

CITY OF NEWARK CITY COUNCIL

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

AGENDA

Thursday, April 9, 2020

Pursuant to the Governor's Executive Order N-29-20, Mayor Nagy, Vice Mayor Freitas, and Council Members Collazo, Hannon, and Bucci may be attending this meeting via teleconference. In the event that any Council Member elects to teleconference, all votes conducted during the teleconferencing session will be conducted by roll call vote.

This meeting is open to the public; however, member of the public are encouraged to shelter in place and submit comments for this agenda via email. Emails should be submitted to City.Clerk@newark.org by 4:00 p.m. on April 9, 2020. The emails will be provided to the City Council in advance of the meeting.

A. ROLL CALL

B. MINUTES

- B.1 Approval of Minutes of the City Council meetings of March 12 and 17, 2020. (MOTION)**

C. PRESENTATIONS AND PROCLAMATIONS

D. WRITTEN COMMUNICATIONS

E. PUBLIC HEARINGS

- E.1 Authorization to renew an agreement with Redflex Traffic Systems, Inc. for an automated red-light camera enforcement system – from Police Captain Arguello. (RESOLUTION)**

Executive Summary - The City's existing agreement with the City's vendor for an automated red-light camera enforcement system expires on April 20, 2020. Staff recommends that the City Council authorize a renewal of the agreement for a period of 5 years with options for an additional 4 years. If approved, the pricing for a continuation of the existing services would decrease by \$1,400 per month. Currently, there are 4 approaches in the City at 3 intersections. Those approaches would continue under the proposed extension.

Background On Establishment Of Automated Red-Light Camera Enforcement System

In March 2006, City Council authorized City Staff to establish a contract with Redflex Traffic Systems, Inc. (Redflex) for automated red light photo enforcement for up to ten approaches within the City of Newark. Redflex was selected as the vendor for this program for a variety of reasons including its:

- Full-color still camera and full-motion, high quality digital video camera capability;
- Real-time intersection monitoring;
- Multiple options for camera activation;
- Recording capability for all turning movement violations and straight through violations;
- Cost neutrality (zero general funds expended for build outs/infrastructure); and
- Reputation and current use by other jurisdictions, including Fremont, San Leandro, Daly City, Elk Grove and Sacramento.

At that time, the purpose of instituting an automated red light photo enforcement program was to increase vehicle, pedestrian, and bicyclist safety through improved traffic enforcement as part of an overall traffic safety plan. The program had three goals: 1) improve overall traffic safety and awareness; 2) reduce red light violations and collisions; and 3) utilize the technology to strategically place cameras in problem areas where traditional enforcement was not practical or safe. Before establishing a contract with Redflex, the police department completed several studies to identify the most dangerous intersections in the City where a photo red light enforcement system could have the most beneficial effect on public safety. This was accomplished by looking at a history of collisions, the seriousness of those collisions, causation, and enforcement ability from traditional methods, as well as officer safety concerns, traffic flow, and areas with a high number of violations.

The initial study undertaken by the police department was a five year review of intersection collision history from January 1, 2001 through December 31, 2005. Several intersections were identified as having both a high number of collisions in general and a high number of collisions attributable to red light violations. In addition, traffic enforcement officers provided input regarding intersections with known high violation problems and the degree of difficulty in enforcing red light violations using police personnel and standard enforcement techniques. The difficulty primarily arises from the congestion associated with the intersections of major city thoroughfares that are heavily traveled, with additional traffic through both intersections feeding both on and off Highways 880 and 84. This is compounded by the raised concrete medians and sidewalks that are present at various locations in all intersections. The heavy traffic and raised medians/sidewalks make it extremely difficult for officers to safely position themselves to monitor both traffic and the status of the lights and also remain in a position to catch up to and effectively stop violators.

After several intersections were identified by staff, Redflex conducted video and in-field surveys to assist with identifying which “approaches,” or direction of travel leading into an intersection, within these intersections should be monitored. At the conclusion of the study, the police department, in consultation with traffic engineering staff, recommended the installation of Redflex cameras at the intersections of Cherry Street/Mowry Avenue, Mowry Avenue/Cedar Boulevard, and Newark Boulevard/Jarvis Avenue.

The contract with Redflex was officially executed on March 10, 2006 for an initial period of five (5) years, with an option to extend the contract for two (2) consecutive and two (2) automatic years. The system went live with one approach (Southbound Cherry Street) in August 2006. Prior to the system going live, advisory signs were posted around the City at various entrance points in compliance with California Vehicle Code section 21455.5. Additional signage was later added at intersections that have the Redflex system in place. The police department also issued a press release to three bay area newspapers regarding the pending implementation of the program. Finally, the department conducted a thirty (30) day trial period during which only written warnings were given instead of actual citations. The second intersection (Mowry Avenue/Cedar Boulevard) went live in October 2006 and the third was added at Newark Boulevard/Jarvis Avenue in February 2007, again all with thirty day warning periods before citations were issued.

