

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 27, 2019

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meetings of June 13, 2019.
(MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

- C.1 Introduction of employees.**

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.12 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Authorization for the City Manager to execute Task Order No. 18 to the Joint Powers Agreement with the City of Fremont for Paratransit Services – from Recreation and Community Services Director Zehnder. (RESOLUTION)**
- F.2 Authorization for the City Manager to execute Task Order No. 19 to the Joint Powers Agreement with the City of Fremont for Case Management services – from Recreation and Community Services Director Zehnder.
(RESOLUTION)**

- F.3 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 – from Interim City Attorney Kokotaylo and City Manager Benoun. (RESOLUTION)**
- F.4 Establishment of the Fiscal Year 2019-2020 Tax Appropriations Limit – from Finance Manager Lee. (RESOLUTION)**
- F.5 Approval to add one classification of Vehicle Abatement Officer position by amending the Employee Classification Plan, and the Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees (NAME) - from Police Chief Carroll and Administrative Analyst Que-Garcia. (RESOLUTIONS)**
- F.6 Approval to add one Lead Child Care Instructor position to the Employee Classification Plan, and amend the Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees (NAME) – from Recreation and Community Services Director Zehnder and Human Resources Technician Huynh. (RESOLUTION)**
- F.7 Approval of 2019 Engineering and Traffic Survey for Citywide Speed Limits, Project No. 1184 and Establishment of Speed Limits – from Assistant City Engineer Imai. (RESOLUTION)**
- F.8 Approval of plans and specifications, acceptance of bid and award of contract to for the Base Bid and Additive Alternate Bids No. 1 and No. 2 to DeSilva Gates Construction LP for the 2019 Asphalt Concrete Street Overlay Program, Project 1227 – from Assistant City Engineer Imai. (MOTION)(RESOLUTION)**
- F.9 Approval of plans and specifications, acceptance of bid, and award of contract for the Base Bid to Bay Construction Co. for Newark Community Dog Park, Project No. 1208 and amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for fiscal year 2019-2020 – from Assistant City Engineer Imai. (MOTION)(RESOLUTION)**
- F.10 Setting a July 25, 2019, public hearing date for the establishment of an Underground Utility District on Newark Boulevard between Fair Avenue and Bellhaven Avenue (Newark Underground District No. 15) – from Public Works Director Fajeau. (RESOLUTION)**

F.11 Approval of Investment Policy – from Finance Manager Lee. (RESOLUTION)

F.12 Amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2018 - 2019 for General Revisions and Operating Increases – from Finance Manager Lee. (RESOLUTION)

NONCONSENT

F.13 Approval of Annual Engineer’s Reports, intention to levy and collect assessments and setting date of public hearing on July 25, 2019 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. (RESOLUTIONS-2)

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION

I. CITY COUNCIL MATTERS

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

K. ORAL COMMUNICATIONS

L. APPROPRIATIONS

Approval of Audited Demands. (MOTION)

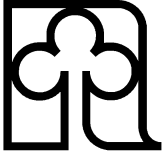
M. CLOSED SESSION

- M.1 Conference with Legal Counsel for initiation of litigation pursuant to paragraph (4) of subdivision (d) of California Government Code Section 54956.9: 3 cases, for the City Council to consider whether to authorize the Mayor and Interim City Attorney to sign onto amicus briefs in *R.G. & G.R. Harris Funeral Homes Inc. v. EEOC & Aimee Stephens*; *Altitude Express Inc. v. Zarda*; and *Bostock v. Clayton County* – from Interim City Attorney Kokotaylo.**

N. ADJOURNMENT

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

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



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- B.1 Approval of Minutes of the City Council meetings of June 13, 2019.
(MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

C.1 Introduction of employees.

Background/Discussion – Senior Administrative Support Specialist Franklin Lee recently joined the Public Works Department. He will each be introduced at the City Council meeting.

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.12 be acted on simultaneously unless separate discussion and/or action is requested by a Council Member or a member of the audience.)

CONSENT

- F.1 Authorization for the City Manager to execute Task Order No. 18 to the Joint Powers Agreement with the City of Fremont for Paratransit Services – from Recreation and Community Services Director Zehnder. (RESOLUTION)**

Background/Discussion – Door-to-door shared ride transportation services are an essential service offered to Newark residents who are 70 years of age and older or who are unable to access public transit independently due to a medical or disabling health condition. These paratransit services are provided to elderly and disabled Newark

residents in order to improve their access to health care, shopping, errands and social and recreational activities.

