

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING MAY 11, 2010
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
 - a. Proclamation - Asthma Awareness Month.
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 April 27, 2010 Regular Meeting.
 - d. Adopt Resolution No. 2010- , A Resolution Authorizing The City Manager And The Director Of Public Works To Execute Agency-State Master Agreement And Program Supplement Agreement With Caltrans For The Construction Of The Downtown Plaza Project.
 - e. Adopt Resolution No. 2010- , A Resolution Requesting That The Board Of Supervisors Of Stanislaus County Consolidate The November 2, 2010 City Of Newman Municipal Election And Consolidate The Municipal Election To Fill The Vacancy Created By The Resignation Of Council Member Edward "Ted" Kelly With The Gubernatorial General Election To Be Held On November 2, 2010.
9. Public Hearings
 - a. Report On Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project
 - I. Resolution No. 2010- (RDA Resolution No. 2010-), A Resolution Of The Community Redevelopment Agency Of The City Of Newman Approving Its Report To The City Council Of The City Of Newman On The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project, And Authorizing Transmittal Of The Evidentiary Record To The City Council Of The City Of Newman.

- II. Review and Consider Resolution No. 2010- (RDA Resolution No. 2010-), A Resolution Of The Community Redevelopment Agency Of The City Of Newman Considering And Adopting A Negative Declaration Of Environmental Impact For The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project.
- III. Review and Consider Resolution No. 2010- , A Resolution Of The City Council Of The City Of Newman Considering And Adopting A Negative Declaration Of Environmental Impact For The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project.
- IV. First Reading And Introduction Of Ordinance No. 2010- , An Ordinance Of The City Council Of The City Of Newman Approving And Adopting The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project.

10. Regular Business

- a. First Reading And Introduction Of Ordinance No. 2010- , An Ordinance Amending Title 10 Traffic Regulations, Section 10.04.050 Parking Restrictions Enumerated Of The City Of Newman Municipal Code, Prohibiting Parking On Stephens Avenue Except By Permit On School Days Between The Hours Of 7:00 A.M. And 4:00 P.M.
- b. Adopt Resolution No. 2010- , A Resolution Adopt A Resolution Approving The Preliminary Engineer's Report, Declaring Its Intentions To Levy And Collect Assessments, Setting A Time And Place For A Public Hearing, And Ordering The Initiation Of Assessment Ballot Procedures For The Landscape And Lighting District.
- c. Adopt Resolution No. 2010- , A Resolution Awarding The Safe Routes To School, Street Reconstruction And P,Q,R,S,T, Fresno, Merced And West Avenue Project (Phase I) To Teichert Construction For \$209,082.40; Authorize The City Manager To Execute The Agreement And Approve A Budget Adjustment For The Safe Routes To School Portion Of Said Project.
- d. Authorize An Increase For The On-Call Consulting Services From Eco:Logic Engineering.
- e. Adopt Resolution No. 2010- , A Resolution Accepting And Adopting The City Of Newman Personnel Rules.

11. Items From District Five Stanislaus County Supervisor.

12. Items From The City Manager And Staff.

13. Items From City Council Members.

14. Adjournment.

Calendar of Events

April 27 - City Council - 7:00 P.M.

May 9 - Mother's Day

May 10 - Baseball Board Meeting - 6:00 P.M.

May 10 - NCLUSD Board Meeting - 6:00 P.M.

May 11 - City Council - 7:00 P.M.

May 13 - Recreation Commission - 7:00 P.M.

May 18 - Two-On-Two Meeting With The School Board - 4:00 P.M.

May 20 - Planning Commission - 7:00 P.M.

May 25 - City Council - 7:00 P.M.

May 28 - City Furlough Day - City Offices Closed

May 31 - Memorial Day - City Offices Closed

June 6 - City Softball Game - 10:00 A.M.

June 8 - Budget Workshop - 7:00 P.M.

June 8 - City Council - 7:00 P.M.

June 10 - Recreation Commission - 7:00 P.M.

June 14 - Baseball Board Meeting - 6:00 P.M.

June 14 - NCLUSD Board Meeting - 6:00 P.M.

June 15 - Two-On-Two Meeting With The School Board - 4:00 P.M.

June 17 - Planning Commission - 7:00 P.M.

June 20 - Father's Day

June 22 - City Council - 7:00 P.M.

Date.: May 7, 2010
Time.: 12:27 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

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Ck #	Check Date	CK Amount	Vendor Name	Description
037491	05/03/10	100.00	MOORE TWINING ASSOCIATES	CLASS REGISTRATION/WATER SAMPLER CERT/EMMONS
037492	05/03/10	1885.00	ADAM McGILL	POLICE CHIEF CONTRACT SERVICES/5-1 TO 5-05-10/MCGI
037493	05/07/10	50.00	AMERICAN MOBILE SHREDDING, INC	MONTHLY DOCUMENT SHREDDING/APR 2010
037494	05/07/10	456.65	AT&T	MONTHLY TELEPHONE SERVICE-3-13 TO 4-12-10
037494	05/07/10	668.84	AT&T	T1 LINE AT PD/3/20/10 TO 4/19/10
037494	05/07/10	146.53	AT&T	EMERGENCY DISPATCH LINE 3/20/10 TO 4/19/10/PD
037495	05/07/10	571.88	BASIC CHEMICAL SOL./INC.	215 GALLONS SODIUM HYPOCHLORITE
037496	05/07/10	488.80	JAMES J. BELL	CONTRACT SERVICES/EVIDENCE CLERK/4-19 TO 4-30-10
037497	05/07/10	53719.49	BERTOLOTTI DISPOSAL	GARBAGE SERVICE FOR APRIL 2010
037498	05/07/10	601.71	BERTOLOTTI DISPOSAL	LANDFILL FEES/APRIL 2010
037499	05/07/10	1244.01	B G AUTO	OIL & AIR FILTERS/ANTIFREEZE/SPARK PLUGS/CONVERTER
037500	05/07/10	3040.05	BRUCE BUDMAN	INTERIM FINANCE DIR 4/19/10 TO 4/23/10/BUDMAN
037500	05/07/10	2349.56	BRUCE BUDMAN	INTERIM FIN DIRECTOR/5-03 TO 5-06-10/BUDMAN
037501	05/07/10	600.00	CALPERS	FEE FOR ACTUARIAL VALUATIONS/RETIREMENT PLANS
037502	05/07/10	100.00	JEFF CARTER	PARKING LOT RENT/MAY 2010
037503	05/07/10	247.00	CBA (ADMIN FEES)	DENTAL-VISION ADMIN FEES/MAY 2010
037504	05/07/10	475.98	CENTRAL SANITARY SUPPLY	PINESOL/PAPER TOWEL/LATEX GLOVES/CLEANERS
037505	05/07/10	82.54	CHEVRON	GASOLINE PURCHASES/PD
037506	05/07/10	162.87	CIT TECHNOLOGY FIN SERV, INC	MS GSA OFFICE PRO PLUS /MAY 2010/PD
037507	05/07/10	131.32	CNH CAPITAL	HOOD LATCH/FUEL SENDING UNIT FOR CASE TRACTOR
037508	05/07/10	50.00	CARL J. COELHO (CHUCK)	Veh Operation FIRE/MAY 2010
037509	05/07/10	1680.00	COMPUTER TUTOR	COMPUTER CLASSES/MARCH 2010
037510	05/07/10	94.90	COMCAST CABLE	HIGH SPEED INTERNET 4/22/10 TO 5/21/10
037511	05/07/10	778.38	CORBIN WILLITS SYS, INC.	SERVICE & ENHANCEMENT FEE/MAY 2010

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Ck #	Check Date	CK Amount	Vendor Name	Description
037513	05/07/10	40.73	E&M ELECTRIC, INC.	2 ROLLS LINERLESS RUBBER SPLICING TAPE
037514	05/07/10	91.91	HAROLD LEA EMMONS	MILEAGE REIMBURSEMENT/WATER SAMPLE CLASS/EMMONS
037515	05/07/10	437.50	ENVIRO SIGNS, LTD	RECYCLED PLASTIC SIGN/MUSEUM
037516	05/07/10	34.95	FIREtoWIRE, INC	WEB HOSTING 5/17 TO 6/17/10
037517	05/07/10	342.66	GARTON TRACTOR	DASH INSTRUMENT/TURN SIGNALS
037517	05/07/10	4.61	GARTON TRACTOR	HOSE/NYLON CORE/BODY
037517	05/07/10	7.03	GARTON TRACTOR	HOSE CLAMP/HOSE BARB
037517	05/07/10	9.04	GARTON TRACTOR	END ROD
037517	05/07/10	230.06	GARTON TRACTOR	AXLE SHAFT/GREASE/NUTS/WASHERS/BUSHINGS/GAUGE
037518	05/07/10	89.41	GEMPLERS ACCT #5224757	FRONT FLOOR MAT/CHEVY
037519	05/07/10	37.93	GOLDEN STATE IRRIGATION	READY-MIX CONCRETE
037519	05/07/10	2.52	GOLDEN STATE IRRIGATION	BUSHINGS/CLOSE NIPPLE/FEMALE ADAPTER
037519	05/07/10	12.88	GOLDEN STATE IRRIGATION	100 BLUE FLAGS
037519	05/07/10	54.86	GOLDEN STATE IRRIGATION	REPAIR KIT TO REBUILD SPRAY RIG PUMP/WWTP
037520	05/07/10	14198.94	GROVER LANDSCAPE, INC.	PROGRESS BILL LANDSCAPE/HILL PAR/MARCH 2010
037520	05/07/10	1365.30	GROVER LANDSCAPE, INC.	CHANGE ORDER #3/LANDSCAPE WORK HILL PARK/MAR 2010
037521	05/07/10	862.50	GROENIGER & CO.	CLAMPS FOR WATER DEPT
037521	05/07/10	256.85	GROENIGER & CO.	SEWER MANHOLE COVER
037521	05/07/10	183.42	GROENIGER & CO.	METER GASKET/STRINER/CLAMP
037522	05/07/10	4385.00	CITY OF GUSTINE	ANIMAL CONTROL SERVICES/MARCH 2010
037523	05/07/10	63.01	HARD DRIVE GRAPHICS	2 POLO SHIRTS/PD
037524	05/07/10	263.45	STEPHANIE HOUSE	REIMBURSE TEEN CENTER SNACK SUPPLIES/HOUSE
037525	05/07/10	293.34	HUB INTERNATIONAL OF CA INS SE	LIABILITY INS PREMIUM/HIGAREDA/OCHOA/APR 2010
037526	05/07/10	1105.43	IN-SYNCH SYSTEMS	MOBILE RECORDS MANAGEMENT SYSTEM/JUNE 2010
037527	05/07/10	1052.00	KAISER PERMANENTE	HEALTH INSURANCE PREMIUM/JUNE 2010

