

CITY OF NEWARK CITY COUNCIL

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

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

AGENDA

Thursday, October 24, 2019

- A. ROLL CALL
- B. MINUTES
 - B.1 Approval of Minutes of the City Council meeting of October 10, 2019. (MOTION)
- C. PRESENTATIONS AND PROCLAMATIONS
 - C.1 Introduction of employees.
 - C.2 Eden I&R (Information and Referral), Inc. Executive Director DeJung will give a presentation on their services. (PRESENTATION)
- D. WRITTEN COMMUNICATIONS
- E. PUBLIC HEARINGS
- F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.2 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Approval to amend the 2018-2020 Biennial Budget to add a Vehicle Abatement Officer position in the Police Department – from Police Chief Carroll. (RESOLUTION)
- F.2 Authorizing the City Manager to execute a Contractual Services Agreement with ACC Environmental Consultants to provide Hazardous Material Abatement Construction Observation, Sampling and Monitoring Services for the New Civic Center, Project 1188 – from Chief Building Official/City Architect Collier. (RESOLUTION)

NONCONSENT

- F.3 Receive Evaluation Report and Consider Joining the East Bay Community Energy (“EBCE”) Community Choice Aggregation (“CCA”) – from City Manager Benoun.
(MOTION) (RESOLUTION) (INTRODUCTION OF ORDINANCE)**

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

- I.1 Approval of appointment of Planning Commissioner Aguilar to the Community Development Advisory Committee – 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. (MOTION)

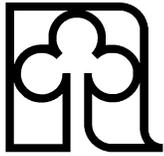
M. CLOSED SESSION

- M.1 Closed session pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: City Manager.**

N. ADJOURNMENT

Pursuant to Government Code 54957.5: Supplemental materials distributed less than 72 hours before this meeting, to a majority of the City Council, will be made available for public inspection at this meeting and at the City Clerk’s Office located at 37101 Newark Boulevard, 5th Floor, during normal business hours. Materials prepared by City staff and distributed during the meeting are available for public inspection at the meeting or after the meeting if prepared by some other person. Documents related to closed session items or are exempt from disclosure will not be made available for public inspection.

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



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City Administration Building
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AGENDA

Thursday, October 24, 2019

CITY COUNCIL:

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

CITY STAFF:

David J. Benoun
City Manager

Michael Carroll
Police Chief

Soren Fajeau
Public Works Director

David Zehnder
Recreation and Community
Services Director

Helen Que-Garcia
Acting Human Resources Dir.

Kristopher J. Kokotaylo
Interim City Attorney

Krysten Lee
Finance Manager

Steven M. Turner
Community Development Dir.

Sheila Harrington
City Clerk

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

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

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

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

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

No question shall be asked of a council member, city staff, or an audience member except through the presiding officer. No person shall use vulgar, profane, loud or boisterous language that interrupts a meeting. Any person who refuses to carry out instructions given by the presiding officer for the purpose of maintaining order may be guilty of an infraction and may result in removal from the meeting.



CITY OF NEWARK CITY COUNCIL

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

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

Minutes

Thursday, October 10, 2019

A. ROLL CALL

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

B. MINUTES

B.1 Approval of Minutes of the City Council meetings of September 26, 2019. MOTION APPROVED

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

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employee.

Mayor Nagy introduced Community Development Director Steven M. Turner.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

Council Member Hannon moved, Council Member Bucci 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 Authorizing the City Manager to execute a Side Letter between the City of Newark and the Newark Association of Miscellaneous Employees (NAME) to provide the off-salary-schedule pay to Part-Time, Seasonal, and

Temporary (PST) employees converted to regular full-time employees in the same classification. RESOLUTION NO. 10991

- F.2 Authorizing the City Manager to execute individual contract change orders with Webcor Builders for the Design-Build contract for the New Civic Center, Project 1188, and amending the 2018-2020 Biennial Budget and Capital Improvement Plan for fiscal year 2019-2020.**

**RESOLUTION NO. 10992
CONTRACT NO. 17014**

NONCONSENT

- F.3 Authorizing the assignment of up to \$2,713,174 of Measure A1 Base City Allocation and \$2,765,000 of the City's Affordable Housing Funds to Eden Housing for development of a 79-unit Senior Affordable Housing at 37660 Timber Street. RESOLUTION NO. 10993**

Deputy Community Development Director Interiano stated that Eden Housing is interested in developing a 79-unit senior affordable housing project at 37660 Timber Street. Through the Alameda County Measure A1 Housing General Obligation Bond (Measure A1), the City has \$5.4 million in Base Allocations Funds to be used for qualified affordable housing. Additional A1 funds may be applied for through the South County Regional Pool. Eden Housing is seeking assignment of up to \$2,713,174 of the City's Base Allocation, \$2,765,000 from the City's Affordable Housing Funds, and an application will be submitted to Alameda County be considered for the South County Regional Pool. Deputy Community Development Director Interiano recommended approval of this item.

Council Member Hannon requested that staff look for low income housing opportunities.

Council Member Bucci requested that staff look for funding for workforce housing too.

In response to Council questions, Andrea Osgood of Eden Housing stated that marketing for new housing begins before construction ends. For this project, they will target seniors earning the area median and below. She outlined some of the steps that would be needed in order for Alameda County to consider allowing a local preference for the applications.

Council Member Bucci requested that Ms. Osgood provide the number of pre-existing residents who obtained a unit for previous projects (Fremont and Dublin locations).

Richard Dominguez stated that the City needs to set a percentage of the units for current Newark residents. He noted that residents in that area, currently use the location for parking and will be impacted if this project moves forward.

Council Member Hannon moved, Council Member Collazo seconded to, by resolution, support authorizing the assignment of: (1) up to \$2,713,174 of Measure A1 Base City Allocation and (2) \$2,765,000 of City of Newark Affordable Housing funds to Eden Housing for development of a 79 unit senior affordable housing development located at 37660 Timber Street. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

Council Member Hannon welcomed the new Community Development Director Turner. He announced that his ninth grandchild, named Walter Thomas, was born recently.

Vice Mayor Collazo noted that it is Hispanic and Latino Heritage Month. She encouraged the public to get cancer screenings in October. She announced that the annual Dia de los Muertos event would be held on October 20 at Magnolia Plaza. She stated that publishers will be limiting ebooks to one per library beginning in November. Shop Newark and be happy.

Council Member Bucci advised Mr. Dominguez that parking requirements have been increased for future development submittals. He stated that he participated in the Making Strides American Cancer Society fundraiser with his daughter. Council Member Bucci stated that he would not be attending the next City Council meeting

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

K. ORAL COMMUNICATIONS

Richard Dominguez stated that recycling centers for bottles and cans are closing and requested that the City Council work with Republic Services to get a local recycling center.

Council Member Bucci stated China is no longer accepting recycling. He noted that the State of California is working on legislation to have supermarkets accept the bottles and cans.

L. APPROPRIATIONS

Approval of Audited Demands.

MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 118986 to 119125.

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

M. CLOSED SESSION

N. ADJOURNMENT

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

C.1 Introduction of employees.

Background/Discussion – Police Officers Brandon McCuin, Jacob Langenstein, and Accountant Ivan Quon will be at the City Council meeting to be introduced to the City Council.

C.2 Eden I&R (Information and Referral), Inc. Executive Director DeJung will give a presentation on their services. (PRESENTATION)

Background/Discussion – Alison DeJung is the Executive Director of Eden I&R, Inc. Located in Hayward, Eden I&R, Inc. is the nonprofit agency designated by the California Public Utilities Commission to be the provider of the 211 service for Alameda County. 211 is the free, three-digit dialing code available 24/7 in multiple languages to connect people to critical health, housing, human service, and disaster preparedness and response information. Ms. DeJung will give a brief presentation (draft copy attached) on 211 including recent enhancements, as well as additional services now available.

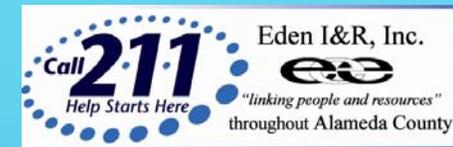
PRESENTATION TO NEWARK CITY COUNCIL 10.24.19

Alison DeJung

Executive Director

Eden I&R/2-1-1 Alameda County

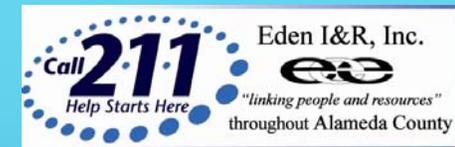




Mission: Linking people and resources

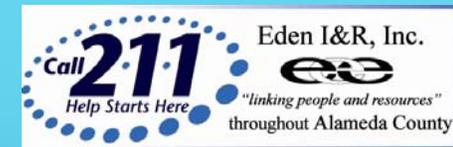
Vision: We envision a community empowered with information and connected to resources so that all people obtain health, happiness, hope, and improved livelihoods.

EDEN I&R



Connecting people to hope, 24/7. Multilingual staff assess callers' needs and give referrals from databases of over 3,100 human service programs and 74,000 housing units.

211 ALAMEDA COUNTY



- ▶ In FY 18/19, 211 handled 61,673 total contacts and provided 92,911 referrals.
- ▶ 601 contacts from Newark, 1,143 referrals

211 ALAMEDA COUNTY

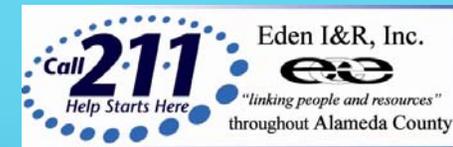


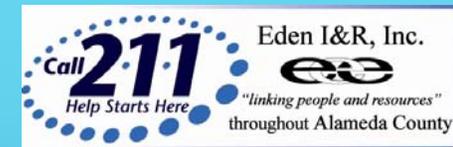
211 DURING TIMES OF DISASTER



211 is an easy way for people to get essential information following a disaster

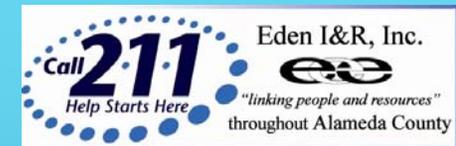
- *Designated seat in the County Emergency Operations Center*
- *Emergency shelters, access to food and water, safe transportation routes, open hospitals, how to locate a missing loved one*
- *Oakland Ghost Ship Warehouse Fire*
- *Overflow calls for Hurricanes Harvey & Florence, Camp & Carr Fires*
- *PG&E planned safety power shutoffs*



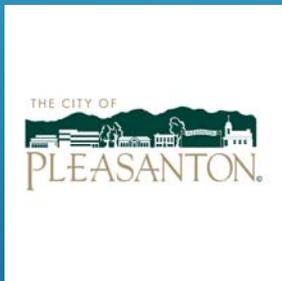


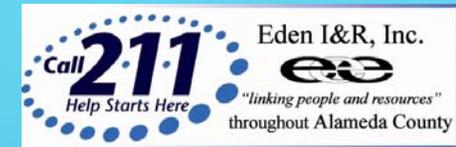
- ▶ Coordinated Entry System
- ▶ Cloud-based phone system
- ▶ Launched two-way texting
- ▶ Forging partnerships around information exchange and care coordination
- ▶ New board members

WHAT'S NEW



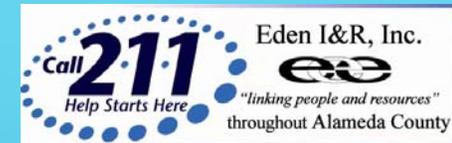
City Managers/211 Work Group





- ▶ Crisis intervention, homelessness prevention
- ▶ Earned Income Tax Credit (EITC) referrals
- ▶ Diversion of calls from 911
- ▶ Disaster preparedness and response

VALUE OF 211



Create an Account - Increase your productivity, customize your experience, and engage in information you care about. Sign In



Home > Government > Departments > City Manager's Office > Human Services

HUMAN SERVICES

Dial 2-1-1 for 24/7 Confidential Assistance or search below:

SEARCH BY KEYWORD (example: food or employment)

SEARCH BY AGENCY

LIMIT BY CITY SERVED (do not select a city to get all)

Can't Find a Service that you need? Please call 2-1-1 for help.

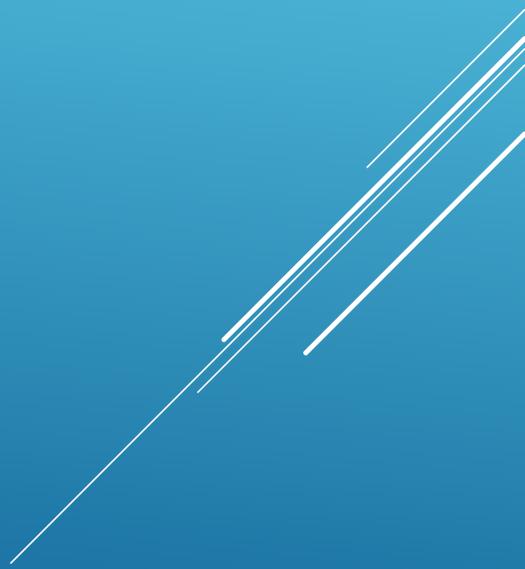
Housing	Shelter & Homeless Services
CalFresh & Food Assistance	Utility Assistance
Physical & Mental Health	Substance Abuse

For More Information
For further information, contact the City Manager's Office at 925-833-6650 or [submit a question or comment](#).

- REPORT AN ISSUE**
Report concerns or issues
- STAY INFORMED**
Receive notifications
- AGENDAS & MINUTES**
Upcoming & archived
- ACTIVITY GUIDE**
Parks & Community Services
- OPEN CITY HALL**
Join the discussion

ADDITIONAL SERVICES

Customized portal on city website





Eden I & R
linking people and resources

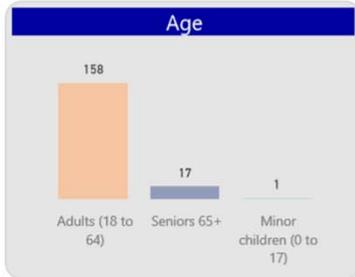
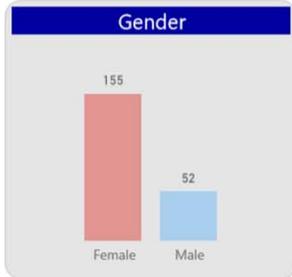
Demographics

City

Newark

Fiscal Year

FY 2018-2019



Ethnicity	All	Hispanic	Not Hispanic	Hispanic Unanswered
Amer. Indian/Alaskan Native	4	2	2	
Asian	18		13	5
Black/African American	41	1	38	2
Black/White	2		2	
Native Hawaiian/Pacific Isl.	5	1	4	
Other Multirace	18	10	8	
White	75	24	46	5
Total	163	38	113	12



ADDITIONAL SERVICES

Data Visualization



Eden I & R
linking people and resources

Contact Summary

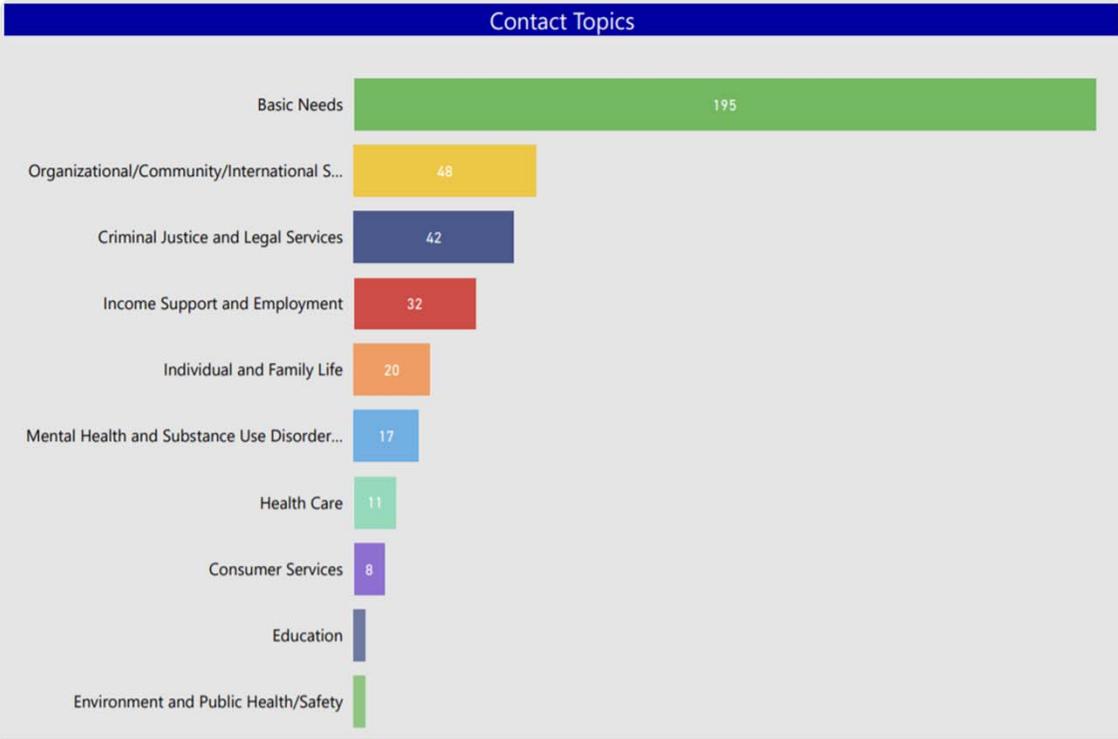
City
Newark

Fiscal Year
FY 2018-2019



Total Contacts
601

Total Referrals
1143



ADDITIONAL SERVICES

Data Visualization

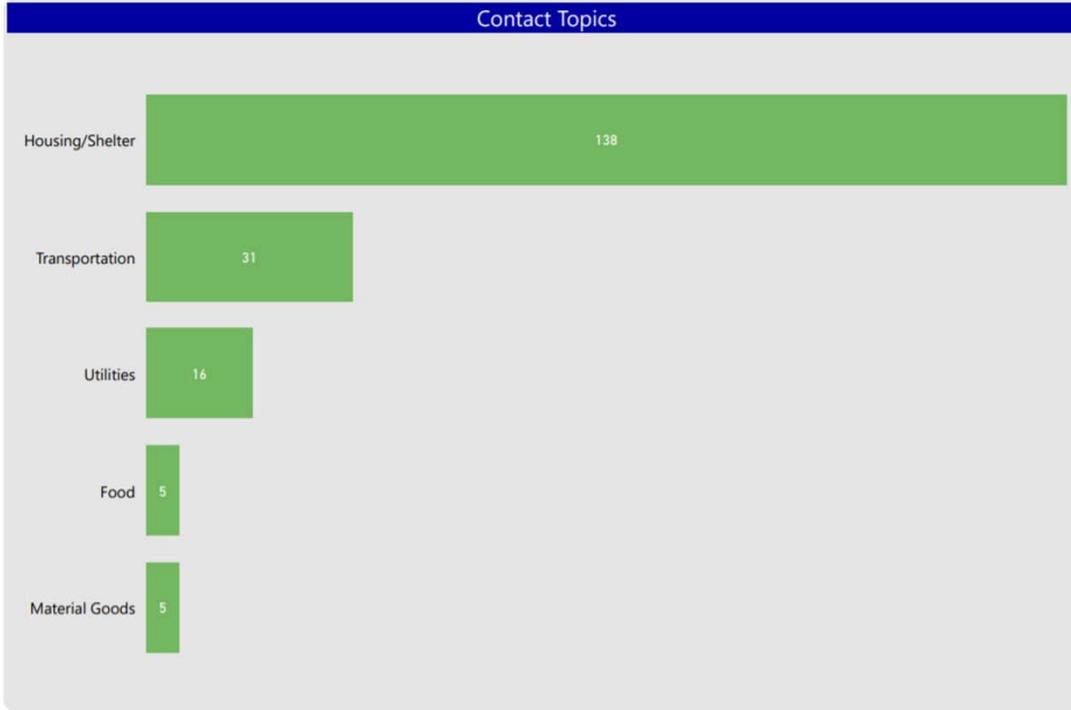
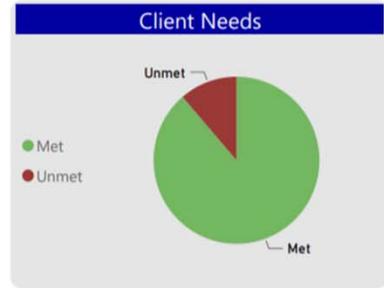