The City has contracted for paratransit services with the City of Fremont since 2013. The size and scope of Fremont’s program provides Newark residents with expanded and efficient services. The following table provides a summary of services to be provided through the City of Fremont under a contract for services with MV Transportation, local taxi companies, Lyft and Life ElderCare:

FY19/20 Service Parameters	Fremont/Newark Wheelchair Accessible Paratransit Service
Service Hours	Monday – Sunday, 8 am – 6 pm
Service Area	All of Fremont, Newark and Union City.
*Fares	\$4 per one-way trip within Newark, Fremont and Union City
Reservation Hours	Monday – Friday, 8 am – 5 pm Centralized reservations and dispatch with our contracted service provider that ensures that riders can reach a live person to make reservations and to check on the status of a ride (weekdays and weekends).
Enrollment processing time	On the same day of receipt of application. Expedited access to transportation can also be arranged on the same day or the next day as scheduling capacity allows.

FY19/20 Service Parameters	Subsidized Taxi Voucher Program
Service Hours	24 hours per day, seven days a week. Ride requests are made same day. Riders will be picked up within 45 minutes of their call or within 10 minutes of a time order request.
Service Area	All of Newark, Fremont and Union City.
Fares	Depends on distance traveled. \$4 per taxi voucher (purchased through City of Fremont). Each voucher subsidizes up to \$16 in taxi meter fare. Riders responsible for fares beyond the voucher subsidy.
Enrollment Requirements	Must be enrolled in the Fremont/Newark Paratransit program.

FY19/20 Service Parameters	Subsidized Direct-Ride Hailing Service with Lyft and Ride-Hailing Service with Life Elder Care
Service Hours	24 hours per day, seven days a week for rides ordered through an individual’s smart phone. Rides provided through LifeElder Care (for individuals without smartphones) will be available Monday-Friday, 8 am – 6 pm. Ride requests are made on the same day through the Lyft app on the rider’s own smartphone. Riders will receive special codes to apply to their

	rides in order to receive subsidized rides. Riders without smartphones will call Life ElderCare for a ride and Life ElderCare will book the individual’s ride on the Lyft ride-hailing platforms.
Service Area	All of Newark, Fremont and Union City. Out-of-Area medical trips by staff approval only.
Fares	Riders pay the first \$4 of a trip and up to \$16 of the trip will be subsidized. Riders are responsible for all fares above \$20. For staff-approved medical out-of-area trips, rider pays first \$4 of trip and up to \$46 of the trip will be subsidized; riders are responsible for all fares above \$50. Passenger fares will be charged directly through the Lyft app or by Life ElderCare.
Enrollment Requirements	Must be enrolled in the Fremont/Newark Paratransit program.

In addition to paratransit, taxi voucher and direct-ride hailing services, Newark residents benefit from the high level of service coordination and customer service provided by the City of Fremont’s paratransit services team. City of Fremont staff ensure that elderly and disabled residents have expedited access to transportation services (applications can be processed within hours and urgent need transportation can be scheduled on the next day and sometimes even on the same day). Paratransit enrollment packets are sent out within a day or two of receipt of a completed application.

Funding for Newark Paratransit services is provided through Measure B and Measure BB sales tax and administered through the Alameda County Transportation Committee. For fiscal year 2019-2020, staff is recommending funding in the amount of \$284,000.

Attachments- Resolution, Task Order No. 18

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to execute Task Order No. 18 to the Joint Powers Agreement with the City of Fremont for Newark Paratransit services.

F.2 Authorization for the City Manager to execute Task Order No. 19 to the Joint Powers Agreement with the City of Fremont for Case Management services – from Recreation and Community Services Director Zehnder.

(RESOLUTION)

Background/Discussion – Case Management is a vital component of the services offered through the City of Newark Senior Services program. It targets frail, homebound Newark seniors, striving to keep the elder person in their own home rather than being institutionalized. An assessment is made of the senior’s overall well-being, including health (physical and mental), financial, transportation and/or housing needs, personal safety issues, and the ability to care for themselves, either on their own or with assistance. If appropriate, a care plan for services is developed to assist the client with services and to provide ongoing monitoring of the client and the services put in place.

The Case Management Program receives referrals from the Police and Fire Departments. As first responders they encounter elderly that need assistance on many levels. The case manager is the answer to many of these referrals. Case Management services often result in the elimination of repeated callouts for the Police and Fire Departments as a crisis situation receives prompt intervention. This allows safety personnel to focus on other business within the City, thereby not straining the City's safety resources. With ever-increasing demands on City staff, it is reassuring to know that assistance is available for the City's most vulnerable residents.

