

# CITY OF NEWARK CITY COUNCIL

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

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

## AGENDA

Thursday, May 26, 2016

**A. ROLL CALL**

**B. MINUTES**

- B.1 Approval of Minutes of the regular City Council meeting of Thursday, May 12, 2016. (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**

**F. CITY MANAGER REPORTS**

(It is recommended that Items F.1 through F.3 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 Authorize the Administrative Services Director to submit applications for payment programs and related authorizations through the Department of Resources Recycling and Recovery (CalRecycle) – from Recycling Assistant Oeverndiek. (RESOLUTION)**

- F.2 **Authorization for the City Manager to sign an Agreement with the Newark Chamber of Commerce for promotional services and for the rental of office space at 35501 Cedar Boulevard – from Assistant City Manager Grindall. (RESOLUTION)**
  
- F.3 **Authorization for the Mayor to sign an agreement with *The Tri-City Voice* for legal advertising services for Fiscal Year 2016-2017 – from City Clerk Harrington. (RESOLUTION)**

**NONCONSENT**

- F.4 **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 June 23, 2016 for the 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 26, 2016. (MOTION)**

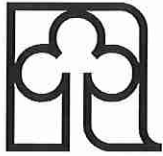
**M. CLOSED SESSIONS**

- M.1 Closed session for conference with Legal Counsel pursuant to Government Code Section 54956.9(b), Anticipated Litigation: Two cases – from Human Resources Director Abe and City Attorney Benoun.**
  
- M.2 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Allstate v. City of Newark, Alameda County Superior Court Case No. HG15794244 – 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, 5<sup>th</sup> 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

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

## AGENDA

**Thursday, May 26, 2016**

### CITY COUNCIL:

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

### CITY STAFF:

John Becker  
City Manager  
  
Terrence Grindall  
Assistant City Manager  
  
Susie Woodstock  
Administrative Services Director  
  
Sandy Abe  
Human Resources Director  
  
Soren Fajeau  
Public Works Director  
  
Jim Leal  
Police Chief  
  
David Zehnder  
Recreation and Community  
Services Director  
  
David J. Benoun  
City Attorney  
  
Sheila Harrington  
City Clerk

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

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

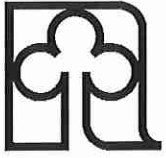
Items listed on the agenda may be approved, disapproved, or continued to a future meeting. Many items require an action by motion or the adoption of a resolution or an ordinance. When this is required, the words **MOTION**, **RESOLUTION**, or **ORDINANCE** appear in parenthesis at the end of the item.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

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

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

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





# CITY OF NEWARK CITY COUNCIL

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

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

## Minutes

Thursday, May 12, 2016

### A. ROLL CALL

Mayor Nagy called the meeting to order at 7:34 p.m. Present were Council Members Hannon, Collazo, Bucci, and Vice Mayor Freitas.

### B. MINUTES

#### B.1 Approval of Minutes of the regular City Council meeting of Thursday, April 28, 2016.

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

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Introduction of employee.

Mayor Nagy introduced newly hired Assistant Planner Sarah Bowab.

#### C.2 Proclaiming May 15-21, 2016, as National Public Works Week.

Mayor Nagy presented the proclamation to Maintenance Superintendent Costa.

#### C.3 Proclaiming May 15-21, 2016, as National Police Week.

Mayor Nagy presented the proclamation to Police Commander Lawson.

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

Mayor Nagy presented the commendations to Police Officer of the Year Ryan Johnson and Dispatcher of the Year Patricia Lopez.

#### C.5 Presentation from StopWaste on the proposed expansion of the Reusable Bag Ordinance to include retail stores and restaurants.

Meri Soll, Senior Program Manager with StopWaste gave a presentation on the proposed expansion of the countywide Reusable Bag Ordinance. The Waste Management Authority is considering expanding the Ordinance to include retail stores and restaurants.

**D. WRITTEN COMMUNICATIONS****E. PUBLIC HEARINGS**

- E.1 Hearing to consider: (1) revoking an existing planned unit development and conditional use permit for a veterinary emergency facility at 5600 John Muir Drive; (2) an Addendum to an existing Environmental Impact Report; and (3) an Architectural and Site Plan Review for a hotel to be located at 5600 John Muir Drive. RESOLUTION NO. 10493-10495**

Assistant City Manager Grindall stated that Shivam Real Estate, LLC has submitted an application for a Holiday Inn and Suites to be located at 5600 John Muir Drive.

In 2012 the City Council approved a planned unit development and conditional use permit for a veterinary emergency facility at this site. That previous approval needs to be revoked to allow this project to proceed.

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

Arvind Iyer, Project Architect representing the developer, said that he had read the resolutions and agreed to the conditions.

Mayor Nagy closed the public hearing at 8:13 p.m.

Vice Mayor Freitas moved, Council Member Bucci seconded to, by resolutions: (1) revoke a planned unit development (P-12-22) and conditional use permit (U-12-21) for a emergency veterinary facility at 5600 John Muir Drive; (2) make certain findings and adopt an Addendum to an Environmental Impact Report for a hotel at 5600 John Muir Drive (APN: 901-195-18 & 19); and (3) by resolution, approve an Architectural and Site Plan Review (ASR -16-19) for a hotel at 5600 John Muir Drive. The motion passed, 5 AYES.

**F. CITY MANAGER REPORTS**

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

**CONSENT**

- F.1 Authorization for the Administrative Services Director, City Clerk, Accounting Manager, and Senior Accountant, and their successors by title, to order the deposit or withdrawal of monies in the Local Agency Investment Fund. RESOLUTION NO. 10496**

## **NONCONSENT**

- F.2 Authorization for the City Manager to sign an agreement with Tetra-Tech, Inc. to complete a Local Hazard Mitigation Plan for the City of Newark and associated budget amendment. RESOLUTION NO. 10497 CONTRACT NO. 16022**

City Manager Becker stated that Federal Regulations require a Local Hazard Mitigation Plan (LHMP) be updated every five years. FEMA no longer allows Alameda County cities to be part of the Alameda County Multi-Jurisdictional Local Hazard Plan as “Annexes”.

Staff worked with the City of Union City to prepare a joint Request for Proposal to prepare a LHMP for each City. Both cities recommend Tetra Tech Inc. to complete the Local Hazard Mitigation Plan for \$78,653. The cost will be split evenly and Newark’s share will be \$39,327.

