

# CITY OF NEWARK CITY COUNCIL

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

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

## AGENDA

Thursday, June 13, 2019

- A. ROLL CALL
  
- B. MINUTES
  - B.1 Approval of Minutes of the City Council meeting of May 23, 2019. (MOTION)
  
- C. PRESENTATIONS AND PROCLAMATIONS
  - C.1 Introduction of employees.
  
  - C.2 Proclaiming June as Elder Abuse Awareness Month. (PROCLAMATION)
  
  - C.3 Commending Lieutenants David and Sharon Kim of the Salvation Army Tri-Cities Corps. (COMMENDATION)
  
  - C.4 Presentation by the Farmers and Farmerettes Square Dance Club. (PRESENTATION)
  
- D. WRITTEN COMMUNICATIONS
  
- E. PUBLIC HEARINGS
  - E.1 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2019-2020 – from Finance Manager Lee. (RESOLUTION)
  
- F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.6 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

**CONSENT**

- F.1 Approval of a sign permit for Cedar Neighborhood Church to place a 13 foot tall cross at 38325 Cedar Boulevard – from Acting Community Development Director Interiano. (RESOLUTION)**
- F.2 Authorization and direction for the City Manager to enter into a parking lease agreement with the Portuguese Fraternal Society of America Council 16 for temporary parking at the Newark Pavilion during the construction of the New Civic Center, Project 1188, and amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020 – from Chief Building Official/City Architect Collier. (RESOLUTION)**
- F.3 Authorization for the City Manager to execute a Lease Agreement with Child, Family, and Community Services, Inc. for use of the Jerry Raber Newark Ash Street Park Building #2 for the operation of a Head Start Preschool Program – from City Manager Benoun. (RESOLUTION)**
- F.4 Authorization for the Mayor to execute the Fourth Amendment to the Lease Agreement with County of Alameda for reimbursement of janitorial and pest control services – from Maintenance Superintendent Connolly and Interim City Attorney Kokotaylo. (RESOLUTION)**
- F.5 Authorization for the City Manager to execute an Agreement with Alameda County for Additional Library Services – from City Manager Benoun and Interim City Attorney Kokotaylo. (RESOLUTION)**
- F.6 Adoption of a Program for Managing Polychlorinated Biphenyls (PCBs) in Building Materials during Demolition and authorizing the City Manager to develop and implement regulations to enact the program – from Public Works Director Fajeau. (RESOLUTION)**

**NONCONSENT**

- F.7 Direction to Initiate Proceedings for the Levy and Collection of Assessments for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19 for fiscal year 2019-2020 in accordance with the provisions of the Landscaping and Lighting Act of 1972 – from Public Works Director Fajeau. (RESOLUTION)**
- F.8 Selection of Dog Park Name from Citywide Dog Park Naming Contest submittals – from Recreation and Community Services Director Zehnder. (RESOLUTION)**

**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 2019 – from Mayor Nagy. (MOTION)(RESOLUTION)**

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

**K. ORAL COMMUNICATIONS**

**L. APPROPRIATIONS**

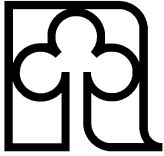
- Approval of Audited Demands. (MOTION)**

**M. CLOSED SESSION**

**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.



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

## AGENDA

**Thursday, June 13, 2019**

### CITY COUNCIL:

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

### CITY STAFF:

*David J. Benoun*  
*City Manager*  
  
*Michael Carroll*  
*Police Chief*  
  
*Soren Fajeau*  
*Public Works Director*  
  
*David Zehnder*  
*Recreation and Community*  
*Services Director*  
  
*Sandy Abe*  
*Human Resources Director*  
  
*Kristopher J. Kokotaylo*  
*Interim City Attorney*  
  
*Krysten Lee*  
*Finance Manager*  
  
*Arturo Interiano*  
*Acting Community Dev. Dir.*  
  
*Sheila Harrington*  
*City Clerk*

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

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

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.



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

## Minutes

Thursday, May 23, 2019

### A. ROLL CALL

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

### B. MINUTES

#### B.1 Approval of Minutes of the City Council meeting of May 9, 2019.

**MOTION APPROVED**

Council Member Collazo moved, Council Member Bucci seconded, to approve the Minutes of the regular City Council meeting. The motion passed, 3 AYES, 2 ABSENT.

### C. PRESENTATIONS AND PROCLAMATIONS

#### C.1 Presentation of Awards for Students, Teacher, and Classified Employee of the Year.

Mayor Nagy and Rotary Club members Patricia Montejano, John Becker, and David Zehnder presented the awards.

At 7:40 p.m. Mayor Nagy called a recess; at 7:55 p.m. the meeting resumed.

#### C.2 Proclaiming June as Celebrating Business Month in Newark.

Chamber President/CEO Valerie Boyle and Chamber members Patricia Montejano and David Libby accepted the proclamation.

### D. WRITTEN COMMUNICATIONS

### E. PUBLIC HEARINGS

**F. CITY MANAGER REPORTS**

Council Member Bucci moved, Council Member Collazo seconded, to approve Consent Calendar Items F.1 through F.4, that the resolutions be numbered consecutively, and that reading of the titles suffice for adoption of the resolutions. The motion passed, 3 AYES, 2 ABSENT.

**CONSENT**

- F.1 Approval of events within the public right-of-way, authorization to issue an Encroachment Permit to the Portuguese Fraternal Society of America Council No. 16 (Holy Ghost Festival Committee), and provision of traffic control for the annual Holy Ghost Festival on July 27 and 28, 2019.**  
**MOTION APPROVED**
- F.2 Authorization for the Mayor to execute an agreement with the *Tri-City Voice* for legal advertising services for Fiscal Year 2019-2020.**  
**RESOLUTION NO. 10923**  
**CONTRACT NO. 19025**
- F.3 Authorization for the Mayor to execute a multi-year agreement with Lance, Soll & Lunghard, LLP, Certified Public Accountants, to provide professional auditing services to the City and to amend the 2018-2020 Biennial Budget and Capital Improvement Plan.**  
**RESOLUTION NO. 10924**  
**CONTRACT NO. 19026**
- F.4 Authorization for the Mayor to execute an Emergency Medical Services First Responder Advanced Life Support Services Agreement between the City of Newark and the County of Alameda.**  
**RESOLUTION NO. 10925**  
**CONTRACT NO. 19027**

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

- I.1 Declaring a vacancy on the Newark Planning Commission and authorizing the City Clerk to post a notice of vacancy.** **MOTION APPROVED**

Council Member Collazo stated that it would be difficult filling Bernie Nillo's seat on the Planning Commission.

Council Member Collazo moved, Council Member Bucci seconded to by motion, declare a vacancy on the Newark Planning Commission and direct the City Clerk to post the notice of vacancy. The motion passed, 3 AYES, 2 ABSENT.

Mayor Nagy stated that there was a ceremony before the meeting that dedicated Sportsfield Park as Mel Nunes Sportsfield Park.

Council Member Collazo stated that Memorial Day weekend was a time to give thanks for those who served our country. Shop Newark.

Council Member Bucci congratulated the Students of the Year. He stated that Relay for Life would be held at Community Park the weekend of June 1.

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

**K. ORAL COMMUNICATIONS**

**L. APPROPRIATIONS**

**Approval of Audited Demands.**

**MOTION APPROVED**

City Clerk Harrington read the Register of Audited Demands: Check numbers 117639 to 117756.

Council Member Bucci moved, Council Member Collazo seconded, to approve the Register of Audited Demands. The motion passed, 3 AYES, 2 ABSENT.

**M. CLOSED SESSION**

**N. ADJOURNMENT**

Mayor Nagy adjourned the meeting at 8:07 p.m.

**C.1 Introduction of employees.**

**Background/Discussion** – Administrative Support Specialist II Melanie Cabeceira and Senior Administrative Support Specialist Franklin Lee recently joined the Public Works Department. They will each be introduced at the City Council meeting.



**C.2 Proclaiming June as Elder Abuse Awareness Month.**

**(PROCLAMATION)**

**Background/Discussion** – June is Elder Abuse Awareness Month. Members of the Alameda County Adult Protective Services Agency and the District Attorney’s office will accept the proclamation at the City Council meeting.

**C.3 Commending Lieutenants David and Sharon Kim of the Salvation Army Tri-Cities Corps. (COMMENDATION)**

**Background/Discussion** – Lieutenants David and Sharon Kim will be transferred to the Salvation Army Divisional Headquarters in San Francisco, effective June 24, 2019. A commendation has been prepared to honor their four years of service to the Tri-Cities Corps.

**C.4 Presentation by the Farmers and Farmerettes Square Dance Club.**  
**(PRESENTATION)**

**Background/Discussion** – The Farmers and Farmerettes Square Dance Club is a Newark-based group that does exhibition and entertainment square dancing and is also involved with local charities. Don Baker and representatives from the Farmers and Farmerettes will be at the City Council meeting to present a contribution to the Newark Betterment Corporation.

**E.1 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2019-2020 –  
from Finance Manager Lee. (RESOLUTION)**

**Background/Discussion** – The City’s Master Fee Schedule (MFS) is reviewed annually. The proposed MFS for Fiscal Year 2019-2020 is based on an analysis of both direct and indirect costs for the delivery of certain City programs and services. Market factors were also considered in establishing the proposed fees. The proposed MFS is the result of input from all City departments.

A summary of the proposed changes is attached to this report. These changes include the addition of fees for the soon-to-be constructed all weather turf fields. The rental fees range between \$65 to \$110 per hour, depending upon whether it is rented during the day or at night and resident versus nonresident rate. If approved, the changes would be effective beginning July 1, 2019.

As a result of a December 22, 2005, California Supreme Court case (Barratt-American, Inc. vs. City of Rancho Cucamonga), the reenactment of previously existing fees without change nullifies the applicable statute of limitations and, thus, reopens those fees to legal challenge. It is recommended that the Council amend only those sections of the Master Fee Schedule that staff is suggesting be changed. The sections adopted, deleted, or amended by Council will then be editorially merged with the unchanged portions of the Master Fee Schedule as last amended by the City Council in Resolution No. 10,786 on June 14, 2018.

**Attachments** - Summary of Proposed Changes, Resolution

**Action** – Staff recommends that the City Council, by resolution, amend the Master Fee Schedule for Fiscal Year 2019-2020.



## **SUMMARY OF PROPOSED CHANGES**

### **I. GENERAL FUND - POLICE**

***POLICE RECORD INFORMATION*** – Senate Bill 1421 requires law enforcement agencies to release records to the public, when requested, in cases when a law enforcement officer lied, committed sexual assault, or used force that caused great bodily injury or death. “Redaction fees for audio/visual/photographic and other electronic records,” was added because the review and redaction of these records will need to be performed by in-house staff and/or an outside company who specializes in this type of service. The fee charged will be the actual cost to provide these records. A deposit equal to the estimated cost of the review and redaction will also be required from the requestor.

***PROCESSING*** –VIN verification services are no longer being performed, so this fee was deleted.

***PARKING CITATION PENALTIES*** – Truck traffic has increased considerably in the last few years as large-scale companies have moved into the tri-city area and their drivers routinely drive off of truck routes to avoid heavily congested thoroughfares. The fee amount for “Truck traveling off of truck route” has increased from \$75 to \$225 as these oversized vehicles can cause significant damage to roadways and also be a nuisance to residents.

### **II. DEVELOPMENT ENTERPRISE FUND**

***DEVELOPMENT*** – The deposit amount for “Geotechnical peer review by outside consulting firm” has increased from \$3,000 to \$5,000 as we have discovered that actual costs have consistently exceeded the current fee. The general ledger account number was also corrected.

***ZONING AND REDEVELOPMENT*** – The change to the account code under Environmental Impact Report (EIR) Preparation fees clarifies that the fees received are for deposit and reimbursement and not for revenue purposes.

***BUILDING INSPECTION*** – A new fee, “Geotechnical peer review by outside consulting firm,” was added as state law requires geotechnical studies within seismic hazard areas to be reviewed by qualified personnel. The general ledger account number was also corrected.



**III. RECREATION AND COMMUNITY SERVICES ENTERPRISE FUND**

*SILLIMAN FACILITY RENTALS* – Typos from the previous year were corrected in the “Athletics Fields” section. In addition, fees were updated accordingly due to the installation of all-weather turf fields scheduled for late summer/early fall.

*GENERAL YOUTH AND TEEN SERVICES* – The fee category for Teen Activities was changed from “per activity” to “per hour” for clarification.

*MEASURE B TRANSPORTATION* – The title of this section was corrected to “MEASURE B/BB TRANSPORTATION” to match the description in this category and a new program, “Network Transportation Company,” was also added.

**IV. CAPTIAL ASSETS - MAINTENANCE ENTERPRISE FUND**

No changes.

**V. CAPITAL ASSETS - CONSTRUCTION ENTERPRISE FUND**

*DEVELOPMENT* – The proposed adjustments increase the Park Impact, Capital Facilities, and Housing Fees by 2.7% based on the Engineering News Record Construction Cost Index per Resolutions 10,505; 10,633, 10,634, 10,635; and 8802, respectively.

**VI. COMMUNITY DEVELOPMENT**

No changes.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AMENDING THE MASTER FEE SCHEDULE FOR  
FISCAL YEAR 2019-2020

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

WHEREAS, the City Council desires to update currently established fees to cover inflation and City costs, which form the basis for the majority of the changes, as well as to establish new fees in keeping with City Council policy direction; and

WHEREAS, a public hearing has been noticed and held in accordance with Government Code Sections 6062a, 66016, 66017 and 66018; and

WHEREAS, the City Council of the City of Newark has, from time to time, established fees by resolution for services as authorized pursuant to the Newark Municipal Code, most recently on June 14, 2018 by Resolution No. 10,786.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby amend those portions of the City of Newark Master Fee Schedule as set forth in Exhibit "A," attached hereto and incorporated herein by this reference and made part hereof as though set forth at length for Fiscal Year 2019-2020.

BE IT FURTHER RESOLVED that the amendments to the City of Newark Master Fee Schedule will become effective on July 1, 2019, except development fees, which will become effective 60 days after adoption of this resolution.

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>I. GENERAL FUND - POLICE</b>			
Q. POLICE RECORD INFORMATION			
010-0000	3658	3. Redaction fees for audio/visual/photographic and other electronic records	Actual cost; deposit equal to estimated cost of service required
S. PROCESSING			
		8. <del>VIN Verification (non-resident) — local contracted tow companies exempt</del>	<del>25</del>
Y. PARKING CITATION PENALTIES			
010-0000	Various	<u>Violation</u>	<u>Vehicle Code (V.C.)</u>
			<u>Newark Muni Code (NMC)</u>
		Truck Traveling Off of Truck Route	10.32.010(b) NMC
			<del>75</del> 225



Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>II. DEVELOPMENT ENTERPRISE FUND</b> (All fees shall be rounded to the nearest whole dollar)			
B. DEVELOPMENT			
020-2015	3670 (50%) 3150 (50%)	8. Improvement Plan Check and Inspection for subdivision construction (est. 50% paid at time of plan submittal) (Cash deposit 020-2208)	
020-0000	3670	e. Geotechnical peer review by outside consulting firm (Cash deposit 020-2208)	<del>3,000</del> 5,000 deposit; final billing based on actual cost plus 25%
D. ZONING AND REDEVELOPMENT			
020-2010	3610	2. Environmental Fees	
020-2010	2270	b. EIR Preparation	
G. BUILDING INSPECTION			
020-2014	3141	3. Plan Check	
020-0000	3141	g. Geotechnical peer review by outside consulting firm	Actual cost plus 25%

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>III. RECREATION AND COMMUNITY SERVICES ENTERPRISE FUND</b>			
<b>C. SILLIMAN FACILITY RENTALS</b>			
		7. Athletic Fields++	
		a. Softball Fields (Sportsfield and Birch Grove)	
		(2) Without lights, Nonresident/Groups	<del>35</del> -45-55/hour (two hour minimum)
		(4) With lights, Nonresident/Groups	<del>45</del> -55-65/hour (two hour minimum)
		b. Soccer and Multi-Use Playfields – Newark Nonprofit Youth Soccer Sports Organizations	
		(1) Daylight use <del>only</del> - grass fields	6.75-20/player/season
		(2) <del>Youth Activity/League/Tournament</del> Daylight use - all weather turf fields	25-35/hour/field <del>or designated area</del>
		(3) With lights - all weather turf fields	40-50/hour/field
		(4) Deposit	100-500/rental
		c. Soccer and Multi-Use Grass Playfields	
		(1) Daylight use, Resident	55- <del>80</del> 85/hour/field or designated area
		(2) Daylight use, Nonresident	65- <del>95</del> 100/hour/field or designated area
		(3) Deposit	100-500/rental <del>or event</del>
		d. Soccer and Multi-Use All-Weather Turf Playfields – All Other User Groups	
		(1) Daylight use, Resident	65-95/hour/field or designated area
		(2) With lights, Resident	80-105/hour/field or designated area
		(3) Daylight use, Nonresident	75-105/hour/field or designated area
		(3) With lights, Nonresident	90-110/hour/field or designated area
		(4) Deposit	100-500/rental

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
K. GENERAL YOUTH AND TEEN SERVICES			
		2. Teen Activities: Includes cost of instructor or staff, supply costs, administrative overhead, equipment costs, and excursion costs to include admission fees and transportation.	1-100/ <del>activity</del> hour
M. MEASURE B/BB TRANSPORTATION			
032-0000	3646	1. Newark Paratransit, <del>and Taxi Voucher, and Network Transportation Company</del> Program: Includes contractor costs and administrative overhead. The cost of these trips are funded by Measure B and Measure BB Sales Tax revenue.	1-10/one way trip

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
<b>V. CAPITAL ASSETS - CONSTRUCTION ENTERPRISE FUND</b>			
A. DEVELOPMENT			
104-0000	3850	2. Park Impact Fee **	
		a. Projects without Land Dedicated for Parks	
		(1) Single-Family	<del>25,700</del> 26,393/dwelling unit
		(2) Multi-Family Units	<del>18,504</del> 19,003/dwelling unit
		b. Projects that Dedicate Land for Parks	
		(1) Single-Family	<del>7,710</del> 7,918/dwelling unit
		(2) Multi-Family Units	<del>5,448</del> 5,595/dwelling unit
401-0000	3860 PSF	3. Capital Facilities *	
		a. Public Safety <sup>1</sup>	
		(1) Single-family residential	<del>3,548</del> 3,644/unit
		(2) Townhome	<del>3,548</del> 3,644/unit
		(3) Multi-family residential	<del>2,129</del> 2,186/unit
		(4) Office/Commercial	<del>0.62</del> 0.64/square foot
		(5) Manufacturing/Research & Development	<del>0.26</del> 0.27/square foot
401-0000	3860 CSF	b. Community Service/Facilities <sup>1</sup>	
		(1) Single-family residential	<del>2,376</del> 2,440/unit
		(2) Townhome	<del>2,376</del> 2,440/unit
		(3) Multi-family residential	<del>1,188</del> 1,220/unit
		(4) Office/Commercial	<del>0.88</del> 0.90/square foot
		(5) Manufacturing/Research & Development	<del>0.19</del> 0.20/square foot
		(6) Warehousing/Distribution	<del>0.37</del> 0.38/square foot
401-0000	3860 TRA	c. Transportation <sup>1</sup>	
		(1) Single-family residential	<del>5,113</del> 5,251/unit
		(2) Townhome	<del>2,658</del> 2,730/unit

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
A. DEVELOPMENT, CONTINUED			
		(3) Multi-family residential	<del>3,170</del> 3,256/unit
		(4) Office/Commercial	<del>4.53</del> 4.65/square foot
		(5) Manufacturing/Research & Development	<del>2.48</del> 2.55/square foot
		(6) Warehousing/Distribution	<del>4.95</del> 5.08/square foot
403-0000	3860 ILF	4. Housing	
		a. Residential Housing Impact Fee* (revised annually)	
		(1) First 1,000 sq. ft. floor area/unit**	<del>20.60</del> 21.16/square foot
		(2) All sq. ft. over 1,000 sq. floor area/unit	<del>8.25</del> 8.47/square foot
		b. Non-Residential Housing Impact Fee *** (revised annually)	
		(1) Commercial	<del>3.70</del> 3.80/square foot
		(2) Industrial	<del>.70</del> 0.72/square foot

**F.1 Approval of a sign permit for Cedar Neighborhood Church to place a 13 foot tall cross at 38325 Cedar Boulevard – from Acting Community Development Director Interiano. (RESOLUTION)**

**Background/Discussion** – Cedar Neighborhood Church is requesting a sign permit to place a 13 foot tall cross on their property at 38325 Cedar Boulevard, specifically at the corner of Smith Avenue and Cedar Boulevard.

The applicant originally received a Conditional Use Permit (Resolution No. 645) to build a church in 1975, which was then named Trinity Christian Center of the Assemblies of God of Newark. In 1987, the City approved an amendment to the CUP (Resolution No. 1103) to expand the principal building and add a classroom. The church is now known as Cedar Neighborhood Church. The applicant is requesting to place a 13 foot tall cross in a landscaped area located near the corner of Smith Avenue and Cedar Boulevard.

The proposed cross is considered a sign under the Zoning Ordinance. Per the 1987 CUP conditions of approval, any proposed sign must be reviewed by the Planning Commission and City Council. The proposed sign does not cause any visibility issues at the corner of Cedar Boulevard and Smith Avenue and does not appear to be intrusive or out of character with the area. A site plan and elevation of the sign is attached. The proposed sign is not considered a “project” under the CEQA regulations and therefore this action is exempt from CEQA.

Staff recommends approval of the proposed sign at 38325 Cedar Boulevard.

**Update** – The Planning Commission unanimously approved this item on May 14, 2019.

**Attachments** – Resolution, Site Plan, and Elevation

**Action** – Staff recommends that the City Council, by resolution, approve a sign permit to allow a 13 foot tall sign in the front area of 38325 Cedar Boulevard, located in the RS-6000 Zoning District.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK APPROVING A SIGN PERMIT, TO ALLOW A 13  
FOOT TALL SIGN IN THE FRONT AREA OF 38325 CEDAR  
BOULEVARD, LOCATED IN THE RS-6000 ZONING DISTRICT

WHEREAS, Cedar Neighborhood Church, has filed with the City Council of the City of Newark an application for a sign permit, to allow a 13 foot tall cross at the corner of Cedar Boulevard and Smith Avenue (the “Proposed Sign”); and

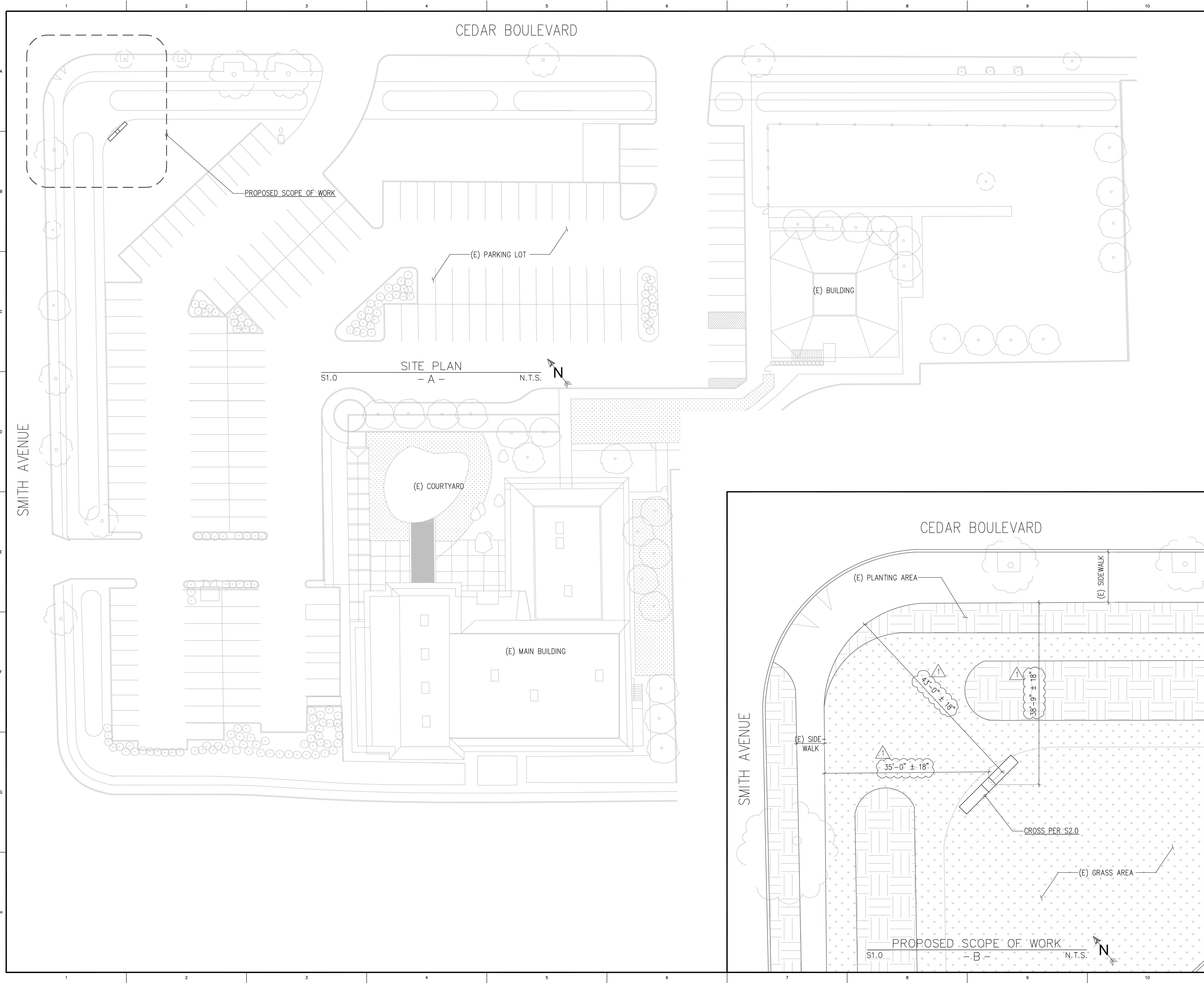
WHEREAS, pursuant to Conditional Use Permit U-87-52 (Resolution 1103), condition of approval X, the City Council is required to review and approve all signs, other than those referring to construction, sale or future use for approval prior to issuance of a sign permit; and

WHEREAS, the City Council has reviewed and approves of the Proposed Sign and hereby makes the following finding:

- A. The proposed use is allowed within the applicable zoning district and complies with all other applicable laws, rules, regulations, and policies.

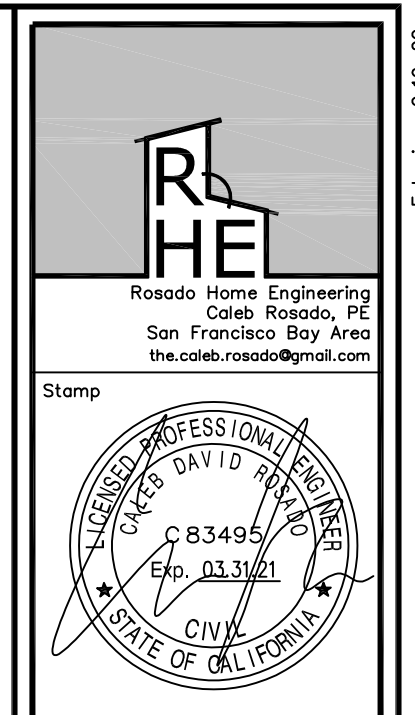
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby approves this application, subject to compliance with the following conditions:

1. A building permit shall be required.
2. The sign shall not exceed the height of 13 feet.
3. The sign shall otherwise comply with all other applicable laws, rules, regulations, and policies.



