



# CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4266 • E-mail: city.clerk@Newark.org

City Administration Building  
7:30 p.m.  
City Council Chambers

## AGENDA

Thursday, June 12, 2014

### CITY COUNCIL:

Alan L. Nagy, Mayor  
Ana M. Apodaca, Vice Mayor  
Luis L. Freitas  
Sucy Collazo  
Robert Marshall

### CITY STAFF:

John Becker  
City Manager  
Terrence Grindall  
Assistant City Manager  
Susie Woodstock  
Administrative Services Director  
Sandy Abe  
Human Resources Director  
Peggy A. Claassen  
Public Works Director  
Jim Leal  
Police Chief  
David Zehnder  
Recreation and Community  
Services Director  
David J. Benoun  
City Attorney  
Sheila Harrington  
City Clerk

*Welcome* to the Newark City Council meeting. The following information will help you understand the City Council Agenda and what occurs during a City Council meeting. Your participation in your City government is encouraged, and we hope this information will enable you to become more involved. The Order of Business for Council meetings is as follows:

- |                                     |                         |
|-------------------------------------|-------------------------|
| A. ROLL CALL                        | I. COUNCIL MATTERS      |
| B. MINUTES                          | J. SUCCESSOR AGENCY     |
| C. PRESENTATIONS AND PROCLAMATIONS  | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS           | K. ORAL COMMUNICATIONS  |
| E. PUBLIC HEARINGS                  | L. APPROPRIATIONS       |
| F. CITY MANAGER REPORTS             | M. CLOSED SESSION       |
| G. CITY ATTORNEY REPORTS            | N. ADJOURNMENT          |
| H. ECONOMIC DEVELOPMENT CORPORATION |                         |

Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item. If one of these words does not appear, the item is an informational item.

The attached *Agenda* gives the *Background/Discussion* of agenda items. Following this section is the word *Attachment*. Unless "none" follows *Attachment*, there is more documentation which is available for public review at the Newark Library, the City Clerk's office or at [www.newark.org](http://www.newark.org). Those items on the Agenda which are coming from the Planning Commission will also include a section entitled *Update*, which will state what the Planning Commission's action was on that particular item. *Action* indicates what staff's recommendation is and what action(s) the Council may take.

**Addressing the City Council:** You may speak once and submit written materials on any listed item at the appropriate time. You may speak once and submit written materials on any item **not** on the agenda during **Oral Communications**. To address the Council, please seek the recognition of the Mayor by raising your hand. Once recognized, come forward to the lectern and you may, but you are not required to, state your name and address for the record. Public comments are limited to five (5) minutes per speaker, subject to adjustment by the Mayor. Matters brought before the Council which require an action may be either referred to staff or placed on a future Council agenda.

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. 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 presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



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## AGENDA

Thursday, June 12, 2014

- A. ROLL CALL
  
- B. MINUTES
  - B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, May 22, 2014. (MOTION)
  
- C. PRESENTATIONS AND PROCLAMATIONS
  - C.1 Introduction of employee.
  
  - C.2 Presentation of the Newark Unified School District Certificated Employee of the Year. (PRESENTATION)
  
  - C.3 Commendation to Police Officer of the Year. (COMMENDATION)
  
- D. WRITTEN COMMUNICATIONS
  
- E. PUBLIC HEARINGS
  - E.1 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2014-2015 – from Senior Accountant Del Rosario. (RESOLUTION)
  
  - E.2 Hearing to consider the request by LOV (League of Volunteers), for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from August 7 through August 11, 2014; and authorization to waive the application fee – from Assistant City Manager Grindall. (MOTIONS-2)

- E.3 Hearing to consider an 85-unit residential townhome development (Integral Communities) on an approximately 4.28 acre site (APN: 901-0195-039) on the northeast corner of Cedar Boulevard and Mowry School Road: (1) resolution making certain findings and approving an Initial Study/Mitigated Negative Declaration for the Cedar Townhomes project; (2) resolution approving a General Plan Amendment to change the land use designation from CC (Community Commercial) to HR (High Density Residential); (3) Introduction of an ordinance amending Title 17 (Zoning) of the Newark Municipal Code and Section 17.44.010 “Zoning Map” by rezoning all that real property shown on Vesting Tentative Tract Map 8166 and approving a rezoning from CC (Community Commercial) to R-1,500 (High Density Residential – 1,500); (4) resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance and authorizing the Mayor to sign the attached Affordable Housing Implementation Agreement; (5) resolution authorizing the Mayor to sign a Community Financing Agreement with Newark Atrium Project Owner, LLC (6) resolution approving Tentative Tract Map 8166; and (7) By motion, approving an Architectural and Site Plan Review – from Assistant City Manager Grindall.  
(RESOLUTIONS-5)(INTRODUCTION OF AN ORDINANCE)(MOTION)**
- E.4 Hearing to consider the development of 15 single family lots with construction of a detached dwelling on each lot (Mission Peak Homes) at 38517 Birch Street, on the west side of Birch Street north of Moores Avenue (APN: 092A-2356-037). A private road would provide access to each lot. The existing church complex would be demolished: (1) Adopting a resolution making certain findings and approving E-13-30, an Initial Study/Mitigated Negative Declaration; (2) adopting a resolution making findings supporting the use of an alternative means of compliance with the Inclusionary Housing Ordinance; approving the Affordable Housing Implementation Agreement for the Birch Street project and authorizing the Mayor to sign the Affordable Housing Implementation Agreement; (3) By motion, approving P-13-29, a planned unit development, and U-13-28, a conditional use permit, and (4) adopting a resolution approving TTM-13-27, Tentative Tract Map 8165.– from Assistant City Manager Grindall.  
(RESOLUTIONS-3)(MOTION)**