The City has contracted for Case Management services with the City of Fremont since 1997. The Fiscal Year 2018-2019 agreement was in the amount of \$5,000 and provided one and one half hours of Case Management services per week. Based on the number of cases opened during the current fiscal year, it appears that one and one half hour of service per week will be sufficient to meet the needs of Newark clients. If demand exceeds the available funding, new clients may be placed on a waiting list or directed to other fee-based agencies until the case load can accommodate them. Staff is recommending that the Case Management funding for Fiscal Year 2019-2020 remain at \$5,000.

Attachments – Resolution, Task Order No. 19

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to execute Task Order No. 19 to the Joint Powers Agreement with the City of Fremont for Case Management Services.

F.3 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 – from Interim City Attorney Kokotaylo and City Manager Benoun. (RESOLUTION)

Background/Discussion – The City Council previously approved this item on May 23, 2019. Since that time, the County of Alameda has requested minor modifications to the originally approved agreement. By way of background, the County of Alameda is designated, by California Health and Safety Code Division 2.5, Section 1797.94, as the responsible agency for establishing policies and procedures for the approval and designation of paramedic service providers within its jurisdictions, including the City of Newark. The County of Alameda established an Emergency Medical District and has entered into contracts with public and private providers to assure that emergency medical services are available within the jurisdictions.

The City of Newark receives fire protection services through a contract with the Alameda County Fire Department (ACFD). ACFD provides fire suppression, fire prevention, first aid, Basic Life Support (BLS), and Advanced Life Support (ALS). ALS services are provided by staffing a paramedic on each fire unit within the City of Newark.

The City of Newark currently provides for a paramedic on each of the department's three units (two Engine companies and one Truck company) and thus has three First Responder Advance Life Support units.

The City Council previously approved the existing First Responder Advance Life Support Services (FRALS) Agreements with the County of Alameda, which is currently set to expire on June 30, 2019.

The proposed FRALS Agreement would be in effect for five years beginning July 1, 2019 and allows for a five-year extension upon mutual consent of both parties. Under the proposed FRALS Agreement, the City is an authorized provider of FRALS within the Alameda County EMS system. The FRALS Agreement establishes the procedures and processes for providing these services including:

- The priority of calls to requests for medical assistance and the services area for the City,
- The performance standard that the City must meet in responding to calls for service,
- Personnel and equipment requirements, and
- Administrative provisions related to the failure to meet the requirements of the agreement.

The proposed FRALS Agreement provides emergency services for the residents of Newark generally consistent with current services.

The minor modification to the FRALS Agreement previously approved involves a minor revision to a definition of the City's Medical Director to reflect this particular individual's employment or retention by the Alameda County Fire District. This modification is simply to more accurately depict the arrangement that exists for Newark.

Attachments – Resolution, Agreement

Action – Staff recommends that the City Council, by resolution, authorize 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.

F.4 Establishment of the Fiscal Year 2019-2020 Tax Appropriations Limit – from Finance Manager Lee. (RESOLUTION)

Background/Discussion – In November 1979, California voters approved Proposition 4 (the Gann Initiative) that added Article XIII B to the State Constitution. The State Legislature added Division 9 (commencing with Section 7900) to Title I of the Government Code to implement Article XIII B as amended with Proposition 98 in 1988 and Proposition 111 in 1990.

The original legislation implementing the provisions of Article XIII B became effective January 1, 1981. In accordance with that legislation, the governing body of each local jurisdiction in California must, by resolution, establish a Tax Appropriations Limit (also referred to as the GANN Limit) prior to the beginning of each fiscal year. The Tax Appropriations Limit is based on actual appropriations during the State of California Fiscal Year 1978-79 and adjusted each year using population and inflation adjustment factors.

California voters approved Proposition 111 on June 5, 1990, amending Article XIII B. Proposition 111 allows local jurisdictions to choose among measures of inflation and population growth to compute the adjustment factor. The measures for inflation (price factors) include growth in California per capita income or growth in the City's gross assessed valuation due to new non-residential construction; while measures for population growth include population growth within the county or city.

