

AGENDA  
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY  
REGULAR MEETING OF SEPTEMBER 23, 2008  
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. Call To Order.
2. Pledge Of Allegiance.
3. Invocation.
4. Roll Call.
5. Declaration Of Conflicts Of Interest.
6. Ceremonial Matters.
7. Items from the Public - Non-Agenda Items.
8. Consent Calendar
  - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
  - b. Approval Of Warrants.
  - c. Approval Of Minutes Of The September 9, 2008 Regular Meeting.
9. Public Hearings
10. Regular Business
  - a. Second Reading And Adoption Of Ordinance No. 2008- , An Ordinance Approving The Mattos Ranch Subdivision Development Agreement
11. Items From The City Manager And Staff.
12. Items From City Council Members.
13. Adjourn To Closed Session
  - a. Conference With Labor Negotiator - Operating Engineers Local No. 3 Miscellaneous Employees- G.C. 54957.6
  - b. Return To Regular Session.
14. Adjournment.

## Calendar of Events

September 23 – City Council - 7:00 P.M.

September 24-27 – League of California Cities Annual Conference - Sacramento

October 3 - NCLUSD Homecoming

October 8 - Baseball Board Meeting – 7:00 P.M.

October 9 – Recreation Commission – 7:00 P.M.

October 13 – Columbus Day

October 13 – NCLUSD Board Meeting - 7:15 P.M.

October 14 – City Council - 7:00 P.M..

October 16 – Planning Commission – 7:00 P.M.

October 23 – West Side Healthcare Taskforce – 7:00 p.m. - Patterson

October 28 – City Council - 7:00 P.M.

Date.: Sep 18, 2008  
Time.: 11:34 am  
Run by: EMILY M. FARIA

CITY OF NEWMAN  
CASH DISBURSEMENTS REPORT

Page.: 1  
List.: NEW1  
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
034670	09/19/08	499.36	ABBOTT & KINDERMANN, LLP	SHERMAN RANCH/MATTOS RANCH PROFESSIONAL SERVICES
034670	09/19/08	172.01	ABBOTT & KINDERMANN, LLP	MATTOS RANCH/THRU 8/20/08/PROFESSIONAL FEES
034671	09/19/08	513.00	ROBERT ALCANTAR	FALL FESTIVAL SECURITY SERVICES/ALCANTAR
034672	09/19/08	16351.00	ANTHEM BLUE CROSS	HEALTH INSURANCE PREMIUM/OCT 2008
034673	09/19/08	96.15	ARROWHEAD MOUNTAIN SPRING	BOTTLED WATER/AUGUST 2008
034674	09/19/08	284.28	AT&T MOBILITY	WIRELESS ACCESS/PD/8/03/08 TO 09/02/08
034675	09/19/08	4.29	BIGELOW CHEVROLET, INC	ROD ASSEMBLY/PD
034676	09/19/08	513.00	NOEL T. BORDEN, II	FALL FESTIVAL SECURITY SERVICES/BORDEN
034677	09/19/08	11049.38	BOYLE ENGINEERING CORPORATION	DRISKELL AVE LOT LINE/PLAZA WATERLINE/AQUATIC/STRE
034678	09/19/08	7326.24	W.H. BRESHEARS, INC.	GAS AND DIESEL PURCHASES/AUG 2008
034679	09/19/08	3500.00	BUSH,ACKLEY,MILICH,HALLIN	RETAINER FEES/JULY AND SEPT 2008/HALLINAN
034680	09/19/08	233.39	BUSINESS CARD	SCREEN SETUP/15 T-SHIRTS/VOLLEYBALL CAMP
034680	09/19/08	681.69	BUSINESS CARD	OP CERTIFICATION GUIDE/REPLACED SPEED SENSOR/SWEEP
034680	09/19/08	223.98	BUSINESS CARD	CAR WASHES/SHIPPING/MEALS/DUMP FEES/CPCA DUES
034681	09/19/08	327.49	CALIFORNIA FRAMING & DISPLAYCA	2 CLEAR CAST ACRYL TUBES/LENS FOR BOLLARDS
034682	09/19/08	27.91	CENTRAL SANITARY SUPPLY	INTEGRITY FLAT BOX FACIAL TISSUE
034683	09/19/08	534.50	CODE PUBLISHING COMPANY	CITY CODE ELECTRONIC UPDATE ONLY/AUG 2008
034684	09/19/08	1267.50	CONCINNITY, INC	MONTHLY IT CONTRACT SERVICES/OCT 2008
034685	09/19/08	680.00	CORBIN WILLITS SYS, INC.	CUSTOM PROGRAMMING/MQ FORMS/SP FORMS/PY FORMS
034686	09/19/08	1894.68	CRESCENT SUPPLY CO. #1	UNIFORM SUPPLIES/LOPEZ/CAMPOS/HUTCHINS/BORDEN/GONZ
034687	09/19/08	88.47	DAVE PIRES	DRAIN CLEANING/SHERMAN PARK RESTROOM
034688	09/19/08	493.62	E&M ELECTRIC, INC.	INSTALLED ELECTRODES/WWTP/3 Q0120 BREAKER
034689	09/19/08	2870.68	EMC PLANNING GROUP, INC	PROFESSIONAL FEES/SOUZA INDUSTRIAL PK/1035 T ST
034690	09/19/08	1197.00	EMPLOYMENT DEV DEPT/SUI	UNEMPLOYMENT INS/4/1/08-6/30/08