Eden I & R
linking people and resources

Contact Summary

City
Newark

Fiscal Year
FY 2018-2019



ADDITIONAL SERVICES

Data Visualization

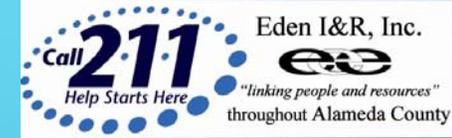


Eden I & R
linking people and resources

Contact Summary

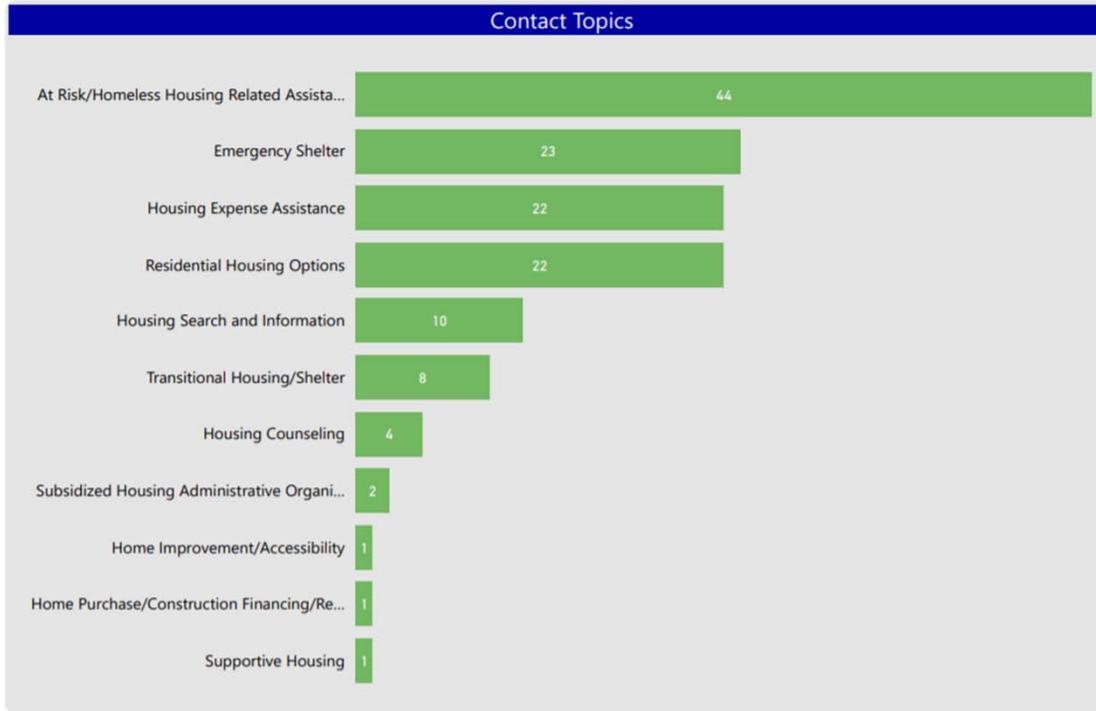
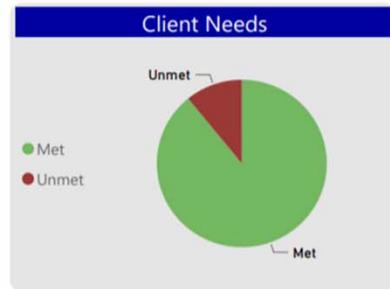
City
Newark

Fiscal Year
FY 2018-2019



Total Contacts
113

Total Referrals
302



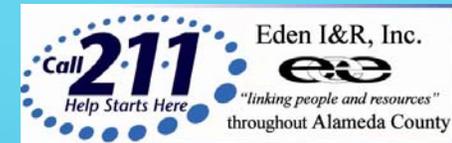
ADDITIONAL SERVICES

Data Visualization



- Disaster training for city staff and CBOs
- Formal MOU

ADDITIONAL SERVICES



Questions?

ALISON DEJUNG

adejung@edenir.org

510-537-2710

F.1 Approval to amend the 2018-2020 Biennial Budget to add a Vehicle Abatement Officer position in the Police Department – from Police Chief Carroll.(RESOLUTION)

Background/Discussion – A Vehicle Abatement Officer position was added to the Employee Classification Plan and Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees and approved by City Council on June 27, 2019 (Resolution Numbers 10,940 and 10,941). Due to a clerical error, a budget amendment was not requested at that time. Staff recommends that the 2018-2020 Biennial Budget be amended now in the amount of \$99,465 for Fiscal Year 2019-2020.

Attachment – Resolution

Action - Staff recommends that the City Council, by resolution, amend the 2018-2020 Biennial Budget to add a Vehicle Abatement Officer position in the Police Department.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING AN AMENDMENT OF THE 2018-
2020 BIENNIAL BUDGET TO ADD A VEHICLE
ABATEMENT OFFICER POSITION IN THE POLICE
DEPARTMENT

WHEREAS, a Vehicle Abatement Officer position was added to the Employee Classification Plan and Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees and approved by City Council on June 27, 2019 (Resolution Numbers 10,940 and 10,941); and

WHEREAS, due to a clerical error, a budget amendment was not requested at that time;
and

WHEREAS, staff recommends that the 2018-2020 Biennial Budget be amended now in the amount of \$99,465 for Fiscal Year 2019-2020.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newark that the certain document entitled "Biennial Budget 2018-2020" is hereby amended for Fiscal Year 2019-2020 as follows:

Fund Number	Description	Amount
010-1030-4100	Salaries	\$99,465

F.2 Authorizing the City Manager to execute a Contractual Services Agreement with ACC Environmental Consultants to provide Hazardous Material Abatement Construction Observation, Sampling and Monitoring Services for the New Civic Center, Project 1188 – from Chief Building Official/City Architect Collier.
(RESOLUTION)

Background/Discussion – The New Civic Center, Project 1188, will require pre-abatement and demolition investigation, sampling and hazardous material abatement oversight. The City issued a Request for Proposals (RFP) for Hazardous Material Abatement Construction Observations, Sampling and Monitoring services in July 2019 and received a total of four responses. The submitted responses were required to include a not to exceed cost for all required services. The four proposers and respective proposed not to exceed costs through the RFP were:

<u>Proposer</u>	<u>Not to Exceed Cost</u>
Essel Environmental Engineering & Consulting	\$30,865.00
ACC Environmental Consultants	\$44,471.00
*Terracon Consultants, Inc.	\$45,642.00
Millennium Consulting Associates	\$61,080.00

*Terracon Consultants, Inc. only provided a unit rate for performing construction observation and monitoring services. Therefore, for evaluation purposes staff used the RFP-provided schedule of 30 days to estimate the total cost.

Essel Environmental Engineering & Consulting’s proposal did not submit prior project experience, personnel resumes, or client references, all of which were requested in the RFP. Therefore their qualifications for completing the desired scope of services were not clearly demonstrated. Their fee also indicated they did not fully understand the volume of testing and monitoring required for this project.

ACC Environmental Consultants (ACC) provided the most clear and comprehensive proposal which outlined their cost drivers and assumptions and demonstrated a full understanding of the requested scope of services. ACC has highly qualified project staff and extensive relevant project experience. Based on staff’s evaluation, ACC is the firm most qualified to provide the best value to the City for the requested services.

The Community Development Department will undertake an extensive community engagement process to determine the best future use of the existing library building and site. The scope of services could be expanded under this proposed contract to include observation and monitoring of demolition of the existing library building should the City ultimately elect this option.

The approved budget for the New Civic Center, Project 1188 has sufficient funding for all services under this proposed agreement.

Attachments – Resolution, Contractual Services Agreement

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to execute a Contractual Services Agreement with ACC Environmental Consultants to provide Hazardous Material Abatement Construction, Sampling and Monitoring services for the New Civic Center, Project 1188.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACTUAL SERVICES AGREEMENT WITH ACC ENVIRONMENTAL CONSULTANTS TO PROVIDE HAZARDOUS MATERIAL ABATEMENT CONSTRUCTION OBSERVATION, SAMPLING AND MONITORING SERVICES FOR THE NEW CIVIC CENTER, PROJECT 1188

WHEREAS, the City of Newark (“City”) is in need of hazardous material abatement construction observation, sampling and monitoring services during the construction of the New Civic Center, Project 1188 (“Project”); and

WHEREAS, the City issued a Request for Proposals (RFP) in accordance with the City’s Purchasing Rules and Regulations for the desired services and received a total of four responses; and

WHEREAS, ACC Environmental Consultants’ response to the RFP was determined to be acceptable and based on proposed costs would provide the best value to the City for the desired hazardous material abatement construction observation, sampling and monitoring services among the four proposers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark, that all the foregoing recitals are true and correct and are hereby incorporated as though fully set forth herein.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to execute a Contractual Services Agreement with ACC Environmental Consultants to provide hazardous material abatement construction observation, sampling and monitoring services for the New Civic Center, Project 1188.

**CONTRACTUAL SERVICES AGREEMENT
CONSULTANTS**

This Service Agreement (hereinafter "Agreement") is made and entered into this day of _____, 20____ by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and ACC ENVIRONMENTAL CONSULTANTS, 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: hazardous material abatement construction sampling, observation, and monitoring for the new Civic Center Project.

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 and Exhibit "B".

WHEREAS, in reliance upon Consultant's documentation of its qualifications, as set forth in Exhibit "C", 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 “B”. The payments specified in Exhibit “B” 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 forty four thousand four hundred seventy one and No/100 Dollars (\$44,471.00) 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 “B” 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 “B”, 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: Ray Collier
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 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. PUBLIC WORKS REQUIREMENTS. Because the services described in Exhibit A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public

works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the California Labor Code applicable to public works, to the extent set forth in Exhibit D.

13. PUBLIC WORKS CONTRACTOR REGISTRATION. Consultant agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Consultant agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

14. 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: **\$2,000,000** per occurrence for (including products and completed operations, property damage, bodily injury, and personal and advertising injury) 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 14 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 14 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".

15. 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 19, herein below) 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.

16. 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 all liabilities regardless of nature or type arising out of or 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.

In the event that Consultant or any employee, agent, or subconsultant of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

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.

17. LICENSES, PERMITS, ETC. 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.

18. 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 18 Section A above, City may terminate this Agreement at any time and without cause upon written notification to Consultant. Consultant may cancel this Agreement upon thirty (30) days' written notice to City and shall include in such notice the reasons for cancellation. 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.

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

20. 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:

ACC ENVIRONMENTAL CONSULTANTS

CITY OF NEWARK

MARK SANCHEZ

RAY COLLIER

President

Administrator

Address: ACC Environmental Consultants
Attn: Mark Sanchez
7977 Capwell Drive, Suite 100
Oakland, CA 94621

City of Newark
Attn: Ray Collier
37101 Newark Boulevard
Newark, CA 94560

21. 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.

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

23. 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.

24. 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.

25. 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.

26. 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.

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

28. 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.

29. 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.

30. 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.

31. 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

ACC Environmental Consultants,
a California corporation

By _____
City of Newark

By _____
Consultant

Date _____

Date _____

Printed Name

Attest:

City Clerk

Date _____

Approved as to form:

City Attorney

Date _____

EXHIBIT A

Scope of Services

As demolition work for the project proceeds, the work may disturb asbestos containing building materials (ACBM), PCB's, and/or lead paint. Those materials must be identified and abated prior to commencing the demolition. Abatement will be performed by others. The Consultant shall provide Not-to-Exceed estimated costs for each of the construction phase monitoring and testing items as described below, based upon the attached Schematic Design Phase Documents. Include hourly personnel rates, regular and overtime, and lab testing fees, normal turnaround and rush.

PRE ABATEMENT & DEMOLITION INVESTIGATION AND SAMPLING

The most recent asbestos and lead survey in preparation for demolition was executed in August 2018 (*Attachment C and D*). The survey was limited to the accessible areas of the existing City Administrative Building and Library. No destructive sampling and/or sampling of inaccessible areas (i.e. opening of wall cavities, removal of subfloor assemblies, restroom tiles, waterproofing membranes, asphalt paving, soils, etc.) were conducted. The City of Newark is requiring, as outlined during the previous survey investigations, that building components and material that were not sampled and analyzed in August 2018 to be sampled and analyzed when the building is vacant and prior to start of demolition.

The Consultant's investigation services shall include but not be limited to the following tasks:

1. Review all existing hazardous materials sampling data as contained in the City's recent asbestos and lead survey and PCB survey and become thoroughly familiar with its content. These records provide background information as to the location of previous samples taken.
2. Investigation and sampling to include: survey, visual inspection, air sampling/baseline samples, material sampling, and laboratory testing.
3. Inspection of all previously inaccessible locations and bulk sampling of suspect asbestos containing materials by a California state certified asbestos consultant or certified site surveillance technician.
4. Inspection of all previously inaccessible locations and sampling of suspect Lead Based Paint (LBP). Samples may be taken to an off-site laboratory for analysis or analysis may be performed on-site utilizing industry standard procedures and equipment.
5. Inspection of all previously inaccessible locations and sampling of suspect Polychlorinated Biphenyls (PCBs) containing material. Samples may be taken to an off-site laboratory for analysis or analysis may be performed on-site utilizing industry standard procedures and equipment.

6. At a minimum, if not already included in previous report, sampling shall include existing asphalt paving, pipe insulation, waterproofing membranes, wall and floor ceramic tiles, board taping compound, resilient tile, flooring adhesives, textured finishes applied to ceilings, blown insulation, plaster, and sealing materials for mechanical ducts. Samples shall be taken from each existing parking lot, each story of the high-rise structure, and each of the attached structures at the City Administration Building. See *Attachment E and F* for plans of the City Administration Building, Library, and Site.
7. Perform minor demolition where required for collecting samples and as approved by the City.
8. Provide the City and its Construction Manager with a detailed work plan and schedule for the initial investigation prior to proceeding with work of sampling. Legally dispose of all materials after testing is complete.
9. The asbestos, lead paint, mold, and PCB investigation and sampling shall be documented in a report. Three copies of the report shall be provided to the City upon completion of the investigation, survey, and sampling phase of the work.
10. Preparation and delivery of a report detailing the results of the sampling and analysis of all collected samples. Report shall include floor plans of each floor of both structures with locations of sampling identified. Copies of the floor plans will be provided to the Consultant selected to perform the survey. The report shall contain an itemized list of samples taken along with the results of the analysis. In the itemized list each sample shall be numbered and identified on the floor plans. The format for the report shall meet all of the requirements of the NESHAP Regulation, the BAAQMD Regulation, the Department of Health Services Regulation for lead (Title 17), the Guidelines for the Evaluation and Control of LBP in Housing (HUD Guidelines) and the requirements of the Cal/OSHA Lead and Asbestos Standards.
11. The Consultant shall include in its unit pricing, costs for soil sampling, testing, analysis, and report preparation for possible overhaul and disposal of excess excavated soil spoils.

CONSTRUCITON OBSERVATION / MONITORING

The Consultant's Construction Abatement and Oversight services shall include but not be limited to the following tasks:

1. Review the Design Build Entity's (DBE) Contract documents including hazardous material abatement specifications and make recommendations to the City of Newark.
2. Participation in the Pre-construction project meetings with hazardous materials abatement contractors. The purpose of these meetings is to familiarize all related parties with the site and the materials and/or components scheduled to be abated and removed. Included in this task is a meeting with the DBE, Construction Manager and City Project Manager to discuss

any details and answer any questions related to the project specifications, work methods and procedures, and sequencing of work.

3. Hazardous Materials Abatement Oversight

- a. Review Contractor submittals for conformance with contract and regulatory agency requirements.
- b. Oversight during the abatement activities within each applicable building of City of Newark Civic Center Project. The Consultant will provide all labor, equipment, transportation, and staff to complete the oversight for the duration of the abatement phase of the project.
- c. The Consultant will serve as the City's representative before and during the abatement work to monitor contractor compliance with the contract documents and applicable regulations. Provide the following services in relation to the monitoring of contractor compliance:
 - Conduct air sampling of appropriate areas of the buildings for the duration of abatement.
 - Verify abatement work is performed as specified and completed.
 - Perform visual clearance of abated areas prior to the collection of clearance samples.
 - Conduct waste characterization sampling for lead to determine waste streams produced during lead abatement activities.
 - Provide final air clearance sampling and analysis as necessary for asbestos.
 - Conduct clearance dust wipe sampling for lead as necessary to facilitate demolition.
 - Assist in managing a timely and cost efficient abatement project.
 - Provide field verification, evaluation and recommendation with regard to potential change orders.
 - Attend weekly construction progress meetings during abatement work.
- d. Consultant will provide air monitoring to include baseline (background) air sampling before the start of the project and perimeter area sampling outside the designated work areas during the abatement work. Included with the air monitoring will be regular observation of the abatement contractor's work practices. A comprehensive record file and field notes will also be maintained, listing any improper hazardous materials practices noted by the Consultant. Any breach of health or safety procedures will be documented, and the immediate appropriate actions taken.

FINAL VISUAL INSPECTIONS & CLEARANCE SAMPLING

1. Consultant will perform final clearance air sampling for asbestos. All final sampling and testing shall be completed within 48 hours of the completion of the onsite work.
2. When Phase Contrast Microscopy (PCM) is to be utilized for clearance air sampling for asbestos under AHERA standards, the Consultant will conduct this sampling and analysis as an inclusive part of Hazardous Abatement Oversight Abatement. The use of equipment and labor time is inclusive in Hazardous Abatement Oversight Abatement.
3. On-site staff shall consist of at minimum, one individual who is a Cal/OSHA Certified Asbestos Consultant (CAC) and California DHS Certified Lead Project Monitor. Alternatively, one individual who is a Cal/OSHA Certified Asbestos Site Surveillance Technician (CSST) and California DHS Certified Lead Project Monitor who is working under the direct supervision of a Cal/OSHA CAC may be utilized.

PHASE V-FINAL REPORT

The Consultant will submit a report to the City which will incorporate all abatement documentation to include a daily log of sight activities; copies of all permits; bills of lading; manifests; disposal forms and receipts; and an operations summary. The Cal OSHA Certified Asbestos Consultant must sign the site Close-out Report. Provide 2 originals, with wet signatures for City records.



Proposed Fee

The following fee proposal includes two not-to-exceed costs for the project based upon the scope of services and deliverables outlined in the RFP. The first cost proposal is for the demolition of the existing City Administration Building. The second cost proposal is for the City Administration Building and the Existing Library.

The personnel hourly rates, regular and overtime, as well as material testing fees are for the entire project duration including the years 2019, 2020, and 2021.



Option 1 - City Administration Building

	Units	Unit Price	Extended Price
Task 1 - Pre Abatement and Demolition Investigation and Sampling			
Technical Oversight/Report/Plan Development	10	\$175	\$1,750
Technician Labor (Daily Rate)	3	\$1,250	\$3,750
PLM Samples	60	\$18	\$1,080
PLM Point Count Samples	10	\$75	\$750
Lead Bulk	20	\$20	\$400
PCB Bulk	50	\$85	\$4,250
Task 1a -Soil Sampling/Analysis			
Sampling Daily Rate	0	\$1,250	\$0
Title 22 Metals (TTLC)	0	\$140	\$0
VOCs	0	\$105	\$0
SVOCs	0	\$260	\$0
Pesticides	0	\$105	\$0
TPH (multi)	0	\$110	\$0
PCBs	0	\$85	\$0
Task 1 - Total			\$11,980
Task 2 - Construction Observation/Monitoring			
Technical Oversight/Management	20	\$175	\$3,500
Technician Daily Rate*	20	\$1,250	\$25,000
PCM Air Samples	40	\$18	\$720
Lead Air/Wipe Samples	30	\$20	\$600
Task 2 - Total			\$29,820
Task 3 - Final Visual Inspections and Clearance Sampling			
Technical Oversight/Management	2	\$175	\$350
Technician Daily Rate	1	\$1,250	\$1,250
PCM Air Samples	4	\$18	\$72
Task 3 - Total			\$1,672
Task 4 - Final Report			
Final Report		\$1,000	\$1,000
Estimated Project Total			\$44,472

* - Assumes concurrent oversight at Admin and Police Building by one technician.



Option 2 - City Administration Building and Library

	Units	Unit Price	Extended Price
Task 1 - Pre Abatement and Demolition Investigation and Sampling			
Technical Oversight/Report/Plan Development	15	\$175	\$2,625
Technician Labor	4	\$1,250	\$5,000
PLM Samples	85	\$18	\$1,530
PLM Point Count Samples	15	\$75	\$1,125
Lead Bulk	25	\$20	\$500
PCB Bulk	65	\$85	\$5,525
Soil Sampling/Analysis			\$0
Sampling Daily Rate	0	\$1,250	\$0
Title 22 Metals (TTLC)	0	\$140	\$0
VOCs	0	\$105	\$0
SVOCs	0	\$260	\$0
Pesticides	0	\$105	\$0
TPH (multi)	0	\$110	\$0
PCBs	0	\$85	\$0
Task 1 - Total			\$16,305
Task 2 - Construction Observation/Monitoring			
Technical Oversight/Management	30	\$175	\$5,250
Technician Daily Rate*	30	\$1,250	\$37,500
PCM Air Samples	60	\$18	\$1,080
Lead Air/Wipe Samples	30	\$20	\$600
Task 2 - Total			\$44,430
Task 3 - Final Visual Inspections and Clearance Sampling			
Technical Oversight/Management	4	\$175	\$700
Technician Daily Rate	2	\$1,250	\$2,500
PCM Air Samples	8	\$18	\$144
Task 4 - Final Report			\$3,344
Final Report		\$1,000	\$1,000
Estimated Project Total			\$65,079
Estimated Project Total (Library only)			\$20,607

* - Assumes concurrent oversight at Admin and Police Building by one technician.