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Ck #	Check Date	CK Amount	Vendor Name	Description
037528	05/07/10	94.95	FRANK B. MARKS & SON, INC	PEA ROCK/PLANTAR BOXES
037528	05/07/10	188.08	FRANK B. MARKS & SON, INC	CONCRETE SAND
037529	05/07/10	2252.64	McDONOUGH, HOLLAND, ALLEN	RDA PLAN AMENDMENT MARCH 2010
037530	05/07/10	1036.00	CHRIS MESSER	MEN'S BASKETBALL REF/CHRIS MESSER
037531	05/07/10	482.88	NEWMAN ACE HARDWARE/JACT, INC	FIRST AID KIT/CHSIN/GRAFFITTI RMVR/GLUE/SOIL/CAN
037532	05/07/10	48.70	NORMAC, INC.	ARC NOZZLE/POP-UP SPRINKLER
037533	05/07/10	2681.00	OPERATING ENGINEERS/	HEALTH INSURANCE PREMIUM/JUNE 2010
037534	05/07/10	1176.00	GEORGE OSNER	PLANNING SERVICES/AREA 1 MASTER PLAN
037535	05/07/10	573.42	PATTERSON AUTO CARE, INC	MOUNT AND BALANCE 4 NEW TIRES/PD
037536	05/07/10	250.00	CITY OF PATTERSON	FIRE DATA INPUT/MARCH 2010
037537	05/07/10	56.41	LANCE PERRY (NT)	REIMBURSEMENT FOR GAS PURCHASED/LANCE PERRY
037538	05/07/10	13.06	PIONEER DRUG	WATER/SANDWICH BAGS/STYROFOAM CUPS
037539	05/07/10	922.50	FRANK RIVAS	ADULT BASKETBALL REFEREE/FRANK RIVAS
037540	05/07/10	2242.50	ROPER, MAJESKI, KOHN & BENTLEY	EMPLOYMENT ADVICE/PROFESSIONAL SERVICE/MAR 2010
037541	05/07/10	15092.50	RRM DESIGN GROUP, INC.	PROFESSIONAL SERVICES/DOWNTOWN PLAZA/MARCH 2010
037542	05/07/10	728.00	RUMBLE TREE PEST MGMT, INC	SOIL INJECT 8 AMERICAN ELMS AT PIONEER PARK
037543	05/07/10	431.00	SHANE SEQUEIRA	MEN'S BASKETBALL STATS/REFEREE
037544	05/07/10	54.25	ELYSE SPAULDING	MEN'S BASKETBALL REF/SCOREKEEPER
037545	05/07/10	51.80	SPORTS SUPPLY GROUP	PERMANET BASKETBALL NET
037546	05/07/10	14.00	STAN CNTY CLERK RECORDER	RELEASE LIEN/2201 REDWOOD/2224 GR CAN/1214 GERANIUM
037547	05/07/10	402877.00	STANISLAUS COUNTY	SERAF FY 2009-2010/HEALTH & SAFETY CODE SEC #33690
037548	05/07/10	279.99	STAPLES BUSINESS ADVANTAGE	HP COLOR TONER/BINDERS
037548	05/07/10	33.01	STAPLES BUSINESS ADVANTAGE	BALLPOINT PENS/PEN REFILLS/POST-IT FLAGS
037548	05/07/10	378.99	STAPLES BUSINESS ADVANTAGE	RECEIPT BOOKS/PAPER/BATTERIES/FOLDERS/COVER STOCK
037549	05/07/10	155.83	TRAVIS BORRELLI	PORTABLE RESTROOM RENTAL-SERVICE

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Ck #	Check Date	CK Amount	Vendor Name	Description
037550	05/07/10	208.00	TIFFINY THELE	MEN'S BASKETBALL SCOREKEEPER/THELE
037551	05/07/10	165.00	BARBARA J. TOSTA	YOUNG AT HEART INSTRUCTOR/APRIL 2010
037552	05/07/10	100.00	ADAM TURNER	ELECTRICAL WORK AT IT SERVER ROOM
037553	05/07/10	17.58	VALLEY PARTS SERVICE	FUSE LINKS FOR BACKHOE
037553	05/07/10	10.28	VALLEY PARTS SERVICE	NAF ANTIFREEZE
037553	05/07/10	54.49	VALLEY PARTS SERVICE	FAN FOR WATER TRUCK/BULBS FOR 2007 PICKUP
037553	05/07/10	48.76	VALLEY PARTS SERVICE	RADIO FOR WATER TRUCK
037553	05/07/10	12.61	VALLEY PARTS SERVICE	PTEX ANTIFREEZE
037553	05/07/10	14.10	VALLEY PARTS SERVICE	LUCAS TRANSMISSION FIX
037553	05/07/10	126.12	VALLEY PARTS SERVICE	bearings for transfer pumps
037553	05/07/10	14.10	VALLEY PARTS SERVICE	LUCAS TRANSMISSION FIX
037553	05/07/10	14.08	VALLEY PARTS SERVICE	DRIVER'S SIDE MIRROR FOR WATER TRUCK
037553	05/07/10	30.97	VALLEY PARTS SERVICE	TURN SIGNAL LIGHTS FOR BACKHOE
037553	05/07/10	22.41	VALLEY PARTS SERVICE	TIRE BUFFER CLEANER/TIRE REPAIR KIT
037553	05/07/10	38.43	VALLEY PARTS SERVICE	LUCAS TRANSMISSION FIX/AMTO-SEIZE/COPPER SPRAY
037553	05/07/10	15.50	VALLEY PARTS SERVICE	5 ALL-CLM 5W30 OIL
037554	05/07/10	142.00	ARMANDO GARCIA	1 BRADFORD PEAR TREE
037555	05/07/10	189.00	WESTSIDE ANIMAL CLINIC	EUTHANASIA/HEALTH EXAM
037556	05/07/10	706.66	YANCEY LUMBER COMPANY	CONCRETE/SAND/ENTRY LOCK/CAULK/LUMBER/RAINSUIT
037556	05/07/10	101.86	YANCEY LUMBER COMPANY	2 BAGS DOG FOOD
037557	05/07/10	31.97	BURESS, YVONNE	MQ CUSTOMER REFUND FOR BUR0025
037558	05/07/10	26.60	GARCIA, JUAN	MQ CUSTOMER REFUND FOR GAR0155
037559	05/07/10	67.08	NAILOR, RYAN	MQ CUSTOMER REFUND FOR NAI0001
037560	05/07/10	20.80	NEGRETE, WENCESLAOS	MQ CUSTOMER REFUND FOR NEG0002
037561	05/07/10	42.46	VALENZUELA, ANTONIO	MQ CUSTOMER REFUND FOR VAL0033

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Ck #	Check Date	CK Amount	Vendor Name	Description

Grn-Total:		534024.61		
Count:	100			

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING APRIL 27, 2010
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. **Call To Order** - Mayor Katen 7:03 P.M.
2. **Pledge Of Allegiance.**
3. **Invocation** - Council Member Martina.
4. **Roll Call Present:** Davis, Candea, Martina And Mayor Katen.
Absent: None.
5. **Declaration Of Conflicts Of Interest** - None.
6. **Ceremonial Matters** - None.
7. **Items From The Public - Non-Agenda Items**

Marlena Cardinal, 416 Sumac Lane, Friends For Sophia's Dog Park, Gave The Council An Update On The Newman Dog Park. She Reviewed The Site Plan And The Work That Had Been Completed To Date; Including Grading, Weeding, Drip System Installation, Debris Removal, Site Clean-Up, Fencing Installation, Tree Planting And Plans For The Future. Cardinal Noted That She Was Pleased To Announce That Friends Sophia's Dog Park Had Raised \$10,000.00 Thus Far.

8. Consent Calendar

- a. Waive All Readings Of Ordinances And Resolutions Except By Title.
- b. Approval Of Warrants.
- c. Approval Of Minutes Of The April 13, 2010 Regular Meeting.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The Consent Calendar Was Approved.

9. Public Hearings

- a. Adopt Resolution No. 2010- 25, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4.

Mayor Katen Opened Public Hearing 7:11 P.M.

Marlena Cardinal Explained That She Lives Next Door To The Property On Sumac And That She Feels These Properties Are Dangerous And Need To Be Abated.

There Being No Further Public Comment, Mayor Katen Closed Public Hearing 7:14 P.M.

ACTION: On Motion By Candea Seconded By Davis And Unanimously Carried, Resolution No. 2010-25, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4, Was Adopted.

10. Regular Business

- a. Adopt Resolution No. 2010-26, A Resolution Approving The Pioneer Park Landscaping Project Contract With B & M Builders.

ACTION: On Motion By Martina Seconded By Candea And Unanimously Carried, Resolution No. 2010-26, A Resolution Approving The Pioneer Park Landscaping Project Contract With B & M Builders, Was Adopted.

- b. Reject The Bids For The Orestimba Feasibility Study Flood Control Soil Borings Project.

ACTION: On Motion By Candea Seconded By Martina And Unanimously Carried, The Council Rejected The Bids For The Orestimba Feasibility Study Flood Control Soil Borings Project.

- c. Report Of Estimated Costs For A Proposed Increase Of Assessments Within The Landscape And Lighting District For The Preparation Of The Assessment District Engineer's Report

ACTION: On Motion By Martina Seconded By Candea And Unanimously Carried, The Council Directed Staff To Include All Of The Proposed Improvements.

- d. Adopt Resolution No. 2010-27, A Resolution Rescinding Resolution No. 2010-16, Establishing A Prequalification Procedure For Construction Of The City Of Newman Historic Downtown Plaza Project.

ACTION: On Motion By Candea Seconded By Davis And Unanimously Carried, Resolution No. 2010- 27, A Resolution Rescinding Resolution No. 2010-16, Establishing A Prequalification Procedure For Construction Of The City Of Newman Historic Downtown Plaza Project, Was Adopted.

- e. Adopt Resolution No. 2010- , A Resolution Accepting And Adopting The City Of Newman Personnel Rules.

ACTION: On Motion By Martina Seconded By Davis And Unanimously Carried, The Council Continued Item 10.e. To The May 11, 2010 Meeting.

11. Items From District Five Stanislaus County Supervisor.

Supervisor DeMartini Reminded Everyone That The Next West Side Healthcare Taskforce Meeting Would Be Held On Thursday April 29th At The Del Puerto Health Care District's New Facility And That The Hikes And Bikes Tours Continue Through June. DeMartini Mentioned That He Had

Recently Traveled To Washington D.C. To Try To Secure Funding For The Orestimba Creek Flood Control Project.

12. Items From The City Manager And Staff.

City Manager Holland Informed the Council That Staff Was Working On Per Capita Recreation Grant Allocation Recommendations. Holland Reminded Everyone That The City Would Be Hosting An RDA Plan Amendment Workshop Thursday, April 29, 2010 At 7:00 P.M. In The Council Chambers. Holland Announced That The Recreation Department Is Planning A Free Outdoor Movie Night On May 22, 2010. He Noted That The Fire Department Is Hosting A Tri-Tip Barbeque On Saturday May 8, 2010. Holland Mentioned That The New Free Computer Training Course Schedule Had Been Posted On The City's Website. Holland Explained That Beginning May 1, 2010 The City's Building Department Will Be Closed On Fridays. He Pointed Out That The New Garbage Rates Are Reflected On The Current City Utility Bills. Holland Clarified That He Would Schedule A Budget Workshop For June 8, 2010 At 6:00 P.M.

Chief McGill Reminded Everyone That The City Would Be Hosting An Animal Control Clinic On May 1, 2010 at Pioneer Park From 9:00 A.M. to 12:00 P.M. Chief McGill Informed The Council That May 5, 2010 Would Be His Last Day Serving The City of Newman. McGill Thanked The City Council For the Opportunity And Stated That He Enjoyed His Time Here. McGill Stated That The Department Had Made Progress During His Tenure Due To The Hard Work Of The People Within The Police Department.

Mayor Katen Stated That He Thought That Chief McGill Had Done An Outstanding Job And That He Could Not Be More Proud Of The Department And His Leadership.

Public Works Director Reynolds Reported That The City Had Recently Hosted A Meeting Regarding The Construction Of The Downtown Plaza And That The City Had Received Important Input. Reynolds Shared Pictures From The Downtown Planting Day And Noted That The Next Planting Day Was Tentatively Scheduled For May 15, 2010.

13. Items From City Council Members.

Council Member Martina Thanked Chief McGill For His Service And Expressed That He Was Proud To Have Had Him As The Chief Of The Newman Police Department And Wished Him Luck.

Council Member Davis Reminded Everyone That The Fighting Dragons Would Be Hosting A Karate Tournament On May 15, 2010 At Yolo Junior High.

Mayor Katen Congratulated The Police Department On Yet Another Great K9 Crab Feed Event.

14. Adjourn To Closed Session - 7:55 P.M.

- a. Public Employment - Police Chief - G.C. 54957.
- b. Public Employment - Finance Director- G.C. 54957.
- c. Conference With Labor Negotiator - Operating Engineers Local #3 Miscellaneous Bargaining Unit - G.C. 54957.6.