On June 28, 2018, the City Council adopted Resolution No. 10815 establishing the Fiscal Year 2018-2019 Tax Appropriations Limit to \$376,055,491. The City's Tax Appropriations Limit was calculated using the percentage change in California per capita income as the price factor adjustment since the Local assessment roll data necessary to calculate the percentage change in the nonresidential assessed valuation is generally not available from the County Assessor's Office until well into the fiscal year. In the absence of final information on this important factor, it is recommended that the known California per capita personal income of 3.85 percent be adopted for Fiscal Year 2019-2020. For the population adjustment factor, it is recommended that the City's percent change in population of 3.25 percent be adopted for Fiscal Year 2019-2020 since the higher percentage change in population is most advantageous to the City.

In accordance with Proposition 111 guidelines, and based on the above information, the proposed Fiscal Year 2019-2020 Tax Appropriations Limit is \$ 403,225,969. The 2019-2020 Biennial Budget appropriations subject to the limit are estimated to be well below the proposed Tax Appropriations Limit.

Attachment - Resolution

Action - It is recommended that the City Council, by resolution, establish a Tax Appropriations Limit and update the annual adjustment factors for Fiscal Year 2019-2020.

- F.5 Approval to add one classification of Vehicle Abatement Officer position by amending the Employee Classification Plan, and the Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees (NAME) - from Police Chief Carroll and Administrative Analyst Que-Garcia. (RESOLUTIONS)**

Background/Discussion – The Police Department and the Human Resources Department are recommending the classification of Vehicle Abatement Officer to provide assistance to sworn officers by performing a variety of low risk public safety functions assigned by the Police Department. With the growth of the city, there has been a larger need and concern from the community regarding traffic related issues. The Vehicle Abatement Officer will perform moderately complex traffic related duties on a day to day operation, which includes search warrants and enforcing municipal and vehicle codes. The proposed new classification describes the position’s specialized duties and responsibilities.

The key responsibilities of the Vehicle Abatement Officer includes the following:

- Locates, marks, and tags vehicles, that appear to be abandoned on either public or private property;
- Conducts follow-up inspections of all previously marked vehicles to determine if vehicle should be towed; arranges and oversees towing of all abandoned vehicles;
- Prepares and maintains daily activity log and all necessary reports;
- Acts as a liaison with tow companies and the public; and
- Answers a wide variety of questions from the public regarding parking and related traffic laws, location of public buildings, parks and other points of interest.

The recommended monthly salary range for the Vehicle Abatement Officer position is \$5,026.70 to \$6,110.03.

Attachments –Resolutions (2), Class Specification

Action - Staff recommends that the City Council by resolutions: (1) amending Resolution No. 2505, Employee Classification Plan, to add one new classification entitled Vehicle Abatement Officer, and (2) amending Resolution No. 10675, the Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees to add the classification, entitled Vehicle Abatement Officer.

F.6 Approval to add one Lead Child Care Instructor position to the Employee Classification Plan, and amend the Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees (NAME) – from Recreation and Community Services Director Zehnder and Human Resources Technician Huynh. (RESOLUTION)

Background/Discussion – The City has a need for a Lead Child Care Instructor. The current incumbent in the Child Care Instructor position has the skillset to perform above the current class specification. The incumbent is capable of handling increased duties that will assist the Recreation Supervisor in delivering the day-to-day business operations in Licensed Child Care within the Recreation and Community Services Department.

Reporting to the Recreation Supervisor, the Lead Child Care Instructor will have administrative and in-class supervisory responsibility for Child Care Instructors in Licensed Child Care.

Major responsibilities will include:

- On-site supervision of up to four Child Care Instructors;
- Lead facility tours;
- Provide program information for prospective families;
- Arrange parent-teacher conferences;
- Ensure daily compliance with California State Licensing requirements;
- Advise Recreation Supervisor of student behavior issues; and
- Provide classroom coverage during any Child Care Instructor absence and vacation.

The proposed monthly salary for the Lead Child Care Instructor is \$4,522.61 - \$5,502.75.

Attachments – Resolutions (2), Class Specification

Action – Staff recommends that the City Council, by resolutions: 1) amend Resolution No. 2505, the Employee Classification Plan, and 2) amend Resolution No. 10675, the Memorandum of Understanding between the City of Newark and the Newark Association of Miscellaneous Employees (NAME), to add a Lead Child Care Instructor classification.