**PROJECT INFORMATION:**

- SCOPE OF WORK
  - Construct an ornamental cross in the northern corner of the property
- PROJECT ADDRESS
  - 38325 Cedar Boulevard, Newark CA
- GOVERNING CODES
  - 2016 California Building Code
  - 2016 ASCE 7
- STRUCTURAL DATA
  - Wind
    - Risk Category II
    - Exposure B
    - $V = 110$  mph
    - $K_d = 0.85$
    - $G = 0.85$
    - $q_z = 15$  psf
  - Seismic: non-structural component
    - $S_{ds} = 1.149$
    - $o_p = 2\frac{1}{2}$
    - $R_p = 3$
    - $I_p = 1.0$



**CEDARS CHURCH**  
 NON-STRUCTURAL ORNAMENTAL CROSS INSTALLATION  
 38325 CEDAR BOULEVARD  
 NEWARK, CA 94560

Δ	Date	Note
- 1 -	05.02.2019	update

**PERMIT**

Date: 10.19.2018  
 Owner: -  
 County: Alameda  
 Block/Lot: -  
 Drawn by: CR  
 Project: 18.09

NOTICE: This original drawing set is the property of Calab Rosado (Engineer). Use of and/or changes to the drawing set are to be approved solely by the Engineer. Drawings were created using AutoCAD by Autodesk.

Building Agency Use

Sheet Title

**GENERAL NOTES**

Sheet #

**S1.0**

01 of 02

Ephraim 2:19-22

Original sheet size is 24"x36"

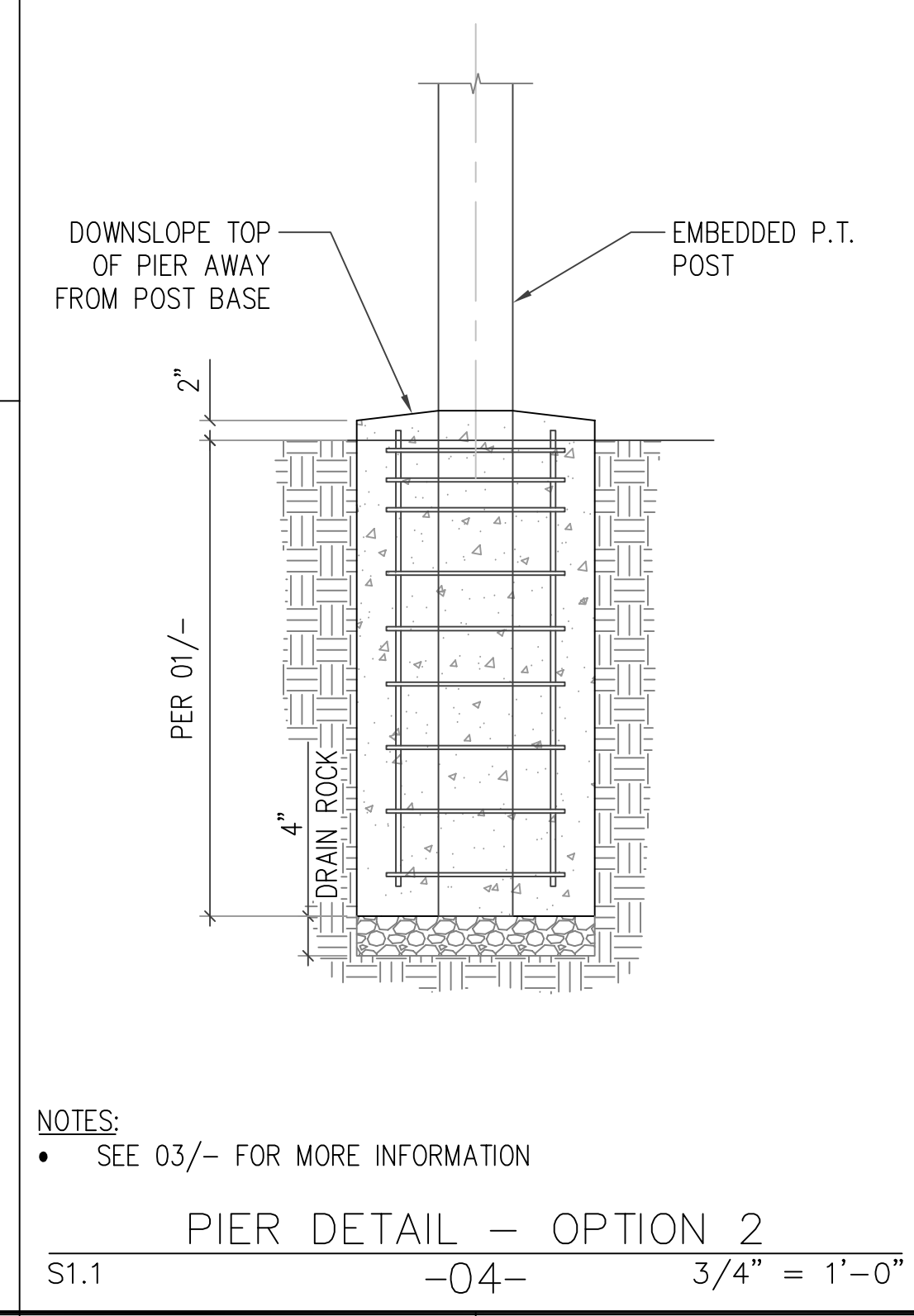
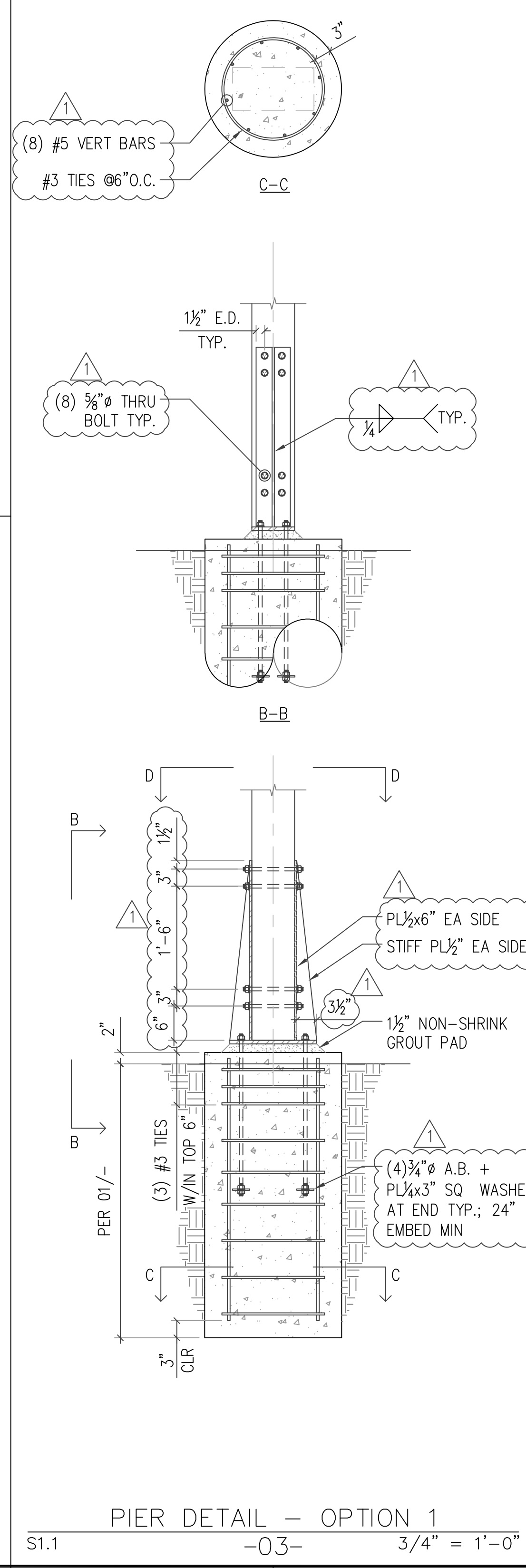
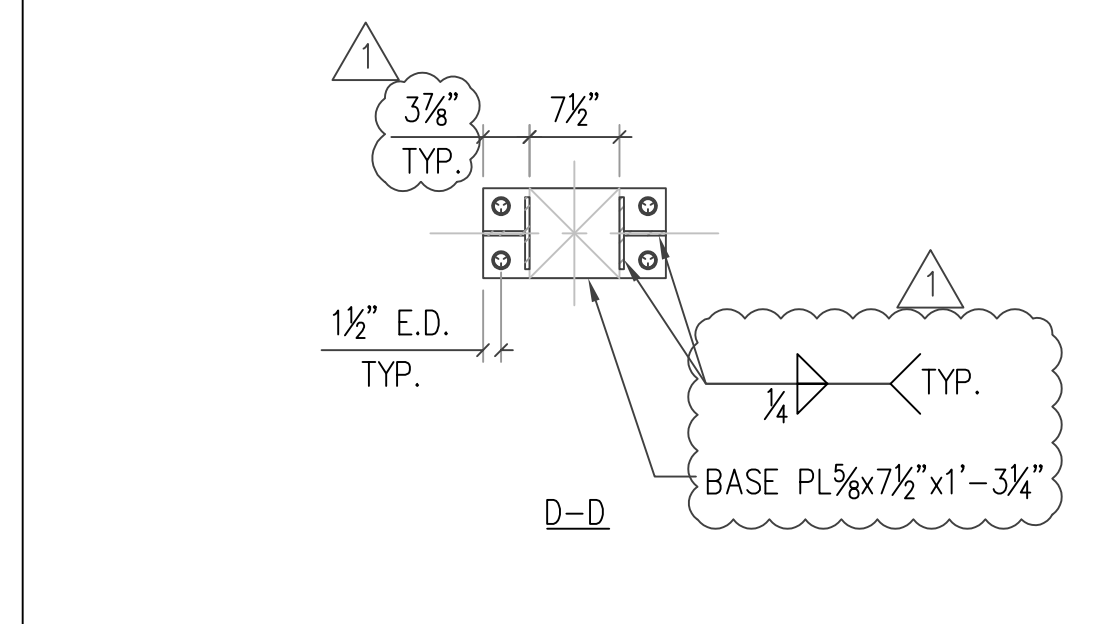
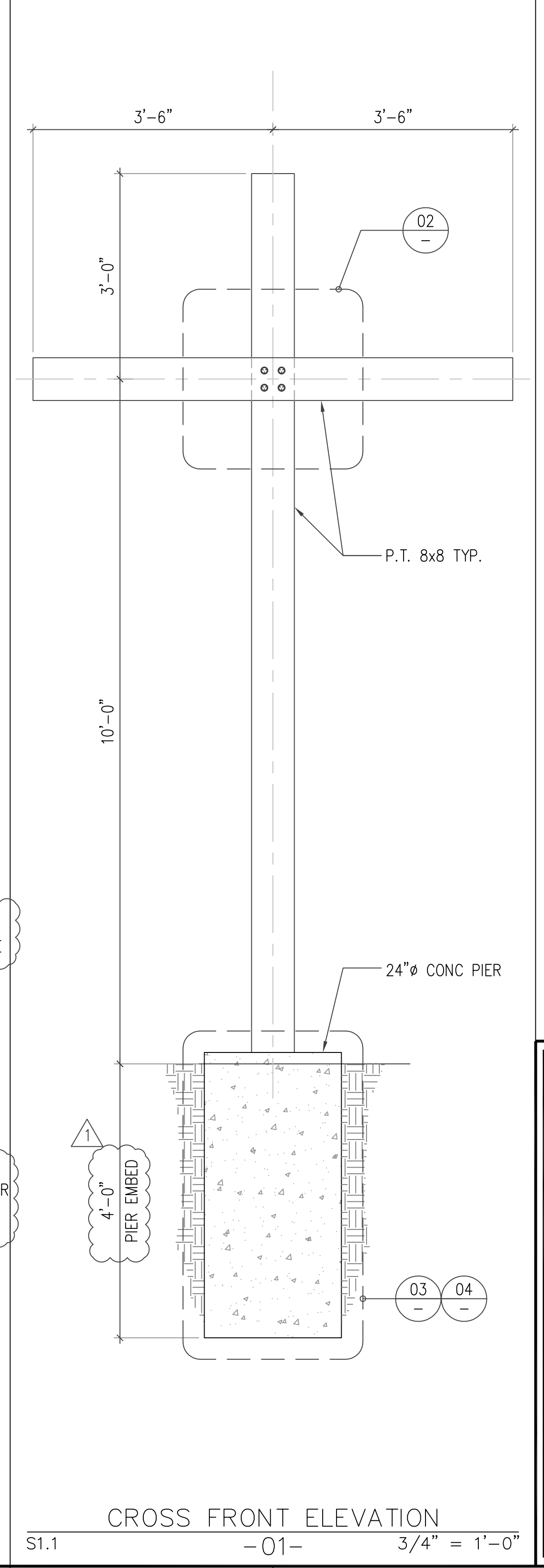
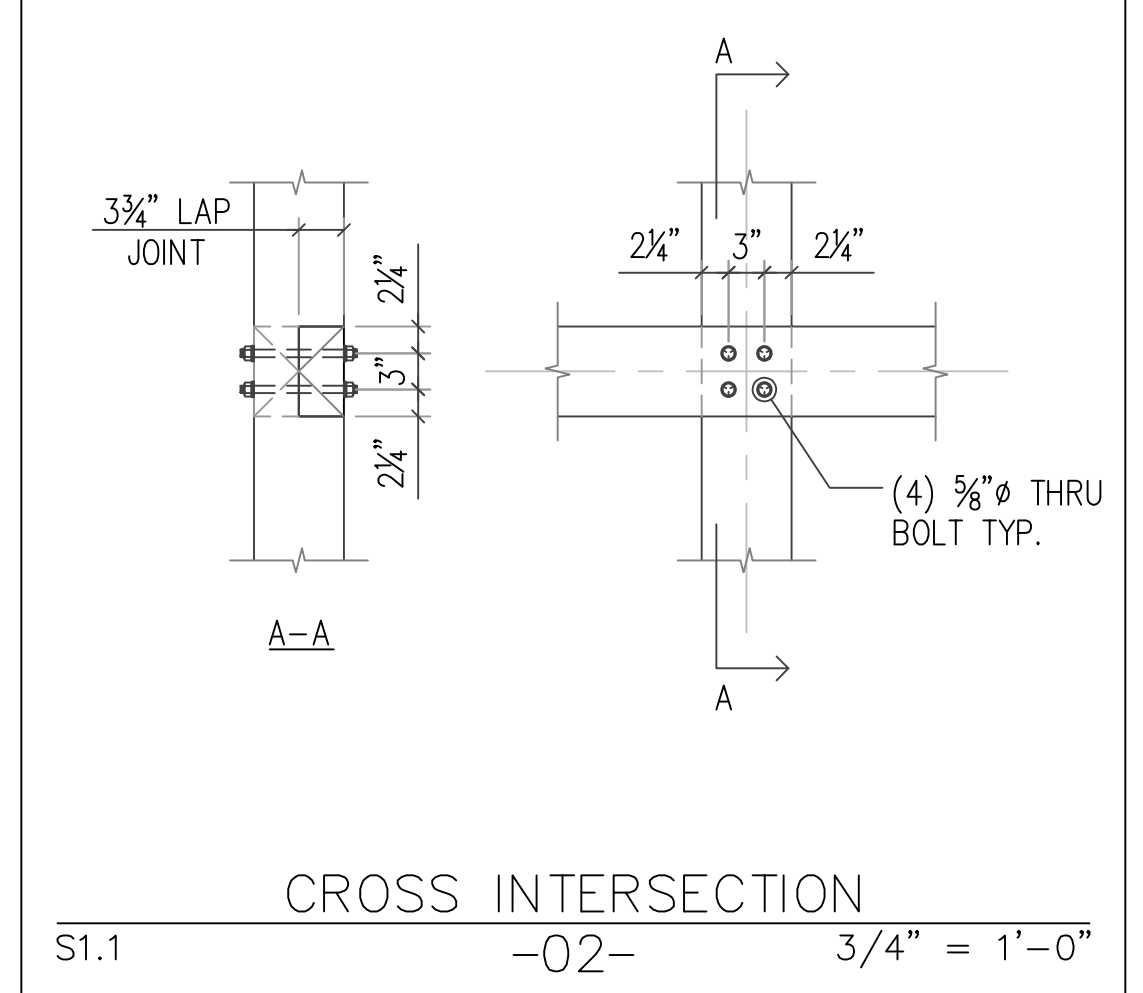


Δ	Date	Note
- 1 -	05.02.2019	update

Set	
PERMIT	10.19.2018
Owner	-
County	Alameda
Block/Lot	-
Drawn by	CR
Project	18.09

NOTICE: This original drawing set is the property of Cabab Rosado (Engineer). Use of and/or changes to the drawing set are to be approved solely by the Engineer. Drawings were created using AutoCAD by Autodesk.

Building Agency Use	Sheet Title
	CROSS DETAILS
Sheet #	S2.0
	02 of 02



NOTES:  
 • SEE 03/- FOR MORE INFORMATION

**F.2 Authorization and direction for the City Manager to enter into a parking lease agreement with the Portuguese Fraternal Society of America Council 16 for temporary parking at the Newark Pavilion during the construction of the New Civic Center, Project 1188, and amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020 – from Chief Building Official/City Architect Collier. (RESOLUTION)**

**Background/Discussion** – The City recently entered into an agreement with a design-build entity, Webcor Builders, for the construction of the New Civic Center, Project 1188. Construction is expected to commence on or about September 1, 2019, with construction staging on the site potentially starting in advance of that date. Once construction is underway, parking within the existing Civic Center parking lot will be significantly reduced. There will be a need to relocate parking for approximately 100 City and County employee vehicles to a nearby off-site facility. Staff evaluated a variety of parking options and determined that the Newark Pavilion parking lot at 6430 Thornton Avenue is the City’s best option for temporary employee parking based on site proximity, parking capacity, and the projected cost.

The Portuguese Fraternal Society of America Council 16 (Newark Pavilion) has offered to lease 100 parking spaces to the City at a cost of \$3.00 per day per parking space, Monday through Friday for the duration of the lease. The lease period would commence on August 5, 2019, and end on June 30, 2021, for a total of 498 parking days. Based on this time period, the total cost of the lease is estimated to be \$149,400. It is recommended that the City Manager be authorized and directed to enter into a parking lease agreement with the Newark Pavilion for this anticipated lease period. It is further recommended that the City Manager be authorized to approve an extension of the lease agreement by up to 60 parking days in the event that the need for temporary parking exceeds the projected 498 parking days, and also authorized to approve an increase to the number of spaces utilized by up to 20 should such an increase be determined to be necessary.

Parking for City Hall customers as well as Newark Library and Civic Center Park users will also be significantly impacted during construction. Modifications will be made to the south side of Civic Terrace Avenue to provide parking on the street for Civic Center patrons. These new spaces will be posted with a two-hour limit and enforced appropriately. Newark Library staff is aware of the parking constraints during the construction period and they are developing plans to modify their programming accordingly. City staff is also coordinating with Webcor Builders to ensure that accessible parking needs for City Hall are provided.

The existing secured parking lot off of Civic Terrace Avenue will remain available during construction for the exclusive use of the Police Department until the new Police Department building and secured parking lot with access to Thornton Avenue have been completed.

It is recommended that Capital Improvement Fund Reserves be utilized to fund the proposed parking lease agreement with a \$150,000 adjustment to the Project 1188 budget for Fiscal Year 2019-2020.

**Attachment** – Resolution; Agreement

**Action** - Staff recommends that the City Council, by resolution, authorize and direct the City Manager to enter into a parking lease agreement with the Portuguese Fraternal Society of America Council 16 for temporary parking at the Newark Pavilion during construction of the New Civic Center, Project 1188, and amend the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A PARKING LEASE AGREEMENT WITH THE PORTUGUESE FRATERNAL SOCIETY OF AMERICA COUNCIL 16 FOR TEMPORARY PARKING AT THE NEWARK PAVILION DURING CONSTRUCTION OF THE NEW CIVIC CENTER, PROJECT 1188, AND AMENDMENT OF THE 2018-2020 BIENNIAL BUDGET AND CAPITAL IMPROVEMENT PLAN FOR FISCAL YEAR 2019-2020

WHEREAS, the City of Newark (“City”) is in need of temporary parking facilities for City and Alameda County employees during the construction of the New Civic Center, Project 1188; and

WHEREAS, the City studied various options for temporary employee parking in the immediate vicinity of the Civic Center site; and

WHEREAS, the City determined that parking lot at the Portuguese Fraternal Society of America Council 16 (“Newark Pavilion”) site, 6430 Thornton Avenue, provides the best option to the City for temporary employee parking based on site proximity, parking capacity and projected cost.

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

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize and direct the City Manager to enter into a Parking Lease Agreement (“Agreement”) with the Newark Pavilion for temporary employee parking, in an initial amount not to exceed \$149,400 for 100 parking spaces at \$3.00 per parking space per day, for a period of 498 days of parking and to make any revisions, amendments, corrections and modifications to the Agreement subject to the approval of the City Attorney, as deemed necessary to carry out the intent of this Resolution and which do not materially alter or increase the City’s obligations thereunder; and take all actions necessary to effectuate the intent of this Resolution.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to extend the duration of the Agreement by up to 60 days of parking use and to modify compensation consistent with and under the terms of the Agreement accordingly.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby authorize the City Manager to increase the number of parking spaces utilized daily by up to 20 spaces and to modify compensation with and under the Agreement accordingly.

BE IT FURTHER RESOLVED that the City Council of the City of Newark does hereby amend the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020 as follows:

	<u>Account</u>	<u>Description</u>	<u>Amount</u>
From:	401-0000-2991	Capital Improvement Fund Reserves	\$150,000
To:	401-5600-5280-1188	New Civic Center	\$150,000

## PARKING LEASE AGREEMENT

**THIS PARKING LEASE AGREEMENT (“Lease”)** is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between PORTUGUESE FRATERNAL SOCIETY OF AMERICA COUNCIL 16 aka NEWARK PAVILION (“**Landlord**”), and THE CITY OF NEWARK (“**Tenant**”), for parking spaces located in that certain parking facility (“**Parking Facility**”) at 6430 Thornton Ave., Newark, California.

- A. **WHEREAS**, Landlord is the owner of that certain real property including the Parking Facility located at 6430 Thornton Ave., Newark, California, 94560, as more particularly described in Exhibit A attached hereto and incorporated herein by reference; and
- B. **WHEREAS**, Tenant has the need for parking spaces during construction of the City of Newark New Civic Center Project between Monday and Friday; and
- C. **WHEREAS**, Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, parking spaces, as further identified in Section 1 below, in the Parking Facility; and
- D. **WHEREAS**, the Tenant and Landlord desire to enter into this Lease upon the terms and conditions set forth below.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

- 1. **LEASE.** Landlord leases to Tenant, and Tenant leases from Landlord, one hundred (100) parking spaces, as more particularly described in Exhibit A attached hereto and incorporated herein by reference, (collectively, the “**Spaces**”) in the Parking Facility while Newark City Hall is open during the work week, Monday through Friday. No deductions or allowances shall be made for days when Tenant does not utilize the Spaces. Except as set forth in Section 8, Tenant’s use of the Spaces shall be for passenger vehicles only, Monday through Friday. Tenant shall be permitted to utilize areas of the Parking Facility necessary to access the Spaces.
- 2. **TERM.** The term of this Lease (“**Term**”) shall commence on August \_\_, 2019 (the “**Commencement Date**”), and end on July \_\_, 2021 (the “**End of Term Date**”) unless terminated by either party. Either party may terminate this Lease upon ninety (90) days advance written notice to the other party to this Lease..
- 3. **RENT.** As full consideration for this Lease, Tenant agrees on or before the first day of each month during the Term, to pay to Landlord rent at the rate of \$300 per day for the Spaces (“**Parking Rent**”).

If tenant fails to pay any installment of Parking Rent to Landlord within five (5) days after the due date, such installment of Parking Rent shall accrue interest at the rate of 10 percent (10%) per annum (not to exceed the maximum rate allowed by law) from the date due until paid in full. If such failure continues for five (5) days after written notice from Landlord, Tenant shall be in default of the Lease and Landlord, in addition to the exercise

of any rights and remedies provided at law or in equity, shall have the rights and remedies set forth in Section 4 below. The Parking Rent and other charges payable hereunder shall be paid in the form of a check to Landlord at the following address:

Newark Pavilion  
6430 Thornton Ave  
Newark, CA 94560

Or by wire transfer as follows:

Account Name: \_\_\_\_\_  
Bank Name: \_\_\_\_\_  
ABA Number: \_\_\_\_\_  
Account Number: \_\_\_\_\_

**4. REMEDIES.**

4.1. Tenant shall be in default of this Lease if Tenant fails to pay Parking Rent in accordance with Section 3 (beyond any applicable notice and cure periods), or if Tenant is in breach of any other term or covenant set forth in this Lease, and Tenant fails to cure such breach within thirty (30) days of written notice from Landlord (or such longer period if such breach cannot reasonably be cured within such 30-day period and Tenant commences to cure such breach during such 30-day period and diligently prosecutes the cure to completion). Upon occurrence of any default under this Lease (beyond any applicable notice and cure periods), Landlord shall have the option to immediately terminate this Lease and Tenant's right to possession of the Spaces and any portion of the Parking Facility and pursue all remedies at law or in equity.:

5. **LIEN FREE.** Tenant shall not cause or permit any liens to be placed against the Parking Facility as a result of Tenant's exercise of its right under this Lease. In the event of the filing of any such liens, Tenant shall cause such liens to be removed or bond around such liens, within thirty (30) days of the attachment of the lien to the Parking Facility.

6. **RISK OF LOSS.** Except as caused by the negligence or willful misconduct of Landlord, Landlord shall not be liable for any loss, injury or damage to persons using the Parking Facility or any loss, injury or damage to any automobiles or other property therein, it being agreed that, except as provided above, the use of the Spaces shall be at the sole risk of Tenant.

7. **RULES AND REGULATIONS.** Landlord shall have the right to promulgate reasonable rules and regulations regarding the Parking Facility and the Spaces and the use thereof, including, but not limited to, rules and regulations controlling the flow of traffic to and from various parking areas, and the angle and direction of parking; provided that such rules and regulations do not materially increase Tenant's obligations or materially decrease Tenant's rights under this Lease. Tenant shall comply with all such rules and regulations.

8. **STORAGE.** Tenant shall have access to the Spaces between the hours of 6:00 a.m. and 10:00 p.m. and shall not store any automobiles overnight in the Parking Facility without the prior written consent of Landlord. Except for emergency repairs, Tenant shall not perform any work on any automobile while located in the Parking Facility. If it is necessary for Tenant to leave an automobile in the Parking Facility overnight, Tenant shall provide Landlord with prior notice thereof designating the license plate number and model of such automobile. Tenant shall not store any hazardous materials and/or substances, any flammable, combustible or explosive fluid, chemical or substance (other than automotive fuel and lubricants of usual types and in usual quantities for passenger vehicles) nor any perishable food or beverage products, except with Landlord's prior written approval.
9. **TEMPORARY CLOSURES.** Landlord shall have the right to temporarily close the Parking Facility or certain areas thereof in order to perform necessary repairs, maintenance and improvements to the Parking Facility, so long as Landlord does not unreasonably interfere with Tenant's use of the Spaces; provided that Landlord (except in the case of emergency) first provides to Tenant not less than ten (10) days advance notice of: the closure and work scope, the duration of the closure, the nature of any impacts to the Parking Facility, and any measures to be taken to mitigate interference.
10. **NO ASSIGNMENT.** Tenant shall not assign or otherwise transfer the Spaces without the written consent of Landlord; provided that Tenant may assign this Lease to an affiliate of Tenant or a contractor of Tenant without Landlord's consent (but with notice to Landlord). Landlord shall have the right to assign or otherwise transfer its interest under this Lease to any operator of the Parking Facility or any subsequent owner of the Parking Facility.
11. **INDEMNITY.** Tenant shall protect, indemnify, defend and hold Landlord harmless from and against any and all loss, claims, liability or cost (including court costs and attorney's fees) to the extent incurred by reason of (a) any damage to any property (including but not limited to property of Landlord) or any injury (including but not limited to death) to any person occurring in, on or about the Spaces or the Parking Facility to the extent that such injury or damage shall be caused by or arise from the negligent act or omission of Tenant or any of its employees or invitees; or (b) Tenant's failure to comply with any and all governmental laws, rules, codes, ordinances, and regulations applicable to Tenant's particular use of the Spaces. Landlord shall protect, indemnify, defend and hold Tenant harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) to the extent incurred by reason of (a) any damage to any property (including but not limited to property of Tenant) or any injury (including but not limited to death) to any person occurring in, on or about the Spaces or the Parking Facility to the extent that such injury or damage shall be caused or arise from the negligent act or omission of Landlord or any of its employees or invitees; or (b) Landlord's failure to comply with any and all governmental laws, rules, codes, ordinances and regulations



applicable to the Parking Facility. The provisions of this Section shall survive the termination or expiration of this Lease.