Council Member Bucci moved, Council Member Collazo seconded by resolution, to authorize the City Manager to sign a consulting services agreement between the City of Union City, the City of Newark and Tetra Tech, Inc. to complete a Local Hazard Mitigation Plan and to amend the 2014-2016 Biennial Budget and Capital Improvement Plan for Fiscal Year 2015-2016. The motion passed, 5 AYES.

## **G. CITY ATTORNEY REPORTS**

## **H. ECONOMIC DEVELOPMENT CORPORATION**

## **I. CITY COUNCIL MATTERS**

- I.1 Consideration of City Council’s summer meeting recess during the month of August 2016 . MOTION APPROVED RESOLUTION NO. 10498**

Mayor Nagy recommended a City Council summer meeting recess during August.

Vice Mayor Freitas moved, Council Member Hannon seconded to, by motion, approve a City Council summer meeting recess during the month of August 2016 and, by resolution,



authorize the City Manager, or his designee, to take action on certain administrative matters on behalf of the City of Newark during the recess. The motion passed, 5 AYES.

The entire City Council congratulated the Officer and Dispatcher of the Year.

Council Member Bucci stated that the Relay for Life movies in the park will begin on May 21, 2016 at the Community Center to support the American Cancer Society.

Council Member Collazo stated that she recently went to NewPark Mall and was impressed with the changes. She encouraged the public to shop in Newark. She stated that it was Bike to Work Day and she noticed a lot of bikes in the City.

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

**K. ORAL COMMUNICATIONS**

Paula Gonzales requested a lighted crosswalk by St. Edward School. She shared an experience crossing the street with her sisters at night.

Mayor Nagy asked staff to research the request.

**L. APPROPRIATIONS**

**Approval of Audited Demands for the City Council meeting of May 12, 2016. MOTION APPROVED**

City Clerk Harrington read the Register of Audited Demands: Check numbers 107657 to 107777.

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

**M. CLOSED SESSION**

**N. ADJOURNMENT**

At 8:30 p.m. Mayor Nagy adjourned the meeting.

**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.



**F.1 Authorize the Administrative Services Director to submit applications for payment programs and related authorizations through the Department of Resources Recycling and Recovery (CalRecycle) – from Recycling Assistant Oeverndiek.**  
**(RESOLUTION)**

**Background/Discussion** – Pursuant to Public Resources Code sections 48000 et seq., 14581, and 42023.1(g), the Department of Resources Recycling and Recovery (CalRecycle) has established various payment programs available to qualifying jurisdictions. Averaging \$11,250 per year for the City of Newark, these payments are used to help promote beverage container recycling. Eligible uses of the funds include litter prevention and cleanup where the waste stream includes beverage containers that will be recycled, public education promoting beverage container recycling, and the purchase of multi-recycling bins that include beverage container recycling. A revision to the program now requires the City Council to declare, by resolution, certain authorizations related to the administration of the payment program and reporting requirements on use of the funds received.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the Administrative Services Director to submit applications for payment programs and related authorizations through the Department of Resources Recycling and Recovery (CalRecycle).

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE ADMINISTRATIVE  
SERVICES DIRECTOR TO SUBMIT APPLICATIONS FOR  
PAYMENT PROGRAMS AND RELATED AUTHORIZATIONS  
THROUGH THE DEPARTMENT OF RESOURCES  
RECYCLING AND RECOVER (CALRECYCLE)

WHEREAS, pursuant to Public Resources Code sections 48000 et seq., 14581, and 42023.1(g), the Department of Resources Recycling and Recovery (CalRecycle) has established various payment programs to make payments to qualifying jurisdictions; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the administration of the payment programs; and

WHEREAS, CalRecycle's procedures for administering payment programs require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of the payment program.

NOW, THEREFORE, BE IT RESOLVED that the Administrative Services Director of the City of Newark is authorized to submit an application to CalRecycle for any and all payment programs offered; and

BE IT FURTHER RESOLVED that the Administrative Services Director, or her designee, is hereby authorized as Signature Authority to execute all documents necessary to implement and secure payment; and

BE IT FURTHER RESOLVED that this authorization is effective until rescinded by the Signature Authority or the City Council.

**F.2 Authorization for the City Manager to sign an Agreement with the Newark Chamber of Commerce for promotional services and for the rental of office space at 35501 Cedar Boulevard – from Assistant City Manager Grindall.**

**(RESOLUTION)**

**Background/Discussion** – The current Agreement for rental of office space by the Newark Chamber of Commerce and promotional services expires on June 30, 2016. The Newark Chamber of Commerce wishes to renew the Agreement and continue to receive funding for its promotion of businesses marketing. A new Agreement has been prepared, the conditions of which remain essentially the same as in the past. The Chamber provides valuable expertise in industrial and commercial development for our community and staff recommends that the City Council authorize renewal of the lease and funding, through June 30, 2017, at a rental fee of \$1 per month.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the City Manager to sign an Agreement with the Newark Chamber of Commerce for promotional services and for the rental of office space at 35501 Cedar Boulevard.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE CITY MANAGER TO SIGN  
AN AGREEMENT WITH THE NEWARK CHAMBER OF  
COMMERCE FOR PROMOTIONAL SERVICES AND THE  
RENTAL OF OFFICE SPACE AT 35501 CEDAR BOULEVARD

WHEREAS, the current agreement with the Newark Chamber of Commerce for use of 37101 Newark Boulevard will expire on June 30, 2016; and

WHEREAS, it is recommended that an extension be authorized for an additional year, for use of a new location at 35501 Cedar Boulevard, Newark, California, through June 30, 2017, for a rental fee of \$1 per year for the office space and \$30,000 to market businesses in the City;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark that the City Manager of the City of Newark is hereby authorized to sign an agreement with the Newark Chamber of Commerce for promotional services and the rental of office space at 35501 Cedar Boulevard, said agreement on file in the Office of the City Clerk.



**CITY OF NEWARK -  
NEWARK CHAMBER OF COMMERCE  
AGREEMENT**

This Agreement is made this 26th day of May, 2016, by and between the City of Newark, a California municipal corporation (hereinafter referred to as "CITY") and the Newark Chamber of Commerce, a California nonprofit corporation, (hereinafter referred to as "CHAMBER").

