



CITY OF NEWARK CITY COUNCIL

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

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

AGENDA

Thursday, July 14, 2016

- A. ROLL CALL

- B. MINUTES
 - B.1 Approval of Minutes of the regular City Council meeting of Thursday, June 23, 2016. (MOTION)

- C. PRESENTATIONS AND PROCLAMATIONS
 - C.1 Introduction of employees.

 - C.2 Proclamation for the Portuguese Fraternal Society of America Council No. 16 Holy Ghost Festival and 94th Anniversary. (PROCLAMATION)

 - C.3 Presentation of the 2016 Agency Award of Excellence for Innovation from the Northern California Chapter of the International Personnel Management Association (NCCIPMA) for the City to City Wellness Challenge. (PRESENTATION)

- D. WRITTEN COMMUNICATIONS

- E. PUBLIC HEARINGS

- F. CITY MANAGER REPORTS

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

CONSENT

- F.1 Approval of plans and specifications, acceptance of bid and award of contract to Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117 – from Associate Civil Engineer Tran. (MOTION)(RESOLUTION)

NONCONSENT

F.2 Authorization for the City Manager to sign a Memorandum of Understanding and a Framework Agreement with Pacific Gas & Electric Company regarding implementation of the Community Pipeline Safety Initiative in the City of Newark - from City Manager Becker. (MOTION)

F.3 Adoption of a resolution placing a local one-half cent sales tax increase on the November 8, 2016 Election Ballot for voter consideration and related election procedures and consideration of the Ballot Measure language and participation in Ballot Arguments – from City Manager Becker. (RESOLUTION)

G. CITY ATTORNEY REPORTS

G.1 Discussion of Draft Joint Powers Agreement for Alameda County Community Choice Aggregation Energy Program – from City Attorney Benoun. (MOTION)

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

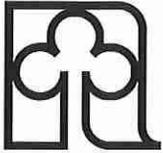
Approval of Audited Demands for the City Council meeting of July 14, 2016. (MOTION)

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, 5th Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

For those persons requiring hearing assistance, please make your request to the City Clerk two days prior to the meeting.



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City Administration Building
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AGENDA

Thursday, July 14, 2016

CITY COUNCIL:

Alan L. Nagy, Mayor
Luis L. Freitas, Vice Mayor
Sucy Collazo
Michael K. Hannon
Mike Bucci

CITY STAFF:

John Becker
City Manager
Terrence Grindall
Assistant City Manager
Susie Woodstock
Administrative Services Director
Sandy Abe
Human Resources Director
Soren Fajeau
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:

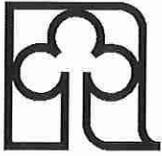
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|-------------------------------------|-------------------------|
| A. ROLL CALL | I. COUNCIL MATTERS |
| B. MINUTES | J. SUCCESSOR AGENCY |
| C. PRESENTATIONS AND PROCLAMATIONS | TO REDEVELOPMENT AGENCY |
| D. WRITTEN COMMUNICATIONS | K. ORAL COMMUNICATIONS |
| 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. 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.



CITY OF NEWARK CITY COUNCIL

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

MINUTES

Thursday, June 23, 2016

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:35 p.m. Present were Council Members Hannon, Collazo, Bucci, and Vice Mayor Freitas.

B. MINUTES

B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, June 9, 2016. MOTION APPROVED

Council Member Hannon moved, Council Member Collazo seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 5 AYES.

C. PRESENTATIONS AND PROCLAMATIONS

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

City Manager Becker announced that due to property ownership within Landscaping and Lighting Districts 10 and 11 Vice Mayor Collazo will need to recuse from public hearings E.11 and E.12. In order to expedite the public hearing process, he requested that the City Council consider public hearings E.1-E.10 concurrently and then hold E.11 and E.12 concurrently after Vice Mayor Collazo has recused and exited the chambers. The City Council concurred with this suggestion.

E.1 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 1. RESOLUTION NO. 10510

City Manager Becker gave the staff report and recommended that the City Council open public hearings E.1 through E.10 simultaneously.

At 7:38 p.m. Mayor Nagy opened public hearings E.1 through E.10, Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 13, 15, 16, 17, and 18 simultaneously.

No one came forward to speak.

At 7:39 p.m. Mayor Nagy closed public hearings E.1 through E.10, Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 13, 15, 16, 17, and 18 simultaneously.

Council Member Bucci moved, Council Member Hannon seconded, to approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 13, 15, 16, 17, and 18 for the 2016-2017 fiscal year. The motion passed, 5 AYES.

- E.2 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 2. RESOLUTION NO. 10511**
- E.3 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 4. RESOLUTION NO. 10512**
- E.4 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 6. RESOLUTION NO. 10513**
- E.5 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 7. RESOLUTION NO. 10514**
- E.6 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 13. RESOLUTION NO. 10515**
- E.7 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 15. RESOLUTION NO. 10516**
- E.8 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 16. RESOLUTION NO. 10517**
- E.9 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 17. RESOLUTION NO. 10518**
- E.10 Hearing to consider annual levy of assessment in conjunction with
Landscaping and Lighting District No. 18. RESOLUTION NO. 10519**

Council Member Collazo exited the City Council Chambers.

- E.11 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 10. RESOLUTION NO. 10520**
- E.12 Hearing to consider annual levy of assessment in conjunction with Landscaping and Lighting District No. 11. RESOLUTION NO. 10521**

City Manager Becker gave the staff report and recommended that the City Council open public hearings E.11 through E.12 simultaneously.

At 7:40 p.m. Mayor Nagy opened public hearings E.11 through E.12 Landscaping and Lighting District Nos. 10 and 11 simultaneously.

No one came forward to speak.

At 7:41 p.m. Mayor Nagy closed public hearings E.11 through E.12, Landscaping and Lighting District Nos. 10 and 11 simultaneously.

Vice Mayor Freitas moved, Council Member Bucci seconded, to approve the diagram and assessment and levy the annual assessment for Landscaping and Lighting District Nos. 10 and 11 for the 2016-2017 fiscal year. The motion passed, 4 AYES, 1 RECUSED (Collazo).

Council Member Collazo returned to the City Council Chambers.

- E.13 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2016-2017. RESOLUTION NO. 10522**

City Manager Becker gave the staff report recommending approval of the revisions to the Master Fee Schedule.

Mayor Nagy opened the public hearing at 7:43 p.m.

Angela Akridge asked if new fees could be added throughout the year.

City Manager Becker stated that fees may be added at the City Council’s discretion.

Mayor Nagy closed the public hearing at 7:44 p.m.

Council Member Hannon moved, Council Member Bucci seconded to by resolution, amend the Master Fee Schedule for Fiscal Year 2016-2017. The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Council Member Collazo moved, Council Member Bucci seconded, to approve Consent Calendar Items F.1 through F.12, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 5 AYES.

CONSENT

- F.1 Approval of events within the public right-of-way, authorization to issue an Encroachment Permit to the Portuguese Fraternal Society of America Council No. 16 (Holy Ghost Festival Committee), and provision of traffic control for the annual Holy Ghost Festival on July 23 and 24, 2016.**
MOTION APPROVED
- F.2 Authorization for the City Manager to sign a Lease Agreement with Child, Family, and Community Services, Inc. for use of the Jerry Raber Newark Ash Street Park Building #2 for the Head Start Preschool Program.**
RESOLUTION NO. 10523
CONTRACT NO. 16027
- F.3 Authorization for the Mayor to sign a Lease Agreement with Viola Blythe Community Service Center of Newark, Inc. for use of the Jerry Raber Ash Street Park Building #1 for a food and clothing distribution center.**
RESOLUTION NO. 10524
CONTRACT NO. 16028
- F.4 Approval of plans and specifications, acceptance of bid and award of contract to G. Bortolotto & Company, Inc. for 2016 Asphalt Concrete Street Overlay Program, Project 1116.**
MOTION APPROVED
RESOLUTION NO. 10525
CONTRACT NO. 16029
- F.5 Acceptance of work with R&R Pacific Construction, Inc. for the Service Center Concrete Pad Repair, Project 1125.**
RESOLUTION NO. 10526
- F.6 Approval of Investment Policy.**
RESOLUTION NO. 10527
- F.7 Establishment of the Fiscal Year 2016-2017 Appropriations Limit.**
RESOLUTION NO. 10528

- F.8 Authorization for the City Manager to sign Task Order No. 12 to the Joint Powers Agreement with the City of Fremont for Case Management services.**
RESOLUTION NO. 10529
CONTRACT NO. 09044
- F.9 Authorization for the City Manager to sign Task Order No. 11 to the Joint Powers Agreement with the City of Fremont for Paratransit Services.**
RESOLUTION NO. 10530
CONTRACT NO. 09044
- F.10 Authorization for the City Manager to sign an agreement with Vision Technology Solutions, LLC (dba Vision Internet) to provide website development, hosting, support and maintenance services.**
RESOLUTION NO. 10531
CONTRACT NO. 16030
- F.11 Authorization for the Mayor to sign a License Agreement between NewPark Mall and the City of Newark for a static display and temporary office.**
RESOLUTION NO. 10532
CONTRACT NO. 16031
- F.12 Amendment of the 2014-2016 Biennial Budget and Capital Improvement Plan for Fiscal Year 2015-2016 for General Revisions.**
RESOLUTION NO. 10533

NONCONSENT

- F.13 Acceptance of the Civic Center Replacement/Relocation Feasibility Study Final Report.**
MOTION APPROVED

Assistant City Manager Grindall recommended that the City Council accept the final report.

Dawn Merkes, Group 4 Architecture gave a presentation (on file with the City Clerk) on the history of the study and the steps that have taken place over the past year. She noted that the police facility is not built to essential facility requirements. None of the facilities are fully accessible. All of the facilities are too small and would require major renovations to be functional. She reviewed the space needs and the preferred site option at the existing civic center site. The total project cost was estimated at \$64,000,000.

Sarah Hollenbeck of Public Financial Management stated that funding options considered for the project included: general obligation bonds, community facilities district special tax bonds, transient occupancy tax increase and a local sales tax

increase. She recommended a one-half cent sales tax increase or a general obligation bond of approximately \$59 per \$100,000 of assessed valuation. Either option would be in place for 25 years.

The City Council discussed the various funding options.

Angela Akridge requested an explanation of the \$8.4 million difference in cost if the City phased in the projects in over 5 years. She stated that if there was a surplus in future City Budgets, then the City Council should commit to using surplus to pay down the debt.

Margaret Lewis requested an explanation of the safety of the library and the community center. She stated that she was concerned about a decrease in sales tax in Newark. She thought that the anchor stores at NewPark Mall were performing poorly and that would dissuade new businesses at that location.

Ms. Merkes stated that the library and community center are single story buildings. Multi story buildings perform worse in terms of life safety. She stated that the cost increase for phasing the project was due to escalation.

Council Member Hannon moved, Council Member Collazo seconded to by motion, accept the Civic Center Feasibility Study Final Report. The motion passed, 5 AYES.

F.14 Presentation by Godbe Research on the results of public opinion sampling and evaluation of possible public support for a revenue measure for construction of a new library, police operations facility, City administrative offices, and enhancing other City facilities and services

MOTION APPROVED

City Manager Becker stated that Godbe Research performed a public opinion sampling and evaluation of public support for a revenue measure.

Bryan Godbe, Godbe Research presented the results of the Community Priorities Survey (on file with the City Clerk). The survey indicated that there was support for a general purpose sales tax measure on the November ballot.

No one came forward to speak

Vice Mayor Freitas moved, Council Member Collazo seconded to by motion, accept the results of the public opinion polling and provide direction to staff regarding placing a measure on the November 8, 2016 ballot to fund a new library, police operations facility, City administrative offices, and enhance other City facilities and services. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

Council Member Hannon wished his wife a happy anniversary.

Council Member Collazo stated that Music at the Grove starts tomorrow night with Big Bang Beat at 6:30 p.m. . The Mariachi Festival will be held on Sunday, July 17, beginning at 2 p.m. at Shirley Sisk Grove.

Council Member Bucci wished everyone a Happy Fourth of July.

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

K. ORAL COMMUNICATIONS

Angela Akridge stated that she would like to explore forming a citywide landscape and lighting district. She mentioned that the city of Fremont has a spending floor for parks and she would like Newark to look into something similar. She stated that the Newark Parks Foundation is trying to find money for parks and are looking into user fees.

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of June 23, 2016. MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 108033 to 108118

Council Member Fretias moved, Council Member Bucci seconded, to approve the Register of Audited Demands. The motion passed, 5 AYES.

M. CLOSED SESSION

N. ADJOURNMENT

At 9:18 p.m. Mayor Nagy adjourned the City Council meeting.

C.1 Introduction of employees.

Background/Discussion – Newly hired Senior Accountant Michael Djurovic, Associate Planner Sofia Mangalam, and Equipment Mechanic I Lorenzo Houle will be introduced at the City Council meeting.

C.2 Proclamation for the Portuguese Fraternal Society of America Council No. 16 Holy Ghost Festival and 94th Anniversary. (PROCLAMATION)

Background/Discussion – The Portuguese Fraternal Society of America Council 16 will celebrate the annual Holy Ghost Festival on July 23-24, 2016. This will also be a celebration of the Society's 94th Anniversary in the City of Newark. Council President Maria Fatima Silva and officers of the Society will be at the City Council to accept the proclamation.

C.3 Presentation of the 2016 Agency Award of Excellence for Innovation from the Northern California Chapter of the International Personnel Management Association (NCCIPMA) for the City to City Wellness Challenge. (PRESENTATION)

Background/Discussion – In 2015, the League of California cities, through a competitive process, selected five cities throughout the state for workforce health program grants. Newark and Fremont were each awarded one of the \$5,000 wellness program grants. As neighboring cities and grant recipients, Newark and Fremont partnered to launch a wellness initiative that involved an 8 week team based wellness competition between both cities.

Digital platforms enabled employees to log and record their daily physical health activities online or using a mobile app. Employees were encouraged to exercise a minimum of 30 minutes each day at least five times per week.

The City to City wellness challenge was fun, successful, and beneficial. Nearly 50% of the Newark's workforce participated, and 90% of participating employees were satisfied with the program and would participate again. 51% reported an increase in energy, 62% increased their activity, and 36% lost weight.

In 2016, the Northern California Chapter of the International Personnel Management Association awarded both the Cities of Fremont and Newark with an Agency Award of Excellence for this innovative wellness competition and program.

Christopher Boucher, Vice President NCCIPMA and Port of Oakland Director of Human Resources, will be at the meeting to present the award.

F.1 Approval of plans and specifications, acceptance of bid and award of contract to Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117 – from Associate Civil Engineer Tran. (MOTION)(RESOLUTION)

Background/Discussion – This project scope of work includes an application of sand, aggregate, and asphalt emulsion mixture and pavement re-striping on various City streets.

Bids for the project were opened on June 28, 2016 with the following results:

Bidder	Amount
Bond Blacktop, Inc.	\$ 212,596.10
American Asphalt Repair and Resurfacing Company, Inc.	225,701.30
Pavement Coatings Company	245,270.00
VSS International, Inc.	247,767.05
Graham Contractors, Inc.	249,336.50
California Pavement Company, Inc.	251,278.20
Sierra Nevada Construction, Inc.	272,007.00
Engineer's Estimate	\$ 216,000.00

The 2014-2016 Biennial Budget includes funding for this project in Fiscal Year 2015-2016. The streets maintenance portion of this project will be funded through Alameda County Measure B/BB Sales Tax funds, Vehicle Registration Fee funds, and the Traffic Congestion Relief Fund.

Staff recommends that this project be awarded to the lowest responsible bidder, Bond Blacktop, Inc.

Attachment

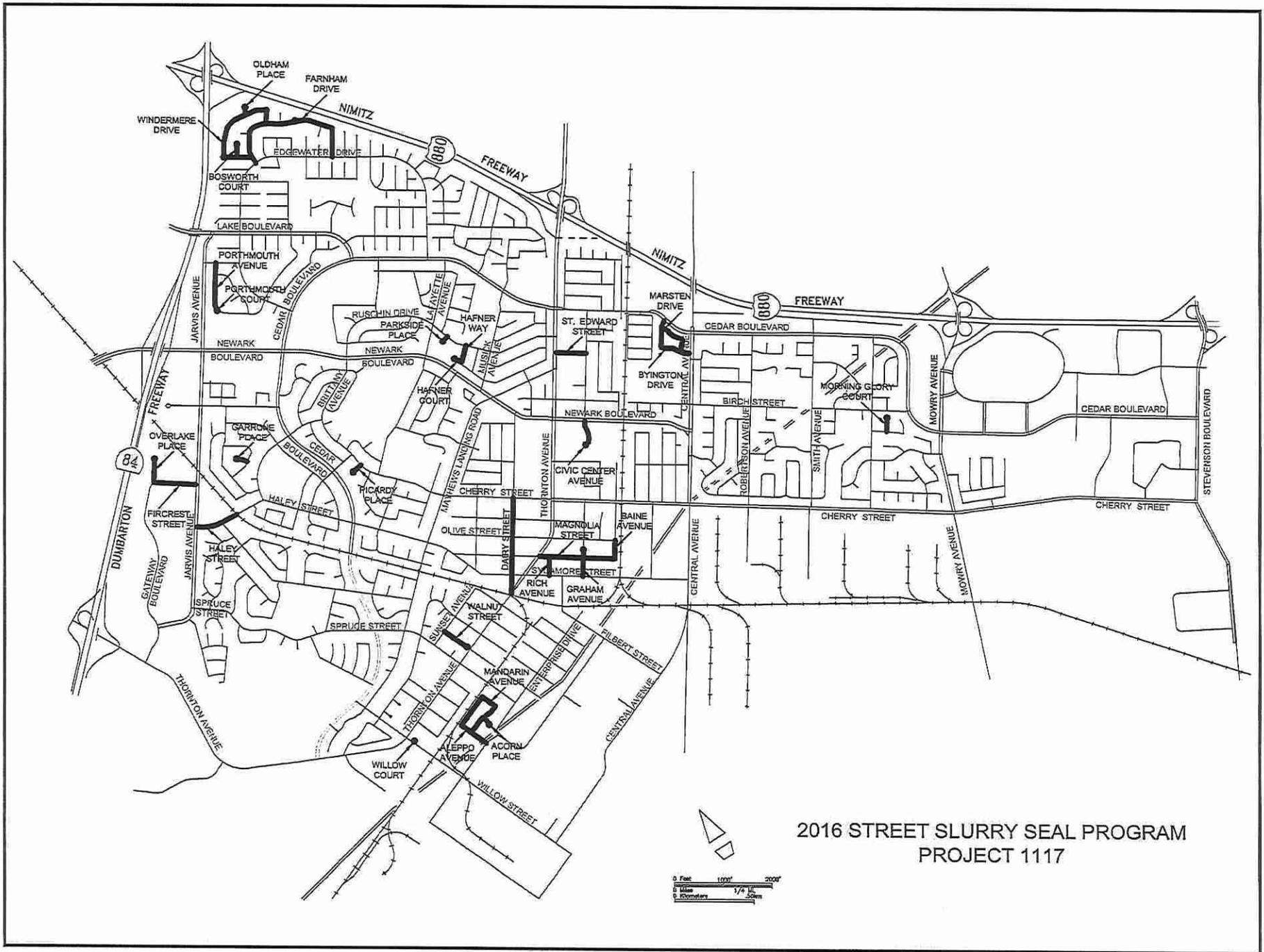
Action – It is recommended that the City Council, by motion, approve the plans and specifications and by resolution, accept the bid and award the contract to Bond Blacktop, Inc. for 2016 Street Slurry Seal Program, Project 1117.

