CITY OF NEWARK
CITY COUNCIL

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

AGENDA

Thursday, November 10, 2016

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

A. ROLL CALL

B. MINUTES

B.1 Approval of Minutes of the special and regular City Council meetings of Thursday, October 27, 2016. (MOTION)

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Presentation from the Alameda County Mosquito Abatement District. (PRESENTATION)

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Approval to make a finding that City modifications to the state codes are reasonably necessary because of local climatic, geological, or topographical conditions and hearing to consider amending the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (Building Code), 15.09 (Residential Code), 15.10 (Mechanical Code), 15.12 (Electrical Code), 15.16 (Plumbing Code), 15.17 (Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code) – from Chief Building Official / City Architect Collier and Fire Marshal Terra. (MOTION) (ORDINANCE)

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.4 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

F.1 Cancellation of the November 24 and December 22, 2016 City Council meetings – from City Clerk Harrington. (MOTION)

F.2 Authorization to amend the 2016-2018 Biennial Budget to provide additional funding for engineering contractual services for Fiscal Year 2016-2017 in the Public Works Department – from Associate Civil Engineer Cangco. (RESOLUTION)

F.3 Authorization for staff to prepare and submit a Measure D Expenditure Plan and Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Years 2016-2017 and 2017-2018 – from Administrative Services Director Woodstock. (RESOLUTION)

F.4 Adopting a Compensation Plan for Certain Positions in the Exempt Service Employee Group to amend the Hourly Wage Rate Schedule for Part-Time, Seasonal, and Temporary (PST) Classifications; and Revoking Resolution No. 10,425 – from Human Resources Director Abe. (RESOLUTION)

NONCONSENT

F.5 Approval of a Contractual Services Agreement with the EMC Planning Group to conduct the Greater NewPark Area Specific Plan and amendment of the 2016-2018 Biennial Budget for Fiscal Year 2016-2017 – from Community Development Director Grindall. (RESOLUTION)

F.6 Consideration of Alameda County's Request that the City of Newark: (1) Introduce an Ordinance Approving the Implementation of a Community Choice Aggregation ("CCA") for the City of Newark; and (2) Adopt a Resolution Authorizing Formation of and Membership in the "East Bay Community Energy Authority," a Joint Powers Authority to Govern the Operation of the CCA – from City Manager Becker and City Attorney Benoun. (INTRODUCTION OF ORDINANCE) (RESOLUTION)

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Reappointment of Karen Bridges to the Planning Commission – from Mayor Nagy. (RESOLUTION)

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 November 10, 2016. (MOTION)

M. CLOSED SESSION

M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2), Anticipated Litigation: One case – from Human Resources Director Abe and City Attorney Benoun.

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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AGENDA

Thursday, November 10, 2016

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

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:

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

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 Council meetings are cablecast live on government access channel 26 and streamed at http://newarkca.pegsteam.com. Agendas are posted pursuant to Government Code Section 54954.2. Supporting materials are available at the Newark Library, in the City Clerk's office or at www.newark.org on the Monday preceding the meeting. For those persons requiring hearing assistance, or other special accommodations, please contact the City Clerk two days prior to the meeting.

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Minutes **Thursday, October 27, 2016**

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

A. ROLL CALL

Mayor Nagy called the meeting to order at 5:32 p.m. Present were Council Members Hannon, Collazo, Bucci, and Vice Mayor Freitas.

B. STUDY SESSION

B.1 Study Session to review the Community Choice Energy Program. The City's consultant and City staff will review the background of the proposed County program, the technical study, and the joint powers agreement. Community Choice Energy (CCE) enables local governments to procure and/or develop power on behalf of their public facilities, residents, and businesses.

Michael Pretto, Aspen Environmental Group, the City's technical consultant gave a presentation (on file with City Clerk). Community Choice Aggregation would allow a separate community based entity to supply electricity. He highlighted reasons for opting in and reasons for deferring participation.

Barbara Stebbins of Clean Energy, stated that she was a member of the Community Choice Aggregation Steering Committee and encouraged the City to join the CCE program.

Eloise Hamann of Tri Valley Progressives stated that she was also a member of the Community Choice Aggregation Steering Committee. She encouraged the City Council to join the CCE Program. She noted that the more cities that join, the lower costs for everyone.

City Attorney Benoun gave an update on the proposed joint powers agreement (presentation on file with City Clerk).

The City Council discussed the public notification for opting out, the voting shares, and the risk.

Mayor Nagy complimented Council Member Hannon and City Attorney Benoun for their work on this project.

B. ADJOURNMENT

Mayor Nagy adjourned the meeting at 7:09 p.m.

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Minutes **Thursday, October 27, 2016**

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

A. ROLL CALL

Mayor Nagy called the meeting to order at 7:33 p.m. Present were Council Members Hannon, Collazo, Bucci, and Vice Mayor Freitas.

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, October 13, 2016. MOTION APPROVED

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

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Mayor Nagy introduced the following newly hired City employees: Assistant City Engineer Jayson Imai, Human Resources Technician Jason Tang, and Police Officers Jessica Rivas, Brad Heimer, Omar Pacheco, and Daniel Franke.

C.2 Commending Newark Days Committee members.

Mayor Nagy presented the commendation to members of the Newark Days Committee.

C.3 Presentation by Alameda County representatives on the County's efforts to develop a Community Choice Energy Program.

Alameda County Supervisor Richard Valle stated that he supports Measure GG and encouraged Newark residents to support it too. He introduced Bruce Jensen, Tom Kelly and Mark Fuller in the audience who were representing Alameda County for the presentation.

Seth Baruch, gave the presentation (on file in the City Clerk's office). Community Choice Energy allows local governments to procure power. It increases renewable energy, lowers greenhouse gases, and provides competitive electricity rates. The

Alameda County Board of Supervisors has approved funding to launch this program and is asking interested cities to join the joint powers agency by December.

The City Council discussed the voting structure of the joint powers agreement, the modifications that were made to the plan that were introduced late in the process, jobs created for this program that might not occur in Alameda County, and the Business Plan time line reduction from 18 months to 8 months.

Eloise Hamann, Tri Valley Progressives, stated that she was a Steering Committee Member and encouraged the City to join the joint powers agency. She noted that Alameda County has worked hard to accommodate the stake holders. She stated that she thought there was no risk to the City or the consumer.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

Council Member Bucci moved, Council Member Collazo seconded, to approve Consent Calendar Items F.1 through F.2, 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 Authorization for the City to accept a 2016 Byrne Justice Assistance Grant (JAG) award and amend the 2016-2018 Biennial Budget.
RESOLUTION NO. 10567

F.2 Initiation of proceedings for the formation of the Landscaping and Lighting District No. 19 for Tract 8085, approval of the Engineer's Report, declaring intention to order formation of the assessment district and to levy and collect assessments, and set a public hearing date on December 13, 2016. **RESOLUTION NO. 10568**

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

Mayor Nagy encouraged the public to vote at the November 8, 2016 election.

Council Member Bucci stated that the Police Department was hosting a document shredding event in the City Hall parking lot on Saturday.

Council Member Collazo stated that the Day of the Dead event was a great success. She encouraged everyone to shop in Newark.

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

K. ORAL COMMUNICATIONS

Rueben Maldonado stated that he owns a home in the Spruce Street and Thornton Avenue area. He requested that the City Council consider an Overnight Residential Parking Permit Ordinance to alleviate parking and loitering problems in the neighborhood. He cited a city of Menlo Park ordinance as an example.

L. APPROPRIATIONS

Approval of Audited Demands for the City Council meeting of October 27, 2016. MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 109187 to 109303.

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

M. CLOSED SESSION

N. ADJOURNMENT

At 8:54 p.m. Mayor Nagy adjourned the City Council meeting.

C.1 Presentation from the Alameda County Mosquito Abatement District. (PRESENTATION)

Background/Discussion – It is the overall goal of the Alameda County Mosquito Abatement District (District) to provide for the public's health and comfort by carrying on a program of mosquito control and source reduction. District Manager Ryan Clausnitzer and Board Trustee Eric Hentschke will provide an update on the District's activities.

Mosquitoes and the diseases they spread

An Independent District Protecting Public Health

since 1930

Newark City Council Presentation 11/10/2016

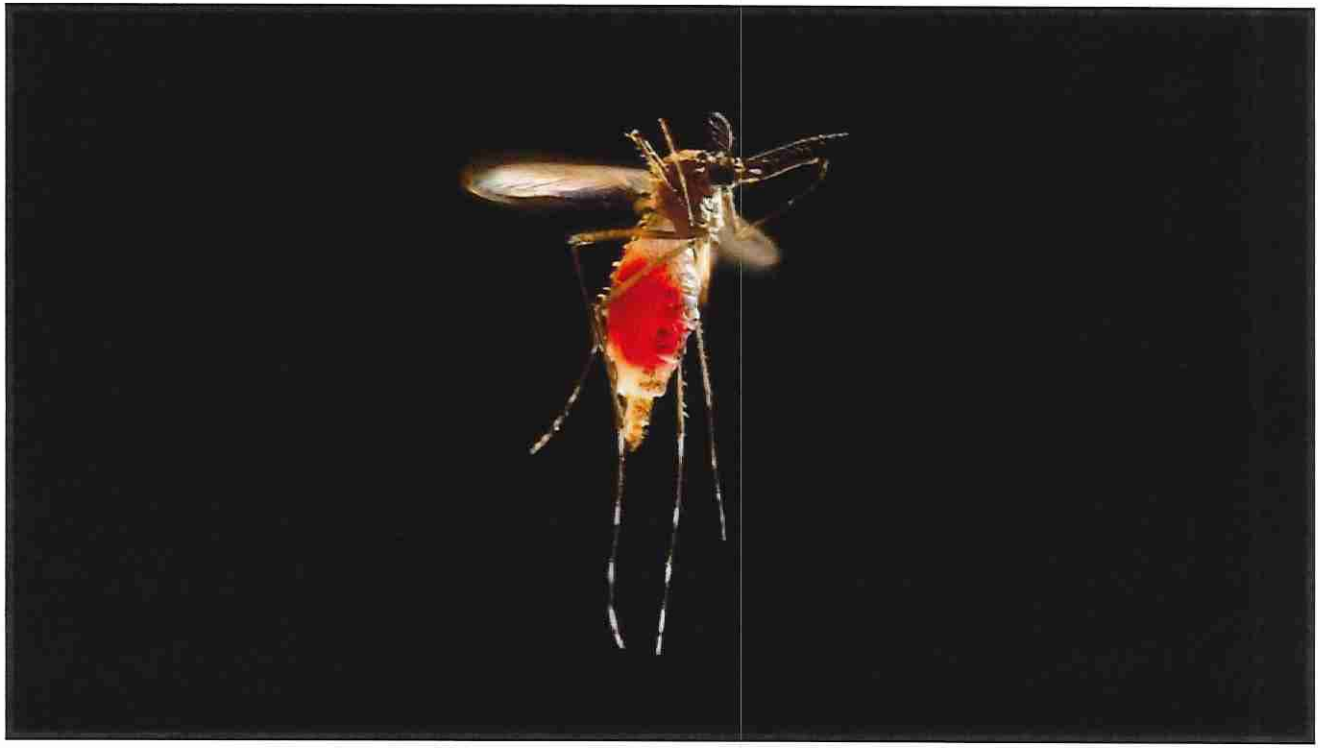
What we'll talk about today

- Overview of ACMAD
- Mosquito Biology
- Where mosquitoes breed
- Mosquito control
- Bugs transmitted by bugs
  - West Nile virus
    - Response plan
  - Zika virus
    - Response plan
- Mosquito breeding in the City of Newark

History and Overview

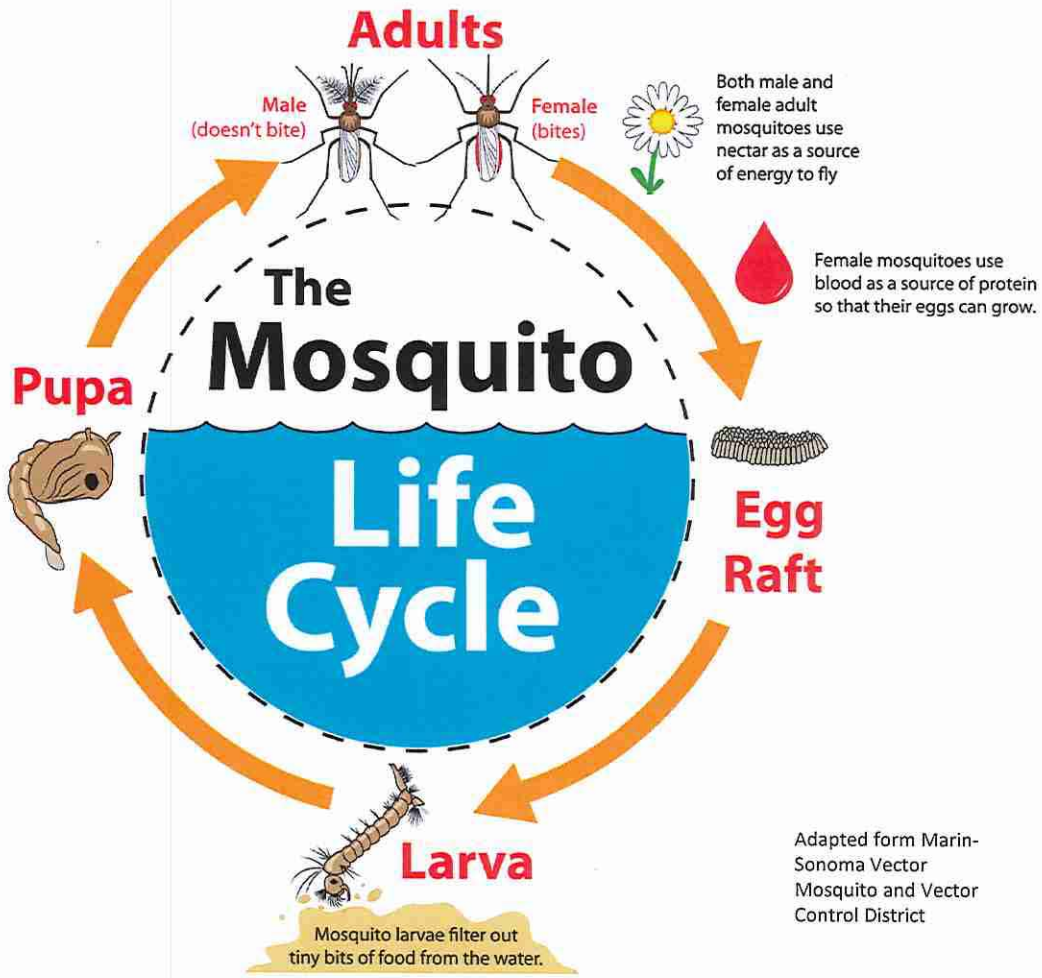
- Formed in 1930 as an Independent Special District
- Serves all cities and unincorporated areas of Alameda County, except for the City of Albany
- Governed by a board of 14 Trustees, appointed by their respective cities and the County-at-Large
- Three sources of revenue contribute to a balanced budget of $3.9 million
  - Ad valorum tax (.0009% of 1% property tax)
  - 1983 Special Tax ($1.72/per parcel)
  - 2008 Benefit Assessment ($2.50, **never raised**)
- Fully-funded retiree health benefits, 85% funded pension, and debt free
- 16 full-time and six seasonal staff, with a full fleet of vehicles, aquaculture program, and a fully capable molecular laboratory at our Hayward facility
- 2016 recipient of the Special District Leadership Foundation's **District Transparency Certificate of Excellence**

Mosquito Ecology, Biology, & Control



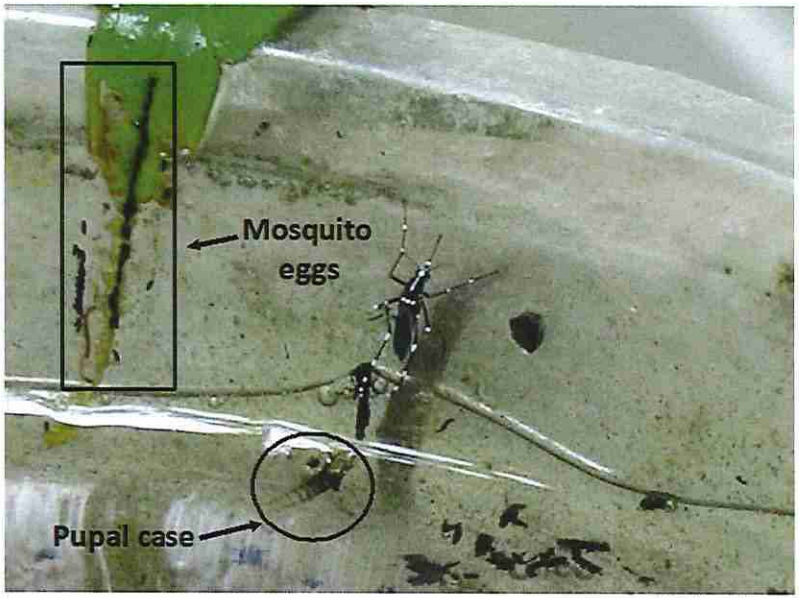
one of the most voracious predators of humans

- What do mosquitoes need?
  - Water:
    - Stagnant
      - *Culex pipiens* (common house mosquito)
    - Clear:
      - *Aedes aegypti* (yellow fever mosquito)
  - 1 – 2 weeks for growth:
    - Depends on species
  - Blood:
      - Typically birds, people, or other mammals



Adult female mosquitoes need water to lay eggs

On the surface of water

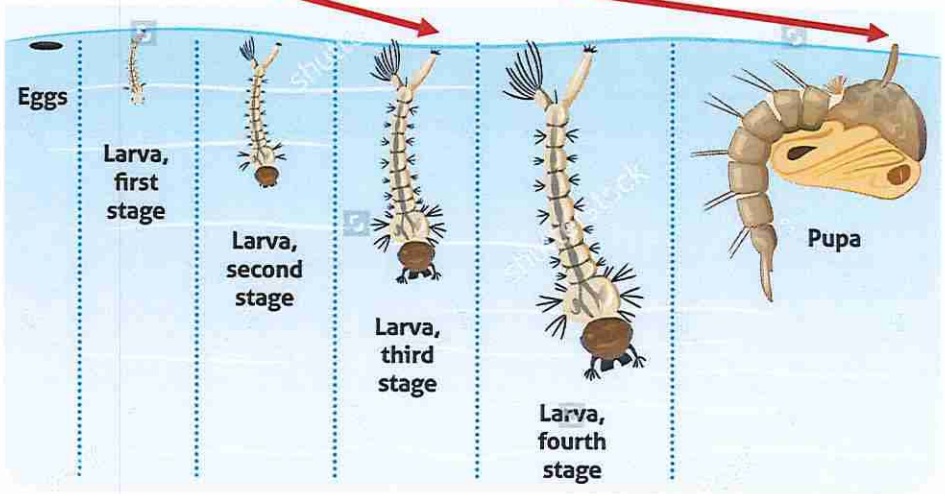


Near a spot that will fill with water

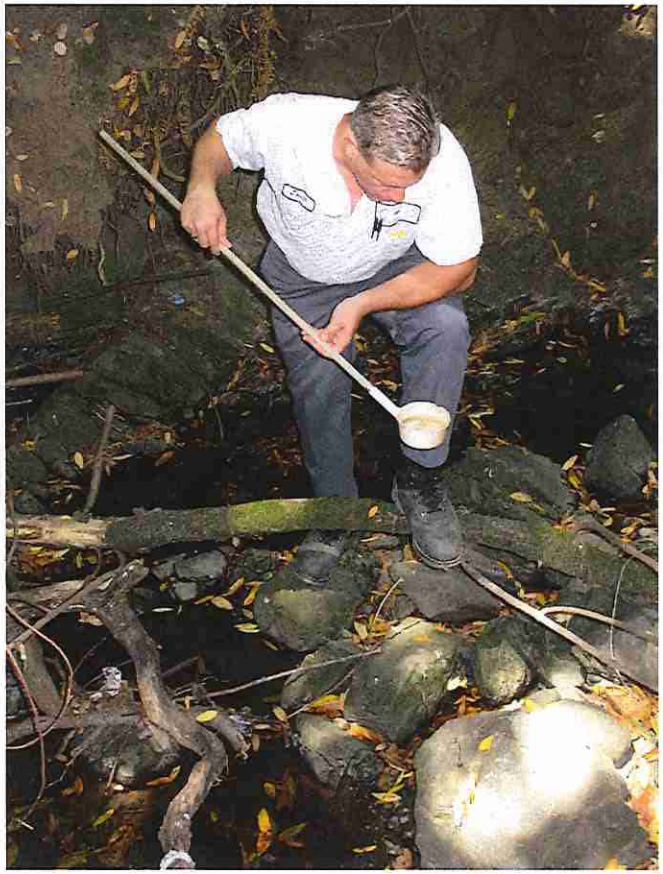
Aquatic lifestyle

- Urban mosquitoes spend 1st 1 - 2 weeks as larvae or pupae
- Breath air at the surface of water
  - Use a siphon tube for breathing
  - Ripples in the water prevent breathing

siphon tube



Monitoring mosquito abundance



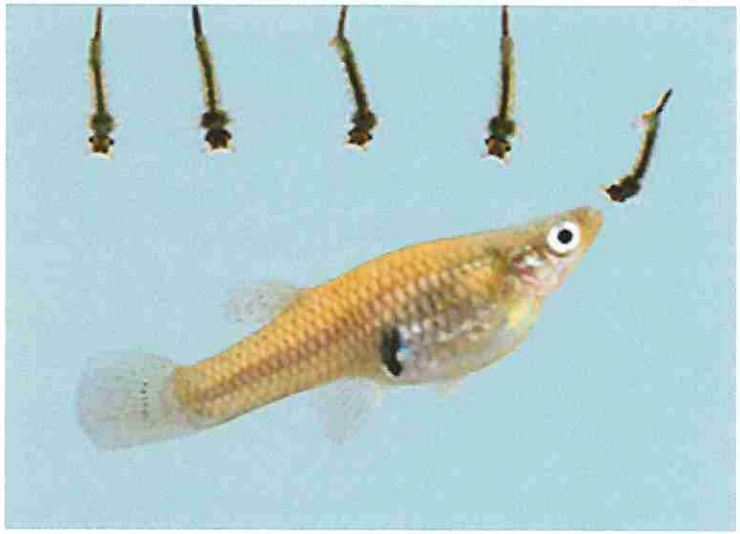
Dipping for mosquito larvae

Larval mosquito management

3 oz of mineral oil placed into catch basins

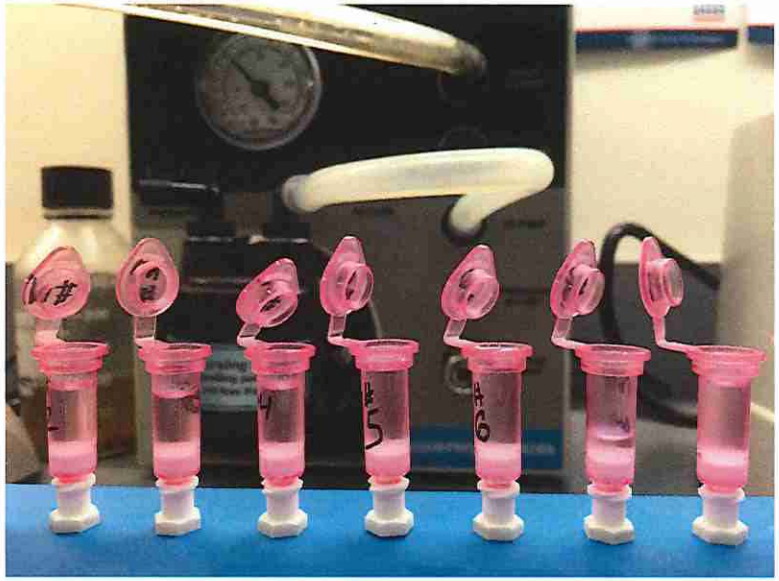
Biorational larvicide in marsh with breeding mosquitoes

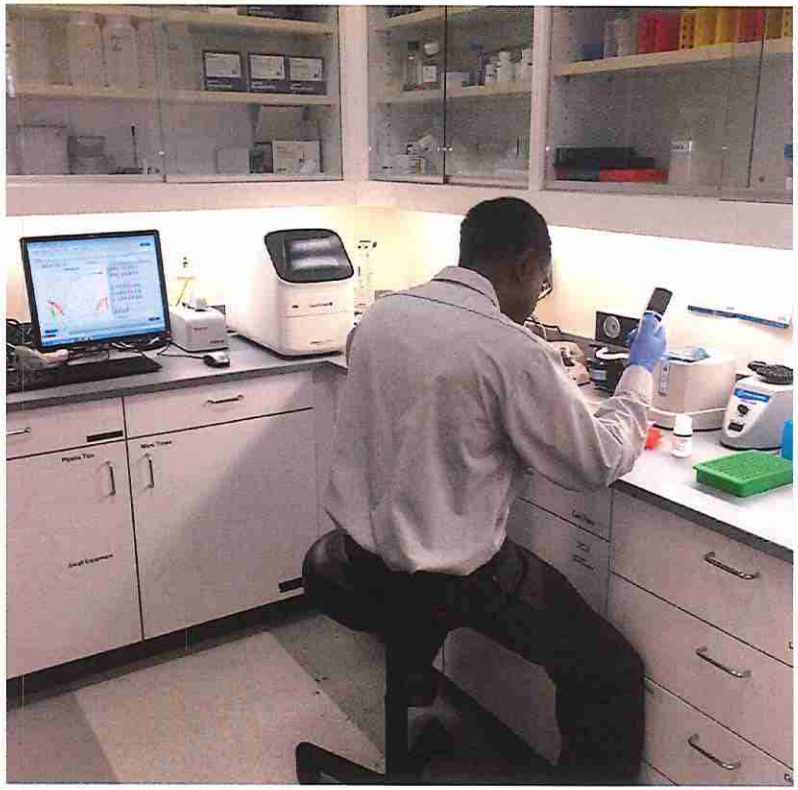
Mosquitofish: *Gambusia affinis*



- Eat a variety of aquatic insects and zooplankton
- Love to eat mosquito larva
- Relatively small
  - 1.5 – 3 inches
- Live in shallow fresh water
- Resilient to low oxygen levels
- Should not be introduced into natural habitats
  - streams, natural ponds