WHEREAS, the CITY seeks well planned industrial and commercial development to build an economic base for the provision of CITY services; and

WHEREAS, the competitive environment in Northern California and the San Francisco Bay Region necessitates an aggressive promotion of quality industrial and commercial development; and

WHEREAS, the CHAMBER has access to considerable expertise in industrial/commercial development which permits augmentation of CITY financial resources to effectively compete for new quality industrial/commercial development; and

WHEREAS, the CHAMBER has been instrumental in marketing businesses in the CITY and has conducted many programs to promote the CITY; and

WHEREAS, based on the CHAMBER'S experience and ability, the CITY has determined that the CHAMBER is the best agency to execute this industrial and commercial development program; and

WHEREAS, the CHAMBER should exist as a viable, separate, and independent entity that brings people and the business community together and that provides ownership to its members in the Newark community. The City Council has found that it is possible to assist the CHAMBER in achieving these objectives by implementing a long-term strategy for both fiscal and operational renewal. For this to happen, it is important that the CITY funding of \$30,000 budgeted for fiscal year 2016-17 continue, and that CITY funding of \$30,000 for subsequent fiscal years be provided; if possible.

NOW, THEREFORE, it is hereby agreed as follows:

1. The CHAMBER shall perform the following activities:
  - a. Develop, in cooperation with the City of Newark City Manager, Assistant City Manager, and Planning Manager, rapport with brokers, property owners, and site selectors affecting Newark industrial/commercial property necessary to cause quality development of that property in the near future.
  - b. Provide CITY promotional services, including by way of example only, development of marketing materials, coordination of specialized public relations events, and attendance at trade shows.

- c. Provide business retention services and assistance to local businesses.
  - d. Develop and implement other special projects.
2. The CITY shall pay a sum not to exceed Thirty Thousand Dollars (\$30,000) for Fiscal Year 2016-17, and an additional Thirty Thousand Dollars (\$30,000) for Fiscal Years 2017-18, 2018-19, and 2019-20, if provided for in its subsequent budget, for the services herein. In addition, the CITY shall provide to the CHAMBER the use of its office space at 35501 Cedar Boulevard, Newark, California on a month-to-month basis for a monthly rent of One Dollar (\$1.00) per month, (see Exhibit "A" attached hereto) the use of said office space shall include use of the CITY'S surplus desktop personal computer located therein. Further, the CITY shall continue to provide internet access including email and reasonable computer support so that the computer used by the CHAMBER remains useful in the furtherance of the purposes of this Agreement.
  3. It is the intention of the parties that the mutually advantageous relationship between the CITY and the CHAMBER continue for a period of five (5) years, until June 30, 2020. However, the CITY is unable to commit to funding levels beyond currently budgeted amounts and amounts for which it is reasonable foreseeable will be budgeted. Therefore, this agreement for funding shall terminate and be of no further force or effect on June 30, 2017. In the event that \$30,000 is provided for in subsequent budgets, this Agreement shall be renewed on an annual (fiscal year) basis. This Agreement may be terminated at any time without cause by either party giving written notice thereof to the other party. In that event, this Agreement shall be terminated effective ninety (90) days from the date of mailing (certified mail, return receipt requested) thereof. In the event that said notice of termination is given by the CHAMBER to the CITY, the CHAMBER shall remit to the CITY a pro-rata portion of any payment received by it for the period from the termination effective date to the date another payment would have been due or one (1) year from the date hereof, whichever is less.
  4. The CHAMBER shall defend, indemnify, and save harmless CITY, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) for every nature, kind or description, which may be brought against, or suffered or sustained by, CITY, its Council, boards, commissions, officers, employees and agents caused by, or alleged to have been caused by, the negligence, intentional tortious act or omission, or willful misconduct of CHAMBER, its officers, employees or agents in the performance of any services or work pursuant to this Agreement.

The duty of CHAMBER to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CHAMBER to indemnify CITY, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.



Approval of the insurance contracts does not relieve CHAMBER from liability under this paragraph, including but not limited to the duty to indemnify CITY set forth herein. By execution of this Agreement, CHAMBER acknowledges and agrees that it has read and understands the provisions hereof and that this paragraph is a material element of consideration.

5. a. The CHAMBER shall provide and maintain in full force and effect while operating under the terms of this Agreement, a comprehensive liability policy which shall include bodily injury, and property damage coverage. The minimum limits for this coverage shall be \$1,000,000 combined single limit.
- b. The CHAMBER shall provide and maintain in full force and effect while operating under the terms of this Agreement both a workers' compensation insurance and an employer's liability policy. The minimum limits of such coverage shall be that as prescribed by law.
6. The relationship of the CHAMBER to the CITY shall be that of an independent contractor and not as an agent or employee. The CHAMBER may engage contractors or subcontractors as necessary for the effective execution of this Agreement.
7. The Chamber shall maintain its books and records consistent with generally accepted accounting practices. Said books and records may be examined by the City during normal business hours upon forty-eight (48) hour telephone notice to the Chief Executive Officer of the Chamber. In addition thereto, the Chamber shall file a written report with the City Manager's Office setting forth the expenditures that have been made from the funds granted here.
8. The CHAMBER shall not assign any interest in this Agreement, and shall not transfer any interest in the same (whether by assignment, novation or operation of law) without the prior written consent of the CITY.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed the date first above written.

NEWARK  
CHAMBER OF COMMERCE

CITY OF NEWARK  
a California Municipal Corporation

By \_\_\_\_\_  
Valerie Boyle, President and C.E.O.

