

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, January 23, 2020

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the special and regular City Council meetings of, December 12, 2019 and January 9, 2020. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Introduction of employee.**

- C.2 Commending Police Officers Fredstrom, Hernandez and Pacheco for their life saving actions. (COMMENDATION)**

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

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

CONSENT

- F.1 Authorization for the purchase of a replacement street sweeper from Owen Equipment and authorizing the City Manager to execute a four-year Master Lease-Purchase Agreement with PNC Equipment Finance, LLC – from Maintenance Superintendent Connolly. (RESOLUTION)**

- F.2 Authorization for the purchase of a replacement large area rotary mower from Turf Star, Inc. and authorizing the City Manager to execute the Contractual Equipment and Services Agreement – from Maintenance Superintendent Connolly. (RESOLUTION)**

- F.3 Authorization for the purchase of a replacement front line fire engine (pumper) from Golden State Fire Apparatus, Inc. and authorizing the City Manager to enter into a nine-year Master Lease-Purchase Agreement with PNC Equipment Finance, LLC – from Maintenance Superintendent Connolly. (RESOLUTION)**

- F.4 Amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019/20 for General Revisions and Operating Increases – from Finance Manager Lee. (RESOLUTION)**

NONCONSENT

- F.5 Authorization for the City to accept the First 5 Alameda County Early Learning Communities Network Grant to develop an Early Learning Action Plan and amending the 2019-2020 Budget – from Recreation and Community Services Director Zehnder. (RESOLUTION)**

- G. CITY ATTORNEY REPORTS**

- H. ECONOMIC DEVELOPMENT CORPORATION**

- I. CITY COUNCIL MATTERS**

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

- K. ORAL COMMUNICATIONS**

L. APPROPRIATIONS

Approval of Audited Demands.

(MOTION)

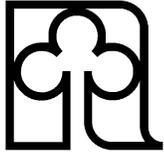
M. CLOSED SESSION

**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
7:30 p.m.
City Council Chambers

AGENDA

Thursday, January 23, 2020

CITY COUNCIL:

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

CITY STAFF:

David J. Benoun
City Manager

Michael Carroll
Interim 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/PLANNING COMMISSION

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

City Administration Building
37101 Newark Boulevard
City Council Chambers, 6th Fl.
5:30 p.m.

Minutes **Special Meeting**

Thursday, December 12, 2019

A. CALL TO ORDER/ROLL CALL

Mayor Nagy called the meeting to order at 5:30 p.m. Present were Council Members Collazo, Bucci and Hannon, and Planning Commissioners Fitts, Otterstetter, Aguilar, Becker and Bridges. Council Member Freitas was absent as he owns property in the area to be discussed.

Vice Mayor Collazo stated she was recusing herself as she owns property in the area to be discussed. Vice Mayor Collazo exited the City Council Chambers.

B. JOINT WORK SESSION ON THE OLD TOWN NEWARK SPECIFIC PLAN

Deputy Community Development Director Interiano introduced the consultants Mark Rhoades, Principal for Rhoades Planning Group; Jean Eisberg, Project Manager for Lexington Planning; and Jane Lin, Principal for Urban Fields Studio.

Deputy Community Development Director Interiano stated that the City began this plan in 2018 with the goal of revitalizing Old Town by incorporating a vibrant mixed-use area to attract ground retail with residential above. The plan would include a new streetscape to enhance the look of the area and be pedestrian-friendly.

The City has adopted a vision for this area through the general plan, completed studies, and adopted mixed-use zoning. The consultant's purpose is to identify why this vision has not been implemented and identify what changes should be made to carry out implementation and better facilitate that vision.

Representatives from the Rhoades Planning Group gave their presentation (on file with the City Clerk). The goals that have emanated from previous studies over the past 18 months and the two community workshops are: 1) Give Old Town a sense of place, 2) Create a walkable, pedestrian environment with streetscape enhancements on Thornton Avenue, 3) Keep local community members in the neighborhood, 4) Align development standards with neighborhood and market expectations to revitalize the neighborhood, and 5) Strengthen retail in the commercial core to attract more customers.

Council Members and Planning Commissioners had concerns about rents rising, gentrification, and incentivizing property owners to invest money into upgrading their

properties. There were also concerns with traffic and parking issues, height limits, and funding possibilities.

Ms. Lin presented the streetscape as a way to incentivize retailers and property owners to invest in their properties. If the City were to invest in redesigning the infrastructure it could motivate property owners to develop their properties. The Old Town Newark Specific Plan 35% schematic design can be used to apply for grant money to complete the road improvements.

At the next meeting the City Council and Planning Commission would like to see:

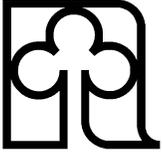
1. Average area rents from neighboring cities for comparison;
2. Rental rates as compared to square footage construction costs that would need to be achieved in order to break even;
3. The traffic impact on Thornton Avenue on the morning and evening commutes
4. A list of cities in the Bay Area utilizing three-story structures;
5. Potential areas for parking (either surface or structure) and how many parking spaces could be allocated; and
6. When the traffic study is complete, make sure the City's streets policy is included in the plan.

Ms. Eisberg anticipated that the Old Town Specific Plan would be drafted by spring.

C. ADJOURNMENT

Mayor Nagy adjourned the meeting at 7:00 p.m.

KATHLEEN L. SLAFTER
Deputy City Clerk



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

DRAFT

Thursday, December 12, 2019

A. ROLL CALL

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

B. MINUTES

B.1 Approval of Minutes of the City Council meeting of November 14, 2019.

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

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Mayor Nagy introduced General Laborers Josue Lopez-Duenas, Miguel Sanchez-Casillas, and Public Safety Clerk Laura Da Silva to the City Council.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Approval to make a finding that City modifications to the State codes identified below are reasonably necessary because of local climatic, geological, or topographical conditions and hearing to consider adopting an ordinance amending the Newark Municipal Title 15 (Building and Construction), Article I (Building Regulations), Chapters 15.08 (California Building Code), 15.09 (California Residential Code), 15.10 (California Mechanical Code), 15.12 (California Electrical Code), 15.16 (California Plumbing Code), 15.17 (California Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), 15.23 (California Green Building Standards Code)

**MOTION APPROVED - FINDINGS
ORDINANCE NO. 518**

Chief Building Official / City Architect Collier gave the staff report recommending approval.

Mayor Nagy opened the public hearing at 7:42 p.m.

No one from the audience spoke.

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

Council Member Hannon moved, Vice Mayor Collazo seconded, that the City Council, by motion, make a finding that City modifications to the State codes are reasonably necessary because of local climatic, geological, or topographical conditions and adopt an ordinance to amend Newark Municipal Code Title 15 (Buildings and Construction), Article I (Building Regulations), Chapters 15.08 (Building Code), 15.09 (Residential Code), 15.10 (Mechanical Code), 15.12 (Electrical Code), 15.16 (Plumbing Code), 15.17 (Fire Code), 15.18 (California Referenced Standards Code), 15.20 (California Historical Building Code), 15.21 (California Existing Building Code), 15.22 (California Energy Code), and 15.23 (California Green Building Standards Code). The motion passed, 5 AYES.

F. CITY MANAGER REPORTS

Council Member Bucci moved, Vice Mayor Collazo seconded, to approve Consent Calendar Items F.1 through F.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 5 AYES.

CONSENT

- F.1 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8436 – Bridgeway Phase II (Lennar Homes of California, Inc.), a 243-unit residential subdivision within the Bayside Newark Specific Plan project area**
RESOLUTION NO. 11007
CONTRACT NO. 19061
- F.2 Approval of the 2020 Local Appointments List**
MOTIONS-3 APPROVED
- F.3 Authorizing the City Manager to execute a Side Letter Agreement with the City Officials and the Management, Supervisory, and Professional Employee Group to reinstate the classification Assistant Planner**

RESOLUTION NO. 11008

- F.4 Authorization for the City Manager to execute change orders with Tyler Technologies New World and related implementation services and to execute future change orders within the project budget**

RESOLUTION NO. 11009**CONTRACT NO. 19045****NONCONSENT**

- F.5 Approval of the cost-based adjustment increase of 6.51% to solid waste collection, recycling, and organics services maximum rates for Calendar Year 2020**

RESOLUTION NO.11010

Senior Administrative Analyst Khuu-Seeman gave the staff report recommending approval.

Prior to setting the 2020 maximum rates for solid waste collection, recycling, and organics, Republic Services requested a cost-based analysis. They requested this thorough, in depth financial review for three reasons: 1) increased recycling processing costs due to China's national policy, 2) Newark's growth, and 3) bad debt.

The City of Newark's consultant, Garth Schultz, Principal, R3 Consulting Group, Inc., helped perform the analysis and gave the presentation (on file with the City Clerk). Republic Services representatives Joe Pulickal, Business Unit Finance Manager, and Emily Phillips, Municipal Relationship Manager, answered questions.

Republic Services originally requested a 9.4% increase (Rate Period #7). At the conclusion of the analysis R3 Consulting Group recommended a 6.57% increase and Republic Services has agreed.

Council Members were concerned that this increase would be a hardship for seniors and low income families and asked if Republic Services offered any help. Emily Phillips stated that there are programs that offer reduced rates to seniors and low income families. Residents also have the option of downsizing their containers to reduce the cost.

Council Member Hannon requested that staff: 1) Revisit an ordinance that allows for putting liens on delinquent accounts, 2) Include a table showing the different levels of service in Fremont and Union City in future reports, and 3) Research if services could be increased at locations.

In response to Mayor Nagy stating he has seen many commercial trash bins overflowing with garbage on a regular basis, Ms. Phillips stated they would follow up.

Council Member Bucci moved, Vice Mayor Collazo seconded, to, by resolution, authorize the cost-based adjustment increase of 6.51 % to the solid waste collection, recycling and organics services maximum rates for Calendar Year 2020. The motion passed, 5 AYES.

F.6 Approval of an Exception to the 180-Day Waiting Period for Post-Retirement Employment for Michael Carroll to serve as Interim Police Chief
RESOLUTION NO.11011

City Manager Benoun gave the staff report recommending approval.

Council Member Hannon moved, Vice Mayor Collazo seconded, to adopt a resolution to approve an exception to the 180-day waiting period for post-retirement employment for Michael Carroll to serve as Interim Police Chief pursuant to Government Code sections 7522.56 and 21221(h). The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

I.1 Reappointment of Eric Hentschke to the Alameda County Mosquito Abatement District
RESOLUTION NO. 11012

Mayor Nagy recommended the reappointment of Eric Hentschke.

Council Member Freitas moved, Council Member Bucci seconded, to, by resolution, approve the reappointment of Eric Hentschke to the Alameda County Mosquito Abatement District, for a term to expire on January 31, 2024. The motion passed, 5 AYES.

I.2 Appointment of Vice Mayor and authorization for the Vice Mayor to sign and endorse checks, warrants, and other instruments

MOTION APPROVED
RESOLUTION NO. 11013

Mayor Nagy thanked Vice Mayor Collazo for her service as Vice Mayor.

Mayor Nagy nominated Council Member Freitas as Vice Mayor.

Council Member Bucci moved, Council Member Collazo seconded, by motion, to appoint Council Member Freitas as Vice Mayor and, by resolution, to authorize the new Vice Mayor to sign and endorse checks, warrants, and other instruments. The motion passed, 5 AYES.

I.3 Appointments of City Council Members to agencies, boards, commissions, and committees **RESOLUTION NO. 11014**

Alameda County Fire Advisory Commission	Council Members Bucci and Collazo – delegate and alternate
Alameda County Library Advisory Commission	Council Members Collazo and Mayor Nagy – delegate and alternate
Alameda-Contra Costa Transit District Policy Advisory Committee	Council Members Bucci and Hannon – delegates
Alameda County Transportation Commission	Council Members Freitas and Collazo – delegate and alternate
Alameda County Waste Management Authority Board/Stopwaste.org	Council Members Hannon and Freitas – delegate and alternate
Association of Bay Area Governments (ABAG)	Council Member Bucci and Mayor Nagy – delegate and alternate
Community Development Advisory Committee	Mayor Nagy and Council Member Freitas – delegates
Dumbarton Rail Policy Advisory Committee	Mayor Nagy and Council Member Bucci – delegate and alternate
Newark City Council –Board of Education Liaison Committee	Council Members Hannon and Collazo – delegates
Tri-City Elder Coalition	Mayor Nagy - delegate
Senior Citizen Standing Advisory Committee	Mayor Nagy delegate and chairperson
Southern Alameda County Geographic Information System Authority	Mayor Nagy - delegate Council Member Bucci - alternate
Tri-City Waste Facility Financing	Mayor Nagy and Council Member Hannon – Authority delegates

In addition to the annual assignments, Mayor Nagy appointed Council Member Hannon as a delegate and himself as an alternate to the East Bay Community Energy Board of Directors.

Council Member Collazo moved, Council Member Bucci seconded, to by resolution, approve the appointments to the various agencies, boards, commissions, and committees. The motion passed, 5 AYES.

Mayor Nagy wished everyone a happy holiday season and a Merry Christmas. He stated that he would adjourn the meeting in memory of James B. Gordon, Jr. who recently passed away. Mr. Gordon served on the City Council and Planning Commission from 1978 to 1980. He offered his condolences to the Gordon family.

The council members offered thanks and condolences to the Gordon family and wished everyone a Merry Christmas and a safe and prosperous new year.

Vice Mayor Freitas stated that Alameda County Transportation Commission Executive Director Arthur Dao retired. Tess Lengyel was appointed as the new executive director. She would like to make a presentation to the City Council next year. Vice Mayor Freitas asked Public Works Director Fajeau to contact Ms. Lengyel to arrange a tour of Area 4. He also asked that Mr. Fajeau contact the ACTC Chair of the Finance Committee, Scot Haggerty, to discuss Measure B funds regarding the Central overpass and the east-west corridor.

Council Member Collazo stated she enjoyed serving as vice mayor and Council Member Hannon thanked her for her service.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

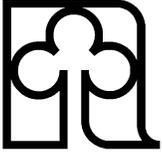
Deputy City Clerk Slafter read the Register of Audited Demands: Check numbers 119454 to 119704.

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 8:45 p.m. in memory of James B. Gordon, Jr.



CITY OF NEWARK CITY COUNCIL

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SPECIAL MEETING 6:30 p.m.

Draft

Thursday, January 9, 2020

**City Administration Building
Fifth Floor Conference Room**

A. ROLL CALL

Mayor Nagy called the meeting to order at 6:36 p.m. Present were Council Members Collazo, Hannon, Freitas, and Bucci.

B. CLOSED SESSION

Conference with Legal Counsel – Existing Litigation

Paragraph (1) of subdivision (d) of Section 54956.9

Name of case: Cooper v. City of Newark

Case No. A154739, Court of Appeal of the State of California, First District

C. ADJOURNMENT

Council Member Hannon moved, Council Member Bucci seconded, to adjourn the meeting at 7:18 p.m. The motion passed, 5 AYES.



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

Draft

Thursday, January 9, 2020

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

C. PRESENTATIONS AND PROCLAMATIONS

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

E.1 Hearing to consider an Appeal of the Planning Commission denial of a Minor Use Permit for a 10-foot tall, electrified perimeter fence at 6565 Smith Avenue. RESOLUTION NO. 11015

City Manager Benoun stated that Interim City Attorney Kokotaylo served as legal counsel to staff for the application and would step down from the dais. Outside counsel Jennifer Faught joined the dais to serve as legal counsel to the City Council.

Deputy Community Development Director Interiano gave the staff report recommending denial of the application.

Mayor Nagy opened the public hearing at 7:37 p.m.

Keith Kaneko of Electric Guard Dog, LLC gave a presentation in support of the electrified fence at Equipment Share (On file with the City Clerk). Mr. Kaneko stated his opinion that Municipal Code section 17.17.040 B Materials allowed the fence. He stated his opinion that the Municipal Code sections cited by staff were inapplicable and requested that the City Council approve the Minor Use Permit.

Carlos Torres of Equipment Share, in response to City Council questions, stated that they requested an electrified fence to protect their equipment and deter criminals. He stated that they inspect the perimeter fence daily and have found sections cut out. He did not think other security measures would be effective for the property.

Mayor Nagy closed the public hearing at 8:10 p.m.

In response to City Council questions, Interim Police Chief Carroll stated that he reviewed the site and did not support an electrified fence. He cited safety concerns for first responders.

Council Member Bucci stated that he thought Municipal Code Section 17.17.040 B Materials was applicable and suggested that the electrified fence be placed two feet behind the existing fence.

Council Member Hannon moved, Council Member Freitas seconded to, by resolution, deny the appeal and uphold the Planning Commission's denial of U-19-8, a Minor Use Permit for a 10-foot tall electrified fence at 6565 Smith Avenue. The motion passed, 4 AYES, 1 NO (Bucci).

Ms. Faught stepped down from the dais, Interim City Attorney Kokotaylo rejoined the dais.

F. CITY MANAGER REPORTS

Council Member Hannon moved, Council Member Collazo seconded, to approve Consent Calendar Item F.1 that reading of the title suffice for adoption of the resolution. The motion passed, 5 AYES.

CONSENT

- F.1 Approval of a Second Amendment to a Contractual Services Agreement with Management Partners for Community Development, Human Resources and Financial Consulting Services. RESOLUTION NO. 11016**

NONCONSENT

- F.2 Consideration of recommendations to the Alameda County Waste Management Authority (WMA) Board regarding a potential Reusable Food Ware Ordinance. MOTION APPROVED**

Council Member Collazo stated that she would recuse herself from participation because she owns the Mexico Tortilla Factory and they have single use plastic utensils. Council Member Collazo exited the City Council Chambers.

Public Works Director Fajeau stated that Alameda County Waste Management Authority (WMA) Board sought feedback on a potential ordinance that would eliminate single use food ware. City Staff recommended the following feedback:

- A countywide model ordinance appears to be the most beneficial option because it provides a consistent approach for all jurisdictions and allows StopWaste to take the primary lead for technical assistance, outreach/promotion, and enforcement measures. Where possible, flexibility should be built into the countywide ordinance.
- Requiring reusable food service ware for all dine-in establishments and for any single-use food ware to be BPI-certified compostable fiber and only available upon request are ordinance elements the City should consider the relative costs and challenges to affected local business owners. Also, there should be sufficient flexibility to phase-in these elements over reasonable timeframes for businesses.
- A thorough economic analysis of a countywide ordinance should be completed in advance of proposed ordinance adoption and any contribution of additional resources from member agencies.
- Given that the impacts associated with full implementation and enforcement of SB 1383 are still uncertain, it is difficult for the City to definitively identify the cumulative impact on resources of an additional local ordinance for Reusable Food Ware. Significant resource impacts are anticipated, though not yet quantified for both SB 1383 and any ordinance for Reusable Food Ware. The costs for these impacts will ultimately have to be borne by the consumer.

Council Member Hannon moved, Council Member Bucci seconded to, by motion, approve the recommendations, as presented by staff, to the Alameda County Waste Management Authority (WMA) Board regarding a potential Reusable Food Ware Ordinance. The motion passed, 4 AYES, 1 RECUSED (Collazo).

Council Member Collazo returned to the City Council Chambers.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

Mayor Nagy announced that they would adjourn the meeting in memory of Mel Nunes, the city's first recreation director. The entire City Council extended their condolences.

Council Member Bucci stated his support for the safety of police and fire employees. He noted that he spoke in favor of Urban Shield funding before the Alameda County Board of Supervisors and invited his colleagues to join him at future meetings.

Council Member Collazo shared her experience, as a business owner, with reusable bags and the reporting regulations that were eventually eliminated.

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands.

MOTION APPROVED

City Clerk Harrington read the Register of Audited Demands: Check numbers 119705 to 119826.

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

M. CLOSED SESSION

N. ADJOURNMENT

The Mayor adjourned the meeting at 8:52 p.m. in memory of retired Recreation Director Mel Nunes.

C.1 Introduction of employee.

Background/Discussion – Community Development Department Administrative Support Special II Lina Tran will be introduced to the City Council.

C.2 Commending Police Officers Fredstrom, Hernandez and Pacheco for their life saving actions. (COMMENDATION)

Background/Discussion – Police Officers Fredstrom, Hernandez, and Pacheco will be presented with Commendations at the City Council meeting in honor of their combined response to a report of a man down and unresponsive at the Salvation Army last year. Their immediate actions saved his life.

F.1 Authorization for the purchase of a replacement street sweeper from Owen Equipment and authorizing the City Manager to execute a four-year Master Lease-Purchase Agreement with PNC Equipment Finance, LLC – from Maintenance Superintendent Connolly. (RESOLUTION)

Background/Discussion- The 2018-2020 Biennial Budget for Fiscal Year 2019-2020 includes funding for the replacement of the City of Newark’s existing street sweeper through the City’s Equipment Replacement Program on a lease-to-purchase basis. Approximately 300 curb miles are swept monthly, which includes monthly residential sweeping and semi-monthly commercial/industrial sweeping. In addition, 68 hours of additional sweeping passes are built into the sweeping schedule during the fall and winter months to reduce leaf build-up in the City’s storm drain system. The existing street sweeper has reached the end of its useful life and requires replacement. Authorization is requested to participate in an intergovernmental procurement process for the purchase of a 2020 Elgin Broom Bear street sweeper.

An intergovernmental procurement process (also known as a “piggybacking”) is an alternative option to Newark’s formal bidding process. By piggybacking onto another agency’s contract, the City would save the cost and time associated with an additional formal bid process but be able to be assured of competitive set prices established by another agency’s formal bidding process.

Upon completion of a formal bidding process, the City of Napa, California entered into a procurement contract with Owen Equipment for the purchase of an Elgin Broom Bear street sweeper in June 2019. The competitive process used by the City of Napa has been reviewed by the Public Works Department and satisfies the City of Newark’s requirements for the proposed equipment purchase.

Based upon the City of Napa contract with Owen Equipment, the combined cost for the 2020 Elgin Broom Bear street sweeper is \$320,762.82. This purchase cost does not include outfitting of the Elgin Broom Bear street sweeper by Priority One and Classic Graphics which is estimated not to exceed \$12,000 and would include a top mounted LED beacon, a LED directional bar, base clearance lights, side safety lights, and City logos. The total cost for replacement of this item is \$332,762.82.

The current budget identifies replacement of this equipment with annual lease-to-purchase payments. The acquisition of this sweeper is proposed to occur through a Master Lease-Purchase Agreement with PNC Equipment Finance, LLC. PNC Equipment Finance, LLC has provided acceptable leasing terms and documents for a four-year lease-purchase which would commence upon receipt of the 2020 Elgin Broom Bear street sweeper as follows:

Year 1 – August 2020	\$85,742.92
Year 2 – August 2021	\$85,742.92
Year 3 – August 2022	\$85,747.92
Year 4 – August 2023	\$85,742.92

Attachments – Resolution; Master Lease-Purchase Agreement

Action – Staff recommends that the City Council, by resolution, authorize the purchase of a replacement street sweeper from Owen Equipment and authorize the City Manager to execute a four-year Master Lease-Purchase Agreement with PNC Equipment Finance, LLC.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE PURCHASE OF A
REPLACEMENT STREET SWEEPER FROM OWEN
EQUIPMENT AND AUTHORIZING THE CITY MANAGER TO
EXECUTE A FOUR-YEAR MASTER LEASE-PURCHASE
AGREEMENT WITH PNC EQUIPMENT FINANCE, LLC

WHEREAS, the 2018–2020 Biennial Budget and Capital Improvement Plan includes funding for replacement of the street sweeper in the Maintenance Division of the Public Works Department that has reached the end of its useful life; and

WHEREAS, the City of Newark will be participating in an intergovernmental procurement process (also known as “piggybacking”) with Owen Equipment as the holder of the City of Napa procurement contract to purchase a 2020 Elgin Broom Bear street sweeper at a cost of \$320,762.82; and

WHEREAS, the proposed replacement sweeper will require equipment outfitting based on quotes from Priority One and Classic Graphics, not to exceed a combined total cost of \$12,000; and

WHEREAS, the City of Newark has opted, in accordance with the 2018-2020 Biennial Budget and Capital Improvement Plan, to finance the new 2020 Elgin Broom Bear street sweeper through a Master Lease-Purchase Agreement with PNC Equipment Finance, LLC; and

WHEREAS, the City of Newark is a political subdivision of the State of California and is duly organized and existing pursuant to the Constitution and the laws of the State; and

WHEREAS, pursuant to applicable law, the City Council of the City of Newark is authorized to acquire, dispose, and encumber real and personal property, including, without limitation, rights and interest in property, leases, and easements necessary to the functions or operations of the City of Newark; and

WHEREAS, the City Council of the City of Newark hereby finds and determines that the execution of a Master Lease-Purchase Agreement (“Lease”) in the principal amount not exceeding the purchase amount stated above for the purpose of acquiring the property (“Equipment”) to be described in the Leases is appropriate and necessary to the functions and operations of the City of Newark; and

WHEREAS, PNC Equipment Finance, LLC (“Lessor”) shall act as Lessor under said Lease.

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

Section 1. The City Manager acting on behalf of the City of Newark, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the City Council, which document is available for public inspection at the City of Newark. The City Manager, acting on behalf of the City of Newark is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the City Manager deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by the City Manager, the City Manager may designate specifically identified officers or employees of the City of Newark to execute and deliver agreements and documents relating to the Lease on behalf of the City of Newark.

Section 3. The aggregate original principal amount of the Lease shall not exceed the amount stated above and shall bear interest as set forth in the Lease and the Lease shall contain such options to purchase by the City of Newark as set forth therein.

Section 4. The City of Newark obligations under the Lease shall be subject to annual appropriation or renewal by the City Council as set forth in each Lease and the City of Newark's obligation under the Lease shall not constitute general obligations of the City of Newark or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the City of Newark reasonably anticipates to issue not more than \$10,000,000 of tax exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the current calendar year in which each such Lease is issued and hereby designates each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on January 23, 2020, by Council Member _____ who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

AYES:

NOES:

ABSENT:

SECONDED:

APPROVED:

ATTEST:

s/ALAN L. NAGY
Mayor

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
Interim City Attorney

The undersigned City Clerk of the City of Newark hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the City of Newark, that the foregoing resolution was duly adopted by said Governing Body of the City of Newark at a meeting of said Governing Body and that such resolution has not been amended or altered and is in full force and effect on the date stated above

Sheila Harrington, City Clerk

Master Lease-Purchase Agreement
Between
City of Newark and
PNC Equipment Finance, LLC

Document Index

- Master Lease-Purchase Agreement – see Schedule 98987896-1 package
- Lease Schedule with Schedule A-1 – Sign and title
- Escrow Rider – Sign, print and provide title
- Escrow Agreement
 - o Exhibit 1 – General Investment Direction Letter
 - o Exhibit 2 – Escrow Agent Fees and Expenses
 - o Exhibit 3 – Requisition Request and Certificate of Acceptance
 - o Money Market Escrow Investment Letter – Please sign or contact Scott Miller at 614-849-3402 with U.S. Bank to select a different investment that meets your requirements.
- Vehicle Schedule Addendum – Sign and title
- Resolution – The resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.
- Incumbency Certificate – List your authorized signor(s) and title(s); have secretary or appropriate trustee attest to the information and signature(s) provided by signing and printing his/her name, title and date. **The person who validates the signatures should not sign the lease documents.** The resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.
- Opinion of Counsel Letter – Enclosed is a template. Please ask your attorney to prepare on his/her letterhead, and include all of the items in the template.
- Titled Vehicle Guidelines - The terms of your contract specify that the Lender be listed as the lienholder and hold the original title during the term of the lease. Please refer to this document to guide you through the transfer of title and vehicle registration process.
- Insurance Request Form – Fill in your insurer's information and sign. Please contact your insurer, prior to delivery, to obtain a certificate of insurance. Please enclose the certificate with the signed documentation or have the insurer fax the certificate directly to me.
- Delivery & Acceptance Certificate – **At point of delivery, fill out this form and fax it to me. Please return the original via US Postal Service.**
- IRS FORM 8038-G – Sign, date, and title
- Minutes of Governing Body (approving the purchase & finance of equipment) – Please return a copy with the documents.
- Invoice for Escrow Fee – please send your check in the amount of \$250.00, made payable to PNC Equipment Finance, LLC.
- Sales Contract or Purchase Order - Please provide a copy of the Sales Contract or a copy of the Purchase Order issued to the vendor.