In 2010, staff evaluated the effectiveness of the Red Light Photo Enforcement Program and found that the data supported the incidence of red light violations and associated risk of traffic collision at monitored intersections had decreased, thus improving the safety of our community and therefore recommended that the program be continued.

On April 20, 2011, a new contract with Redflex was officially executed for a period of five (5) years, with an option to extend the contract for two (2) additional consecutive and automatic year periods. This existing contract is set to expire on April 20, 2020.

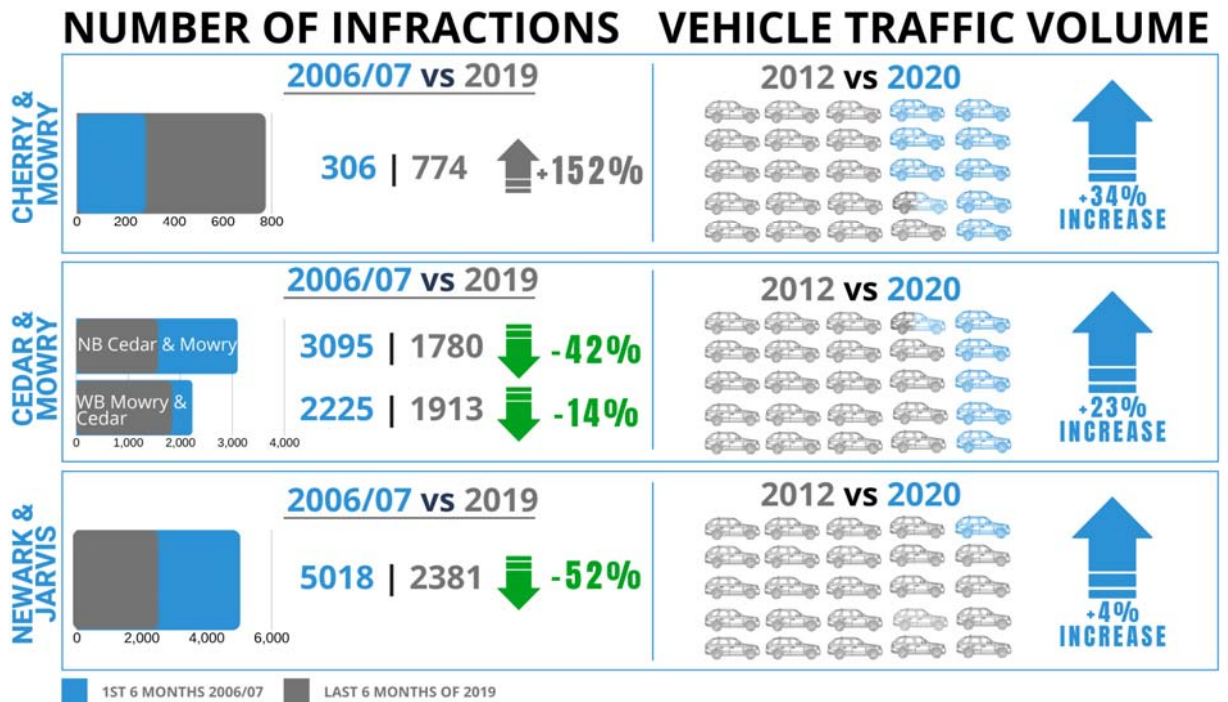
Red Light Violation Enforcement

Red light violation enforcement is one of the benchmarks by which the system should be measured because it directly relates to the primary goal of improved safety in the form of both collision and violation reduction. As no similar system was in place prior to Redflex going live, it is not possible to do a direct “before and after” comparison of the number of red light violation citations issued for these approaches. It is possible, however, to compare the number of citations issued at the outset of the program with more recent data. Presumably the earlier data is representative of the number of violations that were occurring prior to the installation of the system. The cameras have the ability to view multiple lanes, so each approach captures both straight through and either the left turn lane (as is the case with Cherry Street) or the right turn lane (as is the case with Mowry Avenue and Newark Boulevard). Approaches are chosen based on roadway design, survey results, and pedestrian/bicycle traffic.

Between January 2015 and January 2020, the cameras have captured an average of 34 incidents per day or a total of 62,576 incidents of vehicles running a red light. Of those,

staff was able to work towards identifying the shown responsible party in 45,081 of the incidents. Those efforts resulted in 28,893 violations being filed with the court.