RESOLUTION NO.

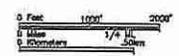
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ACCEPTING THE BID AND AWARDING THE
CONTRACT TO BOND BLACKTOP, INC. FOR 2016 STREET
SLURRY SEAL PROGRAM, PROJECT 1117

BE IT RESOLVED that the City Council of the City of Newark does hereby find that Bond Blacktop, Inc. was the lowest responsible bidder for 2016 Street Slurry Seal Program, Project 1117, in the City of Newark;

BE IT FURTHER RESOLVED that the City Council does hereby accept said bid of said company and does hereby authorize the Mayor of the City of Newark to sign an agreement with said company for the construction of 2016 Street Slurry Seal Program, Project 1117, according to the plans, specifications, and terms of said bid.



2016 STREET SLURRY SEAL PROGRAM
PROJECT 1117



F.2 Authorization for the City Manager to sign a Memorandum of Understanding and a Framework Agreement with Pacific Gas & Electric Company regarding implementation of the Community Pipeline Safety Initiative in the City of Newark - from City Manager Becker. (MOTION)

Background/Discussion – Pacific Gas & Electric Company (PG&E) is pursuing a project that it calls the “Community Pipeline Safety Initiative”. This project involves the removal of certain trees, vegetation, and structures that are located in close proximity to PG&E’s high pressure gas transmission pipelines. PG&E’s stated goal for this statewide project is to improve gas pipeline safety and reliability for their customers and the community.

During the March 10, 2016 City Council meeting, PG&E representatives presented the Council with an overview of the Pipeline Safety Initiative. After the presentation, the City Council asked a number of questions and requested additional information regarding various aspects of the project including: private property assessment and remediation processes; the location and size of gas pipelines within the City; the location and status of automatic shut-off valves; maintenance and inspection processes, and community outreach efforts. PG&E agreed to respond to the Council’s questions in a timely manner. In addition, the Council directed staff to work with PG&E to develop an agreement that would codify the party’s obligations with regard to tree and vegetation removals within the public right-of-way.

On April 15, PG&E sent a letter to the City Manager providing the information that the Council requested. The letter also expressed PG&E’s commitment to work with the City to reach an agreement that would guide the implementation of the Pipeline Safety Initiative in Newark and be respectful of the City’s policies and goals. The letter is attached to this report.

City staff and PG&E and have reached agreement on a Memorandum of Understanding (MOU) that addresses the issues identified above. This MOU is similar to agreements that PG&E has executed with other communities in their service area. It includes provisions that would require PG&E to follow City ordinances with regard to tree removals, obtain encroachment permits, perform mitigation measures, provide community notification of work to be performed, and reimburse the City for staff time related to this project. It also includes a provision that requires private property owner agreement prior to any removal of trees, structures, or other items within their easement. This would include restoration as well as any compensation to be provided to the property owner.

The PG&E/Agency Framework Agreement that is referenced and attached to the MOU was negotiated in 2014 between PG&E and representatives from cities in Alameda and Contra Costa County. It will serve as a supplement to the proposed MOU and will provide additional guidance for the implementation of the “Pipeline Safety Initiative”. Both agreements have been reviewed and approved by the City Attorney.

Staff and PG&E estimate that there are approximately 305 City-owned trees located in close proximity to PG&E's pipeline. Of these 305 trees, PG&E has identified 31 that are proposed for removal. Staff will work with PG&E under the provisions of the Agreement to determine appropriate tree removals, replacements, and financial compensation.

PG&E plans to do extensive outreach to property owners prior to initiating any pipeline safety work. PG&E will provide written notification to all customers within 500 feet of proposed gas pipeline safety work and more specific information to customers within 50 feet of proposed work areas. PG&E has already initiated outreach at community meetings with the Lake and Rosemont Homeowners Association and the Newark Unified School District

Attachments

Action - It is recommended that the City Council, by motion, authorize the City Manager to sign a Memorandum of Understanding and a Framework Agreement with Pacific Gas & Electric Company regarding implementation of the Community Pipeline Safety Initiative in the City of Newark.

**MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF NEWARK ("CITY")
AND
PACIFIC GAS AND ELECTRIC COMPANY (PG&E)**

This MEMORANDUM OF UNDERSTANDING is hereby made and entered into by and between Pacific Gas and Electric Company ("PG&E") and the City of Newark ("City") regarding implementation of the Community Pipeline Safety Initiative in the City of Newark. It is hereby agreed to as follows:

Purpose

The purpose of this MOU is to supplement the PG&E/Agency framework Agreement that is attached to this MOU. Together, the Framework Agreement and MOU will serve as a guide for implementation of the Community Pipeline Safety Initiative in the City of Newark.

City-Owned Trees

- PG&E will continue to meet regularly with the City to discuss the proposed safety work and share relevant information. This will include undertaking a joint field review to confirm the location of City-owned structures, trees and shrubs near the gas transmission pipeline, review the potential safety risks, and determine a path forward.
- PG&E will provide to the City an electronic mapping file with information on the City-owned trees located near the gas transmission pipeline, including diameter at breast height (DBH), species, distance from the pipe, and other relevant information.
- PG&E agrees to provide the City with additional data and/or information related to City-owned trees, as may be reasonably requested by the City, provided the requested information is not confidential or otherwise protected for natural security reasons consistent with federal laws.
- PG&E will provide the City with a list of all trees owned or maintained by the City that pose a safety concern and are proposed for removal as part of this gas safety work. PG&E and the City will reach a written agreement regarding the City-owned trees that will be removed prior to any work taking place.
- PG&E will work with the City to agree in writing as to the tree replacements and/or other mitigation, including financial compensation, that the City will receive for any City-owned trees that are removed for safety reasons. For any tree replacements, the City may select the species, as available, as well as the planting locations, in accordance with safe landscaping guidelines.
- PG&E will obtain any needed encroachment permits associated with this gas safety work, and will work with the City to develop a plan that meets the objectives of the local tree ordinance and other relevant City codes or provisions, as applicable.
- PG&E will conduct an environmental review of each project site prior to any work taking place. During the nesting bird season (from mid-February to August), PG&E performs bird surveys for all projects, and will postpone work if an active nest is identified.

Private Property Safety Assessment

- As part of the Community Pipeline Safety Initiative, PG&E will be meeting with private property owners to review trees on their property and reach an agreement on planned safety work. PG&E will provide regular updates to the City on the number of private property trees proposed for removal and/or replacement.

- Should any structures improperly located in a PG&E easement need to be relocated, demolished, or altered, PG&E shall work with the property owner in obtaining any needed construction related permits issued by the City's Building Inspection Division.
- PG&E will enter into a written, signed agreement with the property owner that addresses all work planned for their property, including removal and restoration, as well as if a replacement tree or equivalent payment will be provided to the property owner.

Community Outreach

- PG&E will provide written notification to all customers within 500 feet of the gas transmission pipeline and within 50 feet of proposed work areas, at least 2 weeks in advance of any gas safety work taking place.
- PG&E will conduct outreach at community meetings, such as the Lake and Rosemont Association and the Newark Unified School District. PG&E will have appropriate and qualified subject matter experts, such as arborists and gas transmission line technical experts, as available, to address the public and answer their questions. The goal of these meetings is to ensure that community members are informed of PG&E's ongoing gas safety efforts, including the Community Pipeline Safety Initiative, and have the opportunity to provide feedback and have any questions answered.

Ongoing Monitoring

- All trees were analyzed based on their anticipated size at full maturity. However, going forward, PG&E will continue to monitor the area above the pipeline to ensure it remains safe and clear for first responders and critical maintenance work. This includes monitoring any trees left in place as part of this program during our regular pipeline inspections and patrols. Should any tree develop into a safety concern in the future, PG&E would work with the property owner or City to address it at that time.

"CITY"
CITY OF NEWARK

By: _____
Printed Name: _____
Its: _____
Date: _____

"PG&E"
PACIFIC GAS & ELECTRIC COMPANY

By: Angus Coyle
Printed Name: ANGUS COYLE
Its: PROGRAM DIRECTOR
Date: JUNE 14, 2016

PG&E/Agency Framework

- I. On May 1, 2014 representatives from PG&E met with City/County Managers and Administrators representing public agencies in Contra Costa and Alameda Counties to continue dialogue around PG&E's implementation of their Pipeline Pathways Project (PPP).
- II. PG&E and public agencies in attendance discussed the importance of moving forward on the PPP through a collaborative process that addresses community needs and expectations including: 1) the need to maintain and promote gas pipeline integrity and safety; and 2) the importance of trees and landscaping to overall community character and aesthetics, visual buffering, etc.
- III. PG&E and public agencies share a genuine commitment to ensure the safety of communities, and agree to work cooperatively to eliminate or mitigate the threat to PG&E's pipelines posed by certain trees and structures on PG&E's pipeline rights-of-way.
- IV. Agencies support an overall pipeline integrity safety plan that includes the need to clearly mark or delineate the location of existing pipelines, ongoing monitoring and inspection of pipelines, selective vegetation management within PG&E pipeline easements, addressing the existence of incompatible structures within PG&E pipeline easements, and the need to work with agencies to ensure that future local planning and development activities and entitlements are consistent with the goal of maintaining pipeline safety.
- V. PG&E has committed to not remove any trees on public or private property, without first having an agreement in place with individual communities about a path forward.
- VI. From an agency perspective, PG&E's gas pipeline network has safely co-existed with trees and vegetation over several decades. Agencies are interested in ensuring a deliberate and transparent review process, which considers all mitigation options available moving forward.
- VII. Prior to moving forward with vegetation management activities under the PPP, PG&E agrees to work with the local agencies, including doing the following:
 1. Per an agency's request, re-evaluate all trees already submitted to agencies as trees PG&E desires to remove with a goal of reducing the number of trees proposed for removal.

2. For those agencies that PG&E has yet to submit tree removal information, propose removal of only those trees that PG&E has data to support PG&E's safety concerns, with the goal of reducing the number of trees proposed for removal.

3. Comply with local ministerial encroachment permit procedures and requirements related to removing or trimming any trees within the public right-of-way, including any publicly owned trees.

4. Working with local agencies, identify any trees proposed for removal that would be protected by local agency tree preservation ordinances.

5. Once the parties agree on the removal of the protected tree identified under section VII.4, mitigate that tree in a manner mutually agreed upon by the parties.

6. Comply with applicable environmental standards related to raptor nesting season, unique or endangered habitats, etc.

7. Pay necessary and reasonable costs and fees associated with agency evaluation of work proposed to be performed as part of the PPP. This includes reimbursement costs required for city/town/county retention of third party arborists, and/or other consultant or staff time as agreed by PG&E and the local agency.

8. Evaluate potential mitigation measures, including but not limited to:
 - a. Specific risk assessment on a tree by tree basis;

 - b. Regular, ongoing monitoring and inspection of pipelines, including possible use of subsurface radar to determine whether, and the extent to which tree roots have grown into contact with pipelines;

 - c. Root barriers to protect pipeline coating;

 - d. Tree removal and/or trimming. In the event that it is necessary to undertake tree removal and/or trimming, mitigation measures will be identified, evaluated and implemented by PG&E, as appropriate;

e. Potential pipeline retrofitting to accommodate in-line inspections or other inspection technology.

VIII. In order to facilitate agency evaluation and understanding of the proposed PPP work, PG&E will submit the following information:

1. Mapping and/or data showing:
 - a. trunk diameter, species and location of landscaping proposed to be affected by PPP;
 - b. all trees that would be covered by local tree preservation ordinances;
 - c. location of the pipeline within any public right of way or PG&E easement;
 - d. location of the pipeline in proximity to private property lines and structures;
 - e. depth of the pipeline in areas where trees are proposed to be removed or trimmed;
 - f. location of certain non-compatible structures to be removed or relocated, excluding any private customer information.
2. Reports or surveys prepared by or for PG&E addressing the condition and health of trees proposed to be removed or trimmed.
3. Information about the safety risk associated with the trees proposed to be removed or trimmed.
4. Other information and/or data as may be requested by the agency.

5. Nothing in this Agreement shall require PG&E to disclose any confidential or otherwise protected information, including private customer-specific data

IX. PG&E and agency will undertake joint field review to verify the location of: affected pipelines, structures proximate to the pipelines; trees and shrubs potentially affected as well as the health and condition of same. Following the receipt of additional information and completing a field review, the agency will provide written feedback within a timeframe to be determined between PG&E and each local agency.

X. Prior to performing public outreach, PG&E will work with agency to identify appropriate community outreach activities to be undertaken to ensure that community members are informed of the project, and have the opportunity to provide feedback, receive answers to questions, etc.

XI. If any tree or structure poses an imminent threat to the safe operation of PG&E's gas pipelines, PG&E will provide notice to the agency at least twenty-four hours prior to the start of its work removing such tree or structure. As part of that notice, PG&E will provide the agency with its documentation of the imminent threat. If immediate tree or structure removal is required, PG&E shall provide such notice and documentation immediately after the removal is completed.

XII. Nothing in this framework is intended to change the existing rights and duties of any of the parties, including with respect to the applicability of local ordinances or the jurisdiction of the California Public Utilities Commission.

"City"
City of Newark

By: _____

Printed Name: _____

Its: _____

Date: _____

"PG&E"
Pacific Gas and Electric Company

By: Angus Coyle

Printed Name: ANGUS COYLE

Its: PROGRAM DIRECTOR

Date: 6/28/16



Pacific Gas and Electric Company
1330 Broadway
Oakland, CA 94612

April 15, 2016

John Becker, City Manager
37101 Newark Boulevard
Newark, CA 94560

Re: Information requested regarding community gas safety work

Dear Mr. Becker:

On behalf of Pacific Gas and Electric Company (PG&E), thank you again for your ongoing participation in discussions regarding PG&E's Community Pipeline Safety Initiative. This important gas safety program will help improve emergency access and prevent damage to the natural gas transmission pipelines serving the Newark community. We very much appreciate your partnership and shared commitment to public safety.

The purpose of this letter is to provide information requested by city staff and the Newark City Council at its March 10 meeting, specifically:

- 1) Information on the natural gas transmission pipelines in the City of Newark, including a map of general pipeline locations;
- 2) Information on PG&E's tree-by-tree safety review and proposed private property work;
- 3) Details on broader community outreach efforts; and
- 4) Next steps with the City and private property owners.

Gas Transmission Pipelines in the City of Newark

PG&E has approximately 9.5 miles of transmission pipeline in the City of Newark. PG&E maintains two natural gas transmission pipelines in Newark: Line 105N and Line 153. These lines run through Newark in a northwesterly direction. Line 105N was installed between 1966 and 2012 (the majority of which took place in the 1980s) and consists of 24-inch and 30-inch diameter pipe. It was strength tested between 1980 and 2012. The majority of Line 153 was installed in 1949, with smaller sections installed between 1957 and 2005 and consists of 30-inch and 34-inch diameter pipe. The majority of Line 153 was strength tested between 1978 and 2005. The untested portion of Line 153 is currently scheduled for replacement in the Summer or Fall of 2016. The new pipe will be strength tested at the time of installation.

Additional natural gas transmission pipelines with a maximum allowable operating pressure (MAOP) greater than 60 pounds per square inch gage (psig) within the city of Newark include: Distribution Feeder Main (DFM) 2403-12, DFM 2404-01, DF3286, X6379, DREG4868, and DREG4281.

Per the City's request, attached please find a map of PG&E gas transmission pipelines in the City of Newark for the City's reference. A map of PG&E's gas transmission pipeline locations is also available at pge.com/pipelinelocations. Please enter, "Newark, CA" into the "Enter Address" field and then zoom in or out to see specific locations in Newark.

Please note that PG&E limits certain gas pipeline information from public disclosure for natural security reasons consistent with federal laws that protect this type of information. PG&E does make detailed maps of its gas facilities available to local agencies that have emergency response responsibilities, such as fire and police departments, through an online portal. Once registered, a first responder would have access to local gas transmission pipeline information (e.g., location of line segment, valve location, maximum operating pressure, line size, line type). PG&E also makes its pipeline-related records available for inspection at all times by the California Public Utilities Commission.

Safety and Condition of Gas Pipelines

Regarding your question about the frequency of our maintenance and inspections, PG&E has a comprehensive inspection and monitoring program to ensure the safety of its natural gas transmission pipeline system. PG&E regularly conducts patrols, leak surveys, and cathodic protection (corrosion protection) system inspections for its natural gas pipelines. Any issues identified as a threat to public safety are addressed immediately. PG&E also performs integrity assessments of certain gas transmission pipelines in urban and suburban areas.

- **Patrols:** PG&E patrols its gas transmission pipelines at least monthly, which exceeds federal regulations, to look for indications of construction activity and other factors affecting pipeline safety and operation.
- **Leak Surveys:** PG&E conducts leak surveys of its natural gas transmission pipelines at least annually. Leak surveys are generally conducted by a leak surveyor walking above the pipeline with leak detection instruments. Leak surveys may also be conducted aerially and followed-up with a ground leak survey if there is a leak indication identified during the aerial survey. **Line 105N and Line 153 in Newark were last leak surveyed in October 2015 and no leaks were found.**

In addition, PG&E conducts leak surveys of its distribution pipelines at least every five years, and every year in highly populated areas (such as schools and business districts). During its 2015 distribution pipeline leak surveys, PG&E found 114 natural gas leaks in the City of Newark using Picarro technology. Of the 114 leaks found, 105 were repaired and nine are being monitored. These nine non-hazardous leaks pose no immediate safety risk.

