signed into law in late 2014 and became effective on January 1, 2015, revised certain requirements of the Surplus Land Act that local agencies must follow when disposing of surplus land. Assembly Bill 2135:

- a. Increases the minimum time that an agency disposing of surplus land is required to conduct negotiations with preferred purchasing entities desiring to purchase or lease the surplus land from 60 to 90 days;
- b. Specifies that if a local agency receives a response from more than one interested entity that plans to use the property for affordable housing purposes, the disposing agency must give priority to the entity that proposes to provide the greatest number of affordable units at the deepest level of affordability;
- c. Requires preferred purchasing entities proposing to use the surplus land for developing affordable housing to agree to make available not less than 25% of the total number of units developed on the parcels at affordable housing cost;
- d. Requires entities that purchase the surplus land on the open market and use the property for the development of ten or more residential units to make available not less than 15% of the total number of units developed at affordable housing cost;
- e. Permits the payment period for surplus land sold for low- and moderate-income housing purposes to exceed 20 years;
- f. Deleted the provision that explicitly specifies that the disposal procedures do not empower a local agency to sell or lease surplus land at less than fair market value, and instead specifies that any sale or lease at or less than fair market value shall not be construed as inconsistent with an agency's purpose.

Assembly Bill 1255, which was signed into law in October 2019, further amended the Surplus Land Act to require jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development.

Although there are currently no plans to dispose of City-owned surplus land, the Metropolitan Transportation Commission (MTC) requires that the City of Newark adopt a resolution affirming that the City has and will continue to comply with the Surplus Land Act.

State Housing Laws

To receive OBAG3 funding, the City must meet the following requirements with respect to conformance with State housing laws:

- Have a general plan housing element adopted and certified by the California Department of Housing and Community Development (HCD) for the 2023-2031 Regional Housing Needs Allocation (RHNA) cycle by December 31, 2023, and maintain certification throughout the OBAG 3 program period;
- Submit Housing Element Annual Reports to HCD each year by the April 1 deadline throughout the OBAG 3 program period;
- Adopt a resolution self-certifying compliance with State housing laws related to surplus lands, accessory dwelling units, and density bonuses by December 31, 2023, and
- Maintain ongoing compliance with the Housing Accountability Act (as determined by MTC staff) throughout the OBAG 3 program period.

The City is currently preparing the General Plan Housing Element 2023-2031 (the "Housing Element"). On February 24, 2023, the Draft Housing Element was made available for a 30-day public review period through March 27, 2023. Comments received during the public review period were considered for the revised Draft Housing Element, which was submitted to the Housing and Community Development (HCD) Department on April 11, 2023. The City will further revise the Draft Housing Element throughout Summer 2023 based on comments from HCD. The City expects HCD to certify the Housing Element in Fall 2023, with City Council adoption before December 31, 2023. The City would begin implementing Housing Element policies and programs beginning in 2024. The City expects to maintain Housing Element certification throughout the OBAG3 program period.

The City has regularly submitted 2014-2022 Housing Element Annual Progress Reports (ARPs), with the most recent APR for the 2022 calendar year submitted to and accepted by HCD on March 30, 2023. The City will continue to submit Housing Element APRs to HCD each year throughout the OBAG3 program period.

In February 2021, the City Council adopted Ordinance No. 528 that included revisions to the Municipal Code, Title 17 (Zoning) to incorporate guidelines for Accessory Dwelling Unit (ADU) regulations as a result of State laws, including SB13, AB68, AB587, AB 670, and AB881, intended to incentivize ADU construction. Ordinance No. 528 brought the City into compliance with State ADU laws at the time it was adopted. City staff will continuously monitor future legislation affecting ADUs and will recommend necessary revisions to maintain conformance with State law.

The City's density bonus regulations are provided in the Municipal Code, Title 17, Section 17.19 (Density Bonus for Affordable Housing). The purpose of these

regulations is intended to provide a local ordinance for implementation of the State-mandated density bonus set forth in California Government Code Section 65915 et seq. "Density bonus" means a density increase over the otherwise maximum allowable residential density under the applicable zoning and general plan land use designations. Section 17.19 describes the applicability and amount of density bonus allowed, provides allowances for waivers and concessions to development standards, and provides the review process. Section 17.19 also provides a disclaimer that in any instance where the density bonus regulations conflicts with State law, the State law shall govern. In this way, the city's density bonus regulations are consistent with State laws.

In addition to the laws regarding density bonuses, in the last few years, the State has passed numerous other housing laws meant to encourage the development of market-rate and affordable housing. The Housing Accountability Act (HAA), originally adopted in 1982 and strengthened in 2018, was enacted to address the high cost of housing in California. Recent modifications to strengthen the HAA follow a statewide legislative trend to require jurisdictions to approve housing projects "by-right" and remove discretionary actions that provide options to deny housing projects. City staff monitors state legislation that affects the HAA and will recommend necessary revisions to the Newark Municipal Code or other regulatory documents to maintain conformance with State law.

A resolution is attached for City Council consideration, confirming the City's compliance with the Surplus Land Act and State housing laws for the purposes of securing OBAG3 grant funding.

Old Town Streetscape and Complete Streets Improvements, Project 1258

Old Town Streetscape and Complete Street Improvements, Project 1258 is a key component of the Old Town Specific Plan's coordinated land use, economic development, and transportation strategy to inspire reinvestment and revitalization within the Old Town Specific Plan Area. The goal of the Streetscape and Complete Streets Project is to improve access, safety, and connections for pedestrians, bicyclists, and transit users, while also serving as a catalyst for private investment in buildings and uses. The Project will reduce the number of travel lanes on Thornton Avenue from three to two, which would provide the necessary right of way to construct wider sidewalks and new bicycle facilities. Additional safety and connectivity improvements include new high visibility crosswalks, curb extensions, bus stop amenities, and landscaping to improve the convenience and comfort of alternative travel modes.