12. **INSURANCE.** Tenant shall keep in force throughout the Term of this Lease: (a) a Commercial General Liability insurance policy or policies to protect against any liability to the public or to any invitee of Tenant incidental to use of or resulting from any accident occurring in or upon the Parking Facility, with a limit of not less than \$1,000,000 per occurrence and not less than \$2,000,000 in the annual aggregate, covering bodily injury and property damage liability; (b) name the Landlord as additional insured; (c) be issued by an insurance company with a minimum Best's rating of "A:VI" during the Term; and (d) provide that said insurer shall endeavor to provide Landlord with fifteen (15) days' prior written notice of cancellation of the insurance. Tenant shall provide Landlord with a Certificate of Insurance showing such coverage upon the Commencement Date and at least fifteen (15) days prior to each renewal of said insurance. Notwithstanding the foregoing, Tenant shall be entitled to self-insure its insurance requirements set forth in this Lease, provided that any self-insurance shall be deemed to contain all of the terms and conditions applicable to such insurance as required in this Section 12.
  
13. **WAIVER OF SUBROGATION; COOPERATION.** Tenant and Landlord each agree to waive, and as applicable shall cause the insurance companies issuing their respective property (first party) insurance, to waive any subrogation rights that each Party and such companies may have against Parrott or City, respectively, as long as the insurance is not invalidated by the waiver. If the waivers of subrogation are contained in their respective insurance policies, City and Parrott waive any right that either may have against the other on account of any loss or damage to their respective property to the extent that the loss or damage is insured under their respective insurance policies.
  
14. **CASUALTY/CONDEMNATION.** If the Spaces shall be so damaged by fire or other casualty, or subject to condemnation, a taking or eminent domain, that the substantial alteration or reconstruction of the Spaces shall be required, either party may, at its option, immediately terminate this Lease by notifying the other party in writing of such termination. Such termination shall be effective as of the date of fire or casualty, or condemnation, taking or eminent domain award. If the Lease is not so terminated, then Tenant shall receive an abatement of Parking Rent to the extent such event interferes with Tenant's use and enjoyment of the Spaces; provided, however, that Tenant shall not be entitled to an abatement of Parking Rent to the extent such damage is caused by Tenant, its employees or invitees.
  
15. **NOTICE.** Any notice required or permitted to be given hereunder by one party to the other shall be deemed to be given when personally delivered, or three (3) days after mailed by registered or certified mail with return receipt requested, or one day after sent by a national overnight courier service to the respective party to whom notice is intended to be given at the appropriate address provided below:

If to Tenant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If to Landlord: Newark Pavilion  
6430 Thornton Ave  
Newark, CA 94560

16. **EXCULPATION.** The obligations of Landlord under this Lease are not intended to and shall not be personally binding on, nor shall any resort be had to the private properties of, any of its trustees or board of directors and officers, as the case may be, the general partners thereof, or any beneficiaries, stockholders, employees, or agents of Landlord, and in no case shall either party be liable to the other hereunder for any lost profits, damage to business, or any form of special, indirect or consequential damages.

17. **ALTERATIONS; SURRENDER:** Tenant shall not alter or modify the Parking Facility, or install any signs with the Parking Facility, without the advance consent of Landlord, which consent shall not be unreasonably withheld. Upon the expiration or termination of the Lease, Tenant shall remove any alterations installed by Tenant and restore the Parking Facility to substantially the same condition as such areas existed prior to the installation of such alterations, and otherwise surrender the Parking Facility in its AS IS condition; provided, however, nothing herein shall relieve Tenant of its obligation to repair damaged caused by Tenant, its employees or invitees, in accordance with Section 18, below.

18. **MAINTENANCE.** Landlord shall maintain the Parking Facility in good condition and repair. Notwithstanding the foregoing, in the event that the Parking Facility is damaged by reason of the negligent acts or omissions of Tenant, its employees or invitees, Tenant shall restore such affected areas of the Parking Facility to substantially the same condition as such areas existed prior to such damage.

19. **COMPLIANCE WITH LAWS.** Landlord shall cause the Parking Facility to comply with all applicable laws. Tenant shall comply with applicable laws with respect to its particular use of the Spaces.

20. **GENERAL.**

20.1 Tenant, upon paying the Parking Rent and performing all of the terms, covenants and conditions on its part to be performed, shall peaceably and quietly enjoy the Spaces subject to the terms of this Lease.

20.2 This Lease shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any legal action filed in connection with

this Lease shall be filed in the Superior Court of Alameda County, California, or in the Federal District Court for the Northern District of California.

20.3 The prevailing party in any action or proceeding in court or mutually agreed upon arbitration proceeding to enforce the terms of this Lease is entitled to receive its reasonable attorneys' fees.

20.4 This Lease may be executed in several counterparts, all of which constitute one and the same instrument.

20.5 The captions appearing within the body of this Lease have been inserted as a matter of convenience and for reference only and in no way, define, limit or enlarge the scope or meaning of this Lease or of any provisions hereof.

20.6 This Lease sets forth all the agreements and understandings between Landlord and Tenant with respect to the Spaces, and there are no agreements or understandings, either oral or written, between them other than as are herein set forth. No amendment or change to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by both of them.

20.7 If any provision of this Lease is or becomes illegal or unenforceable, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby.

20.8 If either party to this Lease shall bring an action to interpret or enforce this Lease or for any relief against the other, the losing party shall pay to the prevailing party a reasonable sum for attorney's fees, expert witness fees and other costs incurred in such action or proceeding.

[SIGNATURE PAGE FOLLOWS]

**IN WITNESS WHEREOF**, Landlord and Tenant have entered into this Lease as of the date first written above.

**LANDLORD:**

**PORTUGUESE FRATERNAL  
SOCIETY OF AMERICA  
COUNCIL 16 aka NEWARK  
PAVILION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**TENANT:**

**CITY OF NEWARK**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

3232050.1

**F.3 Authorization for the City Manager to execute a Lease Agreement with Child, Family, and Community Services, Inc. for use of the Jerry Raber Newark Ash Street Park Building #2 for the operation of a Head Start Preschool Program – from City Manager Benoun. (RESOLUTION)**

**Background/Discussion** – The current Lease Agreement for use of the Jerry Raber Ash Street Park Building #2 by the Child, Family, and Community Services, Inc. expired on June 7, 2019. Child, Family, and Community Services, Inc. wishes to enter into a new one-year Agreement for this upcoming school year. A new Lease Agreement has been prepared, the conditions of which remain substantively the same as in the past. A share of the utility cost will be paid on a bi-annual basis. The Center provides a valuable service to the community and staff recommends that the City Council authorize a new lease for an additional school year, commencing August 16, 2019 through June 5, 2020, at an annual rental fee of \$1 per year.

**Attachment** – Resolution, Lease Agreement

**Action** - Staff recommends that the City Council, by resolution, authorize the City Manager to execute a Lease Agreement with Child, Family, and Community Services, Inc. for use of the Jerry Raber Ash Street Park Building #2 for the operation of a Head Start Preschool Program.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE CITY MANAGER TO  
EXECUTE A LEASE AGREEMENT WITH CHILD, FAMILY,  
AND COMMUNITY SERVICES, INC. FOR USE OF JERRY  
RABER ASH STREET PARK BUILDING #2 FOR THE  
OPERATION OF A HEAD START PRESCHOOL PROGRAM

WHEREAS, the current lease agreement with Child, Family, and Community Services, Inc. for use of Jerry Raber Ash Street Building #2 expired on June 7, 2019; and

WHEREAS, Child, Family, and Community Services, Inc. provides a valuable service to the community; and

WHEREAS, staff recommends, and the City Council desires, that the City enter into a new lease with Child, Family, and Community Services, Inc. for an additional school year, August 16, 2019 through June 5, 2020, for a rental fee of \$1 per year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newark does hereby authorize the lease agreement with Child, Family, and Community Services, Inc. for use of Jerry Raber Ash Street Building #2 for an additional school year, August 16, 2019 through June 5, 2020, for a rental fee of \$1 per year.

BE IT FURTHER RESOLVED that the City Manager of the City of Newark is hereby authorized to execute a lease agreement with Child, Family, and Community Services, Inc. for the operation of a Head Start Preschool program, said agreement on file in the Office of the City Clerk; to make any revisions, amendments, corrections and modifications to the lease agreement subject to the approval of the City Attorney, as deemed necessary to carry out the intent of this Resolution and which do not materially alter or increase the City's obligations thereunder; and take all actions necessary to effectuate the intent of this Resolution.

## LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this \_\_\_\_ day of June, 2019, by and between the CITY OF NEWARK, CALIFORNIA, a municipal corporation hereinafter referred to as "CITY," and the CHILD, FAMILY AND COMMUNITY SERVICES, INC., a California Non-Profit Public Benefits Corporation, hereinafter called respectively, the Lessor and Lessee, without regard to number or gender.

IT IS AGREED between the parties hereto as follows:

1. DESCRIPTION OF PREMISES

The Lessor hereby leases to Lessee, and Lessee hires from Lessor, on the terms and conditions hereinafter set forth, those certain premises with the appurtenances, situated in the City of Newark, County of Alameda, State of California, and commonly known and described as 37365 Ash Street, Building #2, Newark, California.

2. TERMS

Said lease shall be for a period of approximately one (1) school year commencing August 16, 2019, and ending on June 5, 2020.

3. RENT

The rent is One Dollar (\$1.00) per year payable on the first day of September, 2019.

4. USE

The premises are hereby leased to the Lessee for the purpose of providing a pre-school program for Head Start. Agreement to this use in this lease shall not be deemed a waiver of compliance with any ordinance of the City of Newark now in force or hereafter enforced.

5. WASTE, QUIET CONDUCT

Lessee shall not commit, or suffer to be committed, any waste upon the said premises, or any nuisance, or other act or thing which may disturb the quiet enjoyment of any other tenant.

6. ALTERATIONS, MECHANICS' LIENS

Lessee shall not make or suffer to be made, any alterations of the said premises, or any part thereof without the written consent of Lessor first had and obtained, and any additions to, or alterations of, the said premises, except moveable furniture and trade fixtures, shall become at once a part of the realty and belong to Lessor. Lessee shall keep the demised premises and the property in which the demised premises are situated free

from any liens arising out of any work performed, material furnished, or obligations incurred by Lessee.

Lessee further grants Lessor the right to inspect the premises to assure compliance with the provision of this paragraph and all other provisions of this lease.

7. OBLIGATIONS TO REPAIR DAMAGE.

Lessee shall reimburse CITY upon demand for all costs and expenses incurred by Lessor for the repair of any damage to the Premises caused by the negligence or willful misconduct of Lessee.

8. UTILITIES

a. Lessee shall obtain and pay for all telephone service to the building. Lessee shall pay the City of Newark 75% of the City's total Ash Street Park electrical service bills.

b. Lessor shall provide water service at no additional cost to Lessee.

9. JANITORIAL SERVICES

Lessee shall, at its own cost, provide janitorial services as needed to keep the interior of the leased premises in good and sanitary order.

10. ACCEPTANCE OF PREMISES AS IS. SURRENDER AT END OF TERM

By entry hereunder, Lessee accepts the premises as being in good and sanitary order, condition and repair and agrees on the last day of said term, or sooner termination of this lease, to surrender unto Lessor all and singular said premises with said appurtenances in the same condition as when received, reasonable use and wear thereof and damage by fire, Act of God or by the elements excepted, and to remove all of Lessee's signs from said premises.

11. COMPLIANCE WITH LAW

Lessee shall, at its sole cost and expense, comply with all of the requirements of all Municipal, State and Federal authorities now in force, or which may hereafter be in force, pertaining to the said premises, and shall faithfully observe in the use of the premises all applicable Municipal ordinances and State and Federal statutes now in force or which may hereafter be in force. The judgment of any court of competent jurisdiction, or the admission of Lessee in any action or proceeding against Lessee, whether Lessor be a part thereto or not, that Lessee has violated any such ordinance or statute in the use of the premises shall be conclusive of the fact as between Lessor and Lessee.

No narcotics or drugs as defined by the Health and Safety Code as being illegal, and no alcoholic beverages of any kind, shall be permitted on the premises.

Lessee shall not use the premises in any manner which constitutes a public or private nuisance by statute or common law.



Lessee further grants the Police Department the right to inspect the premises and surrounding areas at any time to assure compliance with law.

12. CITY TO BE HELD HARMLESS

Lessee, as a material part of the consideration to be rendered to Lessor, hereby waives all claims against Lessor for damages to goods, wares, and merchandise, in, upon or about said premises and for injuries to Lessee, his agents or third persons in or about said premises from any cause arising at any time, and Lessee will hold Lessor exempt and harmless from any damage or injury to any person, or to the goods, wares, and merchandise of any person, arising from the use of the premises by Lessee, or from the failure of Lessee to keep the premises in good condition and repair, as herein provided, excepting therefrom any and all claims, liability, loss against Lessor for damages resulting from the intentional and/or negligent acts or omissions of Lessor, its officers, employees, and agents.

13. NON-LIABILITY FOR DAMAGES

This lease is made upon the express condition that Lessor is to be free from all liability and claim for damages by reason of any injury to any person or persons, including Lessee, or property of any kind whatsoever and to whomsoever belonging, including Lessee, from any cause or causes whatsoever while in, upon, or in any way connected with said demised premises or the said sidewalks adjacent thereto during the term of this lease or any extension hereof or any occupancy hereunder, Lessee hereby covenanting and agreeing to indemnify and save harmless Lessor from all liability, loss, cost, and obligations on account of or arising out of any such injuries or losses however occurring.

14. INSURANCE

Lessee shall acquire and maintain Workers' Compensation, employer's liability, and commercial general liability insurance coverage relating to the activities of Lessee, its agents, representatives, employees, or sub lessees in, on, upon, or relating to the premises leased herein covering City's risks in form subject to the approval of the City Attorney.

The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

Lessee shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the occupancy of the premises.

***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

Insurance Services Office Commercial General Liability coverage  
(occurrence Form CG 0001).

Workers' Compensation insurance as required by the State of California and Employer's Liability Coverage.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

- |  |  |
|--|--|
| <p><b>1. General Liability:</b></p> <p>(including operations, products and completed operations, as applicable.)</p> | <p><b>\$1,000,000</b> 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.</p> |
| <p><b>2. Employer's Liability:</b></p>   | <p><b>\$1,000,000</b> per accident for bodily injury or disease.</p>   |

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Lessee shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

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.

Verification of Coverage

Lessee shall furnish City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

Other Insurance Provisions

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

Additional Insureds. The City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Lessee.

Primary Insurance. For any claims related to this project, the Lessee's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Lessee's insurance and shall not be contribute with it.

Notice of Cancellation. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after ten (10) days' prior written notice by certified mail, return receipt requested, has been given to the City.

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 Civil Code.

Qualifications. All insurance companies providing coverage to Lessee 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.

Waiver of Subrogation. With respect to Workers' Compensation, the insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees, and volunteers for losses arising from work performed on the premises by Lessee.

Coverage is Material Element. Maintenance of proper insurance coverage in conformity with the provision of this Paragraph 14 is a material element of this lease 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 lease.

Variation. The Risk Manager of City may approve a variation in those insurance requirements upon a determination that the coverage, scope, limits and form of such insurance are either not commercially available or that the City's interest are otherwise fully protected.

Licensor shall maintain real property insurance on said premises which shall include coverage for and against loss or damage to the real property caused in whole or in part by Licensee. Licensee shall not be responsible or liable for the loss of or damage to said premises of Licensor. Licensee shall maintain personal property insurance to insure its own personal property against loss or damage which shall include coverage for and against loss or damage to Licensee's personal property caused in whole or in part by Licensor.

14. ASSIGNMENT OR SUBLETTING

Lessee shall not assign this lease, or any interest therein, and shall not sublet the said premises or any part thereof, or any right or privilege appurtenant thereto, or suffer any other person (the agents and servants of Lessee excepted) to occupy or use the said premises, or any portion thereof, without the written consent of Lessor first had and obtained, and a consent to one assignment, subletting, occupation, or use by another person shall not be deemed to be a consent to any subsequent assignment, subletting, occupation, or use by another person. Any such assignment or subletting without such consent shall be void, and shall, at the option of the Lessor, terminate this lease.

This lease shall not, nor shall any interest therein, be assignable, as to the interest of Lessee, by operation of law, without the written consent of Lessor.

15. INDEMNITY OF CITY AND ITS OFFICERS

Lessee hereby acknowledges that it is not in any way connected with the City of Newark, in its operation of the pre-school program (Head Start) and does hereby indemnify and hold City, its officers, officials, councils, commissions, volunteers, and employees harmless from any and all liability from the operation of the pre-school program (Head Start) and does further agree to defend any and all litigation arising out of Lessee's operation of the pre-school program on the Premises and in which the City of Newark is named as a defendant, excepting therefrom any and all claims, liability, or loss against Lessor for damages resulting from the intentional and/or negligent acts or omissions of Lessor, its officers, officials, volunteers, and employees. Lessee does hereby further agree to endorse City of Newark as an additional insured to its policies and to provide the City of Newark with a certificate of insurance acceptable to the City Attorney.

16. RELATIONSHIP OF LESSEE/LESSOR

The relationship between Child, Family and Community Services, Inc. and the City of Newark is that of Lessee/Lessor and Child, Family and Community Services, Inc. is not the employee, servant or agent of the City of Newark.

17. 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 to:

**Lessor:**

City Manager	and	City Attorney
City of Newark		City of Newark
37101 Newark Boulevard		37101 Newark Boulevard
Newark, CA 94560		Newark, CA 94560

**Lessee:**

Executive Director  
Child, Family and Community Services, Inc.

32980 Alvarado Niles Road, Suite 846  
Union City, CA 94587

18. HOLDING OVER

Any holding over after the expiration of the term or notice of termination shall be at a monthly rental of \$1.00 and shall otherwise be on the terms and conditions herein specified, so far as applicable.

19. TERMINATION

The Lessor or Lessee may terminate this lease at any time upon thirty (30) days written notice.

20. NON-DISCRIMINATION

CHILD, FAMILY AND COMMUNITY SERVICES agrees that no person in the United States shall on the grounds of race, color, religious creed, national origin, sex, age, physical disability, mental disability, medical condition, marital status, sexual orientation, or any other basis, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried out in whole or in part within the premises. CHILD, FAMILY AND COMMUNITY SERVICES shall not, on any basis as defined in California Civil Code Section 51:

- a. Deny any service or other benefit provided by the program or activity; or
- b. Provide any service or other benefit which is different or is provided in a different form from that provided to others under the program activity; or
- c. Subject to segregated or separate treatment in any facility or in any manner or process related to receipt of any service or benefit under the program or activity; or
- d. Restrict in any way the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit under the program or activity; or
- e. Treat an individual differently from others in determining the admission, enrollment, eligibility, membership, or other requirements or conditions which individuals must meet in order to be provided any service or other benefits provided under the program or activity.

21. AMENDMENTS

This lease shall be amended only by written agreement of the Parties hereto.

22. ENTIRE AGREEMENT

This instrument constitutes the entire agreement between CITY and CHILD, FAMILY AND COMMUNITY SERVICES relative to the premises and this lease, and may be altered only by an instrument in writing signed by both CITY and CHILD, FAMILY

AND COMMUNITY SERVICES. CITY and CHILD, FAMILY AND COMMUNITY SERVICES agree hereby that all prior or contemporaneous oral agreements between and among themselves and their agents or representatives relative to the leasing of the premises are merged in or revoked by this lease.

23. SEVERABILITY

If any term or provision of the lease shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of the lease shall not be affected thereby, and each term and provision of the lease shall be valid and be enforceable to the fullest extent permitted by law.

24. HEADINGS

The headings used in this lease are not a part of this lease and shall have no effect upon the construction or interpretation of any part hereof.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CHILD, FAMILY AND  
COMMUNITY SERVICES, INC.

CITY OF NEWARK

By \_\_\_\_\_  
Executive Director

By \_\_\_\_\_  
City Manager, City of Newark  
David J. Benoun

Attest \_\_\_\_\_  
City Clerk, City of Newark  
Sheila Harrington

Approved as to form:

\_\_\_\_\_  
Interim City Attorney, City of Newark  
Kristopher J. Kokotaylo

**F.4 Authorization for the Mayor to execute the Fourth Amendment to the Lease Agreement with County of Alameda for reimbursement of janitorial and pest control services – from Maintenance Superintendent Connolly and Interim City Attorney Kokotaylo. (RESOLUTION)**

**Background/Discussion** – In 2015, the City Council authorized the Mayor to sign a five year lease with County of Alameda for lease of the Newark library facility that is owned by the City. The lease obligates the City to provide janitorial services for the building, subject to reimbursement from the County.

The City’s existing agreement with a new janitorial service provider contains an increase effective May 1, 2019. The janitorial company services the Library and the County reimburses City for said services.

City staff has consulted with County staff and the County has agreed to reimburse the City for the recent increase. Starting May 1, 2019, the County will pay the City \$5,573.60 per month for janitorial and pest control services.

The attached Fourth Amendment memorializes this understanding.

**Attachments** – Resolution, Fourth Amendment to Lease Agreement

**Action** – Staff recommends that the City Council, by resolution, authorize the Mayor to execute the Fourth Amendment to the Lease Agreement with the County of Alameda for reimbursement of janitorial and pest control services.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE MAYOR TO EXECUTE THE  
FOURTH AMENDMENT TO THE LEASE AGREEMENT  
WITH COUNTY OF ALAMEDA FOR REIMBURSEMENT OF  
JANITORIAL AND PEST CONTROL SERVICES

WHEREAS, the City of Newark (“City”) and County of Alameda (“County”) are currently parties to that certain Lease Agreement for use of the City-owned library facility located at 6300 Civic Terrace Avenue; and

WHEREAS, both the City and the County wish to amend the Lease Agreement to reflect a recent increase in costs for janitorial services with the new janitorial provider at said facility.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the Fourth Amendment to the Lease Agreement with the County of Alameda for the City-owned facility located at 6300 Civic Terrace Avenue, said Agreement on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Fourth Amendment to the Lease Agreement with Alameda County on behalf of the City of Newark in substantially the same form as on file with the City Clerk and take all actions necessary to effectuate the intent of this Resolution.



## **FOURTH AMENDMENT TO LEASE AGREEMENT**

This Fourth Amendment to Lease Agreement is made as of July 1, 2019, by and between the COUNTY OF ALAMEDA ("COUNTY"), and the CITY OF NEWARK, a municipal corporation ("CITY"), collectively referred to as "Parties".

### **RECITALS**

- A. COUNTY and CITY are parties to that certain Lease Agreement between the City of Newark and the County of Alameda, to lease certain premises located at 6300 Civic Terrace Avenue, Newark, California, made July 1, 2015, and its First Amendment made August 1, 2016, Second Amendment made July 1, 2017, and Third Amendment made July 1, 2018, together referred to as ("Agreement"); and
- B. The Parties wish to modify the terms of the Agreement related to Maintenance and Repairs.

### **AGREEMENT**

NOW, THEREFORE, COUNTY and CITY hereby agree as follows:

- 1. Section 15 MAINTENANCE AND REPAIRS Paragraph B of the Agreement is hereby deleted in its entirety and replaced with the following:

15. MAINTENANCE AND REPAIRS

- B. Janitorial and Pest Control Services: Commencing May 1, 2019, COUNTY agrees to pay CITY for janitorial and pest control services for the premises, the sum of five thousand five hundred seventy three, sixty cents (\$5,573.60) per month as and for janitorial and pest control services for the premises. Each monthly payment is payable on the first day of each and every month. All payments for janitorial and pest control services shall be paid by COUNTY at the office of CITY at 37101 Newark Blvd., Newark, CA 94560 or any other place or places that CITY may from time to time designate by written notice given to COUNTY.

Attached as "EXHIBIT A" is the scope of services for the janitorial services described herein.

- 2. All other terms and provisions of the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.**

COUNTY OF ALAMEDA

CITY OF NEWARK

By: \_\_\_\_\_  
Signature

By: \_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
(Printed)

Name: \_\_\_\_\_  
(Printed)

Title: President of the Board of Supervisors

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:

By: \_\_\_\_\_  
County Counsel Signature

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement
---

# EXHIBIT A

**Alameda County Library - Newark  
6300 Civic Terrace Avenue  
Newark, CA 94560**

## WORK SCHEDULE FOR JANITORIAL SERVICE

**BUILDING AND LOCATION:**

**APPROXIMATE GROSS AREA:** 15,000

Newark Library  
6300 Civic Terrace Avenue

**Hours of Work:** Monday and Tuesday – noon to 8 p.m.  
Wednesday and Thursday – 10 a.m. to 6 p.m.  
Saturday - 10 a.m. to 5 p.m.  
Sunday – 1 p.m. to 5 p.m.

### Daily/WEEKLY/BI-WEEKLY DUTIES

**Security: Close and lock all doors, windows, and set alarm upon completion of work**

ITEM #	WORK DESCRIPTION	SPECIAL INSTRUCTIONS	FREQUENCY
<b>A</b>	<b>Waste Removal</b>		
1	Waste baskets (interior and exterior)	Empty, install new liners	Daily (5 days)
2	Boxes, cartons, paper	Empty into recycle dumpster	Daily (5 days)
3	Ash trays	Empty and clean	Daily (5 days)
<b>B</b>	<b>Restroom Care</b>		
4	Toilet bowls, urinals, partitions, and seats (inside and out)	Clean and disinfect	Daily (5 days)
5	Sinks	Clean and disinfect	Daily (5 days)
6	Counters	Clean and disinfect	Daily (5 days)
7	Chrome	Polish	Daily (5 days)
8	Mirrors	Clean and disinfect	Daily (5 days)
9	Walls	Spot clean, dust, and remove cobwebs	Daily (5 days)
10	Floors, floor drains	Wet mop with germicidal cleaner, pour one bucket clean water into floor drain	Daily (5 days)
11	Paper products, hand soap	Refill as needed	Daily (5 days)
12	Trash and sanitary napkin containers	Empty, install new liners	Daily (5 days)
<b>C</b>	<b>Floor Care</b>		
13	Waxed areas	Broom sweep, damp mop, spot clean scuffs and spills	Daily (5 days)
14	Waxed areas	Vacuum dirt catchers, clean corners, door jams and baseboards	Weekly
15	Carpet	Public areas vacuum traffic lanes, heavily used areas remove stains Private areas, vacuum entire area	Daily (5 days) Weekly
<b>D</b>	<b>Employee Lunchroom</b>		
16	Sink, counter tops	Wash with germicidal cleaner	Daily (5 days)
17	Refrigerators, stove, and microwave	Clean exterior	Daily (5 days)
18	Woodwork, cabinets	Spot clean	Daily (5 days)
19	Waste containers	Empty, wipe, install new liner	Daily (5 days)
<b>E</b>	<b>Furnishing Care</b>		
20	Working surfaces	Damp wipe, spot clean	Daily (5 days)
21	Drinking fountains (interior and exterior)	Clean and disinfect	Daily (5 days)

## WORK SCHEDULE FOR JANITORIAL SERVICE

**BUILDING AND LOCATION:**

**APPROXIMATE GROSS AREA:** 15,000

Newark Library  
6300 Civic Terrace Avenue

**Hours of Work:** Monday and Tuesday – noon to 8 p.m.  
Wednesday and Thursday – 10 a.m. to 6 p.m.  
Saturday - 10 a.m. to 5 p.m.  
Sunday – 1 p.m. to 5 p.m.