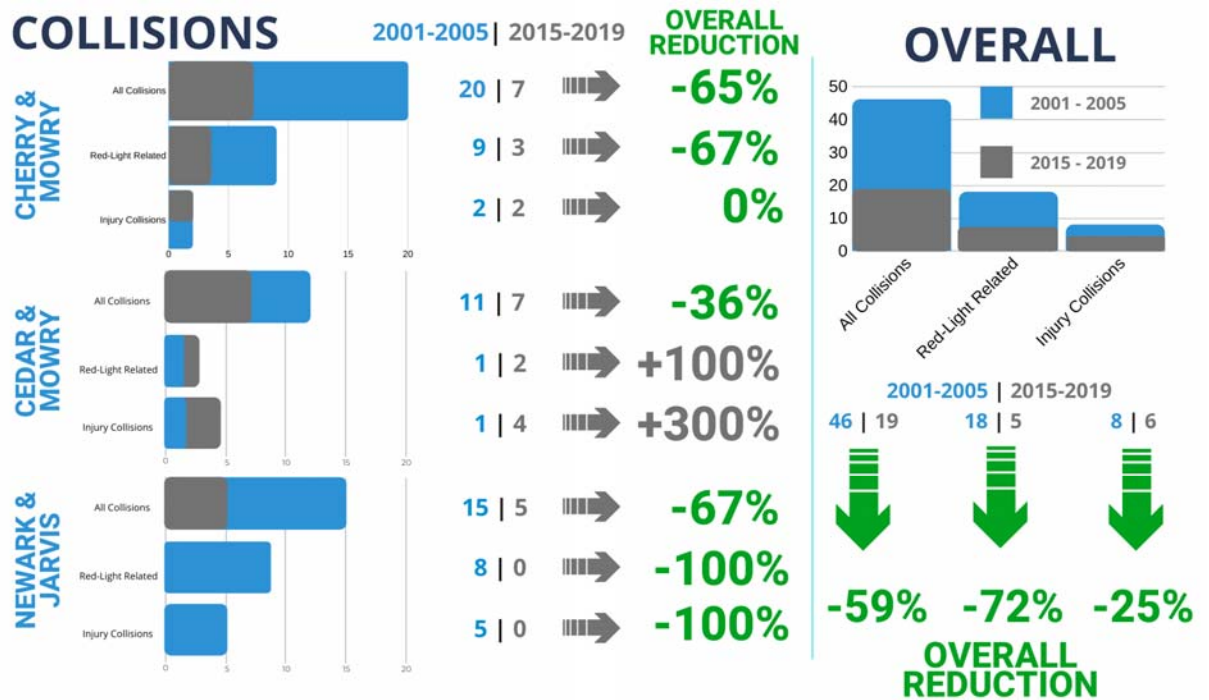
Below is a chart which displays the number of violations in the first six months of adding an approach to the program compared to the most recent six months of the program. The most recent data indicates that there continues to be a significant reduction in incidence of violation, with an overall decrease of 35.66%.



The reductions as shown above suggest that the activation of the Redflex system continues to have a significant effect on decreasing the number of violations occurring over time. This reduction is consistent with increased public awareness of the use of the Redflex system and subsequent modification of driving habits, which meets the goal of increased public safety. Staff believes that this reduction of red light violations naturally reduces the number of incidents when a potential tragedy could occur.

Collision Reduction Performance

One of the goals of this program is to reduce collisions involving red lights, pedestrians, and bicyclists. The chart below provides an overview of all collisions occurring at intersections monitored by the Redflex system for a period of approximately five years before the onset of and the most recent five years with the program in place, as well as those collisions attributable to red light violations and the total number of injury collisions.



These figures, when factoring in the increased levels of traffic volume traveling through the city, indicate a significant, continued reduction in all collisions, including red light related collisions and injuries, from the time the system was installed.

As is the case with any statistical data, it is important to remember that when looking at statistics we may see spikes or unusually bad years. For example, one particularly bad year for collisions could occur as the result of external factors such as changes in traffic flows and patterns, extended periods of inclement weather, and other driving conditions.

Overall Traffic Safety

In summary, all indications are that the Redflex system continues to have the sought after effect of reducing the incidence of collisions and injuries, as well as specifically reducing major injury/fatality collisions frequently attributed to right angle (broadside) collisions from red light violations.

A link to a recent national analysis conducted by the American Automobile Association (AAA) Foundation for Traffic Safety and a study performed by the Insurance Institute for Highway Safety (IIHS) on the effects of red light photo enforcement on fatality reduction is attached for City Council consideration.

The analysis performed by the AAA Foundation for Traffic Safety noted that red light running fatalities had hit a 10-year high in 2017, a 28% increase from 2012 (AAA Foundation for Traffic Safety, 2019, para. 1). Moreover, according to the study by the IIHS, red light photo enforcement camera programs reduced the fatal red light running crash rate of cities with camera programs by 21 percent and the rate of all types of fatal crashes at signalized intersections by 14 percent (Hu & Cicchino, 2016, p. 16; 2017,

para. 3).

Furthermore, the IIHS study compared 14 cities that turned off red light cameras with those with continuous camera programs. The IIHS study found that in the 14 cities that shut down their programs during 2010-14, the fatal red light running crash rate was 30 percent higher than would have been expected if they had left the cameras on and that the rate of all fatal crashes at signalized intersections was 16 percent higher (Hu & Cicchino, 2016, p. 14; 2017, para. 3).

Fiscal Impact

The cost per approach under the initial agreement was \$6,000 per month; however, over the life of the contract, this fee increased slightly due to agreed-upon cost of living increases to an amount of \$6,347 per approach until 2015, when the costs were renegotiated to the current cost per approach of \$4,700 as part of the 2016 term extension. As discovered during the last complete review prior to the City's current contract term, not only has the program continued to meet the desired goals of improving traffic safety, it continues to be a self-sustaining program that does not create a negative fiscal impact to the existing budget.

