



# CITY OF NEWARK CITY COUNCIL

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

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

## AGENDA

Thursday, September 11, 2014

### CITY COUNCIL:

Alan L. Nagy, Mayor  
Ana M. Apodaca, Vice Mayor  
Luis L. Freitas  
Socy 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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City Administration Building  
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City Council Chambers

## AGENDA

Thursday, September 11, 2014

- A. ROLL CALL
  
- B. MINUTES
  - B.1 Approval of Minutes of the regular City Council meeting of Thursday, July 24, 2014. (MOTION)
  
- C. PRESENTATIONS AND PROCLAMATIONS
  - C.1 Introduction of employees.
  
  - C.2 Commending Jennifer Chung. (COMMENDATION)
  
  - C.3 Proclaiming September 18-21, 2014, as Newark Days. (PROCLAMATION)
  
- D. WRITTEN COMMUNICATIONS
  - D.1 Planning Commission referral of an Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street within the Dumbarton Transit Oriented Development – from Assistant City Manager Grindall. (MOTION)
  
- E. PUBLIC HEARINGS
  - E.1 Cancellation of Public Hearing to consider: (1) A General Plan Amendment to change the land use designation from S-I (Special Industrial) to P-I (Public and Institutional); and (2) approving Planning Commission Resolution No. 1884, for a planned unit development and a conditional use permit for a private school (Stratford School) to be located at 39201 Cherry Street (APNs: 901-110-68 & 69). The project includes temporary modular school rooms and offices for the 2014/15 school year – from Assistant City Manager Grindall. (MOTION TO CANCEL HEARING)

- E.2 Hearing to consider Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability) – from Assistant City Manager Grindall. (INTRODUCTION OF ORDINANCE)**

**F. CITY MANAGER REPORTS**

**(It is recommended that Items F.1 through F.4 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 Report on administrative actions during August recess – from City Manager Becker. (MOTION)**
- F.2 Acceptance of work with AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048 – from Assistant City Engineer Fajeau. (RESOLUTION)**
- F.3 Acceptance of work with United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059 – from Assistant City Engineer Fajeau. (RESOLUTION)**
- F.4 Authorization for the Mayor to sign a cooperative funding agreement with the East Bay Regional Park District for the demolition of the Mowry's Landing School - from Chief Building Official/City Architect Collier. (RESOLUTION)**

**G. CITY ATTORNEY REPORTS**

**H. ECONOMIC DEVELOPMENT CORPORATION**

**I. CITY COUNCIL MATTERS**

- I.1 Declaring a vacancy on the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board and authorizing the City Clerk to post a notice of vacancy – from Mayor Nagy. (MOTION)**

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

- J.1 Resolution of the City of Newark acting as the Successor Agency to the Newark Redevelopment Agency adopt and endorse the Recognized Obligation Payment Schedule for the period of January to June 2015 – from Administrative Services Director Woodstock. (RESOLUTION)**

**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.



# CITY OF NEWARK CITY COUNCIL

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

## Minutes

Thursday, July 24, 2014

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:30 p.m. Present were Council Members Collazo, Freitas, and Vice Mayor Apodaca. Council Member Marshall was noted absent.

### B. MINUTES

#### B.1 Approval of Minutes of the regular City Council meeting of Thursday, July 10, 2014.

Council Member Freitas moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 3 AYES, 1 ABSTENTION (Apodaca), 1 ABSENT.

### C. PRESENTATIONS AND PROCLAMATIONS

### D. WRITTEN COMMUNICATIONS

#### D.1 MUP-14-29, a minor conditional use permit, to establish a large family day care home at 6447 Benecia Avenue. REVIEW OPTIONAL

City Manager Becker stated that the Zoning Administrator approved a minor conditional use permit to establish a large family day care home at 6447 Benecia Avenue.

The City Council concurred with the actions of the Zoning Administrator.

### E. PUBLIC HEARINGS

#### E.1 Hearing continued from July 10, 2014 to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11. RESOLUTION NO. 10261

Council Member Collazo owns property in this district and recused herself from participating. She left the City Council Chambers.

Mayor Nagy opened the public hearing at 7:34 p.m.

There was no public testimony.

Mayor Nagy closed the public hearing at 7:35 p.m.

Vice Mayor Apodaca moved, Council Member Freitas seconded to, by resolution, approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District No. 11 for the 2014-2015 fiscal year. The motion passed, 3 AYES, 1 RECUSED (Collazo), 1 ABSENT.

Council Member Collazo returned to the City Council Chambers.

## **F. CITY MANAGER REPORTS**

Council Member Collazo moved, Council Member Freitas seconded, to approve Consent Calendar Items F.1 through F.3, 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.1 Notification to nonelected officials and designated employees to review their Conflict of Interest Code. RESOLUTION NO. 10262**
- F.2 Authorization to issue a no-fee encroachment permit to Newark Days Celebration, Inc. for the Newark Days Parade and Newark Mile Race, authorization for resources necessary to provide full traffic control services along the parade and race routes, and waive fees for use of the Community Center and MacGregor Playfields, with exception to the fees required for building attendant and janitorial services. MOTIONS-3 APPROVED**
- F.3 Approval of Agreement with the Ray Morgan Company for Citywide Multifunction Copier/Scanner/Printer Rental and Services. RESOLUTION NO. 10263 CONTRACT NO. 14028**

**NONCONSENT**

- F.4 An Architectural and Site Plan Review for building elevations for 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. MOTION APPROVED**

Assistant City Manager Grindall gave the staff report highlighting the changes that were made to the building elevations after the June 12, 2014 City Council meeting.

Council Member Collazo and Vice Mayor Apodaca each stated that they were pleased with the revisions.

Council Member Freitas moved, Vice Mayor Apodaca seconded to, by motion, approve ASR-14-9, an Architectural and Site Plan Review, with Exhibit A pages 1 to 4, for a 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. The motion passed, 4 AYES, 1 ABSENT.

**G. CITY ATTORNEY REPORTS****H. ECONOMIC DEVELOPMENT CORPORATION****I. CITY COUNCIL MATTERS**

- I.1 Appointment of Dolores W. Powell to the Senior Citizen Standing Advisory Committee. RESOLUTION NO. 10264**

Mayor Nagy recommended the appointment of Dolores W. Powell to the Senior Citizen Standing Advisory Committee.

Council Member Collazo moved, Vice Mayor Apodaca seconded to, by resolution, approve the appointment of Dolores W. Powell to the Senior Citizen Standing Advisory Committee. The motion passed, 4 AYES, 1 ABSENT.

- I.2 Approval of the dissolution of the Newark Sister City Advisory Committee. RESOLUTION NO. 10265**

Mayor Nagy stated that the Committee has not been active for the last 10 years and recommended the dissolution of the committee.

Council Member Freitas thanked the committee members for their service.

Council Member Freitas moved, Vice Mayor Apodaca seconded to, by resolution, approve the dissolution of the Newark Sister City Advisory Committee. The motion passed, 4 AYES, 1 ABSENT.

Mayor Nagy thanked Brian Edwards for his work at the Newark Library and wished him well in Albany. The entire City Council thanked Mr. Edwards for his service.

Council Member Freitas complimented the new Rosemont neighborhood sign.

Council Member Collazo thanked David Zehnder and Edda Rivera for their assistance in organizing the Mariachi Festival.

Vice Mayor Apodaca announced that she would not be seeking re-election.

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

**K. ORAL COMMUNICATIONS**

**K.1** Brian Edwards thanked the City Council for their kind words and introduced the new Branch Manager for the Newark library Ms. Adina Aguirre.

**K.2** Adina Aguirre stated that she looked forward to continuing the relationship between the library and the City.

**K.3** John Henneberry shared his interpretation of the Brown Act and the State of City speech. He requested that Council Member Marshall resign and Officer Neithercutt be fired.

**L. APPROPRIATIONS**

City Clerk Harrington read the Register of Audited Demands: Check numbers 101960 to 102089.

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

**M. CLOSED SESSION**

**M.1 Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1) Existing Litigation. Ray v. City of Newark et al., Alameda County Superior Court Case No. RG13685319 – from City Attorney Benoun.**

At 8:01 p.m. the City Council recessed to a closed session.

At 8:10 p.m. the City Council convened in closed session.

At 8:25 p.m. the City Council reconvened in open session with all Council Members present. Council Member Marshall noted absent.

City Attorney Benoun announced that Councilmember Collazo moved, and Vice Mayor Apodaca seconded, to: Accept the Mediation Settlement Agreement; Authorize and direct staff to tender payment to Plaintiff in the amount of \$43,750 as and for complete settlement of any and all claims raised in the Complaint in *Ray v. City of Newark*; and authorize and direct the City Manager, or his or her designee, to execute any and all documents necessary to effectuate settlement in this matter. The motion passed, 4 AYES, 1 ABSENT.

#### **N. ADJOURNMENT**

At 8:26 p.m. Council Member Freitas moved, Council Member Collazo seconded, to adjourn the regular City Council meeting. The motion passed, 4 AYES, 1 ABSENT.

## **C.1 Introduction of employees.**

**Background/Discussion** – Newly hired Public Works employees: Landscape Parks Maintenance Worker I Warren Antida, General Laborer Mike Mulhearn, and Administrative Analyst Myvan Khuu-Seeman will be at the meeting to be introduced to the City Council.

## **C.2 Commending Jennifer Chung.**

**(COMMENDATION)**

**Background/Discussion** – Jennifer Chung is a student at San Francisco State University majoring in business and is the successful CEO of Forever Beaumore Cosmetics, Inc., a global cosmetics company. She was recently named 2014 Miss Vietnam of Northern California and Miss Asian America 2014. A commendation has been prepared and Miss Chung will be at the City Council meeting to accept it.

**C.3 Proclaiming September 18-21, 2014, as Newark Days.**

**(PROCLAMATION)**

**Background/Discussion** – Newark Days, celebrating Newark’s 59th birthday, will be held September 18-21, 2014. A proclamation has been prepared and members of the Newark Days Committee will accept it at the City Council meeting.

**D.1 Planning Commission referral of an Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street within the Dumbarton Transit Oriented Development – from Assistant City Manager Grindall. (MOTION)**

**Background/Discussion** – USA Properties Fund, Inc., has made an application to construct a 75 unit senior housing project within the Dumbarton Transit Oriented Development area on Willow Street.

In April 2014, the Planning Commission and City Council approved a project (known as the SHH Properties project) that involved 88 townhomes, a 15,000 square foot supermarket, and a senior housing project. The concept of the senior housing project was approved and considered in the accompanying Initial Study/Mitigated Negative Declaration; however, the building design had not been determined. As a condition of that original approval, the specific building plans required Planning Commission and City Council approval.

The four-story, 75-unit complex will provide three different two bedroom/1 bath floor plans along with two 1 bedroom/1 bath plans. All of the plans provide a patio and a large living and dining/kitchen area. There is a 2,691 square foot community center room that opens onto an outdoor sitting area. The buildings architecture is modern, incorporating several exterior treatments such as recessed balconies and awnings to give the elevations depth and shadowing, as well as an alternating color scheme to add to the overall exterior treatment. The design is consistent with the retail building that will be located at the other side of the parking field and will complement the proposed surrounding uses.