By \_\_\_\_\_  
John Becker, City Manager

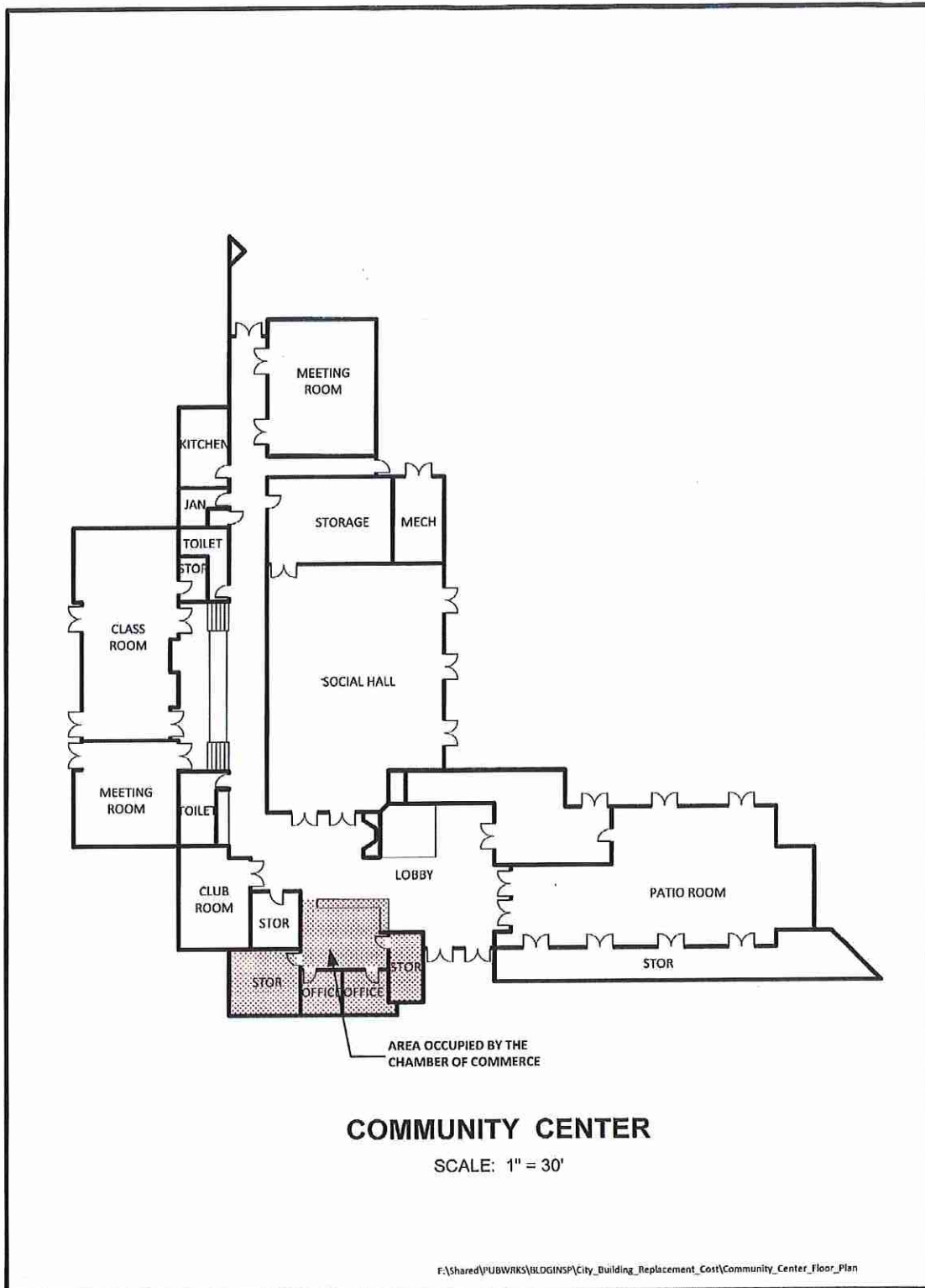
ATTEST:

By \_\_\_\_\_  
Sheila Harrington, City Clerk

APPROVED AS TO FORM:

By \_\_\_\_\_  
David J. Benoun, City Attorney

# EXHIBIT A



**F.3 Authorization for the Mayor to sign an agreement with *The Tri-City Voice* for legal advertising services for Fiscal Year 2016-2017 – from City Clerk Harrington.  
(RESOLUTION)**

**Background/Discussion** – California Government Code requires the City of Newark (City) to print legal notices in an adjudicated newspaper of general circulation. An adjudicated newspaper of general circulation does not exist in the City and the City is legally required to use an adjudicated newspaper that is published nearest the City. The Public Contract Code requires the City to invite bids for legal advertising and award the contract on a fiscal year basis; however, unlike public works projects, the City is not obligated to select the lowest bidder in selecting legal advertising services. *The Argus* and *Tri-City Voice* are the only newspapers that currently meet the legal requirements for publishing legal notices. Quotes were requested from each newspaper.

*Tri-City Voice* has a circulation of 4,000 newspapers within the City of Newark. These are distributed mainly through free stacks/racks placed around the City and paid subscriptions. *The Argus* has 2,437 paid subscriptions within the City of Newark and does not provide free newspapers.

Both newspapers presented a quote for the same typical public hearing notice with rates that would apply for the next fiscal year. *The Argus* quoted \$72.50 and *The Tri-City Voice* quoted \$83.75. *Tri-City Voice* provided the same rate as last year's quote. For the current fiscal year, the City has spent approximately \$2,500 on legally mandated advertising. Based on the quotes, the price difference is nominal.

Although cost is one of the evaluating factors, the City is not bound to award the contract based on price alone. An Appellate Court case explains it this way: "In a given city, there may be two newspapers of general circulation, one a daily with a tremendous circulation, the other a weekly with a very small circulation. While the latter might be able to publish legal notices much cheaper than the former, it would be far more in the interests of the public that the city's legal notices be published in the paper of larger circulation. At least, in awarding a contract, the City Council should be permitted to weigh the consideration against the matter of cost, and unless the council abuses its discretion, its determination should stand." (*Cyr v. White*, 83 Cal App 2d 22 (1947) at 27) The same case also holds that the Council has discretion to determine which bid is better, taking into account "other matters affecting the value to the public".

The City has a strong desire to provide easy and transparent access to matters affecting the City and community. *Tri-City Voice* has a significantly larger circulation within the City than *The Argus*. Given the larger circulation of *Tri-City Voice*, staff recommends awarding the agreement to *Tri-City Voice*.

**Attachment**

**Action** - It is recommended that the City Council, by resolution, authorize the Mayor to sign an agreement with *Tri-City Voice* for legal advertising services for Fiscal Year 2016-2017.



RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE MAYOR TO SIGN AN  
AGREEMENT WITH *TRI-CITY VOICE* FOR LEGAL  
ADVERTISING SERVICES FOR FISCAL YEAR 2016-2017

WHEREAS, the California Government Code requires the City of Newark to print legal notices in an adjudicated newspaper of general circulation; and

WHEREAS, *The Argus* and *Tri-City Voice* are the only newspapers that currently meet the legal requirements for publishing legal notices on behalf of the City; and

WHEREAS, although cost is one of the evaluating factors, the City is not bound to award the contract based on price alone, as determined by the California Court of Appeal in *Cyr v. White*, 83 Cal App 2d 22 (1947); and

WHEREAS, *The Argus* has 2,437 subscriptions within the City of Newark and *Tri-City Voice* has a circulation of 4,000 newspapers; and

WHEREAS, the City Council finds that it would be far more in the interests of the public that the City's legal notices be published in the paper of larger circulation; and

WHEREAS, based on the proposals submitted by the newspapers, staff recommends awarding the agreement to *Tri-City Voice* for fiscal year 2016-2017; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby awards the agreement for legal advertising services for Fiscal Year 2016-2017 to *The Tri-City Voice* and authorizes the Mayor to sign the agreement;

BE IT FURTHER RESOLVED that this resolution supersedes previous resolutions awarding legal advertising services.