## **F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.11 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)**

**CONSENT**

- F.1 Approval of plans and specifications, acceptance of bid and award of contract to Ghilotti Bros., Inc. for 2014 Asphalt Concrete Street Overlay Program, Project 1063 – from Associate Civil Engineer Tran.  
(MOTION)(RESOLUTION)**
- F.2 Authorization for the Police Chief to sign an amendment to the agreement with All City Management Services for the contracting of school crossing guards, extending the term of said agreement – from Police Chief Leal.  
(RESOLUTION)**
- F.3 Establishment of the Fiscal Year 2014-2015 Appropriations Limit – from Senior Accountant del Rosario.  
(RESOLUTION)**
- F.4 Establishment of amount of revenue from property taxes necessary to support City departments for Fiscal Year 2014 - 2015 – from Senior Accountant del Rosario.  
(RESOLUTION)**
- F.5 Approval of Investment Policy – from Senior Accountant del Rosario.  
(RESOLUTION)**
- F.6 Acceptance of contract with Pacheco Brothers Gardening, Inc., for Jerry Raber Ash Street Park Turf Renovation, Project 1067– from Maintenance Supervisor Carey.  
(RESOLUTION)**
- F.7 Authorization for the City Attorney to sign a Certification and Mutual Indemnification Agreement with the County of Alameda – from Senior Accountant del Rosario and City Attorney Benoun.  
(RESOLUTION)**
- F.8 Authorization for the purchase of updated and supplemental geographic information system software licenses and installation support services, and to declare Environmental Systems Research Institute, Inc. as the single source vendor– from Senior Engineer Fajeau.  
(RESOLUTION)**
- F.9 Authorization for the purchase of a new Street Sweeper from Municipal Maintenance Equipment, Inc. – from Maintenance Superintendent Costa.  
(RESOLUTION)**

- F.10 Authorization for the Mayor to sign an agreement with *The Argus* for legal advertising services for Fiscal Year 2014-2015 – from City Clerk Harrington. (RESOLUTION)
- F.11 Adoption of the 2014-2016 Biennial Budget and Capital Improvement Plan – from Administrative Services Director Woodstock. (RESOLUTION)

**NONCONSENT**

- F.12 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 11, 13, 15, 16, and 17 and setting date of public hearing – from Senior Civil Engineer Fajeau. (RESOLUTIONS-2)

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

**K. ORAL COMMUNICATIONS**

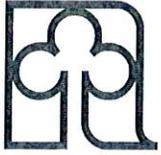
**L. APPROPRIATIONS**

**M. CLOSED SESSION**

**N. ADJOURNMENT**

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 at the City Clerk's Office located at 37101 Newark Boulevard, 5<sup>th</sup> Floor, during normal business hours. 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 requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.



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City Administration Building  
City Council Chambers  
5:30 p.m.

## Minutes Special Meeting

Thursday, May 22, 2014

### A. ROLL CALL

Mayor Nagy called the meeting to order at 5:39 p.m. Present were Council Members Collazo, Freitas, and Marshall.

Vice Mayor Apodaca was noted absent.

### B. **Work Session to discuss the 2014-2016 Biennial Budget and Capital Improvement Plan.**

City Manager Becker outlined the ongoing budget balancing measures: flexible hiring freeze, no non-essential budget increases, conservative labor contract, no management merit increases, the use of Gas Tax funds to offset the budget and conservative Capital Project Funding.

He gave an overview of the issues impacting the budget: The Utility User Tax Sunsets on December 31, 2015, the PERS rates will increase, local business gains and losses, and State of California actions. He noted that the State budget projected a surplus so they were not looking at any takeaways from the City at this time.

The proposed additions to the 2014-2016 budget included a police lieutenant position, expansion of the Police Reserve program, continuation of Neighborhood Watch and Raven, Fire contract (expires May 2015), staffing for development services, increased street/landscape maintenance, and an Internal Controls Analysis. Major projects included the Central Avenue Overpass and the Finance Software System.

Administrative Services Director Woodstock reviewed the Biennial Budget and Capital Improvement Plan. She stated that the only increases, other than the ones outlined by the City Manager, were contractual or regulatory obligations, PERS rate increases, and equipment replacement.

For the 2014-2015 Budget, Administrative Services Director Woodstock projected \$40.9 million in revenues and \$40.4 in expenditures resulting in a small surplus to be transferred to the Reserves Fund. The Utility User Tax will expire in December 2015. This will result in the 2015-2016 budget to be forecasted with both revenues and expenditures at \$41 million.

The City Council reviewed the 2014-2016 Biennial Budget and Capital Improvement Plan by sections.

Brian Edwards, Acting Branch Manager, Newark Library, stated that a rain storm in March clogged a drain pipe resulting in damage to a room in the library. He stated that City staff has been working to repair the damage.

City Manager Becker stated that the 2014-2016 Biennial Budget and Capital Improvement Plan would be scheduled for the June 12 City Council meeting for approval.

**C. ORAL COMMUNICATIONS**

No one came forward to speak

**D. ADJOURNMENT**

At 6:37 p.m. Mayor Nagy adjourned the meeting.