LEASE SCHEDULE NO. 98987896-2

Dated As Of January 23, 2020

This Lease Schedule (this "Schedule") is attached and made a part of the Master Lease-Purchase Agreement referenced below, together with all exhibits, schedules, addenda, and other attachments thereto, executed by Lessee and Lessor (the "Lease"). Unless otherwise defined herein, capitalized terms will have the same meaning ascribed to them in the Master Lease. All terms and conditions of the Master Lease are incorporated herein by reference. To the extent that there is any conflict between the terms of the Lease and this Schedule, the terms of this Schedule shall control.

Master Lease-Purchase Agreement dated January 23, 2020

- 1. **EQUIPMENT DESCRIPTION.** As used in the Lease, "Equipment" means all of the property described in Schedule A-1 attached to this Schedule and all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.
- 7. **RENTAL PAYMENTS; LEASE TERM.** The Rental Payments to be paid by the Lessee to Lessor, the commencement date thereof and the lease term of this Lease Schedule are set forth on the Schedule A-1 attached to this Lease Schedule.
- 8. **ESSENTIAL USE; CURRENT INTENT OF LESSEE.** Lessee represents that the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens and the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee currently intends for the full Lease Term: to use the Equipment; to continue this Lease; and (if applicable) to make Rent Payments if funds are appropriated in each fiscal year by its governing body.
- 9. **ACCEPTANCE OF EQUIPMENT.** AS BETWEEN LESSEE AND LESSOR, LESSEE AGREES THAT (A) LESSEE HAS RECEIVED AND INSPECTED ALL EQUIPMENT; (B) ALL EQUIPMENT IS IN GOOD WORKING ORDER AND COMPLIES WITH ALL PURCHASE ORDERS, CONTRACTS AND SPECIFICATIONS; (C) LESSEE ACCEPTS ALL EQUIPMENT FOR PURPOSES OF THE LEASE "AS-IS, WHERE IS"; AND (D) LESSEE WAIVES ANY RIGHT TO REVOKE SUCH ACCEPTANCE.
- 5. **BANK QUALIFIED.** LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$10,000,000.
- 6. **RE-AFFIRMATION OF THE MASTER LEASE-PURCHASE AGREEMENT.** Lessee hereby re-affirms all of its representations, warranties and obligations under the Master Lease Purchase Agreement (including, without limitation, its obligation to pay all Rental Payments, its disclaimers in Section 7 thereof and its representations in Section 6.1 and 16 thereof).

City of Newark
("Lessee")

PNC Equipment Finance, LLC
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

Schedule A-1

1. EQUIPMENT LOCATION & DESCRIPTION:

Service Center
37440 Filbert Street
Newark, CA 94560-3518

County: Alameda

(1) 2020 Elgin Broom Bear Sweeper VIN:

With 5 Year Extended Warranty

2. LEASE PAYMENT SCHEDULE.

(a) Accrual Date: January 23, 2020

(b) Amount Financed:

	Equipment Purchase Price – Sweeper	\$277,314.00
i.	Extended Warranty	\$14,920.00
	Sales Tax	\$28,492.82
ii.	Purchase Price Deduction	\$0.00
	Prepay Discounts	<u>\$0.00</u>
	Trade In	<u>\$0.00</u>
iii.	Total Amount Financed (Cash Sale Price minus Purchase Price Deductions)	\$320,726.82

(c) Payment Schedule:

Accrual Date: January 23, 2020

Rent Payment Number	Rent Payment Date	Rent Payment Amount	Interest Portion	Principal Portion	Termination Value
1	08/23/2020	85,747.92	6,176.41	79,571.51	248,389.97
2	08/23/2021	85,747.92	7,958.13	77,789.79	168,266.49
3	08/23/2022	85,747.92	5,391.06	80,356.86	85,498.92
4	08/23/2023	85,747.92	2,739.26	83,008.66	1.00

City of Newark
("Lessee")

By: _____

Title: _____

PNC Equipment Finance, LLC
("Lessor")

By: _____

Title: _____

VEHICLE SCHEDULE ADDENDUM

Dated As Of January 23, 2020

Lease Schedule No. 98987896-2 Dated January 23, 2020

Lessee: City of Newark

Reference is made to the above Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease") by and between PNC Equipment Finance, LLC ("Lessor") and the above Lessee ("Lessee"). This Addendum amends and modifies the terms and conditions of the Schedule and is hereby made a part of the Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease shall have the same meaning when used herein.

NOW THEREFORE, as part of the valuable consideration to induce the execution of the Schedule, Lessor and Lessee hereby agree to amend the Schedule as follows:

1. In the event that any unit of Equipment covered by the Schedule is a vehicle or trailer under applicable State law, then the following provisions shall also apply to the Schedule to the extent permitted by law,

(a) each manufacturer's statement of origin and certificate of title shall state that Lessor has the first and sole lien on or security interest in such unit of Equipment;

(b) the public liability and property damage insurance required by the terms of the paragraph titled "Insurance in the Master Lease shall be in an amount not less than \$1,000,000.00 per person insured and \$2,000,000.00 combined single limit per unit per occurrence (provided, that if the unit of Equipment is a bus or other passenger vehicle, then such insurance amount shall be such larger amount as may be reasonably required by Lessor) and \$1,000,000.00 for damage to property of others;

(c) Lessee shall furnish and permit only duly licensed, trained, safe and qualified drivers to operate any such unit of Equipment, and such drivers shall be agents of Lessee and shall not be agents of Lessor; and

(d) Lessee shall cause each such unit of Equipment to be duly registered and licensed as required by applicable State law with Lessor noted as lien holder and Lessee as owner.

2. Except as expressly amended by this Addendum and other modifications signed by Lessor, the Schedule remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first referenced above.

City of Newark
("Lessee")

PNC Equipment Finance, LLC
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

ESCROW RIDER

Dated As of January 23, 2020

Lease Schedule No. 98987896-2 Dated January 23, 2020

MASTER LEASE-PURCHASE AGREEMENT DATED January 23, 2020

LESSEE: CITY OF NEWARK

Reference is made to the above Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Schedule ("Master Lease") by and between PNC Equipment Finance, LLC ("Lessor") and the above lessee ("Lessee"). As used herein, "Lease" shall mean the Schedule and the Master Lease, but only to the extent that the Master Lease related to the Schedule. This Addendum amends and modifies the terms and conditions of the Lease and is hereby made a part of the Lease. Unless otherwise defined herein, capitalized terms defined in the Master Lease shall have the same meaning when used herein.

NOW, THEREFORE, as part of the valuable consideration to induce the execution of the Lease, Lessor and Lessee hereby agree to amend the Lease as follows:

1. "*Escrow Agreement*" means the Escrow Agreement relating to a Schedule, dated the Commencement Date under such Schedule and substantially in the form attached to this Master Lease, among Lessor, Lessee and the escrow agent therein identified, with respect to the Escrow Fund established and to be administered thereunder. "*Escrow Fund*" means the fund of that name established pursuant to an Escrow Agreement.
2. Lessee and Lessor together with a mutually acceptable escrow agent agree to enter into an escrow agreement ("*Escrow Agreement*") establishing a fund ("*Equipment Acquisition Fund*") from which the Purchase Price of the Equipment will be paid. The terms and conditions of the Escrow Agreement shall be satisfactory in form and substance, to Lessor and Lessee.
3. In order to provide financing to pay the costs to acquire and install the Equipment ("*Total Amount Financed*") as described in a Schedule, Lessor and Lessee hereby agree to execute and deliver an Escrow Agreement relating to such Schedule on the date on which the Funding Conditions for such Schedule are satisfied as provided in Section 5.3. If Lessee signs and delivers a Schedule and an Escrow Agreement and if all Funding Conditions have been satisfied in full, then Lessor will deposit or cause to be deposited into an Escrow Fund under the related Escrow Agreement an amount (which may include estimated investment earnings thereon) equal to the Purchase Price for the Equipment to be financed under the related Schedule.

4. Lessee shall, at its sole expense, arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("*Location*") by Equipment suppliers ("*Suppliers*") selected by Lessee. Lessee shall accept Equipment for purposes of the related Lease as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor a Certificate of Acceptance in the form and manner required by the applicable Escrow Agreement.
5. If a Non-Appropriation Event or an Event of Default occurs prior to Lessee's acceptance of all the Equipment under the related Schedule, the amount then on deposit in the Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in whole on the first business day of the month next succeeding the occurrence of either such Event plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 5 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds and other moneys available for such purpose as a result of the exercise by Lessor of its rights and remedies under the related Schedule. Any funds on deposit in the Escrow Fund on the prepayment date described in this Section 5 in excess of the unpaid principal component of the Rent Payments to be prepaid plus accrued interest thereon to the prepayment date shall be paid promptly to Lessee.
6. To the extent that Lessee has not accepted items of Equipment before the eighteen-month anniversary of the Commencement Date identified on the related Schedule, the amount then on deposit in the related Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in part, in inverse order of Rent Payments, on the first business day of the next month plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 6 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds. Notwithstanding any such partial prepayment, the related Schedule shall remain in full force and effect with respect to the portion of the Equipment accepted by Lessee during such eighteen-month period, and the portion of the principal component of Rent Payments remaining unpaid after such prepayment plus accrued interest thereon shall remain payable in accordance with the terms of the related Schedule. Upon Lessor's request, Lessee shall execute an amendment to the related Payment Schedule that reflects the change to the Rent Payments as a result of such partial prepayment.
7. As collateral security for Lessee's obligations to pay all Rent Payments and all other amounts due and payable under each Lease and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due or existing or hereafter arising) of Lessee under such Lease, Lessee hereby grants to Lessor a first priority, exclusive security interest in any and all of the Equipment (now existing or hereafter acquired) under each Lease, moneys and investments held from time to time the Escrow Fund under each Escrow Agreement and any and all proceeds of any of the foregoing. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code (UCC) financing statements and any amendments thereto and certificates of title or certificates of origin (or applications thereof) noting Lessor's interest thereon.

8. The Lease Term of the Lease shall commence on the earlier of the date specified in the Payment Schedule to the Lease or the date of Lessor's deposit of funds into the Equipment Acquisition Fund. Notwithstanding the statements regarding delivery and acceptance of the Equipment in the Schedule, the parties acknowledge that the Equipment will be delivered or installed as provided in the Escrow Agreement.
9. The delivery of documents and the satisfaction of any other conditions required by the Escrow Agreement or this Addendum shall be additional Funding Conditions for the Lease.
10. Upon Lessee's execution of the Escrow Agreement, Lessee hereby represents and warrants to Lessor that:
 - (a) Lessee has full power, authority and legal right to execute and deliver the Escrow Agreement and to perform its obligations under the Escrow Agreement, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;
 - (b) the Escrow Agreement has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligations of Lessee, enforceable in accordance with its terms; and
 - (c) the Escrow Agreement is authorized under, and the authorization, execution and delivery of the Escrow Agreement complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and public investment (laws) and all applicable judgments and court orders.
11. The opinion of Lessee's legal counsel will include statements to the same effect as the representations of Lessee in paragraph 6 above.
12. It shall be an additional event of default under the Lease if lessee fails to pay or perform any of its obligations under the Escrow Agreement or this Addendum or if any of the representations of Lessee in the Escrow Agreement or this Addendum prove to be false, misleading or erroneous in any material respect.

Except as expressly amended by this Rider and other modifications signed by Lessor, the Lease remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Rider as of the date first referenced above.

City of Newark
 (Lessee)
 By: _____
 Name: _____
 Title: _____

PNC Equipment Finance, LLC
 (Lessor)
 By _____
 Name: _____
 Title: _____

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("*Escrow Agreement*") is made as of January 23, 2020 by and among PNC Equipment Finance, LLC ("*Lessor*"), City of Newark ("*Lessee*") and U.S. BANK NATIONAL ASSOCIATION, as escrow agent ("*Escrow Agent*").

Lessor and Lessee have heretofore entered into that certain Master Equipment Lease-Purchase Agreement dated as of January 23, 2020 (the "*Master Lease*") and a Lease Schedule 98987896-2 thereto dated January 23, 2020 (the "*Schedule*" and, together with the terms and conditions of the Master Lease incorporated therein, the "*Lease*"). The Lease contemplates that certain equipment described therein (the "*Equipment*") is to be acquired from the vendor(s) or manufacturer(s) thereof. After acceptance of the Equipment by Lessee, the Equipment is to be leased by Lessor to Lessee pursuant to the terms of the Lease.

The Lease further contemplates that Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment (the "*Purchase Price*"), being \$320,726.82, with Escrow Agent to be held in escrow and applied on the express terms set forth herein. Such deposit, together with all interest and other additions received with respect thereto (hereinafter the "*Escrow Fund*") is to be applied to pay the vendor(s) or manufacturer(s) of the Equipment (the "*Vendor*") its invoice cost (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee); and, if applicable, to reimburse Lessee for progress payments already made by it to the Vendor of the Equipment.

The parties desire to set forth the terms on which the Escrow Fund is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. (a) Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. (b) The moneys and investments held in the Escrow Fund are irrevocably held in trust for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor. Lessor, Lessee and Escrow Agent intend that the Escrow Fund constitute an escrow account in which Lessee has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement of funds by the Escrow Agent therefrom. However, if the parties' intention that Lessee shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that Lessor have a security interest in the Escrow Fund, and such security interest is hereby granted by Lessee to secure payment of all sums due to Lessor under the Lease. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Escrow Fund, the Lessor's interest therein.

2. On such day as is determined to the mutual satisfaction of the parties (the "*Closing Date*"), Lessor shall deposit with Escrow Agent cash in the amount of the Purchase Price, to be held in escrow by Escrow Agent on the express terms and conditions set forth herein.

On the Closing Date, Escrow Agent agrees to accept the deposit of the Purchase Price by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto, as the Escrow Fund hereunder, in escrow on the express terms and conditions set forth herein.

3. Escrow Agent shall at all times segregate the Escrow Fund into an account maintained for that express purpose, which shall be clearly identified on the books and records of Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the Escrow Fund from time to time shall be held or registered in the name of Escrow Agent (or its nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. The cash comprising the Escrow Fund from time to time shall be invested and reinvested by Escrow Agent in one or more investments as directed by Lessee in Exhibit 1. Escrow Agent will use due diligence to collect amounts payable under a check or other instrument for the payment of money comprising the Escrow Fund and shall promptly notify Lessee and Lessor in the event of dishonor of payment under any such check or other instruments. Interest or other amounts earned and received by Escrow Agent with respect to the Escrow Fund shall be deposited in and comprise a part of the Escrow Fund.

5. Upon request by Lessee and Lessor, Escrow Agent shall send monthly statements of account to Lessee and Lessor, which statements shall set forth all withdrawals from and interest earnings on the Escrow Fund as well as the investments in which the Escrow Fund is invested.

6. Escrow Agent shall take the following actions with respect to the Escrow Fund:

(a) Upon Escrow Agent's acceptance of the deposit of the Purchase Price, an amount equal to Escrow Agent's set-up fee, as set forth on Exhibit 2 hereto, shall be disbursed from the Escrow Fund to Escrow Agent in payment of such fee.

(b) From time to time, Escrow Agent shall pay to the Vendor of the Equipment payments then due and payable with respect thereto upon receipt of duly executed Requisition Request and Certificate of Acceptance form attached as Exhibit 3 hereto, subject to Lessor's prior written approval of each such Requisition Request and Certificate of Acceptance.

(c) If an Event of Default or Non-Appropriation Event occurs under the Lease prior to the Lessee's acceptance of all the Equipment or to the extent that funds have not been disbursed from the Escrow Fund within the eighteen-month period identified in the Lease, funds then on deposit in the Escrow Fund shall be applied to the prepayment of Rent Payments under the Lease as instructed by Lessor.

(d) Upon receipt by Escrow Agent of written notice from Lessor that the purchase price of the Equipment has been paid in full, Escrow Agent shall apply the then remaining Escrow Fund, first, to all outstanding fees and expenses incurred by Escrow Agent in connection herewith as evidenced by its statement forwarded to Lessor and Lessee, and, second, to Lessor for application against the interest component of Rent Payments under the Lease as provided therein, unless otherwise agreed by Lessor.

7. The fees and expenses, including any legal fees, of Escrow Agent incurred in connection herewith shall be the responsibility of Lessee. The basic fees and expenses of Escrow Agent shall be as set forth on Exhibit 2 hereto and Escrow Agent is hereby authorized to deduct such fees and expenses from the Escrow Fund as and when the same are incurred without any further authorization from Lessee or Lessor. Escrow Agent may employ legal counsel and other experts as it deems necessary for advice in connection with its obligations hereunder. Escrow Agent waives any claim against Lessor with respect to compensation hereunder.

8. Escrow Agent shall have no liability for acting upon any written instruction presented by Lessor in connection with this Escrow Agreement, which Escrow Agent in good faith believes to be genuine. Furthermore, Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own negligence, willful misconduct or bad faith. Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investments made by Escrow Agent.

9. Escrow Agent may resign at any time by giving thirty (30) days' prior written notice to Lessor and Lessee. Lessor may at any time remove Escrow Agent as Escrow Agent under this Escrow Agreement upon written notice. Such removal or resignation shall be effective on the date set forth in the applicable notice. Upon the effective date of resignation or removal, Escrow Agent will transfer the Escrow Fund to the successor Escrow Agent selected by Lessor.

10. This Escrow Agreement and the escrow established hereunder shall terminate upon receipt by Escrow Agent of the written notice from Lessor specified in Section 6(c) or Section 6(d) hereof.

11. In the event of any disagreement between the undersigned or any of them, and/or any other person, resulting in adverse claims and demands being made in connection with or for any moneys involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall continue, and in so refusing Escrow Agent may refrain from making any delivery or other disposition of any moneys involved herein or affected hereby and in so doing Escrow Agent shall not be or become liable to the undersigned or any of them or to any person or party for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(a) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the moneys involved herein or affected hereby;
or

(b) all differences shall have been adjusted by agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.

12. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, and shall be sufficiently given and served upon the other party if delivered (a) personally, (b) by United States registered or certified mail, return receipt requested, postage prepaid, (c) by an overnight delivery by a service such as Federal Express or Express Mail from which written confirmation of overnight delivery is available, or (d) by facsimile with a confirmation copy by regular United States mail, postage prepaid, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

13. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor.

14. This Escrow Agreement shall be governed by and construed in accordance with the laws in the state of the Escrow Agent's location. This Escrow Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

PNC Equipment Finance, LLC, as Lessor

By

Name: _____

Title: _____

Address: 995 Dalton Avenue
Cincinnati, OH 45203

City of Newark, as Lessee

By _____

Name: _____

Title: _____

Address: 37101 Newark Blvd.
Newark, CA 94560

US Bank National Association, as Escrow Agent

By

Name: _____

Title: _____

Address: 10 W. Broad St., 12th Floor
CN OH BD12
Columbus, OH 43215

EXHIBIT 1

INVESTMENT DIRECTION LETTER

U.S. Bank National Association
10 W. Broad Street, 12th Floor
CN OH BD12
Columbus, OH 43215

Re: Escrow Agreement dated as of January 23, 2020,
among PNC Equipment Finance, LLC, as Lessor,
City of Newark as Lessee, and
U.S. Bank National Association, as Escrow Agent

Ladies and Gentlemen:

Pursuant to the above-referenced Escrow Agreement, \$320,726.82 will be deposited in escrow with you on or about January 23, 2020. Such funds shall be invested in one or more of the following qualified investments in the amounts indicated:

	PLEASE CHECK DESIRED QUALIFIED INVESTMENTS:	AMOUNT OF INVESTMENT
<input type="checkbox"/>	Direct general obligations of the United States of America;	\$ _____
<input type="checkbox"/>	Obligations – the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America;	\$ _____
<input type="checkbox"/>	General obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor;	\$ _____
<input type="checkbox"/>	Money market funds whose investment parameters target investments in securities as described above;	\$ _____

IF NONE OF THE ABOVE BOXES ARE CHECKED, INVESTMENT SHALL BE MADE IN MONEY MARKET FUNDS AS DESCRIBED IN THE FOURTH CATEGORY ABOVE, UNTIL LESSEE DIRECTS OTHERWISE.

Very truly yours,

CITY OF NEWARK, AS LESSEE

By: _____
Name: _____
Title: _____

EXHIBIT 2

ESCROW AGENT FEES AND EXPENSES

SET-UP FEES

\$250.00 payable from the Escrow Fund upon acceptance of escrow deposit.

EXPENSES

Any and all out-of-pocket expenses incurred by Escrow Agent will be the responsibility of Lessee and paid from the Escrow Fund.

**U.S. BANK NATIONAL ASSOCIATION
MONEY MARKET ACCOUNT
DESCRIPTION AND TERMS**

The U.S. Bank Money Market account is an U.S. Bank National Association ("U.S. Bank") interest-bearing time deposit account designed to meet the needs of U.S. Bank's Corporate Trust Services Escrow Group and other Corporate Trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366) by applying a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank's discretion, and may be tiered based on customer deposit amount.

The owner of the account is U.S. Bank as Agent for its trust customers. U.S. Bank's trust department performs all account deposits and withdrawals. The deposit account is insured by the Federal Deposit Insurance Corporation up to \$250,000.

AUTOMATIC AUTHORIZATION

In the absence of specific written direction to the contrary, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Account.

City of Newark
Company Name

Signature of Authorized Directing Party

Trust Account Number – includes existing
and future sub-accounts unless otherwise directed

Title / Date

EXHIBIT 3

REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE NO. _____
(to be submitted with each requisition request for payment to the vendor)

-or-

____ (✓) FINAL REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE
(to be submitted with the final requisition request upon acceptance of the
Equipment)

The Escrow Agent is hereby requested to pay from the Escrow Fund established and maintained under that certain Escrow Agreement dated as of January 23, 2020 (the "Escrow Agreement") by and among PNC Equipment Finance, LLC (the "Lessor"), City of Newark (the "Lessee"), and U.S. Bank National Association (the "Escrow Agent"), the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee) with respect to equipment being leased under that certain Master Equipment Lease-Purchase Agreement dated as of January 23, 2020 (the "Master Lease") and Lease Schedule 98987896-2 thereto dated January 23, 2020 (the "Schedule" and, together with the terms and conditions of the Master Lease incorporated therein, the "Lease"), by and between the Lessor and the Lessee, and has not formed the basis of any prior requisition request.

PAYEE	AMOUNT

Total requisition amount \$ _____

The undersigned, as Lessee under the Lease hereby certifies:

1. The items of the Equipment, as such term is defined in the Lease, fully and accurately described on the Equipment List attached hereto have been delivered and installed at the location(s) set forth therein.
2. A present need exists for the Equipment which need is not temporary or expected to diminish in the near future. The Equipment is essential to and will be used by the Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority.
3. The estimated useful life of the Equipment based upon the manufacturer's representations and the Lessee's projected needs is not less than the Lease Term of lease with respect to the Equipment.
4. The Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes as of the date of this Certificate.

5. The Equipment is covered by insurance in the types and amounts required by the Lease.

6. No Event of Default or Non-Appropriation Event, as each such term is defined in the Lease, and no event which with the giving of notice or lapse of time, or both, would become such an Event of Default or Non-Appropriation Event has occurred and is continuing on the date hereof.

7. Sufficient funds have been appropriated by the Lessee for the payment of all Rent Payments due under the Lease during Lessee's current fiscal year.

8. Based on the foregoing, Lessor is hereby authorized and directed to fund the acquisition of the Equipment set forth on the Equipment List by paying, or causing to be paid, the manufacturer(s)/vendor(s) the amounts set forth on the attached invoices.

9. The following documents are attached hereto and made a part hereof:

(a) Copy of Invoice(s);

(b) Copies of Certificate(s) of Origin designating Lessor as lienholder if any part of the Equipment consists of motor vehicles, and evidence of filing; and

(c) Requisition for Payment

10. If this is the final acceptance of Equipment, then as of the Acceptance Date stated below and as between the Lessee and the Lessor, the Lessee hereby agrees that: (a) the Lessee has received and inspected all of the Equipment described in the Lease; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specification; (c) the Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) the Lessee waives any right to revoke such acceptance.

If Lessee paid an invoice prior to the commencement date of the Lease and is requesting reimbursement for such payment, also attach a copy of evidence of such payment together with a copy of Lessee's Declaration of Official Intent and other evidence that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. §1.150-2.

Acceptance Date: _____

City of Newark,
as Lessee

By

Name: _____

Title: _____

Date: _____

PNC Equipment Finance, LLC,
as Lessor

By: _____

Title: _____

Date: _____

RESOLUTION

Municipality/Lessee: City of Newark

Principal Amount Expected To Be Financed: \$320,726.82

WHEREAS, the Municipality is a political subdivision of the State in which Municipality is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Municipality ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Master Lease-Purchase Agreements ("Leases") in the principal amount not exceeding the amount stated above for the purpose of acquiring the property ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Municipality.

WHEREAS, PNC Equipment Finance, LLC ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Municipality:

Section 1. Either one of the _____ OR _____ (each an "Authorized Representative") acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Municipality. Each Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Leases on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Municipality's obligations under the Leases shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the current calendar year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this _____, 2020.

The undersigned Secretary/Clerk of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolutions were duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

LESSEE: _____

Signature of Secretary/Clerk of Municipality

[SEAL]

Print Name: _____

Official Title: _____

Date: _____

CERTIFICATE OF INCUMBENCY

Lessee: City of Newark

Lease Schedule No.: 98987896-2

Dated: January 23, 2020

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

[NOTE: Use same titles as Authorized Representatives stated in Resolutions.]

Name	Title	Signature
------	-------	-----------

Name	Title	Signature
------	-------	-----------

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

Signature of Secretary/Clerk of Lessee

[SEAL]

Print Name: _____

Official Title: _____

Date: _____

FORM OF OPINION OF COUNSEL

(To Be Typed on Attorney's Letterhead Stationary)

Date: January 23, 2020
Lessee: City of Newark
Lessor: PNC Equipment Finance, LLC
Re: Lease Schedule No. 98987896-2 dated January 23, 2020, together with its Master Lease-Purchase Agreement dated January 23, 2020, by and between the above-named Lessee and the above-named Lessor

Gentlemen:

I have acted as counsel to Lessee with respect to the Lease Schedule, the Master Lease-Purchase Agreement and all other agreements described above or related thereto (collectively, the "Agreements") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Agreements and such other documents as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents, it is my opinion that:

1. Lessee is a political subdivision of the State of California (the "State") duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has power under State law to enter into all of the Agreements, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Agreements and all other documents related thereto have been duly authorized, approved, and executed by and on behalf of Lessee, and each of the Agreements is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal law affecting creditor's remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
4. The authorization, approval and execution of the Agreements and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable Local, State and Federal laws (including open meeting laws and public bidding and property acquisition laws).
5. To the best of my knowledge, there is no litigation or proceeding pending before any court, administrative agency or governmental body, that challenges: the organization or existence of Lessee; the authority of its officers; the proper authorization; approval and execution of any of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements for the current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Agreements and the transactions contemplated thereby.
6. Lessee is a political subdivision of the State as referred to in Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder.

Lessor, its Assignee and any of their assigns may rely upon this opinion.

Very truly yours,

Attorney

INSURANCE COVERAGE DISCLOSURE

PNC Equipment Finance, LLC, LESSOR

City of Newark LESSEE

RE: INSURANCE COVERAGE REQUIREMENTS

- 1. In accordance with the Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease"), Lessee certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

to issue: (check to indicate coverage)

- a. All Risk Physical Damage Insurance on the leased Equipment evidenced by a Certificate of Insurance naming PNC Equipment Finance, LLC and/or its assigns as Lender Loss Payee.

Coverage Required: Termination Value Specified

- b. Public Liability Insurance evidenced by a Certificate of Insurance naming PNC Equipment Finance, LLC and/or its assigns as an Additional Insured.

Minimum Coverage Required:

- \$1,000,000.00 per occurrence
- \$2,000,000.00 aggregate bodily injury liability
- \$1,000,000.00 property damage liability

Proof of insurance coverage will be provided to PNC Equipment Finance, LLC, Attn: Insurance Dept, 995 Dalton Ave., Cincinnati, OH 45203, prior to the time that the property is delivered to Lessee.

OR

- 2. Pursuant to the Master Lease, Lessee represents and warrants, in addition to other matters under the Agreement, that it is lawfully self-insured for: (check to indicate coverage)

- a. All risk, physical damage in the amount specified in 1(a) above.
- b. Public liability for not less than the amounts specified in 1(b) above.

Lessee has attached a signed letter describing self-insurance.

LESSEE:

By: _____ Title: _____

INSURANCE INFORMATION

Please provide the following information to your insurance company to help expedite receipt of the necessary coverage:

ITEMS WHICH NEED TO BE REFLECTED ON INSURANCE CERTIFICATE:

- PNC Equipment Finance, LLC must be named Lender Loss Payee and Additional Insured
- 30 Days' Notice of Cancellation
- Not Less than \$2,000,000.00 limits on liability
- Certificate must reflect a short equipment description
- Certificate must reflect an expiration date

Certificate Holder Information:

PNC Equipment Finance, LLC, its successors and/or all assigns
Attn: Insurance Dept
995 Dalton Ave.
Cincinnati, OH 45203

Please send a FAX copy of certificate to Julie Terracina at 1-866-820-4246.