The \$5,141,000 of OBAG3 funds would be used to partially fund construction of Old Town Streetscape and Complete Streets Improvements, Project 1258. In order to receive the OBAG3 funds, the City is required to provide a local match of \$4,206,000, which is equal to 45% of the estimated \$9,347,000 of total project construction costs.

Construction of the project is anticipated to begin in Summer 2025.

FISCAL IMPACT

Staff anticipates that the City's required OBAG3 local match of \$4,206,000 for construction of Old Town Streetscape and Complete Streets Improvements, Project 1258 could be funded through some combination of Alameda County Measure B/Measure BB Sales Tax, Senate Bill 1 (SB1) Road Repair and Accountability Act (RMRA), Vehicle Registration Fees or Highway Users Tax funds. In addition, public art elements incorporated into the Project design could be funded with Art in Public Places funds using guidelines established with adoption of the City's upcoming Public Art Master Plan.

Staff anticipates sufficient funds will be available from the various fund sources listed above to allow specific funding recommendations for the construction phase of the Project to be presented to City Council during development of the upcoming 2024-2026 Capital Improvement Plan. These funding recommendations will be based on a refined construction cost estimate for the Project developed during the current design phase.

REVIEW AND APPROVAL

Prepared 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

Resolution of Local Support
Resolution - Compliance with State Housing Laws

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE FILING OF AN APPLICATION FOR FUNDING ASSIGNED TO THE METROPOLITAN TRANSPORTATION COMMISSION FOR OLD TOWN STREETSCAPE AND COMPLETE STREETS IMPROVEMENTS, PROJECT 1258, COMMITTING ANY NECESSARY MATCHING FUNDS AND STATING ASSURANCE TO COMPLETE THE PROJECT

WHEREAS, the City of Newark is submitting an application to the Metropolitan Transportation Commission (MTC) for \$5,141,000 in funding assigned to MTC for programming discretion, which includes federal funding administered by the Federal Highway Administration (FHWA) and federal or state funding administered by the California Transportation Commission (CTC) such as Surface Transportation Block Grant Program (STP) funding, Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding, Transportation Alternatives (TA) set-aside/Active Transportation Program (ATP) funding, and Regional Transportation Improvement Program (RTIP) funding (herein collectively referred to as “Regional Discretionary Funding”) for Old Town Streetscape and Complete Streets Improvements, Project 1258 (herein referred to as “Project”) for the third round of the One Bay Area Grant (OBAG3) program (herein referred to as “Program”); and

WHEREAS, the United States Congress from time to time enacts and amends legislation to provide funding for various transportation needs and programs, (collectively, the “Federal Transportation Act”) including, but not limited to the Surface Transportation Block Grant Program (STP) (23 U.S.C. § 133), the Congestion Mitigation and Air Quality Improvement Program (CMAQ) (23 U.S.C. § 149) and the Transportation Alternatives (TA) set-aside (23 U.S.C. § 133); and

WHEREAS, state statutes, including California Streets and Highways Code §182.6, §182.7, and §2381(a)(1), and California Government Code §14527, provide various funding programs for the programming discretion of the Metropolitan Planning Organization (MPO) and the Regional Transportation Planning Agency (RTPA); and

WHEREAS, pursuant to the Federal Transportation Act, and any regulations promulgated thereunder, eligible project sponsors wishing to receive federal or state funds for a regionally-significant project shall submit an application first with the appropriate MPO, or RTPA, as applicable, for review and inclusion in the federal Transportation Improvement Program (TIP); and

WHEREAS, MTC is the MPO and RTPA for the nine counties of the San Francisco Bay region; and

WHEREAS, MTC has adopted a Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) that sets out procedures governing the application and use of Regional Discretionary Funding; and

WHEREAS, the City of Newark is an eligible sponsor for Regional Discretionary Funding; and

WHEREAS, as part of the application for Regional Discretionary Funding, MTC requires a resolution adopted by the responsible implementing agency stating the following:

1. The commitment of any required matching funds; and
2. That the sponsor understands that the Regional Discretionary Funding is fixed at the programmed amount, and therefore any cost increase cannot be expected to be funded with additional Regional Discretionary Funding; and
3. That the Project will comply with the procedures, delivery milestones and funding deadlines specified in the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised); and
4. The assurance of the sponsor to complete the Project as described in the application, subject to environmental clearance, and if approved, as included in MTC's federal Transportation Improvement Program (TIP); and
5. That the Project will have adequate staffing resources to deliver and complete the Project within the schedule submitted with the project application; and
6. That the Project will comply with all project-specific requirements as set forth in the Program; and
7. That the City of Newark has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the City of Newark; and

WHEREAS, the City of Newark is authorized to submit an application for Regional Discretionary Funding for the Project; and

WHEREAS, there is no legal impediment to the City of Newark making applications for the funds; and

WHEREAS, there is no pending or threatened litigation that might in any way adversely affect the proposed Project, or the ability of the City of Newark to deliver such Project; and

WHEREAS, the City of Newark authorizes its City Manager or designee to execute and file an application with MTC for Regional Discretionary Funding for the Project as referenced in this resolution; and

WHEREAS, MTC requires that a copy of this resolution be transmitted to the MTC in conjunction with the filing of the application.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of Newark

that the City of Newark is authorized to execute and file an application for funding for the Project for Regional Discretionary Funding under the Federal Transportation Act or continued funding.

BE IT FURTHER RESOLVED that the City of Newark will provide any required matching funds.

BE IT FURTHER RESOLVED that the City of Newark understands that the Regional Discretionary Funding for the project is fixed at the MTC approved programmed amount, and that any cost increases must be funded by the City of Newark from other funds, and that the City of Newark does not expect any cost increases to be funded with additional Regional Discretionary Funding.