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7:30 p.m.  
City Council Chambers

## Minutes

Thursday, May 22, 2014

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:30 p.m. Present were Council Members Collazo, Freitas, and Marshall.

Vice Mayor Apodaca was noted absent.

### B. MINUTES

#### B.1 Approval of Minutes of the regular City Council meeting of Thursday, May 8, 2014.

Council Member Marshall moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 4 AYES, 1 ABSENT.

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Proclaiming June as Celebrating Business Month in Newark.

Mayor Nagy presented the proclamation to Chamber President/CEO Valerie Boyle.

#### C.2 Presentation of Students of the Year Awards.

Mayor Nagy and Rotary Club Members presented certificates to Students of the Year.

At 7:40 p.m. Mayor Nagy called for a recess. At 7:50 p.m. the meeting resumed.

### D. WRITTEN COMMUNICATIONS

### E. PUBLIC HEARINGS

### F. CITY MANAGER REPORTS

John Henneberry requested that Consent Calendar Item F.1 be removed for separate consideration.

Council Member Freitas moved, Council Member Collazo seconded, to approve Consent Calendar Items F.2 through F.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 4 AYES, 1 ABSENT.

## CONSENT

- F.2 Approval of plans and specifications, acceptance of bid and award of contract to United Storm Water, Inc., for Storm Drain Trash Capture Devices, Project 1059.**  
MOTION APPROVED  
RESOLUTION NO. 10212  
CONTRACT NO. 14012
- F.3 Approval of plans and specifications, acceptance of bid and award of contract to AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048.**  
MOTION APPROVED  
RESOLUTION NO. 10213  
CONTRACT NO. 14013
- F.4 Authorization for the Mayor to sign two agreements with Alameda County for participation in the Alameda County Urban County Community Development Block Grant (CDBG) Program for Fiscal Year 2014-2015; and participation in the Alameda County Urban County for Fiscal Years 2015-2017.**  
RESOLUTION NO. 10214 CDBG  
CONTRACT NO. 14014  
RESOLUTION NO. 10215 Urban County  
CONTRACT NO. 14015

## NONCONSENT

- F.1 Authorization for the Mayor to sign a Lease Agreement with Alameda County for lease of the Newark library facility.**  
RESOLUTION NO. 10216  
CONTRACT NO. 14016

John Henneberry stated that the Newark Library should be open seven days a week. He requested a cost estimate from the County librarian and asked that the City Council not approve the agreement until it was modified for additional operating hours.

Council Member Marshall moved, Council Member Collazo seconded to, by resolution, authorize the Mayor to sign a Lease Agreement with the County of Alameda to provide a public library facility. The motion passed, 4 AYES, 1 ABSENT.

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

- I.1** The City Council congratulated Mike Bucci who was named the Volunteer of the Year.

**J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY**

**K. ORAL COMMUNICATIONS**

- K.1** Chamber President/CEO Valerie Boyle thanked the City Council for the proclamation that was presented earlier in the meeting.
- K.2** John Henneberry stated that Council Member Marshall should resign and Officer Neithercutt should be fired. He stated that America has a mixed record in wars. He stated that Mayor Nagy's employment at SRI supports the war industry. He accused Mayor Nagy of attending college to avoid military service.

Mayor Nagy stated for the record that he did not take mail order college courses. He tried to join the Marine Corps. at 17, like his father who served for 23 years, but was not accepted because of a heart murmur. He stated that he thought community services was a good alternative to military service and that is what he has done for the last 45 years of his life.

**L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 101406 to 101544.

Council Member Freitas moved, Council Member Collazo seconded, to approve the Register of Audited Demands. The motion passed, 4 AYES, 1 ABSENT.

**M. CLOSED SESSION**

**N. ADJOURNMENT**

At 8:13 p.m. Mayor Nagy adjourned the meeting.

**C.1 Introduction of employee.**

**Background/Discussion** – Newly hired Information Systems Specialist, Larry Kezar will be at the meeting to be introduced to the Council.

**C.2 Presentation of the Newark Unified School District Certificated Employee of the Year. (PRESENTATION)**

**Background/Discussion** – The Newark Unified School District has selected Nancy Kuei as Certificated Employee of the Year. The Newark Rotary Club will present Ms. Kuei with a certificate at the City Council meeting.

**C.3 Commendation to Police Officer of the Year.**

**(COMMENDATION)**

**Background/Discussion** – Ryan Johnson has been named Police Officer of the Year. A commendation has been prepared and Officer Johnson will accept it at the meeting.

**E.1 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2014-2015 –  
from Senior Accountant Del Rosario. (RESOLUTION)**

**Background/Discussion** – The City’s Master Fee Schedule (MFS) is reviewed annually. The proposed MFS for Fiscal Year 2014-2015 is based on an analysis of both direct and indirect costs for the delivery of certain City programs and services. Market factors were also considered in establishing the proposed fees. The proposed MFS is the result of input from all City departments.