**CONTRACTUAL SERVICES AGREEMENT  
CONSULTANTS**

This Service Agreement (hereinafter "Agreement") is made and entered into this 26TH day of May, 2016 by and between the **CITY OF NEWARK**, a municipal corporation ("City"), and What's Happening Tri-City Voice ("Consultant"), collectively the "Parties".

**W I T N E S S E T H:**

**WHEREAS**, City requested proposals to perform the services generally including: Legal Advertising services for Fiscal Year 2016 – 2017.

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

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

**NOW, THEREFORE**, the Parties hereto agree as follows:

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

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

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

**3. COMPENSATION.**

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

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

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

Invoices shall be sent to:

City of Newark  
City Clerk  
37101 Newark Blvd.  
Newark, CA 94560

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

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

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

**4. ADDITIONAL SERVICES.** In the event City desires the performance of additional services not otherwise included within Services, such services shall be authorized by written task order approved in advance of the performance thereof. Such task order shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefore, the time of performance thereof, and such other matters as the Parties deem appropriate for the accomplishment of such services. Except to the extent modified by a task order, all other terms and conditions of this Agreement shall be deemed incorporated in each such task order.

**5. INDEPENDENT CONSULTANT.** At all times during the term of this Agreement, Consultant shall be, and is an independent consultant and shall not be an employee



or agent of City. Consultant shall not be entitled to any benefit, right, or compensation other than that provided in this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's Services; however, City shall not have the right to control the means by which Consultant accomplishes Services.

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

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

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

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

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

8. **INFORMATION AND DOCUMENTATION.**

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

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

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

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

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

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

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



**A. Verification of Coverage.**

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

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

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

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

**B. Minimum Scope of Insurance.**

Coverage shall be at least as broad as:

1. Insurance Services Office Form Number CG 00 01 covering Commercial General Liability on an occurrence basis, including products and completed operations, property damage, bodily injury, and personal and advertising injury; and
2. Insurance Services Office Form Number CA 00 01 covering any auto, (Code 1), or Code 8 (hired) and 9 (non-owned) if consultant has no owned autos; and
3. Workers' Compensation insurance as required by the State of California with Statutory Limits, and Employer's Liability Insurance; and
4. Errors and Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

**C. Minimum Limits of Insurance.**

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum Insurance coverage requirements and/or limits shall be available to the

Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of and Insurance policy or proceeds available to the named Insured; whichever is greater.

Consultant shall maintain limits no less than:

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

**D. Deductibles and Self-Insured Retentions.**

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

**E. Claims Made Policies.**

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

**F. Wasting Policies.**



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

**G. Remedies.**

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

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
2. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
3. Terminate this Agreement.

**H. Acceptability of Insurers.**

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

**I. Other Insurance Provisions.**

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

1. Additional Insureds. City, its officers, officials, directors, employees and volunteers are to be covered as insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant; including materials, parts or equipment furnished in connection with such work or operations.
2. Primary Insurance. For any claims related to these Services, Consultant’s insurance coverage shall be primary insurance as respects City, its officers, officials, directors, employees, subconsultants, agents, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, directors, employees, or volunteers shall be excess of Consultant’s insurance and shall not be contribute with it. Consultant’s policy will not seek contribution from the City’s insurance or self insurance.
3. Notice of Cancellation. Each insurance policy required by this clause shall provide that coverage shall not be canceled during the term of this Agreement without notice to City.

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

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

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

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

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

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

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

**14. INDEMNIFICATION/SAVE HARMLESS.** To the fullest extent permitted by law, the Consultant shall: (1) immediately defend, and (2) indemnify City, its, officers, officials, directors, employees, and volunteers from and against all liabilities regardless of nature or type arising out of or resulting from Consultant's performance of Services, or any negligent or wrongful act or omission of Consultant or Consultant's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation



and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

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

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

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

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

**16. TERM/TERMINATION.**



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

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

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

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

TRI-CITY VOICE

CITY OF NEWARK

\_\_\_\_\_  
**Consultant**

\_\_\_\_\_  
**Administrator**

Address: William Marshak  
Tri City Voice  
39737 Paseo Padre Pkwy Ste B  
Fremont, CA 94538

City of Newark  
Attn: City Clerk  
37101 Newark Boulevard  
Newark, CA 94560

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

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

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

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

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

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

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

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

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

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

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

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

CITY OF NEWARK,  
a municipal corporation

What's Happening Inc.  
What's Happening/Tri-City Voice

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
William Marshak

Date \_\_\_\_\_

Date \_\_\_\_\_

Attest:

\_\_\_\_\_  
City Clerk

Date \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney

Date \_\_\_\_\_



## **EXHIBIT A**

### ***SCOPE OF SERVICES***

Services provided by What's Happening's Tri-City Voice (TCV) and, by extension, its subcontractor The Daily Journal Corporation, include:

1. Assistance and training of city personnel to become comfortable and utilize the ADTECH electronic submission and filing system.
2. Typeset all submissions for legal advertising in a timely and accurate manner.
3. Proofread all submissions.
4. Print and distribute approved city public notices weekly in TCV.
5. Allow timely retrieval and filing of submissions through ADTECH or local TCV office personnel.
6. Provide accurate billing and accounting of legal notice submissions.

All listed major components of service shall be completed in a timely manner to complement work flow requirements of City of Newark personnel.

## **EXHIBIT B**

### ***PAYMENT***

Billing by What's Happening's Tri-City Voice (TCV) and, by extension, its subcontractor The Daily Journal Corporation, include:

1. Accurate and itemized billing through The Daily Journal Corporation.
2. Instant access to billing information of all submissions through ADTECH system.
3. Services related to acceptance, assemblage, typesetting, publishing and distribution of public notices included in contract rate of \$1.25 per line per column. Refer to Information Summary for column size. This is a "not to exceed" cost for performance of these services.

Billing services shall be completed in a timely manner to complement work flow requirements of City of Newark personnel.

**EXHIBIT C**  
***QUALIFICATIONS***

**What's Happening, Inc.**

What's Happening, Inc. was established March 1998 and began publication of What's Happening Magazine, a full-color local monthly guide for the Tri-City Area. In January of 2002, Tri-City Voice newspaper (TCV) began distribution.

TCV has grown rapidly to include local news and information for the Greater Tri-Cities of Hayward and its environs, Fremont, Newark, Union City, Sunol and Milpitas. A unique distribution system assures wide availability through stack and rack at over 1,500 locations as well as paid subscriptions. In addition, [www.tricityvoice.com](http://www.tricityvoice.com) offers the complete newspaper – including legal notices – online for review at no cost. Currently, this website receives over 18,000 hits per day and the number is increasing. Complete newspaper is also available on the TCV News mobile app.