- d. Conference With Labor Negotiator – Operating Engineers Local #3 Police Bargaining Unit - G.C. 54957.6.
- e. Return To Open Session - 8:36 P.M.

Mayor Katen Reported That Sergeant Richardson Would Serve An Interim Police Chief.

15. Adjournment.

ACTION: On Motion By Martina Seconded By Davis And Unanimously Carried, The Meeting Was Adjourned At 8:44 P.M.

Proclamation

of the Mayor of the City of Newman

WHEREAS, Asthma has reached epidemic proportions in the United States, affecting about 23 million people; and

WHEREAS, Asthma is the leading cause of childhood hospitalizations, long-term illness and school absenteeism, accounting for more than 13 million missed school days and nearly 10 million missed days of work each year; and

WHEREAS, each year 200,000 Americans are rushed to the emergency room and 3,500 die from Asthma; and

WHEREAS, the 2007 California Health Interview Survey estimates that approximately 65,000 people in Stanislaus County have asthma, of which 7,000 are children; and

WHEREAS, the Health Services Agency has established an Asthma Coalition with over 60 representatives from the community, providers, health plans, American Cancer Society, American Lung Association, County and City schools, and the Central California Asthma Project to implement the School Based Asthma Program developed in the Coalition's 2004 Strategic Plan for Asthma in Stanislaus County; and

WHEREAS, the mission of the Stanislaus County Asthma Coalition is "to create an Asthma-friendly community by promoting awareness, education, management and prevention"; and

WHEREAS, the Health Services Agency, the Asthma Coalition, and the U.S. Environmental Protection Agency are encouraging Americans to identify and reduce their exposure to environmental triggers in homes and schools, and incorporate environmental controls into their Asthma management plans; and

WHEREAS, the City of Newman recognizes the need to raise Asthma awareness;

NOW, THEREFORE, I Ed Katen, Mayor, on behalf of the Newman City Council, do hereby proclaim the month of May as Asthma Awareness Month in the City of Newman and commend this observance to all our residents.

Signed the 11th day of May, 2010

Signed _____



Honorable Mayor and Members
of the Newman City Council

**ADOPT RESOLUTION NO. 2010- AUTHORIZING THE CITY MANAGER AND THE
DIRECTOR OF PUBLIC WORKS TO EXECUTE AGENCY-STATE MASTER AGREEMENT
AND PROGRAM SUPPLEMENT AGREEMENT WITH CALTRANS FOR THE
CONSTRUCTION OF THE DOWNTOWN PLAZA PROJECT**

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2010- , authorizing the City Manager and the Director of Public Works to execute Agency-State Master Agreement and Program Supplement Agreement with Caltrans for the construction of the Downtown Plaza Project.

BACKGROUND:

The City of Newman Historic Downtown Plaza Project (Plaza) has been envisioned, planned, and designed for the last ten years. The project is out to bid with bids due on May 20, 2010. The project is now nearing the construction phase of the project and is scheduled to start in June of this year with an anticipated completion date of November 2010. The Plaza project is a highly visible aesthetic improvement to the core of downtown Newman with a substantial investment of public funds. On January 13, 2010 the City of Newman received the authorization to proceed with the construction of the Downtown Plaza and has secured \$2,121,768 in Federal funding.

ANALYSIS:

On April 22, 2010 the City received Program Supplement No. N008 to Administering Agency-State Agreement for Federal Aid Project No. 10-5712R, Construction Newman's Downtown Plaza. Caltrans requires a signed copy of the Agency-State Master Agreement and Program Supplement Agreement with a resolution that clearly identifies the project and the official authorized to execute the agreement. These are required to be submitted to Caltrans prior to reimbursement of construction services.

Attached to this staff report is a copy of the agreement.

FISCAL IMPACT:

None

CONCLUSION:

The City of Newman Historic Downtown Plaza Project is a highly visible aesthetic improvement to the core of downtown Newman. In order to receive reimbursement for the Project Caltrans requires these agreements be sign by an authorized representative of the City. Therefore, staff recommends that the City Council adopt Resolution No. 2010- authorizing the City Manager and the Director of Public Works to execute Agency-State Master Agreement and Program Supplement Agreement with Caltrans for the construction of the Downtown Plaza Project

Respectfully submitted,



Garner R. Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

RESOLUTION NO. 2010-

A RESOLUTION AUTHORIZING THE CITY MANAGER AND THE DIRECTOR OF PUBLIC WORKS TO EXECUTE ANY AGREEMENTS, ALL MASTER AGREEMENTS, PROGRAM SUPPLEMENTAL AGREEMENTS, FUND EXCHANGE AGREEMENTS, FUND TRANSFER AGREEMENTS AND ANY AMENDMENTS THERETO WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION

WHEREAS, the City of Newman is eligible to receive Federal and/or State funding for certain Transportation Projects, through the California Department of Transportation; and

WHEREAS, the City of Newman on Main Street will construct a pedestrian connection from Main Street to State Route 33 and install street landscaping; and

WHEREAS, Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements and/or Fund Transfer Agreements need to be executed with the California Department of Transportation before such funds could be claimed; and

WHEREAS, the City of Newman wishes to delegate authorization to execute these agreements and any amendments thereto to the City Manager and the Director of Public Works be authorized to execute all Master Agreements, Program Supplemental Agreements, Fund Exchange Agreements, Fund Transfer Agreements and any amendments thereto with the California Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman does hereby authorize the City Manager and the Director of Public Works to execute all agreements and any amendments thereto with the California Department of Transportation therewith for and on behalf of the City of Newman.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 11th day of May, 2010 by Council Member _____, who moved its adoption which motion was duly seconded and it was upon roll call carried and the resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Ed Katen, Mayor

ATTEST:

Michael E. Holland, City Clerk

PROGRAM SUPPLEMENT NO. N008
to
ADMINISTERING AGENCY-STATE AGREEMENT
FOR FEDERAL-AID PROJECTS NO. 10-5172R

Date: April 07, 2010
Location: 10-STA-33-NEW
Project Number: ESPLSECM-5172(018)
E.A. Number: 10-0T2608

This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 03/24/08 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. _____ approved by the Administering Agency on _____ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by State of any funds derived from sources noted below obligated to this project, the Administering Agency accepts and will comply with the Special covenants or Remarks set forth on the following pages.

PROJECT LOCATION:

In Newman, on Main Street Plaza. Construct pedestrian connection from Main Street to State Route 33 and install street landscaping (landscaping)

TYPE OF WORK: Construct Pedestrian connection from Main St. to SR 33 and install st. land **LENGTH:** 0 (MILES)

Estimated Cost	Federal Funds		Matching Funds		
			LOCAL	Other Fund	OTHER
\$2,602,153.00	C200	\$610,770.00	\$480,385.00	\$575,185.00	\$0.00
	C220	\$635,813.00			
	L40E	\$300,000.00			

CITY OF NEWMAN

STATE OF CALIFORNIA
Department of Transportation

By _____

By _____

Date _____

Chief, Office of Project Implementation
Division of Local Assistance

Attest _____

Date _____

Title _____

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer *[Signature]* Date 4-15-10 \$1,546,583.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT
268	2008	2660-603-890	2008-2009	20.30.010.810	F	262040	898-F	610,770.00
268	2008	2660-603-890	2008-2009	20.30.100.827	F	262042	898-F	635,813.00
I	2009	2660-102-890	2009-2010	20.30.010.820	C	262040	892-F	300,000.00

ESPLSECM-5172(018)

SPECIAL COVENANTS OR REMARKS

1. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).
2. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

3. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

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SPECIAL COVENANTS OR REMARKS

4. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award or with submittal of the ADMINISTERING AGENCY's first invoice for the construction contract, whichever is earlier.

Failure to do so will cause a delay in the State processing invoices for the construction phase.

Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

5. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

6. The Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is

ESPLSECM-5172(018)

SPECIAL COVENANTS OR REMARKS

incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

7. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Excluded Parties List System (EPLS).
8. This project is financed, in whole or in part, with federal funds from the American Recovery and Reinvestment Act of 2009 (Recovery Act). ADMINISTERING AGENCY agrees:
 - 1) Statutory provisions contained in Chapter 1 of Title 23 United States Code (U.S.C.) are applicable to all Recovery Act funded projects,
 - 2) Costs incurred prior to the date of authorization are NOT eligible for reimbursement with federal Recovery Act funds,
 - 3) Federal Prevailing Wage Rate requirements apply to all Recovery Act funded construction projects regardless of location (including projects on local roads and rural minor collectors, and Transportation Enhancement projects outside the highway right of way). ADMINISTERING AGENCY agrees to include the appropriate wage rate information in the contract and also include a contract provision that overrides the general applicability provisions in form FHWA-1273, Sections IV and V,
 - 4) To expend and invoice for all Recovery Act funds prior to using other funds, and
 - 5) To comply with the reporting requirements, terms and conditions set forth in Sections 1201 and 1512 of the Recovery

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SPECIAL COVENANTS OR REMARKS

Act and as designated by the STATE. Failure to comply will result in retentions from progress payments due ADMINISTERING AGENCY and/or other sanctions,

6) Recovery Act funds are available for liquidation only until September 30, 2015 when the remaining balance of Recovery Act funds will expire. ADMINISTERING AGENCY agrees to submit an invoice for the balance of project Recovery Act funds (if any) to the STATE prior to July 1, 2015.

9. This PROJECT is programmed to receive Federal Transportation Enhancement Activities (TEA) fund. The ADMINISTERING AGENCY agrees that any functional or operational change to a TEA PROJECT, before, during or after PROJECT acquisition and/or construction, that does not comply with, or is in conflict with, the TEA program requirements and the original purpose of the project at the time it was programmed may render the PROJECT ineligible for Federal reimbursement and ADMINISTERING AGENCY may be required to reimburse STATE the entire amount of TEA funds contributed to the project or the value of the TEA fund contribution, based upon the fair market value of the acquisition and/or construction, at the time the conflict and/or non-compliance is determined, whichever is greater.
10. This project is subject to a separate Cooperative Agreement between the ADMINISTERING AGENCY and the State.

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **8.e.**
City Council Meeting
of May 11, 2010

**REQUEST THE BOARD OF SUPERVISORS OF STANISLAUS COUNTY
CONSOLIDATE THE NOVEMBER 2, 2010 CITY OF NEWMAN MUNICIPAL ELECTION AND
CONSOLIDATE THE MUNICIPAL ELECTION TO FILL THE VACANCY CREATED BY THE
RESIGNATION OF COUNCIL MEMBER EDWARD "TED" KELLY WITH THE
GUBERNATORIAL GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2010**

RECOMMENDATION:

It is recommended that the Newman City Council:

1. Adopt Resolution No. 2010- , A Resolution Requesting That The Board Of Supervisors Of Stanislaus County Consolidate The November 2, 2010 City Of Newman Municipal Election And Consolidate The Municipal Election To Fill The Vacancy Created By The Resignation Of Council Member Edward "Ted" Kelly With The Gubernatorial General Election To Be Held On November 2, 2010.

BACKGROUND:

Given that the Council decided not to appoint someone to fill Council Member Kelly's vacant seat, California Government Code 1780(e) requires the City to call an election within 60 days of his resignation. The election must be held on the next established election date that is at least 130 days after the date that the City calls the election. The next election that meets this criteria would be the November 2, 2010 Gubernatorial General Election. Council Member Kelly's seat would have been up for election in November regardless of his resignation.

Per Elections Code 10002, the Stanislaus County Board of Supervisors requires that the City send a request for the county to conduct election services. Following approval by the Board, the resolution requesting consolidation is forwarded to the County Election Department who will conduct the election for the City. The following city elective offices will appear on the ballot November 2, 2010.