BE IT FURTHER RESOLVED that the City of Newark understands the funding deadlines associated with these funds and will comply with the provisions and requirements of the Regional Project Funding Delivery Policy (MTC Resolution No. 3606, revised) and the City of Newark has, and will retain the expertise, knowledge and resources necessary to deliver federally-funded transportation and transit projects, and has assigned, and will maintain a single point of contact for all FHWA- and CTC-funded transportation projects to coordinate within the agency and with the respective Congestion Management Agency (CMA), MTC, Caltrans, FHWA, and CTC on all communications, inquires or issues that may arise during the federal programming and delivery process for all FHWA- and CTC-funded transportation and transit projects implemented by the City of Newark.

BE IT FURTHER RESOLVED that the Project will be implemented as described in the complete application and in this resolution, subject to environmental clearance, and, if approved, for the amount approved by MTC and programmed in the federal TIP.

BE IT FURTHER RESOLVED that the City of Newark has reviewed the Project and has adequate staffing resources to deliver and complete the Project within the schedule submitted with the project application.

BE IT FURTHER RESOLVED that the Project will comply with the requirements as set forth in MTC programming guidelines and project selection procedures for the Program.

BE IT FURTHER RESOLVED that the City of Newark is an eligible sponsor of Regional Discretionary Funding funded projects.

BE IT FURTHER RESOLVED that the City of Newark is authorized to submit an application for Regional Discretionary Funding for the Project.

BE IT FURTHER RESOLVED that there is no legal impediment to the City of Newark making applications for the funds.

BE IT FURTHER RESOLVED that there is no pending or threatened litigation that might in any way adversely affect the proposed Project, or the ability of the City of Newark to deliver such Project.

BE IT FURTHER RESOLVED that the City of Newark authorizes its City Manager, or designee to execute and file an application with MTC for Regional Discretionary Funding for the Project as referenced in this resolution.

BE IT FURTHER RESOLVED that a copy of this resolution will be transmitted to the MTC in conjunction with the filing of the application.

BE IT FURTHER RESOLVED that the MTC is requested to support the application for the Project described in the resolution, and if approved, to include the Project in MTC's federal TIP upon submittal by the project sponsor for TIP programming.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK CONFIRMING COMPLIANCE WITH THE
SURPLUS LAND ACT AND STATE HOUSING LAWS
RELATED TO ADUs AND JADUs, AND STATE BONUS
DENSITY LAW

WHEREAS, the San Francisco region has the highest housing costs in the United States;
and

WHEREAS, the Bay Area produced less than 30% of the need for low- and moderate-income housing units from 2007-2014, and is on track to similarly underproduce low-income units during the 2015-2023 time period; and

WHEREAS, there are limited funding sources available to secure land for the construction of low- and moderate-income housing; and

WHEREAS, public lands can play a critical role in increasing the supply of land for affordable housing;

WHEREAS, accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) provide an important option to increase the availability and affordability of housing, especially in existing, lower density neighborhoods; and

WHEREAS, density bonuses are an effective tool to increase the financial feasibility of housing and incentivize the creation of affordable housing; and

WHEREAS, the Metropolitan Transportation Commission adopted Resolution No. 4505, outlining the programming policy and project selection criteria for the One Bay Area Grant Program (OBAG 3), including certain requirements to access these funds;

NOW THEREFORE, BE IT RESOLVED BY THE City Council of the City of Newark that the City Council does hereby agree to comply with the terms of Surplus Land Act (California Government Code § 54220 et seq.), as exists now or may be amended in the future, including, but not limited to, AB 1255 (Rivas, 2019), which requires jurisdictions to compile and report annually an inventory of surplus lands to the California Department of Housing and Community Development.

BE IT FURTHER RESOLVED that the City of Newark agrees to comply with state laws related to ADUs and JADUs, as it exists now or may be amended in the future, including, but not limited to California Government Code §§ 65852.150, 65852.2, 65852.22, et seq. and California Health & Safety Code §§ 17980.12.

BE IT FURTHER RESOLVED that the City of Newark agrees to comply with state Density Bonus Law (California Government Code § 65915 et seq.), as exists now or may be amended in the future.

BE IT FURTHER RESOLVED that the City of Newark warrants and represents that it is in compliance with the aforementioned state housing laws and agrees to comply with state housing laws in any instance where there may be a conflict. There are no claims, actions, suits, or proceedings pending to the best of the City of Newark's knowledge, alleging violations of the state housing laws by the City of Newark.



STAFF REPORT

Item D. 7.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Neal Hornbeck, Assistant Maintenance Superintendent
SUBJECT Adopt a resolution initiating the 2023 Weed Abatement Program and setting May 25, 2023, for a public hearing

SUMMARY AND RECOMMENDATION

The City of Newark conducts an annual weed abatement program as a fire prevention measure. This program is a coordinated effort between the City's Maintenance Division and Alameda County Fire Department Fire Prevention staff. Vacant properties with the potential for extensive weed growth are typically included in the program. Property owners of these properties have the option to either complete the weed abatement work themselves or have the work completed by a City contractor through this program. This year's program will include the inspection of approximately 121 properties and advance outreach to each property owner. The City's contractor is scheduled to complete the work in June. All property owners will have the opportunity to complete any weed abatement work themselves prior to the work performed by the City's contractor. Property owners would be charged the full cost of weed abatement plus a 20% administrative fee for any work completed by the City's contractor.

In addition to the City Council considering initiation of the 2023 Weed Abatement Program, a public hearing date of May 25, 2023, is proposed to provide an opportunity for property owners to submit any objections to the program.

Staff recommends that the City Council, by resolution, find and declare that weeds growing on specified properties are seasonal and recurrent nuisances; and rubbish, refuse and dirt upon parkways, sidewalks or private property in the City of Newark are public nuisances and must be abated; and setting a time and place for a public hearing.