- **Cathodic Protection (corrosion protection) System Inspections:** PG&E utilizes an active cathodic protection system on its gas transmission and steel distribution pipelines to protect them against corrosion. PG&E inspects these systems every two months to ensure they are operating correctly.
- **Integrity Assessments:** PG&E incorporates three federally-approved methods in its Transmission Integrity Management Program: In-Line Inspections (ILI), Direct Assessment (DA) and Pressure Testing.
 - An In-Line Inspection involves a tool (commonly known as a "pig") being inserted into the pipeline to identify any areas of concern such as potential metal loss (corrosion) or geometric abnormalities (dents) in the pipeline.
 - Direct Assessment may involve any of three separate processes to assess for the presence of External Corrosion (EC), Internal Corrosion (IC) and Stress Corrosion Cracking (SCC), depending on the specific threat(s) identified. During ECDA, ICDA or SCCDA, the pipe is excavated in order to perform direct examination of the pipe in identified areas of concern.
 - Pressure testing is a strength test normally conducted using water, which is also referred to as a hydrostatic test.

PG&E performs pipeline integrity assessments on its sections of transmission pipeline in high consequence areas (HCAs) at least every seven years. The maximum allowable reassessment interval for integrity assessments are summarized in the Code of Federal Regulations (CFR) (see 49 CFR Part 192, Subpart O).

Pipeline Valve Information

There are two types of automated shut-off valves recognized within the natural gas industry: Remote Controlled Valves (RCVs), which can be operated remotely from PG&E's Gas Control Center, and Automatic Shutoff Valves (ASVs) that will close automatically as a result of rapidly falling pipeline pressures and/or increased flows at the valve location, or can be operated remotely. PG&E's gas

transmission valve automation program uses RCV technology and control almost exclusively, with a few exceptions. For example, PG&E would install ASVs (rather than RCVs) where large diameter (typically over 20 inches in diameter) high pressure (greater than 200 psig) pipelines located within urban areas cross major active faults, such as the San Andreas, Hayward, and Calaveras faults.

There is currently one automated valve within the City of Newark, on Line 105N near the intersection of Central Avenue and Cedar Boulevard. There is also one automated valve installation planned on Line 153 near I-880 and Thornton Avenue.

Ongoing and Planned Gas Safety Projects in Newark

In addition to the proposed Community Pipeline Safety work, PG&E has several planned gas transmission projects in the City of Newark to ensure the continued delivery of safe and reliable gas to the local community. These include pipeline strength testing (hydrotest), in-line inspections, pipeline replacement, valve automation, valve repair/replacement, gas filter replacement, and removal of the portion of PG&E natural gas transmission pipeline Line 153 crossing over Interstate-880 (PG&E plans to reroute the pipeline under the highway).

Community Pipeline Safety Initiative

Private Property Safety Assessment

We understand how important trees are to our customers, our communities and the environment. That's why the Community Pipeline Safety Initiative includes an in-depth review of trees located within 14 feet of a gas transmission pipeline to determine if it needs to be replaced for safety reasons, or if it can potentially remain in place with ongoing monitoring. The tree-by-tree review includes analyzing important site-specific data, such as the tree species, its distance from the pipe, the depth of cover above the pipeline, and the tree's expected size at maturity. While the potential for tree roots to interact with the underground pipe is one factor of the review, we are also assessing whether the tree could delay safety crews from quickly accessing the pipeline in an emergency.

Based on our review, we have identified 73 private properties with a total of approximately 760 trees in the City of Newark that need to be reviewed as part of this program. Please note that we are continuing to collect data on a few properties where we did not have access when the original inventory work took place in Fall 2015, so these numbers may change slightly. We will provide updated data to the City once it is available.

Once we have the City's concurrence, we will begin reaching out to the property owners to schedule time to meet and discuss the proposed safety work. At the initial meeting, we will confirm the distance from the tree to pipe and other property-specific information, share what we know about the safety risks, and work together on a joint path forward for the work.

For trees located in the pipe safety zone (zero to 5 feet from the pipe), PG&E will:

- Work together with the property owner
- Gather the distance from edge of pipe to edge of tree, including tree size at maturity
- If it is determined that a tree is located in the pipe safety zone, we will offer the property owner a replacement tree to be planted a safe distance from the pipe

Trees located in the border zone (5.1 to 14 feet on either side of the pipe) may be far enough away that they can remain in place for the time being with regular monitoring. Trees left in place will be monitored on at least an annual basis, as part of our regular pipeline inspections and patrols, to be sure they do not develop into a safety concern. Should one of these trees develop into a safety concern or reach the end of its lifecycle, we will work with the city or the property owner to address it at that time.

Once we have met with the property owners, we would be pleased to meet with the City to discuss the results of the private property safety assessment and discuss next steps.

We also work with property owners to review any structure that is located near the pipeline and could pose an emergency access or safety concern. In general, structures located within the pipeline easement will need to be relocated to a safe location away from the pipe. We offer many different options and solutions, and we work with the customer to determine the best path forward for their property. As with trees, PG&E will continue to monitor the area above the pipeline as part of our regular pipeline inspections and patrols to be sure the easements remain safe and clear.

It is very important to us that our customers understand and support this safety work. **We will not move forward with any planned structure or vegetation work until we have a signed agreement in place with the property owner.** We understand some customers will need more time to explore the options available to them; PG&E will continue to reach out to customers to understand their concerns and find a comfortable path forward.

Broader Community Outreach

In addition to working directly with private property owners, we have a robust community outreach program to ensure that the surrounding community is informed before any work takes place. A sample outreach plan, including examples of our communication materials, is enclosed for your reference. At the City's request, we met with the Lake and Rosemont Association on April 5. We will also be meeting with the Newark Unified School District on April 19 to discuss the proposed work and gather feedback.

Next Steps

As we have with other cities throughout the East Bay and similar to our work with the City of Palo Alto, we will work with the City to develop a framework that guides implementation of the Community Pipeline Safety program in the Newark community and is respectful of the City's policies and goals, including the local tree ordinance. Once the framework is in place and the City is comfortable with us moving forward, we will begin reaching out to private property owners and conducting additional community outreach as appropriate.

Thank you again, for the opportunity to present this important gas safety program at the City of Newark City Council on March 10. We would be pleased to meet again with the City and return to Council to discuss our responses and answer any additional questions you may have.

In the meantime, please do not hesitate to call me directly at the number below. You can also learn more about PG&E's safety projects at pge.com/GasSafety.

Sincerely,



Government Relations Representative
Pacific Gas and Electric Company
Office: 510-874-2244
Email: treva.reid@pge.com

F.3 Adoption of a resolution placing a local one-half cent sales tax increase on the November 8, 2016 Election Ballot for voter consideration and related election procedures and consideration of the Ballot Measure language and participation in Ballot Arguments – from City Manager Becker. (RESOLUTION)

Background/Discussion – On May 28, 2015, the City Council approved a contract with Group 4 Architecture to study the potential replacement of the library building, police operations facility, Council chambers, and City administrative offices. This study analyzed and documented: a program of uses; a space needs assessment both existing and future; an alternative site analysis process and the identification of a preferred site; a conceptual Civic Center site plan; building massing diagrams and strategies; a project cost model and schedule, and an assessment of funding sources and financing options. Public and stakeholder input was a key part of the study process. There were two community meetings and numerous stakeholder interviews. The effort also included three City Council work sessions with significant public comment.

On June 23, 2016, Group 4 Architecture presented their final report of the Civic Center Feasibility Study to the City Council. The study recommends the replacement of the police operations facility; City administration building, and library building on the existing site. In order to meet existing and future space needs and to enable modern efficient operations, the study recommends that the buildings should be sized at 24,250 square feet for the Police Department, 23,000 square feet for the City Administration Building, and 26,000 square feet for the Library Building.

The Study also recommends that the co-location of the Newark Unified School District (NUSD) Administrative Offices should be considered in the future detailed design process. Group 4 Architecture, in consultation with NUSD, determined that 13,350 square feet of space would be needed. The District's dedicated space would be paid for and owned by NUSD and allow for shared use of Council/Board chambers, and meeting/training facilities.

The Study estimates that the total cost for the construction of these facilities (excluding the NUSD Administration Offices) will be \$64 million dollars. The consultant evaluated a number of potential funding sources for the construction of the facilities including issuing a General Obligation Bond, issuing a Special Tax Bond, a Transient Occupancy Tax increase, and a one-half cent sales tax increase. The consultant concluded that a one-half cent local sales tax or a General Obligation Bond could raise the necessary funding for the construction of the facilities.

The Study recommends that the City proceed with detailed planning for a new Civic Center that can provide seismically safe, energy efficient, accessible, and cost-effective facilities to provide the citizens of Newark with needed public safety, administrative, cultural and educational services. After Council discussion and public comment, the Council voted unanimously to accept the Newark Civic Center Feasibility Study Final Report.

In conjunction with the Civic Center Feasibility Study, on April 28, 2016, the City Council directed staff to facilitate a public opinion poll to evaluate possible public support for a revenue measure to support construction of a new library building, police operations facility, and City administrative offices. The Council directed staff to focus the polling revenue options on a local sales tax increase or a general obligation bond.

On May 3, 2016, the City Manager signed an agreement with Godbe Research for consultant services for public opinion sampling and evaluation. Godbe Research completed their work and presented the survey results to the City Council during the June 23, 2016 City Council meeting. In summary, the results indicated considerable support for a sales tax increase to support the construction of a new library building, police operations facility, and City administrative offices. This support was tied to improved public safety services and enhanced library services for all age groups. The results also indicated that a significant majority of those polled had a favorable opinion of the job the City of Newark is doing in providing City services and in managing and spending taxpayer dollars. Majority support for a General Obligation Bond was not indicated in the polling results.

At the end of the presentation, the City Council accepted the results of the public opinion polling and directed staff to return at a future City Council meeting with the necessary actions to place a measure on the November 8, 2016 ballot to allow voters to consider a local one-half cent sales tax increase.

Election Actions

In order to place a proposed local sales tax increase ordinance on the ballot for the November 8, 2016 election, there are five matters that require Council direction. First, Council needs to approve the language for the ballot question. Second, Council needs to consider a resolution requesting the services of the Registrar of Voters of Alameda County to place the local sales tax ordinance on the November 8, 2016, ballot. Third, Council needs to direct the City Attorney to submit an impartial analysis to the City Clerk. Fourth, Council needs to determine the process for submission of an argument in favor of the measure. Fifth, Council needs to determine if rebuttals to arguments will be allowed and determine the process for submission of rebuttal arguments.

Ballot Question

The State Elections Code requires the ballot measure to be printed in the ballot pamphlet in the form of a “yes or no” ballot question of no more than 75 words. The ballot question must include a true and impartial statement of the ballot measure. The ballot question for City Council consideration, which is within the 75-word limit, is as follows:

“To upgrade City of Newark facilities and services, including replacing the seismically unsafe police operations/emergency operations center to survive an earthquake; providing updated crime-fighting technology; replacing aging library/city facilities with buildings meeting safety codes; providing disabled access and senior/teen/children’s programs; and other facilities and services; shall the City of Newark enact a one-half cent sales tax, providing \$3,500,000 annually, for 25 years, with annual audits, independent citizens’ oversight, and all funds spent locally?”

Ballot Impartial Analysis, Arguments, and Rebuttals

The State Elections Code provides for the City Council to direct the City Attorney to prepare an impartial analysis of no more than 500 words, showing the effect of the measure on existing law. This must be submitted to the City Clerk, as the Elections Official, by 4:00 p.m. on Thursday, July 28, 2016.

The State Elections Code allows the City Council to determine whether to author an argument in favor of the ballot measure. Arguments of no more than 300 words each for and against the ballot measure can then be included in the Sample Ballot and Voter Information Pamphlet. The arguments must be submitted to the City Clerk, as the Elections Official, by 4:00 p.m. on Thursday, July 28, 2016.

The State Elections Code also allows the City Council to determine whether to allow rebuttals. Any rebuttals, of no more than 250 words, must be submitted to the City Clerk, as the Elections Official, no later than ten days after arguments are due. The tenth day following the due date for arguments falls on Sunday, August 7 so it rolls over to the next business day of Monday, August 8, 2016 by 4:00 p.m. If there is no argument put forward in opposition to the ballot measure, then there will be no rebuttal.

The arguments can be authored by a maximum of five eligible voters. The code also requires that only one argument for and one argument against each ballot measure will be accepted by the Elections Official, and provides for an orderly process in determining who is eligible to submit a statement. If more than one argument for or more than one argument against the measure is received by the deadline, per the Elections Code, the City Clerk must select only one argument for and one argument against, giving preference and priority in the following order to:

1. The legislative body, or member or members of the legislative body authorized by that body.
2. The individual voter, or bona fide association of citizens, or combination of voters and associations, who are the bona fide sponsors or proponents of the measure.
3. Bona fide associations of citizens.
4. Individual voters who are eligible to vote on the measure.

The City Council has several options regarding the preparation of ballot arguments. In order for the City Council to authorize an argument to be given preference, as identified above, the Council may either: (1) author an argument in favor of the measure as a whole body (subject to

Brown Act considerations) or (2) authorize up to two Council members to author and sign the argument on behalf of the entire City Council. If the second option is chosen the argument could also be signed by community members eligible to vote in the election as long as the total number of signatures does not exceed five. If the Council chooses option (2) the Council will have delegated full authority to the identified Council Member(s) to author the measure and it would not be necessary to return to the whole Council at a special meeting to finalize the language of the argument. Alternatively, the City Council may choose to have other members of the Newark community who are bona fide sponsors or proponents author the argument, in which case the second priority position for acceptance.

Staff recommends repeating the process used for the 2014 election ballot and select the second option and authorize the Mayor to sign the argument on behalf of the City Council along with four other community members of his choosing.

Recommendation

It is recommended the City Council approve the ballot language as presented and place an ordinance on the November 8, 2016 ballot to increase the local sales tax by one-half cent. Based on current sales tax revenue levels, if adopted, this measure will provide approximately \$3.5 million per year in additional sales tax revenue and the sales tax increase would be in place for 25 years.

It is further recommended that the City Attorney be directed to prepare the impartial analysis of the measure; the Mayor be designated to author and sign a ballot argument on behalf of the City Council for the measure along with four other community members who are proponents; rebuttal arguments be allowed; and if there is an argument submitted in opposition to the measure, that the Mayor be authorized to author and sign a rebuttal argument, along with four other community members who are proponents.

Attachment

Action - It is recommended that the City Council, by resolution, take the following actions:

1. Approve the ballot question language.
2. Submit a one-half cent sales tax increase ordinance to the voters at the November 8, 2016 election, identifying the language of the ballot question, requesting the Board of Supervisors of the County of Alameda to authorize the Alameda County Registrar of Voters to place the ordinance on the ballot.
3. Direct the City Attorney to prepare the impartial analysis of the measure.
4. Authorize the Mayor to author and sign, on behalf of the City Council, the ballot argument and include the signatures of four other community members who are proponents of the measure.
5. Allow rebuttal arguments and authorize the Mayor to author and sign, on behalf of the City Council, a rebuttal if an argument in opposition to the ballot measure is submitted

and include the signatures of four other community members who are proponents of the measure.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF NEWARK A CERTAIN MEASURE RELATING TO A PROPOSED ORDINANCE ADDING CHAPTER 3.14 TO THE NEWARK MUNICIPAL CODE IMPOSING A ONE-HALF OF ONE PERCENT (0.5%) TRANSACTIONS AND USE (“SALES”) TAX FOR GENERAL PURPOSES AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AS CALLED BY RESOLUTION NO. 10,506; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; SETTING THE DATES FOR ARGUMENTS ON THE MEASURE; AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ALAMEDA TO CONSOLIDATE SAID ELECTION PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, existing buildings owned by the City of Newark (“City”), specifically the Police station, Library, and City Administration Building (“City owned buildings”), are functionally obsolete, are not energy efficient, are not fully accessible, and are not seismically safe;

WHEREAS, the City owned buildings lack seismic upgrades, which prevent the City owned buildings from being usable after a major earthquake, slowing disaster response to Newark residents;

WHEREAS, the City’s current police station is in need of technological, operational, and energy upgrades to improve response time and crime prevention programs;

WHEREAS, in May, 2015, the City retained the services of Group 4 Architecture to study the potential replacement of the City owned buildings;

WHEREAS, as part of the study, Group 4 Architecture conducted a space needs assessment of City owned buildings, analyzed potential sites for construction of new buildings, and developed a conceptual Civic Center site plan;

WHEREAS, said study recommends the replacement of City owned buildings for a variety of reasons, such as the inability to meet existing and future space needs and to enable modern, efficient operations;

WHEREAS, said study projects that the total cost for construction of the City owned buildings would be sixty-four million dollars (\$64,000,000);

WHEREAS, the City does not have available sources of funding to finance the replacement of the City owned buildings despite consistently maintaining a balanced budget and sound fiscal stewardship;

WHEREAS, the City retained the services of Godbe Research to conduct a public opinion poll to determine whether the public would support a sales tax increase of one-half of one percent (0.5%);

WHEREAS, the polling indicates that the public generally supports construction of a modern, seismically sound Police Operations Center that maintains up-to date crime fighting technology and allows enhanced neighborhood police patrols, crime prevention, anti-drug and gang-prevention programs and improved 9-1-1 response;

WHEREAS, the polling further indicates that the public generally supports improving disabled access to the Library and dedicated space for seniors, teens, and children;

WHEREAS, it is fiscally responsible to rebuild the City owned buildings now and before they deteriorate further and become more costly to maintain in the future;

WHEREAS, the City Council desires to submit to the voters at the election a question relating the imposition of a one-half of one percent transactions and use (“sales”) tax for general purposes;

WHEREAS, a General Municipal Election on Tuesday, November 8, 2016 has been called by Resolution No. 10,506, adopted on June 9, 2016;

WHEREAS, the City Council of the City of Newark desires that the County of Alameda County Registrar of Voters conduct the municipal election, pursuant to Elections Code Section 10403, to be held on November 8, 2016; and

NOW, THEREFORE, BE IT RESOLVED that the foregoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED AS FOLLOWS:

Section 1: The City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election of November 8, 2016 the following question:

“To upgrade City of Newark facilities and services, including replacing the seismically unsafe police operations/emergency operations center to survive an earthquake; providing updated crime-fighting technology; replacing aging library/city facilities with buildings meeting safety codes; providing disabled access and senior/teen/children’s programs; and other facilities and services; shall the City of Newark enact a one-half cent sales tax, providing \$3,500,000 annually, for 25 years, with annual audits, independent citizens’ oversight, and all funds spent locally?”

YES/NO?

Section 2. The proposed measure submitted to the voters is attached as “**EXHIBIT A**”. The City Council hereby approves the form of the ordinance and its submission to the voters of the City at the November 8, 2016, General Municipal Election, as required by Revenue and Taxation Code Section 7285.9. The ordinance specifies that the rate of the transactions tax shall be one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the City; it specifies that the rate of the use tax shall be one-half of one percent (0.5%) of the sales price of tangible personal property stored, used or otherwise consumed in the City. The measure shall not take effect unless approved by a simple majority of voters voting on the measure at the November 8, 2016

election. If adopted, the State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the City.