Monitoring mosquito abundance and diseases they spread





Testing collected mosquitoes for human diseases

Pathogens spread by mosquitoes of concern for Alameda County

the short list…

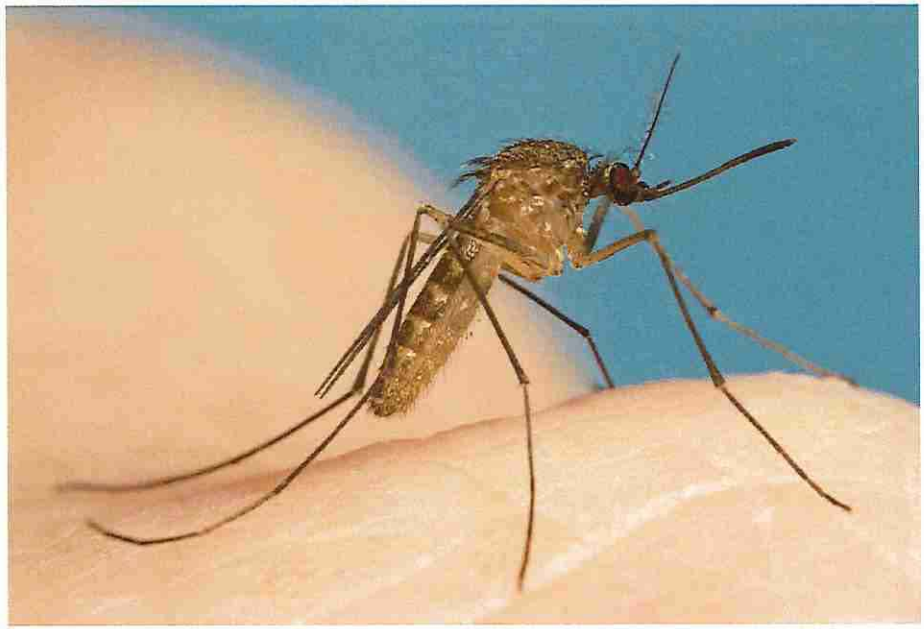
Mosquito vector present in Alameda County:

- West Nile virus
- Western equine encephalitis virus
- Saint Louis encephalitis virus
- Dog heartworm
- Malaria

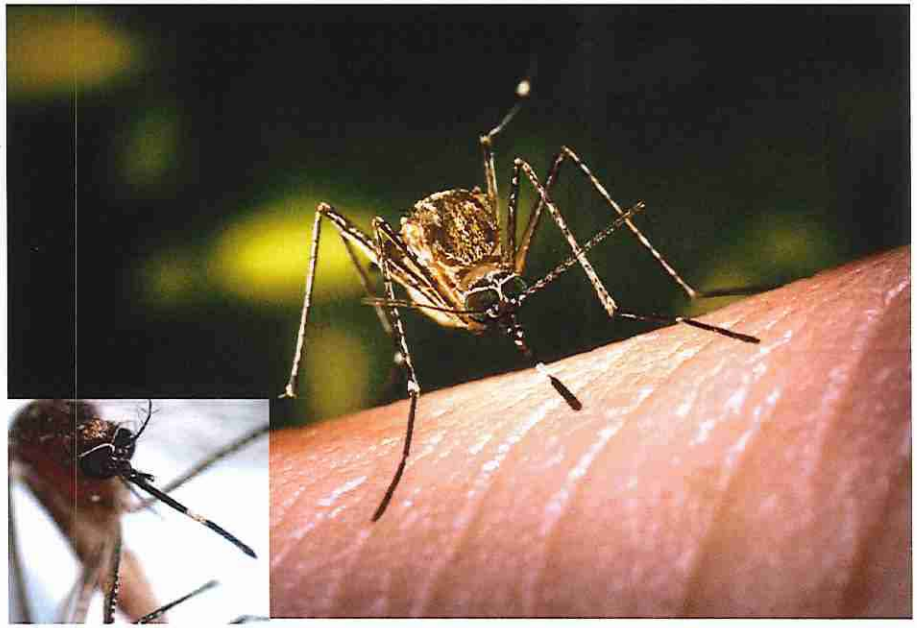
Mosquito vector present in California:

- Zika virus
- Dengue virus
- Chikungunya virus
- Yellow fever virus

Mosquitoes in the Bay Area that transmit West Nile virus



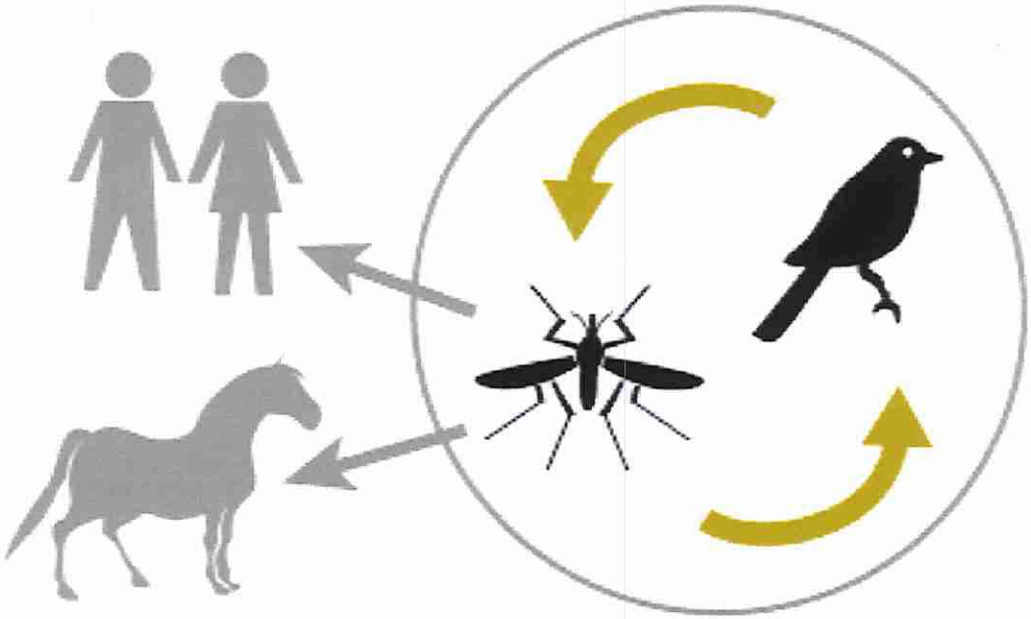
Culex pipiens:
common house mosquito



Culex tarsalis:
western encephalitis mosquito

West Nile virus transmission cycle

Dead-end transmission in humans and horses



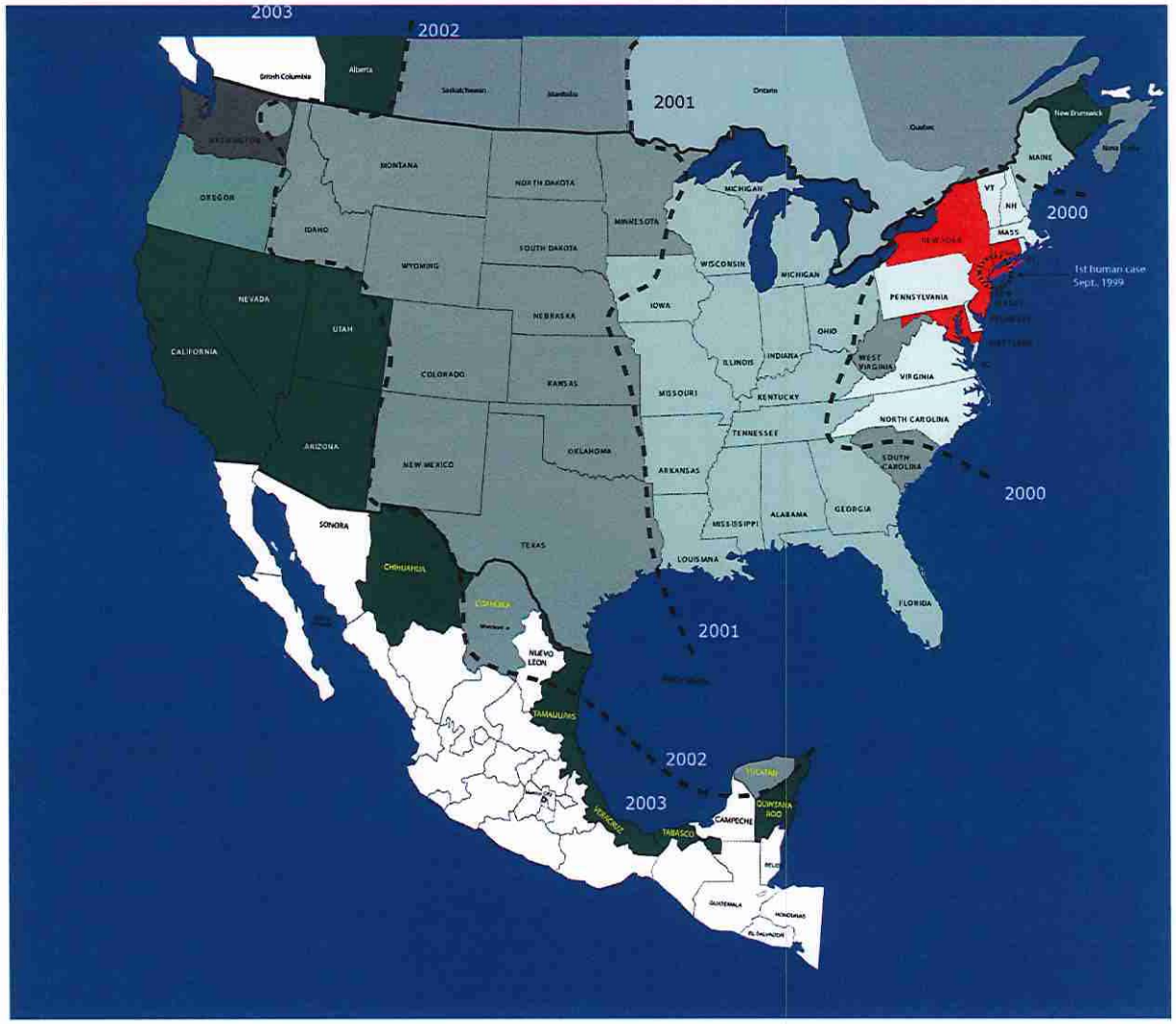
Maintenance cycle with bird reservoir

Mosquito carriers occasionally infect humans and other mammals.

WNV mostly cycles between Birds and mosquitoes.

More than 138 bird species that can be infected, and more than 43 mosquito species can transmit WNV

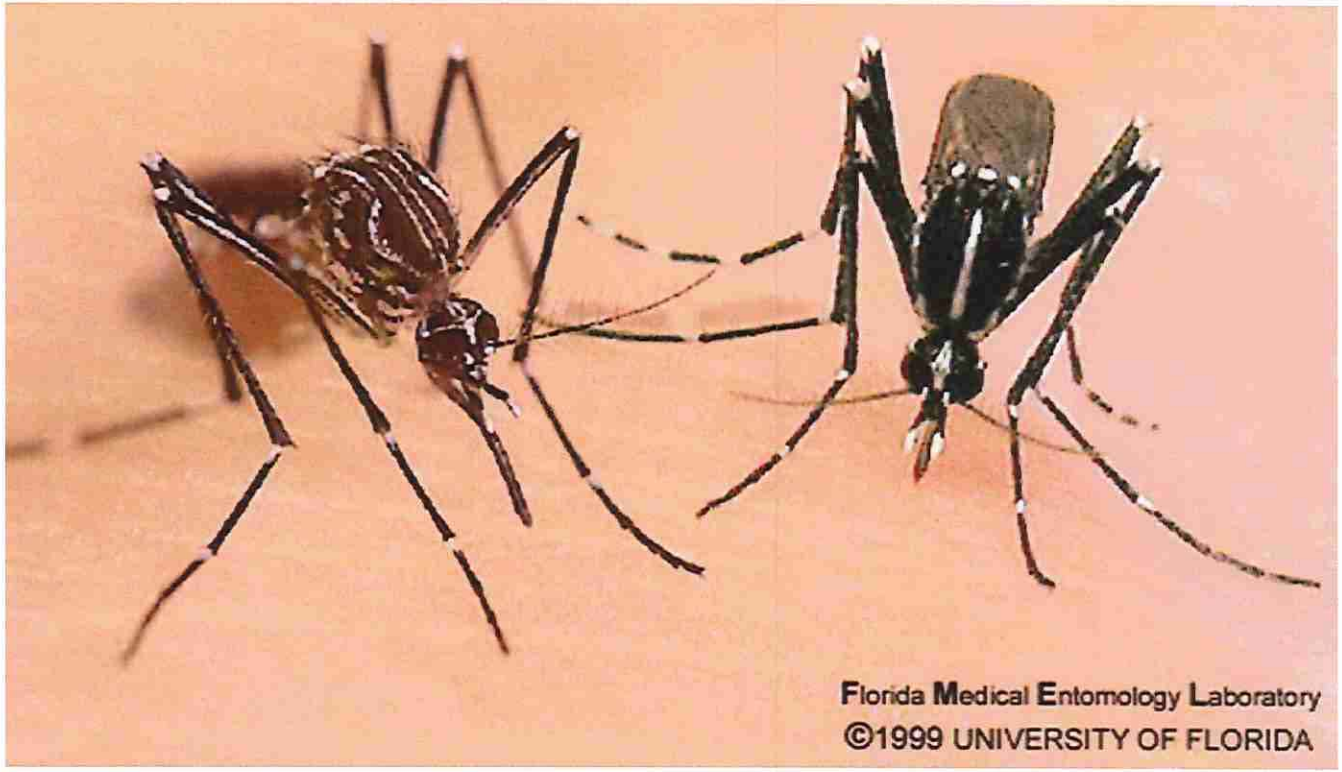
Rapid spread of West Nile virus across the US



ACMAD's response plan to West Nile virus

- The District's response plan includes:
  - In house testing of reported dead birds
  - Focused surveillance and testing of all captured mosquitoes
  - Intensified inspections and treatments in areas with positive detections
  - Key notifications to the public through press releases, social media, and voluntary signup through the District website

Mosquitoes that spread Zika virus

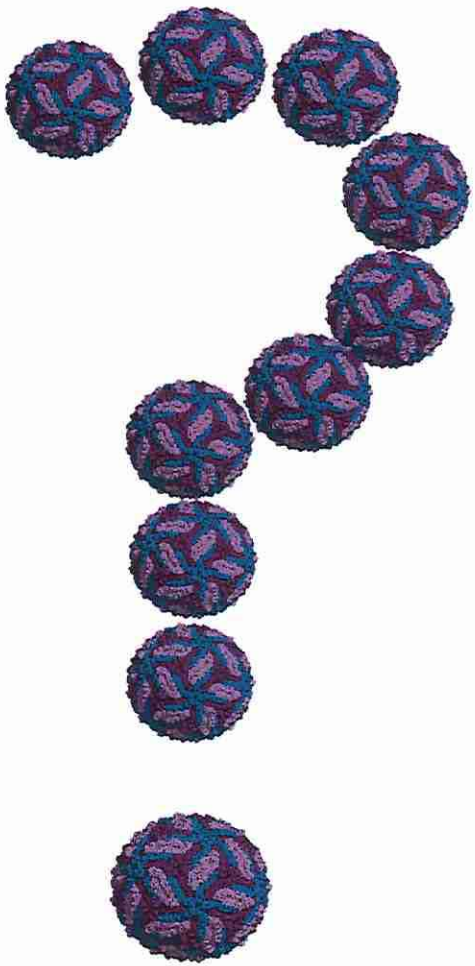


Aedes aegypti
lyre-shaped pattern on thorax

Aedes albopictus
bright lateral line on thorax

Zika virus

- A lot still unknown
- Discovered in 1947 and named after the Zika Forest in Uganda
- Before 2007, only 14 cases documented
  - But likely many more
- In 2015, thousands of cases
- Transmitted by mosquitoes not native to Alameda County
- Causes rash, microcephaly, and linked to Guillain-Barre´ syndrome



How Zika virus spreads

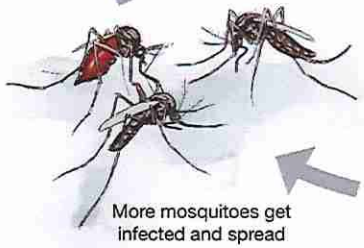
Most people get Zika from a mosquito bite

A mosquito bites a person infected with Zika virus

The mosquito becomes infected

A mosquito will often live in a single house during its lifetime

The infected mosquito bites a family member or neighbor and infects them



More mosquitoes get infected and spread the virus

More members in the community become infected

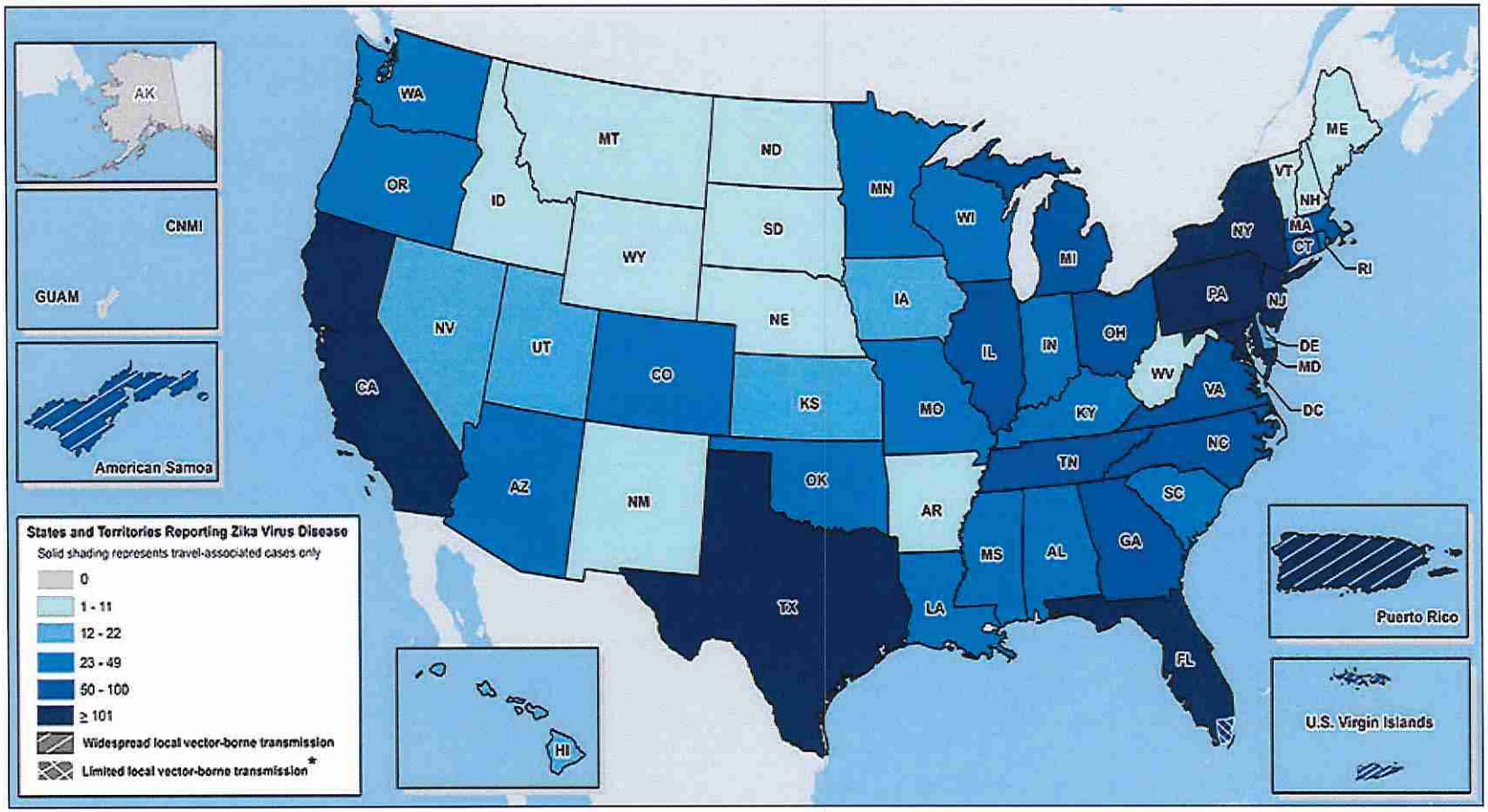
Other, less common ways, people get Zika:

During pregnancy
A pregnant woman can pass Zika virus to her fetus during pregnancy. Zika causes microcephaly, a severe birth defect that is a sign of incomplete brain development

Through sex
Zika virus can be sexually transmitted by a man to his partners

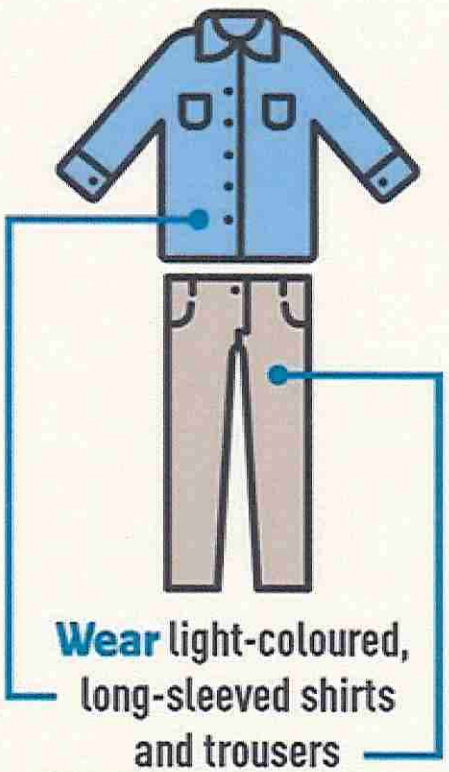
Through blood transfusion
There is a strong possibility that Zika virus can be spread through blood transfusions

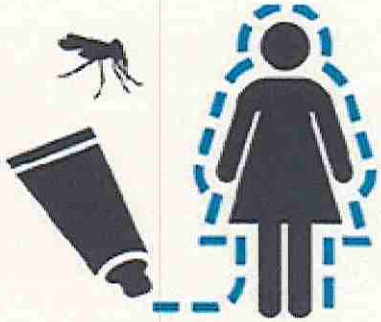
Zika virus: cases reported in the US (as of 10/12/16)



Zika prevention

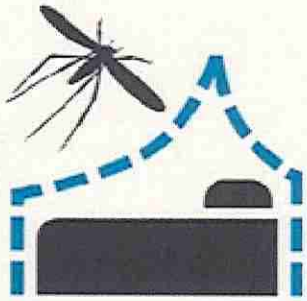
Use **physical barriers: screens, closed doors and windows**





Use **insect repellent**

Sleep under a **bed net**



Get rid of stagnant water from places **where mosquitoes breed,** such as in old containers, flower pots and used tyres

World Health Organization

ACMAD's response plan to invasive *Aedes*

- The District's response plan includes:
  - Door to door inspection and treatments in confirmed detection areas
  - Expanded surveillance to monitor dispersion
  - Coordination with the Alameda County Public Health Department
  - Dissemination of information through press releases and social media
  - Cooperation with local volunteer groups (CERT) in order to collect more information

Common Sources in the City of Newark

- Unmaintained swimming pools, catch basins, flood control channels
- Hetch Hetchy pipes, near shoreline
- Marshes @ Thornton & Don Edwards SF Bay National Wildlife Refuge Entrance
- Mowry Slough

Contact us for no-cost services:

- mosquitoes biting
- mosquito fish
- advice for reducing mosquito breeding sites
  - at your house or workplace
- Report of standing water or neglected pool
- dead bird report
- educational presentation

www.mosquitoes.org
(510) 783 – 7744
acmad@mosquitoes.org
Trustee: Eric Hentschke
Vector Control Technicians:
Miguel Cardenas (north)
Neil Campbell (south)

ALAMEDA COUNTY MOSQUITO ABATEMENT DISTRICT
EST. 1930

E.1 Approval to make a finding that City modifications to the state codes are reasonably necessary because of local climatic, geological, or topographical conditions and hearing to consider amending the Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (Building Code), 15.09 (Residential Code), 15.10 (Mechanical Code), 15.12 (Electrical Code), 15.16 (Plumbing Code), 15.17 (Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code) – from Chief Building Official / City Architect Collier and Fire Marshal Terra. (MOTION) (ORDINANCE)

Background/Discussion – On October 13, 2016, the City Council set a public hearing and introduced an ordinance to amend various state construction codes. The State of California has adopted new construction codes which will become effective January 1, 2017. These codes include building, residential building, mechanical, electrical, plumbing, reference standards, historical, existing, energy, green building, and fire prevention. As required by state law, applications for a building permit made after December 31, 2016 will be subject to the new codes. Local jurisdictions have the opportunity to make limited amendments to the new state codes. For local amendments to be enforceable, local jurisdictions must formally adopt the State Codes along with local amendments. The Government Code requires that a public hearing be held before the codes are amended and adopted locally. If adopted by City Council, the codes will become effective January 1, 2017.