Understanding and Approach to Work

Narrative of Approach to services to be provided for the City

For consistency, ACC proposes to designate Mr. Stephen Jackson as Senior Project Manager for this project. Mr. Jackson was the project manager for the past City of Newark surveys. Stephen has over 25 years of experience managing complex hazardous materials consulting projects. He has extensive experience managing demolition projects in support of site redevelopment. He has managed housing demolition projects including projects at the former Mare Island Naval Base, two phases of housing demolition at Beale Air Force Base including more than 200 housing units and several large commercial site redevelopments including multiple building sites at Hitachi (10 buildings, 2.5 million square feet), IBM (5 buildings 800,000 square feet), GE Nuclear Training Facility (12 buildings 2 million square feet) and the former HP Campus and Apple Campus in Cupertino in support of the Apple Campus 2 Project.

Mr. Jackson will utilize his experiences to successfully manage this project for the City of Newark. Mr. Jackson knows that the ACC team will only be considered successful if our scope of work is completed on time and on budget.

Task 1 – Pre-Abatement and Demolition Investigation and Sampling

ACC will review all existing documentation then conduct a supplemental asbestos and lead sampling in support of the planned building demolitions. Inspections will include destructive investigations to identify and potentially hidden suspect hazardous materials. The purpose of the survey is to evaluate for the presence of lead and asbestos in materials likely to be impacted as part of the project that were previously inaccessible due to the buildings being occupied.

Asbestos bulk samples will be collected by a California Certified Asbestos Consultant (CAC) or a Certified Site Surveillance Technician under the supervision of a CAC.

Lead bulk samples will be collected by a California Department of Public Health Lead Inspector/Assessor (I/A) or a Certified Sampling Technician under the supervision of a I/A).

Additionally, the existing PCB sampling will be updated as necessary to comply with BASMAA guidelines for PCBs on demolition projects.

A final report will be prepared summarizing the results of the survey and sampling. Recommendations will be provided on the best practices to manage any asbestos or lead disturbance required for the project.

ACC will also prepare a Work Plan detailing the work practices necessary for contractors working on the project. The plan will be prepared for compliance with all applicable regulations.



ACC has provided unit pricing to collect and analyze soil samples if off-haul of soils is required as part of the site activities.

Task 2 – Hazardous Materials Abatement Oversight

ACC will attend a pre-construction meetings and review the Design Build Entity’s Contract Documents, submittals and qualifications for working with hazardous materials.

ACC will also provide oversight of work impacting hazardous materials. ACC will provide the following services in relation to the monitoring of contractor compliance:

- Conduct air sampling of appropriate areas of the buildings for the duration of abatement.
- Verify abatement work is performed as specified and completed.
- Perform visual clearance of abated areas prior to the collection of clearance samples.
- Conduct waste characterization sampling for lead to determine waste streams produced during lead abatement activities.
- Provide final air clearance sampling and analysis as necessary for asbestos.



Background and Experience

ACC has over 30 years of experience completing Hazardous Material Abatement Construction Observation and Monitoring as well as experience working with public agencies on an on-call/ as-needed basis.

As mentioned in our cover letter our project team recently completed the PCB, Asbestos and Lead Surveys for the Library Building and City Administration Building located at 37101 Newark Building, near the intersection of Newark Boulevard and Thornton Avenue.

Additionally, we currently hold contracts to provide an array of services including but not limited to hazardous material environmental consulting, indoor air quality/mold consulting services for the following public agencies throughout California:

<ul style="list-style-type: none">• University of California Davis• Oakland Housing Authority• Oakland Unified School District• County of San Mateo• Chabot College• Peralta Community College• City of Hayward• City of Alameda• City of Oakland• City of San Leandro• Livermore Valley School District• Alameda Unified School District• County of Alameda• City of Fremont	<ul style="list-style-type: none">• San Jose State• Port of Oakland• City of Inglewood Housing Authority• Los Angeles County Development Commission And Housing Authority of the County of Los Angeles• Los Angeles Unified School District• Los Angeles County Public Administrator• City of Santa Monica• Los Angeles County Department of Public Works
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ACC staff undergoes continuous training to maintain and enhance their knowledge of regulations and state of the art tools to use for monitoring and recording project events and schedules. Our documentation protocol is designed to guide our staff in observing and recording all project events as required by regulatory and special conditions for each project we are involved with.

Consulting firms are only as good as the personnel assigned to the project. ACC has built an experienced staff by providing employees with a stake in the firm, a supportive work environment, excellent benefits package and the tools and training they need to be successful in our industry.

ACC's staff and associates includes:

- Professional Engineers
- Professional Geologists
- LEED Accredited Professionals
- Environmental Site Assessors
- Certified Industrial Hygienists



- Indoor Air Quality Specialists
- Software Programmers
- Certified Asbestos Professionals
- Certified Lead-based Paint Professionals

ACC Core Services Include:

- Asbestos and Lead-Based Paint Testing and Consulting
- Industrial Hygiene Services
- OSHA Employee Training – (Asbestos, EPA Lead RRP, Lead-Based Paint, Silica, Mold, CPR, First Aid)
- Indoor Environmental Quality Testing and Consulting
- LEED Environmental Testing and Certification
- Water Intrusion and Mold Inspections
- Phase I: Environmental Site Assessments (ESA)
- Phase II: Soil and Groundwater Investigation
- Underground Storage Tank Consulting
- Hazardous Chemicals Materials Inventory Management and Business Plans
- Environmental Information Management System (ADAM)
- Employee Information Management System (SMART)

Project Examples

Over the past year alone ACC has conducted thousands of similar surveys. Below is a sample of the types of projects that we have completed over the past year.

Project Example 1

- **Project Name and Location:** Farm for Facebook Pre-Demolition Asbestos and Lead Survey, Fremont
- **Reference:** John Stieber, SC Builders, 415-757-0405

Scope of Work: ACC conducted a multi-phase pre-demolition hazardous material survey at 11 buildings to be demolished in preparation for the Farm to Facebook Project.

Project Example 2

- **Project Name and Location:** As needed Environmental Consulting, Alameda County
- **Reference:** Jason Garrison, 1401 Lakeshore Drive, Suite 1115, Oakland, CA 94612, 510.208.9520
jason.garrison@acgov.org

Scope of Work: ACC Provides as-needed Environmental Consulting for the County of Alameda. Projects include, Hazardous Material Surveys, PCBs, Asbestos and Lead Surveys, full-time asbestos project management and air monitoring services during abatement, Soil, Mold and other Hazardous Material testing and oversight.



Project Example 3

- **Project Name and Location:** Fremont High School, Pre-Demolition Hazardous Materials Survey and Specification, and construction abatement oversight.
- **Reference:** Amy Haedt, Oakland Unified School District, 955 High Street, Oakland, CA, 510-879-8110, amy.haedt@ousd.org
- **Scope of Project:** ACC conducted a multi-phase Hazardous Material Management services including initial surveys and work plan in preparation for the demolition of several structures at Fremont High School in Oakland, CA. Currently we are providing Abatement Construction Observations and Monitoring for this project

Project Example 4

- **Project Name and Location:** Hazardous Material Testing at Laney College and College of Alameda, Oakland and Alameda, CA
- **Reference:** Stephen Daniels, Peralta Community College, 333 East 8th Street, Oakland, CA 510-214-2514, danielss@peralta.edu

Scope of Work: Provided Hazardous Material testing including PCB and mold sampling at several buildings as well as abatement oversight and professional consulting services on future projects as requested by the District. Services include asbestos and lead testing and inspection, mold/water intrusion investigations, abatement oversight and other professional services.

Project Example 5

- **Project Name and Location:** Asbestos, Lead, PCB, Abatement Oversight & Air Monitoring Macy's California Sites
- **Reference:** Tia Wenrich, 7 West Seventh Street, Cincinnati, OH 45202, 513-562-6702 tia.wenrich@macys.com

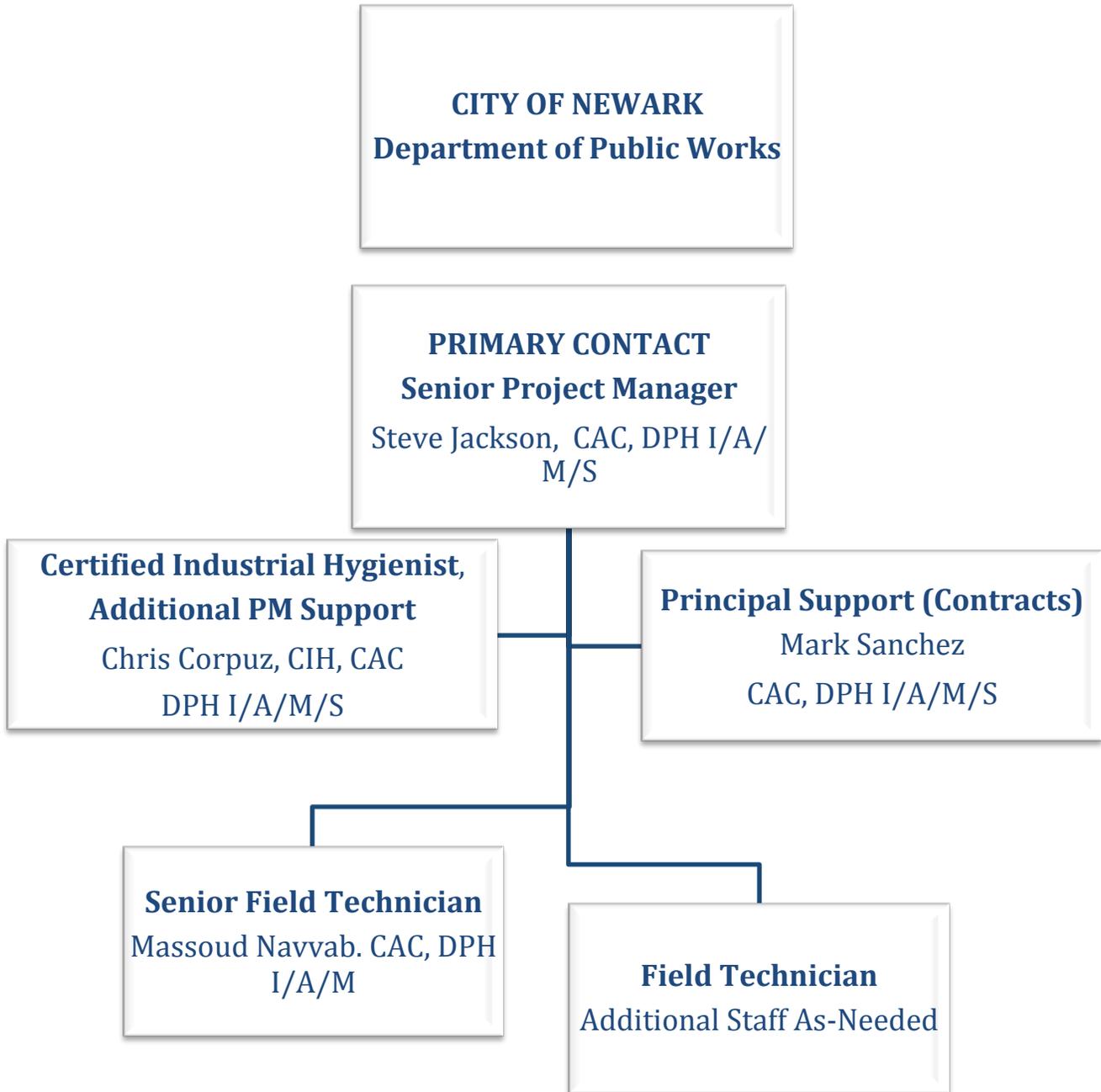
Scope of Work: ACC provides Hazardous Material Consulting for several Macy's projects.



Staff Qualifications

ACC proposes the below team to work on this project. Please see the Certification Table and Resumes for their certifications.

ACC ENVIRONMENTAL PROJECT TEAM





ACC 2019 California Certification Summary

Name	Position	ACC Environmental Oakland Technical Staff Certifications & Licenses									
		Cal-OSHA Certified Asbestos Consultant	Cal-OSHA Certified Site Surveillance Technician	CA DPH Lead Cert	AHERA Contractor/Supervisor	AHERA Inspector	AHERA Management Planner	AHERA Project Designer	NIOSH 7400 Air Sample Analysis Training	Other Certs	40-Hour HAZWOP
Brian De La Torre	Field Technician		#14-5315		X	X			X		X
Chris Corpuz	Certified Industrial Hygienist	16-5762			X	X	X	X	X	CIH 3881	X
Chris Yama	Senior Project Manager	#98-2356		I/A/M-3814	X	X	X	X	X	LEED AP, CHMM, REA	X
Gus Valerian	Technician		#17-6107	ST-30722		X			X		X
Heri Rodriguez	Field Technician	#17-6020		I/A/M-13526		X	X	X	X		X
Hermes Para	Technician	#15-5617		S/ST-24438	X	X			X		X
Ian Sutherland	Professional Geologist								X	PG #9196	X
James Estes	Project Manager	#08-4346		S/T 22912	X	X	X	X	X		
Jorge Leon	Technician		#15-5527	S/T 27284	X	X			X		
Justin Graham	Senior Project Manager	#00-2832		I/A-8151	X	X	X	X	X		X
Kim Bunting	Staff Scientist										X
Mark Sanchez	President	#92-0082		I/A/M/S-5150	X	X	X	X	X	CHMM, REA	X
Massoud Navvab	Technician	#98-2531		I/A/M-8555	X	X	X	X	X		X
Mercede Ramjerdi	Technician in training								X		X
Michael Keenan	Technician in Training								X		X
Lachlan Addicott	Technician in training								X		X
Owen Mendoza	Senior Field Technician		#06-4027	ST-21806	X	X			X		X
Rachael Gehrman	Technician		#16-5610	S/T 28090	X	X			X		X
Steve Jackson	Senior Project Manager	#95-1782		I/A/M/S-9148	X	X	X	X	X		X



Stephen Jackson

Senior Project Manager
Industrial Hygienist. Certified Asbestos Consultant

Senior Project Manager: Stephen Jackson CAC, CA/DPH Mr. Jackson will be the primary contact under this contract. Currently, Mr. Jackson provides senior project management for our Oakland Unified School District (OUSD) projects and oversight of the field personnel and review all reports and documents.

Mr. Jackson has over 30 years of experience with health and safety programs, hazardous materials investigations and environmental site assessments. He participates in and manages asbestos, lead-based paint, mold and indoor air quality projects.

Examples of

Representative Projects

OUSD: Manages, AHERA surveys, hazardous materials identification, design and consulting projects

Castro Valley USD: Manages, AHERA surveys, water testing for lead, hazardous materials identification, design and consulting projects

City of Oakland: Primary Project manager for all On-Call Hazardous Material Consulting Services

County of Alameda: Managed over 50 projects for the County including asbestos, lead-based paint and mold surveys, project oversight and air clearance sampling.

Livermore Valley Joint Unified School District: Project Manager for LVJUSD as-needed environmental consulting projects. Projects include asbestos and lead surveys, project oversight and air sampling, biological investigations, soil and groundwater characterization.

Education

Bachelors of Science, California State University, Hayward

Registrations and Certifications

Cal/OSHA Certified Asbestos Consultant

CA/DPH Certified Lead Inspector

Sampling and Evaluation Airborne Asbestos Dust (NIOSH 582) OSHA 40-Hour HAZWOPER Training

Hazardous Materials Management Certificate

Environmental and Occupational Site Auditing

Participates in AIHA PAT Program

Areas of Professional Expertise

Industrial hygiene

Abatement project management

Asbestos awareness training

Emergency response programs

Lead surveys

Site Audits

Regulatory Compliance

Contract negotiations

Occupational health and Safety

IAQ investigation



Chris Corpuz

Senior Project Manager
MS, CIH, CAC
Phone: (510) 638-8400 | ccorpuz@accenv.com

Project Manager: Mr. Chris Corpuz, CIH CAC, CHMM, CA/DPH Lead Inspector/Assessor/Monitor. Mr. Corpuz joined ACC this year and is a full time, in-house, non-subcontracted staff member. Mr. Corpuz has over 35 years as a Health and Safety professional.

Mr. Yama has several years of experience providing Hazardous Material Abatement Oversight on projects both locally and globally. He participates on several local and State Boards and maintains constant knowledge of all local, State and Federal regulations related to our industry.

Representative Clients

Mr. Corpuz’s client base is very broad and includes the following markets and industries: Department of Defense, Healthcare, Heavy Manufacturing, Food Manufacturing and Agriculture, Pharmaceutical/ Biopharmaceutical, Semiconductor/Photovoltaic,

Education

M.S. Safety

Certificates and Registrations

Cal/OSHA Certified Asbestos Consultant #16-5762
Certified Industrial Hygienist (CIH – No. 3881
LEED Accredited Professional
Certified Hazardous Material Manager
EPA Certified Building Inspector
EPA Certified Management Planner
EPA Certified Contractor Supervisor
EPA Certified Project Designer
Niton Radiation Safety
Sampling and Evaluating Airborne Asbestos Dust (NIOSH 582)

Areas of Professional Expertise

Asbestos abatement	Project management
Air monitoring	Bulk sampling
Site Inspection	Report preparation
Survey and hazardous assessment	Health and Safety
Training/educational instruction	Industrial Hygiene
Risk Management	Expert Witness



Mark Sanchez, CHMM

President

Industrial Hygienist. Certified Asbestos Consultant

ACC's President: Mr. Mark Sanchez, CAC, CHMM, CA/DPH, REA has been with the company for 26 years. He provides executive and contract management for projects and oversight of the field personnel and review of reports and documents.

Mr. Sanchez has over 26 years of experience with health and safety programs, hazardous materials investigations and environmental site assessments. He participates in and manages asbestos, lead-based paint, mold and indoor air quality projects and provides employee training on issues pertaining to health and safety and emergency response procedures. Mr. Sanchez has been a faculty member for the Programs in Environmental Hazard Management at the University of California in Berkeley.

Representative Projects

Clark Construction: Managed hazardous materials identification, design and removal for the Highland Hospital renovation and demolition project.

CSU East Bay: Managed the design and removal of hazardous materials from Warren Hall. Provided oversight during the implosion of the building, cleanup activities and site clearance.

County of Alameda: Managed over 50 projects for the County including asbestos, lead-based paint and mold surveys, project oversight and air clearance sampling and has provided asbestos awareness training to County staff for the last three years.

Livermore Valley Joint Unified School District: For the last 15 years Mr. Sanchez has been the Project Manager for LVJUSD as-needed environmental consulting projects. Projects include asbestos and lead surveys, project oversight and air sampling, biological investigations, soil and groundwater characterization.

Mr. Sanchez is also the manager and lead trainer for ACC's training division, which provides Asbestos, Lead RRP, Mold and Silica training to 100's of companies per year.

Education

B.A., Environmental Studies (in progress)

Registrations and Certifications

Certified Hazardous Materials Manager (CHMM)

California Registered Environmental Assessors (REA)

Cal/OSHA Certified Asbestos Consultant #92-0082

CA/DPH Certified Lead Inspector/Assessor/Monitor/Supervisor #5150

Sampling and Evaluation Airborne Asbestos Dust (NIOSH 582)

OSHA 40-Hour HAZWOPER Training

Hazardous Materials Management Certificate – UC Berkeley Extension

Environmental & Occupational Site Auditing Certificate–UC Berkeley Extension

Participates in AIHA PAT Program

Areas of Professional Expertise

Training/educational instruction

Abatement project management

Asbestos awareness training

Indoor air quality investigations

Occupational health and safety

Emergency response programs

Industrial hygiene

Site audits

Regulatory compliance

Contract negotiations

Lead sampling/surveys



Massoud Navvab

Industrial Hygienist, CAC, CA/DPH Project Monitor/Assessor/Monitor

Massoud Navvab joined ACC in 1994 and has over 27 years in the industry. He has participated in projects for our Asbestos/Lead/IAQ Services Division. He has conducted air monitoring, site inspections and building surveys. He has in-depth experience with industrial hygiene.

Prior to joining ACC, Mr. Navvab worked as the contractor supervisor for Environmental Innovations Corporation, where he supervised all aspects of asbestos abatement contractor work practices, reviewed project specifications, ensured compliance with State and Federal Regulations and personal training and safety. During his time as contractor supervisor he also dealt with many industrial hygiene issues arising such as evaluating air quality monitoring exposure data with respect to Time Weighted Average (TWA) and short Term Exposure Limits (STEL).