Over time, staff has received questions regarding the fine amounts for red light violations. A citation for a red light violation, California Vehicle Code Section 21453(a), currently carries a state mandated fine of \$489.00, of which approximately one third is allocated to the issuing authority. As with other violations of the California Vehicle Code, the City of Newark does not set or control the fine or penalty amounts. The fine, penalty, and related costs for red light violations of the California Vehicle Code are set by the Judicial Council of the State of California. In order to establish a standard of uniformity, the Judicial Council mandates the Penalty Assessments per statute to include:

- Base Fine
- State of California, County and Court Penalty Assessments
- Criminal Surcharge and Criminal Conviction Assessments
- Court Operation and Security Fees

Staff Recommendation & Sole Source

Overall, Redflex has been a responsive and responsible service provider. Redflex has worked closely with staff to ensure that the program approaches continue to meet the requirements of the California Vehicle Code and that staff remain current with the training, information, and materials necessary to successfully face challenges to citations in court. Redflex has also been willing to spend additional money on infrastructure to improve the quality of our system on several occasions, although this was not required by contract.

An alternative to seeking a renewed contract with Redflex is to issue a formal Request for Proposals (RFP). An RFP process would not result in an outcome that is more advantageous to the City than what other California municipalities with a similar number of approaches have recently negotiated through Redflex and other vendors. This is because, in part, a contract with a new service provider would require a

complete replacement of the red light traffic enforcement program and equipment and result in a substantial increase in costs for the City. Upon reviewing the program one such vendor initially estimated their cost per approach, per month would be \$5,400 to \$5,700. After taking current Bay Area construction costs into account, the vendor later advised the costs would be at \$7,000 to \$7,500 per approach, which is more than \$2,500 per approach than what the City has secured from Redflex under the proposed renewal.

In assessing why similar service providers would not be able to meet the City's needs under these particular set of circumstances, the following factors should be given consideration:

1. It is estimated the red light program would be inoperable for approximately 12 months while Redflex removes their equipment for the four approaches and a new company obtains permits, outfits the intersections with their equipment and trains our employees. This year-long inoperability would have a negative impact in excess of \$120,000 in police department expenses due to staff costs that are currently offset by the program.
2. Once a new system is operational, it is likely to take approximately three months to develop a compatible system with the court to accept the citations. This time-frame is contingent on the court having staff to assist in the transition of the program.
3. The City Engineering costs are estimated to be approximately \$30,000 to \$35,000 with an additional \$15,000 to \$20,000 in staff costs to approve new construction and encroachment permits for four approaches at the three intersections.
4. The proposed contract is unique due to the vendor providing equipment and infrastructure at each enforced intersection as well as having a well-established automated software program that is compatible with the court system.
5. We have established a user-group with the cities of Fremont and San Leandro within Alameda County who have current contracts with Redflex. This well-established group has substantial status and influence over the day-to-day operations of our vendor.

In summary, Redflex has provided the City with the equipment, applications, and citation processes necessary for our City staff to monitor, identify and enforce red light violations in accordance with California Vehicle Code section 21455.5. Redflex has a good understanding of the unique requirements of the California Vehicle Code and the ability to advise the City on the procedures required to operate. As one of the longest operating companies in the United States for camera road safety, Redflex has provided the City with reliable, consistent service through its equipment, technology and customer service. Redflex has been a supportive service provider to the City of Newark, helping to provide a safer community by reducing the incidence of red light violations and associated risk and severity of vehicle collisions at traffic intersections and City streets.

While there may be other vendors available to provide similar services, the necessary commitment of city resources and staff costs associated in reviewing and approving new engineering and construction plans, the substantial impact on police staff costs

and significant exposure to public safety during the 12 months of inoperability during a change-over period justify a sole-source selection approach.

Renewing an agreement with our current vendor will ensure a seamless and cost effective program for the next 5-9 years. Staff has secured a new pricing model which would reduce the City's monthly fee from \$4,700 to \$4,350 per approach with upgrading all of the red light photo enforcement intersections with the latest technology at no additional cost to the City. Should the City deem it prudent to expand the program, the agreement provides the City with the option to add one to four additional approaches at a cost of \$5,700 per approach, per month. The pricing model increase between upgrading existing approaches and building new approaches, is due to construction costs for foundations, underground boring, establishing power, permit fees, etc. Based on the program meeting its stated objectives, its overall success in improving traffic safety, as well as the improved agreement terms, staff recommends that the City Council authorize the City Manager to execute a renewed agreement of five (5) years, with options to extend should the program continue to meet its goals.

Attachments –

1. Resolution
2. Presentation
3. American Automobile Association Foundation for Traffic Safety. (2019). *Red light running deaths hit 10 year high*. Washington, DC: AAA Foundation for Traffic Safety. Retrieved from <https://newsroom.aaa.com/2019/08/red-light-running-deaths-hit-10-year-high/> on January 30, 2020
4. Insurance Institute for Highway Safety. (2016). *Effects of turning on and off red light cameras on fatal crashes in large U.S. cities*. Arlington, VA: Hu, W., Cicchino, J.
5. Agreement

Action – Staff recommends that the City Council, by resolution, authorize the City Manager to renew an agreement with Redflex Traffic Systems, Inc. for an automated red-light camera enforcement system.