A large portion of the recommended local amendments relate to the administrative portion of the codes. These administrative amendments will allow the City to carry forward the same administrative standards the City is currently using. Some of the changes merely accommodate new numbering systems. Staff is recommending technical changes to the Building, Residential, Plumbing, Electrical and Fire codes. There are no technical changes recommended to the Mechanical, Reference Standards, Historical Building, Energy, Existing, and Green Building Standards codes. The proposed changes are highlighted in the attached ordinance.

Attachment

Action – It is recommended that the City Council, at the conclusion of the public hearing, by motion, make a finding that City modifications to the state codes are reasonably necessary because of local climatic, geological, or topographical conditions and adopt an ordinance to amend Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (Building Code), 15.09 (Residential Code), 15.10 (Mechanical Code), 15.12 (Electrical Code), 15.16 (Plumbing Code), 15.17 (Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code).

Attachment "A"

STATEMENT OF FINDINGS
LOCAL AMENDMENTS TO 2016 STATE CONSTRUCTION CODES
CITY OF NEWARK
November 10, 2016

California Building Code

1. Deletion of Exceptions in Section 1.8.4.3.1, Retention of plans:
   Finding: The City retains all plans and therefore, exceptions to not apply.

2. Deletion of Section 101.4, Referenced Codes
   Finding: The City has developed its own consolidated administrative standards covering all the construction codes. The City standards are similar to those found in the administrative chapters of the various State Construction Code precluding the need for a finding.

3. Deletion of Section 104.10.1, Flood Hazard Areas
   Finding: The City has developed its own flood hazard ordinance which is in compliance with Federal standards precluding the need for a finding.

4. Deletion of Section 105.3.2, Time Limitation of Application
   Finding: The City has developed its own consolidated administrative standards covering all the construction codes. The City standards are similar to those found in the administrative chapters of the various State Construction Codes precluding the need for a finding.

5. Amendment of Section 402.5, Fire Sprinklers in Malls
   Finding: To provide modified standards to better serve the public interest by reducing the risk to life and property of the citizens of the City of Newark resulting from the following conditions:

   The City of Newark is traversed by railroad tracks across the major arterials: Thornton Avenue, Central Avenue, Jarvis Avenue, Cedar Boulevard, Cherry Street, and Sycamore Street. Entrance to the City is limited by the 880 overpass and the traffic coming from Highway 84, the Dumbarton Bridge. This configuration effectively divides the City in such a manner that a major accident on any one of these streets at any one time will prevent access to fire service within a reasonable response time. Present response time is often in excess of five minutes due to traffic conditions. Traffic throughout the City is channeled into several major thoroughfares that must ultimately cross railroad tracks and freeways by means of bridges and overpasses, creating a significant barrier to fire and emergency equipment responding in less than five minutes. In the event of an accident or other emergency at one of the key points of intersection between a highway and the railroad tracks or a freeway entrance to the City, the City could be isolated and the response time would be sufficiently slowed so as to increase the risk of substantial injury or damage.

   The City of Newark is directly impacted by earthquakes from the Hayward Fault and is subjected to fault activity from the San Andreas and Calaveras faults, among others. The

largest recorded earthquakes in the Newark area occurred during a sequence of earthquakes in January and February 1980. They reached magnitudes that ranged between 5.5 and 5.9 on the Richter scale. In August 1989 a trembler was recorded with a magnitude in excess of 5.0 on the Richter scale. These potential earthquakes influence fire protection planning in several ways. First, a major seismic event would create a citywide demand on fire protection service that would be beyond response capability of the Fire Department without sprinklerization. This potential problem could be mitigated by requiring the initial fire control be provided throughout the City by the installation of automatic fire sprinkler protection systems. Structural damage to overpasses connecting cities of various areas will seriously delay emergency vehicle access through the City. At present the City is not able to reach all existing areas within five minutes or less due to traffic congestion during peak hours. Fire Station #1 is blocked by railroad tracks leaving the Newark Boulevard overpass as the only way to get through in the event trains are on the track. Based on the following general findings, the amendments herein contained providing a modified standard for fire extinguishing systems are necessary to serve the public interest by reducing risk of life and property of the citizens of the City of Newark. The following are the general findings:

A. Nationwide and local experience and records have proven that early warning and detection and built-in fire protection are essential in saving lives and reducing property loss from fire.

B. There are fire problems reflected in the records of the Fire Department.

C. The growth patterns of the City indicate a high level of need for protection.

D. There are limitations of Fire Department manpower and equipment.

E. Legislative economic restraints adversely affect the ability of the Fire Department to greatly expand its manpower and equipment.

F. Early detection, warning, and built-in fire protection will greatly assist the Fire Department in saving lives and property.

6. Amendment of Section 404.3, Automatic Fire Sprinklers in Atriums
<u>Finding:</u> Please refer to Item 5 above.

7. Amendment of Section 407.6, Automatic Fire Sprinklers in Care Facilities
<u>Finding:</u> Please refer to Item 5 above.

8. Amendment of Section 410.7, Automatic Fire Sprinklers at Stages
<u>Finding:</u> Please refer to Item 5 above.

9. Amendment of Section 419.5, Fire Alarms in Live/Works Units
<u>Finding:</u> Please refer to Item 5 above.

10. Amendment of Section 441.2, Automatic Fire Sprinklers in Kennels
<u>Finding:</u> Please refer to Item 5 above.

11. Deletion of Section 509.4.2.1, Automatic Fire Sprinklers in Incidental Use Areas
Finding: Please refer to Item 5 above.

12. Amendment of Section 1029.6.2.3, Automatic Fire Sprinklers in Smoke Protected Assembly Seating Areas
Finding: Please refer to Item 5 above.

13. Deletion of Section 501.2, Address Identification
Finding: The City has its own security code which covers address identification precluding the need for a finding.

14. Amendment to Sections 901.7 and 903.2, Automatic Sprinkler Systems
The City of Newark has developed a Fire Sprinkler Ordinance that requires the installation of automatic fire sprinklers in most all new construction over 1,000 square feet.
Finding: Please refer to Item 5 above.

California Fire Code

1. Amendment to Sections 903, Automatic Sprinkler Systems
The City of Newark has developed a Fire Sprinkler Ordinance that requires the installation of automatic fire sprinklers in most all new construction over 1,000 square feet.
Finding: Please refer to item #5 under California Building Code.

2. Amendment to Section 907, Fire Alarms
The City has added standards for false alarms.
Finding: This is an administrative and fee standards which does not affect construction requirements of the Fire Code. Therefore, no finding is needed.

3. Amendment to Chapter 51, Fireworks
The City allows for the sale and use of safe and sane fireworks
Finding: Enhancement of the Fire Code to deal with the sale and use of fireworks has been added to mitigate potential fire danger not experienced in Cities that prohibit safe and sane fireworks.

California Mechanical Code

1. Amendment of Section 1.8.4.3.1, Retention of Plans
Finding: The City retains all plans and therefore, exceptions to not apply.

2. Deletion of Sections 104.4.3 and 104.4.4, Expiration and Extension of Permit.
Finding: The City has developed its own consolidated administrative standards covering all the construction codes. The City standards are similar to those found in the

administrative chapters of the various state construction codes precluding the need for a finding.

California Plumbing Code

1. Deletion of Section 1.8.4, Permits, Fees, Applications, and Inspections
   Finding: The City has developed its own consolidated administrative standards covering all the construction codes. The City standards are similar to those found in the administrative chapters of the various state construction codes precluding the need for a finding.

2. Deletion of Sections 104.3.2 and 104.3.3, Limitation of Applications
   Finding: The City has developed its own consolidated administrative standards covering all the construction codes. The City standards are similar to those found in the administrative chapters of the various state construction codes precluding the need for a finding.

3. Deletion of Sections 104.4.4 and 104.4.4, Permit Extensions
   Finding: The City has developed its own consolidated administrative standards covering all the construction codes. The City standards are similar to those found in the administrative chapters of the various state construction codes precluding the need for a finding.

4. Amendments to Sections 422.2.2 and 422.2.3, Plumbing Fixtures
   Finding: Minor modification that merely clarifies the existing code requirements precluding the need for a finding.

5. Delete Section 612, Residential Fire Sprinklers
   Finding: Please refer to Item 5 above under California Building Code.

6. Amendment to Section 713, Sewer Required
   Finding: The entire City is adjacent to the San Francisco Bay and has a high water table which makes private septic systems inappropriate.

7. Amendment to Section 1102.12, Roof Drains
   Finding: Roof drainage provisions have been modified to conform with Bay Area Storm Water Quality Control requirements.

California Residential Code

1. Delete Section R105.3.1.1, Flood Hazard Areas
   Finding: The City has developed its own flood hazard ordinance which is in compliance with Federal standards precluding the need for a finding.

2. Amendment to Section 301.1.3.2, Design Professional Required

Finding: Change in code merely declares a practice allowed by state law precluding the need for a finding.

3. Amendment to Section R322, Flood Hazard Areas
Finding: Please refer to Item 5 above under California Building Code.

4. Deletion of Section R326, Automatic Fire Sprinklers
Finding: The City has developed its own flood hazard ordinance which is in compliance with Federal standards precluding the need for a finding.

5. Addition of Section R326.1, Swimming Pools
Finding: No actual change in code standards. Pool construction standards from the California Building Code are utilized precluding the need for a finding.

California Referenced Standards Code

No local amendments.

California Electrical Code

1. Article 89.108.4.3.1, Retention of Plans
Finding: The City retains all plans and therefore, exceptions to not apply.

2. Article 310.106(B), Conductor material
Finding: Modification prohibits the use of aluminum conductors except for service entrance conductors. The connections of aluminum wire have a high rate of failure in the Bay Area atmosphere.

California Energy Code

No local amendments.

California Historical Code

No local amendments.

California Existing Building Code

No local amendments

California Green Building Standards Code

No local amendments.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING THE NEWARK MUNICIPAL CODE TITLE 15 (BUILDINGS AND CONSTRUCTION), ARTICLE I (BUILDING REGULATIONS), CHAPTERS 15.08 (BUILDING CODE), 15.09 (RESIDENTIAL CODE), 15.10 (MECHANICAL CODE), 15.12 (ELECTRICAL CODE), 15.16 (PLUMBING CODE), 15.17 (FIRE CODE), 15.18 (CALIFORNIA REFERENCED STANDARDS CODE), 15.20 (CALIFORNIA HISTORICAL BUILDING CODE), 15.21 (CALIFORNIA EXISTING BUILDING CODE), 15.22 (CALIFORNIA ENERGY CODE), 15.23 (CALIFORNIA GREEN BUILDING STANDARDS CODE)

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

Section 1: That the following are amended as attached and will become effective on January 1, 2017:

Title 15 (Buildings and Construction), Article I (Building Regulations)
Chapter 15.08 (Building Code)
Chapter 15.09 (Residential Code)
Chapter 15.10 (Mechanical Code)
Chapter 15.12 (Electrical Code)
Chapter 15.16 (Plumbing Code)
Chapter 15.17 (Fire Code)
Chapter 15.18 (California Referenced Standards Code)
Chapter 15.20 (California Historical Building Code)
Chapter 15.21 (California Existing Building Code)
Chapter 15.22 (California Energy Code)
Chapter 15.23 (California Green Building Standards Code)

Section 2: Effective date. This ordinance shall take effect on January 1, 2017. Before expiration of fifteen (15) days after its passage, this ordinance shall be published in The Tri City Voice, a newspaper of general circulation published and printed in the County of Alameda and circulated in the City of Newark.

Title 15

BUILDINGS AND CONSTRUCTION

Chapters

Article I. Building Regulations

15.04	General Provisions
15.06	Security Code
15.08	Building Code
15.09	Residential Code
15.10	Mechanical Code
15.12	Electrical Code
15.16	Plumbing Code
15.17	Fire Code
15.18	California Referenced Standards Code
15.20	California Historical Building Code
15.21	California Existing Building Code
15.22	California Energy Code
15.23	California Green Building Standards Code
15.24	Miscellaneous Provisions
15.28	Violation – Penalty

Article II. Miscellaneous Regulations

~~15.32~~	~~Fire Prevention Code~~
15.40	Construction in Flood Hazard Areas
15.44	Green Building and Construction and Demolition Debris recycling
15.50	Grading and Excavation

Chapter 15.08

BUILDING CODE

Sections

15.08.010 California Building Code adopted by reference.
15.08.020 Amendments.
15.08.042 Licensed professional.
15.08.060 Drainage disposal.

15.08.010 California Building Code adopted by reference.

A certain document, entitled "~~2013~~ 2016 California Building Code, Volumes 1 and 2," including Appendix Chapter F relating to rodent proofing, ~~I, relating to Patio Covers, and Appendix Chapter A-1 relating to unreinforced masonry buildings~~, published by the International Code Council and amended and adopted by the state of California as the ~~2013~~ 2016 edition California Building Code, is adopted by reference as the building code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.08.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

~~A. Section 1.8.4 dealing with permits, fees, applications, and inspections is deleted. Refer to Chapter 15.04, General Provisions, of the Newark Municipal Code.~~

A. Section 1.8.4.3.1 dealing with retention of plans is amended by deleting exceptions 1 through 4.

~~B. Section 1.8.8 dealing with appeals board is deleted. Refer to Chapter 15.04.030, Interpretation of the Uniform Codes and Board of Appeals, of the Newark Municipal Code.~~

~~C.~~ B. Section 101.4 dealing with referenced codes is deleted.

~~D.~~ C. Section 104.10.1 dealing with flood hazard areas is deleted. Refer to Chapter 15.40, Construction In Flood Hazard Areas, of the Newark Municipal Code.

~~E.~~ D. Sections 105.3.2 dealing with time limitation of applications and Section 105.5 dealing with expiration of permits are deleted. Refer to Chapter 15.04.180, Expiration of Plan Review, and Chapter 15.04.190, Expiration of Permits, of the Newark Municipal Code.

E. Section 402.5 dealing with automatic fire sprinkler systems in malls is amended by deleting the exception.

F. Section 404.3 dealing with automatic fire sprinkler systems in atriums is amended by deleting all exceptions.

G. Section 407.6 dealing with automatic fire sprinkler systems in certain care facilities is amended by replacing Section 407.6 in its entirety with the following:

407.6 Automatic sprinkler system. Every facility as specified herein, regardless of floor area, wherein more than six clients or patients are housed or cared for on a 24-hour per-day-basis shall have installed and maintained in an operable condition throughout the entire building an automatic sprinkler system of a type approved by the state fire marshal. The provisions of this subsection shall apply to every person, firm or corporation establishing, maintaining or operating a hospital, children's home, children's nursery or institution, or a home or institution for the care of aged or persons with dementia or other cognitive impairments, or any institution for persons

with mental illness or persons with developmental disabilities and any nursing or convalescent home.

H. Section 410.7 dealing with automatic sprinkler systems at stages is deleted.

I. Section 419.5 dealing with fire alarms in live/work units is amended by replacing Section 419.5 in its entirety with the following:

419.5 Fire Protection. The live/work unit shall be provided with a monitored fire alarm system where required by Section 907.2.9.

J. Section 441.2 dealing with automatic fire sprinkler systems for pet kennels is amended by deleting the exception.

K. Section 509.4.2.1 dealing with automatic fire sprinkler systems in incidental use areas is deleted.

L. Section 1029.6.2.3 dealing with automatic fire sprinkler systems smoke protected assembly seating areas is amended by deleting the exceptions.

~~F.~~ M. Section 501.2, which deals with address identification, is amended in its entirety to read as follows:

501.2 Address identification. All buildings shall be identified with address numbers assigned by the City and as required in Chapter 15.06.110 of the Newark Municipal Code.

~~G.~~ N. Section 901.7, which deals with dividing a building into separate fire areas to preclude the installation of fire sprinkler systems, is deleted. Refer to Chapter 15.04.08.020G for the City's fire sprinkler ordinance.

~~H.~~ O. Section 903 dealing with the requirement for fire sprinkler systems is amended by replacing subsection [F]903.2 in its entirety with the following:

903.2 Where required. Approved automatic fire sprinkler systems shall be installed in buildings under the following conditions:

903.2.1 All new construction, except one and two family dwellings and townhouses and H occupancies, which exceeds 1,000 square feet in floor area, or if exterior walls are not present, then 1,000 square feet of projected roof area.

903.2.2 All existing buildings except one and two family dwellings and townhouses when there is a change in the occupancy group, except for H occupancies, as defined by Chapter 3 when such change in occupancy group exceeds 50 percent of the total building area in square feet or 12,000 square feet, whichever is the lesser, in any five year period.

903.2.3 All existing buildings and additions to existing buildings, except for one and two family dwellings and townhouses and H occupancies, when such additions are more than 50 percent of the existing building measured in square feet of floor area, or if exterior walls are not present, then measured in square feet of projected roof area, or 12,000 square feet of additional floor area, whichever is the lesser, provided that there is no occupancy group change. Such added area shall be the accumulated square foot of floor area occurring over any five year period.

903.2.4 Existing buildings except one and two family dwellings and townhouses and not currently equipped with an automatic fire extinguishing system in which a change in occupancy, or new floor area, resulting in the creation of a Group H occupancy or any division within a Group H occupancy.

903.2.5 Newly constructed ~~and existing one and two family dwellings and townhouses and~~ detached structures accessory to one and two family dwellings and townhouses in excess of 1,000 square feet of floor area, or if exterior walls are not present, then 1,000 square feet of projected roof area, shall be equipped with an automatic fire sprinkler system

as required in Section R309.6 of the California Residential Code modified by the Newark Municipal Code.

903.2.6 Additions to existing buildings ~~except one and two family dwellings and townhouses,~~ currently equipped with an automatic fire extinguishing system.

903.2.7 Areas of modifications to existing buildings~~, except one and two family dwellings and townhouses,~~ currently equipped with an automatic fire extinguishing system. The extent of the modifications to the existing automatic fire extinguishing system shall be determined by the building official based upon the extent of the modifications to the existing structure. Modifications to the structure can include a change in the fire load.

903.2.8 Automatic residential fire sprinkler systems shall be installed in new one and two family dwellings and townhouses in accordance with Section R313.3 of the California Residential Code or NFPA 13D.

903.2.9 An automatic residential fire sprinkler system shall be installed in existing one and two family dwellings and townhouses in accordance with Section R313.3 of the California Residential Code or NFPA 13D where any repair, reconstruction, addition, alteration, or improvement, or any combination thereof, when the construction value of which exceeds 80 percent of the market value of the dwelling structure either before the improvement or repair is started, or, if the dwelling has been damaged and is being restored, before the damage occurred. Construction value shall include all permitted improvements which have occurred within the five previous years of the most recently issued building permit. Damage includes damage resulting from fire, flood, earthquake, or demolition.

903.2.10 Existing one and two family dwellings and townhouses not currently equipped with an automatic fire extinguishing system in which a change in occupancy resulting in the creation of a Group Occupancy other than R.

903.11 Any new building of any size containing a Group H Occupancy.

~~H. Section 1510 dealing with reroofing is amended by adding the following:~~

~~1510.7 Spark Arrestors. Whenever a roof covering is applied to an existing roof, spark arrestors complying with section 2113.9.2 shall be installed on all existing chimneys serving a solid fuel burning appliance or fireplace.~~

~~I. Section 1805 dealing with foundation damproofing and waterproofing is amended by adding the following:~~

~~1805.5 Rodent Proofing. Buildings intended for human habitation and not provided with a continuous foundation shall be provided with protection against entry to the under floor area by rodents.~~

15.08.042 Licensed professional.

While the nature of the work applied for affects the safety of a building or its occupants, design documents shall be prepared by an engineer or architect licensed by the state to practice as such as required by State of California Business and Professions Code Sections 5500 and 6700. In other buildings the Building Official ~~may~~ is authorized to require plans, computations, and specifications to be prepared and designed by an engineer or architect licensed by the state to practice as such.

Chapter 15.09

RESIDENTIAL CODE

Sections

15.09.010 California Residential Code adopted by reference.
15.09.020 Amendments.

15.09.010 California Residential Code adopted by reference.

A certain document, entitled ~~2013~~ 2016 California Residential Code published by the International Code Council and amended and adopted by the state of California as the ~~2013~~ 2016 edition California Residential Code, is adopted by reference as the residential code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.09.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

~~A. Section 1.8.4 dealing with permits, fees, applications, and inspections is deleted. Refer to Chapter 15.04, General Provisions, of the Newark Municipal Code.~~

~~B. Section 1.8.8 dealing with appeals board is deleted. Refer to Chapter 15.04.030, Interpretation of the Uniform Codes and Board of Appeals, of the Newark Municipal Code.~~

~~C.~~ A. Section R105.3.1.1 dealing with determining substantial improvements in flood hazard zones is deleted. Refer to Chapter 15.40, Construction in Flood Hazard Areas, of the Newark Municipal Code.

~~D. Section R112 dealing with appeals board is deleted. Refer to Chapter 15.04.030, Interpretation of the Uniform Codes and Board of Appeals, of the Newark Municipal Code.~~

~~E.~~ B. Section R301.1.3.2 is amended by ~~replacing it in its entirety with~~ adding the following section;

R301.1.3.2.1 Woodframe structures two ~~or more~~ stories in height. The building official is authorized to require the structural portions of construction documents to be prepared, stamped and signed by a California licensed architect, civil engineer, or structural engineer for all dwellings with two ~~or more~~ stories.

~~F.~~ C. Section R313 dealing with automatic fire sprinkler systems is amended by replacing Sections R313.1 and R313.2 in their entirety with the following;

R313.1 Where required in new construction. Automatic fire sprinkler systems in compliance with Section R313.3 or NFPA 13D shall be installed in the following new construction. ~~Automatic residential fire sprinkler systems shall be installed in new one and two family dwellings and townhouses in accordance with Section R313.3 or NFPA 13D~~.

R313.1.1 One and two family dwellings and townhouses.

R313.1.2 Detached structures accessory to one and two family dwellings and townhouses when the floor area exceeds 1,000 square feet in area or, when there are no exterior walls then 1,000 square feet of projected roof area.

R313.1.3 Additions to one and two family dwellings and townhouses when the existing structure is equipped with an automatic fire sprinkler system.

R313.2 Where required in existing construction. An automatic residential fire sprinkler system shall be installed in existing one and two family dwellings and townhouses

in accordance with Section R313.3 or NFPA 13D when the construction value of any repair, reconstruction, addition, alteration, or improvement, or any combination thereof, exceeds 80 percent of the market value of the dwelling structure either before the improvement or repair is started, or, if the dwelling has been damaged and is being restored, before the damage occurred. Construction value shall include all permitted improvements which have occurred within the five previous years of the most recently issued building permit. Damage includes damage resulting from fire, flood, earthquake, or demolition.

~~G.~~ D. Section R322 dealing with flood resistant construction is deleted. Refer to Chapter 15.40, Construction in Flood Hazard Areas, of the Newark Municipal Code.

E. Section R326 dealing with swimming pools is replaced in its entirety with the following:

R326.1 General. The design and construction of pools and spas for single family dwellings shall comply with Section 3109 of the California Building Code and for two family dwellings and townhomes with Chapter 31B of the California Building Code.

F. Chapter 10 dealing with chimneys and fireplaces is amended by adding the following section:

R1000 Prohibited Fireplaces. Open hearth masonry and factory built wood burning fireplaces are prohibited. Prohibition applies to new construction, additions, and existing fireplace replacements.

~~H.~~ G. Appendix H, Patio Covers, is adopted.

~~I.~~ H. Appendix K, Sound Transmission, is adopted.

Chapter 15.10

MECHANICAL CODE

Sections:

15.10.010 California Mechanical Code adopted by reference.
15.10.020 Amendments.
15.10.030 Temporary connection of natural gas utilities.

15.10.010 California Mechanical Code adopted by reference.

A certain document entitled, "~~2013~~ 2016 California Mechanical Code," including Appendix B and C, published by the International Association of Plumbing and Mechanical Officials and amended and adopted by the state of California as the ~~2013~~ 2016 edition California Mechanical Code, is adopted by reference as the Mechanical Code of the City pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.10.020 Amendments – General.

The California Mechanical Code, adopted by reference in this chapter, is amended by the following additions, deletions, and amendments thereto set forth in this chapter.

~~A. Section 1.8.4 dealing with permits, fees, applications, and inspections is deleted.~~

A. Section 1.8.4.3.1 dealing with the retention of plans is amended by deleting exceptions 1 through 4.

~~B. Section 108 dealing with board of appeals is deleted.~~

B. Sections 104.4.3 and 104.4.4 dealing with expiration and extension of permits are deleted. Refer to Chapter 15.04 of the Newark Municipal Code.

~~C. Section 114 dealing with fees is deleted.~~

15.10.030 Temporary connection of natural gas utilities.

The Building Official may authorize temporary connection of natural gas utilities for a construction project prior to final inspection approval and issuance of the Certificate of Occupancy. The request for such connection shall be in writing on a form provided by the City. The request shall include the reason the temporary connection is necessary, the length of time the connection is needed, and a statement, signed by the property owner and tenant of the premises, authorizing the City to disconnect the natural gas utilities if final inspection approval and Certificate of Occupancy have not been issued by the expiration date of the request.

Chapter 15.12

ELECTRICAL CODE

Sections:

15.12.010	**California Electrical Code adopted by reference.**
15.12.020	**Amendments.**
15.12.090	**Temporary connection of electric utilities.**
15.12.120	**Building official authority.**
15.12.140	**Maintenance Permit.**
15.12.190	**Connection to installation.**

15.12.010 California Electrical Code adopted by reference.

A certain document, entitled "~~2013~~ 2016 California Electrical Code," published by the National Fire Protection Association amended and adopted by the state of California as the ~~2013~~ 2016 edition California Electrical Code, is adopted by reference as the electrical code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.12.020 Amendments.

The California Electrical Code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

A. Article 89.108.4.3.1 dealing with the retention of plans is amended by deleting exceptions 1 through 4.

~~A. Article 89.108.10.2 is amended by adding the following paragraph: "Except for apartment houses and dwellings, as allowed for in Section 17958.9 of the California Health and Safety Code, all electrical work existing in buildings moved into or within the city shall be made to comply with the requirements of this chapter."~~

B. Article 310.106(B) Conductor Material, is amended by replacing the first paragraph in its entirety with the following:

> (B) Conductor Material. Except for service entrance conductors, all conductors shall be copper. Service entrance conductors shall be of copper, aluminum, or copper-clad aluminum.