Representative Projects

Mr. Navvab also has experience as a building inspector where he was responsible for locating and assessing the condition of asbestos-containing materials (ACM) and ranking the hazard potential associated with the confirmed ACM's. He reviewed mechanical plans and contamination studies of HVAC systems related to the subject buildings.

Education

B.S./Industrial Hygiene

Certifications and Registrations

Cal/OSHA Certified Asbestos Consultant
 EPA AHERA Inspector Certificate
 CA/DPH Certified Lead Inspector/Assessor/Monitor
 EPA Certified Building Inspector
 EPA Certified Management Planner
 EPA Certified Contractor Supervisor
 EPA Certified Project Designer
 Niton Radiation Safety
 Sampling and Evaluating Airborne Asbestos Dust (NIOSH 582)
 Participates in AIHA PAT Program

Areas of Professional Expertise

Asbestos abatement	Project specification review
Regulatory compliance	Air monitoring
Site inspection	Risk assessment
Report preparation	Safety training
Containment construction	Bulk sampling
Industrial hygiene	Survey and hazardous assessment
Site audits	Occupational health & safety
Scientific photography	Phase Contrast Microscopy

Membership

American Industrial Hygiene Association



Rachael Gehrman

CSST, CA/DPH Inspector/Assessor

Rachael Gehrman joined ACC in 2015 and has over 3 years in the industry. She has participated in projects for our Asbestos/Lead/IAQ Services Division. She has conducted air monitoring, sample analysis, site inspections and building surveys. She has in-depth experience with fiber microscopy.

Prior to joining ACC, Ms. Gehrman worked as a Laboratory Technician for MicroAir, Inc. in Indiana, where she analyzed and reported on bulk building material and air sample composition specific towards asbestos fiber concentrations.

Representative Projects

Ms. Gehrman also has experience as a building inspector where she was responsible for locating and assessing the condition of asbestos-containing materials (ACM) and ranking the hazard potential associated with the confirmed ACM's. She has conducted in-depth air and dust monitoring for site in contained spaces as well as excavation of lead and asbestos contaminated soil sites. She also has experience with mold investigations, indoor air quality assessments and clearance testing post remediation.

Education

B.S./Geology, Indiana University, Indianapolis, Indiana

Certifications and Registrations

Cal/OSHA Certified Site Surveillance Technician
 EPA AHERA Inspector Certificate
 CA/DPH Certified Lead Inspector/Assessor
 EPA Certified Building Inspector
 Niton Radiation Safety
 Sampling and Evaluating Airborne Asbestos Dust (NIOSH 582)
 Participates in AIHA PAT Program
 40-hour HAZWOPER

Areas of Professional Expertise

Asbestos abatement	Project specification review
Regulatory compliance	Air monitoring
Site inspection	Risk assessment
Report preparation	Phase Contrast Microscopy
Containment construction	Bulk sampling
Industrial hygiene	Survey and hazardous assessment
Site audits	Occupational health & safety
Scientific photography	

**F.3 Receive Evaluation Report and Consider Joining the East Bay Community Energy (“EBCE”) Community Choice Aggregation (“CCA”) – from City Manager Benoun.
(MOTION) (RESOLUTION) (INTRODUCTION OF ORDINANCE)**

Introduction – City staff seeks City Council direction regarding a policy determination on whether to join the recently formed East Bay Community Energy (EBCE) Community Choice Aggregation (CCA) program.

In 2015, all the cities within the County (excluding the City of Alameda which operates its own municipal electric utility) were asked by Alameda County to consider forming the EBCE. A steering committee that included a representative from each city, including Newark, met on multiple occasions and developed a Joint Powers Agreement that authorized the creation of East Bay Community Energy Authority. After discussing the possibility of joining EBCE during several Council meetings and a workshop, the Council decided against joining. The staff report from the November 10, 2016, City Council meeting is attached to provide background information and context.

Staff was recently approached by EBCE staff and County representatives to reconsider joining EBCE. Should the Council want Newark to join EBCE, and to initiate EBCE service in 2021, then it will need to take immediate action, including passing a motion to authorize the City Manager to sign a PG&E form, enacting a resolution that would authorize the City of Newark to join the EBCE Joint Powers Authority, and introducing an ordinance that would implement a Community Choice Aggregation Program.

Background/Discussion – EBCE is a Community Choice Aggregation (CCA) program. EBCE is a not-for-profit CCA that currently consists of the County of Alameda and 11 cities within the County. All eligible cities in the County are members except for Newark and Pleasanton. However, Pleasanton, along with Tracy, recently took action to start the process of joining EBCE.

EBCE operates by purchasing electricity for its customers, with PG&E continuing to deliver that electricity, maintain the grid, and handle customer billing. In 2002, Assembly Bill 117 was passed in response to the California electricity crisis of 2000 and 2001. AB 117 allows local governments to administer energy efficiency programs using funds collected from electric ratepayers and allows EBCE to purchase wholesale electricity to service its citizens and businesses. AB 117 was intended as a form of direct access, allowing communities to purchase electricity directly and thus force investor-owned utilities (IOUs), such as PG&E, to compete for electricity customers’ business. CCAs can also invest in greener energy than the California Renewables Portfolio Standards (first passed in 2002) required for retail sellers of electricity.

California Public Utilities Commission (“CPUC”) decisions describe CCAs as follows: “Cities and counties have become increasingly involved in implementing energy efficiency programs, advocating for their communities in power plant and transmission line siting cases, and developing distributed generation and renewable resource energy supplies. The CCA program

takes these efforts one step further by enabling communities to purchase power on behalf of the community.” (D04 12 046 and D05 041.)

EBCE was established in October, 2016, and began providing service in June, 2018. EBCE is a joint powers authority run by board members from each participating jurisdiction and has a Community Advisory Committee that represents the community. All revenue in excess of direct operating costs received by EBCE must be used for the benefit of EBCE consumers, either as cash reserves for liquidity and risk management purposes, or reinvested Countywide to create jobs, programs, and power projects.

The City Council previously considered whether to join EBCE and declined after expressing concerns regarding EBCE’s initial startup costs, ability to compete with PG&E, and governance structure.

EBCE and the County recently contacted City staff regarding the possibility of having Newark reconsider joining EBCE. In response to this outreach, City staff reengaged Mr. Mike Pretto of Aspen Environmental Group to conduct further analysis. Mr. Pretto previously served as the City’s consultant in 2016 when the City was asked to consider joining EBCE.

Mr. Pretto’s updated report is attached. In summary, Mr. Pretto concludes that:

- (1) CCAs in general are making considerable progress throughout the State, including:
 - a. Increasing the number of CCAs throughout the State from 2 in 2016 to 19 today;
 - b. Providing greener, more greenhouse gas (“GHG”) free energy at lower prices;
 - c. CCA’s are actively engaged at the CPUC and State legislative level;
 - d. CCA’s are growing in financial strength by accumulating significant cash reserves;

- (2) The EBCE in particular has made considerable progress, including:
 - a. Establishing a 1.5% discount to PG&E’s electrical generation rates for its “Bright Choice” option (this would result in approximately \$450,000 per year savings to Newark residents and businesses, which would also cause slightly lower revenue from the City’s Users Utility Tax by an estimated \$20,000 per year);
 - b. Achieving “Bright Choice” renewable levels superior to PG&E’s (41% renewable vs. 37% for PG&E, and 85% GHG-free vs 78% for PG&E);
 - c. Providing a 100% GHG-free “Brilliant Choice” option at the same price as PG&E, and a “Renewable 100” option priced \$0.01 per kWhr higher than PG&E
 - d. Building cash reserves (\$62 million in cash on hand as of June 30, 2019);
 - e. Entering into multiple long-term power purchase agreements, including projects in Alameda County; and
 - f. Achieving a high level of customer retention (4% overall opt out rate).

- (3) Many of the Council’s concerns that were expressed in 2016 when the City elected to not join the EBCE appear to have been addressed within the past few years as follows:

- a. Regarding the voting structure and concern that larger cities could dominate the EBCE board, no weighted voting has been triggered;
 - b. Regarding concerns that EBCE electrical generation rates potentially being higher than PG&E's, EBCE's rates have been set at 1.5% below PG&E generation-related rates under the "Bright Choice" option; and
 - c. Regarding potential financial exposure to the City, it would be free for Newark to join the EBCE at this point in time.
- (4) There are many benefits to Newark residents and business to joining, including:
- a. A total and collective reduction of \$450,000 per year in PG&E bills;
 - b. Greener power at lower cost; and
 - c. Newark would have more influence on purchasing power through the EBCE as opposed to PG&E or the CPUC.

The CPUC requires that any City that would like to receive CCA service by 2021 must join a CCA in 2019. Thus, if Newark would like to begin receiving service from EBCE starting in 2021, the Council must take action immediately. If Newark does not vote to join until 2020, then service would not begin until 2022. This new requirement is designed to ensure that CCAs have procured sufficient energy generation to meet demand for the coming year and fulfill their resource adequacy obligations.

If the City Council would like to receive CCA service through EBCE starting 2021, then the City Council will need to take the following actions immediately:

- (1) Pass a motion directing the City Manager to sign a PG&E form that would request electric usage in Newark be provided to EBCE so that EBCE can conduct a technical analysis;
- (2) Adopt a resolution to join the EBCE's Joint Powers Authority; and
- (3) Introduce an Ordinance that would implement a Community Choice Aggregation Program.

If the City Council takes the foregoing action, then the EBCE Board would need to vote to include Newark in the joint powers authority at its November meeting. The EBCE Authority would then file an amended implementation plan with the CPUC before December 31, 2019.

If the City joins EBCE, then the City Council can appoint a representative to sit on the EBCE Board of Directors beginning in 2020. EBCE would begin community outreach to the Newark community later in 2020, including hosting community meetings, attending community events (such as Newark Days), meeting with community stakeholders (such as the Chamber of Commerce), and any other community outreach the Council deems appropriate. The outreach would include "How to Read Your Bill" tutorials at public places, such as the library and

Silliman Center. Enrollment in EBCE would most likely start in Spring 2021 with enrollment reflected on customer PG&E bills within 1-3 billing cycles thereafter.

Prior to launch of the program and as required under State law, the EBCE would 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. Examples of previously used notifications are attached.

Conclusion – On the one hand, there are many benefits to joining EBCE, including local control over the purchase of electricity, lower greenhouse gas emissions, and less expensive electrical rates. Previous concerns about the lack of reliability and cost effectiveness appear to be minimized because, as outlined in the attached report from 2016, there has been more than a year of stable operation and the EBCE electrical generation rates are 1.5% lower than PG&E’s electrical generation rates. On the other hand, there are concerns about the governance structure of EBCE, although to date no weighted EBCE vote has ever been called.

Staff recommends that the Council: (1) receive this report; (2) review the attached memorandum from the City’s consultant; (3) review the previous staff report; and (4) consider joining EBCE. If the Council would like Newark to join the EBCE, then it will need to take the aforementioned action.

Attachments:

- 1 – Staff report from Newark City Council meeting held on Nov. 10, 2016
- 2 – Report from Aspen Environmental Group, City’s consultant, dated October 11, 2019
- 3 – Sample Residential Letter Notice and Sample Residential Postcard
- 4 – Resolution
- 5 – Ordinance
- 6 – Draft meeting presentation from City Manager
- 7 – Draft meeting presentation from Aspen Environmental Group.

Action – Staff recommends that the City Council receive this report and consider whether Newark should join EBCE. Should the City Council decide to vote on joining, a motion should be made to:

- 1) Introduce an Ordinance authorizing the implementation of a Community Choice Aggregation Program pursuant to California Public Utilities Code Section 366.2;
- 2) Adopt a Resolution approving an Agreement to Participate in a Joint Powers Agency For Community Choice Aggregation Program In Alameda County; and
- 3) Authorize the City Manager to execute a PG&E form that would request electric usage in the City of Newark be provided to EBCE for technical analysis purposes.

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 from 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:

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

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

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.



Analysis of East Bay Community Energy Authority (EBCE) Progress since October 2016

This analysis is an update to an October 27, 2016 presentation to the Newark City Council . The purpose of this analysis is to provide an overview assessment of the evolution of Community Choice Aggregation, and of East Bay Community Energy (EBCE), as a community-based alternative to “bundled” service from investor-owned utilities (i.e., PG&E). In 2016, “hard” information on Community Choice Aggregation entities (CCAs) in California was limited. In the ensuing three years, though, the then-existing CCAs (Marin Clean Energy and Sonoma Clean Power) and those that were forming at that time have launched successfully. EBCE, which launched in 2018, appears to be taking prudent and appropriate actions to build its power supply portfolio (including local projects), financial metrics, customer base, and community, regulatory and legislative presence. Recently, on September 17, 2019, the Pleasanton City Council, which along with Newark had initially declined to join EBCE, approved a staff proposal to join EBCE.

Key CCA Achievements

CCAs continue to launch. There were two CCAs in 2016. There are now nineteen CCAs operating in California. In the Bay Area, in addition to Marin Clean Energy and Sonoma Clean Power, operating CCAs now include Clean Power San Francisco, Peninsula Clean Energy, Silicon Valley Clean Energy, San Jose Clean Power, and EBCE. In northern California, PG&E is forecasting that electricity sales by CCAs in 2020 will be about equal to PG&E’s bundled (non-CCA) electricity sales. At the same time, investor owned utilities are showing less appetite to be in the commodity purchase and sales business, as evidenced by San Diego Gas and Electric’s expressed intent to depart the commodity electricity procurement and sales arena. And, on September 17, 2019, the San Diego City Council voted to establish the San Diego Regional Community Choice Energy Authority.

Importantly, even though they are separate entities, CCAs are finding ways to work together on multiple fronts. CCAs are actively engaged at the CPUC and the legislature, and are being heard. The California Community Choice Association (CalCCA) has developed as a vehicle for CCAs to engage jointly in

regulatory and legislative activities. Its members include all nineteen CCAs. CCAs are growing in financial strength by accumulating significant cash reserves. CCAs' efforts in areas like local power project development, solar PV and EV charging stations have taken on a (not completely surprising) local, tailored focus.

More recently, CCAs have begun to earn investment grade ratings from major bond rating agencies. Marin Clean Energy (MCE) and Peninsula Clean Energy (PCE) have each achieved a Moody's investment grade rating (Baa2). Most recently (August 2019), MCE received a FitchRatings investment grade (BBB) rating

However, regulatory issues requiring ongoing EBCE and CalCCA attention continue. Such issues include longer CPUC-ordered timelines and documentation requirements for launching CCA service and for individual cities to receive CCA service, and ongoing proceedings affecting CCAs' costs and competitiveness – particularly the Power Cost Indifference Adjustment (PCIA) and Resource Adequacy (RA) proceedings. The CPUC has also indicated unhappiness with the CCAs' Integrated Resource Plans, asking for better indications of which resource procurements were real versus aspirational and encouraging CCAs to recognize they will need to contract with gas-fired resources in order to assure reliability.

Key EBCE Achievements

EBCE initiated service in 2018. EBCE achievements to date include the following:

- 1) Establishing and maintaining EBCE's "value proposition," which is a 1.5% discount to PG&E's posted unbundled Generation rates that are shown in each PG&E electricity service rate schedule. This discount is lower than the discounts offered by some other CCAs, but the (positive) tradeoff is quicker accumulation of cash reserves (discussed below). Strong cash reserves are essential to achieving an investment grade financial rating, and to maintain competitiveness with PG&E in the face of any unforeseen market or regulatory setbacks.
- 2) Building significant cash reserves. EBCE had \$62 million in cash on hand at June 30, 2019 and estimates that it will have \$130 million cash on hand by June 30, 2020, with an ultimate cash reserve target of \$300 million. These figures compare to \$485 million of estimated FY2020 revenue, and are indicative of the reserve targets of other CCAs, as well many municipal electric utilities.
- 3) Entering into multiple long-term power purchase and battery storage agreements;
- 4) Engaging in Alameda County focused generation projects;
- 5) Achieving renewable energy levels superior to PG&E;
- 6) Completing and implementing the Local Development Business Plan (<https://ebce.org/local-development-business-plan/>) pursuant to Article 5.4 of the EBCEA Joint Powers Agreement;
- 7) Achieving a high level of customer retention - 4% overall opt out rate currently;
- 8) Repaying fully EBCE's startup loan from Alameda County and being debt free currently.

EBCE has also engaged well established municipal utility partners to support ongoing operations – Northern California Power Agency to assist with EBCE's power purchase and scheduling activities, and Sacramento Municipal Utilities District to assist with customer service and managing the rate and billing interface with PG&E. EBCE has also adopted energy risk management policies similar to those of other CCAs and municipal electric utilities.

EBCE has established a strong regulatory and legislative presence, both as EBCE and as part of CalCCA. Increasingly, EBCE is working in concert with other CCAs to respond jointly to regulatory mandates, such as mandatory Integrated Resource Plan filings, and to work jointly (and thus more cost effectively) on needs common to EBCE and other Bay Area CCAs.

Newark City Council Concerns in 2016

Council members were very concerned that EBCE board actions would be dominated by the largest cities on the EBCE board. Since EBCE's inception, every board decision has been based on a simple majority of members present, with most votes being unanimous. Moreover, this behavior appears to be true for other CCAs in the Bay Area.

Council members were also concerned that EBCE might have (default) electricity rates that would be higher than PG&E's. That is, would EBCE regard competitiveness with PG&E as a core value? The evidence says yes. The EBCE board is very committed to maintaining EBCE's "value proposition," which, as noted above is a 1.5% discount to the Generation component in each of PG&E's rate schedules. In addition, based on the FitchRatings review of MCE, maintaining competitiveness, along with maintaining strong cash reserves, is likely to be a key component for EBCE (or any CCA) to achieve and maintain an investment grade financial rating.

Council members also expressed concern whether there would be financial exposure to the City if it were to defer joining EBCE. This exposure has not materialized. If Newark joins EBCE now, it would be cost free to the City. Moreover, membership in EBCE would be non-recourse to the City, unless the City were to withdraw from EBCE at some future date and be subject to a determination under Article 7 (Withdrawal and Termination) of the EBCEA Joint Powers Agreement. .

What Are the Benefits to Newark Residents and Businesses?

Newark residents and businesses will save a total of approximately \$450,000 per year on their PG&E electricity bills. The basis for this amount is as follows. PG&E revenue from electric sales in Newark is approximately \$60 million per year. Roughly 50% of this amount, or \$30 million, is generation-related. EBCE's 1.5% discount would equate to approximately \$450,000 of annual savings for Newark residents and businesses. At the same time, due to this reduction, the City's tax revenue from its utility users tax and utility franchise fee collections would be reduced by an estimated \$20,000 per year.

Newark residents will receive greener power at lower cost. EBCE's 2018 Power Content Label shows its Bright Choice (default) product, which includes the above-referenced 1.5% discount, to be 41% renewable and 62% carbon free as of 2010, as compared to the statewide 2018 average of 31% renewable and 51% carbon free. EBCE also notes that, of the remaining 38% not directly traceable to carbon-free generating units, 23% of the 38% originates with BC Hydro, which is essentially a 100% hydro generating system. Thus, EBCE's effective carbon free percentage is 85% (62% plus 23%). In addition EBCE's Brilliant 100 product, which carries a 0% discount to PG&E, is currently 45% renewable and 100% carbon free, while its Renewable 100 product, whose price is one cent per kilowatthour higher than PG&E's Generation rates, as the name implies, is 100% renewable and 100% carbon free.

EBCE's governance and policies, notwithstanding the City Council's concerns, have a distinctly local focus. Newark will have a stronger voice at EBCE, including membership on the EBCE board, than it would ever have on its own with either PG&E or the California Public Utilities Commission. Local control in the form of EBCE allows greater local emphasis on sustainability. EBCE is actively promoting local

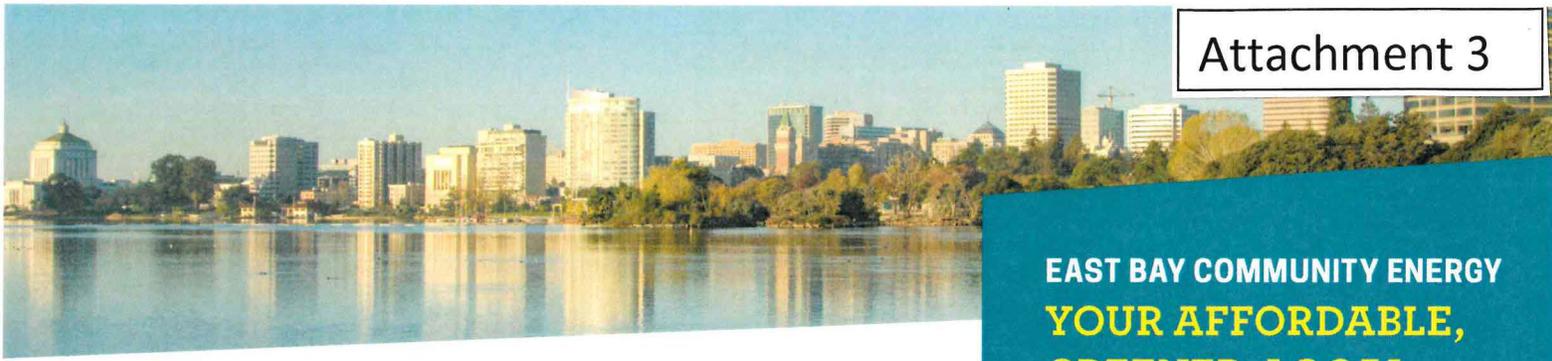
economic development by supporting specific incentives for locating new electric power sources, particularly renewable sources, EV chargers and battery storage in its service territory.