### MONTHLY SERVICES OR LESS OFTEN DUTIES (to be scheduled with Maintenance Supervisor)

**Security: Close and lock all doors, windows, and set alarm upon completion of work**

ITEM #	WORK DESCRIPTION	SPECIAL INSTRUCTIONS	FREQUENCY
<b>A</b>			
<b>Miscellaneous</b>			
1	Water fountains (interior and exterior)	Scour, disinfect, polish	Monday's
2	Interior lobby walls/partitions/doors	Dust and spot clean (remove cobwebs)	Daily (5 days)
3	Interior lobby ceiling	Remove cobwebs	Monthly
4	Glass entry doors	Clean inside and out	Daily (5 days)
5	Waste containers - interior	Clean and disinfect	Weekly
<b>B</b>			
<b>Restrooms</b>			
6	Walls/partitions/doors/surfaces	Report (photograph) and remove graffiti, gum and any other foreign matter. Send photo to Maintenance Supervisor.	Daily (5 days)
7	Walls/partitions/doors/other surfaces	Scour, clean and disinfect entire area	Monthly
8	Floors and floor drains	Scour machine wash and disinfect	Monthly
<b>C</b>			
<b>Floor Care</b>			
9	Waxed areas	Vacuum dirt catchers, clean corners, door jams and baseboards	Weekly
10	Waxed areas	Strip wax, reseal with non-slip (green) product, and machine buff	Bi-Annual
11	Chair mats	Public and private areas, spot clean, wet wipe/dust as needed	Weekly
<b>D</b>			
<b>Furnishings</b>			
12	Phones	Sanitize	Weekly
13	Tables/chairs/all counters/conference room	Report and remove graffiti and other foreign matter	Daily (5 days)
14	Fabric chairs (all)	Vacuum and spot clean	Weekly
15	Partitions, shelving, baseboards	Dust, remove all debris	Weekly
16	Bookshelves	Dust and spot clean – dust tops of books	Monthly
17	Windows and glass panels	Clean inside and outside	Quarterly
18	Ceilings	Clean for cobwebs	Monthly
19	HVAC louvers	Vacuum	Monthly
20	Clocks/pictures/partitions/doors	Dust and straighten	Bi-Annual
21	Walls/partitions/doors	Dust and spot clean	Daily (5 days)
22	Chrome fixture and fittings	Polish	Daily (5 days)
<b>E</b>			
<b>Miscellaneous</b>			
23	Day Porter – 2 to 4 p.m.	Check restrooms, clean and restock as needed. Patrol public areas and clean tables as needed. Spot clean bookshelves.	Daily (5)

**F.5 Authorization for the City Manager to execute an Agreement with Alameda County for Additional Library Services – from City Manager Benoun and Interim City Attorney Kokotaylo. (RESOLUTION)**

**Background/Discussion** – The current Agreement for Additional Library Services expires on June 30, 2019. A new agreement has been prepared, the conditions of which remain essentially the same as last year. The County agrees to provide four additional open hours of library service each Sunday per week at the Newark Branch Library for a year. In exchange, the City agrees to pay the County approximately \$116,000, in four quarterly installments. The Library provides a valuable service to the community and staff recommends that the City Council authorize the City Manager to sign the agreement for an additional year, through June 30, 2020.

**Attachments** – Resolution, Agreement

**Action** – Staff recommends that the City Council, by resolution, authorize the City Manager to execute the Agreement with Alameda County for Additional Library Services.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE CITY MANAGER TO  
EXECUTE AN AGREEMENT WITH ALAMEDA COUNTY  
FOR ADDITIONAL LIBRARY SERVICES

WHEREAS, the current agreement with Alameda County for additional library services expires on June 30, 2019; and

WHEREAS, current funding levels for County Library services limits the number of open hours per week at the Newark Branch Library; and

WHEREAS, the City Council of the City of Newark wish to continue having the Newark Branch Library open to citizens for service on Sundays for four hours more than the County funded hours per week.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the Agreement for Additional Library Services, said Agreement on file in the Office of the City Clerk.

BE IT FURTHER RESOLVED that the City Manager is authorized to execute the Agreement with Alameda County on behalf of the City of Newark in substantially the same form as on file with the City Clerk; to make any revisions, amendments, corrections and modifications to the Agreement subject to the approval of the City Attorney, as deemed necessary to carry out the intent of this Resolution and which do not materially alter or increase the City's obligations thereunder; and take all actions necessary to effectuate the intent of this Resolution.

**AGREEMENT BETWEEN THE CITY OF NEWARK  
AND THE  
COUNTY OF ALAMEDA  
FOR  
ADDITIONAL LIBRARY SERVICES  
FISCAL YEAR 2019-20**

The County of Alameda and the City of Newark enter into this Agreement as follows:

WHEREAS, current funding levels for County Library services limit the number of open hours per week at the Newark Branch of the Alameda County Library system; and

WHEREAS, the citizens of Newark wish to have the Newark Branch Library open on Sundays for four hours more than the County funded hours per week, and wish to have additional services; and

The City of Newark and the County of Alameda agree to provide four additional hours on Sundays of library services at the Newark Branch of the Alameda County Library system subject to the following terms and conditions.

**TERMS AND CONDITIONS**

- 1) **Time Period:** This Agreement will be in effect from July 1, 2019 to June 30, 2020.
- 2) **Services Described:** During the time period specified above, the County agrees to provide 4.00 additional open hours on Sunday per week of library service at the Newark Branch Library, excluding County-observed holidays, in order to maintain a total weekly schedule of open hours at the Newark Branch Library at 43 hours per week. The Newark library will be open on Sundays from 1.00 to 5.00PM.
- 3) **Payments:** The City agrees to pay the County \$115,760 in four (4) quarterly installments as follows:

September 30, 2019	\$28,940.00
December 31, 2019	\$28,940.00
March 31, 2020	\$28,940.00
June 30, 2020	\$28,940.00

Payments shall be due and payable on the dates stated above. In addition to the amounts stated above interest of 5 percent / month shall be payable for any payment which is more than 30 days overdue.

- 4) Extension: All terms and conditions of this Agreement may be extended, by mutual written agreement on a year-to-year basis or as otherwise agreed to by the parties, provided the amount paid by the City of Newark to the County of Alameda is adjusted annually to reflect increases/decreases to the costs connected with providing the services.
- 5) Augmentation: The services provided through this Agreement and the amount to be paid by the City of Newark to the County of Alameda may be augmented during the year, by mutual agreement, to reflect additional City of Newark funds and monies donated to the City of Newark by groups, other public agencies, and individuals for this purpose.
- 6) Periodic Activity Reports: Activity Reports will be provided by the County Librarian to the Newark City Council. Newark City Council may request such reports at any time.
- 7) Option to Terminate or Renegotiate Agreement: In the event that either party determines that it no longer has sufficient funding or staffing to meet the obligations of this agreement, that party may terminate or renegotiate this Agreement by giving at least thirty (30) days written notice.
- 8) Liability:
  - a) No persons engaged in the performance of library services and functions under this Agreement shall be considered City employees or gain rights to City pension, Civil Service, or other City employment status or right by way of this Agreement.
  - b) The City shall not be called upon to assume any liability for the direct payment of any salary, wages, or other compensation to any County personnel performing services hereunder for the City, or any liability other than that provided for in this Agreement.

Except as herein otherwise specified, the City shall not be liable for compensation or indemnity to any County employee for injury or sickness arising out of his/her employment.
  - c) The County will assume liability and pay cost of defense and hold the City harmless from loss, costs or expenses caused by the negligent or wrongful act or omission of County officers, agents and employees occurring in the performance of agreements between the parties hereto to the extent that such liability is imposed on the City by the provisions of Section 895.2 of the Government Code of the State of California.



d) The City will assume liability and pay cost of defense and hold the County harmless from loss, costs or expenses caused by the negligent or wrongful act or omission of City officers, agents and employees occurring in the performance of agreements between the parties hereto to the extent that such liability is imposed on the County by the provisions of Section 895.2 of the Government Code of the State of California.

9) Notices: Notices pertaining to this agreement shall be sent to the following:

CITY:  
City Administrator  
CITY OF NEWARK  
37101 Newark Blvd  
Newark CA 94560

COUNTY:  
President, Board of Supervisors  
COUNTY OF ALAMEDA  
Administration Building  
1221 Oak Street  
Oakland, CA 94612

County Librarian  
ALAMEDA COUNTY LIBRARY  
2450 Stevenson Blvd.  
Fremont, CA 94538-2326

IN WITNESS WHEREOF:

The parties hereto have executed this Agreement the day and year first above written, and the County has hereunto caused its corporate name to be signed by its President of the Board of Supervisors, who is hereunto duly authorized the day and year first above written.

CITY OF NEWARK

COUNTY OF ALAMEDA

By: \_\_\_\_\_  
City Manager  
City of Newark, County of Alameda  
State of California

By: \_\_\_\_\_  
President  
Board of Supervisors  
State of California

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO FORM

By: \_\_\_\_\_  
Deputy County Counsel

**NEWARK LIBRARY  
FY 2019-20 Projected Budget**

**EXPENSES:**

Branch Personnel (14.05 FTE)	\$1,307,302
Services &Supplies	\$150,000
*All other Direct Cost	\$929,594
Total Direct Costs	\$2,386,896
**Admin. Cost	\$517,834
<b>GRAND TOTAL</b>	<b>\$2,904,730</b>

\*Direct Cost include share of Material costs, ITD cost and cost of Learning Group Services (Bookmobile: Literacy: Senior Services and Services to those with Disability)

\*\*Admin. Cost includes the shared cost of Administration.

**REVENUE:**

County Library Property Tax	\$2,159,376	(39 Base Hours)
City Contract	\$115,760	(4.0 Add. Hours)
Other County Library Funds	\$629,594	
<b>GRAND TOTAL</b>	<b>\$2,904,730</b>	

**F.6 Adoption of a Program for Managing Polychlorinated Biphenyls (PCBs) in Building Materials during Demolition and authorizing the City Manager to develop and implement regulations to enact the program – from Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** – Polychlorinated Biphenyls (PCBs) have been detected in elevated levels in certain sport fish in San Francisco Bay (Bay). To make the fish safer to eat, PCB sources to the Bay need to be identified and controlled. Urban stormwater runoff is considered a significant pathway for PCBs into the Bay. As a result, regulatory agencies are requiring that Bay Area municipalities address sources of PCBs in stormwater runoff discharged to the Bay from municipal separate storm sewers systems (MS4s).

Water quality within the San Francisco Bay Region is regulated by the Regional Water Quality Control Board (Regional Water Board). The San Francisco Bay Region encompasses portions of Alameda, Contra Costa, Marin, Napa, Santa Clara, San Francisco, San Mateo, Solano, and Sonoma Counties. One way that the Regional Water Board protects water bodies within the San Francisco Bay Region is to develop Total Maximum Daily Loads (TMDLs), which are programs to restore water quality in water bodies impaired by pollutants such as PCBs. Currently there is a TMDL established for PCBs in the Bay. To achieve the goals of the TMDL, a reduction in the amount of inputs of PCBs to the Bay is required. The PCBs TMDL estimates that 20 kilograms per year (kg/year) of PCBs enters the Bay in stormwater runoff, and requires that this input be reduced to 2 kg/year by 2030, a 90% reduction.

In 2015, the Regional Water Board reissued the Municipal Regional Permit (MRP), Order No. R2-2015-0049, a National Pollutant Discharge Elimination System (NPDES) permit that regulates discharges of stormwater runoff from MS4s. The MRP includes provisions that implement the requirements in the PCBs TMDL to reduce discharges of PCBs in stormwater runoff to the Bay. These include Provision C.12.f., which requires Permittees to develop new programs to manage PCBs-containing building materials during demolition. Remodeling, partial building, wood framed structure, and single-family residence demolition projects are exempt. The MRP requires that these new programs are adopted and begin implementation by July 1, 2019.

This regulation targets selected priority building materials that may contain relatively high levels of PCBs, especially in buildings constructed or remodeled from January 1, 1950 to December 31, 1980. During demolition, these building materials and associated PCBs may be released to the environment and transported to the Bay by stormwater runoff. Based on the Bay Area Stormwater Management Agencies Association’s (BASMAA) *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition, August 2018* (“BASMAA Protocol”), the priority building materials are caulking, thermal/fiberglass insulation, adhesive/mastic, and rubber window gaskets. To identify these materials, an initial literature review was conducted to identify the full list of known PCBs-containing building materials and reported PCBs concentrations. The materials were then prioritized by developing six factors that relate to the load or mass of PCBs associated with the materials, the likelihood of the material to get into

stormwater during the demolition process, and the relative difficulty to remove the material from the building.

The City of Newark, like all jurisdictions subject to the MRP, is required to reduce PCBs discharges in stormwater runoff. This regulation targets priority building materials that may contain relatively high levels of PCBs, especially in buildings constructed between 1950 and 1980 as noted above. It is recommended that the priority building materials cited above are regulated during demolition to prevent the materials and associated PCBs from potentially being released to the environment and transported to the Bay by stormwater runoff.

This regulation requires an assessment process for PCBs in building materials. It requires that the City initially notifies demolition permit applicants about the new requirements to conduct a PCB in Priority Building Materials Screening Assessment. The PCBs in Priority Building Materials Screening Assessment is a two-step process used to determine whether: (1) the building proposed for demolition is high priority for PCBs-containing building materials based on the building age, use, and construction type; and (2) if so, demonstrating the presence or absence and concentration of PCBs in Priority Building Materials through existing information or representative sampling and chemical analysis of the Priority Building Materials in the building. The first step of the PCBs in Priority Building Materials Screening Assessment determines whether or not the building is an “applicable structure” (structures built or remodeled from January 1, 1950 to December 1, 1980, with remodeling, partial building, wood framed structure, and single-family residence demolition projects being exempt). It is anticipated that many projects will not involve the demolition of applicable structures. Demolition permit applicants for projects that do not involve applicable structures will only need to address the initial screening questions and certify the answers.

Applicants for building demolition permits would be required to follow the directions provided in the PCBs in Priority Building Materials Screening Assessment Applicant Package (Applicant Package), which includes an overview of the process, applicant instructions, a process flow chart, a City of Newark PCB Screening Assessment Form, and the BASMAA Protocol. This Applicant Package is attached and provides the basic documentation needed for program implementation.

MRP Provision C.12.f states, “Permittees shall develop and implement or cause to be developed and implemented an effective protocol for managing materials with PCBs concentrations of 50 parts per million (ppm) or greater in applicable structures at the time such structures undergo demolition so that PCBs do not enter MS4s.” Per the Applicant Package, for certain types of buildings built between 1950 and 1980, the applicant must conduct further assessment to determine whether or not PCBs are present at concentrations  $\geq 50$  ppm. This determination is made via existing data on specific product formulations (if available), or more likely, via conducting representative sampling of the priority building materials and having the samples analyzed for PCBs at a certified analytical laboratory. Any representative sampling and analysis must be conducted in accordance with the BASMAA Protocol. The Applicant Package provides additional details.

When the PCBs in Priority Building Materials Screening Assessment identifies one or more Priority Building Materials with PCBs, the applicant must comply with all related applicable federal and state laws, including potential notification of the appropriate regulatory agencies, including EPA, the Regional Water Board, and/or the DTSC. Agency contacts are provided in the Applicant Package. Additional sampling for and abatement of PCBs may be required. Depending on the approach for sampling and removing building materials containing PCBs, the Applicant may need to notify or seek advance approval from USEPA before building demolition. Even in circumstances where advance notification to or approval from USEPA is not required before the demolition activity, the disposal of PCBs waste is regulated under Toxic Substances Control Act (TSCA). Additionally, the disposal of PCBs waste is subject to California Code of Regulations (CCR) Title 22 Section 66262. Additional information is provided in the Applicant Package.

The focus of this regulation is on PCBs runoff prevention to protect water quality. The regulation does not:

- Require City oversight or enforcement of human health protection standards.
- Require City oversight of PCBs abatement or remediation of materials or lands contaminated by PCBs.
- Establish remediation standards.

At all demolition sites, routine construction controls, including erosion and sediment controls, should also be implemented per the requirements of the MRP and the statewide Construction General Permit issued by the California State Water Resources Control Board. These routine construction requirements have been in place for many years.

### **Environmental Review**

Adoption of the attached resolution is exempt from environmental review under California Environmental Quality Act (CEQA) exemption Section 15308, Actions by Regulatory Agencies for Protection of the Environment. This exemption provision applies to actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment as discussed above. No unacceptable negative impacts have been identified.

### **Fiscal Impact**

There would be limited fiscal impact to the City due to adoption of this proposed Program for Managing PCBs in Building Materials during Demolition. For projects that do not involve applicable structures, a limited amount of staff time will be required to provide application materials and to confirm that the application materials are completed prior to the issuance of a building demolition permit.

For projects that do involve demolition of an applicable structure, applicants will be required to screen priority building materials for PCBs and certify the results. Limited staff hours will be needed to review application materials to confirm that the applicant has submitted all of the required information and that the information appears to be consistent with the requirements of

the program (i.e., review the application for completeness). The review would generally be limited to confirming that the PCBs in Priority Building Materials Screening Assessment was conducted per the instructions in the Applicant Package. This relatively low estimated level of effort is consistent with a self-certification approach, which requires the applicant to submit corroborating information with the application (i.e. contractor's report that includes a completed checklist and laboratory results when the screening includes sampling).

Should staff find that implementation of these regulations requires a greater level of effort than currently anticipated, staff will bring forward recommendations for modifications to the City's Master Fee Schedule.

Due to the requirements of this regulation, applicants for demolition permits for applicable structures, including public projects implemented by the City, would incur additional costs. Some applicants would only incur costs for screening priority building materials for PCBs and certifying the results. Other applicants would incur higher costs for conducting additional activities, especially when materials with PCBs concentrations  $\geq 50$  ppm are identified. The actual specific activities/resources required and associated costs will vary greatly depending on the project.

**Attachments** – Resolution; Applicant Package; Factsheet for Industry Stakeholders

**Action** – Staff recommends that the City Council, by resolution, adopt a Program for Managing Polychlorinated Biphenyls (PCBs) in Building Materials during Demolition and authorize the City Manager to develop and implement regulations to enact the program.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK ADOPTING A PROGRAM FOR MANAGING  
POLYCHLORINATED BIPHENYLS (PCBs) IN BUILDING  
MATERIALS DURING DEMOLITION AND AUTHORIZING  
THE CITY MANAGER TO DEVELOP AND IMPLEMENT  
REGULATIONS TO ENACT THE PROGRAM

WHEREAS, polychlorinated biphenyls (PCBs) have been detected in elevated levels in fish and sediment in the San Francisco Bay making fish unsafe to eat; and

WHEREAS, urban runoff through storm drain systems and other discharges is considered a significant pathway for PCBs into the Bay; and

WHEREAS, PCBs in caulk and other priority building materials that were used in building construction and remodeling projects between 1950 and 1980 have been found to have particularly high PCBs concentrations; and

WHEREAS, during demolition these building materials may be released to the environment and transported to receiving waters by stormwater runoff; and

WHEREAS, the San Francisco Bay Regional Water Quality Control Board adopted on November 19, 2015 the reissued Municipal Regional Permit (MRP), Order No. R2-2015-0049, a National Pollutant Discharge Elimination System (NPDES) permit that regulates discharges of stormwater runoff from municipal separate storm sewers systems (MS4s). The MRP includes provisions that implement the requirements in the PCBs Total Maximum Daily Load (TMDL), a program to address the Bay's impairment by PCBs; and

WHEREAS, the MRP requires the permittees, including the City of Newark, to reduce discharges of PCBs in stormwater runoff to the San Francisco Bay; and

WHEREAS, the MRP requires the Permittees, including the City of Newark, to develop and implement new programs to manage PCBs-containing building materials during demolition; and

WHEREAS, more specifically, the MRP requires the Permittees to require that demolition permits for buildings that were built or remodeled during the period from January 1, 1950 to December 31, 1980 be screened for the presence of PCBs in priority building materials; and

WHEREAS, remodeling, partial building, wood framed structure, and single-family residence demolition projects are exempt from the screening for the presence of PCBs in priority building materials; and

WHEREAS, the MRP requires that these new programs be adopted by June 30, 2019 and implemented by July 1, 2019;



NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newark hereby adopts a Program to Manage PCBs in Building Materials during Demolition.

BE IT FURTHER RESOLVED, that the City Council authorizes the City Manager to develop, implement and promulgate regulations and procedures to create and manage the program including conditions of approval, demolition permit requirements and/or construction and demolition waste management forms.

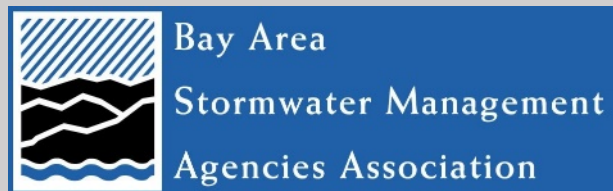
BE IT FURTHER RESOLVED, under the provisions of the California Code of Regulations, Title 14, Section 15308, the program to manage PCBs in building materials during demolition is found to be exempt from the environmental review requirements of Title 17 of the Newark Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Section 15308 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) applies to actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. No unacceptable negative impacts have been identified.

BE IT FURTHER RESOLVED, that the City Manager will develop the appropriate permit fees and/or other cost recovery mechanisms, if determined necessary, for subsequent City Council approval and insertion into the City of Newark's master fee schedule at a later date.

# PCBs in Priority Building Materials: Model Screening Assessment Applicant Package



## Managing PCBs–Containing Building Materials during Demolition: Guidance, Tools, Outreach and Training



June 2019



This document is a deliverable of the Bay Area Stormwater Management Agencies Association (BASMAA) project *Managing PCBs–Containing Building Materials during Demolition: Guidance, Tools, Outreach and Training*. BASMAA developed guidance, tools, and outreach and training materials to assist with San Francisco Bay Area municipal agencies' efforts to address the requirements of Provision C.12.f. of the Bay Area Municipal Regional Stormwater Permit (referred to as the MRP). Provision C.12.f of the MRP requires Permittees to manage PCBs–containing building materials during demolition.

We gratefully acknowledge the BASMAA Steering Committee for this project, which provided overall project oversight, including during the development of this and other project deliverables:

- Reid Bogert, Stormwater Program Specialist, San Mateo Countywide Water Pollution Prevention Program (BASMAA Project Manager)
- Amanda Booth, Environmental Program Analyst, City of San Pablo
- Kevin Cullen, Program Manager, Fairfield-Suisun Urban Runoff Management Program
- Matt Fabry, Program Manager, San Mateo Countywide Water Pollution Prevention Program
- Gary Faria, Supervisor, Inspection Services, Building Inspection Division, Contra Costa County
- Napp Fukuda, Deputy Director - Watershed Protection Division, City of San José
- Ryan Pursley, Chief Building Official, Building Division, City of Concord
- Pam Boyle Rodriguez, Manager, Environmental Control Programs – Stormwater, City of Palo Alto
- Jim Scanlin, Program Manager, Alameda Countywide Clean Water Program
- Melody Tovar, Regulatory Programs Division Manager, City of Sunnyvale

We also gratefully acknowledge the project Technical Advisory Group, which provided feedback from a variety of project stakeholders during development of selected project deliverables:

Stakeholder Group	Representative(s)
Regulatory – stormwater/PCBs	Luisa Valiela and Carmen Santos, U.S. EPA Region 9
Regulatory – stormwater/TMDL	Jan O'Hara, San Francisco Bay Regional Water Quality Control Board
Regulatory – experience with related program (asbestos management)	Ron Carey and Richard Lew, Bay Area Air Quality Management District
Industry – demolition contractors	Avery Brown, Ferma Corporation
Industry – remediation consultants	John Martinelli, Forensic Analytical Consulting John Trenev, Bayview Environmental Services, Inc.
MRP Permittee – large municipality	Patrick Hayes, City of Oakland
MRP Permittee – medium municipality	Kim Springer, San Mateo County Office of Sustainability
MRP Permittee – small municipality	Amanda Booth, City of San Pablo

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# PCBs in Priority Building Materials: Model Screening Assessment Applicant Package

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## **DISCLAIMER**

Information contained in BASMAA products is to be considered general guidance and is not to be construed as specific recommendations for specific cases. BASMAA is not responsible for the use of any such information for a specific case or for any damages, costs, liabilities or claims resulting from such use. Users of BASMAA products assume all liability directly or indirectly arising from use of the products.

The material presented in this document is intended solely for the implementation of a municipal regulatory program required by the San Francisco Bay Area Regional Water Quality Control Board Municipal Regional Stormwater Permit for the protection of water quality under the Clean Water Act.

BASMAA prepared the tools and guidance herein to assist MRP Permittees' efforts to address the requirements of Provision C.12.f. of the MRP. The project team received input from a variety of stakeholders during development of the tools and guidance, including regulators (San Francisco Bay Regional Water Quality Control Board, U.S. EPA, and Bay Area Air Quality Management District staff), Bay Area municipal agency staff, and industry representatives.

This document does not address other environmental programs or regulations (e.g., PCBs regulations under the Toxic Substances Control Act (TSCA); federal, state, or local regulations for hazardous material handling and hazardous waste disposal; health and safety practices to mitigate human exposure to PCBs or other hazardous materials; recycling mandates; and abatement at sites with PCBs (or other contaminants). The applicant is responsible for knowing and complying with all relevant laws and regulations.

The mention of commercial products, their source, or their use in connection with information in BASMAA products is not to be construed as an actual or implied approval, endorsement, recommendation, or warranty of such product or its use in connection with the information provided by BASMAA.

This disclaimer is applicable to all BASMAA products, whether information from the BASMAA products is obtained in hard copy form, electronically, or downloaded from the Internet.

# Process Overview

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This document provides a model PCBs in Priority Building Materials Screening Assessment process to be conducted by demolition project proponents (applicants). A flow chart illustrating the above processes is provided in **Attachment A**.

Applicants proposing to demolish buildings must conduct the PCBs screening assessment. Through the PCBs screening assessment applicants will:

- 1) Determine whether the building proposed for demolition is likely to have PCBs-containing building materials (see discussion of applicable structure); and
- 2) Determine whether PCBs are present at a concentration equal to or greater than 50 parts per million (ppm) in building materials.

Use the *PCBs Screening Assessment Form (Attachment B)* to summarize and certify the information required by the municipality to issue the demolition permit. The form is divided into four parts:

- **Part 1** provide applicant information and project location.
- **Part 2** complete the questions to identify whether the project involves an applicable structure. If the demolition does not involve an applicable structure, the form may be certified and submitted without completing Part 3.
- **Part 3** complete the questions to provide the concentrations of PCBs in any priority building materials.
- **Part 4** certify the information being submitted.

Note that fluorescent light ballasts, polyurethane foam furniture, and Askarel fluid used in transformers, all of which may contain PCBs, are typically managed during pre-demolition activities under current regulations and programs that require removal of universal waste and outdated transformers. For this process it is assumed that those materials will be evaluated and managed under those existing programs.

This screening process is part of a program for water quality protection and was designed in accordance with requirements in the MRP.<sup>1</sup> It does not address other environmental programs or regulations (e.g., PCBs regulations under the Toxic Substances Control Act (TSCA); federal, state, or local regulations for hazardous material handling and hazardous waste disposal; health and safety practices to mitigate human exposure to PCBs or other hazardous materials; recycling mandates; or abatement at sites with PCBs (or other contaminants). **The applicant is responsible for complying with all relevant laws and regulations. See the Notices to Applicants section for additional information.**

Water quality within the San Francisco Bay Region is regulated by the San Francisco Bay Area Regional Water Quality Control Board (Regional Water Board).

In 2015, the Regional Water Board reissued the Municipal Regional Permit (MRP)<sup>1</sup> that regulates discharges of stormwater runoff. The MRP includes provisions for reducing discharges of polychlorinated biphenyls (PCBs) in stormwater runoff and requires municipalities to develop a program to manage priority PCBs-containing building materials during demolition and implement the program by July 1, 2019.

Existing federal and state regulations create the framework for managing PCBs in building materials once those PCBs are identified through this program and for disposing of wastes containing PCBs.

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<sup>1</sup> A National Pollutant Discharge Elimination System (NPDES) permit, Order No. R2-2015-0049, issued to municipalities in the counties of Alameda, Contra Costa, San Mateo, and Santa Clara, and the Cities of Fairfield, Suisun City, and Vallejo.

# Applicant Instructions for Completing the PCBs Screening Assessment Form

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Applicants for demolition permits or other permits that involve the complete demolition of a building must conduct an assessment to screen for PCBs in priority building materials. Use the *PCBs Screening Assessment Form*, to summarize and certify the information needed by the municipality to issue a demolition permit. The form is provided in **Attachment B**. If the project includes the demolition of multiple buildings complete one form for each building to be demolished.

## Part 1. Owner and project information

Complete the owner and consultant information and the project location information.