BACKGROUND

The City of Newark conducts an annual weed abatement program to abate weeds on vacant properties that are not properly maintained by property owners to the satisfaction of the Alameda County Fire Department (ACFD). The program is authorized by, and conducted pursuant to, Government Code Sections 39560 to 39586, inclusive. The abatement work typically consists of tractor mowing, supplemented with manual labor to clear weeds abutting fences and to remove debris to facilitate the tractor work. Property owners have the option to make their own arrangements for weed and debris removal. All properties on which the City performs

the abatement work would be charged the full cost of that work, including administrative costs. Administrative costs are 20% of the cost of the weed abatement services pursuant to the adopted Master Fee Schedule.

DISCUSSION/ANALYSIS

There are approximately 121 industrial, residential and commercial parcels that have large areas of vacant ground with regular seasonal weed growth that could develop into a fire hazard if not properly maintained. These parcels are located throughout the City, as shown on Schedule "A". Property owners choosing to complete weed and debris removal themselves must complete the work prior to the schedule set for the City's contractor. The City's landscape maintenance contractor is scheduled to perform weed abatement work in June. Property owners will be asked to return a pre-paid postcard to the City indicating that they will abate their own weeds. This provides sufficient opportunity for the property owners to perform their own work, if desired.

If necessary, an additional fall program will be scheduled to abate seasonal weeds, such as tumbleweeds and re-growth of weeds that occur during the summer months. Prior to any fall weed abatement work, the City would provide written notices to the affected property owners. A second public hearing for the fall program is not required.

FISCAL IMPACT

The 2022-2024 Biennial Budget and Capital Improvement Plan for Fiscal Year 2023 provides sufficient funding for the 2023 Weed Abatement Program.

REVIEW AND APPROVAL

Prepared by - Neal Hornbeck, Assistant Maintenance Superintendent

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

2023 Weed Abatement Resolution

Schedule A - 2023 Weed Abatement

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK FINDING AND DECLARING THAT WEEDS GROWING ON SPECIFIED PROPERTIES ARE SEASONAL AND RECURRENT NUISANCES; AND RUBBISH, REFUSE, AND DIRT UPON PARKWAYS, SIDEWALKS, OR PRIVATE PROPERTY IN THE CITY OF NEWARK ARE PUBLIC NUISANCES AND MUST BE ABATED, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING

WHEREAS, the City Council of the City of Newark hereby finds and determines that weeds are growing upon the streets, sidewalks, or private property in the City of Newark as hereinafter described, and that rubbish, refuse, and dirt is upon its parkways, sidewalks, or private property hereinafter described in the City of Newark and that said City Council hereby declares that all weeds are growing upon the streets, sidewalks, or private property in said City and all rubbish, refuse, and dirt in parkways, or private property in the said City are a public nuisances and the same are hereby ordered abated in the manner provided in Section 39560 to Section 39586, inclusive, of the Government Code of the State of California: and

WHEREAS, the name of said streets, parkways, sidewalks, and private properties are contained in Schedule "A", attached hereto and incorporated herein by reference and made a part of this resolution as though set forth at length;

NOW, THEREFORE BE IT RESOLVED that the City Clerk is hereby directed to mail written notices of the proposed abatement to all persons owning property described in this resolution, said written notice to be mailed to each person to whom such described property is assessed in the last equalized assessment roll available on the date this resolution is adopted by the City Council. The City Clerk shall complete said mailing at least five (5) days prior to the time for hearing of objections by the legislative body. The notice shall be substantially in the form provided by Section 39566 of the Government Code of the State of California, except that notices shall be signed by the City Clerk and the heading of the notice need not comply with Section 39565 of the Government Code;

BE IT FURTHER RESOLVED that a public hearing to hear objections to the proposed removal of weeds, rubbish, refuse, and dirt will be held by the City Council at its meeting of May 25, 2023.

Schedule A - List of Potential Properties Subject to Abatement

MAP	APN	OWNER	LOCATION
1	92A 072000510	PRESBYTERY OF SAN FRANCISCO	35450 NEWARK BOULEVARD
3	092 013100109	FILBERT STREET DEVELOPMENT LLC	FILBERT STREET AT SNOW
3.1	092 013100204	FILBERT STREET DEVELOPMENT LLC	37243 FILBERT STREET
3.2	092 013100300	FILBERT STREET DEVELOPMENT LLC	37257 FILBERT STREET
5	092 002401000	SINGH SARJEET	SYCAMORE STREET NEAR 7303 DAIRY
6	092 002902200	RAO RAJESH & DESHPANDE VIDYASAGAR V ETAL	36952 MULBERRY STREET
7	092 004501100	ANITRA PRASAD	MAGNOLIA STREET NEAR RICH
8	092 003001403	LEPAKSHI HOMES LLC / POLAKALA KISHORE	6717 THORNTON AVENUE
8	092 003001502	LEPAKSHI HOMES LLC	6733 THORNTON AVENUE
8	092 003001602	LEPAKSHI HOMES LLC	6749 THORNTON AVENUE
8	092 003001804	LEPAKSHI HOMES LLC	6781 THORNTON AVENUE
8	092 003001702	LEPAKSHI HOMES LLC	6765 THORNTON AVENUE
10	092 003200300	DANG ALAN & VO HUONG T	DAIRY AVENUE BETWEEN 36805 & 36926
11	092 004100803	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.1	092 002401700	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.1	537 052100801	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.11	537 052100802	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.12	537-0521-009-02	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.13	092-0054-003-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.14	092-0200-015-01	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.15	092-0253-001-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.16	92A-2165-006-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.17	92A-2300-007-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.18	92A-2300-006-14	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.19	92A-2500-005-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.2	092-0021-016-01	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W