What's Happening, Inc. is a local company, owned and operated by Fremont residents which seeks to employ local residents as well. Currently, What's Happening, Inc. employs 32 people plus contract writers and photographers, the majority are Tri-City residents. Our office at 39737 Paseo Padre Parkway, Suite B in Fremont is the sole office of TCV and houses three trained employees to handle legal notice issues.

Since adjudication, public notices have been published without serious incident. Use of The Daily Journal Corporation ADTECH system has proven to be an efficient and accurate process to submit and publish legal notices.

**The Daily Journal Corporation**

The Daily Journal has long experience managing media buying services similar to those identified in the IFB's Scope of Work. Established in 1888, the company was reincorporated in 1987. As a specialist in the niche of "Government Advertising", the Daily Journal places legal advertising to meet the legal publishing requirements. It holds over 800 adjudication decrees for California newspapers and has an extensive database of newspaper contract and other specifications for immediate and efficient ad identification, ad placement and follow-up.

The Daily Journal employs 260 full-time staff members. Approximately 40 full-time staff is assigned to handling over 5,000 advertisements per month for government agencies.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
8/12/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Mello Insurance Service 4559 Mattos Drive P.O. Box 429 Fremont CA 94536	CONTACT NAME: House	FAX (A/C, No): (510) 790-6153	
	PHONE (A/C, No, Ext): (510) 790-1118	E-MAIL ADDRESS:	
INSURED What's Happening, DBA: Tri-City Voice 39737 Paseo Padre Pkwy Fremont CA 94538	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Travelers Property Casualty		
	INSURER B: Mercury Insurance Group		
	INSURER C: State Compensation Insurance Fund		
	INSURER D: AmWins Access Insurance Services,		
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: Master REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL. INSD	SUBR. WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		I6607773B28A15	6/9/2015	6/9/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ EXCLUDED GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS			CCA0012201	5/19/2015	5/19/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ HRDBB \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTIONS						EACH OCCURRENCE \$ AGGREGATE \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	9112538-15	9/20/2015	9/20/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	E&O			MEP10640-15	8/15/2015	8/15/2016	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 City of Newark, its officers, officials, employees and volunteers are named as additional insured as respects liability arising out of work or operations performed by or on behalf of Tri-City Voice/What's Happening or automobiles owned, leased, hired, or borrowed by Tri-City Voice/What's Happening.

CERTIFICATE HOLDER  City of Newark 37101 Newark Blvd Newark, CA 94560	CANCELLATION  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  Gene Mello/C1

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**F.4 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 June 23, 2016 for the 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 23, 2016.



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 2016-2017. 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.

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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 23<sup>rd</sup> of June 2016, 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, 2016  
**TO:** City Council  
**FROM:** Sheila Harrington, City Clerk *S.H.*  
**SUBJECT:** Approval of Audited Demands for the City Council Meeting of May 26, 2016.

**REGISTER OF AUDITED DEMANDS**

Bank of America General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
May 05, 2016	Page 1-2	107778 to 107829	Inclusive
May 13, 2016	Page 1-2	107830 to 107894	Inclusive