~~C. Article 89.108.4.3.1 dealing with retention of plans is amended by deleting all four exemptions.~~

15.12.090 Temporary connection of electric utilities.

The building official may authorize temporary connection of electric utilities for a construction project prior to final inspection approval and issuance of the certificate of occupancy. If required by the Building Official the request for such connection shall be in writing ~~on a form provided by the city~~. The request shall include the reason the temporary connection is necessary, the length of time the connection is needed and a statement, signed by the property owner, tenant of the premises, or contractor, authorizing the city to disconnect the electric utilities if final inspection approval and certificate of occupancy have not been issued by the expiration date of the request.

15.12.120 Building official authority.

A. The building official is authorized to disconnect or order discontinuance of electrical service to any electric wiring, devices, appliances or equipment found to be in violation of this chapter under any of the following conditions:

1. Failure of the owner or his agent to secure the required electrical permit;
2. Hazardous electrical work found to be dangerous to life or property due to defective wiring, devices, appliances or equipment;
3. Electrical work connected to service without the approval of the building official.

B. Any order issued pursuant to this section may be made either to the person using and maintaining the condition or to the person responsible for its use and maintenance, and shall specify the date or time for compliance with its terms.

~~**15.12.140 Maintenance Permit.**~~

~~In lieu of an individual permit for each installation or alteration, an annual permit shall, upon application therefore, be issued to any person, firm, or corporation regularly employing one or more employees for the installation and maintenance of electric wiring, devices, appliances and equipment upon premises owned or occupied by the applicant for the permit. The application shall be made on forms furnished by the building official. Within not more than fifteen days following the end of annual permit period, the person, firm or corporation to which a maintenance permit is issued, shall transmit to the building official, a report of all the electrical work done under the maintenance permit during the preceding annual period. The building official shall visit all premises where work has been done under an annual permit and shall inspect all electric wiring, devices, appliances and equipment installed under such a permit since the date of his last previous inspection, and shall issue a certificate of approval for such work as is found to be in conformity with the provisions of this article. (Ord. 410 § 1 (part), 2005)~~

15.12.190 Connection to installation.

A. ~~Except where work is done under an annual permit,~~ I~~i~~t is unlawful for any person, firm or corporation to make connection from a source of electrical energy or to supply electric service to any electric wiring, devices, appliances or equipment for the installation of which a permit is required, unless such person, firm or corporation has obtained a certificate of approval issued by the building official.

B. It is unlawful for any person, firm or corporation to make connections from a source of electrical energy or to supply electric service to any electric wiring, devices, appliances or equipment which has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered by the building official to be discontinued until a certificate of approval has been issued by authorizing the reconnection and use of such wiring, devices, appliances or equipment. The building official shall notify the serving utility of the order to discontinue use.

C. When electrical service to a commercial occupancy or place of employment is de-energized for any reason, approval of the building official must be secured by the serving utility prior to re-energizing of said service. "Commercial occupancy" or "place of employment," for the purposes of this chapter, shall include dwellings used as model homes and/or tract offices.

D. Any order issued pursuant to this section shall be in writing and shall be made to the

person, firm or corporation using and maintaining the condition or to the person, firm or corporation responsible for its use and maintenance, and to the utility company providing the service. Delivery of the order shall be accomplished upon deposit in the United States mail or written notice directed to the person, firm or corporation using, maintaining or responsible for the use and maintenance of the condition at the last known address of the person, firm or corporation. Failure to comply with the order of the building official, as set out above, is a misdemeanor subject to the penalties as set out in Chapter 15.28 of this title.

Chapter 15.16

PLUMBING CODE

Sections:

15.16.010 Uniform Plumbing Code adopted by reference.
15.16.020 Amendments.

15.16.010 Uniform Plumbing Code adopted by reference.

A certain document entitled, "~~2013~~ 2016 California Plumbing Code," including all Appendix Chapters published by the International Association of Plumbing and Mechanical Officials and adopted by the state of California as the ~~2013~~ 2016 edition California Plumbing Code, is adopted by reference as the Plumbing Code of the City pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.16.020 Amendments.

The California Plumbing Code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

A. Section 1.8.4 dealing with permits, fees, applications, and inspections is deleted. Refer to Chapter 15.04 of the Newark Municipal Code.

B. Sections 104.3.2 and 104.3.3 dealing with plan review fees and time limitation of applications is deleted. Refer to Chapter 15.04 of the Newark Municipal Code.

C. Sections 104.4.3 and 104.4.4 dealing with expiration and extension of permits is deleted. Refer to Chapter 15.04 of the Newark Municipal Code.

~~B. Section 103.3.3 dealing with expiration of permits is deleted. Refer to Chapter 15.04 of the Newark Municipal Code.~~

~~C. Section 103.4 dealing with fees is deleted. Refer to Chapter 15.04 of the Newark Municipal Code.~~

D. Section 422.2 dealing with separate toilet facilities is amended by adding the following.

422.2.2 In public multiple accommodation toilet rooms water closets shall be enclosed by a screening partition with an operable door. The bottom of the screen and door shall not be more than 12 inches above finish floor and the top shall not be less than 69 inches above finish floor. Screens and doors shall be constructed of materials in compliance with Section 1210 of the California Building Code.

Exception: When approved by the building official screens may be omitted from toilet rooms used only by children attending a day care center when state licensing requires full time supervision of children.

422.2.3 In public multiple accommodation toilet rooms urinals shall be located so the urinal and the person using the urinal can not be viewed from outside the toilet room.

E. Section 612 dealing with residential fire sprinkler systems is deleted. Refer to Chapter 15.09 of the Newark Municipal Code.

~~E.~~ F. Section 713.0 dealing with access to pubic sewers is replaced in its entirety with the following:

713.0 Where Required. All plumbing fixtures that have a waste connection, such as toilets, water closets, urinals, sinks, lavatories, drinking fountains and industrial equipment shall have their waste lines connected to the public sewer system.

G. Section 1101.12 dealing with roof drains is amended by adding the following:

1101.12.3 Roof Drainage Discharge. Roof drainage shall not drain directly into storm drain piping unless first approved by the City Engineer.

~~Title 15~~ Chapter 15.17

~~FIRE PREVENTION~~ FIRE CODE

~~Chapter~~

Sections

~~15.32.010~~ 15.17.010 **California Fire Code adopted by reference.**
~~15.32.020~~ 15.17.020 **Fire Department duties – Fire Prevention Bureau established.**
~~15.32.030~~ 15.17.030 **Definitions.**
~~15.32.040~~ 15.17.040 **Chapter 9 amended – Fire protection systems.**
~~15.32.050~~ 15.17.050 **Chapter 56 amended – Explosives and fireworks.**
~~15.32.060 Appendix D amended – Fire apparatus access roads.~~
~~15.32.142 Fireworks other than safe and sane fireworks prohibited.~~
~~15.32.190~~ 15.17.190 **Permit fees.**
~~15.32.200~~ 15.17.200 **Violation deemed infraction.**

15.~~32~~17.010 California Fire Code adopted by reference.

A certain document, entitled "~~2013~~ 2016 California Fire Code" including Sections 103, 108, 112 and 503, ~~Appendix Chapter B relating to fire-flow requirements of buildings, Appendix Chapter C relating to fire hydrant locations and distribution,~~ Appendix Chapter D relating to fire apparatus access roads, and Appendix Chapter ~~K~~N dealing with temporary haunted houses, ghost walks, and similar amusement uses, published by the International Code Council and amended and adopted by the state of California as the ~~2013~~ 2016 edition California Fire Code, is adopted by reference as the fire code of the city pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.~~32~~17.020 Fire department duties - Fire prevention bureau established.

A. The California Fire Code shall be enforced by the fire department of the city or a duly authorized outside fire prevention agency and shall be operated under the supervision and direction of the fire chief.

B. The officer in charge of the fire prevention bureau and activities of the fire department shall be known as the fire marshal and shall be appointed by the Fire Code Official.

C. The Fire Code Official may detail such members of the fire department to fire prevention activities as the fire chief deems necessary. (Ord. 381 [part], 2002: Ord. 340 § 1 [part], 1998)

15.~~32~~17.030 Definitions.

Whenever the following words are used in the code adopted by reference in this chapter they shall have the meanings ascribed to them as follows:

A. "Fire Department" means the City of Newark Fire Department or a duly authorized fire prevention agency.

B. All reference to the International Fire Code means the current adopted edition of the California Fire Code.

C. "Zoning ordinance" means the ordinance as defined in Title 17, Zoning, of the Newark Municipal Code. (Ord. 381 [part], 2002: Ord. 352 § 8 [part], 1998; Ord. 340 § 1 [part], 1998)

(Ord. 381 [part], 2002)

15.~~32~~17.040 Chapter 9 amended—Fire protection systems.

A. Chapter 9, Section 901 of the California Fire Code is amended by addition of Section 901.2.2 Plans, as follows:

901.2.2 Plans. Complete plans and specifications for fire, smoke, and hazardous materials alarm systems; fire-extinguishing systems, including automatic sprinklers, wet and dry standpipes; halon systems and other special types of automatic fire-extinguishing systems; basement pipe inlets; and other fire protection systems and appurtenances thereto shall be submitted to the fire department for review and approval prior to system installation. Plans and specifications for fire, smoke, and hazardous materials alarm systems shall include, but not be limited to, a floor plan; location of all alarm initiating and alarm signaling devices, alarm control and trouble signaling equipment; annunciation; power connection; battery calculations; and manufacturer, model numbers, and listing information for all equipment, devices, and materials.

B. Chapter 9, Section 903 is amended by replacing section 903.2 with the following:

Section 903.2 is deleted in its entirety. Refer to Section 903.2 of the California Building Code as amended by Chapters 15.08.020 and 15.09.020 of the Newark Municipal Code which reads as follows:

Section 903 dealing with the requirement for fire sprinkler systems is amended by replacing subsection 903.2 in its entirety with the following:

~~[B]~~903.2 Where required. Approved automatic fire sprinkler systems shall be installed in buildings under the following conditions:

~~[B]~~903.2.1 All new construction, except one-and two-family dwellings and townhouses ~~and~~ H, I and L occupancies, which exceeds 1,000 square feet in floor area, or if exterior walls are not present, then 1,000 square feet of projected roof area.

~~[B]~~903.2.2 All existing buildings except one- and two-family dwellings and townhouses and when there is a change in the occupancy group, except for H occupancies, as defined by Chapter 3 when such change in occupancy group exceeds 50 percent of the total building area in square feet or 12,000 square feet, whichever is the lesser, in any five year period.

~~[B]~~903.2.3 All existing buildings and additions to existing buildings, except for one- and two-family dwellings and townhouses and H occupancies, when such additions are more than 50 percent of the existing building measured in square feet of floor area, or if exterior walls are not present, then measured in square feet of projected roof area, or 12,000 square feet of additional floor area, whichever is the lesser, provided that there is no occupancy group change. Such added area shall be the accumulated square foot of floor area occurring over any five year period.

~~[B]~~903.2.4 Existing buildings except one- and two-family dwellings and townhouses ~~and~~ not currently equipped with an automatic fire extinguishing system in which a change in occupancy resulting in the creation of a Group H, I or L occupancy ~~or any division within a Group H occupancy~~.

~~[B]~~903.2.5 Newly constructed ~~and existing one-and two-family dwellings and townhouses and~~ detached structures accessory to one- and two-family dwellings and townhouses shall be equipped with an automatic fire sprinkler system as required in Section R309.6 of the California Residential Code modified by the Newark Municipal Code.

~~[B]~~903.2.6 Additions to existing buildings except one- and two-family dwellings and townhouses, currently equipped with an automatic fire extinguishing system.

~~[B]903.2.7 Areas of modifications to existing buildings, except one- and two-family dwellings and townhouses, currently equipped with an automatic fire extinguishing system. The extent of the modifications to the existing automatic fire extinguishing system shall be determined by the Building Official based upon the extent of the modifications to the existing structure. Modifications to the structure can include a change in the fire load.~~

~~[B]~~903.2.~~8~~7 Automatic residential fire sprinkler systems shall be installed in new one- and two-family dwellings and townhouses in accordance with Section R313.3 of the California Residential Code or NFPA 13D.

~~[B]~~903.2.~~9~~8 An automatic residential fire sprinkler system shall be installed in existing one- and two-family dwellings and townhouses in accordance with Section R313.3 of the California Residential Code or NFPA 13D when the construction value of any repair, reconstruction, addition, alteration, or improvement, or any combination thereof, exceeds 80 percent of the market value of the dwelling structure either before the improvement or repair is started, or, if the dwelling has been damaged and is being restored, before the damage occurred. Construction value shall include all permitted improvements which have occurred within the five previous years of the most recently issued building permit. Damage includes damage resulting from fire, flood, earthquake, or demolition.

903.2.9 Any building housing H, I, and L occupancies of any size.

903.2.10 Throughout existing buildings not currently protected by an automatic fire sprinkler system when any portion of the building is converted to an H, I, or L occupancy of any size or when an addition to such building is made which contains an H, I, or L occupancy of any size.

903.2.11 Throughout existing buildings not currently protected by an automatic fire sprinkler system when high pile combustible storage is installed or utilized.

903.2.12 In ducts conveying hazardous materials, or flammable material or vapors, in buildings not currently protected by an automatic fire sprinkler system.

903.2.13 Any dwelling utilized as a residential care facility where any client incapable of self-preservation is housed on any floor other than the ground floor or where there are four or more clients incapable of self-preservation housed in the dwelling.

Section 903.6 dealing with the requirement for fire sprinkler systems in existing buildings and structures is amended by replacing subsection 903.6 in its entirety with the following:

903.6 Where Required. An automatic sprinkler system shall be provided in existing buildings and structures where required by Chapters 15.08.020 and 15.09.020 of the Newark Municipal Code.

C. Section 907 Fire Alarm and Detection Systems is amended by adding the following:

907.1.6 Definitions

ALARM/ALARM SYSTEM means any device or system designated to signal the activation of a fire suppression system, fire, smoke, or hazardous materials detection system, or manual fire alarm system by emitting a signal which can be perceived on the premises and

outside of the protected premises and/or at a remote location with subsequent notification of such signal to which the Fire Department is dispatched on an emergency response.

ALARM USER means any person on whose premises an alarm system is maintained within the City.

FALSE ALARM means the activation of an alarm system through mechanical failure; malfunction; improper installation, maintenance or operation; or the negligence of the owner, lessee, or their employees or agents. Such terminology does not include, for example, alarm activation caused by earthquakes, violent storms, power fluctuations, or other violent uncontrollable acts of nature.

D. Section 907 Fire Alarm and Detection Systems is amended by adding the following:

907.10 False Alarms

907.10.1. Malfunctions of any sprinkler alarm, or other fire protection or emergency alarm system resulting in an alarm and emergency dispatch of the Fire Department will be subject to a "false alarm" fee as established by resolution of the City Council.

907.10.2. During the thirty days following any new alarm installation, the Fire Code Official shall determine if the false alarms emanating from such new installation are excessive.

907.10.3. After the initial thirty day period following a new alarm installation, more than three false alarms within a calendar year are excessive and will be charged as false alarms.

E. Section 904.2 dealing with automatic fire sprinkler system in malls is amended by deleting the exception.

F. Section 904.4.1 dealing with automatic fire sprinkler systems in atriums is amended by deleting all exceptions.

G. Section 914.6.1 dealing with automatic fire sprinkler systems at stages is deleted.

H. Section 914.11 dealing with automatic fire sprinkler systems in certain care facilities is amended by replacing Section 914.11.1 in its entirety with the following:

914.11.1 Automatic sprinkler system. Every facility as specified herein, regardless of floor area, wherein more than six clients or patients are housed or cared for on a 24-hour per-day-basis shall have installed and maintained in an operable condition throughout the entire building an automatic sprinkler system of a type approved by the state fire marshal. The provisions of this subsection shall apply to every person, firm or corporation establishing, maintaining or operating a hospital, children's home, children's nursery or institution, or a home or institution for the care of aged or persons with dementia or other cognitive impairments, or any institution for persons with mental illness or persons with developmental disabilities and any nursing or convalescent home.

(Ord. 381 [part], 2002: Ord. 352 § 8 [part], 1999: Ord. 340 § 1 [part], 1998)

15.~~32~~17.050 Chapter 56 amended - Explosives and fireworks.

Chapter 56 is amended by ~~replacing it in its entirety with the following~~ adding Section 5614 as follows.

SECTION 5601 - GENERAL

~~5601.1 Scope. For explosives requirements see California Code of Regulations, Title 19, Division 1, Chapter 10. For fireworks requirements see California Code of Regulations, Title 19, Division 1, Chapter 6.~~

~~Exceptions:~~

~~1. The Armed Forces of the United States, Coast Guard or National Guard.~~

~~2. Explosives in forms prescribed by the official United States Pharmacopoeia.~~

~~3. The possession, storage and use of small arms ammunition when packaged in accordance with DOT packaging requirements.~~

~~4. The use of explosive materials by federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities.~~

~~5. Items preempted by federal regulations.~~

~~5601.1.1 Explosives. The possession, manufacture, storage, sale handling, and use of explosives are prohibited~~

~~EXCEPTION: Possession, storage, handling, and use of explosives for test and research purposes are allowed when approved by the fire code official.~~

~~5602~~ 5614 Fireworks

~~5602.1~~ 5614.1 Definitions. For the purpose of this Chapter the phrases "fireworks," "dangerous fireworks," and "safe and sane fireworks" shall have the meanings ascribed to them in Sections 12511, 12505, and 12529 of the Health and Safety Code of the state of California.

~~5602.2~~ 5614.2 Storage of safe and sane fireworks:

~~5602.2.1~~ 5614.2.1 Safe and sane fireworks in excess of five pounds shall not be stored at any one location in the City of Newark.

EXCEPTIONS:

1. A maximum of one day's sales supplies of safe and sane fireworks, per stand, may be stored in a safe and sane fireworks stand for which a permit has been issued, or in a tamper resistant metal container approved by the Fire Code Official, pursuant to this Article.
2. If the stand closes at any time, the safe and sane fireworks, in excess of five pounds, may be stored in the booth with an adult guard, 18 years or older on the premises at all times.
3. Safe and sane fireworks stands shall not be located in areas zoned residential or General Industrial.
4. The ~~Fire Code Official~~ City Community Development Director shall determine that the locations of the safe and sane fireworks stands do not have unsightly, undesirable, or obnoxious qualities that are not harmonious with, or are not properly related to their sites, surroundings and traffic circulation in the vicinity, or which would not meet the specific intent of the Zoning Code.

~~5602.3~~ 5614.3 Prohibition

~~5602.3.1~~ 5614.3.1 The manufacture, sale, or discharge of safe and sane fireworks within the jurisdictional area is prohibited except under special permits as are required by local and state regulations.

EXCEPTIONS

1. A permit is not required for the discharge of safe and sane fireworks as described in Section 12529 of the Health and Safety Code.
2. Nothing in this section shall be construed to prohibit the discharge of safe and sane fireworks by railroads or other transportation agencies for signal purposes of illumination, or discharge of blank cartridges for a show or theater, or for use by military organizations.

~~5602.4~~ 5614.4 Sale of safe and sane fireworks

~~5602.4.1~~ 5614.4.1 Annual permit required: any organization desiring to sell or to offer for sale safe and sane fireworks shall annually make application to the Fire Code Official for a permit to sell safe and sane fireworks.

~~3302.4.2~~ 5614.4.2 Application for Permit:

1. Shall be made in writing at the office of the Fire Marshal of the City of Newark, accompanied by the permit fee.
2. Shall be made during regular office hours, between the fifteenth day of April and the fifteenth day of May of each year.
3. Shall set forth the proposed location of the safe and sane fireworks stand applied for.
4. Shall be accompanied by an assurance that if the permit is issued to the applicant, applicant shall, at the time of receipt of such permit, deliver to the Fire Code Official a general liability insurance policy or endorsement adding or specifying the City, its officers, employees, and volunteers as "insureds" and within the scope and limits as set by the Fire Chief.

~~5602.5~~ 5614.5 Annual Permit. An annual permit shall only be issued to any organization meeting the following requirements:

~~5602.5.1~~ 5614.5.1 Nonprofit organization organized primarily for veteran, patriotic, welfare, youth activity, civic betterment, or charitable purpose within the City of Newark.

~~5602.5.2~~ 5614.5.2 The organization shall have its principal place of business and permanent meeting place within the City limits of the City of Newark.

~~5602.5.3~~ 5614.5.3 The organization shall have been organized for a minimum of one (1) year continuously preceding the filing of the application for the permit.

~~5602.5.4~~ 5614.5.4 The organization shall have at least twenty (20) regular and active participants, volunteers, or members with a minimum of fifty percent (50%) of those regular and active participants, volunteers, or members being bona fide residents of the City of Newark. For purposes of this section, a "member" need not be a "member" as defined by California Corporations Code Section 5056.

~~5602.5.5~~ 5614.5.5 The organization shall obtain a business license from the City of Newark.

~~5602.6~~ 5614.6 Operation of Stand

~~5602.6.1~~ 5614.6.1 No person other than the permittee organization shall operate the stand for which the permit is issued, or share or otherwise participate in the profits of the operation of such stand.

~~5602.6.2~~ 5614.6.2 No person other than individuals who are members, regular and active participants, volunteers, or other persons supportive of the activities of the permittee

organizations, or a spouse or adult child of such a person, shall sell or otherwise participate in the sale of safe and sane fireworks at such stand.

~~5602.6.3~~ 5614.6.3 No person shall be paid any money or other consideration for selling or otherwise participating in the sale of safe and sane fireworks at such stand.

~~5602.6.4~~ 5614.6.4 All retail sales of safe and sane fireworks shall be permitted only from within a temporary safe and sane fireworks stand. The sale from any other building or structure is hereby prohibited.

~~5602.7~~ 5614.7 Temporary Safe and Sane fireworks Stands

~~5602.7.1~~ 5614.7.1 No safe and sane fireworks stand shall be located within 25 feet of another building or within 100 feet of any flammable liquid or gas storage or dispensing unit.

~~5602.7.2~~ 5614.7.2 All safe and sane fireworks stands shall be erected in a manner approved by the Fire Marshal in order to reasonably ensure the safety of attendants and patrons.

~~5607.3~~ 5614.7.3 No stand shall have a floor area in excess of 300 square feet.

~~5602.7.4~~ 5614.7.4 Each stand shall have at least two remote exits three feet in width and not less than six feet eight inches in height. All doors shall swing out.

~~5602.7.5~~ 5614.7.5 Each stand shall be provided with two 2-A rated fire extinguishers bearing a valid inspection tag and in good working order. Extinguishers shall be easily accessible for use in case of fire.

~~5602.7.6~~ 5614.7.6 "No smoking" signs shall be conspicuously posted at the stand.

~~5602.7.7~~ 5614.7.7 Merchandise shall be displayed in such a manner that it cannot be handled by patrons reaching over the selling counter or through other openings in the stand.

~~5602.7.8~~ 5614.7.8 All electrical wiring will require a permit from the City Building Inspection Division prior to any installation.

~~5602.7.9~~ 5614.7.9 Decorative material, canvas tops, screening, etc., shall be flame retardant or rendered to the satisfaction of the Fire Code Official.

~~5602.7.10~~ 5614.7.10 All weeds and combustible material shall be cleared from within a 25 foot minimum area surrounding the stand.

~~5602.7.11~~ 5614.7.11 Each stand shall be located only at those locations in compliance with the City Zoning Ordinance.

~~5602.7.12~~ 5614.7.12 A maximum of one day's sales supplies of safe and sane fireworks, per stand, may be stored in a safe and sane fireworks stand for which a permit has been issued, or in a tamper resistant metal container approved by the Fire Code Official, pursuant to this Chapter.

~~5602.7.13~~ 5614.7.13 If the stand closes at any time, the safe and sane fireworks, in excess of five pounds, may be stored in the booth with an adult guard, 18 years or older on the premises at all times.

~~5602.7.14~~ 5614.7.14 Safe and sane fireworks stands shall not be located in areas zoned residential or General Industrial.

~~5602.7.15~~ 5614.7.15 The Fire Code Official shall determine that the locations of the safe and sane fireworks stands do not have unsightly, undesirable, or obnoxious qualities that are not harmonious with, or are not properly related to their sites, surroundings and traffic circulation in the vicinity, or which would not meet the specific intent of the Zoning Code.

~~5602.8~~ 5614.8 General Requirements

~~5602.8.1~~ 5614.8.1 The sale of safe and sane fireworks shall be from 12:00 noon to 9:00 p.m. on the 28th day of June and 8:00 a.m. to 9:00 p.m. June 29 through July 4. The use of

safe and sane fireworks shall be from midnight June 30 to midnight July 4.

~~5602.8.2~~ 5614.8.2 All unsold stock and accompanying litter shall be removed from the location by 12 Noon on the sixth day of July.

~~5602.8.3~~ 5614.8.3 The safe and sane fireworks stand shall be removed from the location by the twelfth of July.

~~5602.8.4~~ 5614.8.4 The sale of safe and sane fireworks shall not be made to any person or persons under the age of 18.