Mayor - 2-year term

Two Council Members - 4-year terms (including Council Member Kelly's vacant seat)

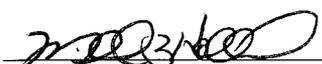
FISCAL IMPACT:

The city is billed its pro-rata share for city election costs (the county was unable to provide a cost estimate at this time). The Fiscal Year 2010/2011 Budget will contain \$5,000 for the Municipal Election in account 10-03-6240.

CONCLUSION:

Staff recommends that the City Council adopt Resolution No. 2010- , A Resolution Requesting That The Board Of Supervisors Of Stanislaus County Consolidate The November 2, 2010 City Of Newman Municipal Election And Consolidate The Municipal Election To Fill The Vacancy Created By The Resignation Of Council Member Edward "Ted" Kelly With The Gubernatorial General Election To Be Held On November 2, 2010.

Respectfully submitted,



Michael E. Holland
City Manager

RESOLUTION NO. 2010-

A Resolution Requesting That The Board Of Supervisors Of Stanislaus County Consolidate The November 2, 2010 City Of Newman Municipal Election And Consolidate The Municipal Election To Fill The Vacancy Created By The Resignation Of Council Member Edward "Ted" Kelly With The Gubernatorial General Election To Be Held On November 2, 2010.

WHEREAS, the City of Newman will hold an election on November 2, 2010 to fill the vacancy created by the resignation of Council Member Edward "Ted" Kelly; and,

WHEREAS, Council Member Kelly's seat would have been up for election in November regardless of his resignation; and,

WHEREAS, the City of Newman will hold a municipal election on November 2, 2010, purpose of electing a Mayor, and a two Council Members; and,

WHEREAS, it is desirable that the that Municipal Elections be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places, and election officers of the two elections be the same, and that the county election department of the County of Stanislaus canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election,.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that the Board of Supervisors of Stanislaus County, California, is hereby requested to order the consolidation of the November 2, 2010 City of Newman Municipal Election and the consolidation of the Municipal Election to fill the vacancy created by the resignation of Council Member Edward "Ted" Kelly, for the purpose of electing a Mayor, and a two Council Members with the Gubernatorial General Election to be held on November 2, 2010.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 11th day of May, 2010 by Council Member _____ who moved its adoption, which motion was duly seconded and it was upon roll call vote adopted.

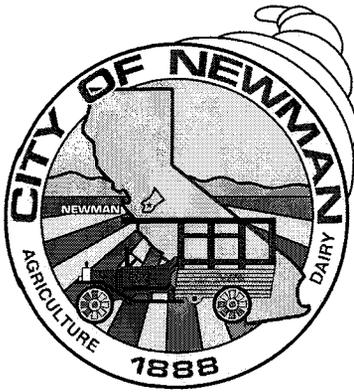
AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman



**City of Newman
Community Development Department
Memorandum**

From: Stephanie Ocasio, Assistant Planner 
To: Honorable Mayor and Members of the City Council
Date: May 11, 2010
Subject: Item 9.a

Due to an extended Environmental Review Period, agenda items 9.a.I-IV need to be postponed. Please continue the above-mentioned items to the next regularly scheduled City Council meeting on May 25, 2010.

However, for tonight, it is imperative to hold and close the public hearing. For your convenience, the following is a brief list of actions for tonight's meeting:

- Open public hearing
- Take testimony
- Close public hearing
- No additional actions taken tonight
- Consider remaining actions on May 25

Should you have any questions or need additional information, our RDA Consultant *Urban Futures* will be presenting at tonight's meeting. Thank You.

**REPORT ON PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN
FOR THE NEWMAN REDEVELOPMENT PROJECT**

RECOMMENDATION:

It is recommended that the City Council of the City of Newman (referred to herein as the "City Council" and the "City", respectively) and the Community Redevelopment Agency of the City of Newman (the "Agency") review, consider, and adopt the respective Resolutions located within Tabulated Sections 7, 8A, and 8B, and that the City Council hold the first reading of the Ordinance located within Tabulated Section 9 of the Evidentiary Record prepared for the Joint Public Hearing on the proposed 2010 Amendment to the Redevelopment Plan (the "Plan"), as previously amended, for the Newman Redevelopment Project (the "Project" or "Project Area", as appropriate).

BACKGROUND/DISCUSSION:

The Agency has been active in the community and has assisted in the completion of several rehabilitation, business expansion, and infrastructure improvements in the Project Area since the Plan was originally adopted in 1992. Due to these activities, conservative projections indicate that the Agency will reach the Plan's cumulative tax increment limit well before the expiration of the timeframe during which it is authorized to receive such tax increments. This, in turn, has presented the need for additional bonding capacity. Therefore, the Agency is proposing the 2010 Amendment to: i) increase the Plan's total tax increment allocation limit; ii) eliminate the Plan's annual limitation on tax increment allocation; iii) establish a bonded indebtedness limit; and iv) modify the Plan's projects and programs list, as appropriate, all as a means to better attain the Agency's long-term goal to improve or alleviate the economic and physical conditions of blight within the Project Area.

Prior to the Joint Public Hearing of the Agency Board and City Council on the 2010 Amendment, the Agency has distributed a document containing the Joint Public Hearing Evidentiary Record (hereafter referred to as the "Record") to each Agency Board/City Council member. The Record includes, among other items, the 2010 Amendment, the Negative Declaration of Environmental Impact (the "Negative Declaration") and related Initial Study prepared for the 2010 Amendment, the Agency's Report to the City Council, related Resolutions, and the adopting City Ordinance. The following is a brief discussion of the contents of the Record:

Tab 1 — Joint Public Hearing Procedures

The Joint Public Hearing Procedures outline the Agency and City Council actions and procedures necessary for consideration, approval and adoption of the 2010 Amendment.

Tab 2 — 2010 Amendment to the Redevelopment Plan for the Newman Redevelopment Project

The 2010 Amendment specifically sets forth modified text for the section of the Plan changed by the 2010 Amendment.

Tab 3 — Notice of Intent to Adopt Negative Declaration, Negative Declaration, and Related Initial Study for the 2010 Amendment

Tab 3 contains the Notice of Intent to Adopt Negative Declaration, Negative Declaration, and related Initial Study/Environmental Checklist for the 2010 Amendment which has been completed in accordance with the California Environmental Quality Act, commonly known as "CEQA." The Negative Declaration was prepared as part of the redevelopment plan amendment process based on the findings contained in the Initial Study prepared for the 2010 Amendment, and included herein. Based upon the assessment completed for the Initial Study, the City Council and Agency Board may be able to make a finding that the 2010 Amendment will not have a significant effect on the environment beyond those impacts addressed, and mitigated as appropriate, by CEQA compliance previously completed for the Project.

Tab 4 — Agency's Report to the City Council

The Agency's Report to the City Council (the "Report to Council") describes, among other things, the deficient physical and economic conditions, or "blight," remaining within the Project Area and the reasons for increasing the limits on the amounts of tax increment received and on tax allocation bonded indebtedness that may be outstanding at one time.

Generally, as evidenced in the Report to Council, conditions of blight remain within the Project Area. The Agency anticipates that increasing the Plan's existing tax increment revenue and tax allocation bonded indebtedness limits will help in the Agency's efforts to alleviate conditions of blight within the Project Area and, in addition, will help the Agency to continue to: i) implement the General Plan and facilitate creation of a more cohesive and better functioning community; ii) improve existing community services and facilities as necessary, and provide new services as necessary to complement redevelopment; iii) improve community facilities and infrastructure deficiencies; iv) spur additional economic development and job growth, and v) provide additional affordable housing opportunities.

Tab 5 — Planning Commission Report and Recommendation on the 2010 Amendment

Tab 5 of the Record contains the Planning Commission's report on the 2010 Amendment as to how it affects the City's General Plan (the "General Plan"), including its recommendation to the Agency and City Council with regard to adoption of the 2010 Amendment. In this report, the Planning Commission found that the 2010 Amendment does not affect, and furthermore, is consistent with the General Plan because the 2010 Amendment does not make changes to the General Plan land use designations in the Project Area, nor to other General Plan policies, controls or limitations.

Tab 6 — Meetings Held With, and Information Transmitted to Property Owners, Residents and Business Tenants, and Taxing and Environmental Entities

Tab 6A of the Record contains information transmitted to all Project Area Property Owners, Residents, and Business Tenants, in accordance with the CCRL, as well as information prepared for presentation at one public workshop, along with pertinent affidavits.

Tab 6B contains information transmitted to all affected taxing and responsible environmental agencies, in accordance with the CCRL.

Tab 6C contains various documents which were included as attachments to the Agency transmittals included within Tabs 6A and 6B.

Tab 7 — Agency Resolution Approving the Report to Council and Transmitting Said Report and the 2010 Amendment to the City Council

This section contains the Agency Resolution approving the Report to Council (see Tab 4 above for further discussion) and authorizing the transmittal of both the Report to Council and the 2010 Amendment to the City Council for that body's subsequent action. This Resolution should be considered for adoption prior to the opening of the Joint Public Hearing.

Tab 8, Items A and B — Agency Resolution Considering and Adopting the Negative Declaration, City Council Resolution Considering and Adopting the Negative Declaration

This section of the Record contains the Agency and City Council Resolutions considering and adopting the Negative Declaration prepared for the 2010 Amendment.

Tab 8, Item C — Previously Adopted Resolutions Related to the 2010 Amendment

This section contains those resolutions adopted throughout the 2010 Amendment adoption process by the Agency, the City Council, and the Planning Commission (as applicable) not otherwise included in the Record.

Tab 9 — City Council Ordinance Approving and Adopting the 2010 Amendment

Tab 9 of the Record is the Ordinance that approves and adopts the 2010 Amendment. Prior to introducing the Ordinance adopting the 2010 Amendment, the City Council must respond in writing to any written objections received prior to or at the Joint Public Hearing. The Joint Public Hearing should be closed and consideration of the

various resolutions postponed to the next meeting. In addition, due to State Clearinghouse time requirements (CEQA) for review of the environmental documents, the Agency and City Council Resolutions adopting the Negative Declaration, and the first reading of the Ordinance approving and adopting the 2010 Amendment should be considered at the May 25, 2010 City Council Meeting.

ANALYSIS:

The Agency and City Council have initiated the preparation and processing of the proposed 2010 Amendment for the purposes of increasing the Plan's cumulative tax increment limit, eliminating the Plan's annual limitation on tax increment allocation, establishing a stated amount of bonded indebtedness that can be outstanding at one time, and modifying the list of proposed projects and programs contained in the Plan, pursuant to the California Community Redevelopment Law ("CCRL"; Health & Safety Code Section 33000 *et seq.*). No other changes to the Plan are proposed by the 2010 Amendment.

FISCAL IMPACT:

The 2010 Amendment is an administrative action that proposes to amend fiscal limits which will allow greater flexibility with respect to Agency expenditures in future years. Therefore, the 2010 Amendment is not expected to cause any impacts, either direct or indirect, on the City or Agency budgets for Fiscal Year 2009-10.

CONCLUSION:

Staff recommends that the City Council and the Community Redevelopment Agency of the City of Newman do the following:

Review, Consider and Adopt:

1. Resolution No. 2010- (RDA Resolution No. 2010-), A Resolution Of The Community Redevelopment Agency Of The City Of Newman Approving Its Report To The City Council Of The City Of Newman On The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project, And Authorizing Transmittal Of The Evidentiary Record To The City Council Of The City Of Newman

Review and Consider:

2. Resolution No. 2010- (RDA Resolution No. 2010-), A Resolution Of The Community Redevelopment Agency Of The City Of Newman Considering And Adopting A Negative Declaration Of Environmental Impact For The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project
3. Resolution No. 2010- , A Resolution Of The City Council Of The City Of Newman Considering And Adopting A Negative Declaration Of Environmental Impact For The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project

Hold the First Reading Of:

4. Ordinance No. 2010- , An Ordinance Of The City Council Of The City Of Newman Approving And Adopting The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project.