For the Type of Construction select one of the following options:

- **Wood Frame** (Buildings constructed with lumber or timbers, which make up the studs, plates, joists, and rafters.)
- **Masonry Construction** (Buildings constructed with concrete blocks or bricks as the load bearing walls typically with the floors and ceilings constructed with wooden joists.)
- **Steel Frame Construction** (Buildings constructed with steel studs or steel columns and steel joists or trusses to support floors and roofs. Includes light gauge steel construction and high-rise steel construction.)
- **Concrete Frame** (Buildings constructed with reinforced concrete columns, concrete beams, and concrete slabs.)
- **Pre-Engineered** (Buildings constructed with pre-engineered parts bolted together.)

## Part 2. Is building subject to the screening requirement based on type, use, and age of the building?

Part 2 documents the determination of whether the proposed demolition will affect an applicable structure. If the demolition does not affect an applicable structure, then the assessment is complete, and the form can be certified.

This determination screens out buildings that are a lower priority with regard PCBs-containing materials and provides an off-ramp from the rest of the screening process.

### Key Definitions

**Demolition** means the wrecking, razing, or tearing down of any building. The definition is intended to be consistent with the demolition activities undertaken by contractors with a C-21 Building Moving/Demolition Contractor's License.

**Priority Building Materials** are:

1. Caulk;
2. Thermal insulation;
3. Fiberglass insulation;
4. Adhesive mastics; and
5. Rubber window gaskets.

**Buildings** are structures with a roof and walls standing more or less permanently in one place. Buildings are intended for human habitation or occupancy.

**Applicable Structures** are defined as buildings constructed or remodeled between January 1, 1950 and December 31, 1980. Wood framed buildings and single-family residential buildings are not applicable structure regardless of the age of the building.



**Question 2.a: Is the building to be demolished wood framed and/or single family residential?**

- If YES the PCBs Screening Assessment is complete, skip to the certification in Part 4.
- If NO, continue to Question 2.b.

**Question 2.b: Was the building to be demolished constructed or remodeled between January 1, 1950 and December 31, 1980?**

- If YES continue to Question 2.c.
- If NO, the PCBs Screening Assessment is complete, skip to the certification in Part 4.

**Question 2.c: Is the proposed demolition a complete demolition of the building (as defined in key definitions of this document)?**

- If YES continue to Part 3.
- If NO, the PCBs Screening Assessment is complete, skip to the certification in Part 4.

Studies have found the highest concentrations of PCBs in building materials in buildings that were built or remodeled from 1950 to 1980.

For this process, the date that the building permit was issued will be used to determine applicability.

### Part 3. Report concentrations of PCBs in priority building materials

Part 3 documents the results of the assessment of PCBs concentrations in priority building materials. Part 3 is only required for proposed demolition of an applicable structure, as determined in Part 2. Check the option used.

- **Option 1** Conduct representative sampling and analysis of the priority building materials per the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition* (August 2018) provided in **Attachment C**.
- **Option 2** Use existing sampling results of the priority building materials. Applicants who have conducted sampling prior to the publication of the protocol may use that data provided it is consistent with the protocol (e.g., analytical methods, sample collection frequency, QA/QC). It is anticipated that prior sampling results will rarely be available and that most Applicants will need to use Option 1.

#### 3.a Option 1 – Conduct representative sampling

Check this box if you conducted representative sampling and analysis of the priority building materials per the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition* (August 2018) (**Attachment C**).

- Complete the applicable tables for each priority building material.
- Attach the contractor's report<sup>2</sup> documenting the evaluation results.
- Attach (or include in the contractor's report) the QA/QC checklist (see **Attachment C**, Section 3.2.4).
- Attach copies of the analytical data reports.

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<sup>2</sup> The contractor's report of the findings of the PCBs building material evaluation. See section 3 of Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition (Attachment C).

### **3.a Option 2 – Use existing sampling records**

In some cases, a property owner may have conducted sampling of the priority building materials for PCBs. If such data exist, you may use these data to demonstrate the concentration of PCBs in the priority building materials for the PCBs screening. However, if the sampling must be consistent with the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition*.

- Complete the applicable tables for each priority building material.
- Attach the contractor's report/statement that the results are consistent with the *Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition*.
- Attach copies of the analytical data reports.

### **Part 3 Tables Summarize concentrations of PCBs in priority building materials**

Use these tables to summarize the concentrations of PCBs in the priority building materials.

- Each page of the table is for a different material. Duplicate the pages as needed to report all concentration data.
- A blank page is provided. Applicants have the option of submitting PCBs concentration data on other materials in addition to the priority building materials.

*Column 1: required for all priority building material PCBs concentrations*

- Use column 1 to report all PCBs concentrations in the priority building materials. Provide short description of the sample location, concentration.

*Column 2: only required for PCBs concentrations  $\geq 50$  ppm*

- Use column 2 to estimate the amount of material associated with each sample.

### **Part 4. Certification**

- Complete the certification. The certification must be signed by the property owner or the owner's agent or legal representatives and the consultant who complete the application form.

# Notices to Applicants Regarding Federal and State PCBs Regulations

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Applicants that determine PCBs exist in priority building materials must follow applicable federal and state laws. This may include reporting to U.S. Environmental Protection Agency (USEPA), the San Francisco Bay Regional Water Quality Control Board, and the California Department of Toxic Substances Control (DTSC). These agencies may require additional sampling and abatement of PCBs.

Depending on the approach for sampling and removing building materials containing PCBs, you may need to notify or seek advance approval from USEPA before building demolition. Even in circumstances where advance notification to or approval from USEPA is not required before the demolition activity, the disposal of PCBs waste is regulated under Toxic Substances Control Act (TSCA).

Additionally, the disposal of PCBs waste is subject to California Code of Regulations (CCR) California Code of Regulations (CCR) Title 22, Section Division 4.5, Chapter 12, Standards Applicable to Hazardous Waste Generators.

Building owners and employers need to consider worker and public safety during work involving hazardous materials and wastes including PCBs.

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## ***Federal and State Regulations***

Building materials containing PCBs at or above 50 ppm that were manufactured with PCBs (e.g., caulk, joint sealants, paint) fall under the category of PCBs bulk product wastes. See 40 Code of Federal Regulations (CFR) 761.3 for a definition of PCBs bulk product wastes.

Building materials such as concrete, brick, metal contaminated with PCBs are PCBs remediation wastes (e.g., concrete contaminated with PCBs from caulk that contains PCBs). 40 CFR 761.3 defines PCBs remediation wastes.

Disposal of PCBs wastes are subject to TSCA requirements such as manifesting of the waste for transportation and disposal. See 40 CFR 761 and 40 CFR 761, Subpart K.

TSCA-regulated does not equate solely to materials containing PCBs at or above 50 ppm. There are circumstances in which materials containing PCBs below 50 ppm are subject to regulation under TSCA. See 40 CFR 761.61(a)(5)(i)(B)(2)(ii).

Disposal of PCBs wastes are subject to California Code of Regulations (CCR) Title 22, Section Division 4.5, Chapter 12, Standards Applicable to Hazardous Waste Generators.

California hazardous waste regulatory levels for PCBs are 5 ppm based on the Soluble Threshold Limit Concentration test and 50 ppm based on the Total Threshold Limit Concentration test, see CCR, Title 22, Section 66261.24, Table III.

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## Agency Contacts

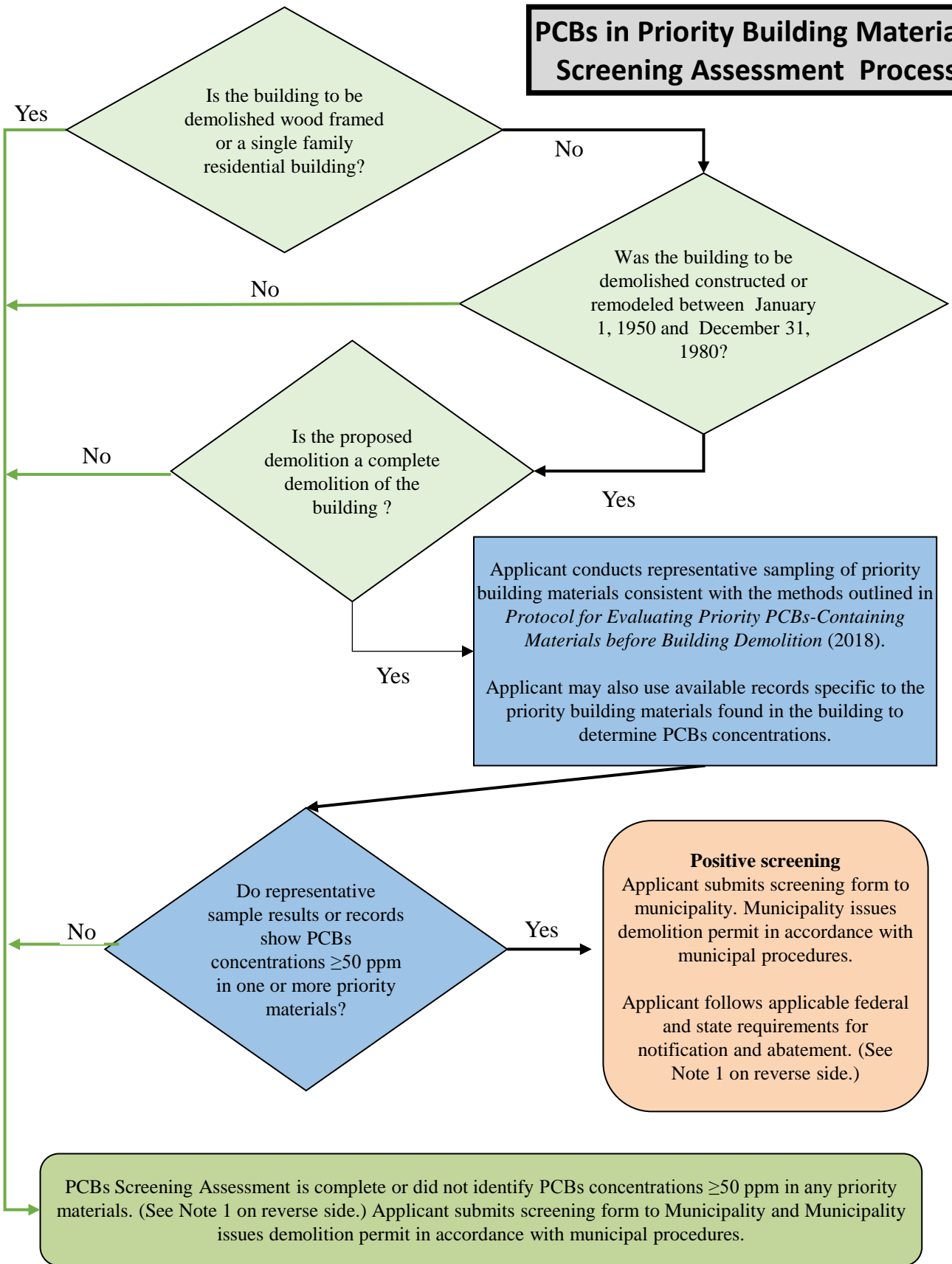
Applicants should contact the appropriate agencies and review the relevant guidance and information about PCBs in building materials. Municipal staff are not able to advise you on the requirements of the applicable federal and state laws.

Agency	Contact	Useful Links
US Environmental Protection Agency	Steve Armann (415) 972-3352 <a href="mailto:armann.steve@epa.gov">armann.steve@epa.gov</a>	<p><a href="https://www.epa.gov/pcbs">https://www.epa.gov/pcbs</a> (EPA PCB website)</p> <p><a href="https://www.epa.gov/pcbs/questions-and-answers-about-polychlorinated-biphenyls-pcbs-building-materials">https://www.epa.gov/pcbs/questions-and-answers-about-polychlorinated-biphenyls-pcbs-building-materials</a> (PCBs in Building Materials Fact Sheet and Q/A Document)</p> <p><a href="https://www.epa.gov/pcbs/pcb-facility-approval-streamlining-toolbox-fast-streamlining-cleanup-approval-process">https://www.epa.gov/pcbs/pcb-facility-approval-streamlining-toolbox-fast-streamlining-cleanup-approval-process</a> (USEPA PCB Facility Approval Streamlining Toolbox (PCB FAST))</p> <p><a href="https://www.epa.gov/pcbs/polychlorinated-biphenyls-pcbs-building-materials#Test-Methods">https://www.epa.gov/pcbs/polychlorinated-biphenyls-pcbs-building-materials#Test-Methods</a> (See Information for Contractors Working in Older Buildings that May Contain PCBs)</p>
San Francisco Bay Regional Water Quality Control Board	Jan O'Hara (510) 622-5681 <a href="mailto:Janet.O'Hara@waterboards.ca.gov">Janet.O'Hara@waterboards.ca.gov</a> Cheryl Prowell (510) 622-2408 <a href="mailto:Cheryl.Prowell@waterboards.ca.gov">Cheryl.Prowell@waterboards.ca.gov</a>	<p><a href="https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaypcbstmdl.shtml">https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaypcbstmdl.shtml</a></p> <p><a href="https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/sitecleanupprogram.html">https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/sitecleanupprogram.html</a></p>
Department of Toxic Substances Control	Regulatory Assistance Office 1-800-72TOXIC <a href="mailto:RAO@dtsc.ca.gov">RAO@dtsc.ca.gov</a>	<a href="http://www.dtsc.ca.gov/SiteCleanup/Brownfields/upload/PUB_SMP_Guide-to-Selecting-a-Consultant.pdf">http://www.dtsc.ca.gov/SiteCleanup/Brownfields/upload/PUB_SMP_Guide-to-Selecting-a-Consultant.pdf</a>
California Division of Occupational Safety and Health (known as Cal/OSHA)	CalOSHA Consultations Services 1-800-963-9424	<a href="https://www.dir.ca.gov/dosh/consultation.html">https://www.dir.ca.gov/dosh/consultation.html</a>

Attachment A  
Process Flow Chart

---

# PCBs in Priority Building Materials Screening Assessment Process



## Note 1

- ❖ Building materials containing PCBs at or above 50 ppm that were manufactured with PCBs (e.g., caulk, joint sealants, paint) fall under the category of PCBs bulk product wastes. See 40 Code of Federal Regulations (CFR) 761.3 for a definition of PCBs bulk product wastes.
- ❖ Building materials such as concrete, brick or metal contaminated with PCBs are PCBs remediation wastes (e.g., concrete contaminated with PCBs from caulk that contains PCBs). 40 CFR 761.3 defines PCBs remediation wastes.
- ❖ Disposal of PCBs wastes are subject to TSCA requirements such as manifesting of the waste for transportation and disposal. See 40 CFR 761 and 40 CFR 761, Subpart K.
- ❖ TSCA-regulated does not equate solely to “materials containing PCBs at or above “50 mg/kg.” There are circumstances in which materials containing PCBs below 50 mg/kg are subject to regulation under TSCA. See 40 CFR 761.61(a)(5)(i)(B)(2)(ii).
- ❖ Disposal of PCBs wastes are subject to California Code of Regulations (CCR) Title 22, Section Division 4.5, Chapter 12, Standards Applicable to Hazardous Waste Generators.
- ❖ California hazardous waste regulatory levels for PCBs are 5 ppm based on the Soluble Threshold Limit Concentration test and 50 ppm based on the Total Threshold Limit Concentration test, see CCR, Title 22, Section 66261.24, Table III.

Attachment B  
PCBs in Priority Building Materials Screening  
Assessment Form

---





# City of Newark PCBs Screening Assessment Form

For City of Newark Use Only

Date Received	
File #	

This screening process is part of a program for water quality protection and was designed in accordance with requirements in the Bay Area regional municipal stormwater NPDES permit (referred to as the Municipal Regional Permit). This process **does not** address other environmental programs or regulations (e.g., PCBs regulations under the Toxic Substances Control Act (TSCA); federal, state, or local regulations for hazardous material handling and hazardous waste disposal; health and safety practices to mitigate human exposure to PCBs or other hazardous materials; recycling mandates; or abatement at sites with PCBs or other contaminants). **The applicant is responsible for knowing and complying with all relevant laws and regulations. See Notices to Applicants section in the Applicant Instructions and at the end of this form.**

**Complete all applicable parts of the PCBs Screening Assessment Form and submit with your demolition permit application.**

**All Applicants must complete Part 1 and Part 2.**

Part 1. Owner/Consultant and project information		
Owner Information		
Name		
Address		
City	State	Zip
Contact (Agent)		
Phone	Email	
Consultant Information		
Firm Name		
Address		
City	State	Zip
Contact Person		
Phone	Email	
Project Location		
Address		
City	State CA	Zip
APN (s)		
Year Building was Built	Type of Construction	
Estimated Demolition Date		

**Part 2. Is building subject to the PCBs screening requirement based on type, use, and age of the building?**

2.a Is the building to be demolished wood framed and/or single family residential?  Yes  No

If the answer to question 2.a is **Yes**, the PCBs Screening Assessment is complete, skip to Part 4. If the answer is **No**, continue to Question 2.b.

2.b Was the building to be demolished constructed or remodeled between January 1, 1950 and December 31, 1980?  Yes  No

➤ If the answer to Question 2.b is **No** the PCBs Screening Assessment is complete, skip to Part 4. If the answer is **Yes**, continue to Question 2.c.

2.c Is the proposed demolition a complete demolition of the building?  Yes  No

➤ If the answer to Question 2.c is **No** the PCBs Screening Assessment is complete, skip to Part 4. If the answer is **Yes**, complete Part 3.

**All applications affecting applicable structures and demolitions must complete Part 3 and the Part 3 Tables.**

**Part 3. Report concentrations of PCBs in priority building materials**

**Option 1.** Applicants conducted representative sampling and analysis of the priority building materials per the Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition (2018) (Attachment C).

**Option 2.** Applicants possess existing sample results that are that are consistent with the Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition (2018) (Attachment C).

3.a Select option and report PCBs concentrations in the priority building materials and the source of data for each of the priority building materials. Provide the required supporting information

<input type="checkbox"/> Option 1 Conduct Representative Sampling <ul style="list-style-type: none"> <li>• Summarize results on Part 3 Tables; and</li> <li>• Provide the following supporting information:                         <ul style="list-style-type: none"> <li><input type="checkbox"/> Contractor’s report documenting the assessment results;</li> <li><input type="checkbox"/> QA/QC checklist (see Attachment C, section 3.2.4); and</li> <li><input type="checkbox"/> Copies of the analytical data reports.</li> </ul> </li> </ul>	<input type="checkbox"/> Option 2 Use Existing Sampling Records <ul style="list-style-type: none"> <li>• Summarize results on Part 3 Tables; and</li> <li>• Provide the following supporting information:                         <ul style="list-style-type: none"> <li><input type="checkbox"/> Contractor’s report/statement that the results are consistent with the Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition.</li> <li><input type="checkbox"/> Copies of the analytical data reports.</li> </ul> </li> </ul>
--	---

**All Applicants must complete Part 4.**

**Part 4. Certification**

I certify that the information provided in this form is, to the best of my knowledge and belief, true, accurate, and complete. I further certify that I understand my responsibility for knowing and complying with all relevant laws and regulations related to reporting, abating, and handing and disposing of PCBs materials and wastes. I understand there are significant penalties for submitting false information. I will retain a copy of this form and the supporting documentation for at least 5 years.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Property Owner//Agent/Legal Representative)

Print/Type: \_\_\_\_\_  
 (Property Owner/Agent/Legal Representative Name)

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
 (Consultant Completing Application Form)

Print/Type: \_\_\_\_\_  
 (Consultant Completing Application Form)

## Notices to Applicants Regarding Federal and State PCBs Regulations

Applicants that determine PCBs exist in building materials must follow applicable federal and state laws. This may include reporting to U.S. Environmental Protection Agency (USEPA), the San Francisco Bay Regional Water Quality Control Board, and the California Department of Toxic Substances Control (DTSC). These agencies may require additional sampling and abatement of PCBs. Depending on the approach for sampling and removing building materials containing PCBs, you may need to notify or seek advance approval from USEPA before building demolition. Even in circumstances where advance notification to or approval from USEPA is not required before the demolition activity, the disposal of PCBs waste is regulated under TSCA and the California Code of Regulations. (See Note 1)

### **Note 1 - Federal and State Regulations**

Building materials containing PCBs at or above 50 ppm that were manufactured with PCBs (e.g., caulk, joint sealants, paint) fall under the category of PCBs bulk product wastes. See 40 Code of Federal Regulations (CFR) 761.3 for a definition of PCBs bulk product wastes.

Building materials such as concrete, brick, metal contaminated with PCBs are PCBs remediation wastes (e.g., concrete contaminated with PCBs from caulk that contains PCBs). 40 CFR 761.3 defines PCBs remediation wastes.

Disposal of PCBs wastes are subject to TSCA requirements such as manifesting of the waste for transportation and disposal. See 40 CFR 761 and 40 CFR 761, Subpart K.

TSCA-regulated does not equate solely to materials containing PCBs at or above 50 ppm. There are circumstances in which materials containing PCBs below 50 ppm are subject to regulation under TSCA. See 40 CFR 761.61(a)(5)(i)(B)(2)(ii).

Disposal of PCBs wastes are subject to California Code of Regulations (CCR) Title 22, Section Division 4.5, Chapter 12, Standards Applicable to Hazardous Waste Generators.

California hazardous waste regulatory levels for PCBs are 5 ppm based on the Soluble Threshold Limit Concentration test and 50 ppm based on the Total Threshold Limit Concentration test, see CCR, Title 22, Section 66261.24, Table III.

Agency	Contact	Useful Links
US Environmental Protection Agency	Steve Armann (415) 972-3352 <a href="mailto:armann.steve@epa.gov">armann.steve@epa.gov</a>	<a href="https://www.epa.gov/pcbs">https://www.epa.gov/pcbs</a> (EPA PCBs website)  <a href="https://www.epa.gov/pcbs/questions-and-answers-about-polychlorinated-biphenyls-pcbs-building-materials">https://www.epa.gov/pcbs/questions-and-answers-about-polychlorinated-biphenyls-pcbs-building-materials</a> (PCBs in Building Materials Fact Sheet and Q/A Document)  <a href="https://www.epa.gov/pcbs/pcb-facility-approval-streamlining-toolbox-fast-streamlining-cleanup-approval-process">https://www.epa.gov/pcbs/pcb-facility-approval-streamlining-toolbox-fast-streamlining-cleanup-approval-process</a> (USEPA PCB Facility Approval Streamlining Toolbox (PCB FAST))  <a href="https://www.epa.gov/pcbs/polychlorinated-biphenyls-pcbs-building-materials#Test-Methods">https://www.epa.gov/pcbs/polychlorinated-biphenyls-pcbs-building-materials#Test-Methods</a> (See Information for Contractors Working in Older Buildings that May Contain PCBs)
San Francisco Bay Regional Water Quality Control Board	Jan O'Hara (510) 622-5681 <a href="mailto:Janet.O'Hara@waterboards.ca.gov">Janet.O'Hara@waterboards.ca.gov</a>  Cheryl Prowell (510) 622-2408 <a href="mailto:Cheryl.Prowell@waterboards.ca.gov">Cheryl.Prowell@waterboards.ca.gov</a>  v	<a href="https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaypcbstmtl.shtml">https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/sfbaypcbstmtl.shtml</a>  <a href="https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/sitecleanupprogram.html">https://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/sitecleanupprogram.html</a>
Department of Toxic Substances Control	Regulatory Assistance Office 1-800-72TOXIC <a href="mailto:RAO@dtsc.ca.gov">RAO@dtsc.ca.gov</a>	<a href="http://www.dtsc.ca.gov/SiteCleanup/Brownfields/upload/PUB_SMP_Guide-to-Selecting-a-Consultant.pdf">http://www.dtsc.ca.gov/SiteCleanup/Brownfields/upload/PUB_SMP_Guide-to-Selecting-a-Consultant.pdf</a>
California Division of Occupational Safety and Health (Cal/OSHA)	CalOSHA Consultations Services 1-800-963-9424	<a href="https://www.dir.ca.gov/dosh/consultation.html">https://www.dir.ca.gov/dosh/consultation.html</a>

**Part 3 Caulk Applications Table**

**Column 1.** Report all PCBs concentrations for each homogenous area of caulking area (see Attachment C, Section 3.2.2). Use sample designators/descriptions from laboratory report.

**Column 2.** Complete for each concentration  $\geq 50$  ppm

<u>Caulk Application Sample Description</u>	<u>Concentration (mg/kg)</u>	<u>Estimate Amount of Material</u>	<u>Units</u>
<i>Example:</i>			
<i>Caulk Sample 1</i>	<i>320</i>	<i>48</i>	<i>Linear Feet</i>
1. _____	_____	_____	Linear Feet
2. _____	_____	_____	Linear Feet
3. _____	_____	_____	Linear Feet
4. _____	_____	_____	Linear Feet
5. _____	_____	_____	Linear Feet
6. _____	_____	_____	Linear Feet
7. _____	_____	_____	Linear Feet
8. _____	_____	_____	Linear Feet
9. _____	_____	_____	Linear Feet
10. _____	_____	_____	Linear Feet

*Duplicate page if additional space is needed.*

**Part 3 Fiberglass Insulation Applications Table**

**Column 1.** Report all PCBs concentrations for each homogenous area of fiberglass insulation (see Attachment C, Section 3.2.2). Use sample designators/descriptions from laboratory report.

**Column 2.** Complete for each concentration  $\geq 50$  mg/kg

<u>Fiberglass Insulation Application Sample Description</u>	<u>Concentration (mg/kg)</u>	<u>Estimate Amount of Material</u>	<u>Units</u>
<i>Example:</i>			
<i>Fiberglass Insulation Sample 1</i>	78	86	Square Feet
1. _____	_____	_____	Square Feet
2. _____	_____	_____	Square Feet
3. _____	_____	_____	Square Feet
4. _____	_____	_____	Square Feet
5. _____	_____	_____	Square Feet
6. _____	_____	_____	Square Feet
7. _____	_____	_____	Square Feet
8. _____	_____	_____	Square Feet
9. _____	_____	_____	Square Feet
10. _____	_____	_____	Square Feet

To estimate the square footage of insulation wrapped around pipes use the formula to calculate the lateral area of a cylinder  $2\pi rh$ . Where  $r$  is the pipe radius and  $h$  is the pipe length.  
Duplicate page if additional space is needed.

**Part 3 Thermal Insulation Applications Table**

**Column 1.** Report all PCBs concentrations for each homogenous area of thermal insulation (see Attachment C, Section 3.2.2). Use sample designators/descriptions from laboratory report.

**Column 2.** Complete for each concentration  $\geq 50$  mg/kg

<u>Thermal Insulation Application Sample Description</u>	<u>Concentration (mg/kg)</u>	<u>Estimate Amount of Material</u>	<u>Units</u>
<i>Example:</i>			
<i>Thermal Insulation Sample 1</i>	20	_____	Square Feet
1. _____	_____	_____	Square Feet
2. _____	_____	_____	Square Feet
3. _____	_____	_____	Square Feet
4. _____	_____	_____	Square Feet
5. _____	_____	_____	Square Feet
6. _____	_____	_____	Square Feet
7. _____	_____	_____	Linear Feet
8. _____	_____	_____	Square Feet
9. _____	_____	_____	Square Feet
10. _____	_____	_____	Square Feet

To estimate the square footage of insulation wrapped around pipes use the formula to calculate the lateral area of a cylinder  $2\pi rh$ . Where  $r$  is the pipe radius and  $h$  is the pipe length. Duplicate page if additional space is needed.

**Part 3 Adhesive Mastic Applications Table**

**Column 1.** Report PCBs concentrations for each homogenous area of mastic (see Attachment C, Section 3.2.2. Use sample designators/descriptions from laboratory report.)

**Column 2.** Complete for each concentration  $\geq 50$  mg/kg

<u>Adhesive Mastic Application Sample Description</u>	<u>Concentration (mg/kg)</u>	<u>Estimate Amount of Material</u>	<u>Units</u>
<i>Example:</i>			
<i>Adhesive Mastic Sample 1</i>	<i>87.4</i>	<i>800</i>	<i>Square Feet</i>
1. _____	_____	_____	Square Feet
2. _____	_____	_____	Square Feet
3. _____	_____	_____	Square Feet
4. _____	_____	_____	Square Feet
5. _____	_____	_____	Square Feet
6. _____	_____	_____	Square Feet
7. _____	_____	_____	Linear Feet
8. _____	_____	_____	Square Feet
9. _____	_____	_____	Square Feet
10. _____	_____	_____	Square Feet

*Duplicate page if additional space is needed.*

**Part 3 Rubber Window Gasket Applications Table**

**Column 1.** Report PCBs concentrations for each gasket (see Attachment C, Section 3.2.2). Use sample designators/descriptions from laboratory report.

