

CITY OF NEWARK CITY COUNCIL

37101 Newark Boulevard • a d Newark CA 94 6 037 5 • 510 -578 -426 6 • Email: city.clerk@newark.org

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

AGENDA

Thursday, May 25, 2017

- A. ROLL CALL

- B. MINUTES
 - B.1 Approval of Minutes of the regular City Council meeting of Thursday, May 11, 2017. (MOTION)

- C. PRESENTATIONS AND PROCLAMATIONS
 - C.1 Presentation of Awards for Students, Teacher, and Classified Employee of the Year. (PRESENTATION)

 - C.2 Proclaiming June as Celebrating Business Month in Newark. (PROCLAMATION)

- D. WRITTEN COMMUNICATIONS

- E. PUBLIC HEARINGS
 - E.1 Hearing to consider introduction of an ordinance repealing previously adopted Urgency Ordinance 496-U pertaining to accessory dwelling units and a zoning text amendment to Section 17.08.415 (Accessory Dwelling Units), Section 17.16.030(k) (Permitted Uses) and deleting Section 17.08.143 (Efficiency Unit) of the Newark Zoning Code - Assistant City Manager Grindall. (INTRODUCTION OF AN ORDINANCE)

 - E.2 Hearing to consider: (1) Introduction of an Ordinance repealing and replacing Chapter 3.24 of the Newark Municipal Code "Development Impact Fees"; (2) Adoption of a Resolution establishing a Public Safety Facility Fee; (3) Adoption of a Resolution establishing a Community Service Facility Fee; (4) Adoption of a Resolution establishing a Transportation Impact Fee; and (5) Adoption of a Resolution authorizing expenditure for preparation of impact fee studies on transportation and public safety and community facilities and amending the biennial budget

and capital improvement plan 2016-2018 for fiscal year 2016-2017 - from Assistant City Manager Grindall.
(INTRODUCTION OF ORDINANCE) (RESOLUTIONS - 4)

F. CITY MANAGER REPORT

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

CONSENT

- F.1 Approval of plans and specifications, acceptance of bid and award of contract to Ocean Blue Environmental Services, Inc. for Storm Drain Trash Capture Devices (Phase 2), Project 1122 – from Public Works Director Fajeau. (MOTION)(RESOLUTION)

- F.2 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8310 – Phase II Bayshores (CDCG Group Holdings Bayshores, L.P.), an 86-unit residential subdivision at 37555 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area – from Associate Civil Engineer Cangco. (RESOLUTION)

NONCONSENT

- F.3 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18 and setting date of public hearing – from Public Works Director Fajeau. (RESOLUTIONS-2)

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 for the City Council meeting of May 11, 2017. (MOTION)

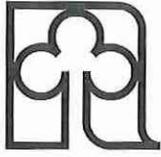
M. CLOSED SESSION

M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Name of Case: Valencia et al. v. City of Newark et al.; United States District Court, Northern District of California, Case No. 4:16-CV-04811-SBA – from City Attorney Benoun.

N. ADJOURNMENT

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

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



CITY OF NEWARK CITY COUNCIL

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

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

Minutes

Thursday, May 11, 2017

A. ROLL CALL

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

B. MINUTES

B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 27, 2017.

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

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employee.

Economic Development Manager Anne Stedler was introduced to the City Council.

C.2 Proclaiming May 21-27, 2017, as National Public Works Week.

Mayor Nagy presented the proclamation to Public Works Director Fajeau.

C.3 Proclaiming May 14-20, 2017, as National Police Week.

Mayor Nagy presented the proclamation to Police Chief Leal.

C.4 Commendation to Police Officer and Dispatcher of the Year.

Mayor Nagy presented the commendations to Police Officer Todd and Dispatcher Manuel.

C.5 Proclaiming May 21-27, 2017, as National Emergency Medical Services Week.

Mayor Nagy presented the proclamation to Alameda County Fire Department Division Chief Moore.

Chief Moore acknowledged the members of the ACFD emergency response team whose actions saved the life of Russ Seabrand on April 6, 2017, during a medical

emergency: Captain Paramedic David Nguyen, Engineer Sean Kennison and Firefighter Paramedic Marina Zhrebneko.

Mr. Seabrand was present and thanked the team.

Vice Mayor Bucci stated he was a neighbor of Mr. Seabrand for many years and also thanked the response team for saving his life.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORT

Vice Mayor Bucci requested the removal of item F.4 for separate consideration.

Council Member Collazo moved, Council Member Hannon seconded, to approve Consent Calendar items F.1 through F.3, F.5 and F.6, 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 plans and specifications, acceptance of bid and award of contract to Rosas Brothers Construction for 2017 Curb, Gutter, and Sidewalk Replacement, Project 1143.**
MOTION APPROVED
RESOLUTION NO. 10625
CONTRACT NO. C17009
- F.2 Acceptance of work with G. Bortolotto & Company, Inc. for the 2016 Asphalt Concrete Street Overlay Program, Project 1116.**
RESOLUTION NO. 10626
- F.3 Authorization for the purchase of a new Plymovent Diesel Exhaust Extraction System from Air Exchange, Inc. for the Ruschin Fire Station and declaration of Air Exchange, Inc. as the single source vendor.**
RESOLUTION NO. 10627
- F.5 Resolution authorizing the City of Newark to withdraw from the Memorandum Of Understanding (MOU) between the cities of Newark and Union City for the combined Special Weapons and Tactics (SWAT) team.**
RESOLUTION NO. 10628

- F.6 Approval to reorganize the Police Department by adding two Police Captain positions, adding one Police Lieutenant position, deleting one Police Commander position, deleting one Police Sergeant position and amending the Compensation and Benefit Plan for the City Officials, Management, Supervisory, and Professional Employee Group, the 2016-2018 Biennial Budget, and the Employee Classification Plan.**

RESOLUTION NOS. 10629, 10630, 10631

NONCONSENT

- F.4 Authorization for the purchase of two (2) 2017 Ford SUV Utility Interceptors as replacement vehicles for the Police Department from Folsom Lake Ford and outfitting by Telepath. RESOLUTION NO. 10632**

Vice Mayor Bucci stated that recently he has been getting questions about the process of replacing City vehicles and would like to take this opportunity to discuss it. It is his understanding that the California Highway Patrol chooses a few models of cars and negotiates the best possible price. Other agencies can purchase these vehicles at the negotiated price.

City Manager Becker stated that it is a State process.

Police Chief Leal explained that the CHP does not handle the bid process, but does recommend certain models. The bids come through the State Controller's Office. Bidders must be major volume dealerships and willing to meet the required parameters. The CHP tests the vehicles and makes recommendations. Because of the high-volume discount it is the best deal the City can get.

Council Member Hannon stated that he is pleased that the City can piggyback on such a deal and save the residents money. He asked that if possible in the future when we have such opportunities to save taxpayers' dollars that we indicate in the staff report what we estimate the savings will be.

Vice Mayor Bucci moved, Council Member Collazo seconded to, by resolution, authorize the purchase of two (2) 2017 Ford SUV Utility Interceptors as replacement vehicles for the Police Department from Folsom Lake Ford and outfitting by Telepath. The motion passed, 5 AYES.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

Mayor Nagy spoke about the annual volunteer program held Wednesday, May 10, and the many volunteers in the City that donate their time. He recognized staff for their contributions in putting the program together. Mayor Nagy wished all mothers a “Happy Mother’s Day” this weekend.

Vice Mayor Bucci congratulated all the Viola Blythe awards winners and wished his wife a “Happy Mother’s Day”.

Council Member Collazo stated that the volunteer dinner was the best yet. She also wished her mother, family, and friends a “Happy Mother’s Day”.

Council Member Freitas said the volunteer program was a wonderful event. He congratulated all who received proclamations and commendations this evening, especially the fire department. He also wished all mothers a “Happy Mother’s Day”.

Council Member Hannon asked if the City would be flying its flags at half-staff on May 15 in honor of Peace Officers Memorial Day. City Manager Becker stated that the City will lower its flags.

Council Member Hannon also commended the volunteers who were honored at the Volunteer Recognition Dinner. He wished a “Happy Mother’s Day” to his wife and to all mothers and those who help raise our children.

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

None.

L. APPROPRIATIONS**Approval of Audited Demands for the City Council meeting of May 11, 2017.**

Deputy City Clerk Slafter read the Register of Audited Demands: Check numbers 110876 through 111005.

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

M. CLOSED SESSION

- M.1 Closed session for conference with Labor Negotiators pursuant to California Government Code Section 54957.6. Agency designated representatives: Human Resources Director Abe and Assistant City Manager Grindall; Employee Groups: the Newark Police Association, the Newark Association of Miscellaneous Employees; City Officials and the Management, Supervisory, and Professional Employee Group; and the Confidential Employee Group.**

At 8:14 p.m. the City Council recessed to a closed session.

At 8:23 p.m. the City Council convened in closed session.

At 10:18 p.m. the City Council reconvened in open session with all Council Members present.

N. ADJOURNMENT

At 10:18 p.m. Council Member Collazo moved, Council Member Hannon seconded, to adjourn the City Council meeting. The motion passed, 5 ayes.

C.1 Presentation of Awards for Students, Teacher, and Classified Employee of the Year. (PRESENTATION)

Background/Discussion – The Newark Unified School District has selected a Student of the Year from each of our local schools. The District has selected a Teacher and Classified Employee of the Year. The Newark Rotary Club will present each individual with a certificate.

C.2 Proclaiming June as Celebrating Business Month in Newark. (PROCLAMATION)

Background/Discussion – June is Celebrating Business Month in the City of Newark. Chamber President/CEO Valerie Boyle and members of the Newark Chamber of Commerce will accept the proclamation at the meeting.

E.1 Hearing to consider introduction of an ordinance repealing previously adopted Urgency Ordinance 496-U pertaining to accessory dwelling units and a zoning text amendment to Section 17.08.415 (Accessory Dwelling Units), Section 17.16.030(k) (Permitted Uses) and deleting Section 17.08.143 (Efficiency Unit) of the Newark Zoning Code - Assistant City Manager Grindall. (Ordinance)

Background/Discussion – Staff is proposing the amendment of Title 17 (Planning and Zoning) of the Newark Municipal Code to respond to the recent state legislation and to implement policies in the General Plan Housing Element. Senate Bill (SB) 1069, Assembly Bill (AB) 2299, and Assembly Bill (AB) 2406 were all signed by Governor Brown in late September, requiring that cities and counties in California adopt conforming regulations for Accessory Dwelling Units (ADU). The new State regulations are intended to make it easier to create ADUs on single-family residential properties, thereby addressing the shortage of affordable rental units in California.

Accessory Dwelling Units (ADUs), previously known as secondary units, and also known as in-law apartments or granny flats, are an important housing resource in California. ADUs are typically created through the construction of a detached structure in the rear yard, the conversion of existing living space in a single-family home to a separate dwelling unit, or the addition of space to an existing home. Over the last two decades, the State has adopted a number of laws that encourage ADUs and limit the requirements that may be imposed by cities on such units. ADUs are generally regarded as an effective way to increase housing options without changing neighborhood character. They can effectively provide affordable housing for renters, a source of income for homeowners, and a housing resource for extended families, seniors, college students, and others.

On January 12, 2017, the City Council adopted an Urgency Ordinance amending the zoning ordinance to relax regulations on Accessory Dwelling Units. At the time of the Urgency Ordinance adoption there were outstanding policy issues that needed further discussion. On March 23, 2017, the City council received a staff report and discussed the issues raised by the City Council at their January 12, 2017, meeting. The issues were: 1) The potential of requiring owner residence on the property if there is an Accessory Dwelling Unit and 2) the potential limitation of ADUs to a single bedroom.

Based on Council discussion staff is recommending that there not be an owner occupancy requirement. Staff will monitor this issue and consider recommending changes if conditions warrant it. Since the concern about allowing two bedroom units primarily revolves around potential parking issues, staff is recommending that a Standard ADU be allowed to be up to two bedrooms on the condition that an additional off-street parking space is provided. Therefore, staff has prepared the permanent ordinance that does not include a requirement of property owner residence, allows two bedroom units and specifies that a second off-street parking space would be provided.

Since adoption of the urgency ordinance, staff has reviewed it further and has identified an element that is not consistent with the State legislation. The Urgency Ordinance included a provision that a

Standard ADU in an area that has an existing parking problem would require a Conditional Use Permit. The State Legislation does not appear to allow this requirement; therefore, this element is not included in the proposed permanent ordinance.

Attachment

Action - It is recommended that the City Council hold a public hearing to consider introduction of an ordinance repealing previously adopted Urgency Ordinance 496-U pertaining to accessory dwelling units and a zoning text amendment to Section 17.08.415 (Accessory Dwelling Units), Section 17.16.030 (k) (Permitted Uses) and deleting Section 17.08.143 (Efficiency Unit) of the Newark Zoning Code.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK REPEALING URGENCY ORDINANCE 496-U AND
AMENDING NEWARK MUNICIPAL CODE CHAPTERS 17.08
("DEFINITIONS") AND 17.16 ("R RESIDENTIAL DISTRICTS")
TO COMPLY WITH RECENT AMENDMENTS TO STATE
LAW REGARDING ACCESSORY DWELLING UNITS

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

SECTION 1: Purpose, Findings, and Urgency Findings. The City Council does hereby find as follows:

- (a) Effective January 1, 2017, Assembly Bill 2299 ("AB 2299") and Senate Bill 1069 ("SB 1069") amended Government Code Section 65852.2 to limit the types of standards cities may impose on second units (now termed "accessory dwelling units").
- (b) As amended, Government Code Section 6582.2 requires that the City's Accessory Dwelling Units ordinance incorporate State-mandated standards for certain types of accessory dwelling units.
- (c) In addition, Government Code Section 65852.2 allows the City to establish certain objective standards related to parking, height, setback, lot coverage, landscaping, and certain architectural requirements, which must be applied ministerially except where a property owner is seeking an exception to such standards.
- (d) In the absence of a State-compliant ordinance on January 1, 2017, the City's existing second unit standards would be considered null and void pursuant to Government Code Section 65852.2(a)(4) and the City would be required to approve any accessory dwelling unit meeting minimal state criteria.

SECTION 2: Section 17.08.415 (currently titled "Second unit") of Chapter 17.08 ("Definitions") is hereby amended as follows. Text in ~~strikeout~~ denotes deletions while text in underline denotes insertions.

17.08.415 — Second unit.

~~"Second unit" means an attached or detached residential dwelling unit on a lot zoned for residential use, which provides complete independent living accommodations and facilities for one or more persons and includes permanent provisions for living, sleeping, eating, cooking and sanitation, on the same parcel as a legally established single family dwelling. The second unit may be an efficiency unit or a manufactured home.~~

17.08.415 Accessory dwelling unit.

An Accessory Dwelling Unit (or “ADU” singular or “ADUs” plural) shall mean an attached or detached residential dwelling that is subordinate to a principal residence on the same lot, and that provides complete independent living facilities for one or more persons. ADUs include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the principal residence. There are two categories of ADUs, distinguished by the size and location of the ADU and the extent to which the ADU results in a net increase in habitable floor space on the property. These categories are defined as follows:

(1) Standard ADUs (or “SADU” singular or “SADUs” plural) may be attached to the principal residence or may be a detached structure and include ADUs that meet any of the following criteria when constructed:

(A) A net increase in habitable floor space on a property; or

(B) A floor area exceeding 500 square feet; or

(C) Created within the footprint of an existing primary residence without incorporating an existing bedroom.

(2) Junior ADUs (or “JADU” singular or “JADUs” plural) include ADUs that meet all of the following criteria when constructed:

(A) No net increase in habitable floor space on a property; and

(B) A floor area of 500 square feet or less; and

(C) Contained entirely within the existing walls of an existing principal residence, and

(D) Created at least in part through the conversion of an existing bedroom.

SECTION 3: Section 17.16.030(K) (“Permitted Uses”) of Chapter 17.16 (“R RESIDENTIAL DISTRICTS”) is hereby amended as follows. Text in ~~strikeout~~ denotes deletions while text in underline denotes insertions.

~~K. Second units subject to the following conditions:~~

~~1. Construction of a second unit shall require a second unit permit, to be issued by planning staff. To apply for this permit, a site plan showing the entire parcel and all existing buildings on the parcel, together with floor plans and elevations of the proposed second unit, shall be submitted to the planning division, along with written verification from sanitary, water, power, and telephone districts and companies verifying that the utilities in the area are adequate to serve the second unit. Planning staff shall approve or deny the application for the permit based on the adequacy of utilities and compliance with the conditions listed in this section;~~

2. ~~Second units shall meet all current zoning requirements applicable to a main structure;~~
3. ~~Second units shall meet applicable construction codes requirements;~~
4. ~~One uncovered parking space shall be provided for a second unit. This space may be provided in a required interior side yard providing all other off street parking requirements are met;~~
5. ~~Second units may be rented and shall not be sold as separate units or lots;~~
6. ~~Second units shall only be permitted on lots already containing only a single family detached unit;~~
7. ~~No more than one second unit shall be allowed on a single lot;~~
8. ~~A second unit shall not be allowed on lot with an existing guest house;~~
9. ~~A second unit shall be no more than two hundred seventy five square feet in floor area, excepting that where the first (existing) unit is larger than two thousand seven hundred fifty square feet in floor area, then the second unit may have a maximum floor area equal to ten percent of the floor area of the first (existing) unit or three hundred sixty square feet, whichever is less. Not more than ten percent of the floor area of the first (existing) unit shall be included as or converted into part of the second unit. For calculating these percentages, the floor area of a first (existing) unit is defined as not including carports, garages, or detached structures;~~
10. ~~The second unit shall have not more than one bedroom and shall have no dens, studios, or the like;~~
11. ~~Outside stairways to second story second units attached to, within, or partly within the first (existing) unit shall not be at the front of the house;~~
12. ~~Detached second units shall be located behind the first (existing) unit;~~
13. ~~No second unit shall be permitted on any lot, which has less than the minimum site area required for its zoning district;~~
14. ~~The second unit shall incorporate architectural features, building materials and colors which are similar to and compatible with the first (existing) unit and the character of the neighborhood, and shall maintain the scale and appearance of a single family dwelling;~~

Accessory Dwelling Units subject to the following conditions:

(a) Regulations Applicable to All Accessory Dwelling Units (“ADUs”):

(1) Permitting Procedure. Any application for an ADU that meets the applicable location and development standards contained in Section 17.16.030 shall be subject to ministerial review and approval without discretionary review or public hearing. All permits shall be issued within 120 days of submission of a complete application for ADUs conforming to the provisions of this section.

(2) Building Permit Required. No ADU shall be established or maintained until there has been a building permit approved by the city. The application for the permit shall include:

(A) Site plan indicating the location of the principal residence, the location and type of the proposed ADU, and parking (for those ADUs where parking is required);

(B) Floor plans of the principal residence and proposed ADU;

(C) Elevations of all sides of the principal residence and ADU;

(3) Applicability of Fees.

(A) This ordinance shall not be construed to prohibit the City from adopting an ordinance or regulation relating to services or utility connection fees that applies to a single-family residence that contains an ADU so long as that ordinance or regulation applies uniformly to all single-family residences regardless of whether they include an ADU.

(B) Nothing in this section shall be construed so as to impact the connection or fees charged by other government entities.

(4) Locational Criteria

(A) In no case shall the total number of dwelling units exceed two (including the principal residence) on any lot wherein a principal single-family residence has been authorized.

(B) ADUs are not required to meet the density requirements of the General Plan or zoning ordinance and do not count toward the permissible number of units per acre (or required lot area per dwelling). However, ADUs shall otherwise be consistent with the General Plan text and diagrams as provided in California Government Code §65852.2.

(C) An ADU shall be located only within the area of the lot allowed for the principal residence as established by its zoning district, except as provided in Section 17.16.030.

(F) An ADU may be attached to the principal residence either created through conversion of existing floor area or addition of new floor area to the principal residence or may also be detached.

(G) An ADU shall not be counted in any ordinance, policy, or program to limit growth, such as, but limited to, the number of residential units permitted in a year.

(5) Occupancy Criteria.

(A) The rental of ADUs for terms shorter than 30 days shall be prohibited.

(B) Nothing in this section shall be construed so as to limit the ADU or principal residence on the lot from remaining vacant.

(6) Size.

(A) An ADU must be a minimum of 150 square feet and may not exceed the lower of 600 square feet or 50 percent of the existing living area of the principal residence on the property.

(B) An ADU may not include more than two bedrooms.

(7) Design.

(A) An ADU shall incorporate architectural features, building materials and colors that are compatible with the principal residence and the adjacent neighborhood.

(B) Outside stairways to the ADU shall not be in the front of the principal residence.

(C) If the ADU is visible from the public right of way it would be subject to the Single Family Design Review Process.

(8) Building Safety.

(A) A smoke alarm and carbon monoxide detector shall be installed in all ADUs.

(B) No fire sprinklers shall be required for the ADU, unless the improvements are associated with a new detached ADU on a property where sprinklers would otherwise be required for a new single-family home.

(C) Permanent Foundation. A permanent foundation shall be required for all detached ADUs.

(D) This section shall not be construed so as to prohibit the city from adopting an ordinance or regulation relating to fire or life protection requirements for ADUs so long as the ordinance or regulation applies uniformly to all single-family homes within the zoning district regardless of whether the single-family residence has an ADU or not.

(9) Deed Restriction. A deed restriction, which shall run with the land, shall be filed and recorded with the County of Alameda for each ADU prior to the issuance of a building permit and shall include the following:

(A) A prohibition on the sale of the ADU separate from the sale of the principal residence, including a statement that the deed restriction may be enforced against future purchasers.

(B) Occupancy restrictions and requirements, as specified in Section 17.16.030.

(C) A restriction on the size and attributes of the ADU that conforms with Section 17.16.030.

(b) Regulations Applicable to Standard Accessory Dwelling Units (“SADUs”)

(1) Location. A SADU may only be permitted where only one principal residence exists on the lot. SADUs are not permitted in duplexes, triplexes, or other buildings with more than one principal residence.

(2) Building Height. A SADU may not exceed the building height limitation applicable to the principal residence on the lot.

(3) Connection to Street. No passageway shall be required in conjunction with the construction of a SADU, unless such a connection is mandated by the Americans with Disabilities Act, or other State or Federal safety code or standard. A passageway is a pathway that is unobstructed and clear to the sky and that extends from the street to the door of the SADU.

(5) Separation. Except as noted in Section (6) below, detached SADUs must be separated from other habitable structures on site by at least ten (10) feet. The separation may be reduced to eight (8) feet if one structure is equipped with fire sprinklers or six (6) feet if both structures maintain fire sprinklers. Roof eave projections into this separation may be limited by applicable building code(s).

(6) Garage Conversions. An existing garage may only be converted to a SADU if the property will meet all applicable parking standards upon completion of the SADU. Setback requirements shall not apply to an existing garage that is converted to an ADU, provided that any walls within setback areas comply with applicable building and fire codes. In the event an ADU is constructed above an existing or newly constructed garage, a setback requirement of five feet from the side and rear property lines shall be required.

(7) Parking. One parking space per bedroom shall be required for a SADU, except as noted below:

(A) Required parking may be provided through any of the following methods:

(i) conventional garages or carports;

(ii) uncovered paved areas such as an extended driveway;

(iii) tandem parking in an existing driveway; or

(iv) parking on other locations on the property, unless specific findings are made that parking in setback areas is not feasible based upon life safety conditions. Mechanical lifts may be permitted where consistent with design review criteria.

(B) No off-street parking shall be required for a SADU in any of the following instances:

(i) The SADU is located within one-half mile of public transit. The term “public transit” shall mean transit service adequate to facilitate area residents’ reliance on transit for primary mobility. Factors used to determine adequacy include, but are not limited to, ridership, routing, frequency, and reliability. The City Council finds and declares that no area in Newark currently meets this definition of adequate public transit; however the City Council shall review this determination each time the Housing Element is updated;

(ii) The SADU is located within a designated architecturally and historically significant historic district or on a property that includes a register resource or potential register resource;

(iii) The SADU is located entirely within the existing principal residence or an existing habitable accessory structure and results in no net addition of habitable floor area on the property;

(iv) The SADU is located in an area where on-street parking permits are required, but are not offered to the occupants of the SADU;

(v) The SADU is located within one block of a designated parking area for one or more car-share vehicles available to the general public by subscription.

(C) When a garage, carport, or covered parking structure is demolished in conjunction with the construction of a SADU, and replacement parking is required, the replacement parking spaces may be provided as in Section 17.16.030(K)(b)(7)(A) above.

(8) Fees. SADUs resulting in a net increase in habitable floor area on a property may be subject to City impact fees that are proportionate to the burden of the proposed ADU on City services. However, under no circumstance may the SADU be considered equivalent to a new principal dwelling unit for the purpose of fee calculation.

(c) Junior Accessory Dwelling Units (JADUs)

The purpose of the Junior Accessory Dwelling Unit (JADU) regulations is to implement specific policies of the Housing Element of the Newark General Plan and specific provisions of State law authorizing the creation of JADUs. The intent of the JADU regulations is to expand the affordable rental housing stock through the repurposing of underutilized floor area in existing single-family homes.

(1) Applicability. Performance standards for JADUs shall apply in all single-family (R-1) residential zoning districts, on lots within those portions of planned districts allowing

single-family dwellings, and on qualifying R-2, R-3, R-G and O-S lots developed with only one principal single-family dwelling.

(2) Development Standards.

(A) Number Per Lot. Only one JADU is permitted on a single-family residential lot. A JADU is not permitted if another ADU already exists on the property.

(B) Location. The JADU shall be constructed entirely within the existing walls of an existing single-family home and must incorporate an existing bedroom.

(C) Size. The JADU shall not exceed 500 square feet in size.

(D) Unit Access. The JADU shall include an exterior entrance that is separate from the main entrance to the single-family home. The exterior entry shall not be located on the front of the principal residence. If the exterior entry is on the second floor, the stairway shall not be located in the front of the principal residence. Interior access between the JADU and the principal residence is required, and can be a door equipped with a double lock. A second interior doorway may be provided for sound attenuation.

(E) Sanitation. A JADU may include a bathroom or may share bathroom facilities within the principal residence.

(F) Kitchen. The JADU shall include an efficiency kitchen, which shall include all of the following:

(i) A sink with a maximum waste line diameter of 1.5 inches.

(ii) A cooking facility with appliances that do not require electrical service greater than 120 volts and that do not use propane gas.

(iii) A food preparation counter no less than six feet in length and storage cabinets that are of reasonable size in relation to the size of the JADU. The food preparation area may not be located in a closet.

(3) Parking. No additional off-street parking shall be required beyond that required for the principal residence. The principal residence shall meet the current off-street parking standard in effect at the time the JADU is approved.

(4) Building and Fire Code Requirements. For the purposes of any fire or life protection ordinance or regulation, a JADU shall not be considered a separate dwelling unit. No fire wall separation or noise attenuation measures are required between the principal residence and the JADU.

SECTION 4: Section 17.08.143 (“Efficiency Unit”) of Chapter 17.08 (“Definitions”) is hereby deleted in its entirety. The strikeout is as follows:

17.08.143 — Efficiency unit.

~~“Efficiency unit” means a second unit with a minimum size of two hundred seventy five square feet containing only one habitable room.~~

SECTION 5: CONFORMANCE WITH GENERAL PLAN

Pursuant to Section 17.80.070 of Title 17 (Zoning) of the City of Newark Municipal Code, the City Council does hereby find that the zoning change embodied in this ordinance is necessary and desirable to achieve the purposes of Title 17 (Zoning) of the Newark Municipal Code; is consistent with the policies, goals and objectives of the General Plan; and promotes the public health, safety, morals, comfort, convenience, and general welfare of the residents of the City of Newark.

SECTION 6: SEVERABILITY

If any section, subsection, sentence, clause, or phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Newark hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

SECTION 7: CEQA

The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs City staff to cause that a Notice of Exemption be filed with the Alameda County Clerk in accordance with CEQA guidelines.

SECTION 8: Urgency Ordinance U-496 is hereby repealed upon the effectiveness of this Ordinance.

E.2 Hearing to consider: (1) Introduction of an Ordinance repealing and replacing Chapter 3.24 of the Newark Municipal Code “Development Impact Fees”; (2) Adoption of a Resolution establishing a Public Safety Facility Fee; (3) Adoption of a Resolution establishing a Community Service Facility Fee; (4) Adoption of a Resolution establishing a Transportation Impact Fee; and (5) Adoption of a Resolution authorizing expenditure for preparation of impact fee studies on transportation and public safety and community facilities and amending the biennial budget and capital improvement plan 2016-2018 for fiscal year 2016-2017 - from Assistant City Manager Grindall.

(Introduction of Ordinance) (Resolutions - 4)

Background/Discussion – The City of Newark assesses impact fees on new development to support provision of community facilities and infrastructure. The City’s Public Safety Facility Impact Fee, Community Services Facility Impact Fee and Transportation Impact Fee have not been updated for many years.

The completion of the Civic Center Replacement Feasibility Study and the General Plan Update provided much more detail related to Newark’s facility needs and thus an update of these three fees can now be most effectively accomplished.

The Public Safety Facility Impact Fee provides for Police and Fire facilities and major equipment, such as a police administrative building or a fire station.

The Community Services Facility Impact Fee provides for community facilities such as Council Chambers, City Administration Building, Library and Community Centers.

The Transportation Impact Fee provides for roadway, pedestrian, bicycle, and transit improvements.

Impact Fee Nexus Analysis – In order to identify the appropriate rate to set impact fees, a “nexus” analysis is required to be conducted. The analysis addresses the needed improvements, the estimated cost of the improvements, the share of the needed improvements that are the responsibility of new development, and the division of the new development’s share into a measurement unit “dwelling unit” for residential development and “square foot” for nonresidential development.

The City commissioned the completion of two “nexus” studies to address these fees. Keyser Marston Associates completed a “Public Safety and Community Service Facilities Development Impact Fee Nexus Study”, dated March 2017 and Hexagon Transportation Consultants completed a “Transportation Impact Fee Nexus Study” dated March 28, 2017.

The studies analyzed the cost of providing public infrastructure to future residents and established the maximum rate that can legally be assessed on new development. The Studies also addressed the potential of indexing the fee to account for future inflation in infrastructure costs.

Recommended Fee – Based on the results of the nexus studies, staff is recommending that the fees be set at their legally established maximums for all land uses, except manufacturing and research/development, and multifamily housing. Manufacturing and research/development uses are high value-additive operations and generate higher employment densities and salaries. Therefore, staff recommends that these uses be encouraged with a 50% reduction below the maximum legally supported rate. Furthermore, in order to encourage multi-family construction as guided by our State certified General Plan Housing Element, staff is recommending that the fee for multi-family units be reduced by 30% below the maximum legally supported rate. This type of unit is more affordable “by design” and a reduction in the fee below the legal maximum will encourage this type of development.

Recommended Fees:

	Community Service Facility Fee	Public Safety Fee	Transportation Fee
Single-Family Detached per unit	\$2,311	\$3,451	\$4,974
Townhome per unit	\$2,311	\$3,451	\$2,586
Multi-Family per unit	\$1,156	\$2,071	\$3,084
Commercial/Office per S.F.	\$0.86	\$0.60	\$4.41
Industrial/R&D per S.F.	\$0.18	\$0.25	\$2.41
Warehousing/Distribution per S.F.	\$0.36	\$0.50	\$4.82

Fee Indexing – In order to help ensure that the proposed fee stays current with infrastructure construction costs, the fee would be adjusted annually based on a construction cost index. In addition, staff would monitor community needs and conduct future nexus studies and fee updates if needed.

Fee Waivers – The proposed ordinance and resolutions include provisions for waivers of these fees by the City Council for projects that provide significant community benefits. Such community benefits may include the provision of senior housing, the generation of significant revenue, or the elimination of nuisances. Staff expects that in order to attract beneficial development, it may be necessary to consider few waivers for high revenue generating uses such as hotels, high quality retail, and corporate headquarters in order to attract these uses to Newark. The City Council would have the opportunity to consider the circumstances of any future proposal for a fee waiver.

Application/Effective Date – The updated fees would not apply to approved projects that have a Development Agreement or Vesting Tentative Map unless the provisions of the documents allow the application of such fees increases. The new fees would become effective 60 days from their formal adoption.

Budget Amendment

The fees studies are to be funded from the respective impact fee account. The attached budget amendment resolution authorizes this expenditure.

Attachments

Action -- Staff recommends that the Council hold a Public Hearing to consider: (1) Introduction of an Ordinance repealing and replacing Chapter 3.24 of the Newark Municipal Code "Development Impact Fees"; (2) Adoption of a Resolution establishing a Public Safety Facility Fee; (3) Adoption of a Resolution establishing a Community Service Facility Fee; and (4) Adoption of a Resolution establishing a Transportation Impact Fee; and (5) Adoption of a Resolution authorizing expenditure for preparation of impact fee studies on transportation and public safety and community facilities and amending the biennial budget and capital improvement plan 2016-2018 for fiscal year 2016-2017.

ORDINANCE NO.

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
NEWARK REPEALING NEWARK MUNICIPAL CODE
CHAPTER 3.24 AND ADDING A NEW CHAPTER 3.24
("DEVELOPMENT IMPACT FEES")

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

Section 1. Chapter 3.24 of the Newark Municipal Code is hereby repealed in its entirety and replaced with Chapter 3.24 ("Development Impact Fees"), a true and correct copy of which is attached hereto as **EXHIBIT "A"** and incorporated as though fully set forth herein.

Section 2. CEQA. The City finds pursuant to the California Environmental Quality Act ("CEQA") this action is not a "project" because the Resolution provides a mechanism for funding of public safety facilities but does not involve a commitment to any specific project for such purposes that may result in a potential significant impact on the Environment (CEQA guidelines Section 15378, Pub. Res. Code Section 21080(b)(8)(D)).

Section 3. Severability. The provisions of this Ordinance are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Ordinance or their applicability to other persons or circumstances.

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

EXHIBIT "A"

CHAPTER 3.24

DEVELOPMENT IMPACT FEES

Sections:

Section 3.24.010	Title and authority.
Section 3.24.020	Intent and purpose.
Section 3.24.030	Purpose of fees.
Section 3.24.040	Use of fees.
Section 3.24.050	Calculation of fees by implementing resolutions.
Section 3.24.060	When applicable.
Section 3.24.070	Exemptions.
Section 3.24.080	Time of payment.
Section 3.24.090	Notice of fee.
Section 3.24.100	Reimbursement.
Section 3.24.110	Fee credit.
Section 3.24.120	Annual review.
Section 3.24.130	Termination of a development impact fee.
Section 3.24.140	Fee adjustment, waiver or finding of exemption.
Section 3.24.150	Developer's acknowledgment of fee adjustment, waiver or exemption.
Section 3.24.160	Appeal procedure.
Section 3.24.170	Payment under protest.
Section 3.24.180	Refund of development impact fees.

Section 3.24.010 Title and authority.

This article may be referred to as the "Impact Fee Ordinance," and is adopted pursuant to the authority of Article XI, Section 7 of the California Constitution, California Government Code Section 66000 et seq. (hereinafter "Mitigation Fee Act") and California Government Code Section 65000 et seq. (the planning and zoning law of the State of California).

Section 3.24.020 Intent and purpose.

The city council finds and declares that:

A. The city provides public services and constructs and maintains public facilities for the benefit of residents, businesses and employees within the city.

B. As a result of increasing regional growth, substantial residential, commercial and industrial development is expected to occur within the city.

C. The city capital improvement plan identifies public facilities that are needed in the city as a part to the city's development.

D. In accordance with its general plan, the city intends to expand and improve its public facilities to serve new development and to maintain existing levels of service of public facilities.

E. Based upon projected growth and development permitted under the general plan, a substantial amount of commercial, industrial, and residential development will occur in the city before the city is fully built out.

F. This anticipated development cumulatively will generate a substantial increase in the need for city services and the corresponding capital facilities necessary to provide those services. New commercial, industrial, and residential development will thus create an additional burden on the existing capital facilities.

G. If additional capital facilities are not added as development occurs, the existing facilities will not be adequate to serve the community. Such inadequacies in, for example, space for city employees, public safety facilities, transportation infrastructure and community facilities, could result in adverse impacts in that this shortage of capital facilities would lead to a deterioration of the public services which the residents, employees, and property owners in Newark now enjoy.

H. To prevent these undesirable consequences, the capacity of the city's capital facilities must be built at a rate which will accommodate the expected growth in the city.

I. Although the need for public services generated by an individual development project may not be, in and of itself, sufficient to overload the city's existing capital facilities, the cumulative impact of all new development (including development currently submitted for approval) will result in an unacceptable burden.

J. It is the policy of the city, as provided in its general plan, that new commercial, industrial, and residential development pay for its share of the cost of public services and of the improvements to existing capital facilities and construction of new capital facilities that are necessary to accommodate the public service needs generated by such new development and, further, that before permitting development to occur, services and facilities required to support

such development must be in place or provision made for their extension or creation. In the absence of this chapter imposing development impact fees, existing and future sources of revenue will be inadequate to fund a substantial portion of the capital facilities improvements that are necessary to avoid an unacceptable deterioration of public services.