~~5602.8.5~~ 5614.8.5 Prior to the sale, in the event that a prospective purchaser appears or would appear to a reasonable person to be under the age of thirty (30), the permittee shall require the prospective purchaser to show proof of age by displaying a motor vehicle operator's license, a registration certificate issued by the Federal Selective Service Act, an identification card issued to a member of the Armed Forces, or a similar document bearing the picture or likeness of the purchaser. Any permittee that sells safe and sane fireworks to any person under the age of 18 or, in the event that a prospective purchaser appears or would appear to a reasonable person to be under the age of thirty (30), fails to require the prospective purchaser to show proof of age as required herein, shall be guilty of an infraction. Pursuant to Title 7 of the Newark Municipal Code, an Administrative Citation may be issued for the violation. Each sale to any person under the age of 18 shall be deemed a separate violation. In addition the sale of safe and sane fireworks to any person under the age of 18 is declared a public nuisance subject to abatement pursuant to Title 7 of this Code subjecting the permittee to administrative penalties up to $1,000 per day per violation to a maximum of $100,000, and to recovery of all costs of abatement and enforcement as provided in Title 7.

~~5602.8.6~~ 5614.8.6 In addition to the foregoing, in the event of multiple violations or other evidence of a course of conduct in conscious or reckless disregard of the requirements of this section, the permittee may be deemed ineligible for a safe and sane fireworks booth permit in subsequent years. The Fire Code Official shall make the decision of ineligibility. The permittee may appeal that decision by requesting an administrative hearing to be held by the City Manager's designated Hearing Officer. The hearing shall be conducted pursuant to the rules of procedure set forth in Chapter 7.22 of the Newark Municipal Code. The Hearing Officer's decision shall be the final decision of the City of Newark. (Ord. 403 § 1, 2004: Ord. 388 § 1, 2003; Ord 384 § 1, 2003; Ord. 381 [part], 2002: Ord. 340 § 1 [part], 1998)

~~SECTION 5608 – FIREWORKS DISPLAY~~ 5614.9 Fireworks Display

~~5608.1~~ 5614.9.1 General. Outdoor fireworks displays, use of pyrotechnics before a proximate audience and pyrotechnic special effects in theatrical and group entertainment productions shall comply with California Code of Regulations, Title 19, Division 1, Chapter 6 Fireworks.

~~5608.1.1~~ 5614.9.2 Scope. Fireworks and temporary storage, use, and handling of pyrotechnic special effects material used in motion pictures, television, and theatrical and group entertainment productions shall be in accordance with California Code of Regulations, Title 19, Division 1, Chapter 6 Fireworks.

~~5608.2~~ 5614.9.3 Permits Required. The permittee shall furnish a general liability insurance policy of endorsement adding the City, its officers, employees, and volunteers as "insureds" and within the scope and limits as set by the ~~Fire Code Official~~ Community Development Director. Said policy is to cover payments for all damages, which may be caused

to a person or persons or to property by reason of the permitted display and arising from any acts of the permittee, his agents, employees, or subcontractors.

~~**15.32.060 Appendix D amended – Fire apparatus access roads.**~~

~~Appendix D, Figure D103.1 dealing with dead-end fire apparatus access road turnarounds is amended by changing the 60 foot dimensions on the 60' "Y" and 120' Hammerhead diagrams to 70 feet and changing the 70 foot dimension on the "Acceptable Alternative" diagram to 80 feet.~~

~~15.32.142~~ 5614.9.4 Fireworks other than safe and sane fireworks prohibited.

Except as provided in this section, it is unlawful for any person, corporation, or entity to possess, store, offer for sale, expose for sale, sell at retail or wholesale, use, discharge, or explode any fireworks except "safe and sane fireworks" as described in Section 12529 of the Health and Safety Code. Violation of this section is punishable as an infraction. (Ord. 370 § 1, 2001)

15.~~32~~17.190 Permit fees.

Whenever a permit is required pursuant to the California Fire Code as adopted by this chapter or any amendment thereto, the city council may establish fees for the issuance of the required permit by resolution. (Ord. 340 § 1 [part], 1998)

15.~~32~~17.200 Violation deemed infraction.

Violation or failure to comply with any provision of this chapter constitutes an infraction. (Ord. 340 § 1 [part], 1998)

Chapter 15.18

CALIFORNIA REFERENCED STANDARDS CODE

Sections:

15.18.010 California Referenced Standards Code adopted by reference.

15.18.010 California Referenced Standards Code adopted by reference.

A certain document entitled, "~~2013~~ 2016 California Referenced Standards Code," published by the International Code Council is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., State of California.

Chapter 15.20

CALIFORNIA HISTORICAL BUILDING CODE

Section:

15.20.010 California Historical Building Code adopted by reference.

15.20.010 California Historical Building Code adopted by reference.

A certain document entitled, "~~2013~~ 2016 California Historical Building Code," published and adopted by the state of California is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.21

CALIFORNIA EXISTING BUILDING CODE

Sections:

15.21.010 California Existing Building Code adopted by reference.
15.21.020 Amendments.

15.21.010 California Existing Building Code adopted by reference.

A certain document entitled, "2016 California Historical Building Code," including Appendix Chapter A1, relating to unreinforced masonry buildings, Appendix Chapter A3, relating to anchorage of wood framed residential buildings, and Appendix Chapter A4, relating to risk reduction in soft story wood framed buildings, published by the International Code Council and amended and adopted by the state of California is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California, except as modified in this chapter.

15.21.020 Amendments.

The construction code adopted by reference in this chapter is amended by the following additions, deletions and amendments thereto set forth in this chapter.

A. Section 104.10.1 dealing with flood hazard areas is deleted. Refer to Chapter 15.40.

B. Section 403.2 dealing with flood hazard areas is deleted. Refer to Chapter 15.40.

Chapter 15.22

CALIFORNIA ENERGY CODE

Section:

15.22.010 California Energy Code adopted by reference.

15.22.010 California Energy Code adopted by reference.

A certain document entitled, "~~2013~~ 2016 California Energy Code," published and adopted by the state of California is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

Chapter 15.23

CALIFORNIA GREEN BUILDING STANDARDS CODE

Sections

15.22.010 California Green Building Standards Code adopted by reference.

15.22.010 California Green Building Standards Code adopted by reference.

A certain document, entitled "~~2013~~ 2016 California Green Building Standards Code", published and adopted by the state of California, is adopted by reference pursuant to the provisions of Government Code Section 50020 et seq., state of California.

F.1 Cancellation of the November 24 and December 22, 2016 City Council meetings – from City Clerk Harrington. (MOTION)

Background/Discussion – Newark Municipal Code Section 2.08.010 provides that when a regular meeting of the City Council falls on a day designated by law as a legal or national holiday, there shall be no meeting. The November 24, 2016 regular meeting falls on the Thanksgiving holiday. The December 22, 2016 meeting occurs during the holiday furlough. Formally canceling these meetings will allow the City Clerk to notify the public in a timely manner.

Action - It is recommended that the City Council, by motion, cancel the November 24 and December 22, 2016, City Council meetings.

F.2 Authorization to amend the 2016-2018 Biennial Budget to provide additional funding for engineering contractual services for Fiscal Year 2016-2017 in the Public Works Department – from Associate Civil Engineer Cangco.

(RESOLUTION)

Background/Discussion – The service level demands from the development community remain at unprecedented levels. To continue meeting the service levels required to facilitate the current and projected level of development activity, the Public Works Department is requesting authorization to amend the 2016-2018 Biennial Budget to provide an additional $425,000 in funding for engineering contractual services. The funding will provide for development reviews and inspection services to be performed by outside contractors.

Engineering Division staff has reviewed the current and projected level of contractual services needed for Public Works plan review and inspection activities related to the continued review and construction of the more than 2,400+ approved residential units Citywide, including those within the 205-acre Dumbarton Transit Oriented Development (TOD) Specific Plan area. The first subdivision within the Dumbarton TOD is currently under construction. Staff anticipates two additional subdivisions will be ready for final map approval within the next two months, with construction beginning shortly thereafter. In addition, tract improvement plans and final maps for two more subdivisions within the Dumbarton TOD are currently under review and off-site infrastructure improvement plans are scheduled to be submitted for review and approval in the coming months. To support the current and anticipated development activity within the Dumbarton TOD and other areas Citywide, additional funding is being requested for increased engineering plan review and inspection contractual services.

The estimated cost for the additional contract engineering services is $425,000. Revenues received from subdivision fees and other development fees paid by the developers of the Dumbarton TOD and other projects will more than off-set the cost of all engineering plan check reviews and inspection services.

Attachment

Action - It is recommended that the City Council, by resolution, amend the 2016-2018 Biennial Budget to provide additional funding for engineering contractual services for Fiscal Year 2016-2017 in the Public Works Department.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AMENDING THE 2016-2018 BIENNIAL BUDGET TO PROVIDE ADDITIONAL FUNDING FOR ENGINEERING CONTRACTUAL SERVICES FOR FISCAL YEAR 2016-2017 IN THE PUBLIC WORKS DEPARTMENT

WHEREAS, development activity remains at unprecedented levels and requires continued use of engineering contractual services to meet service demands pertaining to large-scale residential subdivisions, including those within the Dumbarton Transit Oriented Development Specific Plan area; and

WHEREAS, the City Council of the City of Newark, with Resolution No. 10,455, authorized Contractual Services Agreements with several on-call engineering plan review and inspection consultant firms for an initial total funding amount of $125,000 and any additional amount that may be authorized by the City Council at a future date; and

WHEREAS, the 2016-2018 Biennial Budget includes $188,000 for on-call engineering plan review and inspection contractual services for Fiscal Year 2016-2017; and

WHEREAS, the Public Works Department needs additional funding for on-call engineering plan review and inspection contractual services in the amount of $425,000 for Fiscal Year 2016-2017; and

WHEREAS, the costs for all funding for said contractual services will be off-set by revenues from residential subdivision fees and other development fees associated with the projects for which said contractual services will be provided.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby approves amendment of the 2016-2018 Biennial Budget to provide additional funding for engineering contractual services for Fiscal Year 2016-2017 as follows:

<u>From</u>:

Fund No. 010-0000-2991	General Fund Balance	$425,000

<u>To</u>:

Fund No. 020-2015-5280	Engineering Contractual Services	$425,000

(dcr1)

F.3 Authorization for staff to prepare and submit a Measure D Expenditure Plan and Amendment of the 2016-2018 Biennial Budget and Capital Improvement Plan for Fiscal Years 2016-2017 and 2017-2018 – from Administrative Services Director Woodstock. (RESOLUTION)

Background/Discussion – The City receives approximately $115,000 per year from the Alameda County Recycling Fund (Measure D funds). The revenue is generated from an $8.23 charge per ton of waste and may only be used for the continuation and expansion of municipal recycling programs. As of June 30, 2016 the City of Newark has a balance of $421,550 of unspent revenue from Measure D which exceeds the threshold for unspent funds. The threshold, established by multiplying eight dollars ($8) times the population ($8 x 44,733), is $357,864.

Assembly Bill 1826 and Alameda County Waste Management Authority Ordinance 2012-1 both require businesses to recycle organic material. The City requested and received a proposal from Republic Services to establish a commercial organics collection program. Organic collection services are currently only offered to residential customers. The proposal is under review and negotiations are on-going. Staff expects to bring the final program to the City Council in early 2017. The Measure D funds would be used to supplement the cost of the containers and equipment necessary to implement the commercial organic collection program. Since the negotiations are on-going, staff is estimating $250,000 per year for budget purposes. The exact amount will be specified when the contract amendment for Republic Services is finalized and presented to the City Council at a future meeting and will not exceed $250,000 per fiscal year.

The Alameda County Waste Management Authority (Stopwaste.org) requires an Expenditure Plan for the City to continue to receive Measure D funds when the threshold has been surpassed. The Expenditure Plan consists of a letter describing the City's intent to use Measure D funding to supplement the costs of implementing the commercial organics collection program. Once Stopwaste.org Staff receives this letter, they will schedule the request for the December 8, 2016 Board meeting for approval.

Attachment

Action - It is recommended that the City Council, by resolution, direct Staff to prepare and submit a Measure D Expenditure Plan and amend the 2016-2018 Biennial Budget for Fiscal Years 2016-2017 and 2017-2018.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK DIRECTING STAFF TO PREPARE AND SUBMIT A MEASURE D EXPENDITURE PLAN AND AMEND THE 2016-2018 BIENNIAL BUDGET FOR FISCAL YEARS 2016-2017 AND 2017-2018

WHEREAS, Assembly Bill 1826 and Alameda County Waste Management Authority Ordinance 2012-1 both require businesses to recycle organic material; and

WHEREAS, it is the intent of the City of Newark to negotiate an amendment to the Waste Hauling Franchise Agreement to implement a Commercial Organic Collection Program; and

WHEREAS, it is the intent of the City of Newark to use Measure D funds to supplement the costs of establishing the Commercial Organics Collection Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark is directing Staff to prepare and submit a Measure D Expenditure Plan and amend the 2016-2018 Biennial Budget as follows:

Fiscal Year 2016-2017

From:		
033-0000-2991	Measure D Fund Balance	$250,000
To:		
033-2011-5280	Measure D Contractual Services	$250,000

Fiscal Year 2017-2018

From:		
033-0000-2991	Measure D Fund Balance	$250,000
To:		
033-2011-5280	Measure D Contractual Services	$250,000

F.4 Adopting a Compensation Plan for Certain Positions in the Exempt Service Employee Group to amend the Hourly Wage Rate Schedule for Part-Time, Seasonal, and Temporary (PST) Classifications; and Revoking Resolution No. 10,425 – from Human Resources Director Abe. (RESOLUTION)

Background/Discussion – California's Minimum Wage will incrementally increase from $10 to $15 per hour beginning in January 2017 and then each January through 2022 as summarized below:

Effective Date	Hourly Minimum Wage
Current	$10.00
January 2017	$10.50
January 2018	$11.00
January 2019	$12.00
January 2020	$13.00
January 2021	$14.00
January 2022	$15.00

The Schedule of Part-time, Seasonal, and Temporary (PST) Classifications provides a list of hourly wage rates for temporary positions. For compliance with the January 1, 2017 minimum wage increase and for the equitable maintenance of internal compensation relationships, it is recommended that the starting pay for impacted temporary positions be increased by $0.50 to $1.00 per hour as highlighted on the attached Schedule of Hourly Wage Rates.

In addition, based on an annual review of part-time pay rates the following job titles and hourly pay changes are recommended:

- A 3% adjustment to the hourly pay range for Public Safety Dispatcher for dispatcher pay consistency.
- Renaming Lifeguard II to Aquatics Instructor I, and increasing the starting hourly rate to $12.50 per hour (an increase of $0.50 per hour).
- Establishing a new Aquatics Instructor II PST classification with a hourly pay range of $13.50 to $30.00 per hour.
- Increasing the starting hourly pay for Recreation Instructor from $11.50 to $13.50 per hour for pay alignment with Aquatics Instructor II.

Attachment

Action - It is recommended that the City Council, by resolution, adopt a Compensation Plan for certain positions in the Exempt Service Employee Group to amend the Schedule of Hourly Wage Rates for Part-Time, Seasonal, and Temporary (PST) Classifications effective January 1, 2017; and to revoke Resolution No. 10,425.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ADOPTING A COMPENSATION PLAN FOR CERTAIN POSITIONS IN THE EXEMPT SERVICE EMPLOYEE GROUP TO AMEND THE SCHEDULE OF HOURLY WAGE RATES FOR PART-TIME, SEASONAL, AND TEMPORARY (PST) CLASSIFICATIONS EFFECTIVE JANUARY 1, 2017 AND REVOKING RESOLUTION NO. 10,425

BE IT RESOLVED, that the City Council of the City of Newark hereby adopts the Compensation Plan, as attached, for certain positions in the Exempt Service.

EXEMPT SERVICE

Exempt Service for the purposes of this resolution includes Part-Time, Seasonal, and Temporary (PST) Employees.

Employees appointed to exempt positions listed on the PST Schedule of Hourly Wage Rates shall receive an hourly rate between the top and bottom of the range based on the qualifications of the appointee.

BE IT FURTHER RESOLVED that Resolution Number 10,425 is hereby revoked effective January 1, 2017, and if any provisions contained herein are found to be in conflict with provisions of any other resolutions, the provisions herein shall prevail.

(SCR1)

City of Newark, CA
PART-TIME, SEASONAL, and TEMPORARY (PST) CLASSIFICATIONS
Schedule of Hourly Wage Rates Effective January 1, 2017

Position	**Hourly Rate Range** Bottom	Top
Activity Coordinator	12.00	21.00
Aquatics Instructor I	12.50	18.00
Aquatics Instructor II	13.50	30.00
Café Worker I	10.50	12.00
Café Worker II	11.50	16.00
Customer Service Representative	10.50	12.00
Engineering Aide	24.50	34.00
Equipment Operator	21.00	28.00
General Maintenance Worker I	10.50	19.00
General Maintenance Worker II	12.50	22.00
General Maintenance Worker III	20.00	25.00
Inspector	25.00	45.00
Intern	13.00	25.00
Lifeguard I	11.50	15.00
~~Lifeguard II~~	~~12.00~~	~~18.00~~
Office Assistant I	15.00	24.00
Office Assistant II	16.50	26.00
Plan Checker	33.50	46.00
Planning Commissioner	75.00 per meeting	
Police Services Aide I*	10.50	15.00
Police Services Aide II*	14.00	20.00
Police Officer Trainee	30.00	
Pool Service Technician	15.00	25.00
Preschool Aide	12.00	17.00
Preschool Instructor	16.50	23.00
Public Safety Dispatcher	38.08	46.31
Professional Services Specialist	50.00	125.00
Recreation Instructor	13.50	30.00
Recreation Leader I	10.50	13.00
Recreation Leader II	11.00	15.00
Red Light Photo Enforcement Technician	31.62	38.43
Senior Customer Service Representative	12.50	17.00
Senior Lifeguard	15.00	24.00
Special Assistant	15.00	75.00
Sports Official	13.00	30.00

**The Police Services Aide positions receive a yearly $100 uniform allowance. The allowance is paid in two payments of $50 each on January 31 and July 31.*

F.5 Approval of a Contractual Services Agreement with the EMC Planning Group to conduct the Greater NewPark Area Specific Plan and amendment of the 2016-2018 Biennial Budget for Fiscal Year 2016-2017 – from Community Development Director Grindall. (RESOLUTION)

Background/Discussion – Staff is proposing to contract for professional services to conduct a Specific Plan of the Greater NewPark Area. This area consists of the NewPark Mall and surrounding commercial properties. The City of Newark completed the Greater NewPark Master Plan in July of 2015. The Master Plan included a vision for the areas transformation into a vibrant mixed use area with retail, hotels, offices, and complementary residential uses.

A Specific Plan is needed to guide and streamline the development of the Greater NewPark area. This area consists of the NewPark Mall and surrounding commercial properties. Since the Master Plan's adoption, the Newpark Mall's renovation has advanced with the addition of a top tier movie theater, restaurants, and a major aesthetic renovation. There are more restaurants, retail renovation, and a 24 Hour Fitness Super Sport Club under construction.

As the renovation has gained traction, property owners, including the mall's owner, New Park Plaza's owner, and Sears' owner, have begun to formulate development proposals that respond to the longer term vision and take advantage of market opportunities. The Specific Plan would provide detailed development regulations to enable the construction of the future phases of the area's transformation. It would identify infrastructure needed to support the development, and amenities to make the area vibrant and an asset to the community in general. The Specific Plan would also include a financial plan to assure the orderly construction of site infrastructure and amenities. An assessment of the environmental impacts of the proposal would also be completed. Specific Plan formulation would include two community meetings as well as consultations with property owners. The Specific Plan would be considered by the Planning Commission and City Council at public meetings.

A Request for Qualifications (RFQ) was published seeking a consultant to prepare a Specific Plan and prepare documentation to disclose environmental impacts of the Specific Plan. Nine architectural and planning firms responded and EMC Planning Group was selected by staff as the best qualified to complete this effort. A scope and work and contract were negotiated between staff and the consultant. The scope and cost information is attached.

Schedule and Cost

It is anticipated that the work would begin in November and will require seven months to complete. The total contract cost is $273,711. A budget amendment would be needed to transfer $273,711 from unallocated reserves to the Capital Improvement Plan project for the Greater NewPark Specific Plan. At the time of completion and adoption of the Specific Plan, a fee would be imposed on development within the Specific Plan area to repay the transferred funds.

Attachment

Action- It is recommended that the City Council by resolution authorize the Mayor to sign a Contractual Services Agreement with the EMC Planning Group to complete a Specific Plan and Environmental Documentation for the Greater NewPark Area and amending the 2016-2018 Biennial Budget for Fiscal Year 2016-2017.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE MAYOR TO SIGN A CONTRACTUAL SERVICES AGREEMENT WITH THE EMC PLANNING GROUP TO COMPLETE A SPECIFIC PLAN AND ENVIRONMENTAL DOCUMENTATION FOR THE GREATER NEWPARK AREA, AND AMENDING THE 2016-2018 BIENNIAL BUDGET FOR FISCAL YEAR 2016-2017

WHEREAS, the City Council of the City of Newark has approved a Master Plan for the Greater NewPark mall area; and

WHEREAS, the City's General Plan recommends intensification and diversification of uses in the NewPark Mall area; and

WHEREAS, a Specific Plan is an important and effective tool to implement the General Plan by guiding development; and

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

1) the Mayor of The City of Newark be and is hereby authorized to sign a Contractual Services Agreement with EMC Planning Group. to conduct a Specific Plan for the Greater NewPark area, said agreement on file in the office of the City Clerk;
2) the certain document entitled "Biennial Budget 2016-2018" is hereby amended for Fiscal Year 2016-2017 as follows:

From:

Fund No. 025-0000-2911	Unallocated Reserves	$273,711

To:

Fund No. 025-2010-5280-1187	Greater NewPark Specific Plan	$273,711

(trg1)

CONTRACTUAL SERVICES AGREEMENT

CONSULTANTS

This Service Agreement (hereinafter "Agreement") is made and entered into this _____ day of _____, 2016 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and EMC Planning Group Inc., a California Corporation ("Consultant"), collectively the "Parties".

W I T N E S S E T H:

WHEREAS, City requested proposals to perform the services generally including: Greater Newpark Specific Plan.

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

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

NOW, THEREFORE, the Parties hereto agree as follows:

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

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

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

3. COMPENSATION.

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

Notwithstanding the foregoing, the combined total of compensation and costs payable hereunder shall not exceed the sum of two hundred seventy three thousand seven hundred and eleven dollars. and No/100 Dollars ($273,711) unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by City, evidenced in writing authorizing such additional amount.

B. Method of Billing. To request payment, Consultant shall submit monthly invoices to City identifying services performed and the charges therefore (including an identification of personnel who performed Services, hours worked, hourly rates, and reimbursable expenses), based upon Consultant's billing rates (set forth on Exhibit "A" hereto).

Consultant shall submit all billings for said Services to City in the manner specified in Exhibit "B"; or, if no manner is specified in Exhibit "A", then according to the usual and customary procedures and practices which Consultant uses for billing clients similar to City.

Invoices shall be sent to:

City of Newark
Attn: Finance Department
37101 Newark Blvd.
Newark, CA 94560

Upon completion of Services, City shall sign off and acknowledge that all terms and conditions have been satisfactorily met; upon which, unless waived by City in writing, Consultant shall prepare, unless already included in submitted invoices, an itemized statement, briefly describing by task and/or labor category the items billed.

C. Payment. Upon receipt of an invoice, City shall make payments to Consultant on a monthly basis, or at such other times as may be specified in Exhibit "B", for Services, which are performed in accordance with this Agreement to the satisfaction of City.

D. Consultant's Failure to Perform. In the event that Consultant performs Services that do not comply with the requirements of this Agreement, Consultant shall, upon receipt of written notice from City, re-perform the services (without additional compensation to Consultant). If Consultant's failure to perform in accordance with this Agreement causes damages to City, Consultant shall reimburse City for the damages incurred (which may be charged as an offset to Consultant's payment).

4. ADDITIONAL SERVICES. In the event City desires the performance of additional services not otherwise included within Services, such services shall be authorized by written task order approved in advance of the performance thereof. Such task order shall include a description of the services to be performed thereunder, the maximum compensation and

reimbursement of costs and expenses payable therefore, the time of performance thereof, and such other matters as the Parties deem appropriate for the accomplishment of such services. Except to the extent modified by a task order, all other terms and conditions of this Agreement shall be deemed incorporated in each such task order.

5. INDEPENDENT CONSULTANT. At all times during the term of this Agreement, Consultant shall be, and is an independent consultant and shall not be an employee or agent of City. Consultant shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's Services; however, City shall not have the right to control the means by which Consultant accomplishes Services rendered pursuant to this Agreement.

Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

6. PERSONNEL. Consultant understands that, in entering into this Agreement, City has relied upon Consultant's ability to perform in accordance with its representations regarding the qualifications of Consultant, including the qualifications of its Authorized Representative, its designated personnel, and its Subconsultants, if any, identified in Exhibit "C". Therefore, Consultant shall not replace its Authorized Representative, or any of the designated personnel or Subconsultants identified in Exhibit "C", without the prior written consent of City. All Services shall be performed by, or under, the direct supervision of Consultant's Authorized Representative.

Consultant agrees to include with all Subconsultants in their subcontract the same requirements and provisions of this Agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the Subconsultant's work. Subconsultants hired by Consultant agree to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under this Agreement. Subconsultant further agrees to include these same provisions with any Sub-subconsultant. A copy of this Agreement's Indemnity and Insurance provisions will be furnished to the Subconsultant upon request. The Consultant shall require all Sub-subconsultants to provide a valid certificate of insurance and the required endorsements included in this Agreement prior to commencement of any Services and will provide proof of compliance to the City.

In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any of Consultant's designated personnel or Subconsultants, Consultant shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.

7. FACILITIES AND EQUIPMENT. Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing Services.

8. INFORMATION AND DOCUMENTATION.

A. Information from City. City has made an effort to provide Consultant with all information necessary for Consultant's performance of Services. If Consultant believes additional information is required, Consultant shall promptly notify City and City will provide to Consultant all relevant non-privileged information in City's possession.