Affordable Housing

The Newark Municipal Code authorizes alternative means of compliance with the City's Affordable Housing Program (AHP), including land dedication, payment of in-lieu fees, or approval of an alternative housing program consisting of any combination of alternative means of compliance.

In connection with the previously approved Torian Project, the developer and SHH agreed to meet the Torian affordable housing obligation by the construction of 54 affordable units on the SHH site. In addition, the Cedar Townhomes project is meeting its obligation through the units constructed on this site. In total, the 75 affordable housing units provided on the SHH site will meet the obligation for these projects. Of the 75 units, 20% are offered at 50% of the Area Median Income (AMI) while the remaining 80% are offered at 60% AMI.

The provision of these units furthers affordable housing opportunities in the City and, because they will be built adjacent to market rate units, prevents the concentration of affordable housing units in a particular area. This allows for a much greater and more effective approach to addressing the most pressing affordable housing needs in the community.

**Attachment**

**Update** – At its meeting of August 26, 2014, The Planning Commission approved Resolution No. 1885, with Exhibit A, pages 1 through 6, for ASR-14-35, an Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street.

**Action** – It is recommended that the City Council, by motion, approve Planning Commission Resolution No. 1885, with Exhibit A, pages 1 through 6, for ASR-14-35, an Architectural and Site Plan Review for a 75 unit senior housing project (Gateway at Newark) located on Willow Street.

RESOLUTION NO. 1885

RESOLUTION RECOMMENDING APPROVAL OF ASR-14-35,  
AN ARCHITECTURAL AND SITE PLAN REVIEW FOR A 75  
UNIT SENIOR HOUSING PROJECT (GATEWAY AT  
NEWARK) TO BE LOCATED ON WILLOW STREET

WHEREAS, USA Properties Fund, Inc., has filed with the Planning Commission of the City of Newark application for ASR-14-35, an Architectural and Site Plan Review, for a 75 unit senior housing project (Gateway at Newark) to be located on Willow Street; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission recommends that the City Council grant this application as shown on Exhibit A, pages 1 through 6, subject to compliance with the following conditions:

Planning Division

- a. This project is subject to all applicable conditions of Planning Commission Resolution Nos. 1863, 1864, and 1865 and City Council Resolution Nos. 10,193 and 10,194, unless otherwise amended herein.
- b. This project is subject to all applicable environmental mitigation measures as detailed in the Initial Study/Mitigated Negative Declaration prepared by Helix Environmental Planning, Inc. adopted by the City Council on April 24, 2014.
- c. Prior to the issuance of a Certificate of Occupancy, evidence of an acceptable affordable housing deed restriction will need to be submitted for the review and approval of the Community Development Director.
- d. There shall be no roof-mounted equipment visible from the adjacent rights-of-way.
- 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.

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).

- g. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 7:00 p.m. and 8:00 a.m.
- h. Prior to the issuance of a Certificate of Occupancy, the developer shall provide the City with a written "Cart Return Program" that ensures shopping carts will not be left on the Senior Housing property.
- 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, 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, Inc. 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.
- n. Prior to issuance of a grading permit, the developer shall hire a qualified biologist to: (1) determine if 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 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.

- o. 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.
- p. Prior to their installation, mailbox locations and designs shall be approved by the Community Development Director and Newark Postmaster.
- q. 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.
- r. 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

- s. The project is subject to all applicable Engineering Division conditions of approval under City Council Resolution No. 10195 for Vesting Tentative Map 8157.

#### Landscape-Parks Division

- t. The project is subject to all applicable Landscape-Parks Division conditions of approval under City Council Resolution No. 10195 for Vesting Map 8157.

#### Alameda County Fire Department

- u. Prior to the issuance of a Building Permit, written evidence of easements approving access across adjacent property lines shall be recorded.

#### Building Division

- v. Construction for this project, including site work and all structures, can occur only between the hours of 7:00 AM and 6:00 PM, Monday through Saturday. Approval for Saturday construction may be revoked by the Building Official depending on residential occupancy that occurs in the area. The applicant may make a written request to the Building Official for extended working hours and/or days. In granting or denying any request the Building Official will take into consideration the nature of the construction activity which would occur during extended hours/days, the time duration of the request, the proximity to residential neighborhoods and input by affected neighbors. All approvals will be done so in writing.

## General

- w. 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.
- x. If any condition of this Architectural and Site Plan Review be declared invalid or unenforceable by a court of competent jurisdiction, this Architectural and Site Plan Review shall terminate and be of no force and effect, at the election of the City Council on motion.
- y. Prior to the submittal for a building permit, development conditions of approval as approved by the City Council shall be printed on the plans.
- z. 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.
- aa. The Conditions of Project Approval set forth herein 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.
- bb. A marketing program shall be developed, to the satisfaction of the Community Development Director, to market the senior housing units to Newark residents. (Added by Planning Commission)

This Resolution was introduced at the Planning Commission's August 26, 2014 meeting by Commissioner Otterstetter, seconded by Commissioner Drews, and passed as follows:

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

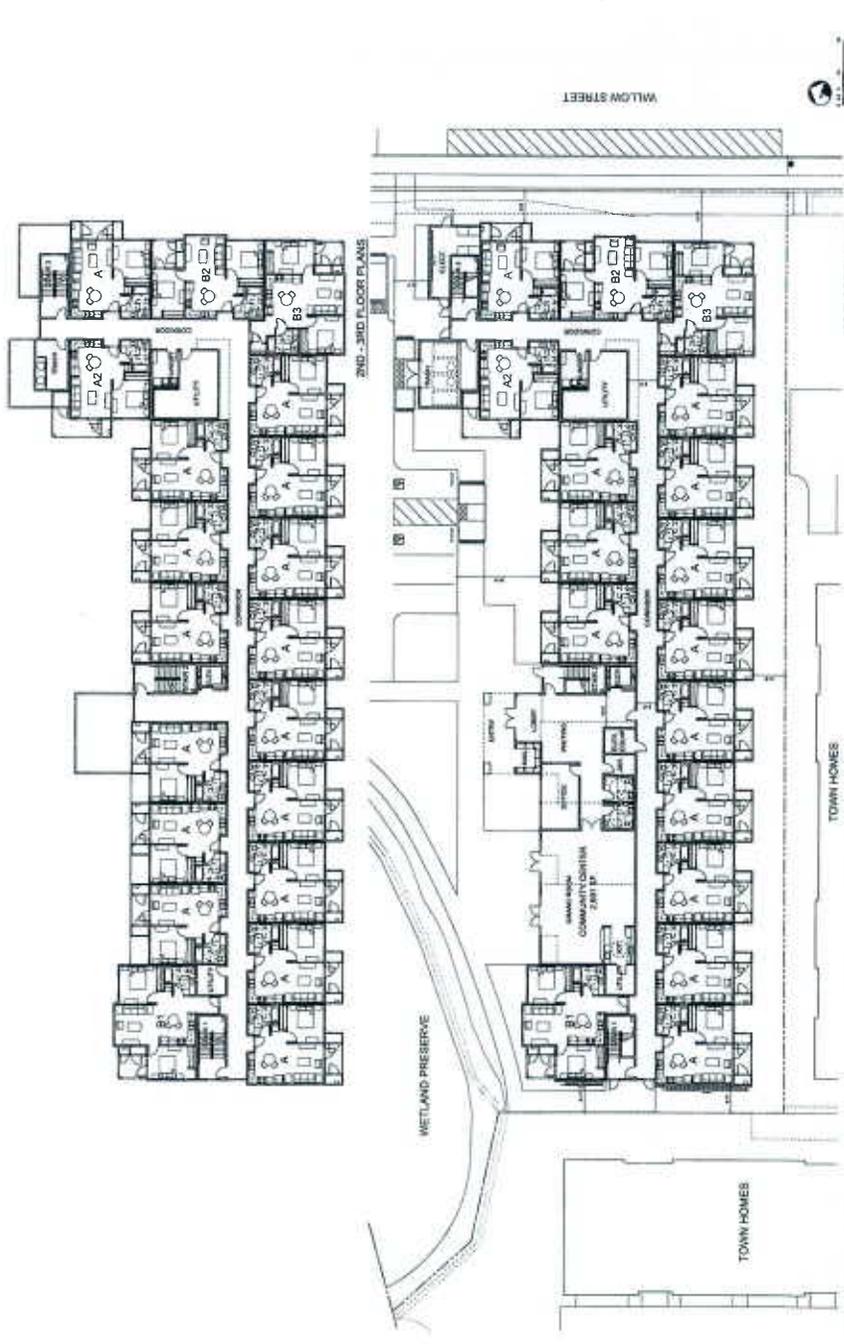
NOES: None.

ABSENT: Aguilar.

s/Terrence Grindall  
TERRENCE GRINDALL, Secretary

s/Bernie Nillo  
BERNIE NILLO, Chairperson






**NEWARK SENIORS HOUSING**  
 NEWARK, CALIFORNIA  
 181 FLOOR PLAN  
 FLOOR PLANS  
 Kuchman  
 A2.1

**EXHIBIT A.e.2**




**NEWARK SENIORS HOUSING**  
 NEWARK, CALIFORNIA  
 FLOOR PLAN & ROOF PLAN  
 A2.2  
 Kuchman

**EXHIBIT A p.3**



UNIT A2 - 1 BEDROOM / 1 BATH  
 10'-0" x 10'-0" x 10'-0" x 10'-0"



UNIT B2 - 2 BEDROOM / 1 BATH  
 10'-0" x 10'-0" x 10'-0" x 10'-0"



UNIT A1 - 1 BEDROOM / 1 BATH  
 10'-0" x 10'-0" x 10'-0" x 10'-0"



UNIT B1 - 2 BEDROOM / 1 BATH  
 10'-0" x 10'-0" x 10'-0" x 10'-0"



UNIT B3 - 2 BEDROOM / 1 BATH  
 10'-0" x 10'-0" x 10'-0" x 10'-0"