What About the Future?

The future is inherently uncertain. The major uncertainties confronting EBCE, as well the other eighteen CCAs in California, include market, competitive and regulatory and legislative risks. To summarize, EBCE is actively mitigating those risks by 1) building a competitively priced power supply portfolio; 2) building strong cash reserves; and 3) actively engaging the CPUC and the California legislature on behalf of EBCE customers.

Conclusion

Based on developments at EBCE since 2016, there is strong evidence that the Council's concerns at that time have been addressed. It also strongly appears that EBCE is appropriately managing its "going forward" risks.



EAST BAY COMMUNITY ENERGY YOUR AFFORDABLE, GREENER, LOCAL ELECTRICITY PROVIDER

Dear Alameda County Residents,

Residents living in Alameda County and the 11 participating cities will soon have a new, greener choice in electricity providers. East Bay Community Energy (EBCE) is a local power supply program that will work in partnership with PG&E to bring you electricity from renewable sources at affordable prices.

As a resident of one of the cities that voted to form EBCE, your benefits will include:

- More renewable energy at competitive rates
- Lower greenhouse gas emissions
- Innovative services
- Community involvement
- Local projects, jobs, and economic benefits

How it Works

EBCE will purchase electricity on your behalf, including more renewable power than PG&E currently provides. PG&E will act in partnership with us to deliver, maintain, and service your electricity as it always has. You'll be enrolled automatically, so you don't need to do a thing. And billing will be simple—you'll still get a single monthly bill that includes EBCE's charge for electricity generation, and PG&E's charges for their other services.



Higher percentage of clean power at a 1.5% rate discount



Greener power than PG&E and costs the same as PG&E



100% renewable energy and costs about \$3-5 more per month* than PG&E

You will be automatically transitioned to EBCE service in November. The transition will be completely seamless to you, and your service will continue uninterrupted.

You will be automatically enrolled in our Bright Choice service so you don't need to do a thing to take advantage of a lower cost than your current PG&E rate. But you can always opt up to Brilliant 100 or Renewable 100, or opt out if you choose. Call to notify us at **1-833-699-EBCE (3223)** or visit **ebce.org**.

EBCE service helps retain local involvement in energy choices, create jobs, and provide economic benefits to our communities, while reducing our community's greenhouse gas emissions.

*Based on the average residential customer bill in Alameda County

East Bay Community Energy, also known as EBCE, is the new local electricity supplier in Alameda County. EBCE will provide cleaner, greener energy at lower rates to our customers. EBCE will reinvest earnings back into the community to create local green energy jobs, local programs, and clean power projects.

East Bay Community Energy, también conocido como EBCE, es el nuevo proveedor local de electricidad en el Condado de Alameda. EBCE ofrecerá a nuestros clientes energía más limpia y más verde con tarifas más bajas. EBCE reinvertirá los ingresos nuevamente en la comunidad para crear empleos locales en el campo de la energía verde, programas locales y proyectos de energía limpia.

東灣社區能源, 英文名為 East Bay Community Energy, 簡稱 EBCE, 是阿拉米達縣新的本地電力供應商。EBCE 將以更低廉的費率, 向用戶提供更清潔、更環保的能源。EBCE 會將獲利以重新投資的方式歸還於社區, 來創造當地的綠色能源工作機會、本地計畫以及清潔電力方案。

Năng Lượng Cho Cộng Đồng East Bay, còn gọi là EBCE, là nhà cung cấp điện mới tại địa phương của Hạt Alameda. EBCE sẽ đem đến nguồn năng lượng xanh và sạch hơn, với mức giá rẻ hơn cho khách hàng. EBCE sẽ tái đầu tư khoản tiền thu được vào cộng đồng nhằm tạo ra những công việc năng lượng xanh cho địa phương, các chương trình ở địa phương và các dự án năng lượng sạch.



A Proven Model

Programs similar to ours have been working throughout the state and the Bay Area for years. In fact, Marin, Napa, Sonoma, Contra Costa, Santa Clara, San Mateo, and San Francisco Counties already have active Community Choice Energy programs like EBCE. Dozens of other California counties and cities are considering or starting their own.



Your Energy, Your Choice

EBCE began providing electricity to business and municipal customers in June 2018. Residential customers will be enrolled in November 2018. Customers with rooftop solar will be enrolled throughout 2019 based on their “True-Up” date.



Some Background

- In accordance with California State law, EBCE is designed as an opt out program. That means EBCE is now the County’s official electricity provider as of the program’s launch to local residents in November. You can opt out at any time.
- The program is governed by a Board of Directors composed of elected officials from the County and its 11 participating cities, including Albany, Berkeley, Dublin, Emeryville, Fremont, Hayward, Livermore, Oakland, Piedmont, San Leandro, and Union City.
- EBCE isn’t replacing PG&E—we’re working in partnership with them.
- You’ll always have a choice to remain with PG&E’s current service for both electricity and power delivery, and can let us know your preference to do so—or to opt up or down—with a single click at ebce.org, or call at 1-833-699-EBCE (3223).

SPECIAL NOTE: Customers participating in the CARE, FERA, and/or Medical Baseline Allowance programs continue to receive these discounts while on EBCE service.

Abbreviated Terms and Conditions of Service

ENROLLMENT AND SERVICE OPTIONS

As of November 2018, East Bay Community Energy (EBCE) is the default electric provider serving Alameda County, except the cities of Alameda, Pleasanton, and Newark. Accounts within the participating 11 cities will be automatically enrolled. Customers may also request to opt up, opt down, or opt out and stay with PG&E bundled service at any time subject to the opt out guidelines.

RATES AND FEES

EBCE’s generation rates are managed to provide cleaner, greener electricity to our community at competitive rates. Any future rate changes will be adopted at public meetings of the EBCE Board. As an EBCE customer, PG&E charges you a monthly Power Charge Indifference Adjustment (PCIA) and Franchise Fee Surcharge. Please contact PG&E for more information about these charges.

BILLING

As an EBCE customer, you will continue to receive a single monthly bill from PG&E that includes all electricity-related charges, including EBCE’s generation charges. PG&E will continue to charge for gas services, transmission, distribution, public goods programs, and other non-generation charges at the same rates it charges customers who do not receive EBCE service.

OPT OUT

You may opt out of EBCE service at any time by calling 1-833-699-EBCE (3223) or by completing the opt out form at www.ebce.org/opt-out. There is no fee to opt out before enrollment or in the first 60 days of receiving EBCE service.

CUSTOMER CONFIDENTIALITY

EBCE is committed to protecting customer privacy. EBCE’s customer confidentiality policy can be found at www.ebce.org/confidentiality.

Full details of the EBCE Terms and Conditions can be found at www.ebce.org/terms.





1111 Broadway 3rd Floor
Oakland, CA 94607



Introducing Your New Local Provider for Clean Power



Your Choices with EBCE:



Higher percentage of clean power at a 1.5% rate discount



Greener power than PG&E and costs the same as PG&E



100% renewable energy and costs about \$3-5 more per month than PG&E*

**Based on the average residential customer bill in Alameda County*

HERE'S WHAT YOU NEED TO KNOW ABOUT EAST BAY COMMUNITY ENERGY (EBCE):

- EBCE is your new local electricity provider. You will get a single bill that includes electric delivery charges from PG&E and electric generation charges from EBCE. You will also receive a monthly credit from PG&E for not buying their electricity.
- EBCE is a public agency with local elected officials on its Board. Meetings are open to the public.
- EBCE provides more renewable energy than PG&E as part of its basic service, called Bright Choice.
- Bright Choice costs slightly less than what you were paying PG&E.
- You can choose to get more green power with our Brilliant 100 or Renewable 100 service, or you can opt out and get your power from PG&E.
- You were automatically enrolled in Bright Choice service in November and will see EBCE charges on your December bill from PG&E.

More information is available at ebce.org. You can also call us at **1-833-699-EBCE (3223)**.

Abbreviated Terms and Conditions of Service

ENROLLMENT AND SERVICE OPTIONS As of November 2018, East Bay Community Energy (EBCE) is the default electric provider serving Alameda County, except the cities of Alameda, Pleasanton, and Newark. Accounts within the participating 11 cities and the unincorporated county were automatically enrolled. Customers may also request to opt up, opt down, or opt out and stay with PG&E bundled service at any time subject to the opt out guidelines.

RATES AND FEES EBCE's generation rates are managed to provide clean, green electricity to our community at competitive rates. Any future rate changes will be adopted at public meetings of the EBCE Board. As an EBCE customer, PG&E charges you a monthly Power Charge Indifference Adjustment (PCIA) and Franchise Fee Surcharge.

BILLING As an EBCE customer, you will continue to receive a single monthly bill from PG&E that includes all electricity-related charges, including EBCE's generation charges. PG&E will continue to charge for gas services, transmission, distribution, public goods programs, and other non-generation charges at the same rates it charges customers who do not receive EBCE service.

OPT OUT You may opt out of EBCE service at any time by calling 1-833-699-EBCE (3223) or by completing the opt out form at www.ebce.org/opt-out. There is no fee to opt out before June 2019.

CUSTOMER CONFIDENTIALITY EBCE is committed to protecting customer privacy. EBCE's customer confidentiality policy can be found at www.ebce.org/confidentiality.

Full details of the EBCE Terms and Conditions can be found at www.ebce.org/terms.

Customers participating in the CARE, FERA, and/or Medical Baseline Allowance programs continue to receive these discounts while on EBCE service.

SPECIAL NOTE:

As an EBCE customer, you are no longer eligible for PG&E's Smart Rate and Solar Choice programs or the first year Bill Protection benefit for customers that have opted into the Time of Use (Peak Pricing 4 - 9 PM Every Day) rate tariff.

FIND YOUR LANGUAGE ONLINE

Español: es.ebce.org

中文: ch.ebce.org

Tiếng Việt: vn.ebce.org

हिन्दी: hn.ebce.org

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPROVING AN AGREEMENT TO PARTICIPATE
IN A JOINT POWERS AGENCY FOR COMMUNITY CHOICE
AGGREGATION PROGRAM IN ALAMEDA COUNTY

WHEREAS, the City of Newark has demonstrated its commitment to an environmentally sustainable future through its policy goals and actions, including energy reduction, clean energy programs, and the expansion of local renewable power supply; and

WHEREAS, the City Council adopted a Climate Action Plan to reduce greenhouse gas emissions; and

WHEREAS, Community Choice Aggregation is a mechanism by which local governments assume responsibility for providing electrical power for residential and commercial customers in their jurisdiction in partnership with local commercial energy purveyors and owners of transmission facilities, which in the case of the City of Newark is Pacific Gas & Electric Company; and

WHEREAS, Community Choice Aggregation has the potential to reduce greenhouse gas emissions related to the use of power in the City of Newark; provide electric power and other forms of energy to customers at a competitive cost; carry out programs to reduce energy consumption; stimulate and sustain the local economy by developing local jobs in renewable energy; and promote long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources; and

WHEREAS, City staff has examined and identified Community Choice Aggregation as a key strategy to meet local clean energy goals and projected greenhouse gas reduction targets; and

WHEREAS, the Alameda County Board of Supervisors directed the Alameda County Community Development Agency (CDA) to determine if a Community Choice Aggregation program is feasible for cities in Alameda County; and

WHEREAS, CDA staff prepared a Technical Study for Community Choice Aggregation Program in Alameda County; and

WHEREAS, taken comprehensively, the Technical Study suggests that an Alameda County CCA would be feasible, could operate economically, could provide ratepayers reductions on their electric bills, and could both increase renewable energy and reduce greenhouse gas emissions if the right balance is achieved by a joint powers agreement; and

WHEREAS, if a municipality is to form a CCA with other municipalities, it must become a part of a Joint Powers Agency (JPA) as required by the legislation that permits CCAs; and

WHEREAS, a draft JPA Agreement has been prepared by the Office of the County Counsel, has been reviewed by City Attorneys across Alameda County, and the membership of the Steering Committee. The JPA Agreement, a copy of which is attached hereto as Exhibit A, was approved and executed by Alameda County and a majority of Alameda County cities in December 2016.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby approves the agreement entitled, "East Bay Community Energy Authority - Joint Powers Agreement" in order to participate with other signatories in a CCA Joint Powers Authority for Alameda County municipalities, and authorizes the City Manager and/or his designee to execute said agreement and any amendments or related documents.

East Bay Community Energy Authority

- Joint Powers Agreement -

Effective December 1, 2016

Among The Following Parties:

County of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Oakland

City of Piedmont

City of San Leandro

City of Union City

EAST BAY COMMUNITY ENERGY AUTHORITY

JOINT POWERS AGREEMENT

This Joint Powers Agreement ("Agreement"), effective as of 12/1/2016 is made and entered into pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 *et seq.*) of the California Government Code relating to the joint exercise of powers among the parties set forth in Exhibit A ("Parties"). The term "Parties" shall also include an incorporated municipality or county added to this Agreement in accordance with Section 3.1.

RECITALS

1. The Parties are either incorporated municipalities or counties sharing various powers under California law, including but not limited to the power to purchase, supply, and aggregate electricity for themselves and their inhabitants.
2. In 2006, the State Legislature adopted AB 32, the Global Warming Solutions Act, which mandates a reduction in greenhouse gas emissions in 2020 to 1990 levels. The California Air Resources Board is promulgating regulations to implement AB 32 which will require local government to develop programs to reduce greenhouse gas emissions.
3. The purposes for the Initial Participants (as such term is defined in Section 1.1.16 below) entering into this Agreement include securing electrical energy supply for customers in participating jurisdictions, addressing climate change by reducing energy related greenhouse gas emissions, promoting electrical rate price stability, and fostering local economic benefits such as jobs creation, community energy programs and local power development. It is the intent of this Agreement to promote the development and use of a wide range of renewable energy sources and energy efficiency programs, including but not limited to State, regional and local solar and wind energy production.
4. The Parties desire to establish a separate public agency, known as the East Bay Community Energy Authority ("Authority"), under the provisions of the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*) ("Act") in order to collectively study, promote, develop, conduct, operate, and manage energy programs.
5. The Initial Participants have each adopted an ordinance electing to implement through the Authority a Community Choice Aggregation program pursuant to California Public Utilities Code Section 366.2 ("CCA Program"). The first priority of the Authority will be the consideration of those actions necessary to implement the CCA Program.
6. By establishing the Authority, the Parties seek to:
 - (a) Provide electricity rates that are lower or competitive with those offered by PG&E for similar products;

- (b) Offer differentiated energy options (e.g. 33% or 50% qualified renewable) for default service, and a 100% renewable content option in which customers may “opt-up” and voluntarily participate;
- (c) Develop an electric supply portfolio with a lower greenhouse gas (GHG) intensity than PG&E, and one that supports the achievement of the parties’ greenhouse gas reduction goals and the comparable goals of all participating jurisdictions;
- (d) Establish an energy portfolio that prioritizes the use and development of local renewable resources and minimizes the use of unbundled renewable energy credits;
- (e) Promote an energy portfolio that incorporates energy efficiency and demand response programs and has aggressive reduced consumption goals;
- (f) Demonstrate quantifiable economic benefits to the region (e.g. union and prevailing wage jobs, local workforce development, new energy programs, and increased local energy investments);
- (g) 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;
- (h) Deliver clean energy programs and projects using a stable, skilled workforce through such mechanisms as project labor agreements, or other workforce programs that are cost effective, designed to avoid work stoppages, and ensure quality;
- (i) Promote personal and community ownership of renewable resources, spurring equitable economic development and increased resilience, especially in low income communities;
- (j) Provide and manage lower cost energy supplies in a manner that provides cost savings to low-income households and promotes public health in areas impacted by energy production; and
- (k) Create an administering agency that is financially sustainable, responsive to regional priorities, well managed, and a leader in fair and equitable treatment of employees through adopting appropriate best practices employment policies, including, but not limited to, promoting efficient consideration of petitions to unionize, and providing appropriate wages and benefits.

AGREEMENT

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

ARTICLE 1 CONTRACT DOCUMENTS

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

- 1.1.1 "AB 117" means Assembly Bill 117 (Stat. 2002, ch. 838, codified at Public Utilities Code Section 366.2), which created CCA.
- 1.1.2 "Act" means the Joint Exercise of Powers Act of the State of California (Government Code Section 6500 *et seq.*)
- 1.1.3 "Agreement" means this Joint Powers Agreement.
- 1.1.4 "Annual Energy Use" has the meaning given in Section 1.1.23.
- 1.1.5 "Authority" means the East Bay Community Energy Authority established pursuant to this Joint Powers Agreement.
- 1.1.6 "Authority Document(s)" means document(s) duly adopted by the Board by resolution or motion implementing the powers, functions and activities of the Authority, including but not limited to the Operating Rules and Regulations, the annual budget, and plans and policies.
- 1.1.7 "Board" means the Board of Directors of the Authority.
- 1.1.8 "Community Choice Aggregation" or "CCA" means an electric service option available to cities and counties pursuant to Public Utilities Code Section 366.2.
- 1.1.9 "CCA Program" means the Authority's program relating to CCA that is principally described in Sections 2.4 and 5.1.
- 1.1.10 "Days" shall mean calendar days unless otherwise specified by this Agreement.
- 1.1.11 "Director" means a member of the Board of Directors representing a Party, including an alternate Director.
- 1.1.12 "Effective Date" means the date on which this Agreement shall become effective and the East Bay Community Energy Authority shall exist as a separate public agency, as further described in Section 2.1.

- 1.1.13 “Ex Officio Board Member” means a non-voting member of the Board of Directors as described in Section 4.2.2. The Ex Officio Board Member may not serve on the Executive Committee of the Board or participate in closed session meetings of the Board.
- 1.1.14 “Implementation Plan” means the plan generally described in Section 5.1.2 of this Agreement that is required under Public Utilities Code Section 366.2 to be filed with the California Public Utilities Commission for the purpose of describing a proposed CCA Program.
- 1.1.15 “Initial Costs” means all costs incurred by the Authority relating to the establishment and initial operation of the Authority, such as the hiring of a Chief Executive Officer and any administrative staff, any required accounting, administrative, technical and legal services in support of the Authority’s initial formation activities or in support of the negotiation, preparation and approval of power purchase agreements. The Board shall determine the termination date for Initial Costs.
- 1.1.16 “Initial Participants” means, for the purpose of this Agreement the County of Alameda, the Cities of Albany, Berkeley, Emeryville, Oakland, Piedmont, San Leandro, Hayward, Union City, Fremont, Dublin, and Livermore.
- 1.1.17 “Operating Rules and Regulations” means the rules, regulations, policies, bylaws and procedures governing the operation of the Authority.
- 1.1.18 “Parties” means, collectively, the signatories to this Agreement that have satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.19 “Party” means, singularly, a signatory to this Agreement that has satisfied the conditions in Sections 2.2 or 3.1 such that it is considered a member of the Authority.
- 1.1.20 “Percentage Vote” means a vote taken by the Board pursuant to Section 4.12.1 that is based on each Party having one equal vote.
- 1.1.21 “Total Annual Energy” has the meaning given in Section 1.1.23.
- 1.1.22 “Voting Shares Vote” means a vote taken by the Board pursuant to Section 4.12.2 that is based on the voting shares of each Party described in Section 1.1.23 and set forth in Exhibit C to this Agreement. A Voting Shares vote cannot take place on a matter unless the matter first receives an affirmative or tie Percentage Vote in the manner required by Section 4.12.1 and three or more Directors immediately thereafter request such vote.

1.1.23 "Voting Shares Formula" means the weight applied to a Voting Shares Vote and is determined by the following formula:

(Annual Energy Use/Total Annual Energy) multiplied by 100, where (a) "Annual Energy Use" means (i) with respect to the first two years following the Effective Date, the annual electricity usage, expressed in kilowatt hours ("kWh"), within the Party's respective jurisdiction and (ii) with respect to the period after the second anniversary of the Effective Date, the annual electricity usage, expressed in kWh, of accounts within a Party's respective jurisdiction that are served by the Authority and (b) "Total Annual Energy" means the sum of all Parties' Annual Energy Use. The initial values for Annual Energy use are designated in Exhibit B and the initial voting shares are designated in Exhibit C. Both Exhibits B and C shall be adjusted annually as soon as reasonably practicable after January 1, but no later than March 1 of each year subject to the approval of the Board.