Schedule A - List of Potential Properties Subject to Abatement

11.2	92A-2500-004-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.21	537-0850-021-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.22	537-0850-020-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.23	537-0850-019-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.24	537-0850-018-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.25	537-0850-017-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.26	092-0054-002-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.27	092-0068-003-02	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.28	092-0069-002-02	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.29	092-0069-003-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.3	092-0021-016-02	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.3	092-0067-012-05	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.31	092-0067-014-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.32	092-0067-019-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.33	092-0067-020-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.34	092-0065-002-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.35	092-0064-010-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.36	92A-1095-129-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.37	92A-1100-058-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.38	92A-1105-014-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.39	92A-2000-004-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.4	092-0015-004-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.4	92A-2010-002-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.41	092 012702100	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.42	092 012702000	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.43	092-0067-012-05	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.5	92A-0506-107-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W

Schedule A - List of Potential Properties Subject to Abatement

11.6	92A-0506-106-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.7	92A-0501-030-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.8	92A-0502-090-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
11.9	92A-0620-061-00	UNION PACIFIC - REAL ESTATE	SP RAILROAD R-O-W
13	092 025501100	CHANG INCOME PROPERTY PARTNERSHIP LP	37200 SYCAMORE ST
14	537 085000200	PICK-N-PULL SAN JOSE AUTO DISMANTLERS	7400 MOWRY AVENUE
15	537 046000725	ADROIT GLOBAL LLC & BEDI SHISHU	6953 JARVIS AVENUE
16	092 003101900	AHMAD ABRAR & NARGIS	6991 THORNTON AVE (primary address undetermined)
18	901 011100900	A & P CHILDREN INVESTMENTS LLC	CEDAR BOULEVARD (near Eucalyptus Grove)
19	092A216500904	PABCO BUILDING PRODUCTS LLC	REDEKER PLACE AT CHERRY
20	537 900900100	SF BAY NATIONAL WILDLIFE REFUGE c/o J. Bradley	CEDAR BOULEVARD
23	537 046001400	FULL BLOOM BAKING CO BUILDING FUND LLC	6500 OVERLAKE PL
23.1	537 046001300	PS NORTHERN CA NEWARK INC	6800 OVERLAKE PL
24	092 007500402	SSVGGP VENTURES LLC & SKZR GROUP LLC	CHERRY STREET
24.1	092 007500502	SSVGGP VENTURES LLC & SKZR GROUP LLC	CHERRY STREET
26	537 046000728	FRANCISCAN GLASS COMPANY	35255 FIRCREST STREET
26.1	537 046002101	FRANCISCAN GLASS COMPANY	FIRCREST STREET
27	092 008300900	RAFANAN MARJORIO	36915 LOCUST STREET
28	092A230000612	SKW MBT OPERATIONS INC	38403 CHERRY STREET
29	092A075000800	HOLY REDEEMER LUTHERAN CHURCH	35660 CEDAR BOULEVARD
33	901 018800600	LION NEWARK SHOPPING CENTER	39055 CEDAR BOULEVARD
34	092 012601900	SAN MATEO COUNTY TRANSIT DIST.	SMCTD RAILROAD R-O-W LOCUST & ELM
34.1	092 012501700	SAN MATEO COUNTY TRANSIT DIST.	SMCTD RAILROAD R-O-W WALNUT & LOCUST
34.2	092 012402200	SAN MATEO COUNTY TRANSIT DIST.	SMCTD RAILROAD R-O-W SPRUCE & WALNUT
34.3	092 011909900	SAN MATEO COUNTY TRANSIT DIST.	SMCTD RAILROAD R-O-W SPRUCE
34.4	092 010000802	SAN MATEO COUNTY TRANSIT DIST.	SMCTD RAILROAD R-O-W WILLOW
34.5	092 010000801	SAN MATEO COUNTY TRANSIT DIST.	SMCTD RAILROAD R-O-W WEST OF WILLOW

Schedule A - List of Potential Properties Subject to Abatement

35	537 085200102	FMC CORPORATION	8787 ENTERPRISE DR
36	092 011501100	SHH PROJECT OWNER LLC	37445 WILLOW STREET
36.1	092 010000402	HONEYWELL INTERNATIONAL INC	WILLOW STREET NORTH OF ENTERPRISE
38	092A072002600	LADRECH MAURICE A TR ETAL	35178 NEWARK BOULEVARD
43.1	537 085000400	CITY OF NEWARK	MOWRY AVENUE WEST OF TRACKS
44	092 012401400	MANWANI GIRISH & MADHU	RAILROAD AVENUE SPRUCE & WALNUT
45	092 012501000	CHERRY STANLEY R TR	7843 RAILROAD AVE BETWEEN LOCUST & WALNUT
47	092A103602902	JAIN ASHIT & MONISAH TRS	6214 THORNTON AVENUE
48	092 013400200	LOUIEHELM JENNY & LOUIE WAYLAND H & JEN L TRS	RAILROAD AVE BETWEEN LOCUST & ELM
49	092 013502300	SEAMONKEY LLC	WALNUT STREET CORNER LOT
53	092A103603102	ELIZARREY SHIRLEY A TR SURVIVOR'S TRUST & ELI ETAL	6152 THORNTON AVENUE
54	092A103604100	AU JOSEPH & LILY C TRS	NEWARK BOULEVARD AND CIVIC TERR
55	092 025200200	NORDSTROM INC	37599 FILBERT STREET
58	092 004100201	TANIOS SIMON	36964 ASH STREET
61	092A258607600	WANG YUJEH L TR	BIRCH STREET ON CEDAR
62	092 010000705	CITY & CO SF WATER DEPT	WILLOW STREET
62.1	092 014000302	CITY & CO SF WATER DEPT	WILLOW STREET
62.1	92A-2357-031-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.1	92A-2416-015-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.1	92A-2416-013-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.1	92A-2585-002-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.1	92A-2585-027-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.2	92A-2588-002-01	CITY & CO SF WATER DEPT	WILLOW STREET
62.2	092-0116-004-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.3	092-0145-010-01	CITY & CO SF WATER DEPT	WILLOW STREET
62.4	092-0146-023-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.5	092-0068-001-00	CITY & CO SF WATER DEPT	WILLOW STREET