F.7 Approval of 2019 Engineering and Traffic Survey for Citywide Speed Limits, Project No. 1184 and Establishment of Speed Limits – from Assistant City Engineer Imai. (RESOLUTION)

Background/Discussion – Pursuant to the California Vehicle Code (CVC), an Engineering and Traffic Survey is required every five, seven or ten years to justify the enforcement of speed limits through the use of radar. The most recent Engineering and Traffic Survey for Newark was approved by the City Council on September 13, 2012. Pursuant to Article 1, Section 40802, subdivision (c) of the CVC, this Engineering and Traffic Survey is valid for a period of seven (7) years.

On July 13, 2017, the City Council approved a Contractual Services Agreement with Omni Means, Ltd. for on-call traffic engineering services. A Task Order was issued to Omni Means, Ltd. pursuant to their Contractual Services Agreement to prepare this year’s required Engineering and Traffic Survey.

The Engineering and Traffic Survey recommends the following speed limit changes:

Street	Section	Speed Limit	
		Existing	Recommended
Stevenson Boulevard	West of Cherry Street	40 mph	35 mph
Willow Street	Between	40 mph	35 mph

	Cedar Boulevard and Thornton Avenue		
Willow Street	Between Thornton Avenue and Central Avenue	40 mph	35 mph

Section 2B.13 of the California Manual on Uniform Traffic Control Devices (MUTCD) outlines procedures used to apply surveyed speed data to establish speed limits in accordance with applicable sections of the CVC. Based on the 85th percentile, or predominant vehicle speed measured on the three street segments listed above and other factors, the Engineering and Traffic Survey recommends adjustment of the posted speed limit from 40 mph to 35 mph for each segment.

The Engineering and Traffic Survey recommends that speed limits on all remaining City streets remain the same as currently posted. Police and Public Works Department staff are in agreement with Omni Means’ final recommendations.

Attachments – 2019 Engineering and Traffic Survey, Resolution

Action – Staff recommends that the City Council, by motion, approve the 2019 Engineering and Traffic Survey for Citywide Speed Limits, Project No. 1194 and by resolution, establish speed limits.

F.8 Approval of plans and specifications, acceptance of bid and award of contract to for the Base Bid and Additive Alternate Bids No. 1 and No. 2 to DeSilva Gates Construction LP for the 2019 Asphalt Concrete Street Overlay Program, Project 1227 – from Assistant City Engineer Imai. (MOTION)(RESOLUTION)

Background/Discussion – This year’s pavement maintenance overlay and patch paving projects are being combined into one project to encourage better unit prices. The combined project scope of work includes localized patch paving, pavement grinding, placement of new asphalt concrete pavement, and re-striping on various City streets. The project also includes two Additive Alternate Bids for reimbursable work on behalf of Alameda County Water District (ACWD) and Union Sanitary District (USD). The scope of work for ACWD’s and USD’s respective Alternate Bid Items include alterations and adjustment of existing utilities to finish paving grade after the overlay.

Patch paving consists of the removal and replacement of localized pavement failures. The project includes patch paving work on streets that will be resurfaced with a slurry seal under a separate contract, Project 1228, anticipated to be awarded in August. The project will also perform patch paving on streets where a localized pavement failure is too severe to correct with a surface (skin) patch, but the entire street does not need structural upgrading with an asphalt concrete overlay.

Asphalt concrete overlays involve the placement of an additional layer of asphalt concrete pavement on streets showing a relatively uniform distress pattern over most

of the pavement surface. This condition indicates that the pavement needs structural upgrading to accommodate current and future traffic loads. A structural upgrade will prevent complete failure of the street pavement and avoid the very expensive process of complete roadway reconstruction. The increased structural strength due to an asphalt concrete overlay typically extends the useful life of a street by at least ten years.

The streets on the asphalt concrete overlay project include: Cherry Street from Thornton Avenue to Dairy Avenue, Flanders Drive, Jasmine Avenue, Larkspur Street, and McLaughlin Avenue.

Bids for the project were opened on June 11, 2019 with the following results:

Bidder	Base Bid	Alt. Bid No. 1 (ACWD)	Alt. Bid No. 2 (USD)	Total Bid
DeSilva Gates Construction LP	\$1,126,056.00	\$51,600.00	\$55,300.00	\$1,232,956.00
PMK Contractors, LLC	1,151,927.75	38,700.00	36,600.00	1,227,227.75
G. Bortolotto & Company, Inc.	1,169,779.50*	40,850.00	42,925.00	1,253,554.50
Goodfellow Bros. California, LLC	1,171,261.75	37,625.00	41,820.00	1,250,706.75
Interstate Grading & Paving, Inc.	1,248,880.25	44,720.00	58,460.00	1,352,060.25
Engineer's Estimate	\$1,300,000.00	\$43,000.00	\$50,000.00	\$1,393,697.50

* *Corrected for mathematical error*

As stated in the Project Specifications, determination of the low monetary bidder was based on the Total Base Bid only without considering any alternate bid totals. The lowest monetary bidder, DeSilva Gates Construction LP, submitted a responsive bid, is experienced in this type of project, successfully completed a similar project for the City of Newark in 2012, and is a responsible bidder.