A2.3

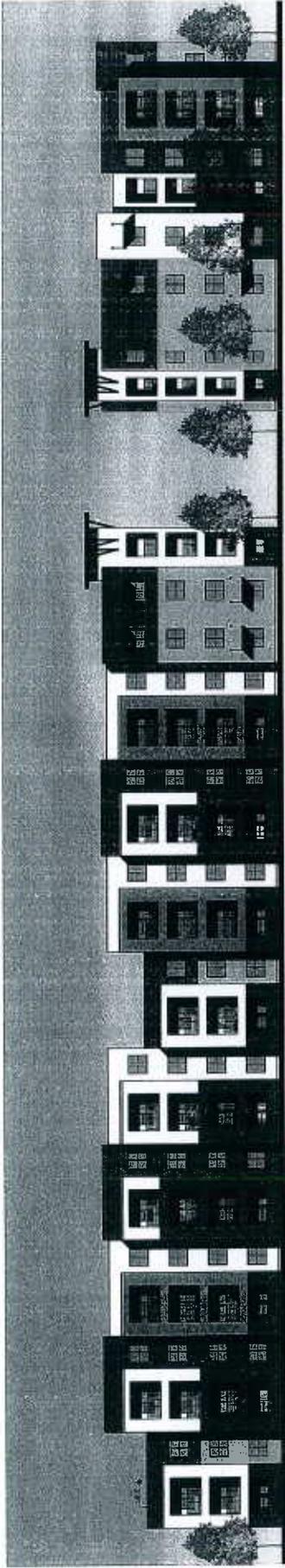


UNIT FLOOR PLANS

NEWARK SENIORS HOUSING

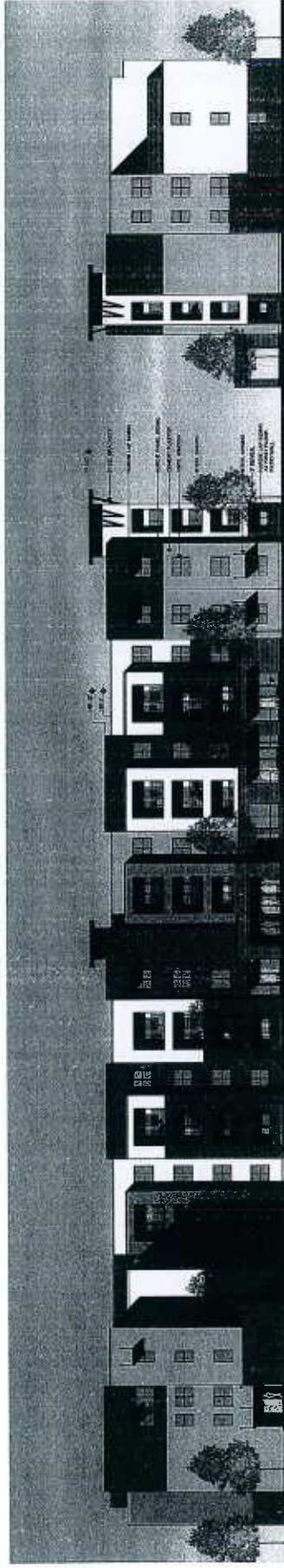


EXHIBIT A-4



SOUTH ELEVATION

EAST / WILLOW STREET ELEVATION



NORTH ELEVATION

WEST ELEVATION



A3.1

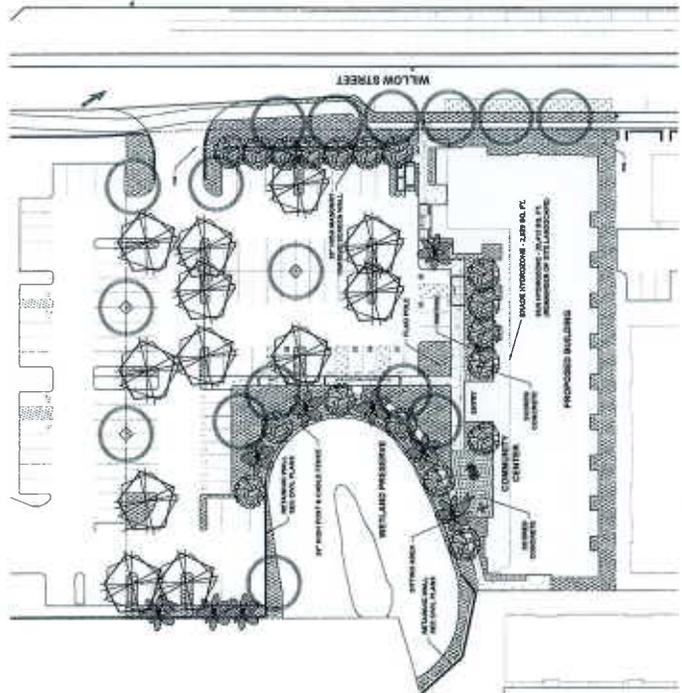


NEWARK SENIORS HOUSING  
NEWARK, CALIFORNIA



ELEVATIONS

EXHIBIT A-5



**NEWARK SENIORS HOUSING**  
 1500 WILLOW STREET  
 NEWARK, CALIFORNIA  
**FOR**  
**USA PROPERTIES FUND**

PLANT	QUANTITY	SYMBOL	PLANT NAME	PLANT SIZE	PLANT CODE	PLANT HEIGHT
...	...	...	...	...	...	...

**NOTES:**  
 1. All plantings are to be installed in accordance with the City of Newark's City Engineer's Office. Plant materials are all for use in the City of Newark and shall be grown and raised in California. Plant materials shall be grown and raised in California. Plant materials shall be grown and raised in California. Plant materials shall be grown and raised in California.

DATE	DESCRIPTION
...	...

**DESIGNER:**  
 ...  
 ...

**EXHIBIT A p.6**

**E.1 Cancellation of Public Hearing to consider: (1) A General Plan Amendment to change the land use designation from S-I (Special Industrial) to P-I (Public and Institutional); and (2) approving Planning Commission Resolution No. 1884, for a planned unit development and a conditional use permit for a private school (Stratford School) to be located at 39201 Cherry Street (APNs: 901-110-68 & 69). The project includes temporary modular school rooms and offices for the 2014/15 school year – from Assistant City Manager Grindall.**

**(MOTION TO CANCEL HEARING)**

**Background/Discussion** – Stratford Schools submitted an application for a private elementary and middle school at 39201 Cherry Street. Staff is requesting that the City Council cancel the public hearing at this time to allow additional traffic analysis to be completed. The hearing would be duly noticed for a future meeting.

**Action** – It is recommended that the City Council, by motion, cancel the public hearing regarding this item.

**E.2 Hearing to consider Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability) – from Assistant City Manager Grindall.**

**(INTRODUCTION OF ORDINANCE)**

**Background/Discussion** - As currently written, the Newark Municipal Code (NMC) states that “The regulations for form based codes are set forth in this chapter, and are applicable to the Dumbarton Transit-Oriented Development (TOD) Specific Plan Area.” The purpose of the form based codes is to address the relationship between building facades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. This is in contrast to conventional zoning’s focus on the management and segregation of land uses. Form-based codes have become a tool to address the concerns of development patterns, pedestrian access, and transit, to name just a few.

Newark’s Form Based Code has been applied to all of the recent subdivisions approved in the TOD Specific Plan Area. This has resulted in providing a plan that designates the appropriate form and scale (and therefore, character) of development rather than only distinctions in land-use types. The neighborhoods have a pedestrian-scale design that is friendly to pedestrians, cyclists, and transit. Staff has seen a growing interest in applying these standards from developers with potential to expand to areas where conventional methods of zoning, oriented around regulating land use, may not result in the “sense of place” that the community is trying to achieve. As such, staff is recommending that the applicability of the Form Base Codes be expanded to other areas of Newark beyond the TOD Specific Plan Area. This can be accomplished by simply removing the words “Dumbarton Transit-Oriented Development Specific Plan Area” from Section 17.37.010 (Applicability).

Environmental Review

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under Section 5060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and Section 15061(b)(3) (General Rule that CEQA only applies to projects which have the potential to cause a significant effect on the environment) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3.

**Update** – At its meeting of July 22, 2014, the Planning Commission approved Resolution No. 1882, with Exhibit A, recommending the City Council approve Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability).

**Attachment**

**Action** - It is recommended that the City Council introduce an ordinance for a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability).

RESOLUTION NO. 1882

RESOLUTION RECOMMENDING APPROVAL OF Z-14-32, A TEXT AMENDMENT TO TITLE 17 (ZONING) OF THE NEWARK MUNICIPAL CODE TO REMOVE THE REFERENCE TO THE DUMBARTON TRANSIT-ORIENTED DEVELOPMENT SPECIFIC PLAN AREA IN CHAPTER 17.37 (FORM BASED CODES), SECTION 17.37.010 (APPLICABILITY)

WHEREAS, an amendment to Chapter 17.37 (Form Based Codes) has been initiated to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Section 17.37.010 (Applicability).

PURSUANT to Municipal Code Section 17.72.060, a public hearing notice was published in the Argus on July 11, 2014 and the Planning Commission held a public hearing on said application at 7:30 p.m. on July 22, 2014 at the City Administration Building, 37101 Newark Boulevard, Newark, California.

NOW, THEREFORE, the Planning Commission resolves as follows:

- a. That Section 17.37.010 (Applicability) shall be amended to remove “and are applicable to the Dumbarton Transit Oriented Development (TOD) Specific Plan Area”.
- b. That the City Council amend Title 17 (Zoning) of the Newark Municipal Code as set forth in Exhibit A, attached hereto and made part hereof by reference.
- c. That a copy of the minutes be forwarded to the City Council as a summary of the hearing.
- d. That the text amendments herein shall be added to the appropriate sections of the Newark Municipal Code, after review and approval by the City Council, when it is next published, with the notation of the date when the amendments became effective.

This Resolution was introduced at the Planning Commission’s July 22, 2014 meeting by Vice-Chairperson Hannon, seconded by Commissioner Bridges, and passed as follows:

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

NOES: None.

ABSENT: Drews.

s/Terrence Grindall  
TERRENCE GRINDALL, Secretary

s/Bernie Nillo  
BERNIE NILLO, Chairperson

# CITY OF NEWARK PLANNING COMMISSION

37101 Newark Boulevard, Newark, CA 94560-3796 • 510-578-4330 • FAX 510-578-4265

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

## MINUTES

Tuesday, July 22, 2014

### A. ROLL CALL

At 7:30 p.m., Chairperson Nillo called the meeting to order. All Planning Commissioners were present except Commissioner Drews (personal).

### B. MINUTES

#### B.1 Approval of Minutes of the regular Planning Commission meeting of Tuesday, July 8, 2014.

Commissioner Fitts moved, seconded by Vice-Chairperson Hannon, to approve the Minutes of July 8, 2014. The motion passed 4 AYES, 2 ABSTENTION (Aguilar and Bridges) and 1 ABSENT (Drews).

### C. WRITTEN COMMUNICATIONS

None.

### D. ORAL COMMUNICATIONS

None.

### E. PUBLIC HEARINGS

#### E.1 Hearing to consider Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability) – from Assistant City Manager Grindall.

Assistant City Manager Grindall gave the staff report.

Answering Commissioner Fitts, ACM Grindall confirmed the Form Based Codes had only been applied to the Dumbarton TOD project.

ACM Grindall also stated that if this item is approved it would allow the Planning Commission and City Council the ability to approve Form Based Codes to other projects on a case-by-case basis.

Answering Commissioner Aguilar, ACM Grindall stated Form Based Codes would be another tool for staff to use to approve projects that normally would have to go through a zoning designation change or a PUD process.

Addressing Vice-Chairperson Hannon's concerns, ACM Grindall further clarified his response to Commissioner Aguilar and stated the public would have a better understanding of design guidelines that are associated with Form Based Codes and will be able to envision approved projects more easily.

Chairperson Nillo opened the Public Hearing. As no one chose to speak on this item, Chairperson Nillo closed the Public Hearing.