The City Attorney has advised that as a result of a December 22, 2005, California Supreme Court case (Barratt-American, Inc. vs. City of Rancho Cucamonga), the reenactment of previously existing fees without change nullifies the applicable statute of limitations and, thus, reopens those fees to legal challenge. It is recommended that the Council amend only those sections of the Master Fee Schedule that staff is suggesting be changed. The sections adopted, deleted, or amended by Council will then be editorially merged with the unchanged portions of the Master Fee Schedule as adopted by the City Council in Resolution No. 10094 on June 13, 2013.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, amend the Master Fee Schedule for Fiscal Year 2014-2015.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AMENDING CERTAIN FEES CHARGEABLE FOR  
SERVICES OR FUNCTIONS PERFORMED BY THE CITY FOR  
THE PUBLIC

WHEREAS, the City Council of the City of Newark is authorized to prescribe and establish fees in regard to services or functions performed by the City for the public in a governmental and proprietary capacity; and

WHEREAS, the City Council of the City of Newark has, from time to time, established fees by resolution for services as authorized pursuant to the Newark Municipal Code, most recently on June 13, 2013 by Resolution No. 10094.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby amend only those portions of the City of Newark Master Fee Schedule as set forth in Exhibit "A," attached hereto and incorporated herein by this reference and made part hereof as though set forth at length.

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>I. GENERAL FUND - ADMINISTRATIVE SERVICES</b>			
K. ANNUAL REPORTS REPRODUCTIONS			
L. CIRCUSES / CARNIVALS / FESTIVAL-LIKE EVENT			
010-0000	3160	1. Permit <del>(deposit required)</del>	<del>Actual cost to the City, minus 375/day deposit</del>
		a. Deposit (required)	375/day plus actual cost
M. NEWARK MUNICIPAL CODE REPRODUCTIONS			

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>I. GENERAL FUND - POLICE</b>			
S. POLICE RECORD INFORMATION			
010-0000	3658	<del>2.</del> Accident photo(s) on CD *	<del>20/CD</del>
		<del>3.</del> 2. Computer-generated statistical reports	10/report
U. PROCESSING			
		5. Firearms Storage (per <del>12021.3(j)(1)</del> PC 33880)	50/weapon
		6. Accident photo(s) on CD *	20/CD
		<del>6.</del> 7. Citation Sign Off (issued by other agencies)	15
		<del>7.</del> 8. VIN Verification (non-resident) - local contracted tow companies exempt	25
* Available only to persons authorized by law			

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>II. DEVELOPMENT ENTERPRISE FUND</b> (All fees shall be rounded to the nearest whole dollar)			
D. ZONING AND REDEVELOPMENT			
020-2010	3670	1. Preliminary Plan Review	
020-2010	3670	b. Residential	
		(1) First review	<del>600</del> 800
		(2) Second & subsequent reviews	<del>800</del> 900
E. CODE ENFORCEMENT			
		5. Preparation and issuance of Citations and Notices to Abate Nuisance Condition, and other related costs	103/hr plus 100% (one hour minimum) <del>unless-</del> plus other applicable fees
F. OTHER			
020-2010	3610	6. Public Hearing	<del>75</del> 100
020-2010	3610	7. Mailings/Radius Search	75
G. BUILDING INSPECTION (All fees shall be rounded to the nearest whole dollar) *			
*Amounts ending in .54 or lower shall be rounded down and amounts .55 and higher shall be rounded up			
020-2014	3140	5. Swimming Pool and Spa Permits (includes building, <del>mechanical,</del> electrical, and plumbing)	
		a. Permit for single-family residential pool with or without integrally cast-in place spa. <del>Includes building, electrical, plumbing.</del> Does not include solar systems.	364
		b. Permit for multi-family and commercial pools. <del>Includes building, electrical and plumbing.</del> Does not include solar systems. Does not include integrally cast or separate spas built concurrently with pool.	Based on valuation and using schedule in I.I.G.9.d.3. with a minimum fee of 450
		c. Permit for multi-family and commercial spa constructed in ground. <del>Includes building, electrical, and plumbing.</del> Does not include solar systems. Applies to spas built concurrently with pool even if spa is cast integrally with pool.	364
		d. Permit for single-family spa not integral with concurrently built pool. <del>Includes building, electrical, plumbing.</del> Does not include solar systems.	364
		<del>e. Permit for single family spa built integral with concurrently built pool. Includes building, electrical, plumbing. Does not include solar systems.</del>	<del>121</del>
G. BUILDING INSPECTION, CONTINUED (All fees shall be rounded to the nearest whole dollar) *			

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
*Amounts ending in .54 or lower shall be rounded down and amounts .55 and higher shall be rounded up			
		6. Commercial Coaches, Manufactured Housing, Mobilehome, and Mobilehome Park	
		b. Permit for permanent foundation	Based on construction value. See II.G.3.a
		9. Miscellaneous	
		c. Permit to replace an existing domestic storage type water heater with another storage type water heater in a dwelling unit. <i>Total fee limited to permit fee, application fee, California Building Standards fee, and records automation fee.</i>	15
		e. <del>Annual</del> Quarterly maintenance permit - for each <del>annual</del> quarterly electrical, mechanical, or plumbing permit at the time such permit is issued	Based on the anticipated number of inspections. See II.G.9.d.
<del>020</del> 037-2014	<del>3750</del> 3705	10. Document Retention	
		b. Scanning documents larger than 11" x 17" that require permanent retention	± 2/page
037-2014	3756	12. Building Standards Fee (SB1473 effective January 1, 2009 - Fee amount set by State law with ≥ 90% of fees collected transferred to the state)	1/each \$25,000 in valuation or fraction thereafter
<del>020-0000</del> 037-2014	<del>2205</del> 3142	<del>12-</del> Strong Motion Instrumentation Program (SB593 effective January 1, 1988 - 13. Fee amount set by state law with 95% of fees collected transferred to the state)	
<del>020-0000</del> 037-2014	<del>2205</del> -3142	b. All other occupancies (with exceptions as allowed for by state law)	.00021 times construction valuation
<del>020</del> 037-2014	<del>3750</del> -3755	<del>13-</del> Records automation and system maintenance 14. (includes document retention/scanning of all letter and legal size documents)	10% of permit fees with 20 minimum and 2,000 maximum
020-2014	3140	<del>14-</del> Penalties and Investigation 15.	
		<del>15-</del> Cash deposits to guarantee work: An amount shall be withheld from any refund to pay for additional inspections and administrative costs incurred by the City (Cash deposit 020-2208)	Actual costs
020-2014	3677	<del>16-</del> Storm Water Quality Control Plan Review and Inspection - required as a 17. condition of the NPDES permit to minimize pollution in storm water runoff during construction.	
020-2014	3141	<del>17-</del> Grading Permit - Grading and drainage plan check fees shall be determined 18. based on the total site area. Inspection fees shall be determined based on the volume of excavation or fill, whichever is greater. Separate permits and fees shall apply to retaining walls or major drainage structures as indicated elsewhere in this fee schedule.	
G. BUILDING INSPECTION, CONTINUED (All fees shall be rounded to the nearest whole dollar) *			
*Amounts ending in .54 or lower shall be rounded down and amounts .55 and higher shall be rounded up			
020-2014	3140	<del>18-</del> Extensions - Permits and Plan Reviews 19.	

