4) Adopt a resolution approving TM-12-28, Vesting Tentative Map 8110;

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING TM-12-28, VESTING TENTATIVE MAP 8110

WHEREAS, Enterprise Drive LLC has submitted TM-12-28, Vesting Tentative Map 8110, to the City Council of the City of Newark for a 27-unit residential subdivision on an approximately 2.14-acre project site (Enterprise Property) generally located on the north side of Enterprise Drive east of Willow Street, which is within the Dumbarton Transit-Oriented Development (TOD) Specific Plan project area; and

WHEREAS, TM-12-28, Vesting Tentative Map 8110, contemplates off-site improvements consistent with the Specific Plan;

NOW, THEREFORE, pursuant to California Government Code Sections 66473 *et seq.,* the City Council and as a result of the studies and investigations made by the City Council and on its behalf, the oral and written testimony presented at the public hearings, the information contained in the Community Development Department's files, the Dumbarton Transit-Oriented Development (TOD) Specific Plan Environmental Impact Report ("EIR"), the Supplemental Environmental Impact Report for the Dumbarton Transit-Oriented Development (TOD) Specific Plan ("SEIR"), finds and resolves as follows:

1. That TM-12-28, Vesting Tentative Map 8110 is consistent with the City's General Plan and the Dumbarton Transit-Oriented Development (TOD) Specific Plan and as such is compatible with the objectives, policies, general land uses, and programs specified therein. TM-12-28, Vesting Tentative Map 8110 calls for the construction of 27 residential units and implements the Specific Plan's objective of providing residential units in the Specific Plan project area. TM-12-28, Vesting Tentative Map 8110 is an implementation of the City's previously adopted policies.

2. That the Enterprise Property is physically suitable for the construction of 27 residential units. The EIR (State Clearinghouse Number 2010042012) certified by the City Council on September 8, 2011 drafted pursuant to CEQA Guidelines 15162 and 15164 and approved by the Planning Commission on September 8, 2011 and the Supplemental Environmental Impact Report recommended by the Planning Commission on February 25, 2014, analyze all physical impacts of TM-12-28, Vesting Tentative Map 8110 on the Enterprise Property. The impacts on the Enterprise Property of both a residential use generally and the density envisioned by TM-12-28, Vesting Tentative Map 8110 was fully analyzed by the EIR, Addendums, and Supplemental Environmental Impact Report. These previously approved documents conclude the Enterprise Property is physically suitable for construction of 27 residential units.

3. That TM-12-28, Vesting Tentative Map 8110 is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The EIR (State Clearinghouse Number 2010042012) certified by the City Council on September 8, 2011 drafted pursuant to CEQA Guidelines 15162 and 15164 and the SEIR certified by the City

Council on September 11, 2011, analyze all the environmental impacts of TM-12-28, Vesting Tentative Map 8110. Despite the City Council determining that the TOD Specific Plan and the project authorized by Vesting Tentative Map 8110 would result in several significant and avoidable impacts, the City Council finds that such impacts will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

4. That TM-12-28, Vesting Tentative Map 8110 is not likely to cause serious health problems. The EIR (State Clearinghouse Number 2010042012) certified by the City Council on September 8, 2011 drafted pursuant to CEQA Guidelines 15162 and 15164 and the SEIR certified by the City Council on September 8, 2011, analyze all the environmental impacts of TM-12-28, Vesting Tentative Map 8110 on public health and safety. Despite the City Council determining that the TOD Specific Plan and the project authorized by Vesting Tentative Map 8110 would result in several significant and avoidable impacts, the City Council finds that such impacts will not cause serious health problems.

5. That TM-12-28, Vesting Tentative Map 8110 does not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. TM-12-28, Vesting Tentative Map 8110 simply implements the Dumbarton Transit-Oriented Development (TOD) Specific Plan, which was previously approved by the City.

6. That as provided by the California Environmental Quality Act ("CEQA"), That TM-12-28, Vesting Tentative Map 8110 will result in significant impacts on the environment as discussed in the EIR and SEIR and a Statement of Overriding Considerations was reviewed and approved by the City Council pursuant to City Council Resolution No. 9886. The other potentially significant project impacts will be reduced to less than significant levels with the mitigation measures imposed and set forth in the Mitigation Monitoring and Reporting Program as approved by City Council Resolution No. 9886.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby approve TM-12-28, Vesting Tentative Map 8110 as shown on Exhibit A, pages 1 through 29 and made a part hereof by reference, subject to the following conditions:

<u>Planning Division</u>

a. Approval of TM-12-28, Vesting Tentative Map 8110 shall be effective at such time RZ-12-27, the Rezoning of the property within the boundary of Vesting Tentative Map 8110, takes effect.

b. The project shall be subject to the environmental mitigation measures as described in the Dumbarton Transit Oriented Specific Plan and the Dumbarton Transit Oriented Development Residential Supplemental Environmental Impact Report.

c. No Certificate of Occupancy shall be issued until the Gallade Parcel is acquired by developer or the City of Newark. Nothing in this condition shall relieve developer of compliance with TOD EIR Mitigation Measure 4.7-1a which requires review and regulatory approval of a proposed remedial plan prior to the issuance of a grading or building permit.

Prior to issuance of the first grading permit, developer shall demonstrate to the City of Newark that it has adequate property rights to complete the improvements contemplated within all proposed water quality and public storm drain easements identified on Tentative Map – Tract 8110 or enter into an agreement with the owner of such areas to cause such improvements to be made at developer's sole cost and expense. In the event that the City acquires any proposed water quality and public storm drain easements identified on Tentative Map – Tract 8110, it agrees it will convey to developer adequate property rights, such as an easement, to construct such improvements or enter into an agreement with developer that will cause such improvements to be constructed at developer's sole cost and expense and maintained by the Homeowner's Association.

d. There shall be no roof-mounted equipment other than satellite dishes, other similar television or radio antennas, and solar equipment. AC units shall not be mounted on the roof.

e. All lighting shall be directed on-site so as not to create glare off-site, as required by the Community Development Director.

f. Construction site trailers and buildings located on-site shall be used for office and storage purposes only, and shall not be used for living or sleeping quarters. Any vehicle or portable building brought on the site during construction shall remain graffiti free.