The original should be mailed to the same at:

PNC Equipment Finance, LLC
Attn: Insurance Dept
995 Dalton Ave.
Cincinnati, OH 45203

Please call Julie Terracina at 630-955-5730, if you have any questions.

Exhibit A

DELIVERY & ACCEPTANCE CERTIFICATE

Lease Schedule No. 98987896-2

Reference is made to the above Lease Schedule ("Schedule"), which has been executed and delivered by the undersigned Lessee ("Lessee") and PNC Equipment Finance, LLC ("Lessor"). This Certificate amends and supplements the terms and conditions of the Lease Schedule and is hereby made a part of the Lease Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease-Purchase Agreement and the Lease Schedule shall have the same meaning when used herein; provided, that "Equipment" shall mean the Equipment described in the Schedule A-1 and in any attachment or exhibit to this Certificate.

Notwithstanding anything to the contrary, expressed or implied, in the Lease Schedule or its Schedule A-1, Lessee agrees as follows:

1. ACCEPTANCE OF EQUIPMENT. As of the Acceptance Date stated below and as between Lessee and Lessor, Lessee hereby agrees that: (a) Lessee has received and inspected all Equipment; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specifications; (c) Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) Lessee waives any right to revoke such acceptance.

ACCEPTANCE DATE: _____

2. RENT PAYMENTS. Lessee hereby agrees that Lessee will pay the Rent Payments for the Equipment in the amounts and on the dates specified in Schedule A-1 to the Lease Schedule.

City of Newark
("Lessee")

By: _____

Title: _____

**Guidelines and Expectations
for Titled Vehicle Leasing**

Thank you for choosing **PNC Equipment Finance, LLC** (“PNCEF”) for your vehicle financing needs. Please refer to the Guidelines and Expectations outlined below to guide you through the transfer of title and vehicle registration process.

FOR OUR LESSEES/BORROWERS:

Sales Tax Exemption Certificate (for Leases only)

- If your business is eligible for sales tax exemption status, please provide a Sales Tax Exemption Certificate to PNCEF prior to signing your lease documentation. For tax exempt over-the-road trucks, please provide an ICC Carrier Certificate in addition to the Sales Tax Exemption form.

If the Lessee/Borrower is completing title work and/or registration:

- The vendor or prior vehicle owner will provide you with a completed MSO or Title and Title Application. You are responsible for all additional costs/fees associated with titling and registration. Such payments are not built in to your Lease/Loan.

FOR VENDORS OR PRIOR VEHICLE OWNERS:

Proof of Origination/Ownership

- Please provide PNCEF with a copy of the FRONT side of the MSO, or Current Title and Title Application.

If the Vendor or Prior Owner is completing title work and/or registration...

- PNCEF must receive a copy of the Title Application and BACK SIDE of the Title/MSO showing Lessee/Borrower as Owner and PNCEF as Lienholder *prior to releasing funds*.

TITLE INFORMATION:

- New title listing PNCEF should appear as follows:

Owner: City of Newark
Lienholder: “PNC Equipment Finance, LLC”

Original Titles/MSO

- All Original Titles (or Lien Statements, when applicable) listing Lessee/Borrower as Owner and PNCEF as Lienholder must be mailed to PNCEF within 60 days of registration. PNCEF will retain all titles subject to the terms of the Lease/Loan.

Mail Title/MSO(s) to the following address:

- PNC Equipment Finance, Attn: Collateral Department, 995 Dalton Avenue, Cincinnati, OH 45203
- For questions, please call our Client Care Department at 513-455-2323

PNC Equipment Finance, LLC INFORMATION REQUEST

LESSEE NAME: City of Newark

FEDERAL TAX I.D. # _____

BILLING ADDRESS:

Billing Contact

Street Address or Post Office Box

City, State and Zip

Phone Number Fax Number

Email Address

PHYSICAL ADDRESS (IF DIFFERENT):

Street Address or Post Office Box

City, State and Zip

Require Board Approval for Payments? _____ Yes _____ No

Board Meeting Date? _____

Require signed vouchers for payments? _____ Yes _____ No

We typically mail our invoices 30 days in advance. Taking into account a 7-day mail period, do you foresee any problem that would prevent the payment from being received on or before the due date?

_____ Yes _____ No

Please list any special instructions below:

Information Return for Tax-Exempt Governmental Bonds

(Rev. September 2018)

Under Internal Revenue Code section 149(e)

See separate instructions.

OMB No. 1545-0720

Department of the Treasury
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.
Go to www.irs.gov/ef8038G for instructions and the latest information.

Part I Reporting Authority If Amended Return, check here

1 Issuer's name City of Newark		2 Issuer's employer identification number (EIN) 94-0602736
3a Name of person (other than Issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) 37101 Newark Blvd.	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Newark, CA 94560		7 Date of issue January 23, 2020
8 Name of Issue Lease# 98987896-2		9 CUSIP number
10a Name and title of officer or other employee of the Issuer whom the IRS may call for more information (see instructions) Tonya Connolly		10b Telephone number of officer or other employee shown on 10a 510-578-4802

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe Elgin Broom Bear Sweeper	18	320,726	82
19a If bonds are TANs or RANs, check only box 19a <input type="checkbox"/>			
b If bonds are BANs, check only box 19b <input type="checkbox"/>			
20 If bonds are in the form of a lease or installment sale, check box <input checked="" type="checkbox"/>			

Part III Description of Bonds. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	08/23/2023	\$ 320,726.82	\$ N/A	4 years	3.300 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	23	320,726	82
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	0	00
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to refund prior tax-exempt bonds. Complete Part V	27		
28 Proceeds used to refund prior taxable bonds. Complete Part V	28		
29 Total (add lines 24 through 28)	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	320,726	82

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded	_____	years
32 Enter the remaining weighted average maturity of the taxable bonds to be refunded	_____	years
33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)	_____	
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	_____	

Part VI Miscellaneous

<p>35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)</p> <p>36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions</p> <p style="margin-left: 20px;">b Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____</p> <p style="margin-left: 20px;">c Enter the name of the GIC provider ▶ _____</p> <p>37 Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units</p> <p>38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ <input type="checkbox"/> and enter the following information:</p> <p style="margin-left: 20px;">b Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____</p> <p style="margin-left: 20px;">c Enter the EIN of the issuer of the master pool bond ▶ _____</p> <p style="margin-left: 20px;">d Enter the name of the issuer of the master pool bond ▶ _____</p> <p>39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▶ <input checked="" type="checkbox"/></p> <p>40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ <input type="checkbox"/></p> <p>41a If the issuer has identified a hedge, check here ▶ <input type="checkbox"/> and enter the following information:</p> <p style="margin-left: 20px;">b Name of hedge provider ▶ _____</p> <p style="margin-left: 20px;">c Type of hedge ▶ _____</p> <p style="margin-left: 20px;">d Term of hedge ▶ _____</p> <p>42 If the issuer has superintegrated the hedge, check box ▶ <input type="checkbox"/></p> <p>43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ▶ <input type="checkbox"/></p> <p>44 If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ <input type="checkbox"/></p> <p>45a If some portion of the proceeds was used to reimburse expenditures, check here ▶ <input type="checkbox"/> and enter the amount of reimbursement ▶ _____</p> <p style="margin-left: 20px;">b Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____</p>	<p>35</p> <p>36a</p> <p>37</p>	
--	---	--

Signature and Consent	<p>Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.</p>				
	Signature of issuer's authorized representative	Date	Type or print name and title		
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶	Firm's EIN ▶		Firm's address ▶	
	Firm's address ▶		Phone no.		



Invoice

Lease Number: 98987896-2
Invoice Number: 01232020-S

INVOICE DATE
January 23, 2020

DUE DATE
Upon Receipt

Bill to:
City of Newark
37101 Newark Blvd.
Newark, CA 94560

Remit to:
PNC Equipment Finance, LLC
P. O. Box 933106
Cleveland, OH 44193

Invoice

Initiation Fees:

Escrow Account Set Up Fee	\$ 250.00
---------------------------	-----------

Pay This Amount: \$250.00

Any questions, please contact Client Services at PNCEF_CS@pnc.com or 855-531-1727.

F.2 Authorization for the purchase of a replacement large area rotary mower from Turf Star, Inc. and authorizing the City Manager to execute the Contractual Equipment and Services Agreement – from Maintenance Superintendent Connolly. (RESOLUTION)

Background/Discussion- The 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020 includes funding for the replacement of the City of Newark’s existing large area rotary mower through the City’s Equipment Replacement Program. Approximately 74.25 acres of lawn are maintained on a monthly basis by the Maintenance Division. The current large area rotary mower was purchased as used equipment in 2008 and no longer meets the California Air Resource Board emission standards. In addition, other necessary repairs are conservatively estimated to be in excess of \$40,000 and completion of those repairs would not assure extended use of the mower given its age and accrued hours of use. The Toro Groundsmaster 5910 Large Area Rotary Mower meets California Air Resource Board Tier 4 emissions standards and has been identified by the Maintenance Division as the most suitable replacement mower.

An intergovernmental procurement process (also known as a “piggybacking”) is an alternative option to Newark’s formal bidding process. By piggybacking onto another agency’s contract, the City would save the cost and time associated with an additional formal bid process but be able to be assured of competitive set prices established by another agency’s formal bidding process.

Upon completion of a formal bidding process, the City of Lemoore, California entered into a procurement contract with Turf Star, Inc. for the purchase of a Toro Groundsmaster 5910 Large Area Rotary Mower. The competitive process used by the City of Lemoore has been reviewed by the City of Newark Public Works Department and satisfies the City of Newark’s requirements for the proposed equipment replacement purchase.

The mower would be equipped with flashers and City logos by staff for an additional cost of \$2,000. The total budget for replacement of this item is \$133,393.

Attachment – Resolution; Contractual Equipment and Services Agreement

Action - Staff recommends that the City Council, by resolution, authorize the purchase of a replacement large area rotary mower from Turf Star, Inc. and authorizing the City Manager to execute the Contractual Equipment and Services Agreement.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE PURCHASE OF A
REPLACEMENT LARGE AREA ROTARY MOWER FROM
TURF STAR, INC. AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE CONTRACTUAL
EQUIPMENT AND SERVICES AGREEMENT

WHEREAS, the City of Newark 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020 and the Equipment Replacement List include an item for replacement of the City's existing large area rotary mower that has reached the end of its useful life; and

WHEREAS, the City of Lemoore, California has received bids for the replacement of a Toro Groundsmaster 5910 Large Area Rotary Mower and has established a certified bid list. The City of Newark, as a public agency, is eligible to select a vendor from the City of Lemoore's certified bid list to purchase a the Toro Groundsmaster 5910 Large Area Rotary Mower from Turf Star, Inc. in the amount of \$131,393; and

WHEREAS, the proposed replacement equipment will require outfitting based on quotes from specialty vendors in the amount of \$2,000, not to exceed a combined total cost of \$133,393.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark authorizes the purchase of a Toro Groundsmaster 5910 Large Area Rotary Mower from Turf Star, Inc., in the amount not to exceed \$131,393, as replacement large area rotary mower for the Maintenance Division of the Public Works Department through Turf Star, Inc., and outfitting by Classic Graphics and Priority One for a total amount not to exceed \$133,393.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to execute a Contractual Equipment and Services Agreement with Turf Star, Inc. for the purchase of a Toro Groundsmaster 5910 Large Area Rotary Mower.

**CONTRACTUAL EQUIPMENT AND SERVICES AGREEMENT
TORO GROUNDMASTER 5910 MOWER (PROJECT 2020-16)**

This Service Agreement (hereinafter “Agreement”) is made and entered into this day of _____, 2020 by and between the **CITY OF NEWARK**, a municipal corporation (“City”), and TURF STAR INC. a California corporation (“Consultant”), collectively the “Parties”.

W I T N E S S E T H:

WHEREAS, City requested proposals to provide services (“Services”) to City as described in Exhibit “A”, attached hereto and incorporated herein.

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”, 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 provide Equipment and perform the 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 provision of Software and 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 the 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 Equipment and Services provided and 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 One Hundred Thirty-One Thousand, Three Hundred Ninety-Three and 23/100 Dollars (\$131,393.23) 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.

C. **Method of Billing.** 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: Finance Department
37101 Newark Boulevard
Newark, CA 94560

D. **Payment.** Upon receipt of an invoice, City shall verify that the invoice has been properly prepared and that the conditions of payment have been fulfilled. If the payment conditions have been fulfilled, the invoice shall be processed and paid by City within thirty (30) days after City’s receipt thereof.

E. **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 the Services described in Exhibit “A”, 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 accomplished 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. EQUIPMENT. Consultant shall, at its sole cost and expense, furnish all 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. CONFIDENTIAL INFORMATION. "Confidential Information" means any and all confidential information of a party to this Agreement that is not generally known to or by members of the public, including but not limited to businesses that compete with such a party, including but not limited to the Software and the Documentation pertaining thereto. Confidential Information shall not include information that is now or becomes part of the public domain, is required by applicable law to be disclosed, was already known by the receiving party at the time of disclosure, is independently developed by the receiving party without any use of the Confidential Information, or is lawfully obtained from a third party.

To the extent authorized by law, each party agrees to protect the other party's Confidential Information. Confidential Information will not be used or disclosed except as authorized by the providing party. Confidential Information will be disclosed to employees of the receiving party only on a "need to know" basis and only after such employees are informed of the confidential nature of the information and obligated to maintain confidentiality.

If a party or any party acting on its behalf is required to disclose by order of a court of competent jurisdiction, administrative agency or governmental body, or by subpoena, summons, or other legal process, or by law, rule, or regulation, or by applicable regulatory or professional standards to produce Confidential Information, that party shall promptly (and prior to such disclosure) notify the other party in writing of such demand or requirement whereupon the parties shall cooperate and take all reasonable acts (without significant cost or expense to the notifying party) to exhaust the legal avenues available to maintain the confidentiality of such Confidential Information, unless the party whose Confidential Information is at issue consents to the production and disclosure of such Confidential Information. In all events, only that portion of the Confidential Information specifically requested by the tribunal or person compelling such disclosure shall be provided and not interpretation or analysis of such data prepared for the purpose of such disclosure shall be disclosed unless approved by the party whose Confidential Information is at issue or required by law.

10. 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.

11. 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.

12. 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.

13. 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, subcontractors, 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 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 any auto, (Code 1) or Code 8 (hired) and 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.

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 any 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 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.
(including products and completed operations, property damage, bodily injury and personal and advertising injury.)
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 16 shall include a "wasting" policy limit (ie. limit that is eroded by the cost of defense).

G. Remedies.

In addition to 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 commercial 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 to 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 Retention (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 insured 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, agents, 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 16 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 interest are otherwise fully protected. Any variation granted shall be done in writing and shall be made a part of this Agreement as Appendix "A".

14. REPORTING DAMAGES. If any damage (including but not limited to death, personal injury or property damage) occurs in connection with the performance of this Agreement, Consultant shall immediately notify the City Risk Manager's office by telephone at 510-578-4428, and Consultant shall promptly submit to the City's Risk Manager and the City's Administrator (see paragraph 18 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 and whether any City property was involved.

15. INDEMNIFICATION/SAVE HARMLESS. To the fullest extent permitted by law, Consultant shall: (1) immediately defend, and (2) indemnify City, and 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.

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 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 the 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.

16. 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.

17. 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 21 Section A above, either party may terminate this Agreement without cause by giving written notice thereof not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, City shall compensate Consultant for Services rendered and reimburse Consultant for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the Services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of City to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to City hereunder.

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

19. 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:

Turf Star Inc.

CITY OF NEWARK

NOLAN STARK

TONYA CONNOLLY

Consultant

Administrator

Address: 2438 Radley Court
Hayward, CA 94545

37101 Newark Blvd.
Newark, CA 94560

20. 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.

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

22. 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.

23. 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.

24. 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.

25. 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.

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

27. 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.

28. 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.

29. 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.

30. 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

TURF STAR, INC.
a California corporation

By _____
David J. Benoun, City Manager

By _____
Nolan Stark, Territory Manager

Date _____

Date _____

Attest:

Sheila Harrington, City Clerk

Date _____

Approved as to form:

Kris Kokotaylo, Interim City Attorney

Date _____

EXHIBIT A

SCOPE OF SERVICES

Procure and deliver a Groundmaster 5910 TF with All Season Safety Cab (model 31699) large area rotary mower, complete and ready for use, subject to final outfitting by the City of Newark. Delivery shall be made to 37440 Filbert Street, Newark, CA during regular City of Newark business hours.

The Groundmaster 5910 TF with All Season Safety Cab (model 31699) can mow over 17 acres/hour using only one operator. The 16' wide mowing brawn and a more efficient EPA Tier 4 Final and EU stage IV emissions compliant Yanmar 3.3L engine, the Groundmaster 5900 series has SmartPower which allows the operator to effortlessly maintain the correct speed for optimal cutting while the SmartCool system prevents overheating with auto-reversing the cooling fans.

Pricing includes a 60 month/5,000 hour additional warranty.

EXHIBIT B

PAYMENT

One-time payment of \$131,393.23, thirty (30) days after receipt of equipment.

EXHIBIT C
QUALIFICATIONS

National IPA Pricing: Contract 2017025

City of Newark National IPA/Omnia Partner Member #5067297

F.3 Authorization for the purchase of a replacement front line fire engine (pumper) from Golden State Fire Apparatus, Inc. and authorizing the City Manager to enter into a nine-year Master Lease-Purchase Agreement with PNC Equipment Finance, LLC – from Maintenance Superintendent Connolly. (RESOLUTION)

Background/Discussion- The 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020 includes a line item for funding the replacement of one front line fire engine (pumper). The purchase of this engine is necessary to ensure emergency response personnel are able to safely and expeditiously respond to emergencies at all times. The existing front line fire engine (pumper) would be utilized as a back-up engine. Staff seeks authorization to participate in an intergovernmental procurement process for the purchase of a front line fire engine (pumper) from Golden State Fire Apparatus, Inc.

An intergovernmental procurement process (also known as a “piggybacking”) is an alternative option to the City of Newark’s formal bidding process. By piggybacking onto another agency’s contract, the City would save the cost and time associated with an additional formal bid process but be able to be assured of competitive set prices established by another agency’s formal bidding process.

Upon completion of a formal bidding process, the Alameda County Fire Department entered into a procurement contract with Golden State Fire Apparatus, Inc. for the purchase of front line fire engine (pumper). The competitive process used by the Alameda County Fire Department has been reviewed by the Public Works Department and satisfies the City’s requirements for the proposed equipment purchase.

Based upon the Alameda County Fire Department contract with Golden State Fire Apparatus, Inc., the combined cost for the front line engine (pumper) would be \$647,564. The replacement cost does not include specialty outfitting of the front line engine (pumper) by specialized vendors which is estimated not to exceed \$196,000 for all necessary onboard equipment and required outfitting needed to place the new apparatus into service as a front line fire engine (pumper). The total budget for replacement of this item is \$843,564.

The current budget identifies replacement of this equipment with annual lease-to-purchase payments in the amount of \$85,000. The acquisition of the front line fire engine (pumper) is proposed to occur through a Master Lease-Purchase Agreement with PNC Equipment Finance, LLC. PNC Equipment Finance, LLC has provided acceptable leasing terms and documents for a nine-year lease-purchase to commence upon receipt of the front line fire engine (pumper) as follows:

Year 1 - December 2020	\$109,076.40
Year 2 – December 2021	\$109,076.40
Year 3 – December 2022	\$109,076.40
Year 4 – December 2023	\$109,076.40
Year 5 - December 2024	\$109,076.40

Year 6 – December 2025	\$109,076.40
Year 7 – December 2026	\$109,076.40
Year 8 – December 2027	\$109,076.40
Year 9 – December 2028	\$109,076.40

With the annual lease payments proposed, authorization is needed to modify the future budget, commencing in Fiscal Year 2020-2021 by \$24,076.40 annually. This future increase is identified in the attached resolution.

Attachments – Resolution; Master Lease-Purchase Agreement

Action – Staff recommends that the City Council, by resolution, authorize the purchase of a replacement front line fire engine (pumper) from Golden State Fire Apparatus, Inc. and authorize the City Manager to execute a nine-year Master Lease-Purchase Agreement with PNC Equipment Finance, LLC.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE PURCHASE OF A
REPLACEMENT FRONT LINE FIRE ENGINE (PUMPER)
FROM GOLDEN STATE FIRE APPARATUS, INC. AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A NINE
YEAR MASTER LEASE-PURCHASE AGREEMENT WITH
PNC EQUIPMENT FINANCE, LLC

WHEREAS, the 2018–2020 Biennial Budget and Capital Improvement Plan includes funding on a lease-to-purchase basis in the amount of \$85,000 annually for the replacement of a front line fire engine (pumper) that has reached the end of its useful life as a front line engine; and

WHEREAS, the City of Newark will be participating in an intergovernmental procurement process (also known as “piggybacking”) with Golden State Fire Apparatus, Inc. as the holder of the Alameda County Fire Department procurement contract to purchase a front line fire engine (pumper) at a cost of \$647,564.69; and

WHEREAS, the proposed replacement front line fire engine (pumper) will require equipment outfitting based on quotes from specialty vendors, not to exceed a combined total cost of \$196,000.00; and

WHEREAS, the City of Newark has opted to finance, in accordance with the 2018-2020 Biennial Budget and Capital Improvement Plan, the new front line fire engine (pumper) through a Master Lease-Purchase Agreement with PNC Equipment Finance, LLC; and

WHEREAS, the annual payments under the Master Lease-Purchase Agreement are scheduled to commence in December 2020 with an annual cost of \$109,076.40; and

WHEREAS, the City of Newark is a political subdivision of the State of California and is duly organized and existing pursuant to the Constitution and the laws of the State; and

WHEREAS, pursuant to applicable law, the City Council of the City of Newark is authorized to acquire, dispose, and encumber real and personal property, including, without limitation, rights and interest in property, leases, and easements necessary to the functions or operations of the City of Newark; and

WHEREAS, the City Council hereby finds and determines the execution of a Master Lease-Purchase Agreement (“Lease”) in the principal amount not exceeding the combined purchase and outfitting amounts stated above for the purpose of acquiring the property (“Equipment”) to be described in the Lease is appropriate and necessary to the functions and operations of the City of Newark; and

WHEREAS, PNC Equipment Finance, LLC (“Lessor”) shall act as Lessor under said Lease.

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

Section 1. The City Manager acting on behalf of the City of Newark, is hereby authorized to negotiate, enter into, execute, and deliver the Lease in substantially the form set forth in the document presently before the City Council, which document is available for public inspection at the City of Newark. The City Manager acting on behalf of the City of Newark is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the City Manager deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized.

Section 2. By a written instrument signed by the City Manager, City Manager may designate specifically identified officers or employees of the City of Newark to execute and deliver agreements and documents relating to the Lease on behalf of the City of Newark.

Section 3. The aggregate original principal amount of the Lease shall not exceed the amount stated above and shall bear interest as set forth in the Lease and the Lease shall contain such options to purchase by the City of Newark as set forth therein.

Section 4. The City of Newark obligations under the Lease shall be subject to annual appropriation or renewal by the City Council as set forth in each Lease and the City of Newark's obligation under the Lease shall not constitute general obligations of the City of Newark or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the City of Newark reasonably anticipates to issue not more than \$10,000,000 of tax exempt obligations (other than "private activity bonds" which are not "qualified 501(C)(3) bonds") during the current calendar year in which each such Lease is issued and hereby designates each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

I HEREBY CERTIFY the foregoing resolution was introduced at a regular meeting of the City Council of the City of Newark held on January 23, 2020, by Council Member _____ who moved its adoption and passage, which motion was carried after being duly seconded, and passed by the following vote:

AYES:

NOES:

ABSENT:

SECONDED:

APPROVED:

ATTEST:

s/ALAN L. NAGY
Mayor

s/SHEILA HARRINGTON
City Clerk

APPROVED AS TO FORM:

s/KRISTOPHER J. KOKOTAYLO
Interim City Attorney

The undersigned City Clerk of the City of Newark hereby certifies and attests that the undersigned has access to the official records of the City Council of the City of Newark, that the foregoing resolution was duly adopted by said City Council of the City of Newark at a meeting of said City Council and that such resolution has not been amended or altered and are in full force and effect on the date stated above.

Sheila Harrington, City Clerk, City of Newark

Date

Master Lease-Purchase Agreement
Between
City of Newark and
PNC Equipment Finance, LLC

Document Index

- Master Lease-Purchase Agreement – Sign and provide title on the last page
- Lease Schedule with Schedule A-1 – Sign and title
- Escrow Rider – Sign, print and provide title
- Escrow Agreement
 - o Exhibit 1 – General Investment Direction Letter
 - o Exhibit 2 – Escrow Agent Fees and Expenses
 - o Exhibit 3 – Requisition Request and Certificate of Acceptance
 - o Money Market Escrow Investment Letter – Please sign or contact Scott Miller at 614-849-3402 with U.S. Bank to select a different investment that meets your requirements.
- Vehicle Schedule Addendum – Sign and title
- Resolution – The resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.
- Incumbency Certificate – List your authorized signor(s) and title(s); have secretary or appropriate trustee attest to the information and signature(s) provided by signing and printing his/her name, title and date. **The person who validates the signatures should not sign the lease documents.** The resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.
- Opinion of Counsel Letter – Enclosed is a template. Please ask your attorney to prepare on his/her letterhead, and include all of the items in the template.
- Titled Vehicle Guidelines - The terms of your contract specify that the Lender be listed as the lienholder and hold the original title during the term of the lease. Please refer to this document to guide you through the transfer of title and vehicle registration process.
- Insurance Request Form – Fill in your insurer's information and sign. Please contact your insurer, prior to delivery, to obtain a certificate of insurance. Please enclose the certificate with the signed documentation or have the insurer fax the certificate directly to me.
- Three Party Agreement – Sign and title.
- Delivery & Acceptance Certificate – At point of delivery, fill out this form and fax it to me. Please return the original via US Postal Service.
- IRS FORM 8038-G – Sign, date, and title
- Minutes of Governing Body (approving the purchase & finance of equipment) – Please return a copy with the documents.
- Invoice for Escrow Fee – please send your check in the amount of \$250.00, made payable to PNC Equipment Finance, LLC.
- Sales Contract or Purchase Order - Please provide a copy of the Sales Contract enter into with Pierce Manufacturing or a copy of the Purchase Order issued to Pierce Manufacturing Inc.

MASTER LEASE – PURCHASE AGREEMENT

Dated as of January 23, 2020

This Master Lease-Purchase Agreement together with all addenda, riders and attachments hereto, as the same may from time to time be amended, modified or supplemented ("Master Lease") is made and entered by and between PNC Equipment Finance, LLC ("Lessor") and the Lessee identified below ("Lessee").

LESSEE: City of Newark

1. **LEASE OF EQUIPMENT.** Subject to the terms and conditions of this Master Lease, Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, all Equipment described in each Schedule signed from time to time by Lessee and Lessor.

2. **CERTAIN DEFINITIONS.** All terms defined in the Lease are equally applicable to both the singular and plural form of such terms. (a) "Schedule" means each Lease Schedule signed and delivered by Lessee and Lessor, together with all addenda, riders, attachments, certificates and exhibits thereto, as the same may from time to time be amended, modified or supplemented. Lessee and Lessor agree that each Schedule (except as expressly provided in said Schedule) incorporates by reference all of the terms and conditions of the Master Lease. (b) "Lease" means each Schedule and this Master Lease as incorporated into said Schedule. (c) "Equipment" means the property described in each Schedule, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto. (d) "Lien" means any security interest, lien, mortgage, pledge, encumbrance, judgment, execution, attachment, warrant, writ, levy, other judicial process or claim of any nature whatsoever by or of any person.

3. **LEASE TERM.** The term of the lease of the Equipment described in each Lease ("Lease Term") commences on the first date any of such Equipment is accepted by Lessee pursuant to Section 5 hereof and, unless earlier terminated as expressly provided in the Lease, continues until Lessee's payment and performance in full of all of Lessee's obligations under the Lease.

4. RENT PAYMENTS.

4.1 For each Lease, Lessee agrees to pay to Lessor the rent payments in the amounts and at the times as set forth in the Schedule A-1 attached to the Schedule ("Rent Payments"). A portion of each Rent Payment is paid as and represents the payment of interest as set forth in the Schedule A-1. Rent Payments will be payable for the Lease Term in U.S. dollars, without notice or demand at the office of Lessor (or such other place as Lessor may designate from time to time in writing).