Section 3. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections, including but not limited to Elections Code Section 10418.

Section 4. Pursuant to the requirements of Section 10403 of the Elections Code, the City Council of the City of Newark hereby requests the Board of Supervisors of the County of Alameda to agree to the consolidation of the Municipal Election with the Statewide General Election on November 8, 2016, and issue instructions to the Alameda County Registrar of Voters that the election in all respects be held as if there were only one election and to conduct the Municipal Election including the publishing of all election materials, the mailing of sample ballots, the hiring of election officers, canvassing the returns, and the actual conduct of the election.

Section 5.

- a. The last day for submission of primary arguments for or against the measure shall be by 4:00 p.m. on Thursday, July 28, 2016.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 4:00 p.m. on Monday, August 8, 2016.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.
- d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.
- e. Pursuant to California Elections Code Section 9282, the Mayor is hereby authorized to file a written argument in favor of the proposed measure on behalf of the City Council, which may be signed by individual voters who are eligible to vote on the measure. In the event that an argument is filed against the measure, the Mayor is also authorized to file a rebuttal argument on behalf of the City Council, which may be signed by individual voters who are eligible to vote on the measure, which may be different from those who signed the primary argument.
- f. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument that it seeks to rebut.

- g. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by 4:00 p.m. on Thursday, July 28, 2016.

Section 6. The City of Newark recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County of Alameda for all costs associated with the conduct of the City of Newark's municipal election to be held on November 8, 2016. The City of Newark acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418; and

Section 7. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 8. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

Section 9. The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines Section 15060, CEQA analysis is not required.

NOW THEREFORE BE IT FURTHER RESOLVED the City Clerk is hereby directed to file a certified copy of this resolution with the Alameda County Board of Supervisors and the Alameda County Registrar of Voters.

“EXHIBIT A”

PROPOSED TRANSACTIONS AND USE (SALES) TAX

ORDINANCE NO.

AN INITIATIVE ORDINANCE OF THE CITY OF NEWARK
TO LEVY A LOCAL TRANSACTIONS AND USE (SALES) TAX TO
BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

WHEREAS, existing buildings owned by the City of Newark (“City”), specifically the Police station, Library, and City Administration Building (“City owned buildings”), are functionally obsolete, are not energy efficient, are not fully accessible, and are not seismically safe;

WHEREAS, the City owned buildings lack seismic upgrades, which prevent the City owned buildings from being usable after a major earthquake, slowing disaster response to Newark residents;

WHEREAS, the City’s current police station is in need of technological, operational, and energy upgrades to improve response time and crime prevention programs;

WHEREAS, in May, 2015, the City retained the services of Group 4 Architecture to study the potential replacement of the City owned buildings;

WHEREAS, as part of the study, Group 4 Architecture conducted a space needs assessment of City owned buildings, analyzed potential sites for construction of new buildings, and developed a conceptual Civic Center site plan;

WHEREAS, said study recommends the replacement of City owned buildings for a variety of reasons, such as the inability to meet existing and future space needs and to enable modern, efficient operations;

WHEREAS, said study projects that the total cost for construction of the City owned buildings would be sixty-four million dollars (\$64,000,000);

WHEREAS, the City does not have available sources of funding to finance the replacement of the City owned buildings despite consistently maintaining a balanced budget and sound fiscal stewardship;

WHEREAS, the City retained the services of Godbe Research to conduct a public opinion poll to determine whether the public would support a sales tax increase of one-half of one percent (0.5%);

WHEREAS, the polling indicates that the public generally supports construction of a modern, seismically sound Police Operations Center that maintains up-to date crime fighting technology and allows enhanced neighborhood police patrols, crime prevention, anti-drug and gang-prevention programs and improved 9-1-1 response;

WHEREAS, the polling further indicates that the public generally supports improving disabled access to the Library and dedicated space for seniors, teens, and children; and

WHEREAS, it is fiscally responsible to rebuild the City owned buildings now and before they deteriorate further and become more costly to maintain in the future.

NOW THEREFORE THE PEOPLE OF THE CITY OF NEWARK DO ORDAIN AS FOLLOWS:

SECTION 1: ADDITION TO THE MUNICIPAL CODE. Chapter 3.14 is added to Title 3 of the Newark Municipal Code to read as follows:

**Chapter 3.14
Transactions and Use (Sales) Tax**

Section 3.14.010	Title
Section 3.14.020	Operative date
Section 3.14.030	Purpose
Section 3.14.040	Contract with State
Section 3.14.050	Transactions tax rate
Section 3.14.060	Place of sale
Section 3.14.070	Use tax rate
Section 3.14.080	Adoption of provisions of State law
Section 3.14.090	Limitations on adoption of State law and collection of use taxes
Section 3.14.100	Permit not required
Section 3.14.110	Exemptions and exclusions
Section 3.14.120	Amendments
Section 3.14.130	Enjoining collection forbidden
Section 3.14.140	Severability
Section 3.14.150	Use of tax proceeds
Section 3.14.160	Independent annual audit
Section 3.14.170	Independent community oversight committee
Section 3.14.180	Amendments of Chapter; Rescission of tax
Section 3.14.190	Termination of tax—Sunset

Section 3.14.010 Title.

This Chapter shall be known as the “Transactions and Use (Sales) Tax Ordinance” of the City of Newark. The City of Newark hereinafter shall be called “City.” This Chapter shall be applicable in the incorporated territory of the City.

Section 3.14.020 Operative date.

“Operative Date” means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance and approval by the voters.

Section 3.14.030 Purpose.

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transaction and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law or the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collection the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provision of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

Section 3.14.040 Contract with State.

Prior to the Operative Date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax chapter; provided, that if the City shall not have contracted with the State Board of Equalization prior to operative date, it shall nevertheless so contract and in such a case the Operative Date shall be the first day of the first calendar quarter following the execution of such a contract.

Section 3.14.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half of one percent (0.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the Operative Date of this chapter.

Section 3.14.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from sales include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery

is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

Section 3.14.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the Operative Date of this chapter for storage, use or other consumption in said territory at the rate of one-half of one percent (0.5%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 3.14.080 Adoption of provisions of State law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provision of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

Section 3.14.090 Limitations on adoption of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California.

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this chapter.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption

remain subject to tax by the State under the provision of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

Section 3.14.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this chapter.

Section 3.14.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law of the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this chapter.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this chapter, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transaction tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the Operative Date of this chapter.

4. If the possession of, or the exercise of any right or power over, the tangible property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the Operative date of this chapter.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Section 3.14.120 Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

Section 3.14.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or City or against any officer of the State or the City, to prevent or enjoin the collection under this chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to collected.

Section 3.14.140 Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 3.14.150 Use of tax proceeds.

All proceeds of the tax levied and imposed under this chapter shall be paid into the General Fund for use by the City of Newark. The City Council is authorized to incur debt financed by the proceeds of the tax to accelerate capital projects.

Section 3.14.160 Independent annual audit.

Annually the City Council retains an independent auditor to conduct an audit of and provide audited financial statements for all of the City's financial activities. The auditor shall include an accounting of the revenue received from the tax and expenditures thereof in the audited financial statements. The auditor's report shall be presented to the Council and the committee established by Section 3.14.170 and made available to the public.

Section 3.14.170 Independent community oversight committee.

The City Council shall, prior to the end of the first fiscal year after the operative date, establish an independent community oversight committee to review the expenditure of the revenue from this transactions and use (sales) tax. The committee shall consist of five members to be appointed by the Mayor and approved by the City Council. The terms of the committee members and their specific duties shall be established by resolution of the City Council.

Section 3.14.180 Amendments of Chapter; Rescission of tax.

The following amendments to this Chapter must be approved by the voters of the City of Newark: increasing the tax rate or revising the methodology for calculating the tax such that a tax increase would result; imposing the tax on transactions and uses not previously subject to the tax (unless such amendment occurs automatically by operation of Section 3.14.120; or extending the tax. The City Council may otherwise amend this ordinance without submitting the amendment to the voters for approval.

Section 3.14.190 Termination of tax—Sunset.

A. The levy of taxes as provided in this Chapter shall expire on the twenty-fifth anniversary of the Operative Date (which is anticipated to occur at the end of the day on March 31, 2042) unless re-enacted by a majority vote of the electorate voting on the question.

B. The termination of the levy of taxes as provided in this Chapter shall not terminate the obligation to pay taxes levied on services used prior to such date. Taxes levied prior to such date shall remain a debt payable to the City. All provisions in this Chapter, except those relating to the levy of taxes, shall continue in full force and effect after such date.

SECTION 2: EFFECTIVE DATE. This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately.

SECTION 3: CERTIFICATION: PUBLICATION. Upon approval by the voters, the City Clerk shall cause this Ordinance to be published according to law and transmitted to the Board of Equalization.

SECTION 4: COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT. The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). The transactions and use tax enacted by this Ordinance is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines Section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the city would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA, analysis is not required.

G.1 Discussion of Draft Joint Powers Agreement for Alameda County Community Choice Aggregation Energy Program – from City Attorney Benoun. (MOTION)

Summary - Next month the Alameda County Board of Supervisors is expected to consider adopting a Joint Powers Agreement (“JPA”) to implement a countywide “Community Choice Aggregation Energy Program”. County Counsel provided the City Attorneys for the all cities in Alameda County a draft of the JPA (“**Attachment 1**”) and has requested feedback from each of the cities prior to the Board of Supervisors taking action on the draft JPA.

This report will provide an overview of the proposed energy program as well as highlight some of the substantive provisions contained in the draft JPA. While City staff is able to provide comment on technical and non-substantive matters, staff believes that there are several policy matters that the Council should review and, if the Council deems necessary, direct staff to provide feedback to the County prior to the County’s consideration of the JPA.

Background - On April 14, 2016, Alameda County planning staff and their consultants presented the City Council with an overview of the proposed Alameda County Community Choice energy program. A copy of that presentation is provided as “**Attachment 2**”. That presentation, in summary, defined choice energy programs, explained their benefits, projected a timeline for formation of a JPA to govern this program, and provided anticipated implementation dates.

As articulated by the County, a community choice aggregator (“CCA”) supplies electricity (not gas) to energy customers through wholesale purchase contracts and/or through ownership and operation of electrical power generating plants. However, the delivery of such power (specifically the transmission, distribution, metering, billing, and customer service) remains with the incumbent utility, which in this case is the Pacific Gas & Electric Company (“PG&E”). The County reports that the benefits of a local aggregation plan include increased renewable energy at equal or competitive rates and an energy provider that is controlled locally by a publicly accountable board of directors.

State law allows cities and counties to create the CCA through a JPA. The JPA then purchases electrical power on a community-wide basis by pooling the buying power of the individual customers within their jurisdictions. Four such programs have been established in California, specifically in the counties of Marin, Sonoma, and San Francisco, as well as the city of Lancaster.

The creation of the CCA is accomplished through a public process. First, participating cities must enact ordinances that form the JPA that governs the CCA. Second, the CCA is required to prepare an implementation plan that must be approved by the California Public Utilities Commission. Third, the CCA is required to contract for energy delivery with the incumbent provider’s existing delivery network, which in this case is PG&E.

From the customer's perspective, the transition should be seamless. The only change should be line items on the energy bills showing the charge from the CCA and the transmission fee charged by the utility company for delivering the electricity supplied by the CCA. According to the County, the CCA should be able to provide local, renewable energy at rates less than, or comparable to, previous rates charged by the existing utility company.

Prior to launch of the program and as required under State law, the CCA should give customers 2 notices within 60 days indicating that he/she can "opt-out" of the upcoming program. If the customer does not opt-out, then, pursuant to State law, the customer would be automatically enrolled in the new energy program. After enrollment, the customer should receive two additional notices, both indicating that she/he can opt-out at no cost.

Discussion - In June 2014, the Alameda County Board of Supervisors allocated \$1.32 million to explore the creation of an Alameda County Choice Aggregation energy program, which will be reimbursed by the JPA if the program is launched. Alameda County planning staff evaluated the feasibility and assembled a Steering Committee consisting of approximately 40 members, including a representative from each city within Alameda County and stakeholders from various environmental and labor organizations. Councilmember Hannon serves as the City's representative to the Steering Committee.

The timeline for the implementation of this program is as follows:

Adoption of the JPA by the County:	August 2016
Cities to Adopt JPA:	September – November 2016
First JPA Meeting:	January 2017
Launch and Phase-In of Program:	Summer – Fall 2017

The County recently provided the City Attorneys with an updated draft JPA, along with a technical study assessing the feasibility of the program. The JPA for the Marin Energy Authority, which was established in 2008, served as the starting point for drafting the attached JPA. Several revisions were also made at the request of the Steering Committee.

The City Attorneys have also provided County Counsel with technical comments on the form of the draft JPA. However, the draft JPA contains several policy considerations that the Council should review at this juncture to determine if there are any comments or concerns that need to be conveyed to the County so that the County can consider them prior to taking any action on the JPA.

The decision of whether Newark should join the CCA will occur later this fall after staff has had the opportunity to review the lengthy materials associated with this program, including all of the technical reports, and present them to the Council for review and consideration. The purpose of this report is not to discuss and analyze the impacts that a CCA would have on Newark and its community, but rather to discuss the draft JPA so that the Council's comments, if any, can be relayed to the County.

There are 7 policy considerations that are highlighted below. They are not discussed in any particular order.

Consideration #1: Advisory Committee (Section 4.8.1)

The draft JPA calls for the creation of a “Community Advisory Committee” consisting of 9 members “who represent a diverse cross-section of interests and skill sets” and who shall “advise the Board of Directors on all subjects related to the operation of the CCA Program”. The Board determines if any committee members receive payment for their services and reimbursement of their expenses.

This provision does not specify how the committee members are selected, nor does it ensure all public agencies within Alameda County are represented on the Committee.

Consideration #2: Advisory Committee Chair Serving as “Ex Officio Member to the Board”

At a meeting last week with County Counsel and the City Attorneys, County Counsel represented that there was a “consensus” of the Steering Committee to have the chair of the Advisory Committee serve as an “ex officio member” on the Authority’s Board of Directors. As explained to the City Attorneys, this person would not have any voting rights but would be able to attend Board meetings and provide comments. Because this issue recently arose, it is not reflected in the attached draft JPA, but it is expected to be included in the next draft.

This concept is important because it could allow an unelected community member who may not be accountable to the electorate to assist the Board with deliberation and influence their voting.

Consideration #3: Voting “Shares” (Sections 11.2; 1.1.21 and .22; and Appendix A)

The draft JPA provides for two types of votes – a “percentage vote” and a “voting shares vote”. Except for certain matters requiring a supermajority vote (discussed below), all Board action must be taken by “percentage vote”.

A “percentage vote” is defined as an affirmative vote of a majority of the Board of Directors. In other words, each agency that each Director represents receives one vote. However, if a matter is approved by a percentage vote, then two Directors may request that a “voting shares vote” be immediately held. (The attached draft provides that *four* Directors may request the “voting shares vote”. However, County Counsel recently indicated that threshold in the next iteration of the draft JPA will be reduced from four to two at the request of the larger Cities.)

A “voting shares vote” is a weighted vote by the Board using a formula based on the energy use within each Director’s jurisdiction. Stated differently, jurisdictions with higher energy use will receive a larger weighted vote. To approve an action that was taken by a percentage vote, the voting shares vote must be more than 50%. If the 50% threshold is not met under this voting shares vote, then the action taken by the Board under the percentage vote does not pass.

A voting shares vote may also be used to resolve percentage votes that are tied.

The County has provided the cities with a recent technical study, which includes a forecast of the energy demands of the various jurisdictions (“Attachment 3”). If each agency elects to participate in the energy program, then the voting shares will be weighted as follows:

<u>JURISDICTION</u>	<u>PROJECTED ENERGY USE (MWh)</u>	<u>VOTING SHARES VOTE</u>
Oakland	2,005,388	24.88 %
Fremont	1,306,713	16.18 %
Hayward	813,048	10.11 %
Berkeley	684,455	8.48 %
Pleasanton	529,114	6.55 %
San Leandro	516,830	6.40 %
Unincorporated	513,917	6.37 %
Livermore	498,218	6.17 %
Union City	356,019	4.30 %
Dublin	297,219	3.68 %
Newark	258,720	3.20 %
Emeryville	203,591	2.52 %
Albany	57,726	0.71 %
Piedmont	32,768	0.41 %

The draft JPA also recognizes that the Authority’s membership may change as agencies decide to join or withdraw. Any change in the membership would affect the voting balances above.

Consideration #4: Supermajority Votes (Section 8.4)

The draft JPA provides that it may only be amended by a two-thirds vote. However, amendments to the above voting provisions require a three-quarters vote. These supermajority thresholds apply to both the percentage vote and, if triggered by two Directors, the voting shares vote.

Also, the draft JPA authorizes the Board to adopt “Operating Rules and Regulations”, which governs many of the day-to-day rules and procedures for the JPA, including regulating the Chief Executive Officer (presumably a paid employee). The adoption of the Operating Rules and

Regulations itself requires a majority vote, but those Operating Rules & Procedures could spell out action items that require supermajority votes.

These provisions would presumably tend to preclude amendments that are not supported by a significant portion of the agencies.

Consideration #5: Early Termination Costs (Section 7.3)

As discussed above, County staff anticipates that the Board of Supervisors will consider adopting the JPA later this month and that the cities will consider adoption this Fall. If adopted, then the new Authority would hold its first meeting in January 2017 and the program is expected to launch and be phased-in later next year.

Prior to the launch, the Authority must provide all member agencies with a report comparing the estimated new electrical rates with the existing rates, in addition to comparing the estimated greenhouse gas emissions rate and the estimated renewable energy to be used.

Within thirty (30) days of receiving this report, any jurisdiction can elect to immediately withdraw, but only if any of the following three conditions occur:

- (1) The Authority is unable to provide total electrical rates, as part of its baseline offering to customers, that are equal to or lower than PG&E; or
- (2) The Authority is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than PG&E; or
- (3) The Authority will use less renewable energy than PG&E.

The draft JPA provides that any agency that terminates early will not be responsible for any liabilities or obligations of the Authority.

This language is significant because it allows jurisdictions to withdraw prior to the launch of the program but only upon thirty days and only in certain situations.