K. Under Government Code Section 66001, the city council finds that each implementing resolution established hereunder shall establish that:

1. The purpose of the fee is to provide adequate improvements to serve new commercial, industrial, and residential development within the city.

2. The improvements for which the fee will be used are identified in the general plan, capital improvement plan, and technical studies attached to each implementing resolutions.

3. The fee will fund that portion of capital facility improvements attributable to new commercial, industrial and residential development responsible for paying the fee as further described in each implementing resolution.

4. The amount of the fee bears a fair and reasonable relationship to each development's burden on and benefit from the city's public services and capital facilities improvements to be funded by the fee, and shall be based on the following considerations:

a. New development will pay only for those capital facilities that serve new development and are necessary to serve the public service needs which will be created by such new development.

b. The cost of improvements needed to alleviate existing deficiencies in capital facilities if any, are not included in the fee.

c. Each type of development shall contribute to the needed improvements in proportion to the use of public services and capital facilities by that type of development. For residential development, the fees shall be based on the average number of residents for the particular residential use, and the estimated average use of particular facilities. For commercial and industrial development, the fees shall be based on square feet and the estimated average use of particular facilities, as further described in the technical report attached to each implementing resolution.

Section 3.24.030 Purpose of fees.

Pursuant to this article, the City has established fees that will be imposed upon projects for the purpose of mitigating the impacts that the projects have upon the City's ability to provide public facilities.

Section 3.24.040 Use of fees.

A. The fees imposed by the City under this article, including any interest earning thereon, shall be used to pay, in whole or in part, the estimated reasonable cost of providing specified public facilities, as described in implementing resolutions; to reimburse the City for the cost of specified public facilities constructed by the City with funds from other sources; and to make reimbursement payments in accordance with Section 3.24.100.

B. As described in each implementing resolution, the specified public facilities will be categorized into separate and distinct sets of public facilities based upon the type of public facility to be provided, or other identifying features.

C. For each separate public facility category, a separate fee shall be calculated and imposed, and each separately imposed fee shall be collected by the City and deposited in a separate and distinct "fee fund," subject to the accounting requirements of all applicable law, including the Mitigation Fee Act.

Section 3.24.050 Calculation of fees by implementing resolutions.

A. Pursuant to the Mitigation Fee Act, in any action establishing, increasing, or imposing a fee as a condition of approval of a project, a technical report shall be prepared for each public facility category, subject to City Council approval by implementing resolution.

B. Each implementing resolution shall include the following:

(1) Identify the purpose of the fee by identifying the estimated types and quantities of projects subject to the fee, and the public facility category to be funded by the fees.

(2) Identify the use of the fee by identifying the specified public facilities to be funded by the fees.

(3) Determine how there is a reasonable relationship between the City's use of the fee and the types of projects on which the fee is to be imposed by demonstrating how the project will benefit from the specified public facilities to be funded by the fees.

(4) Determine how there is a reasonable relationship between the need for the specified public facilities and the types of projects on which the fee is to be imposed by demonstrating how the project creates a demand for the construction of the specified public facilities to be funded by the fees.

(5) Determine how there is a reasonable relationship between the amount of the fee and the cost of the specified public facility attributable to the project on which the fee is to be imposed. This shall include two (2) elements: (1) a quantification of the estimated reasonable cost of providing the specified public facility, which may include the estimated costs of land acquisition, design, construction, construction administration, general administration (including establishment and enforcement) of the fee program, and contingencies; and (2) an identification of the method by which the City quantified the proportionate responsibility of each project for the cost of the specified public facilities, which may be satisfied by establishing a formula which reasonably quantifies the proportionate responsibility of various types of projects using standardized units of measurement.

Section 3.24.060 When applicable.

The development impact fees, in an amount to be determined by the implementing resolutions of the city council, are applicable to a building permit to construct a new single-family and multifamily dwelling units and new commercial and industrial development as set forth in this chapter.

Section 3.24.070 Exemptions.

The following activities and actions are exempt from the requirement to pay the development impact fees:

A. No fees are due if a fee was previously paid in full for a particular property and use;

B. No development impact fee shall be charged for remodeling or for an addition to an existing residential unit;

C. No fee shall be charged for demolition of an existing residential structure and the building of a new residential structure on the same site, provided the demolished structure was in use as a residential dwelling within two years before the issuance of a building permit for the new residential structure.

D. The transportation portion of the development impact fees shall not be assessed on those portions of new commercial and industrial development that serve as amenities to on-site employees. No more than five percent of the total floor area of a development may be so exempted. For purposes of this chapter, "amenities" means employee cafeterias, health clubs and gymnasiums; space for concierge and convenience services; and other spaces which are of similar use in the judgment of the community development director.

E. The city council may elect to waive the payment of an impact fee if a residential or nonresidential development project provides community benefits in excess of those required by the impacts of the project, and if the city council finds that the expected benefits to the community exceed those that would be provided by the payment of the fee. Such community benefits may include the provision of senior housing, the generation of significant taxes, or the elimination of nuisances.

There are no other exemptions to the development impact fees.

Section 3.24.080 Time of payment.

The time for payment of the development impact fees shall be established by the implementing resolution adopted by the city council that sets the amount of the fee, and shall conform to the requirements of Government Code Section 66007.

Section 3.24.090 Notice of fee.

At the time of approval of a project or at the time of the imposition of the fees, the city shall provide to the project applicant a statement of:

A. The amount of the fee and the public improvements that the fee will be used to finance (Government Code Section 66006(f)); and

B. Notification that the ninety-day approval period in which the applicant may protest has begun (Government Code Section 66020(d)).

Section 3.24.100 Reimbursement.

A. As may be authorized by resolution of the city council following review and written report from city staff, development impact fee revenues may be used to reimburse a developer, upon his or her written request, under this section. A developer must obtain council approval for reimbursement, by resolution, before any offer of dedication and before any construction begins for a public improvement which may be the subject of a reimbursement request. Reimbursement may only be approved by the city council where all of the following four conditions are satisfied:

1. Developer has been required or permitted to install and dedicate a public facility identified in a technical report attached to an implementing resolution beyond that which can be attributed to the specific development installing the same;

2. The facility for which reimbursement is sought is identified by the city as a priority project to be funded within the three-year period immediately following the completion of the facility;

3. Revenues within the particular fee account funding the facility are available; and

4. The sum value of the facility(ies) constructed, based on the most current estimate of the infrastructure item (as defined by annual cost review or other recent evaluation of cost), exceeds the total development impact fee liability of the specific development installing the facility.

B. Reimbursements shall not be authorized if the value of the constructed and dedicated improvement is below the total development impact fee liability of the project. Reimbursements for oversizing shall not be available as fee credits against a development's fee liability, except as provided in Section 3.24.110.

C. Reimbursements for oversizing shall include appropriate financing charges (interest) which shall be based upon the rate at which the city can borrow money at the time the reimbursement is approved by the city council. Financing charges included in any reimbursement payments to a developer or property owner shall not exceed this interest rate, as calculated by the city's chief financial officer.

D. In the case of city council approval of reimbursement, the reimbursement amount will be based on the most current estimate of the infrastructure item, as defined by annual cost review or other recent evaluation of cost, regardless of the actual cost to construct the facility.

Section 3.24.110 Fee credit.

A. The community development director is authorized to credit development impact fees imposed under this chapter in consideration for certain on-site and off-site facilities, improvements constructed or paid for by the developer. A developer is entitled to credit for improvements not to exceed the amount of the applicable development impact fee for a particular development if the improvement is identified by the city as a priority project to be funded within the three-year period immediately following the completion of the facility and the developer (1) dedicates an appropriate site, (2) constructs the improvements, (3) finances an improvement by cash, assessment district, or Mello-Roos community facilities district, or (4) a combination of the above.

B. A decision regarding a fee credit is appealable under Section 3.24.160.

Section 3.24.120 Annual review.

The development impact fee authorized by this article and the implementing council resolution(s), the accumulated fee funds and their appropriation, and supporting documentation, shall be reviewed annually by the city council in a manner which conforms with the requirements of Sections 60001(d) and 66006(b) of the Government Code.

Section 3.24.130 Termination of a development impact fee.

The city shall not collect a development impact fee established by an implementing resolution once funds sufficient to construct residential, commercial and industrial development's share of all facilities described in the technical reports attached to the implementing resolutions have been collected.

Section 3.24.140 Fee adjustment, waiver or finding of exemption.

A. The developer of a project subject to a development impact fee under this chapter may apply to the community development director for an adjustment to or waiver of that fee or for a finding that the project is exempt from the fee. The waiver or adjustment of a fee shall be based upon the absence of any reasonable relationship between the impact on public facilities of that development and either the amount of fee charged or the type of facilities to be financed. Additionally, in the case of new residential development providing for-sale or rental housing to be made available at "affordable housing cost" or "affordable rent" to "low income households" and/or "moderate income households," as those terms are defined under California law, as from time to time amended, the community development director may grant a waiver of all or a portion of the fee if the developer demonstrates that the development would not be economically feasible and could not be built with the imposition of the full fee.

B. The application shall be made in writing and filed with the community development director no later than the time of the issuance of a building permit. The application shall state completely and in detail both the applicant's factual basis and legal theory for adjustment or waiver, and compare its proposal with the analysis set forth in the technical report prepared for the fee being challenged. The community development director may refuse to consider factual assertions or legal theories not set forth in the written application.

C. The community development director shall consider the application at an informal hearing, which may be continued from time to time, and which shall be held within sixty days after the filing of the complete application. The decision of the community development director is appealable under Section 3.24.160.

Section 3.24.150 Developer's acknowledgment of fee adjustment, waiver or exemption.

The community development director or the hearing officer appointed under Section 3.24.160 may require as a condition of adjustment, waiver or a finding of exemption that the developer provide a recordable document in a form acceptable to the director acknowledging the factual basis of such adjustment, waiver or exemption and further acknowledging that a subsequent change of facts may result in the requirement that additional fees be paid.

Section 3.24.160 Appeal procedure.

A. The community development director is responsible for administering, collecting, crediting, adjusting and refunding development impact fees. A decision by the community development director regarding a fee imposed under this chapter shall be appealable in accordance with this section. A person appealing under this section shall have first sought a fee credit under Section 3.24.110, or an adjustment or waiver, or a finding of fee exemption under Section 3.24.140. A person seeking judicial review shall first complete an appeal under this section and shall pay all city charges for that appeal.

B. A person appealing a decision under this chapter shall file an appeal with the city clerk, who is responsible for processing the appeal toward a hearing. The appeal shall be in writing, stating completely and in detail the factual and legal grounds, and shall be filed within ten calendar days following the decision being appealed.

C. The cost of the appeal shall be borne by the applicant, who shall pay a deposit against such cost at the time of filing the appeal. The amount of the deposit shall be established by resolution of the city council. The cost of an appeal must be paid in full before the appeal hearing takes place.

D. The city clerk shall notify the city manager of the appeal, and the city manager shall appoint a hearing officer.

E. The appointed hearing officer shall set the time and place for the hearing, serve notice on the parties, conduct the hearing, prepare written findings of fact and a written decision on the matter, and shall preserve the complete administrative record of the proceeding. The hearing officer may issue directives, including but not limited to directives that legal briefs be submitted in accordance with an established briefing schedule, to the parties in order to facilitate resolution of the appeal. The hearing officer shall consider relevant evidence presented by the appellant and by the community development department.

F. The decision of the hearing officer is final and may not be further appealed; it is reviewable by a court under Code of Civil Procedure Section 1094.5.

Section 3.24.170 Payment under protest.

A developer seeking to proceed with his or her project during the pendency of an application for adjustment or waiver or a finding of exemption or during the pendency of an

appeal may do so by following the procedures set forth in Section 66020 of the Government Code.

Section 3.24.180 Refund of development impact fees.

A. If a building permit or use permit is canceled or voided and the fees paid have not been committed, the community development director may, upon the written request of the applicant and provided that work has not progressed to a point that would permit commencement of a new, changed or expanded use for which a fee would be payable, order return of the fee and interest earned on it less administrative costs.

B. If a fee is not spent or committed five years or more after it was paid, and the city council does not make the findings required by Government Code Section 66001(d), the community development director may authorize a refund to the then owner of the property for which the fee was paid, under Government Code Section 66001(e).

C. A decision regarding refund of a fee is appealable under Section 3.24.160.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ESTABLISHING AN IMPLEMENTING RESOLUTION FOR THE PUBLIC SAFETY FACILITIES IMPACT FEE, UNDER GOVERNMENT CODE SECTION 66001, IN ACCORDANCE WITH MUNICIPAL CODE SECTION 3.24.040 AND AMENDING THE MASTER FEE SCHEDULE TO REFLECT THESE CHANGES

WHEREAS, the City Council of the City of Newark, a general law city (“City”), is authorized to prescribe and establish fees in regard to services or functions performed by the City for the public in a governmental and proprietary capacity; and

WHEREAS, California Government Code Section 66000 et seq. allows local governments to impose impact fees on new development in order to recover the cost of improvements that are needed to serve that new development; and

WHEREAS, Chapter 3.24 (“Development Impact Fees”) of the Newark Municipal Code authorizes the City Council to adopt implementing resolutions establishing development impact fees in order to mitigate the impacts that projects have upon the City’s ability to provide public facilities;

WHEREAS, the existing fee needs to be brought into conformity with current conditions in the City; and

WHEREAS, the City desires to have an updated Public Safety Facilities Impact Fee that will ensure that all new development pays the cost to provide public safety facilities needed to support new development; and

WHEREAS, the City has retained Keyser Marston Associates to prepare the Public Safety and Community Service Facilities Development Impact Fee Nexus Study, dated March 2017, which establishes a reasonable relationship between the public safety fee and the purpose of the fee, which study is incorporated herein and attached as Exhibit A; and

WHEREAS, the City has duly noticed, advertised, scheduled, and held a Public Hearing on May 25, 2017; and

WHEREAS, on May 25, 2017 the City Council reviewed material presented in the staff report including the Public Safety and Community Service Facilities Development Impact Fee Nexus Study, concerning the purpose of the fee and the relationship between the fee and its purpose; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark which hereby finds, declares, and resolves that:

- 1) The City hereby receives and approves the Public Safety and Community Service Facilities Development Impact Fee Nexus Study (“Fee Study”), which is attached as Exhibit A to this Resolution.
- 2) In adopting this Resolution, the City Council is exercising its powers under Chapter 3.24 of the Newark Municipal Code, as well as pursuant to Article XI, Sections 5 and 7

of the California Constitution, Chapter 5 of Division 1 of the Government Code (“Mitigation Fee Act”), commencing with Section 66000, collectively and separately.

- 3) After considering the Fee Study, this Resolution, and the testimony received at a public hearing, the City Council hereby makes the following findings:
 - a) In accordance with Section 66001, subdivision a, paragraph 1 of the Mitigation Fee Act, the purpose of the fees set forth in this Resolution, as specified in Exhibit A, is to provide for an expansion in public safety capital facilities in the City as new growth occurs;
 - b) In accordance with Section 66001, subdivision a, paragraph 2 of the Mitigation Fee Act, the fees collected pursuant to this Resolution, as specified in Exhibit A, shall be used to acquire land and to construct improvements, such as Police and Fire stations and buildings and other public safety facilities for the City, and shall be used to fund any administrative cost associated with the public safety impact fee program;
 - c) In accordance with Section 66001, subdivision a, paragraph 3 of the Mitigation Fee Act, there is a reasonable relationship between the fees use (to pay for the acquisition and construction of public safety facilities) and the type of development for which the fees are imposed in that the fees will be applied to development in the City, which will generate demands for public safety facilities;
 - d) In accordance with Section 66001, subdivision a, paragraph 4 of the Mitigation Fee Act, the Fee Study demonstrates that there is a reasonable relationship between the amount of the Public Safety Facilities Impact Fee and the cost of public safety facilities attributable to the development upon which the fee is proposed. Since the need for public safety facilities is inherently population-driven, associated public safety facility costs are assessed based on average household population and employment; and
 - e) In accordance with Section 66001, subdivision b of the Mitigation Fee Act, there is a reasonable relationship between the amount of the fees and cost of providing the public safety facilities attributable to the development in the City upon which the fees are imposed in that the fees have been calculated by apportioning the cost of public safety facilities acquisition and construction to the number of residents and employees attracted by each type of development.
- 4) The City finds pursuant to the California Environmental Quality Act (“CEQA”) this action is not a “project” because the Resolution provides a mechanism for funding of public safety facilities but does not involve a commitment to any specific project for such purposes that may result in a potential significant impact on the Environment (CEQA guidelines Section 15378, Pub. Res. Code Section 21080(b)(8)(D)).
- 5) The cost estimates set forth in the Fee Study are reasonable estimates for acquiring and constructing public safety facilities and the fees expected to be generated by future

development will not exceed the future projected cost of acquiring and constructing public safety facilities.

- 6) The method of allocation of the fees to particular development bears a fair relationship and is roughly proportional to each development's burden on and benefits from the public safety facilities to be funded by the fees, in that the fees are calculated based on the number of residents each particular development will attract.
- 7) The Fee Study is a detailed analysis of how public safety services will be affected by development in the City and the public safety facilities necessary to accommodate that development.
- 8) The fees are consistent with the General Plan and, pursuant to Government Code Section 65913.2, the City Council has considered the effects of the fees with respect to the City's housing needs as established in the housing element of the General Plan.
- 9) The fee amounts set forth in this Resolution include the fair and reasonable costs of administration of the fee programs and are within the requirements of the Mitigation Fee Act and other applicable law.
- 10) The fees are subject to adjustment, which approximate the fluctuation in market costs, and shall be adjusted annually in accordance with the Engineering News Record Construction Cost Index, San Francisco, California.
- 11) The City does hereby approve the following public safety impact fees on new residential and commercial development for public safety facilities as follows:

Residential Development

Type of Unit	Fee per Unit
Single Family Unit	\$3,451
Townhome Unit	\$3,451
Multiple Family Units	\$2,071

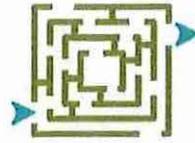
Commercial Development

Type of Use	Fee per Square Foot
Office/Commercial	\$.60
Manufacturing/Research and Development	\$.25

Warehousing/Distribution	\$.50
--------------------------	-------

(These fees shall be adjusted annually in accordance with the Engineering News Record Construction Cost Index, San Francisco, California.)

- 12) The city council may elect to waive the payment of the impact fee if a residential or nonresidential development project provides community benefits in excess of those required by the impacts of the project, and if the city council finds that the expected benefits to the community exceed those that would be provided by the payment of the Public Safety Facility Impact Fee. Such community benefits may include the provision of senior housing, the generation of significant taxes, or the elimination of nuisances.
- 13) The Public Safety Facilities Impact Fees shall not apply to approved projects that are covered by a Development Agreement or Vesting Tentative Map unless the provisions of the document allow the application of such fees.
- 14) Developers shall be given a credit against this fee for the actual cost of public safety facilities included in their developments.
- 15) The Master Fee Schedule shall be amended to reflect the Public Safety Facility Impact fees as set forth in this Resolution.
- 16) Effective Date: This resolution shall be effective upon date of adoption of this Resolution. In accordance with Government Code Section 66017, the fees set by this Resolution shall be effective 60 days from the effective date of this Resolution.
- 17) Severability. Each component of the fees and all portions of this Resolution are severable. Should any individual component of the fees or other provisions of this Resolution be adjusted to be invalid and unenforceable, the remaining component or provisions shall be and continue to be fully effective, and the fees shall be fully effective except as to that component which has been judged to be invalid.



KEYSER MARSTON ASSOCIATES

**PUBLIC SAFETY AND COMMUNITY SERVICE FACILITIES
DEVELOPMENT IMPACT FEE NEXUS STUDY**

Prepared for:
City of Newark

Prepared by:
Keyser Marston Associates, Inc.

March 2017

TABLE OF CONTENTS

I.	INTRODUCTION, SUMMARY OF CURRENT PROGRAM, RESULTS, AND RECOMMENDATIONS	1
	A. Summary of Current Program and City Objectives for Impact Fees	1
	B. Report Background and Legal Context	1
	C. Facility Standards and Cost Allocation Approach.....	2
	D. Maximum and Recommended Fee Schedules	3
	E. Fee Indexing.....	3
II.	MITIGATION FEE ACT NEXUS FINDINGS	4
	A. Purpose	4
	B. Use of Fee Revenues	4
	C. Relationship.....	4
	D. Need.....	4
	E. Proportionality	5
III.	DEMAND FOR NEW PUBLIC SAFETY FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS	7
	A. Public Safety Facility Needs to Serve Newark through 2035.....	7
	B. Service Population.....	7
	C. Public Safety Facility Costs Attributable to New Service Population	9
	D. Distribution of Public Safety Facility Demand by Land Use	10
	E. Supported Public Safety Facility Fee Levels	11
IV.	DEMAND FOR NEW COMMUNITY SERVICE FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS	12
	A. Community Service Facility Needs to Serve Newark through 2035.....	12
	B. Public Service Population	12
	C. Community Service Facility Costs Attributable to New Development.....	15
	D. Distribution of Community Service Facility Demand by Land Use.....	15
	E. Supported Community Service Facility Fee Levels	16
V.	USE OF FEE REVENUE.....	17
VI.	IMPACT FEES IN NEIGHBORING CITIES, MAXIMUM SUPPORTED FEES, AND RECOMMENDED FEES	18
	A. Public Safety and Community Service Facility Fees in Neighboring Jurisdictions	18
	B. Maximum and Recommended Impact Fees.....	19

VII. FEE PROGRAM IMPLEMENTATION AND ADMINISTRATION.....	20
A. Credits, Reimbursement, and Exemptions.....	20
B. Securing Supplemental Funding.....	20
C. Annual Review and Periodic Study Update.....	20

LIST OF EXHIBITS

Exhibit 1: Current Impact Fees.....	1
Exhibit 2: Maximum and Recommended Fee Schedules	3
Exhibit 3: New Public Safety Needs	7
Exhibit 4: City of Newark Population and Employment.....	8
Exhibit 5: Public Service Population	9
Exhibit 6: Distribution of New Service Population by Land Use	9
Exhibit 7: Public Safety Facility Costs Attributable to Demand from New Development.....	10
Exhibit 8: Distribution of New Service Population for Public Safety Facilities by Land Use.....	10
Exhibit 9: Distribution of Public Safety Facility Costs by Land Use Demand.....	11
Exhibit 10: Current and Anticipated population and commercial and industrial stock.....	11
Exhibit 11: Supported Public Safety Facilities Impact Fees by Land Use	11
Exhibit 12: Needed Community Service Facility Improvements.....	12
Exhibit 13: City of Newark Population and Employment.....	13
Exhibit 14: Public Service Population	14
Exhibit 15: Distribution of New Service Population by Land Use	14
Exhibit 16: Community Service Facility Costs Attributable to Demand from New Development.	15
Exhibit 17: Distribution of Demand for New Community Service Facilities by Land Use.....	15
Exhibit 18: Distribution of New Development's Share of Community Service Facility Costs by Land Use	16
Exhibit 19: Existing commercial and industrial stock and anticipated amount of new space	16
Exhibit 20: Supported Community Service Facilities Impact Fees by Land Use	16
Exhibit 21: Comparison Public Safety and Community Service Facility Impact Fees	18
Exhibit 22: Maximum and Recommended Fee Schedules	19

I. INTRODUCTION, SUMMARY OF CURRENT PROGRAM, RESULTS, AND RECOMMENDATIONS

This Public Safety and Community Service Facility nexus analysis provides the City of Newark (the City) with the necessary technical documentation to support updating its current Public Safety Facility and Community Service Facility impact fees. This nexus analysis has been prepared by Keyser Marston Associates, Inc. (KMA).

A. Summary of Current Program and City Objectives for Impact Fees

The City currently levies both a public safety capital facilities fee and a community service capital facilities fee on residential and non-residential development. The fee revenues are used to fund a portion of the cost of new capital facilities to serve people who live and/or work in Newark. The portion of costs to be funded by fees on new development reflects the share of the future service population comprised of future residents/employees. The pro rata share of facility costs attributable to existing residents and employees will not be funded by fees levied on new development. The current impact fee amounts are as follows:

Exhibit 1: Current Impact Fees

Type of New Development	Public Safety Capital Facilities Fee	Community Service Capital Facility Fee
Single-family residential	\$1,989 per unit	\$1,942 per unit
Multi-family residential	\$2,079 per unit	\$1,596 per unit
Commercial	\$1.73 per square foot	\$0.36 per square foot
Industrial	\$0.17 per square foot	\$0.31 per square foot

The planned future public safety and community service capital facilities are identified in the City's General Plan and capital improvement plan and through interviews with executive staff, and are detailed in Tables 4 and 5 of this report. Key planned improvements include a new library, city administration building, and police center at the city's current civic center, a performing or cultural arts center, and a new senior center.

B. Report Background and Legal Context

The Mitigation Fee Act (AB 1600 et seq.) permits cities to adopt impact fees on new development to fund the associated, additional costs of providing capital facilities to meet the demands generated by new residents and employees.

This Report provides the necessary technical analysis to support a schedule of fees to be established by an Impact Fee Ordinance and Resolution. The Mitigation Fee Act allows the City to adopt by Resolution a fee schedule consistent with the supporting technical analysis and findings provided in this Report. The Resolution's approach to setting the fee allows periodic

adjustments of the fee amount as may be necessary over time, without amending the enabling Ordinance.

The technical analysis in this Report estimates the public safety and community service facility fee schedules that will fund new development's "fair share" contribution to funding future public safety and community service facility capital improvements. The key requirements of the Mitigation Fee Act that determine the structure, scope, and amount of the updated fees are as follows:

- **Collected for Capital Facility and Infrastructure Improvements.** Development impact fee revenue can be collected and used to cover the cost of capital facilities and infrastructure required to serve new development and growth in the City. However, impact fee revenue cannot be used to cover the operation and maintenance costs of these or any other facilities and infrastructure.
- **Cannot Fund Existing Needs.** Impact fee revenue cannot be collected or used to cover deficiencies in existing City capital equipment and facilities. The portion of capital costs required to meet the needs of the City's existing population must be funded through other sources. Capital facility investments that increase service standards for existing and new development must be split on a "fair share" basis according to the proportion attributable to each.
- **Must be Based on a Rational Nexus.** An impact fee must be based on a reasonable nexus, or connection, between new growth and development and the need for a new facility or improvement. As such, an impact fee must be supported by specific findings that explain or demonstrate this nexus. In addition, the impact fee amount must be structured such that the revenue generated does not exceed the cost of providing the facility or improvement for which the fee is imposed.

The City can choose to charge impact fees below the maximum, supportable fee schedule. Such downward adjustments in the fee schedule, if selected, are typically based on policy considerations related to considerations of development feasibility and fee levels in peer cities.

C. Facility Standards and Cost Allocation Approach

A facility standard is a policy that indicates the amount of facilities required to accommodate service demand. The City's General Plan identifies new public safety and community service facilities that will be needed to serve Newark residents and employees through the 2035 planning horizon of the General Plan. As noted in the General Plan, Newark's city hall was built in 1966 and many of its systems are now outdated and the space does not fully meet the needs of Newark today. To serve the existing and future population, the General Plan identifies the need for modernizing or replacing City Hall, building a new library, performing arts center, and

police facilities. Needed improvements to be partially funded by the fees on new development are listed in Tables 4 and 5.

Pursuant to the requirements of the Mitigation Fee Act, facility costs have been allocated to new development proportionate to new development's share of the City's service population upon buildout in 2035. This approach ensures that new development will bear only its fair share of costs and will not be funding improvements to cure existing deficiencies.

D. Maximum and Recommended Fee Schedules

Exhibit 2 shows the fee schedules supported by this study and represents the maximum public safety and community service facility fees that the City could charge consistent with the Mitigation Fee Act. The calculation of the fees is presented in Section III of this report. We recommend that the City adopt fees equal to the maximum fee amounts because the total impact fee obligation does not exceed the total obligation in adjoining cities and the recommended fees are needed to mitigate the facility needs of new residents and employees. However, consideration could be given to allowing for the reduction, with City Council approval, of fees to support high-income job generation and sales tax generating uses.

The fee schedules include a 2 percent (2%) administration fee, consistent with other Mitigation Fee Act program administrative costs in many other California jurisdictions.

Exhibit 2: Maximum and Recommended Fee Schedules

Type of New Development	Maximum and Recommended Fee Amounts	
	Public Safety Facility Fee	Community Service Facility Fee
Residential	\$2,311 per unit	\$3,451 per unit
Commercial	\$1.72 per square foot	\$1.19 per square foot
Industrial	\$0.36 per square foot	\$0.50 per square foot

E. Fee Indexing

Since construction costs continue to rise, it is important that the cost be indexed to inflation. The fee should be adjusted annually by a construction cost index, such as the Engineering News Record.

II. MITIGATION FEE ACT NEXUS FINDINGS

This chapter describes the necessary "nexus" between new development in Newark and the proposed capital facilities investments, as required under the Mitigation Fee Act – Government Code Section 66000 (AB1600). The new public safety facility and community service facility development impact fees will fund new development's "fair share" of needed capital facilities as identified in the General Plan to provide an adequate level of service to Newark.

Nexus findings address: (1) the **purpose** of the fee and a related description of the facility for which fee revenue will be used, (2) the specific **use** of fee revenue, 3) the **relationship** between the facility and the type of development, (4) the relationship between the **need** for the facility and the type of development, and (5) the relationship between the amount of the fee and the **proportionality** of cost specifically attributable to new development. The subsections below describe the nexus findings for both the Public Safety Facility Impact Fee and the Community Service Facility Impact Fee.

A. Purpose

The fees will ensure that new development contributes its "fair share" towards funding the construction of new capital facilities that are identified in the City's General Plan.

B. Use of Fee Revenues

Public safety facility impact fee revenues will be used to fund a portion of the cost to construct the public safety capital facilities identified in Table 4. Similarly, the community service facility impact fee revenues will be used to fund a portion of the cost to construct the community service capital facilities identified in Table 5. These facilities will benefit the entire City of Newark.

C. Relationship

New residential development in the City of Newark will increase the demand for and use of public safety and community service facilities. Fee revenue will be used to help fund new development's pro rata share of the cost of new facilities that will be built to serve the entire City.

D. Need

The City's General Plan has identified new public safety and community service facilities that are needed to serve Newark through the year 2035. These new facilities are needed to serve both existing and new residents and employees. Each new residential and non-residential project will bring new residents and employees to the City and will generate incremental, new demand and use of the City's public safety and community service facilities. New revenues to

fund investments in new public safety and community service facilities are needed to fund needed capital facilities as identified in the City's General Plan.

Given that impact fees on new development will fund approximately 26% of the cost of new public safety capital facilities and 21% of new community service capital facilities, the City will need to secure funding from other sources to construct the capital facilities. It is anticipated that the balance of funds will come from the following sources:

- Local half cent sales tax;
- City General Fund surpluses;
- Regional, state and federal grants

E. Proportionality

The maximum, supportable public safety facilities and community service facility fee schedules have been derived by the following steps:

1. Establish the list of capital facilities to be funded, in part, by fees on new development. The source for this list is the City's General Plan and the City's Capital Improvement Plan.
2. Establish the current and future (year 2035) population and employment estimates for the City of Newark. Sources for these estimates are the State Department of Finance, the City's General Plan, demographic research companies, and City staff.
3. Establish estimates of the current and future number of housing units, square feet of commercial space, and square feet of industrial space in the City. Sources for these estimates are the State Department of Finance, City staff, and the trends in the employment density of new development.
4. Establish the population base to be served by each capital facility to be funded by impact fees. For example, a new administration building at city hall will serve all future residents and employees. A new senior center, however, will serve all future residents, but not employees.
5. Calculate the percentage of each future service population comprised of existing residents/employees and the percentage attributable to new residents/employees.
6. For each capital facility, multiply the cost of the facility by the percentage of demand attributable to the new service population.
7. Distribute the cost allocated to new development by land use (residential, commercial, and industrial) based on the land use composition of the applicable service population. The distribution of demand for fire facilities has been determined based on the distribution of fire/EMS protection service calls by land use.
8. Aggregate the public safety capital facility costs attributable to new development by land use.

9. Divide each land use's share of new development cost by the projected amount of new development (units, commercial square feet, or industrial square feet) to establish the public safety facility fee amount on new development.
10. Aggregate the community service capital facility costs attributable to new development by land use.
11. Divide each land use's share of new development cost by the projected amount of new development (units, commercial square feet, or industrial square feet) to establish the community service facility fee amount on new development.

With this methodology, the fee program cost estimates are directly proportional to the relative increase in new development.

III. DEMAND FOR NEW PUBLIC SAFETY FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS

A. Public Safety Facility Needs to Serve Newark through 2035

City staff have identified the following list of needed public safety facility improvements based on the facility needs identified in the City's General Plan and the City's Capital Improvement Plan. These new facilities are anticipated to meet the City's needs through the year 2035. As shown in Exhibit 3, the total cost of capital facilities is estimated at \$42 million, with a \$23 million police center at the Civic Center accounting for 55% of the entire cost of new facilities.

Exhibit 3: New Public Safety Needs

Fire	Total Cost	Total, With 2% Admin.
Fire Admin Portion of City Administration Building	\$2,557,400	\$2,608,548
Community Alerting and Warning System	\$75,000	\$76,500
Fire Station No. 27 Energy Efficient Windows	\$40,000	\$40,800
Fire Station No. 27 Training Tower	\$2,000,000	\$2,040,000
Fire Station No. 29 Truck Exhaust System	\$45,000	\$45,900
Replace Fire Station No. 27	\$5,300,000	\$5,406,000
Replace and Expand Fire Station No. 29	\$6,400,000	\$6,528,000
Ladder Truck/Fire Engine to serve new population	\$1,200,000	\$1,224,000
Traffic Signal Preemption (Opticom)	\$160,000	\$163,200
Total Fire	\$17,777,400	\$18,132,948
Police		
Police Center at the Civic Center	\$23,016,600	\$23,476,932
Police Vehicles (5) to serve new population	\$325,000	\$331,500
Police Department Substation Facilities	\$850,000	\$867,000
Total Police	\$24,191,600	\$24,675,432
Total, Public Safety	\$41,969,000	\$42,808,380

B. Service Population

The proposed new facilities will serve all of Newark. Therefore, the applicable service population for public safety capital facilities is both residents and employees. As shown in Exhibit 4, the City's current population is 44,733. By 2035 the population is anticipated to reach 60,510, reflecting an increase of 15,777 people over roughly the next 19 years. Approximately 19,363 people work in Newark, with employment in commercial businesses totaling approximately 12,500 and employment in industrial businesses totaling approximately 6,860. Employment is expected to grow by 4,950 through 2035.

Exhibit 4: City of Newark Population and Employment

	2016	In progress	Additional - 2017 through 2035	2035
Population¹	44,733	2,933	12,844	60,510
Employment²				
Office	1,197		850	2,047
Retail	7,762		900	8,662
50 % R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Commercial	12,504		3,100	15,604
Light Industrial	1,749		300	2,049
Heavy Industrial	1,565		200	1,765
50% R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Industrial	<u>6,859</u>		<u>1,850</u>	<u>8,709</u>
Total Employment	19,363		4,950	24,313

¹ State Department of Finance E-5 is source of estimate of current population. Estimate of population in 2035 is the Newark General Plan.

² ESRI is source of current employment estimates. 2035 employment estimates have been provided City staff.

In recognition that employees' demands for city services is generally limited to the time that they are at work, the impact of employees is weighted less than the impact of residents. Based on analysis underpinning the current impact fees, it is assumed that the public facility demand created by each employee is equal to 0.36 of the impact of each resident. The fractional demand per employee is calculated by multiplying the share of daily working hours relative to activity hours (.5) by the fraction of 5 working days out of 7 days per week (.71). The derived weighted average is .36.

The service population for Public Safety facilities is the sum of the resident population and .36% of the employment base. As shown in Exhibit 5, the current public safety service population is approximately 51,700 and the service population of residential units currently under construction, which will not be subject to the updated impact fee, is approximately 2,933. The service population associated with new growth through the year 2035 is estimated to total 14,626, which represents 21.1% of the total service population in the buildout year of 2035.

Exhibit 5: Public Service Population

Factor	Source	Number	Percent Allocation
Residents			
Existing	SDOF, E-5	44,733	73.9%
In progress	City staff + SDOF	2,933	4.8%
New Growth		<u>12,844</u>	<u>21.2%</u>
Buildout	General Plan	60,510	100.0%
Employment			
Existing	ESRI	19,363	79.6%
New Growth	City staff	<u>4,950</u>	<u>20.4%</u>
Buildout		24,313	100.0%
Public Service Population ¹			
Existing		51,704	74.6%
In Progress		2,933	4.2%
New Growth		<u>14,626</u>	<u>21.1%</u>
Buildout		69,263	100.0%
<p>¹ Public service population is an allocation factor which differentiates between the impact of employees and residents. It equals resident population plus .36 of employment. Per a prior Newark General Plan, the .36 factor reflects an adjustment of one-half (8/16) to reflect the workday's share of awake hours and an adjustment of 5/7 to reflect the work-week's share of the number of days in a week.</p>			

The distribution of the additional 14,626 service population from 2017 through 2035 among the land uses is as follows:

Exhibit 6: Distribution of New Service Population by Land Use

	New Service Population from New Development	
Residential	12,844	87.8%
Commercial	1,116 (3,100 x 0.36)	7.6%
Industrial	<u>666 (1,850 x 0.36)</u>	<u>4.6%</u>
Total New Service Population	14,626	100%

C. Public Safety Facility Costs Attributable to New Service Population

The cost of new public safety facilities attributable to the demands of new development is generally estimated by applying the 21.1% factor to the facility cost schedule. However, because some of the facilities are needed solely to serve the new service population, the overall percentage of costs attributable to new development is 26.1%.¹ As shown below in Exhibit 7, it

¹ A new fire engine (\$1.2 million), an expansion of Fire Station No. 29 to house the new engine, and five police cars (\$325,000) are needed to serve exclusively the new service population. 100% of the cost of these facilities is allocated to new development. Please refer to Table 4 for a detailed allocation of costs.

is estimated that new residents/employees will create the demand for approximately \$11.2 million of new public safety capital facilities through 2035. Demand attributable to existing residents and employees is estimated to total \$31.7 million.

