



City of Newark

37101 Newark Blvd, Newark, CA 94560-3796 Ph. (510) 578-4226 FAX (510) 578-4306

**SPECIAL CITY COUNCIL
MEETING NOTICE**

NOTICE IS HEREBY GIVEN that pursuant to California Government Code Section 54956, the City Council has called for a Special City Council Meeting to be held on Thursday, September 18, 2014, beginning at 4:00 p.m. in the City Council Chambers located at 37101 Newark Boulevard. The Newark City Council will meet to discuss the following item:

Authorization for the Mayor to sign a revised agreement with Alameda County for participation in the Alameda County Urban County for fiscal years 2015-2017.

The public is invited to attend the meeting.

SHEILA HARRINGTON
City Clerk



CITY OF NEWARK CITY COUNCIL

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

City Administration Building
4:00 p.m.
City Council Chambers

AGENDA

Thursday, September 18, 2014

CITY COUNCIL:

Alan L. Nagy, Mayor
Ana M. Apodaca, Vice Mayor
Luis L. Freitas
Sucy Collazo
Robert Marshall

CITY STAFF:

John Becker
City Manager

Terrence Grindall
Assistant City Manager

Susie Woodstock
Administrative Services Director

Sandy Abe
Human Resources Director

Peggy A. Claassen
Public Works Director

Jim Leal
Police Chief

David Zehnder
Recreation and Community
Services Director

David J. Benoun
City Attorney

Sheila Harrington
City Clerk

Welcome to the **SPECIAL** 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.



CITY OF NEWARK CITY COUNCIL

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

SPECIAL MEETING

AGENDA

Thursday, September 18, 2014

**City Administration Building
4:00 p.m.
City Council Chambers**

A. ROLL CALL

B. CITY MANAGER REPORT

B.1 Authorization for the Mayor to sign a revised agreement with Alameda County for participation in the Alameda County Urban County for fiscal years 2015-2017 – from Assistant Planner Jimenez. (RESOLUTION)

C. ORAL COMMUNICATIONS

D. 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.

B.1 Authorization for the Mayor to sign a revised agreement with Alameda County for participation in the Alameda County Urban County for fiscal years 2015-2017 – from Assistant Planner Jimenez. (RESOLUTION)

Background/Discussion – Each year, the City of Newark receives funding under the United States Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Program. This grant provides funding for activities benefiting low- and moderate-income persons, including public works projects, planning studies, and housing rehabilitation and repair.

Newark's funds are disbursed through Alameda County. The County oversees Newark's use of the funds in order to ensure that all appropriate federal government requirements are met. This arrangement is established and governed each year by a pair of agreements, one between Alameda County and HUD, and one between the City and Alameda County. On May 22, 2014, City Council authorized the Mayor to sign an agreement with Alameda County Urban County Community Development Block Grant (CDBG) program for fiscal year 2014-2015; and for participation in the Alameda County Urban County for fiscal years 2015-2017. HUD subsequently reviewed the agreements that were entered between Alameda County and the five cities that comprise the Urban County, including Newark, and determined that the three-year urban county agreements were inadequate because standard language and provisions were omitted.

A copy of the revised three-year Urban County agreement between Newark and Alameda County is attached. The County requires the fully executed agreement by September 19th. Failure to execute the agreement by the deadline would result in the loss of CDBG funds for the next three years (approximately \$100,000 per year). Staff is requesting that the City Council approve the revised agreement between the City of Newark and Alameda County, thereby continuing the city's participation in the CDBG program.

Attachment

Action – It is recommended that the City Council, by resolution, authorize the Mayor to sign a revised agreement with Alameda County for participation in the Alameda County Urban County for fiscal years 2015-2017.

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
NEWARK AUTHORIZING THE MAYOR'S EXECUTION OF A
REVISED AGREEMENT WITH ALAMEDA COUNTY FOR
PARTICIPATION IN THE ALAMEDA COUNTY URBAN
COUNTY FOR FISCAL YEARS 2015-2017

BE IT RESOLVED by the City Council of the City of Newark that the Mayor of the City of Newark is hereby authorized to sign an agreement with Alameda County for participation in the Alameda County Urban County for Fiscal Years 2015-2017, said agreement on file in the Office of the City Clerk.

AGREEMENT

This Agreement is made and entered into this ____ day of _____ by and between the CITY OF NEWARK, hereinafter called "CITY" and the COUNTY OF ALAMEDA, hereinafter called "COUNTY". This Agreement replaces the former agreement ~~finally executed~~adopted by the parties on or about July 8, 2014, regarding their cooperation with respect to Community Development Block Grant funding.