ATTACHMENTS:

1. (Tab 7) Resolution No. 2010- (RDA Resolution No. 2010-), A Resolution Of The Community Redevelopment Agency Of The City Of Newman Approving Its Report To The City Council Of The City Of Newman On The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project, And Authorizing Transmittal Of The Evidentiary Record To The City Council Of The City Of Newman
2. (Tab 8a) Resolution No. 2010- (RDA Resolution No. 2010-), A Resolution Of The Community Redevelopment Agency Of The City Of Newman Considering And Adopting A Negative Declaration Of Environmental Impact For The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project
3. (Tab 8b) Resolution No. 2010- , A Resolution Of The City Council Of The City Of Newman Considering And Adopting A Negative Declaration Of Environmental Impact For The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project

4. (Tab 9) Ordinance No. 2010- , An Ordinance Of The City Council Of The City Of Newman Approving And Adopting The Proposed 2010 Amendment To The Redevelopment Plan For The Newman Redevelopment Project.

Respectfully submitted,



Urban Futures Inc.
Advisors to the Community Redevelopment Agency of the City of Newman

REVIEWED/CONCUR

A handwritten signature in black ink, appearing to read "M. Holland", is written over a horizontal line.

Michael Holland
City Manager

RESOLUTION NO. 2010-

RDA RESOLUTION NO. 2010-

**A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
NEWMAN APPROVING ITS REPORT TO THE CITY COUNCIL OF THE CITY OF
NEWMAN ON THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN
FOR THE NEWMAN REDEVELOPMENT PROJECT, AND AUTHORIZING TRANSMITTAL
OF THE EVIDENTIARY RECORD TO THE CITY COUNCIL OF THE CITY OF NEWMAN**

WHEREAS, on September 22, 1992, by Ordinance No. 92-14, the City Council of the City of Newman (the "City Council") in conjunction with the Community Redevelopment Agency of the City of Newman (the "Agency") adopted the Redevelopment Plan (the "Plan") for the Newman Redevelopment Project (the "Project" or the "Project Area," depending on context) pursuant to procedures codified within the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 *et seq.*); and

WHEREAS, the Plan was amended on November 15, 1994, by Ordinance No. 94-19 in response to the requirements of the Community Redevelopment Law Reform Act of 1993 (AB 1290), and thereby established time limits on incurring indebtedness, receiving tax increment, paying indebtedness, and carrying out activities for the Project; and

WHEREAS, the Plan was further amended on April 13, 2010, by Ordinance No. 2010-04 for the purpose of eliminating the time limit for incurring indebtedness established by Ordinance No. 94-19 and extending the effective life of the Plan by one (1) year, as permitted by CCRL Sections 33333.6(e)(2)(B) and (C).

WHEREAS, the Agency has initiated proceedings to amend the Plan to: i) increase the Plan's total tax increment allocation limit, ii) eliminate the Plan's annual limitation on tax increment allocation, iii) establish a bonded indebtedness limit, and iv) modify the Plan's projects and programs list, as appropriate, (the "2010 Amendment") all as a means to better attain the Agency's long-term goal to improve or alleviate the economic and physical conditions of blight within the Project Area; and

WHEREAS, by its Resolution No. 2010-01 adopted on March 18, 2010, the Newman Planning Commission approved and forwarded to the City Council its report and finding that the 2010 Amendment conforms to the City's General Plan, and also recommended approval and adoption of the 2010 Amendment to the Agency and City Council respectively; and

WHEREAS, CCRL Section 33457.1 provides that to the extent warranted by a proposed amendment to a redevelopment plan, the reports and information required by CCRL Section 33352 shall be prepared and made available to the public prior to the hearing on the amendment; and

WHEREAS, the Agency has caused to be prepared and has reviewed its Report to the City Council (the "Report to Council") on the 2010 Amendment in accordance with the requirements of CCRL Sections 33451.5(c) and 33352; and

WHEREAS, the Report to Council and other materials contained in the official evidentiary record (the "Record") prepared for the 2010 Amendment have been previously submitted to and reviewed by the members of the governing board of the Agency.

NOW, THEREFORE, BE IT RESOLVED by the Community Redevelopment Agency of the City of Newman as follows:

Section 1. The above recitals are true and correct and a substantive part of this resolution.

Section 2. The 2010 Amendment, inclusive of the Agency's Report to Council, is on file in the City Clerk's Office, 1162 Main Street, Newman, CA 95360, and is available for public inspection and is incorporated herein by this reference.

Section 3. The Agency hereby approves the Report to Council and authorizes and directs the Executive Director of the Agency to transmit the Record, including the 2010 Amendment and the Agency's Report to Council, to the City Council.

Section 4. The Agency Secretary shall certify to the passage and adoption of this Resolution, and it shall thereupon take immediate effect and be in force.

The foregoing resolution was introduced at a regular meeting of the Community Redevelopment Agency of the City of Newman held on the 11th day of May, 2010, by _____, who moved its adoption, which motion was duly seconded and was carried upon roll call and the resolution adopted by the following roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Chairperson of the Community Redevelopment
Agency of the City of Newman

ATTEST:

Secretary of the Community Redevelopment
Agency of the City of Newman

RESOLUTION NO. 2010-

RDA RESOLUTION NO. 2010-

**A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF
NEWMAN CONSIDERING AND ADOPTING A NEGATIVE DECLARATION OF
ENVIRONMENTAL IMPACT FOR THE PROPOSED 2010 AMENDMENT TO THE
REDEVELOPMENT PLAN FOR THE NEWMAN REDEVELOPMENT PROJECT**

WHEREAS, on September 22, 1992, by Ordinance No. 92-14, the City Council of the City of Newman (the "City Council") in conjunction with the Community Redevelopment Agency of the City of Newman (the "Agency") adopted the Redevelopment Plan (the "Plan") for the Newman Redevelopment Project (the "Project" or the "Project Area," depending on context) pursuant to procedures codified within the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 *et seq.*); and

WHEREAS, the Plan was amended on November 15, 1994, by Ordinance No. 94-19 in response to the requirements of the Community Redevelopment Law Reform Act of 1993 (AB 1290), and thereby established time limits on incurring indebtedness, receiving tax increment, paying indebtedness, and carrying out activities for the Project; and

WHEREAS, the Plan was further amended on April 13, 2010, by Ordinance No. 2010-04 for the purpose of eliminating the time limit for incurring indebtedness established by Ordinance No. 94-19 and extending the effective life of the Plan by one (1) year, as permitted by CCRL Sections 33333.6(e)(2)(B) and (C).

WHEREAS, the Agency has initiated proceedings to amend the Plan to: i) increase the Plan's total tax increment allocation limit, ii) eliminate the Plan's annual limitation on tax increment allocation, iii) establish a bonded indebtedness limit, and iv) modify the Plan's projects and programs list, as appropriate, (the "2010 Amendment") all as a means to better attain the Agency's long-term goal to improve or alleviate the economic and physical conditions of blight within the Project Area; and

WHEREAS, by its Resolution No. 2010-01 adopted on March 18, 2010, the Planning Commission of the City of Newman (the "Planning Commission") approved and forwarded to the City Council its report and finding that the 2010 Amendment conforms to the City's General Plan, and also recommended approval and adoption of the 2010 Amendment to the Agency and City Council respectively; and

WHEREAS, pursuant to the California Environmental Quality Act (the "CEQA Statutes," Public Resources Code, Section 21000 *et seq.* and the "CEQA Guidelines," Title 14, California Code of Regulations, Section 15000 *et seq.*; the CEQA Statutes and the CEQA Guidelines are collectively referred to as "CEQA") the Agency is the "Lead Agency" as defined in CEQA Statutes Section 21067 and the Board of Directors of the Agency (the "Agency Board") is the decision-making body of the Lead Agency; and

WHEREAS, the Agency caused a Negative Declaration of Environmental Impact (the "Negative Declaration") to be prepared and circulated for public review for not less than a 30-day period in accordance with CEQA Statutes, Sections 21080(c) and 21091(b); and

WHEREAS, in accordance with CEQA Guidelines, Section 15074(b), the Agency Board, as the decision-making body of the Lead Agency, must consider the proposed Negative Declaration together

with any comments received during the public review period before making its decision on approving and recommending adoption of the 2010 Amendment; and

WHEREAS, in accordance with CEQA Guidelines, Section 15074(b) the Agency shall adopt the Negative Declaration only if it finds, based upon the whole record before it, that there is no substantial evidence that the 2010 Amendment will have a significant effect on the environment and the Negative Declaration reflects the Agency's independent judgment and analysis; and

WHEREAS, public notice has been duly given, and a full and fair joint public hearing has been held on the 2010 Amendment and the Negative Declaration on May 11, 2010, and the Agency has considered all written and all oral comments and testimony relating thereto and is fully advised thereon; and

WHEREAS, copies of all documents and the record of proceedings related to the Agency's approval and adoption of the Negative Declaration are in the custody of the City Clerk of the City of Newman, Newman City Hall, 1162 Main Street, Newman, CA 95360, and are available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the Community Redevelopment Agency of the City of Newman as follows:

Section 1. The above facts are true and correct and a substantive part of this Resolution.

Section 2. The Agency has independently reviewed and analyzed the Negative Declaration together with any comments received during the public review period and at the joint public hearing convened specifically for the consideration of adoption of the Negative Declaration and approval of the 2010 Amendment. Any written comments received during the public review period are hereby incorporated into the official record of proceedings.

Section 3. The Agency finds and declares that it has provided public notice in accordance with CEQA Statutes Section 21092 and CEQA Guidelines, Section 15072 for a reasonable period of time, more than the requisite 30 days prior to its consideration of this Resolution to adopt the Negative Declaration.

Section 4. The Agency finds, on the basis of the whole record before it, including the Initial Study/Environmental Checklist and the Negative Declaration prepared for the 2010 Amendment, and all comments received during the public review period and the joint public hearing regarding adoption of the Negative Declaration and approval of the 2010 Amendment, that there is no substantial evidence that the 2010 Amendment will have a significant effect on the environment and that no mitigation measures are required as a condition of adoption of the 2010 Amendment.

Section 5. The Agency further finds that the Negative Declaration reflects the independent judgment of the Agency as Lead Agency; the 2010 Amendment causes revisions to certain fiscal limits contained in the Plan and modifies the list of proposed projects and programs included in the Plan; however, the 2010 Amendment does not add territory to the Plan or in any other way amend the Plan.

Section 6. The Agency hereby adopts the Negative Declaration prepared for the 2010 Amendment.

Section 7. Within five (5) working days of the time that the 2010 Amendment is approved and adopted by the City Council, Agency staff is directed to file a Notice of Determination with the Stanislaus County Clerk pursuant to the provisions of CEQA Statutes, Section 21152.

Section 8. The Agency Secretary shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

The foregoing resolution was introduced at a regular meeting of the Community Redevelopment Agency of the City of Newman held on the 25th day of May, 2010 by _____, who moved its adoption, which motion was duly seconded and was carried upon roll call and the resolution adopted by the following roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Chairperson of the Community Redevelopment
Agency of the City of Newman

ATTEST:

Secretary of the Community Redevelopment
Agency of the City of Newman

RESOLUTION NO. 2010-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN CONSIDERING
AND ADOPTING A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE
PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE NEWMAN
REDEVELOPMENT PROJECT**

WHEREAS, on September 22, 1992, by Ordinance No. 92-14, the City Council of the City of Newman (the "City Council") in conjunction with the Community Redevelopment Agency of the City of Newman (the "Agency") adopted the Redevelopment Plan (the "Plan") for the Newman Redevelopment Project (the "Project" or the "Project Area," depending on context) pursuant to procedures codified within the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 *et seq.*); and

WHEREAS, the Plan was amended on November 15, 1994, by Ordinance No. 94-19 in response to the requirements of the Community Redevelopment Law Reform Act of 1993 (AB 1290), and thereby established time limits on incurring indebtedness, receiving tax increment, paying indebtedness, and carrying out activities for the Project; and

WHEREAS, the Plan was further amended on April 13, 2010, by Ordinance No. 2010-04 for the purpose of eliminating the time limit for incurring indebtedness established by Ordinance No. 94-19 and extending the effective life of the Plan by one (1) year, as permitted by CCRL Sections 33333.6(e)(2)(B) and (C).