Exhibit 7: Public Safety Facility Costs Attributable to Demand from New Development

	Total Facility Cost with 2% Admin. Fee	Costs Allocable to New Development – 26.1%
Total Fire	\$18.1 million	\$5.7 million
Total Police	\$24.7 million	\$5.5 million
Total, Public Safety Facility Costs	\$42.8 million	\$11.2 million

D. Distribution of Public Safety Facility Demand by Land Use

Since impact fees are levied per unit or per square foot of new non-residential development and often vary by type of non-residential development, the service population needs to be broken down by land use. As provided in Exhibit 8, the distribution of the growth in the service population is as follows: 88% from new residents; 8% from new commercial employees; and 5% from new industrial employees. For purposes of this analysis, it has been assumed that the distribution of demand is proportionate to the distribution of the service population.

The source of demand for new fire protection facilities has been estimated based on the distribution of service calls submitted to the Newark Fire Department during calendar year 2015. The call records and the source of calls are detailed in Table 10. As summarized below, approximately 77% of calls originated from residential homes, 19% from commercial establishments, and 4% from industrial establishments.

Exhibit 8: Distribution of New Service Population for Public Safety Facilities by Land Use

	Total	Residential	Commercial	Industrial
Distribution for Police Facilities¹				
Percentage	100%	87.8%	7.6%	4.6%
Distribution for Fire Facilities				
Percentage ²	100%	77%	19%	4%
¹ Exhibit 7				
² Table 10				

The demand for new public safety facilities by land use is estimated by applying these demand percentages to the facility costs attributable to new development. As shown in Exhibit 9, the costs attributable to new residential development is estimated to total \$9.2 million, the cost attributable to new commercial development is estimated to total \$1.5 million, and the cost attributable to new industrial development is estimated to total \$451,000.

Exhibit 9: Distribution of Public Safety Facility Costs by Land Use Demand

	Police Facilities	Fire Facilities	Total Public Safety Facilities
Facility Costs Attributable to New Development	\$5.5 million¹	\$5.7 million	\$11.2 million
Residential	\$4.8 million (87.8%)	\$4.4 million (77%)	\$9.2 million (84%)
Commercial	\$0.4 million (7.6%)	\$1.1 million (19%)	\$1.5 million (12%)
Industrial	\$0.2 million (4.6%)	\$0.2 million (4%)	\$0.5 million (4%)

¹Totals may not add due to rounding.

E. Supported Public Safety Facility Fee Levels

Since impact fees are levied per unit of new development, the growth of the service population must be translated into projected new residential units and new building square footage. Based on US Census data, an average household size of 3.23 has been assumed to convert population projections into projected residential units. City staff has provided estimates of existing commercial and industrial stock and the amount of new space anticipated to be built through 2035. See Exhibit 10 below.

Exhibit 10: Current and Anticipated population and commercial and industrial stock

	Growth in Service Population – 2017 through 2035	New Households; New Commercial and Industrial SF – 2017 through 2035
Residential Population	12,844	3,977
Commercial Service Population	1,116	880,000 sq. ft.
Industrial Service Population	666	1,250,000 sq. ft.

Supported fee amounts on new development to fund needed public safety facilities are determined by dividing the portion of costs attributable to the demand generated by new development by the magnitude of new development anticipated through 2035. As shown in Exhibit 11, impact fees of \$2,311 per residential unit, \$1.72 per square foot of new commercial development and \$0.36 per square foot of new industrial development are warranted to fund the construction of public safety facilities in Newark to serve the needs generated by new development.

Exhibit 11: Supported Public Safety Facilities Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$9,187,925	\$1,512,565	\$451,442	\$11,151,931
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$2,311	\$1.72	\$0.36	

IV. DEMAND FOR NEW COMMUNITY SERVICE FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS

A. Community Service Facility Needs to Serve Newark through 2035

City staff have identified the following list (Exhibit 12) of needed community service facility improvements based on the facility needs identified in the City's General Plan and the City's Capital Improvement Plan. These new facilities are anticipated to meet the City's needs through the year 2035. As shown, the total cost of capital facilities is estimated at \$71.46 million. The largest planned expenditures include a \$21.1 million new library at the civic center, a \$17.3 million new city administration building at the civic center, a \$9 million performing arts center, and a \$7.5 million senior center.

Exhibit 12: Needed Community Service Facility Improvements

Community Service Facilities	Total Cost	Total, With 2.00% Admin.
City Administration Building at Civic Center	\$17,262,450	\$17,607,699
Equipment Shop Heavy Duty Vehicle Hoist	\$60,000	\$61,200
History Center (Phases 2,3,4)	\$4,000,000	\$4,080,000
Library at the Civic Center	\$21,098,550	\$21,520,521
Mowry Avenue Backup Walls	\$900,000	\$918,000
New Fuel Management System	\$60,000	\$61,200
New Senior Center	\$7,500,000	\$7,650,000
Newark Boulevard Backup Walls	\$1,200,000	\$1,224,000
Performing (or Cultural) Arts Center	\$9,000,000	\$9,180,000
Service Center Fuel Tank Canopy	\$130,000	\$132,600
Service Center Storage Facility	\$400,000	\$408,000
Service Center Waste Disposal Upgrades	\$250,000	\$255,000
Silliman Complex Restroom/Maintenance Facility	\$700,000	\$714,000
Thornton Avenue Streetscape	\$2,200,000	\$2,244,000
Electrical Vehicle Charging Stations	\$200,000	\$204,000
New Homeless Shelter	\$1,500,000	\$1,530,000
Service Center Expansion	<u>\$5,000,000</u>	<u>\$5,100,000</u>
Total Community Facilities	\$71,461,000	\$72,890,220

B. Public Service Population

The proposed new community facilities will serve all of Newark. Therefore, the applicable service population for most community service capital facilities is both residents and employees. As shown in Exhibit 13, the City's current population is 44,733. By 2035 the population is anticipated to reach 60,510, reflecting an increase of 15,777 people over roughly the next 19 years. Approximately 19,363 people work in Newark, with 12,500 employed in commercial

businesses and 6,860 employed in industrial businesses. An additional 4,950 employees are expected through 2035.

Exhibit 13: City of Newark Population and Employment

	2016	In progress	Additional – 2017 through 2035	2035
Population¹	44,733	2,933	12,844	60,510
Employment²				
Office	1,197		850	2,047
Retail	7,762		900	8,662
50 % R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Commercial	12,504		3,100	15,604
Light Industrial	1,749		300	2,049
Heavy Industrial	1,565		200	1,765
50% R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Industrial	<u>6,859</u>		<u>1,850</u>	<u>8,709</u>
Total Employment	19,363		4,950	24,313

¹ State Department of Finance E-5 is source of estimate of current population. Estimate of population in 2035 is the Newark General Plan.

² ESRI is source of current employment estimates. 2035 employment estimates have been provided City staff.

In determining the population to be served by the new facilities, it is recognized that employees' demands for city services is generally limited to the time that they are at work. Therefore, employees are weighted less than residents. Based on that analysis that was undertaken to support the current impact fees, it is assumed that the public facility demand created by each employee is equal to 0.36 of the impact of each resident. The fractional demand per employee is calculated based on a fraction of 8 hours out of 16 activity hours per day (.5) times the fraction of 5 working days out of 7 days per week (.71). The derived weighted average is .36.

The public service population for all community service facilities except the senior center is the sum of the resident population and .36% of the employment base. As shown in Exhibit 13, the current service population is approximately 51,700 and the service population of residential units currently under construction, which will not be subject to the updated impact fee, is approximately 2,933. The service population associated with new growth through the year 2035 is estimated to total 14,626, which represents 21.1% of the total service population in the buildout year of 2035.

Given that employment does not contribute to the need for senior centers, the service population for the senior center is the residential population. As shown in Exhibit 14, it is estimated that the City's population will increase by 12,844 from 2017 through 2035 from new residential development, excluding new units currently under construction, which will be subject

to the existing fees. The additional 12,844 residents will account for 21.2% of Newark's population by 2035. Therefore, 21.2% of the cost of the senior center is estimated to be attributable to the impacts of new development.

Exhibit 14: Public Service Population

Factor	Source	Number	Percent Allocation
Residents			
Existing	SDOF, E-5	44,733	73.9%
In progress	City staff + SDOF	2,933	4.8%
New Growth		<u>12,844</u>	<u>21.2%</u>
Buildout	General Plan	60,510	100.0%
Employment			
Existing	ESRI	19,363	79.6%
New Growth	City staff	<u>4,950</u>	<u>20.4%</u>
Buildout		24,313	100.0%
Public Service Population ⁽¹⁾			
Existing		51,704	74.6%
In Progress		2,933	4.2%
New Growth		<u>14,626</u>	<u>21.1%</u>
Buildout		69,263	100.0%
¹ Public service population is an allocation factor which differentiates between the impact of employees and residents. It equals resident population plus .36 of employment. Per a prior Newark General Plan, the .36 factor reflects an adjustment of one-half (8/16) to reflect the workday's share of awake hours and an adjustment of 5/7 to reflect the work-week's share of the number of days in a week.			

The distribution of the additional 14,626 service population from 2017 through 2035 among the land uses is presented in Exhibit 15:

Exhibit 15: Distribution of New Service Population by Land Use

	New Service Population from New Development	
<i>All facilities, except senior center</i>		
Residential	12,844	87.8%
Commercial	1,116 (3,100 x 0.36)	7.6%
Industrial	666 (1,850 x 0.36)	4.6%
Total New Service Population, All except Senior Center	14,626	100.0%
Senior Center	12,844	100%

C. Community Service Facility Costs Attributable to New Development

The cost of new community service facilities attributable to the demands of new development is estimated by applying the 21.1% factor to the facility cost schedule for all improvements, excluding the senior center, and applying a factor of 21.2% to the total cost of the senior center. As shown in Exhibit 16, it is estimated that new residents/employees will create the demand for approximately \$15.4 million of new community service capital facilities through 2035, which accounts for approximately 21.1% of total project costs. Demand attributable to existing residents and employees is estimated to total \$57.5 million.

Exhibit 16: Community Service Facility Costs Attributable to Demand from New Development

	Total Facility Cost with 2% Admin. Fee	Costs Allocable to New Development
Total Community Facilities, excluding senior center	\$65.24 million	\$13.78 million (21.1%)
Senior Center	<u>\$ 7.65 million</u>	<u>\$1.62 million (21.2%)</u>
Total, Community Service Facility Costs	\$72.89 million	\$15.40 million (21.1%)

D. Distribution of Community Service Facility Demand by Land Use

Since impact fees are levied per unit or per square foot of new non-residential development and often vary by type of non-residential development, the service population needs to be broken down by land use. As provided in Exhibit 17, the distribution of the growth in the service population for facilities excluding the senior center is as follows: 87.8% from new residents; 7.6% from new commercial employees; and 4.6% from new industrial employees. For the senior center, 100% of the cost is apportioned to residential development. For purposes of this analysis, it has been assumed that the distribution of demand is proportionate to the distribution of the service population.

Exhibit 17: Distribution of Demand for New Community Service Facilities by Land Use

	Total	Residential	Commercial	Industrial
Distribution for Community Facilities, Excluding the Senior Center¹				
Percentage	100%	87.8%	7.6%	4.6%
Distribution for Senior Center				
Percentage	100%	100%	0%	0%
¹ Exhibit 16				

The demand for new public safety facilities by land use is estimated by applying these demand percentages to the facility costs attributable to new development. As shown in Exhibit 18, the costs attributable to new residential development is estimated to total \$13.72 million, the cost attributable to new commercial development is estimated to total \$1.05 million, and the cost attributable to new industrial development is estimated to total \$0.63 million.

Exhibit 18: Distribution of New Development's Share of Community Service Facility Costs by Land Use

	Senior Center	All other Community Service Facilities	Total Community Service Facilities
Facility Costs Attributable to New Development	\$1.62 million	\$13.78 million	\$15.40 million
Residential Demand	\$1.62 million (100%)	\$12.10 million (87.8%)	\$13.72 million (89%)
Commercial Demand	\$0.00 million (0%)	\$1.05 million (7.6%)	\$1.05 million (7%)
Industrial Demand	\$0.00 million (0%)	\$0.63 million (4.6%)	\$0.63 million (4%)

E. Supported Community Service Facility Fee Levels

Since impact fees are levied per unit of new development – per residential unit or per square foot of new commercial or office development, the average household size and the average employment density is needed to convert the demand of new residents/employees into the demand of new residential units and new building square footage. Based on US Census data, an average household size of 3.23 has been assumed. City staff has provided estimates of existing commercial and industrial stock and the amount of new space anticipated to be built through 2035, which are presented in Exhibit 19.

Exhibit 19: Existing commercial and industrial stock and anticipated amount of new space

	Growth in Service Population – 2017 through 2035	New Households; New Commercial and Industrial SF – 2017 through 2035
Residential Population	12,844	3,977
Commercial Service Population	1,116	880,000 sq. ft.
Industrial Service Population	666	1,250,000 sq. ft.

Supported fee amounts on new development to fund needed community service facilities are determined by dividing the portion of costs attributable to the demand generated by new development by the magnitude of new development anticipated through 2035. As shown in Exhibit 20, impact fees of \$3,451 per residential unit, \$1.19 per square foot of new commercial development and \$0.50 per square foot of new industrial development are warranted to fund the construction of community service facilities in Newark to serve the needs generated by new development.

Exhibit 20: Supported Community Service Facilities Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$13,722,088	\$1,051,188	\$627,322	\$15,400,598
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$3,451	\$1.19	\$0.50	

V. USE OF FEE REVENUE

The City plans to use public safety facility fee revenues to construct the facilities identified in Exhibit 3. The City plans to use community service facility fee revenues to construct the facilities identified in Exhibit 12.

VI. IMPACT FEES IN NEIGHBORING CITIES, MAXIMUM SUPPORTED FEES, AND RECOMMENDED FEES

A. Public Safety and Community Service Facility Fees in Neighboring Jurisdictions

KMA surveyed the impact fees levied by the nearby cities of Union City, Fremont, and Milpitas. The impact fees levied in these cities are presented in Appendix Tables A-1, A-2 and A-3, and summarized in Exhibit 21.

As shown, the distribution of types of impact fees and the total fee amount varies considerably among the jurisdictions and by land use. Newark is the only jurisdiction with a dedicated public safety fee for police and fire department capital improvements. In comparison, Union City has a general capital facilities fee, which it levies only on residential development. Both Union City and Milpitas do not levy any material impact fees on non-residential development. Newark's total fee amount on new residential development is significantly less than the fees levied in Union City and Milpitas. Newark's residential fees are also less than the fees levied in Fremont, but the difference is not as large.

Newark's impact fees on commercial development are within the band of fees charged by Fremont but significantly more than the fees levied by Union City and Milpitas, both of which do not levy any significant charges on new commercial development. Newark's impact fees on industrial development are less than the fees levied by Fremont but more than the negligible fees levied in Union city and Milpitas.

Exhibit 21: Comparison Public Safety and Community Service Facility Impact Fees*

	Newark	Fremont	Union City	Milpitas
Public Safety Facility Fees				
Residential	\$1,989 - \$2,079	3BR = \$371; 4BR = \$457	\$0	\$0
Commercial	\$1.73	\$0.18 - \$0.31	\$0	\$0
Industrial	\$0.17	\$0.10 - \$0.24	\$0	\$0
Community Service Facility Fees				
Residential	\$1,596 - \$1,942	3BR = \$2,569 4BR = \$3,163	\$8,624 - \$12,231	\$0
Commercial	\$0.36	\$0.55 - \$0.92	\$0	\$0
Industrial	\$0.31	\$0.31 - \$0.71	\$0	\$0
Total Fees				
Residential	\$22,135 - \$29,732	3 BR = \$29,158 4 BR = \$31,012	\$38,138 - \$42,075	\$29,089 - \$44,673
Commercial	\$7.06	\$6.22 - \$7.57	< \$1.00	\$0
Industrial	\$1.85	\$2.03 - \$4.53	< \$1.00	\$0

**excludes affordable housing fees levied on residential development and fees levied on building permit valuations or any basis other than per unit or per square foot.*

B. Maximum and Recommended Impact Fees

We recommend that the adopted fees be set at the amounts supported by this nexus study given that the proposed public safety and community service facility fee amounts and total fees in Newark (after adoption of the recommended fees) would not exceed the levies in neighboring communities.

Exhibit 22: Maximum and Recommended Fee Schedules

Type of New Development	Maximum and Recommended Fee Amounts	
	Public Safety Facility Fee	Community Service Facility Fee
Residential	\$2,311 per unit	\$3,451 per unit
Commercial	\$1.72 per square foot	\$1.19 per square foot
Industrial	\$0.36 per square foot	\$0.50 per square foot

VII. FEE PROGRAM IMPLEMENTATION AND ADMINISTRATION

The Mitigation Fee Act includes a series of reporting requirements designed to ensure that development impact fee revenues are properly accounted for, used appropriately, and that, where funds are ultimately not used, are reimbursed. In addition, jurisdictions adopting fee programs should determine their preferred approach to updating the fee schedule and whether they intend to allow for exemptions, credits, and reimbursements (under any additional circumstances). The following fee program implementation and administration parameters are our standard recommendations. The City's existing program may already include some or all of these recommendations.

A. Credits, Reimbursement, and Exemptions

Under certain and limited circumstances, as determined by the City, the Impact Fee Resolution could allow developers subject to the fee to obtain credits, reimbursements, or exemptions. In cases of redevelopment, the demolition of space should provide a fee credit. In other words, the gross fee obligation should be calculated based on the scale of the proposed new development, with a fee credit to be applied for existing square footage to be removed (or retained) using the applicable fee for the existing square footage (land uses). Existing developments that are being replaced due to a natural disaster are also exempt from the impact fees.

All other fee credits and/or reimbursements should not be allowed by right but rather should be subject to review by City staff and Council to ensure that such credits or reimbursements are warranted and appropriate.

B. Securing Supplemental Funding

The maximum, supportable development impact fee is set to cover the public safety and community service facilities investments needed to fund the demands generated by new development. As presented in this analysis, new development is estimated to generate only a portion of the demand for the planned facilities and therefore the fee levies are anticipated to provide only a fraction of the funds needed to construct the facilities. It is anticipated that the City of Newark will need to secure additional funding in order to complete the capital facilities.

C. Annual Review and Periodic Study Update

The Mitigation Fee Act/AB 1600 (at Gov. C. §§ 66001(c), 66006(b)(1)) stipulates that each local agency that requires payment of a fee make specific information available to the public annually within 180 days of the last day of the fiscal year. This information includes the following:

- A description of the type of fee in the account
- The amount of the fee
- The beginning and ending balance of the fund

- The amount of fees collected and interest earned
- Identification of the improvements constructed
- The total cost of the improvements constructed
- The fees expended to construct the improvement
- The percentage of total costs funded by the fee

Because of the dynamic nature of growth and capital equipment requirements, the City should monitor inventory activity, the need for improvements, and the adequacy of the fee revenues and other available funding. To the extent particular issues are identified, adjustments to the fee program may be required.

Table 1
City of Newark Population and Employment

	2016	In progress	Additional - 2017 through 2035	2035
Population¹	44,733	2,933	12,844	60,510
Employment²				
Office	1,197		850	2,047
Retail	7,762		900	8,662
50 % R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Commercial	12,504		3,100	15,604
Light Industrial	1,749		300	2,049
Heavy Industrial	1,565		200	1,765
50% R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Industrial	<u>6,859</u>		<u>1,850</u>	<u>8,709</u>
Total Employment	19,363		4,950	24,313

¹ State Department of Finance E-5 is source of estimate of current population. Estimate of population in 2035 is the Newark General Plan.

² ESRI is source of current employment estimates. 2035 employment estimates have been provided City staff.

Table 2
Residential Units and Non-Residential Gross Building Area

	2016	In progress	Additional - 2017 through 2035	2035
Residential Housing Units¹	13,470	908	3,977	18,734
Commercial SF²	est.			
Office	290,000		130,000	420,000
Retail	3,500,000		300,000	3,800,000
50% of R&D	<u>1,290,000</u>		<u>450,000</u>	<u>1,740,000</u>
Total Commercial	5,080,000		880,000	5,960,000
Industrial SF²				
Light Industrial	1,200,000		200,000	1,400,000
Heavy Industrial	5,100,000		600,000	5,700,000
50% R&D	<u>1,290,000</u>		<u>450,000</u>	<u>1,740,000</u>
Total Industrial	<u>7,590,000</u>		<u>1,250,000</u>	<u>8,840,000</u>
Total Commercial + Industrial SF	12,670,000		2,130,000	14,800,000

¹ State Department of Finance E-5 is source of estimate of current housing units. Estimates of future units is based on General Plan estimates of population and SDOF average household size of 3.31.

² Estimates of non-residential gross building area have been provided by City staff and KMA based on standard employment density factors.

Table 3
Population Fair Share Allocation: Existing/New Development and Public Service Population

Factor	Source	Number	Percent Allocation
Residents			
Existing	SDOF, E-5	44,733	73.9%
In progress	City staff + SDOF	2,933	4.8%
New Growth		12,844	21.2%
Buildout	General Plan	60,510	100.0%
Employment			
Existing	ESRI	19,363	79.6%
New Growth	City staff	4,950	20.4%
Buildout		24,313	100.0%
Public Service Population (1)			
Existing		51,704	74.6%
In Progress		2,933	4.2%
New Growth		14,626	21.1%
Buildout		69,263	100.0%

¹ Public service population is an allocation factor which differentiates between the impact of employees and residents. It equals resident population plus .36 of employment. Per a prior Newark General Plan, the .36 factor reflects an adjustment of one-half (8/16) to reflect the workday's share of awake hours and an adjustment of 5/7 to reflect the workweek's share of a week.

Table 4
New Public Facilities Needs and Portion of Needs Attributable to New Development
Impact Fee Study
Newark, CA

	Total Cost	2.00% Total, With Admin.	% of Need Generated by:		Method of Allocation	Allocation of Costs	
			Existing Development	New Development		Existing Development	New Development
Fire							
Fire Admin Portion of City Administration Building	\$ 2,557,400	\$2,608,548	78.9%	21.1%	1	\$2,057,701	\$550,847
Community Alerting and Warning System	\$ 75,000	\$76,500	78.9%	21.1%	1	\$60,346	\$16,154
Fire Station No. 27 Energy Efficient Windows	\$ 40,000	\$40,800	78.9%	21.1%	1	\$32,184	\$8,616
Fire Station No. 27 Training Tower	\$ 2,000,000	\$2,040,000	78.9%	21.1%	1	\$1,609,214	\$430,786
Fire Station No. 29 Truck Exhaust System	\$ 45,000	\$45,900	78.9%	21.1%	1	\$36,207	\$9,693
Replace Fire Station No. 27	\$ 5,300,000	\$5,406,000	78.9%	21.1%	1	\$4,264,416	\$1,141,584
Replace and Expand Fire Station No. 29 ²	\$ 6,400,000	\$6,528,000	65.3%	34.7%	1	\$4,264,416	\$2,263,584
Ladder Truck/Fire Engine to serve new population	\$ 1,200,000	\$1,224,000	0.0%	100.0%	1	\$0	\$1,224,000
Traffic Signal Preemption (Opticom)	\$ 160,000	\$163,200	78.9%	21.1%	1	\$128,737	\$34,463
Total Fire	\$ 17,777,400	\$ 18,132,948	68.7%	31.3%		\$ 12,453,221	\$ 5,679,727
Police							
Police Center at the Civic Center	\$ 23,016,600	\$23,476,932	78.9%	21.1%	1	\$18,519,312	\$4,957,620
Police Vehicles (5) to serve new population	\$ 325,000	\$331,500	0.0%	100.0%	1	\$0	\$331,500
Police Department Substation Facilities	\$ 850,000	\$867,000	78.9%	21.1%	1	\$683,916	\$183,084
Total Police	\$ 24,191,600	\$ 24,675,432	77.8%	22.2%		\$ 19,203,228	\$ 5,472,204
Total, Public Safety	\$ 41,969,000	\$ 42,808,380	73.9%	26.1%		\$ 31,656,449	\$ 11,151,931

¹ Allocated based on service population.

² The cost to replace the station is \$5.3 million. The cost of the expansion is \$1.1 million. The replacement cost is distributed to existing and new development proportionate to their share of service population. 100% of the expansion cost is allocated to new development.

Table 5
New Community Service Facilities Needs and Portion of Needs Attributable to New Development
Impact Fee Study
Newark, CA

	Total Cost	2.00% Total, With Admin.	% of Need Generated by:		Method of Allocation	Allocation of Costs		
			Existing Development	New Development		Existing Development	New Development	
Community Service Facilities								
City Administration Building at Civic Center	\$ 17,262,450	\$17,607,699	78.9%	21.1%	1	\$13,889,484	\$3,718,215	
Equipment Shop Heavy Duty Vehicle Hoist	\$ 60,000	\$61,200	78.9%	21.1%	1	\$48,276	\$12,924	
History Center (Phases 2,3,4)	\$ 4,000,000	\$4,080,000	78.9%	21.1%	1	\$3,218,427	\$861,573	
Library at the Civic Center	\$ 21,098,550	\$21,520,521	78.9%	21.1%	1	\$16,976,036	\$4,544,485	
Mowry Avenue Backup Walls	\$ 900,000	\$918,000	78.9%	21.1%	1	\$724,146	\$193,854	
New Fuel Management System	\$ 60,000	\$61,200	78.9%	21.1%	1	\$48,276	\$12,924	
New Senior Center	\$ 7,500,000	\$7,650,000	78.8%	21.2%	2	\$6,026,169	\$1,623,831	
Newark Boulevard Backup Walls	\$ 1,200,000	\$1,224,000	78.9%	21.1%	1	\$965,528	\$258,472	
Performing (or Cultural) Arts Center	\$ 9,000,000	\$9,180,000	78.9%	21.1%	1	\$7,241,461	\$1,938,539	
Service Center Fuel Tank Canopy	\$ 130,000	\$132,600	78.9%	21.1%	1	\$104,599	\$28,001	
Service Center Storage Facility	\$ 400,000	\$408,000	78.9%	21.1%	1	\$321,843	\$86,157	
Service Center Waste Disposal Upgrades	\$ 250,000	\$255,000	78.9%	21.1%	1	\$201,152	\$53,848	
Silliman Complex Restroom/Maintenance Facility	\$ 700,000	\$714,000	78.9%	21.1%	1	\$563,225	\$150,775	
Thornton Avenue Streetscape	\$ 2,200,000	\$2,244,000	78.9%	21.1%	1	\$1,770,135	\$473,865	
Electrical Vehicle Charging Stations	\$ 200,000	\$204,000	78.9%	21.1%	1	\$160,921	\$43,079	
New Homeless Shelter	\$ 1,500,000	\$1,530,000	78.9%	21.1%	1	\$1,206,910	\$323,090	
Service Center Expansion	\$ 5,000,000	\$5,100,000	78.9%	21.1%	1	\$4,023,034	\$1,076,966	
Total Community Facilities	\$ 71,461,000	\$ 72,890,220	78.9%	21.1%		\$ 57,489,622	\$ 15,400,598	

¹ Allocated based on service population.

² Allocated based on residential population.

Table 6
Allocation of New Development's Share of Public Safety Facilities' Costs by Land Use
Impact Fee Study
Newark, CA

	Total Facilities Needs Attributable to New Development	Allocation Method¹	Residential	Commercial	Industrial
Fire					
Fire Admin Portion of City Administration Building	\$550,847	3	\$425,029	\$106,201	\$19,617
Community Alerting and Warning System	\$16,154	3	\$12,465	\$3,115	\$575
Fire Station No. 27 Energy Efficient Windows	\$8,616	3	\$6,648	\$1,661	\$307
Fire Station No. 27 Training Tower	\$430,786	3	\$332,392	\$83,054	\$15,341
Fire Station No. 29 Truck Exhaust System	\$9,693	3	\$7,479	\$1,869	\$345
Replace Fire Station No. 27	\$1,141,584	3	\$880,838	\$220,093	\$40,654
Replace and Expand Fire Station No. 29	\$2,263,584	3	\$1,746,564	\$436,409	\$80,611
LadderTruck/Fire Engine	\$1,224,000	3	\$944,429	\$235,982	\$43,589
Traffic Signal Preemption (Opticom)	\$34,463	3	\$26,591	\$6,644	\$1,227
Total Fire	\$5,679,727		\$4,382,434	\$1,095,027	\$202,266
Police					
Police Center at the Civic Center	\$4,957,620	1	\$4,353,602	\$378,274	\$225,744
Police Vehicles (5)	\$331,500	1	\$291,111	\$25,294	\$15,095
Police Department Substation Facilities	\$183,084	1	\$160,778	\$13,970	\$8,337
Total Police	\$ 5,472,204		\$4,805,491	\$417,537	\$249,176
Total, Public Safety	\$11,151,931		\$9,187,925	\$1,512,565	\$451,442

¹ Allocation Method

	Table Ref.	Residential	Commercial	Industrial
#1- Service Population		87.8%	7.6%	4.6%
#2 - Residential Population		100.0%	0.0%	0.0%
#3- Distribution of city-wide calls for fire/EMS services (Appendix A)		77.16%	19.28%	3.56%

Table 7
Allocation of New Development's Share of Community Service Facilities' Costs by Land Use
Impact Fee Study
Newark, CA

	Total Facilities Needs Attributable to New		Allocation Method ¹	Residential	Commercial	Industrial
	Development					
Community Service Facilities						
City Administration Building at Civic Center	\$3,718,215		1	\$3,265,202	\$283,705	\$169,308
Equipment Shop Heavy Duty Vehicle Hoist	\$12,924		1	\$11,349	\$986	\$588
History Center (Phases 2,3,4)	\$861,573		1	\$756,602	\$65,739	\$39,232
Library at the Civic Center	\$4,544,485		1	\$3,990,802	\$346,751	\$206,932
Mowry Avenue Backup Walls	\$193,854		1	\$170,235	\$14,791	\$8,827
New Fuel Management System	\$12,924		1	\$11,349	\$986	\$588
New Senior Center	\$1,623,831		2	\$1,623,831	\$0	\$0
Newark Boulevard Backup Walls	\$258,472		1	\$226,981	\$19,722	\$11,769
Performing (or Cultural) Arts Center	\$1,938,539		1	\$1,702,355	\$147,913	\$88,271
Service Center Fuel Tank Canopy	\$28,001		1	\$24,590	\$2,137	\$1,275
Service Center Storage Facility	\$86,157		1	\$75,660	\$6,574	\$3,923
Service Center Waste Disposal Upgrades	\$53,848		1	\$47,288	\$4,109	\$2,452
Silliman Complex Restroom/Maintenance Facility	\$150,775		1	\$132,405	\$11,504	\$6,866
Thornton Avenue Streetscape	\$473,865		1	\$416,131	\$36,157	\$21,577
Electrical Vehicle Charging Stations	\$43,079		1	\$37,830	\$3,287	\$1,962
New Homeless Shelter	\$323,090		1	\$283,726	\$24,652	\$14,712
Service Center Expansion	<u>\$1,076,966</u>		1	<u>\$945,753</u>	<u>\$82,174</u>	<u>\$49,039</u>
Total Community Facilities	\$15,400,598			\$13,722,088	\$1,051,188	\$627,322
				89.1%	6.8%	4.1%

¹ Allocation Method

	Table Ref.	Residential	Commercial	Industrial
#1 - Service Population		87.8%	7.6%	4.6%
#2 - Residential Population		100.0%	0.0%	0.0%
Total Community Facilities	\$15,400,598	\$13,722,088	\$1,051,188	\$627,322
senior	\$1,623,831	\$1,623,831	\$0	\$0
non-senior	\$13,776,767	\$12,098,257	\$1,051,188	\$627,322
% all		89.1%	6.8%	4.1%
% senior		100%	0%	0%
% non senior		87.8%	7.6%	4.6%

Table 8

Public Safety Facilities Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$9,187,925	\$1,512,565	\$451,442	\$11,151,931
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$2,311	\$1.72	\$0.36	
Current fee	\$2,000	\$1.73	\$0.17	

Table 9

Community Service Facility Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$13,722,088	\$1,051,188	\$627,322	\$15,400,598
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$3,451	\$1.19	\$0.50	
current fee	\$1,900	\$0.36	\$0.31	

Table 10
Distribution of Fire Protection Service Calls by Land Use
Newark, CA

Source: City of Newark

Count of Incident # Occupancy Descr	Incident Type							Grand Total
	Cancelled	False Alarm	HazMat	Other Fires	Rescue, EMS	Services Call	Structure Fire	
All Other Residential					3			3
Apartments		73	4	2	109	20	5	213
Health Care and Penal Institutions		3			77	5	1	86
Hotels and Motels		8	1		50	2	1	62
Industry, Utility, Defense, Laboratories, Manufacturing		24			11	6	4	45
Other							1	1
Other Structures (vacant buildings, building under construction, outbuildings, bridges, ect)	8	7	36	31	357	119	3	561
Others	1	2			27	2		32
Private Dwellings (1 or 2 family), including mobile homes		55	20	15	497	157	13	757
Public Assembly (Church, restaurant, clubs, ect)	1	17	2	6	102	12		140
Schools and Colleges	1	32	2		9	6	1	51
Storage in Structures (barns, vehicle storage garages, general storage, ect)		19	3	2	8	8	2	42
Stores and Offices	6	25	7	1	211	26		276
(blank)	130							130
Residential, Other	9	2			882	19		912
Boarding/Rooming House, Residential Hotels					8	1		9
Grand Total	156	267	75	57	2351	383	31	3320

Not included in land use distribution	721	22.8%
Other Residential	12	0.4%
Single Family	757	23.9%
Multifamily	1116	35.3%
Commercial	471	14.9%
Industrial	87	2.7%
Total	3164	77.2%
Total included in land use distribution	2443	

Breakdown of Fire Protection service Population by Land Use

Residential	1885	77.16%
Commercial	471	19.28%
Industrial	87	3.56%
Total Included in analysis	2443	100.0%

APPENDIX TABLE A-1
 COMPARISON OF RESIDENTIAL IMPACT FEES, EXCLUDING AFFORDABLE HOUSING FEES
 NEWARK AND NEIGHBORING JURISDICTIONS
 CITY OF NEWARK

Impact Fees / du ¹	Newark	Dublin	Fremont	Hayward	Milpitas	Pleasanton	San Leandro	Union City
Arts Requirement	\$270	See Below	None	None	None	None	None	See Below
Fire Impact Fee	None	SF: \$870, MF: \$544	OBR: \$143 1BR: \$214 2BR: \$300 3BR: \$371 4BR: \$457 +BR: +\$86/BR	None	None	None	None	See Below
Park Facilities / Parkland Dedication Fee ²	MF: \$18,000 SF: \$25,000	SF/MF: \$18,646	OBR: \$9,220 1BR: \$13,830 2BR: \$19,362 3BR: \$23,971 4BR: \$29,502 +BR: +\$5,531/BR	SFD: \$11,953 SFA: \$11,395 MF: \$9,653	Varies by pop. density SFD: \$44,673 SFA: \$35,438 MF (2-4 du): \$36,131 MF (5+ du): \$29,089	SF: \$9,709, MF: \$7,969	SF: \$16,079; MF: \$14,054	Subdivision: Varies by pop. density \$28,193 (avg.) Non-Subdivision: \$2,466 plus \$280 (0-1BR), \$455 (2BR), \$630 (3+BR)
Public Facility Impact Fee ³	Public Safety MF: \$2,079, SF: \$1,989 Comm. Service MF: \$1,596 SF: \$1,942 Transportation MF: \$460, SF: \$801 Total MF: \$4,135, SF: \$4,732	SF/MF: \$5,798	OBR: \$988 1BR: \$1,483 2BR: \$2,076 3BR: \$2,569 4BR: \$3,163 +BR: +\$593/BR	None	None	SFD: \$4,730 SFA: \$3,532 MF: \$2,885	None	SF: \$12,231, MF: \$8,624
Traffic Impact Fee	Included in Public Facility Fee	None	0/1BR: \$2,012 2/3BR: \$2,247 4+BR: \$3,421	None	None	SF: \$4,707 MF: \$3,294	\$1,397-\$2,015; senior: \$667-\$897 ⁵	
Tri-Valley Transportation Development Fee ⁴	None	SF: \$3,060 MF: \$2,108	None	None	None	SF: \$3,060 MF: \$2,108	None	None
Total Fees / du	SF: \$29,732 MF: \$22,135	SF: \$28,374 MF: \$27,096	OBR: \$12,363 1BR: \$17,539 2BR: \$23,985 3BR: \$29,158 4BR: \$31,012 +BR: \$6,210/BR	SFD: \$11,953 SFA: \$11,395 MF: \$9,653	Varies by pop. density SFD: \$44,673 SFA: \$35,438 MF (2-4 du): \$36,131 MF (5+ du): \$29,089	SFD: \$22,206 SFA: \$20,056 MF: \$16,256	Non-Senior SF: \$17,416-\$18,094 MF: \$15,391-\$16,069 Senior: SF: \$16,746-\$16,976 MF: \$14,721-\$14,951	Subdivision SF: \$42,075 MF: \$38,138 Non-Subdivision SF 0-1BR: \$16,628 2BR: \$16,803 3BR: \$16,978 MF 0-1BR: \$12,691 2BR: \$12,866 3BR: \$13,041
Fees as % of BPV								
Arts Requirement	See Above	> 20 du: 0.5% BPV	None	None	None	None	None	1% BPV
General Plan Cost Recovery	.5% BPV	None	None	None	None	None	None	None
Total % of BPV	.5% BPV	0.5% BPV	None	None	None	None	None	1% BPV
Fees PSF Building (Partial)								
Fire Equipment Acquisition	None	See Above	See Above	None	None	None	None	\$1.40 PSF occupiable space above 2nd story
Fees as % of Building and Plan								
General Plan Cost Recovery	See Above	None	15% of Building and Plan Check Permits	12% of Building and Plan Check Permits	None	None	None	None

Notes: This chart presents an overview and terms may be simplified. Consult code and City staff for more information.

