

**E.13 Hearing to consider adoption of Master Fee Schedule for Fiscal Year 2017-2018 –
from Senior Accountant Lee. (RESOLUTION)**

Background/Discussion – The City’s Master Fee Schedule (MFS) is reviewed annually. The proposed MFS for Fiscal Year 2017-2018 is based on an analysis of both direct and indirect costs for the delivery of certain City programs and services. Market factors were also considered in establishing the proposed fees. The proposed MFS is the result of input from all City departments.

The City Attorney has advised that as a result of a December 22, 2005, California Supreme Court case (Barratt-American, Inc. vs. City of Rancho Cucamonga), the reenactment of previously existing fees without change nullifies the applicable statute of limitations and, thus, reopens those fees to legal challenge. It is recommended that the Council amend only those sections of the Master Fee Schedule that staff is suggesting be changed. The sections adopted, deleted, or amended by Council will then be editorially merged with the unchanged portions of the Master Fee Schedule as last amended by the City Council in Resolution No. 10,522 on June 23, 2016.

Attachment

Action - It is recommended that the City Council, by resolution, amend the Master Fee Schedule for Fiscal Year 2017-2018.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AMENDING THE MASTER FEE SCHEDULE FOR
FISCAL YEAR 2017-2018

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

WHEREAS, the City Council of the City of Newark has, from time to time, established fees by resolution for services as authorized pursuant to the Newark Municipal Code, most recently on June 23, 2016 by Resolution No. 10,522.

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



SUMMARY OF PROPOSED CHANGES

I. DEVELOPMENT ENTERPRISE FUND

DEVELOPMENT – The Request for Parcel Map Waiver and Lot Line Adjustments fee has been separated into two line items. The fee for Request for Parcel Map Waiver remains unchanged; however, the fee for Lot Line Adjustments has increased to better reflect the staff time required to review and approve.

A new fee, “Geotechnical peer review by outside consulting firm” was added due to the state law requiring geotechnical studies within seismic hazard areas to be reviewed by qualified personnel. The City does not have the required expertise in-house; therefore, the fee is to cover consulting costs. The deposit amount is based on typical costs for previous reviews with the final billing based on actual cost plus 25%.

The fee for new address assignment was adjusted to account for an increasing need to visit sites and produce a site plan for applicants.

ENCROACHMENT ORDINANCE – The permit fees for Improvement Plan Check and Inspection of Non-Subdivision Construction and Construction and Maintenance of Public Utility and Public Agency facilities within the public right-of-way and easements have increased to cover the administrative cost of issuing the permits. The fee has not been increased since 2006 and the new fee amount would be on par with neighboring cities.

BUILDING INSPECTION – The fees for parcels over one acre to five acres as well as parcels over five acres for Storm Water Quality Control Plan Review and Inspection were adjusted as MRP2.0 requires monthly inspections for compliance with Provision C.6. In addition, the increase covers follow-up inspections and enforcement, compiling inspection records, and annual reporting to the state.

II. RECREATION AND COMMUNITY SERVICES ENTERPRISE FUND

SILLIMAN ACTIVITY CENTER USER (including Aquatic Center) – The Daily Use fee for Infant/Toddler (two years old and under) was updated to a fee range to account for the possible increase in the cost of diapers and to allow flexibility in future program changes.



III. CAPITAL ASSETS – MAINTENANCE ENTERPRISE FUND

MAINTENANCE – The fees for Weed Abatement services were added at the contractor's actual abatement cost for each parcel, plus an administrative charge of 20%. The administrative charge includes staff time and Alameda County Assessor costs. These fees have been assessed historically, but were not previously included in the Master Fee Schedule.

Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
II. DEVELOPMENT ENTERPRISE FUND (All fees shall be rounded to the nearest whole dollar)			
B. DEVELOPMENT			
020-2015	3670	6. Request for Parcel Map Waiver and Lot Line Adjustments-	1,100
		7. Request for Lot Line Adjustments	2,000
020-2015	3670 (50%) 3150 (50%)	8. Improvement Plan Check and Inspection for subdivision construction (est. 50% paid at time of plan submittal) (Cash deposit 020-2208)	
		e. Geotechnical peer review by outside consulting firm	3,000 deposit; final billing based on actual cost plus 25%
020-Various	3750	9. Document Retention	See I.C.3.
020-2015	3992	10. Landscaping and Lighting Contract Administration	
020-2015	3670	11. Tree Removal Application/Permit (maximum three trees per application)	100/application (non-refundable)
		12. Subdivision Ordinance Variance for Parcel Maps	
		13. Subdivision Ordinance Variance after initial approval of Tentative Map	1,400
		14. Amendment to Subdivision Ordinance (Cash deposit 020-2208)	Cost plus 100% and deposit of 4,000
020-2015	3930	15. Property Acquisition	
020-2015	3670	16. Address Assignments	
		a. New address assignment	95 100
C. ENCROACHMENT ORDINANCE			
020-2015	3670 (50%) 3150 (50%)	1. Improvement Plan Check and Inspection for Non-Subdivision Construction (Est. 50% paid at time of plan submittal) (Cash deposit 020-2208)	
		a. Permit	95 110
020-2015	3670 (50%) 3150 (50%)	2. Construction and Maintenance of Public Utility and Public Agency facilities within the public right-of-way and easements	
		a. Permit	95 110
G. BUILDING INSPECTION			
020-2014	3677	26. Storm Water Quality Control Plan Review and Inspection - required as a condition of the NPDES permit to minimize pollution in storm water runoff during construction.	
		c. Parcels over 1 acre to 5 acres	800 2,100



Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
G. BUILDING INSPECTION, Continued			
	d. Parcels over 5 acres	1200 3,200	



Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
III. RECREATION AND COMMUNITY SERVICES ENTERPRISE FUND			
B. SILLIMAN ACTIVITY CENTER USER (including Aquatic Center)			
030-0000	3821	1. Daily Use (individual or group visits)	
		a. Infant/Toddler (2 yrs and under)	3-6/person (includes swim diaper)



Enterprise Fund - Cost Center	Account No.	Description	Fee (in dollars)
IV. CAPITAL ASSETS - MAINTENANCE ENTERPRISE FUND			
A. MAINTENANCE			
040-4010	Various	11. Weed Abatement services by others on private property, including all administrative charges	Cost plus 20%



E.14 Hearing to consider a planned unit development and a conditional use permit, for a two-day night market special event to be held on July 7 and 8, 2017, in the NewPark Mall parking lot (APN: 901-0111-025). NewPark Mall is bounded, generally, to the north by Mowry Avenue, to the west by Cedar Boulevard, to the south by Balentine Drive, and to the east by Interstate 880 (Nimitz Freeway) – from Assistant Planner Bowab. (RESOLUTION)

Background/Discussion – Ms. Ria Abellera has submitted an application to hold their second annual outdoor special event called “The Bay Area Night Market” in the NewPark Mall parking lot on July 7, 2017 (Friday) and July 8, 2017 (Saturday). The previous event was held last year at the Newark Pavilion. NewPark Mall is zoned CR (Regional Commercial) and approval of a planned unit development and a conditional use permit is required.

The Bay Area Night Market is an open air market hosting local food vendors and small businesses. The market celebrates the vibrant and diverse communities of the Bay Area through selling cultural foods, arts and crafts, and goods. There will be live music, karaoke, and arcade games. This event will not be selling alcoholic beverages. The Bay Area Night Market is proposed to be held from 4:00 p.m. to 11:00 p.m. each day.

The event will take place in the NewPark Mall parking lot area west of the Burlington store. The event is expected to host approximately 12,000 – 15,000 attendees over the two-day period. The proposed event area will be fenced off to assist in controlling access to the event. In the past, staff has closely monitored these types of events specifically relating to concerns regarding noise, clean-up after the event, and security. The applicant has agreed to limit amplified sound away from any residential areas. The event will be cleaned up within 24 hours after the final performance on July 8th and there will be security officers present at the event to the satisfaction of the Police Department.

Staff believes this will be a beneficial event for the City and recommends approval of the two-day event to be held on July 7th & 8th, 2017, subject to the conditions of approval listed in the attached resolution.