g. The covenants, conditions and restrictions (CC&Rs) filed for this development shall include a provision requiring that that garages shall only be used for automobile parking.

h. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 7:00 p.m. and 8:00 a.m.

i. 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 cleanup shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site during construction shall remain graffiti free.

j. All exterior utility pipes and meters shall be painted to match and/or complement the color of the adjoining building surface, as approved by the Community Development Director.

k. Prior to the issuance of a building permit, the elevations as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. The building elevations shall reflect all architectural projections such as roof eaves, bay windows, greenhouse windows, chimneys and porches. A site plan showing the building locations with respect to property lines shall also show the projections. Said elevations shall specify exterior materials. Final color elevations shall be submitted for the review and approval of the Community Development Director.

l. Prior to the issuance of a building permit, the floor plans as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council.

m. Prior to the issuance of a building permit, roof material as submitted by the developer as part of this application shall be reviewed and approved by the Planning Commission and City Council. All roof material shall consist of fire retardant shake roof, concrete tile, or a roof of similar noncombustible material. Mansard roofs with the above material may be used to screen tar and gravel roofs. All roofs shall be of Class C fire resistant construction or better. Composition shingles shall be Presidential-style or of comparable quality, subject to the review and approval of the Community Development Director.

n. Prior to the issuance of a building permit, the location and screening design for garbage, refuse and recycling collection areas for the project shall be submitted for the review and approval of Republic Services and the Community Development Director, in that order. The approved garbage, refuse and recycling areas shall be provided prior to the issuance of a Certificate of Occupancy, as required by the Community Development Director. No refuse, garbage or recycling shall be stored outdoors except within the approved trash and recycling enclosures.

o. Prior to issuance of building permit, an Acoustical Assessment shall be prepared to demonstrate that the exterior and interior noise levels are consistent with the City's land use compatibility standards and Title 25, Section 1092 of the California Code of Regulations. The Acoustical Assessment shall be prepared by a qualified Acoustical Consultant and submitted to the Community Development Director for review and approval. Measures (e.g., attenuation barriers, acoustically rated windows [i.e. appropriate STC or OITC ratings, upgraded insulation, etc.] shall be implemented where conditions exceed the Noise and Land Use Compatibility Criteria of "Normally Acceptable" noise exposure levels.

Measures to respond to and track complaints pertaining to construction noise shall include: (1) a procedure and phone numbers for notifying the City of Newark Building Inspection Division and Newark Police Department (during regular construction hours and off-hours); and (2) a sign posted on-site pertaining to the permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours).

p. Payment by developer to the City of an in-lieu fee for each residential unit within the project at the time of issuance of a certificate of occupancy in the amount shown on Exhibit B to these conditions will constitute the project's compliance with the City's Affordable Housing Program as set forth in Chapter 17.18 of the Newark Municipal Code.

q. Prior to the issuance of a building permit, the developer shall enter into an agreement with the City Council to address Community Services fiscal support of $2,500 per unit for the Map Area specific to this project.

r. Prior to issuance of a grading permit, the developer shall hire a qualified biologist to: (1) determine if occupied Burrowing Owl habitat(s) exist on the site, and (2) implement a plan to protect the owls and to excavate the site around any active burrows using hand tools to assure that the owls are not buried during grading in the event Burrowing Owl habitat(s) is found on the site. The occupied Burrowing Owl habitat(s), if found, shall not be disturbed during the nesting season. The Burrowing Owl study shall be conducted not more than 30 days prior to the time site grading activities will commence.

s. Prior to the transfer of title, the developer shall provide disclosure notices to buyers of individual dwellings in the subdivision as to all of the conditions of project approval and environmental determination approved for this project. This information shall include, but is not limited to the anticipated commuter rail service along the Dumbarton Rail Bridge between the East Bay and Santa Clara/San Mateo Counties, as well as the presence of periodic loud train horns using the railroad tracks on the north side of the subdivision.

t. Prior to the transfer of title for any lot in the development, the developer shall provide disclosure notices to the buyers as to the possibility of ground borne vibration from trains using the railroad tracks on the north side of the subdivision. The method of disclosure shall be subject to the review and approval of the Community Development Director.

u. During project construction, if historic, archeological or Native American materials or artifacts are identified, work within a 50-foot radius of such find shall cease and the City shall retain the services of a qualified archeologist and/or paleontologist to assess the significance of the find. If such find is determined to be significant by the archeologist and/or paleontologist, a resource protection plan conforming to CEQA Section 15064.5 shall be prepared by the archeologist and/or paleontologist and approved by the Community Development Director. The plan may include, but would not be limited to, removal of resources or similar actions. Project work may be resumed in compliance with such plan. If human remains are encountered, the County Coroner shall be contacted immediately and the provisions of State law carried out.

v. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster. The mailbox compartments of centralized mailboxes shall identify the individual dwelling units with permanent, easily legible lettering.

w. Prior to the issuance of a Certificate of Occupancy, the parking areas, aisles and access drives shall be installed and striped as shown on the approved site plan. Guest parking spaces shall be clearly marked as reserved for guests, as approved by the Community Development Director.

x. Prior to the issuance of a Certificate of Occupancy, roll-up garage doors with automatic garage door openers shall be provided for each unit.

y. Prior to final inspection and utility release for each unit, the developer shall pre-wire each unit for satellite and cable television connections, as required by the Community Development Director.

z. Prior to the issuance of a sign permit, all signs, other than those referring to construction, sale, or future use of this site, shall be submitted for the review and approval of the Community Development Director.