Schedule A - List of Potential Properties Subject to Abatement

62.6	092-0074-002-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.7	092-0074-002-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.8	092-0075-007-00	CITY & CO SF WATER DEPT	WILLOW STREET
62.9	92A-2141-002-00	CITY & CO SF WATER DEPT	WILLOW STREET
63	092A062304300	CHIKKU PRADEEP	36589 NEWARK BLVD
65	092 012701300	PKA PHARMACEUTICAL INC & YANG YANHUA	37079 ASH ST
68	092 014000500	GLASS BAY HOMEOWNERS ASSOCIATION	8333 ENTERPRISE DR.
70	092A258800704	COUNTY OF ALAMEDA	TIMBER ST AT CEDAR CT
71	092 010001103	UNITED STATES OF AMERICA FISH & WILDLIFE SERV	THORNTON AVE
73	901 011100300	SPRINGHILL SUITES	SURROUNDING AREAS & INNER PORTION OF PARKING LOT
74	901 020001700	LANDSEA	CHERRY STREET AND SEA TURTLE DR
74.1	901 020001600	LANDSEA	CHERRY STREET AND SEA TURTLE DR
74.2	901 020001800	LANDSEA	CHERRY STREET AND SEA TURTLE DR
72	092 005200400	SAMUDRALA RAMAPRASAD & BALAKRISHNAN SANGEETA ETAL	THORNTON AVE



STAFF REPORT

Item D. 8.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Krysten Lee, Finance Director
SUBJECT Adopt a resolution designating, by title, the City Manager, Assistant City Manager, and Finance Director as Authorized Agents and authorizing the California Governor's Office of Emergency Services (Cal OES) Form 130 - Designation of Applicant's Agent Resolution for Non-State Agencies

SUMMARY AND RECOMMENDATION

Staff recommends that the City Council adopt a resolution designating, by title, the City Manager, Assistant City Manager, and Finance Director as Authorized Agents and authorizing the California Governor's Office of Emergency Services (Cal OES) Form 130 - Designation of Applicant's Agent Resolution for Non-State Agencies.

BACKGROUND

California experienced severe winter storms which occurred from December 27, 2022 to January 31, 2023 in which Alameda County and cities within the County became eligible for Public Assistance (PA) under the disaster declaration FEMA-4683-DR-CA.

California Governor's Office of Emergency Services (Cal OES) requires that specified City Officials be designated as Authorized Agents to act on the City's behalf to engage with the Federal Emergency Management Agency (FEMA) and the Governor's Office of Emergency Services regarding grants applied for by the City of Newark. A Designation of Applicant's Agent Resolution for Non-State Agencies (Cal OES Form 130) is required for the City to be eligible to receive State and/or Federal funding. A resolution older than three years is invalid. The last Designation of Applicant's Agent was previously authorized on April 23, 2020, by Resolution 11042.

DISCUSSION/ANALYSIS

Staff has completed the Cal OES Form 130 - Designation of Applicant's Agent Resolution for Non-State Agencies to designate, by title, the City Manager, Assistant City Manager, and Finance Director as Authorized Agents. Designation by title allows the document to remain valid for three years if an Authorized Agent leaves the position and is replaced by another individual in the same title. This is a universal resolution and is effective for all open and future disasters up to three (3) years following the Council's date of approval.

FISCAL IMPACT

There is no fiscal impact associated with the approval of authorized agents.

REVIEW AND APPROVAL

Prepared by - Michelle Villanueva, Senior Accountant

Reviewed by - Gloria del Rosario, Accounting Manager

Reviewed by - Krysten Lee, Finance Director

Reviewed by - Kristopher J. Kokotaylo, City Attorney

Approved by - David J. Benoun, City Manager

Attachments

CalOES Resolution

OES-FPD-130 Designation of Applicant's Agent Resolution for Non-State Agencies

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK DESIGNATING, BY TITLE, THE CITY MANAGER,
ASSISTANT CITY MANAGER, AND FINANCE DIRECTOR
AS AUTHORIZED AGENTS AND AUTHORIZES THE
CALIFORNIA GOVERNOR'S OFFICE OF EMERGENCY
SERVICES (CAL OES) FORM 130 - DESIGNATION OF
APPLICANT'S AGENT RESOLUTION FOR NON-STATE
AGENCIES

WHEREAS, the City of Newark seeks to apply for Federal Emergency Management (FEMA) and California Governor's Office of Emergency Services (CALOES) reimbursement for costs incurred for emergency response services and for damages due to the severe winter storms from December 27, 2022 through January 31, 2023 and future events; and

WHEREAS, California Governor's Office of Emergency Services (Cal OES) requires that specified City Officials be designated as Authorized Agents to act on the City's behalf to engage with the Federal Emergency Management Agency (FEMA) and the Governor's Office of Emergency Services regarding grants applied for by the City of Newark; and

WHEREAS, Staff has completed the Cal OES Form 130 - Designation of Applicant's Agent Resolution for Non-State Agencies to designate, by title, the City Manager, Assistant City Manager, and Finance Director as Authorized Agents; and

WHEREAS, Designation by title allows the document to remain valid for three years if an Authorized Agent leaves the position and is replaced by another individual in the same title; and

WHEREAS, This is a universal resolution and is effective for all open and future disasters up to three (3) years following the Council's date of approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark, that the City Council designates, by title, the City Manager, Assistant City Manager, and Finance Director as Authorized Agents and authorizes the California Governor's Office of Emergency Services (Cal OES) Form 130 - Designation of Applicant's Agent Resolution for Non-State Agencies.