Consideration #6: Withdrawal Costs Charged to Agency After Launch (Section 7.2)

As for withdrawing from the program *after* it launches, the draft JPA provides that any jurisdiction may withdraw effective the beginning of the Authority's fiscal year by giving 180 days' notice. If this occurs, then the withdrawing jurisdiction "shall" be responsible for "any claims, demands, damages, or liabilities arising" from their membership. County counsel has explained that this provision refers to general public entity liability, such as workers compensation matters or general liability claims.

Additionally, any withdrawing jurisdiction “**shall** be responsible for any damages, losses or costs incurred by the Authority resulting from the Party’s withdrawal, including but not limited to losses from the resale of power contracted for by the Authority to serve the Party’s load.” (Emphasis added.)

This language is important because if a jurisdiction elects to withdraw after launch, not only will that jurisdiction be responsible for its general liabilities in connection with its membership, but it will also be responsible for all costs incurred as a result of its withdrawal. Unfortunately, neither County staff nor its consultants can provide any quantification of these costs at this time.

Consideration #7: Start-Up Costs Charged if Agency Joins *After* Launch and Vote (Section 3.1)

As indicated above, the County Board of Supervisors has allocated \$1.32 million to pay for “start-up” costs associated with launching this program. The County estimates that total start-up costs equate to \$3.25 million. The draft JPA obligates the County to pay for all start-up costs, but authorizes the Authority to establish a “reasonable time period” after launch over which such costs are recovered in customer charges for electric services. (Section 6.3.2)

Agencies that elect to join the CCA *prior* to program launch will not be financially responsible for the start-up costs. However, if an agency *declines* to initially participate in the program, but then later decides to join, the admission of that agency must be voted upon by the Board of the JPA (*and subject to the voting rules outlined above*).

Also, any newly joining agencies could be charged a “membership fee” to be established by the Board. The County’s consultant explained that membership fee could be used by the Authority to recover retention of technical consultants to add the new agency to the program, as well as mailing costs of the notices.

Further, the draft JPA authorizes the Authority to impose “any condition” on a newly joining agency.

These provisions are important because they show that initial members do not have to pay any start-up costs (the County is paying all of them), but it could be burdensome for agencies to join the CCA after launch since any newly admitted party may have to pay a membership fee, satisfy certain conditions imposed by the JPA, and the admission will require an affirmative vote from the Directors in compliance with the voting provisions discussed above.

Conclusion - At the Council meeting, staff will provide an overview of these substantive policy provisions contained in the draft JPA as discussed above. Any comments, changes, and direction regarding any of these considerations (or *any* other language in the draft JPA or any concerns regarding the program) will be relayed to the County.

Attachments:

Attachment 1: Draft “East Bay Community Energy Authority Joint Powers Agreement”

Attachment 2: “Community Choice Energy for Alameda County Status Update”, April 14, 2016

Attachment 3: “Appendix A” to the “Technical Study for Community Choice Aggregation Program in Alameda County”

Action - It is recommended that the City Council receive this report and, by motion, direct the City Attorney to convey the Council’s comments, changes, and concerns, if any, regarding the policy considerations contained in the draft Joint Powers Agreement to the County Counsel’s Office of Alameda County.

Attachment

1

East Bay Community Energy Authority

- Joint Powers Agreement -

Effective _____

Among The Following Parties:

EAST BAY COMMUNITY ENERGY AUTHORITY

JOINT POWERS AGREEMENT

This Joint Powers Agreement (“Agreement”), effective as of _____, is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit A (“Parties”). The term “Parties” shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local government to develop programs to reduce greenhouse gas emissions.
3. The purposes for the Initial Participants (as such term is defined in Section 1.1.15 below) entering into this Agreement include securing electrical energy supply for customers in participating jurisdictions, addressing climate change by reducing energy related greenhouse gas emissions, promoting electrical rate price stability, and fostering local economic benefits such as jobs creation, community energy programs and local power development. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to State, regional and local solar and wind energy production.
4. The Parties desire to establish a separate public agency, known as the East Bay Community Energy Authority (“Authority”), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*) (“Act”) in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
5. The Initial Participants have each adopted an ordinance electing to implement through the Authority a Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 (“CCA Program”). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.
6. By establishing the Authority, the Parties seek to:
 - (a) Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;

- (b) Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may “opt-up” and voluntarily participate;
- (c) Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties’ greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;
- (d) Establish an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;
- (e) Promote an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals;
- (f) Demonstrates quantifiable economic benefits to the region (e.g. prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments);
- (g) Promotes personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities; and
- (h) Create an administering Agency that is financially sustainable, responsive to regional priorities, and well managed.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Parties as follows:

ARTICLE 1 **CONTRACT DOCUMENTS**

1.1 Definitions. Capitalized terms used in the Agreement shall have the meanings specified below, unless the context requires otherwise.

- 1.1.1** “AB 117” means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.
- 1.1.2** “Act” means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)
- 1.1.3** “Agreement” means this Joint Powers Agreement.
- 1.1.4** “Annual Energy Use” has the meaning given in Section 1.1.22.
- 1.1.5** “Authority” means the East Bay Community Energy Authority established pursuant to this Joint Powers Agreement.
- 1.1.6** “Authority Document(s)” means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.
- 1.1.7** “Board” means the Board of Directors of the Authority.
- 1.1.8** “Community Choice Aggregation” or “CCA” means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.
- 1.1.9** “CCA Program” means the Authority’s program relating to CCA that is principally described in Sections 2.4 and 5.1.
- 1.1.10** “Days” shall mean calendar days unless otherwise specified by this Agreement.
- 1.1.11** “Director” means a member of the Board of Directors representing a Party, including an alternate Director.
- 1.1.12** “Effective Date” means the date on which this Agreement shall become effective and the East Bay Community Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

- 1.1.13** “Implementation Plan” means the plan generally described in Section 5.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.
- 1.1.14** “Initial Costs” means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority’s initial formation activities or in support of the negotiation, preparation and approval of power purchase agreements. The Board shall determine the termination date for Initial Costs.
- 1.1.15** “Initial Participants” means, for the purpose of this Agreement the County of Alameda, the Cities of
-
- 1.1.16** “Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.
- 1.1.17** “Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.18** “Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.19** “Percentage Vote” means a vote taken by the Board pursuant to Section 4.11.1 that is based on each Party having one equal vote.
- 1.1.20** “Total Annual Energy” has the meaning given in Section 1.1.22.
- 1.1.21** “Voting Shares Vote” means a vote taken by the Board pursuant to Section 4.11.2 that is based on the voting shares of each Party described in Section 1.1.22 and set forth in Exhibit C to this Agreement. A Voting Shares vote cannot take place on a matter unless the matter first receives an affirmative or tie Percentage Vote in the manner required by Section 4.11.1 and two or more Directors immediately thereafter request such vote.
- 1.1.22** “Voting Shares Formula” means the weight applied to a Voting Shares Vote and is determined by the following formula:
- (Annual Energy Use/Total Annual Energy) multiplied by 100, where (a) “Annual Energy Use” means (i) with respect to the first two years following the Effective Date, the annual electricity usage, expressed in

kilowatt hours (“kWh”), within the Party’s respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party’s respective jurisdiction that are served by the Authority and (b) “Total Annual Energy” means the sum of all Parties’ Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit B and the initial voting shares are designated in Exhibit C. Both Exhibits B and C shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year subject to the approval of the Board.

1.2 Documents Included. This Agreement consists of this document and the following exhibits, all of which are hereby incorporated into this Agreement.

- Exhibit A: List of the Parties
- Exhibit B: Annual Energy Use
- Exhibit C: Voting Shares

1.3 Revision of Exhibits. The Parties agree that Exhibits A, B and C to this Agreement describe certain administrative matters that may be revised upon the approval of the Board, without such revision constituting an amendment to this Agreement, as described in Section 8.4. The Authority shall provide written notice to the Parties of the revision of any such exhibit.

ARTICLE 2

FORMATION OF EAST BAY COMMUNITY ENERGY AUTHORITY

2.1 Effective Date and Term. This Agreement shall become effective and East Bay Community Energy Authority shall exist as a separate public agency on [EFFECTIVE DATE] provided that this Agreement is executed on or prior to such date by at least three Initial Participants after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.4, subject to the rights of the Parties to withdraw from the Authority.

2.2 Initial Participants. Until [INSERT EFFECTIVE DATE], all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(12) to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party that is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

2.3 Formation. There is formed as of the Effective Date a public agency named the East Bay Community Energy Authority. Pursuant to Sections 6506 and 6507 of the Act, the Authority is a public agency separate from the Parties. The debts, liabilities or obligations of the Authority shall not be debts, liabilities or obligations of the individual Parties unless the governing board of a Party agrees in writing to assume any of the debts, liabilities or obligations of the Authority. A Party who has not agreed to assume an Authority debt, liability or obligation shall not be responsible in any way for such debt, liability or obligation even if a majority of the Parties agree to assume the debt, liability or obligation of the Authority. Notwithstanding Section 8.4 of this Agreement, this Section 2.3 may not be amended unless such amendment is approved by the governing boards of all Parties.

2.4 Purpose. The purpose of this Agreement is to establish an independent public agency in order to exercise powers common to each Party and any other powers granted to the Authority under state law to participate as a group in the CCA Program pursuant to Public Utilities Code Section 366.2(c)(12); to study, promote, develop, conduct, operate, and manage energy and energy-related climate change programs; and, to exercise all other powers necessary and incidental to accomplishing this purpose.

2.5 Powers. The Authority shall have all powers common to the Parties and such additional powers accorded to it by law. The Authority is authorized, in its own name, to exercise all powers and do all acts necessary and proper to carry out the provisions of this Agreement and fulfill its purposes, including, but not limited to, each of the following:

2.5.1 to make and enter into contracts, including without limitation those relating to the purchase or sale of electrical energy or attributes thereof;

2.5.2 to employ agents and employees, including but not limited to a Chief Executive Director and General Counsel;

2.5.3 to acquire, contract, manage, maintain, and operate any buildings, works or improvements, including, without limitation, electric generating facilities;

2.5.4 to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;

2.5.5 to lease any property;

2.5.6 to sue and be sued in its own name;

2.5.7 to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Section 53850 *et seq.* and authority under the Act;

2.5.8 to form subsidiary or independent corporations or entities, if appropriate, to carry out energy supply and energy conservation programs at the lowest possible cost consistent with the Authority's CCA Program

implementation plan, risk management policies, or to take advantage of legislative or regulatory changes;

- 2.5.9 to issue revenue bonds and other forms of indebtedness;
- 2.5.10 to apply for, accept, and receive all licenses, permits, grants, loans or other assistance from any federal, state or local public agency;
- 2.5.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
- 2.5.12 to adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority (“Operating Rules and Regulations”); and
- 2.5.13 to make and enter into service, energy and any other agreements necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services.

2.6 Limitation on Powers. As required by Government Code Section 6509, the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by the City of Emeryville and any other restrictions on exercising the powers of the Authority that may be adopted by the Board.

2.7 Compliance with Local Zoning and Building Laws. Notwithstanding any other provisions of this Agreement or state law, any facilities, buildings or structures located, constructed or caused to be constructed by the Authority within the territory of the Authority shall comply with the General Plan, zoning and building laws of the local jurisdiction within which the facilities, buildings or structures are constructed and comply with the California Environmental Quality Act (“CEQA”).

2.8 Compliance with the Brown Act. The Authority and its officers and employees shall comply with the provisions of the Ralph M. Brown Act, Government Code Section 54950 *et seq.*

2.9 Compliance with the Political Reform Act and Government Code Section 1090. The Authority and its officers and employees shall comply with the Political Reform Act (Government Code Section 81000 *et seq.*) and Government Code Section 1090 *et seq.*, and shall adopt a Conflict of Interest Code pursuant to Government Code Section 87300. The Board of Directors may adopt additional conflict of interest regulations in the Operating Rules and Regulations.

ARTICLE 3 **AUTHORITY PARTICIPATION**

3.1 Addition of Parties. Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the

adoption of a resolution by the governing body of such incorporated municipality or county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption by an affirmative vote of a majority of all Directors of the entire Board satisfying the requirements described in Section 4.11, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(12) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership fee, if any, and (e) satisfaction of any conditions established by the Board.

3.2 Continuing Participation. The Parties acknowledge that membership in the Authority may change by the addition and/or withdrawal or termination of Parties. The Parties agree to participate with such other Parties as may later be added, as described in Section 3.1. The Parties also agree that the withdrawal or termination of a Party shall not affect this Agreement or the remaining Parties' continuing obligations under this Agreement.

ARTICLE 4 **GOVERNANCE AND INTERNAL ORGANIZATION**

4.1 Board of Directors. The governing body of the Authority shall be a Board of Directors ("Board") consisting of one director for each Party appointed in accordance with Section 4.2.

4.2 Appointment and Removal of Directors. The Directors shall be appointed and may be removed as follows:

4.2.1 The governing body of each Party shall appoint and designate in writing one regular Director who shall be authorized to act for and on behalf of the Party on matters within the powers of the Authority. The governing body of each Party also shall appoint and designate in writing one alternate Director who may vote on matters when the regular Director is absent from a Board meeting. The person appointed and designated as the regular Director shall be a member of the governing body of the Party. The person appointed and designated as the alternate Director shall also be a member of the governing body of the Party.

4.2.2 The Operating Rules and Regulations, to be developed and approved by the Board in accordance with Section 2.5.12 may include rules regarding Directors, such as meeting attendance requirements. No Party shall be deprived of its right to seat a Director on the Board.

4.3 Terms of Office. Each regular and alternate Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a

replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.

4.4 Quorum. A majority of the Directors of the entire Board shall constitute a quorum, except that less than a quorum may adjourn a meeting from time to time in accordance with law.

4.5 Powers and Function of the Board. The Board shall conduct or authorize to be conducted all business and activities of the Authority, consistent with this Agreement, the Authority Documents, the Operating Rules and Regulations, and applicable law. Board approval shall be required for any of the following actions, which are defined as “Essential Functions”:

4.5.1 The issuance of bonds or any other financing even if program revenues are expected to pay for such financing.

4.5.2 The hiring of a Chief Executive Officer and General Counsel.

4.5.3 The appointment or removal of an officer.

4.5.4 The adoption of the Annual Budget.

4.5.5 The adoption of an ordinance.

4.5.6 The initiation of resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief Executive Officer or General Counsel, on behalf of the Authority, may intervene in, become party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board. The Board shall adopt Operating Rules and Regulations governing the Chief Executive Officer and General Counsel’s exercise of authority under this Section 4.5.6.

4.5.7 The setting of rates for power sold by the Authority and the setting of charges for any other category of service provided by the Authority.

4.5.8 Termination of the CCA Program.

4.6 Executive Committee. The Board shall establish an Executive Committee consisting of a smaller number of Directors. The Board may delegate to the Executive Committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board’s authority to delegate certain essential functions, as described in the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.12 to adopt and amend the Operating Rules and Regulations or its Essential Functions listed in Section 4.5.

4.7 Director Compensation. Directors shall receive a stipend of \$100 per meeting, as adjusted to account for inflation, as provided for in the Authority's Operating Rules and Regulations.

4.8 Commissions, Boards and Committees. The Board may establish any advisory commissions, boards and committees as the Board deems appropriate to assist the Board in carrying out its functions and implementing the CCA Program, other energy programs and the provisions of this Agreement. The Board may establish rules, regulations, policies, bylaws or procedures to govern any such commissions, boards, or committees and shall determine whether members shall be compensated or entitled to reimbursement for expenses.

4.8.1. Community Advisory Committee. The Board shall establish a Community Advisory Committee consisting of nine members, none of whom may be members of the Board. The function of the Community Advisory Committee shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program, with the exception of personnel and litigation decisions. The Community Advisory Committee is advisory only, and shall not have decision making authority, or receive any delegation of authority from the Board of Directors. The Board shall publicize the opportunity to serve on the Community Advisory Committee, and shall appoint members of the Community Advisory Committee from those individuals expressing interest in serving, and who represent a diverse cross-section of interests and skill sets. Members of the Community Advisory Committee shall serve staggered four-year terms (the first term of three of the members shall be two years, and four years thereafter), which may be renewed. A member of the Community Advisory Committee may be removed by the Board of Directors by majority vote. The Board of Directors shall determine whether the Community Advisory Committee members will receive a per diem and/or be entitled to reimbursement for expenses.

4.9 Chief Executive Officer. The Board of Directors shall appoint a Chief Executive Officer for the Authority, who shall be responsible for the day-to-day operation and management of the Authority and the CCA Program. The Chief Executive Officer may exercise all powers of the Authority, including the power to hire, discipline and terminate employees as well as the power to approve any agreement, if the expenditure is authorized in the Authority's approved budget, except the powers specifically set forth in Section 4.5 or those powers which by law must be exercised by the Board of Directors. The Board of Directors shall provide procedures and guidelines for the Chief Executive Officer exercising the powers of the Authority in the Operating Rules and Regulations.

4.10 General Counsel. The Board of Directors shall appoint a General Counsel for the Authority, who shall be responsible for providing legal advice to the Board of Directors and overseeing all legal work for the Authority.

4.11 Board Voting.

4.11.1 Percentage Vote. Except when a supermajority vote is expressly required by this Agreement or the Operating Rules and Regulations, action of the Board on all matters shall require an affirmative vote of a majority of all Directors on the entire Board (a "Percentage Vote" as defined in Section 1.1.19). A supermajority vote is required by this Agreement for the matters addressed by Section 8.4. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, action of the Board shall require an affirmative Percentage Vote of the specified supermajority of all Directors on the entire Board. No action can be taken by the Board without an affirmative Percentage Vote. Notwithstanding the foregoing, in the event of a tie in a Percentage Vote, the Board can break the tie and act upon an affirmative Voting Shares vote as described in Section 4.11.2.

4.11.2 Voting Shares Vote. In addition to and immediately after an affirmative percentage vote, four or more Directors may request that, a vote of the voting shares shall be held (a "Voting Shares Vote" as defined in Section 1.1.21). To approve an action by a Voting Shares Vote, the corresponding voting shares (as defined in Section 1.1.22 and Exhibit C) of all Directors voting in the affirmative shall exceed 50% of the voting share of all Directors on the entire Board, or such other higher voting shares percentage expressly required by this Agreement or the Operating Rules and Regulations. In the event that any one Director has a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter. When a voting shares vote is held, action by the Board requires both an affirmative Percentage Vote and an affirmative Voting Shares Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved on an affirmative Voting Shares Vote. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, the supermajority vote is subject to the Voting Share Vote provisions of this Section 4.11.2, and the specified supermajority of all Voting Shares is required for approval of the action, if the provision of this Section 4.11.2 are triggered.