Abbreviations: SF = Single Family SFA = SF Attached PSF = Per Square Foot SFD = SF Detached
 MF = Multi-Family BPV = Building Permit Value BR = bedroom du = Dwelling unit

¹ Excludes on-site inclusionary requirements.

² For Milpitas and Union City, fee is estimated based on population densities derived from Census and DDF data. In Milpitas, developer may submit alternative population estimate. 40% of Milpitas fee may be met through the provision of private open space.

³ Generally supports such facilities as libraries, parks and other community buildings. Newark fee includes transportation facilities.

⁴ Regional fee collected on behalf of the Tri-Valley Transportation Development District.

⁵ Fees vary by zone.

APPENDIX TABLE A-2
 COMPARISON OF INCLUSIONARY HOUSING PROGRAMS
 NEWARK AND NEIGHBORING JURISDICTIONS
 CITY OF NEWARK

	Newark	Fremont	Milpitas	Union City
Minimum Project Size ¹				
For In-lieu/Impact Fee ¹	FS/R: 1 unit	FS/R: 2 units	FS/R: 5 units	n/a
For Build Requirement	no build req.	no build req.	no build req.	FS: 1 unit
Onsite Requirement				
Percent of Total Units ²	n/a	Attached 3.5% plus \$18.50/sf Detached 4.5% plus \$17.50/sf	5.0%	15%
Income Level (% AMI)	n/a	80-110% AMI (120% w/approval)	Up to 80% AMI	10% @ 50-80% AMI; 30% @ 80-100% AMI; 60% @ 100-120% AMI
Impact / In-Lieu Fee Levels				
Fee Level	\$20/sf first 1,000 SF/unit; \$8/SF above 1,000 SF/unit	FS: Attached \$18.50 w/ aff units; \$27.00 no units Detached \$17.50 w/ aff units; \$26.00 no units R: \$17.50 no map; \$27.00 w/ map ⁴	5% building permit value ⁵	<7 units: \$160,000 /du owed; 7+ units: \$180 /sf owed
Alternatives to Onsite Provision ³				
Fee Option - for projects over min. size	n/a	yes (Developer)	yes (Developer)	yes (City)

Note: This chart presents an overview and terms have been simplified. Consult code and City staff for more information.

Abbreviations: R = Rental sq ft = Square Feet
 du = Dwelling Unit AMI = Area Median Income

1. In Union City, single-unit, owner-occupied projects exempt.
2. In Dublin, 40% of the on-site requirement is covered through an impact fee.
3. All cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units. Also, all cities with on-site
4. Rental projects with a subdivision map allowing conversion to condominiums
5. In-lieu/impact fee introduced as temporary measure while City prepares formal nexus study. Fee has not yet been assessed. Average residential building permit value is reported to be \$_____.

Appendix Table A-3

Comparison of Non-residential Impact Fees *

Impact Fees	Newark		Fremont ¹		Milpitas	Union City ²	
Public Facilities Impact Fee	Commercial	\$0.36	Capital Facilities Impact Fee:		None	None	
	Industrial	\$0.31	Office	\$0.92			
			Retail / Service	\$0.55			
			Warehouse	\$0.39			
			Light Industrial	\$0.31			
			Manufacturing	\$0.56			
			Research & Development	\$0.71			
Fire Impact Fee	(Public Safety)		Office	\$0.31	None	See below.	
	Commercial	\$1.73	Retail / Service	\$0.18			
	Industrial	\$0.17	Warehouse	\$0.13			
			Light Industrial	\$0.10			
			Manufacturing	\$0.19			
			Research & Development	\$0.24			
			Hotel / Motel (per room)	\$59.00			
Park Facilities / Parkland Dedication Fee	None		None		None	None	
Traffic Impact Fee	Commercial	\$1.38	Office	\$5.00	No City-wide fees	Traffic Signalization Fee:	
	Industrial	\$0.68	Retail / Service	\$6.84		Office / retail (assuming FAR of .4)	\$0.30
			Warehouse	\$1.51		Research & Development / Industrial (assuming FAR of .5)	\$0.12
			Light Industrial	\$3.62			
			Research & Development	\$3.59			
			Manufacturing	\$2.52			
			Hotel / Motel (per room)	\$2,046.00			
			Business Park	\$4.23			
Affordable Housing	Commercial	\$3.59	None		None	None	
	Industrial	\$0.69					
Total Fee	Commercial	\$7.06	Office	\$6.22	No City wide fees		
	Industrial	\$1.85	Retail / Service	\$7.57			
			Warehouse	\$2.03			
			Light Industrial	\$4.03			
			Research & Development	\$4.53			
			Manufacturing	\$3.26			
			Hotel / Motel (per room)	\$2,279.00			
			Business Park (Office)	\$5.45			
			Business Park (Manufacturing)	\$4.97			

Appendix Table A-3

Comparison of Non-residential Impact Fees *

Impact Fees	Newark	Fremont ¹	Milpitas	Union City ²
Fees as % of Permit Value				
Arts Requirement	None	No citywide fee.	None	Private-Permit valuation over \$50 million: Negotiated between Developer and City Private-Permit valuation over \$250,000: Must construct Public Art or pay in-lieu fee equivalent to 1% of permit valuation Public-Permit valuation over \$250,000: N/A-must construct Public Art with a value equivalent to 1% of permit valuation
General Plan Cost Recovery	None	15% of building permit fee.	None	0.1% of permit valuation.
Other Fees				
Fire Equipment Acquisition	See above.	See above.	None	Office / Professional / Hotel Buildings \$1.40 / sq. ft. of space above the second story Industrial Buildings \$0.06 / sq. ft. of roof area

Sources and notes:

* Unless otherwise specified, prices are calculated per square foot of building area. The table excludes the impact fees that are related to utilities such as sewer / water connection fees and school / specific districts.

1. City of Fremont, Fee Schedule, Effective: September 1, 2016

2. City of Union City, Master Fee Schedule, Fiscal Year 2016-2017. In terms of Traffic Signalization Fees, it sets \$5,241/ acre for commercial zoning and \$2,620/ acre for industrial zoning.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ESTABLISHING AN IMPLEMENTING RESOLUTION FOR THE COMMUNITY SERVICE FACILITIES IMPACT FEE, UNDER GOVERNMENT CODE SECTION 66001, IN ACCORDANCE WITH MUNICIPAL CODE SECTION 3.24.040 AND AMENDING THE MASTER FEE SCHEDULE TO REFLECT THESE CHANGES

WHEREAS, the City Council of the City of Newark, a general law city (“City”), is authorized to prescribe and establish fees in regard to services or functions performed by the City for the public in a governmental and proprietary capacity; and

WHEREAS, California Government Code Section 66000 et seq. allows local governments to impose impact fees on new development in order to recover the cost of improvements that are needed to serve that new development; and

WHEREAS, Chapter 3.24 (“Development Impact Fees”) of the Newark Municipal Code authorizes the City Council to adopt implementing resolutions establishing development impact fees in order to mitigate the impacts that projects have upon the City’s ability to provide public facilities;

WHEREAS, the existing fee needs to be brought into conformity with current conditions in the City; and

WHEREAS, the City desires to have an updated Community Service Facilities Impact Fee that will ensure that all new development pays the cost to provide community service facilities needed to support new development; and

WHEREAS, the City has retained Keyser Marston Associates to prepare the Public Safety and Community Service Facilities Development Impact Fee Nexus Study, dated March 2017, which establishes a reasonable relationship between the Community Service Facility Fee and the purpose of the fee, which study is incorporated herein and attached as Exhibit A; and

WHEREAS, the City has duly noticed, advertised, scheduled, and held a Public Hearing on May 25, 2017; and

WHEREAS, on May 25, 2017 the City Council reviewed material presented in the staff report including the Public Safety and Community Service Facilities Development Impact Fee Nexus Study, concerning the purpose of the fee and the relationship between the fee and its purpose; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark which hereby finds, declares, and resolves that:

- 1) The City hereby receives and approves the Public Safety and Community Service Facilities Development Impact Fee Nexus Study (“Fee Study”), which is attached as Exhibit A to this Resolution.

- 2) In adopting this Resolution, the City Council is exercising its powers under Chapter 3.24 of the Newark Municipal Code, as well as pursuant to Article XI, Sections 5 and 7 of the California Constitution, Chapter 5 of Division 1 of the Government Code (“Mitigation Fee Act”), commencing with Section 66000, collectively and separately.
- 3) After considering the Fee Study, this Resolution, and the testimony received at a public hearing, the City Council hereby makes the following findings:
 - a) In accordance with Section 66001, subdivision a, paragraph 1 of the Mitigation Fee Act, the purpose of the fees set forth in this Resolution, as specified in Exhibit A, is to provide for an expansion in community service capital facilities in the City as new growth occurs;
 - b) In accordance with Section 66001, subdivision a, paragraph 2 of the Mitigation Fee Act, the fees collected pursuant to this Resolution, as specified in Exhibit A, shall be used to acquire land and to construct improvements identified in Exhibit A and shall be used to fund any administrative cost associated with the community service impact fee program;
 - c) In accordance with Section 66001, subdivision a, paragraph 3 of the Mitigation Fee Act, there is a reasonable relationship between the fees use (to pay for the acquisition and construction of community service facilities) and the type of development for which the fees are imposed in that the fees will be applied to development in the City, which will generate demands for community service facilities;
 - d) In accordance with Section 66001, subdivision a, paragraph 4 of the Mitigation Fee Act, the Fee Study demonstrates that there is a reasonable relationship between the amount of the Community Service Facilities Impact Fee and the cost of community service facilities attributable to the development upon which the fee is proposed. Since the need for community service facilities is inherently population-driven, associated community service facility costs are assessed based on average household population and employment; and
 - e) In accordance with Section 66001, subdivision b of the Mitigation Fee Act, there is a reasonable relationship between the amount of the fees and cost of providing the community service facilities attributable to the development in the City upon which the fees are imposed in that the fees have been calculated by apportioning the cost of community service facilities acquisition and construction to the number of residents and employees attracted by each type of development.
- 4) The City finds pursuant to the California Environmental Quality Act (“CEQA”) this action is not a “project” because the Resolution provides a mechanism for funding of community service facilities but does not involve a commitment to any specific project for such purposes that may result in a potential significant impact on the Environment (CEQA guidelines Section 15378, Pub. Res. Code Section 21080(b)(8)(D)).

- 5) The cost estimates set forth in the Fee Study are reasonable estimates for acquiring and constructing community service facilities and the fees expected to be generated by future development will not exceed the future projected cost of acquiring and constructing community service facilities.
- 6) The method of allocation of the fees to particular development bears a fair relationship and is roughly proportional to each development's burden on and benefits from the community service facilities to be funded by the fees, in that the fees are calculated based on the number of residents each particular development will attract.
- 7) The Fee Study is a detailed analysis of how community services will be affected by development in the City and the community service facilities necessary to accommodate that development.
- 8) The fees are consistent with the General Plan and, pursuant to Government Code Section 65913.2, the City Council has considered the effects of the fees with respect to the City's housing needs as established in the housing element of the General Plan.
- 9) The fee amounts set forth in this Resolution include the fair and reasonable costs of administration of the fee programs and are within the requirements of the Mitigation Fee Act and other applicable law.
- 10) The fees are subject to adjustment, which approximate the fluctuation in market costs, and shall be adjusted annually in accordance with the Engineering News Record Construction Cost Index, San Francisco, California.
- 11) The City does hereby approve the following community service impact fees on new residential and commercial development for community service facilities as follows:

Residential Development

Type of Unit	Fee per Unit
Single Family Unit	\$2,311
Townhome Unit	\$2,311
Multiple Family Units	\$1,156

Commercial Development

Type of Use	Fee per Square Foot
Office/Commercial	\$.86
Manufacturing/Research and	\$.18

Development	
Warehousing/Distribution	\$.36

(These fees shall be adjusted annually in accordance with the Engineering News Record Construction Cost Index, San Francisco, California.)

- 12) The city council may elect to waive the payment of the impact fee if a residential or nonresidential development project provides community benefits in excess of those required by the impacts of the project, and if the city council finds that the expected benefits to the community exceed those that would be provided by the payment of the Community Service Facility Impact Fee. Such community benefits may include the provision of senior housing, the generation of significant taxes, or the elimination of nuisances.
- 13) The Community Service Facilities Impact Fees shall not apply to approved projects that are covered by a Development Agreement or Vesting Tentative Map unless the provisions of the document allow the application of such fees.
- 14) Developers shall be given a credit against this fee for the actual cost of community service facilities included in their developments.
- 15) The Master Fee Schedule shall be amended to reflect the Community Service Facility Impact fees as set forth in this Resolution.
- 16) Effective Date: This resolution shall be effective upon date of adoption of this Resolution. In accordance with Government Code Section 66017, the fees set by this Resolution shall be effective 60 days from the effective date of this Resolution.
- 17) Severability. Each component of the fees and all portions of this Resolution are severable. Should any individual component of the fees or other provisions of this Resolution be adjusted to be invalid and unenforceable, the remaining component or provisions shall be and continue to be fully effective, and the fees shall be fully effective except as to that component which has been judged to be invalid.



KEYSER MARSTON ASSOCIATES

PUBLIC SAFETY AND COMMUNITY SERVICE FACILITIES DEVELOPMENT IMPACT FEE NEXUS STUDY

Prepared for:
City of Newark

Prepared by:
Keyser Marston Associates, Inc.

March 2017

TABLE OF CONTENTS

I.	INTRODUCTION, SUMMARY OF CURRENT PROGRAM, RESULTS, AND RECOMMENDATIONS	1
	A. Summary of Current Program and City Objectives for Impact Fees	1
	B. Report Background and Legal Context	1
	C. Facility Standards and Cost Allocation Approach.....	2
	D. Maximum and Recommended Fee Schedules	3
	E. Fee Indexing.....	3
II.	MITIGATION FEE ACT NEXUS FINDINGS	4
	A. Purpose	4
	B. Use of Fee Revenues	4
	C. Relationship.....	4
	D. Need.....	4
	E. Proportionality	5
III.	DEMAND FOR NEW PUBLIC SAFETY FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS	7
	A. Public Safety Facility Needs to Serve Newark through 2035.....	7
	B. Service Population.....	7
	C. Public Safety Facility Costs Attributable to New Service Population	9
	D. Distribution of Public Safety Facility Demand by Land Use.....	10
	E. Supported Public Safety Facility Fee Levels	11
IV.	DEMAND FOR NEW COMMUNITY SERVICE FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS	12
	A. Community Service Facility Needs to Serve Newark through 2035.....	12
	B. Public Service Population	12
	C. Community Service Facility Costs Attributable to New Development	15
	D. Distribution of Community Service Facility Demand by Land Use.....	15
	E. Supported Community Service Facility Fee Levels	16
V.	USE OF FEE REVENUE.....	17
VI.	IMPACT FEES IN NEIGHBORING CITIES, MAXIMUM SUPPORTED FEES, AND RECOMMENDED FEES	18
	A. Public Safety and Community Service Facility Fees in Neighboring Jurisdictions	18
	B. Maximum and Recommended Impact Fees.....	19

VII. FEE PROGRAM IMPLEMENTATION AND ADMINISTRATION.....	20
A. Credits, Reimbursement, and Exemptions.....	20
B. Securing Supplemental Funding.....	20
C. Annual Review and Periodic Study Update.....	20

LIST OF EXHIBITS

Exhibit 1: Current Impact Fees.....	1
Exhibit 2: Maximum and Recommended Fee Schedules	3
Exhibit 3: New Public Safety Needs	7
Exhibit 4: City of Newark Population and Employment.....	8
Exhibit 5: Public Service Population	9
Exhibit 6: Distribution of New Service Population by Land Use	9
Exhibit 7: Public Safety Facility Costs Attributable to Demand from New Development.....	10
Exhibit 8: Distribution of New Service Population for Public Safety Facilities by Land Use.....	10
Exhibit 9: Distribution of Public Safety Facility Costs by Land Use Demand.....	11
Exhibit 10: Current and Anticipated population and commercial and industrial stock.....	11
Exhibit 11: Supported Public Safety Facilities Impact Fees by Land Use	11
Exhibit 12: Needed Community Service Facility Improvements.....	12
Exhibit 13: City of Newark Population and Employment.....	13
Exhibit 14: Public Service Population	14
Exhibit 15: Distribution of New Service Population by Land Use	14
Exhibit 16: Community Service Facility Costs Attributable to Demand from New Development.	15
Exhibit 17: Distribution of Demand for New Community Service Facilities by Land Use	15
Exhibit 18: Distribution of New Development's Share of Community Service Facility Costs by Land Use	16
Exhibit 19: Existing commercial and industrial stock and anticipated amount of new space	16
Exhibit 20: Supported Community Service Facilities Impact Fees by Land Use	16
Exhibit 21: Comparison Public Safety and Community Service Facility Impact Fees	18
Exhibit 22: Maximum and Recommended Fee Schedules	19

I. INTRODUCTION, SUMMARY OF CURRENT PROGRAM, RESULTS, AND RECOMMENDATIONS

This Public Safety and Community Service Facility nexus analysis provides the City of Newark (the City) with the necessary technical documentation to support updating its current Public Safety Facility and Community Service Facility impact fees. This nexus analysis has been prepared by Keyser Marston Associates, Inc. (KMA).

A. Summary of Current Program and City Objectives for Impact Fees

The City currently levies both a public safety capital facilities fee and a community service capital facilities fee on residential and non-residential development. The fee revenues are used to fund a portion of the cost of new capital facilities to serve people who live and/or work in Newark. The portion of costs to be funded by fees on new development reflects the share of the future service population comprised of future residents/employees. The pro rata share of facility costs attributable to existing residents and employees will not be funded by fees levied on new development. The current impact fee amounts are as follows:

Exhibit 1: Current Impact Fees

Type of New Development	Public Safety Capital Facilities Fee	Community Service Capital Facility Fee
Single-family residential	\$1,989 per unit	\$1,942 per unit
Multi-family residential	\$2,079 per unit	\$1,596 per unit
Commercial	\$1.73 per square foot	\$0.36 per square foot
Industrial	\$0.17 per square foot	\$0.31 per square foot

The planned future public safety and community service capital facilities are identified in the City's General Plan and capital improvement plan and through interviews with executive staff, and are detailed in Tables 4 and 5 of this report. Key planned improvements include a new library, city administration building, and police center at the city's current civic center, a performing or cultural arts center, and a new senior center.

B. Report Background and Legal Context

The Mitigation Fee Act (AB 1600 et seq.) permits cities to adopt impact fees on new development to fund the associated, additional costs of providing capital facilities to meet the demands generated by new residents and employees.

This Report provides the necessary technical analysis to support a schedule of fees to be established by an Impact Fee Ordinance and Resolution. The Mitigation Fee Act allows the City to adopt by Resolution a fee schedule consistent with the supporting technical analysis and findings provided in this Report. The Resolution's approach to setting the fee allows periodic

adjustments of the fee amount as may be necessary over time, without amending the enabling Ordinance.

The technical analysis in this Report estimates the public safety and community service facility fee schedules that will fund new development's "fair share" contribution to funding future public safety and community service facility capital improvements. The key requirements of the Mitigation Fee Act that determine the structure, scope, and amount of the updated fees are as follows:

- **Collected for Capital Facility and Infrastructure Improvements.** Development impact fee revenue can be collected and used to cover the cost of capital facilities and infrastructure required to serve new development and growth in the City. However, impact fee revenue cannot be used to cover the operation and maintenance costs of these or any other facilities and infrastructure.
- **Cannot Fund Existing Needs.** Impact fee revenue cannot be collected or used to cover deficiencies in existing City capital equipment and facilities. The portion of capital costs required to meet the needs of the City's existing population must be funded through other sources. Capital facility investments that increase service standards for existing and new development must be split on a "fair share" basis according to the proportion attributable to each.
- **Must be Based on a Rational Nexus.** An impact fee must be based on a reasonable nexus, or connection, between new growth and development and the need for a new facility or improvement. As such, an impact fee must be supported by specific findings that explain or demonstrate this nexus. In addition, the impact fee amount must be structured such that the revenue generated does not exceed the cost of providing the facility or improvement for which the fee is imposed.

The City can choose to charge impact fees below the maximum, supportable fee schedule. Such downward adjustments in the fee schedule, if selected, are typically based on policy considerations related to considerations of development feasibility and fee levels in peer cities.

C. Facility Standards and Cost Allocation Approach

A facility standard is a policy that indicates the amount of facilities required to accommodate service demand. The City's General Plan identifies new public safety and community service facilities that will be needed to serve Newark residents and employees through the 2035 planning horizon of the General Plan. As noted in the General Plan, Newark's city hall was built in 1966 and many of its systems are now outdated and the space does not fully meet the needs of Newark today. To serve the existing and future population, the General Plan identifies the need for modernizing or replacing City Hall, building a new library, performing arts center, and

police facilities. Needed improvements to be partially funded by the fees on new development are listed in Tables 4 and 5.

Pursuant to the requirements of the Mitigation Fee Act, facility costs have been allocated to new development proportionate to new development's share of the City's service population upon buildout in 2035. This approach ensures that new development will bear only its fair share of costs and will not be funding improvements to cure existing deficiencies.

D. Maximum and Recommended Fee Schedules

Exhibit 2 shows the fee schedules supported by this study and represents the maximum public safety and community service facility fees that the City could charge consistent with the Mitigation Fee Act. The calculation of the fees is presented in Section III of this report. We recommend that the City adopt fees equal to the maximum fee amounts because the total impact fee obligation does not exceed the total obligation in adjoining cities and the recommended fees are needed to mitigate the facility needs of new residents and employees. However, consideration could be given to allowing for the reduction, with City Council approval, of fees to support high-income job generation and sales tax generating uses.

The fee schedules include a 2 percent (2%) administration fee, consistent with other Mitigation Fee Act program administrative costs in many other California jurisdictions.

Exhibit 2: Maximum and Recommended Fee Schedules

Type of New Development	Maximum and Recommended Fee Amounts	
	Public Safety Facility Fee	Community Service Facility Fee
Residential	\$2,311 per unit	\$3,451 per unit
Commercial	\$1.72 per square foot	\$1.19 per square foot
Industrial	\$0.36 per square foot	\$0.50 per square foot

E. Fee Indexing

Since construction costs continue to rise, it is important that the cost be indexed to inflation. The fee should be adjusted annually by a construction cost index, such as the Engineering News Record.

II. MITIGATION FEE ACT NEXUS FINDINGS

This chapter describes the necessary "nexus" between new development in Newark and the proposed capital facilities investments, as required under the Mitigation Fee Act – Government Code Section 66000 (AB1600). The new public safety facility and community service facility development impact fees will fund new development's "fair share" of needed capital facilities as identified in the General Plan to provide an adequate level of service to Newark.

Nexus findings address: (1) the **purpose** of the fee and a related description of the facility for which fee revenue will be used, (2) the specific **use** of fee revenue, (3) the **relationship** between the facility and the type of development, (4) the relationship between the **need** for the facility and the type of development, and (5) the relationship between the amount of the fee and the **proportionality** of cost specifically attributable to new development. The subsections below describe the nexus findings for both the Public Safety Facility Impact Fee and the Community Service Facility Impact Fee.

A. Purpose

The fees will ensure that new development contributes its "fair share" towards funding the construction of new capital facilities that are identified in the City's General Plan.

B. Use of Fee Revenues

Public safety facility impact fee revenues will be used to fund a portion of the cost to construct the public safety capital facilities identified in Table 4. Similarly, the community service facility impact fee revenues will be used to fund a portion of the cost to construct the community service capital facilities identified in Table 5. These facilities will benefit the entire City of Newark.

C. Relationship

New residential development in the City of Newark will increase the demand for and use of public safety and community service facilities. Fee revenue will be used to help fund new development's pro rata share of the cost of new facilities that will be built to serve the entire City.

D. Need

The City's General Plan has identified new public safety and community service facilities that are needed to serve Newark through the year 2035. These new facilities are needed to serve both existing and new residents and employees. Each new residential and non-residential project will bring new residents and employees to the City and will generate incremental, new demand and use of the City's public safety and community service facilities. New revenues to

fund investments in new public safety and community service facilities are needed to fund needed capital facilities as identified in the City's General Plan.

Given that impact fees on new development will fund approximately 26% of the cost of new public safety capital facilities and 21% of new community service capital facilities, the City will need to secure funding from other sources to construct the capital facilities. It is anticipated that the balance of funds will come from the following sources:

- Local half cent sales tax;
- City General Fund surpluses;
- Regional, state and federal grants

E. Proportionality

The maximum, supportable public safety facilities and community service facility fee schedules have been derived by the following steps:

1. Establish the list of capital facilities to be funded, in part, by fees on new development. The source for this list is the City's General Plan and the City's Capital Improvement Plan.
2. Establish the current and future (year 2035) population and employment estimates for the City of Newark. Sources for these estimates are the State Department of Finance, the City's General Plan, demographic research companies, and City staff.
3. Establish estimates of the current and future number of housing units, square feet of commercial space, and square feet of industrial space in the City. Sources for these estimates are the State Department of Finance, City staff, and the trends in the employment density of new development.
4. Establish the population base to be served by each capital facility to be funded by impact fees. For example, a new administration building at city hall will serve all future residents and employees. A new senior center, however, will serve all future residents, but not employees.
5. Calculate the percentage of each future service population comprised of existing residents/employees and the percentage attributable to new residents/employees.
6. For each capital facility, multiply the cost of the facility by the percentage of demand attributable to the new service population.
7. Distribute the cost allocated to new development by land use (residential, commercial, and industrial) based on the land use composition of the applicable service population. The distribution of demand for fire facilities has been determined based on the distribution of fire/EMS protection service calls by land use.
8. Aggregate the public safety capital facility costs attributable to new development by land use.

9. Divide each land use's share of new development cost by the projected amount of new development (units, commercial square feet, or industrial square feet) to establish the public safety facility fee amount on new development.
10. Aggregate the community service capital facility costs attributable to new development by land use.
11. Divide each land use's share of new development cost by the projected amount of new development (units, commercial square feet, or industrial square feet) to establish the community service facility fee amount on new development.

With this methodology, the fee program cost estimates are directly proportional to the relative increase in new development.

III. DEMAND FOR NEW PUBLIC SAFETY FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS

A. Public Safety Facility Needs to Serve Newark through 2035

City staff have identified the following list of needed public safety facility improvements based on the facility needs identified in the City's General Plan and the City's Capital Improvement Plan. These new facilities are anticipated to meet the City's needs through the year 2035. As shown in Exhibit 3, the total cost of capital facilities is estimated at \$42 million, with a \$23 million police center at the Civic Center accounting for 55% of the entire cost of new facilities.

Exhibit 3: New Public Safety Needs

Fire	Total Cost	Total, With 2% Admin.
Fire Admin Portion of City Administration Building	\$2,557,400	\$2,608,548
Community Alerting and Warning System	\$75,000	\$76,500
Fire Station No. 27 Energy Efficient Windows	\$40,000	\$40,800
Fire Station No. 27 Training Tower	\$2,000,000	\$2,040,000
Fire Station No. 29 Truck Exhaust System	\$45,000	\$45,900
Replace Fire Station No. 27	\$5,300,000	\$5,406,000
Replace and Expand Fire Station No. 29	\$6,400,000	\$6,528,000
Ladder Truck/Fire Engine to serve new population	\$1,200,000	\$1,224,000
Traffic Signal Preemption (Opticom)	<u>\$160,000</u>	<u>\$163,200</u>
Total Fire	\$17,777,400	\$18,132,948
Police		
Police Center at the Civic Center	\$23,016,600	\$23,476,932
Police Vehicles (5) to serve new population	\$325,000	\$331,500
Police Department Substation Facilities	<u>\$850,000</u>	<u>\$867,000</u>
Total Police	\$24,191,600	\$24,675,432
Total, Public Safety	\$41,969,000	\$42,808,380

B. Service Population

The proposed new facilities will serve all of Newark. Therefore, the applicable service population for public safety capital facilities is both residents and employees. As shown in Exhibit 4, the City's current population is 44,733. By 2035 the population is anticipated to reach 60,510, reflecting an increase of 15,777 people over roughly the next 19 years. Approximately 19,363 people work in Newark, with employment in commercial businesses totaling approximately 12,500 and employment in industrial businesses totaling approximately 6,860. Employment is expected to grow by 4,950 through 2035.

Exhibit 4: City of Newark Population and Employment

	2016	In progress	Additional - 2017 through 2035	2035
Population¹	44,733	2,933	12,844	60,510
Employment²				
Office	1,197		850	2,047
Retail	7,762		900	8,662
50 % R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Commercial	12,504		3,100	15,604
Light Industrial	1,749		300	2,049
Heavy Industrial	1,565		200	1,765
50% R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Industrial	<u>6,859</u>		<u>1,850</u>	<u>8,709</u>
Total Employment	19,363		4,950	24,313

¹ State Department of Finance E-5 is source of estimate of current population. Estimate of population in 2035 is the Newark General Plan.

² ESRI is source of current employment estimates. 2035 employment estimates have been provided City staff.

In recognition that employees' demands for city services is generally limited to the time that they are at work, the impact of employees is weighted less than the impact of residents. Based on analysis underpinning the current impact fees, it is assumed that the public facility demand created by each employee is equal to 0.36 of the impact of each resident. The fractional demand per employee is calculated by multiplying the share of daily working hours relative to activity hours (.5) by the fraction of 5 working days out of 7 days per week (.71). The derived weighted average is .36.

The service population for Public Safety facilities is the sum of the resident population and .36% of the employment base. As shown in Exhibit 5, the current public safety service population is approximately 51,700 and the service population of residential units currently under construction, which will not be subject to the updated impact fee, is approximately 2,933. The service population associated with new growth through the year 2035 is estimated to total 14,626, which represents 21.1% of the total service population in the buildout year of 2035.

Exhibit 5: Public Service Population

Factor	Source	Number	Percent Allocation
Residents			
Existing	SDOF, E-5	44,733	73.9%
In progress	City staff + SDOF	2,933	4.8%
New Growth		<u>12,844</u>	<u>21.2%</u>
Buildout	General Plan	60,510	100.0%
Employment			
Existing	ESRI	19,363	79.6%
New Growth	City staff	<u>4,950</u>	<u>20.4%</u>
Buildout		24,313	100.0%
Public Service Population ¹			
Existing		51,704	74.6%
In Progress		2,933	4.2%
New Growth		<u>14,626</u>	<u>21.1%</u>
Buildout		69,263	100.0%
<p>¹ Public service population is an allocation factor which differentiates between the impact of employees and residents. It equals resident population plus .36 of employment. Per a prior Newark General Plan, the .36 factor reflects an adjustment of one-half (8/16) to reflect the workday's share of awake hours and an adjustment of 5/7 to reflect the work-week's share of the number of days in a week.</p>			

The distribution of the additional 14,626 service population from 2017 through 2035 among the land uses is as follows:

Exhibit 6: Distribution of New Service Population by Land Use

	New Service Population from New Development	
Residential	12,844	87.8%
Commercial	1,116 (3,100 x 0.36)	7.6%
Industrial	<u>666 (1,850 x 0.36)</u>	<u>4.6%</u>
Total New Service Population	14,626	100%

C. Public Safety Facility Costs Attributable to New Service Population

The cost of new public safety facilities attributable to the demands of new development is generally estimated by applying the 21.1% factor to the facility cost schedule. However, because some of the facilities are needed solely to serve the new service population, the overall percentage of costs attributable to new development is 26.1%.¹ As shown below in Exhibit 7, it

¹ A new fire engine (\$1.2 million), an expansion of Fire Station No. 29 to house the new engine, and five police cars (\$325,000) are needed to serve exclusively the new service population. 100% of the cost of these facilities is allocated to new development. Please refer to Table 4 for a detailed allocation of costs.

is estimated that new residents/employees will create the demand for approximately \$11.2 million of new public safety capital facilities through 2035. Demand attributable to existing residents and employees is estimated to total \$31.7 million.

Exhibit 7: Public Safety Facility Costs Attributable to Demand from New Development

	Total Facility Cost with 2% Admin. Fee	Costs Allocable to New Development – 26.1%
Total Fire	\$18.1 million	\$5.7 million
Total Police	\$24.7 million	\$5.5 million
Total, Public Safety Facility Costs	\$42.8 million	\$11.2 million

D. Distribution of Public Safety Facility Demand by Land Use

Since impact fees are levied per unit or per square foot of new non-residential development and often vary by type of non-residential development, the service population needs to be broken down by land use. As provided in Exhibit 8, the distribution of the growth in the service population is as follows: 88% from new residents; 8% from new commercial employees; and 5% from new industrial employees. For purposes of this analysis, it has been assumed that the distribution of demand is proportionate to the distribution of the service population.

The source of demand for new fire protection facilities has been estimated based on the distribution of service calls submitted to the Newark Fire Department during calendar year 2015. The call records and the source of calls are detailed in Table 10. As summarized below, approximately 77% of calls originated from residential homes, 19% from commercial establishments, and 4% from industrial establishments.

Exhibit 8: Distribution of New Service Population for Public Safety Facilities by Land Use

	Total	Residential	Commercial	Industrial
Distribution for Police Facilities¹				
Percentage	100%	87.8%	7.6%	4.6%
Distribution for Fire Facilities				
Percentage ²	100%	77%	19%	4%
¹ Exhibit 7				
² Table 10				

The demand for new public safety facilities by land use is estimated by applying these demand percentages to the facility costs attributable to new development. As shown in Exhibit 9, the costs attributable to new residential development is estimated to total \$9.2 million, the cost attributable to new commercial development is estimated to total \$1.5 million, and the cost attributable to new industrial development is estimated to total \$451,000.

Exhibit 9: Distribution of Public Safety Facility Costs by Land Use Demand

	Police Facilities	Fire Facilities	Total Public Safety Facilities
Facility Costs Attributable to New Development	\$5.5 million¹	\$5.7 million	\$11.2 million
Residential	\$4.8 million (87.8%)	\$4.4 million (77%)	\$9.2 million (84%)
Commercial	\$0.4 million (7.6%)	\$1.1 million (19%)	\$1.5 million (12%)
Industrial	\$0.2 million (4.6%)	\$0.2 million (4%)	\$0.5 million (4%)

¹Totals may not add due to rounding.

E. Supported Public Safety Facility Fee Levels

Since impact fees are levied per unit of new development, the growth of the service population must be translated into projected new residential units and new building square footage. Based on US Census data, an average household size of 3.23 has been assumed to convert population projections into projected residential units. City staff has provided estimates of existing commercial and industrial stock and the amount of new space anticipated to be built through 2035. See Exhibit 10 below.

Exhibit 10: Current and Anticipated population and commercial and industrial stock

	Growth in Service Population – 2017 through 2035	New Households; New Commercial and Industrial SF – 2017 through 2035
Residential Population	12,844	3,977
Commercial Service Population	1,116	880,000 sq. ft.
Industrial Service Population	666	1,250,000 sq. ft.

Supported fee amounts on new development to fund needed public safety facilities are determined by dividing the portion of costs attributable to the demand generated by new development by the magnitude of new development anticipated through 2035. As shown in Exhibit 11, impact fees of \$2,311 per residential unit, \$1.72 per square foot of new commercial development and \$0.36 per square foot of new industrial development are warranted to fund the construction of public safety facilities in Newark to serve the needs generated by new development.