Vice-Chairperson Hannon moved, seconded by Commissioner Bridges, to approve Resolution 1882, recommending approval of Z-14-32, a text amendment to Title 17 (Zoning) of the Newark Municipal Code to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area in Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability). The motion passed 6 AYES, 1 ABSENT (Drews).

This item will be heard at the September 11, 2014 City Council Meeting.

## **F. STAFF REPORTS**

None.

## **G. COMMISSION MATTERS**

### **G.1 Report on City Council actions.**

None.

ACM Grindall informed the Planning Commission that Sand Hill Development Company will be holding a Community Meeting on July 28, 2014 at 6:30 p.m. at Ray's Crab Shack, to discuss a residential development project on the Mervin's and Motel 6 site.

ACM Grindall also informed the Planning Commission that a Community Meeting will be held on July 30, 2014 at 7:00 p.m., at the Silliman Center to discuss the Housing Element.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AMENDING TITLE 17 (ZONING) OF THE  
NEWARK MUNICIPAL CODE TO REVISE CHAPTER 17.37  
(FORM BASED CODES) BY AMENDING SECTION 17.37.010

The City Council of the City of Newark does ordain as follows:

Section 1: Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council of the City of Newark does hereby find that the zoning text amendments embodied in this ordinance as set forth in Exhibit A, attached hereto and made a part hereof by reference, is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code, which seeks to remove the reference to the Dumbarton Transit-Oriented Development Specific Plan Area from Section 17.37.010 (Applicability).

Section 2: The City Council of the City of Newark does hereby find and declare that the zoning text amendment embodied in this ordinance as set forth in Exhibit A, attached hereto and made a part hereof by reference, is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that where it can be seen with certainty that there is no possibility that the activity in question may have a significant impact on the environment, the activity is not subject to CEQA.

Section 3: Title 17 (Zoning) of the Newark Municipal Code is hereby amended as shown in Exhibit A, with strikeouts denoting deletions.

Section 4: Effective Date. This ordinance shall take effect thirty (30) days from the date of its passage. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The Argus, a newspaper of general circulation published and printed in the County of Alameda and circulated in the City of Newark.

## EXHIBIT A

Chapter 17.37 (Form Based Codes), Section 17.37.010 (Applicability) of Title 17 (Zoning) of the Newark Municipal Code is hereby amended to read as follows (strikeout denotes deletions):

### 17.37.010 Applicability

“The regulations for form based codes are set forth in this chapter, ~~and are applicable to the Dumbarton Transit Oriented Development (TOD) Specific Plan Area.~~ Form based code guidelines can be used for clarification and explanation of this code section.”

**F.1 Report on administrative actions during August recess – from City Manager Becker. (MOTION)**

**Background/Discussion** – At the April 24, 2014, meeting the City Council adopted Resolution No. 10,202 authorizing the City Manager, or Acting City Manager, to act on certain administrative matters, which should not be deferred until the next regularly scheduled meeting of the City Council. The City Council also directed the City Manager to report to the City Council after the recess on all such actions.

Administrative matters on which action was taken during the recess are noted in Exhibit A.

**Attachment**

**Action** - It is recommended that the City Council, by motion, reaffirm the City Manager's, or Acting City Manager's, action on the matters listed in Exhibit A.

**EXHIBIT A**

<b>Date</b>	<b>Subject</b>	<b>Contract Number (if applicable)</b>
08/04/14	Denial of claim of Lesia Preston (NE-001 14/15)	
08/08/14	Award of contract to Cal Safety, Inc. to provide traffic control for the Newark Days race and parade	C14032
08/13/14	Denial of claims of Miguel Avila, Sr. (NE-020 13/14 and NE-024 13/14)	
08/13/14	NBC Agreement to use the Senior Center for Bingo	C14030
08/14/14	Acceptance of completion of work for Tree Maintenance Services, Project 1009B, with West Coast Arborist, Inc.	
08/18/14	Authorization to purchase two (2) Police Department sedans from Folsom Ford Dealership using an Intergovernmental Procurement Process	
08/18/14	AID 31 Insufficient Funds Loan	
08/28/14	Reclassification of the RPT Administrative Support Specialist II position at the Newark Senior Center to a RPT Senior Administrative Support Specialist	
08/27/14	Reclassification of Senior Civil Engineer to Assistant City Engineer	



**DATE:** August 4, 2014  
**TO:** John Becker, City Manager  
**FROM:** Kathy Slafter, Executive Assistant *KS*  
**SUBJECT:** Claim of Lesia Preston, Claim No. NE-001 14/15

On July 25, 2014, the City received a claim from Lesia Preston in an unspecified amount alleging bodily injury when she fell due to a raised/uneven sidewalk.

The claim and all relevant information were forwarded to ABAG Plan, the City's insurance administrator, who recommends that it be denied.

**RECOMMENDATION:** It is recommended that the claim be denied.

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby deny the claim of Lesia Preston, Claim No. NE-001 14/15.

\_\_\_\_\_  
John Becker, City Manager

*Terrence Grindall*  
\_\_\_\_\_  
By Terrence Grindall  
Assistant City Manager

*8-5-14*  
\_\_\_\_\_  
Date



**DATE:** August 8, 2014  
**TO:** Terrence Grindall, Acting City Manager  
**FROM:** Peggy Claassen, Public Works Director *PJC*  
**SUBJECT:** **Award of Contract**  
Traffic Control for Newark Days Race and Parade 2014

Contractual services are needed to provide traffic control for the Newark Days Race & Parade to be held on September 20, 2014. After a competitive selection process, Public Works is recommending Cal Safety, Inc. of Fremont to provide the services for \$13,580. It is necessary to enter into an agreement at this time to secure the date for coverage for the event. The source of funding for traffic control will be covered through a cost sharing between Newark Days, Inc. and the Newark Betterment Corporation.

For many years the City provided Public Works staff on non-mandatory overtime to cover the traffic control requirements for the parade. Since budget cutbacks starting in 2010, this is no longer feasible. This will be the fourth year that traffic control for the event is being provided by an outside vendor.

Requests for Proposals (RFP) were issued to seven licensed and qualified contractors to provide traffic control for the event. Three responsive proposals were submitted in response to the RFP:

Cal Safety, Inc.	\$ 13,580.00
Statewide Traffic Safety & Signs	\$ 18,500.00
CMC Traffic Control Specialists	\$ 45,000.00

A fourth proposal was received from Bay Area Traffic Solutions but is considered nonresponsive since only hourly rates were provided and no lump sum proposal for the Newark Days event.

The lack of proposals for the services is not a total surprise. Many of the traffic control companies are subcontractors for both private and public construction projects. Construction activity continues to be strong through the fall. The traffic control device inventory therefore may not necessarily be readily available for a one day event. In addition, there are also other competing special events (e.g. races) that require traffic control that may be more profitable.

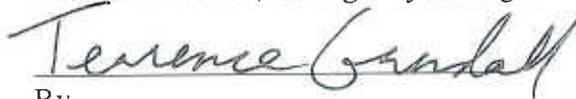
The proposed cost includes placement and maintenance of a 4' high orange safety fence in the median of Cedar Boulevard to discourage jaywalking and enhance safety along the route as requested by the Newark Police Department.

Public Works staff has talked with both vendors and looked at opportunities for reducing price. The two proposals are competitive. Cal Safety, Inc. is highly recommended for their work for events at Danville's 4<sup>th</sup> of July parade, Castro Valley's Run to the Lake event, the Annual Mavericks Surfing Competition, the Devil Mountain Run and many projects for Caltrans, PG&E and other construction companies; they also successfully provided traffic control for the 2013 Newark Days event. They meet or exceed all of the requirements for providing the services. Cal Safety, Inc. will be required to provide all necessary insurance and obtain a City of Newark business license.

RECOMMENDATION:

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2013, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, Terrence Grindall, as Acting City Manager, hereby accept the proposal and award the contract for the **Newark Days Parade & Race - 2014 Traffic Control** to Cal Safety, Inc.

\_\_\_\_\_  
Terrence Grindall, Acting City Manager



By

\_\_\_\_\_  
8-8-14  
Date

## CONTRACTUAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this 25<sup>th</sup> day, of August, 2014, and between the CITY OF NEWARK, a municipal corporation and the General Law Class, State of California, hereinafter called the "CITY" and CAL-SAFETY, Inc, a California corporation, hereinafter called the "CONTRACTOR":

### WITNESSETH:

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

1. That complete Contract includes all of the Contract Documents as if set forth in full herein, to wit: the Notice to Contractors, the Request for Proposals, the Proposal to the City of Newark, the Plans and Specifications, this Agreement, and all Addenda setting forth any modifications or interpretations of any of said documents.
2. The Contractor will furnish all materials and will perform all the work necessary to install and remove, complete in a good workmanlike and substantial manner and to the satisfaction of the Engineer, Special Event Traffic Control in accordance with that certain document headed:

### **REQUEST FOR PROPOSALS FOR NEWARK DAYS PARADE & RACE - 2014 TRAFFIC CONTROL**

and the Standard Specifications and Plans of the Department of Transportation, State of California, dated May 2006, and the California Manual on Uniform Traffic Control Devices (MUTCD), 2012 Edition.

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

3. The City will pay the Contractor in current funds for the performance of the Contract on the basis of the completed work done at such time as are stated in the Specifications, and will otherwise fulfill its obligations thereunder.
4. All time limits stated in the Contract Documents are of the essence of this Agreement.
5. The statement of prevailing wages appearing in the Equipment Rental Rates and General Prevailing Wage Rates is hereby specifically referred to and by this reference is made a part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the proposal or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of said terms of said proposal conflicting herewith.
6. By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

7. If any action shall be brought by City for damages under the provisions of this Contract or for the enforcement of any of the conditions, covenants or agreements herein set forth on the part of Contractor to be kept and performed and City shall prevail in any such action, Contractor agrees to pay City on demand a reasonable attorney's fee not exceeding the sum of \$10,000.00 and further agrees that said attorney's fee shall become a part of City's judgment in any such action.
8. Contractor hereby agrees to defend, indemnify, and save harmless City, its Council, boards, commissions, officers, employees, and agents, from and against any and all claims, suits, actions liability, loss, damage, injury, expense, cost (including, without limitation, costs, and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, City, its Council, boards, commissions, officers, employees, or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of Contractor, its officers, employees, or agents in the performance of any service or work pursuant to this Contract.