4.12 Meetings and Special Meetings of the Board. The Board shall hold at least four regular meetings per year, but the Board may provide for the holding of regular meetings at more frequent intervals. The date, hour and place of each regular meeting shall be fixed by resolution or ordinance of the Board. Regular meetings may be adjourned to another meeting time. Special and Emergency meetings of the Board may be called in accordance with the provisions of California Government Code Section 54956 and 54956.5. Directors may participate in meetings telephonically, with full voting rights, only to the extent permitted by law.

4.13 Officers.

4.13.1 Chair and Vice Chair. At the first meeting held by the Board in each calendar year, the Directors shall elect, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The term of office of the Chair and Vice Chair shall continue for one year, and shall be limited to two consecutive terms. (The office of either the Chair or Vice Chair shall be declared vacant and the Board shall make a new selection if: (a) the person serving dies, resigns, or ceases to be a member of the governing body of the Party that the person represents; (b) the Party that the person represents removes the person as its representative on the Board, or (c) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

4.13.2 Secretary. The Board shall appoint a Secretary, who need not be a member of the Board, who shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority.

4.13.3 Treasurer and Auditor. The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. The same person may not simultaneously hold both the office of Treasurer and the office of the Auditor of the Authority. Unless otherwise exempted from such requirement, the Authority shall cause an independent audit to be made annually by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested, the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time.

4.14 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. The Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the

circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

4.15 Operational Audit. The Authority shall commission an independent agent to conduct and deliver at a public meeting of the Board an evaluation of the performance of the CCA Program relative to goals for renewable energy and carbon reductions. The Authority shall approve a budget for such evaluation and shall hire a firm or individual that has no other direct or indirect business relationship with the Authority. The evaluation shall be conducted at least once every two years.

ARTICLE 5

IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS

5.1 Preliminary Implementation of the CCA Program.

5.1.1 Enabling Ordinance. Prior to the execution of this Agreement, each Party shall adopt an ordinance in accordance with Public Utilities Code Section 366.2(c)(12) for the purpose of specifying that the Party intends to implement a CCA Program by and through its participation in the Authority.

5.1.2 Implementation Plan. The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 4.11.

5.1.3 Termination of CCA Program. Nothing contained in this Article or this Agreement shall be construed to limit the discretion of the Authority to terminate the implementation or operation of the CCA Program at any time in accordance with any applicable requirements of state law.

5.2 Authority Documents. The Parties acknowledge and agree that the affairs of the Authority will be implemented through various documents duly adopted by the Board through Board resolution or minute action, including but not necessarily limited to the Operating Rules and Regulations, the annual budget, and specified plans and policies defined as the Authority Documents by this Agreement. The Parties agree to abide by and comply with the terms and conditions of all such Authority Documents that may be adopted by the Board, subject to the Parties' right to withdraw from the Authority as described in Article 7.

ARTICLE 6
FINANCIAL PROVISIONS

6.1 Fiscal Year. The Authority's fiscal year shall be 12 months commencing July 1 and ending June 30. The fiscal year may be changed by Board resolution.

6.2 Depository.

6.2.1 All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with funds of any Party or any other person or entity.

6.2.2 All funds of the Authority shall be strictly and separately accounted for, and regular reports shall be rendered of all receipts and disbursements, at least quarterly during the fiscal year. The books and records of the Authority shall be open to inspection by the Parties at all reasonable times.

6.2.3 All expenditures shall be made in accordance with the approved budget and upon the approval of any officer so authorized by the Board in accordance with its Operating Rules and Regulations. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the prior approval of the Board.

6.3 Budget and Recovery Costs.

6.3.1 Budget. The initial budget shall be approved by the Board. The Board may revise the budget from time to time through an Authority Document as may be reasonably necessary to address contingencies and unexpected expenses. All subsequent budgets of the Authority shall be prepared and approved by the Board in accordance with the Operating Rules and Regulations.

6.3.2 Funding of Initial Costs. The County shall fund the Initial Costs of establishing and implementing the CCA Program. In the event that the CCA Program becomes operational, these Initial Costs paid by the County shall be included in the customer charges for electric services to the extent permitted by law, and the County shall be reimbursed from the payment of such charges by customers of the Authority. The Authority may establish a reasonable time period over which such costs are recovered. In the event that the CCA Program does not become operational, the County shall not be entitled to any reimbursement of the Initial Costs.

6.3.4 Additional Contributions and Advances. Pursuant to Government Code Section 6504, the Parties may in their sole discretion make financial contributions, loans or advances to the Authority for the purposes of the Authority set forth in this Agreement. The repayment of such

contributions, loans or advances will be on the written terms agreed to by the Party making the contribution, loan or advance and the Authority.

ARTICLE 7

WITHDRAWAL AND TERMINATION

7.1 Withdrawal.

7.1.1 General Right to Withdraw. A Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 180 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.

7.1.2 Withdrawal Following Amendment. Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement provided that the requirements of this Section 7.1.2 are strictly followed. A Party shall be deemed to have withdrawn its membership in the Authority effective 180 days after the Board approves an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board.

7.1.3 Liabilities; Further Assurances. A Party that withdraws its membership in the Authority under either Section 7.1.1 or 7.1.2 may be subject to certain liabilities, as described in Section 7.2. The withdrawing Party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. A withdrawing party has the rights to continue to participate in Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party until the withdrawal's effective date.

7.2 Continuing Liability; Refund. Subject to the provisions of Section 2.3, upon a withdrawal of a Party pursuant to Sections 7.1, the Party shall remain responsible for any claims, demands, damages, or liabilities arising from the Party's membership in the Authority through the date of its withdrawal or involuntary termination. The withdrawing or terminated Party shall be responsible for any damages, losses or costs incurred by the Authority resulting from the Party's withdrawal, including but not limited to losses from the resale of power contracted for by the Authority to serve the Party's load. In addition, such Party also shall be responsible for any costs or obligations associated with the Party's participation in any program in accordance with the provisions of any agreements relating to such program provided such costs or obligations were incurred prior to the withdrawal of the Party. The Authority may withhold funds otherwise

owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's liability for the costs described above. Any amount of the Party's funds held on deposit with the Authority that are not required to pay any liabilities or obligations shall be returned to the Party.

7.3 The Right to Withdraw Prior to Program Launch. After receiving bids from power suppliers for the CCA Program, the Authority must provide to the Parties a report from the electrical utility consultant retained by the Authority comparing the Authority's total estimated electrical rates, the estimated greenhouse gas emissions rate and the amount of estimated renewable energy to be used with that of the incumbent utility. Within 30 days after receiving this report, through its City Manager or a person expressly authorized by the Party, any Party may immediately withdraw its membership in the Authority by providing written notice of withdrawal to the Authority if the report determines that any one of the following conditions exists: (1) the Authority is unable to provide total electrical rates, as part of its baseline offering to customers, that are equal to or lower than the incumbent utility, (2) the Authority is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than the incumbent utility, or (3) the Authority will use less renewable energy than the incumbent utility. Any Party who withdraws from the Authority pursuant to this Section 7.3 shall not be entitled to any refund of the Initial Costs it has paid to the Authority prior to the date of withdrawal unless the Authority is later terminated pursuant to Section 7.4. In such event, any Initial Costs not expended by the Authority shall be returned to all Parties, including any Party that has withdrawn pursuant to this section, in proportion to the contribution that each made. Notwithstanding anything to the contrary in this Agreement, any Party who withdraws pursuant to this section shall not be responsible for any liabilities or obligations of the Authority after the date of withdrawal, including without limitation any liability arising from power purchase agreements entered into by the Authority.

7.4 Mutual Termination. This Agreement may be terminated by mutual agreement of all the Parties; provided, however, the foregoing shall not be construed as limiting the rights of a Party to withdraw its membership in the Authority, and thus terminate this Agreement with respect to such withdrawing Party, as described in Section 7.1.

7.5 Disposition of Property upon Termination of Authority. Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred under this Agreement and under any Authority Documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8

MISCELLANEOUS PROVISIONS

8.1 Dispute Resolution. The Parties and the Authority shall make reasonable efforts to settle all disputes arising out of or in connection with this Agreement. Before exercising any remedy provided by law, a Party or the Parties and the Authority shall engage in nonbinding mediation in the manner agreed upon by the Party or Parties and the Authority. The Parties agree that each Party may specifically enforce this section 8.1. In the event that nonbinding mediation is not initiated or does not result in the settlement of a dispute within 120 days after

the demand for mediation is made, any Party and the Authority may pursue any remedies provided by law.

8.2 Liability of Directors, Officers, and Employees. The Directors, officers, and employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No current or former Director, officer, or employee will be responsible for any act or omission by another Director, officer, or employee. The Authority shall defend, indemnify and hold harmless the individual current and former Directors, officers, and employees for any acts or omissions in the scope of their employment or duties in the manner provided by Government Code Section 995 *et seq.* Nothing in this section shall be construed to limit the defenses available under the law, to the Parties, the Authority, or its Directors, officers, or employees.

8.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as the Board deems necessary to protect the interests of the Authority, the Parties and the public but shall obtain no less than \$2 million dollars in coverage. Such insurance coverage shall name the Parties and their respective Board or Council members, officers, agents and employees as additional insureds. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

8.4 Amendment of this Agreement. This Agreement may be amended in writing by a two-thirds affirmative vote of the entire Board satisfying the requirements described in Section 4.11. Except that, any amendment to the voting provisions in Section 4.11 may only be made by a three-quarters affirmative vote of the entire Board. The Authority shall provide written notice to the Parties at least 30 days in advance of any proposed amendment being considered by the Board. If the proposed amendment is adopted by the Board, the Authority shall provide prompt written notice to all Parties of the effective date of such amendment along with a copy of the amendment.

8.5 Assignment. Except as otherwise expressly provided in this Agreement, the rights and duties of the Parties may not be assigned or delegated without the advance written consent of all of the other Parties, and any attempt to assign or delegate such rights or duties in contravention of this Section 8.5 shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Parties. This Section 8.5 does not prohibit a Party from entering into an independent agreement with another agency, person, or entity regarding the financing of that Party's contributions to the Authority, or the disposition of proceeds which that Party receives under this Agreement, so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the Parties under this Agreement.

8.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses,

sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

8.7 Further Assurances. Each Party agrees to execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, to effectuate the purposes and intent of this Agreement.

8.8 Execution by Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by all Parties, each executed counterpart shall have the same force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

8.9 Parties to be Served Notice. Any notice authorized or required to be given pursuant to this Agreement shall be validly given if served in writing either personally, by deposit in the United States mail, first class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (a) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt and (b) by mail shall be conclusively deemed given 72 hours after the deposit thereof (excluding Saturdays, Sundays and holidays) if the sender receives the return receipt. All notices shall be addressed to the office of the clerk or secretary of the Authority or Party, as the case may be, or such other person designated in writing by the Authority or Party. In addition, a duplicate copy of all notices provided pursuant to this section shall be provided to the Director and alternate Director for each Party. Notices given to one Party shall be copied to all other Parties. Notices given to the Authority shall be copied to all Parties. All notices required hereunder shall be delivered to:

The County of Alameda

Director, Community Development Agency
224 West Winton Ave.
Hayward, CA 94612

With a copy to:

Office of the County Counsel
1221 Oak Street, Suite 450
Oakland, CA 94612

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

if to [PARTY No. _____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

IN WITNESS WHEREOF, the Parties hereto have executed this Joint Powers Agreement establishing the East Bay Community Energy Authority.

By: _____

Name: _____

Title: _____

Date: _____

Party: _____

EXHIBIT A

-LIST OF THE PARTIES

(This draft exhibit is based on the assumption that all of the Initial Participants will become Parties. On the Effective Date, this exhibit will be revised to reflect the Parties to this Agreement at that time.)-

DRAFT

DRAFT EXHIBIT B

-ANNUAL ENERGY USE

(This draft exhibit is based on the assumption that all of the Initial Participants will become Parties. On the Effective Date, this exhibit will be revised to reflect the Parties to this Agreement at that time.)

This Exhibit B is effective as of _____.

Party

kWh ([YEAR]*)

*Data provided by PG&E

DRAFT

DRAFT EXHIBIT C

- VOTING SHARES

(This draft exhibit is based on the assumption that all of the Initial Participants will become Parties. On the Effective Date, this exhibit will be revised to reflect the Parties to this Agreement at that time.)

This Exhibit C is effective as of _____.

Party

kWh ([YEAR]*)

**Voting Share
Section 4.11.2**

Total

*Data provided by PG&E

DRAFT

DRAFT

Attachment 2

CCA FEASIBILITY STUDY FOR ALAMEDA COUNTY RESULTS AND Q&A

JUNE 1, 2016

MRW & Associates
Oakland, California
mef@mrwassoc.com
510.834-1999



TONIGHT'S PRESENTATION

- Highlights of results
- Issues raised at last month's meeting
- Q&A

CONCLUSIONS

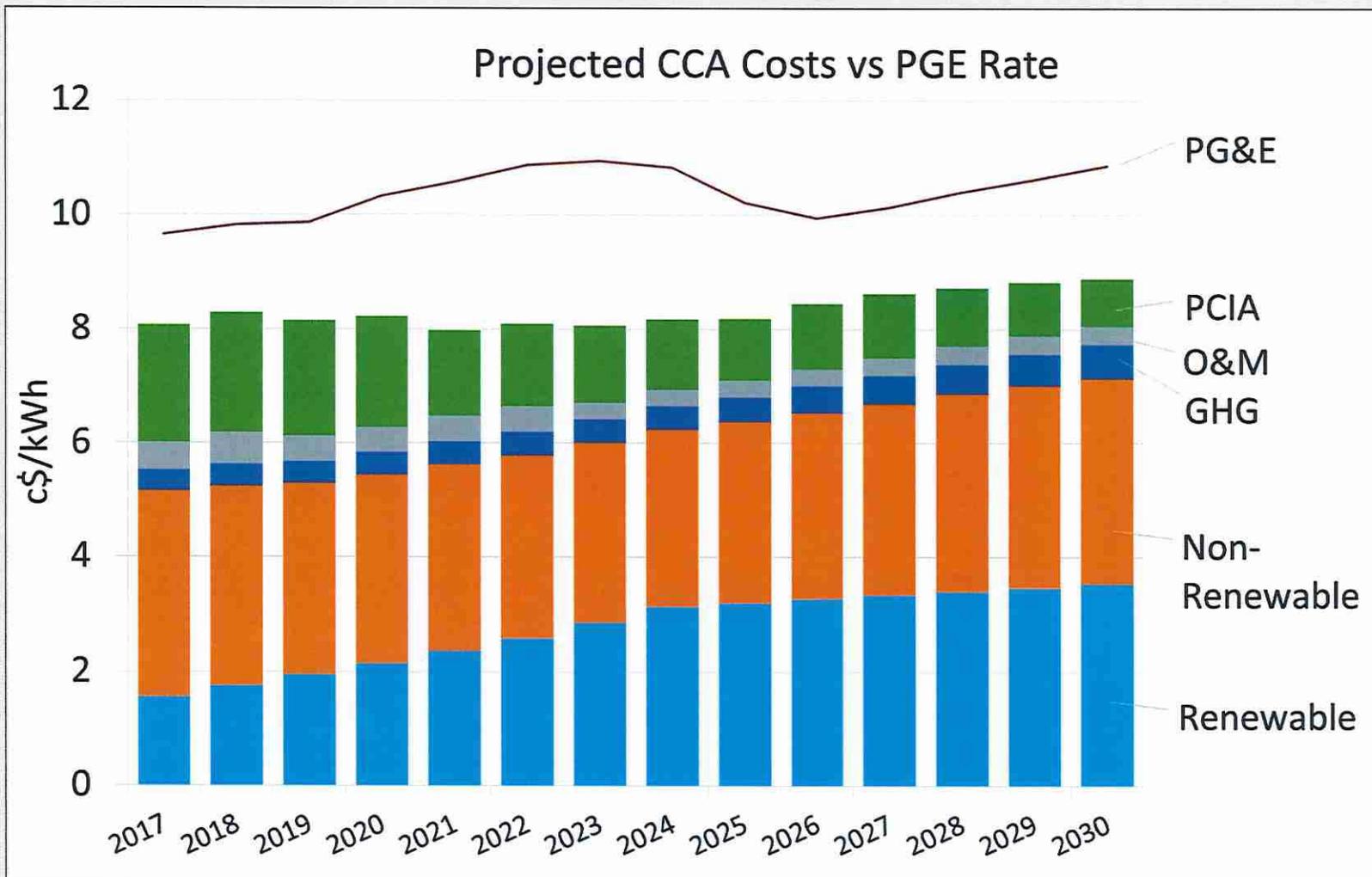
- Competitive with PG&E's retail rates
- Increasing RPS purchases can be cost-effective
- Carbon reduction goals need more than just increased RPS purchasing to be met
- Lots of options for encouraging energy efficiency
- Can be a positive factor in economic development
- Legislative/Regulatory risks are the most serious

feasibility study ≠ long term plan

THREE SCENARIOS

- 1. Minimum RPS Compliance: 33% ⇒ 50% qualifying renewables**
- 2. More Aggressive: Initially 50% with lower GHG emissions**
- 3. Ultra-Low GHG: 50% ⇒ 80% by year 5**

RESULTS: SCENARIO 2 (ACCELERATED RPS)



100% GREEN SURCHARGE

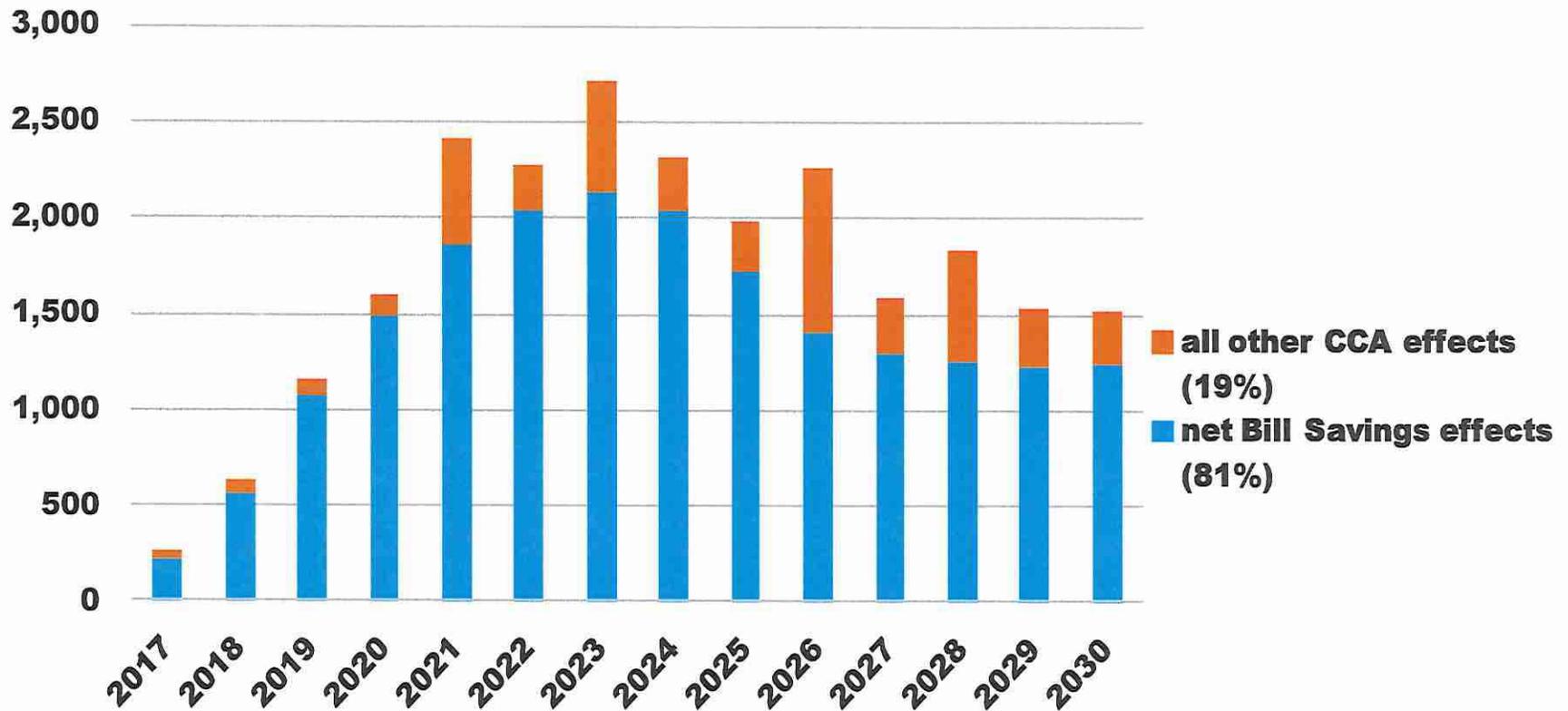
CCA	Rate Option	Increment Above Default Rate
Marin Clean Energy	Deep Green	1¢/kWh
Sonoma Clean Power	EverGreen	3.5¢/kWh
CleanPowerSF	SuperGreen	2¢/kWh
Lancaster Choice Energy	Smart Choice	\$10/month
Potential Alameda Co. CCA	TBD	~1.5¢/kWh

WHAT ENERGY EFFICIENCY PROGRAMS COULD A CCA DEVELOP?