After review of the bids received from DeSilva Gates Construction LP for Additive Alternate Bid Items Nos. 1 and 2, both ACWD and USD recommend adding their respective Additive Alternate Bid Item to the construction contract. The City would be reimbursed for all work performed by the contractor on behalf of ACWD and USD. Staff recommends that the City Council accept the bid and award the contract to the lowest responsible bidder, DeSilva Gates Construction LP for the Base Bid, and Additive Alternate Bids No. 1 and No. 2 in the amount of \$1,232,956.

Staff recommends including an additional \$62,044 in construction contingency, equivalent to approximately five percent of the contract amount, to account for material testing and other unanticipated construction costs. The added contingency would bring the recommended allocation for the project to \$1,295,000.

The 2018-2020 Biennial Budget includes sufficient funding for this project in Fiscal Year 2018-2019 through a combination of Alameda County Measure B/BB Sales Tax funds, Vehicle Registration Fee funds, SB1 Road Maintenance and Rehabilitation Account funds, and Highway Users Tax.

Attachment – Resolution

Action – Staff recommends that the City Council, by motion, approve the plans and specifications and by resolution, accept the bid and award the contract for the Base Bid and Additive Alternate Bids No. 1 and No. 2 to DeSilva Gates Construction LP for the 2019 Asphalt Concrete Street Overlay Program, Project 1227.

F.9 Approval of plans and specifications, acceptance of bid, and award of contract for the Base Bid to Bay Construction Co. for Newark Community Dog Park, Project No. 1208 and amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for fiscal year 2019-2020 – from Assistant City Engineer Imai. (MOTION)(RESOLUTION)

Background/Discussion – The Citywide Parks Master Plan, adopted by the City Council in June 2017, identified the construction of a dog park at Newark Community Park as a high priority project. In March 2018, the City Council approved the Final Conceptual Master Plan for the Newark Community Dog Park, Project No. 1208.

Newark’s first dog park will be located at Newark Community Park, across from the Newark Community Center. The new dog park will provide such amenities as separated fence-enclosed areas with double-gated entrances and exits for small and large dogs, shaded seating, agility equipment, and water for both canines and owners. On June 13, 2019, City Council selected “NewBark Dog Park” as the name of the dog park.

Bid Results

Project bids were opened on June 4, 2019. The City received a total of four bids as follows:

	Bay Construction Co.	Marina Landscape	Guerra Construction Group	Suarez & Munoz Construction	Engineer’s Estimate
BASE BID	\$742,672.90	\$857,985.62	\$973,905.95	\$1,620,107.00	\$580,000.00
Alternate Bid No. 1	\$40,000.00	46,720.00	\$97,000.00	65,000.00	\$28,000.00
Potential Total	\$782,672.90	\$904,705.62	\$1,070,905.95	\$1,685,107.00	\$608,000.00

As stated in the Project Specifications, determination of the low monetary bidder was based on the Total Base Bid only without considering any alternate bid totals. The low monetary bidder, Bay Construction Co. provided a responsive bid, is experienced in this type of project and is a responsible contractor.

Additive Alternate Bids

The project included an Additive Alternate Bid Item for the installation of two triangular metal shade structures, which would be located at separate seating areas within the large dog park, separate from the main plaza area.

Because the Base Bid submitted by the low monetary bidder, Bay Construction Co., is more than the Engineer's Estimate, staff does not recommend that the City Council add Additive Alternate Bid Item No. 1 to the construction contract. In addition, the Base Bid includes a large metal shade structure in the in the main plaza area of both the small and large dog parks. Therefore, a sufficient amount of shaded seating will be provided without the addition of Alternate Bid Item No. 1.