4.2 If Lessor receives any payment from Lessee after the due date, Lessee shall pay Lessor on demand as a late charge five per cent (5%) of such overdue amount, limited, however, to the maximum amount allowed by law.

4.3 EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 6 HEREOF OR IN ANY WRITTEN MODIFICATION TO THE LEASE SIGNED BY LESSOR, THE OBLIGATION TO PAY RENT PAYMENTS UNDER EACH LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND SHALL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

5. DELIVERY; ACCEPTANCE; FUNDING CONDITIONS.

5.1 Lessee shall arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("Location") by Equipment suppliers ("Suppliers") selected by Lessee. Lessee shall pay all costs related thereto unless Lessor otherwise agrees to pay such costs as stated in the Schedule.

5.2 Lessee shall accept Equipment as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor the applicable Schedule. If Lessee signs and delivers a Schedule and if all Funding Conditions have been satisfied in full, then Lessor will pay or cause to be paid the costs of such Equipment as stated in the Schedule ("Purchase Price") to the applicable Supplier.

5.3 Lessor shall have no obligation to pay any Purchase Price unless all reasonable conditions established by Lessor ("Funding Conditions") have been satisfied, including, without limitation, the following: (a) Lessee has signed and delivered the Schedule and its Schedule A-1; (b) no Event of Default shall have occurred and be continuing; (c) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder (collectively, the "Code"); (d) no material adverse change shall have occurred in the financial condition of Lessee or any Supplier; (e) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (except Lessor's Liens); (f) all representations of Lessee in the Lease remain true, accurate and complete; and (g) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) evidence of insurance coverage required by the Lease, (2) an opinion of Lessee's counsel; (3) reasonably detailed invoices for the Equipment; (4) Uniform Commercial Code (UCC) financing statements; (5) copies of resolutions by Lessee's governing body, duly authorizing the Lease and incumbency certificates for the person(s) who will sign the Lease; (6) such documents and certificates relating to the tax-exempt interest payable under the Lease (including, without limitation, IRS Form 8038G or 8038GC) as Lessor may request; and (7) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

6. TERMINATION FOR GOVERNMENTAL NON-APPROPRIATIONS.

6.1 For each Lease, Lessee represents and warrants: that it has appropriated and budgeted the necessary funds to make all Rent Payments required pursuant to such Lease for the remainder of the fiscal year in which the Lease Term commences; and that it intends to make Rent Payments for the full Lease Term as scheduled on the applicable Schedule A-1 so long as funds are appropriated in each fiscal year by its governing body. Lessee reasonably believes that moneys in an amount sufficient to make all Rent Payments can and will lawfully be appropriated and made available therefor. All Rent Payments shall be payable out of the general funds of Lessee or out of other funds legally available therefor. Lessor agrees that the Leases will not be general obligations of Lessee and that the Leases shall not constitute pledges of either the full faith and credit of Lessee or the taxing power of Lessee.

6.2 If Lessee's governing body fails to appropriate sufficient funds in any fiscal year for Rent Payments or other payments due under a Lease and if other funds are not available for such payments, then a "Non-Appropriation Event" shall be deemed to have occurred. If a Non-Appropriation Event occurs, then: (a) Lessee shall give Lessor immediate notice of such Non-Appropriation Event and provide written evidence of such failure by Lessee's governing body; (b) on the Return Date, Lessee shall return to Lessor all, but not less than all, of the Equipment covered by the affected Lease, at Lessee's sole expense, in accordance with Section 21 hereof; and (c) the affected Lease shall terminate on the Return Date without penalty or expense to Lessee, provided, that Lessee shall pay all Rent Payments and other amounts payable under the affected Lease for which funds shall have been appropriated or are otherwise available, provided further, that Lessee shall pay month-to-month rent at the rate set forth in the affected Lease for each month or part thereof that Lessee fails to return the Equipment under this Section 6.2. "Return Date" means the last day of the fiscal year for which appropriations were made for the Rent Payments due under a Lease.

7. NO WARRANTY BY LESSOR. The Equipment is sold "AS IS". LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE EQUIPMENT. LESSOR DOES NOT REPRESENT THE MANUFACTURER, OWNER, OR DEALER, AND LESSEE SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OR AS TO THE EQUIPMENT'S VALUE, DESIGN, CONDITION, USE, CAPACITY OR

DURABILITY. LESSEE AGREES THAT REGARDLESS OF CAUSE, LESSOR IS NOT RESPONSIBLE FOR, AND LESSEE WILL NOT MAKE ANY CLAIM AGAINST LESSOR FOR, ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT INCURRED BY LESSEE IN CONNECTION WITH THE EQUIPMENT OR THIS MASTER LEASE – LEASE PURCHASE AGREEMENT. NEITHER THE MANUFACTURER, THE DEALER, NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF THE DEALER OR MANUFACTURER, IS LESSOR'S AGENT OR HAS ANY AUTHORITY TO SPEAK FOR LESSOR OR TO BIND LESSOR IN ANY WAY. For and during the Lease Term, Lessor hereby assigns to Lessee any manufacturer's or Supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) all Equipment will have been purchased by Lessor in accordance with Lessee's specifications from Suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or Supplier's product warranties or guaranties, (d) no manufacturer or Supplier or any representative of said parties is an agent of Lessor, and (e) any warranty, representation, guaranty or agreement made by any manufacturer or Supplier or any representative of said parties shall not be binding upon Lessor.

8. TITLE; SECURITY INTEREST.

8.1 Upon Lessee's acceptance of any Equipment under its Lease, title to the Equipment shall vest in Lessee, subject to Lessor's security interest therein and all of Lessor's other rights under such Lease including, without limitation, Sections 6, 20 and 21 hereof.

8.2 As collateral security for the Secured Obligations, Lessee hereby grants to Lessor a first priority security interest in any and all of the Equipment (now existing or hereafter acquired) and any and all proceeds thereof. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code (UCC) financing statements and any amendments thereto.

8.3 "Secured Obligations" means Lessee's obligations to pay all Rent Payments and all other amounts due and payable under all present and future Leases and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due, or existing or hereafter arising) of Lessee under all present and future Leases.

9. PERSONAL PROPERTY. All Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon.

10. MAINTENANCE AND OPERATION. Lessee agrees it shall, at its sole expense: (a) repair and maintain all Equipment in good condition and working order, in accordance with manufacturer's instructions, and supply and install all replacement parts or other devices when required to so maintain the Equipment or when required by applicable law or regulation, which parts or devices shall automatically become part of the Equipment; and (b) use and operate all Equipment in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements, and comply with all laws and regulations relating to the Equipment. If any Equipment is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement by a party reasonably satisfactory to Lessor. No maintenance or other service for any Equipment will be provided by Lessor. Lessee will not make any alterations, additions or improvements ("Improvements") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value or utility of such Equipment, but any such Improvements not removed prior to the termination of the applicable Lease shall automatically become part of the Equipment.

11. LOCATION; INSPECTION. Equipment will not be removed from, or if Equipment is rolling stock its permanent base will not be changed from, the Location without Lessor's prior written consent which will not be unreasonably withheld. Upon reasonable notice to Lessee, Lessor may enter the Location or elsewhere during normal business hours to inspect the Equipment.

12. LIENS, SUBLEASES AND TAXES.

12.1 Lessee shall keep all Equipment free and clear of all Liens except those Liens created under its Lease. Lessee shall not sublet or lend any Equipment or permit it to be used by anyone other than Lessee or Lessee's employees.

12.2 Lessee shall pay when due all Taxes which may now or hereafter be imposed upon any Equipment or its ownership, leasing, rental, sale, purchase, possession or use, upon any Lease or upon any Rent Payments or any other payments due under any Lease. If Lessee fails to pay such Taxes when due, Lessor shall have the right, but not the obligation, to pay such Taxes. If Lessor pays any such Taxes, then Lessee shall, upon demand, immediately reimburse Lessor therefor. "Taxes" means present and future taxes, levies, duties, assessments or other governmental charges that are not based on the net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation (a) sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes, and (b) interest, penalties or fines on any of the foregoing.

13. RISK OF LOSS.

13.1 Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part from any reason whatsoever ("Casualty Loss"). No Casualty Loss to any Equipment shall relieve Lessee from the obligation to make any Rent Payments or to perform any other obligation under any Lease. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 13.

13.2 If a Casualty Loss occurs to any Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

13.3 If Lessor determines that any item of Equipment has suffered a Casualty Loss beyond repair ("Lost Equipment"), then Lessee shall either: (a) immediately replace the Lost Equipment with similar equipment in good repair, condition and working order free and clear of any Liens (except Lessor's Liens) and deliver to Lessor a bill of sale covering the replacement equipment, in which event such replacement equipment shall automatically be Equipment under the applicable Lease; or (b) on the next scheduled Rent Payment date, pay Lessor (i) all amounts owed by Lessee under the applicable Lease, including the Rent Payment due on such date plus (ii) an amount equal to the applicable Termination Value set forth in the Payment Schedule to the applicable Lease. If Lessee is making such payment with respect to less than all of the Equipment under a Lease, then Lessor will provide Lessee with the pro rata amount of the Rent Payment and Termination Value to be paid by Lessee with respect to the Lost Equipment.

13.4 Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of any Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms of the applicable Lease or which arise directly from the gross negligence or willful misconduct of Lessor.

14. INSURANCE.

14.1 (a) Lessee at its sole expense shall at all times keep all Equipment insured against all risks of loss or damage from every cause whatsoever for an amount not less than the Termination Value of the Equipment. Proceeds of any such insurance covering damage or loss of any Equipment shall be payable to Lessor as loss payee. (b) The Total Amount Financed as set forth on the Schedule A-1 does not include the payment of any premium for any liability insurance coverage for bodily injury and/or property damage caused to others and no such insurance will be purchased by Lessor. (c) Lessee at its sole expense shall at all times carry public liability and property damage insurance in amounts reasonably satisfactory to Lessor protecting Lessee and Lessor from liabilities for injuries to persons and damage to property of others relating in any way to any Equipment. Proceeds of any such public liability or property insurance shall be payable first to Lessor as additional insured to the extent of its liability, and then to Lessee.

14.2 All insurers shall be reasonably satisfactory to Lessor. Lessee shall promptly deliver to Lessor satisfactory evidence of required insurance coverage and all renewals and replacements thereof. Each

insurance policy will require that the insurer give Lessor at least 30 days prior written notice of any cancellation of such policy and will require that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of Lessee. The insurance maintained by Lessee shall be primary without any right of contribution from insurance which may be maintained by Lessor.

15. PURCHASE OPTION. Upon thirty (30) days prior written notice by Lessee to Lessor, and so long as there is no Event of Default then existing, Lessee shall have the option to purchase all, but not less than all, of the Equipment covered by a Lease on any Rent Payment due date by paying to Lessor all Rent Payments then due (including accrued interest, if any) plus the Termination Value amount set forth on the Payment Schedule to the applicable Lease for such date. Upon satisfaction by Lessee of such purchase conditions, Lessor shall release its Lien on such Equipment and Lessee shall retain its title to such Equipment "AS-IS, WHERE-IS," without representation or warranty by Lessor, express or implied, except for a representation that such Equipment is free and clear of any Liens created by Lessor.

16. LESSEE'S REPRESENTATIONS AND WARRANTIES. With respect to each Lease and its Equipment, Lessee hereby represents and warrants to Lessor that:

(a) Lessee has full power, authority and legal right to execute and deliver the Lease and to perform its obligations under the Lease, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;

(b) the Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms;

(c) the Lease is authorized under, and the authorization, execution and delivery of the Lease complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and property acquisition laws) and all applicable judgments and court orders;

(d) the execution, delivery and performance by Lessee of its obligations under the Lease will not result in a breach or violation of, nor constitute a default under, any agreement, lease or other instrument to which Lessee is a party or by which Lessee's properties may be bound or affected;

(e) there is no pending, or to the best of Lessee's knowledge threatened, litigation of any nature which may have a material adverse effect on Lessee's ability to perform its obligations under the Lease; and

(f) Lessee is a state, or a political subdivision thereof, as referred to in Section 103 of the Code, and Lessee's obligation under the Lease constitutes an enforceable obligation issued on behalf of a state or a political subdivision thereof.

17. TAX COVENANTS. Lessee hereby covenants and agrees that:

(a) Lessee shall comply with all of the requirements of Section 149(a) and Section 149(e) of the Code, as the same may be amended from time to time, and such compliance shall include, but not be limited to, keeping a complete and accurate record of any assignments of any Lease and executing and filing Internal Revenue Form 8038G or 8038GC, as the case may be, and any other information statements reasonably requested by Lessor;

(b) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, any Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or any Lease to be a "private activity bond" within the meaning of Section 141(a) of the Code; and

(c) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, the interest portion of any Rent Payments to be or become includable in gross income for Federal income taxation purposes under the Code.

(d) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which approval Lessee shall not unreasonably withhold, that Lessor may not exclude the interest component of any Rent Payment under a Tax-Exempt Lease from federal gross income because Lessee breached a

covenant contained herein, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rent Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rent Payments under such Tax-Exempt Lease due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after-tax yield on the transaction evidenced by such Tax-Exempt Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event with respect to a Tax-Exempt Lease, it shall pay additional rent to Lessor on each succeeding Rent Payment due date in such amount as will maintain such after-tax yield to Lessor. Lessor's determination of the amount necessary to maintain its after-tax yield as provided in this subsection (b) shall be conclusive (absent manifest error). Notwithstanding anything in a Tax-Exempt Lease to the contrary, any payment that Lessee is required to make pursuant to this subsection (b) shall be made only from Legally Available Funds.

18. ASSIGNMENT.

18.1 Lessee shall not assign, transfer, pledge, hypothecate, nor grant any Lien on, nor otherwise dispose of, any Lease or any Equipment or any interest in any Lease or Equipment.

18.2 Lessor may assign its rights, title and interest in and to any Lease or any Equipment, and/or may grant or assign a security interest in any Lease and its Equipment, in whole or in part, to any party at any time. Any such assignee or lien holder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease. **LESSEE AGREES NOT TO ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR.** Unless otherwise agreed by Lessee in writing, any such assignment transaction shall not release Lessor from any of Lessor's obligations under the applicable Lease. An assignment or reassignment of any of Lessor's right, title or interest in a Lease or its Equipment shall be enforceable against Lessee only after Lessee receives a written notice of assignment which discloses the name and address of each such Assignee. Lessee shall keep a complete and accurate record of all such assignments in the form necessary to comply with Section 149(a) of the Code. Lessee agrees to acknowledge in writing any such assignments if so requested.

18.3 Each Assignee of a Lease hereby agrees that: (a) the term Secured Obligations as used in Section 8.3 hereof is hereby amended to include and apply to all obligations of Lessee under the Assigned Leases and to exclude the obligations of Lessee under any Non-Assigned Leases; (b) said Assignee shall have no Lien on, nor any claim to, nor any interest of any kind in, any Non-Assigned Leases; and (c) Assignee shall exercise its rights, benefits and remedies as the assignee of Lessor (including, without limitation, the remedies under Section 20 of the Master Lease) solely with respect to the Assigned Leases. "Assigned Leases" means only those Leases which have been assigned to an Assignee pursuant to a written agreement; and "Non-Assigned Leases" means all Leases excluding the Assigned Leases.

18.4 Subject to the foregoing, each Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

19. **EVENTS OF DEFAULT.** For each Lease, "Event of Default" means the occurrence of any one or more of the following events as they may relate to such Lease: (a) Lessee fails to make any Rent Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (b) Lessee fails to perform or observe any of its obligations under Sections 12.1, 14 or 18.1 hereof; (c) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Lease and such failure is not cured within thirty (30) days after receipt of written notice thereof by Lessor; (d) any statement, representation or warranty made by Lessee in the Lease or in any writing delivered by Lessee pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; (e) Lessee applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within sixty (60) days thereafter; or (f) Lessee shall be in default under any other Lease or

under any other financing agreement executed at any time with Lessor.

20. REMEDIES. If any Event of Default occurs, then Lessor may, at its option, exercise any one or more of the following remedies:

(a) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all amounts then currently due under all Leases and all remaining Rent Payments due under all Leases during the fiscal year in effect when the default occurs together with interest on such amounts at the highest lawful rate from the date of Lessor's demand for such payment.

(b) Lessor may require Lessee to promptly return all Equipment to Lessor in the manner set forth in Section 21 (and Lessee agrees that it shall so return the Equipment), or Lessor may, at its option, enter upon the premises where any Equipment is located and repossess such Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession;

(c) Lessor may sell, lease or otherwise dispose of any Equipment, in whole or in part, in one or more public or private transactions, and if Lessor so disposes of any Equipment, then Lessor shall retain the entire proceeds of such disposition free of any claims of Lessee, provided, that the net proceeds of any such disposition shall be applied to amounts payable by Lessee under clause (a) above of this Section only to the extent that such net proceeds exceed the applicable Termination Value set forth in the applicable Schedule A-1;

(d) Lessor may terminate, cancel or rescind any Lease as to any and all Equipment;

(e) Lessor may exercise any other right, remedy or privilege which may be available to Lessor under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under any Lease; and/or

(f) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all out-of-pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Lessor. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy under any Lease shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

21. RETURN OF EQUIPMENT. If Lessor is entitled under the provisions of any Lease, including any termination thereof pursuant to Sections 6 or 20 of this Master Lease, to obtain possession of any Equipment or if Lessee is obligated at any time to return any Equipment, then (a) title to the Equipment shall vest in Lessor immediately upon Lessors notice thereof to Lessee, and (b) Lessee shall, at its sole expense and risk, immediately de-install, disassemble, pack, crate, insure and return the Equipment to Lessor (all in accordance with applicable industry standards) at any location in the continental United States selected by Lessor. Such Equipment shall be in the same condition as when received by Lessee (reasonable wear, tear and depreciation resulting from normal and proper use excepted), shall be in good operating order and maintenance as required by the applicable Lease, shall be free and clear of any Liens (except Lessor's Lien) and shall comply with all applicable laws and regulations. Until Equipment is returned as required above, all terms of the applicable Lease shall remain in full force and effect including, without limitation, obligations to pay Rent Payments and to insure the Equipment. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of legal and beneficial title to such Equipment to Lessor and to evidence the termination of Lessee's interest in such Equipment.

22. LAW GOVERNING. Each Lease shall be governed by the laws of the state of California (The "State").

23. **NOTICES.** All notices to be given under any Lease shall be made in writing and either personally delivered or mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notices shall be deemed to have been received five (5) days subsequent to mailing if sent by regular or certified mail, or on the next business day if sent by overnight courier, or on the day of delivery if delivered personally.

24. **FINANCIAL INFORMATION; INDEMNITY; POWER OF ATTORNEY.** Within thirty (30) days of their completion in each fiscal year of Lessee during any Lease Term, Lessee will deliver to Lessor upon Lessor's request the publicly available annual financial information of Lessee. To the extent permitted by law, Lessee shall indemnify, hold harmless and, if Lessor requests, defend Lessor and its shareholders, affiliates, employees, dealers and agents against all Claims directly or indirectly arising out of or connected with (a) the manufacture, installation, use, lease, possession or delivery of the Equipment, (b) any defects in the Equipment, any wrongful act or omission of Lessee, or its employees and agents, or (c) any claims of alleged breach by Lessee of this Master Lease or any related document. "Claims" means all losses, liabilities, damages, penalties, expenses (including attorney's fees and costs), claims, actions and suits, whether in contract, tort or otherwise. Lessee hereby appoints Lessor its true and lawful attorney-in-fact (with full power of substitution) to prepare any instrument, certificate of title or financing statement covering the Equipment or otherwise protecting Lessor's interest in the Equipment, to sign Lessee's name with the same force and effect as if signed by Lessee, and to file same at the proper location(s); and make claims for, receive payment of, and execute and endorse all documents, checks or drafts for loss, theft, damage or destruction to the Equipment under any insurance.

25. **ANTI-MONEY LAUNDERING/INTERNATIONAL TRADE LAW COMPLIANCE.**

Lessee represents and warrants to Lessor, as of the date of this Master Lease, the date of each advance of proceeds pursuant to this Master Lease, the date of any renewal, extension or modification of this Master Lease or any Lease, and at all times until this Master Lease and each Lease has been terminated and all amounts thereunder have been indefeasibly paid in full, that: (a) no Covered Entity (i) is a Sanctioned Person; (ii) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person; or (iii) does business in or with, or derives any of its operating income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (b) the proceeds of any Lease will not be used to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (c) the funds used to repay any Lease are not derived from any unlawful activity; and (d) each Covered Entity is in compliance with, and no Covered Entity engages in any dealings or transactions prohibited by, any laws of the United States, including but not limited to any Anti-Terrorism Laws. Lessee covenants and agrees that it shall immediately notify Lessor in writing upon the occurrence of a Reportable Compliance Event.

As used herein: "Anti-Terrorism Laws" means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering, or bribery, all as amended, supplemented or replaced from time to time; "Compliance Authority" means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes Enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; "Covered Entity" means Lessee, its affiliates and subsidiaries, all guarantors, pledgors of collateral, all owners of the foregoing, and all brokers or other agents of Lessee acting in any capacity in connection with this Master Lease or any Lease; "Reportable Compliance Event" means that any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; "Sanctioned Country" means a country subject to a sanctions program maintained by any Compliance Authority; and "Sanctioned Person" means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance Authority or otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

26. USA PATRIOT ACT NOTICE.

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each lessee that opens an account. What this means: when Lessee opens an account, Lessor will ask for the business name, business address, taxpayer identifying number and other information that will allow Lessor to identify Lessee, such as organizational documents. For some businesses and organizations, Lessor may also need to ask for identifying information and documentation relating to certain individuals associated with the business or organization.

27. **SECTION HEADINGS.** All section headings contained herein or in any Schedule are for convenience of reference only and do not define or limit the scope of any provision of any Lease.

28. **EXECUTION IN COUNTERPARTS.** Each Schedule to this Master Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall be deemed one instrument. Only one counterpart of each Schedule shall be marked "Lessor's Original" and all other counterparts shall be deemed duplicates. An assignment of or security interest in any Schedule may be created through transfer and possession only of the counterpart marked "Lessor's Original."

29. **ENTIRE AGREEMENT; WRITTEN AMENDMENTS.** Each Lease, together with the exhibits attached thereto and made a part hereof and other attachments thereto, and other documents or instruments executed by Lessee and Lessor in connection therewith, constitute the entire agreement between the parties with respect to the lease of the Equipment covered thereby, and such Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

30. HEAVY-DUTY VEHICLE GREENHOUSE GAS EMISSION REDUCTION REGULATION.

(a) If the equipment leased pursuant to the Lease is a tractor, the Lessee of this heavy-duty tractor understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a highway within California, the heavy-duty tractor must be compliant with sections 95300-95312, title 17, California Code of Regulations, and that it is the responsibility of the Lessee to ensure this heavy-duty tractor is compliant. The regulations may require this heavy-duty tractor to have low-rolling-resistance tires that are U.S. Environmental Protection Agency (U.S. EPA) SmartWay Verified Technologies prior to current or future use in California, or may entirely prohibit use of this tractor in California if it is a model year 2011 or later tractor and is not a U.S. EPA SmartWay Certified Tractor.

(b) If the equipment leased pursuant to the Lease is a trailer, the Lessee of this box-type trailer understands that when using a heavy-duty tractor to pull a 53-foot or longer box-type trailer on a highway within California, the box-type trailer must be compliant with sections 95300-95312, title 17, California Code of Regulations, and that it is the responsibility of the Lessee to ensure this box-type trailer is compliant. The regulations may require this trailer to have low-rolling-resistance tires and aerodynamic technologies that are U.S. Environmental Protection Agency SmartWay Verified Technologies prior to current or future use in California.

(c) Notwithstanding anything in the Lease to the contrary, the Lease does not prohibit the Lessee from modifying the trailer, at Lessee's cost, to be compliant with the requirements of the California Heavy-Duty Vehicle Greenhouse Gas Emission Reduction Regulation.

31. **IMPORTANT INFORMATION ABOUT PHONE CALLS.** By providing telephone number(s) to Lessor, now or at any later time, Lessee authorizes Lessor and its affiliates and designees to contact Lessee regarding Lessee account(s) with Lessor or its affiliates, whether such accounts are Lessee individual accounts or business accounts for which Lessee is a contact, at such numbers using any means, including but not limited to placing calls using an automated dialing system to cell, VoIP or other wireless phone number, or leaving prerecorded messages or sending text messages, even if charges may be incurred for the calls or text messages. Lessee consents that any phone call with Lessor may be monitored or recorded by Lessor.

City of Newark
("Lessee")

By: _____

Title: _____

37101 Newark Blvd.
Newark, CA 94560

PNC Equipment Finance, LLC
("Lessor")

By: _____

Title _____

155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

LEASE SCHEDULE NO. 98987896-1

Dated As Of January 23, 2020

This Lease Schedule (this "Schedule") is attached and made a part of the Master Lease-Purchase Agreement referenced below, together with all exhibits, schedules, addenda, and other attachments thereto, executed by Lessee and Lessor (the "Lease"). Unless otherwise defined herein, capitalized terms will have the same meaning ascribed to them in the Master Lease. All terms and conditions of the Master Lease are incorporated herein by reference. To the extent that there is any conflict between the terms of the Lease and this Schedule, the terms of this Schedule shall control.

Master Lease-Purchase Agreement dated January 23, 2020

1. **EQUIPMENT DESCRIPTION.** As used in the Lease, "Equipment" means all of the property described in Schedule A-1 attached to this Schedule and all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.
2. **RENTAL PAYMENTS; LEASE TERM.** The Rental Payments to be paid by the Lessee to Lessor, the commencement date thereof and the lease term of this Lease Schedule are set forth on the Schedule A-1 attached to this Lease Schedule.
3. **ESSENTIAL USE; CURRENT INTENT OF LESSEE.** Lessee represents that the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens and the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee currently intends for the full Lease Term: to use the Equipment; to continue this Lease; and (if applicable) to make Rent Payments if funds are appropriated in each fiscal year by its governing body.
4. **ACCEPTANCE OF EQUIPMENT.** AS BETWEEN LESSEE AND LESSOR, LESSEE AGREES THAT (A) LESSEE HAS RECEIVED AND INSPECTED ALL EQUIPMENT; (B) ALL EQUIPMENT IS IN GOOD WORKING ORDER AND COMPLIES WITH ALL PURCHASE ORDERS, CONTRACTS AND SPECIFICATIONS; (C) LESSEE ACCEPTS ALL EQUIPMENT FOR PURPOSES OF THE LEASE "AS-IS, WHERE IS"; AND (D) LESSEE WAIVES ANY RIGHT TO REVOKE SUCH ACCEPTANCE.
5. **BANK QUALIFIED.** LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$10,000,000.
6. **RE-AFFIRMATION OF THE MASTER LEASE-PURCHASE AGREEMENT.** Lessee hereby re-affirms all of its representations, warranties and obligations under the Master Lease Purchase Agreement (including, without limitation, its obligation to pay all Rental Payments, its disclaimers in Section 7 thereof and its representations in Section 6.1 and 16 thereof).

City of Newark
("Lessee")

PNC Equipment Finance, LLC
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

Schedule A-1

1. EQUIPMENT LOCATION & DESCRIPTION:

Fire Station 2
35775 Ruschin Avenue
Newark, CA 94560-1840

County: Alameda

(1) 2020 Pierce Arrow XT Pumper VIN:

Accessories and attachments including but not limited to:
Interspiro SCBA units, Motorola & Benxix/King portable radios, Inmotion oMG mobile gateway,
Marvelis license, Ballard thermal imaging camera, FRC LED scene light, Zoll defibrillator unit,
Hurst edraulic combi tool, various tools, hoses and rescue equipment.