F. CITY MANAGER REPORTS

(It is recommended that Items F.1 through F.7 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 the Final Map and Subdivision Improvement Agreement for Tract 8498 – Classic (Classic 36304 Newark Boulevard, L.P.), a 9-lot residential subdivision at 36304-36310 Newark Boulevard – from Senior Civil Engineer Cangco. (RESOLUTION)

Background/Discussion – On January 24, 2019, the City Council approved Vesting Tentative Tract Map 8498, a 9-lot residential subdivision at 36304-36310 Newark Boulevard. The developer, 36304 Newark Boulevard, L.P., has submitted the required fees, bonds, and other documents for approval of the Final Map for Tract 8498.

The Final Map for Tract 8498 dedicates public street right-of-way for Newark Boulevard over the southern half of the project's frontage (36310 Newark Boulevard). The area to be dedicated as public street right-of-way is currently developed with curb, gutter and sidewalk. Additional street improvements are not required in conjunction with this public street dedication.

The Final Map for Tract 8498 also vacates a triangular portion of excess public street right-of-way on Newark Boulevard over the northern half of the project's frontage (36304 Newark Boulevard). In accordance with Section 66436(a)(3)(A)(i) and (A)(ii) of the Subdivision Map Act, all public utilities were notified of the proposed abandonment and given thirty (30) days to provide comments. No comments were received during the thirty-day review period.

The developer has executed a Subdivision Improvement Agreement and has posted a Performance Bond in the amount of \$880,000 and a Materials Bond in the amount of \$440,000. The bonds will guarantee construction of the private street serving the development and public improvements on Newark Boulevard, which are limited to a storm drain curb inlet and trash capture device.

The Final Map for Tract 8498 has been reviewed and found to be in conformance with Vesting Tentative Tract Map 8498 and the Conditions of Approval, and is now ready for City Council approval. Recording of the Final Map and issuance of subsequent permits and approvals for construction activity will be at the discretion of the City Engineer.

Financial Impact – The estimated annual maintenance cost of the public street improvements associated with Tract 8498 is \$200 for a storm drain inlet and trash capture device on Newark Boulevard. No additional public street improvements are required as part of Tract 8498.

Attachments – Final Map; Subdivision Improvement Agreement; Resolution

Action – Staff recommends that the City Council, by resolution, approve the Final Map and Subdivision Improvement Agreement for Tract 8498 – Classic (Classic 36304 Newark Boulevard), a 9-lot residential subdivision at 36304-36310 Newark Boulevard.

F.2 Approval of the Final Map and Subdivision Improvement Agreement for Tract 8494 – Magnolia Residences (Goldsilverisland Homes, LLC), a 10-

lot residential subdivision at 37256 and 37280 Magnolia Street and 6849 Baine Avenue – from Senior Civil Engineer Cangco. (RESOLUTION)

Background/Discussion – On January 24, 2019, the City Council approved Vesting Tentative Tract Map 8494, a 10-lot residential subdivision at 37256 and 37280 Magnolia Street and 6849 Baine Avenue. The developer, Goldsilverisland Homes, LLC, has submitted the required fees, bonds, and other documents for approval of the Final Map for Tract 8494.

The Final Map for Tract 8494 vacates an eight-foot (8') wide strip of excess public street right-of-way around the project's Magnolia Street, Baine Avenue and Olive Street frontages. In accordance with Section 66436(a)(3)(A)(i) and (A)(ii) of the Subdivision Map Act, all public utilities were notified of the proposed abandonment and given thirty (30) days to provide comments. No comments were received during the thirty-day review period.

The developer has executed a Subdivision Improvement Agreement and has posted a Performance Bond in the amount of \$453,904 and a Materials Bond in the amount of \$226,952. The bonds will guarantee construction of the public improvements on Magnolia Street, Baine Avenue, and Olive Street. Additional right-of-way dedication is not required on Magnolia Street, Baine Avenue or Olive Street as part of Tract 8494.

The Final Map for Tract 8494 has been reviewed and found to be in conformance with Vesting Tentative Tract Map 8494 and the Conditions of Approval, and is now ready for City Council approval. Recording of the Final Map and issuance of subsequent permits and approvals for construction activity will be at the discretion of the City Engineer.

Financial Impact – No additional public street improvements are required as part of Tract 8494; therefore, there is no financial impact.

Attachments – Final Map; Subdivision Improvement Agreement; Resolution

Action – Staff recommends that the City Council, by resolution, approve the Final Map and Subdivision Improvement Agreement for Tract 8494 – Magnolia Residences (Goldsilverisland Homes, LLC), a 10-lot residential subdivision at 37256 and 37280 Magnolia Street and 6849 Baine Avenue.