Environmental Review

This project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15304, Class 4(e), minor temporary use of land having negligible or no permanent effects on the environment.

Update – At its meeting of June 13, 2017, the Planning Commission approved Resolution No. 1943 with Exhibit A, for a planned unit development, and U-17-12, a conditional use permit to allow for a two-day night market special event to be held on July 7 and 8, 2017, in the NewPark Mall parking lot (APN: 901-0111-025).

Attachments - Site Plan

Action – It is recommended that the City Council, by resolution, with Exhibit A, approve P-17-11, a planned unit development, and U-17-12, a conditional use permit to allow for a two-day night market special event to be held on July 7 and 8, 2017, in the NewPark Mall parking lot (APN: 901-0111-025).

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWARK APPROVING P-17-11, A PLANNED UNIT DEVELOPMENT, AND U-17-12, A CONDITIONAL USE PERMIT, TO ALLOW FOR A TWO-DAY NIGHT MARKET SPECIAL EVENT TO BE HELD ON JULY 7 AND 8, 2017, IN THE NEWPARK MALL PARKING LOT (APN: 901-0111-025)

WHEREAS, Ms. Ria Abellera has filed with the City Council of the City of Newark application for P-17-11, a planned unit development, and U-17-12, a conditional use permit, to hold The Bay Area Night Market (consisting of activities such as arts, crafts, food and commercial vendors, live music, karaoke, and arcade games) in the NewPark Mall parking lot on July 7 and 8, 2017; and

WHEREAS, pursuant to the Municipal Code Section 17.72.060, a public hearing notice was published in The Tri City Voice on June 6, 2017 and mailed as required, and the City Council held a public hearing on said application at 7:30 p.m. on June 22, 2017 at the City Administration Building, 37101 Newark Boulevard, Newark, California; and

WHEREAS, pursuant to Chapter 17.40 (Planned Unit Developments), Section 17.40.050 (Permit Procedure) and Chapter 17.72 (Use Permits), Section 17.72.070 (Action by Planning Commission), the Planning Commission at its meeting of June 13, 2017 made the following findings:

1. That the proposed location of the planned unit development is in accord with the objectives of the zoning title and the purposes of the district in which the site is located;
2. That the proposed location of the planned unit development and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
3. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between the structures, usable open space, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the zoning title;
4. That the standards of population density, site areas and dimensions, site coverage, yard spaces, heights of structures, distances between the structures, usable open space, off-street parking and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities;
5. That the combination of different dwelling types and/or the variety of land uses in the

development will complement each other and will harmonize with existing and proposed land uses in the vicinity;

6. That the proposed location of the conditional use is in accord with the purposes of the zoning title and the purposes of the district in which the site is located;
7. That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity;
8. That the proposed conditional use will comply with each of the applicable provisions of Chapter 17.72 (Use Permits).

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby approve this application as shown on Exhibit A, subject to compliance with the following conditions:

Planning Division

- a. This approval shall be for the Bay Area Night Market special event on July 7 and 8, 2017 between the hours of 4 p.m. and 11 p.m., with a reasonable amount of time for set-up prior to opening and for clean-up after closing, as determined by the Community Development Director.
- b. The volume levels of all sound equipment and speakers associated with this project shall not exceed levels determined to be acceptable by the Community Development Director.
- c. All lighting shall be directed on-site so as not to create glare off-site.
- d. Parking lot cleaning with sweeping or vacuum equipment shall not be permitted between 11:00 p.m. and 7:00 a.m.
- e. Garbage and recycling pick-up shall be coordinated with Republic Services, Inc. of Alameda County so that a sufficient number of dumpsters are available on-site and picked-up to ensure no refuse, garbage or recycling is stored outdoors except within the approved trash and recycling dumpsters. Prior to the event openings, the applicant shall submit written evidence of Republic Services, Inc.'s approval.
- f. The site and its improvements shall be maintained in a neat and presentable condition, to the satisfaction of the Community Development Director. This shall include, but not be limited to, repainting surfaces damaged by graffiti and site clean-up. Graffiti removal/repainting and site clean-up shall occur on a continuing, as needed basis. Any vehicle or portable building brought on the site shall remain graffiti free.
- g. The event staff shall direct patrons to park their vehicles in the NewPark Mall parking lot.
- h. The event staff shall submit evidence of approval from the County Health Department for

the proposed food and beverage sales. There shall be no alcoholic beverage sales.