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034692	09/19/08	142.12	GARTON TRACTOR	FUEL FILTER CHANGE/STREET SWEEPER
034693	09/19/08	200.00	ZAIRA GARCIA	REFUND MEMORIAL BLDG DEPOSIT/GARCIA
034694	09/19/08	3885.00	GDR ENGINEERING, INC.	IMPAROVEMENT PLANS/DRISKELL & KERN/FRESNO STREET
034695	09/19/08	908.75	GEOANALYTICAL LAB, INC.	WEEKLY BACTI'S/TTHM/HAA5 ANNUAL TESTING/BOD/TSS
034696	09/19/08	239.94	GOLDEN STATE IRRIGATION	SPRAY OVERALLS/HAND CLEANER/GLOVES/CONCRETE
034697	09/19/08	168.11	GRANDFLOW	2500 BLUE LASER FORMS
034698	09/19/08	350.00	HARRITY CONSULTING	ENGINEERING CONSULTING/DOWNTOWN PLAZA
034699	09/19/08	286.25	TERRY HEIBERGER (NT)	REIMBURSE SOCCER SNACK BAR SUPPLIES/HEIBERGER
034700	09/19/08	1750.00	DON HUTCHINS	CONTRACT SERVICES/INTERIM LT/9/15/08-9/30/08/HUTCH
034701	09/19/08	422.55	IKON OFFICE SOLUTIONS	COPIER LEASE/8/25/08 TO 9/24/08/PD
034702	09/19/08	860.88	IMAGE UNIFORMS	UNIFORM SUPPLIES/DAVIS/GONGALEZ/SOUSA/ORENDAIN
034703	09/19/08	1362.94	INFOSEND, INC	LATE NOTICES/UTILITY BILL MAILING/AUGUST 2008
034704	09/19/08	490.34	JOE'S LANDSCAPING &	1065 T ST/COVERED ALL WINDOWS WITH PLYWOOD/LABOR
034704	09/19/08	8100.00	JOE'S LANDSCAPING &	LIGHTING & LANDSCAPING DISTRICT/AUG 2008
034705	09/19/08	124.00	LAW ENFORCEMENT SYST., INC	EVIDENCE TAGS/PROPERTY TAGS/PD
034706	09/19/08	795.69	MALLARD EXPRESS AUTO	NEW BRAKES/SERPTINE BELT/MASTER CYLINDER
034707	09/19/08	4864.82	MARTIN CARVER, AICP	PROFESSIONAL SERVICE/DOWNTOWN PLAZA/AUG 2008
034708	09/19/08	107.24	MEASUREMENT CONTROL SYSTEMS	SHIPPING & HANDLING OF 4" NEPTUNE COMPOUND METER
034709	09/19/08	116.82	MIDWAY USA	MESA TACTICAL SUREHELL AMMUNITION/PD
034710	09/19/08	60.00	NEWMAN CITY TOW SERVICE	SERVICE 4 TIRE REMOVAL AND DELIVER TO NEWMAN PD
034711	09/19/08	300.00	CITY OF NEWMAN ACCTS RECEIVABL	HYDRANT PERMIT DEPOSIT REFUND/RODGERS CONSTRUCTION
034712	09/19/08	88.41	NEWMAN G&G AUTO PARTS	MECHANICS GLOVES/BULBS/PUNCH/CHISEL SET/ANTI-SEIZE
034713	09/19/08	866.39	NEWMAN ACE HARDWARE/JACT, INC	CORDS/PAINT/TIES/TAPE/OIL/WASP SPRAY/THERMOSTAT
034714	09/19/08	1167.88	NEXTEL COMMUNICATIONS	CELL PHONE USE/AUGUST 2008
034715	09/19/08	69.00	NUNES AUTO CARE	CHANGE FLAT TIRE/DISMOUNT 5 TIRES/REPAIR NAIL PUNC