2. LEASE PAYMENT SCHEDULE.

(a) Accrual Date: January 23, 2020

(b) Amount Financed:

	Equipment Purchase Price – Pumper	\$651,899.25
i.	Sales Tax - Pumper	\$57,527.59
	Accessories and attachments	\$178,587.71
	Sales Tax - accessories	\$17,412.30
ii.	Purchase Price Deduction	\$0.00
	Prepay Discounts	<u>\$61,862.16</u>
	Trade In	<u>\$0.00</u>
iii.	Total Amount Financed (Cash Sale Price minus Purchase Price Deductions)	\$843,564.69

(c) Payment Schedule:

Accrual Date: January 23, 2020

Rent Payment Number	Rent Payment Date	Rent Payment Amount	Interest Portion	Principal Portion	Termination Value
1	12/23/2020	109,076.40	24,775.38	84,301.02	782,041.58
2	12/23/2021	109,076.40	24,296.44	84,779.96	694,718.22
3	12/23/2022	109,076.40	21,583.48	87,492.92	604,600.51
4	12/23/2023	109,076.40	18,783.71	90,292.69	511,599.04
5	12/23/2024	109,076.40	15,894.34	93,182.06	415,621.52
6	12/23/2025	109,076.40	12,912.51	96,163.89	316,572.71
7	12/23/2026	109,076.40	9,835.27	99,241.13	214,354.35
8	12/23/2027	109,076.40	6,659.55	102,416.85	108,865.00
9	12/23/2028	109,076.40	3,382.23	105,694.17	1.00

City of Newark
("Lessee")

By: _____

Title: _____

PNC Equipment Finance, LLC
("Lessor")

By: _____

Title: _____

ESCROW RIDER

Dated As of January 23, 2020

Lease Schedule No. 98987896-1 Dated January 23, 2020

MASTER LEASE-PURCHASE AGREEMENT DATED January 23, 2020

LESSEE: CITY OF NEWARK

Reference is made to the above Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Schedule ("Master Lease") by and between PNC Equipment Finance, LLC ("Lessor") and the above lessee ("Lessee"). As used herein, "Lease" shall mean the Schedule and the Master Lease, but only to the extent that the Master Lease related to the Schedule. This Addendum amends and modifies the terms and conditions of the Lease and is hereby made a part of the Lease. Unless otherwise defined herein, capitalized terms defined in the Master Lease shall have the same meaning when used herein.

NOW, THEREFORE, as part of the valuable consideration to induce the execution of the Lease, Lessor and Lessee hereby agree to amend the Lease as follows:

1. "*Escrow Agreement*" means the Escrow Agreement relating to a Schedule, dated the Commencement Date under such Schedule and substantially in the form attached to this Master Lease, among Lessor, Lessee and the escrow agent therein identified, with respect to the Escrow Fund established and to be administered thereunder. "*Escrow Fund*" means the fund of that name established pursuant to an Escrow Agreement.
2. Lessee and Lessor together with a mutually acceptable escrow agent agree to enter into an escrow agreement ("*Escrow Agreement*") establishing a fund ("*Equipment Acquisition Fund*") from which the Purchase Price of the Equipment will be paid. The terms and conditions of the Escrow Agreement shall be satisfactory in form and substance, to Lessor and Lessee.
3. In order to provide financing to pay the costs to acquire and install the Equipment ("*Total Amount Financed*") as described in a Schedule, Lessor and Lessee hereby agree to execute and deliver an Escrow Agreement relating to such Schedule on the date on which the Funding Conditions for such Schedule are satisfied as provided in Section 5.3. If Lessee signs and delivers a Schedule and an Escrow Agreement and if all Funding Conditions have been satisfied in full, then Lessor will deposit or cause to be deposited into an Escrow Fund under the related Escrow Agreement an amount (which may include estimated investment earnings thereon) equal to the Purchase Price for the Equipment to be financed under the related Schedule.

4. Lessee shall, at its sole expense, arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("*Location*") by Equipment suppliers ("*Suppliers*") selected by Lessee. Lessee shall accept Equipment for purposes of the related Lease as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor a Certificate of Acceptance in the form and manner required by the applicable Escrow Agreement.
5. If a Non-Appropriation Event or an Event of Default occurs prior to Lessee's acceptance of all the Equipment under the related Schedule, the amount then on deposit in the Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in whole on the first business day of the month next succeeding the occurrence of either such Event plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 5 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds and other moneys available for such purpose as a result of the exercise by Lessor of its rights and remedies under the related Schedule. Any funds on deposit in the Escrow Fund on the prepayment date described in this Section 5 in excess of the unpaid principal component of the Rent Payments to be prepaid plus accrued interest thereon to the prepayment date shall be paid promptly to Lessee.
6. To the extent that Lessee has not accepted items of Equipment before the eighteen-month anniversary of the Commencement Date identified on the related Schedule, the amount then on deposit in the related Escrow Fund shall be applied to prepay the unpaid principal component of the Rent Payments in part, in inverse order of Rent Payments, on the first business day of the next month plus accrued interest to the prepayment date; *provided, however*, that the amount to be prepaid by Lessee pursuant to this Section 6 shall first be paid from moneys in the related Escrow Fund and then from Legally Available Funds. Notwithstanding any such partial prepayment, the related Schedule shall remain in full force and effect with respect to the portion of the Equipment accepted by Lessee during such eighteen-month period, and the portion of the principal component of Rent Payments remaining unpaid after such prepayment plus accrued interest thereon shall remain payable in accordance with the terms of the related Schedule. Upon Lessor's request, Lessee shall execute an amendment to the related Payment Schedule that reflects the change to the Rent Payments as a result of such partial prepayment.
7. As collateral security for Lessee's obligations to pay all Rent Payments and all other amounts due and payable under each Lease and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due or existing or hereafter arising) of Lessee under such Lease, Lessee hereby grants to Lessor a first priority, exclusive security interest in any and all of the Equipment (now existing or hereafter acquired) under each Lease, moneys and investments held from time to time the Escrow Fund under each Escrow Agreement and any and all proceeds of any of the foregoing. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code (UCC) financing statements and any amendments thereto and certificates of title or certificates of origin (or applications thereof) noting Lessor's interest thereon.

8. The Lease Term of the Lease shall commence on the earlier of the date specified in the Payment Schedule to the Lease or the date of Lessor's deposit of funds into the Equipment Acquisition Fund. Notwithstanding the statements regarding delivery and acceptance of the Equipment in the Schedule, the parties acknowledge that the Equipment will be delivered or installed as provided in the Escrow Agreement.
9. The delivery of documents and the satisfaction of any other conditions required by the Escrow Agreement or this Addendum shall be additional Funding Conditions for the Lease.
10. Upon Lessee's execution of the Escrow Agreement, Lessee hereby represents and warrants to Lessor that:
 - (a) Lessee has full power, authority and legal right to execute and deliver the Escrow Agreement and to perform its obligations under the Escrow Agreement, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;
 - (b) the Escrow Agreement has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligations of Lessee, enforceable in accordance with its terms; and
 - (c) the Escrow Agreement is authorized under, and the authorization, execution and delivery of the Escrow Agreement complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and public investment (laws) and all applicable judgments and court orders.
11. The opinion of Lessee's legal counsel will include statements to the same effect as the representations of Lessee in paragraph 6 above.
12. It shall be an additional event of default under the Lease if lessee fails to pay or perform any of its obligations under the Escrow Agreement or this Addendum or if any of the representations of Lessee in the Escrow Agreement or this Addendum prove to be false, misleading or erroneous in any material respect.

Except as expressly amended by this Rider and other modifications signed by Lessor, the Lease remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Rider as of the date first referenced above.

City of Newark
 (Lessee)
 By: _____
 Name: _____
 Title: _____

PNC Equipment Finance, LLC
 (Lessor)
 By _____
 Name: _____
 Title: _____

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("*Escrow Agreement*") is made as of January 23, 2020 by and among PNC Equipment Finance, LLC ("*Lessor*"), City of Newark ("*Lessee*") and U.S. BANK NATIONAL ASSOCIATION, as escrow agent ("*Escrow Agent*").

Lessor and Lessee have heretofore entered into that certain Master Equipment Lease-Purchase Agreement dated as of January 23, 2020 (the "*Master Lease*") and a Lease Schedule 98987896-1 thereto dated January 23, 2020 (the "*Schedule*" and, together with the terms and conditions of the Master Lease incorporated therein, the "*Lease*"). The Lease contemplates that certain equipment described therein (the "*Equipment*") is to be acquired from the vendor(s) or manufacturer(s) thereof. After acceptance of the Equipment by Lessee, the Equipment is to be leased by Lessor to Lessee pursuant to the terms of the Lease.

The Lease further contemplates that Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment (the "*Purchase Price*", being \$196,000.01, with Escrow Agent to be held in escrow and applied on the express terms set forth herein. Such deposit, together with all interest and other additions received with respect thereto (hereinafter the "*Escrow Fund*") is to be applied to pay the vendor(s) or manufacturer(s) of the Equipment (the "*Vendor*") its invoice cost (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee); and, if applicable, to reimburse Lessee for progress payments already made by it to the Vendor of the Equipment.

The parties desire to set forth the terms on which the Escrow Fund is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, in consideration of the sum of Ten Dollars (\$10.00) in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. (a) Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. (b) The moneys and investments held in the Escrow Fund are irrevocably held in trust for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor. Lessor, Lessee and Escrow Agent intend that the Escrow Fund constitute an escrow account in which Lessee has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement of funds by the Escrow Agent therefrom. However, if the parties' intention that Lessee shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that Lessor have a security interest in the Escrow Fund, and such security interest is hereby granted by Lessee to secure payment of all sums due to Lessor under the Lease. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Escrow Fund, the Lessor's interest therein.

2. On such day as is determined to the mutual satisfaction of the parties (the "*Closing Date*"), Lessor shall deposit with Escrow Agent cash in the amount of the Purchase Price, to be held in escrow by Escrow Agent on the express terms and conditions set forth herein.

On the Closing Date, Escrow Agent agrees to accept the deposit of the Purchase Price by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto, as the Escrow Fund hereunder, in escrow on the express terms and conditions set forth herein.

3. Escrow Agent shall at all times segregate the Escrow Fund into an account maintained for that express purpose, which shall be clearly identified on the books and records of Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the Escrow Fund from time to time shall be held or registered in the name of Escrow Agent (or its nominee). The Escrow Fund shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. The cash comprising the Escrow Fund from time to time shall be invested and reinvested by Escrow Agent in one or more investments as directed by Lessee in Exhibit 1. Escrow Agent will use due diligence to collect amounts payable under a check or other instrument for the payment of money comprising the Escrow Fund and shall promptly notify Lessee and Lessor in the event of dishonor of payment under any such check or other instruments. Interest or other amounts earned and received by Escrow Agent with respect to the Escrow Fund shall be deposited in and comprise a part of the Escrow Fund.

5. Upon request by Lessee and Lessor, Escrow Agent shall send monthly statements of account to Lessee and Lessor, which statements shall set forth all withdrawals from and interest earnings on the Escrow Fund as well as the investments in which the Escrow Fund is invested.

6. Escrow Agent shall take the following actions with respect to the Escrow Fund:

(a) Upon Escrow Agent's acceptance of the deposit of the Purchase Price, an amount equal to Escrow Agent's set-up fee, as set forth on Exhibit 2 hereto, shall be disbursed from the Escrow Fund to Escrow Agent in payment of such fee.

(b) From time to time, Escrow Agent shall pay to the Vendor of the Equipment payments then due and payable with respect thereto upon receipt of duly executed Requisition Request and Certificate of Acceptance form attached as Exhibit 3 hereto, subject to Lessor's prior written approval of each such Requisition Request and Certificate of Acceptance.

(c) If an Event of Default or Non-Appropriation Event occurs under the Lease prior to the Lessee's acceptance of all the Equipment or to the extent that funds have not been disbursed from the Escrow Fund within the eighteen-month period identified in the Lease, funds then on deposit in the Escrow Fund shall be applied to the prepayment of Rent Payments under the Lease as instructed by Lessor.

(d) Upon receipt by Escrow Agent of written notice from Lessor that the purchase price of the Equipment has been paid in full, Escrow Agent shall apply the then remaining Escrow Fund, first, to all outstanding fees and expenses incurred by Escrow Agent in connection herewith as evidenced by its statement forwarded to Lessor and Lessee, and, second, to Lessor for application against the interest component of Rent Payments under the Lease as provided therein, unless otherwise agreed by Lessor.

7. The fees and expenses, including any legal fees, of Escrow Agent incurred in connection herewith shall be the responsibility of Lessee. The basic fees and expenses of Escrow Agent shall be as set forth on Exhibit 2 hereto and Escrow Agent is hereby authorized to deduct such fees and expenses from the Escrow Fund as and when the same are incurred without any further authorization from Lessee or Lessor. Escrow Agent may employ legal counsel and other experts as it deems necessary for advice in connection with its obligations hereunder. Escrow Agent waives any claim against Lessor with respect to compensation hereunder.

8. Escrow Agent shall have no liability for acting upon any written instruction presented by Lessor in connection with this Escrow Agreement, which Escrow Agent in good faith believes to be genuine. Furthermore, Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own negligence, willful misconduct or bad faith. Escrow Agent shall not be liable for any loss or diminution in value of the Escrow Fund as a result of the investments made by Escrow Agent.

9. Escrow Agent may resign at any time by giving thirty (30) days' prior written notice to Lessor and Lessee. Lessor may at any time remove Escrow Agent as Escrow Agent under this Escrow Agreement upon written notice. Such removal or resignation shall be effective on the date set forth in the applicable notice. Upon the effective date of resignation or removal, Escrow Agent will transfer the Escrow Fund to the successor Escrow Agent selected by Lessor.

10. This Escrow Agreement and the escrow established hereunder shall terminate upon receipt by Escrow Agent of the written notice from Lessor specified in Section 6(c) or Section 6(d) hereof.

11. In the event of any disagreement between the undersigned or any of them, and/or any other person, resulting in adverse claims and demands being made in connection with or for any moneys involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall continue, and in so refusing Escrow Agent may refrain from making any delivery or other disposition of any moneys involved herein or affected hereby and in so doing Escrow Agent shall not be or become liable to the undersigned or any of them or to any person or party for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(a) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the moneys involved herein or affected hereby; or

(b) all differences shall have been adjusted by agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.

12. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, and shall be sufficiently given and served upon the other party if delivered (a) personally, (b) by United States registered or certified mail, return receipt requested, postage prepaid, (c) by an overnight delivery by a service such as Federal Express or Express Mail from which written confirmation of overnight delivery is available, or (d) by facsimile with a confirmation copy by regular United States mail, postage prepaid, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of mailing.

13. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor.

14. This Escrow Agreement shall be governed by and construed in accordance with the laws in the state of the Escrow Agent's location. This Escrow Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

PNC Equipment Finance, LLC, as Lessor

By
Name: _____
Title: _____

Address: 995 Dalton Avenue
Cincinnati, OH 45203

City of Newark, as Lessee

By _____
Name: _____
Title: _____

Address: 37101 Newark Blvd.
Newark, CA 94560

US Bank National Association, as Escrow Agent

By
Name: _____
Title: _____

Address: 10 W. Broad St., 12th Floor
CN OH BD12
Columbus, OH 43215

EXHIBIT 1

INVESTMENT DIRECTION LETTER

U.S. Bank National Association
10 W. Broad Street, 12th Floor
CN OH BD12
Columbus, OH 43215

Re: Escrow Agreement dated as of January 23, 2020,
among PNC Equipment Finance, LLC, as Lessor,
City of Newark as Lessee, and
U.S. Bank National Association, as Escrow Agent

Ladies and Gentlemen:

Pursuant to the above-referenced Escrow Agreement, \$196,000.01 will be deposited in escrow with you on or about January 23, 2020. Such funds shall be invested in one or more of the following qualified investments in the amounts indicated:

	PLEASE CHECK DESIRED QUALIFIED INVESTMENTS:	AMOUNT OF INVESTMENT
<input type="checkbox"/>	Direct general obligations of the United States of America;	\$ _____
<input type="checkbox"/>	Obligations – the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America;	\$ _____
<input type="checkbox"/>	General obligations of the agencies and instrumentalities of the United States of America acceptable to Lessor;	\$ _____
<input type="checkbox"/>	Money market funds whose investment parameters target investments in securities as described above;	\$ _____

IF NONE OF THE ABOVE BOXES ARE CHECKED, INVESTMENT SHALL BE MADE IN MONEY MARKET FUNDS AS DESCRIBED IN THE FOURTH CATEGORY ABOVE, UNTIL LESSEE DIRECTS OTHERWISE.

Very truly yours,

CITY OF NEWARK, AS LESSEE

By: _____
Name: _____
Title: _____

EXHIBIT 2

ESCROW AGENT FEES AND EXPENSES

SET-UP FEES

\$250.00 payable from the Escrow Fund upon acceptance of escrow deposit.

EXPENSES

Any and all out-of-pocket expenses incurred by Escrow Agent will be the responsibility of Lessee and paid from the Escrow Fund.

**U.S. BANK NATIONAL ASSOCIATION
MONEY MARKET ACCOUNT
DESCRIPTION AND TERMS**

The U.S. Bank Money Market account is an U.S. Bank National Association ("U.S. Bank") interest-bearing time deposit account designed to meet the needs of U.S. Bank's Corporate Trust Services Escrow Group and other Corporate Trust customers of U.S. Bank. Selection of this investment includes authorization to place funds on deposit with U.S. Bank.

U.S. Bank uses the daily balance method to calculate interest on this account (actual/365 or 366) by applying a daily periodic rate to the principal balance in the account each day. Interest is accrued daily and credited monthly to the account. Interest rates are determined at U.S. Bank's discretion, and may be tiered based on customer deposit amount.

The owner of the account is U.S. Bank as Agent for its trust customers. U.S. Bank's trust department performs all account deposits and withdrawals. The deposit account is insured by the Federal Deposit Insurance Corporation up to \$250,000.

AUTOMATIC AUTHORIZATION

In the absence of specific written direction to the contrary, U.S. Bank is hereby directed to invest and reinvest proceeds and other available moneys in the U.S. Bank Money Market Account.

City of Newark
Company Name

Signature of Authorized Directing Party

Trust Account Number – includes existing
and future sub-accounts unless otherwise directed

Title / Date

EXHIBIT 3

REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE No. _____
(to be submitted with each requisition request for payment to the vendor)

-or-

____ (✓) FINAL REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE
(to be submitted with the final requisition request upon acceptance of the
Equipment)

The Escrow Agent is hereby requested to pay from the Escrow Fund established and maintained under that certain Escrow Agreement dated as of January 23, 2020 (the "Escrow Agreement") by and among PNC Equipment Finance, LLC (the "Lessor"), City of Newark (the "Lessee"), and U.S. Bank National Association (the "Escrow Agent"), the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee) with respect to equipment being leased under that certain Master Equipment Lease-Purchase Agreement dated as of January 23, 2020 (the "Master Lease") and Lease Schedule 98987896-1 thereto dated January 23, 2020 (the "Schedule" and, together with the terms and conditions of the Master Lease incorporated therein, the "Lease"), by and between the Lessor and the Lessee, and has not formed the basis of any prior requisition request.

PAYEE	AMOUNT

Total requisition amount \$ _____

The undersigned, as Lessee under the Lease hereby certifies:

1. The items of the Equipment, as such term is defined in the Lease, fully and accurately described on the Equipment List attached hereto have been delivered and installed at the location(s) set forth therein.
2. A present need exists for the Equipment which need is not temporary or expected to diminish in the near future. The Equipment is essential to and will be used by the Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority.
3. The estimated useful life of the Equipment based upon the manufacturer's representations and the Lessee's projected needs is not less than the Lease Term of lease with respect to the Equipment.
4. The Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes as of the date of this Certificate.

5. The Equipment is covered by insurance in the types and amounts required by the Lease.

6. No Event of Default or Non-Appropriation Event, as each such term is defined in the Lease, and no event which with the giving of notice or lapse of time, or both, would become such an Event of Default or Non-Appropriation Event has occurred and is continuing on the date hereof.

7. Sufficient funds have been appropriated by the Lessee for the payment of all Rent Payments due under the Lease during Lessee's current fiscal year.

8. Based on the foregoing, Lessor is hereby authorized and directed to fund the acquisition of the Equipment set forth on the Equipment List by paying, or causing to be paid, the manufacturer(s)/vendor(s) the amounts set forth on the attached invoices.

9. The following documents are attached hereto and made a part hereof:

(a) Copy of Invoice(s);

(b) Copies of Certificate(s) of Origin designating Lessor as lienholder if any part of the Equipment consists of motor vehicles, and evidence of filing; and

(c) Requisition for Payment

10. If this is the final acceptance of Equipment, then as of the Acceptance Date stated below and as between the Lessee and the Lessor, the Lessee hereby agrees that: (a) the Lessee has received and inspected all of the Equipment described in the Lease; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specification; (c) the Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) the Lessee waives any right to revoke such acceptance.

If Lessee paid an invoice prior to the commencement date of the Lease and is requesting reimbursement for such payment, also attach a copy of evidence of such payment together with a copy of Lessee's Declaration of Official Intent and other evidence that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. §1.150-2.

Acceptance Date: _____

City of Newark,
as Lessee

By

Name: _____

Title: _____

Date: _____

PNC Equipment Finance, LLC,
as Lessor

By: _____

Title: _____

Date: _____

VEHICLE SCHEDULE ADDENDUM

Dated As Of January 23, 2020

Lease Schedule No. 98987896-1 Dated January 23, 2020

Lessee: City of Newark

Reference is made to the above Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease") by and between PNC Equipment Finance, LLC ("Lessor") and the above Lessee ("Lessee"). This Addendum amends and modifies the terms and conditions of the Schedule and is hereby made a part of the Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease shall have the same meaning when used herein.

NOW THEREFORE, as part of the valuable consideration to induce the execution of the Schedule, Lessor and Lessee hereby agree to amend the Schedule as follows:

1. In the event that any unit of Equipment covered by the Schedule is a vehicle or trailer under applicable State law, then the following provisions shall also apply to the Schedule to the extent permitted by law,

(a) each manufacturer's statement of origin and certificate of title shall state that Lessor has the first and sole lien on or security interest in such unit of Equipment;

(b) the public liability and property damage insurance required by the terms of the paragraph titled "Insurance in the Master Lease shall be in an amount not less than \$1,000,000.00 per person insured and \$2,000,000.00 combined single limit per unit per occurrence (provided, that if the unit of Equipment is a bus or other passenger vehicle, then such insurance amount shall be such larger amount as may be reasonably required by Lessor) and \$1,000,000.00 for damage to property of others;

(c) Lessee shall furnish and permit only duly licensed, trained, safe and qualified drivers to operate any such unit of Equipment, and such drivers shall be agents of Lessee and shall not be agents of Lessor; and

(d) Lessee shall cause each such unit of Equipment to be duly registered and licensed as required by applicable State law with Lessor noted as lien holder and Lessee as owner.

2. Except as expressly amended by this Addendum and other modifications signed by Lessor, the Schedule remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first referenced above.

City of Newark
("Lessee")

PNC Equipment Finance, LLC
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

RESOLUTION

Municipality/Lessee: City of Newark

Principal Amount Expected To Be Financed: \$843,564.69

WHEREAS, the Municipality is a political subdivision of the State in which Municipality is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Municipality ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Master Lease-Purchase Agreements ("Leases") in the principal amount not exceeding the amount stated above for the purpose of acquiring the property ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Municipality.

WHEREAS, PNC Equipment Finance, LLC ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Municipality:

Section 1. Either one of the _____ OR _____ (each an "Authorized Representative") acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Municipality. Each Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Leases on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Municipality's obligations under the Leases shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the current calendar year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this _____, 2020.

The undersigned Secretary/Clerk of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolutions were duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

LESSEE: _____

Signature of Secretary/Clerk of Municipality

[SEAL]

Print Name: _____

Official Title: _____

Date: _____

CERTIFICATE OF INCUMBENCY

Lessee: City of Newark

Lease Schedule No.: 98987896-1

Dated: January 23, 2020

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

[NOTE: Use same titles as Authorized Representatives stated in Resolutions.]

_____	_____	_____
Name	Title	Signature

_____	_____	_____
Name	Title	Signature

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

Signature of Secretary/Clerk of Lessee

[SEAL]

Print Name: _____

Official Title: _____

Date: _____

FORM OF OPINION OF COUNSEL

(To Be Typed on Attorney's Letterhead Stationary)

Date: January 23, 2020
Lessee: City of Newark
Lessor: PNC Equipment Finance, LLC
Re: Lease Schedule No. 98987896-1 dated January 23, 2020, together with its Master Lease-Purchase Agreement dated January 23, 2020, by and between the above-named Lessee and the above-named Lessor

Gentlemen:

I have acted as counsel to Lessee with respect to the Lease Schedule, the Master Lease-Purchase Agreement and all other agreements described above or related thereto (collectively, the "Agreements") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Agreements and such other documents as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents, it is my opinion that:

1. Lessee is a political subdivision of the State of California (the "State") duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has power under State law to enter into all of the Agreements, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Agreements and all other documents related thereto have been duly authorized, approved, and executed by and on behalf of Lessee, and each of the Agreements is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal law affecting creditor's remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
4. The authorization, approval and execution of the Agreements and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable Local, State and Federal laws (including open meeting laws and public bidding and property acquisition laws).
5. To the best of my knowledge, there is no litigation or proceeding pending before any court, administrative agency or governmental body, that challenges: the organization or existence of Lessee; the authority of its officers; the proper authorization; approval and execution of any of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements for the current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Agreements and the transactions contemplated thereby.
6. Lessee is a political subdivision of the State as referred to in Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder.

Lessor, its Assignee and any of their assigns may rely upon this opinion.

Very truly yours,

Attorney

INSURANCE COVERAGE DISCLOSURE

PNC Equipment Finance, LLC, LESSOR

City of Newark LESSEE

RE: INSURANCE COVERAGE REQUIREMENTS

1. In accordance with the Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease"), Lessee certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

to issue: (check to indicate coverage)

- a. All Risk Physical Damage Insurance on the leased Equipment evidenced by a Certificate of Insurance naming PNC Equipment Finance, LLC and/or its assigns as Lender Loss Payee.

Coverage Required: Termination Value Specified

- b. Public Liability Insurance evidenced by a Certificate of Insurance naming PNC Equipment Finance, LLC and/or its assigns as an Additional Insured.

Minimum Coverage Required:

\$1,000,000.00 per occurrence
 \$2,000,000.00 aggregate bodily injury liability
 \$1,000,000.00 property damage liability

Proof of insurance coverage will be provided to PNC Equipment Finance, LLC, Attn: Insurance Dept, 995 Dalton Ave., Cincinnati, OH 45203, prior to the time that the property is delivered to Lessee.

OR

2. Pursuant to the Master Lease, Lessee represents and warrants, in addition to other matters under the Agreement, that it is lawfully self-insured for: (check to indicate coverage)

- a. All risk, physical damage in the amount specified in 1(a) above.
- b. Public liability for not less than the amounts specified in 1(b) above.

Lessee has attached a signed letter describing self-insurance.

LESSEE:

By: _____ Title: _____

INSURANCE INFORMATION

Please provide the following information to your insurance company to help expedite receipt of the necessary coverage:

ITEMS WHICH NEED TO BE REFLECTED ON INSURANCE CERTIFICATE:

- PNC Equipment Finance, LLC must be named Lender Loss Payee and Additional Insured
- 30 Days' Notice of Cancellation
- Not Less than \$2,000,000.00 limits on liability
- Certificate must reflect a short equipment description
- Certificate must reflect an expiration date

Certificate Holder Information:

PNC Equipment Finance, LLC, its successors and/or all assigns
Attn: Insurance Dept
995 Dalton Ave.
Cincinnati, OH 45203

Please send a FAX copy of certificate to Julie Terracina at 1-866-820-4246.

The original should be mailed to the same at:

PNC Equipment Finance, LLC
Attn: Insurance Dept
995 Dalton Ave.
Cincinnati, OH 45203

Please call Julie Terracina at 630-955-5730, if you have any questions.

THREE PARTY AGREEMENT

Dated as of January 23, 2020

"Lessee" means City of Newark

"Schedule" means Lease Schedule No. 98987896-1 Dated January 23, 2020 together with its Schedule A-1.

Reference is made to the Lease Schedule ("Schedule") and to the Master Lease-Purchase Agreement ("Master Lease") identified in said Lease Schedule, described above between PNC Equipment Finance, LLC ("Lessor") and the Lessee identified above which relates to Equipment described in Schedule A-1 to the Lease Schedule attached therein ("Equipment") to be supplied by Pierce Manufacturing Inc. ("Supplier"). For good and valuable consideration, receipt of which is hereby acknowledged, Lessee, Lessor and Supplier hereby agree as follows:

1. Notwithstanding anything to the contrary in the Lease Schedule, Lessee hereby notifies Lessor that the Equipment has not yet been delivered to Lessee and the Equipment has not yet been accepted by Lessee for purposes of the Lease Schedule. Lessee agrees to execute and deliver to Lessor a Delivery and Acceptance Certificate in the form attached hereto as Exhibit A upon the circumstances set forth in said Certificate.