The duty of Contractor to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require Contractor to indemnify City, its Council, boards, commissions, officers, employees, and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

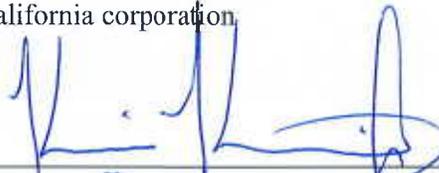
Approval of the insurance contracts does not relieve the Contractor or subcontractors from liability under this paragraph, including but not limited to the duty to indemnify City set forth herein. By execution of this Contract Contractor acknowledges and agrees that it has read and understands the provisions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

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

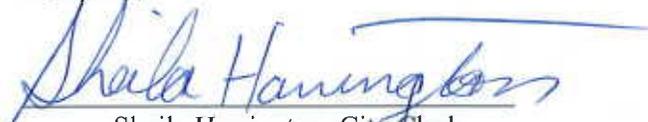
CITY OF NEWARK  
a municipal corporation

By   
John Becker, City Manager

CAL-SAFETY, INC.:  
a California corporation

By   
Kevin Karrick, Vice President

ATTEST:

  
Sheila Harrington, City Clerk

APPROVED AS TO FORM:

  
David J. Benoun City Attorney

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Alameda

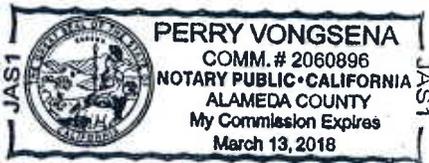
On 8/25/14 before me, Perry Vongsena, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Kevin Kamick  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature [Handwritten Signature]  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: Contractual Services Agreement

Document Date: 8/25/14 Number of Pages: 2

Signer(s) Other Than Named Above: —

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_



**DATE:** August 13, 2014  
**TO:** John Becker, City Manager  
**FROM:** Kathy Slafter, Executive Assistant  
**SUBJECT:** Claim of Miguel Avila, Sr., Claim No. NE-020 13/14

On May 12, 2014, the City received a claim from Miguel Avila, Sr. in the amount of \$8,712 alleging property damage as a result of police action.

The claim and all relevant information were forwarded to ABAG Plan, the City's insurance administrator, who recommends that it be denied.

**RECOMMENDATION:** It is recommended that the claim be denied.

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby deny the claim of Miguel Avila, Sr., Claim No. NE-020 13/14.

A handwritten signature in black ink that reads "John Becker".

John Becker, City Manager

By Terrence Grindall  
Assistant City Manager

8-13-14

Date



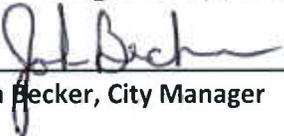
**DATE:** August 13, 2014  
**TO:** John Becker, City Manager  
**FROM:** Kathy Slafter, Executive Assistant  
**SUBJECT:** Claim of Miguel Avila, Sr., Claim No. NE-024 13/14

On June 11, 2014, the City received a claim from Miguel Avila, Sr. in the amount of \$87,915 alleging property damage as a result of police action.

The claim and all relevant information were forwarded to ABAG Plan, the City's insurance administrator, who recommends that it be denied.

**RECOMMENDATION:** It is recommended that the claim be denied.

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby deny the claim of Miguel Avila, Sr., Claim No. NE-024 13/14.

  
\_\_\_\_\_  
John Becker, City Manager

\_\_\_\_\_  
By Terrence Grindall  
Assistant City Manager

8-13-14  
\_\_\_\_\_  
Date

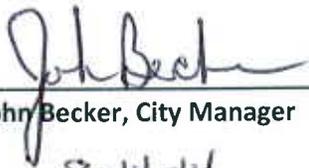


**DATE:** August 13, 2014  
**TO:** City Manager Becker  
**FROM:** City Clerk Harrington *A.H.*  
**SUBJECT:** NBC Agreement to use the Senior Center for Bingo

Since 2001, the Newark Betterment Corporation (NBC), a California not-for-profit corporation, has conducted bingo games for the benefit of the Newark Senior Center. It is time to renew the agreement between the City and NBC for the use of the Newark Senior Center. A Revocable Nonexclusive Use Agreement has been prepared by the City Attorney. The agreement would allow NBC to use the Dining Room area of the Senior Center every Thursday from 12:30 p.m. to 3:30 p.m. for bingo games. There would be no charge or rent payable from NBC to the City. The agreement would expire on June 30, 2019. Either party may terminate the agreement with 30 days written notice. The NBC Board of Directors approved this agreement at their August 12, 2014 meeting.

**RECOMMENDATION** - It is recommended that the City Manager approve the agreement on behalf of the City and sign the Revocable Nonexclusive Use Agreement.

**Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby approve the Revocable Nonexclusive Use Agreement with NBC for use of the Senior Center.**

  
\_\_\_\_\_  
John Becker, City Manager

*8-14-14*  
\_\_\_\_\_  
Date

## REVOCABLE NONEXCLUSIVE USE AGREEMENT

THIS USE AGREEMENT, made and entered into this 13 day of August, 2014, by and between the CITY OF NEWARK, CALIFORNIA, a municipal corporation hereinafter referred to as "CITY," and NEWARK BETTERMENT CORPORATION, INC., a California not-for-profit corporation hereinafter referred to as "NBC".

WHEREAS, City is the owner of certain real property commonly known as 7401 Enterprise Drive, Newark, California, upon which City operates a Senior Center; and

WHEREAS, NBC desires to use those areas commonly known as the Dining Room area located in the Senior Center to conduct Bingo games pursuant to Chapter 5.12 of the Newark Municipal Code and Section 326.5 of the California Penal Code; and

WHEREAS, said premises are available for said purposes every Thursday (holidays excepted) from 12:30 p.m. to 3:30 p.m., and the CITY desires to make them available to NBC for the aforesaid purposes.

NOW, THEREFORE, IT IS AGREED to as follows:

1. DESCRIPTION OF PREMISES

The CITY hereby grants nonexclusive use to NBC, on the terms and conditions hereinafter set forth, those certain premises with the appurtenances, situated in the City of Newark, County of Alameda, State of California, and commonly known and described as the Meeting Room at 7401 Enterprise Drive, Newark, California.

2. TERMS

The term of this Agreement is five (5) years, ending June 30, 2019. Notwithstanding the foregoing, this Agreement may be terminated by either party upon thirty (30) days written notice. A notice to terminate may be personally delivered or sent by first class mail.

3. RENT

There is no charge or rent payable from NBC to the CITY.

4. USE

The premises are hereby made available every Thursday (holidays excepted) from 12:30 p.m. to 3:30 p.m. for the purpose of conducting Bingo. Agreement to this use in this agreement shall not be deemed a waiver of compliance with any ordinance of the City of Newark now in force or hereafter enforced.

5. UTILITIES, MAINTENANCE, STAFFING AND PROPERTY INSURANCE

The CITY shall be responsible for all utilities, insurance, maintenance and staffing of the Senior Center.

6. COMPLIANCE WITH LAW

NBC shall, at its sole cost and expense, comply with all of the requirements of all Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the said premises, and shall faithfully observe in the use of the premises all applicable Municipal ordinances and State and Federal statutes now in force or which may hereafter be in force. No narcotics or drugs as defined by the Health and Safety Code as being illegal, and no alcoholic beverages of any kind, shall be permitted on the premises. NBC shall not use the premises in any manner which constitutes a public or private nuisance by statute or common law. NBC further grants the Police Department the right to inspect the premises and surrounding areas at any time to assure compliance with law.

7. CITY TO BE HELD HARMLESS

NBC, as a material part of the consideration to be rendered to the CITY, hereby waives all claims against CITY for damages to goods, wares, and merchandise, in, upon or about said premises and for injuries to NBC, his agents or third persons in or about said premises from any cause arising at any time, and NBC will hold CITY exempt and harmless from any damage or injury to any person, or to the goods, wares, and merchandise of any person, arising from the use of the premises by NBC, or from the failure of NBC to keep the premises in good condition and repair, as herein provided.

8. NON-LIABILITY FOR DAMAGES

This agreement is made upon the express condition that CITY is to be free from all liability and claim for damages by reason of any injury to any person or persons, including NBC, or property of any kind whatsoever and to whomsoever belonging, including NBC, from any cause or causes whatsoever while in, upon, or in any way connected with said demised premises or the said sidewalks adjacent thereto during the term of this lease or any extension hereof or any occupancy hereunder, NBC hereby covenanting and agreeing to indemnify and save harmless CITY from all liability, loss, cost, and obligations on account of or arising out of any such injuries or losses however occurring.

9. RELATIONSHIP OF PERMITTEE/OWNER

The relationship between Newark Betterment Corporation and the City of Newark is that of Permittee/Owner and NBC is not the employee, servant or agent of the City of Newark.

10. NON-DISCRIMINATION

NBC agrees that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age or handicapping condition be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried out in whole or in part within the premises. NBC shall not, on the grounds of race, color, religious creed, national origin, sex, age, sexual orientation, physical disability, or any other basis, as defined in California Civil Code Section 51.

11. AMENDMENTS

This agreement shall be amended only by written agreement of the parties hereto.

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

NEWARK BETTERMENT  
CORPORATION

By   
A California not-for-profit corporation  
Susie Woodstock, NBC Treasurer

CITY OF NEWARK

By   
City of Newark  
John Becker, City Manager



**City of Newark**  
**MEMO**

---

**DATE:** August 14, 2014  
**TO:** John Becker, City Manager  
**VIA:** Peggy Claassen, Director of Public Works *PC*  
**FROM:** Sue Carey, Maintenance Supervisor  
**SUBJECT:** **Acceptance of completion of work for Tree Maintenance Services Project 1009B, with West Coast Arborist, Inc.**

**Background/Discussion** – On June 28, 2012 the City Council awarded a contract to West Coast Arborist, Inc., for providing Tree Maintenance Services. All work on this project is now complete.

Two additional years of work were included in the specifications and could be implemented upon mutual consent by the City and the contractor. Approval was granted and the contract was extended for an additional year for Tree Maintenance Services Project 1009B. All work on this project is now complete.

**RECOMMENDATION** - It is recommended that the contract with West Coast Arborist, Inc., for **Tree Maintenance Services Project 1009B** be accepted, as all work is complete at this time.

**Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby authorize the acceptance of contract with West Coast Arborist, Inc., for Tree Maintenance Services, Project 1009B.**

*John Becker*  
\_\_\_\_\_  
John Becker, City Manager

*John Becker*  
\_\_\_\_\_  
By

*8-14-14*  
\_\_\_\_\_  
Date



**DATE:** August 18, 2014  
**TO:** John Becker, City Manager  
**VIA:** Peggy Claassen, Public Works Director *pac*  
**FROM:** Robert Costa, Maintenance Superintendent *rc*

**SUBJECT: Authorization to purchase two (2) Police Department sedans from Folsom Lake Ford Dealership using an Intergovernmental Procurement Process**

Your authorization is requested to participate in an intergovernmental procurement process for the purchase of two (2) 2015 Ford Interceptor Sedan vehicles.

An option to a formal selection process is to enter into an intergovernmental procurement process (also known as “piggyback”). The City would save the cost and time associated with the formal selection process but be able to be assured of competitive set prices established by another agency’s formal selection process.

A FY 2012-2014 Equipment Replacement List identifies one (1) vehicle sedan for replacement. In addition the 2014-2015 CIP Budget identifies one (1) vehicle for Police Lieutenant. Therefore we are requesting your authorization to purchase the two (2) sedans using the intergovernmental procurement process. The total cost for the two (2) sedans is \$58,000.

Upon completion of a formal selection process for the State of California, Folsom Lake Ford Dealership is the successful bidder for the 2015 Ford Interceptor Sedan vehicles (California State Contract No. 1-12-23-14). This contract is in effect through May 24, 2015, and includes a provision to allow other agencies to participate.