Engineering Division

aa. The project shall conform to Vesting Tentative Map – Tract 8110, Sheets TM-1 through TM-5, and all conditions of approval set forth herein. Approval of this tentative map shall expire according to the provisions of the Subdivision Map Act of the State of California and any amendments thereto and applicable provisions of the Newark Municipal Code. This tentative map provides a preliminary design for the infrastructure improvements associated with the proposed subdivision. The developer shall be responsible for any required changes to this preliminary design as determined necessary by the City of Newark to satisfy applicable design requirements of the City or any other public agencies or utilities with jurisdictional authority.

bb. This development will require approval of a final map filed in accordance with the State Subdivision Map Act and the City of Newark Subdivision Ordinance. Any necessary parcel maps or lot line adjustments to acquire lands beyond the current property boundary of the tentative map shall be recorded prior to the first final map or issuance of any model home permits. The final map must be approved prior to the issuance of any building permits. Permission to grade on adjacent private properties shall be obtained prior to approval of the first final map. Evidence of such agreements must be furnished to the City as part of the approval. All required easement dedications as shown on the tentative map and as determined necessary with future design review shall be dedicated on the final map.

cc. The final map and complete tract improvement plans shall be submitted to the City Engineer to ensure conformance with relevant codes, policies, and other requirements of the Newark Municipal Code and City of Newark street improvement standards. Prior to approval of the final map, the developer shall guarantee all necessary public and private street improvements and other infrastructure improvements within the subdivision and beyond the map boundary as required by the City of Newark Subdivision Ordinance and this tentative map and all conditions herein, in accordance with tract improvement plans to be approved by the City Engineer. Improvement plans for on-site common areas and all private streets in the development shall be included with the tract improvement plans to ensure that the improvements are designed and constructed to City standards.

These plans must be prepared by a qualified person licensed by the State of California to do such work. Tract improvements shall include, but are not necessarily limited to all required improvements as indicated on the tentative map for Enterprise Drive including a pavement overlay of at least 0.25' to result in a traffic index of not less than 9.0 following placement of required utility tie-ins, all private street construction, water, sanitary sewer, and joint trench utilities, storm drain systems and all stormwater treatment systems, street lighting systems including the replacement of all existing street lights within the limits of development, and all frontage and common area landscaping including landscaping

within the San Francisco Public Utilities Commission right-of-way and along the park frontage on the eastern boundary of the Enterprise Parcel.

dd. This site is subject to the State of California National Pollutant Discharge Elimination System (NPDES) Program General Permit for Storm Water Discharges Associated with Construction Activity. Prior to issuance of a grading permit or a building permit, the developer needs to provide evidence that the proposed site development work is covered by said General Permit for Construction Activity. This will require confirmation that a Notice of Intent (NOI) and the applicable fee were received by the State Water Resources Control Board and the submittal of the required Stormwater Pollution Prevention Plan (SWPPP). In addition the grading plans need to state: "All grading work shall be done in accordance with the Storm Water Pollution Prevention Plan prepared by the developer pursuant to the Notice of Intent on file with the State Water Resources Control Board."

ee. Prior to the issuance of the initial grading or any building permits for this project, the developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for the review and approval of the City Engineer. The plan shall include sufficient details to show how storm water quality will be protected during both: (1) the construction phase of the project and (2) the post-construction, operational phase of the project. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD) in the State of California. The construction phase plan shall include Best Management Practices from the California Storm Water Quality Best Management Practices Handbook for Construction Activities. The specific storm water pollution prevention measures to be maintained by the contractor shall be printed on the plans. The operational phase plan shall include Best Management Practices appropriate to the uses conducted on the site to effectively prohibit the entry of pollutants into stormwater runoff from the project site including, but not limited to, low impact development stormwater treatment measures, trash and litter control, pavement sweeping, periodic storm water inlet cleaning, landscape controls for fertilizer and pesticide applications, labeling of storm water inlets with a permanent thermoplastic stencil with the wording "No Dumping - Drains to Bay," and other applicable practices.

ff. The project must be designed to include appropriate source control, site design, and stormwater treatment measures to prevent stormwater runoff pollutant discharges and increases in runoff flows from the site in accordance with Provision C.3 of the Municipal Regional Stormwater NPDES Permit (MRP), Order R2-2009-0074, revised November 28, 2011, issued to the City of Newark by the Regional Water Quality Control Board (RWQCB), San Francisco Bay Region. Examples of source control and site design requirements include, but are not limited to: properly designed trash storage areas, sanitary sewer connections for all non-stormwater discharges, minimization of impervious surfaces, and treatment of all runoff with Low Impact Development (LID) treatment measures. A properly engineered and maintained biotreatment system will only be allowed if it is infeasible to implement other LID measures such as harvesting and re-use, infiltration, or evapotranspiration. The stormwater treatment design shall be completed by a licensed civil engineer with sufficient experience in stormwater quality analysis and design. The Storm Water Control Plan (Sheet TM-5) on this tentative map would be approved as a conceptual plan only. Final approval is subject to the developer providing the necessary plans, details, worksheets, and calculations that demonstrate the

plan complies with Provision C.3 of the MRP, subject to final review by the City Engineer and the RWQCB prior to the recording of any final maps. The developer is responsible for any and all necessary modifications to the site design to comply with MRP requirements. The use of treatment controls for runoff requires the submittal of a completed Stormwater Treatment Measures Maintenance Agreement prior to the approval of any final maps.

gg. All stormwater treatment measures are subject to review and approval by the Alameda County Mosquito Abatement District. The developer shall modify the grading and drainage design and the stormwater treatment design as necessary to satisfy any and all imposed requirements from this District.

hh. The preliminary Grading and Drainage Plan provided on Sheet TM-3 of the tentative map has not yet been supported with a detailed drainage feasibility analysis. A complete watershed analysis, including detailed drainage calculations, shall be completed and submitted by the developer for review by the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WCD) for determination of the general feasibility of the proposed design prior to development of detailed grading and drainage plans. ACFC&WCD will not allow the design capacity of the existing Line F-1 and Line F-6 flood control channels to be exceeded. The developer shall be responsible for any and all changes to the preliminary drainage design as shown on the tentative map as necessary to satisfy ACFC&WCD and City of Newark storm drain system requirements.

ii. The developer shall submit detailed grading and drainage plans for review and approval by the City Engineer and the Alameda County Flood Control and Water Conservation District (ACFC&WCD). These plans must be based upon a City benchmark and need to include pad and finish floor elevations of each proposed structure, all rear yard drainage designs and surface treatments, proposed on-site property grades, proposed elevations at property line, and sufficient elevations on all adjacent properties to show existing and proposed drainage patterns. All pavement shall drain at a minimum of one percent. The developer shall ensure that all upstream drainage is not blocked and that no ponding is created by this development. Any construction necessary to ensure this shall be the developer's responsibility. All mitigation measures identified in the Hydrology, Drainage, and Water Quality section of the Environmental Impact Report shall be properly addressed with the detailed grading and drainage plans.