- i. Construction equipment, including compressors, generators and mobile equipment shall be fitted with heavy-duty mufflers designed to reduce noise impacts.
- j. Within 24 hours of the final performance on July 8, 2017, all structures and improvements brought to the subject site associated with this event shall be removed and the NewPark Mall parking lot returned to its original, pre-event condition, to the satisfaction of the Community Development Director. The NewPark Mall will be responsible for the clean-up after the event.

Engineering Division

- k. The event staff shall implement all applicable Best Management Practices (BMPs) from the California Best Management Practice Handbook for Construction Activities to prevent the pollution or contamination of stormwater runoff from the event area. Additional BMPs may be required by the City Engineer, as necessary, to minimize the pollution of stormwater runoff from the event area.
- l. The event coordinator shall ensure proper traffic circulation within the angled parking area to the east of the proposed event. Vehicles within the parking lot must be able to park and exit normally in the correct direction of traffic and not against the normal direction of traffic.

Fire Department

- m. Provide crowd managers for 1,000 people per CFC403.12.3. Certifications shall be provided to ACFD Newark Fire Prevention Office no later than July 3, 2017.
- n. Temporary air-supported and air-inflated membrane structure shall comply with CFC3103.10.3 and CFC3103.10.4.
- o. No park vehicles allowed within 20' of tents.
- p. For the Karaoke and Arcade tents, provide fire extinguisher(s), emergency lights and no smoking signs.
- q. Provide emergency lights for the night market. Electrical wiring shall be concealed or bridged to avoid tripping hazard. The proposed string lights on poles (emergency lights) shall have backup power.

Police Department

- r. The event area will be fenced, reducing the potential for issues with violence, drugs, and alcohol.

- s. All security officers must be wearing an easily identifiable uniform, be licensed and bonded. If armed security is used, the security company must comply with NPD requirements for armed security, prior to the event.
- t. Loud Speakers must face the Mall and direct sound away from residential areas. If noise complaints are received, the sound volume must be reduced to prevent additional complaints.
- u. A dedicated first aid station, with at least two Emergency Medical Technicians, should be on site.
- v. There shall be four security officers assigned to the event and must not be part of the staffing of NewPark Mall. They shall be additional staffing.