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>III. RECREATION AND COMMUNITY SERVICES ENTERPRISE FUND</b>			
B. SILLIMAN ACTIVITY CENTER USER (including Aquatic Center)			
030-0000	3821	1. Daily Use* (individual or group visits)	
		a. Youth (3-11 yrs)	<del>4-9</del> 6 - 11/person
		b. Teen (12-17 yrs)	<del>5-10</del> 7 - 12/person
		c. Adult (18-54 yrs)	<del>7-12</del> 8 - 13/person
		d. Senior (55-69 yrs)	<del>5-10</del> 7 - 12/person
		e. Senior (70+ yrs)	<del>4-9</del> 6 - 11/person
		7. Miscellaneous	
		a. Teen Area Access Card	<del>5</del> 0-20/card
C. SILLIMAN FACILITY RENTALS			
		6. Preschool Room	
		<del>e. Nonprofit and Public Agencies serving Newark</del>	<del>40/hour (two hour minimum)</del>
		<del>d.</del> Deposit c.	300
030-0000	3822	7. Athletic Fields++	
		b. Soccer and Multi-Use Playfields - Adult Local Teams/Individuals	
		<del>(3) Tournament Fee - to be charged in addition to hourly field rental fee</del>	<del>10-15/player/ outside organization</del>
		(4) Tournament/League/Event Deposit	100-500/rental or event
H. COMMUNITY CENTER RENTALS *			
030-0000	3831	1. Social Hall, Patio Room, or Outdoor Patio	
		a. Resident Individual/Commercial Group	
		(4) Secondary Use: Friday night - Sunday and holidays <del>only</del>	150/day
		b. Nonresident Individual/Commercial Group	
		(4) Secondary Use: Friday night - Sunday and holidays <del>only</del>	200/day
		c. Nonprofit and Public Agencies Serving the Newark Population	
(4) Secondary Use: Friday night - Sunday and holidays <del>only</del>	120/day		

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
I. CHILD CARE			
030-0000	3832	1. Registration	<del>35-50</del> 50-75/child
		2. Child Care - Full-Time	<del>168-200</del> 193-220/week
		4. Late Payment: Includes staff costs and administrative overhead	<del>3</del> 10/day
J. PRESCHOOL			
030-0000	3833	1. Activities/Classes: Includes cost of staff, supplies, equipment costs, administrative overhead, and excursion costs to include admission fees and transportation	<del>3</del> 5-7/hour
K. GENERAL YOUTH AND TEEN SERVICES			
		7. Apparel: Includes supply costs and administrative overhead, and is based on item sold.	1- <del>35</del> 75/item
		8. Late Payment: Includes staff costs and administrative overhead	<del>3</del> 10/day
L. SENIOR SERVICES			
030-0000	3840/3845	1. Classes/Workshops/Special Activities/Boutiques/Vendor Booths: Includes cost of instructor, support staff (if needed), supply costs, refreshments, facility rental (if applicable), and administrative overhead.	1- <del>200</del> 500/item

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)		
<b>V. CAPITAL ASSETS - CONSTRUCTION ENTERPRISE FUND</b>					
A. DEVELOPMENT					
401 403-0000	3860 ILF	4. Housing			
		a. Residential Housing Impact Fee* (revised annually)			
		(1) First 1,000 sq. ft. floor area/unit**	20/square foot		
		(2) All sq. ft. over 1,000 sq. floor area/unit	8/square foot		
		<p>* Established by Resolution No. 10,184. Floor area for a residential development equals the sum of the horizontal floor areas of a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings, excluding garages, carports, and common areas.</p> <p>** No housing impact fee is charged for the first 200 sq. ft. of floor area for additions to existing dwellings.</p>			
		b. Non-Residential Development Housing Impact ** (revised annually)			
		(1) Commercial	3.51 3.56/square foot		
		(2) Industrial	.65 .66/square foot		
		<p>*** Established by Resolution No. 8802. Floor area for a commercial development equals the sum of the horizontal floor areas of the a building measured from the exterior face of exterior walls or from the center line of a wall separating two buildings. Where no walls exist, the floor area is the area covered by the roof excluding two feet on each side of the structure. Outside areas used for sales or display (such as nurseries, building materials, auto sales, etc.) may be considered part of floor area when the community development director determines that the use of the outside area significantly contributes to the employee density of the building.</p>			