**Column 2.** Complete for each concentration  $\geq 50$  mg/kg

<u>Rubber Window Gasket Application Sample Description</u>	<u>Concentration (mg/kg)</u>	<u>Estimate Amount of Material</u>	<u>Units</u>
<i>Example:</i>			
<i>Window Gasket Sample 1</i>	70	75	Linear Feet
1. _____	_____	_____	Linear Feet
2. _____	_____	_____	Linear Feet
3. _____	_____	_____	Linear Feet
4. _____	_____	_____	Linear Feet
5. _____	_____	_____	Linear Feet
6. _____	_____	_____	Linear Feet
7. _____	_____	_____	Linear Feet
8. _____	_____	_____	Linear Feet
9. _____	_____	_____	Linear Feet
10. _____	_____	_____	Linear Feet

*Duplicate page if additional space is needed.*



**Part 3 Other Materials Table**

*Column 1. Optional: Use this form to report PCBs concentration data from materials other than priority building materials. Report PCBs concentrations for each material and homogeneous area. Use sample designators/descriptions from laboratory report.*

*Column 2. Complete for each concentration  $\geq 50$  mg/kg*

<u>Material Sample Description</u>	<u>Concentration (mg/kg)</u>	<u>Estimate Amount of Material</u>	<u>Units</u>
<i>Example:</i>			
<i>Wall paint Sample 1</i>	<i>228</i>	<i>1500</i>	<i>Square Feet</i>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
8. _____	_____	_____	_____
9. _____	_____	_____	_____
10. _____	_____	_____	_____

*Duplicate page if additional space is needed.*

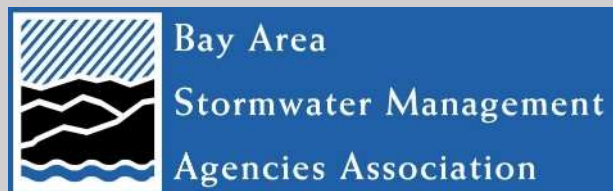
Attachment C  
Protocol for Evaluating Priority PCBs-Containing  
Materials before Building Demolition

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# Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition



## Managing PCBs–Containing Building Materials during Demolition: Guidance, Tools, Outreach and Training



August 2018

This document is a deliverable of the Bay Area Stormwater Management Agencies Association (BASMAA) project *Managing PCBs–Containing Building Materials during Demolition: Guidance, Tools, Outreach and Training*. BASMAA developed guidance, tools, and outreach and training materials to assist with San Francisco Bay Area municipal agencies’ efforts to address the requirements of Provision C.12.f. of the Bay Area Municipal Regional Stormwater Permit (referred to as the MRP). Provision C.12.f of the MRP requires Permittees to manage PCBs–containing building materials during demolition.

We gratefully acknowledge the BASMAA Steering Committee for this project, which provided overall project oversight, including during the development of this and other project deliverables:

- Reid Bogert, Stormwater Program Specialist, San Mateo Countywide Water Pollution Prevention Program (BASMAA Project Manager)
- Amanda Booth, Environmental Program Analyst, City of San Pablo
- Kevin Cullen, Program Manager, Fairfield-Suisun Urban Runoff Management Program
- Matt Fabry, Program Manager, San Mateo Countywide Water Pollution Prevention Program
- Gary Faria, Supervisor, Inspection Services, Building Inspection Division, Contra Costa County
- Napp Fukuda, Deputy Director - Watershed Protection Division, City of San José
- Ryan Pursley, Chief Building Official, Building Division, City of Concord
- Pam Boyle Rodriguez, Manager, Environmental Control Programs – Stormwater, City of Palo Alto
- Jim Scanlin, Program Manager, Alameda Countywide Clean Water Program
- Melody Tovar, Regulatory Programs Division Manager, City of Sunnyvale

We also gratefully acknowledge the project Technical Advisory Group, which provided feedback from a variety of project stakeholders during development of selected project deliverables:

Stakeholder Group	Representative(s)
Regulatory – stormwater/PCBs	Luisa Valiela and Carmen Santos, U.S. EPA Region 9
Regulatory – stormwater/TMDL	Jan O’Hara, San Francisco Bay Regional Water Quality Control Board
Regulatory – experience with related program (asbestos management)	Ron Carey and Richard Lew, Bay Area Air Quality Management District
Industry – demolition contractors	Avery Brown, Ferma Corporation
Industry – remediation consultants	John Martinelli, Forensic Analytical Consulting John Trenev, Bayview Environmental Services, Inc.
MRP Permittee – large municipality	Patrick Hayes, City of Oakland
MRP Permittee – medium municipality	Kim Springer, San Mateo County Office of Sustainability
MRP Permittee – small municipality	Amanda Booth, City of San Pablo

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## LIST OF APPENDICES

- Appendix A: PCBs Building Material Prioritization Worksheet**
- Appendix B: Priority Building Materials Photographic Log**

## **DISCLAIMER**

Information contained in BASMAA products is to be considered general guidance and is not to be construed as specific recommendations for specific cases. BASMAA is not responsible for the use of any such information for a specific case or for any damages, costs, liabilities or claims resulting from such use. Users of BASMAA products assume all liability directly or indirectly arising from use of the products.

The material presented in this document is intended solely for the implementation of a municipal regulatory program required by the San Francisco Bay Area Regional Water Quality Control Board Municipal Regional Stormwater Permit for the protection of water quality under the Clean Water Act.

BASMAA prepared the tools and guidance herein to assist MRP Permittees' efforts to address the requirements of Provision C.12.f. of the MRP. The project team received input from a variety of stakeholders during development of the tools and guidance, including regulators (San Francisco Bay Regional Water Quality Control Board, U.S. EPA, and Bay Area Air Quality Management District staff), Bay Area municipal agency staff, and industry representatives.

This document does not address other environmental programs or regulations (e.g., PCBs regulations under the Toxic Substances Control Act (TSCA); federal, state, or local regulations for hazardous material handling and hazardous waste disposal; health and safety practices to mitigate human exposure to PCBs or other hazardous materials; recycling mandates; and abatement at sites with PCBs (or other contaminants). The applicant is responsible for knowing and complying with all relevant laws and regulations.

The mention of commercial products, their source, or their use in connection with information in BASMAA products is not to be construed as an actual or implied approval, endorsement, recommendation, or warranty of such product or its use in connection with the information provided by BASMAA.

This disclaimer is applicable to all BASMAA products, whether information from the BASMAA products is obtained in hard copy form, electronically, or downloaded from the Internet

# Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition

## 1. INTRODUCTION

The San Francisco Bay Region Municipal Regional Stormwater NPDES permit, referred to as the Municipal Regional Permit (MRP)<sup>1</sup>, includes provisions that implement stormwater-related aspects of the Total Maximum Daily Load (TMDL) for polychlorinated biphenyls (PCBs) in the Bay. Provision C.12.f. requires that Permittees develop and implement or cause to be developed and implemented an effective protocol for managing materials with PCBs concentrations of 50 milligrams per kilogram (mg/kg) (equivalent to parts-per-million, or ppm), the target management level, or greater in applicable structures at the time such structures undergo demolition<sup>2</sup>, so that PCBs do not enter municipal storm drain systems. Applicable structures include, at a minimum, non-residential structures constructed or remodeled between the years 1950 and 1980 with building materials such as caulking and thermal insulation with PCBs concentrations of 50 ppm or greater. Single-family residential and wood frame structures are exempt. Also, a Permittee is exempt from this requirement if it provided evidence acceptable to the Executive Officer in its 2016/17 Annual Report that the only structures that existed pre-1980 within its jurisdiction were single-family residential and/or wood-frame structures.<sup>3</sup>

Permittees are required to develop a protocol by June 30, 2019 that includes each of the following components, at a minimum:

1. The necessary authority to ensure that PCBs do not enter municipal storm drains from PCBs-containing materials in applicable structures at the time such structures undergo demolition;
2. A method for identifying applicable structures prior to their demolition; and
3. Method(s) for ensuring PCBs are not discharged to the municipal storm drain from demolition of applicable structures.

By July 1, 2019 and thereafter, Permittees are required to:

- Implement or cause to be implemented the PCBs management protocol for ensuring PCBs are not discharged to municipal storm drains from demolition of applicable structures via vehicle track-out, airborne releases, soil erosion, or stormwater runoff.
- Develop an evaluation methodology and data collection program to quantify in a technically sound manner PCBs loads reduced through implementation of the protocol for controlling PCBs during demolition of applicable structures.

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<sup>1</sup> The Municipal Regional Stormwater Permit, Order No. R2-2015-0049, was adopted November 19, 2015.

<sup>2</sup> Demolition means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations (40 CFR., Part 61, Subpart M).

<sup>3</sup> The City of Clayton provided evidence to support an exemption from the requirement.



## Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition

On behalf of MRP Permittees, the Bay Area Stormwater Management Agencies Association (BASMAA) is conducting a regional project to assist MRP Permittees to achieve compliance with Provision C.12.f. The regional project is developing guidance materials, tools, protocols and training materials and conducting outreach. The goal is to assist Permittees to develop local programs to prevent PCBs from being discharged to municipal storm drains due to demolition of applicable buildings. Local agencies will need to tailor the BASMAA products for local use and train local staff to implement the new program.

This document is the deliverable for Task 3 of the regional project, which is to develop a protocol for the assessment of prioritized PCBs-containing building materials prior to demolition. The full scope of work for the regional project is presented in the Project team's *Proposal for Tools, Protocol, Outreach & Training Work Plan: PCBs Materials Management during Building Demolition Project* (dated January 31, 2017; revised March 2017). If materials are found or known to contain PCBs, those materials must be managed appropriately and according to all applicable local, state, and federal requirements. Management of PCBs-containing materials is beyond the scope of this document.

To establishing the PCBs protocol, current established protocols were evaluated that are widely accepted in the building demolition industry for other Federal- and State-regulated constituents of concern. This document provides applicable examples of sampling and evaluation procedures for building materials potentially contaminated with asbestos-containing material (ACM)<sup>4</sup> and lead-based paint (LBP)<sup>5</sup>, which are summarized and referenced to provide the foundation for the PCBs protocol. These components include guidance on sampling frequencies, laboratory sample analysis, quality assurance and quality control procedures, and reporting.

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<sup>4</sup> Asbestos-containing material (ACM) means any material or product which contains more than one percent asbestos.

<sup>5</sup> Lead-based paint (LBP) is any paint, varnish, shellac, or other coating that contains lead equal to or greater than 1.0 mg/cm<sup>2</sup> as measured by XRF device or laboratory analysis, or 0.5 percent by weight (5,000 ppm or 5,000 mg/kg) as measured by laboratory analysis.

# **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

## **2. CURRENTLY ESTABLISHED BUILDING MATERIAL EVALUATION PROTOCOLS**

This section presents evaluation protocols for ACM and LBP, which provide a foundation for the PCBs protocol summarized in Section 3. This section includes guidance on sampling frequencies, laboratory sample analysis, quality assurance and quality control procedures derived from regulatory procedures for ACM and LBP.

### **2.1 Asbestos Containing Material Evaluation Procedures**

Asbestos bulk sampling procedures are specified in several Federal regulations, implemented primarily by the United States Environmental Protection Agency (EPA) as well as the Occupational Safety and Health Administration (OSHA). The Consumer Product Safety Commission (CPSC) and the Mine Safety and Health Administration (MSHA) specify additional regulations and procedures, but these are generally less applicable to evaluation procedures.

The foundational regulations pertaining to asbestos sampling in buildings are the Asbestos Hazard Emergency Response Act (AHERA; Toxic Substances Control Act [TSCA] Title II) (15 U.S.C. § 2641-2656) as well as the Asbestos School Hazard Abatement Reauthorization Act (ASHARA). EPA promulgated regulations under AHERA to require inspection of schools for asbestos-containing building materials, and to perform resultant corrective actions. Furthermore, AHERA tasked the EPA with developing a plan for accreditation of asbestos inspectors. ASHARA extended funding for asbestos programs at schools and expanded accreditation requirements to cover asbestos abatement at commercial buildings other than schools.

Pursuant to AHERA, the Asbestos-Containing Materials in Schools rule (40 CFR Part 763, Subpart E) details specific requirements for building material inspections at schools, preparation of asbestos management plans, and implementation of response actions. EPA regulation on asbestos related to structure demolition is specified in subpart M of the National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations (40 CFR Part 61, Subpart M).

The following sections summarize the evaluation procedures specified in the Asbestos-Containing Materials in Schools rule as well as the Asbestos NESHAP regulations. Both OSHA and EPA worker protection requirements are also discussed.

#### **2.1.1 Asbestos-Containing Materials in Schools Rule**

The following sections summarize the inspection, re-inspection, sampling, analysis, and evaluation procedures specified in the Asbestos-Containing Materials in Schools rule (40 CFR Part 763, Subpart E).

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### *Evaluation*

For each inspection and re-inspection of asbestos-containing building material (ACBM)<sup>6</sup>, the local education agency shall have an accredited inspector provide a written evaluation of all friable known or assumed ACBM. The evaluation shall consider the following:

- Location and amount of material, both in total quantity and as a percentage of the functional space;
- Condition of the material, specifying:
  - Type of damage or significant damage (e.g., flaking, blistering, water damage, or other signs of physical damage);
  - Severity of damage (e.g., major flaking, severely torn protective jackets, as opposed to occasional flaking, minor tears to jackets);
  - Extent or spread of damage over large areas or large percentages of the homogeneous<sup>7</sup> area;
- Whether the material is accessible;
- The material's potential for disturbance;
- Known or suspected causes of damage or significant damage (e.g., air erosion, vandalism, vibration, water); and
- Preventive measures that could potentially eliminate the reasonable likelihood of undamaged ACBM from becoming significantly damaged.

The inspector shall classify and give reasons in the written evaluation for classifying the ACBM and suspected ACBM assumed to be ACM into one of the following categories:

1. Damaged or significantly damaged thermal system insulation ACM;
2. Damaged friable surfacing ACM;
3. Significantly damaged friable surfacing ACM;
4. Damaged or significantly damaged friable miscellaneous ACM;
5. ACBM with potential for damage;
6. ACBM with potential for significant damage; and
7. Any remaining friable ACBM or friable suspected ACBM.

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<sup>6</sup> Asbestos-containing building material (ACBM) means surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a building.

<sup>7</sup> Homogenous refers to a substance or area that is uniform in texture, color, and general physical appearance and properties.

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### ***Inspection and Re-inspection***

Inspect any building that is to be used as a school, prior to such use, by an accredited inspector. In emergency situations, inspect the building within 30 days of commencement of such use.

For each area of the building, complete the following inspection procedure:

- Visually inspect the area to identify suspected ACBM;
- Touch suspected ACBM to determine friability (Friable material is material that may be crumbled or pulverized by hand pressure alone. Note that thermal system insulation that has retained its structural integrity and that has an undamaged protective jacket or wrap that prevents fiber release shall be treated as non-friable.);
- Categorize all areas into homogenous areas of friable suspected ACBM and non-friable suspected ACBM;
- Assume that some or all the homogeneous areas are ACBM, and for each homogeneous area that is not assumed to be ACBM, collect and submit samples for bulk analysis. Do not sample areas that an accredited inspector assumes to contain ACBM. For uncertain areas, collect and bulk samples and submit for analysis (see Sampling below);
- Assess friable material in areas where samples are collected, in areas where samples are not collected but ACBM is assumed to be present, and in areas identified in previous inspections;
- Record the following information and submit a copy for inclusion in an asbestos management plan, within 30 days of the inspection:
  - An inspection report including the signature, state of accreditation, and accreditation number of each inspector, as well as the date of the inspection;
  - A comprehensive inspection inventory, including the date and locations of samples, locations of areas assumed to contain friable ACBM, and locations of areas assumed to contain non-friable ACBM;
  - A description of the manner used to determine sampling locations;
  - A list of all categorized and identified homogenous areas into surfacing material, thermal system insulation, or miscellaneous material; and
  - Evaluations made of friable material.

Repeat this process as a re-inspection at least once every 3 years after a management plan is in effect. Reassess the condition of friable known or assumed ACBM previously identified. Identify any homogenous areas with material that has become friable since the last inspection or re-inspection and collect and submit samples of the material.

## **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

### ***Sampling***

Collect samples in a statistically random manner that is representative of each homogeneous area.

- For surfacing material, the number of samples to be collected is as follows:
  - Collect at least three samples from each homogenous area less than 1,000 square feet;
  - Collect at least five samples from each homogenous area between 1,000 and 5,000 square feet; and
  - Collect at least seven samples from each homogenous area greater than 5,000 square feet.
- For thermal system insulation:
  - Collect at least one bulk sample from each homogeneous area that is not assumed to be ACM;
  - Collect at least one bulk sample from each homogeneous area of patched insulation that is not assumed to be ACM, if the patched section is less than six linear or square feet;
  - Where cement or plaster is used on fittings such as tees, elbows or valves, collect samples to determine if material is ACM or not;
  - If the accredited inspector determines that the thermal system insulation is fiberglass, foam glass, rubber, or other non-ACBM, samples are not required to be collected;
- For miscellaneous material, collect bulk samples from each homogeneous area of friable material that is not assumed to be ACM.

### ***Analysis***

Samples should be analyzed by laboratories accredited by the National Bureau of Standards (NBS). The laboratories must have received interim accreditation for polarized light microscopy (PLM) analysis under the EPA Interim Asbestos Bulk Sample Analysis Quality Assurance Program until the NBS PLM laboratory accreditation program for PLM is operational.

Samples should be analyzed for asbestos content by PLM using the “Interim Method for the Bulk Determination of Asbestos in Bulk Insulation Samples”, found at Appendix E to Subpart E of 40 CFR Part 763. Samples should not be composited.

A homogenous area is considered not to contain ACM only if the results of all samples from that area show asbestos in concentrations of 1 percent or less. An area is considered to contain ACM if at least one sample from the area shows asbestos in concentrations greater than 1 percent.

## **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

Submit the name and address of each laboratory performing the analysis, the date of the analysis, and the person performing the analysis for inclusion into the management plan within 30 days of the analysis.

### **2.2 Lead-Based Paint (LBP) Evaluation Procedures**

Lead-Based Paint (LBP) evaluation procedures are codified in various federal and state regulations.

Title IV of the Toxic Substances Control Act (TSCA) as well as other authorities in the Residential Lead-Based Paint Hazard Reduction Act of 1992 directs the EPA to regulate lead-based paint hazards. The primary Federal regulations and guidelines related to LBP evaluation procedures include:

- The Lead Renovation, Repair and Painting Program (RRP) Rule (40 CFR 745, Subpart E);
- The National Lead Laboratory Accreditation Program (TSCA Section 405(b)); and
- The Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (2012 Edition) (pursuant to Section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, A.K.A. “Title X”)

Furthermore, the California Department of Public Health (CDPH) Title 17, California Code of Regulations, Division 1, Chapter 8 “Accreditation, Certification, and Work Practices for Lead-Based Paint and Lead Hazards,” specifies some LBP evaluation procedures as part of the accreditation program.

The HUD Guidelines provide the most comprehensive procedures for LBP evaluations and are referenced by many other regulations.

There are three primary methods of performing LBP evaluation: test kits, X-ray Fluorescence (XRF) devices, and laboratory testing of paint chips. Sampling procedures for each method are detailed in the following sections.

Under CDPH Title 17, certified Lead Inspector/Assessors are required to use XRF devices or laboratory analysis, and not test kits.

#### **2.2.1 LBP Sampling Procedures: Test Kits**

In 2008, the EPA published the RRP rule, which, among other things, established criteria for lead test kits for use in LBP evaluation. Lead test kits recognized by EPA before September 1, 2010, must meet only the negative response criterion outlined in 40 CFR 745.88(c)(1):

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*For paint containing lead at or above the regulated level, 1.0 mg/cm<sup>2</sup> or 0.5% by weight, a demonstrated probability (with 95% confidence) of a negative response less than or equal to 5% of the time must be met.*

Lead test kits recognized after September 1, 2010, must meet both the negative response and positive response criteria outlined in 40 CFR 745.88(c)(1) and (2). The positive-response criterion states:

*For paint containing lead below the regulated level, 1.0 mg/cm<sup>2</sup> or 0.5% by weight, a demonstrated probability (with 95% confidence) of a positive response less than or equal to 10% of the time must be met.*

To date, no lead test kit has met both criteria<sup>8</sup>. However, three lead test kits recognized before September 1, 2010, exist and are recognized by EPA:

- 3M™ LeadCheck™, manufactured by the 3M Company, for use on wood, ferrous metal, drywall, and plaster surfaces;
- D-Lead®, manufactured by ESCA Tech, Inc., for use on wood, ferrous metal, drywall, and plaster surfaces; and
- The Commonwealth of Massachusetts lead test kit, for use only on drywall and plaster surfaces.

Test kits cannot determine the concentration of lead, only presence or absence at best. For this reason, test kits are best used by homeowners or other non-professionals as a preliminary evaluation before using an XRF device or laboratory analysis of paint chips.

There are currently no detailed sampling procedures for test kits that would be applicable to PCBs evaluation. However, test kit technology may be a useful paradigm for PCBs evaluation if a kit can be developed to test PCBs at an acceptable concentration that uses a repeatable methodology to meet the data quality objectives.

### 2.2.2 LBP Sampling Procedures: XRF Devices

The following sections summarize LBP evaluation procedures for XRF devices, including description of sampling equipment, collection techniques and frequency, sample analysis, and quality assurance.

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<sup>8</sup> US EPA, Lead Test Kits, <https://www.epa.gov/lead/lead-test-kits>, accessed September 19, 2017.

## **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

### ***LBP Analyzers***

According to the HUD Guidelines, portable XRF devices are the most common primary analytical method for inspections in housing because of their versatility in analyzing a wide variety of surface types, non-destructive measurement, high speed, and low cost per sample. Each XRF device must have a HUD-issued XRF Performance Characteristic Sheet (PCS), which contains information about XRF readings taken on specific surface types, calibration check tolerances, and interpretation of XRF readings.

### ***Collection Techniques and Frequency***

HUD Guidelines provide separate sampling techniques for single- and multi-family housing. However, the general approach to sampling is the following seven-step procedure:

- List all testing combinations of building components and substrates (e.g., wood doors, metal doors, plaster walls, concrete walls);
- Select testing combinations. A numbering system, floor plan, sketch or other system may be used to document which testing combinations were tested;
- Perform XRF testing, including calibration;
- Collect and analyze paint-chip samples as needed;
- Classify XRF and paint-chip results;
- Evaluate the work and results to ensure the quality of the inspection; and
- Document the findings in a summary and in a complete technical report.

Because of the large surfaces and quantities of paint involved, and the potential for spatial variation, HUD Guidelines recommend taking at least four readings per room, with special attention paid to surfaces that clearly have different painting history. The selection of test locations should be representative of locations most likely to be coated with old paint or other lead-based coatings, such as areas with thick paint; areas with worn or scraped off paint should be avoided.

For large buildings with many similar units, HUD Guidelines recommend testing a designated sample of units to provide 95% confidence that most units are below the lead standard. The sample size should be carefully chosen using statistical techniques (see HUD Guidelines, Table 7.3).

### ***Sample Analysis***

Portable XRF devices expose a surface to X-ray or gamma radiation and measure the emission of characteristic X-rays from each element in the analyzed surface. The XRF reading is compared with a range specified in the PCS for the specific XRF device being used and the specific substrate beneath the painted surface.



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When discrepancies exist between the PCS, HUD Guidelines, and the XRF device's manufacturer's instructions, the most stringent guideline should be followed.

### ***Quality Assurance***

HUD Guidelines provide several techniques for evaluation of inspection quality.

A knowledgeable observer independent of the inspection firm should be present for as much XRF testing as possible, especially if they have knowledge of LBP evaluation and/or the paint history of the facility.

The client should ask the inspector to provide copies of the results as soon as possible, or daily, allowing for immediate review.

Data from HUD's private housing lead-based paint hazard control program show that it is possible to successfully retest painted surfaces without knowing the exact spot which was tested. Therefore, the client may consider selecting 10 testing combinations for retesting at random from the already compiled list of all testing combinations, using the XRF device used for the original measurements, if possible. The average of the 10 repeat XRF results should not differ from the 10 original XRF results by more than the retest tolerance limit. The procedure for calculating the retest tolerance limit is specified in the PCS. If the limit is exceeded, the procedure should be repeated using 10 different testing combinations. If the retest tolerance limit is exceeded again, the original inspection is considered deficient.

Currently XRF technology and methods are not applicable to PCBs building material evaluation, as the precision is not adequate to provide a concentration that could be relied upon for this program.

### **2.2.3 LBP Sampling Procedures: Laboratory Testing of Paint Chips**

The following sections summarize LBP evaluation procedures for XRF devices, including the description of sampling equipment, collection techniques and frequency, sample analysis, and quality assurance.

Laboratory analysis of paint chip samples is only recommended by HUD for inaccessible areas or building components with irregular (non-flat) surfaces that cannot be tested using XRF devices, for confirmation of inconclusive XRF results, or for additional confirmation of conclusive XRF results.

Unlike XRF analysis, paint chip collection techniques may be more directly applicable to potential PCBs collection techniques.

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### ***Sampling Equipment***

Common hand tools can be used to scrape paint chips from a surface; specialized equipment is not necessary. However, HUD Guidelines recommend that samples should be collected in sealable rigid containers rather than plastic bags, which generate static electricity and make laboratory transfer difficult.

### ***Collection Techniques***

HUD Guidelines, which are consistent with ASTM E1729, Standard Practice for Field Collection of Dried Paint Samples for Subsequent Lead Determination, recommend that only one paint chip needs to be taken for each testing combination, although additional samples are recommended for quality control.

The paint chip sample should be taken from a representative area that is at least 4 square inches in size. The dimensions of the surface area must be accurately measured to the nearest 1/16<sup>th</sup> of an inch so that laboratory results can be reported in units of mg/cm<sup>2</sup>. Paint chip collection should include collection of all the paint layers from the substrate, but collection of actual substrate should be minimized. Any amount of substrate included in the sample may cause imprecise results.

### ***Sample Analysis***

A laboratory used for LBP analysis must be recognized under EPA's National Lead Laboratory Accreditation Program (NLLAP) for the analysis of lead paint; however, States or Tribes may operate an EPA-authorized lead-based paint inspection certification program with different requirements.

There are several standard laboratory techniques to quantify lead in paint chip samples, including Atomic Absorption Spectroscopy, Inductively Coupled Plasma-Atomic Emission Spectroscopy (ICP-AES), Anodic Stripping Voltammetry, and Potentiometric Stripping Analysis.

For analytical methods that require sample digestion, samples should be pulverized so there is adequate surface area to dissolve the sample before laboratory instrument measurement. In some cases, the amount of paint collected from a 4-square-inch area may exceed the amount of paint that can be analyzed successfully. It is important that the actual sample mass analyzed not exceed the maximum mass the laboratory has successfully tested using the specified method. If subsampling is required to meet analytical method specifications, the laboratory must homogenize the paint chip sample (unless the entire sample will eventually be analyzed, and the results of the subsamples combined). Without homogenization, subsampling would likely result in biased, inaccurate lead results. If the sample is properly homogenized and substrate inclusion is negligible, the result can be reported as a loading, in milligrams per square centimeter (mg/cm<sup>2</sup>), the preferred unit, or as percent by weight, or both.

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### ***Quality Assurance***

Laboratory reference materials processed with the paint chip samples for quality assurance purposes should have close to the same mass as those used for paint-chip samples (refer to ASTM methods E1645, E1613, E2051, and E1775).

### ***Reporting***

The laboratory report for analysis of paint chip samples should include at a minimum, the information outlined in the EPA National Lead Laboratory Accreditation Program Laboratory Quality System Requirements, Revision 3.0, section 5.10.2, Test Reports<sup>9</sup>. In addition to those minimum requirements, test reports containing the results of sampling must include specified sampling information, if available.