2. All parties hereto agree that the Purchase Price of the Equipment shall be as set forth below if said Purchase Price is paid on or before the Advance Payment Date set forth below:

Purchase Price:	\$847,899.26
Purchase Price to be Escrowed:	\$196,000.01
Sales Tax for Pumper:	\$57,527.59
Vendor Discounts:	\$61,862.16
Advance Payment Date:	<u>January 23, 2020</u>

3. Upon execution of the Lease Schedule and delivery of all documents relating thereto required by Lessor, Lessee agrees that it shall pay the Lessee Down Payment stated below and Lessor agrees that it shall pay the balance of the Purchase Price (the "Amount Financed") stated below. Lessee agrees that the Lease Term and Lessee's obligation to pay Rent Payments shall commence on the date set forth in the Lease Schedule notwithstanding the delivery of the Equipment at a later date.

Lessee Down Payment:	\$0.00
Trade In:	\$0.00
Amount Financed:	\$843,564.69

4. (a) Supplier anticipates that it shall deliver the Equipment to Lessee by the **Anticipated Delivery Date** set forth below.

Anticipated Delivery Date:	<u>December 23, 2020</u>
----------------------------	--------------------------

(b) Supplier hereby agrees that it shall deliver the Equipment to Lessee no later than the **Outside Delivery Date** set forth below and that such Equipment shall comply with all specifications and requirements of Lessee and with the terms and conditions of any purchase order/purchase agreement relating thereto.

Outside Delivery Date:	<u>February 23, 2021</u>
------------------------	--------------------------

5. If for any reason whatsoever Supplier fails to comply with its agreements set forth in **subparagraph 4(b)** of this Agreement by the Outside Delivery Date for any piece of Equipment (the "Delayed Equipment"), and the Lessee has not agreed to revise the Outside Delivery Date with respect to such Delayed Equipment, then Supplier hereby agrees as follows only for the Delayed Equipment:

- (a) On the first business day after the Outside Delivery Date, Supplier shall pay to Lessee the Lessee Down Payment for the Delayed Equipment plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment;
- (b) On the first business day after the Outside Delivery Date, Supplier shall pay to Lessor for the Delayed Equipment the Amount Financed plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment; and
- (c) "Prime Rate" means the prime rate of interest as published from time to time in the Wall Street Journal.

If there is more than one piece of Equipment subject to the Lease, and some of the Equipment is delivered in accordance with subparagraph 4(b) of this Agreement, the payments owed pursuant to the Lease shall be modified to reflect only the obligations due on the Equipment that was delivered pursuant to subparagraph 4(b) of this Agreement. The new payment obligation will be determined based on the amount financed for the Equipment delivered to the Lessee, and based on the interest rate in effect as of the date of Lease commencement.

6. If Supplier makes the payments described in **paragraph 5** above for the Delayed Equipment under the circumstances set forth above and if Lessee has otherwise paid and performed its obligations under the Lease Schedule as of such payment date for the Delayed Equipment, then Lessee and Lessor agree that the Lease Schedule shall terminate as of the date of such payments by Supplier as to the Delayed Equipment only. Lessee's obligations shall continue unabated for the Equipment that was delivered pursuant to subparagraph 4(b) of this Agreement.

7. Supplier agrees that a Performance Bond will be issued which names the Supplier as Principal, the Lessee as Obligee and the Lessor as Additional Obligee. This Performance Bond will apply solely to the terms and conditions of the purchase order/purchase agreement, including related equipment specifications and warranties, as issued by the lessee and accepted by the Supplier. The "Contract Date" referred to in the Performance Bond shall be the date of the Three Party Agreement. Except as expressly set forth herein, the Lease Schedule and the terms and conditions of the purchase order/purchase agreement for the equipment remain unchanged and in full force and effect.

8. Except as expressly set forth herein, the Lease Schedule and terms and conditions of the purchase order/purchase agreement for the Equipment remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the duly authorized officers of the parties set forth below hereby execute and deliver this Agreement as of the date first written above.

City of Newark
("Lessee")

PNC Equipment Finance, LLC
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

Pierce Manufacturing Inc.
("Supplier")

By: _____

Title: _____

Exhibit A

DELIVERY & ACCEPTANCE CERTIFICATE

Lease Schedule No. 98987896-1

Reference is made to the above Lease Schedule ("Schedule"), which has been executed and delivered by the undersigned Lessee ("Lessee") and PNC Equipment Finance, LLC ("Lessor"). This Certificate amends and supplements the terms and conditions of the Lease Schedule and is hereby made a part of the Lease Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease-Purchase Agreement and the Lease Schedule shall have the same meaning when used herein; provided, that "Equipment" shall mean the Equipment described in the Schedule A-1 and in any attachment or exhibit to this Certificate.

Notwithstanding anything to the contrary, expressed or implied, in the Lease Schedule or its Schedule A-1, Lessee agrees as follows:

1. **ACCEPTANCE OF EQUIPMENT.** As of the Acceptance Date stated below and as between Lessee and Lessor, Lessee hereby agrees that: (a) Lessee has received and inspected all Equipment; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specifications; (c) Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) Lessee waives any right to revoke such acceptance.

ACCEPTANCE DATE: _____

2. **RENT PAYMENTS.** Lessee hereby agrees that Lessee will pay the Rent Payments for the Equipment in the amounts and on the dates specified in Schedule A-1 to the Lease Schedule.

City of Newark
("Lessee")

By: _____

Title: _____

**Guidelines and Expectations
for Titled Vehicle Leasing**

Thank you for choosing **PNC Equipment Finance, LLC** ("PNCEF") for your vehicle financing needs. Please refer to the Guidelines and Expectations outlined below to guide you through the transfer of title and vehicle registration process.

FOR OUR LESSEES/BORROWERS:

Sales Tax Exemption Certificate (for Leases only)

- If your business is eligible for sales tax exemption status, please provide a Sales Tax Exemption Certificate to PNCEF prior to signing your lease documentation. For tax exempt over-the-road trucks, please provide an ICC Carrier Certificate in addition to the Sales Tax Exemption form.

If the Lessee/Borrower is completing title work and/or registration:

- The vendor or prior vehicle owner will provide you with a completed MSO or Title and Title Application. You are responsible for all additional costs/fees associated with titling and registration. Such payments are not built in to your Lease/Loan.

FOR VENDORS OR PRIOR VEHICLE OWNERS:

Proof of Origination/Ownership

- Please provide PNCEF with a copy of the FRONT side of the MSO, or Current Title and Title Application.

If the Vendor or Prior Owner is completing title work and/or registration...

- PNCEF must receive a copy of the Title Application and BACK SIDE of the Title/MSO showing Lessee/Borrower as Owner and PNCEF as Lienholder *prior to releasing funds*.

TITLE INFORMATION:

- New title listing PNCEF should appear as follows:

Owner: City of Newark
Lienholder: "PNC Equipment Finance, LLC"

Original Titles/MSO

- All Original Titles (or Lien Statements, when applicable) listing Lessee/Borrower as Owner and PNCEF as Lienholder must be mailed to PNCEF within 60 days of registration. PNCEF will retain all titles subject to the terms of the Lease/Loan.

Mail Title/MSO(s) to the following address:

- PNC Equipment Finance, Attn: Collateral Department, 995 Dalton Avenue, Cincinnati, OH 45203
- For questions, please call our Client Care Department at 513-455-2323

PNC Equipment Finance, LLC INFORMATION REQUEST

LESSEE NAME: City of Newark

FEDERAL TAX I.D. # _____

BILLING ADDRESS:

Billing Contact

Street Address or Post Office Box

City, State and Zip

Phone Number Fax Number

Email Address

PHYSICAL ADDRESS (IF DIFFERENT):

Street Address or Post Office Box

City, State and Zip

Require Board Approval for Payments? _____ Yes _____ No

Board Meeting Date? _____

Require signed vouchers for payments? _____ Yes _____ No

We typically mail our invoices 30 days in advance. Taking into account a 7-day mail period, do you foresee any problem that would prevent the payment from being received on or before the due date?

_____ Yes _____ No

Please list any special instructions below:

Information Return for Tax-Exempt Governmental Bonds

(Rev. September 2018)

Under Internal Revenue Code section 149(e)
See separate instructions.

OMB No. 1545-0720

Department of the Treasury
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.
Go to www.irs.gov/F8038G for instructions and the latest information.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name City of Newark		2 Issuer's employer identification number (EIN) 94-0602736	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see Instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address) 37101 Newark Blvd.	Room/suite	5 Report number (For IRS Use Only) 3	
6 City, town, or post office, state, and ZIP code Newark, CA 94560		7 Date of Issue January 23, 2020	
8 Name of Issue Lease# 98987896-1		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see Instructions) Tonya Connolly		10b Telephone number of officer or other employee shown on 10a 510-578-4802	

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14	843,564	69
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ▶	18		
19a If bonds are TANs or RANs, check only box 19a			<input type="checkbox"/>
b If bonds are BANs, check only box 19b			<input type="checkbox"/>
20 If bonds are in the form of a lease or installment sale, check box			<input checked="" type="checkbox"/>

Part III Description of Bonds. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	12/23/2028	\$ 843,564.69	\$ N/A	9 years	3.200 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	23	843,564	69
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	0	00
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to refund prior tax-exempt bonds. Complete Part V	27		
28 Proceeds used to refund prior taxable bonds. Complete Part V	28		
29 Total (add lines 24 through 28)	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	843,564	69

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded years

32 Enter the remaining weighted average maturity of the taxable bonds to be refunded years

33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)

34 Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions	36a	
b	Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____		
c	Enter the name of the GIC provider ▶ _____		
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37	
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ <input type="checkbox"/> and enter the following information:		
b	Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____		
c	Enter the EIN of the issuer of the master pool bond ▶ _____		
d	Enter the name of the issuer of the master pool bond ▶ _____		
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(II) (small issuer exception), check box ▶		<input checked="" type="checkbox"/>
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶		<input type="checkbox"/>
41a	If the issuer has identified a hedge, check here ▶ <input type="checkbox"/> and enter the following information:		
b	Name of hedge provider ▶ _____		
c	Type of hedge ▶ _____		
d	Term of hedge ▶ _____		
42	If the issuer has superintegrated the hedge, check box ▶		<input type="checkbox"/>
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see Instructions), check box ▶		<input type="checkbox"/>
44	If the issuer has established written procedures to monitor the requirements of section 148, check box ▶		<input type="checkbox"/>
45a	If some portion of the proceeds was used to reimburse expenditures, check here ▶ <input type="checkbox"/> and enter the amount of reimbursement ▶ _____		
b	Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____		

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	Signature of issuer's authorized representative _____	Date _____	Type or print name and title _____	
Paid Preparer Use Only	Print/Type preparer's name _____	Preparer's signature _____	Date _____	Check <input type="checkbox"/> if self-employed PTIN _____
	Firm's name ▶ _____	Firm's EIN ▶ _____		
	Firm's address ▶ _____	Phone no. _____		



103

Invoice

Lease Number: 98987896-1
Invoice Number: 01232020-F

INVOICE DATE	DUE DATE
January 23, 2020	Upon Receipt

Bill to:
City of Newark
37101 Newark Blvd.
Newark, CA 94560

Remit to:
PNC Equipment Finance, LLC
P. O. Box 933106
Cleveland, OH 44193

Invoice

Initiation Fees:

Escrow Account Set Up Fee	\$ 250.00
---------------------------	-----------

Pay This Amount: \$250.00

Any questions, please contact Client Services at PNCEF_CS@pnc.com or 855-531-1727.

F.4 Amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019/20 for General Revisions and Operating Increases – from Finance Manager Lee. (RESOLUTION)

Background/Discussion – Fiscal Year 2019/20 is the second year in the City’s two-year budget cycle. As part of the mid-cycle budget review, a number of revisions are proposed to the annual budget. These revisions have been identified where changes have occurred since the adoption of the Operating Budget in June of 2018.

The budget amendment includes increases to the General Fund program revenue sources such as charges for services, operating grants, and contributions. These increases are based on last year’s performance, the economic trends, and our estimated year-end actuals. The remainder of the revenue modifications to the operating budget for Fiscal Year 2019/20 primarily includes adjustments to the Alameda County Transportation Commission (ACTC) Measure B/BB direct local distributions.

The expenditure modifications to the General Fund operating budget for Fiscal Year 2019/20 include:

1. Increase the Government Finance Officers Association's best practice training for staff;
2. Increase in Police special departmental supplies;
3. Increase in crossing guard services. A location was recently added to the current agreement, along with annual rate increases;
4. Increase in animal shelter operating costs;
5. Adding appropriation for economic development market research and printing of a restaurant guide;
6. Adding appropriation for Engineering plan check and inspection consulting services. These added expenditures will be partially offset with reimbursement revenue; and
7. Adding appropriation for annual Transaction Use Tax analysis provided by HdL sales tax consultants.

In other funds, expenditure modifications are all offset by fund balance in each of those funds. The adjustments to the Special Revenue Funds, Capital Projects Fund, and Internal Services Funds include:

1. Adding appropriation for Francisco and Associates special assessment consulting services;
2. Adding appropriation for R3 Consultants providing garbage rate review services;
3. Adding appropriation for Life Elder Care meal delivery services. These services are funded by Paratransit funding;
4. Increase appropriation for contractual services to help the City complete essential transportation improvement projects funded by ACTC Measure B/BB funds;
5. Adding appropriation for Public Education Government (PEG) broadcasting services for Council and Planning Commission meetings;
6. Increase in insurance premium costs; and
7. Increase for Police departmental equipment & fleet replacements.

The amendment for Fiscal Year 2019/20 includes transfers, which total \$2,450,000 from the General Fund into the other Governmental Funds, such as the Capital Projects Fund, the Pension Reserve Fund, and Equipment Replacement Reserve Fund.

Attachments - Resolution
Exhibit A Budget Amendments

Action - It is recommended that the City Council, by resolution, amend the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019/20.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMENDING THE 2018-2020 BIENNIAL BUDGET
AND CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR
2019/20

WHEREAS, the 2018- 2020 Biennial Budget and Capital Improvement Plan was adopted by the City Council via Resolution No. 10,794 on June 14, 2018; and

WHEREAS, as part of the mid-cycle budget review for the Fiscal Year 2019 – 2020, staff has identified and proposed changes to the budget since the original adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the individual document entitled "2018- 2020 Biennial Budget and Capital Improvement Plan of the City of Newark" adopted by Resolution No. 10794 on June 14, 2018, and subsequently amended by resolutions, is hereby amended as set forth in Exhibit A attached.

Exhibit A

Budget Amendments for Fiscal Year 2019/20

Revenue:

General Fund:

				<u>CR</u>	<u>DR</u>	
10	0	3055	Paramedic Tax		247,000	Paramedic Tax
10	0	3656	PD Towing Administration Fee	70,000		PD Towing Administration Fee
20	2010	3610	Zoning Fees	30,000		Zoning Fees
20	2015	3670	Plan Checking Fees	325,000		Plan Checking Fees
30	0	3820	General Recreation Services	175,000		General Recreation Services
30	0	3831	Community Center Building Rental	30,000		Community Center Building Rental
30	0	3832	Child Care Activity	250,000		Child Care Activity
30	0	3833	Preschool Activity	71,000		Preschool Activity
40	4013	3760	Storm Drain Fees	243,000		Storm Drain Fees
GF		2991	Unallocated Fund Balance		947,000	

Special Revenue Funds:

				<u>CR</u>	<u>DR</u>	
1	0	3055	Paramedic Tax	247,000		Paramedic Tax
32	0	3500	Measure B	16,501		Measure B
204	0	3500	Measure B	557,135		Measure B
212	0	3500	Measure B	163,028		Measure B
216	0	3500	Measure F	193,642		Measure F
218	0	3500	Measure BB	500,368		Measure BB
219	0	3500	Measure BB	133,122		Measure BB
220	0	3500	Measure BB	134,091		Measure BB
SRF		2991	Unallocated Fund Balance		1,944,887	

Expenditures:

General Fund:

				<u>Increase</u>	<u>Decrease</u>	
10	1025	5340	Travel & Meetings	1,000		GFOA Training
10	1025	5350	Training & Education	7,000		GFOA Training
10	1030	7053	Departmental Equipment	14,000		PD Special Department Equipment
10	1034	5282	Contract Season Workers	16,768		Crossing Guard Services
10	1035	5281	Contracts	20,000		City of Fremont Animal Shelter
10	1050	5271	Professional & Special Service	6,700		Restaurant Guide
20	2015	5280	Other Contractual Services	386,700		Engineering Plan Check & Inspection Consultant
40	4011	5261	Equipment Maintenance	120,000		Street light & Traffic Signal Maintenance
52	1025	5271	Professional & Special Service	1,500		HdL Professional & Special Service
GF		2991	Unallocated Fund Balance		573,668	

Special Revenue Funds:

				<u>Increase</u>	<u>Decrease</u>	
3	1044	5280	Other Contractual Services	3,500		Francisco & Associates Consultant Services
23	2011	5271	Professional & Special Service	45,000		R3 Rate Review Consulting Services
32	3043	5271	Special Department Supplies	7,000		Life Elder Care Meals on Wheels
32	3043	5271	Professional & Special Service	93,001		Measure B
202	5000	5271	Professional & Special Service	500		Local Streets & Roads Needs Assessment
204	5000	5280	Other Contractual Services	453,035		Measure B
211	5000	5280 1238	Other Contractual Services	158,000		Lindsay Tract Street & Storm Drain Improvements
212	5000	5280	Other Contractual Services	115,828		Measure B
216	5000	5280	Other Contractual Services		105,958	Measure F
218	5000	5280	Other Contractual Services	500,368		Measure BB
219	5000	5280	Other Contractual Services	133,122		Measure BB
220	3043	5271	Professional & Special Service	10,591		Measure BB
220	5000	5280 1247	Other Contractual Services	120,000		Curb Gutter Sidewalk Improvements
221	1010	5271	Professional & Special Service	6,000		PEG Broadcast - City Council/Planning Commission Meetings
526	9810	5271	Professional & Special Service	1,500		Francisco & Associates AID 26 Assessment/Consulting Services
SRF		2991	Unallocated Fund Balance		1,541,487	

Capital Projects Fund:

				<u>Increase</u>	<u>Decrease</u>	
401	5600	5280 1217	Other Contractual Services	15,100		PD Patrol Vehicles
401	5600	5280 1217	Other Contractual Services	137,000		PD Sgt. & Abatement Officer Vehicles
401	5600	5280 1217	Other Contractual Services	23,000		Polaris Vehicle for Artificial Turf Fields
401	5600	5280 1213	Other Contractual Services	60,000		Boathouse Building Repairs
CIP		2991	Unallocated Fund Balance		235,100	

Exhibit A

Budget Amendments for Fiscal Year 2019/20

Internal Service Funds:

				<u>Increase</u>		<u>Decrease</u>
708	9230	5120	Special Department Supplies	4,198		AED Replacement Parts
708	9230	5291	Insurance & Bonds	177,392		Increase Insurance Premium Costs
708	0000	2991	Unallocated Fund Balance			181,590
711	9710	7053	Departmental Equipment	91,000		Increased PD Departmental Equipment & Vehicles
711	0000	2991	Unallocated Fund Balance			91,000

Transfers:

*** All Transfers are up to the amount proposed.**

				<u>Txfr In</u>		<u>Txfr Out</u>
8	0000	2992	Pension & OPEB Reserve	2,000,000		Pension & OPEB Year-End Fund Balance Policy Transfer
10	0000	2993	General Fund			2,000,000
34	0000	2992	Equipment Replacement	200,000		Equipment Replacement Year-End Fund Balance Policy Transfer
10	0000	2993	General Fund			200,000
401	0000	2992	Capital Projects	250,000		Capital Projects Year-End Fund Balance Policy Transfer
10	0000	2993	General Fund			250,000

F.5 Authorization for the City to accept the First 5 Alameda County Early Learning Communities Network Grant to develop an Early Learning Action Plan and amending the 2019-2020 Budget – from Recreation and Community Services Director Zehnder. (RESOLUTION)

Background – In January of 2019, the City was offered an opportunity by First 5 Alameda County to participate in an Early Learning Communities Networking event as a precursor to applying for possible grant funding. The Mayor and the City Manager attended this function on behalf of the City. After the initial kickoff event, First 5 recommended that the City develop a team of community stakeholders to develop an Early Learning Action Plan (ELAP) that would qualify for grant funding. Staff invited Newark Library Branch Manager Joe Stoner and Promotoras leaders Adrianna Lopez and Veronica Torres to assist with development of the plan. Promotoras is a parent-lead community advocacy organization.

During Early Learning Communities Network sessions, the Newark team developed an ELAP based on the overall goal of providing training and support to Spanish-speaking families with young children. Specific initiatives of the plan will include:

1. Provide for social and emotional support and training for parents;
2. Develop bilingual literacy programs for parents and children together with the assistance of the Alameda County Library Literacy Services Department;
3. Build awareness of child development issues through a variety of trainings;
4. Facilitate access to development prevention screenings;
5. Share information related to physical and mental health and offer relevant classes and programs;
6. Share resources for financial assistance;
7. Help families culturally adapt to the community and learn about the range of career and education options for them and their children; and
8. Improve childcare access, especially through promoting and training Family, Friend, and Neighbor (FFN) providers. Help coordinate access to childcare subsidies for FFN providers.

The team envisions the implementation of the ELAP in three main phases during the 18-month grant period. Each phase will last approximately 6 months with some activities overlapping. Activities that will be offered throughout the 18-month cycle include:

- Activity classes for parent and child at the Silliman Activity and Family Aquatic Center;
- Workshops supported by the Alameda County Library, including literacy and basic computer classes;
- Career and business mentoring provided by MoveUpToday.org, a non-profit working primarily with low-income women in the Bay Area; and
- Other guest speakers, trainings and discussions as needed.

In November of 2019, First 5 Alameda County awarded the City \$135,000 in grant funding to implement the 18-month ELAP. In order to accomplish the goals set forth in the ELAP and to spark long-term systems and policy changes to improve support for young families at the local level, the City will retain two temporary part-time, grant-funded contract staff members, both working 15 hours per week. Staff has determined that Promotoras Leaders Adrianna Lopez and Veronica Torres are the best choice for these positions as both assisted in developing the ELAP, are bilingual in English and Spanish, and have strong ties to the community including previous work with the Newark Unified School District and Tiburcio Vasquez Health Center.

Staff has prepared a PowerPoint presentation (attached) for the oral report at the City Council meeting.

Action – Staff recommends that the City Council, by resolution, authorize the City to accept the First 5 Alameda County Early Learning Communities Network Grant and amend the 2019-2020 Budget.

Attachments - Resolution
PowerPoint Presentation
First 5 Contract and Scope of Services

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE CITY TO ACCEPT THE
FIRST 5 ALAMEDA COUNTY EARLY LEARNING
COMMUNITIES NETWORK GRANT AND AMENDING THE
2019-2020 BUDGET

WHEREAS, in January of 2019, the City was offered an opportunity by First 5 Alameda County to participate in an Early Learning Communities Network in order to develop an Early Learning Action Plan; and

WHEREAS, a core team consisting of City Staff, Newark Library and Promotoras was formed to qualify for grant funding to support the Early Learning Action Plan; and

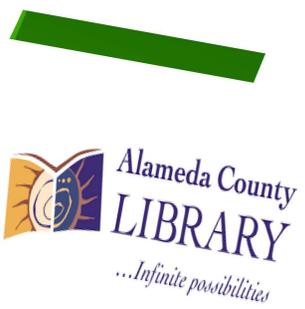
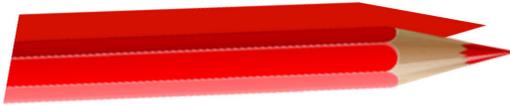
WHEREAS, in November of 2019, First 5 Alameda County awarded the City \$135,000 in grant funding to implement an 18-month Early Learning Action Plan with the overall goal of providing social services, training and support to Spanish-speaking families with young children ages 0 to 5 years; and

WHEREAS; in order to accomplish the goals set forth in the Early Learning Action Plan and to spark long-term systems and policy changes to improve support for young families at the local level, the City will retain two temporary part-time, grant-funded contract staff members; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark authorizes the City to accept the First 5 Alameda County Early Learning Communities Grant.

BE IT FURTHER RESOLVED that the 2019-2020 Budget is amended as follows:

To Account:	290-3040-3501	Revenue	\$135,000
	290-3040-5280	Expenditure	\$135,000



Newark
Early Learning Community
Network
Action Plan





**Building Blocks for
Newark
Early Learning
Community Network**

AWARENESS

BLOCK 1

- -Program description
- -Needs Survey

RESOURCE CONNECTION

BLOCK 2

- Create a menu of local resources for 0-5 families
- Connect families with resources and services.

EMPOWERMENT

BLOCK 3

- -Promotores Parent Leadership training.
- -Train the trainers in 0-5 enrichment programs
 - (Community Work force Development)
- - Outreach Volunteer opportunities

ADVOCACY

BLOCK 4

- -Local leaders take families' needs to appropriate channels.
- -Connecting with other organizations to advocate for 0-5 children's needs.

CHILDREN 0-5 AND THEIR FAMILIES

A R E A S O F R E L A T I O N

PHYSICAL



Health Services
(Medical Coverage,
Dental, Vision)

- Screenings
- Nutrition
- Fitness

COGNITIVE



Expand Learning &
Enrichment
Opportunities

- Language skills
- Learning Skills
- School readiness skills

SOCIAL



Social
development
skills

- Cooperation
- Negotiation
- Collaboration
- Socialization-
Integration

EMOTIONAL



Well-being emotional
and mental health

- Emotional
Intelligence
- Resilience
- Self confidence
and self-esteem

FAMILY/COMMUN ITY ENGAGEMENT



Leadership
parental skills

- Community
Educational and
Health Promotors
leadership
training

P R O G R A M S



REFERRALS

- Medical Services
- Assistance programs
- Housing resources
- Food Services and programs
- Day Care Resources
- Legal Services
- Others



ABRIENDO PUERTAS PROGRAM



NEWARK LIBRARY

Bilingual Literacy and enrichment programs for children and their families (with the assistance of the Alameda County)

CITY OF NEWARK RECREATION AND COMMUNITY SERVICES

Recreation, enrichment and learning activities.



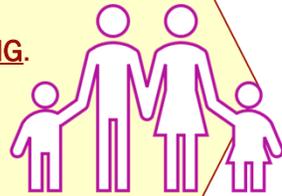
SAFE, SECURE, AND LOVED: RESILIENT FAMILIES PROGRAM



COMMUNITY EDUCATIONAL AND HEALTH PROMOTORES LEADERSHIP TRAINING.



PARENT CAFE CPR TRAINING ENRICHMENT FIELD TRIPS



PHYSICAL/HEALTH

1 Referrals

Health Providers (Dental, vision, mental, etc.)
Other support Services
(food, nutrition, legal, housing, etc.)



2 Screenings

Low and Free
cost screenings



3 Early Prevention Programs

Nutrition classes
Physical activities Programs
Connection with Healthy food
programs



Referral and linkage, to connect children and families to additional services and supports in the community, as needed. Referral/linkage is enhanced through centralized, communitywide resources.

COGNITIVE

1 Approaches to Learning

This area refers to children's inclination to use skills and knowledge. Key components include enthusiasm, curiosity, and persistence on tasks



2 Language Development

This area includes communication and emergent literacy. Communication includes listening, speaking, and vocabulary. Emergent literacy includes print awareness, story sense, early writing, and the connection of letters to sounds.



3 Cognition and General Knowledge

This domain refers to thinking and problem-solving as well as knowledge about particular objects and the way the world works. Mathematical knowledge, abstract thought, and imagination are included

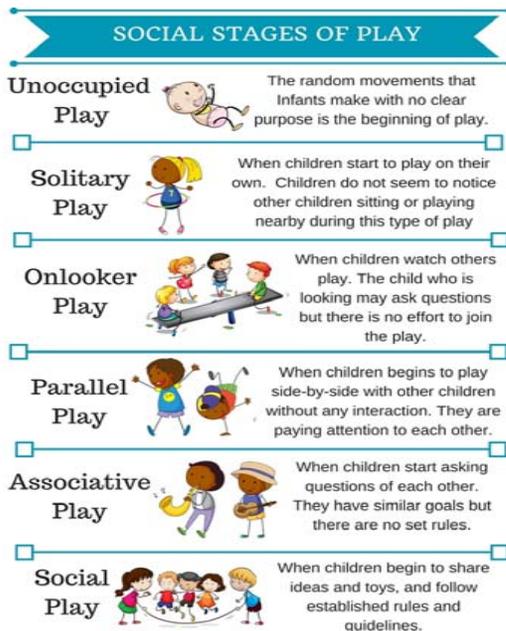


SOCIAL

And

EMOTIONAL

1 Promote Early Social Emotional Development Activities



www.encourageplay.com

2 The context of family and community is where infants and toddlers learn to share and communicate their feelings and experience with other children.