Exhibit 11: Supported Public Safety Facilities Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$9,187,925	\$1,512,565	\$451,442	\$11,151,931
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$2,311	\$1.72	\$0.36	

IV. DEMAND FOR NEW COMMUNITY SERVICE FACILITIES AND SUPPORTED IMPACT FEE AMOUNTS

A. Community Service Facility Needs to Serve Newark through 2035

City staff have identified the following list (Exhibit 12) of needed community service facility improvements based on the facility needs identified in the City's General Plan and the City's Capital Improvement Plan. These new facilities are anticipated to meet the City's needs through the year 2035. As shown, the total cost of capital facilities is estimated at \$71.46 million. The largest planned expenditures include a \$21.1 million new library at the civic center, a \$17.3 million new city administration building at the civic center, a \$9 million performing arts center, and a \$7.5 million senior center.

Exhibit 12: Needed Community Service Facility Improvements

Community Service Facilities	Total Cost	Total, With 2.00% Admin.
City Administration Building at Civic Center	\$17,262,450	\$17,607,699
Equipment Shop Heavy Duty Vehicle Hoist	\$60,000	\$61,200
History Center (Phases 2,3,4)	\$4,000,000	\$4,080,000
Library at the Civic Center	\$21,098,550	\$21,520,521
Mowry Avenue Backup Walls	\$900,000	\$918,000
New Fuel Management System	\$60,000	\$61,200
New Senior Center	\$7,500,000	\$7,650,000
Newark Boulevard Backup Walls	\$1,200,000	\$1,224,000
Performing (or Cultural) Arts Center	\$9,000,000	\$9,180,000
Service Center Fuel Tank Canopy	\$130,000	\$132,600
Service Center Storage Facility	\$400,000	\$408,000
Service Center Waste Disposal Upgrades	\$250,000	\$255,000
Silliman Complex Restroom/Maintenance Facility	\$700,000	\$714,000
Thornton Avenue Streetscape	\$2,200,000	\$2,244,000
Electrical Vehicle Charging Stations	\$200,000	\$204,000
New Homeless Shelter	\$1,500,000	\$1,530,000
Service Center Expansion	\$5,000,000	\$5,100,000
Total Community Facilities	\$71,461,000	\$72,890,220

B. Public Service Population

The proposed new community facilities will serve all of Newark. Therefore, the applicable service population for most community service capital facilities is both residents and employees. As shown in Exhibit 13, the City's current population is 44,733. By 2035 the population is anticipated to reach 60,510, reflecting an increase of 15,777 people over roughly the next 19 years. Approximately 19,363 people work in Newark, with 12,500 employed in commercial

businesses and 6,860 employed in industrial businesses. An additional 4,950 employees are expected through 2035.

Exhibit 13: City of Newark Population and Employment

	2016	In progress	Additional – 2017 through 2035	2035
Population¹	44,733	2,933	12,844	60,510
Employment²				
Office	1,197		850	2,047
Retail	7,762		900	8,662
50 % R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Commercial	12,504		3,100	15,604
Light Industrial	1,749		300	2,049
Heavy Industrial	1,565		200	1,765
50% R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Industrial	<u>6,859</u>		<u>1,850</u>	<u>8,709</u>
Total Employment	19,363		4,950	24,313

¹ State Department of Finance E-5 is source of estimate of current population. Estimate of population in 2035 is the Newark General Plan.

² ESRI is source of current employment estimates. 2035 employment estimates have been provided City staff.

In determining the population to be served by the new facilities, it is recognized that employees' demands for city services is generally limited to the time that they are at work. Therefore, employees are weighted less than residents. Based on that analysis that was undertaken to support the current impact fees, it is assumed that the public facility demand created by each employee is equal to 0.36 of the impact of each resident. The fractional demand per employee is calculated based on a fraction of 8 hours out of 16 activity hours per day (.5) times the fraction of 5 working days out of 7 days per week (.71). The derived weighted average is .36.

The public service population for all community service facilities except the senior center is the sum of the resident population and .36% of the employment base. As shown in Exhibit 13, the current service population is approximately 51,700 and the service population of residential units currently under construction, which will not be subject to the updated impact fee, is approximately 2,933. The service population associated with new growth through the year 2035 is estimated to total 14,626, which represents 21.1% of the total service population in the buildout year of 2035.

Given that employment does not contribute to the need for senior centers, the service population for the senior center is the residential population. As shown in Exhibit 14, it is estimated that the City's population will increase by 12,844 from 2017 through 2035 from new residential development, excluding new units currently under construction, which will be subject

to the existing fees. The additional 12,844 residents will account for 21.2% of Newark's population by 2035. Therefore, 21.2% of the cost of the senior center is estimated to be attributable to the impacts of new development.

Exhibit 14: Public Service Population

Factor	Source	Number	Percent Allocation
Residents			
Existing	SDOF, E-5	44,733	73.9%
In progress	City staff + SDOF	2,933	4.8%
New Growth		<u>12,844</u>	<u>21.2%</u>
Buildout	General Plan	60,510	100.0%
Employment			
Existing	ESRI	19,363	79.6%
New Growth	City staff	<u>4,950</u>	<u>20.4%</u>
Buildout		24,313	100.0%
Public Service Population ⁽¹⁾			
Existing		51,704	74.6%
In Progress		2,933	4.2%
New Growth		<u>14,626</u>	<u>21.1%</u>
Buildout		69,263	100.0%
¹ Public service population is an allocation factor which differentiates between the impact of employees and residents. It equals resident population plus .36 of employment. Per a prior Newark General Plan, the .36 factor reflects an adjustment of one-half (8/16) to reflect the workday's share of awake hours and an adjustment of 5/7 to reflect the work-week's share of the number of days in a week.			

The distribution of the additional 14,626 service population from 2017 through 2035 among the land uses is presented in Exhibit 15:

Exhibit 15: Distribution of New Service Population by Land Use

	New Service Population from New Development	
<i>All facilities, except senior center</i>		
Residential	12,844	87.8%
Commercial	1,116 (3,100 x 0.36)	7.6%
Industrial	666 (1,850 x 0.36)	4.6%
Total New Service Population, All except Senior Center	14,626	100.0%
Senior Center	12,844	100%

C. Community Service Facility Costs Attributable to New Development

The cost of new community service facilities attributable to the demands of new development is estimated by applying the 21.1% factor to the facility cost schedule for all improvements, excluding the senior center, and applying a factor of 21.2% to the total cost of the senior center. As shown in Exhibit 16, it is estimated that new residents/employees will create the demand for approximately \$15.4 million of new community service capital facilities through 2035, which accounts for approximately 21.1% of total project costs. Demand attributable to existing residents and employees is estimated to total \$57.5 million.

Exhibit 16: Community Service Facility Costs Attributable to Demand from New Development

	Total Facility Cost with 2% Admin. Fee	Costs Allocable to New Development
Total Community Facilities, excluding senior center	\$65.24 million	\$13.78 million (21.1%)
Senior Center	<u>\$ 7.65 million</u>	<u>\$1.62 million (21.2%)</u>
Total, Community Service Facility Costs	\$72.89 million	\$15.40 million (21.1%)

D. Distribution of Community Service Facility Demand by Land Use

Since impact fees are levied per unit or per square foot of new non-residential development and often vary by type of non-residential development, the service population needs to be broken down by land use. As provided in Exhibit 17, the distribution of the growth in the service population for facilities excluding the senior center is as follows: 87.8% from new residents; 7.6% from new commercial employees; and 4.6% from new industrial employees. For the senior center, 100% of the cost is apportioned to residential development. For purposes of this analysis, it has been assumed that the distribution of demand is proportionate to the distribution of the service population.

Exhibit 17: Distribution of Demand for New Community Service Facilities by Land Use

	Total	Residential	Commercial	Industrial
Distribution for Community Facilities, Excluding the Senior Center¹				
Percentage	100%	87.8%	7.6%	4.6%
Distribution for Senior Center				
Percentage	100%	100%	0%	0%
¹ Exhibit 16				

The demand for new public safety facilities by land use is estimated by applying these demand percentages to the facility costs attributable to new development. As shown in Exhibit 18, the costs attributable to new residential development is estimated to total \$13.72 million, the cost attributable to new commercial development is estimated to total \$1.05 million, and the cost attributable to new industrial development is estimated to total \$0.63 million.

Exhibit 18: Distribution of New Development's Share of Community Service Facility Costs by Land Use

	Senior Center	All other Community Service Facilities	Total Community Service Facilities
Facility Costs Attributable to New Development	\$1.62 million	\$13.78 million	\$15.40 million
Residential Demand	\$1.62 million (100%)	\$12.10 million (87.8%)	\$13.72 million (89%)
Commercial Demand	\$0.00 million (0%)	\$1.05 million (7.6%)	\$1.05 million (7%)
Industrial Demand	\$0.00 million (0%)	\$0.63 million (4.6%)	\$0.63 million (4%)

E. Supported Community Service Facility Fee Levels

Since impact fees are levied per unit of new development – per residential unit or per square foot of new commercial or office development, the average household size and the average employment density is needed to convert the demand of new residents/employees into the demand of new residential units and new building square footage. Based on US Census data, an average household size of 3.23 has been assumed. City staff has provided estimates of existing commercial and industrial stock and the amount of new space anticipated to be built through 2035, which are presented in Exhibit 19.

Exhibit 19: Existing commercial and industrial stock and anticipated amount of new space

	Growth in Service Population – 2017 through 2035	New Households; New Commercial and Industrial SF – 2017 through 2035
Residential Population	12,844	3,977
Commercial Service Population	1,116	880,000 sq. ft.
Industrial Service Population	666	1,250,000 sq. ft.

Supported fee amounts on new development to fund needed community service facilities are determined by dividing the portion of costs attributable to the demand generated by new development by the magnitude of new development anticipated through 2035. As shown in Exhibit 20, impact fees of \$3,451 per residential unit, \$1.19 per square foot of new commercial development and \$0.50 per square foot of new industrial development are warranted to fund the construction of community service facilities in Newark to serve the needs generated by new development.

Exhibit 20: Supported Community Service Facilities Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$13,722,088	\$1,051,188	\$627,322	\$15,400,598
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$3,451	\$1.19	\$0.50	

V. USE OF FEE REVENUE

The City plans to use public safety facility fee revenues to construct the facilities identified in Exhibit 3. The City plans to use community service facility fee revenues to construct the facilities identified in Exhibit 12.

VI. IMPACT FEES IN NEIGHBORING CITIES, MAXIMUM SUPPORTED FEES, AND RECOMMENDED FEES

A. Public Safety and Community Service Facility Fees in Neighboring Jurisdictions

KMA surveyed the impact fees levied by the nearby cities of Union City, Fremont, and Milpitas. The impact fees levied in these cities are presented in Appendix Tables A-1, A-2 and A-3, and summarized in Exhibit 21.

As shown, the distribution of types of impact fees and the total fee amount varies considerably among the jurisdictions and by land use. Newark is the only jurisdiction with a dedicated public safety fee for police and fire department capital improvements. In comparison, Union City has a general capital facilities fee, which it levies only on residential development. Both Union City and Milpitas do not levy any material impact fees on non-residential development. Newark’s total fee amount on new residential development is significantly less than the fees levied in Union City and Milpitas. Newark’s residential fees are also less than the fees levied in Fremont, but the difference is not as large.

Newark’s impact fees on commercial development are within the band of fees charged by Fremont but significantly more than the fees levied by Union City and Milpitas, both of which do not levy any significant charges on new commercial development. Newark’s impact fees on industrial development are less than the fees levied by Fremont but more than the negligible fees levied in Union city and Milpitas.

Exhibit 21: Comparison Public Safety and Community Service Facility Impact Fees*

	Newark	Fremont	Union City	Milpitas
Public Safety Facility Fees				
Residential	\$1,989 - \$2,079	3BR = \$371; 4BR = \$457	\$0	\$0
Commercial	\$1.73	\$0.18 - \$0.31	\$0	\$0
Industrial	\$0.17	\$0.10 - \$0.24	\$0	\$0
Community Service Facility Fees				
Residential	\$1,596 - \$1,942	3BR = \$2,569 4BR = \$3,163	\$8,624 - \$12,231	\$0
Commercial	\$0.36	\$0.55 - \$0.92	\$0	\$0
Industrial	\$0.31	\$0.31 - \$0.71	\$0	\$0
Total Fees				
Residential	\$22,135 - \$29,732	3 BR = \$29,158 4 BR = \$31,012	\$38,138 - \$42,075	\$29,089 - \$44,673
Commercial	\$7.06	\$6.22 - \$7.57	< \$1.00	\$0
Industrial	\$1.85	\$2.03 - \$4.53	< \$1.00	\$0
<i>*excludes affordable housing fees levied on residential development and fees levied on building permit valuations or any basis other than per unit or per square foot.</i>				

B. Maximum and Recommended Impact Fees

We recommend that the adopted fees be set at the amounts supported by this nexus study given that the proposed public safety and community service facility fee amounts and total fees in Newark (after adoption of the recommended fees) would not exceed the levies in neighboring communities.

Exhibit 22: Maximum and Recommended Fee Schedules

Type of New Development	Maximum and Recommended Fee Amounts	
	Public Safety Facility Fee	Community Service Facility Fee
Residential	\$2,311 per unit	\$3,451 per unit
Commercial	\$1.72 per square foot	\$1.19 per square foot
Industrial	\$0.36 per square foot	\$0.50 per square foot

VII. FEE PROGRAM IMPLEMENTATION AND ADMINISTRATION

The Mitigation Fee Act includes a series of reporting requirements designed to ensure that development impact fee revenues are properly accounted for, used appropriately, and that, where funds are ultimately not used, are reimbursed. In addition, jurisdictions adopting fee programs should determine their preferred approach to updating the fee schedule and whether they intend to allow for exemptions, credits, and reimbursements (under any additional circumstances). The following fee program implementation and administration parameters are our standard recommendations. The City's existing program may already include some or all of these recommendations.

A. Credits, Reimbursement, and Exemptions

Under certain and limited circumstances, as determined by the City, the Impact Fee Resolution could allow developers subject to the fee to obtain credits, reimbursements, or exemptions. In cases of redevelopment, the demolition of space should provide a fee credit. In other words, the gross fee obligation should be calculated based on the scale of the proposed new development, with a fee credit to be applied for existing square footage to be removed (or retained) using the applicable fee for the existing square footage (land uses). Existing developments that are being replaced due to a natural disaster are also exempt from the impact fees.

All other fee credits and/or reimbursements should not be allowed by right but rather should be subject to review by City staff and Council to ensure that such credits or reimbursements are warranted and appropriate.

B. Securing Supplemental Funding

The maximum, supportable development impact fee is set to cover the public safety and community service facilities investments needed to fund the demands generated by new development. As presented in this analysis, new development is estimated to generate only a portion of the demand for the planned facilities and therefore the fee levies are anticipated to provide only a fraction of the funds needed to construct the facilities. It is anticipated that the City of Newark will need to secure additional funding in order to complete the capital facilities.

C. Annual Review and Periodic Study Update

The Mitigation Fee Act/AB 1600 (at Gov. C. §§ 66001(c), 66006(b)(1)) stipulates that each local agency that requires payment of a fee make specific information available to the public annually within 180 days of the last day of the fiscal year. This information includes the following:

- A description of the type of fee in the account
- The amount of the fee
- The beginning and ending balance of the fund

- The amount of fees collected and interest earned
- Identification of the improvements constructed
- The total cost of the improvements constructed
- The fees expended to construct the improvement
- The percentage of total costs funded by the fee

Because of the dynamic nature of growth and capital equipment requirements, the City should monitor inventory activity, the need for improvements, and the adequacy of the fee revenues and other available funding. To the extent particular issues are identified, adjustments to the fee program may be required.

Table 1
City of Newark Population and Employment

	2016	In progress	Additional - 2017 through 2035	2035
Population¹	44,733	2,933	12,844	60,510
Employment²				
Office	1,197		850	2,047
Retail	7,762		900	8,662
50 % R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Commercial	12,504		3,100	15,604
Light Industrial	1,749		300	2,049
Heavy Industrial	1,565		200	1,765
50% R&D	<u>3,545</u>		<u>1,350</u>	<u>4,895</u>
Total Industrial	<u>6,859</u>		<u>1,850</u>	<u>8,709</u>
Total Employment	19,363		4,950	24,313

¹ State Department of Finance E-5 is source of estimate of current population. Estimate of population in 2035 is the Newark General Plan.

² ESRI is source of current employment estimates. 2035 employment estimates have been provided City staff.

Table 2
Residential Units and Non-Residential Gross Building Area

	2016	In progress	Additional - 2017 through 2035	2035
Residential Housing Units¹	13,470	908	3,977	18,734
Commercial SF²	est.			
Office	290,000		130,000	420,000
Retail	3,500,000		300,000	3,800,000
50% of R&D	<u>1,290,000</u>		<u>450,000</u>	<u>1,740,000</u>
Total Commercial	5,080,000		880,000	5,960,000
Industrial SF²				
Light Industrial	1,200,000		200,000	1,400,000
Heavy Industrial	5,100,000		600,000	5,700,000
50% R&D	<u>1,290,000</u>		<u>450,000</u>	<u>1,740,000</u>
Total Industrial	<u>7,590,000</u>		<u>1,250,000</u>	<u>8,840,000</u>
Total Commercial + Industrial SF	12,670,000		2,130,000	14,800,000

¹ State Department of Finance E-5 is source of estimate of current housing units. Estimates of future units is based on General Plan estimates of population and SDOF average household size of 3.31.

² Estimates of non-residential gross building area have been provided by City staff and KMA based on standard employment density factors.

Table 3
Population Fair Share Allocation: Existing/New Development and Public Service Population

Factor	Source	Number	Percent Allocation
Residents			
Existing	SDOF, E-5	44,733	73.9%
In progress	City staff + SDOF	2,933	4.8%
New Growth		12,844	21.2%
Buildout	General Plan	60,510	100.0%
Employment			
Existing	ESRI	19,363	79.6%
New Growth	City staff	4,950	20.4%
Buildout		24,313	100.0%
Public Service Population (1)			
Existing		51,704	74.6%
In Progress		2,933	4.2%
New Growth		14,626	21.1%
Buildout		69,263	100.0%

¹ Public service population is an allocation factor which differentiates between the impact of employees and residents. It equals resident population plus .36 of employment. Per a prior Newark General Plan, the .36 factor reflects an adjustment of one-half (8/16) to reflect the workday's share of awake hours and an adjustment of 5/7 to reflect the workweeks's share of a week.

Table 4
New Public Facilities Needs and Portion of Needs Attributable to New Development
Impact Fee Study
Newark, CA

	Total Cost	2.00% Total, With Admin.	% of Need Generated by:		Method of Allocation	Allocation of Costs		
			Existing Development	New Development		Existing Development	New Development	
Fire								
Fire Admin Portion of City Administration Building	\$ 2,557,400	\$2,608,548	78.9%	21.1%	1	\$2,057,701	\$550,847	
Community Alerting and Warning System	\$ 75,000	\$76,500	78.9%	21.1%	1	\$60,346	\$16,154	
Fire Station No. 27 Energy Efficient Windows	\$ 40,000	\$40,800	78.9%	21.1%	1	\$32,184	\$8,616	
Fire Station No. 27 Training Tower	\$ 2,000,000	\$2,040,000	78.9%	21.1%	1	\$1,609,214	\$430,786	
Fire Station No. 29 Truck Exhaust System	\$ 45,000	\$45,900	78.9%	21.1%	1	\$36,207	\$9,693	
Replace Fire Station No. 27	\$ 5,300,000	\$5,406,000	78.9%	21.1%	1	\$4,264,416	\$1,141,584	
Replace and Expand Fire Station No. 29 ²	\$ 6,400,000	\$6,528,000	65.3%	34.7%	1	\$4,264,416	\$2,263,584	
LadderTruck/Fire Engine to serve new population	\$ 1,200,000	\$1,224,000	0.0%	100.0%	1	\$0	\$1,224,000	
Traffic Signal Preemption (Opticom)	\$ 160,000	\$163,200	78.9%	21.1%	1	\$128,737	\$34,463	
Total Fire	\$ 17,777,400	\$ 18,132,948	68.7%	31.3%		\$ 12,453,221	\$ 5,679,727	
Police								
Police Center at the Civic Center	\$ 23,016,600	\$23,476,932	78.9%	21.1%	1	\$18,519,312	\$4,957,620	
Police Vehicles (5) to serve new population	\$ 325,000	\$331,500	0.0%	100.0%	1	\$0	\$331,500	
Police Department Substation Facilities	\$ 850,000	\$867,000	78.9%	21.1%	1	\$683,916	\$183,084	
Total Police	\$ 24,191,600	\$ 24,675,432	77.8%	22.2%		\$ 19,203,228	\$ 5,472,204	
Total, Public Safety	\$ 41,969,000	\$ 42,808,380	73.9%	26.1%		\$ 31,656,449	\$ 11,151,931	

¹ Allocated based on service population.

² The cost to replace the station is \$5.3 million. The cost of the expansion is \$1.1 million. The replacement cost is distributed to existing and new development proportionate to their share of service population. 100% of the expansion cost is allocated to new development.

Table 5
New Community Service Facilities Needs and Portion of Needs Attributable to New Development
Impact Fee Study
Newark, CA

	Total Cost	2.00% Total, With Admin.	% of Need Generated by:		Method of Allocation	Allocation of Costs	
			Existing Development	New Development		Existing Development	New Development
Community Service Facilities							
City Administration Building at Civic Center	\$ 17,262,450	\$17,607,699	78.9%	21.1%	1	\$13,889,484	\$3,718,215
Equipment Shop Heavy Duty Vehicle Hoist	\$ 60,000	\$61,200	78.9%	21.1%	1	\$48,276	\$12,924
History Center (Phases 2,3,4)	\$ 4,000,000	\$4,080,000	78.9%	21.1%	1	\$3,218,427	\$861,573
Library at the Civic Center	\$ 21,098,550	\$21,520,521	78.9%	21.1%	1	\$16,976,036	\$4,544,485
Mowry Avenue Backup Walls	\$ 900,000	\$918,000	78.9%	21.1%	1	\$724,146	\$193,854
New Fuel Management System	\$ 60,000	\$61,200	78.9%	21.1%	1	\$48,276	\$12,924
New Senior Center	\$ 7,500,000	\$7,650,000	78.8%	21.2%	2	\$6,026,169	\$1,623,831
Newark Boulevard Backup Walls	\$ 1,200,000	\$1,224,000	78.9%	21.1%	1	\$965,528	\$258,472
Performing (or Cultural) Arts Center	\$ 9,000,000	\$9,180,000	78.9%	21.1%	1	\$7,241,461	\$1,938,539
Service Center Fuel Tank Canopy	\$ 130,000	\$132,600	78.9%	21.1%	1	\$104,599	\$28,001
Service Center Storage Facility	\$ 400,000	\$408,000	78.9%	21.1%	1	\$321,843	\$86,157
Service Center Waste Disposal Upgrades	\$ 250,000	\$255,000	78.9%	21.1%	1	\$201,152	\$53,848
Silliman Complex Restroom/Maintenance Facility	\$ 700,000	\$714,000	78.9%	21.1%	1	\$563,225	\$150,775
Thornton Avenue Streetscape	\$ 2,200,000	\$2,244,000	78.9%	21.1%	1	\$1,770,135	\$473,865
Electrical Vehicle Charging Stations	\$ 200,000	\$204,000	78.9%	21.1%	1	\$160,921	\$43,079
New Homeless Shelter	\$ 1,500,000	\$1,530,000	78.9%	21.1%	1	\$1,206,910	\$323,090
Service Center Expansion	\$ 5,000,000	\$5,100,000	78.9%	21.1%	1	\$4,023,034	\$1,076,966
Total Community Facilities	\$ 71,461,000	\$ 72,890,220	78.9%	21.1%		\$ 57,489,622	\$ 15,400,598

¹ Allocated based on service population.

² Allocated based on residential population.

Table 6
Allocation of New Development's Share of Public Safety Facilities' Costs by Land Use
Impact Fee Study
Newark, CA

	Total Facilities Needs Attributable to New Development	Allocation Method ¹	Residential	Commercial	Industrial
Fire					
Fire Admin Portion of City Administration Building	\$550,847	3	\$425,029	\$106,201	\$19,617
Community Alerting and Warning System	\$16,154	3	\$12,465	\$3,115	\$575
Fire Station No. 27 Energy Efficient Windows	\$8,616	3	\$6,648	\$1,661	\$307
Fire Station No. 27 Training Tower	\$430,786	3	\$332,392	\$83,054	\$15,341
Fire Station No. 29 Truck Exhaust System	\$9,693	3	\$7,479	\$1,869	\$345
Replace Fire Station No. 27	\$1,141,584	3	\$880,838	\$220,093	\$40,654
Replace and Expand Fire Station No. 29	\$2,263,584	3	\$1,746,564	\$436,409	\$80,611
LadderTruck/Fire Engine	\$1,224,000	3	\$944,429	\$235,982	\$43,589
Traffic Signal Preemption (Opticom)	\$34,463	3	\$26,591	\$6,644	\$1,227
Total Fire	\$5,679,727		\$4,382,434	\$1,095,027	\$202,266
Police					
Police Center at the Civic Center	\$4,957,620	1	\$4,353,602	\$378,274	\$225,744
Police Vehicles (5)	\$331,500	1	\$291,111	\$25,294	\$15,095
Police Department Substation Facilities	\$183,084	1	\$160,778	\$13,970	\$8,337
Total Police	\$ 5,472,204		\$4,805,491	\$417,537	\$249,176
Total, Public Safety	\$11,151,931		\$9,187,925	\$1,512,565	\$451,442

¹ Allocation Method

	Table Ref.	Residential	Commercial	Industrial
#1- Service Population		87.8%	7.6%	4.6%
#2 - Residential Population		100.0%	0.0%	0.0%
#3- Distribution of city-wide calls for fire/EMS services (Appendix A)		77.16%	19.28%	3.56%

Table 7
Allocation of New Development's Share of Community Service Facilities' Costs by Land Use
Impact Fee Study
Newark, CA

	Total Facilities Needs Attributable to New Development		Allocation Method ¹	Residential	Commercial	Industrial
	Development					
Community Service Facilities						
City Administration Building at Civic Center	\$3,718,215	1	\$3,265,202	\$283,705	\$169,308	
Equipment Shop Heavy Duty Vehicle Hoist	\$12,924	1	\$11,349	\$986	\$588	
History Center (Phases 2,3,4)	\$861,573	1	\$756,602	\$65,739	\$39,232	
Library at the Civic Center	\$4,544,485	1	\$3,990,802	\$346,751	\$206,932	
Mowry Avenue Backup Walls	\$193,854	1	\$170,235	\$14,791	\$8,827	
New Fuel Management System	\$12,924	1	\$11,349	\$986	\$588	
New Senior Center	\$1,623,831	2	\$1,623,831	\$0	\$0	
Newark Boulevard Backup Walls	\$258,472	1	\$226,981	\$19,722	\$11,769	
Performing (or Cultural) Arts Center	\$1,938,539	1	\$1,702,355	\$147,913	\$88,271	
Service Center Fuel Tank Canopy	\$28,001	1	\$24,590	\$2,137	\$1,275	
Service Center Storage Facility	\$86,157	1	\$75,660	\$6,574	\$3,923	
Service Center Waste Disposal Upgrades	\$53,848	1	\$47,288	\$4,109	\$2,452	
Silliman Complex Restroom/Maintenance Facility	\$150,775	1	\$132,405	\$11,504	\$6,866	
Thornton Avenue Streetscape	\$473,865	1	\$416,131	\$36,157	\$21,577	
Electrical Vehicle Charging Stations	\$43,079	1	\$37,830	\$3,287	\$1,962	
New Homeless Shelter	\$323,090	1	\$283,726	\$24,652	\$14,712	
Service Center Expansion	<u>\$1,076,966</u>	1	<u>\$945,753</u>	<u>\$82,174</u>	<u>\$49,039</u>	
Total Community Facilities	\$15,400,598		\$13,722,088	\$1,051,188	\$627,322	
			89.1%	6.8%	4.1%	

¹ Allocation Method

	Table Ref.	Residential	Commercial	Industrial
#1 - Service Population		87.8%	7.6%	4.6%
#2 - Residential Population		100.0%	0.0%	0.0%
Total Community Facilities	\$15,400,598	\$13,722,088	\$1,051,188	\$627,322
senior	\$1,623,831	\$1,623,831	\$0	\$0
non-senior	\$13,776,767	\$12,098,257	\$1,051,188	\$627,322
% all		89.1%	6.8%	4.1%
% senior		100%	0%	0%
% non senior		87.8%	7.6%	4.6%

Table 8
Public Safety Facilities Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$9,187,925	\$1,512,565	\$451,442	\$11,151,931
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$2,311	\$1.72	\$0.36	
Current fee	\$2,000	\$1.73	\$0.17	

Table 9
Community Service Facility Impact Fees by Land Use

	Residential	Commercial	Industrial	Total
Costs Allocated to New Development	\$13,722,088	\$1,051,188	\$627,322	\$15,400,598
New Development (Units or SF)	3,977	880,000	1,250,000	
Impact Fee per Unit/SF	\$3,451	\$1.19	\$0.50	
current fee	\$1,900	\$0.36	\$0.31	

Table 10
Distribution of Fire Protection Service Calls by Land Use
Newark, CA

Source: City of Newark								
Count of Incident # Occupancy Descr	Incident Type							Grand Total
	Cancelled	False Alarm	HazMat	Other Fires	Rescue, EMS	Services Call	Structure Fire	
All Other Residential					3			3
Apartments		73	4	2	109	20	5	213
Health Care and Penal Institutions		3			77	5	1	86
Hotels and Motels		8	1		50	2	1	62
Industry, Utility, Defense, Laboratories, Manufacturing		24			11	6	4	45
Other							1	1
Other Structures (vacant buildings, building under construction, outbuildings, bridges, ect)	8	7	36	31	357	119	3	561
Others	1	2			27	2		32
Private Dwellings (1 or 2 family), including mobile homes		55	20	15	497	157	13	757
Public Assembly (Church, restaurant, clubs, ect)	1	17	2	6	102	12		140
Schools and Colleges	1	32	2		9	6	1	51
Storage in Structures (barns, vehicle storage garages, general storage, ect)		19	3	2	8	8	2	42
Stores and Offices	6	25	7	1	211	26		276
(blank)	130							130
Residential, Other	9	2			882	19		912
Boarding/Rooming House, Residential Hotels					8	1		9
Grand Total	156	267	75	57	2351	383	31	3320
Not included in land use distribution	721	22.8%						
Other Residential	12	0.4%						
Single Family	757	23.9%						
Multifamily	1116	35.3%						
Commercial	471	14.9%						
Industrial	87	2.7%						
Total	3164	77.2%						
Total included in land use distribution	2443							
Breakdown of Fire Protection service Population by Land Use								
Residential	1885	77.16%						
Commercial	471	19.28%						
Industrial	87	3.56%						
Total included in analysis	2443	100.0%						

APPENDIX TABLE A-1
 COMPARISON OF RESIDENTIAL IMPACT FEES, EXCLUDING AFFORDABLE HOUSING FEES
 NEWARK AND NEIGHBORING JURISDICTIONS
 CITY OF NEWARK

Impact Fees / du ¹	Newark	Dublin	Fremont	Hayward	Milpitas	Pleasanton	San Leandro	Union City
Arts Requirement	\$270	See Below	None	None	None	None	None	See Below
Fire Impact Fee	None	SF: \$870, MF: \$544	OBR: \$143 1BR: \$214 2BR: \$300 3BR: \$371 4BR: \$457 +BR: +\$86/BR	None	None	None	None	See Below
Park Facilities / Parkland Dedication Fee ²	MF: \$18,000 SF: \$25,000	SF/MF: \$18,646	OBR: \$9,220 1BR: \$13,830 2BR: \$19,362 3BR: \$23,971 4BR: \$29,502 +BR: +\$5,531/BR	SFD: \$11,953 SFA: \$11,395 MF: \$9,653	Varies by pop. density SFD: \$44,673 SFA: \$35,438 MF (2-4 du): \$36,131 MF (5+ du): \$29,089	SF: \$9,709, MF: \$7,969	SF: \$16,079; MF: \$14,054	Subdivision: Varies by pop. density \$28,193 (avg.) Non-Subdivision: \$2,466 plus \$280 (0-1BR), \$455 (2BR), \$630 (3+BR)
Public Facility Impact Fee ³	Public Safety MF: \$2,079, SF: \$1,989 Comm. Service MF: \$1,596 SF: \$1,942 Transportation MF: \$460, SF: \$801 Total MF: \$4,135, SF: \$4,732	SF/MF: \$5,798	OBR: \$988 1BR: \$1,483 2BR: \$2,076 3BR: \$2,569 4BR: \$3,163 +BR: +\$593/BR	None	None	SFD: \$4,730 SFA: \$3,532 MF: \$2,885	None	SF: \$12,231, MF: \$8,624
Traffic Impact Fee	Included In Public Facility Fee	None	0/1BR: \$2,012 2/3BR: \$2,247 4+BR: \$3,421	None	None	SF: \$4,707 MF: \$3,294	\$1,337-\$2,015; senior: \$667-\$897 ⁵	None
Tri-Valley Transportation Development Fee ⁴	None	SF: \$3,060 MF: \$2,108	None	None	None	SF: \$3,060 MF: \$2,108	None	None
Total Fees / du	SF: \$29,732 MF: \$22,135	SF: \$28,374 MF: \$27,096	OBR: \$12,363 1BR: \$17,539 2BR: \$23,985 3BR: \$29,158 4BR: \$31,012 +BR: \$6,210/BR	SFD: \$11,953 SFA: \$11,395 MF: \$9,653	Varies by pop. density SFD: \$44,673 SFA: \$35,438 MF (2-4 du): \$36,131 MF (5+ du): \$29,089	SFD: \$22,206 SFA: \$20,056 MF: \$16,256	Non-Senior SF: \$17,416-\$18,094 MF: \$15,391-\$16,069 Senior: SF: \$16,746-\$16,976 MF: \$14,721-\$14,951	Subdivision SF: \$42,075 MF: \$38,138 Non-Subdivision SF 0-1BR: \$16,628 2BR: \$16,803 3BR: \$16,978 MF 0-1BR: \$12,691 2BR: \$12,866 3BR: \$13,041
Fees as % of BPV								
Arts Requirement	See Above	> 20 du: 0.5% BPV	None	None	None	None	None	1% BPV
General Plan Cost Recovery	.5% BPV	None	None	None	None	None	None	None
Total % of BPV	.5% BPV	0.5% BPV	None	None	None	None	None	1% BPV
Fees PSF Building (Partial)								
Fire Equipment Acquisition	None	See Above	See Above	None	None	None	None	\$1.40 PSF occupiable space above 2nd story
Fees as % of Building and Plan								
General Plan Cost Recovery	See Above	None	15% of Building and Plan Check Permits	12% of Building and Plan Check Permits	None	None	None	None

Notes: This chart presents an overview and terms may be simplified. Consult code and City staff for more information.

Abbreviations: SF = Single Family SFA = SF Attached PSF = Per Square Foot SFD = SF Detached
 MF = Multi-Family BPV = Building Permit Value BR = bedroom du = Dwelling unit

¹ Excludes on-site inclusionary requirements.
² For Milpitas and Union City, fee is estimated based on population densities derived from Census and DOF data. In Milpitas, developer may submit alternative population estimate. 40% of Milpitas fee may be met through the provision of private open space.
³ Generally supports such facilities as libraries, parks and other community buildings. Newark fee includes transportation facilities.
⁴ Regional fee collected on behalf of the Tri-Valley Transportation Development District.
⁵ Fees vary by zone.

APPENDIX TABLE A-2
 COMPARISON OF INCLUSIONARY HOUSING PROGRAMS
 NEWARK AND NEIGHBORING JURISDICTIONS
 CITY OF NEWARK

	Newark	Fremont	Milpitas	Union City
Minimum Project Size ¹				
For In-lieu/Impact Fee ¹	FS/R: 1 unit	FS/R: 2 units	FS/R: 5 units	n/a
For Build Requirement	no build req.	no build req.	no build req.	FS: 1 unit
Onsite Requirement				
Percent of Total Units ²	n/a	Attached 3.5% plus \$18.50/sf Detached 4.5% plus \$17.50/sf	5.0%	15%
Income Level (% AMI)	n/a	80-110% AMI (120% w/approval)	Up to 80% AMI	10% @ 50-80% AMI; 30% @ 80-100% AMI; 60% @ 100-120% AMI
Impact / In-Lieu Fee Levels				
Fee Level	\$20/sf first 1,000 SF/unit; \$8/SF above 1,000 SF/unit	FS: Attached \$18.50 w/ aff units; \$27.00 no units Detached \$17.50 w/ aff units; \$26.00 no units R: \$17.50 no map; \$27.00 w/ map ⁴	5% building permit value ⁵	<7 units: \$160,000 /du owed; 7+ units: \$180 /sf owed
Alternatives to Onsite Provision ³				
Fee Option - for projects over min. size	n/a	yes (Developer)	yes (Developer)	yes (City)

Note: This chart presents an overview and terms have been simplified. Consult code and City staff for more information.