F.3 Authorize the carry-over unspent appropriation for a mobile command vehicle and amend the 2018-2020 Biennial Budget – from Police Lieutenant Macias. (RESOLUTION)

Background/Discussion – The Alameda County Sheriff's Office (ACSO) submitted an application for the 2016 and 2017 State Homeland Security Grant Program (SHSGP) on behalf of various agencies within the county. The Alameda County Board of Supervisors accepted funding for the Newark Police Department in the amount of \$35,000 in Fiscal Year 2016-2017 and \$100,000 in Fiscal Year 2017-2018, thereby increasing total grant funding to a total of \$135,000.

On March 14, 2019, City Council authorized the City to accept the U.S. Department of Homeland Security, California Governor’s Office of Emergency Services 2017 State Homeland Security Grant awards, and authorized the purchase of a mobile command vehicle. At that time, staff also requested additional General Fund funding in the amount of \$75,997.

A total of \$210,997 was previously approved and appropriated in fiscal 2018-2019. All of the associated funds were not spent in the fiscal year that they were initially designated because of a delay in the approval process by the U.S. Department of Homeland Security and California Governor’s Office of Emergency Services (Cal OES) during a time of transition to a new administration. There is a purchasing window of three years for State Homeland Security Grant awards. This vehicle was purchased and received within the approved timeframe.

Staff now requests the authorization to carry-over the unspent appropriation and amend the 2018-2020 Biennial Budget as follows:

From:	010-1030-3550 Federal Grants	\$135,000
	010-0000-2991 Unallocated Fund Balance	\$ 75,997
To:	010-1030-7052 Police Vehicle	\$210,997

Attachment - Resolution

Action – Staff recommends that the City Council, by resolution, authorize the City of Newark to carry-over unspent appropriation for a mobile command vehicle and amend the 2018-2020 Biennial Budget.

F.4 Approval of a Contractual Service Agreement with Avenu/Muniservices, LLC to provide consulting and auditing services for City of Newark’s Utility User Tax revenues and to amend the 2018-2020 Biennial Budget and Capital Improvement Plan – Finance Director Lee. (RESOLUTION)

Background/Discussion – It is a good practice to periodically conduct an independent audit for the records and reporting of all of the utility companies. In December 2019, a Request for Proposals (RFP) for revenue audit and analysis service was issued. Two firms responded, but only Avenu/MuniServices offered Utility User Tax (UUT) audit and analysis services.

Avenu/MuniServices is one of the few firms in the United States conducting audits to verify the proper fees are collected from electric, natural gas, cable, and waste hauler companies. For every error/omission identified and confirmed, the firm will prepare the appropriate documentation to facilitate the recovery of revenue due to the City. In addition, the firm will provide an annual report that outlines the year’s activities in review, revenue forecasts, year-over-year (YOY) comparison charts, and revenue generated from compliance activities.

The annual fee for inclusion in the UUT audit is \$40,000 per year. A budget amendment is necessary to appropriate \$40,000 in fiscal year 2019-2020 to account number 010-1025-5271 for the first fiscal year of consulting and auditing services of the UUT. Because this is a multi-year agreement, the remaining contract amount will be appropriated as part of the biennial budget process for a total expenditure of funds over the term of the contract not-to-exceed \$120,000.

Attachments – Resolution, Contractual Services Agreement with Avenu/Muniservices, LLC

Action - Staff recommends that the City Council, by resolution, authorize the City Manager to execute a professional agreement with Avenu/Muniservices, LLC in the amount not to exceed \$120,000 to provide consulting and auditing services for Utility User Tax revenues and to amend the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020.

F.5 Approval of a Contractual Services Agreement with HdL Coren & Cone for Property Tax Audit and Information Services and to amend the 2018-2020 Biennial Budget and Capital Improvement Plan – Finance Director Lee. (RESOLUTION)

Background/Discussion – In December 2019, staff issued a Request for Proposals (RFP) for property tax audit and information services. The scope of the work is to review and audit records of the City’s property tax revenue source and to support the City in recovering and preventing tax delinquencies. Only two firms who specialize in revenue audits and revenue recovery for cities responded – Avenu/MuniServices, LLC, and HdL Coren & Cone (HdLCC).

Staff evaluated the proposals based on various criteria including but not limited to the applicability of the firm’s experience as it relates to the RFP’s scope of work and pricing. HdL Coren & Cone was found to be the firm with a more extensive client list and experience with Property Tax audits and services.

Founded in 1992, HdL Coren & Cone (HdLCC) developed the first computer software system in California for tracking property tax revenues for counties, cities, and special districts. The company was the first in the state to go beyond using parcel data for allocation audits by developing specialized reports and models to assist government agencies by using the data for parcel administration, focused economic development strategies, and revenue projections. The staff consists of 15 qualified analysts, auditors, and information systems technology professionals.

Services include generating a variety of reports detailing property and revenue trends for the entire City and custom-defined geographic areas. These reports can be used for budgeting purposes, planning, economic development, and public information. The firm has the technology and methodology to identify the misallocation of property taxes and has the ability to recover misallocated revenue due to the City.