3 Social and emotional development refers to a child's developmental ability from birth to five years of age to form close and safe relationships between adults and peers; experience, regulate and express socially and culturally appropriate emotions; and explore the environment and learn - all in the context of family, community, and culture

FAMILY/COMMUNITY ENGAGEMENT

1 PROMOTORES Leadership Training

This program includes 10 sessions providing information that is needed to understand the role as parents and community members, developing the leadership capacity to effectively support children's education and the advocacy for positive changes in the community. This will be offered to families with kids from 0-5 yrs.



2 Volunteer Opportunities



3 Parent Advocacy



Learning how to navigate the systems.

Connecting with other organizations to advocate for 0-5 children's needs

Outreach Activities

Connecting with
other families



CONTRACT FOR SERVICES

CONTRACT NUMBER: PI-PES-1921-323
CONTRACT TERM: FEBRUARY 1, 2020 – JUNE 30, 2021
CONTRACT AMOUNT: \$135,000.00 (FY2019-20: \$45,000.00; FY2020-21: \$90,000)
CONTRACTOR: CITY OF NEWARK
CONTACT PERSON: DAVID ZEHNDER
CONTACT TITLE: RECREATION AND COMMUNITY SERVICES DIRECTOR
TELEPHONE: (510) 578-4405
EMAIL: DAVID.ZEHNDER@NEWARK.ORG
CONTRACTOR ADDRESS: 6800 MOWRY AVE, NEWARK, CA 94560

THIS CONTRACT, is hereby made and entered into on this 1 day of February, 2020 by and between First 5 Alameda County (“First 5”), an independent public agency of the State of California, and City of Newark (“Contractor”).

IT IS HEREBY MUTUALLY AGREED that both parties will adhere to the provisions of this Agreement including Exhibit A (Program Description and Requirements), Exhibit B (Terms and Conditions of Payment and Accountability Requirements) and Exhibit C (Insurance Requirements).

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date first mentioned above.

Renee S. Herzfeld, Chair
First 5 Alameda County

David Benoun, City Manager
City of Newark

Date

Date

Agreement

Recitals:

WHEREAS, First 5, is authorized by the California Children and Families First Act of 1998 (“Act”) to expend moneys allocated to it for the purposes authorized by the Act and by the First 5 Strategic Plan for the support and improvement of early childhood development within Alameda County; and

WHEREAS, First 5 is desirous of securing the provision of certain services and deliverables in furtherance of its Strategic Plan; and

WHEREAS, Contractor is willing and able to perform duties and render services and deliverables which are determined by First 5 to be necessary or appropriate for the support and improvement of early childhood development within Alameda County; and

WHEREAS, First 5 desires that such duties and services be provided by Contractor, and Contractor agrees to perform such duties and render such services, as set forth below:

I. TERM OF AGREEMENT

The Term of this Agreement begins on the 1st day of February, 2020 and shall continue, provided funding is allocated by First 5, until terminated in accordance with this Agreement. This Agreement shall supersede any previous agreement between Contractor and First 5 for the same services and the same time period.

Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Agreement will be purchased by First 5 from Contractor under a new Agreement following expiration or termination of this Agreement. Contractor waives all rights or claims to notice or hearing respecting any failure by First 5 to continue to purchase all or any such service from Contractor following the expiration or termination of this Agreement.

II. PROGRAM DESCRIPTION AND REQUIREMENTS -- EXHIBIT A

This Agreement shall be accompanied by Exhibit A, which is incorporated herein by this reference, and which includes a description of the duties and services to be performed for First 5 by Contractor. Contractor agrees to comply with all provisions, to perform all work, and to provide all such duties and services set forth in Exhibit A in a professional and diligent manner. Contractor shall obtain First 5’s approval of all reports, requests, and other services and responsibilities, as required under this Agreement.

III. TERMS AND CONDITIONS OF PAYMENT AND ACCOUNTABILITY REQUIREMENTS-- EXHIBIT B

The total amount to be paid to Contractor under this Agreement shall not exceed the sum of \$135,000.00 (FY2019-20: \$45,000.00; FY2020-21: \$90,000.00) and First 5 shall, under no circumstances, be required to pay in excess of that amount. Payment shall be made pursuant to the terms and conditions set forth in Exhibit B, attached hereto and by this reference made a part hereof. Sums not so paid shall be retained by First 5.

Unless it is otherwise provided in Exhibit B to this Agreement, Contractor shall submit all claims for reimbursement under the Agreement within ninety (90) days after the ending date of the Agreement. All

claims submitted after ninety (90) days following the ending date of the Agreement will not be subject to reimbursement by First 5. Any "obligations incurred" included in claims for reimbursements and paid by First 5 which remain unpaid by the Contractor after ninety (90) days following the ending date of the agreement will be disallowed under audit by First 5 and shall be repaid to First 5.

Contractor agrees to comply with all requirements which are now, or may hereafter be, imposed by First 5, or any successor, with respect to the receipt and disbursement of the funds referred to in Exhibit B, as well as such requirements as may be imposed by First 5.

IV. INSURANCE -- EXHIBIT C

Contractor shall maintain in force, at all times during the term of this Agreement, the insurance specified in Exhibit C attached hereto and made a part of this Agreement by this reference, and shall comply with all other requirements set forth in that Exhibit. Contractor shall provide Workers' Compensation insurance at Contractor's own cost and expense, and neither Contractor nor its carrier shall be entitled to recover from First 5 any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

V. ADDITIONAL FISCAL PROVISIONS

Contractor shall not claim reimbursement from First 5 for (or apply sums received from First 5 with respect to) that portion of its obligations which has been paid by another source of revenue. Sums received as a result of services provided to other public or private organizations shall be considered such revenue insofar as such sums are or can be applied to the work to be performed by Contractor pursuant to this Agreement.

If Contractor is a non-profit corporation, unrestricted or undesignated private charitable donations and contributions shall not be considered revenue applicable to this Agreement; Contractor has total freedom in planning for the usage of such resources in expanding and enriching programs, or in providing for such other operating contingencies as it may desire. Nothing herein shall be deemed to prohibit Contractor from contracting with more than one entity to perform additional work similar to or the same as that herein contracted for.

VI. RECORDS

A. Contractor shall maintain on a current basis complete financial records including, but not necessarily limited to, books of original entry, source documents in support of accounting transactions, a general ledger, personnel and payroll records, cancelled checks, and related documents in accordance with generally accepted accounting principles and any specific requirements of the applicable funding source.

B. Contractor shall maintain on a current basis complete records pertaining to the provision of services and eligibility, including, but not limited to, medical records, client files, participant records, patient logs or other service related documentation in accordance with instructions provided by First 5.

C. Contractor shall maintain on a current basis complete records pertaining to Contractor's organizational structure and activities, including, but not limited to, bylaws, articles of incorporation, documentation of tax exempt status, if applicable, Board of Directors roster, minutes of meetings of the Board of Directors and committees, administrative program policies and procedures and any other documents required by First 5 or the State or federal government or the applicable funding source.

Contractor will cooperate with First 5 in the preparation of, and will furnish any and all information required for, reports to be prepared by First 5 and/or Contractor as may be required by the rules, regulations, or requirements of the County of Alameda, First 5 or of any other governmental entity. First 5 shall specify in detail the cooperation required.

Records shall be retained by Contractor, and shall be made available for auditing and inspection, for no less than five (5) years following the provision of any services pursuant to this Agreement, or for a longer period as required by the applicable funding source. If Contractor enters into any First 5-approved agreement with any related organization to provide services such agreement shall contain a clause to the effect that the related records of that organization shall be retained, and shall be made available for auditing and inspection, for no less than five (5) years following its provision of services pursuant to the subcontract, or for a longer period as required by the applicable funding source.

First 5 reserves the right to issue further instructions regarding the extent of records required to be kept, the format to be used, and record retention and access requirements as is necessary to perform audits and to otherwise comply with requirements set forth by applicable funding sources.

VII. AUDITS

Contractor's records, as defined in Section VI of this Agreement, shall be accessible to First 5 for audit and inspection to assure proper accounting of funds, and to certify the nature of, and evaluate Contractor's performance of its obligations as set forth in this Agreement. First 5 shall be entitled to access onto Contractor's premises to observe operations, inspect records or otherwise evaluate performance at all reasonable times and without advance notice. First 5 shall conduct inspections and manage information in a manner consistent with applicable laws relating to confidentiality of records and in a manner that will minimize disruption of Contractor's work.

Funds provided by First 5 shall be accounted for separately in the Contractor's books and records. A systematic accounting record shall be kept by the Contractor of the receipt and disbursement of funds. The Contractor shall retain original substantiating documents related to contract expenditures and make these records available for First 5's review upon request. Contractor will be responsible for maintaining adequate financial records of this contract. First 5 may request general ledger documentation in support of the Contractor's expense report.

Separate and apart from the audit and inspection provisions set forth immediately above, Contractor's records will be subject to audits as required by Federal and/or State agencies and/or other funding sources. These audits include those performed pursuant to applicable OMB Circulars or audits otherwise authorized by Federal or State law.

VIII. LIMITATION ON LIABILITY; INDEMNIFICATION

The liabilities or obligations of First 5 with respect to its performance, non-performance or obligations pursuant to this Agreement shall be the liabilities or obligations of First 5 and its Trust Fund, and shall not become the liabilities or obligations of the County. Contractor shall not look to the County for satisfaction of obligations or liabilities.

Contractor agrees to indemnify, to defend at its sole expense, to save and hold harmless First 5, the individual members thereof, and all First 5 officers, agents, employees and volunteers, and the County of Alameda, its officers, agents, and employees from any and all liability in addition to any and all losses, claims, actions, lawsuits, damages, judgments of any kind whatsoever arising out of the negligent acts, omissions or intentional misconduct of Contractor or Contractor's employees, agents, subcontractors or volunteers in performance of services or in the course of performing services rendered pursuant to this Agreement.

IX. SUBCONTRACTING

None of the work to be performed by Contractor shall be subcontracted without the prior written consent of First 5. Contractor shall be as fully responsible to First 5 for the acts and omissions of any subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by Contractor. First 5-approved contracts between Contractor and any subcontractor shall contain language providing that Contractor shall be as fully responsible to First 5 for the acts and omissions of any subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by Contractor.

X. ASSIGNMENT

Contractor shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written approval of First 5. However, Contractor may assign its rights to receive compensation from First 5 for performance of the Agreement to financial institutions for the purpose of securing financial resources, provided that written consent from First 5 shall have first been obtained. No party shall, on the basis of this Agreement, in any way contract on behalf of, or in the name of, the other party to the Agreement, and any attempted violation of the provisions of this sentence shall confer no rights, and shall be void.

XI. INDEPENDENT CONTRACTOR STATUS

Neither the Contractor nor any of its employees shall by virtue of this Agreement be an employee of First 5 for any purpose whatsoever, nor shall it or they be entitled to any of the rights, privileges, or benefits of First 5 employees. Contractor shall be deemed at all times an independent contractor and shall be wholly responsible for the manner in which it performs the services required of it by the terms of this Agreement. Contractor assumes exclusively the responsibility for the acts of its employees and subcontractors as they relate to the services to be provided during the course and scope of their employment or service. Contractor will not represent itself (or any of its employees) as an employee or agent of First 5. First 5 will not treat Contractor as an employee of First 5 for purposes of federal or state income tax withholding, FICA withholding, or any other taxation purpose of law, including the Internal Revenue Code of 1986, as amended.

No partnership, employment, or agency has been or is intended to be formed by this Agreement. Accordingly, Contractor understands that First 5 is not required to provide Contractor with worker's compensation, and Contractor acknowledges and understands that Contractor is solely responsible for payment of federal and state income tax, social security, and unemployment and disability taxes, if any.

XII. CONFIDENTIALITY

Pursuant to Health and Safety Code 130140.1(e), any individually identifiable information collected by First 5 California Commissions must be protected from disclosure to unauthorized entities unless written consent was obtained from the client, parent or legal guardian. Contractor agrees to maintain the confidentiality of any patient information which may be obtained as a result of work performed pursuant to this Agreement unless required by law. Patients are defined as children and families who receive services by First 5 or children and families who receive services from the Contractor as outlined in Exhibit A to this Agreement. First 5 shall respect, to the extent permitted by law, the confidentiality of information furnished by Contractor to First 5 as specified in Exhibit A.

All information that is maintained by First 5 and Contractor may be subject to inspection by any person pursuant to a request under the California Public Records Act. The information shared under California Public Records Acts refers only to agencies, organizations or partners, not individuals or patients who are recipients of child health or family services.

Confidential information is defined as all information disclosed to Contractor which relates to First 5's past, present and future activities, as well as activities under this Agreement. Contractor will hold all such information in trust and confidence. Upon cancellation or expiration of this Agreement, Contractor will return to First 5 all written or descriptive matter which contain any such confidential information.

XIII. TERMINATION PROVISIONS

Termination for Cause – If First 5 determines that Contractor has failed, or will fail, through any cause, to fulfill in a timely and proper manner its obligations under the Agreement, or if First 5 determines that Contractor has violated or will violate any of the covenants, agreements, provisions, or stipulations of the Agreement, First 5 shall thereupon have the right to terminate the Agreement by giving written notice to Contractor of such termination and specifying the effective date of such termination.

Without prejudice to the foregoing, Contractor agrees that if prior to or subsequent to the termination or expiration of the Agreement upon any final or interim audit by First 5, Contractor shall have failed in any way to comply with any requirements of this Agreement, then Contractor shall pay to First 5 forthwith whatever sums are so disclosed to be due to First 5 (or shall, at First 5's election, permit First 5 to deduct such sums from whatever amounts remain undisbursed by First 5 to Contractor pursuant to this Agreement or from whatever remains due Contractor by First 5 from any other contract between Contractor and First 5).

In the event that the funding allocation or the funds available to First 5 changes, First 5 may determine, in its sole discretion, that it is necessary to reduce, eliminate or otherwise modify the funding to Contractor under this Agreement due to the unavailability of funds or First 5's assessment of its funding priorities. If First 5 elects to reduce or eliminate funding pursuant this provision, it will provide 30 days advance written notice to Contractor.

Termination Without Cause – Either party may terminate this Agreement upon 30 days advance written notice to the other party. In the event of termination, Contractor shall return any unspent funds and shall not be entitled to any further funds under this Agreement.

Termination By Mutual Agreement – First 5 and Contractor may otherwise agree in writing to terminate this Agreement in a manner consistent with mutually agreed upon specific terms and conditions.

XIV. COMPLIANCE WITH LAWS

Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies, having jurisdiction over the scope of services or any part hereof, including Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), all provisions of the Occupational Safety and Health Act of 1970 and all amendments thereto, and all applicable federal, state, municipal and local safety regulations. All services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor shall indemnify and save First 5 and County harmless from any and all liability, fines, penalties and consequences from any noncompliance or violations of such laws, ordinances, codes and regulations. A violation of such laws, ordinances, codes and regulations shall constitute a material breach of this Agreement and may serve as a basis for termination of this Agreement under Article XIII ("Termination for Cause") and the initiation of appropriate legal proceedings by First 5.

XV. COMPLIANCE WITH LAWS (CONTRACTS WITH A VALUE OF \$100,000 OR MORE)*

By signing this Agreement, Contractor certifies, under penalty of perjury, that at the time of entering into this Agreement all of the following are true:

- (a) That Contractor is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code).
- (b) That Contractor is in compliance with the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).
- (c) (1) That any policy that Contractor has against any sovereign nation or peoples recognized by the government of the United States, including, but not limited to, the nation and people of Israel, is not used to discriminate in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).
- (2) Any policy adopted by Contractor or actions taken thereunder that are reasonably necessary to comply with federal or state sanctions or laws affecting sovereign nations or their nationals shall not be construed as unlawful discrimination in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the California Fair Employment and Housing Act (Chapter 7 (commencing with Section 12960) of Part 2.8 of Division 3 of Title 2 of the Government Code).

*Not applicable to contracts with a value of less than \$100,000

XVI. ACCIDENT REPORTING

If a death, serious personal injury, or substantial property damage occurs in connection with the performance of this Agreement, Contractor shall immediately notify First 5 by telephone. Contractor shall promptly submit a written report, in such form as may be required by First 5, of all accidents which occur in connection with this Agreement. This report must include the following information: 1. name and address of the injured or deceased person(s); 2. name and address of Contractor's subcontractor, if any; 3. name and address of Contractor's liability insurance carrier; 4. a detailed description of the circumstances surrounding the accident, whether any of First 5's equipment, tools or materials were involved and the

extent of the damage to First 5 and/or other property; 5. Whether any clients or recipients of services or other persons were witnesses to the accident; and 6. determination of what effect, if any, the accident will have upon Contractor's ability to perform services.

XVII. NON-DISCRIMINATION

Contractor assures that it will comply with applicable state and federal laws and regulations that govern discrimination, including, but not limited to, the Americans with Disabilities Act and Title VII of the Civil Rights Act of 1964. Contractor further agrees that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam Era Veteran's status, political affiliation, or any other non-merit factors protected by applicable law, be excluded from participation in, be denied associated benefits, or be otherwise subjected to discrimination under activities covered in this Agreement.

XVIII. GOVERNING BOARD LIMITATIONS; CONFLICT OF INTEREST

Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies regarding conflicts of interest.

Contractor shall not make governmental decisions, as defined in section 18700(c)(4) of Title 2 of the California Code of Regulations, and Contractor's work shall be subject to intervening substantive review by staff of First 5.

If Contractor has entered into this Agreement as a not-for-profit organization as defined by state and federal law, and is in receipt of funds from First 5 based on such status, Contractor shall at all times conduct its business in a manner consistent with that required of a not-for-profit organization by applicable laws.

XIX. DRUG-FREE WORKPLACE

Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code Section 812, including marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring within Alameda County, the Contractor, within five days thereafter, shall notify First 5. Violation of this provision shall constitute a material breach of this Agreement subject to termination by First 5 under Article XIII ("Termination for Cause") of this Agreement.

XX. MODIFICATIONS TO AGREEMENT

First 5 shall assign a liaison to Contractor with respect to the performance of this Agreement. Unless otherwise provided in Exhibit A and/or B to this Agreement, any adjustments requested by the Contractor to line items of a budget or to the program description included as an Exhibit to this Agreement shall not alter (1) services or other performance to be provided under this Agreement, (2) the time of performance of any act hereunder, or (3) the total amount of money allocated hereunder. Only one budget revision is allowed per year and may be granted or denied per the

assessment of First 5 staff. For all budget line item adjustments over 10%, a written justification for each line item should be submitted for approval. Budget line item adjustments under 10% are not subject to a formal revision and may be shifted at the Contractor's discretion once per year. This Agreement can be amended only by written agreement of the parties hereto.

XXI. OWNERSHIP OF WORK PRODUCT / INTELLECTUAL PROPERTY

Any work product developed by Contractor in performance of this Agreement shall be considered the work product of First 5 and upon termination of the Agreement, Contractor shall provide those materials to First 5 to the extent requested. In addition, it is the express intention of the parties that First 5 shall at all times be and shall remain the sole and exclusive owner of all rights of any kind whatsoever in and to the results and proceeds of First 5's and/or Contractor's services hereunder (the "Results"). The Contractor shall, however, retain any rights to materials used in the performance of this Agreement to the extent the Contractor possessed, owned, or developed such materials prior to entering into this Agreement.

Contractor warrants that, to the best of its knowledge and control, the Results are and will be original with Contractor in all respects (except to the extent based on material supplied by First 5), have not been and will not be exploited in any manner and/or medium, and do not or will not infringe upon the copyright, patent or any other right of any person or entity and properly attribute the use of any other sources from any person or entity. Contractor agrees to execute any and all other documents consistent herewith, which may be required to effectuate the purpose and intent of this Agreement, and agrees that First 5 shall have the sole and exclusive right to register in its own name the copyrights and any other rights in and to the Results. In addition, or alternatively, Contractor hereby irrevocably appoints First 5 as Contractor's attorney-in-fact to take such actions and make, sign, execute, acknowledge, and deliver all such documents as may from time to time be necessary to convey to First 5, its successors and assigns, all rights granted in this section. This provision is of the essence of this Agreement and shall survive termination of this Agreement.

XXII. PUBLIC EMPLOYEES' PENSION REFORM ACT

First 5 as a Participating Employer in ACERA (the Alameda County Employees' Retirement Association) is restricted by law in retaining the services of a Contractor who has retired previously under ACERA (unless the Contractor reinstates in the ACERA system). If Contractor has not previously retired under ACERA, the law does not affect his/her ability to provide services to First 5 Alameda County. If Contractor has previously retired under ACERA, the law permits the ACERA retiree to provide services to First 5 Alameda County without reinstatement from retirement under limited circumstances. Applicable Contractors will be required to complete and submit a self-certification form of ACERA retirement status prior to execution of contract.

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EXHIBIT A

PROGRAM DESCRIPTION AND REQUIREMENTS

1. Background and Program Description

The California Children and Families First Act of 1998 (Proposition 10) created a program in the state for the purposes of promoting, supporting, and improving the early development of children from the prenatal stage to five years of age. The intent of this act is to enable counties to create and implement an integrated, comprehensive and collaborative system of information and services to enhance optimal early childhood development.

First 5 has approved a Strategic Plan for a comprehensive system of early intervention services for children birth to 5 years of age and families in Alameda County. A key component of the First 5 Strategic Plan is the Parent Engagement and Innovation Strategy, which provides a continuum of parent engagement and supports in line with Strengthening Families Protective Factors and is inclusive of parent leadership. The Innovation Strategy seeks to broaden the landscape of early childhood support with new partners, seed programs or systems connectivity as proof of concept for policy change and/or sustained funding. (2017-2021 Strategic Plan, page 22 and 27). The services of the Contractor have been retained to implement a comprehensive Early Learning Action Plan which includes support implementing a promotora program for Latina parents and implementing the Abriendo Puertas parent engagement and leadership program.

2. Prohibition on Supplantation

By law, First 5 funding may not be used to supplant other funds. First 5 funding may only be used to expand or enhance existing programs or to initiate new services or programs benefiting children prenatal to age five.

3. Performance Requirements

Contractor's approved performance requirements are included as Attachment 2.0: Results Based Accountability Plan.

4. Reporting Requirements

Contractor will submit program progress reports, expense reports and a final report as outlined on the payment schedule in Exhibit B: Terms and Conditions of Payment and Accountability Requirements. Depending on the type of service provided, Contractor may be required to collect and report on specific measures as identified in the First 5 2017-2021 Strategic Plan.

5. Fiscal Requirements

Contractor's approved budget is included as Attachment 1: Budget.

Contractor may be required to submit general ledger expense reports and salaries and benefits documentation supporting expenses to be reimbursed during the funded term. First 5 will identify which reporting period(s) Contractor will be required to submit this information and provide prior notice to the Contractor.

6. ECChange, HIGH5, ECC Online, or Pathways Database Requirements

Contractor will report in HIGH5.

7. Budget and/or Scope Revisions

Contractor may submit one budget and/or scope revision per year no later than April 15th of the fiscal year and may be granted or denied per the review and assessment of First 5 staff. For all budget line item adjustments over 10%, a written justification for each line item should be submitted for approval. Budget line item adjustments under 10% are not subject to a formal revision and may be shifted to existing line items (not including administrative/indirect fees) at the Contractor's discretion once per year. All significant revisions to approved scope must be submitted in writing and may be granted or denied per the review and assessment of First 5 staff. Ineligible and previously unapproved contract expenses may be disallowed per First 5 review and assessment.

8. Federal Office of Management & Budget (OMB) Circular Requirements

Contractor is required to comply with all current OMB Circular requirements during the funded term, including but not limited to conflict of interest, internal controls, procurement and subcontractor monitoring if applicable. First 5 reserves the right to audit and collect from Contractor documentation demonstrating allowable activities and costs, eligibility, reporting, subcontractor monitoring and other special tests as identified.

9. Tuberculosis Testing

The Contractor shall require and ensure that staff who have direct and consistent contact with children through the First 5 funded activities undergo standard tuberculosis testing. Contractor will maintain records and documentation of current tuberculosis clearance and retest as appropriate.

10. Filing reports with Child Protective Services (CPS) / Child Care Licensing (CCL)

If a First 5 Contractor has knowledge of or observes a child who they suspect has been the victim of child abuse or neglect within the course of First 5 funded work, it is expected that they will file a report of the situation to CPS. In accordance with CPS guidelines, the report should be filed by phone within 24 hours of the incident, and in writing within 36 hours of the incident. If the abuse or neglect occurs in a licensed child care facility, it is expected that the Contractor will also file a report immediately to CCL.

Reporting suspected child abuse or neglect to First 5 or other persons is not a substitute for making a report to CPS or CCL. Reporting duties are individual and cannot be delegated to another person.

If First 5 staff become aware of suspected child abuse or neglect while providing consultation and/or contract support, and a report is not filed within the legal timeframe by the contractor, First 5 staff will file a report by phone and in writing within 24 hours.

Failing to report abuse or neglect to the appropriate agencies is not consistent with the mandates of First 5 Alameda County to improve health and development of children ages 0-5. Failure to report may result in termination of contract funding.

11. Cultural Access Services Requirements

- A. Contractor shall make a good faith effort to ensure that clients receive from all staff members effective, understandable, and respectful care that is provided in a manner compatible with their cultural health beliefs and practices, and preferred language.
- B. Contractor shall make a good faith effort to ensure that communication among staff and with the clients/population served promotes cultural responsiveness and respect of difference.
- C. Contractor shall make a good faith effort to implement strategies to recruit, retain, and promote at all levels of the organization a diverse, culturally responsive staff and leadership that are representative of the demographic characteristics of the service area.
- D. Contractor shall make a good faith effort to ensure that staff at ALL levels and across all disciplines receive ongoing education and training in culturally and linguistically appropriate service delivery.
- E. Contractor shall make a good faith effort to have a clearly articulated written policy on cultural responsiveness.
- F. Contractor shall make a good faith effort to allocate resources to ensure the delivery of culturally responsive services.

12. Tobacco Control and Education Requirements

The 1998 passage of Proposition 10 added a 50-cent-per-pack increase in the state surtax on cigarettes and tobacco products to fund anti-smoking and early childhood programs. In addition, the 2016 passage of Proposition 56 increased the cigarette tax by \$2.00 per pack, with equivalent increases on tobacco products and electronic cigarettes containing nicotine. In September 2000, the Commission adopted a Comprehensive Tobacco Control Policy to reinforce the message that tobacco products and involvement with the tobacco industry in any manner constitutes a serious health hazard for young children, their families, and the community. Based on this policy, all contractors are expected to make a good faith effort to:

- A. Create and/or maintain a comprehensive smoke-free environment; including adherence to applicable secondhand smoke laws and ordinances
- B. Disclose and divest from tobacco related investments
- C. Educate clients and staff about the harmful effects of secondhand smoke on children as appropriate

- D. Provide smoking cessation resources to staff and clients as appropriate

13. Acknowledgement of Funds

The Contractor shall acknowledge the funds received in statements or printed materials as outlined in the guidelines listed below.

- A. The Contractor will announce funding awards *only after* 1) the contract has been signed and returned and 2) after any announcement strategies are discussed with First 5 staff.
- B. The Contractor agrees to use official attribution tools and logos provided by First 5 for promotional materials, public awareness campaigns or special events connected with funding.
- C. First 5 funding will be acknowledged in all materials produced for the purpose of public education and outreach regarding the Contractor's funded project. These materials would include, but are not limited to brochures, flyers, media ads or public service announcements, presentations and handouts and outdoor ads. All printed materials and promotional products will include the following language:

Funded by First 5 Alameda County

- D. Materials produced with First 5 funding may be reproduced only if no changes are made to the content or design of the material, it contains the appropriate acknowledgement of funding from First 5, and the Contractor will not be additionally reimbursed for use or reproduction.

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EXHIBIT B

TERMS AND CONDITIONS OF PAYMENT AND ACCOUNTABILITY REQUIREMENTS

- 1. Contractor Name:** City of Newark
- 2. Term of Contract:** February 1, 2020 – June 30, 2021
- 3. Terms and Conditions of Payment**

Contractor will adhere to the following payment schedule:

	Requirement Due	Due Date	Amount
1.	For the period (February 1, 2020– June 30, 2020) <ul style="list-style-type: none">• 1st Invoice• 1st Expense Report• 1st Program Report• 1st Results Based Accountability (RBA) Report	July 10, 2020	\$45,000.00
2.	For the period (July 1, 2020 – December 31, 2020) <ul style="list-style-type: none">• 2nd Invoice• 2nd Expense Report• 2nd Program Report• 2nd Results Based Accountability (RBA) Report	January 10, 2021	\$45,000.00
3.	For the period (January 1, 2021 – June 30, 2021) <ul style="list-style-type: none">• 3rd (Final) Invoice• 3rd (Final) Expense Report• 3rd (Final) Program Report• 3rd (Final) Results Based Accountability (RBA) Report	July 15, 2021	\$45,000.00

Contractor will submit invoices based on actual expenses. Invoices should be accompanied by an expense report. Additional supporting documentation for expenses may be requested per First 5's policies and other applicable requirements (federal laws, state regulations, and/or OMB Uniform Guidance standards).