Abbreviations: R = Rental sq ft = Square Feet
 du = Dwelling Unit AMI = Area Median Income

1. In Union City, single-unit, owner-occupied projects exempt.
2. In Dublin, 40% of the on-site requirement is covered through an impact fee.
3. All cities that do not allow fee payment by right allow developers to seek Council approval of fee payment instead of on-site units. Also, all cities with on-site
4. Rental projects with a subdivision map allowing conversion to condominiums
5. In-lieu/impact fee introduced as temporary measure while City prepares formal nexus study. Fee has not yet been assessed. Average residential building permit value is reported to be \$_____.

Appendix Table A-3

Comparison of Non-residential Impact Fees*

Impact Fees	Newark		Fremont ¹		Milpitas	Union City ²
Public Facilities Impact Fee	Commercial \$0.36 Industrial \$0.31		Capital Facilities Impact Fee: Office \$0.92 Retail / Service \$0.55 Warehouse \$0.39 Light Industrial \$0.31 Manufacturing \$0.56 Research & Development \$0.71 Hotel / Motel (per room) \$174.00		None	None
Fire Impact Fee	(Public Safety) Commercial \$1.73 Industrial \$0.17		Office \$0.31 Retail / Service \$0.18 Warehouse \$0.13 Light Industrial \$0.10 Manufacturing \$0.19 Research & Development \$0.24 Hotel / Motel (per room) \$59.00		None	See below.
Park Facilities / Parkland Dedication Fee	None		None		None	None
Traffic Impact Fee	Commercial \$1.38 Industrial \$0.68		Office \$5.00 Retail / Service \$6.84 Warehouse \$1.51 Light Industrial \$3.62 Research & Development \$3.59 Manufacturing \$2.52 Hotel / Motel (per room) \$2,046.00 Business Park \$4.23		No City-wide fees	Traffic Signalization Fee: Office / retail \$0.30 (assuming FAR of .4) Research & Development / Industrial \$0.12 (assuming FAR of .5)
Affordable Housing	Commercial \$3.59 Industrial \$0.69		None		None	None
Total Fee	Commercial \$7.06 Industrial \$1.85		Office \$6.22 Retail / Service \$7.57 Warehouse \$2.03 Light Industrial \$4.03 Research & Development \$4.53 Manufacturing \$3.26 Hotel / Motel (per room) \$2,279.00 Business Park (Office) \$5.45 Business Park (Manufacturing) \$4.97		No City wide fees	

Appendix Table A-3

Comparison of Non-residential Impact Fees *

Impact Fees	Newark	Fremont ¹	Milpitas	Union City ²
Fees as % of Permit Value				
Arts Requirement	None	No citywide fee.	None	Private-Permit valuation over \$50 million: Negotiated between Developer and City Private-Permit valuation over \$250,000: Must construct Public Art or pay In-lieu fee equivalent to 1% of permit valuation Public-Permit valuation over \$250,000: N/A-must construct Public Art with a value equivalent to 1% of permit valuation
General Plan Cost Recovery	None	15% of building permit fee.	None	0.1% of permit valuation.
Other Fees				
Fire Equipment Acquisition	See above.	See above.	None	Office / Professional / Hotel Buildings \$1.40 / sq. ft. of space above the second story Industrial Buildings \$.06 / sq. ft. of roof area

Sources and notes:

* Unless otherwise specified, prices are calculated per square foot of building area. The table excludes the impact fees that are related to utilities such as sewer / water connection fees and school / specific districts.

1. City of Fremont, Fee Schedule, Effective: September 1, 2016

2. City of Union City, Master Fee Schedule, Fiscal Year 2016-2017. In terms of Traffic Signalization Fees, it sets \$5,241/ acre for commercial zoning and \$2,620/ acre for industrial zoning.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK ESTABLISHING AN IMPLEMENTING RESOLUTION FOR THE TRANSPORTATION IMPACT FEE, UNDER GOVERNMENT CODE SECTION 66001, IN ACCORDANCE WITH MUNICIPAL CODE SECTION 3.24.040 AND AMENDING THE MASTER FEE SCHEDULE TO REFLECT THESE CHANGES

WHEREAS, the City Council of the City of Newark, a general law city (“City”), is authorized to prescribe and establish fees in regard to services or functions performed by the City for the public in a governmental and proprietary capacity; and

WHEREAS, California Government Code Section 66000 et seq. allows local governments to impose impact fees on new development in order to recover the cost of improvements that are needed to serve that new development; and

WHEREAS, Chapter 3.24 (“Development Impact Fees”) of the Newark Municipal Code authorizes the City Council to adopt implementing resolutions establishing development impact fees in order to mitigate the impacts that projects have upon the City’s ability to provide public facilities;

WHEREAS, the existing fee needs to be brought into conformity with current conditions in the City; and

WHEREAS, the City desires to have an updated Transportation Impact Fee that will ensure that all new development pays the cost to provide transportation facilities needed to support new development; and

WHEREAS, the City has retained Hexagon Transportation Consultants to complete a Transportation Impact Fee Nexus Study, dated March 28, 2017, which establishes a reasonable relationship between the Transportation Impact Fee and the purpose of the fee, which study is incorporated herein and attached as Exhibit A; and

WHEREAS, the City has duly noticed, advertised, scheduled, and held a Public Hearing on May 25, 2017; and

WHEREAS, on May 25, 2017 the City Council reviewed material presented in the staff report including the Transportation Impact Fee Nexus Study, concerning the purpose of the fee and the relationship between the fee and its purpose; and

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newark which hereby finds, declares, and resolves that:

- 1) The City hereby receives and approves the Public Safety and Transportation Development Impact Fee Nexus Study (“Fee Study”), which is attached as Exhibit A to this Resolution.
- 2) In adopting this Resolution, the City Council is exercising its powers under Chapter 3.24 of the Newark Municipal Code, as well as pursuant to Article XI, Sections 5 and 7

of the California Constitution, Chapter 5 of Division 1 of the Government Code (“Mitigation Fee Act”), commencing with Section 66000, collectively and separately.

- 3) After considering the Fee Study, this Resolution, and the testimony received at a public hearing, the City Council hereby makes the following findings:
 - a) In accordance with Section 66001, subdivision a, paragraph 1 of the Mitigation Fee Act, the purpose of the fees set forth in this Resolution, as specified in Exhibit A, is to provide for an expansion in transportation capital facilities in the City as new growth occurs;
 - b) In accordance with Section 66001, subdivision a, paragraph 2 of the Mitigation Fee Act, the fees collected pursuant to this Resolution, as specified in Exhibit A, shall be used for transportation related improvements identified in Exhibit A and shall be used to fund any administrative cost associated with the transportation impact fee program;
 - c) In accordance with Section 66001, subdivision a, paragraph 3 of the Mitigation Fee Act, there is a reasonable relationship between the fees use (to pay for the acquisition and construction of transportation facilities and improvements) and the type of development for which the fees are imposed in that the fees will be applied to residential and commercial development in the City, which will generate demands for transportation facilities;
 - d) In accordance with Section 66001, subdivision a, paragraph 4 of the Mitigation Fee Act, the Fee Study demonstrates that there is a reasonable relationship between the amount of the Transportation Impact Fee and the cost of transportation improvements attributable to the development upon which the fee is proposed. Since the need for transportation facilities is inherently travel driven associated transportation facility costs are assessed based on transportation trips; and
 - e) In accordance with Section 66001, subdivision b of the Mitigation Fee Act, there is a reasonable relationship between the amount of the fees and cost of providing the public safety facilities attributable to the development in the City upon which the fees are imposed in that the fees have been calculated by apportioning the cost of transportation facilities acquisition and construction to the amount of transportation demand created by residents and employees attracted by each type of development.
- 4) The City finds pursuant to the California Environmental Quality Act (“CEQA”) this action is not a “project” because the Resolution provides a mechanism for funding of transportation facilities but does not involve a commitment to any specific project for such purposes that may result in a potential significant impact on the Environment (CEQA guidelines Section 15378, Pub. Res. Code Section 21080(b)(8)(D)).
- 5) The cost estimates set forth in the Fee Study are reasonable estimates for acquiring and constructing transportation facilities and improvements and the fees expected to be

generated by future development will not exceed the future projected cost of acquiring and constructing transportation facilities.

- 6) The method of allocation of the fees to particular development bears a fair relationship and is roughly proportional to each development's burden on and benefits from the transportation facilities to be funded by the fees, in that the fees are calculated based on the amount of transportation demand created by residents and employees attracted by each type of development.
- 7) The Fee Study is a detailed analysis of how transportation services will be affected by development in the City and the transportation facilities necessary to accommodate that development.
- 8) The fees are consistent with the General Plan and, pursuant to Government Code Section 65913.2, the City Council has considered the effects of the fees with respect to the City's housing needs as established in the housing element of the General Plan.
- 9) The fee amounts set forth in this Resolution include the fair and reasonable costs of administration of the fee programs and are within the requirements of the Mitigation Fee Act and other applicable law.
- 10) The fees are subject to adjustment, which approximate the fluctuation in market costs, and shall be adjusted annually in accordance with the Engineering News Record Construction Cost Index, San Francisco, California.
- 11) The City does hereby approve the following transportation impact fees on new residential and commercial development for transportation facilities as follows:

Residential Development

Type of Unit	Fee per Unit
Single Family Unit	\$4,974
Townhome Unit	\$2,586
Multiple Family Units	\$3,084

Commercial Development

Type of Use	Fee per Square Foot
Office/Commercial	\$4.41
Manufacturing/Research and Development	\$2.41

Warehousing/Distribution	\$4.82
--------------------------	--------

(These fees shall be adjusted annually in accordance with the Engineering News Record Construction Cost Index, San Francisco, California.)

- 12) The city council may elect to waive the payment of the impact fee if a residential or nonresidential development project provides community benefits in excess of those required by the impacts of the project, and if the city council finds that the expected benefits to the community exceed those that would be provided by the payment of the Transportation Impact Fee. Such community benefits may include the provision of senior housing, the generation of significant taxes, or the elimination of nuisances.
- 13) The Transportation Impact Fees shall not apply to approved projects that are covered by a Development Agreement or Vesting Tentative Map unless the provisions of the document allow the application of such fees.
- 14) The Master Fee Schedule shall be amended to reflect the Transportation Impact fees as set forth in this Resolution.
- 15) Effective Date: This resolution shall be effective upon date of adoption of this Resolution. In accordance with Government Code Section 66017, the fees set by this Resolution shall be effective 60 days from the effective date of this Resolution.
- 16) Severability. Each component of the fees and all portions of this Resolution are severable. Should any individual component of the fees or other provisions of this Resolution be adjusted to be invalid and unenforceable, the remaining component or provisions shall be and continue to be fully effective, and the fees shall be fully effective except as to that component which has been judged to be invalid.



HEXAGON TRANSPORTATION CONSULTANTS, INC.



City of Newark

Transportation Impact Fee Nexus Study



Prepared for:

City of Newark

March 28, 2017



Hexagon Transportation Consultants, Inc.

Hexagon Office: 4 North Second Street, Suite 400

San Jose, CA 95113

Hexagon Job Number: 16AV07

Phone: 408.971.6100

Client Name: Mr. Terrence Grindall



San Jose • Gilroy • Pleasanton • Phoenix

www.hextrans.com

Areawide Circulation Plans Corridor Studies Pavement Delineation Plans Traffic Handling Plans Impact Fees Interchange Analysis Parking
Transportation Planning Traffic Calming Traffic Control Plans Traffic Simulation Traffic Impact Analysis Traffic Signal Design Travel Demand Forecasting

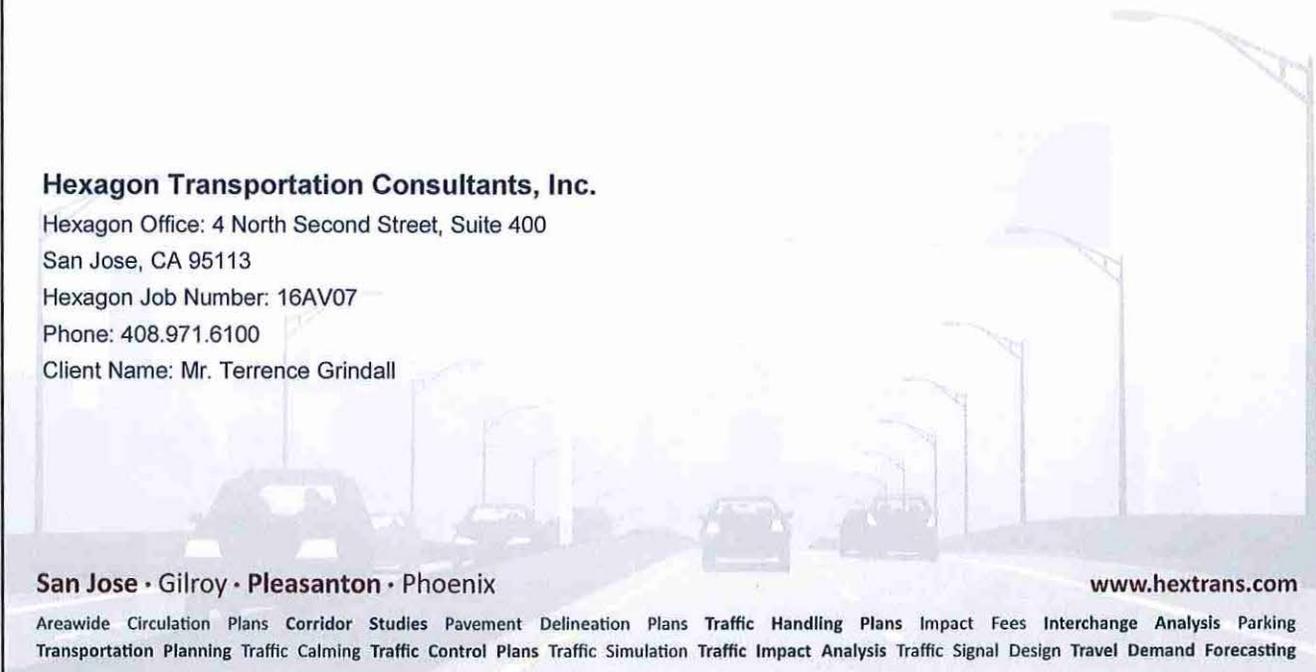


Table of Contents

1.	Introduction	3
2.	Traffic Impacts and Proposed Improvements	4
3.	Maximum Supported Transportation Impact Fee	5
4.	Transportation Impact Fees in Other Cities	6

Appendices

Appendix A	Future Residential and Employment Growth
Appendix B	Conceptual Drawings Intersection Improvements
Appendix C	Cost Estimates Intersection Improvements

List of Tables

Table 1	Projected Increase in PM Peak Hour Trips by 2035	3
Table 2	Newark Transportation Impact Fee Improvements and Cost Estimates.....	4
Table 3	Maximum Supported Impact Fee	5
Table 4	Transportation Impact Fees in Other Cities	7

1. Introduction

This report presents the results of the analysis to update the Transportation Impact Fee in the City of Newark, California. The Mitigation Fee Act (Government Code Sections 66000-66025) was originally enacted through Assembly Bill 1600 in 1987 and requires that a reasonable relationship (nexus) be established between the projects or mitigations to be funded by an impact fee and the impacts caused by new development. This report serves as the nexus study required by the Mitigation Fee Act and documents the reasonable relationship between projected growth in Newark and the maximum supported Transportation Impact Fee (TIF).

The basis of this study is the 2013 City of Newark General Plan Update Draft EIR. Based on land use data in the General Plan, it is projected that there will be an additional 6,208 residential units and 2,882 jobs by the year 2035. The number of trips that this new growth would generate was estimated with standard trip generation rates for different land use categories from the Institute of Transportation Engineers' Trip Generation Manual, 9th Edition (2012). The projected number of residential units and amount of commercial square footage for each land use category is presented in Table 1. As shown in Table 1, this new development is estimated to generate 6,208 additional PM peak hour trips.

Table 1
Projected Increase in PM Peak Hour Trips by 2035

Land Use	ITE Land Use Code	PM Peak Hour Trip Rate ^{1,2}	New Dwelling Units or ksf	New PM Peak Hour Trips
Residential (units)				
Single Family	210	1.00	2,055	2,055
Townhomes	230	0.52	1,375	715
Apartments	220	0.62	2,703	1,676
Senior	252	0.25	75	19
Employment-Based (ksf)				
Industrial	110	0.97	149.6	145
Commercial	n/a	1.77	902.0	1,598
Total				6,208
n/a : not applicable				
ksf = Square Feet * 1,000				
¹ Trip rates, except for Commercial, are from ITE <i>Trip Generation Manual, 9th Edition, 2012</i> .				
² Average rate for office and retail per 1,000 square feet, weighted by number of projected office and retail jobs				

Appendix A presents a summary of the residential projects and the number of units that were included in the analysis. Also included is a tabulation that shows the growth in employment by different types of development. These growth numbers were included in the travel demand forecasting model that was used to forecast the future traffic volumes for the General Plan Update Draft EIR.

2. Traffic Impacts and Proposed Improvements

As described in the *City of Newark General Plan Update Draft EIR*, the new development that is projected to occur by the year 2035 would result in significant impacts to six intersections. Appropriate mitigation measures were developed as part of the *Draft EIR* for each of these impacted intersections such that the impact would be reduced to a less than significant level. Furthermore, City staff has identified additional improvements that could lead to increases in alternative mode use and reduce the number of vehicle trips, thereby also mitigating the increased congestion caused by new development. An effective multimodal transportation system will allow people to choose modes of transportation other than the single-occupant vehicle and will make bicycling, walking, and taking transit attractive, safe, cost-competitive and time-competitive choices. All of the improvements proposed to be at least partially funded with Transportation Impact Fees and the estimated cost of each improvement is presented in Table 2. Conceptual drawings of the Intersection improvements and their cost estimates are presented in Appendices B and C, respectively.

Table 2
Newark Transportation Impact Fee Improvements and Cost Estimates

General Plan EIR Intersection Improvements ¹		Cost (\$)
Ardenwood & SR 84 WB Ramps ²	Convert northbound through lane into a left turn lane	212,000
Newark Blvd & SR 84 EB Ramps	Add an eastbound right-turn lane	1,192,000
Thornton Ave & Gateway Blvd	Add a southbound through lane	3,282,000
Thornton Ave & Cherry Street	Add a westbound left-turn lane	1,103,000
Mowry Ave & Cherry Street	Add a westbound right-turn lane	1,924,000
Stevenson & Cherry Street ²	Add a northbound through lane	364,000
Sub Total		8,077,000
Other Transportation Improvement Projects ³		Cost (\$)
Central Avenue Railroad Overcrossing		8,300,000
Dumbarton Transit Station		7,700,000
Bike / pedestrian railroad overcrossing at the Dumbarton Transit Station		2,800,000
Cherry Street Class 1 bike route		4,000,000
Sub Total		22,800,000
Total		30,877,000

¹ These cost estimates include planning-level estimates of the work involved to meet the improvements required by the EIR.

The estimates do not include items outside the scope of the EIR (e.g. other improvements on Thornton Ave, such as sidewalks).

The estimates also does not include ROW acquisition costs. Costs rounded to the nearest \$1,000.

² These cost estimates reflect 50% of the total improvement costs. Since these intersections straddle the city boundary of Newark and Fremont, it is assumed that Newark's share would be 50% of the cost.

³ These transportation improvement projects and cost estimates were provided by City Staff.

Thus, for the purpose of calculating the Transportation Impact Fee, the City's share of total improvement cost is \$30,877,000.

3. Maximum Supported Transportation Impact Fee

The maximum legally supported transportation impact fee has been calculated by dividing the cost of the improvements to be funded by the TIF, by the number of additional PM peak hour trips that would be generated by new development by the year 2035. This methodology provides a clear nexus between the new development, the improvements to be funded, and the amount of the fee. The cost of the improvements to be funded with impact fees is \$30,877,000. The projected number of trips generated by new development, as shown in Table 1, is 6,208 additional PM peak hour trips. The resulting maximum impact fee is \$4,974 per PM peak hour trip.

This per PM peak hour trip amount can be converted to a per unit or per thousand square feet (KSF) amount by using the PM peak hour trip generation rates shown in Table 1. Table 3 presents the resulting TIF per dwelling unit for residential uses and per ksf for commercial uses, based on a TIF of \$4,974 per PM peak hour trip.

Table 3
Maximum Supported Impact Fee

Land Use	ITE Category	PM Peak Hour Trip Rate ^{1,2}	TIF per Dwelling Unit or ksf ³
Residential (units)			
Single Family	210	1.00	\$4,974
Townhomes	230	0.52	\$2,586
Apartments	220	0.62	\$3,084
Senior	252	0.25	\$1,243
Employment-Based (ksf)			
Industrial	110	0.97	\$4,824
Commercial	n/a	1.77	\$8,814
n/a : not applicable			
¹ Trip rates, except for Commercial, are from ITE <i>Trip Generation Manual, 9th Edition, 2012</i> .			
² Average Rate for Office and Retail per 1,000 square feet, weighted by employment type.			
³ TIF rates based on \$4,974 per PM peak hour trip.			

Since construction costs continue to rise, it is appropriate to index these impact fees to inflation. The fees should be adjusted annually by a construction cost index, such as the Engineering News Record.

4. Transportation Impact Fees in Other Cities

In order to establish a transportation impact fee of \$4,974 per PM peak hour trip in the context of TIFs charged by other cities in the Bay Area, information on current TIF levels in some Bay Area cities was compiled. A recent (internet) survey focused on nearby cities of Fremont and Milpitas and cities on the Peninsula and in the South Bay. These fees are presented in Table 4. Note that the survey included only impact fees charged for transportation improvements, not for such other purposes as public safety, community facilities, housing, or parkland. Some cities specify impact fees on a “per dwelling unit” or “per thousand square feet (ksf)” basis; other cities define fees solely on a “per trip” basis.

As can be seen in Table 4, Newark’s existing TIF amounts are much lower than any of the other cities included in the survey. The updated TIF amount for single-family and multi-family units would be higher than the amounts charged by most other cities included in the survey. The fee of \$4,974 per single family unit would be lower than the average fee of \$5,515 computed for all cities included in the survey.

The impact fees for commercial space vary greatly between the cities, from \$1,280 per ksf in downtown Redwood City to \$26,127 per ksf in the Transit Area District in Milpitas. The new Newark fee of \$8,814 per ksf is somewhat higher compared to most other cities that were surveyed.

The impact fees for industrial space vary from \$1,160 per ksf in downtown Redwood City to \$14,440 per ksf in North San Jose. The new Newark fee of \$4,824 per ksf is higher compared to fees charged for industrial development in most other cities that were surveyed.

Some cities have chosen to exempt certain land uses from their TIF or use lower rates for land uses that they want to encourage. For example, Mountain View charges an extremely high TIF on office and R&D land uses in the North Bayshore area, but a far lower TIF on retail uses, because they want to encourage retail projects in that area in order to reduce total Vehicle Miles Traveled (VMT) in the city. As another example, in the North San Jose area, the City of San Jose exempts all retail under 100,000 square feet from the TIF and only charges the TIF on large regional-serving retail projects over that size.

**Table 4
Transportation Impact Fees in Other Cities**

City or Area within City	Per PM Trip	Single Family Per d.u.	Multi-Family Per d.u.	Office Per ksf	R&D Per ksf	Industrial Per ksf	Hotel Per Room
East Bay Cities							
Newark¹							
Current TIF		\$ 801	\$ 460		\$ 1,380	\$ 680	
Updated TIF	\$ 4,974	\$ 4,974	\$ 3,084	\$ 8,814	\$ 8,814	\$ 4,824	
Fremont²							
		\$ 2,247	\$ 2,247	\$ 4,997	\$ 3,588	\$ 2,515	\$ 2,046
Milpitas							
TAD Impact Fee ³			\$ 32,781	\$ 36,600			
Fee for Transportation Improvements			\$ 9,561	\$ 26,127			
Peninsula/South Bay Cities							
San Jose							
North San Jose Area	\$ 15,410	\$ 9,677	\$ 7,742			\$ 14,440	\$ 4,299
Evergreen-East Hills Area		\$ 15,148		\$ 13,170			
US 101/Oakland Ave/Mabury Rd	\$ 35,767	per PM peak hour trip that would use one of the improved interchanges					
I-280/Winchester Blvd.	\$ 25,641	per PM peak hour trip that would use the proposed off-ramp improvement					
Menlo Park							
Citywide	\$ 3,108	\$ 3,139	\$ 1,927	\$ 4,630	\$ 3,330	\$ 2,280	\$ 1,834
Supplemental Downtown	\$ 379	per PM peak hour trip within El Camino Real/Downtown Specific Plan area					
Redwood City							
Non-Downtown		\$ 1,617	\$ 992	\$ 2,380	\$ 1,710	\$ 1,550	\$ 945
Downtown		\$ 1,212	\$ 744	\$ 1,790	\$ 1,280	\$ 1,160	\$ 709
San Carlos							
		\$ 3,052	\$ 1,892	\$ 4,547	\$ 3,266	\$ 2,228	\$ 1,831
San Mateo							
	\$ 3,763	\$ 3,422	\$ 2,101	\$ 3,135		\$ 2,042	
Los Altos							
		\$ 6,152	\$ 3,777	\$ 9,076			
Mountain View							
North Bayshore Area				\$ 22,470	\$ 22,470		\$ 2,000
Sunnyvale							
South of SR 237	\$ 2,197		\$ 1,348	\$ 3,240	\$ 2,131	\$ 1,610	\$ 1,327
North of SR 237	\$ 5,931		-	-	\$ 5,746	\$ 4,346	\$ 4,494
Los Gatos⁴							
	\$ 9,020	\$ 8,587	\$ 5,998	\$ 9,949	\$ 7,315	\$ 6,287	\$ 7,369
Half Moon Bay							
		\$ 6,414	\$ 3,499	\$ 4,021	\$ 4,021	\$ 2,515	

Sources: TIF amounts are from each city's website.

¹The current Newark TIF is from the City's Master Fee Schedule as of July 1, 2016.

² Fremont specifies TIF amounts for residential uses based on the number of bedrooms. Amount shown is for 2-3 bedroom units.

³ Transit Area Development Impact Fee includes fees for many services and improvements. The fee for just the transportation improvements was estimated from data presented in Table 5 on Page 10 of the Transit Area Development Impact Fee Update Final Report, February 2014.

⁴ Los Gatos specifies its TIF as \$902 per DAILY trip. PM peak hour trip amount has been approximated as 10 times the daily amount.

Amounts for specific land uses have been calculated using daily ITE trip generation rates and \$902 per daily trip.

**City of Newark
Transportation Impact Fee Nexus Study**

Technical Appendices

Appendix A
Future Residential and Employment Growth

Residential Development Projects						
Location	PM Peak Hour Trips Rate ¹				Total Units	PM Peak Hour Trips
	1.00 Single Family	0.52 Townhomes	0.62 Apartments	0.25 Senior		
Timber	84	80			164	126
Cedar Lane Townhomes		85			85	44
Prima	42	146	93		281	176
Baptist Church Site (Equinox)	15				15	15
Casa Bella		14			14	7
Ruschin School Site	77				77	77
Bayshores	187	360			547	374
Dumbarton TOD-SSH Towns		88			88	46
Dumbarton TOD- Senior				75	75	19
Dumbarton: Trumark	244				244	244
Dumbarton TOD Gateway West	321	268			589	460
36731 Sycamore			14		14	9
Sanctuary	385				385	385
7843 Railroad			6		6	4
6840 Rich		18			18	9
Filbert Townhomes		16			16	8
Freitas (Robsen Homes)		180			180	94
Ashland Dumbarton TOD		120			120	62
Old Town Residential			400		400	248
FMC Dumbarton TOD			180		180	112
Area 4	700				700	700
Honeywell TOD			210		210	130
Greater Newark Apartments			1,800		1,800	1,116
Totals	2,055	1,375	2,703	75	6,208	4,465
PM Peak-Hour Trips	2,055	715	1,676	19		
Under Construction	141	325	93	0	559	368
Approved	1,214	716	14	75	2,019	1,614
Pending	0	34	6	0	40	21
Long Range	700	300	2,590	0	3,590	2,462
Totals	2,055	1,375	2,703	75	6,208	4,465
¹ PM Peak hour trips by land use type calculated based ITE trip generation rates:						
Single Family	ITE Code 210					
Townhomes	ITE Code 230					
Apartments/Condos	ITE Code 220					
Senior Housing [Attached]	ITE Code 252					

Commercial Development Projects

TAZ	Increase in				SF of Development ³			PM Peak Hour Trips		
	GP Jobs ¹	Industrial	Retail	Office	Industrial	Retail	Office	Industrial	Retail	Office
931	20	20			8,000			8		
933	40	40			16,000			16		
930	97	97			38,800			38		
918	110		55	55		27,354	18,430		76	27
922	110		55	55		27,656	18,229		77	27
932	217	217			86,800			84		
934	511		57	454		28,319	151,454		79	226
935	1,778		227	1,551		113,612	516,926		316	770
Totals	2,883	374	394	2,115	149,600	196,941	705,039	145	548	1,051
					1,051,580			1,744		

Notes

TAZ = Traffic Analysis Zone

¹ As reported in Newark's General Plan

² Derived from commercial development descriptions from Newark's General Plan.

³ Square Feet per of development calculated based on ITE PM peak-hour trip rates per 1,000 square feet and per employee.

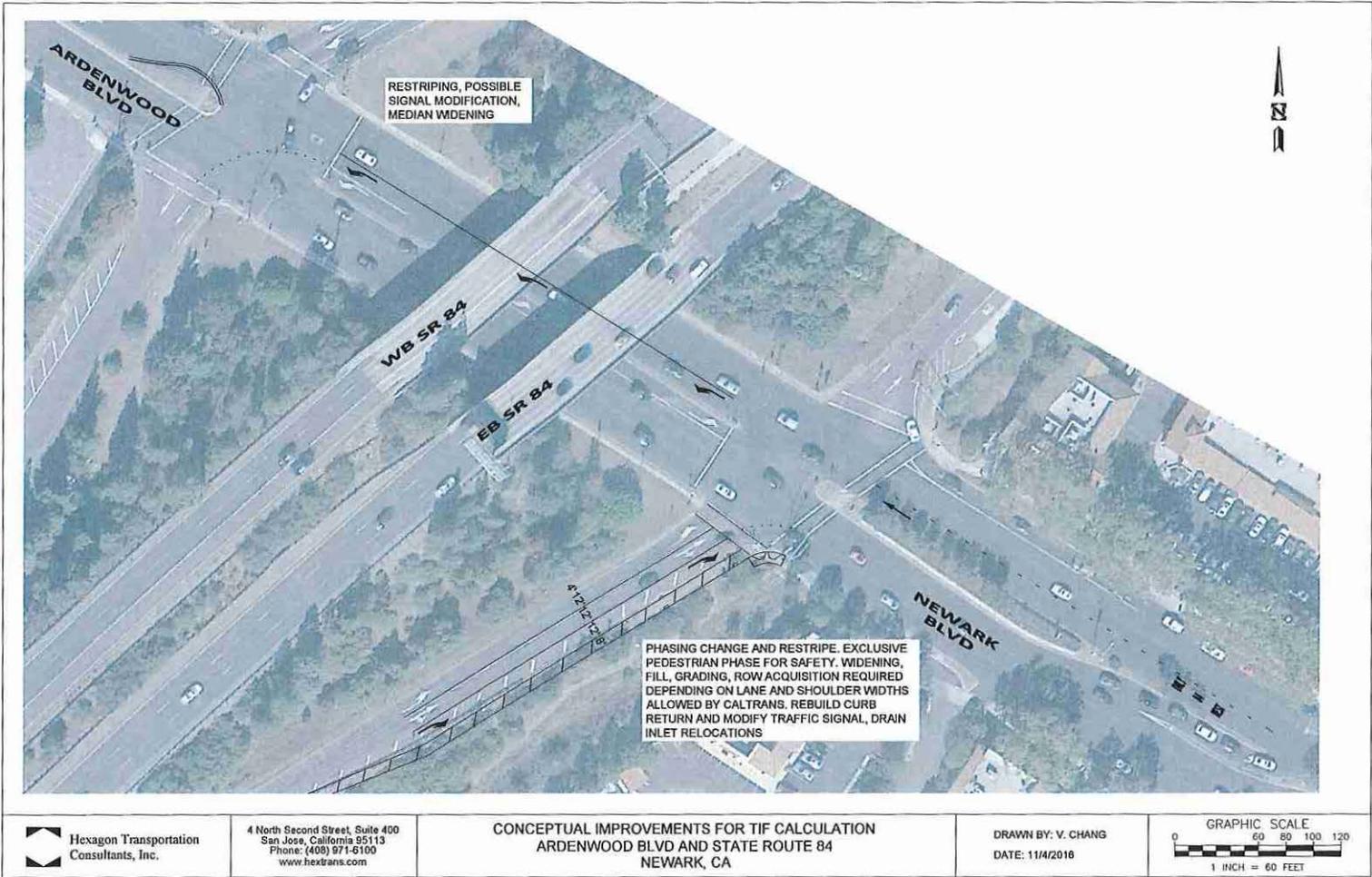
Light Industrial (Includes Manufacturing ITE Code 110) Assume 2.50 jobs per 1,000 square feet

Retail ITE Code 820 Assume 2.0 jobs per 1,000 square feet

Office (Includes R&D) ITE Code 710 Assume 3.33 jobs per 1,000 square feet

⁴ PM Peak hour trips by land use type calculated based ITE Trip Generation Rates. Retail rate includes a 25% pass by reduction.

Appendix B
Conceptual Drawings Intersection Improvements

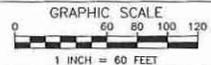


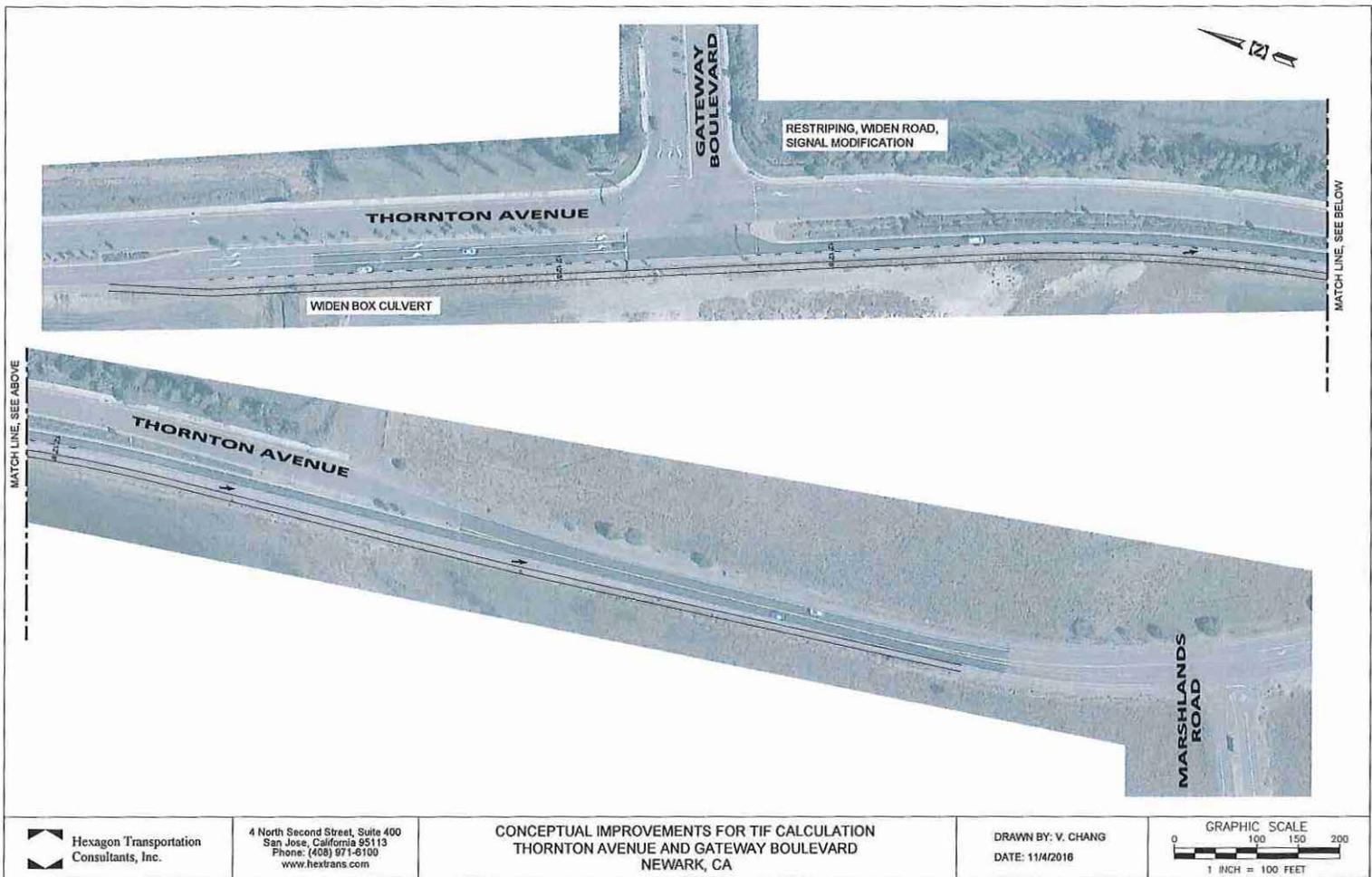
Hexagon Transportation
Consultants, Inc.