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

Exhibit A: List of the Parties

Exhibit B: Annual Energy Use

Exhibit C: Voting Shares

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

ARTICLE 2

FORMATION OF EAST BAY COMMUNITY ENERGY AUTHORITY

2.1 **Effective Date and Term.** This Agreement shall become effective and East Bay Community Energy Authority shall exist as a separate public agency on December 1, 2016, provided that this Agreement is executed on or prior to such date by at least three Initial Participants after the adoption of the ordinances required by Public Utilities Code Section 366.2(c)(12). The Authority shall provide notice to the Parties of the Effective Date. The Authority shall continue to exist, and this Agreement shall be effective, until this Agreement is terminated in accordance with Section 7.3, subject to the rights of the Parties to withdraw from the Authority.

2.2 Initial Participants. Until December 31, 2016, all other Initial Participants may become a Party by executing this Agreement and delivering an executed copy of this Agreement and a copy of the adopted ordinance required by Public Utilities Code Section 366.2(c)(12) to the Authority. Additional conditions, described in Section 3.1, may apply (i) to either an incorporated municipality or county desiring to become a Party that is not an Initial Participant and (ii) to Initial Participants that have not executed and delivered this Agreement within the time period described above.

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

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

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

- 2.5.1 to make and enter into contracts, including those relating to the purchase or sale of electrical energy or attributes thereof;
- 2.5.2 to employ agents and employees, including but not limited to a Chief Executive Officer and General Counsel;
- 2.5.3 to acquire, contract, manage, maintain, and operate any buildings, works or improvements, including electric generating facilities;
- 2.5.4 to acquire property by eminent domain, or otherwise, except as limited under Section 6508 of the Act, and to hold or dispose of any property;
- 2.5.5 to lease any property;
- 2.5.6 to sue and be sued in its own name;

- 2.5.7 to incur debts, liabilities, and obligations, including but not limited to loans from private lending sources pursuant to its temporary borrowing powers such as Government Code Section 53850 *et seq.* and authority under the Act;
- 2.5.8 to form subsidiary or independent corporations or entities, if appropriate, to carry out energy supply and energy conservation programs at the lowest possible cost consistent with the Authority's CCA Program implementation plan, risk management policies, or to take advantage of legislative or regulatory changes;
- 2.5.9 to issue revenue bonds and other forms of indebtedness;
- 2.5.10 to apply for, accept, and receive all licenses, permits, grants, loans or other assistance from any federal, state or local public agency;
- 2.5.11 to submit documentation and notices, register, and comply with orders, tariffs and agreements for the establishment and implementation of the CCA Program and other energy programs;
- 2.5.12 to adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority ("Operating Rules and Regulations");
- 2.5.13 to make and enter into service, energy and any other agreements necessary to plan, implement, operate and administer the CCA Program and other energy programs, including the acquisition of electric power supply and the provision of retail and regulatory support services; and
- 2.5.14 to negotiate project labor agreements, community benefits agreements and collective bargaining agreements with the local building trades council and other interested parties.

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

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

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

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

ARTICLE 3 **AUTHORITY PARTICIPATION**

3.1 Addition of Parties. Subject to Section 2.2, relating to certain rights of Initial Participants, other incorporated municipalities and counties may become Parties upon (a) the adoption of a resolution by the governing body of such incorporated municipality or county requesting that the incorporated municipality or county, as the case may be, become a member of the Authority, (b) the adoption by an affirmative vote of a majority of all Directors of the entire Board satisfying the requirements described in Section 4.12, of a resolution authorizing membership of the additional incorporated municipality or county, specifying the membership payment, if any, to be made by the additional incorporated municipality or county to reflect its pro rata share of organizational, planning and other pre-existing expenditures, and describing additional conditions, if any, associated with membership, (c) the adoption of an ordinance required by Public Utilities Code Section 366.2(c)(12) and execution of this Agreement and other necessary program agreements by the incorporated municipality or county, (d) payment of the membership fee, if any, and (e) satisfaction of any conditions established by the Board.

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

ARTICLE 4 **GOVERNANCE AND INTERNAL ORGANIZATION**

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

4.2 Appointment of Directors. The Directors shall be appointed as follows:

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

from a Board meeting. The person appointed and designated as the regular Director shall be a member of the governing body of the Party. The person appointed and designated as the alternate Director shall also be a member of the governing body of the Party.

4.2.2 The Board shall also include one non-voting ex officio member as defined in Section 1.1.13 ("Ex Officio Board Member"). The Chair of the Community Advisory Committee, as described in Section 4.9 below, shall serve as the Ex Officio Board Member. The Vice Chair of the Community Advisory Committee shall serve as an alternate Ex Officio Board Member when the regular Ex Officio Board Member is absent from a Board meeting.

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

4.3 **Terms of Office.** Each regular and alternate Director shall serve at the pleasure of the governing body of the Party that the Director represents, and may be removed as Director by such governing body at any time. If at any time a vacancy occurs on the Board, a replacement shall be appointed to fill the position of the previous Director in accordance with the provisions of Section 4.2 within 90 days of the date that such position becomes vacant.

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

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

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

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

4.5.3 The appointment or removal of an officer.

4.5.4 The adoption of the Annual Budget.

4.5.5 The adoption of an ordinance.

4.5.6 The initiation of resolution of claims and litigation where the Authority will be the defendant, plaintiff, petitioner, respondent, cross complainant or cross petitioner, or intervenor; provided, however, that the Chief Executive Officer or General Counsel, on behalf of the Authority, may

intervene in, become party to, or file comments with respect to any proceeding pending at the California Public Utilities Commission, the Federal Energy Regulatory Commission, or any other administrative agency, without approval of the Board. The Board shall adopt Operating Rules and Regulations governing the Chief Executive Officer and General Counsel's exercise of authority under this Section 4.5.6.

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

4.5.8 Termination of the CCA Program.

4.6 **Executive Committee.** The Board shall establish an Executive Committee consisting of a smaller number of Directors. The Board may delegate to the Executive Committee such authority as the Board might otherwise exercise, subject to limitations placed on the Board's authority to delegate certain Essential Functions, as described in Section 4.5 and the Operating Rules and Regulations. The Board may not delegate to the Executive Committee or any other committee its authority under Section 2.5.12 to adopt and amend the Operating Rules and Regulations or its Essential Functions listed in Section 4.5. After the Executive Committee meets or otherwise takes action, it shall, as soon as practicable, make a report of its activities at a meeting of the Board.

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

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

4.9 **Community Advisory Committee.** The Board shall establish a Community Advisory Committee consisting of nine members, none of whom may be voting members of the Board. The function of the Community Advisory Committee shall be to advise the Board of Directors on all subjects related to the operation of the CCA Program as set forth in a work plan adopted by the Board of Directors from time to time, with the exception of personnel and litigation decisions. The Community Advisory Committee is advisory only, and shall not have decision-making authority, or receive any delegation of authority from the Board of Directors. The Board shall publicize the opportunity to serve on the Community Advisory Committee, and shall appoint members of the Community Advisory Committee from those individuals expressing interest in serving, and who represent a diverse cross-section of interests, skill sets and geographic regions. Members of the Community Advisory Committee shall serve staggered four-year terms (the first term of three of the members shall be two years, and four years

thereafter), which may be renewed. A member of the Community Advisory Committee may be removed by the Board of Directors by majority vote. The Board of Directors shall determine whether the Community Advisory Committee members will receive a stipend and/or be entitled to reimbursement for expenses.

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

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

4.12 Board Voting.

4.12.1 Percentage Vote. Except when a supermajority vote is expressly required by this Agreement or the Operating Rules and Regulations, action of the Board on all matters shall require an affirmative vote of a majority of all Directors on the entire Board (a "Percentage Vote" as defined in Section 1.1.20). A supermajority vote is required by this Agreement for the matters addressed by Section 8.4. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, action of the Board shall require an affirmative Percentage Vote of the specified supermajority of all Directors on the entire Board. No action can be taken by the Board without an affirmative Percentage Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved by an affirmative "Voting Shares Vote," as defined in Section 1.1.22, if three or more Directors immediately request such vote.

4.12.2 Voting Shares Vote. In addition to and immediately after an affirmative percentage vote, three or more Directors may request that a vote of the voting shares shall be held (a "Voting Shares Vote" as defined in Section 1.1.22). To approve an action by a Voting Shares Vote, the corresponding voting shares (as defined in Section 1.1.23 and Exhibit C) of all Directors voting in the affirmative shall exceed 50% of the voting share of all Directors on the entire Board, or such other higher voting shares percentage expressly required by this Agreement or the Operating Rules

and Regulations. In the event that any one Director has a voting share that equals or exceeds that which is necessary to disapprove the matter being voted on by the Board, at least one other Director shall be required to vote in the negative in order to disapprove such matter. When a voting shares vote is held, action by the Board requires both an affirmative Percentage Vote and an affirmative Voting Shares Vote. Notwithstanding the foregoing, in the event of a tie in the Percentage Vote, an action may be approved on an affirmative Voting Shares Vote. When a supermajority vote is required by this Agreement or the Operating Rules and Regulations, the supermajority vote is subject to the Voting Share Vote provisions of this Section 4.12.2, and the specified supermajority of all Voting Shares is required for approval of the action, if the provision of this Section 4.12.2 are triggered.

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

4.14 Officers.

4.14.1 Chair and Vice Chair. At the first meeting held by the Board in each calendar year, the Directors shall elect, from among themselves, a Chair, who shall be the presiding officer of all Board meetings, and a Vice Chair, who shall serve in the absence of the Chair. The Chair and Vice Chair shall hold office for one year and serve no more than two consecutive terms, however, the total number of terms a Director may serve as Chair or Vice Chair is not limited. The office of either the Chair or Vice Chair shall be declared vacant and the Board shall make a new selection if: (a) the person serving dies, resigns, or ceases to be a member of the governing body of the Party that the person represents; (b) the Party that the person represents removes the person as its representative on the Board, or (c) the Party that he or she represents withdraws from the Authority pursuant to the provisions of this Agreement.

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

4.14.3 Treasurer and Auditor. The Board shall appoint a qualified person to act as the Treasurer and a qualified person to act as the Auditor, neither of whom needs to be a member of the Board. The same person may not simultaneously hold both the office of Treasurer and the office of the Auditor of the Authority. Unless otherwise exempted from such

requirement, the Authority shall cause an independent audit to be made annually by a certified public accountant, or public accountant, in compliance with Section 6505 of the Act. The Treasurer shall act as the depository of the Authority and have custody of all the money of the Authority, from whatever source, and as such, shall have all of the duties and responsibilities specified in Section 6505.5 of the Act. The Board may require the Treasurer and/or Auditor to file with the Authority an official bond in an amount to be fixed by the Board, and if so requested, the Authority shall pay the cost of premiums associated with the bond. The Treasurer shall report directly to the Board and shall comply with the requirements of treasurers of incorporated municipalities. The Board may transfer the responsibilities of Treasurer to any person or entity as the law may provide at the time.

4.15 Administrative Services Provider. The Board may appoint one or more administrative services providers to serve as the Authority's agent for planning, implementing, operating and administering the CCA Program, and any other program approved by the Board, in accordance with the provisions of an Administrative Services Agreement. The appointed administrative services provider may be one of the Parties. The Administrative Services Agreement shall set forth the terms and conditions by which the appointed administrative services provider shall perform or cause to be performed all tasks necessary for planning, implementing, operating and administering the CCA Program and other approved programs. The Administrative Services Agreement shall set forth the term of the Agreement and the circumstances under which the Administrative Services Agreement may be terminated by the Authority. This section shall not in any way be construed to limit the discretion of the Authority to hire its own employees to administer the CCA Program or any other program.

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

ARTICLE 5 **IMPLEMENTATION ACTION AND AUTHORITY DOCUMENTS**

5.1 Implementation of the CCA Program.

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

5.1.2 Implementation Plan. The Authority shall cause to be prepared an Implementation Plan meeting the requirements of Public Utilities Code Section 366.2 and any applicable Public Utilities Commission regulations as soon after the Effective Date as reasonably practicable. The Implementation Plan shall not be filed with the Public Utilities Commission until it is approved by the Board in the manner provided by Section 4.12.

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

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

5.3 Integrated Resource Plan. The Authority shall cause to be prepared an Integrated Resource Plan in accordance with CPUC regulations that will ensure the long-term development and administration of a variety of energy programs that promote local renewable resources, conservation, demand response, and energy efficiency, while maintaining compliance with the State Renewable Portfolio standard and customer rate competitiveness. The Authority shall prioritize the development of energy projects in Alameda and adjacent counties. Principal aspects of its planned operations shall be in a Business Plan as outlined in Section 5.4 of this Agreement.

5.4 Business Plan. The Authority shall cause to be prepared a Business Plan, which will include a roadmap for the development, procurement, and integration of local renewable energy resources as outlined in Section 5.3 of this Agreement. The Business Plan shall include a description of how the CCA Program will contribute to fostering local economic benefits, such as job creation and community energy programs. The Business Plan shall identify opportunities for local power development and how the CCA Program can achieve the goals outlined in Recitals 3 and 6 of this Agreement. The Business Plan shall include specific language detailing employment and labor standards that relate to the execution of the CCA Program as referenced in this Agreement. The Business Plan shall identify clear and transparent marketing practices to be followed by the CCA Program, including the identification of the sources of its electricity and explanation of the various types of electricity procured by the Authority. The Business Plan shall cover the first five (5) years of the operation of the CCA Program. The Business Plan shall be completed by the Authority no later than eight (8) months after the seating of the Authority Board of Directors. Progress on the implementation of the Business Plan shall be subject to annual public review.

5.5 Labor Organization Neutrality. The Authority shall remain neutral in the event its employees, and the employees of its subcontractors, if any, wish to unionize.

5.6 Renewable Portfolio Standards. The Authority shall provide its customers renewable energy primarily from Category 1 eligible renewable resources, as defined under the California RPS and consistent with the goals of the CCA Program. The Authority shall not procure energy from Category 3 eligible renewable resources (unbundled Renewable Energy Credits or RECs) exceeding 50% of the State law requirements, to achieve its renewable portfolio goals. However, for Category 3 RECs associated with generation facilities located within its service jurisdiction, the limitation set forth in the preceding sentence shall not apply.

ARTICLE 6

FINANCIAL PROVISIONS

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

6.2 Depository.

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

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

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

6.3 Budget and Recovery Costs.

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

6.3.2 Funding of Initial Costs. The County shall fund the Initial Costs of establishing and implementing the CCA Program. In the event that the

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

- 6.3.4 Additional Contributions and Advances.** Pursuant to Government Code Section 6504, the Parties may in their sole discretion make financial contributions, loans or advances to the Authority for the purposes of the Authority set forth in this Agreement. The repayment of such contributions, loans or advances will be on the written terms agreed to by the Party making the contribution, loan or advance and the Authority.

ARTICLE 7

WITHDRAWAL AND TERMINATION

7.1 Withdrawal.

- 7.1.1 General Right to Withdraw.** A Party may withdraw its membership in the Authority, effective as of the beginning of the Authority's fiscal year, by giving no less than 180 days advance written notice of its election to do so, which notice shall be given to the Authority and each Party. Withdrawal of a Party shall require an affirmative vote of the Party's governing board.
- 7.1.2 Withdrawal Following Amendment.** Notwithstanding Section 7.1.1, a Party may withdraw its membership in the Authority following an amendment to this Agreement provided that the requirements of this Section 7.1.2 are strictly followed. A Party shall be deemed to have withdrawn its membership in the Authority effective 180 days after the Board approves an amendment to this Agreement if the Director representing such Party has provided notice to the other Directors immediately preceding the Board's vote of the Party's intention to withdraw its membership in the Authority should the amendment be approved by the Board.
- 7.1.3 The Right to Withdraw Prior to Program Launch.** After receiving bids from power suppliers for the CCA Program, the Authority must provide to the Parties a report from the electrical utility consultant retained by the Authority comparing the Authority's total estimated electrical rates, the estimated greenhouse gas emissions rate and the amount of estimated renewable energy to be used with that of the incumbent utility. Within 30 days after receiving this report, through its City Manager or a person expressly authorized by the Party, any Party may immediately withdraw

its membership in the Authority by providing written notice of withdrawal to the Authority if the report determines that any one of the following conditions exists: (1) the Authority is unable to provide total electrical rates, as part of its baseline offering to customers, that are equal to or lower than the incumbent utility, (2) the Authority is unable to provide electricity in a manner that has a lower greenhouse gas emissions rate than the incumbent utility, or (3) the Authority will use less qualified renewable energy than the incumbent utility. Any Party who withdraws from the Authority pursuant to this Section 7.1.3 shall not be entitled to any refund of the Initial Costs it has paid to the Authority prior to the date of withdrawal unless the Authority is later terminated pursuant to Section 7.3. In such event, any Initial Costs not expended by the Authority shall be returned to all Parties, including any Party that has withdrawn pursuant to this section, in proportion to the contribution that each made. Notwithstanding anything to the contrary in this Agreement, any Party who withdraws pursuant to this section shall not be responsible for any liabilities or obligations of the Authority after the date of withdrawal, including without limitation any liability arising from power purchase agreements entered into by the Authority.

7.2 Continuing Liability After Withdrawal; Further Assurances; Refund. A

Party that withdraws its membership in the Authority under either Section 7.1.1 or 7.1.2 shall be responsible for paying its fair share of costs incurred by the Authority resulting from the Party's withdrawal, including costs from the resale of power contracts by the Authority to serve the Party's load and any similar costs directly attributable to the Party's withdrawal, such costs being limited to those contracts executed while the withdrawing Party was a member, and administrative costs associated thereto. The Parties agree that such costs shall not constitute a debt of the withdrawing Party, accruing interest, or having a maturity date. The Authority may withhold funds otherwise owing to the Party or may require the Party to deposit sufficient funds with the Authority, as reasonably determined by the Authority, to cover the Party's costs described above. Any amount of the Party's funds held by the Authority for the benefit of the Party that are not required to pay the Party's costs described above shall be returned to the Party. The withdrawing party and the Authority shall execute and deliver all further instruments and documents, and take any further action that may be reasonably necessary, as determined by the Board, to effectuate the orderly withdrawal of such Party from membership in the Authority. A withdrawing party has the right to continue to participate in Board discussions and decisions affecting customers of the CCA Program that reside or do business within the jurisdiction of the Party until the withdrawal's effective date.

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

7.4 Disposition of Property upon Termination of Authority. Upon termination of this Agreement as to all Parties, any surplus money or assets in possession of the Authority for use under this Agreement, after payment of all liabilities, costs, expenses, and charges incurred

under this Agreement and under any Authority Documents, shall be returned to the then-existing Parties in proportion to the contributions made by each.

ARTICLE 8 **MISCELLANEOUS PROVISIONS**

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

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

8.3 Indemnification of Parties. The Authority shall acquire such insurance coverage as the Board deems necessary to protect the interests of the Authority, the Parties and the public. Such insurance coverage shall name the Parties and their respective Board or Council members, officers, agents and employees as additional insureds. The Authority shall defend, indemnify and hold harmless the Parties and each of their respective Board or Council members, officers, agents and employees, from any and all claims, losses, damages, costs, injuries and liabilities of every kind arising directly or indirectly from the conduct, activities, operations, acts, and omissions of the Authority under this Agreement.

8.4 Amendment of this Agreement. This Agreement may be amended in writing by a two-thirds affirmative vote of the entire Board satisfying the requirements described in Section 4.12. Except that, any amendment to the voting provisions in Section 4.12 may only be made by a three-quarters affirmative vote of the entire Board. The Authority shall provide written notice to the Parties at least 30 days in advance of any proposed amendment being considered by the Board. If the proposed amendment is adopted by the Board, the Authority shall provide prompt written notice to all Parties of the effective date of such amendment along with a copy of the amendment.