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034716	09/19/08	1439.00	OPERATING ENGINEERS/	HEALTH INSURANCE PREMIUM/OCT 2008
034717	09/19/08	660.00	CITY OF PATTERSON	VIDEO REIMBURSEMENT/SEPT 2008
034718	09/19/08	26.75	LYNN PEAVEY COMPANY	75 PCP PACKING/PD
034719	09/19/08	52.65	PETER MANGONE, INC	300 6" BIKE IMPOUND PROPERTY TAGS/PD
034720	09/19/08	281.17	P G & E	NATURAL GAS 8/06/08-09/06/08
034721	09/19/08	3598.02	PRECISION INSPECTION, INC	Bldg Reg Inspec BLDG REGU
034722	09/19/08	469.95	R-SAFE SPECIALTY	METH PRESUMPTIVE KIT/COCAINE PRESUMPTIVE KIT/PD
034723	09/19/08	370.00	RANDHAWA MEDICAL GRP, IN	PRE-EMPLOYMENT PHYSICAL/E. GONZALEZ
034724	09/19/08	18810.78	RRM DESIGN GROUP, INC.	DOWNTOWN PLAZA PROFESSIONAL SERVICES
034725	09/19/08	251.69	SAFE-T-LITE	REFACED 30 STOP SIGNS
034726	09/19/08	482.12	SALSBURY INDUSTRIES	LOCKERS/PD
034727	09/19/08	98.00	SAN JOAQUIN VALLEY	ANNUAL PERMIT FEE/PORTABLE SEWER MACHINE
034728	09/19/08	105.00	STATE OF CALIFORNIA	11550 H&S ANALYSES/AUG 2008
034728	09/19/08	530.00	STATE OF CALIFORNIA	FINGERPRINTS/REC VOLUNTEERS/POLICE/EMPLOYEES
034729	09/19/08	230.00	STANISLAUS COUNTY FIRE CHIEFS'	FIRE CHIEF'S ASSOC DUES/FILM LIBRARY DUES 08/09
034730	09/19/08	2295.00	STAN CNTY SHERIFF'S DEPT	REGISTRATION/AMMUNITION/EVOC/RANG USERS FEE/LOPEZ
034731	09/19/08	116.20	T.H.E. OFFICE CITY	ADD MACHINE TAPE/PAPER/HANGING FILE FOLDERS
034732	09/19/08	180.00	BARBARA J. TOSTA	YOUNG AT HEART INSTRUCTOR/AUGUST 2008/TOSTA
034733	09/19/08	516.21	UNIFIRST CORPORATION	UNIFORM CLEANING/MAT RENTALS/TOWELS/AUG 2008
034734	09/19/08	22.66	USA MOBILITY WIRELESS, INC	PAGER SERVICE/9/8/08 TO 10/07/08/PW
034735	09/19/08	1091.23	MATTOS NEWSPAPERS, INC.	NOTICE OF PUBLIC HEARINGS/LEGAL ADS/SUPPLIES
034736	09/19/08	16.00	WEST SIDE PUBLIC SCALE	WEIGHT TAGS/AUG 2008
034737	09/19/08	83.75	Y-NOT NEWMAN FLORAL	CRINKLAW SYMPATHY PLANT
034738	09/19/08	188.73	YANCEY LUMBER COMPANY	SAND/CONCRETE/CEMENT COLORANT/PLIERS/CONCRETE PATC
034739	09/19/08	200.00	NATALIE ZALINSKI	REFUND MEM BLDG DEPOSIT/CANCELLED/ZALINSKI

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Grn-Total:		----- 115902.66		
Count:	75			