WHEREAS, the Agency has initiated proceedings to amend the Plan to: i) increase the Plan's total tax increment allocation limit, ii) eliminate the Plan's annual limitation on tax increment allocation, iii) establish a bonded indebtedness limit, and iv) modify the Plan's projects and programs list, as appropriate, (the "2010 Amendment") all as a means to better attain the Agency's long-term goal to improve or alleviate the economic and physical conditions of blight within the Project Area; and

WHEREAS, by its Resolution No. 2010-01 adopted on March 18, 2010, the Planning Commission of the City of Newman (the "Planning Commission") approved and forwarded to the City Council its report and finding that the 2010 Amendment conforms to the City's General Plan, and also recommended approval and adoption of the 2010 Amendment to the Agency and City Council respectively; and

WHEREAS, pursuant to the California Environmental Quality Act (the "CEQA Statutes," Public Resources Code, Section 21000 *et seq.* and the "CEQA Guidelines," Title 14, California Code of Regulations, Section 15000 *et seq.*; the CEQA Statutes and the CEQA Guidelines are collectively referred to as "CEQA") the Agency is the "Lead Agency" as defined in CEQA Statutes Section 21067 and the Board of Directors of the Agency (the "Agency Board") is the decision-making body of the Lead Agency; and

WHEREAS, the Agency caused a Negative Declaration of Environmental Impact (the "Negative Declaration") to be prepared and circulated for public review for not less than a 30-day period in accordance with CEQA Statutes, Sections 21080(c) and 21091(b); and

WHEREAS, in accordance with CEQA Guidelines, Section 15096, the City Council, as the decision-making body of the responsible agency, must consider the proposed Negative Declaration

together with any comments received during the public review period before making its decision on approving and recommending adoption of the 2010 Amendment; and

WHEREAS, in accordance with CEQA Guidelines, Section 15096 the City Council shall adopt the Negative Declaration if it finds, based upon the whole record before it, that there is no substantial evidence that the 2010 Amendment will have a significant effect on the environment and the Negative Declaration reflects the City Council's independent judgment and analysis; and

WHEREAS, public notice has been duly given, and a full and fair joint public hearing has been held on the 2010 Amendment and the Negative Declaration on May 11, 2010, and the City Council has considered all written and all oral comments and testimony relating thereto and is fully advised thereon; and

WHEREAS, copies of all documents and the record of proceedings related to the City Council's approval and adoption of the Negative Declaration are in the custody of the City Clerk of the City of Newman, Newman City Hall, 1162 Main Street, Newman, CA 95360, and are available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman as follows:

Section 1. The above facts are true and correct and a substantive part of this Resolution.

Section 2. The City Council has independently reviewed and analyzed the Negative Declaration together with any comments received during the public review period and at the joint public hearing convened specifically for the consideration of adoption of the Negative Declaration and approval of the 2010 Amendment. Any written comments received during the public review period are hereby incorporated into the official record of proceedings.

Section 3. The City Council finds and declares that it has provided public notice in accordance with CEQA Statutes Section 21092 and CEQA Guidelines, Section 15072 for a reasonable period of time, more than the requisite 30 days prior to its consideration of this Resolution to adopt the Negative Declaration.

Section 4. The City Council finds, on the basis of the whole record before it, including the Initial Study/Environmental Checklist and the Negative Declaration prepared for the 2010 Amendment, and all comments received during the public review period and the joint public hearing regarding adoption of the Negative Declaration and approval of the 2010 Amendment, that there is no substantial evidence that the 2010 Amendment will have a significant effect on the environment and that no mitigation measures are required as a condition of adoption of the 2010 Amendment.

Section 5. The City Council further finds that the Negative Declaration reflects the independent judgment of the City Council as the responsible agency; the 2010 Amendment causes revisions to certain fiscal limits contained in the Plan and modifies the list of proposed projects and programs included in the Plan; however, the 2010 Amendment does not add territory to the Plan or in any other way amend the Plan.

Section 6. The City Council hereby adopts the Negative Declaration prepared for the 2010 Amendment.

Section 7. Within five (5) working days of the time that the 2010 Amendment is approved and adopted by the City Council, the City Clerk, in cooperation with Agency staff, is directed to ensure a

Notice of Determination is filed with the Stanislaus County Clerk pursuant to the provisions of CEQA Statutes, Section 21152.

Section 8. The City Clerk shall certify to the passage and adoption of this Resolution and it shall thereupon take immediate effect and be in force.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 25th day of May, 2010 by _____, who moved its adoption, which motion was duly seconded and was carried upon roll call and the resolution adopted by the following roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor
City of Newman

ATTEST:

City Clerk
City of Newman

ORDINANCE NO. 2010-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN APPROVING AND ADOPTING THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE NEWMAN REDEVELOPMENT PROJECT

WHEREAS, on September 22, 1992, by Ordinance No. 92-14, the City Council of the City of Newman (the "City Council") in conjunction with the Community Redevelopment Agency of the City of Newman (the "Agency") adopted the Redevelopment Plan (the "Plan") for the Newman Redevelopment Project (the "Project" or the "Project Area," depending on context) pursuant to procedures codified within the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 et seq.); and

WHEREAS, the Plan was amended on November 15, 1994, by Ordinance No. 94-19 in response to the requirements of the Community Redevelopment Law Reform Act of 1993 (AB 1290), and thereby established time limits on incurring indebtedness, receiving tax increment, paying indebtedness, and carrying out activities for the Project; and

WHEREAS, the Plan was further amended on April 13, 2010, by Ordinance No. 2010-04 for the purpose of eliminating the time limit for incurring indebtedness established by Ordinance No. 94-19 and extending the effective life of the Plan by one (1) year, as permitted by CCRL Sections 33333.6(e)(2)(B) and (C).

WHEREAS, pursuant to CCRL Section 33334.1, if a redevelopment plan authorizes the issuance of bonds to be repaid in whole or in part from the allocation of taxes pursuant to CCRL Section 33670, the plan shall establish a limit on the amount of bonded indebtedness which can be outstanding at one time without an amendment of the redevelopment plan; and

WHEREAS, Section VI A of the Plan authorizes the Agency to issue bonds as appropriate and feasible in an amount sufficient to finance all or any part of the Project Area and provides that the principal and interest on such indebtedness may be paid from tax increment or any other funds available to the Agency; and

WHEREAS, the Plan did not establish the bonded indebtedness limit required by CCRL Section 33334.1; and

WHEREAS, CCRL Section 33333.4(g)(1) requires that a redevelopment plan adopted on or after October 1, 1976, and prior to January 1, 1994, containing the provisions set forth in CCRL Section 33670, shall contain a limitation on the number of dollars of taxes that may be divided and allocated to the agency pursuant to the plan, including amendments to the plan, and that taxes shall not be divided and shall not be allocated to the agency beyond that limitation, except pursuant to amendment of the redevelopment plan; and

WHEREAS, Section VI B of the Plan limits the amount of tax increment which may be received by the Agency pursuant to CCRL Section 33670 from the Project Area; and, pursuant to CCRL Section 33333.4(g)(1), in order to modify this limit the Plan must be amended; and

WHEREAS, the foregoing fiscal and administrative limitations are constraints on the Agency's efforts to achieve its goals and objectives to eliminate blight in the Project Area; and

WHEREAS, the Agency also desires to modify the list of proposed projects and programs contained in Appendix B of the Plan to include additional projects and programs intended to improve or alleviate the economic and physical conditions of blight within the Project Area; and

WHEREAS, in accordance with the CCRL, Article 12, commencing with Section 33450, the City Council, by ordinance, may amend or modify a redevelopment plan any time after its adoption upon

the recommendation of the Agency, should such amendment or modification become necessary or desirable; and

WHEREAS, the Agency has initiated proceedings to amend (the "2010 Amendment") the Plan to: i) increase the Plan's total tax increment allocation limit, ii) eliminate the Plan's annual limitation on tax increment allocation, iii) establish a bonded indebtedness limit, and iv) modify the Plan's projects and programs list, as appropriate, all as a means to better attain the Agency's long-term goal to improve or alleviate the economic and physical conditions of blight within the Project Area; and

WHEREAS, the Plan, as amended by the 2010 Amendment, is hereinafter termed the "Amended Plan"; and

WHEREAS, the 2010 Amendment does not change any other aspect of the Plan or the Project Area; and

WHEREAS, a Project Area Committee was not required to be formed in connection with the 2010 Amendment because: i) the 2010 Amendment does not contain authority for the Agency to acquire, by eminent domain, any property whatsoever; ii) the 2010 Amendment does not contain public projects that will displace a substantial number of low- or moderate-income persons; and iii) in accordance with CCRL Section 33385(f), the Agency has conducted a public workshop and transmitted information about the 2010 Amendment, specifically, and about redevelopment, generally, to property and business owners, residents and tenants affected by the 2010 Amendment to elicit public participation; and

WHEREAS, in accordance with the provisions of CCRL Sections 33344.5, 33354.6 and 33451.5, the Agency timely transmitted its "Modified Preliminary Report" and notice of joint public hearing on the 2010 Amendment to the State Department of Finance and Department of Housing and Community Development, respectively, and to affected taxing entities; and

WHEREAS, the Agency has caused an initial environmental study to be prepared and based thereon it has been determined that a negative declaration of environmental impact (the "Negative Declaration") should be prepared for the 2010 Amendment in accordance with the provisions of the California Environmental Quality Act ("CEQA Statutes," Public Resources Code Section 21000 et seq., and "CEQA Guidelines," 14 California Code of Regulations, Section 15000 et seq.; collectively, the CEQA Statutes and the CEQA Guidelines are referred to as "CEQA"); and

WHEREAS, by its Resolution No. 2010-01 adopted on March 18, 2010, the Planning Commission of the City of Newman (the "Planning Commission") approved and forwarded to the City Council its report and finding that the 2010 Amendment conforms to the City's General Plan and also recommended approval and adoption of the 2010 Amendment to the Agency and City Council respectively; and

WHEREAS, the City Council has received the Agency's Report to the City Council (the "Report to Council") prepared for the 2010 Amendment pursuant to the requirements of CCRL Section 33352, which includes, among other things, the following: i) the reasons for amending the Plan; ii) a description of the deleterious physical and economic conditions still existing in the Project Area; iii) a description of the projects and programs to eliminate remaining blight and how these projects and programs will improve conditions of blight iv) reasons why these projects and programs cannot be completed without the 2010 Amendment; and which Report to Council has been approved by the Agency; and

WHEREAS, the Agency has conducted one community redevelopment workshop on April 29, 2010, for the purpose of providing information about the 2010 Amendment to interested and affected property and business owners, and residents, and has received input from the same; and

WHEREAS, the City Council and the Agency held a joint public hearing on May 11, 2010, on adoption of the proposed 2010 Amendment, and certification and approval of the Negative Declaration

on the 2010 Amendment, in City Council Chambers, Newman City Hall, 1162 Main Street, Newman, CA 95360; and

WHEREAS, notice of said joint public hearing was duly and regularly published in the West Side Index, the Agency's newspaper of record in general circulation in the City, once a week for four successive weeks prior to the date of such joint public hearing, and a copy of said notice was mailed by first class mail to each last known assessee of each parcel, and to all known residents and businesses located on each parcel in the Project Area, not less than thirty (30) days prior to the date of commencement of the joint public hearing, and affidavits of such publications and such mailings are on file with the Agency and/or its advisors; and

WHEREAS, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each identified taxing agency (as defined under CCRL Section 33353.2) as required by law, and affidavits of such publications and such mailings are on file with the Agency and/or its advisors; and

WHEREAS, the Agency, as the "Lead Agency" (as defined in CEQA Statutes), has reviewed, approved and adopted the Negative Declaration, prepared in compliance with applicable State law, on _____, 2010 by Resolution No. _____; and

WHEREAS, the City Council reviewed and considered the Negative Declaration and adopted the Negative Declaration for the 2010 Amendment on _____, 2010 by Resolution No. _____; and

WHEREAS, the City Council has evaluated the report and recommendations of the Planning Commission, the Agency's Report to Council and recommendation to the City Council, the proposed 2010 Amendment, the Negative Declaration, and public input received from the community workshop, and has provided an opportunity for all persons to be heard regarding the 2010 Amendment and the Negative Declaration, and has received and considered all evidence and testimony presented for or against any and all aspects of the 2010 Amendment at the Joint Public Hearing held for the 2010 Amendment; and

WHEREAS, the evidentiary record compiled for the 2010 Amendment, including the Plan and amending language thereto, the Agency's Report to Council for the 2010 Amendment, the Negative Declaration for the 2010 Amendment, and other appropriate public documents are on file in the Office of the City Clerk, Newman City Hall, 1162 Main Street, Newman, CA 95360, and are available for public inspection and are incorporated herein by this reference; and

WHEREAS, the Agency has taken all other actions required by law to prepare and present the 2010 Amendment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEWMAN DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. The Plan and the amending language thereto is on file in the office of the City Clerk, and is included as Tab 2 of the evidentiary record binder compiled for the 2010 Amendment, and is hereby incorporated by this reference.