Cal OES ID No: _____

DESIGNATION OF APPLICANT'S AGENT RESOLUTION FOR NON-STATE AGENCIES

BE IT RESOLVED BY THE _____ OF THE _____
(Governing Body) (Name of Applicant)

THAT CITY MANAGER, OR
(Title of Authorized Agent)

ASSISTANT CITY MANAGER, OR
(Title of Authorized Agent)

FINANCE DIRECTOR
(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the _____,
(Name of Applicant)

a public entity established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining federal financial assistance for any existing or future grant program, including, but not limited to any of the following:

- **Federally declared Disaster (DR), Fire Mitigation Assistance Grant (FMAG), California State Only Disaster (CDAA), Immediate Services Program (ISP), Hazard Mitigation Grant Program (HMGP), Building Resilient Infrastructure and Communities (BRIC), Legislative Pre-Disaster Mitigation Program (LPDM)**, under
- Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.
- **Flood Mitigation Assistance Program (FMA)**, under Section 1366 of the National Flood Insurance Act of 1968.
- **National Earthquake Hazards Reduction Program (NEHRP)** 42 U.S. Code 7704 (b) ((2) (A) (ix) and 42 U.S. Code 7704 (b) (2) (B) National Earthquake Hazards Reduction Program, and also The Consolidated Appropriations Act, 2018, Div. F, Department of Homeland Security Appropriations Act, 2018, Pub. L. No. 115-141
- **California Early Earthquake Warning (CEEW)** under CA Gov Code – Gov, Title 2, Div. 1, Chapter 7, Article 5, Sections 8587.8, 8587.11, 8587.12

That the _____, a public entity established under the
(Name of Applicant)

laws of the State of California, hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.



Please check the appropriate box below

- ☒ This is a universal resolution and is effective for all open and future disasters/grants declared up to three (3) years following the date of approval.
- ☐ This is a disaster/grant specific resolution and is effective for only disaster/grant number(s): _____

Passed and approved this ____ day of _____, 20 ____

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, _____, duly appointed and _____ of
(Name) (Title)

_____, do hereby certify that the above is a true and
(Name of Applicant)

correct copy of a resolution passed and approved by the _____
(Governing Body)

of the _____ on the _____ day of _____, 20 ____.
(Name of Applicant)

(Signature)

(Title)



Cal OES Form 130 Instructions

A Designation of Applicant's Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted resolution is older than three (3) years from the last date of approval, is invalid, or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on pages 1 and 2. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents.

Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California.

Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the California Governor's Office of Emergency Services regarding grants for which they have applied. There are two ways of completing this section:

1. **Titles Only:** The titles of the Authorized Agents should be entered here, not their names. This allows the document to remain valid if an Authorized Agent leaves the position and is replaced by another individual. If "Titles Only" is the chosen method, this document must be accompanied by either a cover letter naming the Authorized Agents by name and title, or the Cal OES AA Names document. The supporting document can be completed by any authorized person within the Agency (e.g., administrative assistant, the Authorized Agent, secretary to the Director). It does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names **and** titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document, or their title changes.



Checking Universal or Disaster-Specific Box: A Universal resolution is effective for all past disasters and for those declared up to three (3) years following the date of approval. Upon expiration it is no longer effective for new disasters, but it remains in effect for disasters declared prior to expiration. It remains effective until the disaster goes through closeout unless it is superseded by a newer resolution.

Governing Body Representative: These are the names and titles of the approving Board Members.

Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles **cannot** be one of the designated Authorized Agents. A minimum of three (3) approving board members must be listed. If less than three are present, meeting minutes must be attached in order to verify a quorum was met.

Certification Section:

Name and Title: This is the individual in attendance who recorded the creation and approval of this resolution.

Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person **cannot** be one of the designated Authorized Agents or Approving Board Member. If a person holds two positions (such as City Manager and Secretary to the Board) and the City Manager is to be listed as an Authorized Agent, then that person could sign the document as Secretary to the Board (not City Manager) to eliminate "Self-Certification."



STAFF REPORT

Item F. 1.

DATE 04/27/2023
TO Honorable Mayor and City Council Members
FROM Soren Fajeau, Public Works Director
SUBJECT Resolution Initiating Proceedings for the Levy and Collection of Assessments for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19 for Fiscal Year 2024

SUMMARY AND RECOMMENDATION

The City of Newark previously completed all necessary proceedings to establish Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18 and 19 (collectively "Districts") to fund ongoing landscaping and lighting maintenance and improvements at various locations in the City. For each upcoming fiscal year, it is necessary for the City Council to initiate proceedings for the levy and collection of assessments for the Districts. This includes providing staff with direction to prepare and file annual Engineer's Reports detailing such assessments for the City Council's consideration in advance of required public hearings for each district. For the upcoming fiscal year there are no changes to existing improvements nor are there any items being added to the list of improvements for the Districts.

Staff recommends that the City Council, by resolution, initiate proceedings for the levy and collection of assessments for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18 and 19 in accordance with the provisions of the Landscaping and Lighting Act of 1972 for Fiscal Year 2024.

BACKGROUND

The City previously created the Districts to provide for the operation and maintenance of certain landscaping and lighting improvements pursuant to the Landscaping and Lighting Act of 1972. The areas and improvements maintained by each district generally include but are not limited to:

Landscaping and Lighting District No. 1: Central Avenue between Filbert Street and Willow Street - Provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street and buffer landscaping adjacent to the Alameda County Flood Control channel immediately west of Filbert Street, and for the maintenance and operation of median streetlights along this portion of Central Avenue.

Landscaping and Lighting District No. 2: Jarvis Avenue and Newark Boulevard adjacent to Dumbarton Technology Park and Four Corners shopping centers – Provides for the

maintenance of Jarvis Avenue and Newark Boulevard median island and in-tract buffer landscaping and landscape irrigation systems adjacent to and within the boundaries of Tract 5232, the Dumbarton Industrial Park, and the Four Corners shopping centers.

Landscaping and Lighting District No. 4: Stevenson Boulevard and Cherry Street adjacent to New Technology Park - Provides for the maintenance of Stevenson Boulevard median island landscaping from the Nimitz Freeway to the railroad tracks west of Cherry Street and maintenance of median islands and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the interior loop streets within the boundaries of Stevenson Point Technology Park, the maintenance of landscaping across from the Newark Unified School District property on Cherry Street, and the street lighting maintenance, trash capture device maintenance, and neighborhood park maintenance related to Benefit Zone No. 2 (Sanctuary).