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

8.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Parties, that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provision shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

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

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

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

The County of Alameda

Director, Community Development Agency

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

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

By: _____

Name: _____

Title: _____

Date: _____

Party: _____

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

if to [PARTY No. ____]

Office of the City Clerk

Eileen Harrington, Deputy
Eileen Harrington 12/2/16

Office of the City Manager/Administrator

Delo
Delo Crumpley

Office of the City Attorney

Craig Labadie
Craig Labadie

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

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

By: D. Williams-Budley

Name: Dee Williams-Ridley

Title: City Manager

Date: December 1, 2016

Party: City of Berkeley

APPROVED AS TO FORM

By Michael Woo
CITY ATTORNEY FOR THE
CITY OF BERKELEY

Registered by:

Ann-Monica Hogan
City Auditor

ATTEST for the City of Berkeley

Wendy Spurr
City Clerk

With a copy to:

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

if to [PARTY No. ____]

City of Dublin
City Manager
100 Civic Plaza
Dublin, CA 94568

Meyers Nave
City Attorney
555 12th Street, Suite 1500
Oakland, CA 94607

if to [PARTY No. ____]

Office of the City Clerk

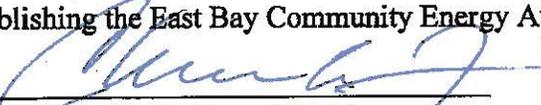
Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

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

By: _____


Christopher L. Foss, City Manager
City of Dublin

Date: _____

12/1/10

Party: _____

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

if to: City of Emeryville

Office of the City Clerk
1333 Park Avenue
Emeryville, CA 94608

Office of the City Manager
1333 Park Avenue
Emeryville, CA 94608

Office of the City Attorney
1333 Park Avenue
Emeryville, CA 94608

if to [PARTY No. _____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

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

By: Carolyn Lehr
Name: Carolyn Lehr
Title: City Manager
Date: 12-1-16
Party: City of Emeryville

APPROVED AS TO FORM:

Michael A. Guina
Michael A. Guina, City Attorney

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

if to [PARTY No. _____]

City of Fremont

Office of the City Clerk
3300 Capitol Ave., Building A
Fremont, CA 94538

Office of the City Manager/Administrator
3300 Capitol Ave., Building A
Fremont, CA 94538

Office of the City Attorney
3300 Capitol Ave., Building A
Fremont, CA 94538

if to [PARTY No. _____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

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

By: 

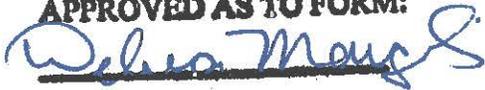
Name: **Jessica von Borck**

Title: **Assistant City Manager**

Date: **12-1-16**

Party: _____

APPROVED AS TO FORM:



Debra S. Margolis
Assistant City Attorney

The County of Alameda

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

With a copy to:

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

City of Hayward

Office of the City Manager
City of Hayward
777 B Street
Hayward, CA 94541

With a copy to:

Office of the City Attorney
City of Hayward
777 B Street
Hayward, CA 94541

ARTICLE 9
SIGNATURE

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

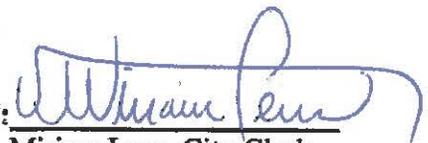
CITY OF HAYWARD, A Municipal Corporation

Date of Approval: 12/16/2016



Kelly McAdoo, City Manager

ATTEST:



Miriam Lens, City Clerk

APPROVED AS TO FORM



Michael Lawson, City Attorney

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

if to City of Livermore

City Clerk's Office
1052 South Livermore Avenue
Livermore, CA 94550

With a copy to:

Public Works Department
Attn: Public Works Manager
3500 Robertson Park Road
Livermore, CA 94550

ARTICLE 9
SIGNATURE

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

By: Marc Roberts

Name: Marc Roberts

Title: City Manager

Date: 1/4/2017

Party: City of Livermore

APPROVED AS TO FORM:



224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

if to [PARTY No. ____]

Office of the City Clerk
1 Frank H. O'Connell Plaza
Oakland, CA 94612

Office of the City Manager/Administrator
1 Frank H. O'Connell Plaza
Oakland, CA 94612

Office of the City Attorney

if to [PARTY No. ____]

Office of the City Clerk

Office of the City Manager/Administrator

Office of the City Attorney

ARTICLE 9
SIGNATURE

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

By:  for SBL

Name: CLAUDIA CAPPIO

Title: ASST CITY ADMINISTRATOR

Date: 12/07/16

Party: CITY OF OAKLAND

ARTICLE 9
SIGNATURE

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

By: Jeff Wieler

Name: Jeffrey Wieler

Title: Mayor

Date: 12/19/16

Party: City of Piedmont

force and effect as an original instrument and as if all Parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

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

The County of Alameda

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

With a copy to:

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

if to the City of San Leandro

Office of the City Clerk
835 East 14th Street
San Leandro, CA 94577

Office of the City Manager/Administrator
835 East 14th Street
San Leandro, CA 94577
Office of the City Attorney
835 East 14th Street
San Leandro, CA 94577

ARTICLE 9
SIGNATURE

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

CITY OF SAN LEANDRO



Chris Zapata, City Manager

Attest:



Tamika Greenwood, City Clerk

Approved as to Form:



Richard D. Pio Roda, City Attorney

224 West Winton Ave.
Hayward, CA 94612

With a copy to:

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

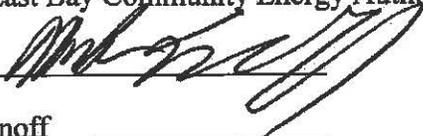
if to The City of Union City [PARTY No. 12]

Office of the City Clerk

Anna M. Brown, City Clerk
34009 Alvarado-Niles Road
Union City, CA 94587

ARTICLE 9
SIGNATURE

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

By: _____ 

Name: Mark Evanoff

Title: Deputy City Manager

Date: December 5, 2016

Party: The City of Union City

EXHIBIT A

-LIST OF THE PARTIES

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

County of Alameda

City of Albany

City of Berkeley

City of Dublin

City of Emeryville

City of Fremont

City of Hayward

City of Livermore

City of Oakland

City of Piedmont

City of San Leandro

City of Union City

DRAFT EXHIBIT B
-ANNUAL ENERGY USE

This Exhibit B is effective as of December 1, 2016.

Party	kWh (2014)
Albany	57,726,000
Berkeley	684,454,000
Dublin	297,219,000
Emeryville	203,591,000
Fremont	1,306,714,000
Hayward	813,048,000
Livermore	498,219,000
Oakland	2,005,389,000
Piedmont	32,768,000
San Leandro	516,830,000
Unincorporated	513,917,000
Union City	356,019,000
<u>Total</u>	<u>7,285,894,000</u>

*Data provided by PG&E

DRAFT EXHIBIT C

- VOTING SHARES

This Exhibit C is effective as of December 1, 2016.

Party	kWh (2014)	Voting Share Section 4.12.2
Albany	57,726,000	.80%
Berkeley	684,454,000	9.39%
Dublin	297, 219,000	4.08%
Emeryville	203,591,000	2.80%
Fremont	1,306,714,000	17.93%
Hayward	813,048,000	11.16%
Livermore	498,219,000	6.83%
Oakland	2,005,389,000	27.52%
Piedmont	32,768,000	.46%
San Leandro	516,830,000	7.09%
Unincorporated	513,917,000	7.05%
Union City	356,019,000	4.89%
<u>Total</u>	<u>7,285,894,000</u>	<u>100%</u>

*Data provided by PG&E

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE IMPLEMENTATION OF A
COMMUNITY CHOICE AGGREGATION PROGRAM
PURSUANT TO CALIFORNIA PUBLIC UTILITIES CODE
SECTION 366.2

WHEREAS, the County of Alameda (“County”) and Alameda County cities, including the City of Newark, have been actively investigating options to provide electricity supply services to constituents within the County with the intent of achieving greater local involvement over the provision of electricity supply services, competitive electric rates, the development of local renewable energy projects, reduced greenhouse gas emissions, and the wider implementation of energy conservation and efficiency projects and programs; and

WHEREAS, Assembly Bill 117, codified as Public Utilities Code Section 366.2 (the “Act”), authorizes any California city or county whose governing body so elects, to combine the electricity load of its residents and businesses in a community wide electricity aggregation program known as Community Choice Aggregation (“CCA”); and

WHEREAS, the Act allows a CCA program to be carried out under a joint powers agreement entered into by entities that each have capacity to implement a CCA program individually. The joint power agreement structure reduces the risks of implementing a CCA program by immunizing the financial assets of participants. To this end, since 2014, the County has been evaluating a potential CCA program for the County and the cities within Alameda County; and

WHEREAS, the County Board of Supervisors voted unanimously in June of 2014 to allocate funding to explore the creation of a CCA Program and directed County staff to undertake the steps necessary to evaluate its feasibility. To assist in the evaluation of the CCA program within Alameda County, the County established a Steering Committee in 2015 comprised of city and stakeholder representatives, that met monthly, advising the Board of Supervisors on the possibility of creating a CCA Program; and

WHEREAS, the Technical Feasibility Study completed in June of 2016 shows that implementing a Community Choice Aggregation program would likely provide multiple benefits to the citizens of Alameda County, including the following:

1. Providing customers a choice of renewable energy providers;
2. Increasing local control over energy rates and other energy-related matters;
3. Providing electric rates that are competitive with those provided by the incumbent utility;
4. Reducing greenhouse gas emissions arising from electricity use;
5. Increasing local and regional renewable generation capacity;
6. Increasing energy conservation and efficiency projects and programs;
7. Increasing regional energy self-sufficiency; and

8. Encouraging local economic and employment benefits through energy conservation and efficiency projects; and

WHEREAS, representatives from the County and Alameda County cities have developed the East Bay Community Energy Authority Joint Powers Agreement (“Joint Powers Agreement”). The Joint Powers Agreement creates the East Bay Community Energy Authority (“Authority”), which will govern and operate the CCA program. The County and the Alameda County cities that elect to participate in the CCA Program shall do so by approving the execution of the Joint Powers Agreement and adopting an ordinance electing to implement a CCA Program, as required by Public Utilities Code Section 366.2(c)(12). In December 2016, the County and Alameda County cities entered into the Joint Powers Agreement; and

WHEREAS, the County and the Alameda County cities that elect to participate in the CCA Program shall do so by approving the execution of the Joint Powers Agreement and adopting an ordinance electing to implement a CCA Program, as required by Public Utilities Code Section 366.2(c)(12); and

WHEREAS, the Authority has entered into agreements with electric power suppliers and other service providers and, based upon those agreements, the Authority provides electrical power to residents and businesses at rates that are competitive with those of the incumbent utility. The California Public Utilities Commission approved the implementation plan prepared by the Authority, and the Authority now provides service to customers within its member jurisdictions. Under Public Utilities Code Section 366.2, customers have the right to opt-out of a CCA program and continue to receive service from the incumbent utility. Customers who wish to continue to receive service from the incumbent utility will be able to do so at any time.

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

Section 1: Recitals and Implementation of a Community Choice Aggregation Program. The above recitals are true and correct and made a part of this Ordinance. The City Council of the City of Newark hereby elects to implement a Community Choice Aggregation program within Alameda County by and through the City’s participation in East Bay Community Energy Authority, pursuant to the authority provided by the California Public Utilities Code.

Section 2: CEQA. The City Council finds, pursuant to Title 14 of the California Administrative Code, Section 15378(b)(5), that this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project. A Project does not include "Organization or administrative activities of governments that will not result in direct or indirect physical changes in the environment." Forming or joining a CCA presents no foreseeable significant adverse impact to the environment over the existing condition because state regulations such as the Renewable Portfolio Standard (RPS) and Resource Adequacy (RA) requirements apply equally to CCAs as they do to private utilities.

Section 3: Severability. Every section, paragraph, clause, and phrase of this Ordinance is hereby declared severable. If, for any reason, any section, paragraph, clause, or phrase is held to be

invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining section, paragraphs, clauses, or phrases.

Section 4: Codification. This Ordinance shall not be codified in the Newark Municipal Code.

Section 5: Publication and Effective Date. This Ordinance shall take effect thirty (30) days from the date of its adoption. Before expiration of fifteen (15) days after its adoption, 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.

3387564.1



City of Newark

Attachment 6

East Bay Clean Energy (EBCE) Community Choice Aggregation (CCA) Energy Program



SOURCE
EBCE



DELIVERY
PG&E



CUSTOMER
YOU

October 24, 2019

Agenda

- **Background** on **CCA's** & **EBCE**
- **Steps to Joining EBCE** and Timeline
- **Risks of Joining EBCE**
- **EBCE Evaluation** by **Mr. Mike Pretto**
of Aspen Environmental Group 



What is CCA?

Community Choice Aggregation

- Established by **AB117** in 2002
- 2 CCAs in 2016
- 19 CCAs in 2019



What is CCA?

Community Choice Aggregation

- Established by **AB117** in 2002
- 2 CCAs in 2016
- 19 CCAs in 2019

rates



Purchases only electricity not gas

Customer's Perspective



Transmission should be seamless



By State law, customer must receive two “opt out” notices



Opt-out notices may compare PG&E rates with projected CCA rates



If customer does not opt-out, then the customer is automatically enrolled and will receive PG&E invoices with line-items for CCA electricity and transmission fee



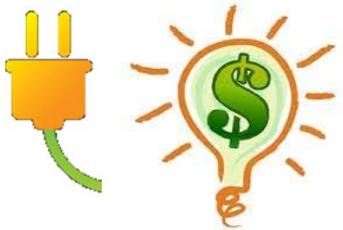
What are the benefits of a CCA?



Increased renewable energy (e.g., solar and wind)



Less greenhouse gas emissions



Competitive electrical rates



CCA is controlled locally by a publicly accountable Board of Directors

EBCE Process to Date

2015

County allocated **\$1.32** million to explore CCA creation

Steering Committee formed
Newark appointed
Council Member Hannon

2016

Joint Powers Authority adopted

All eligible cities in the County joined except Pleasanton and Newark

2017

EBCE hired staff

Began implementation

2018

EBCE went live

2019

Pleasanton and Tracy voted to join

Steps to Joining EBCE

- **Motion** for City Manager to sign PG&E forms to request PG&E data
- **Resolution** to join **EBCE's** Joint Powers Authority
- **Ordinance** to implement **CCA**



Potential Implementation Timeline



Two Risks of Joining

1. **Weighted Voting**
2. **Withdrawal cost** after launch



Risk #1

Voting Process

JPA calls for two types of voting:

1 “Percentage Vote”

- A vote in which each Director receives one equal vote
- A simple majority is needed to pass
- Immediately after the “Percentage Vote” any three Directors could ask for a “Voting Shares Vote”

2 “Voting Shares Vote”

- Each Director’s vote is weighted based on energy consumption
- Not used to date
- Voting shares cannot create new action

Risk #1

Voting Process (continued)

Voting shares would be weighted approximately as follows:

Oakland	21.3%
Fremont	18.1%
Hayward	10.7%
Unincorporated	6.1%
San Leandro	6.0%
Pleasanton	5.7%
Tracy	5.7%
Berkeley	5.5%

Livermore	5.5%
Newark	4.6%
Union City	4.2%
Dublin	3.2%
Emeryville	2.1%
Albany	0.7%
Piedmont	0.3%

Risk #2

Withdrawal Costs After Launch

If a City wants to leave at some point after start-up, then the City “shall” be responsible for:

1. Fair Share of Costs
2. Cost from the resale of power contracts

Questions?





City of Newark

East Bay Clean Energy (EBCE) Community Choice Aggregation (CCA) Energy Program



SOURCE
EBCE



DELIVERY
PG&E



CUSTOMER
YOU

October 24, 2019

Community Choice Aggregation (CCA) Update

Presentation To: Newark City Council Work Session
October 24, 2019



Michael Pretto
Senior Consultant

Discussion Overview

- Evolution of East Bay Community Energy Authority (EBCE) since November 2016
- Key developments and accomplishments – CCAs generally and EBCE in particular
- How would Newark and its residents and businesses benefit from being part of EBCE?
- Is the CCA business model sustainable?
- How will utility bills change?
- Conclusions

Community Choice Aggregation in Alameda County

- In November 2016, the City Council declined to join EBCE
- Since then, EBCE “incorporated,” has assembled a staff, contracted for power and customer service expertise, began retail service in June 2018 to municipal and business accounts, and service to residential accounts in November 2018
- EBCE’s basic “Bright Choice” product is priced 1.5% below the Generation rates in each PG&E rate schedule.
- EBCE’s renewable and GHG-free profile is better than statewide and PG&E profiles: 38% renewable and 85% GHG-free
- EBCE’s Local Development Business Plan focuses on developing local resources and local jobs
- EBCE has become very active in the legislative and regulatory arena

Key Aspects of CCAs

- AB117 was an outgrowth of the 2000 energy crisis, but it took some time for the concept to take hold
- CCAs' main selling points:
 - Local control of electricity supply
 - Emphasis on developing local renewable power projects
 - Higher percentage of renewable and carbon-free supply than PG&E
 - Rates competitive with PG&E
- Two CCAs in 2016 (Marin Clean Energy and Sonoma Clean Power)
- Nineteen CCAs in 2019. Other Bay Area CCAs include:
 - Peninsula Clean Energy
 - Silicon Valley Clean Energy
 - San Francisco Clean Power
 - San Jose Clean Power

Key Aspects of CCAs (Cont.)

- In 2020, CCA sales in northern California are expected to equal PG&E's "bundled" sales
- CCAs have successfully entered into long-term energy purchase agreements
- CCAs routinely work together in the political and regulatory arena, individually and via the California Community Choice Association (CalCCA)
- Some Bay Area CCAs (including EBCE) are working jointly on Integrated Resource Plan filings (and other needs) – thus assuring efficient effort, consistency and preventing regulators from exploiting potential inconsistencies
- Along with rates below PG&E, CCAs are accumulating cash reserves that are critical to achieving investment grade credit ratings and the ability to weather potentially adverse regulatory or political developments
 - Marin has achieved a Baa2 Moody's rating and BBB Fitch rating
 - Peninsula has achieved a Baa2 Moody's rating
 - Based on these rating agencies' criteria, other CCAs should be able to attain investment grade ratings
- CCAs are attracting skilled personnel to fill critical needs

Key EBCE Achievements

- Establishing and maintaining a 1.5% discount to PG&E's generation rates for EBCE's Bright Choice product, plus offering other products:
 - Bright Choice 1.5% discount, 38% renewable & 62% GHG-free
 - Brilliant Choice 0.0% discount, 38% renewable & 100% GHG-free
 - Renewable 100 \$.01 /kwh more than PG&E, 100% renewable
- At the same time, accumulating significant cash reserves in a relatively short time
 - \$62 million cash on hand at June 30, 2019
 - \$130 million cash target for June 30, 2020
 - These targets, if/when achieved, appear to fit rating agency criteria for investment grade credit rating
- Entering into multiple long-term power purchase and battery storage agreements, including Alameda County-focused generation projects
- Achieving high level of customer retention – 4% overall opt-out rate currently

Key EBCE Achievements (Cont.)

- Achieving renewable energy levels superior to PG&E
- Completing and implementing the Local Development Business Plan called for in the EBCEA Joint Powers Agreement
- Engaging well established municipal utility partners to support ongoing operations
 - Northern California Power Agency (NCPA) for power supply and scheduling
 - Sacramento Municipal Utility District (SMUD) for customer service, rate and billing assistance
- Repaying fully EBCE's startup loan from Alameda County
- Implementing financial and risk management policies similar to those of other CCAs and municipal electric utilities

Council Concerns in 2016

- Would EBCE be dominated by large members at the expense of small members?
 - No evidence of any large vs. small member issues
 - Most significant “split” vote was whether EBCE’s discount should be 1.5% or 2.0%.
 - Three large members and soon to be eleven smaller members (twelve counting Newark) – potential influence of larger members would be diminished
- Would EBCE produce lower rates than PG&E?
 - Yes, so far
 - Maintaining lower rates a very important factor to capture and maintain an investment grade rating
- Risk to Newark?
 - None as long as City remains in EBCE

Benefits to Newark Residents & Businesses

- Savings
 - At the current EBCE discount to PG&E, about \$450,000 per year savings to Newark residents and businesses
 - Slight loss of Utility Users Tax and Franchise Fee receipts due to this lower cost of power – about \$20,000 per year
- Power Content
 - EBCE's renewable and GHG-free profile is better than statewide and PG&E profiles:
 - EBCE - 38% renewable and 85% GHG-free
 - Statewide – 31% renewable and 51% GHG-free
 - PG&E – 33% renewable and 78% GHG-free (incl. 27% nuclear)
- Governance
 - Newark will be a member of EBCE's board. This is likely a stronger direct voice than Newark would ever have with PG&E or with the California PUC.

How Will Bills Change?

- Electric Customers in Newark
 - Residential – Roughly 17,200
 - Small Commercial (non-demand) – Roughly 1,300
 - Large Commercial/Industrial – Roughly 600

EBCE vs PG&E Illustrative Residential Bills*

	Bright Choice	Brilliant 100	Renewable 100	PG&E	PG&E SolarChoice
Average Monthly Bill (\$)	89.05	89.68	93.48	89.68	97.06
Generation Rate (\$/kWh)	0.07622	0.07790	0.08790	0.09850	0.09850
PG&E Delivery Rate (\$/kWh)	0.13004	0.13004	0.13004	0.13004	0.13004
PG&E PCIA/FF (\$/kWh)	0.03404	0.03404	0.03404	N/A	0.03346
Total Electricity Cost (\$/kWh)	0.24030	0.24198	0.25198	0.24198	0.26200



*From EBCE Website-Based on 370 kwh/month

Residential Bill Changes



ENERGY STATEMENT
www.pge.com/MyEnergy

Account No: [REDACTED]
Statement Date: 08/23/2018
Due Date: 09/13/2018

Service For:
[REDACTED]

Questions about your bill?
Monday-Friday 7 a.m.-9 p.m.
Saturday 8 a.m.-6 p.m.
Phone: 1-866-743-0335
www.pge.com/MyEnergy

Local Office Address
1900 Addison Street Ste 101
Berkeley, CA 94704

Your Account Summary

Amount Due on Previous Statement	\$129.66
Payment(s) Received Since Last Statement	-129.66
Previous Unpaid Balance	\$0.00
Current PG&E Electric Delivery Charges	\$94.70
EAST BAY COMMUNITY ENERGY Electric Generation Charges	39.56
Current Gas Charges	40.89
Total Amount Due by 09/13/2018	\$175.15

EBCE's charges appear on the customer's PG&E Energy Statement

Residential Bill Changes (Cont.)