4 North Second Street, Suite 400
San Jose, California 95113
Phone: (408) 971-6100
www.hextrans.com

CONCEPTUAL IMPROVEMENTS FOR TIF CALCULATION
ARDENWOOD BLVD AND STATE ROUTE 84
NEWARK, CA

DRAWN BY: V. CHANG
DATE: 11/4/2016







RESTRIPING, WIDEN ROAD, SIGNAL
MODIFICATION, NARROW PORKCHOP ISLAND,
REBUILD MEDIAN ISLAND, REBUILD CURB RETURN,
ROW ACQUISITION, UTILITY RELOCATION, DRAIN
INLET RELOCATION, REMOVE TREES.

CHERRY STREET

THORNTON AVENUE

12' 12"

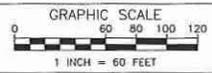
11' 11' 11' 12"

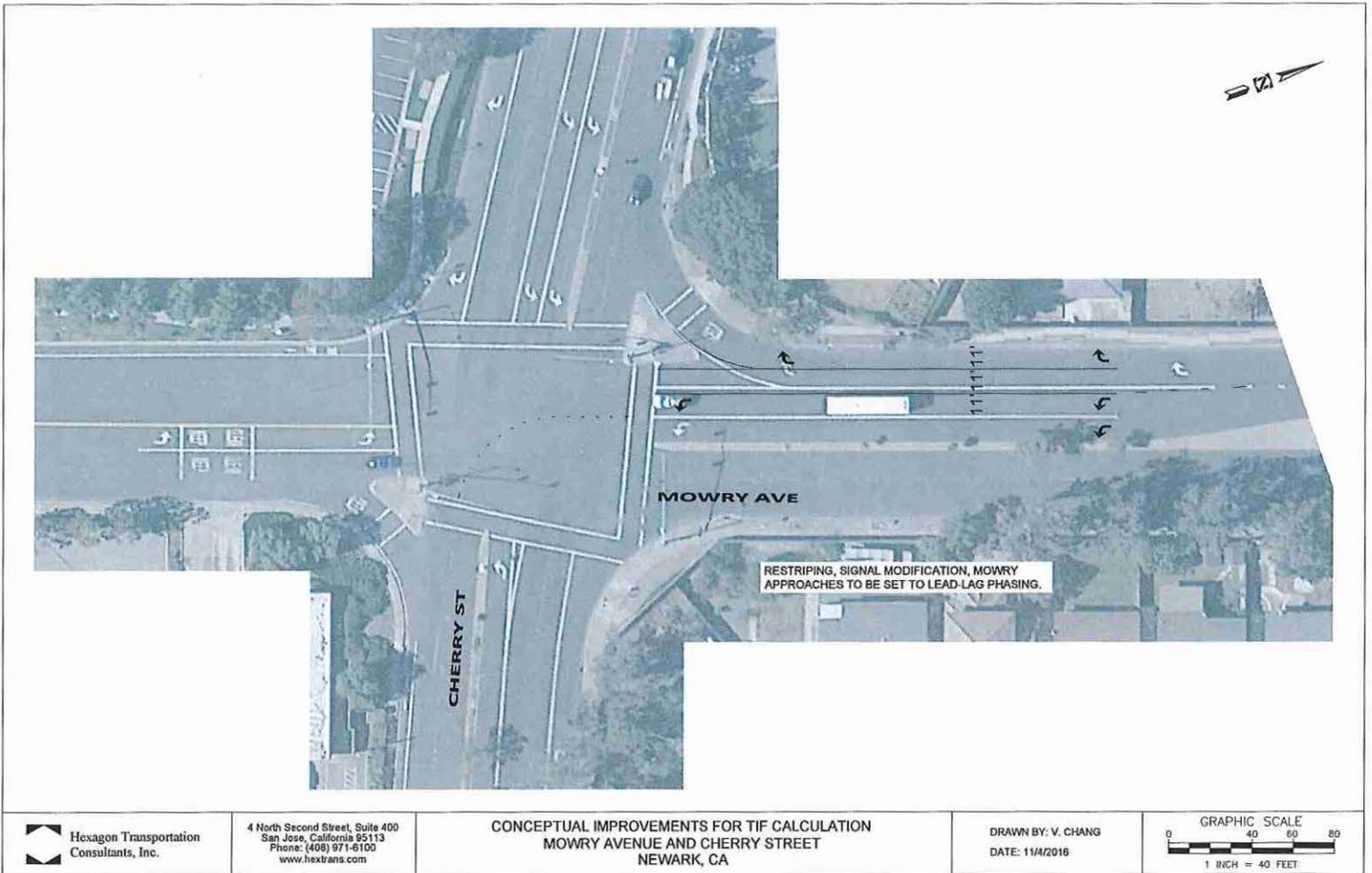
 Hexagon Transportation
Consultants, Inc.

4 North Second Street, Suite 400
San Jose, California 95113
Phone: (408) 971-6100
www.hextrans.com

CONCEPTUAL IMPROVEMENTS FOR TIF CALCULATION
THORNTON AVENUE AND CHERRY STREET
NEWARK, CA

DRAWN BY: V. CHANG
DATE: 11/4/2016



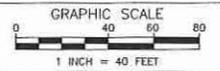


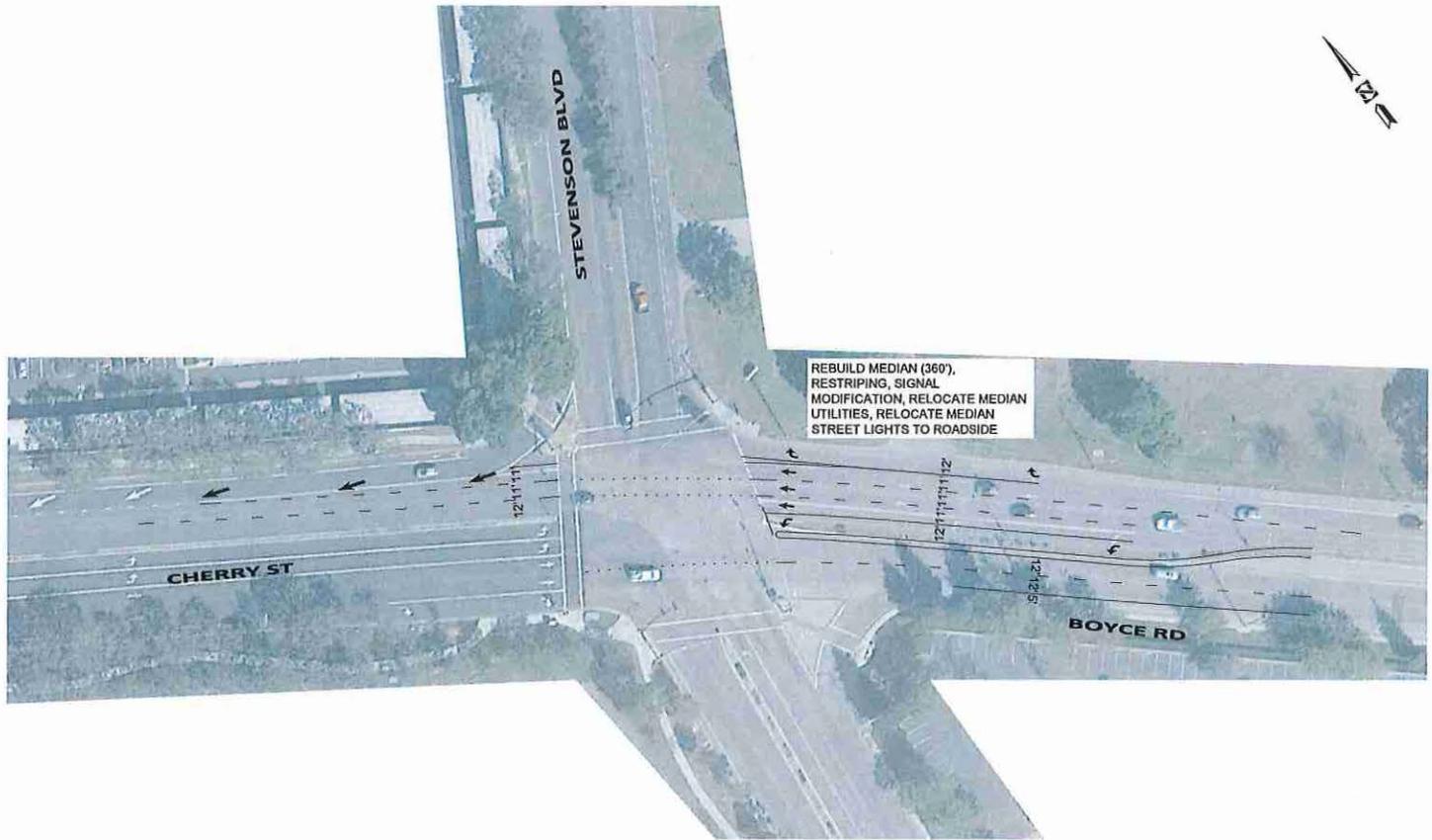

Hexagon Transportation Consultants, Inc.

4 North Second Street, Suite 400
 San Jose, California 95113
 Phone: (408) 971-6100
www.hextrans.com

**CONCEPTUAL IMPROVEMENTS FOR TIF CALCULATION
 MOWRY AVENUE AND CHERRY STREET
 NEWARK, CA**

DRAWN BY: V. CHANG
 DATE: 11/4/2016



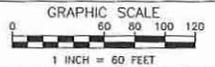


 Hexagon Transportation Consultants, Inc.

4 North Second Street, Suite 400
San Jose, California 95113
Phone: (408) 971-6100
www.hextrans.com

CONCEPTUAL IMPROVEMENTS FOR TIF CALCULATION
STEVENSON BOULEVARD AND CHERRY STREET
NEWARK, CA

DRAWN BY: V. CHANG
DATE: 11/4/2016



Appendix C
Cost Estimates Intersection Improvements

Planning-Level Improvement Cost Estimate

PROJECT: Newark TIF
LOCATION: Ardenwood BI/Newark BI and WB SR84
DATE: 3/10/2017

Ardenwood BI/Newark BI and WB SR84

Item Description	Unit	Qty.	Unit Price	Extension
Miscellaneous				
Earthwork	CY		\$ 95.00	\$ -
Asphalt Concrete Pavement w/ aggregate base	SF	160	\$ 18.00	\$ 2,880.00
Install Median Island	SF	600	\$ 35.00	\$ 21,000.00
Import Fill Soil	CY		\$ 25.00	\$ -
Roadway Excavation	SF		\$ 5.00	\$ -
PCC Curb and Gutter	LF	80	\$ 45.00	\$ 3,600.00
PCC Curb Ramp	EA	1	\$ 5,000.00	\$ 5,000.00
PCC Sidewalk	SF		\$ 30.00	\$ -
Remove Asphalt Concrete Pavement	SF	200	\$ 8.00	\$ 1,600.00
Remove Median Island	SF		\$ 10.00	\$ -
Remove PCC Curb and Gutter	LF	80	\$ 11.00	\$ 880.00
Remove Sidewalk or Curb Ramp	SF		\$ 10.00	\$ -
Remove Storm Drain Inlet	EA		\$ 2,000.00	\$ -
Install Storm Drain Inlet	EA		\$ 4,000.00	\$ -
Install Metal Beam Guardrail	LF		\$ 50.00	\$ -
Remove Tree	EA		\$ 600.00	\$ -
Restriping and Signage	LS	1	\$ 3,000.00	\$ 3,000.00
Signal modification	EA	1	\$ 200,000.00	\$ 200,000.00
Subtotal				\$ 237,960.00
Total Materials & Labor Cost				\$ 237,960.00
Other Costs				
Mobilization	LS	1	7% of Materials	\$ 16,657.20
Environmental Mitigation	LS			\$ -
Stormwater Treatment	LS	1	30% of Materials	\$ 71,388.00
Clearing and grubbing	LS			\$ -
Construction Staging, Traffic Control, and Construction Area Signs	LS	1	6% of Materials	\$ 14,277.60
Contingency, Engineering and Administration Costs	LS	1	35% of Materials	\$ 83,286.00
Subtotal				\$ 185,608.80
Total Task Cost				\$ 423,568.80

Planning-Level Improvement Cost Estimate

PROJECT: Newark TIF
LOCATION: Ardenwood BI/Newark BI and EB SR84
DATE: 3/10/2017

Ardenwood BI/Newark BI and EB SR84

Item Description	Unit	Qty.	Unit Price	Extension
Miscellaneous				
Earthwork	CY	800	\$ 95.00	\$ 76,000.00
Asphalt Concrete Pavement w/ aggregate base	SF	6,650	\$ 18.00	\$ 119,700.00
Install Median Island	SF		\$ 35.00	\$ -
Import Fill Soil	CY	800	\$ 25.00	\$ 20,000.00
Roadway Excavation	SF		\$ 5.00	\$ -
PCC Curb and Gutter	LF	220	\$ 45.00	\$ 9,900.00
PCC Curb Ramp	EA	2	\$ 5,000.00	\$ 10,000.00
PCC Sidewalk	SF	1,000	\$ 30.00	\$ 30,000.00
Remove Asphalt Concrete Pavement	SF	4,000	\$ 8.00	\$ 32,000.00
Remove Median Island	SF		\$ 10.00	\$ -
Remove PCC Curb and Gutter	LF	220	\$ 11.00	\$ 2,420.00
Remove Sidewalk or Curb Ramp	SF	900	\$ 10.00	\$ 9,000.00
Remove Storm Drain Inlet	EA	2	\$ 2,000.00	\$ 4,000.00
Install Storm Drain Inlet	EA	2	\$ 4,000.00	\$ 8,000.00
Install Metal Beam Guardrail	LF	300	\$ 50.00	\$ 15,000.00
Remove Tree	EA		\$ 600.00	\$ -
Restriping and Signage	LS	1	\$ 12,000.00	\$ 12,000.00
Signal modification	EA	1	\$ 200,000.00	\$ 200,000.00
ROW Acquisition			NOT INCLUDED IN ESTIMATE	
Subtotal				\$ 548,020.00
Total Materials & Labor Cost				\$ 548,020.00
Other Costs				
Mobilization	LS	1	7% of Materials	\$ 38,361.40
Environmental Mitigation	LS	1	200000	\$ 200,000.00
Stormwater Treatment	LS	1	30% of Materials	\$ 164,406.00
Clearing and grubbing	LS	1	3% of Materials	\$ 16,440.60
Construction Staging, Traffic Control, and Construction Area Signs	LS	1	6% of Materials	\$ 32,881.20
Contingency, Engineering and Administration Costs	LS	1	35% of Materials	\$ 191,807.00
Subtotal				\$ 643,896.20
Total Task Cost				\$ 1,191,916.20

Planning-Level Improvement Cost Estimate

PROJECT: Newark TIF
LOCATION: Thornton Ave and Gateway BI
DATE: 1/27/2017

Thornton Ave and Gateway BI

Item Description	Unit	Qty.	Unit Price	Extension
Miscellaneous				
Earthwork	CY	3,000	\$ 95.00	\$ 285,000.00
Asphalt Concrete Pavement w/ aggregate base	SF	46,000	\$ 18.00	\$ 828,000.00
Install Median Island	SF		\$ 35.00	\$ -
Import Fill Soil	CY	3,000	\$ 25.00	\$ 75,000.00
Roadway Excavation	SF		\$ 5.00	\$ -
PCC Curb and Gutter	LF		\$ 45.00	\$ -
PCC Curb Ramp	EA		\$ 5,000.00	\$ -
PCC Sidewalk	SF		\$ 30.00	\$ -
Remove Asphalt Concrete Pavement	SF	21,000	\$ 8.00	\$ 168,000.00
Remove Median Island	SF		\$ 10.00	\$ -
Remove PCC Curb and Gutter	LF		\$ 11.00	\$ -
Remove Sidewalk or Curb Ramp	SF		\$ 10.00	\$ -
Remove Storm Drain Inlet	EA		\$ 2,000.00	\$ -
Install Storm Drain Inlet	EA		\$ 4,000.00	\$ -
Install Metal Beam Guardrail	LF	300	\$ 50.00	\$ 15,000.00
Remove Tree	EA		\$ 600.00	\$ -
Widen small culvert	LF	12	\$ 1,000.00	\$ 12,000.00
Restriping and Signage	LS	1	\$ 10,000.00	\$ 10,000.00
Signal modification	LS	1	\$ 200,000.00	\$ 200,000.00
Subtotal				\$ 1,593,000.00
Total Materials & Labor Cost				\$ 1,593,000.00
Other Costs				
Mobilization	LS	1	7% of Materials	\$ 111,510.00
Environmental Mitigation	LS	1	25% of Materials	\$ 398,250.00
Stormwater Treatment	LS	1	30% of Materials	\$ 477,900.00
Clearing and grubbing	LS	1	3% of Materials	\$ 47,790.00
Construction Staging, Traffic Control, and Construction Area Signs	LS	1	6% of Materials	\$ 95,580.00
Contingency, Engineering and Administration Costs	LS	1	35% of Materials	\$ 557,550.00
Subtotal				\$ 1,688,580.00
Total Task Cost				\$ 3,281,580.00

Planning-Level Improvement Cost Estimate

PROJECT: Newark TIF
 LOCATION: Thornton Ave and Cherry St
 DATE: 1/27/2017

Thornton Ave and Cherry St

Item Description	Unit	Qty.	Unit Price	Extension
Miscellaneous				
Asphalt Concrete Pavement w/ aggregate base	SF	3,200	\$ 18.00	\$ 57,600.00
Install Median Island	SF	250	\$ 35.00	\$ 8,750.00
Import Fill Soil	CY		\$ 25.00	\$ -
Roadway Excavation	SF	1,250	\$ 5.00	\$ 6,250.00
PCC Curb and Gutter	LF	750	\$ 45.00	\$ 33,750.00
PCC Curb Ramp	EA	2	\$ 5,000.00	\$ 10,000.00
PCC Sidewalk	SF	4,450	\$ 30.00	\$ 133,500.00
Remove Asphalt Concrete Pavement	SF	1,400	\$ 8.00	\$ 11,200.00
Remove Median Island	SF	800	\$ 10.00	\$ 8,000.00
Remove PCC Curb and Gutter	LF	750	\$ 11.00	\$ 8,250.00
Remove Sidewalk or Curb Ramp	SF	4,450	\$ 10.00	\$ 44,500.00
Remove Storm Drain Inlet	EA	1	\$ 2,000.00	\$ 2,000.00
Install Storm Drain Inlet	EA	1	\$ 4,000.00	\$ 4,000.00
Remove Tree	EA	6	\$ 600.00	\$ 3,600.00
Restriping and Signage	LS	1	\$ 10,000.00	\$ 10,000.00
Signal modification	LS	1	\$ 250,000.00	\$ 250,000.00
Streetlight and utilities relocation	LS	1	\$ 25,000.00	\$ 25,000.00
ROW Acquisition			NOT INCLUDED IN ESTIMATE	
Subtotal				\$ 616,400.00
Total Materials & Labor Cost				\$ 616,400.00
Other Costs				
Mobilization	LS	1	7% of Materials	\$ 43,148.00
Environmental Mitigation	LS		25% of Materials	\$ -
Stormwater Treatment	LS	1	30% of Materials	\$ 184,920.00
Clearing and grubbing	LS	1	1% of Materials	\$ 6,164.00
Construction Staging, Traffic Control, and Construction Area Signs	LS	1	6% of Materials	\$ 36,984.00
Contingency, Engineering and Administration Costs	LS	1	35% of Materials	\$ 215,740.00
Subtotal				\$ 486,956.00
Total Task Cost				\$ 1,103,356.00

Planning-Level Improvement Cost Estimate

PROJECT: Newark TIF
LOCATION: Cherry St and Mowry Ave
DATE: 1/27/2017

Cherry St and Mowry Ave

Item Description	Unit	Qty.	Unit Price	Extension
Miscellaneous				
Asphalt Concrete Pavement w/ aggregate base	SF		\$ 18.00	\$ -
Install Median Island	SF		\$ 35.00	\$ -
Import Fill Soil	CY		\$ 25.00	\$ -
Roadway Excavation	SF		\$ 5.00	\$ -
PCC Curb and Gutter	LF		\$ 45.00	\$ -
PCC Curb Ramp	EA		\$ 5,000.00	\$ -
PCC Sidewalk	SF		\$ 30.00	\$ -
Remove Asphalt Concrete Pavement	SF		\$ 8.00	\$ -
Remove Median Island	SF		\$ 10.00	\$ -
Remove PCC Curb and Gutter	LF		\$ 11.00	\$ -
Remove Sidewalk or Curb Ramp	SF		\$ 10.00	\$ -
Remove Storm Drain Inlet	EA		\$ 2,000.00	\$ -
Install Storm Drain Inlet	EA		\$ 4,000.00	\$ -
Remove Tree	EA		\$ 600.00	\$ -
Restriping and Signage	LS	1	\$ 5,000.00	\$ 5,000.00
Signal modification	LS	1	\$ 125,000.00	\$ 125,000.00
Streetlight and utilities relocation	LS		\$ 25,000.00	\$ -
Subtotal				\$ 130,000.00
Total Materials & Labor Cost				\$ 130,000.00
Other Costs				
Mobilization	LS	1	7% of Materials	\$ 9,100.00
Environmental Mitigation	LS		25% of Materials	\$ -
Stormwater Treatment	LS		30% of Materials	\$ -
Clearing and grubbing	LS		3% of Materials	\$ -
Construction Staging, Traffic Control, and Construction Area Signs	LS	1	6% of Materials	\$ 7,800.00
Contingency, Engineering and Administration Costs	LS	1	35% of Materials	\$ 45,500.00
Subtotal				\$ 62,400.00
Total Task Cost				\$ 192,400.00

Planning-Level Improvement Cost Estimate

PROJECT: Newark TIF
LOCATION: Cherry St and Stevenson Bl
DATE: 1/27/2017

Cherry St and Stevenson Bl

Item Description	Unit	Qty.	Unit Price	Extension
------------------	------	------	------------	-----------

Miscellaneous				
Asphalt Concrete Pavement w/ aggregate base	SF	2,200	\$ 18.00	\$ 39,600.00
Install Median Island	SF	1,400	\$ 35.00	\$ 49,000.00
Import Fill Soil	CY		\$ 25.00	\$ -
Roadway Excavation	SF		\$ 5.00	\$ -
PCC Curb and Gutter	LF	720	\$ 45.00	\$ 32,400.00
PCC Curb Ramp	EA		\$ 5,000.00	\$ -
PCC Sidewalk	SF		\$ 30.00	\$ -
Remove Asphalt Concrete Pavement	SF	1,400	\$ 8.00	\$ 11,200.00
Remove Median Island	SF	2,200	\$ 10.00	\$ 22,000.00
Remove PCC Curb and Gutter	LF	720	\$ 11.00	\$ 7,920.00
Remove Sidewalk or Curb Ramp	SF		\$ 10.00	\$ -
Remove Storm Drain Inlet	EA		\$ 2,000.00	\$ -
Install Storm Drain Inlet	EA		\$ 4,000.00	\$ -
Remove Tree	EA		\$ 600.00	\$ -
Restriping and Signage	LS	1	\$ 12,000.00	\$ 12,000.00
Signal modification	LS	1	\$ 200,000.00	\$ 200,000.00
Streetlight and utilities relocation	LS	1	\$ 35,000.00	\$ 35,000.00
Subtotal				\$ 409,120.00

Total Materials & Labor Cost	\$ 409,120.00
---	----------------------

Other Costs				
Mobilization	LS	1	7% of Materials	\$ 28,638.40
Environmental Mitigation	LS		25% of Materials	\$ -
Stormwater Treatment	LS	1	30% of Materials	\$ 122,736.00
Clearing and grubbing	LS		3% of Materials	\$ -
Construction Staging, Traffic Control, and Construction Area Signs	LS	1	6% of Materials	\$ 24,547.20
Contingency, Engineering and Administration Costs	LS	1	35% of Materials	\$ 143,192.00
Subtotal				\$ 319,113.60

Total Task Cost	\$ 728,233.60
------------------------	----------------------

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK
APPROVING AND AUTHORIZING EXPENDITURE FOR PREPARATION
OF DEVELOPMENT IMPACT FEE STUDIES ON (1) TRANSPORTATION
AND (2) PUBLIC SAFETY AND COMMUNITY FACILITIES AND
AMENDING THE BIENNIAL BUDGET AND CAPITAL IMPROVEMENT
PLAN 2016-2018 FOR FISCAL YEAR 2016-2017

WHEREAS, the City of Newark has undertaken Impact Fee Studies for Transportation and for Public Safety and Community Facilities needs in the past; and

WHEREAS, the studies need to be updated; and

WHEREAS, the Council must approve the preparation of the studies, authorize the funding, and amend the City Budget accordingly.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark approves preparation of Development Impact Fee Studies for (1) Transportation and (2) Public Safety and Community Facilities and the expenditure of funds in the amount of \$26,300 and \$16,600, respectively, for the studies.

BE IT FURTHER RESOLVED, that the certain document entitled "Biennial Budget and Capital Improvement Plan 2016-2018" is hereby amended for Fiscal Year 2016-2017 to establish two accounts with the amounts designated for Transportation and Public Safety and Community Facilities, respectively:

401 – 5600 – 5280 – TRA	\$26,300
401 – 5600 – 5280 – CSF	\$16,600

F.1 Approval of plans and specifications, acceptance of bid and award of contract to Ocean Blue Environmental Services, Inc. for Storm Drain Trash Capture Devices (Phase 2), Project 1122 – from Public Works Director Fajeau.

(MOTION)(RESOLUTION)

Background/Discussion – This project involves the installation of additional full trash capture devices in storm drain inlets for the purpose of reducing trash in the municipal separate storm sewer system. Installation of these devices will contribute to meeting trash reduction requirements under the Municipal Regional Stormwater Permit issued to the City by the Regional Water Quality Control Board.

Bids for the project were opened on May 15, 2017 with the following results:

Bidder	Amount
Ocean Blue Environmental Services, Inc.	\$ 129,431.25
United Storm Water Inc.	141,600.00
Engineer's Estimate	\$ 185,000.00

The 2016-2018 Biennial Budget includes sufficient funding for this project. Staff recommends that the project be awarded to the lowest responsible bidder, Ocean Blue Environmental Services, Inc.

Attachment

Action – It is recommended that the City Council, by motion, approve the plans specifications and by resolution, accept the bid and award the contract to Ocean Blue Environmental Services, Inc. for Storm Drain Trash Capture Devices (Phase 2), Project 1122.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK ACCEPTING THE BID AND AWARDING THE
CONTRACT TO OCEAN BLUE ENVIRONMENTAL
SERVICES, INC. STORM DRAIN TRASH CAPTURE
DEVICES (PHASE 2), PROJECT 1122

BE IT RESOLVED that the City Council of the City of Newark does hereby find that Ocean Blue Environmental Services, Inc. was the lowest responsible bidder for Storm Drain Trash Capture Devices (Phase 2), Project 1122, in the City of Newark.

BE IT FURTHER RESOLVED that the City Council does hereby accept said bid of said company and does hereby authorize the Mayor of the City of Newark to sign an agreement with said company for the construction of Storm Drain Trash Capture Devices (Phase 2), Project 1122, according to the plans, specifications, and terms of said bid.

F.2 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8310 – Phase II Bayshores (CDCG Group Holdings Bayshores, L.P.), an 86-unit residential subdivision at 37555 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area – from Associate Civil Engineer Cangco. (RESOLUTION)

Background/Discussion – On November 29, 2012, the City Council approved Vesting Tentative Tract Map 8085 for a 553-unit residential subdivision at 37555 Willow Street, generally located on the west side of Willow Street near Central Avenue. The Vesting Tentative Tract Map was subsequently amended on February 28, 2013, by the City Council for a 547-unit residential subdivision. On April 28, 2016, the first phase of the project was approved by the City Council. This project, Tract 8310, is the second phase of the development for an 86-unit subdivision. The developer, CDCG Group Holdings Bayshores, L.P., has submitted the required fees, bonds, and other documents for approval of the Final Map for Tract 8310.

The Final Map dedicates additional street rights-of-way for Seawind Way and Quiet Cove Way. The developer has executed a Subdivision Improvement Agreement and has posted a Performance Bond in the amount of \$1,484,000 and a Materials Bond in the amount of \$742,000. The bonds will guarantee construction of the private streets and improvements on Seawind Way, Quiet Cove Way, and Hickory Street.

The Final Map for Tract 8310 has been reviewed and found to be in conformance with Vesting Tentative Tract Map 8085 and the Conditions of Approval, and is now ready for City Council approval. Recording of the Final Map and issuance of subsequent permits and approvals for construction activity will be at the discretion of the City Engineer.

Financial Impact – The estimated annual maintenance of the street improvements associated with Tract 8310 is \$2,000 for street sweeping and pavement maintenance. The street lights and landscaping on Seawind Way and Quiet Cove Way will be maintained by the Landscaping and Lighting District and HOA respectively.

Attachment

Action – It is recommended that the City Council, by resolution, approve the Final Map and Subdivision Improvement Agreement for Tract 8310 – Phase II Bayshores (CDCG Group Holdings Bayshores, L.P.), an 86-unit residential subdivision at 37555 Willow Street in the Dumbarton Transit-Oriented Development Specific Plan project area.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING THE FINAL MAP AND SUBDIVISION IMPROVEMENT AGREEMENT FOR TRACT 8310 – PHASE II BAYSHORES (CDCG GROUP HOLDINGS BAYSHORES, L.P.), AN 86-UNIT RESIDENTIAL SUBDIVISION AT 37555 WILLOW STREET IN THE DUMBARTON TRANSIT-ORIENTED DEVELOPMENT SPECIFIC PLAN PROJECT AREA

WHEREAS, on November 29, 2012, with Resolution No. 10,035, the City Council of the City of Newark approved Vesting Tentative Tract Map 8085 for a 553-unit residential subdivision on an approximately 42.22 acre project site generally located on the west side of Willow Street at the terminus of Central Avenue; and

WHEREAS, on February 28, 2013, with Resolution No. 10,066, the City Council of the City of Newark approved an Amendment to Vesting Tentative Tract Map 8085 amending the number of approved residential units to 547 residential units; and

WHEREAS, Tract 8310 is the phase two development of Vesting Tentative Tract Map 8085 for an 86-unit subdivision;

NOW THEREFORE, BE IT RESOLVED BY THE City Council of the City of Newark that the City Council does hereby approve the final map and improvement plans for Tract 8310, City of Newark, County of Alameda, State of California, and that the Mayor is authorized and hereby directed to execute an agreement between the City of Newark and CDCG Group Holdings Bayshores, L.P., for the improvements of said tract.

BE IT FURTHER RESOLVED that the City Council does hereby accept all parcels of land offered for public use in conformity with the terms of offer of dedication as shown on the final map for Tract 8310.

BE IT FURTHER RESOLVED that the City Council does hereby approve the Performance Bond in the amount of \$1,484,000 and the Materials Bond in the amount of \$742,000 posted by the developer to secure the installation of improvements in accordance with the plans and specifications and the Subdivision Improvement Agreement.

BE IT FURTHER RESOLVED that the recording of the final map and final approval for the start of construction activity for Tract 8310, including issuance of all related construction permits, shall be at the discretion of the City Engineer.

OWNER'S STATEMENT

THE UNDERSIGNED, CDCG GROUP HOLDINGS BAYSHORES LP, HEREBY STATES THAT THEY ARE THE OWNER OF ALL THE LANDS DELINEATED AND EMBRACED WITHIN THE BOUNDARY LINES UPON THE HEREM EMBRACED MAP ENTITLED "TRACT 8310, CITY OF NEWARK, ALAMEDA COUNTY, CALIFORNIA" CONSISTING OF FOUR (4) SHEETS, THIS STATEMENT BEING ON SHEET ONE (1) THEREOF; THAT IT HAS CAUSED SAID MAP TO BE PREPARED FOR RECORD AND DOES CONSENT TO THE MAKING AND RECORDATION OF SAID MAP; THAT SAID MAP PARTICULARLY SETS FORTH AND DESCRIBES ALL THE LOTS INTENDED FOR SALE BY NUMBERS WITH THEIR PRECISE LENGTH AND WIDTH; THAT SAID MAP PARTICULARLY SETS FORTH AND DESCRIBES ALL THE PARCELS SO RESERVED FOR PUBLIC PURPOSES BY THEIR BOUNDARY COURSES AND EXTENT.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED IN FEE FOR PUBLIC PURPOSES: QUIET COVE WAY AND SEAWIND WAY FOR ROADWAY AND PUBLIC UTILITY PURPOSES.

THE REAL PROPERTY DESCRIBED BELOW IS DEDICATED AS EASEMENTS FOR PUBLIC PURPOSES:

- 1) THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT, RECONSTRUCT, AND MAINTAIN PUBLIC UTILITIES AND APPURTENANCES THERETO UNDER, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "PUE" (PUBLIC UTILITY EASEMENT) THEREON, ALL AS EMBRACED WITHIN THE BOUNDARY LINES UPON SAID MAP, AND THE RIGHT TO ENTER UPON SAID STRIPS OF LAND FOR THE PURPOSES OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND REPAIRING SAID PUBLIC UTILITIES AND APPURTENANCES THERETO.
- 2) THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT OF INGRESS AND EGRESS FOR EMERGENCY VEHICLES ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "EVAE" (EMERGENCY VEHICLE ACCESS EASEMENT).
- 3) THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT OF INGRESS AND EGRESS FOR EMERGENCY PERSONNEL AND EQUIPMENT, EXCLUDING VEHICULAR ACCESS, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "EAE" (EMERGENCY ACCESS EASEMENT).
- 4) THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT, RECONSTRUCT, AND MAINTAIN SEWER LINES AND APPURTENANCES THERETO UNDER, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "SSE" (SANITARY SEWER EASEMENT) HEREON, ALL AS EMBRACED WITHIN THE BOUNDARY LINES UPON SAID MAP, AND THE RIGHT TO ENTER UPON SAID STRIPS OF LAND FOR THE PURPOSES OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND REPAIRING SAID SANITARY SEWERS AND APPURTENANCES THERETO.
- 5) THE UNDERSIGNED HEREBY DEDICATES TO THE PUBLIC FOREVER THE RIGHT TO CONSTRUCT, RECONSTRUCT, AND MAINTAIN WATER LINES AND APPURTENANCES THERETO UNDER, ON AND OVER THOSE CERTAIN STRIPS OF LAND SHOWN UPON SAID MAP AS "WLE" (WATER LINE EASEMENT) THEREON, ALL AS EMBRACED WITHIN THE BOUNDARY LINES UPON SAID MAP, AND THE RIGHT TO ENTER UPON SAID STRIPS OF LAND FOR THE PURPOSES OF CONSTRUCTING, RECONSTRUCTING, MAINTAINING, AND REPAIRING SAID WATER LINE AND APPURTENANCES THERETO.

THE UNDERSIGNED HEREBY RESERVES THE RIGHTS TO CONSTRUCT, RECONSTRUCT, AND MAINTAIN PRIVATE STORM DRAIN FACILITIES TOGETHER WITH THE RIGHT OF INGRESS AND EGRESS, IN THOSE AREAS DESIGNATED AS "PSDE" (PRIVATE STORM DRAIN EASEMENT) TO BE GRANTED TO THE HOMEOWNERS ASSOCIATION BY SEPARATE INSTRUMENT.

PARCELS A AND B, AND LOTS A AND B SHALL BE GRANTED TO A HOMEOWNERS ASSOCIATION BY SEPARATE INSTRUMENT. PARCELS A AND B SHALL BE RESERVED FOR PUBLIC OPEN SPACE AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION. LOTS A AND B (ESTUARY ROAD AND CAPE COD ROAD) SHALL BE RESERVED FOR PRIVATE STREETS AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

PARCEL C IS TO BE RETAINED BY OWNER FOR FUTURE SUBDIVISION.

WE ALSO HEREBY STATE LOTS 1 THROUGH 8, INCLUSIVE, ARE FOR CONDOMINIUM PURPOSES.

CDCG GROUP HOLDINGS BAYSHORES LP, A DELAWARE LIMITED PARTNERSHIP

BY: CDCG ASSET MANAGEMENT, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, ITS AUTHORIZED AGENT

BY: Steven S. Benson DATE: 5/10/17
STEVEN S. BENSON, ITS MANAGER

TRACT 8310

CITY OF NEWARK, ALAMEDA COUNTY, CALIFORNIA
FOR CONDOMINIUM PURPOSES
CONSISTING OF 4 SHEETS
BEING A SUBDIVISION OF PARCEL R OF TRACT 8085, FILED
ON MAY 4, 2016, IN BOOK 339 OF MAPS, AT PAGE 76,
ALAMEDA COUNTY RECORDS.