Hydrology and hydraulic calculations based on ACFC&WCD criteria shall be submitted for review and approval by the City Engineer and the ACFC&WCD prior to approval of any final maps. The calculations shall show that City and ACFC&WCD freeboard requirements will be satisfied (0.75 feet to grate or 1.25 feet to the top of curb under a 10-year storm event design).

jj. Where a grade differential of more than a 1-foot is created along the boundary lot lines between the proposed development and adjacent property, the developer shall install a masonry retaining wall unless a slope easement is approved by the City Engineer. Said retaining wall shall be subject to review and approval of the City Engineer. A grading permit is required by the Building Inspection Division prior to starting site grading work.

kk. Permission to grade on adjacent private properties shall be obtained prior to approval of the first final map. Evidence of such agreements must be furnished to the City as part of the approval.

ll. The applicant shall submit a detailed soils report prepared by a qualified engineer, registered with the State of California. The report shall address in-situ and import soils in accordance with the City of Newark Grading and Excavation Ordinance, Chapter 15.50. The report shall include recommendations regarding pavement sections for all public and private streets. Grading operations shall be in accordance with recommendations contained in the soils report and shall be completed under the supervision of an engineer registered in the State of California to do such work. All documentation prepared during the inspection of grading operations shall be made available for review by the City Engineer.

mm. An independent Project Geotechnical Engineer shall be retained to review the final grading plans and specifications and provide construction inspection review at the developer's expense. The Project Geotechnical Engineer shall approve the grading plans prior to approval by the City of Newark for issuance of a grading permit.

nn. Prior to approval of any final maps, the developer shall satisfy Alameda County Water District (ACWD) requirements for the proposed development. All water service, fire service, and irrigation facilities shall be constructed and installed in accordance with current ACWD standards. The developer shall dedicate any and all necessary easements to ACWD for all public water mains and ACWD-owned appurtenances, as determined by ACWD. The Utility Plan provided on Sheet TM-4 of the tentative map includes a preliminary water supply system layout that is subject to a complete review by ACWD at such time as formal, detailed utility plans are developed for construction. Any necessary site and utility design changes necessary to satisfy ACWD's design requirements shall be the developer's responsibility.

Additional water line valves shall be installed on existing water mains in the vicinity of the new public water system connections and on both sides of any water main crossings over the San Francisco Public Utilities Commission right-of-way or the San Mateo County Transit District right-of-way. Each irrigation or other non-residential domestic service shall have an approved, above-ground backflow prevention device. Any existing water services which will not be used in the proposed development shall be removed by ACWD at the developer's expense.

The ability to install a public water system within the project area will be conditioned upon confirmation that the soil or groundwater does not pose a risk to health and safety either during installation of the public water system or during long-term operation and maintenance of the system, as determined by ACWD. Likewise the nature of hazards or hazardous material remaining on the project site may affect the materials used to construct the public water system.

oo. Prior to approval of any final maps, the developer shall satisfy Union Sanitary District (USD) requirements for the proposed development. All sanitary sewer facilities shall be

constructed and installed in accordance with current USD standards. The Utility Plan provided on Sheet TM-4 of the Vesting Tentative Map includes a preliminary sanitary sewer system layout that is subject to a complete review by USD at such time as formal utility plans are developed for construction. Any necessary site and utility design changes necessary to satisfy USD's design requirements shall be the developer's responsibility.

pp. Prior to approval of the final map, the developer shall coordinate with the City and County of San Francisco through its Public Utilities Commission to obtain the necessary roadway right-of-way, licensing agreement, and/or land use permits for the ultimate street improvements proposed along the Enterprise Drive frontage within the limits of development and pay all costs associated therewith.

qq. The developer shall incorporate a Homeowner's Association consisting of all property owners of lots in the development at the time of incorporation and in the future for the purpose of owning and maintaining the association's property, including but not limited to all private streets and common drive aisles, parking areas, landscape areas, stormwater treatment areas, storm drain systems, public access areas, and for paying for security lighting, any common garbage collection services, any security patrol services, if provided, and other functions of a Homeowner's Association. All common areas within the development shall be owned and maintained by the Homeowner's Association. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first. The Homeowner's Association's CC&Rs shall ensure the perpetual maintenance of all common front yard, side yard and back-up area landscaping within the development by the Homeowner's Association. Any and all necessary easements shall be dedicated over individual lots to allow for the perpetual access and maintenance of landscaping. The full extent of landscape maintenance shall be determined with future landscape improvements plans. Any project perimeter walls and adjoining landscaped areas shall be included in a dedicated landscape easement to guarantee adequate maintenance of the walls. Each property owner shall automatically become a member of the association and shall be subject to a proportionate share of the maintenance expenses. The Homeowner's Association shall be incorporated prior to the sale of any individual lots and/or prior to acceptance of tract improvements, whichever occurs first.

rr. Prior to City Council approval of any final maps, the proposed bylaws governing the property owner's association and any proposed declaration of covenants, conditions and restrictions (CC&Rs) associated with the development shall be reviewed to determine consistency with these conditions by the Community Development Director and the City Attorney. Recording of the CC&Rs shall not occur until approval by the Bureau of Real Estate, which may require revisions to the CC&Rs after City review. Said covenants, conditions and restrictions shall be prominently displayed in the project sales office at all times. The City's consistency determination related the covenants, conditions and restrictions shall not make the City a party to enforcement of same. The CC&Rs shall apply equally to both owners and renters. The CC&Rs shall be written to require renters to comply with the regulations of the CC&Rs, and a copy of the CC&Rs shall be given to

each renter. The CC&Rs shall be written to allow less than a majority of owners to have pavement or landscape maintenance done and the cost thereof assessed to all owners in the project. The CC&Rs shall include a pavement maintenance program for all private streets and common drive aisles.

ss. The Homeowner's Association CC&Rs shall prohibit the on-site parking of non-self-propelled recreational vehicles, including boats, and any self-propelled recreational vehicles not used for transportation unless separate storage facilities are provided. The CC&Rs shall regulate the provision of any on-site parking of self-propelled recreational vehicles used for transportation.

tt. The CC&Rs for the project shall include a disclosure statement to all property owners indicating that the project site is located within a seismic hazard zone for liquefaction. The disclosure statement shall indicate that the buildings have been designed to current code requirements. The statement shall further indicate that the buildings, site improvements, and utilities are subject to damage during an earthquake and that the buildings may be uninhabitable after an earthquake. This CC&R disclosure statement is subject to review and approval of the City Engineer prior to final map approval.