**E.2 Hearing to consider the request by LOV (League of Volunteers), for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from August 7 through August 11, 2014; and authorization to waive the application fee – from Assistant City Manager Grindall. (MOTIONS-2)**

**Background/Discussion** – LOV (League of Volunteers) has submitted an application to have a fund-raising circus, Circus Vargas, at the NewPark Mall parking lot with performances from August 7 (Thursday) through August 11 (Monday), 2014. Per the applicant, “Circus Vargas is a one-ring extravaganza with spectacular acts, lighting and music, all inside a tent.” The circus would have no animals. The circus location would be southwest of Burlington Coat factory, which is the same location as in previous years. Next to the main entrance to the “Big Top” tent, which is about 45 feet high, would be a food trailer (no alcoholic beverage sales). Seven 1-1/2 hour shows are requested with expected attendance between 500 and 700 per performance. Circus management provides in-house security guards and management carries cell phones in case of a 911 Emergency. The security can use cell phones to contact local law enforcement if the need exists. The applicant, a non-profit organization, has also requested a fee waiver.

The proposed project is categorically exempt from the California Environmental Quality Act per Section 15304, Class 4(e), minor temporary use of land having negligible or no permanent effects on the environment.

**Attachment**

**Update** – At its meeting of May 13, 2014, the Planning Commission approved Resolution No. 1873, with Exhibit A, pages 1 through 3, approving the request by LOV (League of Volunteers), for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from August 7 through August 11, 2014.

**Attachment**

**Action** - It is recommended that the City Council, by motions: (1) approve Resolution No. 1873 with Exhibit A, pages 1 through 3, the request by LOV (League of Volunteers), for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot (APNS: 901-111-20 & 21) with performances from August 7 through August 11, 2014; and (2) authorize a waiver of the application fee.

RESOLUTION NO. 1873

RESOLUTION APPROVING P-14-12, A PLANNED UNIT DEVELOPMENT, AND U-14-13, A CONDITIONAL USE PERMIT, TO HAVE A CIRCUS AT THE NEWPARK MALL PARKING LOT (APNS: 901-111-20 & 21) WITH PERFORMANCES FROM AUGUST 7 THROUGH AUGUST 11, 2014

WHEREAS, LOV (League of Volunteers) has filed with the Planning Commission of the City of Newark application for P-14-12, a planned unit development, and U-14-13, a conditional use permit, to have a circus at the NewPark Mall parking lot with performances from August 7 through August 11, 2014; and

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in The Argus on May 2, 2014, and mailed as required, and the Planning Commission held a public hearing on said application at 7:30 p.m. on May 13, 2014 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby approve this application as shown on Exhibit A, pages 1 through 3, subject to compliance with the following conditions:

Planning Division

- a. This approval shall be for seven (7) shows commencing on August 7, 2014, and concluding on August 11, 2014.
- b. All sound equipment and speakers associated with this project shall be inside the circus tent. The volume levels of all sound equipment and speakers associated with this project shall not exceed levels determined to be acceptable by the Community Development Director.
- c. All lighting shall be directed on-site so as not to create glare off-site.
- d. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 11:00 p.m. and 7:00 a.m.
- e. Garbage and recycling pick-up shall be coordinated with Republic, Inc. so that a sufficient number of dumpsters are available on-site and picked-up to ensure no refuse, garbage or recycling is stored outdoors except within the approved trash and recycling dumpsters. Prior to the first circus performance, the developer shall submit written evidence of Republic, Inc.'s approval.

- f. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site clean-up shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site shall remain graffiti free.
- g. Construction equipment, including compressors, generators and mobile equipment shall be fitted with heavy-duty mufflers designed to reduce noise impacts.
- h. The circus staff shall, as necessary, direct patrons to park their vehicles in the NewPark Mall parking lot.
- i. Prior to the first circus performance, the circus staff shall submit evidence of approval from the County Health Department for the proposed food and beverage sales. There shall be no alcoholic beverage sales.
- j. Within 24 hours of the conclusion of the final performance on August 11, 2014, all structures and improvements brought to the subject site associated with this project shall be removed and the site returned to its original, pre-circus condition, to the satisfaction of the Community Development Director.

Engineering Division

- k. The circus staff shall implement all applicable Best Management Practices (BMPs) from the California Best Management Practice Handbook for Construction Activities to prevent the pollution or contamination of storm water runoff from the project area. Additional BMPs may be required by the City Engineer, as necessary, to minimize the pollution of storm water runoff from the project area. The following notes shall be added to the final plans:
  - 1. Any stockpiled materials with the potential to pollute storm water runoff shall be properly contained and covered to prevent any such pollution.
  - 2. The parking lot and drive aisles shall be cleaned daily or as required by the City Engineer to remove accumulated trash and debris generated from the project area. Migration of trash and debris into the public right-of-way is prohibited and will be strictly enforced.
  - 3. Water-tight waste receptacles shall be placed around the site, as necessary, to minimize litter, to the satisfaction of the City Engineer.
  - 4. Any liquid spills associated with the proposed project must be cleaned immediately and prevented from entering the storm drain system.

5. Temporary sanitary facilities shall be managed and maintained at all times, placed away from drainage facilities and traffic circulation, and secured to prevent overturning.
6. All applicable Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities shall be implemented, as necessary, to minimize storm water pollution to the satisfaction of the City Engineer.