City of Newark

MEMO

**DATE:** May 16, 2016

**TO:** Sheila Harrington, City Clerk

**FROM:** Susie Woodstock, Administrative Services Director *SW*

**SUBJECT:** Approval of Audited Demands for the City Council Meeting of May 26, 2016.

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



1

Final Disbursement List. Check Date 05/05/16, Due Date 05/16/16, Discount Date 05/16/16. Computer Checks.  
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
107778	10658	4LEAF INC	05/05/16	13,394.10	BLDG. INSPECTION SERVICES MARCH 2016
107779	10449	AFLAC ATTN: REMITTANCE PROCESSING SERVIC	05/05/16	1,713.91	PAYROLL - SHORT TERM DISABILITY PREM
107780	5188	ALAMEDA COUNTY WASTE MANAGEMENT AUTHORIT	05/05/16	3,073.00	REGIONAL MEDIA CAMPAIGN - USED OIL GRANT
107781	411	AIG BENEFIT SOLUTIONS	05/05/16	680.80	ANNUAL PO FOR LIFE INSURANCE PREMIUMS
107782	147	AT&T MOBILITY	05/05/16	1,978.71	CELL SVC FOR MDT'S
107783	4534	BAY AREA BARRICADE SERVICE INC	05/05/16	171.71	STREET NAME SIGNS
107784	9888	BUREAU VERITAS NORTH AMERICA INC.	05/05/16	6,792.54	BLDG REVIEW SERVICES
107785	10060	COMCAST	05/05/16	189.87	CABLE TV
107786	160	CPOA CALIFORNIA PEACE OFFICERS' ASSOCIAT	05/05/16	226.00	PATROL POST TRAINING
107787	10793	TAMIKA WINSTON	05/05/16	100.00	DEPOSIT REFUND
107788	10793	JANELLE MANALO	05/05/16	100.00	DEPOSIT REFUND
107789	10793	TWONNISHA ANDERSON	05/05/16	100.00	DEPOSIT REFUND
107790	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	05/05/16	52.50	PH NOTICE
107791	41	DALE HARDWARE	05/05/16	978.69	PARTS
107792	10794	DUKE DE LEON	05/05/16	480.00	VIDEO RECORDING SERVICES
107793	7631	DELTA DENTAL	05/05/16	7,168.43	PAYROLL - DENTAL PREMIUM
107794	7641	DELTA DENTAL INSURANCE COMPANY ATTN: ACC	05/05/16	498.37	PAYROLL - DENTAL PREMIUM
107795	184	DEPARTMENT OF TRANSPORTATION CASHIER HQ	05/05/16	736.05	FY15-16 SHARED COSTS FOR TRAFFIC SIGNALS
107796	9511	DWYS LLC DBA RENAISSANCE TOTS, LLC ATTN	05/05/16	250.50	RECREATION CONTRACT
107797	11371	EVAN HARRAR	05/05/16	600.00	VIDEO-STATE OF THE CITY ADDRESS 04/14/16
107798	7663	FIDELITY SECURITY LIFE INSURANCE/EYEMED	05/05/16	723.34	VISION PREMIUM
107799	522	FEDEX	05/05/16	64.04	SHIPPING SERVICES
107800	1733	FIRST BAPTIST CHURCH	05/05/16	80.00	DONATION
107801	5106	CITY OF FREMONT FINANCIAL SERVICES OFFIC	05/05/16	9,016.25	CASE MANAGEMENT
107802	10707	GYM DOCTORS	05/05/16	150.00	FITNESS EQUIPMENT MAINT
107803	1457	HOME DEPOT CREDIT SERVICES DEPT 32-25409	05/05/16	705.98	FY15-16 MIS SUPPLIES
107804	3697	J W ENTERPRISES	05/05/16	280.40	PORTABLE RESTROOM FOR FIELD
107805	6690	KELLY-MOORE PAINTS	05/05/16	198.17	FY15-16 PAINT SUPPLIES
107806	11170	KEYSER MARSTON ASSOC, INC	05/05/16	3,251.25	PROFESSIONAL SERVICES
107807	3644	RELX INC. DBA LEXISNEXIS	05/05/16	176.00	ONLINE LEGAL RESEARCH SUBSCRIPTION
107808	80	LYNN PEAVEY COMPANY	05/05/16	255.43	EVIDENCE SUPPLIES
107809	10298	MANAGED HEALTH NETWORK BANK OF AMERICA	05/05/16	379.44	ANNUAL PO FOR CITY EMPLOYEE ASSISTANCE P
107810	10961	BRETT OEVERNDIEK	05/05/16	8.42	EXPENSE REIMBURSEMENT
107811	349	PACIFIC GAS & ELECTRIC	05/05/16	17,823.29	FY15-16 STREET/TRAFFIC LIGHT ENERGY COST
107812	78	PERFORMANCE PEST MANAGEMENT LPC SERVICES	05/05/16	529.00	PEST CONTROL
107813	329	PHOENIX GROUP INFORMATION SYSTEMS	05/05/16	334.55	PARKING CITATION PROGRAM
107814	4176	MICHAEL QUEBEC	05/05/16	665.60	RECREATION CONTRACT
107815	11234	RAY MORGAN COMPANY	05/05/16	160.27	RICOH STAPLES
107816	7885	RENNE SLOAN HOLTZMAN SAKAI PUBLIC LAW GR	05/05/16	2,514.50	CONSULTING, LITIGATION, INVESTIGATION
107817	654	SFPUC-WATER DEPARTMENT CUSTOMER SERVICE	05/05/16	2,947.13	FY15-16 HETCH HETCHY RENT
107818	112	WILLE ELECTRICAL SUPPLY CO INC	05/05/16	88.15	PARTS
107819	5164	SAN MATEO REGIONAL NETWORK INC SMRN.COM	05/05/16	170.00	WEB HOSTING, SPAM FILTERING & SECURITY S
107820	3237	SIERRA PACIFIC TURF SUPPLY INC	05/05/16	191.70	DOLOMARK FIELD CHALK
107821	11098	SILVER & WRIGHT LLP	05/05/16	415.80	RECEIVERSHIP AND LITIGATION SERVICES
107822	1683	S.B.R.P.S.T.C.	05/05/16	105.00	PATROL POST TRAINING
107823	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	05/05/16	150.00	PAYROLL DEDUCTION - GARNISHMENT
107824	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	05/05/16	440.00	PAYROLL DEDUCTION - GARNISHMENT
107825	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	05/05/16	150.00	PAYROLL DEDUCTION - GARNISHMENT
107826	3446	UNIVERSAL SPECIALTIES INC	05/05/16	130.61	FY15-16 PLUMBING SUPPLIES
107827	8751	PROVIDENT LIFE & ACCIDENT INSURANCE COMP	05/05/16	312.04	PAYROLL PREMIUMS E0246926
107828	5623	AMERICAN MESSAGING	05/05/16	12.37	PAGER SVC

Final Disbursement List. Check Date 05/05/16, Due Date 05/16/16, Discount Date 05/16/16. Computer Checks.  
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
107829	7308	WINGFOOT COMMERCIAL TIRE DBA GOODYEAR CO	05/05/16	3,348.34	SERVICE/PARTS/TIRES
Total				85,062.25	