**MINUTES**  
**NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY**  
**REGULAR MEETING OF SEPTEMBER 9, 2008**  
**CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET**

1. **Call To Order** - Mayor Fantazia 7:02 P.M.
2. **Pledge Of Allegiance**
3. **Invocation** - Council Member Crinklaw
4. **Roll Call PRESENT:** Katen, Kelly, Crinklaw, Martina and Mayor Fantazia  
**ABSENT:** None
5. **Declaration Of Conflicts Of Interest** - None.
6. **Ceremonial Matters.**
  - a. **Badge Pinning Of Reserve Officer Noel Borden And Reserve Officer Edgar Gonzalez.**  
  
Chief McGill Introduced And Performed The Swearing In Of New Reserve Officers Noel Borden And Edgar Gonzalez.
7. **Items from the Public - Non-Agenda Items** - None
8. **Consent Calendar**
  - a. **Waive All Readings Of Ordinances And Resolutions Except By Title.**
  - b. **Approval Of Warrants.**
  - c. **Approval Of Minutes Of The August 26, 2008 Regular Meeting.**
  - d. **Adopt Resolution No. 2008-56, A Resolution Approving The City Of Newman's Conflict Of Interest Code As Written And Without Amendments.**

**ACTION:** On Motion By Katen Seconded By Crinklaw And Unanimously Carried, The Consent Calendar Was Approved.

## 9. Public Hearings

- a. Hold Public Hearing And Consider Approval Of The Consolidated Annual Performance And Evaluation Report (CAPER) Relating To Its FY 2006-2007 Past Activity.

Mayor Fantazia Opened The Public Hearing At 7:13 P.M.

There Being No Public Comment The Hearing Was Declared Closed At 7:14 P.M.

**ACTION:** On Motion By Crinklaw Seconded By Martina And Unanimously Carried, The 14-Day Public Comment Period Was Closed And The 2006-2007 Consolidated Annual Performance Evaluation Report (CAPER) For The Community Development Block Grant (CDBG) Program Was Approved.

- b. Introduction Of Ordinance No. 2008-5, An Ordinance Approving The Mattos Ranch Subdivision Development Agreement.

Mayor Fantazia Opened The Public Hearing At 7:17 P.M.

There Being No Public Comment The Hearing Was Declared Closed At 7:18 P.M.

**ACTION:** Ordinance No. 2008-5, An Ordinance Approving The Mattos Ranch Subdivision Development Agreement Was Introduced By Council Member Kelly, Ordinance Had Its First Reading By Title Only.

- c. Adopt Resolution No. 2008-57, A Resolution Approving The Area Of Benefit Agreement Between The City Of Newman And SCM Hearthstone, LLC And Authorizing The City Manager To Execute Said Agreement.

Mayor Fantazia Opened The Public Hearing At 7:20 P.M.

Steve Mothersell, President Of SCM Homes, 1920 Standiford Ave Ste 1, Explained To The Council That Before Hearthstone And Sherman Ranches Were Developed, There Were A Series Of Ditches For Tail Water. Mothersell Explained That When Development Began, Infrastructure Was Installed To Address The Tail Water Issue. Mothersell Told The Council That The Infrastructure He Installed Also Benefits Future Developers And Within The Next 10 Years Those Developers Benefitting From That Installation Will Be Assessed The Appropriate Fees To Pay For Their Portion Of That Infrastructure. Mothersell Asked City Manager Holland To Explain The Reimbursement Bill And More Specifically Inquired About The 15% Administration Fee And What That Fee Pertained To. Mothersell Also Stated That He Would Like To Talk To City Manager Holland Regarding The Reconciliation Of The Deposits.

City Manager Holland Explained That 15% Of The Administration Fee Is Only Charged On Outside Consultant Services.

Jay Egy, 531 Hills Ferry Rd, Stated That He Was Representing The DePauw Property And Would Like To Express Opposition To The Assessment Benefit District. He Commented That He Reviewed The

Irrigation System Very Early In The Process And Is Not Convinced That The Current Infrastructure Provides The Amount Of Benefit That Has Been Assigned To The DePauw Property. Egy Pointed out That Future Development Will Still Have To Bear The Complete Cost Of Redoing The Current Irrigation System Fronting The DePauw Property And Mentioned That This Type Of Fee Should Be Collected With Building Permits And Not At Time Of Annexation. Egy Stated That He Would Like The Area Of Benefit Request Denied.