The competitive process used by the State of California has been reviewed by the Public Works Department and satisfies the City of Newark’s requirements for purchasing the proposed vehicles. The Administrative Services Director has approved the intergovernmental procurement process. I recommend that an intergovernmental procurement process be used for the purchase of two (2) 2015 Ford Interceptor Sedan vehicles from Folsom Lake Ford Dealership in lieu of the City’s formal bid process.

RECOMMENDATION:

Staff recommends your authorization to purchase two (2) Police Department sedans from Folsom Lake Ford Dealership using an intergovernmental procurement process.

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, as City Manager, hereby accept and authorize to participate in an intergovernmental procurement process for the purchase of two (2) 2015 Ford Interceptor Sedan vehicles from Folsom Lake Ford Dealership.

  
\_\_\_\_\_  
John Becker, City Manager

  
\_\_\_\_\_  
By

  
\_\_\_\_\_  
Date



**City of Newark**

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**DATE:** August 18, 2014

**TO:** John Becker, City Manager

**FROM:** Gloria del Rosario, Senior Accountant – 578-4337 *SKW*

**SUBJECT:** AID 31 Insufficient Funds Loan

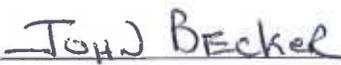
Area Improvement District #31 (Fund 531) is scheduled for the last debt service payment on September 2, 2014 for \$20,600 (principal and interest). Debt service payments on the limited obligation improvement bonds commenced on March 2, 1998 and have been funded by assessments paid by the property owners through their property tax bills.

The current available cash in Fund 531 is \$18,687.68. Several properties have been delinquent in making their property tax payments, resulting in a current shortfall of \$1,912.32. Staff is recommending a loan from the General Fund 010 to Fund 531 in the amount of \$1,912.32, which is to be paid back once the delinquent property tax bills are paid and remitted to the City. It is not anticipated, however, when this will occur.

**Recommendation** – It is recommended that the City Manager approve an interfund loan and repayment declaration between the General Fund 010 and Area Improvement District #31 (Fund 531) in the amount of \$1,912,32 due to insufficient funds to make last debt service payment.

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby approve an interfund loan and repayment declaration between the General Fund 010 and Area Improvement District #31, Fund 531.

  
\_\_\_\_\_  
John Becker, City Manager

  
\_\_\_\_\_  
By

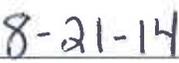
  
\_\_\_\_\_  
Date

Exhibit A

INTERFUND LOAN AND REPAYMENT DECLARATION  
BETWEEN THE GENERAL FUND 010  
AND AREA IMPROVEMENT DISTRICT 31, FUND 531

The following is a Declaration, dated August 18, 2014 by the City of Newark (the "City").

WHEREAS, there is currently insufficient funds in Fund 531 to fund the last debt service payment of \$20,600 to be paid on September 2, 2014; and

WHEREAS, the City is willing to assume the fund relationship described herein.

NOW, THEREFORE, the City declares the following:

1. The purpose of this Declaration is to allow Fund 010 ("General Fund") to loan funds to Fund 531 (Area Improvement District 31) in order to pay the last scheduled debt service payment.
2. Fund 531 will reimburse Fund 010 once the delinquent property tax payments are paid and remitted to the City.



**City of Newark**

**MEMO**

**DATE:** August 14, 2014  
**TO:** John Becker, City Manager  
**FROM:** Sandy Abe, Human Resources Director *S*  
**SUBJECT:** Classification Recommendation

The Recreation and Community Services Department has requested a reclassification of a regular part-time (RPT) Administrative Support Specialist II position to an RPT Senior Administrative Support Specialist. The position is assigned to the Senior Center and has assumed additional responsibilities at the Community Center. The request is based on the complexity of specialized work assignments and related lead worker responsibilities. No change to the 30 hour weekly work schedule is recommended.

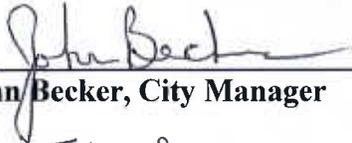
The position has evolved from a journey level administrative support position to a senior/lead level specialist. Following the recent retirement of a supervisory position which remains unfilled, the incumbent assumed responsibility for managing the Community Center's rental program. The position determines applicant eligibility, serves as liaison for event set-up and itinerary details, and calculates fee and payment schedules. In addition, the position administers the NBC budget for the Senior Center and other community programs, and performs complex marketing graphics and design work.

Key lead worker responsibilities further distinguish the position as a Senior Specialist. As lead editor of the Recreation and Community Services Activities Guide, the position is responsible for the publication's creative design, editing, and budget. The position provides staff training and lead direction to another Administrative Support Specialist II on all aspects of publication. The proposed reclassification is also needed to enhance the consistent application of the customer registration process. As a Senior Administrative Support Specialist, the position will provide training to all incoming clerical staff on the registration process and program specifics.

The total cost to reclassify the position will be applied as a budget amendment from the Unallocated General Fund.

**Recommendation:** Staff recommends the reclassification of the RPT Administrative Support Specialist II position at the Newark Senior Center to an RPT Senior Administrative Support Specialist.

**Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby authorize the reclassification of the RPT Administrative Support Specialist II position at the Newark Senior Center to an RPT Senior Administrative Support Specialist and a budget amendment from the Unallocated General Fund (From: 010-0000-2991 \$6,267; To 030-3041-4110 \$1,567 and To 030-3042-4110 \$4,700).**

  
\_\_\_\_\_  
**John Becker, City Manager**

  
\_\_\_\_\_  
**By**

8-28-14  
\_\_\_\_\_  
**Date**



**DATE:** August 27, 2014

**TO:** John Becker, City Manager

**FROM:** Peggy Claassen, Public Works Director (578-4671) *PCC*

**SUBJECT:** Public Works Engineering Division Staffing – Proposed Reclassification

**Summary:** By this memo, I am requesting reclassification of the Senior Civil Engineer position to Assistant City Engineer to be in line with the actual duties being performed and the high level of responsibility of the position.

**Background:** The Engineering Division was reorganized in early 2004 with the retirement of two senior staff members (Senior Civil Engineer Will Wolbertus and Senior Civil Engineering Associate Jack Burgess) who had over 70 years of combined experience with the City of Newark. These positions were replaced by the creation of the Assistant City Engineer position recruited from outside the organization (which I filled in January of 2004). As part of the reorganization, two Assistant Civil Engineer positions were reclassified to Associate Civil Engineer positions, creating promotional opportunities for the incumbents, Soren Fajeau and Trang Tran. Furthermore, in 2007, Michael Carmen was promoted to Assistant Engineer - Civil, Dennis Jones was promoted to Assistant City Manager, I was promoted to Public Works Director, and Soren was promoted to the newly created position of Senior Civil Engineer. Due to the economic downturn, an Engineering Specialist position was eliminated after a retirement and a vacant Junior/Assistant Civil Engineer position was eliminated leaving us with the current structure of engineering professional positions. All promotions within the ranges were frozen in 2008 and no promotional opportunities have occurred since.

The evolution of today’s Engineering structure is shown below along with what is being proposed with the current request for reclassification (note: nonprofessional staff is not reflected in the information below).

**Professional Engineering Staff: City of Newark**

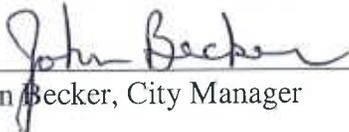
<u>2003</u>	<u>2004</u>	<u>2007 to Present</u>	<u>Proposed</u>
PWD (DJ)	PWD (DJ)	PWD (PAC)	PWD (PAC)
Sr. CE	Asst. City Engr.(PAC)	Sr. CE*	Asst. City Engr.*
Sr. CE-Assoc.	Assoc. CE	Assoc. CE	Assoc. CE
Eng. Specialist	Assoc. CE	Asst. Civil Engr.	Assoc. CE
Asst. Civil Engr.	Eng. Specialist		Asst. Civil Engr.
Asst. Civil Engr.	Jr./Asst. Civil Engr.(Mike)		
Jr./Asst. Civil Engr.	Jr./Asst. Civil Engr.		
Jr./Asst. Civil Engr.			

**Senior Civil Engineer to Assistant City Engineer:** The Senior Engineer position is one of three Division Heads (Engineering, Maintenance and Chief Building Official/City Architect) reporting to the Public Works Director. The Senior Civil Engineer position has the assigned responsibility to plan, organize, direct and supervise engineering operations, coordinate engineering activities with other divisions or departments and the public; and to perform high level professional engineering work associated with design, development, transportation and construction activities. This has been especially challenging with the reduced staff (retirements, layoffs and vacancies unfilled). The position has evolved to a higher level of complexity and responsibility with increased development activities, greater regulatory standards, absorbing activities previously assigned to Maintenance Division staff due to staffing cuts in that Division, and a need for greater involvement in the regional arena as the City competes for equitable funding for its citizens. Unlike other Public Works agencies, the Engineering Division is responsible for the CIP, development, design, construction engineering and inspection as well as traffic engineering. In addition, the technical expertise provided by the engineering staff also supports Community Development functions as well as the Fire, Police and Recreation Departments.

When the position of Assistant City Engineer was first created in 2004 (Range 19), the intent was to bring in a leader to help develop the internal talent for a reasonable succession plan, bring in seasoned expertise for complex projects and help "grow" staff. The reclassification of the Senior Civil Engineer position to Assistant City Engineer is a natural progression, consistent with past practice within the organization and is reflective of industry standards. It is important to have this position properly classified to retain the talent that is benefitting the organization, reflecting the value of the duties being carried out. Base salary is recommended at \$12,789 per month in keeping with the market, to be effective September 1, 2014. The total cost to reclassify the position will be applied as a budget amendment from the Unallocated General Fund.

**RECOMMENDATION:**

Pursuant to Newark Resolution No. 10,202, adopted April 24, 2014, authorizing the City Manager or his designee to act upon certain administrative matters on behalf of the City during the City Council summer recess of August 2014, I, John Becker, hereby authorize the reclassification of Senior Civil Engineer to Assistant City Engineer and a budget amendment from the Unallocated General Fund for FY 2014-15 (From: 010-0000-2991 \$30,160; To: 030-2015-4100 \$18,096 and To: 030-4011-4100 \$3,016, and To: 030-4013-4100 \$9,048).