Details of PG&E Electric Delivery Charges

07/19/2018 - 08/17/2018 (30 billing days)

Rate Schedule: E1 T Residential Service

07/19/2018 – 08/17/2018	Your Tier Usage	1	2	
Tier 1 Allowance	210.00 kWh	(30 days x 7.0 kWh/day)		
Tier 1 Usage	210.000000 kWh	@ \$0.21169		\$44.45
Tier 2 Usage	287.000000 kWh	@ \$0.27993		80.34
Generation Credit				-53.58
Power Charge Indifference Adjustment				16.63
Franchise Fee Surcharge				0.27
Oakland Utility Users' Tax (7.500%)				6.59

Total PG&E Electric Delivery Charges \$94.70

2017 Vintaged Power Charge Indifference Adjustment

PG&E Generation component subtracted, PCIA added

Details of EAST BAY COMMUNITY ENERGY Electric Generation Charges

07/19/2018 - 08/17/2018 (30 billing days)

07/19/2018 – 08/17/2018

Rate Schedule: E1-Brilliant 100			
Flat	497.000000 kWh @ \$0.07379		\$36.67
	Net Charges	36.67	
Local Utility Users Tax (7.500%)			2.75
Energy Commission Tax			0.14
East Bay Community Energy is your local electricity provider. We offer affordable rates and more clean energy.			

Total EAST BAY COMMUNITY ENERGY Electric Generation Charges \$39.56

And PG&E Generation component replaced by EBCE Generation Charges



Commercial/Industrial Bills

- Commercial/Industrial bills have a slightly more detailed format
- The EBCE website contains a useful illustration:
 - See <https://ebce.org/commercial-billing-page/>

Conclusions

- CCAs have become a significant portion of the energy procurement market in California
- Council's concerns in 2016 appear to have been addressed
- EBCE appears to be appropriately managing its going forward risk

Thank You

Questions?

I.1 Approval of appointment of Planning Commissioner Aguilar to the Community Development Advisory Committee – from Mayor Nagy. (RESOLUTION)

Background/Discussion – The Community Development Advisory Committee (CDAC) is an appointed committee that provides recommendations to the City Council for the use of Community Development Block Grant funds and to the Community Development Director on priorities for the use of Housing funds.

The CDAC consists of two City Council Members, two Planning Commissioners and the balance from the community. Planning Commissioner Bernie Nillo passed away in May, which has created the need for a new Planning Commission representative to the CDAC. Mayor Nagy recommends that Planning Commissioner Jeff Aguilar fill this vacancy.

Attachment - Resolution

Action - It is recommended that the City Council, by resolution, appoint Planning Commissioner Jeff Aguilar to the Community Development Advisory Committee.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK APPOINTING PLANNING COMMISSIONER JEFF
AGUILAR TO THE COMMUNITY DEVELOPMENT
ADVISORY COMMITTEE

WHEREAS, the Community Development Advisory Committee is an appointed committee that provides recommendations to the City Council for the use of Community Development Block Grant funds and to the Community Development Director on priorities for the use of Housing funds; and

WHEREAS, the Community Development Advisory Committee membership consists of two City Council Members, two Planning Commissioners and the balance from the community; and

WHEREAS, the passing of Bernie Nillo has created a vacancy in one of the Planning Commission representative seats on the Community Development Advisory Committee, and

WHEREAS, the Mayor of the City of Newark has appointed Jeff Aguilar to serve on the Community Development Advisory Committee as one of the Planning Commission representatives;

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



City of Newark

MEMO

DATE: October 14, 2019

TO: City Council

FROM: Sheila Harrington, City Clerk 

SUBJECT: Approval of Audited Demands for the City Council Meeting of October 24, 2019.

REGISTER OF AUDITED DEMANDS

US Bank General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
October 03, 2019	Page 1	119126 to 119174	Inclusive
October 11, 2019	Page 1-2	119175 to 119251	Inclusive



City of Newark

MEMO

DATE: October 14, 2019

TO: Sheila Harrington, City Clerk

FROM: Krysten Lee, Finance Manager 

SUBJECT: Approval of Audited Demands for the City Council Meeting of October 24, 2019.

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

Final Disbursement List. Check Date 10/03/19, Due Date 10/14/19, Discount Date 10/14/19. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119126	10658	4LEAF, INC.	10/03/19	64.71	ENGINEERING PLAN CHECK AND CONSULTANT SE
119127	10736	ABACUS PRODUCTS INC	10/03/19	1,336.16	PRINTING SVCS
119128	10	ABC FIRE PROTECTION INC	10/03/19	5,206.24	FIRE SUPPLIES/SERVICES/MAINTENANCE
119129	10449	AFLAC ATTN: REMITTANCE PROCESSING SERVIC	10/03/19	1,338.80	SHORT TERM DISABILITY PREMIUM
119130	10662	ALLIANT INSURANCE SERVICES ATTN: ACCOUNT	10/03/19	9,468.00	SPECIAL EVENT INSURANCE
119131	8414	ANDRE'S MECHANICAL & GENERAL ENGINEERING	10/03/19	990.00	SUMP PUMP REPAIRS
119132	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECEI	10/03/19	146.34	BATTERIES
119133	5122	JEREMY BECK	10/03/19	122.73	EXPENSE REIMBURSEMENT
119134	10969	GORETTI CHUN	10/03/19	97.91	EXPENSE REIMBURSEMENT
119135	10794	DUKE DE LEON	10/03/19	195.00	VIDEO SERVICES
119136	7631	DELTA DENTAL OF CALIFORNIA ATTN: ACCOUNT	10/03/19	14,303.11	DENTAL PREMIUM - OCT'19
119137	7641	DELTA DENTAL INSURANCE COMPANY ATTN: ACC	10/03/19	413.20	DENTAL PREMIUM - OCT'19
119138	5331	DESILVA GATES CONSTRUCTION	10/03/19	341,088.00	CIP #1227 AND #1245 ASPHALT CONCRETE OVE
119139	11081	DEPARTMENT OF GENERAL SERVICES DIVISION	10/03/19	99.20	CA STATE CASP FEES (AB1379)
119140	11015	EAST BAY LAWN MOWER	10/03/19	542.10	MISC PARK SUPPLIES AND EQUIPMENT
119141	7663	FIDELITY SECURITY LIFE INSURANCE/EYEMED	10/03/19	1,784.97	VISION PREMIUM
119142	1733	FIRST BAPTIST CHURCH	10/03/19	80.00	DONATION - SEPT'19
119143	550	FREMONT RUBBER STAMP CO INC	10/03/19	162.74	STAMPERS/DESK SIGNS
119144	11646	GACHINA LANDSCAPE MANAGEMENT, INC.	10/03/19	462.00	LANDSCAPE REPAIRS
119145	10707	GYM DOCTORS	10/03/19	170.00	FITNESS EQUIPMENT
119146	10319	NICK ICASIANO	10/03/19	705.73	EXPENSE REIMBURSEMENT
119147	11546	INDUSTRIAL PLUMBING SUPPLY, LLC.	10/03/19	496.90	PLUMBING SUPPLIES AND PARTS
119148	10749	JACK JAMES TOW INC	10/03/19	231.00	TOWING
119149	11467	SOFIA MANGALAM	10/03/19	13.64	EXPENSE REIMBURSEMENT
119150	11309	MANUEL FERNANDEZ CONSTRUCTION	10/03/19	284.01	PARK FACILITIES REPAIR WORK
119151	7618	METLIFE SBC	10/03/19	1,362.81	LONG TERM DISABILITY PREMIUM
119152	10907	MICHAEL YORKS INVESTIGATIONS	10/03/19	6,150.00	BACKGROUND INVESTIGATIONS
119153	10865	NEW IMAGE LANDSCAPE	10/03/19	1,365.31	LANDSCAPE REPAIR
119154	349	PACIFIC GAS & ELECTRIC	10/03/19	19,859.04	STREETLIGHTS/TRAFFIC SIGNALS
119155	11322	PAPA JOHNS PIZZA	10/03/19	416.00	BIRTHDAY AND CAFE FOOD
119156	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	10/03/19	75.00	PEST CONTROL SERVICES
119157	4507	PETERSON	10/03/19	12.91	EQUIPMENT MAINTENANCE
119158	11640	PLAN JPA C/O YORK	10/03/19	5,223.03	DEDUCTIBLE COSTS
119159	11547	RLSAFETY, INC.	10/03/19	308.33	AED SUPPLIES
119160	11573	REYES COCA-COLA BOTTLING LLC.	10/03/19	459.90	CAFE BEVERAGE SERVICE
119161	740	ROSS RECREATION EQUIPMENT, INC.	10/03/19	66,475.04	RECYCLED CONTENT FURNITURE FOR SPORTSFIE
119162	11074	RUTAN & TUCKER LLP	10/03/19	15,836.00	LEGAL CONSULTING SRVCS PURSUANT TO C1902
119163	654	SFPUC-WATER DEPARTMENT CUSTOMER SERVICE	10/03/19	3,359.19	RENT/WATER
119164	5164	SAN MATEO REGIONAL NETWORK INC SMRN.COM	10/03/19	175.00	12 MONTHS SMTP PREMAIL MAIL FILTERING
119165	11181	BRIAN SIMON	10/03/19	1,295.65	EXPENSE REIMBURSEMENT
119166	11741	SPORTSFIELD SPECIALTIES, INC.	10/03/19	16,277.18	CIP #1192 SPORTSFIELD PARK FIELDS AND SK
119167	503	STANDARD INSURANCE COMPANY	10/03/19	607.84	EMPLOYEE LIFE INSURANCE AND AD&D COVERAG
119168	11744	SYSCO - SAN FRANCISCO	10/03/19	460.79	FOOD ITEMS FOR CAFE AND PARTIES
119169	11644	TIREHUB, LLC.	10/03/19	314.94	TIRES
119170	8751	PROVIDENT LIFE & ACCIDENT INSURANCE COMP	10/03/19	261.24	PAYROLL PREMIUM - E0246926
119171	11487	VANIR CONSTRUCTION MANAGEMENT, INC.	10/03/19	28,561.50	CONSTRUCTION MANAGEMENT SERVICES FOR THE
119172	11720	MICHELE VILLANUEVA	10/03/19	233.40	EXPENSE REIMBURSEMENT
119173	143	IDN WILCO	10/03/19	931.60	SUPPLIES
119174	11466	YORK RISK SERVICES GROUP, INC.	10/03/19	3,104.67	WORKERS COMPENSATION ADMINISTRATION FEES
Total				552,928.86	

Final Disbursement List. Check Date 10/11/19, Due Date 10/21/19, Discount Date 10/21/19. Computer Checks.
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MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119175	10736	ABACUS PRODUCTS INC	10/11/19	154.58	PRINTING SVCS
119176	1396	ALAMEDA COUNTY FIRE DEPARTMENT ATTN: ACC	10/11/19	929.34	FIRE DEPARTMENT MAINTENANCE AND SUPPLIES
119177	14	ALPINE AWARDS	10/11/19	1,655.11	POLOS
119178	11362	ANNETTE PAREDES	10/11/19	49.45	EXPENSE REIMBURSEMENT
119179	11227	GUSTAVO ARROYO	10/11/19	4,352.37	EXPENSE REIMBURSEMENT
119180	11445	ASPEN ENVIRONMENTAL GROUP	10/11/19	895.00	PROFESSIONAL SRVCS PURSUANT TO AGMT C190
119181	9680	BAY CENTRAL PRINTING	10/11/19	63.78	BUSINESS CARDS
119182	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	10/11/19	1,623.50	SPORTS OFFICIATING
119183	7275	PETER BEIREIS	10/11/19	65.10	EXPENSE REIMBURSEMENT
119184	11717	GVP VENTURES INC. DBA BOB MURRAY & ASSOC	10/11/19	504.55	PROFESSIONAL SERVICES
119185	9888	BUREAU VERITAS NORTH AMERICA INC.	10/11/19	511.82	BUILDING PLAN CHECK SERVICES
119186	11767	BURKETT AND SONS INC.	10/11/19	115.44	SECOND CHANCE SINK - SALES TAX
119187	11778	KIMBERLEE CATON	10/11/19	46.00	EDUCATIONAL REIMBURSEMENT FOR KIMBERLEE
119188	11563	CENTRAL VALLEY TOXICOLOGY, INC.	10/11/19	400.00	LAB TESTS
119189	6304	CLASSIC GRAPHICS T & J LEWIS INC	10/11/19	3,533.89	VEHICLE & EQUIPMENT REPAIR AND SUPPLIES
119190	3751	BRYAN COBB	10/11/19	23.78	EXPENSE REIMBURSEMENT
119191	10060	COMCAST	10/11/19	293.64	CABLE SERVICE
119192	11121	CONSTRUCTION TESTING SERVICES	10/11/19	17,710.06	CIP #1192 SPORTSFIELD PARK
119193	10650	COUNTY OF ALAMEDA LIBRARY ATTN: DARSHAN	10/11/19	147.36	REFUND OF OVERPAYMENT
119194	10649	LENNAR HOMES OF CALIFORNIA	10/11/19	153.01	REFUND OF OVERPAYMENT
119195	10793	SANDRA GARCIA	10/11/19	233.00	REFUND
119196	10793	ELIZABETH VASQUEZ	10/11/19	300.00	RENTAL DEPOSIT REFUND
119197	10793	SHARI YU	10/11/19	500.00	RENTAL DEPOSIT REFUND
119198	10793	SAM LOVATO	10/11/19	300.00	RENTAL DEPOSIT REFUND
119199	41	DALE HARDWARE	10/11/19	586.43	SUPPLIES
119200	3130	DOWNTOWN FORD SALES	10/11/19	53,420.40	PROJECT 2019-8 F-450
119201	11705	ECO IMPRINTS, INC.	10/11/19	910.62	METAL STRAWS FOR COMMUNITY EVENTS OUTREA
119202	11587	ECS IMAGING, INC.	10/11/19	827.82	DOCUMENT IMAGING
119203	11643	F.S.O.C. LLC	10/11/19	278.40	SWAT SUPPLIES
119204	522	FEDEX	10/11/19	45.47	PACKAGE DELIVERY
119205	234	FREMONT ALARM C/O JOE TRIMBLE	10/11/19	124.51	ALARM REPAIRS
119206	60	FREMONT FORD/AUTOBODY OF FREMONT ATTN: T	10/11/19	209.21	FLEET PARTS
119207	10707	GYM DOCTORS	10/11/19	578.82	FITNESS EQUIPMENT
119208	167	HARRIS COMPUTER SYSTEMS	10/11/19	10,690.74	6 MONTHS HARRIS SELECT MAINTENANCE
119209	9246	DAVID HIGBEE	10/11/19	358.70	EXPENSE REIMBURSEMENT
119210	1591	PHILIP H HOLLAND	10/11/19	200.00	RESERVE UNIF ALLOWANCE
119211	10221	YAMA HOMAYOUN	10/11/19	951.14	EXPENSE REIMBURSEMENT
119212	1457	HOME DEPOT CREDIT SERVICES DEPT. 32 - 25	10/11/19	1,102.56	SUPPLIES
119213	7593	BRUCE HOWCROFT	10/11/19	200.00	RESERVE UNIF ALLOWANCE
119214	7841	INTERNATIONAL CODE COUNCIL, INC.	10/11/19	1,307.99	2019 CODE BOOKS
119215	4132	J E PERRY FARMS	10/11/19	506.00	PRESCHOOL/KINDERTOT PUMPKIN PATCH FIELD
119216	2540	DEOL OIL JARVIS SHELL	10/11/19	1,598.03	PATROL VEHICLE CLEANING
119217	11402	JESSICA RIVAS	10/11/19	32.71	EXPENSE REIMBURSEMENT
119218	11681	KBA DOCUMENT SOLUTIONS, LLC.	10/11/19	286.36	COPIER LEASE AGREEMENT
119219	10486	SHAKATI KHALSA	10/11/19	180.00	RECREATION CONTRACT
119220	11393	KRYSTEN LEE	10/11/19	609.13	EXPENSE REIMBURSEMENT
119221	11736	MANAGEMENT PARTNERS INC.	10/11/19	5,425.16	MANAGEMENT SERVICES
119222	11309	MANUEL FERNANDEZ CONSTRUCTION	10/11/19	4,366.73	REPAIRS
119223	3005	JEFFREY MAPES	10/11/19	174.41	EXPENSE REIMBURSEMENT
119224	11344	MEDCOM	10/11/19	2,425.00	ACA REPORTING
119225	11698	KRISTIN TRAN	10/11/19	259.20	RECREATION CONTRACT

Final Disbursement List. Check Date 10/11/19, Due Date 10/21/19, Discount Date 10/21/19. Computer Checks.

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MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119226	611	KKR AUTOMOTIVE DBA NAPA AUTO PARTS	10/11/19	835.10	FLEET PARTS
119227	10865	NEW IMAGE LANDSCAPE	10/11/19	14,483.04	PROJECT 1186C PARK AND LANDSCAPE SERVICE
119228	349	PACIFIC GAS & ELECTRIC	10/11/19	121.10	STREETLIGHTS/TRAFFIC SIGNALS
119229	11322	PAPA JOHNS PIZZA	10/11/19	671.50	CAFE AND BIRTHDAY FOOD
119230	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	10/11/19	327.00	PEST CONTROL SERVICES
119231	10729	PETTY CASH CUSTODIAN-CASHIER RAQUEL THOM	10/11/19	18.70	PETTY CASH REPLENISHMENT
119232	329	PHOENIX GROUP INFORMATION SYSTEMS	10/11/19	368.35	PARKING CITATION PROGRAM
119233	11376	QUINCY ENGINEERING INC	10/11/19	36,412.56	PROFESSIONAL ENGINEERING SERVICES FOR CE
119234	1282	EDDA RIVERA	10/11/19	43.04	EXPENSE REIMBURSEMENT
119235	5212	SIEMENS INDUSTRY, INC C/O CITYBANK (BLDG	10/11/19	4,930.00	CONTRACTUAL SERVICES
119236	4876	PATRICK SMITH	10/11/19	144.02	EXPENSE REIMBURSEMENT
119237	40	STAPLES ADVANTAGE DEPT LA	10/11/19	1,127.50	OFFICE SUPPLIES
119238	11175	SUPPORT WAREHOUSE LTD	10/11/19	1,635.00	3 MONTH EXTENDED WARRANTIES ON HP SERVER
119239	7744	T-MOBILE	10/11/19	392.87	TMOBILE CELL SERVICE
119240	10883	THE TACTICAL ADVANTAGE POLICE SUPPLY	10/11/19	2,304.02	VEST REPLACEMENT #2020-09
119241	5463	MARY TEIXEIRA	10/11/19	10.44	EXPENSE REIMBURSEMENT
119242	11776	TYLER TECHNOLOGIES, INC.	10/11/19	57,200.00	ERP IMPLEMENTATION
119243	6797	US BANK CORPORATE PAYMENT	10/11/19	20,804.95	CC PAYMENT 09/23/19
119244	11708	UNIVERSAL BUILDING SERVICES & SUPPLY CO.	10/11/19	31,070.00	JANATORIAL SERVICES
119245	11585	V5 SYSTEMS INC.	10/11/19	643.68	TECH NEEDS/MAINT
119246	5623	VERIZON WIRELESS	10/11/19	4,404.32	VERIZON CELL PHONE SERVICE
119247	5623	VERIZON BUSINESS SERVICES	10/11/19	626.13	CELL SVC FOR MDTS
119248	5050	WEST COAST ARBORISTS INC	10/11/19	53,310.50	PARK TREE GRID PRUNE
119249	11417	WHOLESALE DISTRIBUTION ALLIANCE	10/11/19	684.00	RETAIL SUPPLIES
119250	11466	YORK RISK SERVICES GROUP ATTN: CLIENT TR	10/11/19	26,637.90	WORKERS COMPENSATION CLAIMS #NEWAR-09301
119251	3245	ZUMAR INDUSTRIES INC	10/11/19	774.66	SIGNS AND HARDWARE
Total				382,196.70	

**M.1 Closed session pursuant to Government Code Section 54957
Public Employee Performance Evaluation
Title: City Manager.**