Carlson, Barbee & Gibson, Inc.
CIVIL ENGINEERS • SURVEYORS • PLANNERS
SAN RAMON, CALIFORNIA

APRIL 2017

OWNER'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF Arizona | SS.
COUNTY OF Maricopa |

ON May 10, 2017, BEFORE ME, Nathan Holt, A NOTARY PUBLIC, PERSONALLY APPEARED Steven S. Benson, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: Nathan Holt

NAME (PRINT): Nathan Holt

PRINCIPAL COUNTY OF BUSINESS: Maricopa

MY COMMISSION NUMBER: 334827

MY COMMISSION EXPIRES: October 30, 2018



TRUSTEE'S STATEMENT

THE UNDERSIGNED CORPORATION, AS TRUSTEE UNDER DEED OF TRUST RECORDED ON SEPTEMBER 18, 2013, IN INSTRUMENT NO. 2013210652 OF OFFICIAL RECORDS, AND AMENDED BY DOCUMENT RECORDED MARCH 4, 2016, IN INSTRUMENT NO. 2016053611 OF OFFICIAL RECORDS, ALAMEDA COUNTY, CALIFORNIA; DOES HEREBY JOIN IN AND CONSENT TO THE FOREGOING OWNERS STATEMENT AND ALL DEDICATIONS SHOWN HEREIN.

CHICAGO TITLE COMPANY

BY: [Signature]
NAME: ROSS KENNEDY
TITLE: ASST. SECRETARY

TRUSTEE'S ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF California | SS.
COUNTY OF Alameda |

ON May 12, 2007 BEFORE ME, Cindy Short, A NOTARY PUBLIC, PERSONALLY APPEARED Ross Kennedy, WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/HEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

WITNESS MY HAND:

SIGNATURE: Cindy Short

NAME (PRINT): Cindy Short

PRINCIPAL COUNTY OF BUSINESS: Alameda

MY COMMISSION NUMBER: 21598104

MY COMMISSION EXPIRES: Aug. 11, 2020

RECORDER'S STATEMENT

FILED FOR RECORD THIS _____ DAY OF _____, 20____ AT _____ M.
IN BOOK _____ OF MAPS, AT PAGES _____, AT THE REQUEST OF CHICAGO TITLE COMPANY.

FE: _____ PD. SERIES NO. _____

STEVE MANNING
COUNTY RECORDER IN AND FOR THE COUNTY
OF ALAMEDA, STATE OF CALIFORNIA

BY: _____
DEPUTY

TRACT 8310

CITY OF NEWARK
SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310
(Phase II Bayshores)

This Subdivision Improvement Agreement (hereinafter "Agreement") is made and entered into by and between the CITY OF NEWARK, a municipal corporation (hereinafter "City"), and CDCG GROUP HOLDINGS BAYSHORES LP, a Delaware limited partnership (hereinafter "Developer"). City and Developer may be collectively referred to herein as the "parties."

RECITALS

- A.** In accordance with the Subdivision Map Act (California Government Code Sections 66410, *et seq.*), and the Subdivision Ordinance (Newark Municipal Code, Title 16, Chapters 16.04, 16.08, 16.12, 16.16, 16.20, and 16.32), and the Street Ordinance (Newark Municipal Code, Title 12, Chapters 12.04 and 12.08), the Developer has submitted to the City a Final Map (hereinafter "Final Map") for the Project known as Tract 8310 Phase II Bayshores in Newark, California (hereinafter "Project").
- B.** The Project is geographically located within the boundaries of the Tentative Tract Map known as "Tentative Map 8085". The Tentative Map is on file with the City Engineer, and is incorporated herein by reference.
- C.** The City's approval of the Tentative Map was subject to specified conditions of approval (hereinafter "Conditions"). The Conditions are on file with the City Engineer, and are incorporated herein by reference.
- D.** Improvement Plans and Specifications have been prepared on behalf of the Developer, and approved by the City Engineer, which describe the improvements which are required to be constructed by the Developer. The term "Plans and Specifications" shall include _____ () sheets of improvement plans titled "Bayshores Tract 8310 Phase II Improvement Plans" approved by the City Engineer on _____. The Plans and Specifications are on file with the City Engineer, and are incorporated herein by reference.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS IDENTIFIED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

- 1. SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter "Work"), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be

CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores

provided, at the Developer's sole cost and expense. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer.

2. **PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
3. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreperson or superintendent (hereinafter "Authorized Representative") on site with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.
4. **IMPROVEMENT SECURITY.** The Developer shall, or cause its contractor William Lyon Homes, a California corporation to, furnish faithful performance and labor and material security concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work. The Developer shall furnish warranty security prior to the City's acceptance of the Work. The form of the security shall be as authorized by the Subdivision Map Act (including Government Code Sections 66499, *et seq.*) and the Newark Municipal Code, and as set forth below:
 - 4(a). **Faithful Performance.** Performance Bonds in the amount of \$1,484,000 to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.
 - 4(b). **Labor and Material.** Materials Bonds in the amount of \$742,000.00 to secure payment by the Developer to laborers and materialmen pursuant to Government Code Sections 66499.2, 66499.3, and 66499.4.
 - 4(c). **Warranty.** Performance Bonds in the amount of \$148,400.00 to secure faithful performance of this Agreement (from the date on which the City accepts the Work as complete until one year thereafter) pursuant to Government Code Sections 66499.1, 66499.4, and 66499.9.

CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores

5. **BUSINESS LICENSE.** The Developer shall apply for and pay the business license fees, in accordance with Newark Municipal Code Title 5, Chapter 5.04.
6. **INSURANCE.** Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer (including its agents, representatives, contractors, subcontractors, and employees) in connection with the performance of services under this Agreement. This Agreement identifies the minimum insurance levels with which Developer shall comply; however, the minimum insurance levels shall not relieve Developer of any other performance responsibilities under this Agreement (including the indemnity requirements), and Developer may carry, at its own expense, any additional insurance it deems necessary or prudent. Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any services, the Developer shall furnish written proof of insurance (certificates and endorsements), in a form acceptable to the City. Developer shall provide substitute written proof of insurance no later than 30 days prior to the expiration date of any insurance policy required by this Agreement.
- 6(a). **Minimum Insurance Levels.** Developer shall maintain insurance at the following minimum levels:
- 6(a)(1). **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage in an amount not less than \$5,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 6(a)(2). **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto”) coverage in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 6(a)(3). **Workers’ Compensation** coverage as required by the State of California.
- 6(b). **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.

**CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores**

6(c). Endorsements. The insurance policies shall be endorsed as follows:

6(c)(1). For the commercial general liability insurance, the City (including its elected officials, employees, volunteers, and agents) shall be named as additional insured, and the policy shall be endorsed with a form at least as broad as ISO form CG 20 10 11 85.

6(c)(2). Developer's insurance is primary to any other insurance available to the City with respect to any claim arising out of this Agreement. Any insurance maintained by the City shall be excess of the Developer's insurance and shall not contribute with it.

6(c)(3). Developer's insurance will not be canceled, limited, or allowed to expire without renewal until after 30 days written notice has been given to the City. During the term of this Agreement, Consultant will not materially alter any of the policies or reduce any of the levels of coverage afforded by its insurance policies.

6(c)(4). Maintenance of proper insurance coverage in conformity with this Section 6 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.

6(d). Qualifications of Insurers. All insurance companies providing coverage to Developer 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, and shall have an A.M Best's rating of not less than "A:VII."

7. REPORTING DAMAGES. If any damage (including death, personal injury or property damage) occurs in connection with the performance of this Agreement, Developer shall immediately notify the City Engineer's office by telephone at 510-578-4290, and Developer shall promptly submit to the City's Risk Manager and the City's Authorized Representative, a written report (in a form acceptable to the City) with the following information: (a) a detailed description of the damage (including the name and address of the injured or deceased person(s), and a description of the damaged property), (b) name and address of witnesses, and (c) name and address of any potential insurance companies.

8. INDEMNIFICATION. To the fullest extent permitted by law, Developer shall indemnify, hold harmless, and defend the City (including its elected officials, officers, volunteers, agents and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses, and including court costs and attorney's fees)

**CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores**

resulting or arising from performance, or failure to perform, under this Agreement (with the exception of the sole negligence or willful misconduct of the City).

- 9. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 9(a). Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Developer shall not commence Work until after the notice required by this section is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.
- 9(b). Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.
- 9(c). Completion of Work.** The Developer shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement.
- 10. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 11. DEFAULT.** If either party ("demanding party") has a good faith belief that the other party ("defaulting party") is not complying with the terms of this Agreement, the demanding party shall give written notice of the default (with reasonable specificity) to the defaulting party, and demand the default to be cured within ten days of the notice. If: (a) the defaulting party fails to cure the default within ten days of the notice, or, (b) if more than ten days are reasonably required to cure the default and the defaulting party fails to give adequate written assurance of due performance within ten days of the notice, then (c) the demanding party

**CITY OF NEWARK -- SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores**

may terminate this Agreement upon written notice to the defaulting party.

11(a). The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

11(a)(1). The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

11(a)(2). The Developer abandons the Project site.

11(a)(3). The Developer fails to perform one or more requirements of this Agreement.

11(a)(4). The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

11(a)(5). The Developer violates any legal requirement related to the Work.

11(b). In the event that the Developer fails to cure the default, the City may, in the discretion of the City Engineer, take any or all of the following actions:

11(b)(1). Cure the default and charge the Developer for the costs therefor, including administrative costs and interest in an amount equal to seven percent (7 %) per annum from the date of default.

11(b)(2). Demand the Developer to complete performance of the Work.

11(b)(3). Demand the Developer's surety (if any) to complete performance of the Work.

12. ACCEPTANCE OF WORK. Prior to acceptance of the Work by the City Engineer, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. The Developer's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Engineer has accepted the Work as complete.

13. WARRANTY PERIOD. The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.

**CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores**

- 14. RELATIONSHIP BETWEEN THE PARTIES.** Developer is, and at all times shall remain, an independent contractor solely responsible for all acts of its employees, agents, contractors, or subcontractors, including any negligent acts or omissions. Developer is not City's agent, and shall have no authority to act on behalf of the City, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.
- 15. CONFLICTS OF INTEREST PROHIBITED.** Developer (including its employees, agents, contractors, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Developer maintains or acquires a conflicting interest, any contract with the City (including this Agreement) involving Developer's conflicting interest may be terminated by the City.
- 16. NONDISCRIMINATION.** Developer 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. Developer 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, or sex.
- 17. NOTICES.** All notices required or contemplated by this Agreement shall be in writing and shall be delivered to the respective party as set forth in this section. Communications shall be deemed to be effective upon the first to occur of: (a) actual receipt by a party's Authorized Representative, or (b) actual receipt at the address designated below, or (c) three working days following deposit in the United States Mail of registered or certified mail sent to the address designated below. The Authorized Representative of either party may modify their respective contact information identified in this section by providing notice to the other party.

TO: City of Newark
Attn: City Engineer
37101 Newark Boulevard
Newark, CA 94560

To: CDCG Group Holdings
Bayshores LP
c/o CDCG Asset Management LLC
8585 E. Hartford Drive
Suite 200
Scottsdale, AZ 85255
Attn: Steven S. Benson

CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores

18. **HEADINGS.** The heading titles for each paragraph of this Agreement are included only as a guide to the contents and are not to be considered as controlling, enlarging, or restricting the interpretation of the Agreement.
19. **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.
20. **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.
21. **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.
22. **ASSIGNMENT AND DELEGATION.** This Agreement, and any portion thereof, shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force or effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.
23. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
24. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
25. **CONFLICTS.** If any conflicts arise between the terms and conditions of this Agreement and the terms and conditions of the attached exhibits or any documents expressly incorporated, the terms and conditions of this Agreement shall control.
26. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated

**CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores**

understanding between the parties concerning the Work described herein. 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.

**CITY OF NEWARK – SUBDIVISION IMPROVEMENT AGREEMENT
TRACT 8310 Phase II Bayshores**

27. 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 the Developer and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

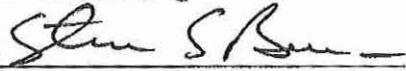
IN WITNESS WHEREOF, the City and Developer do hereby agree to the full performance of the terms set forth herein.

**CDCG GROUP HOLDINGS
BAYSHORES LP,**
A Delaware limited partnership

CITY OF NEWARK,
a municipal corporation

By: CDCG ASSET MANAGEMENT, LLC
an Arizona limited liability company,
Its Authorized Agent

By: _____
Alan L. Nagy, Mayor

By: 
Steven S. Benson, Its Manager

ATTEST:

Sheila Harrington, City Clerk

APPROVED AS TO FORM:

David J. Benoun, City Attorney

F.3 Direction to file Annual Reports and intention to order improvements for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18 and setting date of public hearing – from Public Works Director Fajeau.

(RESOLUTIONS-2)

Background/Discussion – The City Council has previously created Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17 and 18 to provide for the operation and maintenance of certain landscaping and lighting improvements. These districts are as follows:

Landscaping and Lighting District No. 1: Central Avenue between Filbert Street and Willow Street - Provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street and buffer landscaping adjacent to the Alameda County Flood Control channel immediately west of Filbert Street, and for the maintenance and operation of median street lights along this portion of Central Avenue.

Landscaping and Lighting District No. 2: Jarvis Avenue and Newark Boulevard adjacent to Dumbarton Technology Park and Four Corners shopping centers - Provides for the maintenance of Jarvis Avenue and Newark Boulevard median island and in-tract buffer landscaping and landscape irrigation systems adjacent to and within the boundaries of Tract 5232, the Dumbarton Industrial Park, and the Four Corners shopping centers.

Landscaping and Lighting District No. 4: Stevenson Boulevard and Cherry Street adjacent to New Technology Park - Provides for the maintenance of Stevenson Boulevard median island landscaping from the Nimitz Freeway to the railroad tracks west of Cherry Street and maintenance of median island and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the future interior loop streets within the boundaries of New Technology Park, and the maintenance of landscaping across the Newark Unified School District property on Cherry Street.

Landscaping and Lighting District No. 6: Cedar Boulevard, Duffel Redevelopment Area No. 2 - Provides for the maintenance of all street landscaping within the public right-of-way, and landscaping and landscape irrigation systems within easement areas and developed properties in Redevelopment Area No. 2 at Cedar Boulevard and Stevenson Boulevard plus the Stevenson Station Shopping Center.

Landscaping and Lighting District No. 7: Newark Boulevard, Rosemont Square Shopping Center - Provides for the maintenance of buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas for Rosemont Square Shopping Center.

Landscaping and Lighting District No. 10: Consolidated District - Provides for the maintenance of landscaping and landscape irrigation systems within the right-of-way and easement areas for all of the Inactive Subdistricts.

Landscaping and Lighting District No. 11: Edgewater Drive medians - Provides for the maintenance of landscaped medians on Edgewater Drive.

Landscaping and Lighting District No. 13: Citation Homes and Bren Development/ Thornton Avenue - Provides for maintenance of the landscaping and lighting irrigation systems for Thornton Avenue, Cedar Boulevard, Willow Street, and other streets within these subdivisions. This district was relieved from the responsibility for maintenance of median landscaping on Thornton Avenue in May 1997. This district is therefore now an inactive district.

Landscaping and Lighting District No. 15: Robertson Avenue at Iris Court - Provides for the maintenance of the landscaping and irrigation systems on Robertson Avenue at Iris Court.

Landscaping and Lighting District No. 16: Kiote Drive in Tract 6671 - The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage of Kiote Drive in Tract 6671 and the landscaping, irrigation system, recreation facilities, and storm drainage pump station and filtration system for the mini-park common area.

Landscaping and Lighting District No. 17: Newark Boulevard and Mayhews Landing Road in Tract 7004 – The maintenance of landscaping and the landscape irrigation system within the public right-of-way of the Newark Boulevard and Mayhews Landing Road frontages of Tract 7004.

Landscaping and Lighting District No. 18: Cedar Boulevard median on the frontage of Tract 8130 – The maintenance of landscaping and the landscape irrigation system within the Cedar Boulevard median area along the frontage of Tract 8130 between Central Avenue and Smith Avenue.

In the opinion of bond counsel, Brown Act amendments requiring two hearings for increasing assessments do not apply to the annual budget hearings unless there is an addition to the improvements or a change in the formula for allocating the cost among benefited properties. Neither of these cases applies for each of the above districts and the annual public hearings are simply to adopt a budget for the upcoming year.

Upon conclusion of the annual public hearings, the assessments for the cost of the work are added to the tax bills for those property owners included within the boundaries of the particular Landscaping and Lighting District. Excess funds, or funds collected for which no work was done, can be carried over from one year to the next.

Attachment

Action - It is recommended that the City Council, by resolutions, direct the filing of annual reports for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18 in accordance with the provisions in the Landscaping and Lighting Act of 1972 and confirm the intent to order the improvements by setting the date for the annual public hearings for these districts for June 22, 2017.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK DIRECTING FILING OF ANNUAL REPORT

LANDSCAPING AND LIGHTING DISTRICT NOS. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18
(Pursuant to the Landscaping and Lighting Act of 1972)

The City Council of the City of Newark resolves:

1. The City Engineer, the person designated by this Council as the Engineer of Work for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18 and is hereby directed to file an Annual Report in accordance with the provisions of the Landscaping and Lighting Act of 1972.
2. This resolution is adopted pursuant to Section 22622 of the Streets and Highways Code.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK OF INTENTION TO ORDER IMPROVEMENTS

ASSESSMENT DISTRICT NOS. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18
(Pursuant to the Landscaping and Lighting Act of 1972)

The City Council of the City of Newark resolves:

1. The City Council intends to levy and collect assessments within Assessment District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, and 18 during Fiscal Year 2017-2018. The area of land to be assessed is located in the City of Newark, Alameda County.
2. The improvements to be made in these assessment districts are generally described as follows:

Landscaping and Lighting District No. 1: Central Avenue between Filbert Street and Willow Street - Provides for the maintenance of median landscaping on Central Avenue between Filbert Street and Willow Street and buffer landscaping adjacent to the Alameda County Flood Control channel immediately west of Filbert Street, and for the maintenance and operation of median street lights along this portion of Central Avenue.

Landscaping and Lighting District No. 2: Jarvis Avenue and Newark Boulevard adjacent to Dumbarton Technology Park and Four Corners shopping centers - Provides for the maintenance of Jarvis Avenue and Newark Boulevard median island and in-tract buffer landscaping and landscape irrigation systems adjacent to and within the boundaries of Tract 5232, the Dumbarton Industrial Park, and the Four Corners shopping centers.

Landscaping and Lighting District No. 4: Stevenson Boulevard and Cherry Street adjacent to New Technology Park - Provides for the maintenance of Stevenson Boulevard median island landscaping from the Nimitz Freeway to Cherry Street and maintenance of median island and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the future interior loop streets within the boundaries of New Technology Park, and the maintenance of landscaping across the Newark Unified School District property on Cherry Street.

Landscaping and Lighting District No. 6: Cedar Boulevard, Duffel Redevelopment Area No. 2 - Provides for the maintenance of all street landscaping within the public right-of-way, and landscaping and landscape irrigation systems within easement areas and developed properties in Redevelopment Area No. 2 at Cedar Boulevard and Stevenson Boulevard plus the Stevenson Station Shopping Center.

Landscaping and Lighting District No. 7: Newark Boulevard, Rosemont Square Shopping Center - Provides for the maintenance of buffer landscaping and the landscape irrigation system within the public right-of-way and easement areas for Rosemont Square Shopping Center.

Landscaping and Lighting District No. 10: Consolidated District - Provides for the maintenance of landscaping and landscape irrigation systems within the right-of-way and easement areas for all of the Inactive Subdistricts.

Landscaping and Lighting District No. 11: Edgewater Drive medians - Provides for the maintenance of landscaped medians on Edgewater Drive.

Landscaping and Lighting District No. 13: Citation Homes and Bren Development/Thornton Avenue - Provides for maintenance of the landscaping and lighting irrigation systems for Thornton Avenue, Cedar Boulevard, Willow Street, and other streets within these subdivisions. This district was relieved from the responsibility for maintenance of median landscaping on Thornton Avenue in May 1997. This district is therefore now an inactive district.

Landscaping and Lighting District No. 15: Robertson Avenue at Iris Court - Provides for the maintenance of the landscaping and irrigation systems on Robertson Avenue at Iris Court.

Landscaping and Lighting District No. 16: Kiote Drive in Tract 6671 - The maintenance of landscaping and the landscape irrigation system within the public right-of-way and adjacent easement along the street frontage of Kiote Drive in Tract 6671 and the landscaping, irrigation system, recreation facilities, and storm drainage pump station and filtration system for the mini-park common area.

Landscaping and Lighting District No. 17: Newark Boulevard and Mayhews Landing Road in Tract 7004 – The maintenance of landscaping and the landscape irrigation system within the public right-of-way of the Newark Boulevard and Mayhews Landing Road frontages of Tract 7004.

Landscaping and Lighting District No. 18: Cedar Boulevard median on the frontage of Tract 8130 – The maintenance of landscaping and the landscape irrigation system within the Cedar Boulevard median area along the frontage of Tract 8130 between Central Avenue and Smith Avenue.

3. In accordance with this Council's resolution directing the filing of an Annual Report, the City Engineer, Engineer of Work, has filed with the City Clerk the report required by the Landscaping and Lighting Act of 1972. All interested persons are referred to that report for a full and detailed description of the improvements, the boundaries of the assessment district, and the proposed assessments upon assessable lots and parcels of land within the assessment district.

4. On Thursday, the 22nd of June 2017, at the hour of 7:30 p.m., the City Council will conduct a public hearing on the question of levy of the proposed annual assessment. The hearing will be held at the meeting place of the City Council located in the City Administration Building, 37101 Newark Boulevard, Newark, California.
5. The City Clerk is authorized and directed to give the notice of hearing required by the Landscaping and Lighting Act of 1972.



City of Newark

MEMO

DATE: May 16, 2017

TO: City Council

FROM: Sheila Harrington, City Clerk

SUBJECT: Approval of Audited Demands for the City Council Meeting of May 25, 2017.

REGISTER OF AUDITED DEMANDS

Bank of America General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
May 04, 2017	Page 1-2	111006 to 111068	Inclusive
May 12, 2017	Page 1-2	111069 to 111119	Inclusive



City of Newark

MEMO

DATE: May 16, 2017

TO: Sheila Harrington, City Clerk

FROM: Susie Woodstock, Administrative Services Director *SKW*

SUBJECT: Approval of Audited Demands for the City Council Meeting of May 25, 2017.

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

1
 nal Disbursement List. Check Date 05/04/17, Due Date 05/15/17, Discount Date 05/15/17. Computer Checks.
 ank 1001 U3 BANK

MICR check#	Vendor Number	Payee	Check Date	Check Amount	Description
11006	10027	AD SERVICES	05/04/17	65.00	COURIER SRVCS
11007	332	ADAMSON POLICE PRODUCTS	05/04/17	150.46	POLICE TRAINEE UNIFORMS
11008	1396	ALAMEDA COUNTY FIRE DEPARTMENT ATTN: ACC	05/04/17	832,348.50	FIRE SERVICES
11009	5821	ALL CITY MANAGEMENT SERVICES, INC	05/04/17	3,565.35	CROSSING GUARD SVCS 03/26-04/08/17
11010	1078	AMERICAN STAGE TOURS ATTN CHARTER SALES	05/04/17	2,424.00	LIGHTS-CAMERA-ACTION 04/26/17
11011	1085	AT&T	05/04/17	39.66	MONTHLY LONG DISTANCE APR'17
11012	147	AT&T MOBILITY	05/04/17	923.89	CELL SVC FOR MDT'S 03/14-04/13/17
11013	134	BATTERY SYSTEMS INC ATTN: ACCOUNTS RECEI	05/04/17	214.67	BATTERIES
11014	4534	BAY AREA BARRICADE SERVICE INC	05/04/17	377.17	REGULATORY & STREET NAME SIGNS
11015	9680	BAY CENTRAL PRINTING	05/04/17	63.78	BUSINESS CARD IMPRINTING
11016	7275	PETER BEIREIS	05/04/17	54.45	EXPENSE RIEMBURSEMENT
11017	10762	CALIFORNIA BUILDING STANDARDS COMMISSION	05/04/17	2,810.70	BUILDING STANDARDS FEES
11018	744	CALIFORNIA DEPARTMENT OF CONSERVATION DI	05/04/17	7,986.87	STRONG MOTIO/SEISMIC MAPPING FEES
11019	214	CENTRAL VETERINARY HOSPITAL	05/04/17	524.65	VET SVCS
11020	11381	CLARK'S HOME AND GARDEN, INC.	05/04/17	548.75	SOIL MIXES AND GRAVEL
11021	11117	CLEAN HARBORS ENV SERVICES	05/04/17	2,200.00	HAZMAT CLEAN-UP STREETS
11022	10970	COCA COLA REFRESHMENTS UNION CITY SALES	05/04/17	1,031.78	DRINKS FOR CAFE
11023	10060	COMCAST	05/04/17	127.96	CABLE AT THE SERVICE CENTER
11024	10793	VINOD KUMAR	05/04/17	600.00	RENTAL DEPOSIT REFUND
11025	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	05/04/17	40.00	LEGAL ADS
11026	63	THE GOODYEAR TIRE & RUBBER CO	05/04/17	2,079.43	TIRE PURCHASE
11027	1778	DISCOUNT SCHOOL SUPPLY	05/04/17	1,098.61	SUPPLIES FOR SUMMER DAY CARE & ASH STREE
11028	11015	EAST BAY LAWN MOWER	05/04/17	337.70	MISC PARTS
11029	10478	EUGENE'S HOME APPLIANCE SERVICE	05/04/17	1,106.62	REFRIGERATOR SENIOR CENTER
11030	7663	FIDELITY SECURITY LIFE INSURANCE/EYEMED	05/04/17	726.91	VISION PREMIUM
11031	522	FEDEX	05/04/17	34.88	FEDEX OVERNIGHT
11032	1120	FORENSIC ANALYTICAL SCIENCES, INC	05/04/17	150.00	LAB TESTS
11033	11400	DAN FRANKE	05/04/17	200.00	RESERVE UNIFORM ALLOWANCE
11034	5106	CITY OF FREMONT REVENUE DIVISION	05/04/17	4,540.16	SHELTER OPERATING EXPS
11035	11112	FREMONT CHRYSLER DODGE JEEP RAM	05/04/17	1,629.50	MISC PARTS FLEET
11036	60	FREMONT FORD/AUTOBODY OF FREMONT ATTN: P	05/04/17	739.47	FORD PARTS & SERVICE
11037	11508	BRANDON GORDON	05/04/17	41.96	EXPENSE REIMBRUSEMENT
11038	1591	PHILIP H HOLLAND	05/04/17	200.00	RESERVE UNIF ALLOWANCE
11039	7593	BRUCE HOWCROFT	05/04/17	200.00	RESERVE UNIF ALLOWANCE
11040	11443	HIROSHI ICHIMURA	05/04/17	1,040.40	RECREATION CONTRACT
11041	11468	DEJUAN JOHNSON	05/04/17	667.11	EXPENSE REIMBURSEMENT
11042	5884	TINA KNUTSON	05/04/17	837.35	EXPENSE REIMBURSEMENT
11043	80	LYNN PEAVEY COMPANY	05/04/17	330.52	EVIDENCE SUPPLIES
11044	10907	MICHAEL YORKS	05/04/17	6,375.00	BACKGROUND INVESTIGATIONS
11045	6	KAREN MORAJDA	05/04/17	44.84	EXPENSE REIMBURSEMENT
11046	11455	NATIONAL DATA & SURVEYING SERVICES, INC.	05/04/17	285.00	TRAFFIC COUNTS
11047	324	NEWARK CHAMBER OF COMMERCE	05/04/17	1,978.90	STATE OF THE CITY ADDRESS APRIL 13, 2017
11048	325	NEWARK UNIFIED SCHOOL DISTRICT ATTN: SUS	05/04/17	500.00	OFFSET THE COST OF ASH STREET MEALS
11049	172	ORIENTAL TRADING COMPANY, INC	05/04/17	342.00	SUPPLIES FOR SUMMER DAY CARE
11050	2027	PACHECO BROTHERS GARDENING, INC.	05/04/17	346.00	IRRIGATION REPAIR
11051	11509	MARC PALACIO	05/04/17	249.77	EXPENSE REIMBURSEMENT
11052	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	05/04/17	370.00	PEST CONTROL
11053	329	PHOENIX GROUP INFORMATION SYSTEMS	05/04/17	129.25	PARKING CITATION PROGRAM
11054	10891	ADONAI PERAZIM INC. dba PRINTS CHARLES R	05/04/17	101.67	SPECIFICATIONS PRINTING
11055	11021	PRO-FIT	05/04/17	142.50	FITNESS EQUIP REPAIR/UPGRADE
11056	4176	MICHAEL QUEBEC	05/04/17	700.00	RECREATION CONTRACT

nal Disbursement List. Check Date 05/04/17, Due Date 05/15/17, Discount Date 05/15/17. Computer Checks.
 nk 1001 US BANK

MICR check#	Vendor Number	Payee	Check Date	Check Amount	Description
1057	11510	JENNA QUINONEZ	05/04/17	382.03	EXPENSE REIMBURSEMENT
1058	7885	RENNE SLOAN HOLTZMAN SAKAI PUBLIC LAW GR	05/04/17	126.00	LEGAL ADVICE FEES
1059	11403	ROYSTON HANAMOTO ALLEY & ABEY DBA RHAA	05/04/17	19,945.50	NEWARK PARKS MASTER PLAN - 03/17
1060	1603	CITY OF SAN LEANDRO FINANCE DEPT. ATTN:	05/04/17	1,050.00	LEADERSHIP ACADEMY
1061	5164	SAN MATEO REGIONAL NETWORK INC SMRN.COM	05/04/17	170.00	WEB HOSTING, EMAIL FILTERING, & NETWORK
1062	11098	SILVER & WRIGHT LLP	05/04/17	569.32	LITIGATION & CONSULTING SRVCS
1063	40	STAPLES ADVANTAGE DEPT LA	05/04/17	1,033.04	OFFICE SUPPLIES
1064	7517	U S FOODS INC SAN FRANCISCO	05/04/17	781.95	FOOD SUPPLY FOR CAFE
1065	3446	UNIVERSAL SPECIALTIES INC	05/04/17	556.64	PLUMBING SUPPLIES
1066	8751	PROVIDENT LIFE & ACCIDENT INSURANCE COMP	05/04/17	261.24	PAYROLL PREMIUM - E0246926
1067	5623	VERIZON WIRELESS	05/04/17	4,995.33	CELLULAR SERVICE & EQUIPMENT
1068	143	IDN WILCO	05/04/17	127.70	LOCKS & SUPPLIES
Total				913,621.94	

1
 nal Disbursement List. Check Date 05/12/17, Due Date 05/22/17, Discount Date 05/22/17. Computer Checks.
 nk 1001 US BANK

MICR# Check#	Vendor Number	Payee	Check Date	Check Amount	Description
11069	1396	ALAMEDA COUNTY FIRE DEPARTMENT ATTN: ACC	05/12/17	783,770.75	FIRE SERVICES
11070	12	ALLIED AUTO STORES INC	05/12/17	681.85	AUTO PARTS
11071	14	ALPINE AWARDS	05/12/17	642.87	T-SHIRTS/AWARDS
11072	11362	ANNETTE PAREDES	05/12/17	21.53	EXPENSE REIMBURSEMENT
11073	11227	GUSTAVO ARROYO	05/12/17	125.86	EXPENSE REIMBURSEMENT
11074	1513	BURTON'S FIRE INC	05/12/17	179.10	FIRE ENGINE SERVICE/REPAIR
11075	10261	CARBONIC SERVICE	05/12/17	135.39	CO2 PURCHASES
11076	11401	CHRISTI WALLACE	05/12/17	879.66	EXPENSE REIMBURSEMENT
11077	10369	DAN CIANCIARULO	05/12/17	45.97	EXPENSE REIMBURSEMENT
11078	3751	BRYAN COBB	05/12/17	150.10	EXPENSE REIMBURSEMENT
11079	10060	COMCAST	05/12/17	76.00	CABLE SVCS
11080	11211	ROBERT COSTA	05/12/17	52.90	EXPENSE REIMBURSEMENT
11081	1109	CAPITAL ONE COMMERCIAL	05/12/17	679.84	SUPPLIES
11082	10649	SOLAR CITY	05/12/17	193.60	BP# ELEC2017-0057 80% REFUND
11083	10649	JUSTIN ERIC FUNTANILLA	05/12/17	1,000.00	PERFORMANCE BOND RTN EP# 2016-0069
11084	10649	PRO ROOTER INC.	05/12/17	1,000.00	PERFORMANCE BOND RTN EP# 2016-0025
11085	10649	BAY AREA PLUMBING	05/12/17	1,000.00	PERFORMANCE BOND RTN EP# 2017-0060
11086	41	DALE HARDWARE	05/12/17	531.45	MISC PARTS FLEET
11087	184	DEPARTMENT OF TRANSPORTATION CASHIER HQ	05/12/17	603.62	SHARED ENERGY AND MAINTENANCE COSTS FOR
11088	11448	ENVYROZONE INC.	05/12/17	4,950.00	HAZELTON 3 STREAM 2 DOOR RECYCLING CONTA
11089	10478	EUGENE'S HOME APPLIANCE SERVICE	05/12/17	610.38	APPLIANCE REPAIR
11090	10642	FASTENAL COMPANY	05/12/17	386.79	HARDWARE & FASTENERS
11091	10885	MILPITAS POST NEWSPAPERS	05/12/17	500.00	FULL PAGE AD
11092	275	GOVERNMENT FINANCE OFFICERS ASSOCIATION	05/12/17	50.00	GFOA MEMBERSHIPS/SUBSCRIPTIONS
11093	7831	TERRI HERNANDEZ	05/12/17	362.18	EXPENSE REIMBURSEMENT
11094	10319	NICK ICASIANO	05/12/17	250.00	EXPENSE REIMBURSEMENT
11095	11503	ART INTERIANO	05/12/17	309.71	EXPENSE REIMBURSEMENT
11096	11504	JOHN'S INCREDIBLE PIZZA COMPANY	05/12/17	800.00	COMM ENG; ELEMENTARY SCHOOL POSTER CONTE
11097	6786	STACEY KENISON	05/12/17	81.80	EXPENSE REIMBURSEMENT
11098	11492	KIER & WRIGHT CIVIL ENGINEERS AND SURVEY	05/12/17	12,082.52	ON CALL CIVIL ENGINEERING AND SURVEYING
11099	7964	KNORR SYSTEMS INC	05/12/17	3,356.16	CHEMICAL PURCHASES
11100	11146	LA POLICE GEAR, INC. ATTN: ACCOUNTS REC.	05/12/17	1,141.40	UB TOURNIQUET CASES
11101	277	LAKESHORE LEARNING MATERIALS	05/12/17	72.34	SUPPLIES FOR ASH STREET
11102	11246	LOOMIS ARMORED	05/12/17	273.38	ARMORED CAR SERVICE
11103	11309	MANUEL FERNANDEZ CONSTRUCTION	05/12/17	8,375.92	PARK MAINTENANCE
11104	10961	BRETT OEVERNDIEK	05/12/17	34.43	EXPENSE REIMBURSEMENT
11105	349	PACIFIC GAS & ELECTRIC	05/12/17	121.76	STREETLIGHTS AND TRAFFIC SIGNALS
11106	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	05/12/17	142.00	PEST CONTROL
11107	1864	DIANA PRATT	05/12/17	88.33	EXPENSE REIMBURSEMENT
11108	11376	QUINCY ENGINEERING INC	05/12/17	98,072.91	PROFESSIONAL ENGINEERING SERVICES FOR CE
11109	11234	RAY MORGAN COMPANY	05/12/17	8,924.46	COPIER LEASE AGREEMENT
11110	279	S & S WORLDWIDE INC ACCOUNTS RECEIVABLE	05/12/17	997.58	SUPPLIES FOR SUMMER DAY CARE & ASH STREE
11111	11296	SIGNATURE CARPET ONE	05/12/17	3,982.00	PROJECT #1126 / REPLACEMENT LINOLEUM FIR
11112	4876	PATRICK SMITH	05/12/17	139.88	EXPENSE REIMBURSEMENT
11113	11340	STAWICKI DIANE	05/12/17	390.00	ENTERTAINMENT FOR SR CENTER
11114	11396	SWA SERVICES GROUP INC	05/12/17	27,457.06	JANITORIAL SERVICES
11115	5463	MARY TEIXEIRA	05/12/17	9.10	EXPENSE REIMBURSEMENT
11116	11507	TRAILERSPLUS GILROY	05/12/17	4,007.51	CERT TRAINER
11117	5050	WEST COAST ARBORISTS INC	05/12/17	4,595.00	SOIL DRENCH SERVICE
11118	143	WILCO SUPPLY P O BOX 3047	05/12/17	156.09	LOCKS & SUPPLIES
11119	11466	YORK RISK SERVICES GROUP	05/12/17	33,004.05	WORKERS' COMPENSATION FUND REPLENISHMENT

M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Name of Case: Valencia et al. v. City of Newark et al.; United States District Court, Northern District of California, Case No. 4:16-CV-04811-SBA – from City Attorney Benoun.

Background/Discussion – City Attorney Benoun has requested that the City Council convene in closed session pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Case: *Valencia et al. v. City of Newark et al.*; United States District Court, Northern District of California, Case No. 4:16-CV-04811-SBA.