uu. The developer shall also assist the Homeowner's Association by having a management consultant firm review the maintenance and operating functions of the association. The management consulting firm shall be responsible to prepare a written report with recommendations to the association for managing the association's obligations and setting initial monthly assessment costs for each lot in the development. Membership and assessment cost shall be mandatory for all property owners of property in the development and shall run with the land. The developer shall pay all costs of incorporation and initial management review and reports.

vv. The developer shall enter into a Landscape Maintenance Agreement(s) with the San Francisco Public Utilities Commission and City of Newark to ensure the perpetual maintenance of all landscaping within the San Francisco Public Utilities Commission right-of-way along the Enterprise Drive street frontage by the Homeowner's Association. This agreement shall run with the land and be binding upon all future owners or assigns. The full extent of landscape maintenance shall be determined with the future landscape improvements plans and detailed in said agreement. Landscaping by the City at the expense of the Homeowner's Association in these areas will only occur in the event the City Council deems the Homeowner's Association maintenance to be inadequate.

The City of Newark shall be provided with subordinate agreements to ensure that the position of the landscaping lien shall be superior to any liens or encumbrances other than taxes

ww. Prior to approval of the final map, the developer shall petition the City Council to participate in an active Landscaping and Lighting District for the perpetual maintenance of future median landscaping and lighting systems on Enterprise Drive along the project frontage and shared costs for the maintenance of all proposed public parks, and all median landscaping, including roundabout areas on Willow Street within the limits of the Dumbarton Transit Oriented Development Plan Area. Maintenance activities will be

performed by the City of Newark or its contractors through the Landscaping and Lighting District. All property owners within the tentative map boundary shall be assessed annually in accordance with requirements established with the Landscaping and Lighting District. The developer shall pay all associated costs in the City's Master Fee Schedule for establishment of the Landscaping and Lighting District. The developer shall record an indenture advising all prospective property owners in the project that their properties are included in a Landscaping and Lighting District for maintenance of landscaping, lighting, and related improvements installed as part of this project. All other maintenance, including but not limited to maintenance of proposed Parcel "E", all private streets, all private storm drain and stormwater treatment systems, common area an street frontage landscaping, and all other areas or easements to be conveyed to the property Homeowner's Association or individual lot owners, shall be the responsibility of the Homeowner's Association or individual lot owners as detailed in the project CC&Rs.

xx. The storm drain system shall be equipped with full-capture trash devices approved by the Regional Water Quality Control Board that satisfy Provision C.10 requirements under the Municipal Regional Stormwater NPDES Permit. Trash capture device selection is subject to approval by the City Engineer. The Homeowner's Association shall be responsible for trash and litter control and sweeping of all private streets within the development. All private storm drain systems and all associated trash capture devices shall be cleaned on a regularly scheduled basis as detailed in the required Stormwater Treatment Measures Maintenance Agreement.

yy. The Homeowner's Association shall be required to contract with a professional management firm to handle all necessary maintenance operations. Documentation of such contract shall be submitted to the City of Newark. All commonly owned facilities shall be properly maintained in a manner consistent with the CC&Rs and project requirements.

zz. The Homeowner's Association shall periodically provide educational materials on storm water pollution prevention to all residents.

aaa. Each buyer shall sign an acknowledgment that he/she has read the constitution and bylaws of the Homeowner's Association and the CC&Rs applied to the development.

bbb. The developer shall provide a complete set of construction plans in electronic format and reproducible paper (mylar) format to the Homeowner's Association at the time of its formation.

ccc. All existing overhead utilities within the development and along the fronting street rights-of-way to the centerline of the street shall be undergrounded to the nearest riser beyond the development's limits in accordance with the City of Newark Subdivision Standards. Undergrounding shall include all existing and proposed service drops.

ddd. All new utilities including, but not limited to, electric and communication services shall be provided underground for all buildings in the development in accordance with the City of Newark Subdivision Standards. Electrical transformers shall be installed in

underground vaults with an appropriate public utility easement or within the public right-of-way.

eee. Fire hydrants are to be located along public and private streets as determined by the Alameda County Fire Department.

fff. A streetlight plan and joint trench plan shall be submitted by the applicant with the first tract improvement plan check and approved prior to final map approval. All existing street lights on Enterprise Drive within the limits of the development shall be replaced with street lights consistent with the approved Dumbarton Transit Oriented Development Specific Plan. LED lighting shall be utilized on all public and private streets and other common areas.

ggg. Safety lighting shall be provided on all private streets, walkways, and other common areas. Lights shall utilize vandal-resistant enclosures and shall have sufficient power and spacing to provide a minimum maintained foot-candle level of 0.12.

hhh. A signpost with a sign having an area of at least 15-inches by 21-inches shall be installed at or near each private street entrance. The name of each private street shall be placed on this sign in clearly legible 4-inch letters. The signs shall have painted, in at least 1-inch letters, "Private Property. Not dedicated for public use."

iii. On-site private streets are to be posted for "No Parking," except in those areas designed to accommodate guest parking, as shown on the tentative map.

jjj. The connection between private streets and public streets shall be by a City of Newark standard driveway.

kkk. Garbage, trash, or recycling containers shall be suitably concealed in an area dedicated within the garage of each unit, except such features may be placed at curbside on the designated garbage pick-up day.

lll. Public Utility Easements (PUE), Water Line Easements (WLE), Storm Drain Easements (SDE), and Sanitary Sewer Easements (SSE) shall be dedicated over all private streets in the development. The PUE, WLE, SDE and SSE dedication statements on the final map shall state that the PUE, WLE, SDE and SSE are available for, but not limited to, the installation, access and maintenance of water supply sanitary and storm sewers, and gas, electrical, and communication facilities.

mmm. Emergency Vehicle Access Easements (EVAE) shall be dedicated over the full pavement width on 'A' Road, 'B' Place, 'C' Place, and 'D' Place. The final easement geometry shall be subject to the approval of the City Engineer.

nnn. The developer shall request Pacific, Gas & Electric Co. to commence with the design of the underground utility improvements for the proposed development as soon as practical following tentative map approval.