#### Fire Department

- l. Prior to the start of the event, the circus operator shall obtain a Fire Code permit from the Alameda County Fire Department-Newark Fire Prevention, and shall pass all required inspections.
- m. The circus shall comply with all fire code requirements in effect at the time of the event.

#### Police Department

- n. The circus staff shall implement a security program to protect circus patrons and staff before, during, and after each circus show, to the satisfaction of the Police Chief. This shall include, but not be limited to, the developer providing 24-hour security staff to protect the tent and all circus equipment before, during, and after the event. The developer shall provide the Police Department with the names and mobile telephone numbers of security staff and/or managers, along with the contact name, mobile telephone number, and office telephone number of the on-site person in charge.

#### General

- o. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.
- p. If any condition of this planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this planned unit development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- q. This planned unit development and conditional use permit shall be given a public hearing before the City Council for the Council's review and approval.
- r. All conditions of approval for this project, as approved by the City Council, shall be posted at the site and distributed to circus personnel.

- s. The developer hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
  
- t. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The developer is hereby further notified that the 90-day approval period in which the developer may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the developer fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the developer will be legally barred from later challenging such exactions.

The Commission makes the findings prescribed in Newark Municipal Code Sections 17.40.050 and 17.72.070, and directs a Notice of Decision be mailed to the applicant and filed with the City Clerk who shall present said Notice to the City Council pursuant to Newark Municipal Code Section 17.72.080.

This Resolution was introduced at the Planning Commission's May 13, 2014 meeting by Commissioner Fitts, seconded by Commissioner Drews, and passed as follows:

AYES: Aguilar, Bridges, Drews, Fitts, Hannon, Nillo and Otterstetter.

NOES: None.

ABSENT: None.