Ron DePauw, 22006 Kilburn Road, Crows Landing, Stated That Most Of The Irrigation System That Was Replaced Was Already Pipe.

Steve Mothersell, President Of SCM Homes, 1920 Standiford Ave Ste 1, Stated That They Made No Representations To Other Property Owners That They Would Not Be Subject To An Area Of Benefit District. Mothersell Also Stated That They Only Have To Pay For The Infrastructure That Will Remain In The Ground, And Not Those Items That Might Need To Be Removed. Mothersell Explained That SCM Had To Give Up Both Sides Of The Road And The Land For The Pipe. Mothersell Asked The Council To Approve The Agreement And Let The Property Owners Fight Out The Agreement.

There Being No Further Public Comment The Hearing Was Declared Closed At 7:58 P.M.

**ACTION:** On Motion By Kelly Seconded By Katen And Unanimously Carried, Resolution No. 2008-57, A Resolution Approving The Area Of Benefit Agreement Between The City Of Newman And SCM Hearthstone, LLC And Authorizing The City Manager To Execute Said Agreement Was Adopted And Carried By The Following Roll Call Vote AYES: Katen, Kelly, Martina; NOES: Fantazia, Crinklaw; Absent: None; NOT PARTICIPATING: None.

## **10. Regular Business**

- a. Approve And/Or Modify Phase II Of The Blueprint Process Outcomes.

Lark Downs, Senior Planner With StanCOG, Presented A Power Point Presentation Of The Phase Two Outcomes.

**ACTION:** On Motion By Katen Seconded By Martina And Unanimously Carried, The Phase II Blueprint Process Outcomes And The Moderate Change Growth Scenario Were Approved.

## **11. Items From The City Manager And Staff.**

Supervisor DeMartini Informed The Council That Assembly Bill 844 Was Passed By Both The State Assembly and Senate. DeMartini Explained That Assembly Bill 844 Is Similar To The Ordinances Passed By Both Stanislaus County And The City Of Newman, Which Regulate Scrap Metal Dealers. DeMartini Reminded Everyone That The Next Orestimba Flood Control Meeting Would Be Held On September 17<sup>th</sup>, At 1:00 P.M. And That The Different Flood Control Options Will Be Presented To Everyone At That Time.

City Manager Holland Announced That the First Computer Classes Funded With CDBG Monies had taken place Earlier in the day. Holland Commented That On October 2<sup>nd</sup> The Senior Referral Program Will Moving To The Adult Education Center On Patchett Drive. He Reminded The Council That The

Two On Two Meetings With The School District Would Resume September 17<sup>th</sup>. Holland Mentioned That The City Is Currently Attempting To Transfer The Mariposa Park Grant To The Aquatics Center Site. He Informed The Council That The Stanislaus County Board Of Supervisors Will Review The City's Enterprise Zone Application On Tuesday September 16<sup>th</sup>. Holland Reminded The Council About The Upcoming Planning Commission Meeting On The 18<sup>th</sup> Of September As Well As The League Of California Cities Conference Which Will Be Held The Week Of The 22<sup>nd</sup>.

Chief McGill Reported That Two Serious Armed Robberies had recently taken place within The City And That All Four Suspects Were Apprehended. He Informed That There Had Been A Recent Sexual Assault Case That Was Also Solved. He Stated That The Police Department Currently Is Updating Its Policy Manual. McGill Announced That The Creation Of A New Graffiti Abatement Program, In Which The City Plans To Partner With Volunteers To Paint Over Graffiti. McGill Also Mentioned That The Police Department Is Looking For Volunteers To Perform Tasks To Alleviate Officers.

Public Works Director Garza Informed The Council That BDS-Construction Is Working On The Sidewalk Infill Project Near Kern Street And Driskell Avenue. He Also Mentioned That The City Has Received A Tire Amnesty Grant.

Recreation Supervisor Heiberger Informed The Council That The Next Tennis Session Starts On September 18<sup>th</sup> And That The Soccer Program Had Its First Games On The Previous Saturday

## **12. Items From City Council Members.**

Council Member Martina Commented That The Police Department Is Doing A Fine Job.

Mayor Fantazia Thanked Everyone For Making The Fall Festival A Success.