ooo. The developer shall ensure that a water vehicle for dust control operations is kept readily available at all times during construction at the City Engineer's direction. A pick-up or vacuum type street sweeper shall be available at all times at the direction of the City Engineer to removed tracked dirt and debris from adjacent streets.

ppp. Above-ground architectural and building features that project over proposed property lines shall be permitted on townhouse and/or condominium units by easements recorded on the final map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. The details for these easements, including dimensions and descriptions, shall be included on the final map. Foundations for townhouse units shall be contained within the individual lot.

qqq. Street names and an addressing scheme shall be developed during the final map and improvement plan review process in accordance with the City of Newark's Street Numbering and Naming Ordinance (Chapter 12.12). This area of Newark has a "tree" theme for street names. Available street names will need to be determined. All addressing is based on the Alameda County grid pattern with streets running generally northerly and southerly having 5-digit addresses and streets running generally westerly and easterly having 4-digit addresses.

rrr. The developer shall repair and/or replace any public improvements (pavement, curb, gutter, etc.) damaged as a result of construction activity to the satisfaction of the City Engineer.

sss. Prior to issuance of a Certificate of Occupancy or release of utilities for any residential units, private streets, common vehicle access ways and parking facilities serving said units shall be paved in accordance with the recommendation of a licensed engineer based on a minimum Traffic Index of 6.0.

ttt. Prior to issuance of a Certificate of Occupancy or release of utilities for each dwelling unit, the on-site drive aisles and uncovered parking facilities shall be installed and striped as shown on the approved site plan. All on-site uncovered parking facilities and drive aisles shall be drained at a minimum slope of 1.0% for asphalt concrete surfaces and 0.3% for Portland cement concrete surfaces.

uuu. The developer shall be responsible for implementation of all mitigation measures identified in the Environmental Impact Report for the Dumbarton Transit Oriented Development Specific Plan to the extent applicable to the project.

vvv. The developer shall provide all required paper and digital submittals of the project final map, tract improvements plans, and as-built plans as required by the City Engineer, including, but not necessarily limited to the following: (1) One full-size reproducible copy and one reduced reproducible copy of the approved tentative map; (2) Two electronic copies of the approved final map and improvement plans in a format approved by the City Engineer; (3) One full-size mylar copy and one reduced copy of the recorded final map; (4) One reproducible set and four blue-line or photocopied sets of the approved tract improvement plans; (5) Two electronic copies and one mylar set of the as-built tract improvement plans. The City will require a digital submittal of all final maps

and improvements plans. All CAD work must be prepared in a manner consistent with the Union Sanitary District's digital submittal requirements for layering conventions. This can be found on the web at: http://www.unionsanitary.com/digitalSubmittal.htm. Digital files submitted shall be based on accurate coordinate geometry calculations and the NAD83 State Plane Coordinate System (Zone III) and NGVD29 (USD requires NAVD88) as vertical datum. A deposit of $5,000 shall be provided by the developer to the City to ensure submittal of all required documents.

www. The developer shall provide as-built record drawings in both electronic format and on mylar paper based on full and complete review and inspection by the developer's project civil engineer, landscape architect, and other design professionals of all public improvements and all improvements on private streets and property included in the tract improvement plan set.

xxx. If any terms or provision(s) of these conditions is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of these conditions shall may remain in full force and effect subject to amendments or modifications by mutual consent of the City and developer. If, in the opinion of the City or developer, the invalidation, voiding or lack of enforceability would deprive either City or developer of material benefits of this Vesting Tentative Map, or make performance of these conditions unreasonably difficult, then City and developer shall meet and confer and shall make good faith efforts to amend or modify these conditions in a manner that is mutually acceptable to City and developer.

yyy. Pursuant to Government Code Section 66474.9, the subdivider, or any agent thereof, or successor thereto, shall defend, indemnify, and hold harmless the City of Newark, its officials, employees or agents (collectively "City") from any claim, action or proceeding against the City to attack, set aside, void, or annul, the City's approval concerning this subdivision map application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the subdivider of any such claim, action, or proceeding and cooperate fully in the defense.

zzz. The Conditions of Project Approval set forth herein include certain fees, dedication 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 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.

Landscape-Parks Division

aaaa. Prior to approval of the final map, the developer shall submit detailed tract improvements plans that include all required off-site landscaping within the Enterprise Drive and San Francisco Public Utilities Commission rights-of-way, improvements along the western project boundary, including improvements on the adjoining property, and all on-site

landscaping within designated private streets, common areas, and designated landscape easements. The improvement plans are subject to the review and approval of the City Engineer.

bbbb. Prior to approval of the final map, the developer shall prepare and submit a Park Master Plan for the review and approval of the Planning Commission and City Council. The master plan shall incorporate turf, trees, shrubs, groundcover material, irrigation systems, stormwater treatment facilities, pathways, play equipment, benches, picnic facilities and related improvements consistent with the Conceptual Park Plan. The developer shall guarantee the construction of all park improvements in a form satisfactory to the City of Newark. <u>This condition bbbb shall be deemed to be satisfied upon satisfaction of TM 8098 condition uuuu.</u>

cccc. The developer shall retain a licensed landscape architect to prepare the required tract improvement landscape plans in accordance to with City of Newark requirements and the State of California Model Water Efficient Landscape Ordinance in accordance with the Water Conservation and Landscaping Act of 2006, Assembly Bill 1881. The associated Landscape Documentation Package must be approved by the City Engineer prior to approval of the final map.

dddd. The developer shall implement Bay Friendly Landscaping Practices in accordance with Newark Municipal Code, Chapter 15.44.080. Prior to approval of the final map, the developer shall provide sufficient information to detail the environmentally-conscious landscape practices to be used on the project.

eeee. Landscape easements for maintenance purposes shall be dedicated on the final map to allow for homeowner's association access to over private lots for all common landscaping adjacent to private streets and pedestrian walkways.

ffff. Prior to installation by the developer, plant species, location, container size, quality, and quantity of all landscaping plants and materials shall be reviewed and approved by the City Engineer. All street trees shall be minimum 24-inch box specimens. All plant replacements shall be to an equal or better standard than originally approved subject to approval by the City Engineer. This includes future modifications proposed by homeowners, HOA's, or property maintenance associations.