B. Consultant's Accounting Records. Consultant shall maintain all accounting records related to this Agreement in accordance with generally accepted accounting principles and state law requirements, and in no event for less than four (4) years. Consultant's accounting records shall include, at a minimum, all documents which support Consultant's costs and expenses related to this Agreement, including personnel, subconsultants' invoices and payments, and reimbursable expenses. Consultant's accounting records shall be made available to City within a reasonable time after City's request, during normal business hours.

C. Ownership of Work Product. All original documents prepared by Consultant (including its employees and subconsultants) for this Agreement ("Work Product"), whether complete or in progress, are the property of City and shall be given to City at the completion of Consultant's Services, or upon demand of City. Consultant shall have a right to make and keep copies of the Work Product except for any confidential information. Consultant shall not reveal the Work Product or the confidential information contained in the Work Product, or make it available, to any third party without the prior written consent of City.

9. CONFLICTS OF INTEREST PROHIBITED. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. Consultant shall comply with all requirements of the Political Reform Act (California Government Code Section 81000, *et seq.*) and other laws relating to conflicts of interest, including: (a) Consultant shall not make or participate in a decision made by City if it is reasonably foreseeable that the decision may have a material effect on Consultant's economic interest, and (b) if required by law, Consultant shall file financial disclosure forms with the City Clerk. If Consultant maintains or acquires a conflicting interest, any contract with City (including this Agreement) involving Consultant's conflicting interest may be terminated by City.

10. NONDISCRIMINATION. Consultant shall comply with all applicable federal, state, and local laws regarding nondiscriminatory employment practices, whether or not said laws are expressly stated in this Agreement. Consultant shall not discriminate against any employee or applicant because of race, color, religious creed, national origin, physical disability, mental disability, medical condition, marital status, sexual orientation, sex, age, or any other basis, as defined in California Civil Code Section 51.

11. COMPLIANCE WITH LAW AND STANDARD OF CARE. Consultant shall comply with all applicable legal requirements including all federal, state, and local laws (including ordinances and resolutions), whether or not said laws are expressly stated in this Agreement. Consultant shall perform Services using a standard of care equal to, or greater than, the degree of skill and diligence ordinarily used by reputable professionals, with a level of experience and training similar to Consultant, performing under circumstances similar to those required by this Agreement.

12. INSURANCE. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, subconsultants, or employees.

A. Verification of Coverage.

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

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

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

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

B. Minimum Scope of Insurance.

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and

2. Insurance Services Office Form Number CA 00 01 covering Code 1, (any auto), or Code 8 (hired) and Code 9 (non-owned) if consultant has no owned autos; and

3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance; and

4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

C. Minimum Limits of Insurance.

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

Consultant shall maintain limits no less than:

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

D. Deductibles and Self-Insured Retentions.

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

E. Claims Made Policies.

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

F. Wasting Policies.

No policy required by this paragraph 12 shall include a "wasting" policy limit (ie. limit that is eroded by the cost of defense).

G. Remedies.

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

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

2. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

3. Terminate this Agreement.

H. Acceptability of Insurers.

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

I. Other Insurance Provisions.

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

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

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

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

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

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

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

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

8. Coverage is Material Element. Maintenance of proper insurance coverage in conformity with the provision of this paragraph 12 is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage or renewal may be treated by City as a material breach of this Agreement.

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

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

14. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against liabilities resulting from Consultant's

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

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

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

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

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

16. TERM/TERMINATION.

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

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

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

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

EMC Planning Group Inc.	**CITY OF NEWARK**
RON SISSEM **Consultant**	TERRENCE GRINDALL **Administrator**
Address: 301 Lighthouse Avenue Suite C Monterey, CA 93940	City of Newark Attn:Community Development 37101Newark Boulevard Newark, CA 94560

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF NEWARK,
a municipal corporation

By _____
City of Newark

Date _____

EMC Planning Group Inc.
a California Corporation

By _____
Consultant

Date _____

_____

Attest:

_____
City Clerk

Date _____

Approved as to form:

_____
City Attorney

Date _____

EXHIBIT A

SCOPE OF SERVICE, PAYMENT, QUALIFICATIONS

City of Newark

CITY OF NEWARK

Greater NewPark Mall Specific Plan

Scope and Cost Proposal

Prepared by

EMC Planning Group

October 18, 2016

CITY OF NEWARK

Greater NewPark Mall Specific Plan

Scope and Cost Proposal

Prepared For

CITY OF NEWARK

TERRENCE GRINDALL, ASSISTANT CITY MANAGER

CITY ADMINISTRATION BUILDING

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MICHAEL GROVES, SENIOR PRINCIPAL

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OCTOBER 18, 2016

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TABLE OF CONTENTS

1.0 SPECIFIC PLAN AND CEQA SCOPE OF WORK 1-1

Task 1 – Project Management 1-1

Task 2 – Data Collection and Analysis 1-1

Task 3 – Develop Alternative Land Use Scenarios 1-2

Task 4 – Select Preferred Land Use Scenario 1-2

Task 5 – Prepare Urban Design Plan 1-4

Task 6 – General Infrastructure Planning 1-5

Task 7 – Prepare Specific Plan 1-6

Task 8 – Prepare CEQA Documentation 1-8

2.0 PROJECT BUDGET AND SCHEDULE 2-1

2.1 Project Budget 2-1

2.2 Project Schedule 2-3

Appendices

Appendix A Kimley-Horn Scope of Work

Appendix B EPS Scope of Work

Tables

Table 1 Project Budget ($) 2-1

Table 2 Optional Tasks and Estimated Costs ($) 2-3

1.0
Specific Plan and CEQA Scope of Work

TASK 1 – PROJECT MANAGEMENT

This task includes contract management, and communications and coordination among the EMC/ELS Team, the City, property owners, and other involved stakeholders throughout the specific plan preparation process. Meeting tasks are identified in each of the project phases.

TASK 2 – DATA COLLECTION AND ANALYSIS

The EMC/ELS Team will carefully review existing conditions and existing resource documents to identify policy, regulatory, and physical opportunities and constraints that apply to the land use planning, urban design, and specific plan preparation processes. The overall purpose of this task is to identify issues that could affect site planning and development potential. The following tasks are included:

1. Identify existing land uses, developed uses, and property ownership boundaries. Where information about existing easements is readily available and accessible, these too will be identified.
2. Review the General Plan and Greater NewPark Master Plan to identify potential policy and vision direction that influence the project planning process. Review the Zoning Code, especially regulations that apply in the applicable zoning district.
3. Collect and review existing information regarding development concepts currently being considered by individual land owners.
4. Review the General Plan EIR for content related to the NewPark site and review other CEQA documentation prepared for other development in the City, including the Newark Hotel and Prima projects.
5. Collaborate with City staff, the Alameda County Water District and the Union Sanitary District to locate and discuss existing utility infrastructure issues.
6. Engage Economic and Planning Systems (EPS) to collect data and conduct research on land use, use types and development trends to guide discussions with property owners and provide a qualitative filter for development economic feasibility assessments. The research will prepare EPS for participation in a one-day working session with property owners as described in Task 3 below. EPS's scope of work and budget are included in Appendix B.

TASK 3 – DEVELOP ALTERNATIVE LAND USE SCENARIOS

Identification of potential uses and development capacity will be the initial key element of the specific plan process. The purpose of Task 3 is to arrive at up to three conceptual illustrative land use alternatives based on meetings with City staff and affected property owners. These will be reviewed by City staff, stakeholders, and City decision makers. The tasks will include:

1. Conduct a one-day working session with the City and property owners within the specific plan study area to identify opportunities and constraints, opportunity sites for new development, preferred development types, issues regarding property ownership and "sharing" of expanded development capacity, and land use and circulation concepts that consider property owner input. EPS will participate and be prepared to discuss its understanding of and experience with current trends in the retail and regional center space and to provide ideas and recommendations for possible land use approaches for the project site. In this function, EPS will act as a "filter" to screen development plans/concepts of property owners in the context of its economic development expertise.

2. Develop up to three alternative land use bubble diagrams showing land use types, potential development densities in light of existing Zoning Code standards and/or modification of standards that may be recommended, and general estimates of total development capacity for each alternative.

3. Meet with property owners (ELS only) to review land use alternative concepts prior to a community meeting at which the alternatives will be presented.

4. EPS will evaluate the land use alternatives from a broad feasibility perspective and provide input to the EMC/ELS Team and City staff about their relative potential to perform. This will be a qualitative, strategic advisory assessment that is based on EPS' professional experience.

5. Present up to three land use alternates at a community meeting for informational purposes. A basic PowerPoint presentation would be prepared for this purpose.

Meeting Summary for Task 3: property owner working session, property owner review meeting, and community meeting (three meetings total).

Deliverable: Up to three bubble land use alternative diagrams, and memo with key findings from property owner charrette, follow-up property owner meeting, and community meeting.

TASK 4 – SELECT PREFERRED LAND USE SCENARIO

The purpose of this task is to prepare a draft preferred land use plan. The EMC/ELS Team would utilize inputs received from the prior tasks as a basis for crafting a preferred site plan/land use scenario that represents a synthesis of the positive attributes of the alternatives

and minimizes potentially negative attributes. It is possible that the draft land use scenario will undergo several internal iterations. Building envelopes will be defined and a detailed land use summary will be prepared based on proposed uses and associated existing/proposed development densities and standards. Tasks are as follows:

1. Review feedback from stakeholder meeting and community meeting.

2. Develop a preferred land use scenario and plan based on the three alternatives and feedback that best achieves the combined goals of City in consideration of the property owners' individual development concepts.

3. Prepare a land use summary which describes development capacity by land use and total development capacity for the preferred scenario.

4. As conducted for the land use alternatives screening, EPS will qualitatively assess the preferred land use alternative and provide input on whether it is realistic and achievable from an economic perspective.

5. Review the preferred scenario against the new development capacity assumptions for the Greater NewPark Focus Area as described in the General Plan EIR. If the proposed use capacities are within the Focus Area capacity assumptions, no further analysis is required. If one or more proposed use type capacities exceed the EIR capacity thresholds, a traffic generation sensitivity analysis would be conducted. Baseline traffic generation volumes based on the new Focus Area development capacity would be calculated. Generation from the proposed development scenario would then be calculated to determine whether total daily and/or AM and PM peak volumes exceed Focus Area baseline assumptions. If so, discuss results with the City to determine a course of action, including the potential of reducing proposed development capacity. This task includes one revision of the proposed land use plan for this purpose and one iteration of the traffic generation analysis by Kimley-Horn to validate that the land use revision achieves the required traffic generation reduction. Meeting the Focus Area baseline volumes is a critical input to determining whether the CEQA process can be streamlined by tiering from the General Plan EIR as discussed below in Section 8, CEQA Documentation.

6. Meet with the City and property owners to review the preferred land use plan/scenario. Up to one revision of the preferred plan is included in this task. It is assumed that any revision that may occur at this step will not require additional traffic generation or qualitative financial feasibility analysis.

7. ELS to attend up to four total individual meetings to support City presentation of preferred land use plan scenario to City decision makers. It is assumed that these meetings will occur over two days. A basic PowerPoint presentation would be prepared to support the decision maker meeting process. Please see below of an optional related task.

Meeting Summary for Task 4: Review preferred land use scenario with property owners, up to four individual meetings with City staff and decision makers (two per day for two days) (five meetings total).

Deliverables: Draft preferred land use scenario with land use summary for presentation to property owners and City decision makers. Final selected land use plan scenario drafted in response to decision maker comments.

Optional Task 4-1. It is highly recommended that the EMC project manager or president attend the individual meetings with City decision makers. It is important that the interests and sensitivities of decision makers are understood, as these can substantially affect the approach, positioning, and content for the specific, especially policy language if such is included. This can be done at a cost of approximately $1,400 per day (assuming two meetings per day) as shown in the optional costs table included in Section 2.1, Project Budget.

Subconsultant: The EMC/ELS Team includes Kimley-Horn as a subconsultant. Its two primary work tasks are designed to assist the Team with Tasks 3 and 4 of this scope of work. First, Kimley-Horn will review broad circulation concepts included in the land use alternatives to identify broad potential operational issues. Kimley-Horn will do the same for the final preferred alternative, but at a greater level of detail as the final alternative will be prepared with more precise land use and circulation information. The purpose is to ensure that the circulation concepts are functionally and technically feasible. Second, Kimley-Horn will conduct the above-noted traffic generation sensitivity analyses. Please refer to Appendix A for Kimley-Horn's scope of work.

TASK 5 – PREPARE URBAN DESIGN PLAN

The EMC/ELS Team will develop the preferred land use scenario into a detailed urban design plan. The plan will form the crux of the land use and development regulation guidance to be included in the specific plan. The tasks include:

1. Create an urban design plan with the following features:
    a. Building and parking locations
    b. Roadway improvements, including curb cuts and parking access
    c. Pedestrian routes
    d. Bicycle routes
    e. Concept designs for public parks and open spaces

2. Land Use Plan
3. Building Height Diagram
4. District Plan
5. Setback/Easement Plan
6. Parking Plan
7. Public Transit Diagram
8. Pedestrian System Diagram
9. Bicycle System Diagram
10. Street Character Diagram
11. Gateway Diagram
12. Typical street sections showing right-of-way width, sidewalk widths and planting areas

The urban design plan will include proposed standards for roadways, building/lot setbacks, building heights, and densities. To the extent that these modify existing City standards, the development standard changes will be included in the specific plan and described as a new zone district that applies solely to the NewPark Mall site.

Deliverables: Five (5) hardcopies and one electronic copy of the draft urban design plan for City review and comment. Upon receipt of a consolidated, internally consistency set of comments from the City, a final draft urban design plan will be prepared for inclusion in the specific plan.

TASK 6 – GENERAL INFRASTRUCTURE PLANNING

The EMC/ELS Team will prepare a basic, conceptual infrastructure plan for inclusion in the specific plan. Infrastructure conditions for water supply, wastewater conveyance and treatment, and storm drainage will be described, and circulation infrastructure plans identified in the urban design plan will be reiterated. The plans will become a component of the specific plan. Tasks are as follows:

1. Coordinate with the Alameda County Water District, Union Sanitary District, and City Public Works Department to identify existing capacities within the respective water supply, wastewater conveyance and treatment, and storm drainage systems operated by each agency. Consult existing utility master plans (e.g. Irvington Basin Plan for wastewater collection and treatment system planning) to support the analysis. A full day of meetings is assumed to coordinate with the three agencies.

2. Prepare a summary of changes in utility service demands that would be generated under the preferred land use plan/development scenario. Identify increases in water demand, wastewater generation, and stormwater volumes.

3. Work with the utility providers to compare existing utility system capacity with projected additional demand to identify where system improvements may be required to accommodate new development. Map existing systems and potential locations where new improvements may be required based on guidance provided by the respective agencies. These will not be engineered drawings, but rather illustrative maps to show likely locations for new backbone infrastructure improvements. Detailed infrastructure planning would occur as part of the development planning and review process for future individual projects.

4. Review any potentially critical infrastructure planning and/or constraints information with the City to identify possible options for resolution.

Meeting Summary for Task 6: Conduct meetings with each of the utility providers (assumed to be three meetings that all take place on the same day).

Deliverables: Descriptive text and illustrative mapping for each utility system for review and comment by each responsible agency. Modifications will be incorporated and included in the administrative draft specific plan.

Optional Task 6-1: If desired by the City, the EMC/ELS Team can retain an engineering firm to prepare a detailed engineer's report. The report would include similar information as summarized in tasks 1-4 above, but at a more much more detailed level of specificity. A general estimate of the optional cost for an engineer's report is included in Section 2.1, Project Budget.

Optional Task 6-2: If desired by the City, the EMC/ELS Team can retain a civil engineer to calculate probable costs for required infrastructure and other site improvements (e.g. landscaping, public amenities, etc.). This would be high level costing commensurate with the general level of analysis of infrastructure improvement needs. The probable costing information would be included in a high-level capital improvements program to be included in the implementation section of the specific plan as described in Task 7 below. This task can be completed independent of Optional Task 6-1 (engineers' report). A general estimate of the optional cost is included in Section 2.1, Project Budget.

TASK 7 – PREPARE SPECIFIC PLAN

Given the very limited overall project budget, a simple, straightforward specific plan which meets California Government Code requirements (sections 65450 et seq.) will be prepared. Using inputs derived from prior scope tasks and additional information generated as part of

this task, the EMC/ELS Team will prepare administrative draft, draft, and final versions of the specific plan. The document will contain the following main chapters:

- Introduction, Background, and Purpose
- Land Use, Development Standards, and Urban Design
- Circulation
- Infrastructure and Public Facilities
- Plan Implementation

Specific tasks will include the following:

1. Administrative Draft Specific Plan. Inputs from prior tasks will be consolidated to form the bulk of the document. The land use chapter may contain new development standards or modifications of development standards contained in the City's Zoning Code. The proposed standards would apply only within the boundary of the specific plan and necessitate that the specific plan be adopted by ordinance. The need to include policies and implementation measures will be evaluated and if included, likely will reflect policy direction already contained in the General Plan. The plan implementation chapter will include the following topics: plan implementation, development schedule/phasing, capital improvements summary, and capital facilities financing summary. Probable costs for capital improvements will be included if the City elects to implement Optional Task 6-2, Probable Costing, as described under Task 6 above.

   Deliverable: Three (3) hardcopies and one electronic copy of the administrative draft specific plan will be submitted to the City for review and comment. It is assumed that City comments will be consolidated into one set, with internal consistency of comments verified before delivery to the EMC/ELS Team.

2. Draft Specific Plan. Comments received from the City will be incorporated into a draft, public review specific plan. This is the version of the specific plan that will be made available for public review by the City pursuant to California Government Code requirements.

   Deliverables: Twenty (20) hard copies of the public review draft specific plan and one electronic copy.

3. Present the Specific Plan. The EMC/ELS Team will present the draft specific plan at one community meeting. The Team will also attend and present the specific plan at one Planning Commission and one City Council public hearing.

4. Final Specific Plan (Errata). The City must make the draft specific plan available for public review and conduct public hearings as part of its consideration to approve the specific plan. If during its public hearing to consider the specific plan the City Council

determines that minor modifications to the public review draft specific plan are required, a list of errata changes will be prepared and submitted to the City for review and verification. Once verified by the City, the final specific plan will be prepared to reflect the changes. It is assumed that any changes requested by the City Council will be minor and will not require substantive modification of the public review draft.

Deliverables. List of public review draft changes/errata: Twenty (20) hard copies of the final specific plan and one electronic copy.

Meeting Summary for Task 7: One (1) community meeting, one (1) Planning Commission hearing and one (1) City Council hearing (three meetings total)

Optional Task 7-1: EPS would prepare a financial analysis for the project based on development types and capacities and infrastructure/facility investment requirements. While the precise elements of this task will depend on yet-to-be determined issues that may arise as part of the study process, at a minimum it will be important to ensure NewPark property owners (and tenants) have adequate financial incentives to undertake the level of investment reflected in the specific plan. Broadly speaking, EPS will compare the level of investment (including infrastructure such as parking, streetscape, public space, etc.) contemplated in the specific plan against the increased economic value that will result. This analysis should also consider the availability and feasibility of various financing mechanisms and resources. A detailed scope and budget for this task can be developed at the discretion of the City.

Task 8 – Prepare CEQA Documentation

The City has indicated that an addendum to the General Plan EIR should suffice as CEQA documentation for the proposed project. This determination is based on an assumption that the final land use plan/urban design plan for the proposed project will not include capacity for new development that exceeds capacity assumptions in the General Plan EIR for the NewPark Focus Area. An addendum may be an appropriate CEQA document if only minor changes to the General Plan EIR are required to address the project-specific effects of implementing the specific plan.

A different CEQA documentation methodology may be possible pursuant to CEQA Guidelines section 15183, Projects Consistent with a Community Plan or Zoning. Section 15183(a) states, "CEQA mandates that projects which are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified shall not require additional environmental review, except as might be necessary to examine whether there are project specific significant effects which are peculiar to the project or its site. This streamlines the review of such projects and reduces the need to prepare repetitive environmental studies." This provision suggests that preparation of an initial study is appropriate to verify that the proposed project requires no other further environmental review if in fact it is consistent with the focus area development capacity assumptions.

For purposes of this scope, it is assumed that a draft and final initial study will be prepared pursuant to CEQA Guidelines section 15183. The following tasks will be completed:

1. Draft Initial Study. A draft initial study will be prepared to determine whether the proposed project qualifies for no further environmental review pursuant to CEQA Guidelines section 15183. If during the course of the analysis EMC finds that further environmental review in the form of a mitigated negative declaration may or will be required, the City will be notified immediately.

   Deliverable: Three (3) hard copies of a draft initial study and one electronic version for review and comment by the City. It is assumed that City comments will be consolidated into one set, with internal consistency of comments verified before delivery to the EMC/ELS Team.

2. Final Initial Study. City comments will be incorporated into the draft initial study to prepare a final initial study. The final initial study would constitute the CEQA documentation to be considered by the City Council prior to considering action on the proposed project.

   Deliverable: Fifteen (15) hard copies of the final initial study, one electronic version, and twenty-five (25) copies on CD.

Other than the traffic generation sensitivity analysis work to be conducted by Kimley-Horn, it is assumed that no new technical analyses will be required to prepare the initial study. If in the course of the analysis it becomes clear that one or more technical analyses are required, the City will be notified immediately. A contract amendment would be required. Note that the General Plan EIR suggests that site-specific health risk assessments should be conducted for all new sensitive receptors that are sited within 500 feet of major roadways such as I-880 or Cedar Boulevard. If uses that constitute sensitive receptors are proposed within these areas, this could be one exception to the assumption that no technical studies are required.

Meeting Summary for Task 8: EMC/ELS would be in attendance at the Planning Commission and City Council public hearings where the specific plan is being considered. Separate meetings are not assumed to be required to support the City process of considering and adopting the CEQA documentation.

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2.0
Project Budget and Schedule

2.1 PROJECT BUDGET

The proposed project budget is shown below in Table 1, Project Budget. Costs are shown by task number and firm. EMC Planning Group would be the lead consultant with whom the City would contract. ELS, Kimley-Horn, and EPS would be subconsultants to EMC Planning Group. Hourly rates for EMC Planning Group and ELS are as provided in our Team's prior statement of qualifications. The proposed budget is good for 60 days.

We have tried to minimize costs to the maximum extent possible. However, we believe that it would be exceptionally challenging to deliver a quality product/process for the City for less than the budgeted amount.

Table 1 Project Budget ($)

Task	EMC Planning Group	ELS Architects	Kimley-Horn	EPS
1 – Project Management	9,870	2,500		
2 – Data Collection/Analysis	1,940	11,145		3,960
3 – Alternative Land Use Scenarios	8,730	28,245	9,750	7,900
4 – Preferred Land Use Scenario	3,240	20,030	4,250	
5 – Urban Design Plan	4,840	37,660		
6 – Infrastructure Planning	9,040			
7 – Specific Plan/Public Hearings	65,170	11,260		
8 – CEQA Documentation	20,910	1,560		
Production/Additional Costs	9,185			
Subconsultant Overhead	2,586			
Subtotals	135,511	112,400	14,000	11,860
Total Cost	273,711			

Budget Exceptions and Assumptions

The following exceptions and assumptions apply to the proposed scope of work and budget. Deviation from any of the exceptions and assumptions may result in the need for a contract amendment.

1. The work scope is limited to tasks explicitly identified herein in Section 1.0, Specific Plan and CEQA Scope of Work.

2. Actions that are outside the control of the EMC/ELS Team which result in extension of the project schedule duration identified in Section 2.2, and may result in added costs.

3. No additional technical studies other than the Kimley-Horn traffic analysis and EPS economic analysis are required to complete the specific plan and CEQA documentation.

4. The City Public Works Department will be available to provide information on existing stormwater infrastructure within the project area, identify existing capacities, and identify projected system deficiencies based on additional demand created by the proposed project. The EMC/ELS Team has contacted the Alameda County Water District and the Union Sanitary District regarding availability of the same information that is germane to them. Both agencies indicated their willingness and ability to provide the information. If any of the required information is not available from one or more of these agencies, the infrastructure planning component of the specific plan may need to be further simplified.

5. The City is responsible for all meeting, public hearing, and CEQA related noticing and document circulation/availability.

6. CEQA documentation will be limited to an initial study pursuant to CEQA Guidelines section 15183 or an addendum to the General Plan EIR.

7. The City is responsible for preparing all project consideration package information (staff report, resolutions/ordinances, findings, etc.).

Optional Budget Items

Several tasks are identified in Section 1.0, Specific Plan and CEQA Scope of Work, as being optional items for the City's consideration. The optional task costs shown below in Table 2, Optional Tasks and Estimated Costs, are estimates based on initial qualitative discussion of anticipated scope needs conducted with potential subconsultants. Should the City wish to execute one or more tasks, the respective subconsultants will prepare detailed scopes of work and budgets for the City's consideration based on information available at that time.