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<sup>9</sup> National Lead Laboratory Accreditation Program: Laboratory Quality System Requirements <https://www.epa.gov/sites/production/files/documents/lqsr3.pdf>, accessed September 20, 2017.

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### 3. PCBs BUILDING MATERIAL EVALUATION PROTOCOL

This section presents the evaluation protocol for identifying building materials in structures constructed or remodeled between the years 1950 and 1980<sup>10</sup> that may contain a significant mass of PCBs. Once identified as containing PCBs at concentrations exceeding 50 ppm, these materials should be properly managed prior to building demolition, to ensure PCBs are not discharged to the municipal storm drain system.

This protocol is not intended to address all PCBs-containing materials that may be disturbed during building demolition. Additional sampling is likely to be required to comply with EPA and Cal/OSHA regulations pertaining to the management, removal and disposal of PCBs-containing materials.

For this program, it is assumed that organizations and staff qualified to sample, test, remediate, and dispose of PCBs at the building site will coordinate processes for other hazardous building materials at the building site, to ensure proper sampling, testing, remediation, and disposal of all statutorily-required hazardous materials handling.

#### 3.1 Priority Building Materials to be Tested

A prioritized list of PCBs-containing materials is provided in Appendix A. Building materials were evaluated based upon the following criteria:

- **Source Material** – Does the building material contain PCBs through the original product manufacturing process or was the building material contaminated (impregnated) with PCBs from an adjacent building material that already contained PCBs? For the evaluation, building materials originally manufactured with PCBs at or above 50 mg/kg were prioritized.
- **Concentration** – Building materials were evaluated based on readily available existing data regarding ranges of PCBs concentrations identified in the materials.
- **Prevalence** – A prevalence factor was assigned based upon best professional judgement of the prevalence of occurrence of the PCBs-containing materials in buildings, which ranged from highly prevalent to low prevalence.
- **Ease of Removal** – Building materials were evaluated based on their attachment to the building, which ranged from “very easily removed” to “difficult to remove,” under the assumption that higher ease of removal results in higher feasibility and lower costs for removing a material before demolition.

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<sup>10</sup> Single-family residential and wood frame structures are exempt.

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- **Flaking/Crumbling** – Building materials were evaluated based on their tendency to flake or crumble during disturbance or demolition, which could lead to a higher likelihood of entering stormwater as a result of building demolition.
- **PCBs Removed by Other Waste Program** – This factor addresses materials that are removed from buildings because of other waste management programs (e.g., Universal Waste Rule). Fluorescent light ballasts<sup>11</sup>, polyurethane foam furniture, and Askarel fluid used in transformers, all of which may contain PCBs, are typically managed during pre-demolition activities under current regulations and programs that require removal of universal waste and outdated transformers. For this program it is assumed that those materials will be evaluated and managed under those existing programs.

Material prioritization was conducted by assigning a score on a scale of 1 to 5 (low to high) for each criterion. The final score for each material type was calculated as the average of the scores assigned to the six criteria. The materials given the highest scores through the prioritization analysis are shown below, along with their typical locations in a building. For this evaluation, thermal insulation and fiberglass insulation were grouped together as they tend to be co-located and are typically managed together. The materials listed below (along with typical locations where they are found) are the materials that should be sampled using the protocols described in Section 3.2.

1. Caulks and Sealants:
  - a. Around windows or window frames;
  - b. Around door frames; and
  - c. Expansion joints between concrete sections (e.g., floor segments).
2. Thermal/Fiberglass Insulation and Other Insulating Materials:
  - a. Around HVAC systems,
  - b. Around heaters,
  - c. Around boilers,
  - d. Around heated transfer piping, and
  - e. Inside walls or crawls spaces.
3. Adhesive/Mastic:
  - a. Below carpet and floor tiles;

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<sup>11</sup> Fluorescent light ballasts that contain PCBs are not required to be managed under the Universal Waste Rule Program but are recommended by the EPA to be identified in a pre-demolition survey of a structure and to be managed with the removal of other required wastes in the abatement process.

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- b. On, under, or between roofing materials and flashing.
4. Rubber Window Seals/Gaskets:
  - a. Around windows or window frames.

Examples of the prioritized PCBs-containing building materials and what they may look like in a building planned for demolition are provided in Appendix B.

### **3.2 PCBs Sampling Procedures**

Many building materials may contain PCBs. The building owner is responsible for identifying and handling all hazardous materials in accordance with all applicable laws, including all materials with 50 ppm or more PCBs. For purposes of obtaining a demolition permit, the City requires a building owner to sample the limited number of materials shown below:

1. Caulks and Sealants:
  - a. Around windows or window frames;
  - b. Around door frames; and
  - c. Expansion joints between concrete sections (e.g., floor segments).
2. Thermal/Fiberglass Insulation and Other Insulating Materials:
  - a. Around HVAC systems,
  - b. Around heaters,
  - c. Around boilers,
  - d. Around heated transfer piping, and
  - e. Inside walls or crawls spaces.
3. Adhesive/Mastic:
  - a. Below carpet and floor tiles;
  - b. On, under, or between roofing materials and flashing.
4. Rubber Window Seals/Gaskets:
  - a. Around windows or window frames.

It should be noted that some materials that are being evaluated for PCBs in this protocol may also be associated with asbestos, lead, or other hazardous substances. Since this protocol follows pre-established asbestos management program guidelines and procedures, the sampling frequency, types of building materials, and surveying techniques overlap with the PCBs survey protocol. If a

## **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

material has been determined to contain asbestos, lead or other hazardous substances and will be abated under an associated waste program, that material need not be sampled for PCBs under this program.

### **3.2.1 Sampling Equipment**

Building materials that are planned to be collected for laboratory analysis should be placed in laboratory-supplied glass jars with Teflon-sealed lids. Samples should be collected with either factory-sealed or decontaminated equipment that will be used to remove a representative building material sample (i.e., scissors, tweezers, pliers, spoons, or putty knife).

For sampling equipment (i.e., scissors, tweezers, pliers, spoons, putty knife, etc.) that will be decontaminated, the following three bucket wash procedure should be performed, which is in general accordance with standard decontamination procedures defined in SESDPROC-205-R3 (EPA, 2015):

- In the first bucket, mix a residue free cleaning detergent (e.g., Alconox®), with distilled water to generate the recommended detergent concentration specified in the product directions;
- Fill the second bucket with distilled water;
- Fill the third bucket with distilled water;
- Clean the equipment in the first bucket with the cleaning detergent, then rinse in the second and then the third bucket. If the second bucket becomes slightly discolored during the rinse, change the contents of the second bucket with distilled water. Change the third bucket, if any dirt or material is observed in the water, since the third bucket needs to stay clean as it is the final rinse; and
- At the end of cleaning, let the equipment air dry in a clean area before use in sample collection. The rinse water should then be drummed and sampled for disposal. The planned disposal facility should be contacted to determine the required sample analysis for the rinse water characterization and profiling and that the disposal procedures comply with state and federal regulations.

If disposable sampling tools are used, the above decontamination procedures do not apply.

### **3.2.2 Sample Collection Frequency**

For the four prioritized building materials, the following collection techniques and frequency should be followed.

#### ***Caulking***

Three different types of caulking should be evaluated:

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1. Window caulking;
2. Door frame caulking; and
3. Floor and expansion joint caulking.

For each type of caulking material identified, the following number of samples should be collected:

- Collect at least one sample from each homogenous area that contains less than 50 linear feet of caulking;
- Collect at least three samples from each homogenous area that contains between 50 and 250 linear feet of caulking;
- Collect at least five samples from each homogenous area that contains between 250 and 1,000 linear feet of caulking;
- Collect at least seven samples from each homogenous area that contains between 1,000 and 2,500 linear feet of caulking; and
- Collect at least nine samples from each homogenous area that contains greater than 2,500 linear feet of caulking.

If homogenous caulking material is found throughout the building, samples should be spatially distributed so as to not collect the required number of samples from one area. In addition, the width or cross-sectional area of the caulking bead is not relevant for determining the linear footage to be sampled. It is also recommended that the sampler performing the evaluation inspect the entire building prior to sample collection to insure proper distribution is performed.

### ***Thermal/Fiberglass Insulation***

For thermal/fiberglass insulation:

- Collect at least one bulk sample from each homogeneous area.

### ***Adhesive/Mastic***

For each type of adhesive/mastic material identified, the following number of samples should be collected:

- Collect at least three samples from each homogenous area less than 1,000 square feet;
- Collect at least five samples from each homogenous area between 1,000 and 5,000 square feet; and
- Collect at least seven samples from each homogenous area greater than 5,000 square feet.

If homogenous adhesive/mastic material is found throughout the building, samples should be spatially distributed so as to not collect the required number of samples from one area. It is



## Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition

recommended that the sampler performing the evaluation inspect the entire building prior to sample collection to insure proper distribution is performed.

### *Rubber Window Seals/Gaskets*

For rubber window seals/gaskets identified, the following number of samples should be collected:

- Collect at least one sample from each homogenous area that contains less than 50 linear feet of caulking (of any width or cross-sectional are of bead);
- Collect at least three samples from each homogenous area that contains between 50 and 250 linear feet of caulking;
- Collect at least five samples from each homogenous area that contains between 250 and 1,000 linear feet of caulking;
- Collect at least seven samples from each homogenous area that contains between 1,000 and 2,500 linear feet of caulking; and
- Collect at least nine samples from each homogenous area that contains greater than 2,500 linear feet of caulking.

If homogenous rubber window seals/gaskets are found throughout the building, samples should be spatially distributed so as to not collect the required number of samples from one area. It is also recommended that the sampler performing the evaluation inspect the entire building prior to sample collection to insure proper distribution is performed.

### **3.2.3 Sample Analysis and Preservation**

Samples collected to evaluate building materials for PCBs should be analyzed for Aroclors by EPA Method 8082/8082A<sup>12</sup> by an accredited analytical laboratory. The minimum reporting limit should be 50 micrograms per kilogram ( $\mu\text{g}/\text{kg}$ ) and the laboratory should be contacted before sampling to confirm minimum material volume required to meet the reporting limit objectives. A sample reporting limit of 50  $\mu\text{g}/\text{kg}$  is well below the target management level of 50 mg/kg.

Samples should immediately be chilled in an ice cooler and then kept at 4 degrees Celsius (39.2 degrees Fahrenheit) or colder during storage and transportation to the laboratory. Proper chain-of-custody<sup>13</sup> procedures should be followed from the time the samples are collected until they are delivered to the laboratory for analysis. Holding times for EPA Method 8082/8082A are sample extraction within 14 days of sample collection and analysis of the extract within 40 days of

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<sup>12</sup> Provision C.12.f. requires that Permittees develop and implement or cause to be developed and implemented an effective protocol for managing materials with PCBs concentrations of 50 ppm. EPA Method 8082/8082A is an acceptable method to quantify PCBs. Analysis of PCBs congeners is not required to meet the permit requirement.

<sup>13</sup> Chain-of-custody is the procedure to document, label, store, and transfer samples to personnel and laboratories. For a detailed list of procedures, refer to the *Sample and Evidence Management, Operating Procedure* (SESDFPROC-005-R2), January 29, 2013

## **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

extraction. However, PCBs are very stable in a variety of matrices and holding times may be extended to as long as one year. Once extracted, analysis of the extract should take place within 40 days.

### **3.2.4 Quality Assurance and Quality Control**

For this program, general quality assurance and quality control (QA/QC) procedures will be utilized. The following checklist should be used by the contractor performing the evaluation:

- QA/QC Checklist:
  - Proper specified sampling equipment was used (pre-cleaned or other, stainless steel);
  - Proper decontamination procedures were followed;
  - Sampling collection spatial frequency was met;
  - A National Environmental Laboratory Accreditation Program (NELAP) laboratory was utilized;
  - Samples were received by the laboratory within proper temperature range;
  - Samples were extracted and analyzed within the method holding time for EPA Method 8082/8082A; and
  - Sample reporting limit met data quality objectives.

### **3.3 Reporting and Notifications**

The following considerations are applicable to reporting and notification:

- Assessment results must be submitted to the applicable Permitting Authority by the project applicant;
- Applicants that determine PCBs exist in priority building materials must follow applicable federal and state laws. This may include reporting to USEPA, the San Francisco Bay Regional Water Quality Control Board, and the California Department of Toxic Substances Control (DTSC). These agencies may require additional sampling and abatement of PCBs.
- Depending on the approach for sampling and removing building materials containing PCBs, applicants may need to notify or seek advance approval from USEPA before building demolition. Even in circumstances where advance notification to or approval from USEPA is not required before the demolition activity, the disposal of PCBs waste is regulated under TSCA.
- The disposal of PCBs waste is subject to California Code of Regulations (CCR) Title 22, Section Division 4.5, Chapter 12, Standards Applicable to Hazardous Waste Generators.

## **Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition**

- Building owners and employers need to consider worker and public safety during work involving hazardous materials and wastes including PCBs.

For further information, applicants should refer to the *PCBs in Priority Building Materials Screening Assessment Applicant Package*, BASMAA, July 2018.

## Protocol for Evaluating Priority PCBs-Containing Materials before Building Demolition

### 4. REFERENCES

Guidelines for Asbestos Sampling:

- <https://www.epa.gov/asbestos/asbestos-laws-and-regulations>

Guidelines for Lead-Based Paint Evaluations:

- Environmental Protection Agency (EPA) - Created the Renovation, Repair, and Painting (RRP) Rule which requires training and certification for anyone working for compensation in pre-1978 residential structures, day care centers, and schools where known or assumed lead-based paint is impacted. The EPA website with complete information on this regulation is <https://www.epa.gov/lead/renovation-repair-and-painting-program>.
- California Department of Public Health (CDPH) - Created "Title 17" which includes lead testing and abatement provisions in residential and public structures in California. Several important definitions are contained in Title 17 including Abatement, Clearance Inspection, Containment, Lead-Based Paint.
- Lead Contaminated Dust and Soil, Lead Hazard, and Lead Hazard Evaluation. Title 17 establishes that lead testing be performed using XRF equipment or by paint chip sample analysis in California. Lead test kits are not accepted. It also establishes testing in California be performed by a State certified lead inspector/assessor if the testing is related to a project involving compensation.
- Department of Housing and Urban Development (HUD) - Created the HUD Guidelines which contain protocols for lead testing and abatement.

EPA Method 8082A – Polychlorinated Biphenyls (PCBs) by Gas Chromatography

- <https://www.epa.gov/sites/production/files/2015-07/documents/8082a.pdf>

SESDPROC-205-R3, *Field Equipment Cleaning and Decontamination*, replaces SESDPROC-205-R2. December 18, 2015

- [https://www.epa.gov/sites/production/files/2016-01/documents/field\\_equipment\\_cleaning\\_and\\_decontamination205\\_af.r3.pdf](https://www.epa.gov/sites/production/files/2016-01/documents/field_equipment_cleaning_and_decontamination205_af.r3.pdf)

SESDPROC-005-R2, *Sample and Evidence Management*, Operating Procedure, January 29, 2013

- <https://www.epa.gov/sites/production/files/2015-06/documents/Sample-and-Evidence-Management.pdf>

# **APPENDIX A**

## **PCBs Building Material Prioritization Worksheet**

## Appendix A - PCBs Building Materials Prioritization

Material	Material Class	Median/Average/Single Reported Concentration (ppm)	Minimum (ppm)	Maximum (ppm)	PCBs Source Material? (Rating values: source = 5, or not source = 1)	Concentration (Rating values: 1 to 5, higher value means higher concentration)	Prevalence of PCBs Containing Material in Buildings (Rating values: high = 5, medium = 3, or low = 1)	Ease of Removal (Rating values: 1 to 5, higher value means easier to remove)	Flaking/ Crumbling (Rating values: 1 to 5, higher value means more likely to flake/crumble)	PCBs Removed by Other Waste Program? (Rating values: not removed by other = 5, or removed = 1)	Prioritization Score
Caulking (sealant, plaster)	Caulk/sealant/tape/glue		0.001	752,000	5	5	5	3	5	5	4.67
Thermal insulation	Insulation			73,000	5	5	5	4	4	5	4.67
Fiberglass insulation	Insulation			39,158	5	4	5	4	4	5	4.50
Adhesives/mastic	Caulk/sealant/tape/glue			3,100	5	3	5	3	5	5	4.33
Rubber gaskets	Gaskets/Rubber			84,000	5	5	3	3	4	5	4.17
Wool felt gaskets	Gaskets/Rubber			688,498	5	5	3	3	4	5	4.17
Cloth/paper insulating material	Insulation			12,000	5	4	3	4	4	5	4.17
Foam rubber insulation	Insulation			13,100	5	4	3	4	4	5	4.17
Ceiling tiles coated w/ flame resistant sealant	Internal nonstructural surface		53	110,000	5	5	5	3	2	5	4.17
Backer rod	Caulk/sealant/tape/glue			99,000	1	5	5	3	5	5	4.00
Roofing/siding material	External nonstructural surface		0	30,000	5	4	5	3	2	5	4.00
Paint (complete removal)	Paint/pigment/coatings		0.001	97,000	5	5	5	1	3	5	4.00
Insulating materials in electric cable	Electrical		0	280,000	5	5	3	4	1	5	3.83
Adhesive tape	Caulk/sealant/tape/glue			1,400	5	3	1	3	5	5	3.67
Surface coating	Paint/pigment/coatings			255	5	3	5	1	3	5	3.67
Coal-tar enamel coatings	Paint/pigment/coatings			1,264	5	3	5	1	3	5	3.67
Grout	Caulk/sealant/tape/glue			9,100	5	4	1	2	5	5	3.67
Cove base	Internal nonstructural surface			170	5	3	3	4	2	5	3.67
Plastics/plasticizers	Electrical			13,000	5	4	3	3	1	5	3.50
GE silicones	Caulk/sealant/tape/glue	<1.9	0	1.8	5	1	3	2	5	5	3.50
Glazing	Caulk/sealant/tape/glue	Up to 100% liquid PCBs		51	5	2	3	3	3	5	3.50
Flooring and floor wax/sealant	Internal nonstructural surface	Maximum likely >50		51	5	2	3	3	2	5	3.33
Light ballast	Light ballasts	Minimum likely <50	49	1,200,000	5	5	3	5	1	1	3.33
Anti-fouling compounds	Paint/pigment/coatings			59,000	5	4	1	1	3	5	3.17
Polyurethane foam (furniture)	Caulk/sealant/tape/glue			50	5	2	1	5	5	1	3.17
Askarel fluid/cutting oils/hydraulic fluid	Oils/dielectric fluids			450,000	5	5	1	5	2	1	3.17
Fire retardant coatings	Paint/pigment/coatings			59,000	5	4	1	1	3	5	3.17
Waterproofing compounds	Paint/pigment/coatings			59,000	5	4	1	1	3	5	3.17
Electrical wiring	Electrical			14	5	1	3	4	1	5	3.17
Concrete	Concrete/stone	2.5	0.001	17,000	1	4	3	1	4	5	3.00
Foam rubber	Gaskets/Rubber			1,092	1	3	1	3	4	5	2.83
Soil/sediment/sand	Soil/dust	0.15	0.001	581	1	3	1	2	5	5	2.83
Brick/mortar/cinder block	Concrete/stone			1,100	1	3	3	1	4	5	2.83
Wood	Wood			380	1	3	3	3	2	5	2.83
Door frame	Internal nonstructural surface			102	1	2	3	4	2	5	2.83
Metals surfaces in contact with caulk/sealant	Metal surfaces	448	51	448	1	3	1	2	4	5	2.67

**Appendix A - PCBs Building Materials Prioritization**

Material	Material Class	Median/Average/Single Reported Concentration (ppm)	Minimum (ppm)	Maximum (ppm)	PCBs Source Material? (Rating values: source = 5, or not source = 1)	Concentration (Rating values: 1 to 5, higher value means higher concentration)	Prevalence of PCBs Containing Material in Buildings (Rating values: high = 5, medium = 3, or low = 1)	Ease of Removal (Rating values: 1 to 5, higher value means easier to remove)	Flaking/ Crumbling (Rating values: 1 to 5, higher value means more likely to flake/crumble)	PCBs Removed by Other Waste Program? (Rating values: not removed by other = 5, or removed = 1)	Prioritization Score
Asphalt	Concrete/stone			140	1	2	1	2	4	5	2.50
Carpet	Internal nonstructural surface		0.46	9.7	1	1	1	5	2	5	2.50
Stone (granite, limestone, marble, etc.)	Concrete/stone			130	1	2	1	1	4	5	2.33
Air handling system	Air system		0.46	9.7	1	1	1	3	1	5	2.00

**APPENDIX B**

**Priority Building Materials**

**Photographic Log**



## Appendix B

### Priority Building Materials to be Tested for PCBs

Photograph 1

**Window Caulking:**

**Damaged caulking around a window.**



Photograph 2

**Window Caulking:**

**Worn and potentially friable caulking around a window.**



## Appendix B

### Priority Building Materials to be Tested for PCBs

**Photograph 3**

**Door Frame Caulking:**

**Damaged, friable  
caulking on an interior  
door frame.**



**Photograph 4**

**Floor and Expansion  
Joint Caulking:**

**Joint compound between  
flooring segments.**



**Appendix B**

**Priority Building Materials to be Tested for PCBs**

**Photograph 5**

**Thermal Insulation:**

**Foam insulation material in an attic.**



**Photograph 6**

**Thermal Insulation:**

**Damaged floor foam insulation.**



## Appendix B

### Priority Building Materials to be Tested for PCBs

Photograph 7

**Thermal Insulation:**

**Damaged pipe foam insulation.**



Photograph 8

**Thermal Insulation:**

**Exposed/damaged pipe insulation.**



**Appendix B**

**Priority Building Materials to be Tested for PCBs**

**Photograph 9**

**Thermal Insulation:**

**Damaged pipe insulation.**



**Photograph 10**

**Thermal Insulation:**

**Exposed pipe insulation.**



## Appendix B

### Priority Building Materials to be Tested for PCBs

**Photograph 11**

**Adhesive / Mastic:**

**Friable adhesive on a cement surface.**



**Photograph 12**

**Adhesive / Mastic:**

**Adhesive beneath a carpet.**



## Appendix B

### Priority Building Materials to be Tested for PCBs

**Photograph 13**

**Adhesive / Mastic:**

**Adhesive remnants on flooring.**



**Photograph 14**

**Adhesive / Mastic:**

**Exposed adhesive on roofing.**



## Appendix B

### Priority Building Materials to be Tested for PCBs

**Photograph 15**

**Rubber Window  
Seal/Gasket:**

**Grey rubber window seal/gasket in a wood type frame.**



**Photograph 16**

**Rubber Window  
Seal/Gasket:**

**Off white rubber window seal/gasket in an aluminum type frame.**





## New Program to Manage PCBs during Building Demolition

**Purpose of the Program:** PCBs have been detected at elevated levels in certain sport fish in San Francisco Bay. To make the fish safer to eat and protect human health, PCBs sources to the Bay need to be identified and controlled. Urban stormwater runoff is considered a significant pathway for PCBs to enter the Bay. The Regional Water Quality Control Board (RWQCB) has therefore required that Bay Area municipalities address potential sources to urban runoff, including certain building materials (e.g., caulks, sealants, insulation) that may contain PCBs. The Municipal Regional Permit (MRP), which is issued by the RWQCB, requires Bay Area local agencies to develop a program to keep PCBs from building materials out of storm drains during building demolition.



**Affected Structures and Program Area:** The requirements apply to whole building demolition of commercial, multi-family residential, public, institutional, and industrial structures constructed or remodeled between 1950 and 1980 in the MRP area: Counties of Alameda, Contra Costa, San Mateo, and Santa Clara and the Cities of Fairfield-Suisun and Vallejo. Single-family homes and wood-frame structures are exempt.

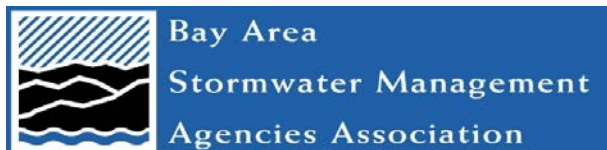
**Regional Coordination:** The Bay Area Stormwater Management Agencies Association (BASMAA) is assisting Bay Area local agencies to address these stormwater permit requirements and develop local programs to manage PCBs during building demolition. BASMAA has developed guidance and tools and conducted outreach and training, but each individual municipality will need to adopt and implement the new program. Individual municipalities should be contacted for more details and information on their programs.

**Industry Stakeholders:** The new program will impact a variety of industry stakeholders, including real estate developers, building owners and managers, facility managers, construction and demolition contractors, and environmental health and safety and remediation consultants. BASMAA has conducted a program of outreach to industry stakeholders, including emails and telephone calls, distribution of factsheets, an industry roundtable in August 2017, and general stakeholder meetings in December 2017 and May 2018. Industry representatives provided BASMAA with feedback on drafts of the tools and guidance via the roundtable and stakeholder meetings. The project Technical Advisory Group also included industry representatives and met periodically to review and provide feedback on selected BASMAA products as they were developed.

**Note to Developers, Building Owners, and other Parties to Building Demolition:** in light of this new program, it may be advisable to assess for PCBs in building materials as early as possible (e.g., during cost-benefit analysis, Phase I/II Environmental Site Assessment, and/or CEQA). Unanticipated project costs and delays could potentially be avoided by early evaluation for PCBs (along with other pollutants such as asbestos and lead) in buildings that may be slated for demolition.

**Effective date of new programs:** Municipalities must adopt and implement the new program and whole building demolitions must comply with each municipal program by **July 1, 2019**. Individual municipalities should be contacted for more details and information on their programs.

**For more information go to:** [basmaa.org/announcements](http://basmaa.org/announcements)



**F.7 Direction to Initiate Proceedings for the Levy and Collection of Assessments for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19 for fiscal year 2019-2020 in accordance with the provisions of the Landscaping and Lighting Act of 1972 – from Public Works Director Fajeau. (RESOLUTION)**

**Background/Discussion** – The City Council has previously created Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18 and 19 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 islands and up to 50 feet of greenbelt landscaping adjacent to Cherry Street and the interior loop streets within the boundaries of Stevenson Point Technology Park, the maintenance of landscaping across the Newark Unified School District property on Cherry Street, and the street lighting maintenance, trash capture device maintenance, and neighborhood park maintenance of Zone 2 - Sanctuary.

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.

Landscaping and Lighting District No. 19: Willow Street and Enterprise Drive in the Bayside Newark Transit Oriented Development – Provides for the maintenance of landscaping and the landscape irrigation system within the Willow Street and Enterprise Drive medians and traffic circles, maintenance of public street lighting systems, and maintenance of other improvements in the Bayside Newark Transit Oriented Development.

There are no new proposed improvements or substantial changes to existing improvements other than the improvements cited in the formation of Zone 2 – Sanctuary of Landscaping and Lighting District No.4 and the annexation of Zone 5 – Bridgeway of Landscaping and Lighting District No. 19. These modifications to Landscaping and Lighting District Nos. 4 and 19 were made pursuant to the provisions of Landscaping and Lighting Act of 1972. The annual assessments for fiscal year 2019-2020 for all modifications as well as the respective Engineer’s Reports for each of these districts were previously approved by the City Council.

In accordance with the Landscaping and Lighting Act of 1972 and the Government Code, the City Council is required to conduct a public hearing regarding the levy of annual assessments for

the upcoming fiscal year. The City must publish a hearing notice, accept the annual Engineer's Reports for each district and conduct a public hearing. At subsequent meetings, the City Council will be asked to approve the completed engineer's reports and to schedule a public hearing for the proposed annual assessments.