WHEREAS, the Congress of the United States has enacted the Housing and Community Development Act of 1974, and subsequent amendments to such Act, hereinafter called "ACT"; and,

WHEREAS, Title I of ACT consolidates previously separate grant programs for open space, public facility loans, water and sewer grants, urban renewal, model cities, rehabilitation loans, and affordable housing; and,

WHEREAS, Title I makes available entitlement grants to:

- (1) cities whose 2010 Census population exceeds 50,000 persons; and
- (2) counties which qualify as an urban county; and

WHEREAS, the term "urban county" means any county within a metropolitan area which:

- (1) is authorized under state law to undertake essential community development and housing assistance activities in its incorporated areas which are not units of general local government; and,
- (2) has a combined population of 200,000 or more in such unincorporated areas and in its included units of local government:
 - (A) in which it has authority to undertake essential community development and housing assistance activities and which do not elect to have their population excluded; or,
 - (B) with which it has entered into cooperation agreements to undertake or to assist in the undertaking of essential community development and housing assistance activities; and,

WHEREAS, five cities (Albany, Dublin, Emeryville, Newark and Piedmont) in Alameda County have a 2010 Census population of less than 50,000 and desire to participate in the Alameda County urban county; and,

WHEREAS, the five-participating cities, combined with the unincorporated portions of the County of Alameda, form a combined 2010 Census population of 200,000 or more persons, thereby qualifying as an urban county, and becoming eligible for an entitlement of Community Development

Block Grant (CDBG) and HOME Investment Partnership (HOME) funds; and,

WHEREAS, ~~these the participating same five~~ cities agree that by executing these cooperative agreements they may not apply for grants under the Small Cities or State CDBG Program from appropriations for fiscal years during the period in which it is participating in the Urban County's CDBG program; and

WHEREAS, the COUNTY and CITY cannot withdraw from the cooperative agreement while the Program Year 2015-2017 Agreement remains in effect.

THEREFORE, it is agreed that:

1. CITY agrees that by executing this Agreement, CITY may not apply for grants from appropriations under the Small Cities or State CDBG Program from appropriations for fiscal years during the period in which it is participating in the Urban County's CDBG program.

2. CITY agrees that by executing this Agreement, it may only receive a portion of the formula allocation under the HOME Program through the Urban County. If the Urban County does not receive a portion of the HOME formula allocation, the CITY cannot form a HOME Consortium with other local governments. An Urban County or a unit of government participating with the Urban County may apply to the State of California for HOME funds, if the State allows. CITY agrees that by executing this Agreement, it may only receive the formula allocation under the ESG Program through the Urban County. If the Urban County does not receive the ESG formula allocation, the CITY cannot form an Urban County with other local governments. An Urban County or a unit of government participating with the Urban County may apply to the State of California for ESG funds, if the State allows.

~~1. CITY agrees that by executing this Agreement, it may only receive a portion of the formula allocation under the HOME Program through the Urban County. If the Urban County does not receive a portion of the HOME formula allocation, the CITY cannot form a HOME Consortium with other local governments. An Urban County or a unit of government participating with the Urban County may apply to the State of California for HOME funds, if the State allows.~~

~~2. CITY agrees that by executing this Agreement, it may only receive the formula allocation under the ESG Program through the Urban County. If the Urban County does not receive the ESG formula allocation, the CITY cannot form an Urban County with other local governments. An Urban County or a unit of government participating with the Urban County may apply to the State of California for ESG funds, if the State allows.~~

3. The Department of Housing and Urban Development, hereinafter called "HUD", has made a determination that the COUNTY has the essential powers to operate as an urban county.

4. CITY and COUNTY will cooperate to undertake, or assist in undertaking, community renewal and lower income housing assistance activities, specifically urban renewal and publicly assisted housing, hereinafter called "PROGRAM", to be carried out with annual Community

Development Block Grant and HOME Investment Partnership funds, hereinafter called "CDBG/HOME FUNDS", from Federal fiscal years 2015, 2016 and 2017 appropriations and from any program income generated from the expenditure of such funds. Community renewal and lower income housing assistance activities shall be those designated or referred to within Title I of the ACT and Title II of the Cranston-Gonzalez National Affordable Housing Act and the regulations issued pursuant thereto.

5. To carry out community renewal and lower income housing activities, COUNTY shall distribute to CITY a portion of the CDBG funds received under the ACT from Federal fiscal years 2015, 2016 and 2017 appropriations. The funds distributed to CITY shall be determined in accordance with such needs, objectives, or strategies, as COUNTY shall decide. In preparing the needs, objectives or strategies, COUNTY shall consult with CITY before making its determinations. The distribution of HOME funds to the Urban County is based on the review and recommendations of proposals received in response to an annual RFP.