- Run its own programs
- Increase participation rates in existing initiatives
 - PG&E programs
 - BayREN programs
- Leverage local government capacity to increase energy efficiency participation
 - Integrate energy efficiency (and distributed energy) with core City/County planning activities
 - More stringent codes and standards
 - Promote the use of market-ready funding and financing mechanisms

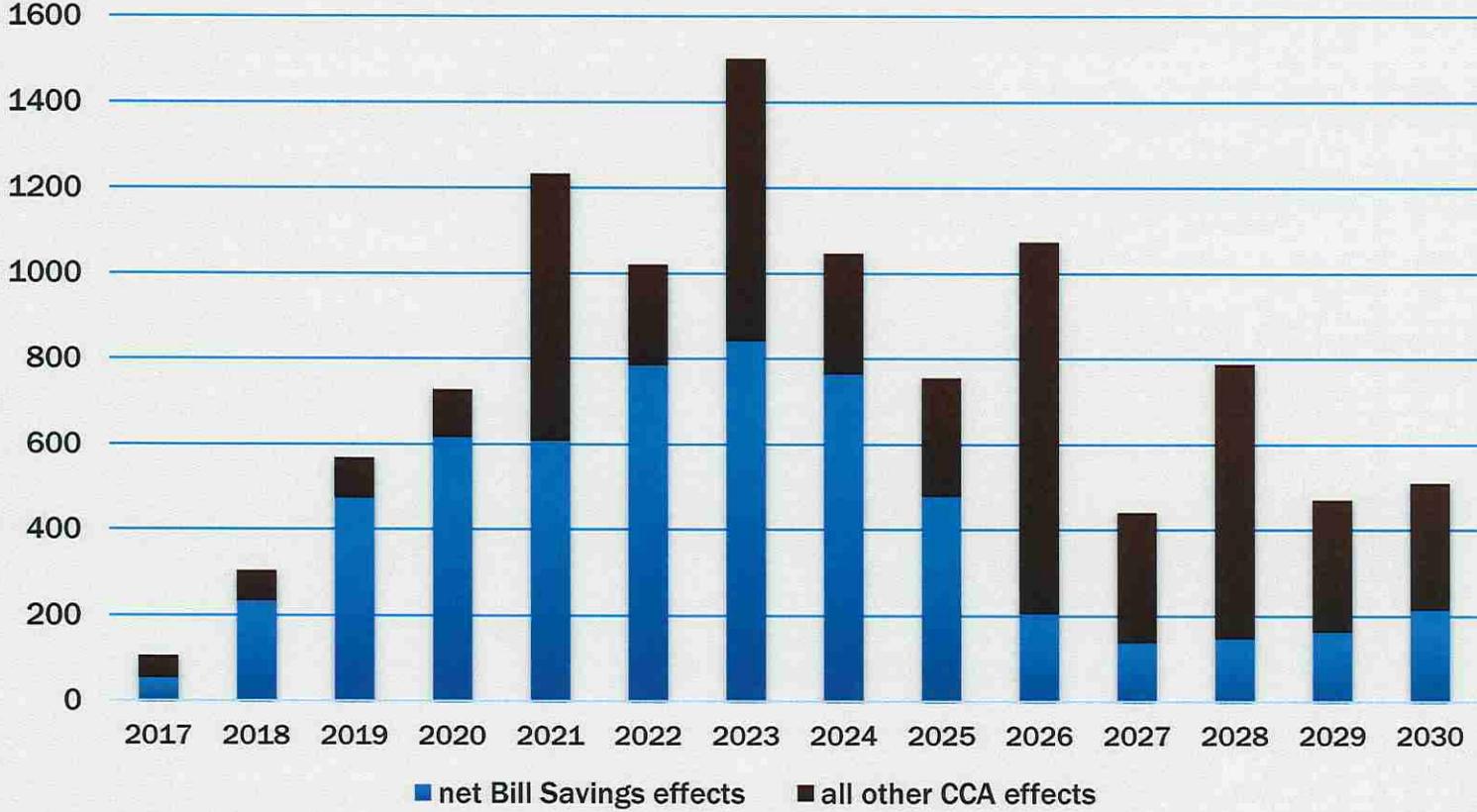
MACROECONOMIC IMPLICATIONS

Alameda Co. CCA Scenario 1 Total Jobs Impacts by Source



MACROECONOMIC IMPLICATIONS

Total Job Impacts, Scenario 3



CONSTRUCTION JOBS IN 2023

CCA Scenario	Jobs in Construction Sector		Jobs Associated with Collective Bargaining Agreements	
	Direct	Total	Direct	Total
1	136	440	27	88
2	137	432	27	86
3	154	326	31	65

ISSUE: WHY SO LITTLE GHG SAVINGS?



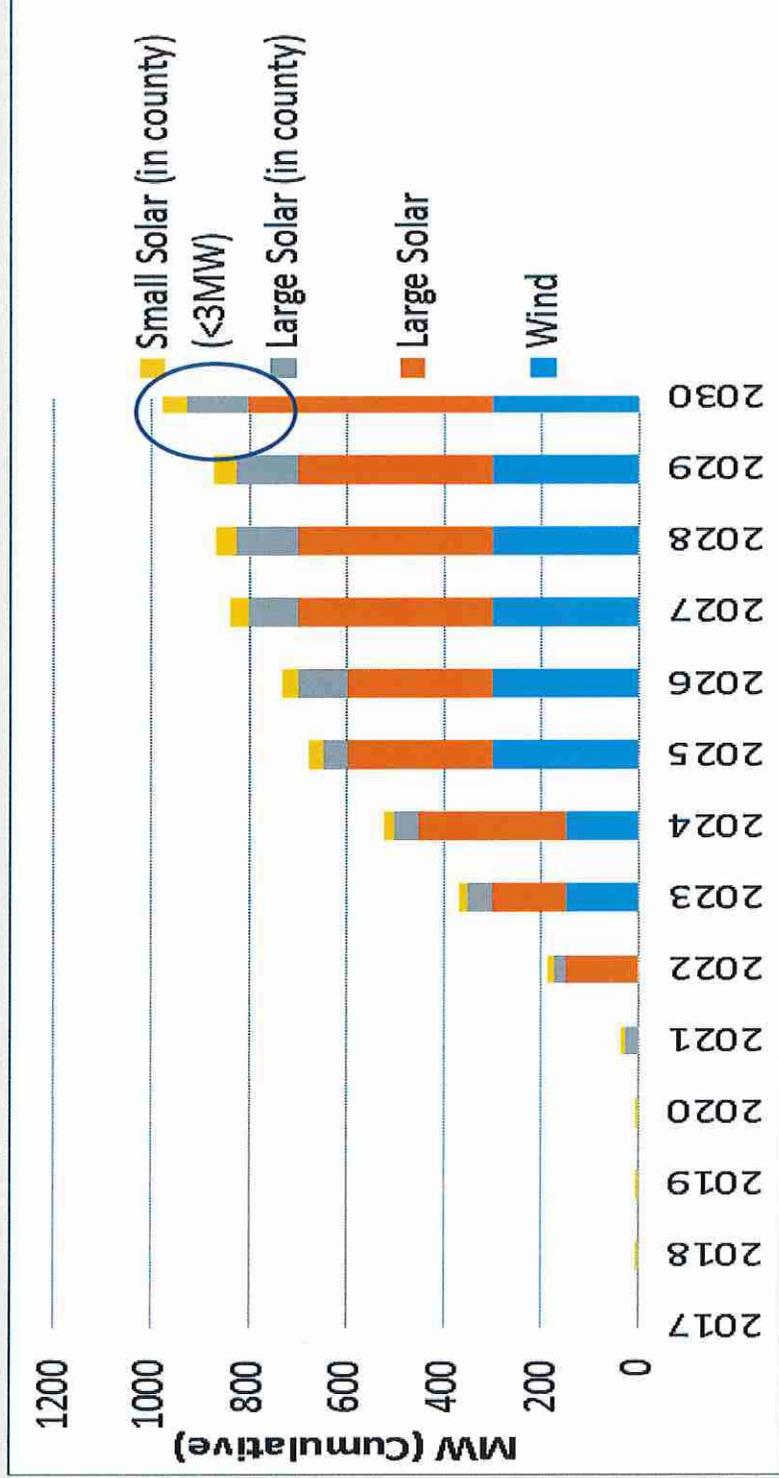
ANSWER: PG&E HYDROPOWER

ENERGY RESOURCES	PG&E 2014 POWER MIX (Actual)	2014 CA POWER MIX* (For Comparison)
Eligible Renewable:	27%	20%
• Biomass and waste	5%	3%
• Geothermal	5%	4%
• Small hydroelectric	1%	1%
• Solar	9%	4%
• Wind	7%	8%
Coal	0%	6%
Large Hydroelectric ¹	8%	6%
Natural Gas	24%	45%
Nuclear	21%	9%
Other	0%	0%
Unspecified**	21%	15%
TOTAL	100%	100%

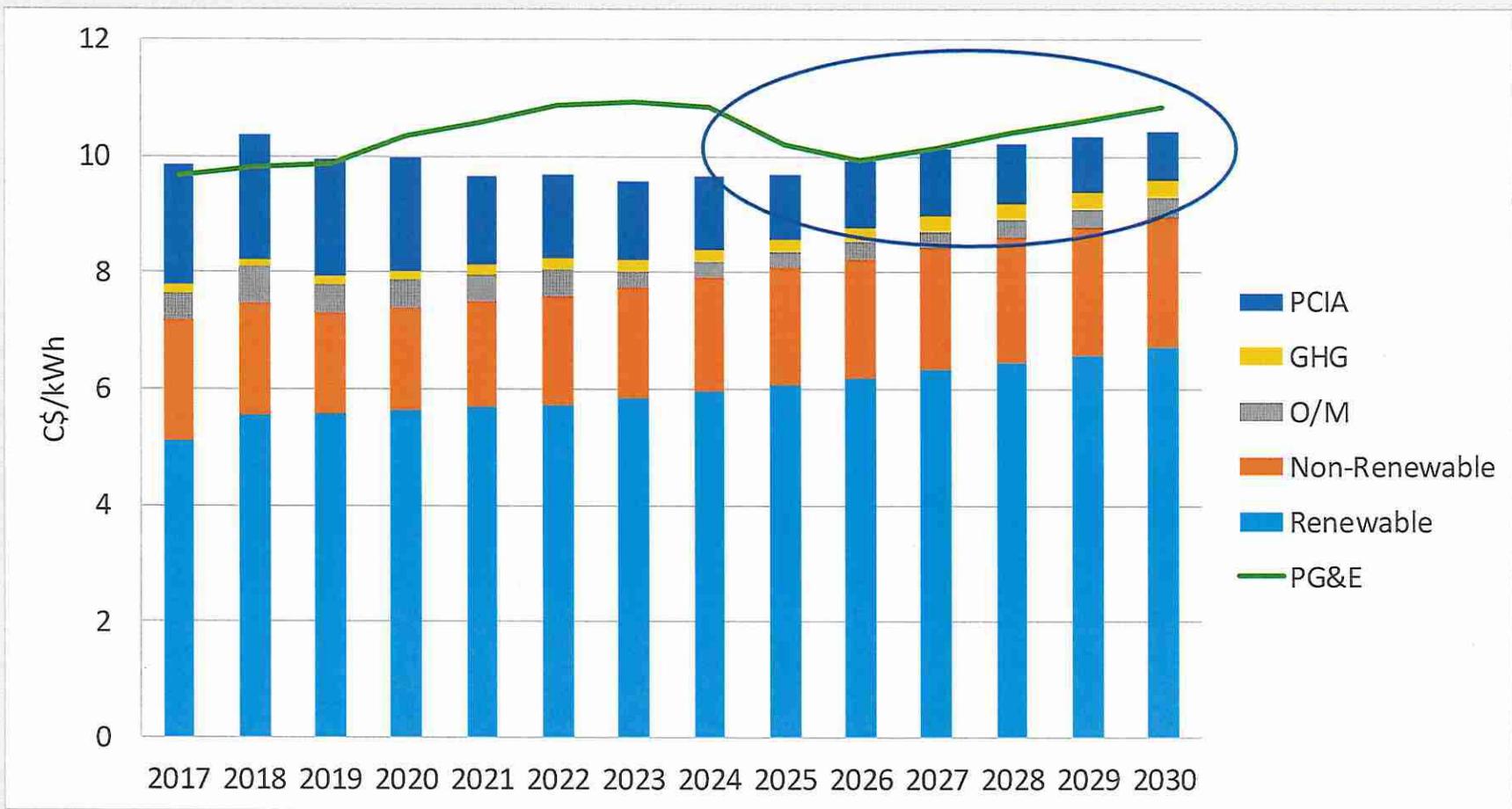
“Normal” v. drought

What was “normal” is not likely to be so in the future, thus GHG savings likely

ISSUE: WHY SO LITTLE LOCAL RENEWABLES?



EXPLORED 50% LOCAL RENEWABLES



QUESTIONS?

Attachment

3

Appendix A. Loads and Forecast

2014 Load (MWh) ¹	Residential	Commercial	Industrial	Public	Street lights + Pumping	TOTAL
OAKLAND	660,782	741,932	415,045	167,285	20,345	2,005,388
FREMONT	392,214	676,908	185,178	47,987	4,427	1,306,713
HAYWARD	240,909	444,599	71,270	30,672	25,598	813,048
BERKELEY	159,531	206,825	86,752	227,612	3,734	684,455
PLEASANTON	185,564	272,979	42,262	22,162	6,147	529,114
SAN LEANDRO	155,124	228,047	91,569	38,709	3,381	516,830
UNINCORPORATED	271,869	123,148	82,804	31,308	4,788	513,917
LIVERMORE	211,533	236,038	26,615	23,171	862	498,218
UNION CITY	114,258	175,482	6,194	54,684	5,401	356,019
DUBLIN	113,425	129,981	26,134	25,465	2,214	297,219
NEWARK	75,030	144,879	21,720	15,670	1,421	258,720
EMERYVILLE	21,608	132,815	44,507	3,637	1,024	203,591
ALBANY	23,494	13,997	15,602	2,855	1,778	57,726
PIEDMONT	27,774	1,622	0	3,044	328	32,768
TOTAL	2,653,116	3,529,250	1,115,650	694,261	81,449	8,073,725

¹ Total load corresponds at sum of all PG&E bills for the Alameda County in 2014 (i.e., It is not applied the 15% clients opt to stay with PG&E -85% participation-)



City of Newark

MEMO

DATE: June 30, 2016
TO: City Council
FROM: Sheila Harrington, City Clerk *J.H.*
SUBJECT: Approval of Audited Demands for the City Council Meeting of July 14, 2016.

REGISTER OF AUDITED DEMANDS

Bank of America General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
June 16, 2016	Page 1-2	108119 to 108190	Inclusive
June 24, 2016	Page 1-2	108191 to 108266	Inclusive

RECEIVED
JUN 30 2016
CITY MANAGER



City of Newark

MEMO

DATE: June 30, 2016
TO: Sheila Harrington, City Clerk
FROM: Susie Woodstock, Administrative Services Director *S.W.*
SUBJECT: Approval of Audited Demands for the City Council Meeting of July 14, 2016.

The attached list of Audited Demands is accurate and there are sufficient funds for payment.

Final Disbursement List. Check Date 06/16/16, Due Date 06/26/16, Discount Date 06/26/16. Computer Checks.

Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
108119	7922	AARP ATTN ANNETTE PAREDES	06/16/16	30.00	AARP SMART DRIVER SAFETY PROGRAM 06/03/1
108120	1396	ALAMEDA COUNTY FIRE DEPARTMENT ATTN: ACC	06/16/16	743,737.50	FIRE SERVICES FOR APRIL 2016
108121	344	ALAMEDA COUNTY WATER DISTRICT	06/16/16	1,962.64	FY 2015-16 YEAR END PO
108122	14	ALPINE AWARDS	06/16/16	3,471.71	ANNUAL DANCE REVUE APPAREL
108123	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECEI	06/16/16	229.82	FY15-16 BATTERIES
108124	9680	BAY CENTRAL PRINTING	06/16/16	212.58	BUS CARDS KELLY AND KAREN
108125	11397	BRIAN SIMON	06/16/16	1,273.09	EXPENSE REIMBURSEMENT
108126	1513	BURTON'S FIRE INC	06/16/16	173.96	FY 2015-16 YEAR END PO INV#32740
108127	9150	CAL-WEST LIGHTING & SIGNAL MAINTENANCE I	06/16/16	8,662.95	FY15-16 TRAFFIC SIGNAL AND STREETLIGHT M
108128	11388	CALIFORNIA CAMPER REPAIR INC.	06/16/16	523.64	TOW FUND PURCHASE
108129	7439	CENTERVILLE LOCKSMITH	06/16/16	69.82	FY15-16 YE LOCK SUPPLIES
108130	6304	CLASSIC GRAPHICS T & J LEWIS INC	06/16/16	219.00	FY15-16 AUTOBODY REPAIRS
108131	1109	CAPITAL ONE COMMERCIAL	06/16/16	737.65	SUPPLIES
108132	242	CROP PRODUCTION SERVICES	06/16/16	2,222.85	FY 2015-16 YEAR END PO
108133	10650	WARREN SEMIEN DBA FRISCO ZYDECO EVENTS	06/16/16	1,000.00	DANCE PERMIT REFUND
108134	10649	EDWARD JOSEPH MICELI	06/16/16	1,000.00	PERFORMANCE BOND RTN EP#2015-181
108135	10649	STAR ROOPER & PLUMBING	06/16/16	1,000.00	PERFORMANCE BOND RTN EP#2015-175
108136	10649	FRANK E. SILVEIRA	06/16/16	1,000.00	PERFORMANCE BOND RTN EP#2015-176
108137	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	06/16/16	282.50	LEGAL ADS
108138	63	THE GOODYEAR TIRE & RUBBER CO	06/16/16	2,738.60	266 + STOCK
108139	3728	DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	06/16/16	898.00	FINGERPRINTING FEES MAY'16
108140	4635	DIAMONDBACK FIRE & RESCUE	06/16/16	65.74	CONTROL VALVE GRIP REPLACEMENT & GRIB, S
108141	11015	EAST BAY LAWN MOWER	06/16/16	67.53	FY 2015-16 YEAR END PO
108142	310	EQUIFAX INFORMATION SVCS LLC	06/16/16	51.26	ANNUAL PO FOR CREDIT REPORTS
108143	10478	EUGENE'S HOME APPLIANCE SERVICE	06/16/16	448.88	FY15-16 APPLIANCE REPAIR
108144	4731	EWING IRRIGATION PRODUCTS INC	06/16/16	566.97	FY 2015-16 YEAR END PO INV# 1469502
108145	10642	FASTENAL COMPANY	06/16/16	29.84	FY15-16 MISC BLDG SUPPLIES
108146	11314	FH DAILEY CHEVROLET	06/16/16	82.80	ACTUATOR INV#372253
108147	5106	CITY OF FREMONT FINANCIAL SERVICES OFFIC	06/16/16	115,057.31	FY15-16 SACGISA INV#30
108148	10144	SHEILA HARRINGTON	06/16/16	70.90	EXPENSE REIMBURSEMENT
108149	7563	HILLYARD / SAN FRANCISCO	06/16/16	302.93	FY 2015-16 YEAR END PO
108150	1457	HOME DEPOT CREDIT SERVICES DEPT 32-25409	06/16/16	1,549.19	MISC. SUPPLIES APRIL'16
108151	3866	JAM SERVICES INC	06/16/16	5,457.48	TRAFFIC SIGNAL PARTS
108152	10192	SITEONE LANDSCAPE SUPPLY	06/16/16	1,531.60	FY 2015-16 YEAR END PO
108153	6009	JT2 INTEGRATED RESOURCES CORPORATE ACCOU	06/16/16	41,824.87	CLAIM#110600026
108154	7964	KNORR SYSTEMS INC	06/16/16	2,885.93	FY15-16 YE POOL REPAIR
108155	11246	LOOMIS ARMORED	06/16/16	244.34	ARMORED CAR SERVICE - 05/16
108156	11309	MANUEL FERNANDEZ CONSTRUCTION	06/16/16	6,690.80	FY 2015-16 YEAR END PO
108157	11386	MELVIN S. MATOS	06/16/16	80.00	PAYROLL ERROR CORRECTION
108158	11357	MISSION UNIFORM SERVICE	06/16/16	1,670.28	MAY'16
108159	11378	MNS ENGINEERS INC	06/16/16	21,336.00	ENGINEERING ON-CALL SERVICES FOR PLAN RE
108160	1409	LAWRENCE E MURPHY PHD CONSULTING PSYCHOL	06/16/16	700.00	ANNUAL PO FOR PSYCHOLOGICAL EVALUATIONS
108161	611	KKR AUTOMOTIVE DBA NAPA AUTO PARTS	06/16/16	7,397.18	MAY'16
108162	11089	NEWPARK AUTO SERVICE	06/16/16	1,613.96	FY 2015-16 YEAR END PO
108163	11272	NICHOLAS CUEVAS	06/16/16	125.00	EDUCATIONAL REIMBURSEMENT FOR NAME EMPLO
108164	10918	ANKAR CYCLES, INC dba OAKLAND HARLEY-DAV	06/16/16	31.66	M23 REPAIR
108165	2027	PACHECO BROTHERS GARDENING, INC.	06/16/16	2,019.00	IRRIGATION REPAIR - TIME AND MATERIALS
108166	349	PACIFIC GAS & ELECTRIC	06/16/16	53.71	FY15-16 STREET/TRAFFIC LIGHT ENERGY COST
108167	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	06/16/16	581.00	FY 2015-16 YEAR END PO
108168	10932	PETERSON HOLDING COMPANY	06/16/16	124.23	8D-6946 FLASHER
108169	10891	ADONAI PERAZIM INC. dba PRINTS CHARLES R	06/16/16	204.46	SPECS FOR PROJECT 1116 (2016 ASPHALT CON

Final Disbursement List. Check Date 06/16/16, Due Date 06/26/16, Discount Date 06/26/16. Computer Checks.
 Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
108170	4176	MICHAEL QUEBEC	06/16/16	847.50	RECREATION CONTRACT
108171	11376	QUINCY ENGINEERING INC	06/16/16	26,193.73	PROFESSIONAL ENGINEERING SERVICES FOR CE
108172	11234	RAY MORGAN COMPANY	06/16/16	2,916.18	COPIER LEASE AGREEMENT FY15/16
108173	7885	RENNE SLOAN HOLTZMAN SAKAI PUBLIC LAW GR	06/16/16	779.00	YEAR END PO FOR LABOR ADVICE
108174	11375	RESIDENCE INN SAN JOSE SOUTH	06/16/16	3,874.00	OPEN PO RESIDENCE INN SAN JOSE FOR ACADE
108175	11384	ROYAL WHOLESALE ELECTRIC	06/16/16	225.00	TRAINING
108176	279	S & S WORLDWIDE INC ACCOUNTS RECEIVABLE	06/16/16	281.41	SUPPLIES FOR SUMMER DAY CARE AND ASH STR
108177	654	SFPUC-WATER DEPARTMENT CUSTOMER SERVICE	06/16/16	4,201.66	FY15-16 HETCH HETCHY RENT JUN'16
108178	377	SIMON & COMPANY INC	06/16/16	1,948.05	LEGISLATIVE SERVICES MAY'16
108179	4418	SMITH & SONS ELECTRICAL CONTRACTORS INC	06/16/16	4,007.00	ELECTRICAL REPAIRS
108180	10804	STONERIDGE CJD	06/16/16	402.08	FY 2015-16 YEAR END PO
108181	11396	SWA SERVICES GROUP INC	06/16/16	27,858.29	JANITORIAL SERVICES FOR MAY 2016
108182	9476	YSERCO INC	06/16/16	932.50	PREVENTATIVE MAINTENANCE & TRAINING FOR
108183	5463	MARY TEIXEIRA	06/16/16	7.56	EXPENSE REIMBURSEMENT
108184	1765	TEMPERATURE TECHNOLOGY INC	06/16/16	6,800.91	FY 2015-16 YEAR END PO
108185	11395	TETRA TECH INC.	06/16/16	1,538.97	LOCAL HAZARD MITIGATION PLAN UPDATE
108186	5246	TURF STAR INC	06/16/16	935.53	FY 2015-16 YEAR END PO
108187	6797	US BANK CORPORATE PAYMENT	06/16/16	16,814.17	US BANK CC PAYMENT 05/23/16
108188	3446	UNIVERSAL SPECIALTIES INC	06/16/16	953.81	PLUMBING SUPPLIES
108189	853	VALLEY OIL COMPANY DEPT# 35101	06/16/16	12,272.30	FY 2015-16 YEAR END PO
108190	5050	WEST COAST ARBORISTS INC	06/16/16	3,443.75	FY15-16 TREE WORK
Total				1,101,544.56	

Final Disbursement List. Check Date 06/24/16, Due Date 07/04/16, Discount Date 07/04/16. Computer Checks.

Bank #001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
108191	10658	4LEAF INC	06/24/16	12,600.00	FY 2015-16 YE BLDG INSPECTION SERVICES -
108192	11094	ACME AUTO LEASING, LLC	06/24/16	1,909.44	ARMORED RESCUE VEH LEASE - JUNE'16
108193	10844	AIR FILTER SUPPLY	06/24/16	1,611.66	FY15-16 AIR FILTERS
108194	1774	AIRGAS USA, LLC	06/24/16	55.43	FY15-16 WELDING SUPPLIES
108195	8895	ALAMEDA COUNTY ENVIRONMENTAL HEALTH	06/24/16	5,575.00	CUPA FEES FOR SERVICE CENTER
108196	3853	COUNTY OF ALAMEDA INTERNAL AUDIT UNIT RI	06/24/16	1,897.00	CITATION PROCESSING FEES
108197	284	INFORMATION TECHNOLOGY DEPARTMENT ATTN:	06/24/16	3,057.72	AWS ACCESS FEES - APR'16
108198	5821	ALL CITY MANAGEMENT SERVICES, INC	06/24/16	3,124.17	CROSSING GUARD SVCS
108199	8256	ADITYA T BABU	06/24/16	1,260.00	RECREATION CONTRACT
108200	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECEI	06/24/16	286.34	49-75 BATTERY
108201	4534	BAY AREA BARRICADE SERVICE INC	06/24/16	1,702.73	INV# 0337818-IN
108202	9680	BAY CENTRAL PRINTING	06/24/16	63.66	BUSINESS CARD IMPRINTING - TERRI HERNAND
108203	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	06/24/16	1,965.00	SPORTS OFFICIATING
108204	3046	BEELINE GLASS CO INC	06/24/16	353.28	FY 2015-16 YEAR END PO
108205	214	CENTRAL VETERINARY HOSPITAL	06/24/16	456.56	K9 VET SVCS
108206	458	CHEVRON AND TEXACO BUSINESS CARD SERVICE	06/24/16	994.39	FY 2015-16 YEAR END PO
108207	11401	CHRISTI WALLACE	06/24/16	633.76	EXPENSE REIMBURSEMENT 04/21-04/29/16
108208	6304	CLASSIC GRAPHICS T & J LEWIS INC	06/24/16	3,026.44	DECALS FOR POLICE VEHICLES
108209	10650	FROYLAN SANCHEZ DBA SANCHEZ AUTO SALES	06/24/16	624.00	TOW REVEIW HEARING REFUND
108210	10793	TAMEKIA EUGENE	06/24/16	100.00	DEPOSIT REFUND
108211	10793	SALLY BALENTINE	06/24/16	100.00	DEPOSIT REFUND
108212	10793	YILAK MANDEFRO	06/24/16	172.50	DEPOSIT REFUND MINUS EXTRA HOUR
108213	10793	ALVARADO ELEMENTARY SCHOOL	06/24/16	212.50	DEPOSIT REFUND
108214	10793	BARBARA HILL	06/24/16	75.00	BALANCE OF RENTAL DEPOSIT REFUND
108215	10793	NEW LIFE MISSION CHURCH	06/24/16	300.00	RENTAL DEPOSIT REFUND
108216	10793	LEICA JOAQUIN	06/24/16	300.00	RENTAL DEPOSIT REFUND
108217	10793	GAIL TEODOSIO	06/24/16	263.00	CLASS REFUND - CHILD NOT READY FOR PROGR
108218	10793	PALOMARES PARENT TEACHER CLUB	06/24/16	300.00	DEPOSIT REFUND
108219	10793	SAN CARLOS SCHOOL DISTRICT	06/24/16	141.00	RENTAL DEPOSIT REFUND
108220	10793	PIONEER ELEMENTARY	06/24/16	284.60	RENTAL DEPOSIT REFUND
108221	10793	SANDPIPER ELEMENTARY	06/24/16	100.00	RENTAL DEPOSIT REFUND
108222	10793	KIA OMAR	06/24/16	100.00	DEPOSIT REFUND
108223	11400	DANIEL FRANKE	06/24/16	596.16	EXPENSE REIMBURSEMENT 04/25-05/06/16
108224	63	THE GOODYEAR TIRE & RUBBER CO	06/24/16	558.05	266 + STOCK
108225	2135	DEPARTMENT OF INDUSTRIAL RELATIONS PAYME	06/24/16	830.00	OSHA INSPECTIONS
108226	1778	DISCOUNT SCHOOL SUPPLY	06/24/16	1,913.06	SUPPLIES FOR PRESCHOOL
108227	11015	EAST BAY LAWN MOWER	06/24/16	1,698.36	MISC SUPPLIES INV# 15295
108228	10642	FASTENAL COMPANY	06/24/16	1,470.99	FY15-16 MISC BLDG SUPPLIES
108229	234	FREMONT ALARM C/O JOE TRIMBLE	06/24/16	623.40	FY15-16 ALARM SERVICE
108230	313	FREMONT URGENT CARE CENTER	06/24/16	954.00	ANNUAL PO FOR PRE-EMPLOYMENT AND DOT PHY
108231	10707	GYM DOCTORS	06/24/16	150.00	FITNESS EQUIPMENT MAINT - JUNE'16
108232	3635	RAYMOND HOPPE	06/24/16	697.96	EXPENSE REIMBURSEMENT 05/22-05/25/16
108233	263	INTELLI-TECH INTELLIGENT TECHNOLOGIES AN	06/24/16	456.00	FY15-16 HALON ROOM SERVICE
108234	11389	ISH AMITQJ KAUR	06/24/16	782.40	RECREATION CONTRACT
108235	11402	JESSICA RIVAS	06/24/16	920.86	EXPESNE REIMBURSEMENT 04/21-04/29/16
108236	10192	SITBONE LANDSCAPE SUPPLY	06/24/16	118.69	NODE 100 CONTROLLER
108237	10334	TIM JONES	06/24/16	258.15	EXPESNE REIMBURSEMENT
108238	5069	KIDZ LOVE SOCCER, INC.	06/24/16	4,440.60	RECREATION CONTRACT
108239	277	LAKESHORE LEARNING MATERIALS	06/24/16	428.62	SUPPLIES FOR PRESCHOOL
108240	293	LANGUAGE LINE SERVICES INC	06/24/16	158.15	INTERPRETATION SVCS - MAY'16
108241	6124	BRIAN LEWIS	06/24/16	244.02	EXPENSE REIMBURSEMENT

Final Disbursement List. Check Date 06/24/16, Due Date 07/04/16, Discount Date 07/04/16. Computer Checks.

Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
108242	11386	MELVIN S. MATOS	06/24/16	160.00	PAYROLL ERROR CORRECTION - 2013 & 2014
108243	11360	MIKE DAVIS LANDSCAPE SERVICES	06/24/16	9,215.77	PARK & LANDSCAPE MAINTENANCE SERVICES PR
108244	10865	NEW IMAGE LANDSCAPE	06/24/16	4,670.00	2015-16 WEED ABATEMENT
108245	324	NEWARK CHAMBER OF COMMERCE	06/24/16	3,919.34	CHAMBER MARKETING FUND
108246	11064	NEWARK VALERO #7117 SAM ANDARY	06/24/16	161.10	FUEL FOR PW
108247	327	OCCU-MED, LTD. FEDERAL TAX ID# 52-233351	06/24/16	100.00	ANNUAL PO FOR PRE-EMPLOYMENT PHYSICALS
108248	11399	OMAR PACHECO	06/24/16	760.67	EXPENSE REIMBURSEMENT 04/24-05/06/16
108249	172	ORIENTAL TRADING COMPANY, INC	06/24/16	376.18	SUPPLIES FOR PRESCHOOL
108250	349	PACIFIC GAS & ELECTRIC	06/24/16	54,061.33	GAS/ELECTRIC CHARGES 06/09/16
108251	9811	REDFLEX TRAFFIC SYSTEMS	06/24/16	18,800.00	REDLIGHT CAMERA MONITORING - MAY'16
108252	11373	RRM DESIGN GROUP	06/24/16	31,629.00	NEWARK ZONING CODE UPDATE
108253	279	S & S WORLDWIDE INC ACCOUNTS RECEIVABLE	06/24/16	587.41	SUPPLIES FOR PRESCHOOL
108254	11181	BRIAN SIMON	06/24/16	99.27	EXPENSE REIMBURSEMENT
108255	40	STAPLES ADVANTAGE DEPT LA	06/24/16	1,281.29	OFFICE SUPPLIES
108256	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	06/24/16	150.00	PAYROLL DEDUCTION - GARNISHMENT
108257	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	06/24/16	440.00	PAYROLL DEDUCTION - GARNISHMENT
108258	11396	SWA SERVICES GROUP INC	06/24/16	26,762.49	JANITORIAL SERVICES FOR JUNE 2016
108259	1765	TEMPERATURE TECHNOLOGY INC	06/24/16	1,164.39	FY 2015-16 YEAR END PO
108260	11311	TRAFFIC DATA SERVICE	06/24/16	2,160.00	TRAFFIC CALMING SERVICES
108261	3446	UNIVERSAL SPECIALTIES INC	06/24/16	263.21	PLUMBING SUPPLIES
108262	10998	GARY M SHELDON VBS SERVICES	06/24/16	150.00	BLOOD WITHDRAWAL SVC - MONTHLY SERVICE C
108263	5623	VERIZON WIRELESS	06/24/16	93.62	GPS TRACKER/IPHONE SVC
108264	339	WASHINGTON HOSPITAL GENERAL ACCOUNTING	06/24/16	250.00	LAB TESTS - MAY'16
108265	143	WILCO SUPPLY P O BOX 3047	06/24/16	212.16	FY15-16 KEYS/LOCKS
108266	10980	WONDRIES FLEET GROUP	06/24/16	106,692.24	VEHICLE REPLACEMENT - #159
Total				325,104.12	