Table 2 Optional Tasks and Estimated Costs ($)

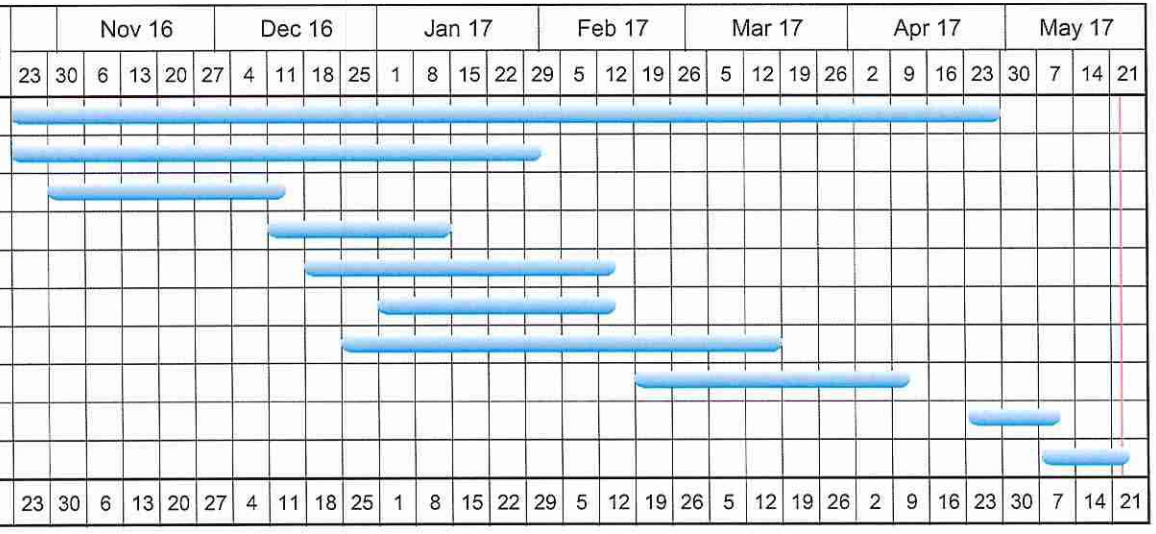
Optional Task	Estimated Cost
2-1 – Market Analysis	16,600
4-1 – EMC Attendance at Decision Maker Meetings	1,300 (two meetings/day)
6-1 – Engineers' Report	41,800
6-2 – Facilities Probable Costing	8,250

2.2 PROJECT SCHEDULE

The proposed project schedule is shown below. It is aggressive, but feasible provided that: the specific plan process is limited to the tasks included in this scope of work (especially the number of meetings and the assumptions about the participants in each meeting), project stakeholders (property owners) are quickly accessible and responsive, City staff is able to rapidly review and return comments on project deliverables, and the CEQA documentation is streamlined as assumed in this scope of work.

NewPark Mall Specific Plan Schedule

	Activity Name	Start Date	Finish Date
1	Project Management	10/24/16	4/28/17
2	Data Collection/Analysis	10/24/16	1/30/17
3	Land Use Alternatives	10/31/16	12/12/16
4	Preferred Scenario	12/12/16	1/13/17
5	Urban Design Plan	12/19/16	2/13/17
6	Infrastructure Planning	1/2/17	2/13/17
7	Draft Specific Plan	12/26/16	3/17/17
8	CEQA Documentation	2/20/17	4/10/17
9	Public Hearings	4/25/17	5/9/17
10	Final Specific Plan	5/9/17	5/22/17



APPENDIX A

KIMLEY-HORN SCOPE OF WORK AND BUDGET

Kimley»Horn

October 14, 2016

Ron Sissem
EMC Planning Group Inc.
301 Lighthouse Avenue, Suite C
Monterey, California 93940

Re: Newark NewPark Mall Specific Plan
Proposal for Transportation and Traffic Engineering Services

Mr. Sissem:

Kimley-Horn and Associates, Inc. ("Kimley-Horn" or "Consultant") is pleased to submit this letter agreement (the "Agreement") to EMC Planning Group Inc. ("EMC" or "Client") for providing transportation and traffic engineering services for the NewPark Mall Specific Plan in Newark, California. This letter constitutes a proposal setting forth our proposed Scope of Services, Schedule and Fee.

Project Understanding

EMC is working with the City of Newark ("City") to analyze future redevelopment of the NewPark Mall Area in Newark, California. The NewPark Mall was included in the *Greater NewPark Masterplan,* which was approved by the City on September 10, 2015.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

Task 1 – Trip Generation Sensitivity Analysis
Kimley-Horn will conduct a trip generation sensitivity analysis, which will assist in determining the land use intensity for the project. The number of trips that the proposed project will generate will be based on trip generation rates obtained from the current edition of *Trip Generation* published by the Institute of Transportation Engineers (ITE). Trip Generation calculations will also include internal capture and pass-by reduction based on methodology in ITE's *Trip Generation Handbook*. Kimley-Horn will compare the proposed trip generation with the trip generation discussed in the *Greater NewPark Masterplan.*

Kimley-Horn will analyze only one (1) iteration of the proposed land use intensity. Analysis of additional iteration will be completed as an additional service. No level of service or queuing analysis will be completed.

After the trip generation for the proposed site has been finalized, Kimley-Horn will prepare a draft memorandum for review by the Client. The draft memorandum will describe our process, assumptions, and final trip generation. Based on comments on the draft memorandum, the final memorandum will be prepared and submitted to the Client.

Kimley-Horn has allocated a maximum of 30 hours for this task.

Task 2 – Site Circulation
Kimley-Horn will review site circulation and assist EMC and other subconsultants with developing typical roadway cross-sections. These concepts will be prepared by other subconsultants, and Kimley-Horn will not provide any design services for this task.

Kimley-Horn will review and provide comment on circulation concepts on potential operational or safety issues. These comments will help refine preferred land use and circulation alternatives. The preferred alternative could include two or three new roadways within the project site and possible realignment of portion(s) of the existing ring road. It is anticipated that there may be multiple site plans for the proposed project. Kimley-Horn will analyze up to three (3) different site configurations.

Kimley-Horn has allocated a maximum of 30 hours for this task.

Task 3 – Meetings
Kimley-Horn will attend up to one (1) project team face-to-face meeting budgeted at 6 hours. An additional 8 hours is included for conference calls, project coordination, and other project correspondence for Kimley-Horn staff with other project team members.

Kimley-Horn has allocated a maximum of 14 hours for this task. If requested, additional meeting attendance will be completed as an additional service with a fee of $1500 per meeting.

Additional Services

Any services not specifically provided for in the above scope will be billed as additional services and performed at our then current hourly rates. Additional services we can provide include, but are not limited to, the following:

- Traffic Counts
- Traffic Analysis (Intersection Level of Service, Queuing, etc.)
- Engineering Design
- Analysis or meeting attendance in addition to the specific amount in scope
- Revision of analysis or report based on site or project plan changes in addition to the specified amount in the scope

Any additional effort, not included in this scope and free estimate, will be undertaken only upon express prior authorization.

Information Provided By Client

We shall be entitled to rely on the completeness and accuracy of all information provided by the Client or the Client's consultants or representatives. The Client shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Project description
- Site plan

Schedule

We recognize that you are eager to have the study completed. As a result, Kimley-Horn is prepared to begin work immediately upon receipt of a signed Agreement and your notice to proceed, and we will endeavor to meet your scheduling needs.

Fee and Expenses

Kimley-Horn will perform the services in Tasks 1 through 3 for the total lump sum labor fee below. Individual task amounts are informational only.

Task 1	Trip Generation Sensitivity Analysis	$5,500
Task 2	Site Circulation	$5,500
Task 3	Meetings	$3,000
Total Lump Sum Labor Fee		**$14,000**

Lump sum labor fees will be invoiced monthly based upon the overall percentage of services performed. Reimbursable expenses will be invoiced based upon expenses incurred. Payment will be due within 30 days of your receipt of the invoice and should include the invoice number and Kimley-Horn project number.

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to EMC Planning Group Inc..

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute both copies of this Agreement in the spaces provided below, retain one copy, and return the other to us. We will commence services only after we have received a fully-executed agreement. Fees and times stated in this Agreement are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

KIMLEY-HORN AND ASSOCIATES, INC.

Michael C. Mowery

Michael C. Mowery, P.E.
CA PE #C66353

Attachment – Request for Information
Attachment – Standard Provisions

EMC Planning Group Inc.

By: _____

_____
(Date)

_____
(Print or Type Name)

Title: _____
(Member or Manager, as authorized)

_____
(Email Address)

_____, Witness
(Print or Type Name)

Client's Federal Tax ID: _____
Client's Business License No.: _____
Client's Street Address: _____
_____

Request for Information

Please return this information with your signed contract; failure to provide this information could result in delay in starting your project

Client Identification

Full, Legal Name of Client						
Mailing Address for Invoices						
Contact for Billing Inquiries						
Contact's Phone and e-mail						
Client is (check one)	Owner		Agent for Owner		Unrelated to Owner	

Property Identification

	Parcel 1	Parcel 2	Parcel 3	Parcel 4
Street Address				
County in which Property is Located				
Tax Assessor's Number(s)				

Property Owner Identification

	Owner 1	Owner 2	Owner 3	Owner 4
Owner(s) Name				
Owner(s) Mailing Address				
Owner's Phone No.				
Owner of Which Parcel #?				

Project Funding Identification – List Funding Sources for the Project

Attach additional sheets if there are more than 4 parcels or more than 4 owners

KIMLEY-HORN AND ASSOCIATES, INC.

STANDARD PROVISIONS

(1) **Consultant's Scope of Services and Additional Services.** The Consultant's undertaking to perform professional services extends only to the services specifically described in this Agreement. However, if requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities described herein or imposed by law, the Client shall:
(a) Designate in writing a person to act as its representative with respect to this Agreement, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
(b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project including all numerical criteria that are to be met and all standards of development, design, or construction.
(c) Provide to the Consultant all previous studies, plans, or other documents pertaining to the project and all new data reasonably necessary in the Consultant's opinion, such as site survey and engineering data, environmental impact assessments or statements, upon all of which the Consultant may rely.
(d) Arrange for access to the site and other private or public property as required for the Consultant to provide its services.
(e) Review all documents or oral reports presented by the Consultant and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the Consultant.
(f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary for completion of the Consultant's services.
(g) Cause to be provided such independent accounting, legal, insurance, cost estimating and overall feasibility services as the Client may require.
(h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the scope, timing, or payment of the Consultant's services or any defect or noncompliance in any aspect of the project.
(i) Bear all costs incidental to the responsibilities of the Client.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work timely after receipt of a properly executed copy of this Agreement and any required retainer amount. This Agreement is made in anticipation of conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months (cumulatively), Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Compensation shall be paid to the Consultant in accordance with the following provisions:
(a) Invoices will be submitted periodically for services performed and expenses incurred. Invoices are due and payable upon presentation. Client shall pay Consultant a time-price differential of one and one-half percent (1.5%) of the outstanding amount of each invoice that is overdue for more than 30 days. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant for the duration of the project and applied against the final invoice. If the Client fails to make any payment due to the Consultant under this or any other agreement within 30 days after presentation, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid in full and may commence proceedings, including recording liens, to secure its right to payment under this Agreement.
(b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.
(c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due within 25 days of receipt.
(d) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

(5) **Use of Documents.** All documents, including but not limited to drawings, specifications, reports, and data or programs stored electronically, prepared by the Consultant are related exclusively to the services described in this Agreement, and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use, partial use or reuse by the Client or others on extensions of this project or on any other project. Any modifications made by the Client to any of the Consultant's documents, or any use, partial use or reuse of the documents without written authorization or adaptation by the Consultant will be at the Client's sole

risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code developed in the development of application code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client, and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern. Because data stored in electronic media format can deteriorate or be modified without the Consultant's authorization, the Client has 60 days to perform acceptance tests, after which it shall be deemed to have accepted the data.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to opinions as to the costs of construction and materials, shall be made on the basis of its experience and represent its judgment as an experienced and qualified professional, familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, or upon thirty days' written notice for the convenience of the terminating party. If any change occurs in the ownership of the Client, the Consultant shall have the right to immediately terminate this Agreement. In the event of any termination, the Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination. If the Consultant's compensation is a fixed fee, the amount payable for services will be a proportional amount of the total fee based on the ratio of the amount of the services performed, as reasonably determined by the Consultant, to the total amount of services which were to have been performed.

(8) **Insurance.** The Consultant carries Workers' Compensation insurance, professional liability insurance, and general liability insurance. If the Client directs the Consultant to obtain increased insurance coverage, the Consultant will take out such additional insurance, if obtainable, at the Client's expense.

(9) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's undertaking herein or its performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(10) **LIMITATION OF LIABILITY.** In recognition of the relative risks and benefits of the Project to the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent of the law, and notwithstanding any other provisions of this Agreement or the existence of applicable insurance coverage, that the total liability, in the aggregate, of the Consultant and the Consultant's officers, directors, employees, agents, and subconsultants to the Client or to anyone claiming by, through or under the Client, for any and all claims, losses, costs or damages whatsoever arising out of, resulting from or in any way related to the services under this Agreement from any cause or causes, including but not limited to, the negligence, professional errors or omissions, strict liability or breach of contract or any warranty, express or implied, of the Consultant or the Consultant's officers, directors, employees, agents, and subconsultants, shall not exceed twice the total compensation received by the Consultant under this Agreement or $50,000, whichever is greater. Higher limits of liability may be negotiated for additional fee. Under no circumstances shall the Consultant be liable for extra costs or other consequences due to changed conditions, or for costs related to the failure of contractors to perform work in accordance with the plans and specifications. This Section 10 is intended solely to limit the remedies available to the Client or those claiming by or through the Client, and nothing in this Section 10 shall require the Client to indemnify the Consultant.

(11) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(12) **Certifications.** The Consultant shall not be required to execute certifications or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within one year of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** In no event shall Consultant be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to professional analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant shall notify the Client of hazardous substances or conditions not contemplated in the scope of services of which the Consultant actually becomes aware. Upon such notice by the Consultant, the Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**
(a) If the Consultant's services include the preparation of documents to be used for construction and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.
(b) If the Consultant provides construction phase services, the Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.
(c) The Consultant is not responsible for any duties assigned to the design professional in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and for its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State of California. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Provided, however, that any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

APPENDIX B

EPS SCOPE OF WORK AND BUDGET

October 17, 2016

Ron Sissem, Principal
EMC Planning Group
301 Lighthouse Avenue, Suite C
Monterey, CA 93940

Subject: EPS Scope and Budget for Greater NewPark Mall Specific Plan; EPS #161132

Dear Ron:

The following memorandum outlines the proposed Scope of Work and budget for the contribution of Economic & Planning Systems (EPS) to Greater NewPark Mall Specific Plan. Per our discussion, given the City's resources and expectations related to schedule and role of existing property owners, we have outlined a set of tasks that allows EPS to provide high-level advisor and "fatal flaw" analysis rather than responsibility for key planning or implementation related tasks. Should additional services be requested, EPS will modify and scope and budget as appropriate.

EPS Scope of Work

The following describes the specific tasks that EPS proposes to undertake as part of the Greater NewPark Mall Specific Plan process. We have divided the work effort into three primary tasks plus one optional task, conducted based on direction from the City of Newark.

Task 1: Site visit and Market Reconnaissance

EPS will confer with the Project Team to refine the project objectives, key issues, and data requirements. EPS will review all readily available information related to the project and Project Area, including documents addressing physical, financial, and regulatory considerations. EPS will also use this opportunity to tour the project site and surrounding neighborhood to get a better sense of the market context.

A key goal of this initial research will be to better understand the overall market parameters affecting the performance and development opportunities within the Project Area. EPS will craft internal talking points to inform its participation in the Project Charrette with key property owners, as described below. The market review may also inform subsequent financial analysis, as needed.

The Economics of Land Use

Economic & Planning Systems, Inc.
One Kaiser Plaza, Suite 1410
Oakland, CA 94612
510 841 9190 tel
510 740 2080 fax

Oakland
Sacramento
Denver
Los Angeles

www.epsys.com

Task 2: Participation in Project Charrette

EPS will participate in a day-long project charrette with the key property owners within the Project Area. The goal of this effort will be to develop a better understanding of existing plans, long-term goals, and related site parameters affecting the Specific Plan land use options.

Task 3: Support for Alternative and Preferred Land Use Scenarios

Based on the information gathered from **Task 1** and **Task 2**, as well as our professional expertise gained form work on similar planning efforts, EPS will provide strategic advisory services to support the Specific Plan process. Specifically, EPS will provide professional guidance to assess and "truth test" the various land use concepts proposed as part of the Specific Plan Alternatives and, subsequently, the Preferred Plan. The primary goal will be to ensure that the ultimate land use program is realistic and achievable from an economic perspective. It is expected that EPS will attend one additional team meeting as part of this task.

Task 4: Financial Analysis (Optional)

While the precise elements of this task will depend on yet-to-be determined issues that may arise as part of the study process, at a minimum it will be important to ensure NewPark property owners (and tenants) have adequate financial incentives to undertake the level of investment reflected in the Plan. Broadly speaking, EPS will compare the level of investment (including infrastructure such as parking, streetscape, public space, etc.) contemplated in the Specific Plan against the increase economic value that will result. This analysis should also consider the availability and feasibility of various financing mechanisms and resources. A more detailed scope and budget for this task will be developed before initiation of work, as necessary.

EPS Proposed Budget Estimate

Table 1 provides the EPS budget estimate for this project by task and staff person. We estimate that EPS can complete **Task 1** through **Task 3** described in the above Scope of Work for a not-to-exceed budget amount of **$11,860**. The budget estimate covers all costs associated with the tasks, materials, travel, and meetings described in the Scope. Specifically, it reflects the cost of EPS participation in initial site visit plus two additional in-person engagements (including the developer charrette).

Additional tasks or meetings requested by the client will be billed on a time-and-materials basis at our standard hourly rates, with prior approval. Charges for EPS time are based on the amount of time actually spent. Expenses for travel, data, facsimiles, copying, and other project related items are billed at cost. Invoices are submitted monthly and are payable upon receipt.

Table 1 EPS Proposed Budget

Task/ Description	EPS Staff		Staff Cost Subtotal	Direct Costs	Total Cost
	Moody Managing Principal	Peltzer Associate			
Task 1: Site Visit and Market Reconnaissance	8	12	$3,920	$40	$3,960
Task 2: Particiation in Project Charrette	5	5	$2,075	$45	$2,120
Task 3: Alternative and Preferred Land Use Scenarios	16	10	$5,740	$40	$5,780
Total Hours	29	27			
Billing Rates [1]	$265	$150			
Total Project Costs			$11,735	$125	**$11,860**

[1] Billing rates shown are applicable during 2016 and are subject to annual increases.

Sincerely,

ECONOMIC & PLANNING SYSTEMS, INC.

Jason Moody
Managing Principal

F.6 Consideration of Alameda County's Request that the City of Newark: (1) Introduce an Ordinance Approving the Implementation of a Community Choice Aggregation ("CCA") for the City of Newark; and (2) Adopt a Resolution Authorizing Formation of and Membership in the "East Bay Community Energy Authority," a Joint Powers Authority to Govern the Operation of the CCA – from City Manager Becker and City Attorney Benoun. (INTRODUCTION OF ORDINANCE) (RESOLUTION)

Summary – In June 2014, the County of Alameda allocated $1.32 million to explore the creation of a countywide Community Choice Aggregation ("CCA") program, which would offer an alternative energy source to power acquired by PG&E. The County retained several consultants to evaluate the feasibility of such a program. The County also assembled a Steering Committee consisting of approximately 40 members, including a representative from each city within Alameda County and stakeholders form various environmental, labor, and social justice organizations. Councilmember Hannon served as the City of Newark's representative to the Steering Committee during this process.

The City Council has received many presentations on this item, including presentations from County staff and their consultants in April and October of this year, a discussion with the City Attorney on the draft Joint Powers Agreement back in July, and a detailed work session on October 27th.

The technical studies authored by the County's consultants conclude that the program is viable and that the CCA, if approved, would be able to provide electrical rates that are competitive with PG&E.

After several rounds of edits made at the request of the various cities and stakeholder organizations, the Joint Powers Agreement is now in its final form and was approved by the Board of Supervisors last month.

The County has asked that all cities within Alameda County (with the exception of the City of Alameda, which maintains its own electrical utility and is therefore precluded from joining the CCA by State law) to consider joining the East Bay Community Energy Authority that would govern the operation of a Countywide CCA.

Background – Authorized by California law in 2002, Community Choice Aggregation ("CCA") enables cities and county governments to pool the electricity demand within their jurisdictions in order to procure and/or generate electrical power supplies on behalf of the residents and businesses in their communities. CCA's offer a choice to electric power procured by PG&E.

As articulated by the County, primary reasons for pursuing a CCE program include:

(1) The ability to significantly reduce greenhouse gas emissions;
(2) Offering customers an energy choice and competitive electrical rates; and
(3) Economic development benefits including jobs creation associated with the development of local power and new energy programs in the region.

The CCA procures and/or generates electricity for its customers while PG&E continues to deliver power to homes and businesses, handles customer billing, and maintains the grid. Customers can choose whether their power should be purchased and/or generated by PG&E or by the CCA. If the customer uses CCA energy, then PG&E will continue to charge its transmission fee (as it always has done) but also impose a "PCIA" charge to the customer. The PCIA charge – Power Charge Indifference Adjustment – is effectively an "exit fee" designed to cover generation costs incurred by PG&E prior to the customer changing to the CCA and to assure that PG&E's remaining customers are not adversely affected by the loss of customers to the CCA.

Prior to launch of the program and as required under State law, the CCA should give customers two (2) notices within sixty (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 (2) additional notices, both indicating that she/he can opt-out at no cost.

There are currently five (5) operational CCA's in California, including Marin Clean Energy, Sonoma Clean Power, CleanPowerSF (San Francisco), Lancaster Choice Energy and Peninsula Clean Energy. Several more throughout the state are currently being considered for development.

The County began exploring the concept of a Countywide CCA over two years ago. Phase 1 examined the feasibility of a CCA by conducting a Technical/Feasibility Analysis and forming a CCA Steering/Advisory Committee consisting of over two dozen environmental, social justice, and labor organizations. That portion of the process is now concluded. The County has adopted a "final" Joint Powers Agreement and voted to be an "Initial Participant" in the program. If other cities join, then Phases 2 and 3 will be launched, which would further develop the CCA that could lead to a "go live" date by the fall of 2017. These concepts are discussed in turn below.

Discussion

Technical Study

Oakland based consulting firm MRW & Associates prepared the technical study. Using electrical load data for the most recent two-year period, along with predictions of future market conditions and energy prices, the study projects estimated energy costs for a 13-year period, between 2017 – 2030. As indicated by the County, the analysis does the following:

- Quantifies the electric loads that the CCA could serve;
- Estimates the costs to start-up and operate the CCA;
- Assess the costs of reducing greenhouse gas (GHG) emissions using the CCA;

- Examines the varying levels of renewable power and an analysis of in-county renewable generation potential;
- Compares CCA rates with PG&E's rates; and
- Calculates the macroeconomic impact and potential employment benefits of CCA formation in the County.

The analysis covered four (4) possible operational scenarios, specifically:

(1) Scenario 1 – Simple Compliance with State of California 33% Renewable Portfolio Standard (RPS) by 2020 and 50% by 2030;
(2) Scenario 2 – Accelerated Renewable Investment - 50% Renewable portfolio from the first year onward, plus additional amounts of emissions-free, large hydro power (not considered renewable under California guidelines) to reduce GHG emissions below projected PG&E's GHG estimates;
(3) Scenario 3 – Aggressive Renewable Growth - The Renewable portfolio set at 50% in the first year and increased to 80% by the fifth year; large hydro could also make up a portion of the non-renewable component; and
(4) Scenario 4 – Very Aggressive Local Renewable Investment – Similar to Scenario 2, but with an increased emphasis on in-County renewable development. It assumes that one-half of the CCA's total renewable energy goals would be met by in-County resources by the year 2030.

As described by the County, the report concludes that the scenario that offers the greatest *electric rate reduction* is Scenario 1. It invests the least in renewables overall and keeps the revenues savings in the hands of the ratepayers. Scenario 2 is close and it includes more renewable investment Statewide. Scenarios 3 and 4, by contrast, invest more heavily in renewables. Scenario 3 invests Statewide and generates the fewest jobs locally, but it maximizes renewable energy and GHG reduction. Scenario 4 generates the most local jobs.

The JPA Board of Directors will determine which scenario the CCA will employ.

Analysis by City's Consultant

The City retained Mr. Michael Pretto, of Aspen Environmental Group, to independently examine the technical study performed by MRW & Associates. A summary of his analysis is as follows:

- MRW is well qualified to perform the study;
- MRW's analysis is thorough and the results are consistent with the underlying assumptions;
- MRW appropriately notes risks and uncertainties that could affect forecast results; and
- Any forecast that concludes that one market segment, namely CCA customers vs. remaining PG&E customers, will have a continuing built-in price advantage is not likely

because over time both entities would work to adjust their rates or operations to insure competitiveness with each other.

The Technical Study, including its addendum and appendices, are attached to this staff report for review. (**Attachment 1**)

Joint Powers Agreement

This CCA will be governed by a Joint Powers Agreement. Alameda County Counsel was the lead author of the Agreement and modeled it after various other CCA JPA Agreements. Several drafts and revisions of the Agreement were made in response to input from the cities and the labor, environmental, and social justice groups.

The final Agreement, as approved by the County, is attached for review (**Attachment 2**). Key provisions in the Agreement include:

(a) *Separate Legal Entity.* The JPA Agreement establishes the Authority as a separate legal entity, meaning that member agencies do not assume obligations for the debts and liabilities of the Authority, except in limited circumstances.

(b) *Board of Directors.* The Board of Directors consists of elected officials from each member agency (including an alternate). Each agency nominates its own Director.

(c) *Community Advisory Committee.* A community advisory committee consisting of nine members will advise the JPA Board on "all" matters relating to the operation of the CCA. The selection of the committee members will be decided by the JPA Board, however the Board should take into account that the committee should represent a "diverse cross-section of interests, skill sets and geographic regions."

(d) *Ex-Officio Board Member.* The chairperson of the advisory committee will serve as a non-voting, "ex officio member" of the Board of Directors. This person can take part in the discussions and deliberations of the Board, but is not entitled to vote on any item.

(e) *Early Termination.* If the CCA is unable to provide total electrical rates lower than PG&E, is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than PG&E, or uses less renewable energy than PG&E, then member agencies can withdraw without any financial consequences, provided the withdrawal occurs within thirty (30) days of the final report comparing the electrical rates, GHG, and renewable energy.

(f) *Withdrawal After Program Launch.* The Agreement allows agencies to withdraw after the program launch upon 180 days' notice. However, any withdrawing member "shall"

be responsible for "paying its fair share" of costs incurred by the Authority as a result of the withdrawal.