Section 2. As established in Section 2 of Ordinance No. 92-14, the purpose and intent of the City Council with respect to the Project Area is to eliminate conditions of blight in the Project Area and to prevent their reoccurrence and to accomplish those actions described in subsections "a" through "f" of said Section 2.

Section 3. The purposes and intent of the City Council with respect to the 2010 Amendment are to: i) increase the Plan's total tax increment allocation limit, ii) eliminate the Plan's annual limitation on tax increment allocation, iii) establish a bonded indebtedness limit, and iv) modify the Plan's projects and programs list, as appropriate, all as a means to better attain the Agency's long-

term goal to improve or alleviate the economic and physical conditions of blight within the Project Area, which will help the Agency to more effectively accomplish the purposes and intent of the City Council as expressed in Ordinance No. 92-14.

Section 4. Based upon the evidentiary record compiled for the Joint Public Hearing held for the 2010 Amendment, including the Agency's Report to the City Council, the City Council hereby makes the following findings and determinations as warranted by the 2010 Amendment:

A. Significant blight remains in the Project Area, as described below, the redevelopment of which is necessary to effectuate the public purposes declared in the CCRL.

Since the adoption the Project, the Agency has made efforts to eliminate such conditions of blight by funding needed infrastructure, providing housing, housing rehabilitation, and public facilities, and assisting existing businesses and providing incentives for new development. However, many of the blighting conditions remain to a significant extent and there continues to be a substantial need to eliminate deficient public facilities and other blighting conditions within the Project Area that cannot be accomplished by private enterprise or governmental action, or both, without redevelopment.

This finding is based in part on the information and analysis contained in Section 6.0 and Appendices A, C, and D of the Report to Council, the testimony received at the joint public hearing, and the fact that governmental action available to the City without redevelopment would be insufficient to cause any significant correction of the blighting conditions, and that the nature and costs of the public improvements and facilities and other actions required to correct the blighting conditions are beyond the capacity of the City and cannot be undertaken or borne by private enterprise acting alone or in concert with available governmental action.

B. Adoption of the Amended Plan would enhance the usefulness of tax increment financing, thereby, helping the Agency to actively continue redevelopment of the Project Area in conformance with the provisions and intent of the CCRL, and in the interests of the public peace, health, safety and welfare. Adoption of the 2010 Amendment will help the Agency fulfill CCRL objectives by helping to eliminate continuing conditions of blight within the Project Area as described in Section 4(A) above. These actions are essential not only to encourage private investment and eliminate the remaining significant conditions of blight in the Project Area, but also to prevent their reoccurrence. This finding is based in part on Section 8.0 of the Report to Council and on the City Council's earlier findings made in Ordinance No. 92-14 which found that the carrying out of the Plan will promote the public peace, health, safety and welfare of the City and will effectuate the purposes and policies of the CCRL within the Project Area. The 2010 Amendment will help the Agency to more effectively implement the Plan and to carry out Agency redevelopment goals and objectives within the Project Area by enhancing the usefulness of tax increment financing used to help accomplish site assembly and public improvements construction, and to help facilitate Agency redevelopment projects and programs that are necessary to lessen the remaining blighting conditions found in the Project Area. This finding is based in part on Section 12.0 of the Report to Council.

C. The adoption of the 2010 Amendment is economically sound and feasible. This finding is based, in part, on the information and analysis contained in Section 12.0 of the Report to Council, in conjunction with the fact that the Agency's ability to receive tax increment is limited by the tax increment allocation limit set forth in the Plan. The tax increment allocation limit specific to the Project Area was established in 1992 and was based upon projected growth in assessed valuation, which growth has substantially exceeded conservative projections due to rapid increases in Project Area property values, and real estate development and sales activities. Adoption of the 2010 Amendment will

enable the Agency to receive additional tax increments, which is necessary to support implementation of its programs and projects, including those related to public safety and the City's Capital Improvement Program.

D. The Amended Plan conforms to the City's General Plan, including, but not limited to, the Housing Element, which itself substantially complies with the requirements of Article 10.5 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, as set forth in the findings of the Planning Commission in Resolution No. 2010-01, adopted on March 18, 2010. The Planning Commission found that the 2010 Amendment is consistent with the goals, policies and implementation programs of the General Plan.

E. The implementation of the 2010 Amendment will promote the public peace, health, safety and welfare of the community, and will effectuate the purposes and policies of the CCRL. Adoption of the 2010 Amendment will allow the Agency to have greater flexibility with respect to long-term Project financing, thereby helping to ensure future implementation of Agency projects and programs geared towards physical rehabilitation activities and economic development within the Project Area. This finding is based in part on Section 12.0 of the Report to Council and on the fact that the Amended Plan will continue to provide for the installation and construction of public improvements and community facilities, the rehabilitation of public and private structures, economic development, and funds for the provision of low and moderate income housing for eligible persons and families.

F. Findings and determinations with respect to CCRL Sections 33367(d)(6), (d)(7), (d)(8), (d)(9), (d)(10), and (d)(12) are not warranted by the 2010 Amendment because they are either not applicable to the 2010 Amendment, or they are not affected by the 2010 Amendment. This finding is based on the findings and determinations made in Ordinance No. 92-14, which have been, are now and will continue to be final and conclusive; consequently, no further findings with respect to these matters is required.

G. The elimination of the remaining, significant blight and the redevelopment of the Project Area could not reasonably be expected to be accomplished by private enterprise acting alone, or by governmental action, or both, without the aid and assistance of the Agency. This finding is based upon the continued existence of physical and economic blighting conditions, as described in the Report to Council, plus a lack of adequate public improvements and facilities, and the inability of individual owners and developers to economically remove these blighting influences without substantial public assistance available pursuant to the CCRL.

H. The tax increment allocation limit contained in the Amended Plan is directly related to the Agency's ability to carry out its proposed projects and programs in the Project Area and more effectively eliminate blight within the Project Area. This finding is based upon information presented in Section 11 of the Report to Council, which describes how the Agency would have insufficient funding to complete its projects and eliminate the remaining blight in the Project Area if it is unable to receive additional tax increments.

I. Implementation of the Amended Plan will continue to improve or alleviate the physical and economic conditions of blight remaining in the Project Area. This is based on information contained in the Report to Council, prepared in accordance with the requirements of the CCRL, as well as other evidentiary material before the City Council as described in this Ordinance. The Report to Council describes that there are significant physical and economic conditions of blight remaining in the Project Area, how implementation of the 2010 Amendment can alleviate those conditions and that the 2010 Amendment is financially feasible.

J. The statement required by CCRL Section 33367(e) is not warranted for the 2010 Amendment, because the statement made by the City Council in Ordinance No. 92-14 with respect to housing availability is final and conclusive and is not affected by the 2010 Amendment.

Section 5. The City Council is satisfied and therefore finds and determines that its findings and determinations, as set forth above, are all the findings and determinations warranted under CCRL Sections 33457.1 and 33367.

Section 6. The 2010 Amendment is hereby approved and adopted, and is hereby designated as an official amendment to the Plan.

Section 7. Ordinance Nos. 92-14, 94-19, and 2010-04 are hereby continued in full force and effect except as amended by this Ordinance.

Section 8. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Amended Plan.

Section 10. In accordance with CCRL Section 33456, the City Clerk is hereby directed to record a statement with the County Recorder of the County of Stanislaus that the Plan for the Project has been amended under the CCRL.

Section 11. The City Clerk is hereby authorized and directed to certify to the passage of this Ordinance by the City Council. This Ordinance shall be in full force and effect thirty (30) days after its final passage and adoption.

Section 12. Within fifteen (15) days after its final passage, the City Clerk shall cause this Ordinance to be published in accordance with Section 36933 of the Government Code.

The foregoing Ordinance was introduced at the regular meeting of the City Council on the City of Newman held on the _____ day of May 2010 by Councilmember _____, and adopted at a regular meeting of said City Council on _____ day of May 2010.

Introduced at a regular meeting of the City Council of the City of Newman held on the 11th day of May, 2010 by Council Member _____, and adopted at a regular meeting of said City Council held on the 25th day of May, 2010 by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk

An Ordinance Providing Parking by Permit Only on Stephens Avenue

RECOMMENDATION:

It is recommended the City Council introduce (first reading) Ordinance No. 2010- , an ordinance prohibiting parking on Stephens Avenue except by permit on school days between the hours of 7 A.M. and 4 P.M.

BACKGROUND:

The City currently allows parking on Stephens Avenue without a permit. Stephens Avenue is in close proximity to Orestimba High School which causes daily parking on Stephens Avenue by students and some school staff members. OHS provides sufficient parking to its students and staff but because of convenience or other motives students and staff choose to park on Stephens Avenue. The residents of Stephens Avenue and the school district contacted the Police Department seeking a remedy. Frequently those parking on Stephens Avenue leave trash in resident's yards, create disturbances, block driveways, and consume all available parking for residents and resident's guest. An additional concern is campus / student safety. Students' vehicles are not subject to search off campus for drugs and or weapons as they are on campus. Parking on Stephens Avenue could be used to avoid detection by drug sniffing dogs or school officials.

ANALYSIS:

The Police Department sent a letter to every household on Stephens Avenue seeking resident input on the issue and the proposed mitigation. The residents are in support of a permitted parking process. The Police Department did not receive any negative input. The school district supports the permit parking process as well.

The ordinance provides that all vehicles parked on Stephens Avenue must display a parking permit issued by the Police Department. The permits would only be required during school days between the hours of 7 A.M. and 4 P.M.. Restricted parking signs would be erected outlining the parking restriction.

The permits would be 2"X 3.5" window stickers permanently displayed on the front driver's side bottom corner of the vehicle. Permits will be issued to each residence in numerical order. Those not displaying the permit would be subject to a parking citation with the fine amount of \$35 which has already been established by resolution.

This process will likely minimize this problem but may not fully resolve it. The Police Department would continue to work with the residents and school district to find mutually agreeable solutions. The parking restriction should bring some peace to the residents and close a potential security issues for the school district.

FISCAL IMPACT:

The affected residents have agreed to fully fund this project. Revenue was unable to be determined as the number of future citations cannot be predicted.

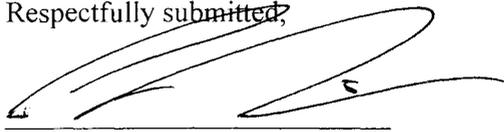
ATTACHMENTS:

Attachment A – Proposed ordinance Title 10, chapter 4.