The contract is for an amount not to exceed \$81,625 for a five-year term. A budget amendment is necessary to appropriate \$16,325 in fiscal year 2019-2020 to account number 010-1025-5271 for the first fiscal year of the analysis and compliance review services. Because this is a multi-year agreement, the remaining contract amount will be appropriated as part of the biennial budget process for a total expenditure of funds over the term of the contract not-to-exceed \$81,625.

Attachments – Resolution, Contractual Services Agreement with HdL Coren & Cone

Action - Staff recommends that the City Council, by resolution, authorize the City Manager to execute a professional agreement with HdL Coren & Cone for Property Tax Audits and Information Services and amending the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020.

F.6 Approval of a Contractual Service Agreement with Avenu/MuniServices, LLC to provide consulting and auditing services for the City of Newark's Transient Occupancy Tax and to amend the 2018-2020 Biennial Budget and Capital Improvement Plan – Finance Director Lee. (RESOLUTION)

Background/Discussion – It is a good practice to periodically conduct an independent audit for the records and reporting of all of the lodging operators. In December 2019, a Request for Proposals (RFP) for Transient Occupancy Tax (TOT) audit was issued, and two firms who specialize in revenue audits and revenue recovery for cities responded – Avenu/MuniServices, LLC and HdL Coren & Cone (HdLCC). The scope of the work is to evaluate the accuracy and reasonableness of the Transient Occupancy Tax revenue payments received by the City. For every error/omission identified and confirmed, the firm will prepare the appropriate documentation to facilitate the recovery of revenue due to the City.

Both firms' audit services consist of two inter-related audit phases. Phase I is the analysis of each lodging property. Upon completion of the analysis, the City then identifies the number of audit and compliance reviews they wish to pursue. Phase 2 is compliance analysis and audit. Avenu/MuniServices' charges \$900 per lodging property for Phase 1 and \$1,300 per property reviewed for Phase 2. HdLCC charges \$1,500 per property reviewed, inclusive of both Phases. After a thorough review, staff noted that Avenu/MuniServices' charges were slightly higher than HdLCC, but HdLCC's expertise appeared to be more specialized in Property Tax. Consequently, staff recommends that Avenu/MuniServices, LLC, to perform the audit.

Avenu/MuniServices' TOT audit and compliance program are designed to protect and enhance a City's lodging tax revenues. Since 1990, Avenu/MuniServices has reviewed more than 9,000 lodging providers through TOT documentation review and on-site hotel business audits.

The annual fee for the TOT audit is approximately \$16,000 per year. A budget amendment is necessary to appropriate \$16,000 in fiscal year 2019-2020 to account number 010-1025-5271 for the first fiscal year of the analysis and compliance review services. Because this

is a multi-year agreement, the remaining contract amount will be appropriated as part of the biennial budget process for a total expenditure of funds over the term of the contract not-to-exceed \$50,000.

Attachments – Resolution, Contractual Services Agreement with Avenu/Muniservices, LLC

Action - Staff recommends that the City Council, by resolution, authorize the City Manager to execute a contractual services agreement with Avenu/Muniservices, LLC to provide consulting and auditing services for Transient Occupancy Tax and to amend the 2018-2020 Biennial Budget and Capital Improvement Plan for Fiscal Year 2019-2020.

F.7 Acceptance of the Comprehensive Annual Financial Report (CAFR) for the period ended June 30, 2019 – from Finance Director Lee. (MOTION)

Background/Discussion – Following the close of each fiscal year, the City’s external auditors conduct an audit of the City’s financial records and assist in the compilation of the Comprehensive Annual Financial Report (CAFR). The objective of this general purpose external financial reporting is accountability. The goal of the financial statement audit is to provide users with a reasonable assurance, from an independent source, that the information presented in the statements is reliable. The audit for the fiscal year ended June 30, 2019, was recently completed by Lance, Soll & Lunghard, LLP (LSL). LSL was approved by the City Council as the City’s independent auditor on May 23, 2019 and this is LSL’s first year of an initial four year engagement.

As part of the year-end closing process, staff presents the audited Comprehensive Annual Financial Report (CAFR) for the fiscal year ended June 30, 2019. The financial statements included in this report provide information on the City’s year-end financial condition and the results of operation for the Fiscal Year 2018/19. LSL audited the report and issued an unmodified “clean” opinion on the report.

The City’s financial statements were prepared according to the requirements of the Government Accounting Standards Board (GASB). The two government-wide financial statements provide a broad view of the City’s financial position and activities in a manner similar to the private sector business report. The Statement of Net Position provides information regarding the financial position of the City, including all assets and liabilities and the Statement of Activities provides information regarding the city’s revenues and expenses. In the Transmittal Letter and Management Discussion and Analysis, the Finance Manager provides a narrative overview and analysis of the City’s financial activities and performance during the fiscal year.