(g) *Joining After Launch.* Any member agency that decides to join after the program launches could pay a "membership fee" (determined by the JPA Board) and may have to satisfy "any condition" imposed by the Board. The membership would also have to be approved by the Board and is subject to the voting process described in detail below.

Voting Structure of the Joint Powers Authority

The JPA Agreement provides for two types of votes: (1) a "percentage vote"; and (2) a "voting shares vote".

(1) Percentage Vote (One Vote Per Director)

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. Any action taken by the Board must be passed by a simple majority. If the proposed action does not receive a majority then the proposed action does not pass and cannot be brought back to vote under the voting shares vote.

However, if a matter is approved by a percentage vote, then any three (3) Directors may request that a "voting shares vote" be immediately held.

(2) "Voting Shares Vote" (Director's Vote Weighted Based on Energy Use)

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.

In other words, this "voting shares vote" serves as a "veto" that could potentially override a majority percentage vote. This is true even in situations in which an action passes under a percentage vote by an 11-3 margin, but if those three Directors represent a majority of the energy use they could veto the action by calling for a voting shares vote.

If each agency elects to participate in the energy program, then the voting shares will be weighted as follows:

JURISDICTION	PROJECTED ENERGY USE (MWh)	VOTING SHARES VOTE
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.

The City of Newark had expressed a preference for a four (4) Director trigger, in addition to a supermajority weighted vote. Smaller cities (including the City of San Leandro) joined in this request, but the Board of Supervisors adopted a three (3) Director trigger without a supermajority weighted vote as a compromise to other larger cities (including Hayward, Oakland and Fremont) that wanted a two (2) Director trigger.

Finally, it should also be noted that any amendments to this voting structure requires a 3/4 supermajority vote instead of a 2/3 supermajority vote, which is required to amend any other provision in the Agreement.

Additions to the Joint Powers Agreement

Less than 10 days prior to the date the Board of Supervisors were slated to consider approving the Agreement, the stakeholder organizations submitted several edits that were incorporated into the final version. Three substantive provisions are discussed below in turn.

(1) Business Plan Requirement (Section 5.4)

Under this new section, the Authority is obligated to prepare a Business Plan within eight (8) months. The plan should cover the first five (5) years of operation and should include a roadmap

for the "development, procurement, and integration of local, renewable energy resources." The plan should describe how the CCA will foster local economic benefits, such as job creation and community energy programs, including identifying opportunities for local power development and detailing employment and labor standards.

(2) Authority Shall Provide Energy Primarily from Category 1 Resources

Another added section mandates the Authority to provide its customers with energy "primarily" derived from Category 1 eligible resources. By means of background, there are three types of power. A basic description is as follows:

> Category 1 – Power that is eligible, renewable energy produced in California. In order to be eligible, the generator has to comply with strict reporting procedures with the California Energy Commission.
>
> Category 2 – Power that is eligible, renewable energy produced out of State that is transmitted to California.
>
> Category 3 – Power that is unbundled and does not qualify as Category 1 or 2.

(3) Two Clauses Relating to Labor

Finally, the last addition contains two clauses relating to labor. The verbiage is as follows:

"The Authority shall remain neutral in the event its employees, and the employees of its subcontractors, if any, wish to unionize." (*Section 5.5*)

"The Authority shall recognize the value of workers in existing jobs that support the energy infrastructure of Alameda County and Northern California. The Authority, as a leader in the shift to a clean energy, commits to ensuring it will take steps to minimize any adverse impacts to these workers to ensure a "just transition" to the new clean energy economy." (*Recital Section 6.g*)

According to the City's consultant, Mr. Pretto, the impacts of these provisions are likely to be minimal. With regards to the Business Plan requirement, although the timing is incredibly short (indeed, many jurisdictions requested an 18 month implementation deadline), many of the requirements for the business plan will be required for other governing documents anyways, including the implementation plan that is required by the PUC, so the efforts to create the Business Plan may not be overly burdensome. Additionally, County staff is in the process of drafting an RFP for a consultant for the business plan.

With regards to the Category 1 requirement, the State has mandated increases in renewable power by the year 2020 anyways, so the requirement of procurement of Category 1 eligible power does not appear to be particularly onerous.

Finally, with regards to the labor clauses, the modified language is not expected to have any material impact because any possible difference in power project labor costs is extremely unlikely to affect the Authority's competitive position.

A red-line version of the Joint Powers Agreement showing the insertion of these provisions is attached to this staff report as **Attachment 3**.

JPA Formation and Implementation; Energy Procurement; Community Outreach

If the City opts to join the program, then it will need to nominate a representative to sit on the JPA Board. The Board could meet as soon as January and will likely act as quickly as possible, including retaining additional experts to focus on the energy analytics and procurement, marketing, and data management. The Board will also need to hire staff, including a Chief Executive Officer and General Counsel.

According to the County, the Authority would also issue an RFP for wholesale energy procurement, adopt an operating budget, prepare its implementation plan, negotiate power contracts, and develop and operate a call center. The Board would also engage in an aggressive marketing campaign, including developing a brand and logo, developing a multi-lingual website (including a rate calculator and ability to opt-out of the program), and developing brochures.

The County's goal is to launch the program in the fall of 2017.

Conclusion – The County has asked that all cities within Alameda County (except the City of Alameda) consider joining the East Bay Community Energy Authority to start a countywide Community Choice Aggregation energy program.

In responding to the County's request, the City has three options:

(1) Join the CCA at this time;
(2) Decline to participate in the program; or
(3) Decline to join the program at this time, evaluate the viability of the program once it is implemented and established, and, if the situation warrants, consider joining at a future date ("wait and see" approach).

On the one hand, there are numerous benefits to joining the program at this time, including the possibility of lowering electrical rates, increasing renewable energy, potential for reducing greenhouse gas emissions, and promoting local jobs. There is also the advantage of having an

alternative to power generated and/or procured by PG&E, which, in theory, should drive competitiveness and hopefully could lead to even lower electrical costs for Newark residents and businesses. Finally, if the City joins the Authority now, then the City would not pay a membership fee.

On the other hand, if Newark joins the CCA, then there is little doubt that the City of Newark's influence in the operation of this Authority will be minimal, considering that Newark's weighted vote would be 3.2% (assuming all other public agencies join). There is also a concern that the business plan – which is required to be adopted within 8 months – could be hastily drafted because of this tight timeframe. Additionally, if Newark joins the CCA, then all residents and businesses would be automatically enrolled into this new program, unless the customer opts-out. While staff understands that State law requires automatic enrollment (unless opted-out) in forming new CCA's, staff is concerned that residents and businesses may not realize that their energy supplier has changed. Finally, if the City were to use the "wait and see" approach, then there is the possibility that the City could pay a membership fee to join at a later date, although City staff is unaware of any membership fee charged by a CCA to a newly joining jurisdiction.

Staff recommends that the Council consider these benefits and drawbacks as presented by staff, as well as others that the Council has identified, and determine whether the benefits of joining this new program outweigh the drawbacks.

Attachments

Attachment 1: Technical Study

Attachment 2: "East Bay Community Energy Authority Joint Powers Agreement"

Attachment 3: Red-line edit of "East Bay Community Energy Authority Joint Powers Agreement" showing recent additions

Attachment 4: Ordinance Authorizing the Implementation of a CCA Program

Attachment 5: Resolution Approving Joint Powers Agreement

Action - It is recommended that the City Council consider the County's request to: (1) Introduce an Ordinance Authorizing the Implementation of a Community Choice Aggregation Program ("CCA") for the City of Newark; and (2) Adopt a Resolution approving an agreement to participate in a Joint Powers Agency for a Community Choice Aggregation Program in Alameda County.

Due to the very large size of the attachment it has been scanned separately.

I.1 Reappointment of Karen Bridges to the Planning Commission – from Mayor Nagy. (RESOLUTION)

Background/Discussion – The term of Karen Bridges on the Newark Planning Commission will expire on December 31, 2016. Commissioner Bridges has submitted a letter requesting a four year reappointment.

Attachment

Action - It is recommended that the City Council, by resolution, approve the reappointment of Karen Bridges to the Newark Planning Commission, for a term to expire on December 31, 2020.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING THE REAPPOINTMENT OF KAREN BRIDGES TO THE PLANNING COMMISSION

WHEREAS, Karen Bridges, hereto appointed members of the Planning Commission, has a term expiring December 31, 2016; and

WHEREAS, the Mayor of the City of Newark has reappointed Karen Bridges to said position on the Planning Commission for a term expiring December 31, 2020;

NOW, THEREFORE, BE IT RESOLVED that said appointment is hereby approved by the City Council of the City of Newark.

Shr1

L. Appropriations

City of Newark

MEMO

DATE: October 31, 2016

TO: City Council

FROM: Sheila Harrington, City Clerk

SUBJECT: Approval of Audited Demands for the City Council Meeting of November 10, 2016.

REGISTER OF AUDITED DEMANDS

Bank of America General Checking Account

Check Date		Check Numbers	
October 20, 2016	Page 1-2	109304 to 109370	Inclusive
October 28, 2016	Page 1-2	109371 to 109429	Inclusive

City of Newark

MEMO

DATE: October 31, 2016

TO: Sheila Harrington, City Clerk

FROM: Susie Woodstock, Administrative Services Director SKW

SUBJECT: Approval of Audited Demands for the City Council Meeting of November 10, 2016.

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

Final Disbursement List. Check Date 10/20/16, Due Date 10/31/16, Discount Date 10/31/16. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109304	10658	4LEAF INC	10/20/16	9,880.00	BLDG INSPECTION SERVICES
109305	10223	LEXISNEXIS RISK SOLUTIONS ACCT# 1415640	10/20/16	428.40	BACKGROUND CHECKS
109306	1774	AIRGAS USA, LLC	10/20/16	53.85	WELDING SUPPLIES
109307	3853	COUNTY OF ALAMEDA INTERNAL AUDIT UNIT RI	10/20/16	2,711.50	CITATION PROCESSING FEES - SEPT'16
109308	344	ALAMEDA COUNTY WATER DISTRICT	10/20/16	1,962.64	WATER USAGE
109309	5821	ALL CITY MANAGEMENT SERVICES, INC	10/20/16	3,591.00	CROSSING GUARD SVCS 09/11-09/24/16
109310	11408	APPLIED AIR FILTERS	10/20/16	1,177.08	AIR FILTERS
109311	6900	BARTEL ASSOCIATES LLC	10/20/16	3,000.00	ACTUARIAL REPORTS
109312	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECEI	10/20/16	327.03	BATTERIES
109313	4534	BAY AREA BARRICADE SERVICE INC	10/20/16	459.90	REGULATORY & STREET NAME SIGNS
109314	9680	BAY CENTRAL PRINTING	10/20/16	70.23	BUSINESS CARDS
109315	11419	BRAD HEIMER	10/20/16	1,010.29	EXPENSE REIMBURSEMENT
109316	9150	CAL-WEST LIGHTING & SIGNAL MAINTENANCE I	10/20/16	3,490.83	STREETLIGHT AND TRAFFIC SIGNAL MAINTENAN
109317	11444	CENTER FOR OCCUPATIONAL PSYCHIATRY	10/20/16	5,000.00	MEDICAL/LEGAL EVALUATION SERVICES FOR PO
109318	214	CENTRAL VETERINARY HOSPITAL	10/20/16	1,383.57	K9 VET SVCS
109319	458	CHEVRON AND TEXACO BUSINESS CARD SERVICE	10/20/16	579.74	FUEL CHARGES
109320	6304	CLASSIC GRAPHICS T & J LEWIS INC	10/20/16	1,091.29	AUTO BODY REPAIRS/DECALS
109321	3751	BRYAN COBB	10/20/16	60.99	EXPENSE REIMBURSEMENT
109322	11076	CRIME SCENE CLEANERS INC	10/20/16	70.00	CLEANED CAR #1801
109323	11032	CUBE SOLUTIONS	10/20/16	1,343.57	OFFICE CHAIRS AND ARMREST
109324	11400	DAN FRANKE	10/20/16	1,018.99	EXPENSE REIMBURSEMENT
109325	3728	DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	10/20/16	194.00	FINGERPRINTING FEES
109326	11431	EXTENDED STAY AMERICA	10/20/16	2,264.92	PATROL POST TRAINING
109327	10642	FASTENAL COMPANY	10/20/16	12.68	HARDWARE & FASTENERS
109328	11314	FH DAILEY CHEVROLET	10/20/16	255.23	GENERAL MOTORS PARTS & SERVICE
109329	1120	FORENSIC ANALYTICAL SCIENCES, INC	10/20/16	49.00	LAB TESTS
109330	60	FREMONT FORD/AUTOBODY OF FREMONT ATTN: P	10/20/16	1,010.00	FORD PARTS & SERVICE
109331	167	HARRIS COMPUTER SYSTEMS	10/20/16	7,172.19	UNIDATA, SBR, ODBC & PORT LICENSES
109332	11438	FRANK HERBERT	10/20/16	90.87	EXPENSE REIMBURSEMENT
109333	11443	HIROSHI ICHIMURA	10/20/16	1,221.60	RECREATION CONTRACT
109334	2540	DEOL OIL JARVIS SHELL	10/20/16	297.01	GASOLINE/CAR WASHES
109335	11402	JESSICA RIVAS	10/20/16	237.04	EXPENSE REIMBURSEMENT
109336	11441	JJ TRUCK DRIVING SCHOOL	10/20/16	3,000.00	TRAINING FOR CLASS A LICENSE
109337	6009	JT2 INTERGRATED RESOURCES CORPORATE ACCO	10/20/16	3,573.03	WORKER'S COMP ADMIN COSTS
109338	6009	JT2 INTEGRATED RESOURCES ATTN: CLAIMS AC	10/20/16	46,728.61	ANNUAL PO FOR WORKER'S COMP CLAIMS
109339	7964	KNORR SYSTEMS INC	10/20/16	3,363.84	POOL CHEMICALS
109340	293	LANGUAGE LINE SERVICES INC	10/20/16	269.07	INTERPRETATION SVCS
109341	3644	RELX INC. DBA LEXISNEXIS	10/20/16	176.00	ONLINE LEGAL RESOURCE SUBSCRIPTION
109342	11391	LIBOW AND WELLMAN MUNICIPAL LAW	10/20/16	13,669.50	LITIGATION & CONSULTING SRVC
109343	11246	LOOMIS ARMORED	10/20/16	277.01	ARMORED CAR SERVICE
109344	11439	MACBRIDE OFFICE FURNITURE	10/20/16	4,955.97	PROJECT 2017-7
109345	11344	MEDICAL COST CONTAINMENT SERVICES, INC.	10/20/16	1,212.50	REMAINING BALANCE OF 2016 ANNUAL ACA EMP
109346	8500	MONAHAN PAPER COMPANY	10/20/16	126.36	CARDBOARD GARBAGE CANS
109347	7335	MUNICIPAL MAINTENANCE EQUIPMENT INC	10/20/16	212.31	SWEEPER/CATCH BASIN CLEANER SERVICE & PA
109348	325	NEWARK UNIFIED SCHOOL DISTRICT BUSINESS	10/20/16	145.44	PRINTING OF 2016-17 BIENNIAL BUDGET
109349	11064	NEWARK VALERO #7117 SAM ANDARY	10/20/16	255.30	FUEL / CAR WASH
109350	10091	NOWDOCS INTERNATIONAL, INC NOWFORMS DIVI	10/20/16	635.59	CHECK STOCK/TAX SUPPLIES
109351	1350	OAKLAND POLICE DEPARTMENT PERSONNEL & TR	10/20/16	25.00	PATROL POST TRAINING
109352	10961	BRETT OEVERNDIEK	10/20/16	27.59	EXPENSE REIMBURSEMENT
109353	11399	OMAR PACHECO	10/20/16	1,016.81	EXPENSE REIMBURSEMENT
109354	6135	OSBORNE LUMBER COMPANY INC	10/20/16	284.62	LUMBER

Final Disbursement List. Check Date 10/20/16, Due Date 10/31/16, Discount Date 10/31/16. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109355	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	10/20/16	150.00	PEST CONTROL
109356	9811	REDFLEX TRAFFIC SYSTEMS	10/20/16	18,800.00	REDLIGHT CAMERA MONITORING
109357	11373	RRM DESIGN GROUP	10/20/16	12,620.49	NEWARK ZONING CODE UPDATE
109358	112	WILLE ELECTRICAL SUPPLY CO INC	10/20/16	905.01	ELECTRICAL SUPPLIES
109359	9381	SCHINDLER ELEVATOR CORPORATION	10/20/16	1,373.61	ELEVATOR REPAIR & SERVICE
109360	5212	SIEMENS INDUSTRY, INC C/O CITYBANK (BLDG	10/20/16	4,930.00	FIRE ALARM MONITORING
109361	377	SIMON & COMPANY INC	10/20/16	1,746.43	LEGISLATIVE SERVICES
109362	11411	SOFTWAREONE INC.	10/20/16	24,005.94	MSEA ANNUAL PAYMENT
109363	40	STAPLES ADVANTAGE DEPT LA	10/20/16	1,547.40	OFFICE SUPPLIES
109364	197	STATE BOARD OF EQUALIZATION FUEL TAXES D	10/20/16	22.00	FUEL TAX
109365	11306	SUNGARD PUBLIC SECTOR INC	10/20/16	4,000.00	2 ADDITIONAL END-USER TRAKIT LICENSES AN
109366	146	THYSSENKRUPP ELEVATOR CORPORATION	10/20/16	3,553.07	ELEVATOR REPAIR & SERVICE
109367	7517	U S FOODS INC SAN FRANCISCO	10/20/16	479.63	CAFE PURCHASES
109368	140	VISTA UNIVERSAL INC	10/20/16	961.19	PARK HIGH LIGHT REPAIRS
109369	11437	JOYCE WANG	10/20/16	330.56	EXPENSE REIMBURSEMENT
109370	5050	WEST COAST ARBORISTS INC	10/20/16	16,936.75	STREET TREE MAINTENANCE
		Total		223,832.07	

Final Disbursement List. Check Date 10/28/16, Due Date 11/07/16, Discount Date 11/07/16. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109371	10658	4LEAF INC	10/28/16	794.77	BLDG INSPECTION SERVICES
109372	1396	ALAMEDA COUNTY FIRE DEPARTMENT ATTN: ACC	10/28/16	679,479.33	ENGINE REPAIRS/SERVICE
109373	3835	TREASURER OF ALAMEDA COUNTY PUBLIC WORKS	10/28/16	3,412.09	CIP PROJECT 1116, 2016 ASPHALT CONCRETE
109374	287	ALAMEDA COUNTY SHERIFF'S OFFICE GREGORY	10/28/16	860.75	CRIME LAB FEES
109375	11137	AL CO TRAINING & EDUCATION CENTER	10/28/16	365.00	TRAINING
109376	284	INFORMATION TECHNOLOGY DEPARTMENT ATTN:	10/28/16	2,964.83	AWS ACCESS FEES
109377	1078	AMERICAN STAGE TOURS ATTN CHARTER SALES	10/28/16	3,045.00	DOWN WATSONVILLE WAY TRIP - 10/12/16
109378	11362	ANNETTE PAREDES	10/28/16	53.71	EXPENSE REIMBURSEMENT Reinstated from cl
109379	11227	GUSTAVO ARROYO	10/28/16	699.96	EXPENSE REIMBURSEMENT
109380	11445	ASPEN ENVIRONMENTAL GROUP	10/28/16	240.00	PROFESSIONAL SERVICES
109381	1106	ROBERT SCOTT BASWELL	10/28/16	5,428.33	ADPP - 10/24/16
109382	9680	BAY CENTRAL PRINTING	10/28/16	1,670.60	BUILDING INSPECTION BUSINESS CARDS
109383	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	10/28/16	1,283.00	SPORTS OFFICIATING
109384	3947	BOND BLACKTOP INC	10/28/16	84,752.35	CIP PROJECT #1117 (2016 STREET SLURRY SE
109385	23	FRANK BONETTI PLUMBING INC	10/28/16	986.48	PROJECT 1071 - CITYWIDE BUILDING UPGRADE
109386	11419	BRAD HEIMER	10/28/16	2,541.23	EXPENSE REIMBURSEMENT
109387	11381	CLARK'S HOME AND GARDEN, INC.	10/28/16	1,155.00	SOIL MIXES AND GRAVEL
109388	6304	CLASSIC GRAPHICS T & J LEWIS INC	10/28/16	635.50	AUTO BODY REPAIRS/DECALS
109389	806	CLASSIC SIGNS	10/28/16	9.31	NAMETAG FOR COUNCIL MEMBER COLLAZO
109390	10649	GEORGE KAHENYA	10/28/16	1,000.00	PERFORMANCE BOND RTN EP# 2016-0273
109391	10793	JUNE DAY	10/28/16	70.00	ESCORT FOR TRIP DUE TO ORIGNIAL ESCORT U
109392	10793	KAVITHA MANNAVA	10/28/16	100.00	PARTY DEPOSIT REFUND
109393	10793	ROBERT RIDEOUT	10/28/16	100.00	PARTY DEPOSIT REFUND
109394	11404	ALHAMBRA	10/28/16	565.53	WATER SERVICE
109395	11015	EAST BAY LAWN MOWER	10/28/16	128.00	SMALL ENGINES AND TOOLS
109396	10725	RAY HOPPE	10/28/16	1,836.41	EE COMPUTER LOAN PROGRAM
109397	11343	ENVIRONMENTAL LOGISTICS, INC.	10/28/16	9,537.41	HAZARDOUS WASTE DISPOSAL
109398	11314	FH DAILEY CHEVROLET	10/28/16	97.59	GENERAL MOTORS PARTS & SERVICE
109399	1502	THE FLAG COMPANY	10/28/16	1,847.57	BUILDING SUPPLIES
109400	11112	FREMONT CHRYSLER DODGE JEEP RAM	10/28/16	14.37	AUTO REPAIRS/SERVICE
109401	10221	YAMA HOMAYOUN	10/28/16	297.04	EXPENSE REIMBURSEMENT
109402	1457	HOME DEPOT CREDIT SERVICES DEPT 32-25409	10/28/16	698.84	MISC. MAINTENANCE PARTS/SUPPLIES
109403	10486	SHAKATI KHALSA	10/28/16	461.00	RECREATION CONTRACT
109404	10897	VINCENT KIMBROUGH	10/28/16	623.09	EXPENSE REIMBURSEMENT
109405	11439	MACBRIDE OFFICE FURNITURE	10/28/16	19,882.30	PROJECT 1151 - PATROL ANNEX WORK STATION
109406	11309	MANUEL FERNANDEZ CONSTRUCTION	10/28/16	3,766.73	CITYWIDE BUILDING UPGRADES
109407	9029	MEYERS NAVE RIBACK SILVER & WILSON	10/28/16	607.50	LITIGATION & CONSULTING SRVC
109408	11360	MIKE DAVIS LANDSCAPE SERVICES	10/28/16	9,545.31	PARK & LANDSCAPE SERVICE
109409	11378	MNS ENGINEERS INC	10/28/16	50,723.88	ENGINEERING CONSULTANT SERVICES
109410	11217	ANDREW MUSANTRY	10/28/16	217.22	EXPENSE REIMBURSEMENT
109411	601	NOR CAL ASA ATTN: SANDY SCOTT	10/28/16	144.00	ASA 2016 TEAM REGISTRATIONS
109412	2027	PACHECO BROTHERS GARDENING, INC.	10/28/16	4,996.00	LANDSCAPE REPAIRS
109413	349	PACIFIC GAS & ELECTRIC	10/28/16	19,981.44	PG&E COSTS FOR STREETLIGHTS AND TRAFFIC
109414	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	10/28/16	252.00	PEST CONTROL
109415	10729	PETTY CASH CUSTODIAN-RECREATION CHERYL G	10/28/16	591.83	PETTY CASH REPLENISHMENT
109416	11021	PRO-FIT	10/28/16	445.00	FITNESS EQUIPMENT SERVICE
109417	7885	RENNE SLOAN HOLTZMAN SAKAI PUBLIC LAW GR	10/28/16	3,205.50	LITIGATION & CONSULTING SRVC
109418	1282	EDDA RIVERA	10/28/16	35.37	EXPENSE REIMBURSEMENT
109419	10834	ROBOTEX INC	10/28/16	1,089.29	ROBOT REPAIR
109420	112	WILLE ELECTRICAL SUPPLY CO INC	10/28/16	72.60	ELECTRICAL SUPPLIES
109421	11296	SIGNATURE CARPET ONE	10/28/16	5,758.00	PROJECT #1151 - PATROL ANNEX WORK STATIO

Final Disbursement List. Check Date 10/28/16, Due Date 11/07/16, Discount Date 11/07/16. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
109422	11098	SILVER & WRIGHT LLP	10/28/16	3,348.90	LITIGATION & CONSULTING SRVCS
109423	10779	SONITROL	10/28/16	46,620.00	BURGLAR ALARM & CAMERA
109424	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	10/28/16	440.00	PAYROLL DEDUCTION - GARNISHMENT
109425	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	10/28/16	150.00	PAYROLL DEDUCTION - GARNISHMENT
109426	3446	UNIVERSAL SPECIALTIES INC	10/28/16	54.98	PLUMBING SUPPLIES
109427	10968	UTILITY TELEPHONE	10/28/16	13,141.29	MONTHLY TELECOM OCT16
109428	5623	VERIZON WIRELESS	10/28/16	901.44	IPAD REPLACEMENT
109429	340	WITMER-TYSON IMPORTS	10/28/16	650.00	K9 TRAINING/SUPPLIES
		Total		994,374.67	

M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(2), Anticipated Litigation: One case – from Human Resources Director Abe and City Attorney Benoun.

Background/Discussion – City Attorney Benoun has requested that the City Council convene in closed session pursuant to Government Code Section 54956.9(b), Anticipated Litigation: one case.