General

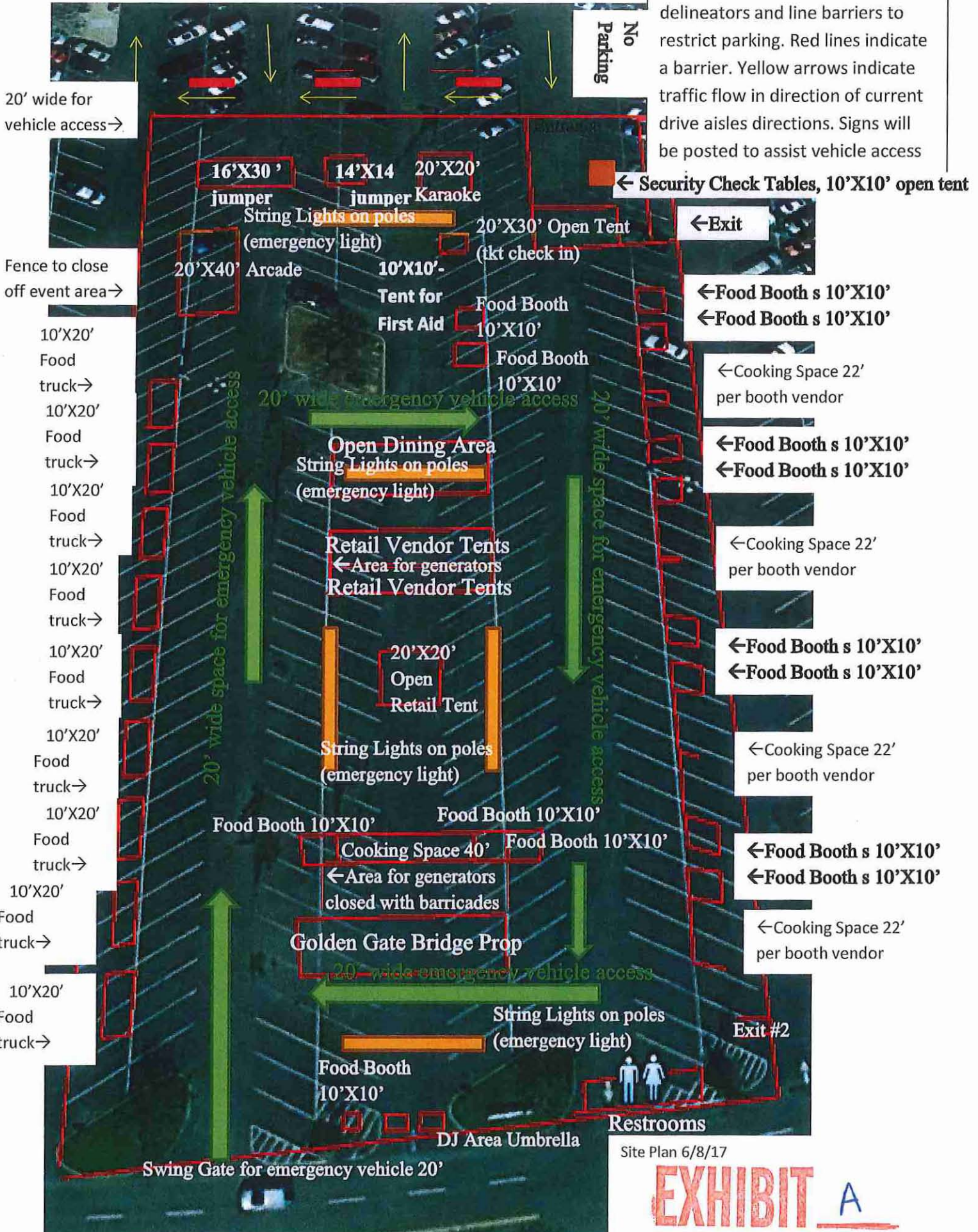
- w. All proposed changes from approved exhibits shall be submitted to the Community Development Director who shall decide if they warrant Planning Commission and City Council review and, if so decided, said changes shall be submitted for the Commission's and Council's review and decision. The applicant shall pay the prevailing fee for each additional separate submittal of project exhibits requiring Planning Commission and/or City Council review and approval.
- x. If any condition of this planned unit development and conditional use permit be declared invalid or unenforceable by a court of competent jurisdiction, this planned unit development and conditional use permit shall terminate and be of no force and effect, at the election of the City Council on motion.
- y. This planned unit development and conditional use permit shall be given a hearing before the City Council for the Council's review and approval.
- z. The applicant hereby agrees to defend, indemnify, and save harmless the City of Newark, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City of Newark, its Council, boards, commissions, officers, employees or agents to challenge or void the permit granted herein or any California Environmental Quality Act determinations related thereto.
- aa. In the event that any person should bring an action to attack, set aside, void or annul the City's approval of this project, the developer shall defend, indemnify and hold harmless the City and/or its agents, officers and employees from any claim, action, or proceeding against the City and/or its agents, officers and employees with counsel selected by the developer (which shall be the same counsel used by developer) and reasonably approved by the City. Developer's obligation to defend, indemnify and hold harmless the City

and/or its agents, officers and employees shall be subject to the City's compliance with Government Code Section 66474.9.

- bb. The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations and other exactions. The applicant is hereby further notified that the 90-day approval period in which the applicant may protest these fees, dedications, reservations and other exactions, pursuant to Government Code Section 66020(a), has begun. If the applicant fails to file a protest within this 90-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

Site Map The Bay Area Night Market

Traffic Circulation Plan: North side lot will be closed off with delineators and line barriers to restrict parking. Red lines indicate a barrier. Yellow arrows indicate traffic flow in direction of current drive aisles directions. Signs will be posted to assist vehicle access



Site Plan 6/8/17

EXHIBIT A