Financial Highlights for FY 2019*Government-wide:*

- At June 30, 2019, the assets and deferred outflows of resources of the City exceeded its liabilities and deferred inflows of resources by \$167.6 million (net position). This is an increase of \$17.8 million from the prior fiscal year. Of this amount, \$31.1 million are restricted, and (\$11.0) million represents unrestricted net position.
- Government-wide revenues include program revenues of \$26 million and general revenues of \$58.6 million, an increase of \$10.2 million total revenues from the prior fiscal year.
- Government-wide expenses totaled \$66.8 million, an increase of \$4 million from the prior year's total of \$62.8 million.

Governmental Funds:

- At the close of fiscal year 2018-2019, the City's governmental funds reported combined fund balances of \$113 million, an increase of \$19.4 million in comparison with the prior fiscal year.
- Governmental Fund revenues were \$84.7 million in fiscal year 2018-2019, increased by \$9.7 million from fiscal year 2018.
- Governmental Fund expenditures were \$64.7 million in fiscal year 2018-2019, an increase of \$3.9 million more than fiscal year 2018.
- Approximately 33% of the fund balance (\$36.8 million) is unassigned and available for spending at the government's discretion, although \$7.8 million is designated as catastrophic and \$5.2 million as fiscal uncertainty reserves. The remainder of the fund balance is either non-spendable, restricted, committed, or assigned to indicate that it is 1) non-spendable form or legally required to be maintained intact (\$0.4 million), 2) restricted for specific purposes (\$31.1 million), 3) committed for specific purposes (\$13.6 million), or 4) assigned for specific purposes (\$31.2 million).

A final version of the CAFR will be available on the City's website for public transparency.

Attachments – CAFR

Action – Staff recommends that the City Council, by motion, accept the Comprehensive Annual Financial Report (CAFR) for the period ended June 30, 2019.

NONCONSENT

- F.8 Oral Update on the City's response to the COVID-19 Local Emergency – from City Manager Benoun and Interim City Attorney Kokotaylo.**

G. CITY ATTORNEY REPORTS**G.1 Adopt an Urgency Ordinance of the City of Newark Enacting a Temporary Moratorium on Evictions Due to Nonpayment of Rent for Residential and Commercial Tenants Where the Failure to Pay Rent is From Income Loss Resulting From the Novel Coronavirus (COVID-19) – from City Manager Benoun, Interim City Attorney Kokotaylo, and Community Development Director Turner. (URGENCY ORDINANCE-1)**

Background/Discussion – The City Council previously adopted an urgency ordinance that establishes a temporary moratorium on evictions due to nonpayment of rent for residential and commercial tenants where the failure to pay rent is from income loss resulting from the coronavirus (COVID-19) at a Special City Council meeting on March 26, 2020.

The City Council made a minor modification to the proposed urgency ordinance to require that tenants notify landlords within 7 days of rent being due of a COVID-19 related reason to not pay rent and to require that documentation be provided within 15 days of rent being due.

The ordinance took effect immediately and will remain effect until May 31, 2020, the expiration of the local emergency, or the Governor’s proclamation of a state of emergency, whichever is later.

The urgency ordinance applies to all eviction proceedings, such as notices to quit or pay rent or unlawful detainer actions served on or after the effective date of the ordinance. The ordinance places a temporary moratorium on eviction actions instituted for non-payment of rent where a tenant can demonstrate that the tenant suffered a substantial loss of income due to the COVID-19 pandemic by providing a substantive eviction defense to a tenant. The ordinance requires that tenants pay back unpaid rent in 25% increments within forty-five (45) days, ninety (90), one hundred thirty-five (135) days, and one hundred eighty (180) days of the date of expiration of the Eviction Moratorium.

The purpose of the City Council’s action is to conduct a reading of the title of the ordinance and adopt the ordinance. There is no substantive impact on the City Council’s action as the urgency ordinance being adopted maintains the moratorium effective date of March 26, 2020 – this action is a procedural action to read the title of the ordinance.

Included with this staff report is a redline showing the revisions made by the City Council at the March 26, 2020 meeting as well as other slight clarifying modifications.

Attachments – Ordinance; redline version of Ordinance; staff report for Item B.1 from March 26, 2020 Special City Council meeting

Action – City staff recommends that the City Council introduce by title, waive further reading and adopt an urgency ordinance that establishes a temporary moratorium on evictions due to nonpayment of rent for residential and commercial tenants where the failure to pay rent is from income loss resulting from the coronavirus (COVID-19).

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.

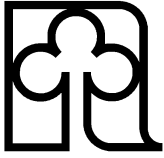
(MOTION)

M. CLOSED SESSION

N. ADJOURNMENT

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

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



CITY OF NEWARK CITY COUNCIL

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

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

AGENDA

Thursday, April 9, 2020

CITY COUNCIL:

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

CITY STAFF:

David J. Benoun
City Manager
Gina Anderson
Police Chief
Soren Fajeau
Public Works Director
David Zehnder
Recreation and Community Services Director
Helen Que-Garcia
Acting Human Resources Dir.
Kristopher J. Kokotaylo
Interim City Attorney
Krysten Lee
Finance Director
Steven M. Turner
Community Development Dir.
Sheila Harrington
City Clerk

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

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

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

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

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

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