Project Costs

In addition to the base bid cost of \$742,672.90, staff recommends including \$148,527.10 in construction contingency, equivalent to approximately twenty percent of the contract amount, to account for material testing, special inspection services, compliance with clean water monitoring and reporting requirements, and other unanticipated construction costs. The added contingency would bring the recommended allocation for the project to \$891,200.00

The 2018-2020 Biennial Budget and Capital Improvement Plan includes \$600,000 for construction of the Dog Park at Newark Community Park to be funded by the Measure WW Local Grant Program, a program for high priority parks projects that is administered by the East Bay Regional Park District. There is a total of \$716,529.85 of Measure WW Funds actually available for this project which would cover more than 95% of the cost of the construction contract. An additional \$174,670.15 in local funding is needed for the remaining construction cost and construction contingency for the full recommended allocation of \$891,200.00. Staff recommends the use of unallocated Capital Project Reserves for this additional funding as part of the proposed amendment to the 2018-2020 Biennial Budget and Capital Improvement Plan.

Attachments – Resolution

Action - Staff recommends that the City Council, by motion, approve the plans and specifications and, by resolution, accept the bid and award the contract for the Base Bid to Bay Construction Co. for Newark Community Dog Park, Project No. 1208, and amend the 2018-2020 Biennial Budget and Capital Improvement Plan for fiscal year 2019-2020.

F.10 Setting a July 25, 2019, public hearing date for the establishment of an Underground Utility District on Newark Boulevard between Fair Avenue and Bellhaven Avenue (Newark Underground District No. 15) – from Public Works Director Fajeau. (RESOLUTION)

Background/Discussion – The City has established underground utility districts in the past to convert existing overhead electrical and communication wires and poles to underground facilities. These projects have taken place primarily on arterial districts where the aesthetic impact of removal of the overhead facilities would provide the greatest public benefit. A primary funding source for these projects has been through the Pacific Gas and Electric (PG&E) Rule 20A program. While a substantial amount of utility undergrounding has occurred with private development activity in Newark, it has been many years since the City has undertaken its own project through the use of PG&E Rule 20A Work Credits. As of March 31, 2019, the City has \$2,723,527 available in funding as Work Credits through the Rule 20A program.

Last month, the Public Works Department, pursuant to a resolution adopted by the California Public Utilities Commission, received a notice from PG&E regarding the potential reallocation of Rule 20A Work Credits to fund an undergrounding project in the City of Live Oak (located in Sutter County). This potential reallocation affects 92 jurisdictions in California that have not undertaken a new underground utility district in the last eight years. The total proposed reallocation for all 92 jurisdictions is \$554,000. The proposed reallocation for Newark is currently estimated at \$13,866. However, this reallocation amount could increase for Newark if the total number of affected jurisdictions is reduced.

One option for the City (and for all affected jurisdictions) to avoid the proposed reallocation is to establish a new underground utility district as soon as possible. This would require that the City Council hold a public hearing and adopt a resolution establishing a new underground utility district pursuant to Chapter 13.08 (Underground Utility Districts) of the Newark Municipal Code. The Newark Boulevard corridor between Fair Avenue and Cedar Boulevard was previously identified as a high priority location for future undergrounding due to the fact that Newark Boulevard is an arterial roadway with heavy vehicular and pedestrian traffic.

Staff is recommending that a portion of Newark Boulevard, between Fair Avenue and Bellhaven Avenue, be identified as the first phase of a potential undergrounding project through this corridor. This particular phase would involve coordination with only four commercial property owners and would not directly impact any residential property owners. At this time, staff recommends that a public hearing be held to consider establishment of the district and thereby minimize the potential for reallocation of the Rule 20A Work Credits. Actual construction for this first proposed phase would likely be combined with additional phases of work on the Newark Boulevard corridor to ensure completion of a more substantial aesthetic improvement. There is no required timeline for the construction work to take place. However, the public hearing and establishment of the district would need to take place at the July 25, 2019 City Council meeting in order to comply with the PUC notice.

Attachments – Resolution; Newark Underground District No. 15 Exhibit

Action – Staff recommends that the City Council, by resolution, call a public hearing to determine whether public necessity, health safety, or welfare required the formation of an Underground Utility District on a portion of Newark Boulevard between Fair Avenue and Bellhaven Avenue in the City of Newark (Newark Underground District No. 15).

F.11 Approval of Investment Policy – from Finance Manager Lee. (RESOLUTION)

Background/Discussion – State law requires that the City’s Investment Policy be reviewed and approved by the City Council at least annually. City staff has reviewed the current Investment Policy and recommends that it remain the same. The Investment Policy provides for all of the standard and material issues that an Investment Policy should include. The Investment Policy’s primary objective is the safety of principal balances, with liquidity and return on investment as the second and third priorities respectively.