**Attachment - Resolution**

**Action -** Staff recommends that the City Council, by resolution, initiate proceedings for the levy and collection of assessments for Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19 for fiscal year 2019-2020 in accordance with the provisions of the Landscaping and Lighting Act of 1972.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK INITIATING PROCEEDINGS FOR THE LEVY AND COLLECTION OF ASSESSMENTS FOR LANDSCAPING AND LIGHTING DISTRICT NOS. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19, FOR FISCAL YEAR 2019-2020, IN ACCORDANCE WITH THE PROVISIONS OF THE LANDSCAPING AND LIGHTING ACT OF 1972

WHEREAS, the City Council of the City of Newark, with Resolution No. 10,911, approved the Final Engineer's Report and an increase to the maximum annual assessment cited therein beginning in fiscal year 2019-2020 for the formation of Zone 2 – Sanctuary of Landscaping and Lighting District No. 4; and

WHEREAS, the City Council of the City of Newark, with Resolution No. 10,920, approved the Final Engineer's Report and an increase to the maximum annual assessment cited therein beginning in fiscal year 2019-2020 for the annexation of Zone 5 – Bridgeway of Landscaping and Lighting District No. 19; and

WHEREAS, the City Council of the City of Newark previously completed its proceedings in accordance with and pursuant to the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (the "Act") to establish Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18, and 19 (the "Districts") in order to fund ongoing maintenance and improvements authorized under the Act; and

WHEREAS, there are no other new proposed improvements or any substantial changes to existing improvements in the Districts; and

WHEREAS, Section 22620, et seq. of the Act provides for the levy of annual assessments after formation of the Districts; and

WHEREAS, the City designates the City Engineer to prepare and file reports in accordance with Section 22565, et seq., of the Act (the "Engineer's Reports"); and

WHEREAS, pursuant to Section 22622 of the Act, the City Council wishes to initiate proceedings to provide for the levy of assessments for fiscal year 2019-2020 in order to provide for the necessary costs and expenses pertaining to the maintenance of the improvements within the Districts.

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

1. Engineer's Reports: The City Council hereby orders the City Engineer to prepare and file with the City Clerk the annual Engineer's Reports concerning the levy and collection of assessments within the Districts for the fiscal year commencing July 1, 2019, and ending June 30, 2020, in accordance with Section 22565, et seq., of the Act.

2. New Improvements or Changes to Existing Improvements: There are no changes to existing improvements nor are there any items being added to the list of improvements previously approved at the formation or subsequent annexations to the Districts.

3225645.1

**F.8 Selection of Dog Park Name from Citywide Dog Park Naming Contest submittals – from Recreation and Community Services Director Zehnder. (RESOLUTION)**

**Background/Discussion** – During the March 22, 2018, City Council meeting, staff recommended approval of the Final Conceptual Plan for Newark’s first ever off-leash dog park to be located within Newark Community Park. The City Council unanimously approved the plan and in doing so, asked staff to hold a citywide naming contest for the dog park.

In response to the City Council request, Recreation and Community staff held a Citywide dog park naming contest from October 2018 through March 2019. The naming contest was very popular with over 120 creative dog-centric names submitted through the City’s dog park web page. A panel of judges from the Recreation and Community Department reviewed all entries and are forwarding the following five dog park names for City Council’s consideration and final determination:

- Newark Central Bark;
- Newark Canine Commons;
- Newark Community Dog Park;
- The Ruff Patch; and
- NewBark Dog Park.

After approval of the official name for the dog park, the contest winner(s) will be invited to attend a future Council meeting to be recognized and celebrated. Contest winner(s) will also be featured in a future edition of the Recreation and Community Services Department Activities Guide.

**Attachment** - Resolution

**Action** – Staff recommends that the City Council, by resolution, select a name from the Citywide Dog Park Naming Contest as the name of the Dog Park to be located at Newark Community Park.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK SELECTING \_\_\_\_\_ FROM  
THE CITYWIDE DOG PARK NAMING CONTEST AS THE  
NAME OF THE DOG PARK TO BE LOCATED AT NEWARK  
COMMUNITY PARK

WHEREAS, the City Council of the City of Newark approved plans to develop Newark's first off-leash dog park to be located within the Newark Community Park; and

WHEREAS, in response to the City Council's request, Recreation and Community Services staff held a Citywide Dog Park Naming Contest from October, 2018 through March, 2019; and

WHEREAS, over 120 dog park names were submitted for consideration by enthusiastic and creative Newark residents; and

WHEREAS, a panel of Recreation and Community Services staff members have forwarded the top 5 dog park names to City Council for consideration; and

WHEREAS, the City Council has considered the names: Newark Central Bark, Newark Canine Commons, Newark Community Dog Park, The Ruff Patch, and NewBark Dog Park

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby selects the name \_\_\_\_\_ as the name of the dog park.



**I.1 Consideration of City Council's summer meeting recess during the month of August 2019 – from Mayor Nagy. (MOTION)(RESOLUTION)**

**Background/Discussion** – Since 1994 the City Council has approved a summer meeting recess during the month of August. Mayor Nagy would like the City Council to consider a summer recess again this year during August.

The City Council may authorize the City Manager, or his designee, to approve any administrative matters that might occur during the month of August that cannot be deferred until September for City Council action. The general types of administrative matters that might require action are:

- Acceptance of completion of work on City projects
- Approval of agreements as needed for budgeted projects and services
- Approval of plans and specifications
- Award of contracts for budget projects
- Denial of claims

The City Manager would report all such actions taken during the month of August to the City Council at the first regular meeting in September.

**Attachment - Resolution**

**Action** - It is recommended that the City Council, by motion, approve a City Council summer meeting recess during the month of August 2019 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.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
NEWARK AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO ACT UPON CERTAIN ADMINISTRATIVE  
MATTERS ON BEHALF OF THE CITY OF NEWARK  
DURING THE CITY COUNCIL SUMMER MEETING RECESS  
AUGUST 2019

WHEREAS, the City Council of the City of Newark will be in recess during the month of August 2019; and

WHEREAS, during said City Council recess, certain administrative matters require action.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newark hereby authorizes the City Manager, or his authorized designee, to act upon the following certain administrative matters during the City Council's meeting recess August 2019, which should not be deferred until the next regularly scheduled meeting of the City Council on September 12, 2019:

- Acceptance of completion of work on City projects
- Approval of agreements as needed for budgeted projects and services
- Approval of plans and specifications
- Award of contracts for budgeted projects
- Denial of claims

BE IT FURTHER RESOLVED that all actions taken by the City Manager, or his authorized designee, pursuant to this resolution, shall be reported to the City Council after the recess.



City of Newark

MEMO

**DATE:** June 3, 2019  
**TO:** City Council  
**FROM:** Sheila Harrington, City Clerk *S.H.*  
**SUBJECT:** Approval of Audited Demands for the City Council Meeting of June 13, 2019.

**REGISTER OF AUDITED DEMANDS**

US Bank General Checking Account

<u>Check Date</u>		<u>Check Numbers</u>	
May 16, 2019	Page 1-2	117757 to 117808	Inclusive
May 24, 2019	Page 1-2	117809 to 117884	Inclusive
May 30, 2019	Page 1	117885 to 117920	Inclusive



## City of Newark

## MEMO

**DATE:** June 3, 2019

**TO:** Sheila Harrington, City Clerk

**FROM:** Krysten Lee, Finance Manager

A handwritten signature in blue ink, appearing to be 'K. Lee', written over the 'FROM' line.

**SUBJECT:** Approval of Audited Demands for the City Council Meeting of June 13, 2019.

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

Final Disbursement List. Check Date 05/16/19, Due Date 05/27/19, Discount Date 05/27/19. Computer Checks.  
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
117757	10658	4LEAF, INC.	05/16/19	149.63	PLAN REVIEW SERVICES
117758	11628	AIKIDO SHUGENKAI INTERNATIONAL	05/16/19	300.00	RECREATION CONTRACT
117759	344	ALAMEDA COUNTY WATER DISTRICT	05/16/19	28,682.91	CITY WATER USE
117760	14	ALPINE AWARDS	05/16/19	2,889.65	TSHIRTS AND UNIFORMS
117761	348	AT&T	05/16/19	177.34	ATT TELECOM & T1 TO FS
117762	4534	BAY AREA BARRICADE SERVICE INC	05/16/19	739.72	SIGNS AND HARDWARE
117763	9888	BUREAU VERITAS NORTH AMERICA INC.	05/16/19	38,040.85	BUILDING INSPECTION PLAN REVIEW SERVICE
117764	11083	BURKE, WILLIAMS & SORENSEN, LLP	05/16/19	5,568.10	LITIGATION & LEGAL CONSULTING
117765	1513	BURTON'S FIRE INC	05/16/19	1,029.82	FLEET SUPPLIES
117766	9150	CAL-WEST LIGHTING & SIGNAL MAINTENANCE I	05/16/19	1,528.65	TRAFFIC SIGNAL MAINTENANCE
117767	11668	COOKE AND ASSOCIATES INCORPORATED	05/16/19	350.00	BACKGROUND INVESTIGATIONS
117768	11549	CSG CONSULTANTS, INC.	05/16/19	2,220.00	OUTSIDE IMPROVEMENT PLAN CHECK FEES FOR
117769	10793	PHILIPPINE G GOUTAIN	05/16/19	110.00	CLASS REFUND
117770	10793	CARMINA GONZALEZ	05/16/19	300.00	RENTAL DEPOSIT REFUND
117771	10677	DAILY JOURNAL CORPORATION CALIFORNIA NEW	05/16/19	430.00	CIP #1175/#1232 PARK PATHWAYS
117772	3356	DELL MARKETING L P C/O DELL USA L P	05/16/19	6,951.89	LAPTOP EQUIP REPLACEMENT
117773	7183	DEMARAY'S GYMNASTICS ACADEMY	05/16/19	907.20	RECREATION CONTRACT
117774	3728	DEPARTMENT OF JUSTICE ACCOUNTING OFFICE	05/16/19	1,042.00	FINGERPRINTING FEES
117775	184	DEPARTMENT OF TRANSPORTATION CASHIER HQ	05/16/19	735.94	FY18-19 SHARED ENERGY COSTS FOR TRAFFIC
117776	310	EQUIFAX INFORMATION SVCS LLC	05/16/19	50.00	CREDIT BUREAU REPORTS
117777	10642	FASTENAL COMPANY	05/16/19	304.62	PARK SUPPLIES
117778	8762	GHA TECHNOLOGIES INC	05/16/19	17,046.02	NUTANIX VIRTUALIZATION PROJECT FOR BOTH
117779	1591	PHILIP H HOLLAND	05/16/19	200.00	RESERVE UNIF ALLOW
117780	7593	BRUCE HOWCROFT	05/16/19	200.00	RESERVE UNIF ALLOW
117781	11443	HIROSHI ICHIMURA	05/16/19	673.20	RECREATION CONTRACT
117782	11681	KBA DOCUMENT SOLUTIONS, LLC.	05/16/19	372.36	COPIER LEASE AGREEMENT (COPIES)
117783	7964	KNORR SYSTEMS INC	05/16/19	2,809.60	POOL CHEMICALS
117784	3210	LA COUNTY SHERIFF'S DEPT	05/16/19	970.00	PATROL POST TRAINING
117785	277	LAKE SHORE LEARNING MATERIALS	05/16/19	409.26	PRESCHOOL SUPPLIES ORDER FOR CLASSROOM A
117786	711	MATTHEW BENDER & CO., INC.	05/16/19	616.36	BOOKS & PUBLICATIONS
117787	11246	LOOMIS ARMORED	05/16/19	299.35	ARMORED CAR SERVICE
117788	11378	MNS ENGINEERS INC	05/16/19	20,190.00	OVERTIME INSPECTIONS DEPOSIT
117789	7335	MUNICIPAL MAINTENANCE EQUIPMENT INC	05/16/19	22.82	FLEET SUPPLIES
117790	11690	NEOPOST USE INC DEPT 3689	05/16/19	460.95	NEOPOST POSTAGE
117791	11613	NEOLOGY INC.	05/16/19	36,803.00	PROJECT 2017-11 SPEED TRAILER
117792	5681	GHD INC DEPT LA 23922	05/16/19	2,880.00	CIP #1184 CITYWIDE SPEED SURVEY
117793	11350	P.F. PETTIBONE & CO	05/16/19	440.85	MINUTE BOOK COVERS
117794	349	PACIFIC GAS & ELECTRIC	05/16/19	47,312.82	CITY ELECTRICITY AND GAS
117795	11322	PAPA JOHNS PIZZA	05/16/19	841.50	CAFE AND BIRTHDAY PARTY FOOD
117796	11591	PORTER RENTS, LLC.	05/16/19	45.63	EQUIPMENT RENTALS
117797	10891	ADONAI PERAZIM INC. dba PRINTS CHARLES R	05/16/19	1,163.94	CIP #1192: SPORTSFIELD TURF AND SKATE PA
117798	11234	RAY MORGAN COMPANY	05/16/19	7,406.45	COPIER LEASE AGREEMENT
117799	10420	JOCELYN E. ROLAND	05/16/19	450.00	PSYCHOLOGICAL EVALUATIONS
117800	11476	MEGHA SALPEKAR	05/16/19	460.50	RECREATION CONTRACT
117801	3237	SIERRA PACIFIC TURF SUPPLY INC	05/16/19	224.05	DOLOMARK FIELD CHALK
117802	377	SIMON & COMPANY INC	05/16/19	1,722.10	LEGISLATIVE SERVICES
117803	2778	STATE OF CALIFORNIA FRANCHISE TAX BOARD	05/16/19	1,197.72	PAYROLL DEDUCTION - GARNISHMENT
117804	11414	SWIM SUIT STATION	05/16/19	644.12	RETAIL MERCHANDISE FOR FRONT DESK-SWIM T
117805	7744	T-MOBILE USA, INC	05/16/19	1,428.00	CALL DETAIL RECORDS
117806	5623	VERIZON WIRELESS	05/16/19	3,716.30	GPS TRACKERS
117807	5623	VERIZON BUSINESS SERVICES	05/16/19	1,043.12	CELL SVC FOR MDT'S

CCS.AP Accounts Payable Release 8.3.0 R\*APZCKREG\*FDL

By MICHELLE VILLANUEVA (MICHELLEVI)

Final Disbursement List. Check Date 05/16/19, Due Date 05/27/19, Discount Date 05/27/19. Computer Checks.  
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
117808	11417	WHOLESALE DISTRIBUTION ALLIANCE	05/16/19	142.50	GOGGLES FOR RETAIL SALES
		Total		244,700.84	

Final Disbursement List. Check Date 05/24/19, Due Date 06/03/19, Discount Date 06/03/19. Computer Checks.  
Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
117809	11539	ACCESS INFORMATION HOLDINGS, LLC.	05/24/19	90.00	SHREDDING SVCS
117810	10223	LEXISNEXIS RISK DATA MANAGEMENT INC BILL	05/24/19	424.20	BACKGROUND CHECKS
117811	11094	ACME AUTO LEASING, LLC	05/24/19	1,909.44	ARMORED VEH LEASE
117812	4214	ALAMEDA COUNTY PUBLIC HEALTH LABORATORY	05/24/19	126.00	RABIES EXAMS
117813	5821	ALL CITY MANAGEMENT SERVICES, INC.	05/24/19	2,304.23	CROSSING GUARD SVCS
117814	12	ALLIED AUTO STORES INC	05/24/19	708.08	FLEET PARTS
117815	11289	ALTA LANGUAGE SERVICES	05/24/19	60.00	BILINGUAL TESTS
117816	381	BAY AREA NEWS GROUP EAST BAY	05/24/19	500.00	ROP ADVERTISING; BEST OF FREMONT 2019
117817	9680	BAY CENTRAL PRINTING	05/24/19	70.36	BUSINESS CARDS
117818	1131	BAY ISLAND OFFICIALS ASSOCIATION ATTN FR	05/24/19	425.00	SPORTS OFFICIATING
117819	11561	BAYSIDE HEATING & AIR CONDITIONING, INC.	05/24/19	210.00	HVAC REPAIRS
117820	5122	JEREMY BECK	05/24/19	351.12	EXPENSE REIMBURSEMENT
117821	23	FRANK BONETTI PLUMBING INC	05/24/19	1,773.71	REPAIRS
117822	442	BSN SPORTS INC. ATTN: A/R DEPARTMENT	05/24/19	274.38	MULTISPORT INDOOR SCOREBOARD W/ REMOTE
117823	33	CENTRAL TOWING & TRANSPORT LLC	05/24/19	1,365.25	FLEET TOWING
117824	11563	CENTRAL VALLEY TOXICOLOGY, INC.	05/24/19	965.00	LAB TESTS
117825	458	CHEVRON AND TEXACO BUSINESS CARD SERVICE	05/24/19	767.96	FUEL
117826	11413	CINDY K. HULL & ASSOCIATES FORENSIC CONS	05/24/19	1,152.50	LATENT PRINTS
117827	1287	PERFORM GROUP LLC DBA CURTAIN CALL OR AL	05/24/19	5,143.67	DANCE COSTUMES FOR ANNUAL REVUE
117828	10649	YOTAM SCHVARTZBARD	05/24/19	1,000.00	PERFORMANCE BOND EP# 2019-0036
117829	10793	DIPTI DEDHIA	05/24/19	300.00	RENTAL DEPOSIT REFUND
117830	10793	ANAND SUBRAMANIAN	05/24/19	300.00	RENTAL DEPOSIT REFUND
117831	10793	WORD INTERNATIONAL MINISTRIES	05/24/19	120.00	PARTIAL REFUND
117832	309	EMBLEM ENTERPRISES, INC.	05/24/19	642.88	PATCHES
117833	10725	GUSTAVO ARROYO	05/24/19	1,000.00	EE COMPUTER LOAN PROGRAM
117834	904	EMPLOYMENT DEVELOPMENT DEPT.	05/24/19	2,642.00	UNEMPLOYMENT INSURANCE
117835	10642	FASTENAL COMPANY	05/24/19	143.47	PARK SUPPLIES
117836	6437	FOREMOST PROMOTIONS	05/24/19	261.08	K9 SUPPLIES
117837	234	FREMONT ALARM C/O JOE TRIMBLE	05/24/19	294.51	ALARM REPAIRS
117838	5106	CITY OF FREMONT REVENUE DIVISION	05/24/19	10,542.28	SACGISA
117839	313	FREMONT URGENT CARE CENTER	05/24/19	835.00	PRE-EMPLOYMENT/DOT PHYSICALS
117840	8762	GHA TECHNOLOGIES INC	05/24/19	73,569.51	NUTANIX VIRTUALIZATION PROJECT FOR BOTH
117841	1457	HOME DEPOT CREDIT SERVICES DEPT. 32 - 25	05/24/19	1,019.01	BUILDING SUPPLIES
117842	11540	JANSSEN'S PLACE AUTO BODY	05/24/19	9,006.25	VEHICLE REPAIRS
117843	5692	JET MULCH INC	05/24/19	24,983.15	EFW INSTALLATION AT PARKS
117844	10486	SHAKATI KHALSA	05/24/19	197.00	RECREATION CONTRACT
117845	11492	KIER & WRIGHT CIVIL ENGINEERS AND SURVEY	05/24/19	4,039.49	CIP #1220 SKATE PARK AND CIP #1221 SPORT
117846	293	LANGUAGE LINE SERVICES INC	05/24/19	95.17	INTERPRETATION SVCS
117847	7189	LINCOLN AQUATICS	05/24/19	1,171.38	POOL CHEMICALS AND SUPPLIES
117848	8218	JOLIE MACIAS	05/24/19	160.00	EXPENSE REIMBURSEMENT
117849	11673	MAILFINANCE DEPT 3682	05/24/19	415.11	MAILING MACHINE LEASE AGREEMENT
117850	11684	MALLORY SAFETY & SUPPLY LLC	05/24/19	586.90	SAFETY SUPPLIES AND VESTS
117851	11309	MANUEL FERNANDEZ CONSTRUCTION	05/24/19	5,499.91	WAXING/CLEANING
117852	9029	MEYERS NAVE RIBACK SILVER & WILSON	05/24/19	26,891.26	LITIGATION & LEGAL CONSULTING SRVCS
117853	10907	MICHAEL YORKS	05/24/19	3,075.00	BACKGROUND INVESTIGATIONS
117854	11357	MISSION UNIFORM SERVICE	05/24/19	1,708.91	TOWELS MATS & UNIFORMS
117855	11217	ANDREW MUSANTRY	05/24/19	114.49	EXPENSE REIMBURSEMENT
117856	324	NEWARK CHAMBER OF COMMERCE	05/24/19	1,800.00	STATE OF THE CITY LUNCH, APRIL 25, 2019
117857	327	OCCU-MED LTD	05/24/19	80.00	PRE-EMPLOYMENT PHYSICALS
117858	349	PACIFIC GAS & ELECTRIC	05/24/19	2,195.64	STREETLIGHTS AND TRAFFIC SIGNALS
117859	11697	PAKPOUR CONSULTING GROUP, INC.	05/24/19	6,113.63	ENGINEERING PLAN CHECK AND INSPECTION SE

Final Disbursement List. Check Date 05/24/19, Due Date 06/03/19, Discount Date 06/03/19. Computer Checks.  
 Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
117860	11322	PAPA JOHNS PIZZA	05/24/19	414.50	CAFE AND BIRTHDAY PARTY FOOD
117861	11330	POLICE TECHNICAL	05/24/19	450.00	NON POST INV TRAINING
117862	1017	RONALD POSADAS	05/24/19	150.54	TRAVEL EXPENSE REIMBURSEMENT
117863	10927	PUBLIC SAFETY TRAINING INSTITUTE	05/24/19	596.00	PATROL POST TRAINING
117864	9811	REDFLEX TRAFFIC SYSTEMS	05/24/19	18,800.00	REDLIGHT CAMERA
117865	7885	SLOAN SAKAI YEUNG & WONG LLP	05/24/19	280.00	LEGAL ADVICE FEES
117866	220	SONITROL	05/24/19	2,136.00	REGULAR MONITORING OF SECURITY CAMERAS
117867	1683	S.B.R.P.S.T.C.	05/24/19	126.00	PATROL POST TRAINING
117868	11533	ST. FRANCIS ELECTRIC. LLC.	05/24/19	10,897.50	STREETLIGHT MAINTENANCE
117869	503	STANDARD INSURANCE COMPANY	05/24/19	597.40	EMPLOYEE LIFE INSURANCE AND AD&D COVERAG
117870	40	STAPLES ADVANTAGE	05/24/19	905.03	OFFICE SUPPLIES
117871	9476	YSERCO INC	05/24/19	3,015.35	SILLIMAN CONTRACTUAL SVCS
117872	1765	TEMPERATURE TECHNOLOGY INC.	05/24/19	4,516.68	PROJECT 1144 CITYWIDE HVAC
117873	11642	TIAA COMMERCIAL FINANCE, INC.	05/24/19	432.92	COPIER LEASE AGREEMENT (KBA)
117874	10318	SHANNON TODD	05/24/19	1,840.84	EXPENSE REIMBURSEMENT
117875	10968	UTILITY TELEPHONE	05/24/19	17,012.16	UTILITY TELEPHONE PHONE AND WAN SERVICE
117876	853	VALLEY OIL COMPANY LOCKBOX# 138719	05/24/19	2,103.46	FUEL
117877	11651	VERDE DESIGN INC	05/24/19	17,873.08	DESIGN SERVICES FOR CIP #1192 SPORTSFIEL
117878	5623	VERIZON WIRELESS	05/24/19	418.11	CELL SERVICE FOR TRAKIT IPADS
117879	10484	MATTHEW WARREN	05/24/19	939.57	EXPENSE REIMBURSEMENT
117880	6977	WEISSMAN DESIGNS FOR DANCE	05/24/19	116.26	COSTUMES FOR ANNUAL DANCE REVUE
117881	5050	WEST COAST ARBORISTS INC	05/24/19	105,455.00	PARK TREE WORK
117882	11693	WEX BANK	05/24/19	795.51	FUEL CREDIT CARDS
117883	11466	YORK RISK SERVICES GROUP ATTN: CLIENT TR	05/24/19	11,834.54	WORKERS COMPENSATION CLAIMS #NEWAR-0430
117884	11466	YORK	05/24/19	3,104.67	WORKERS COMPENSATION ADMINISTRATION FEES
Total				404,235.05	



Final Disbursement List. Check Date 05/30/19, Due Date 06/10/19, Discount Date 06/10/19. Computer Checks.  
 Bank 1001 US BANK

MICR Check#	Vendor Number	Payee	Check Date	Check Amount	Description
117885	3853	COUNTY OF ALAMEDA INTERNAL AUDIT UNIT RI	05/30/19	1,772.50	CITATION PROCESSING FEES - APR'19
117886	218	ALAMEDA CO LIBRARY ATTN: FINANCIAL SERVI	05/30/19	27,562.50	CITY/COUNTY AGREEMENT - ADDT'L LIBRARY S
117887	284	ALAMEDA COUNTY INFORMATION TECHNOLOGY DE	05/30/19	3,936.35	AWS ACCESS FEE
117888	348	AT&T	05/30/19	113.95	ATT TELECOM & T1 TO FS
117889	11385	BBVA COMPASS	05/30/19	374,282.46	2012 RFND COP PRINCIPAL & INTEREST
117890	5122	JEREMY BECK	05/30/19	327.12	EXPENSE REIMBURSEMENT
117891	7898	CALIFORNIA DIESEL & POWER	05/30/19	587.00	GENERATOR REPAIR
117892	10261	CARBONIC SERVICE	05/30/19	195.28	CARBON DIOXIDE
117893	214	CENTRAL VETERINARY HOSPITAL	05/30/19	219.38	VET SVCS
117894	10060	COMCAST	05/30/19	111.91	CABLE BILL
117895	10793	SHRI GURU RAVIDAS SABHA BAY AREA	05/30/19	300.00	RENTAL DEPOSIT REFUND
117896	10793	VERONICA BELTRAN	05/30/19	300.00	RENTAL DEPOSIT REFUND
117897	10725	LISA VERA	05/30/19	1,274.30	EE COMPUTER LOAN PROGRAM
117898	11371	EVAN HARRAR	05/30/19	600.00	VIDEOTAPE-STATE OF CITY ADDRESS 2019 Rei
117899	10642	FASTENAL COMPANY	05/30/19	64.46	PARK SUPPLIES
117900	522	FEDEX	05/30/19	106.60	FEDEX EXPRESS
117901	73	THE ED JONES CO INC	05/30/19	60.09	BADGES & INSIGNIA
117902	11130	DANIEL KHAIRY	05/30/19	22.49	EXPENSE REIMBURSEMENT
117903	10298	MANAGED HEALTH NETWORK BANK OF AMERICA	05/30/19	374.48	EMPLOYEE ASSISTANCE PROGRAM
117904	11467	SOFIA MANGALAM	05/30/19	30.39	EXPENSE REIMBURSEMENT
117905	1738	NEWARK BETTERMENT CORPORATION	05/30/19	560.00	2019 VOLUNTEER RECOGNITION DINNER
117906	10891	ADONAI PERAZIM INC. dba PRINTS CHARLES R	05/30/19	269.99	PRINT JOBS
117907	11376	QUINCY ENGINEERING INC	05/30/19	47,673.10	PROFESSIONAL ENGINEERING SERVICES FOR CE
117908	11635	RHOADES PLANNING GROUP, INC.	05/30/19	6,053.01	OLD TOWN SP
117909	11537	JOSEPH RIVERA	05/30/19	64.46	EXPENSE REIMBURSEMENT
117910	9547	ROSAS BROTHERS CONSTRUCTION	05/30/19	17,769.60	PROJECT 1181 RETENTION PAYMENT
117911	5164	SAN MATEO REGIONAL NETWORK INC SMRN.COM	05/30/19	175.00	DNS AND MAIL FILTERING
117912	11285	SANTANDER LEASING LLC	05/30/19	46,497.01	SWEEPER LEASE FY18/19
117913	5217	STATE OF CALIFORNIA DEPARTMENT OF CONSUM	05/30/19	115.00	PROFESSIONAL LICENSE RENEWAL FOR TRANG T
117914	676	SUMMIT UNIFORMS CORP	05/30/19	664.24	TRAFFIC UNIFORM FOR SIMON
117915	11644	TIREHUB, LLC.	05/30/19	741.78	TIRES
117916	11487	VANIR CONSTRUCTION MANAGEMENT, INC.	05/30/19	19,794.00	CONSTRUCTION MANAGEMENT SERVICES FOR THE
117917	10998	GARY M SHELDON VBS SERVICES	05/30/19	350.00	BLOOD W/DRAWAL SVC
117918	5623	VERIZON WIRELESS	05/30/19	1,671.57	CELL SVC FOR MDT'S
117919	11720	MICHELLE VILLANUEVA	05/30/19	68.65	EXPENSE REIMBURSEMENT
117920	3999	WEBCOR BUILDERS	05/30/19	2,266,099.60	CIVIC CENTER DESIGN/BUILD SERVICES
Total				2,820,808.27	