s/Terrence Grindall  
 TERRENCE GRINDALL, Secretary

s/Bernie Nillo  
 BERNIE NILLO, Chairperson

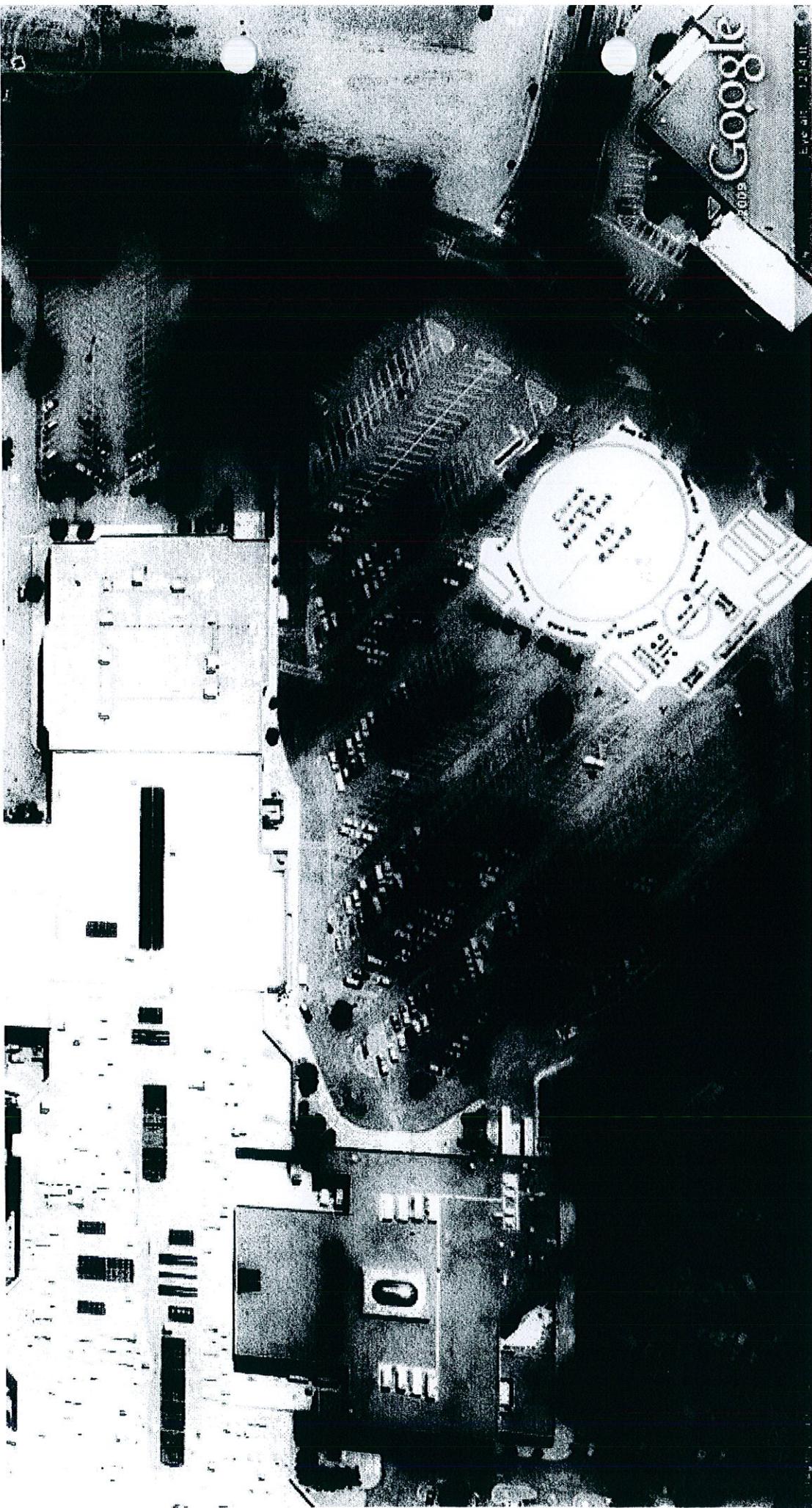
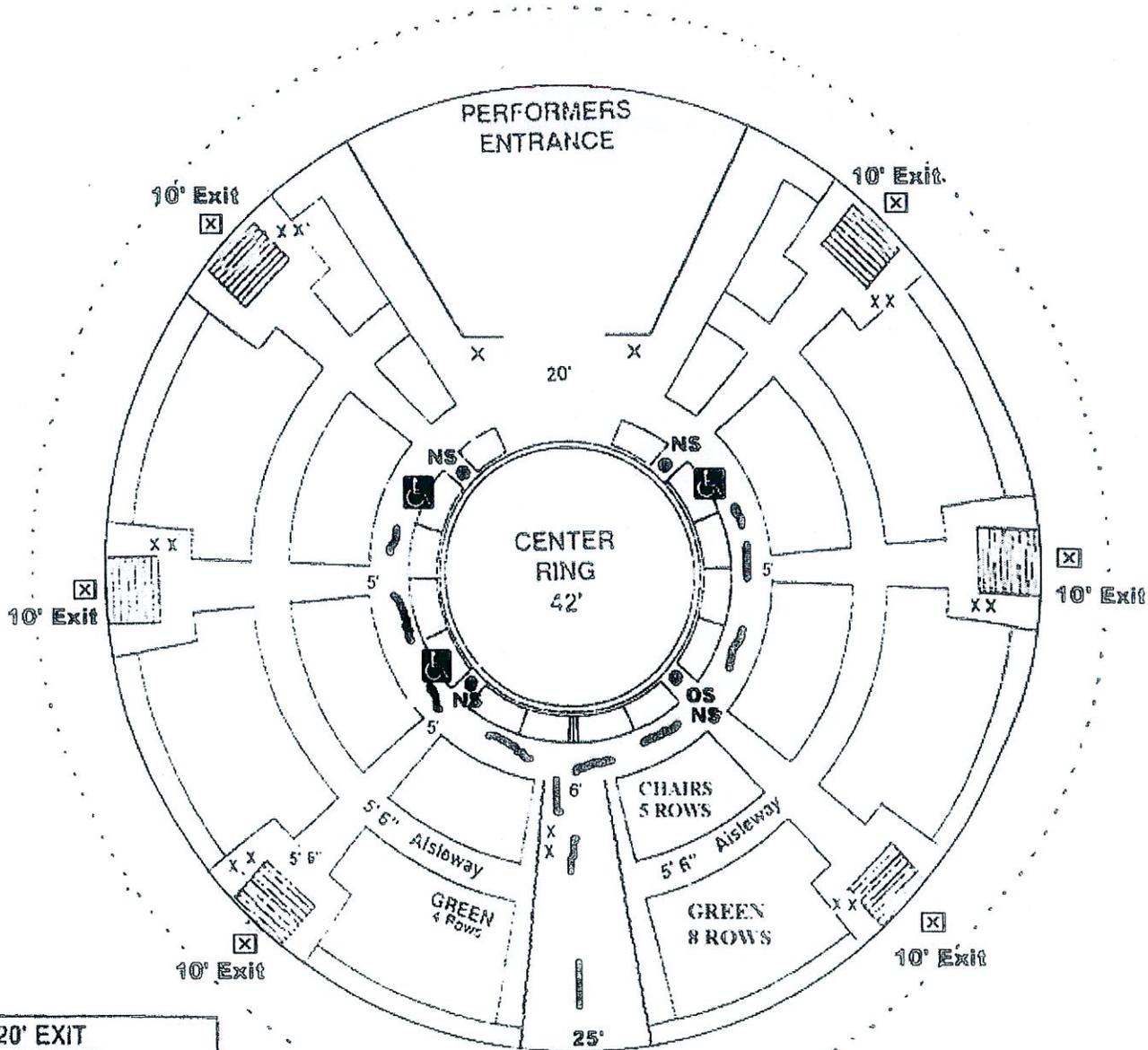


EXHIBIT A-1





1 - 20' EXIT  
 7 - 10' EXITS  
 X - Fire Extinguishers  
 16 2A-10BC Rated  
 located near exits

Seating Capacity  
 1,250

Area Marked Green are bleacher benches

Area Marked as chairs are plastic seats  
 on bleachers

Boxes around ring have 2 rows of 4 loose  
 chairs each with an aisle between groups  
 of two. Chairs are removed for  
 Handicapped Seating on an as-needed basis

Illuminated Exit Sign with 3 sources of power  
 above every exit. Signs attached to a generator,  
 back up generator and battery as third source of power.

☒ Means of egress is illuminated from light on top of  
 exit sign at not less than 1-foot candle at floor level.  
 Exit Signs and illuminated egress signs able to operate  
 90 minutes when operated at full design demand.

NS - No Smoking Sign  
 OS - Occupancy Sign

Curtain openings at exits have contrasting colors  
 to the tent and are on a free-sliding metal support.  
 Curtain height a minimum of 80-inches above floor  
 level and do not obstruct the exit.

No Smoking Signs Posted inside Tent  
 No cooking inside the tent

A123