## **13. Adjournment.**

**ACTION:** On Motion By Crinklaw Seconded By Katen And Unanimously Carried, The Meeting Was Adjourned At 9:02 P.M.

Honorable Mayor and Members  
of the Newman City Council

Agenda Item: **10.a.**  
City Council Meeting  
of September 23, 2008

## **REPORT ON MATTOS RANCH DEVELOPMENT AGREEMENT**

### **RECOMMENDATION:**

Adopt Ordinance #2008-XX approving Mattos Ranch Development Agreement.

### **BACKGROUND:**

In June 2006, the City Council approved Tentative Tract Map (TTM) #04-03. The TTM subdivides 12.6 acres into 106 medium density lots. The property abuts the southern City limit line and fronts on Prince Road.

In August 2008, the Planning Commission conducted a public hearing on the Mattos Ranch Development Agreement. Upon conclusion of the public hearing, the Commission forwarded to the Council a recommendation of approval of the Development Agreement based on the required findings. The recommendation was unanimous.

**On September 9<sup>th</sup>, the City Council introduced Ordinance #2008-XX approving Mattos Ranch Development Agreement.**

### **ANALYSIS:**

The attached Mattos Ranch Development Agreement was prepared by our legal counsel and reviewed and approved by the developer. The agreement includes sections outlining project development and terms and conditions. The agreement includes two additional fees to be paid to the City of Newman; Aquatic Center Fee and Community Benefit Fee. Staff will provide a full presentation of the Development Agreement at the City Council meeting.

### **FISCAL IMPACT:**

Positive. Based upon this agreement, the City will collect an additional fee for the Aquatic Center (\$2,000/lot), plus a Community Benefit Fee (\$3,000/lot).

### **CONCLUSION:**

Staff has worked with the developer to craft a Development Agreement that works for both parties. Through the Development Agreement, the project approval is extended for a period of seven years. This provides additional assurances for the developer as the market for new housing units is currently depressed. The City receives two additional fees that support the Council's ability to develop projects that are important to the Community. Staff recommends that Council introduce Ordinance #2008-XX approving a Development Agreement between the City of Newman and George and Marlene Souza relative to the development known as Mattos Ranch Subdivision.

Respectfully submitted,



Michael E. Holland  
City Manager

**ORDINANCE NO. 2008-**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN  
APPROVING DEVELOPMENT AGREEMENT NO. 08-02 FOR  
MATTOS RANCH**

WHEREAS, The Planning Commission held a Public Hearing on Thursday, August 18, 2008, to consider Mattos Ranch Development Agreement (DA) No. 08-02 for George and Marlene Souza; and;

WHEREAS, The Planning Commission provided a recommendation of approval on the proposed Development Agreement, in accordance with Section 6-11-8 of Newman Municipal Code; and

WHEREAS, The City Council conducted a Public Hearing on September 9, 2008 to consider and review the Mattos Ranch Development Agreement; and

WHEREAS, Notice of the Public Hearing before the Planning Commission and before the City Council was given in the time and in the manner required by State Law and City Code;

WHEREAS, The City Council finds the Mattos Ranch Development Agreement is consistent with the City of Newman General Plan and the Newman Neighborhood Specific Plan. State Law does not require a precise or exact match between this Project and the General Plan. To be consistent, a Project must be compatible with the plan's purpose and policies. This Project is in conformity with the Newman General Plan's objectives, policies, general land uses, and programs specified in the General Plan and the Newman Neighborhood Specific Plan; and

WHEREAS, This Development Agreement will not inhibit or obstruct the attainment of the Newman General Plan. The Council has independently reviewed the evidence and in its independent judgment has determined that the Development Agreement is consistent with the General Plan; and

WHEREAS, This Development Agreement would not directly result in any physical land use changes or impacts to the environment; and

WHEREAS, The City Council determines the best interests of the City of Newman and of its residents would be served by the approval of this Development Agreement; and

WHEREAS, The City Council has independently considered all evidence, including the conclusions and recommendations of Planning Commission of the City of Newman; and

WHEREAS, The City Council of the City of Newman hereby finds that said Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the Newman General Plan and the Newman Neighborhood Specific Plan; and

WHEREAS, The City of Newman determined that Environmental Review has been addressed

through the previously certified Final Environmental Impact Report (FEIR) for the Newman General Plan and the Expanded Initial Study prepared for the Mattos Ranch Subdivision. Section 15162 of CEQA guidelines specifies that no additional environmental work is needed where an EIR is prepared unless:

1. Subsequent changes to the project require important revisions; or
2. Substantial changes occur to the circumstances or settings; or
3. New information of substantial importance becomes available; and

WHEREAS, Staff is of the opinion that no circumstances, as outlined in Section 15162 exists and no further environmental documentation is required. Applicable mitigation measures are incorporated as conditions of approval. The proposed resolution includes statements which confirms that the previously certified Environmental Impact Report prepared for the Newman General Plan addresses CEQA pursuant to Section 15162 of the CEQA Guidelines; and

WHEREAS, In independently reaching this conclusion the City Council has considered all of the evidence, including the conclusions and recommendations of our planning department; and

WHEREAS, the City Council of the City of Newman finds that said CEQA Compliance has been addressed on the previously certified Environmental Impact Report and the Mattos Ranch Development Agreement will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area nor detrimental to the general welfare of the residents of Newman as a whole; and

WHEREAS, In full compliance with CEQA the Newman City Council approved and adopted the Newman Neighborhood Specific Plan ("Specific Plan") in May of 1994; and

WHEREAS, The Mattos Ranch Project envisioned both development within the Specific Plan area and the use of a Development Agreement by the developers; and

WHEREAS, The Development Agreement is consistent with the goals and policies of the Specific Plan; and

WHEREAS, The City Council has considered all of the evidence, including the conclusions and recommendations of our planning department; and

WHEREAS, The City Council of the City of Newman finds that said Development Agreement will not adversely affect the orderly development of property or the preservation of property values; and

WHEREAS, To strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic costs of development, the Legislature of the State of California adopted Section 65864 et seq. of the Government Code (the "Development Agreement Statute"), which authorizes the City to enter into a development agreement with any person/entity having a legal or equitable interest in real property providing for the development of such property and

establishing certain development rights therein; and

WHEREAS, Pursuant to Government Code Section 65865(c), the City has adopted rules and regulations establishing procedures and requirements for consideration of development agreements. This Development Agreement has been processed, considered, and executed in accordance with those City rules and regulations; and

WHEREAS, The City has approved the Newman Neighborhood Specific Plan including all the studies, plans and documents approved at the time the Specific Plan was approved; and

WHEREAS, The Development Agreement has adhered to, and is consistent, with the requirements of the Development Agreement Statute; and

WHEREAS, The City finds the Developer has a legal or equitable interest in the property subject to the Development Agreement; and

WHEREAS, The City Council has considered all of the evidence, including the conclusions and recommendations of our planning department.

NOW, THEREFORE, BE IT ORDAINED By the City Council of the City of Newman as follows:

Section 1. The recitals above are true and correct, and the City Council hereby makes the findings set forth herein.

Section 2. The City Council of the City of Newman hereby approves the Mattos Ranch Development Agreement, Exhibit "A," and finds that said Development Agreement is consistent with the requirement of Government Code Section 65814, et seq.

Section 3. The Mayor and City Clerk of the City of Newman are authorized and directed to execute and record said Development Agreement.

Section 4. This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the city or any officer or employee thereof a mandatory duty of care toward persons and property within or without the city so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5. If any provision of this ordinance or application thereof to any person or circumstances is held invalid, such invalidity shall not effect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. The city council hereby declares that it would have adopted this ordinance irrespective of the validity of any particular portion thereof.

Section 6. This ordinance shall become effective thirty (30) days after its final passage.

Section 7. Within fifteen (15) days after its final passage, the City Clerk shall cause this ordinance to be published in the West Side Index in accordance with Section 36933 of the Government Code.

The foregoing ordinance was introduced by Council Member \_\_\_\_\_ and the title thereof read at the regular meeting of the City Council of the City of Newman held on, September 9, 2008, and by a unanimous vote of the council members present, further reading was waived.

On motion of Council Member \_\_\_\_\_, seconded by Council Member \_\_\_\_\_, the foregoing ordinance was duly passed by the City Council of the City of Newman at a regular meeting thereof held on September 23, 2008 by the following vote:

- AYES:
- NOES:
- ABSTENTIONS:
- ABSENT:

\_\_\_\_\_  
JOHN G. FANTAZIA  
Mayor of City of Newman

ATTEST:  
  
\_\_\_\_\_  
Michael E. Holland  
City Clerk