Final Disbursement List. Check Date 05/13/16, Due Date 05/23/16, Discount Date 05/23/16. Computer Checks.  
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
107830	149	ABAG PLAN CORPORATION	05/13/16	35,149.35	DEDUCTIBLE COSTS (PROPERTY/LIABILITY) FO
107831	332	ADAMSON POLICE PRODUCTS PROFESSIONAL POL	05/13/16	300.64	MISCELLANEOUS PURCHASES
107832	284	INFORMATION TECHNOLOGY DEPARTMENT ATTN:	05/13/16	187.50	RADIO REPAIR/MAINT
107833	5821	ALL CITY MANAGEMENT SERVICES, INC	05/13/16	4,859.82	CROSSING GUARD SVCS
107834	11379	ALLSTATE INSURANCE COMPANY AS SUBROGEE O	05/13/16	3,293.50	RG1680758
107835	11362	ANNETTE PAREDES	05/13/16	53.71	EXPENSE REIMBURSEMENT
107836	4534	BAY AREA BARRICADE SERVICE INC	05/13/16	1,079.95	BARRICADES
107837	9680	BAY CENTRAL PRINTING	05/13/16	212.59	BUSINESS CARDS
107838	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	05/13/16	905.00	SPORTS OFFICIATING
107839	7275	PETER BEIREIS	05/13/16	58.04	EXPENSE REIMBURSEMENT
107840	2384	CLOVERLEAF FAMILY BOWL ATTENTION: MIKE H	05/13/16	360.00	SUMMER DAY CARE TRIP TO CLOVERLEAF BOWL
107841	10970	COCA COLA REFRESHMENTS UNION CITY SALES	05/13/16	249.03	CAFE PURCHASES
107842	10060	COMCAST	05/13/16	13.94	FY15-16 CABLE AT SERVICE CENTER
107843	7633	CONTRA COSTA CO SHERIFF	05/13/16	349.00	PATROL POST TRAINING
107844	1109	CAPITAL ONE COMMERCIAL	05/13/16	1,839.81	SUPPLIES
107845	1287	PERFORM GROUP LLC DBA CURTAIN CALL OR AL	05/13/16	7,990.88	DANCE COSTUMES
107846	10650	CITY OF FREMONT POLICE S.A.C.N.E.T.	05/13/16	8,177.00	REFUND OF MONEY
107847	10650	JOHN HARVEY C/O JOHNNY'S PUB	05/13/16	1,000.00	DANCE PERMIT DEPOSIT REFUND
107848	10649	ROY S. CARAUTA	05/13/16	1,000.00	PERFORMANCE BOND RTN EP# 2015-165
107849	10649	L & T CONSTRUCTION	05/13/16	4,680.00	PERFORMANCE BOND RTN EP#2015-136
107850	10793	MITULKUMAR SAVANI	05/13/16	158.00	CLASS REFUND
107851	10793	FAAVAFUA KELLY	05/13/16	100.00	DEPOSIT REFUND
107852	10793	BRANDON DERAS	05/13/16	92.50	LIFEGUARD CLASS 50% DISCOUNT
107853	10793	MIGUEL LOPEZ	05/13/16	90.00	LIFEGUARD CLASS 50% DISCOUNT FOR EMPLOYE
107854	10793	LIZ WYNN	05/13/16	10.00	CLASS REFUND
107855	10793	APRIL SHAVERS	05/13/16	100.00	DEPOSIT REFUND
107856	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	05/13/16	88.75	LEGAL ADS
107857	11015	EAST BAY LAWN MOWER	05/13/16	551.59	PARTS/SERVICE
107858	904	EMPLOYMENT DEVELOPMENT DEPT.	05/13/16	6,837.00	ANNUAL PO FOR UNEMPLOYMENT INSURANCE
107859	310	EQUIFAX INFORMATION SVCS LLC	05/13/16	50.42	ANNUAL PO FOR CREDIT REPORTS
107860	10478	EUGENE'S HOME APPLIANCE SERVICE	05/13/16	85.00	FY15-16 APPLIANCE REPAIR
107861	5106	CITY OF FREMONT FINANCIAL SERVICES OFFIC	05/13/16	495.00	SUMMER DAY CARE TRIP
107862	313	FREMONT URGENT CARE CENTER	05/13/16	60.00	ANNUAL PO FOR PRE-EMPLOYMENT AND DOT PHY
107863	11157	JASON GERMANO	05/13/16	200.00	RESERVE UNIF ALLOWANCE
107864	11307	GROUP 4 ARCHITECTURE, RESEARCH & PLANNIN	05/13/16	8,373.56	CONTRACT COSTS
107865	1591	PHILIP H HOLLAND	05/13/16	200.00	RESERVE UNIF ALLOWANCE
107866	7593	BRUCE HOWCROFT	05/13/16	200.00	RESERVE UNIF ALLOWANCE
107867	7964	KNORR SYSTEMS INC	05/13/16	29,556.38	POOL HEATER REPLACEMENT
107868	190	LC ACTION POLICE SUPPLY LTD	05/13/16	3,385.10	HANDGUN REPLACEMENT; APPROVAL #2016-21
107869	7697	THE LIFEGUARD STORE INC	05/13/16	165.00	STAFF UNIFORMS AND POOL EQUIPMENT
107870	11246	LOOMIS ARMORED	05/13/16	508.56	ARMORED CAR SERVICE
107871	11378	MNS ENGINEERS INC	05/13/16	37,085.00	ENGINEERING ON-CALL SERVICES FOR PLAN RE
107872	6	KAREN MORADA	05/13/16	19.07	EXPENSE REIMBURSEMENT
107873	10886	MUNISERVICES	05/13/16	263.70	BUSINESS LICENSE DISCOVERY
107874	611	KKR AUTOMOTIVE DBA NAPA AUTO PARTS	05/13/16	3,070.32	FY15-16 AUTOMOTIVE SUPPLIES
107875	11089	NEWARK AUTO SERVICE	05/13/16	670.85	VEHICLE SMOGS
107876	349	PACIFIC GAS & ELECTRIC	05/13/16	120.48	FY15-16 STREET/TRAFFIC LIGHT ENERGY COST
107877	11234	RAY MORGAN COMPANY	05/13/16	8,076.77	COPIER LEASE AGREEMENT FY15/16
107878	11369	REBECCA HIBBS	05/13/16	30.78	EXPENSE REIMBURSEMENT
107879	11375	RESIDENCE INN SAN JOSE SOUTH	05/13/16	7,931.10	OPEN PO RESIDENCE INN SAN JOSE FOR ACADE
107880	11373	RRM DESIGN GROUP	05/13/16	16,125.52	NEWARK ZONING CODE UPDATE



Final Disbursement List. Check Date 05/13/16, Due Date 05/23/16, Discount Date 05/23/16. Computer Checks.  
 Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
107881	11074	RUTAN & TUCKER LLP	05/13/16	156.00	LITIGATION SERVICES
107882	11297	SOFT RESOURCES LLC	05/13/16	4,623.00	FINANCE SOFTWARE EVALUATION
107883	40	STAPLES ADVANTAGE DEPT LA	05/13/16	1,919.74	OFFICE SUPPLIES
107884	11231	SURE FIRE PROTECTION CO, INC	05/13/16	3,465.00	FY15-16 ANNUAL SERVICE
107885	10883	THE TACTICAL ADVANTAGE POLICE SUPPLY	05/13/16	842.05	VEST REPLACEMENT; APPROVAL #2016-20
107886	5463	MARY TEIXEIRA	05/13/16	8.64	EXPENSE REIMBURSEMENT
107887	1476	THE OAKLAND ZOO SCHOOL PROGRAMS REGISTRA	05/13/16	527.50	SUMMER DAY CARE TRIP TO OAK ZOO
107888	5872	TORTILLA FACTORY	05/13/16	199.15	SUMMER STAFF TRAINING
107889	6797	US BANK CORPORATE PAYMENT	05/13/16	16,688.24	US BANK CC PAYMENT 04/22/16
107890	3446	UNIVERSAL SPECIALTIES INC	05/13/16	1,583.31	PARTS
107891	5623	VERIZON WIRELESS	05/13/16	4,963.93	FY15-16 SERVICE FOR IPADS
107892	140	VISTA UNIVERSAL INC	05/13/16	1,200.47	FY15-16 PARK HIGH LIGHT REPAIRS
107893	6977	WEISSMAN'S DESIGNS FOR DANCE	05/13/16	1,909.11	DANCE COSTUMES
107894	5050	WEST COAST ARBORISTS INC	05/13/16	3,885.00	FY15-16 TREE WORK
Total				238,431.35	

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

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

**M.2 Closed Session for Conference with Legal Counsel pursuant to Government Code Section 54956.9(d)(1), Existing Litigation, Allstate v. City of Newark, Alameda County Superior Court Case No. HG15794244 – from City Attorney Benoun.**

**Background/Discussion** – The City Attorney has requested a closed session to discuss existing litigation: Allstate v. City of Newark, Alameda County Superior Court Case No. HG15794244.