Attachment - Resolution

Action - It is recommended that the City Council, by resolution, approve the City's Investment Policy.

F.12 Amendment of the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2018 - 2019 for General Revisions and Operating Increases – from Finance Manager Lee. (RESOLUTION)

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

The year-end budget amendment includes increases to the General Fund program revenue sources, primarily the strong motion instrumentation program fees. The Strong Motion Fee is assessed on every building permit and is required as part of the field inspection. The California Strong Motion Instrumentation Program (CSMIP) was established by the California Legislature in 1971 to gather, process, and disseminate earthquake data throughout the state. Local governments use the data to recommend changes to seismic provisions of building codes in their general plan process and to aid emergency response personnel in the event of a disaster. This fee funds the California State Strong-Motion Instrumentation Program and therefore an offset modification in the expenditure appropriation for the same amount is proposed. The rest of the revenue and expenditure increases are based on the fiscal year's performance, the economic trends and our estimated year end actuals.

The revenue modifications to the operating budget for Fiscal Year 2018 - 2019 include:

1. Increase Strong Motion Fees.
2. Adjustments to the Alameda County Transportation Commission (ACTC) Measure B/BB Sales and Use Tax Allocations.

The expenditure modifications to the General Fund operating budget for Fiscal Year 2018 - 2019 include:

1. Adding appropriations for Strong Motion Fees remitted to the Strong-Motion and Seismic Hazardous Mapping Fund. (There is a revenue offset equal to the same amount in the revenue section.);
2. Adding appropriations for dealership economic incentive payment for the fourth quarter of 2018;
3. Increase appropriations for additional location and school crossing guard services with All Management Service Incorporated. The additional location at the intersection of Chapman Drive and Blackburn Drive serves Kennedy Elementary School;
4. Increase appropriations for streetlight and traffic signal maintenance;

5. Increase appropriations for citywide utilities; and
6. Increase in Park and Landscape Maintenance special department supplies.

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

1. Adding appropriation for maintenance costs for Landscape and Lighting Districts No. 01, 02, 04, 06, 07, 11, 15, 16, 17, 18, and 19.

Attachments – Resolution, Exhibit A Budget Amendments

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

NONCONSENT

F.13 Approval of Annual Engineer’s Reports, intention to levy and collect assessments and setting date of public hearing on July 25, 2019 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. (RESOLUTIONS-2)

Background/Discussion – The City Council has previously created Landscaping and Lighting District Nos. 1, 2, 4, 6, 7, 10, 11, 13, 15, 16, 17, 18 and 19 to provide for the operation and maintenance of certain landscaping and lighting improvements. The City Council recently ordered the City Engineer to prepare and file Annual Engineer’s Reports with the City Clerk concerning the levy and collection of assessments within each district for fiscal year 2019-2020. 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 in any districts 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 Final Engineer's Reports for each of these districts were previously approved by the City Council.

The Annual Engineer's Reports for all districts are attached and do not include any changes other than those cited above and previously approved for Landscaping and Lighting District Nos. 4 and 19. There are no proposed increases to any assessments from the previous year for any other districts. The City Council previously adopted a resolution 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 in accordance with the provisions of the Landscaping and Lighting Act of 1972 for fiscal year 2019 - 2020.

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

Attachments – Resolutions (2), Annual Engineer's Reports 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

Action – Staff recommends that the City Council: (1) by resolution, approve the Annual Engineer's Reports; and, (2) by resolution, declare an intention to levy and collect 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, and setting the annual public Hearing for July 25, 2019, in accordance with the provisions of the Landscaping and Lighting Act of 1972.

G. CITY ATTORNEY REPORTS

H. ECONOMIC DEVELOPMENT CORPORATION**I. CITY COUNCIL MATTERS****J. CITY COUNCIL ACTING AS THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY****K. ORAL COMMUNICATIONS****L. APPROPRIATIONS**

Approval of Audited Demands.

(MOTION)

M. CLOSED SESSION

- M.1 Conference with Legal Counsel for initiation of litigation pursuant to paragraph (4) of subdivision (d) of California Government Code Section 54956.9: 3 cases, for the City Council to consider whether to authorize the Mayor and Interim City Attorney to sign onto amicus briefs in *R.G. & G.R. Harris Funeral Homes Inc. v. EEOC & Aimee Stephens*; *Altitude Express Inc. v. Zarda*; and *Bostock v. Clayton County* – from Interim City Attorney Kokotaylo.**

N. ADJOURNMENT

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

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