Invoices are subject to review and approval by First 5 staff before payment is issued. Payment is contingent on receipt and approval of all required reports. First 5 reserves the right to withhold Contractor payment until required reporting documentation is received. Total payments during the contract term will not exceed \$135,000.00.

4. Invoicing Procedures

Invoices should be submitted to Page Tomblin at First 5 Alameda County, 1115 Atlantic Avenue, Alameda, CA 94501.

Invoices with original signature on contractor's agency letterhead are required. Invoices may be submitted electronically or by mail.

First 5 will remit payment to:

City of Newark
37101 Newark Blvd.
Newark, CA 94560

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EXHIBIT C

INSURANCE REQUIREMENTS

As a condition of this contract, Contractor must provide proof of insurance or evidence of self-insurance if appropriate for the following:

- Commercial General Liability** (attach insurance cover sheet)
Minimum Limit \$1,000,000, Additional Insured Endorsement (see below)
- Professional Liability** (attach insurance cover sheet)
Medical \$1,000,000/3,000,000, Other \$1,000,000
- Automobile insurance** (attach insurance cover sheet)
Levels of liability minimum: \$50,000 and \$100,000
- Workers' Compensation (WC)** (attach insurance cover sheet)
Required for all contractors with employees
WC: Statutory Limits

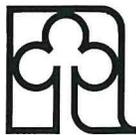
All Insurance Certificates showing proof of insurance must include a 30-day notice of Cancellation. First 5 reserves the right to withhold Contractor payment until required insurance documentation is received.

Additional Insured Endorsement shall name First 5 Alameda County, the individual members thereof, and all First 5 officers, agents, employees and volunteers, and Alameda County, its Board of Supervisors, officers, agents and employees as Additional Insureds with respect to services being provided. Additional insured endorsement shall be equivalent to ISO form CG 20 09 10 93.

Please have Additional Insured Endorsements sent to First 5 Alameda County, 1115 Atlantic Avenue, Alameda, CA 94501, Attention: Contracts.

First 5 reserves the right to withhold Contractor payment until required insurance documentation is received.

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City of Newark

MEMO

DATE: January 13, 2020

TO: City Council

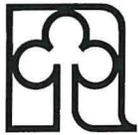
FROM: Sheila Harrington, City Clerk *SH*

SUBJECT: Approval of Audited Demands for the City Council Meeting of January 23, 2020.

REGISTER OF AUDITED DEMANDS

US Bank General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
December 20, 2019	Page 1-2	119827 to 119930	Inclusive
January 03, 2020	Page 1-2	119931 to 119953	Inclusive
January 09, 2020	Page 1-2	119954 to 120020	Inclusive



City of Newark

MEMO

DATE: January 13, 2020

TO: Sheila Harrington, City Clerk

FROM: Krysten Lee, Finance Manager 

SUBJECT: Approval of Audited Demands for the City Council Meeting of January 23, 2020.

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

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Final Disbursement List. Check Date 12/20/19, Due Date 01/13/20, Discount Date 01/13/20. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119827	11539	ACCESS INFORMATION HOLDINGS, LLC.	12/20/19	90.00	SHREDDING SVC
119828	10223	LEXISNEXIS RISK DATA MANAGEMENT INC BILL	12/20/19	424.20	BACKGROUND CHECKS
119829	11094	ACME AUTO LEASING, LLC	12/20/19	1,909.44	ARMORED VEH LEASE
119830	1774	AIRGAS USA, LLC	12/20/19	64.65	RENTAL TANKS AND EQUIPMENT
119831	803	ACCOPSA JANE MANZO/ALAMEDA COUNTY SHERIF	12/20/19	950.00	ALCO CHIEFS ASSOC SEMINAR
119832	3853	COUNTY OF ALAMEDA INTERNAL AUDIT UNIT RI	12/20/19	1,865.00	CITATION PROCESSING FEES - NOV'19
119833	287	ALAMEDA COUNTY SHERIFF'S OFFICE GREGORY	12/20/19	1,951.75	CRIME LAB FEES
119834	344	ALAMEDA COUNTY WATER DISTRICT	12/20/19	1,685.05	WATER FOR SWEEPER TRUCK
119835	5821	ALL CITY MANAGEMENT SERVICES, INC.	12/20/19	6,503.36	CROSSING GUARD SVCS
119836	12	ALLIED AUTO STORES INC	12/20/19	826.44	FLEET SUPPLIES AND PARTS
119837	14	ALPINE AWARDS	12/20/19	34.57	DEPARTMENT AWARDS
119838	348	AT&T	12/20/19	291.29	CIRCUITS, WHITE PAGES
119839	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECEI	12/20/19	198.86	BATTERIES
119840	9680	BAY CENTRAL PRINTING	12/20/19	127.56	BUSINESS CARD IMPRINTING
119841	11756	MARK LEE & YONG KAY, INC. DBA BAY CONSTR	12/20/19	118,711.40	CIP #1208 NEWBARK DOG PARK
119842	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	12/20/19	1,069.00	SPORTS OFFICIATING
119843	3947	BOND BLACKTOP INC	12/20/19	266,306.87	CIP #1228 SLURRY SEAL PROJECT
119844	442	BSN SPORTS LLC	12/20/19	54.88	BACK UP REMOTE CONTROLS FOR SCORE BOARD
119845	11083	BURKE, WILLIAMS & SORENSEN, LLP	12/20/19	7,763.50	LITIGATION & LEGAL CONSULTING SRVCS
119846	1513	BURTON'S FIRE INC	12/20/19	211.40	SUPPLIES
119847	3751	BRYAN COBB	12/20/19	164.78	EXPENSE REIMBURSEMENT
119848	1004	CPRS	12/20/19	125.80	MEMBER RENEWAL
119849	2051	CRITICAL REACH INC	12/20/19	600.00	APB NET SYSTEM SUPPORT
119850	1258	CSULB FOUNDATION BUREAU OF GOVERNMENTAL	12/20/19	199.00	PATROL POST TRAINING
119851	10649	MANPREET SINGH SRA	12/20/19	1,000.00	MUP 2019-017 SECURITY DEPOSIT REFUND
119852	10793	SAM FOUUA	12/20/19	240.00	REFUND
119853	10793	DRIVERS FOR SURVIVORS	12/20/19	180.00	PARTY DEPOSIT REFUND
119854	10793	LIGHT OF THE WORLD CHRISTIAN CENTER	12/20/19	300.00	RENTAL DEPOSIT REFUND
119855	10793	TIMSI MALHOTRA	12/20/19	225.00	REFUND
119856	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	12/20/19	157.50	PH NOTICES
119857	10794	DUKE DE LEON	12/20/19	615.00	VIDEO SERVICES
119858	3356	DELL MARKETING L P C/O DELL USA L P	12/20/19	9,935.76	12 EMPLOYEE PC'S - DELL PRE-APPROVAL 201
119859	2135	DEPARTMENT OF INDUSTRIAL RELATIONS OFFIC	12/20/19	25,094.42	DEPT OF INDUSTRIAL RELATIONS ANNUAL ASSE
119860	3130	DOWNTOWN FORD SALES	12/20/19	60,556.82	PROJECT 2020-03 VEHICLE PURCHASE
119861	11342	EAGLE CANYON CAPITAL	12/20/19	136.00	PATROL VEHICLE CLEANING
119862	11587	ECS IMAGING, INC.	12/20/19	3,942.88	DOCUMENT IMAGING
119863	310	EQUIFAX INFORMATION SVCS LLC	12/20/19	101.29	CREDIT BUREAU REPORTS
119864	11112	FREMONT CHRYSLER DODGE JEEP RAM	12/20/19	264.72	PARTS
119865	60	FREMONT FORD/AUTOBODY OF FREMONT ATTN: T	12/20/19	1,359.45	PARTS
119866	313	FREMONT URGENT CARE CENTER	12/20/19	350.00	PRE-EMPLOYMENT DOT PHYSICALS
119867	3638	MARK GOTHARD	12/20/19	4,188.72	RECREATION CONTRACT
119868	10707	GYM DOCTORS	12/20/19	189.21	FITNESS EQUIPMENT
119869	4845	HINDERLITER DELLAMAS & ASSOCIATES	12/20/19	19,901.29	SALES TAX CONSULTING/AUDIT SERVICES
119870	4845	HDL COREN & CONE	12/20/19	745.00	CAFR STATISTICAL PACKAGE
119871	10221	YAMA HOMAYOUN	12/20/19	1,091.77	EXPENSE REIMBURSEMENT
119872	10319	NICK ICASIANO	12/20/19	216.48	EXPENSE REIMBURSEMENT
119873	9614	ICLEI - LOCAL GOVERNMENT FOR SUSTAINABIL	12/20/19	600.00	ICLEI 2020 ANNUAL MEMBERSHIP DUES
119874	11389	ISH AMITOJ KAUR	12/20/19	6,195.00	RECREATION CONTRACT
119875	11806	JOHN KAPU	12/20/19	552.95	EXPENSE REIMBURSEMENT
119876	11681	KBA DOCUMENT SOLUTIONS, LLC.	12/20/19	599.08	COPIER LEASE AGREEMENT
119877	11681	KBA DOCUMENT SOLUTIONS, LLC.	12/20/19	2,958.31	COPIER LEASE AGREEMENT

CS.AP Accounts Payable Release 8.3.0 R*APZCKREG*FDL

By BRETT OEVERNDIEK (BRETTO)

Final Disbursement List. Check Date 12/20/19, Due Date 01/13/20, Discount Date 01/13/20. Computer Checks.
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119878	10486	SHAKATI KHALSA	12/20/19	140.00	RECREATION CONTRACT
119879	5069	KIDZ LOVE SOCCER	12/20/19	2,601.60	RECREATION CONTRACT
119880	7964	KNORR SYSTEMS, INC. ACCOUNTS RECEIVABLE	12/20/19	2,287.24	LATERALS
119881	11775	LANCE, SOLL & LUNGHARD LLP	12/20/19	47,455.00	AUDITING SERVICES
119882	293	LANGUAGE LINE SERVICES INC	12/20/19	108.33	INTERPRETATION SVC
119883	7189	LINCOLN AQUATICS	12/20/19	630.85	POOL CHEMICALS-PULSAR CLEANER, CALCIUM,
119884	11246	LOOMIS ARMORED	12/20/19	408.13	ARMORED CAR SERVICE
119885	80	LYNN PEAVEY COMPANY	12/20/19	241.56	EVIDENCE SUPPLIES
119886	11673	MAILFINANCE DEPT 3682	12/20/19	415.11	MAILING MACHINE LEASE AGREEMENT & SUPPLI
119887	11736	MANAGEMENT PARTNERS INC.	12/20/19	3,155.08	MANAGEMENT SERVICES
119888	11309	MANUEL FERNANDEZ CONSTRUCTION	12/20/19	1,259.08	MISC. PROJECTS
119889	11784	MAR QUALITY PROTECTION	12/20/19	2,000.00	CLEAR COATING
119890	11530	JESUS MERO	12/20/19	113.13	EXPENSE REIMBURSEMENT
119891	11798	MISSION CRITICAL PARTNERS, LLC.	12/20/19	4,231.81	PSAP CONSULTANT FOR NEW CIVIC CENTER
119892	11378	MNS ENGINEERS INC	12/20/19	27,506.50	ENGINEERING PLAN CHECK AND CONSULTANT SE
119893	7335	MUNICIPAL MAINTENANCE EQUIPMENT INC	12/20/19	29.20	MME SUPPLIES
119894	10865	NEW IMAGE LANDSCAPE	12/20/19	14,279.89	PROJECT 1186C PARK AND LANDSCAPE SERVICE
119895	324	NEWARK CHAMBER OF COMMERCE	12/20/19	720.00	CHAMBER OF COMMERCE HOLIDAY LUNCHEON
119896	11479	DAWN PAIGE	12/20/19	2,072.82	SAFETY & WELLNESS SYMPOSIUM ADVANCE
119897	11697	PAKPOUR CONSULTING GROUP, INC.	12/20/19	8,523.38	ENGINEERING PLAN CHECK AND CONSULTANT SE
119898	11509	MARC PALACIO	12/20/19	410.99	EXPENSE REIMBURSEMENT
119899	11322	PAPA JOHNS PIZZA	12/20/19	2,114.00	BIRTHDAY AND CAFE FOOD
119900	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	12/20/19	574.00	PEST CONTROL SERVICES
119901	11346	PHAN'S SMOG STATION	12/20/19	120.00	SMOG TEST SERVICES
119902	11640	PLAN JPA C/O YORK	12/20/19	12,763.70	DEDUCTIBLE COSTS
119903	10891	ADONAI PERAZIM INC. dba PRINTS CHARLES R	12/20/19	337.78	PRINTING FOR CIVIC CENTER PROJECT
119904	3674	PRIORITY 1 PUBLIC SAFETY EQUIPMENT INSTA	12/20/19	3,479.28	LIGHT BAR FOR PROJECT 2019-8
119905	4346	QUALITY SIGN & BANNER	12/20/19	906.43	SIGNS
119906	9811	REDFLEX TRAFFIC SYSTEMS	12/20/19	18,800.00	REDLIGHT CAMERA MONITORING
119907	11792	REGIONAL GOVERNMENT SERVICES AUTHORITY	12/20/19	4,180.80	SERVICES FOR CONTRACT C19058
119908	11573	REYES COCA-COLA BOTTLING LLC.	12/20/19	34.49	CAFE BEVERAGE SERVICE
119909	11583	ALEXANDRIA RIDDLES	12/20/19	702.67	EXPENSE REIMBURSEMENT
119910	11675	S&L BREWER ENTERPRISES, INC. DBA LAW DOG	12/20/19	250.00	K9 TRAINING/SUPPLIES
119911	10916	SAN MATEO COUNTY FORENSIC LAB ATTN: FISC	12/20/19	746.55	CRIME LAB FEES
119912	5164	SAN MATEO REGIONAL NETWORK INC SMRN.COM	12/20/19	175.00	12 MONTHS SMTP PREMAIL MAIL FILTERING
119913	11098	SILVER & WRIGHT LLP	12/20/19	716.60	LITIGATION & LEGAL CONSULTING SRVCS FY 1
119914	377	SIMON & COMPANY INC	12/20/19	1,720.00	LEGISLATIVE SERVICES
119915	220	SONITROL	12/20/19	1,077.45	BUILDING CONTRACTUAL SERVICES
119916	40	STAPLES	12/20/19	2,140.67	OFFICE SUPPLIES
119917	11535	ANNE STEDLER	12/20/19	1,322.16	EXPENSE REIMBURSEMENT
119918	3796	SWRCB SWRCB ACCOUNTING OFFICE	12/20/19	14,230.00	ANNUAL STORMWATER PERMIT FEES (FY19-20)
119919	11744	SYSCO - SAN FRANCISCO	12/20/19	385.17	FOOD ITEMS FOR CAFE AND PARTIES
119920	7642	THE CONSULTING TEAM LLC	12/20/19	1,975.00	SUPERVISORY/MGMT TRAINING
119921	11642	TIAA COMMERCIAL FINANCE, INC.	12/20/19	432.92	COPIER LEASE AGREEMENT
119922	11644	TIREHUB, LLC.	12/20/19	1,477.15	TIRES
119923	11776	TYLER TECHNOLOGIES, INC.	12/20/19	52,111.99	ERP IMPLEMENTATION PROJECT PLANNING SERV
119924	6797	US BANK CORPORATE PAYMENT	12/20/19	18,909.49	CC PAYMENT 11/22/19
119925	10998	GARY M SHELDON VBS SERVICES	12/20/19	150.00	BLOOD WITHDRAWAL SVC
119926	11651	VERDE DESIGN INC	12/20/19	872.50	DESIGN SERVICES FOR CIP #1192 SPORTSFIEL
119927	339	WASHINGTON HOSPITAL GENERAL ACCOUNTING	12/20/19	125.00	LAB TESTS
119928	5050	WEST COAST ARBORISTS INC	12/20/19	6,920.00	PROJECT 1248 STREET TREE WORK

ICS.AP Accounts Payable Release 8.3.0 R*APZCKREG*FDL

By BRETT OEVERNDIEK (BRETTO)

Final Disbursement List. Check Date 12/20/19, Due Date 01/13/20, Discount Date 01/13/20. Computer Checks.

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MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119929	11417	WHOLESALE DISTRIBUTION ALLIANCE	12/20/19	54.00	RETAIL ITEMS
119930	11693	WEX BANK	12/20/19	1,051.37	FUEL CREDIT CARDS
Total				823,271.32	

Final Disbursement List. Check Date 01/03/19, Due Date 01/13/20, Discount Date 01/13/20. Computer Checks.
 Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119931	284	ALAMEDA COUNTY INFORMATION TECHNOLOGY DE	01/03/19	3,776.45	AWS ACCESS FEES
119932	11227	GUSTAVO ARROYO	01/03/19	1,588.59	EXPENSE REIMBURSEMENT
119933	4603	CENTER FOR SPECIALIZED VETERINARY CARE B	01/03/19	803.50	VET SVCS
119934	9888	BUREAU VERITAS NORTH AMERICA INC.	01/03/19	14,335.12	BUILDING PLAN CHECK SERVICES
119935	11563	CENTRAL VALLEY TOXICOLOGY, INC.	01/03/19	737.00	LAB TESTS
119936	214	CENTRAL VETERINARY HOSPITAL	01/03/19	324.53	VET SVCS
119937	10649	SATISH KUMAR	01/03/19	29,376.00	PERFORMANCE BOND RTN EP# 2017-0202
119938	10649	STREAMLINE PLUMBING	01/03/19	1,000.00	PERFORMANCE BOND RTN EP# 2018-0004
119939	309	EMBLEM ENTERPRISES, INC.	01/03/19	622.28	PATCHES
119940	10725	DAVID HIGBEE	01/03/19	1,200.00	EE COMPUTER LOAN PROGRAM
119941	1591	PHILIP H HOLLAND	01/03/19	200.00	RESERVE UNIF ALLOWANCE
119942	7593	BRUCE HOWCROFT	01/03/19	200.00	RESERVE UNIF ALLOWANCE
119943	11701	LWECO GROUP LLC	01/03/19	5,157.15	OTS GRANT PURCHASE
119944	8218	JOLIE MACIAS	01/03/19	327.63	EXPENSE REIMBURSEMENT
119945	11378	MNS ENGINEERS INC	01/03/19	2,187.50	OVERTIME INSPECTION SERVICES, SANCTUARY
119946	349	PACIFIC GAS & ELECTRIC	01/03/19	2,294.15	STREETLIGHTS/TRAFFIC SIGNALS
119947	1741	SIRCHIE FINGER PRINT LABORATORIES	01/03/19	171.39	EVIDENCE SUPPLIES
119948	4876	PATRICK SMITH	01/03/19	142.97	EXPENSE REIMBURSEMENT
119949	11808	STEVEN TURNER	01/03/19	50.00	EXPENSE REIMBURSEMENT
119950	688	UNION SANITARY DISTRICT ACCOUNTING	01/03/19	286.26	TRAINING FOR CHRISTINE CHOU
119951	11487	VANIR CONSTRUCTION MANAGEMENT, INC.	01/03/19	37,333.80	CONSTRUCTION MANAGEMENT SERVICES FOR THE
119952	5623	VERIZON WIRELESS	01/03/19	1,769.27	CELL SVC FOR MDTs
119953	11437	JOYCE WANG	01/03/19	1,791.26	EXPENSE REIMBURSEMENT
Total				105,674.85	

Final Disbursement List. Check Date 01/09/20, Due Date 01/20/20, Discount Date 01/20/20. Computer Checks.
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MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
119954	10449	AFLAC ATTN: REMITTANCE PROCESSING SERVIC	01/09/20	1,338.80	SHORT TERM DISABILITY PREMIUM
119955	284	ALAMEDA CO. ITD/REGISTRAR OF VOTERS	01/09/20	250.00	RADIO REPAIR/MAINT
119956	11430	ALLTECH PETRO INC.	01/09/20	762.33	REPAIRS
119957	14	ALPINE AWARDS	01/09/20	180.54	POLO SHIRTS
119958	8414	ANDRE'S MECHANICAL & GENERAL ENGINEERING	01/09/20	990.00	PUMP REPAIRS
119959	11531	WARREN ANTIDA	01/09/20	163.86	EXPENSE REIMBURSEMENT
119960	11445	ASPEN ENVIRONMENTAL GROUP	01/09/20	278.50	PROFESSIONAL SRVCS PURSUANT TO AGMT C190
119961	9680	BAY CENTRAL PRINTING	01/09/20	63.78	BUSINESS CARD IMPRINTING
119962	3046	BELINE GLASS CO INC	01/09/20	603.69	REPAIRS
119963	7275	PETER BEIREIS	01/09/20	49.47	EXPENSE REIMBURSEMENT
119964	23	FRANK BONETTI PLUMBING INC	01/09/20	290.00	PLUMBING REPAIRS
119965	1513	BURTON'S FIRE INC	01/09/20	5,711.05	ANNUAL MAINTENANCE
119966	11801	BUTTERFLY PROPERTY, LP	01/09/20	2,040.00	PARKING LICENSE AGREEMENT
119967	7439	CENTERVILLE LOCKSMITH	01/09/20	16.85	LOCK AND KEY SUPPLIES
119968	10825	CHEVROLET OF FREMONT	01/09/20	791.26	FLEET PARTS
119969	1743	CLARK'S U-SAVE ROCKERY	01/09/20	491.68	ROCK/SAND/GRAVEL/SOIL MIXES
119970	10060	COMCAST	01/09/20	26.76	CABLE SERVICE
119971	10650	FIA	01/09/20	1,000.00	DANCE PERMIT DEPOSIT REFUND Reinstated f
119972	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	01/09/20	42.50	LEGAL ADS
119973	7631	DELTA DENTAL OF CALIFORNIA ATTN: ACCOUNT	01/09/20	18,637.57	DENTAL PREMIUM - JAN'20
119974	7641	DELTA DENTAL INSURANCE COMPANY ATTN: ACC	01/09/20	175.98	DENTAL PREMIUM - JAN'20
119975	11404	ALHAMBRA	01/09/20	679.53	WATER SERVICE
119976	4731	EWING IRRIGATION PRODUCTS INC	01/09/20	576.33	SUPPLIES AND PESTICIDES
119977	7663	FIDELITY SECURITY LIFE INSURANCE/EYEMED	01/09/20	2,494.32	VISION PREMIUM
119978	1733	FIRST BAPTIST CHURCH	01/09/20	80.00	DONATION - DEC'19
119979	11112	FREMONT CHRYSLER DODGE JEEP RAM	01/09/20	2,704.59	VEHICLE REPAIRS
119980	60	FREMONT FORD/AUTOBODY OF FREMONT ATTN: T	01/09/20	1,468.85	PARTS
119981	11571	GEOCON CONSULTANTS, INC.	01/09/20	20,762.05	GEOTECHNICAL SERVICES FOR CIVIC CENTER P
119982	10144	SHEILA HARRINGTON	01/09/20	888.89	EXPENSE REIMBURSEMENT
119983	4845	HINDERLITER DELLAMAS & ASSOCIATES	01/09/20	300.00	TRANSACTION TAX
119984	7563	HILLYARD / SAN FRANCISCO	01/09/20	2,643.79	SUPPLIES
119985	11490	LORENZO HOULE	01/09/20	350.00	EXPENSE REIMBURSEMENT
119986	11562	JEFF'S MOBILE GLASS INC.	01/09/20	298.90	GLASS REPAIR
119987	9904	CYNTHIA M KIRBY	01/09/20	3,300.00	POLYGRAPH TESTS
119988	76	LN CURTIS & SONS	01/09/20	357.01	AMMUNITION
119989	10298	MANAGED HEALTH NETWORK BANK OF AMERICA	01/09/20	386.88	EMPLOYEE ASSISTANCE PROGRAM
119990	11309	MANUEL FERNANDEZ CONSTRUCTION	01/09/20	1,120.58	CARPET & FLOORING CLEANING
119991	11797	MASTER MEDICAL EQUIPMENT, LLC.	01/09/20	2,635.00	AED SUPPLIES
119992	7618	METLIFE SBC	01/09/20	1,362.81	LONG TERM DISABILITY PREMIUM
119993	11798	MISSION CRITICAL PARTNERS, LLC.	01/09/20	20,549.75	PSAP CONSULTANT FOR NEW CIVIC CENTER
119994	11357	MISSION UNIFORM SERVICE	01/09/20	1,779.00	MATS TOWELS AND UNIFORMS
119995	11690	NEOFUNDS	01/09/20	2,000.00	NEOPOST POSTAGE
119996	3452	NEWARK PAVILION	01/09/20	6,300.00	PARKING AGREEMENT DURING CONSTRUCTION
119997	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	01/09/20	412.00	PEST CONTROL SERVICES
119998	4058	POLICE EXECUTIVE RESEARCH FORUM	01/09/20	200.00	PERF MEMBERSHIP FOR ARGUELLO
119999	1935	PREFERRED ALLIANCE, INC.	01/09/20	1,705.84	RANDOM AND NON-RANDOM DRUG TESTING FEES
120000	11074	RUTAN & TUCKER LLP 611 ANTON BLVD. SUITE	01/09/20	26,982.00	LEGAL CONSULTING SRVCS PURSUANT TO C1902
120001	654	SFPUC-WATER DEPARTMENT CUSTOMER SERVICE	01/09/20	3,359.19	RENT/WATER
120002	112	WILLE ELECTRICAL SUPPLY CO INC	01/09/20	1,592.34	LIGHT BULBS
120003	2753	S.B.R.P.S.T.C.	01/09/20	400.00	PATROL POST TRAINING
120004	9381	SCHINDLER ELEVATOR CORPORATION	01/09/20	1,575.39	CONTRACTUAL SERVICES

Final Disbursement List. Check Date 01/09/20, Due Date 01/20/20, Discount Date 01/20/20. Computer Checks.

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MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
120005	11296	SIGNATURE CARPET ONE	01/09/20	9,620.00	TILE REPAIR - SILLIMAN
120006	377	SIMON & COMPANY INC	01/09/20	1,720.00	LEGISLATIVE SERVICES
120007	503	STANDARD INSURANCE COMPANY	01/09/20	598.56	EMPLOYEE LIFE INSURANCE AND AD&D COVERAG
120008	40	STAPLES	01/09/20	1,362.12	OFFICE SUPPLIES
120009	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	01/09/20	250.00	PAYROLL DEDUCTION - GARNISHMENT
120010	11142	SUN RIDGE SYSTEMS INC	01/09/20	5,500.00	UB TRANSFER DIGITIAL INFO INTO VIRTUAL E
120011	7744	T-MOBILE	01/09/20	428.27	TMOBILE CELL SERVICE
120012	135	TURF & INDUSTRIAL EQUIPMENT CO	01/09/20	314.56	FLEET SUPPLIES
120013	11708	UNIVERSAL BUILDING SERVICES & SUPPLY CO.	01/09/20	241.00	JANATORIAL SERVICES
120014	8751	PROVIDENT LIFE & ACCIDENT INSURANCE COMP	01/09/20	261.24	PAYROLL PREMIUM - E0246926
120015	11758	U.S. BANK NATIONAL ASSOCIATION TFM ESCRO	01/09/20	149,221.94	RETENTION PAYMENT - ACCT# 260108010
120016	10968	UTILITY TELEPHONE	01/09/20	24,593.94	UTILITY TELEPHONE YEARLY VOIP/WAN SERVIC
120017	5623	VERIZON WIRELESS	01/09/20	624.13	VERIZON YEARLY CELL PHONE SERVICE
120018	11718	WEBCOR CONSTRUCTION, LP	01/09/20	2,835,216.75	DESIGN BUILD SERVICES FOR NEWARK CIVIC C
120019	11466	YORK RISK SERVICES GROUP ATTN: CLIENT TR	01/09/20	24,047.71	WORKERS COMPENSATION CLAIMS
120020	11466	YORK	01/09/20	3,104.67	WORKERS COMPENSATION ADMINISTRATION FEES
Total				3,200,274.55	

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