gggg. As part of the project CC&Rs, the developer shall include recommended front and rear landscape treatments for individual property owners with specific limitations regarding the extent and variety of landscape treatments in these areas that minimizes water use, drainage impacts, and long-term maintenance.

hhhh. Prior to issuance of Certificate of Occupancy or release of utilities, the developer shall guarantee all trees for a period of 6 months and all other plantings and landscape for 60 days after completion thereof. The developer shall ensure that the landscape shall be installed properly and maintained to follow standard horticultural practices. All plant replacements shall be to an equal or better standard than originally approved subject to approval of the City Engineer.

iiii. Prior to issuance of a Certificate of Occupancy or release of utilities for any of the final 4 dwelling units, all on-site landscaping and irrigation systems shall be completed or guaranteed by a cash deposit filed with the City in an amount to cover the remainder of the work.

jjjj. Any above ground utility structures, including backflow prevention devices, and appurtenances shall be installed within the developer's property line and a minimum of 10 feet behind street face of curbs. The backflow prevention devices shall have a green painted security cage to protect it from vandalism. These locations shall be screened with landscaping to the satisfaction of the City Engineer. The landscape screen shall not interfere with the utility companies' or City Fire Department's access.

kkkk. If park and open space land dedications and related improvements within the development are determined by the City Engineer to be below the minimum requirements established in the Dumbarton Transit Oriented Development Specific Plan, the developer shall pay equivalent park-in-lieu fees to satisfy said minimum requirements. Any required park-in-lieu fees or pro-rated percentages thereof shall be in the amount stated in Exhibit B to these conditions and shall be paid prior to the issuance of any Certificates of Occupancy.

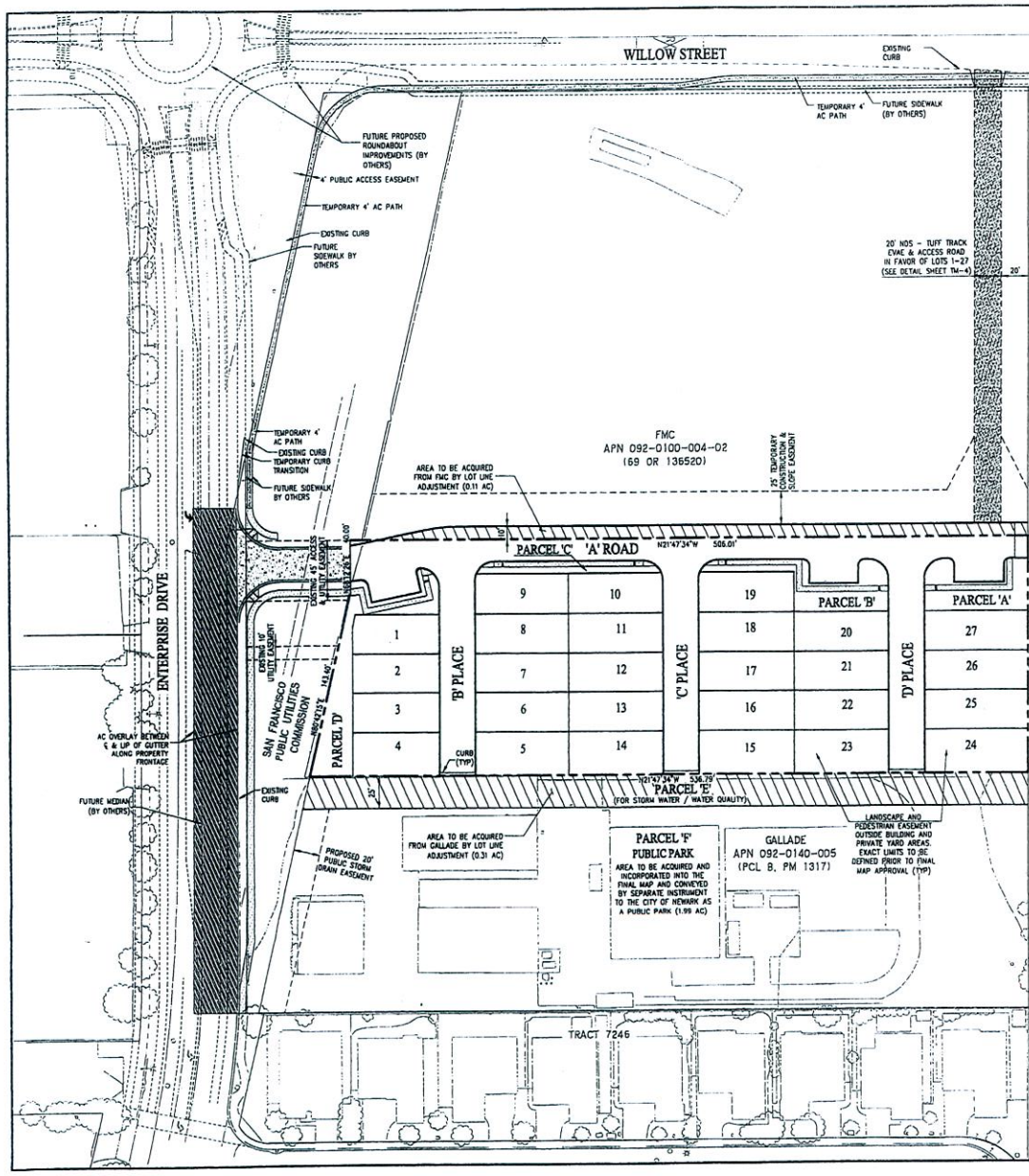
General

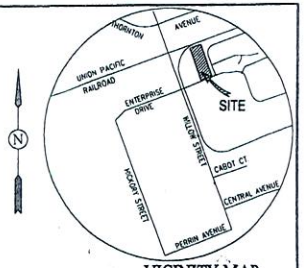
llll. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The developer shall pay the prevailing fee for each additional separate submittal of development exhibits requiring Planning Commission and/or City Council review and approval.

mmmm. 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.

nnnn. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of RZ-12-27, TM-12-28, ASR-12-29, and E-12-30 (the Dumbarton Transit Oriented Development Residential Project Supplemental Environmental Impact Report), the developer shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved by the City. Developer's obligation to defend, indemnify and hold harmless the City and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

oooo. Only the specific Impact Fees listed in Exhibit B shall apply to the Project. No change to an Impact Fee in Exhibit B resulting in an increase in dollar amounts charged to the Project that is adopted after the effective date of the Vesting Tentative Map shall apply to the Project. If, after the effective date of this Vesting Tentative Map, City decreases the rate of any of its Impact Fees, Developer shall pay the reduced Impact Fee in effect at the time of payment.