  
\_\_\_\_\_  
John Becker, City Manager

  
\_\_\_\_\_  
By

8-28-14  
\_\_\_\_\_  
Date

**F.2 Acceptance of work with AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048 – from Assistant City Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – On May 22, 2014, the City Council authorized award of a contract to AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048. The scope of work included placement of new ADA-compliant wheelchair accessible ramps in areas where street overlay improvements were planned and the existing ramps did not meet the latest standards. All work on this project was completed within the original approved budget.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, accept the work with AJW Construction for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK ACCEPTING THE WORK WITH AJW  
CONSTRUCTION FOR 2013 AND 2014 CITYWIDE  
WHEELCHAIR ACCESSIBLE RAMPS, PROJECTS 1022 AND  
1048

WHEREAS, the City of Newark has entered into a contract with AJW Construction, pursuant to Resolution No.10213, for 2013 and 2014 Citywide Wheelchair Accessible Ramps, Projects 1022 and 1048, in the City of Newark, in accordance with the plans and specifications for the contract; and

WHEREAS, said work has been completed in conformance with the plans and specifications of the contract hereinabove referred to and the conditions thereof;

NOW THEREFORE, BE IT RESOLVED that said contract is hereby accepted and the City Council does hereby authorize the release of bonds guaranteeing the completion of the work, the filing of a Notice of Completion, and payment to the contractor pursuant to the contract.

**F.3 Acceptance of work with United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059 – from Assistant City Engineer Fajeau. (RESOLUTION)**

**Background/Discussion** – On May 22, 2014, the City Council authorized award of a contract to United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059. The scope of work included installation of 118 new trash capture devices within existing public storm drain inlets located in high trash generation areas. All work on this project was completed within the original approved budget.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, accept the work with United Storm Water, Inc. for Storm Drain Trash Capture Devices, Project 1059.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK ACCEPTING THE WORK WITH UNITED STORM  
WATER, INC. FOR STORM DRAIN TRASH CAPTURE  
DEVICES, PROJECT 1059

WHEREAS, the City of Newark has entered into a contract with United Storm Water, Inc., pursuant to Resolution No.10212, for Storm Drain Trash Capture Devices, Project 1059, in the City of Newark, in accordance with the plans and specifications for the contract; and

WHEREAS, said work has been completed in conformance with the plans and specifications of the contract hereinabove referred to and the conditions thereof;

NOW THEREFORE, BE IT RESOLVED that said contract is hereby accepted and the City Council does hereby authorize the release of bonds guaranteeing the completion of the work, the filing of a Notice of Completion, and payment to the contractor pursuant to the contract.

**F.4 Authorization for the Mayor to sign a cooperative funding agreement with the East Bay Regional Park District for the demolition of the Mowry's Landing School - from Chief Building Official/City Architect Collier. (RESOLUTION)**

**Background** In 1884, Mowry's Landing School (Schoolhouse) was built at a site near what is now the NewPark Mall. The building is sometimes referred to as "Mowry Schoolhouse". Mowry's Landing School served as a one room school from 1884 to 1939 when it was sold and converted to a single family dwelling. Although referred to as a schoolhouse the structure ceased being used as a school over 75 years ago.

In 1984, Newark City Council designated Mowry's Landing School a historical resource. Concurrently, with the development of the Newpark Mall, ownership of the schoolhouse structure was transferred to the East Bay Regional Park District (EBRPD) and it was moved to Ardenwood Regional Preserve and Historic Farm (Ardenwood). The EBRPD Master Plan envisioned including a refurbished schoolhouse along with other donated structures as part of the William Patterson Farming Education Center. However, the refurbishment project was never funded. The schoolhouse was placed on blocks and has remained at Ardenwood for the last 30 years. There are two other old structures owned by the EBRPD that sit adjacent to the schoolhouse. All three structures are in a significant state of disrepair.

On August 5, 1997, at the request of the City, the EBRPD declared the schoolhouse surplus property and transferred ownership to the City. It was the City's intent that Mowry's Landing School could eventually be moved adjacent to Watkins Hall on Ash Street. A project was envisioned by the City to renovate the schoolhouse and have it become a part of a History Museum Complex, along with a renovated Watkins Hall. Because of severe budget constraints the History Museum Complex is no longer a viable option for the City.

The Mowry's Landing Schoolhouse was in poor condition when it was moved to its current location at Ardenwood 30 years ago. Its condition has continued to deteriorate over the years and has become an attractive nuisance and a liability to the City. The EBRPD has requested that the Mowry's Landing Schoolhouse be removed from Ardenwood. The City offered to give the Mowry's Landing Schoolhouse to any responsible person or organization. No offers to take possession the schoolhouse were received. Another option to move the Schoolhouse to the City corporation yard at Filbert Street was considered but determined not to be viable because of a lack of a suitable use for the structure, its continued deterioration, utilization of scarce space at the corporation yard, and an increase in the City's liability. The only remaining viable option available is to demolish the Schoolhouse.

In May of 2013, the City entered into a cost sharing agreement with EBRPD to prepare an environmental impact report which would allow for the option of demolishing the Schoolhouse along with the two adjacent old structures owned by EBRPD. All other options have been exhausted and demolition of the schoolhouse along with at least one of EBRPD's structures is the only viable option.

Both the City and the EBRPD can realize a significant savings if a single demolition contract is awarded encompassing the remaining buildings. City staff has approached EBRPD staff suggesting EBRPD be the lead agency in overseeing a demolition contract for all the remaining buildings with the City paying EBRPD a fair share of the costs. The attached cooperative funding agreement would authorize the City to pay a portion of the demolition costs as well as a share of the administrative costs incurred by EBRPD. The agreement would authorize the City to pay one-third the demolition and administrative cost if both of the remaining EBRPD's structures are demolished or one-half the demolition and administrative costs if only one of the remaining EBRPD's structures is demolished. The maximum payment by the City to EBRPD would be \$15,000.00. The \$15,000 is identified in the budget from account 401-5600-5280-1029.

Staff recommends entering into a cooperative funding agreement with EBRPD to include the Mowry's Landing School in a demolition project administered by EBRPD.

### **Attachments**

**Action** It is recommended that the City Council, by resolution, authorize the Mayor to sign a cooperative funding agreement with the East Bay Regional Park District for the demolition of Mowry's Landing School.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE MAYOR TO SIGN A  
COOPERATIVE FUNDING AGREEMENT WITH THE EAST  
BAY REGIONAL PARK DISTRICT FOR THE DEMOLITION  
OF MOWRY'S LANDING SCHOOL AT ARDENWOOD  
REGIONAL PRESERVE

WHEREAS, the Mowry's Landing Schoolhouse was constructed in 1884, and used as a school until 1939, when it was converted to a single family dwelling; and

WHEREAS, the Mowry's Landing Schoolhouse was moved in 1984 from a site adjacent to what is now the Newpark Mall to the Ardenwood Regional Preserve and placed on cribbing; and

WHEREAS, the City gained ownership of Mowry's Landing Schoolhouse in 1997, with the intent to move it to the designated Watkins Hall museum site at Thornton Avenue and Ash Street and restore it; and

WHEREAS, due to a lack of funding and no practical use the Watkins Hall museum project was canceled; and

WHEREAS, the Mowry's Landing Schoolhouse's condition has continued to deteriorate over the last 30 years and has become an attractive nuisance and a liability to the City and EBRPD.

WHEREAS, the City and EBRPD have attempted to sell or give Mowry's Landing Schoolhouse to a responsible party with no success; and

WHEREAS, EBRPD and the City have each decided to demolish up to three structures located at the Ardenwood Historic Farm Regional Preserve ("Ardenwood"), the Bettencourt and Brown houses owned by EBRPD and the Mowry's Landing School owned by the City, which work is collectively hereinafter referred to as the "PROJECT"; and

WHEREAS, the Parties are willing to share in the cost of the demolition, and the joint participation in the demolition by EBRPD and the City is mutually beneficial and will represent a cost savings to both parties; and

WHEREAS, the Parties mutually desire to cooperate in completing the demolition;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby authorize the Mayor to sign a cooperative funding agreement with the East Bay Regional Park District for the demolition of the Mowry's Landing School at Ardenwood Regional Preserve.

COOPERATIVE FUNDING AGREEMENT BETWEEN THE EAST BAY  
REGIONAL PARK DISTRICT AND THE CITY OF NEWARK FOR THE  
DEMOLITION OF MOWRY'S LANDING SCHOOL AT ARDENWOOD  
REGIONAL PRESERVE

This Cooperative Funding Agreement, hereinafter referred to as "AGREEMENT" made and entered into on the 27<sup>th</sup> day of August, 2014, by and among the East Bay Regional Park District, hereinafter referred to as "EBRPD" and the City of Newark, hereinafter referred to as "City". The City and EBRPD are also sometimes referred to herein as "Parties" or "Party", as appropriate.

WITNESSETH

WHEREAS, the Mowry's Landing Schoolhouse was constructed in 1884, and used as a school until 1939, when it was converted to a single family dwelling; and

WHEREAS, the Mowry's Landing Schoolhouse was moved in 1984 from a site adjacent to what is now the Newark Mall to the Ardenwood Regional Preserve and placed on cribbing; and

WHEREAS, the City gained ownership of Mowry's Landing Schoolhouse in 1997, with the intent to move it to the designated Watkins Hall museum site at Thornton Avenue and Ash Street and restore it; and

WHEREAS, due to a lack of funding and no practical use the Watkins Hall museum project was canceled; and

WHEREAS, the Mowry's Landing Schoolhouse's condition has continued to deteriorate over the last 30 years and has become an attractive nuisance and a liability to the City and EBRPD.

WHEREAS, the City and EBRPD have attempted to sell or give Mowry's Landing Schoolhouse to a responsible party with no success; and

WHEREAS, EBRPD and the City have each decided to demolish up to three structures located at the Ardenwood Historic Farm Regional Preserve ("Ardenwood"), the Bettencourt and Brown houses owned by EBRPD and the Mowry's Landing School owned by the City, which work is collectively hereinafter referred to as the "PROJECT"; and

WHEREAS, the Parties are willing to share in the cost of the PROJECT, and the joint participation in the PROJECT by EBRPD and the City is mutually beneficial and will represent a cost savings to both parties; and

WHEREAS, EBRPD and City mutually desire to cooperate in completing the PROJECT and to specify herein the terms and conditions under which the PROJECT will be implemented;

Cooperative Funding Agreement  
Demolition of Mowry's Landing School at Ardenwood Regional Preserve

NOW, THEREFORE, it is mutually agreed as follows:

SECTION I

EBRPD AGREES:

- (1) To prepare and advertise bid documents for the purpose of obtaining bids for the PROJECT.
- (2) To obtain all necessary approvals for demolition of EBRPD structures.
- (3) To award contract for the PROJECT to the lowest responsible and responsive bidding contractor according to all applicable laws.
- (4) To administer the demolition contract for the PROJECT.
- (5) To pay 100 percent of support documents and/or work unique to EBRPD buildings, including, but not limited to, lead and asbestos studies, photographic records, and HABS compliant drawings and reports.
- (6) To provide the City with an executed copy of the demolition contract and any change orders.
- (7) To provide to the City, if requested by the City, an accounting of EBRPD's administrative costs.

SECTION II

CITY AGREES:

- (1) To process EBRPD's reimbursement request for the City's share of the demolition contract and EBRPD's contract administration costs. The City's share of EBRPD's administrative cost shall not exceed twenty five percent (25%) of the City's share of the demolition cost. The combined amount of the City's share of the demolition contract and EBRPD's contract administration cost shall not exceed \$15,000. The City's share would be one-third the cost if all three structures are included in the demolition contract or one-half the cost if only the Bettencourt house and the Mowry's Landing School are included in the demolition contract.
- (2) To obtain and pay for a demolition permit from the City of Fremont for the Mowry's Landing School.
- (3) To pay 100 percent of support documents and/or work unique to the Mowry's Landing School, including, but not limited to, lead and asbestos studies, photographic records, and HABS compliant drawings and reports.