Landscaping and Lighting District No. 6: Cedar Boulevard and Duffel Redevelopment Area No. 2 – Authorized to provide for the maintenance of all street landscaping within the public right-of-way, and landscaping and landscape irrigation systems within easement areas and developed properties in Redevelopment Area No. 2 at Cedar Boulevard and Stevenson Boulevard, plus the Stevenson Station Shopping Center. The district is inactive at this time because all the improvements are privately maintained to City standards. Should the improvements not be maintained to City standards, the district may be activated, so funding is available for the City to maintain the improvements.

Landscaping and Lighting District No. 7: Newark Boulevard and Rosemont Square Shopping Center – Provides for the maintenance of buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas for Rosemont Square Shopping Center.

Landscaping and Lighting District No. 10: Various locations throughout the City –Authorized to provide for the maintenance of street lighting, landscaping and landscape irrigation systems within public right-of-way and easement areas located throughout the City. A benefit zone has been established for each maintenance area. All benefit zones are inactive at this time because the improvements are privately maintained to City standards. Should the improvements not be maintained to City standards, the applicable benefit zone may be activated, so funding is available for the City to maintain the improvements.

Landscaping and Lighting District No. 11: Edgewater Drive - Provides for the maintenance of landscaped medians on Edgewater Drive.

Landscaping and Lighting District No. 13: Citation Homes and Bren developments on Thornton Avenue – Authorized to provide for maintenance of the landscaping and irrigation systems for Thornton Avenue, Cedar Boulevard, Willow Street, and other streets within these subdivisions. This district was relieved from the responsibility for maintenance of median landscaping on Thornton Avenue in May 1997. The district is inactive at this time because all the improvements are privately maintained to City standards. Should the improvements not be maintained to City standards, the district

may be activated, so funding is available for the City to maintain the improvements.

Landscaping and Lighting District No. 15: Robertson Avenue at Iris Court - Provides for the maintenance of the landscaping and irrigation systems on Robertson Avenue at Iris Court.

Landscaping and Lighting District No. 16: Kiote Drive in Tract 6671 – Provides for the maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage of Kiote Drive in Tract 6671, along with the landscaping, irrigation system, recreation facilities associated with the mini-park common area and any related appurtenant improvements.

Landscaping and Lighting District No. 17: Newark Boulevard and Mayhews Landing Road in Tract 7004 – Provides for the maintenance of landscaping and the landscape irrigation system within the public right-of-way of the Newark Boulevard and Mayhews Landing Road frontages of Tract 7004.

Landscaping and Lighting District No. 18: Cedar Boulevard along the frontage of Tract 8130 – Provides for the maintenance of landscaping and the landscape irrigation system within the Cedar Boulevard median area along the frontage of Tract 8130 between Central Avenue and Smith Avenue.

Landscaping and Lighting District No. 19: Willow Street and Enterprise Drive in the Bayside Newark Transit Oriented Development – Provides for the maintenance of landscaping and the landscape irrigation system within the Willow Street and Enterprise Drive medians and traffic circles, maintenance of public street lighting systems, and maintenance of other improvements related to each benefit zone associated with the Bayside Newark Transit Oriented Development.

DISCUSSION/ANALYSIS

There are no new proposed improvements or substantial changes to existing improvements associated with any of the Districts for Fiscal Year 2024. With the City Council's direction, staff will prepare Engineer's Reports for the City Council's consideration which detail the proposed levy and collection of annual assessments for each district for Fiscal Year 2024.

In accordance with the Landscaping and Lighting Act of 1972 and the Government Code, at subsequent meetings following adoption of the resolution initiating proceedings, the City Council is required to consider and approve the completed annual Engineer's Reports, schedule a public hearing for the proposed annual assessments related to each district, direct the publishing of a notice of public hearing, conduct the public hearing, confirm the diagrams and annual assessments for each district, and direct placement of the annual assessments for each district on the Alameda County annual property tax bills.

FISCAL IMPACT

The recommended action by the City Council is anticipated to have no fiscal impact to the 2022-2024 Biennial Budget and Capital Improvement Plan. Pursuant to the Landscaping and Lighting Act of 1972, in order to levy assessments for the Districts for Fiscal Year 2024, additional action will be required by the City Council at subsequent meetings.

REVIEW AND APPROVAL

Prepared 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

Resolution

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK
INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS
FOR

LANDSCAPING AND LIGHTING DISTRICT
NOS. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18 and 19
(Pursuant to the Landscaping and Lighting Act of 1972)

WHEREAS, the City Council of the City of Newark previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (the “Act”) to establish Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18 and 19 (the “Districts”) in order to fund ongoing maintenance and improvements authorized under the Act; and

WHEREAS, there are no proposed new improvements or any substantial changes to existing improvements in any of the Districts; and

WHEREAS, Section 22620, et seq. of the Act provides for the levy of annual assessments after formation of the Districts; and

WHEREAS, the City designates the City Engineer to prepare and file reports in accordance with Section 22565, et seq., of the Act (the “Engineer’s Reports”); and

WHEREAS, pursuant to Section 22622 of the Act, the City Council wishes to initiate proceedings to provide for the levy of assessments for Fiscal Year 2024 in order to provide for the necessary costs and expenses pertaining to the maintenance of the improvements within the Districts.

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

1. Engineer’s Reports: The City Council hereby orders the City Engineer prepare and file with the City Clerk the annual Engineer’s Reports concerning the levy and collection of assessments within the Districts for the fiscal year commencing July 1, 2023, and ending June 30, 2024, in accordance with Section 22565, et seq., of the Act.
2. New Improvements or Changes to Existing Improvements: There are no changes to existing improvements nor are there any items being added to the list of improvements for the Districts.