VICINITY MAP
NOT TO SCALE

GENERAL NOTES:

1. OWNER: ENTERPRISE DRIVE, LLC, 4135 BLACKHAWK PLAZA, SUITE# 160, DANVILLE, CA 94506
2. DEVELOPER: TRUMARK HOMES, 4185 BLACKHAWK PLAZA, SUITE 200, DANVILLE, CA 94506, CONTACT: VERONICA VARGAS, (925) 648-8300 (925) 648-3130 (FAX)
3. ENGINEER: CARLSON, BARBEE & GIBSON, INC., 2633 CAMINO RAMON, SUITE 350, SAN RAMON, CA 94583, CONTACT: GREG MILLER, (925) 866-0322
4. SOILS ENGINEER: CORNERSTONE EARTH, 1270 SPRINGBROOK ROAD, SUITE 101, WALNUT CREEK, CA. 94597, CONTACT: PETER LANGTRY, (925) 988-9500
5. EXISTING USE: LIGHT INDUSTRIAL
6. ASSESSORS PARCEL NUMBERS: 092-0140-006, 092-0140-005 (GALLADE) & 092-0100-004-02, PARTIAL (FMC)
7. EXISTING SITE AREA: 2.14± AC

PROPOSED PRIVATE STREETS ('A' ROAD, 'B' PLACE, 'C' PLACE, 'D' PLACE):	24,101 SF (WITHIN EXISTING BOUNDARY)
PROPOSED COMMON PARCELS (A, B, C & D):	10,341 SF
PROPOSED TOTAL LOT AREAS:	58,791 SF
TOTAL EXISTING SITE AREA:	93,233 SF (2.14 AC)

AREA TO BE ACQUIRED: 2.41± AC

PROPOSED PRIVATE STREETS ('A' ROAD):	4,610 SF (OUTSIDE EXISTING BOUNDARY) (FMC - 092-0140-004-02)
PROPOSED WATER QUALITY PARCEL (E):	13,488 SF (GALLADE - 092-0140-005)
PROPOSED PUBLIC PARK PARCEL (F):	86,671 SF (GALLADE - 092-0140-005)
TOTAL AREA TO BE ACQUIRED:	104,769 SF (2.41 AC)

8. OWNERSHIP AND MAINTENANCE: ALL PRIVATE STREETS, COMMON PARCELS AND PARCEL E TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION ESTABLISHED WITH THE PROJECT. PARCEL F (PUBLIC PARK) TO BE OWNED AND MAINTAINED BY THE CITY THROUGH A LANDSCAPING AND LIGHTING DISTRICT FUNDED BY THE HOA IN THE DUMBARTON TOD.
9. NUMBER OF LOTS: 27 - 3 STORY DETACHED UNITS
10. MINIMUM LOT SIZE: 1,924 SF (LOTS 1)
    MAXIMUM LOT SIZE: 2,602 SF (LOT 24)
    AVERAGE LOT SIZE: 2,177 SF
11. THIS PROPERTY LIES IN THE JURISDICTION OF:

-FIRE PROTECTION:	ALAMEDA COUNTY FIRE DEPARTMENT
-DOMESTIC WATER:	ALAMEDA COUNTY WATER DISTRICT (ACWD)
-SANITARY SEWER:	UNION SANITARY DISTRICT (USD)
-STORM DRAIN WITHIN PUBLIC STREET/EASEMENT:	CITY OF NEWARK (SDE)
-STORM DRAIN WITHIN PRIVATE YARDS:	PRIVATELY MAINTAINED BY HOMEOWNERS ASSOCIATION (PSDE)
-GAS & ELECTRIC SERVICE:	PACIFIC GAS & ELECTRIC
-TELEPHONE SERVICE:	AT&T

12. BENCHMARK: CITY OF NEWARK OFFICIAL BENCHMARK NO. 62, ALSO BEING AN ALAMEDA COUNTY BENCHMARK, THE TOP OF CURB AT STORM WATER INLET AT THE NORTH-EAST CORNER OF THORNTON AVENUE AT WILLOW STREET, ELEVATION TAKEN AS 11.39 (NAVD 88) (8.661 NGVD 29 PER CITY OF NEWARK RECORDS).
13. BASIS OF BEARINGS: THE BASIS OF BEARINGS FOR THIS BOUNDARY IS DETERMINED BY FOUND NGS MONUMENTS W1446 PID HT2440 AND FILBERT DG6883, THE BEARING BEING N30°19'32"W (CALCULATED).
14. TOPOGRAPHY: PREPARED BY AEROMETRIC SURVEYS, DATED MAY 23, 2011
15. FLOOD ZONE: ZONED X (UNSHADED) FLOOD INSURANCE RATE MAP (FIRM) - ALAMEDA COUNTY, CA PANEL: 443 OF 725 MAP NUMBER: 06001C0443G EFFECTIVE DATE: AUGUST 3, 2009
16. ALL BUILDINGS SHALL BE EQUIPPED WITH AN AUTOMATIC FIRE SPRINKLER SYSTEM AS REQUIRED BY CHAPTER 15.09.020.G OF THE NEWARK MUNICIPAL CODE.

SHEET INDEX

TM-1 TITLE SHEET
TM-2 SITE PLAN
TM-3 GRADING AND DRAINAGE PLAN
TM-4 UTILITY PLAN AND STREET SECTIONS
TM-5 STORMWATER CONTROL PLAN

TENTATIVE MAP
TRACT 8110
ENTERPRISE PROPERTY

CITY OF NEWARK ALAMEDA COUNTY CALIFORNIA

0' 40' 120' 160'
SCALE: 1" = 40' DATE: JANUARY 31, 2014

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
2633 CAMINO RAMON SUITE 350 SAN RAMON, CALIFORNIA 94583
(925) 866-0322 www.cbandg.com

SHEET NUMBER
TM-1
1 OF 5 SHEETS

EXHIBIT A