Cooperative Funding Agreement  
Demolition of Mowry's Landing School at Ardenwood Regional Preserve

(4) To provide to EBRPD copies of lead and asbestos studies performed on the Mowry's Landing School.

SECTION III

IT IS MUTUALLY AGREED AS FOLLOWS:

(1) This AGREEMENT may be amended or canceled only by mutual consent in writing of both parties.

(2) EBRPD agrees to indemnify and hold harmless the City, its officers, agents, employees, council members, commissioners, and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees, from and against any loss, damage, liability, claims, suits, costs and expenses or other claim for damages based upon or otherwise arising out of the performance of the terms of this AGREEMENT save and except for those which are the result of the negligence and/or willful conduct of the City, its officers, agents, employees or assigns.

(3) City agrees to indemnify and hold harmless EBRPD, its officers, agents, employees and assigns from and against any and all loss, damage, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees, from and against any loss, damage, liability, claims, suits, costs and expenses or other claim for damages based upon or otherwise arising out of the performance of the terms of this AGREEMENT save and except for those which are the result of the negligence and/or willful conduct of EBRPD, its Board of Directors, its officers, agents, employees or assigns.

(4) Notices regarding this AGREEMENT shall be sent by first class mail, postage prepaid, to: EBRPD Legal Counsel, Ted Radosevich, P. O. Box 5381, Oakland, CA 94605-0381, and to: City Attorney, David Benoun, at 37101 Newark Blvd., Newark, CA 94560.

(5) This AGREEMENT shall run through completion of the PROJECT, unless otherwise terminated or amended, except that the indemnifications portions under Sections III (2) and (3) shall survive.

(6) This AGREEMENT contains the entire AGREEMENT between the parties with regard to matters described in this AGREEMENT and supersedes all prior AGREEMENTS, whether written or oral, between the parties with respect to the demolition of the structures at Ardenwood Regional Preserve which is the subject of this AGREEMENT.

(7) This AGREEMENT shall be interpreted and enforced under the laws of the State of California.

(8) If any provision or provisions of this AGREEMENT shall be held to be invalid, illegal, unenforceable or in conflict with the law of any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Cooperative Funding Agreement  
Demolition of Mowry's Landing School at Ardenwood Regional Preserve

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers, duly authorized as of the day, month, and year first hereinabove written.

EAST BAY REGIONAL PARK DISTRICT

CITY OF NEWARK

By   
(Signature of Authorized Representative)

By \_\_\_\_\_  
(Mayor Alan L. Nagy)

ROBERT E. DOYLE  
(Print Name of Authorized Representative)

Approved as to form and legality  
This \_\_\_\_ day of \_\_\_\_\_ 2014

GENERAL MANAGER  
(Title of Authorized Representative)

By \_\_\_\_\_  
David Benoun, City Attorney

Attest: \_\_\_\_\_  
Sheila Harrington, City Clerk

F:\Shared\PubWrks\Bldg\InSP\Mowry Schoolhouse\Mowry\_Schoolhouse\_EBRPD\_Cooperative\_Funding\_Demo

Approved as to Form:  
  
District Counsel, EBRPD

**I.1 Declaring a vacancy on the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board and authorizing the City Clerk to post a notice of vacancy – from Mayor Nagy. (MOTION)**

**Background/Discussion** – Carol McCarty has submitted her resignation from the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board effective immediately. Mrs. McCarty’s term on the Senior Committee was scheduled to expire in April 2015. Her term on the Tri City Board was scheduled to expire in June 2016

Pursuant to Government Code Section 54974, whenever an unscheduled vacancy occurs on a commission a special vacancy notice shall be posted not later than 20 days after the vacancy occurs. The vacancy notice must be posted for at least ten days before the Mayor may appoint a new commission member.

**Attachment**

**Action** - It is recommended that the City Council, by motion, declare a vacancy on the Senior Citizen Standing Advisory Committee and the Tri City Elder Coalition Volunteer Community Board and direct the City Clerk to post the notice of vacancy.

**J.1 Resolution of the City of Newark acting as the Successor Agency to the Newark Redevelopment Agency adopt and endorse the Recognized Obligation Payment Schedule for the period of January to June 2015 – from Administrative Services Director Woodstock. (RESOLUTION)**

**Background/Discussion** – Assembly Bill (AB) 1x26 and the subsequent amendment, AB 1484, require agencies to adopt a Recognized Obligation Payment Schedule (ROPS) for each six (6) month period in which the Successor Agency is closing out the obligations of the former Newark Redevelopment Agency.

The Successor Agency and the Oversight Board previously have approved several ROPSs for periods between January 2012 and December 2014.

The only obligation remaining from the dissolution of the Newark Redevelopment Agency is the loan from the City to the Newark Redevelopment Agency. On June 27, 2012, the Governor signed AB 1484 which updated the procedures for the dissolution of the redevelopment agencies and indicated that a loan can be considered an obligation if the Agency obtains a Finding of Completion and the Oversight Board approves the loan as an obligation. The State Department of Finance issued a Finding of Completion to the Successor Agency and the Oversight Board approved the loan and the Successor Agency received the first payment on the loan in June 2014.

The reconciliation of ROPS14-15A with the State and County calculations determined that the payment received for ROPS 14-15A used the full allocation available from the Redevelopment Property Tax Trust Fund (RPTTF) for Fiscal Year 2014-2015.

ROPS 14-15B is not requesting any payment, but is still being submitted to the State to recognize the outstanding debt balance on the loan.

Upon approval by the Successor Agency, the ROPS14-15B will be presented to the Oversight Board for consideration.

**Attachment**

**Action** - It is recommended that the City Council acting as the Successor Agency to the Newark Redevelopment Agency, by resolution, adopt and endorse the Recognized Obligation Payment for the period of January to June 2015.

RESOLUTION NO. SA

RESOLUTION OF THE SUCCESSOR AGENCY TO THE  
NEWARK REDEVELOPMENT AGENCY ADOPTING AND  
ENDORING THE RECOGNIZED OBLIGATION PAYMENT  
SCHEDULE FOR THE PERIOD OF JANUARY TO JUNE 2015

WHEREAS, on January 12, 2012, the City of Newark by Resolution No. 9910, duly adopted by the City Council, affirmatively and expressly elected to become the Successor Agency to the Newark Redevelopment Agency; and

WHEREAS, the Successor Agency is tasked with the responsibility of winding down the Redevelopment Agency's affairs and continuation to meet the former Redevelopment Agency's obligations; and,

WHEREAS, the Successor Agency has prepared and approved a Recognized Obligation Payment Schedule that details all financial obligations of the Successor Agency in winding down the activities of the former Newark Redevelopment Agency, for the period of January 1, 2015 to June 30, 2015; and

NOW, THEREFORE, BE IT RESOLVED, by the Successor Agency to the Newark Redevelopment Agency, as follows:

SECTION 1. The above recitals are true and correct and are adopted as the findings of the Oversight Board.

SECTION 2. The Recognized Obligations Payment Schedule, a copy of which is attached hereto, marked Exhibit "A", and incorporated herein by reference as if set forth at length, is hereby adopted.



**Recognized Obligation Payment Schedule (ROPS 14-15B) - Summary**

Filed for the January 1, 2015 through June 30, 2015 Period

Name of Successor Agency: Newark  
 Name of County: Alameda

Current Period Requested Funding for Outstanding Debt or Obligation		Six-Month Total
<b>Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding</b>		
<b>A</b>	<b>Sources (B+C+D):</b>	<b>\$</b>
<b>B</b>	Bond Proceeds Funding (ROPS Detail)	-
<b>C</b>	Reserve Balance Funding (ROPS Detail)	-
<b>D</b>	Other Funding (ROPS Detail)	-
<b>E</b>	<b>Enforceable Obligations Funded with RPTTF Funding (F+G):</b>	<b>\$</b>
<b>F</b>	Non-Administrative Costs (ROPS Detail)	-
<b>G</b>	Administrative Costs (ROPS Detail)	-
<b>H</b>	<b>Current Period Enforceable Obligations (A+E):</b>	<b>\$</b>

Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
<b>I</b>	Enforceable Obligations funded with RPTTF (E):	-
<b>J</b>	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	-
<b>K</b>	<b>Adjusted Current Period RPTTF Requested Funding (I-J)</b>	<b>\$</b>

County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding		
<b>L</b>	Enforceable Obligations funded with RPTTF (E):	-
<b>M</b>	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	-
<b>N</b>	<b>Adjusted Current Period RPTTF Requested Funding (L-M)</b>	<b>-</b>

Certification of Oversight Board Chairman:  
 Pursuant to Section 34177 (m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

\_\_\_\_\_  
 Name  
 /s/ Signature  
 \_\_\_\_\_  
 Title  
 Date



### Recognized Obligation Payment Schedule (ROPS 14-15B) - Report of Cash Balances

(Report Amounts in Whole Dollars)

A	B	Fund Sources										I		
		C		D		E		F		G			H	
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR retained	RPTTF balances	Prior ROPS period balances distributed as reserve for future period(s)	Other	RPTTF	Non-Admin and Admin					
<b>Cash Balance Information by ROPS Period</b>														
<b>ROPS 13-14B Actuals (01/01/14 - 06/30/14)</b>														
1	Beginning Available Cash Balance (Actual 01/01/14)													
2	Revenue/Income (Actual 06/30/14) RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014											628		
3	Expenditures for ROPS 13-14B Enforceable Obligations (Actual 06/30/14) RPTTF amounts, H3 plus H4, should equal total reported actual expenditures in the Report of PPA, Columns L and Q											628		
4	Retention of Available Cash Balance (Actual 06/30/14) RPTTF amount retained should only include the amounts distributed for debt service reserve(s) approved in ROPS 13-14B													
5	ROPS 13-14B RPTTF Prior Period Adjustment RPTTF amount should tie to the self-reported ROPS 13-14B PPA in the Report of PPA, Column S													
6	Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)													
<b>ROPS 14-15A Estimate (07/01/14 - 12/31/14)</b>														
7	Beginning Available Cash Balance (Actual 07/01/14) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)													
8	Revenue/Income (Estimate 12/31/14) RPTTF amounts should tie to the ROPS 14-15A distribution from the County Auditor-Controller during June 2014													
9	Expenditures for ROPS 14-15A Enforceable Obligations (Estimate 12/31/14)													
10	Retention of Available Cash Balance (Estimate 12/31/14) RPTTF amount retained should only include the amount distributed for debt service reserve(s) approved in ROPS 14-15A													
11	Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)													

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see [https://rad.dof.ca.gov/rad-sa/pdf/Cash\\_Balance\\_Agency\\_Tips\\_Sheet.pdf](https://rad.dof.ca.gov/rad-sa/pdf/Cash_Balance_Agency_Tips_Sheet.pdf).