6. It is expressly understood that as a recipient of the CDBG/HOME FUNDS from HUD, COUNTY and CITY must take all actions necessary to assure compliance with the Urban County's certification required by Section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, The Fair Housing Act, Section 109 of Title I of the Housing and Community Development Act of 1974, which incorporates Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975, and other applicable laws, and all regulations issued pursuant thereto. Further, urban county funding for activities in or in support of any city that does not affirmatively further fair housing within its own jurisdiction or that impedes the county's actions to comply with its fair housing certification is prohibited.

a. COUNTY and CITY must have a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individual engaged in non-violent civil rights demonstrations; and

b. COUNTY and CITY must have a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

7. CITY may not sell, trade, or otherwise transfer all or any portion of the CDBG/HOME FUNDS to a metropolitan city, urban county, unit of general local government, or Indian tribe or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-federal considerations, CITY must use the CDBG/HOME FUNDS for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended and Title II of the Cranston-Gonzalez National Affordable Housing Act.

8. Pursuant to 24 CFR 570.501(b), CITY is subject to the same requirements applicable to sub-recipients, including the requirement of a written agreement set forth in CFR 570.503.

9. CITY shall inform COUNTY of any income generated by the expenditure of CDBG funds received by the CITY. CITY shall pay any such program income to COUNTY or CITY may retain program income subject to requirements set forth in this Agreement and with written approval of the COUNTY. Any program income CITY is authorized to retain may only be used for eligible activities in accordance with all CDBG requirements as may then apply. COUNTY has the responsibility for monitoring and reporting to HUD on the use of any such program income thereby requiring appropriate record keeping and reporting by CITY as may be needed for this purpose. In the event of close-out or change in status of CITY, any program income that is on hand or received subsequent to the close-out or change in status shall be paid to COUNTY.

10. In regard to real property that is in within the control of CITY due to being acquired or improved in whole or in part using CDBG funds, CITY must give timely notification to COUNTY for any modification or change in the use of the real property from that planned at the time of acquisition or improvement including disposition. CITY must reimburse COUNTY in an amount equal to the current fair market value (less any portion thereof attributable to expenditures of non-CDBG funds) of property acquired or improved with CDBG funds that is sold or transferred for a use which does not qualify under the CDBG regulations. Any program income generated from the disposition or transfer of property prior to or subsequent to the close-out, change of status or termination of the cooperation agreement between COUNTY and CITY shall be paid to COUNTY.

11. CITY shall provide COUNTY with all information concerning CITY and the activities CITY carried out under this agreement which COUNTY requires to prepare 1) documents required to be submitted to HUD, 2) annual performance report, 3) such other documents as COUNTY may require to carry out community renewal and lower income housing activities or meet Federal requirements. All information shall be submitted on forms prescribed by COUNTY. In addition, CITY agrees to make available upon request all records concerning the activities carried out under this Agreement for inspection by COUNTY or Federal officials during regular business hours.

12. CITY designates City Administrator or his/her designee as the official to whom all notices and communications from COUNTY shall be directed. COUNTY's duty to notify CITY shall be complete when the communication is sent to the designated official or deputy. It is the exclusive duty of the designated official or deputy to notify the correct individuals or departments within CITY.

13. CITY shall defend, indemnify and hold harmless COUNTY, its officers, employees and agents from liability for any fines, penalties, or damage of any type accruing to COUNTY by virtue of CITY's failure to comply with any requirement of the ACT and the regulations issued pursuant thereto, or failure to comply in any respect with the PROGRAM described herein. Further, CITY shall defend, indemnify and hold harmless COUNTY, its officers, employees, and agents against any and all liability for injury or damage caused by any act or omission of CITY or any of CITY's employees or volunteers in the performance of the contract or PROGRAM and CITY shall hold COUNTY harmless from any and all loss occasioned in the performance of, or otherwise arising out of, this Agreement or PROGRAM.

14. This Agreement shall go into effect immediately upon the signature of both parties and shall continue in full force and effect until all activities funded by CDBG/HOME FUNDS from Federal fiscal years 2015, 2016 and 2017 appropriations are completed. CITY will be included in the urban county for the entire three year period funded by CDBG/HOME FUNDS from Federal fiscal years 2015, 2016 and 2017. Appropriations may not be withdrawn from the urban county during this agreement period. During the three year qualification period, Federal fiscal years 2015, 2016 and 2017, CITY and any other included unit of general local government shall not withdraw from nor be removed from the Urban County and cannot terminate or withdraw from the cooperation agreement.

15. CITY agrees that it has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations and a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

16. CITY agrees that COUNTY has final responsibility for selecting CDBG, ESG and HOME activities and annually filing the Annual Action Plan with HUD, although if the County is a member of a HOME Consortium, the Consortium submits the Plan developed by the County.

17. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

CITY OF NEWARK

COUNTY OF ALAMEDA

Mayor

President, Board of Supervisors

ATTEST: _____
City Clerk

ATTEST: _____
Clerk, Board of Supervisors

DATE: _____
APPROVED AS TO FORM:

DATE: _____
APPROVED AS TO FORM:
Donna R. Ziegler, County Counsel

City Attorney

By: _____
Health M. Littlejohn, Deputy County Counsel

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