CONCLUSION:

Staff recommends that council moves forward for public hearing and second reading.

Respectfully submitted,



Randy Richardson
Chief of Police

REVIEWED/CONCUR:



Michael Holland
City Manager

ORDINANCE NO. 2010-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWMAN AMENDING
TITLE 10; TRAFFIC REGULATIONS, SECTION 10.04.050 PARKING RESTRICTIONS
ENUMERATED.**

The City Council of the City of Newman does hereby ordain as follows:

Section 1.

Title 10 Traffic Regulations, Section 10.04.050 Parking Restrictions Enumerated be amended to read as follows:

10.04.050 Parking restrictions enumerated.

A. Parking restrictions will be regulated by the adoption of a resolution by the City Council except restrictions on "N" Street (Highway 33) which shall be regulated by the adoption of an ordinance.

1. Parking of Motor Vehicles Prohibited. It shall be unlawful to park motor vehicles at any time in the following locations in the City:
 - On the easterly side of "N" Street, a distance of 40 feet southerly from the southeast corners of the intersections of "N" Street and Mariposa, Tulare, Fresno, Merced and Stanislaus Streets.
 - On the easterly side of "N" Street, a distance of 25 feet northerly from the northeast corners of the intersections of "N" Street and Mariposa, Tulare, Merced and Stanislaus Streets.
 - On the westerly side of "N" Street, a distance of 40 feet northerly from the northwest corners of the intersection of said "N" Street and Mariposa, Tulare, Fresno, Merced and Stanislaus Streets.
 - On the westerly side of "N" Street, a distance of 25 feet southerly from the southwest corners of the intersections of said "N" Street and Mariposa, Tulare, Fresno, Merced and Stanislaus Streets.
 - On the easterly side of "N" Street commencing at the intersection of Kern Street and extending in a northerly direction for 30 feet.
 - On the easterly side of "N" Street commencing at the intersection of Kern Street and extending in a northerly direction for 40 feet.
 - On the easterly side of "N" Street commencing at the intersection of Stanislaus Street and extending in a northerly direction to the intersection of Merced Street.
 - On the westerly side of "N" Street, distance of 20 feet southerly from the north entrance to Westside Shopping Center.
 - On the westerly side of "N" Street, distance of 41 feet northerly from the south entrance to Westside Shopping Center.
 - On the westerly side of "N" Street commencing at the intersection of Kern Street and extending in a southerly direction of 40 feet.
 - On the westerly side of "N" Street commencing at the intersection of Kern Street and extending in a southerly direction for 42 feet.
 - On the northerly side of Kern Street commencing at the intersection of "N" Street and extending in a westerly direction for 27 feet.
2. Limited Parking on "N" Street.
 - a. Limited parallel parking on both sides of "N" Street (State Highway 33) between its intersections with Merced Street on the south and Mariposa Street on the north is hereby established as follows:
 - Each parallel parking stall established by this provision shall be 20 feet in length.
 - Between each two such parking stalls there shall be, and hereby is, established a "no parking" zone, and "no parking" zone to be eight feet in length.

The Director of Public Works, in conjunction with the State Department of Transportation, shall

indicate such parking stalls and "no parking" zones by the painting of white lines upon the curb and surface of the roadway sufficient to identify such parking stalls, and by the painting of red markings upon the curbs.

The provisions of this section shall not become effective until approved in writing by the State Department of Transportation, or such other agency of the State as may be appropriate. (Ord. 2007-3 § 1, 4-24-2007; Ord. 89-14, 6-27-1989; Ord. 84-14, 9-25-1984)

B. Parking restrictions will be regulated by the adoption of a resolution by the City Council except restrictions on Stephens Avenue which shall be regulated by the adoption of an ordinance.

1. Stephens Avenue shall be designated as permit parking only Monday through Friday from the hours of 7 A.M. to 4 P.M.

Section 2.

All other sections and provisions of Title 10, shall remain in full force and effect.

Section 3.

That a duly noticed public hearing was held by the City Council on May 25, 2010.

Section 4.

This Ordinance shall take effect 30 days after the date of its adoption, and prior to the expiration of 15 days from the passage thereof shall be published at least once in the West Side Index, a newspaper of general circulation, published and circulated in the City of Newman and thenceforth and thereafter the same shall be in full force and effect.

Introduced at a regular meeting of the City Council of the City of Newman held on the 11th day of May, 2010 by Council Member _____ and adopted at a regular meeting of said City Council held on the 25th day of May, 2010 by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk

Honorable Mayor and Members
of the Newman City Council

ADOPT A RESOLUTION APPROVING THE PRELIMINARY ENGINEER'S REPORT, DECLARING ITS INTENTIONS TO LEVY AND COLLECT ASSESSMENTS, SETTING A TIME AND PLACE FOR A PUBLIC HEARING, AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES FOR THE LANDSCAPE AND LIGHTING DISTRICT

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2010- , approving the Preliminary Engineer's Report for proceedings for the assessment increase for the Landscape and Lighting District Zones 1-15 for Fiscal Year 2010/11, declaring its intentions to levy and collect assessments, and setting a time and place for a public hearing thereon and ordering the initiation of assessment ballot procedures.

BACKGROUND:

The City of Newman has a total of 15 zones within the Landscape and Lighting District (District) in various locations throughout the City. The District represents approximately 42% of the City and includes the general nature, location and extent of improvements to be maintained. Improvements provided within the District include, but are not limited to, the weekly operation, maintenance, and servicing of all public parks, landscaping improvements, weed abatement, plant materials, pathways, irrigation systems, and street lights. Zones 1-12 have not had a cost of service increase since their inclusion into the District; however costs for these services over time have continued to increase. On April 13, 2010 City Council authorized the initiation of the proceedings for a proposed increase of assessments within the District and on April 27, 2010 directed staff to include fees for the maintenance and repair for graffiti abatement, storm drainage, sidewalks and block walls.

ANALYSIS:

Pursuant to the Landscape and Lighting Act of 1972, NBS prepared and filed the 2010/11 Engineer's Report (Annual Report) representing the plans and specifications describing the general nature, location and extent of improvements to be maintained, an estimate of the costs to maintain and service the improvements for the District for Fiscal year 2010/11. As required by the Landscape and Lighting Act of 1972 the item before City Council is the adoption of a resolution approving the Preliminary Engineer's Report for Landscape and Lighting District Zones 1-15 for Fiscal Year 2010/11, establishing the intention for the levy and collection of assessments for the District, and declaring the intention of the Council to conduct a Public Hearing concerning the levy of assessments to be held on Tuesday July 13, 2010 at 7:00 pm or as soon thereafter as is feasible.

The Preliminary Engineer's Report for Fiscal Year 2010/11 is included herewith for your review.

FISCAL IMPACT:

None.

CONCLUSION:

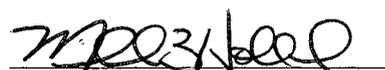
City Council previously authorized the initiation of the proceedings for a proposed increase of assessments for the Landscape and Lighting Districts 15 Zones and authorized including the estimated costs for the maintenance and repair for graffiti abatement, storm drainage, sidewalks, and block walls. Therefore staff recommends City Council adopt Resolution No. 2010- , approving the Preliminary Engineer's Report, declaring its intentions to levy and collect assessments, and setting a time and place for a public hearing thereon and ordering the initiation of assessment ballot procedures for the Landscape and Lighting District Zones 1-15 for Fiscal Year 2010/11.

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

RESOLUTION NO. 2010-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN, CALIFORNIA, APPROVING THE PRELIMINARY ENGINEER'S REPORT FOR PROCEEDINGS FOR THE ASSESSMENT INCREASE FOR THE CITY OF NEWMAN LIGHTING AND LANDSCAPE MAINTENANCE DISTRICT, DECLARING ITS INTENTION TO LEVY AND COLLECT ASSESSMENTS, AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON AND ORDERING THE INITIATION OF ASSESSMENT BALLOT PROCEDURES

WHEREAS, the City Council of the City of Newman (hereafter referred to as the "City Council") pursuant to the terms of the "*Landscaping and Lighting Act of 1972*", being Division 15, Part 2 of the California Streets and Highway Code (the "1972 Act"), Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following, the "Implementation Act") (the 1972 Act, Article XIID and the Implementation Act are referred to collectively as the "Assessment Law"), did, by previous Resolution initiate proceedings for an increase in assessment for the City of Newman Lighting and Landscape Maintenance District and ordered the preparation of an Assessment Engineer's Report (hereinafter referred to as the "Report") for the levy and collection of annual assessments within said District; and

WHEREAS, the City Council has retained NBS for the purpose of assisting with the proposed increase for the District and to prepare and file an Engineer's Report for the District with the City Clerk in accordance with the requirements of the Landscaping and Lighting Act of 1972 and Proposition 218; and

WHEREAS, at this time the City Council desires to declare its intention to increase the assessments for the District and to provide for the levy and collection of annual assessments, beginning with the 2010/11 fiscal year, to provide for the costs and expenses necessary to pay for the maintenance and servicing of the improvements (defined below) within the District; and

WHEREAS, the Engineer's Report has been filed with the City Clerk and submitted to this City Council in accordance with Proposition 218; and

WHEREAS, the City Council has carefully examined and reviewed the Engineer's Report as presented and is preliminary satisfied with the proposed assessment increase, each and all of the budget items and documents as set forth therein and is satisfied that the levy amounts, on a preliminary basis, have been spread in accordance with the special benefit received from the improvements, operation, maintenance and services within the District as set forth in said Engineer's Report.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman DOES HEREBY RESOLVE as follows:

1. That the Engineer's Report as presented, consisting of the following: a description of improvements, the estimated costs of improvements, a diagram for the District and the assessment roll containing the Fiscal Year 2010/11 levy for each Assessor's parcel within the District, is hereby approved on a preliminary basis and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open for public inspection.

2. It is the intention of the City Council to order the increase in assessments and to levy and collect assessments to pay the annual costs and expenses for the maintenance and servicing of improvements within said District. The proposed maintenance to be performed generally consists of: street lighting, landscaping maintenance, irrigation for the landscaping, and park maintenance. Services provided include all necessary service, operations, administration and maintenance required to keep the improvements in a healthy, vigorous and satisfactory condition.

3. The boundaries of the District are generally described as the areas located within the following sub-divisions: Corgiat Estates (Zone 1), Creek Canyon (Zone 2), North Manor Unit No. 4 (Zone 3), Oakwood Vista (Zone 4), Lucas Ranch 1 (Zone 5), Stonegate (Zone 6), Stonehedge Estate (Zone 7), Oakwood Terrace (Zone 8), Silva Ranch Estates (Zone 9), Lucas Ranch II & III (Zone 10), Stephens Ranch (Zone 11), Walnut Creek Estates (Zone 12), Hearthstone Ranch (Zone 13), Sherman Ranch (Zone 14) and Monte Vista Estates (Zone 15). The District is designated by the name of "City of Newman Lighting and Landscape Maintenance District No. 1".

4. The Engineer's Report, as preliminary approved by the City Council, is on file with the City Clerk and open for public inspection. Reference is made to the Engineer's Report for a full detailed description of the improvements to be maintained, the boundaries of the District and the proposed assessments upon assessable lots and parcels of land within the District.

5. Notice is hereby given that a Public Hearing is scheduled to be held at City of Newman Council Chambers, 1200 Main Street, Newman, California on July 13, 2010 at 7:00pm. All interested persons shall be afforded the opportunity to hear and be heard. The City Council shall consider all oral statements or written communication made or filed by any interested person in regards to the proposed District.

6. The City Clerk is hereby directed to give notice of the Public Hearing by mailing the Notice of Public Hearing and Assessment Ballot Procedure and filing of the Engineer's Report, together with the assessment ballot materials to the record owners of all real property proposed to be assessed in accordance with the Assessment Law.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 11th day of May 2010 by Council Member _____, who moved its adoption which motion was duly seconded and was upon roll call carried and the resolution adopted by the following vote:

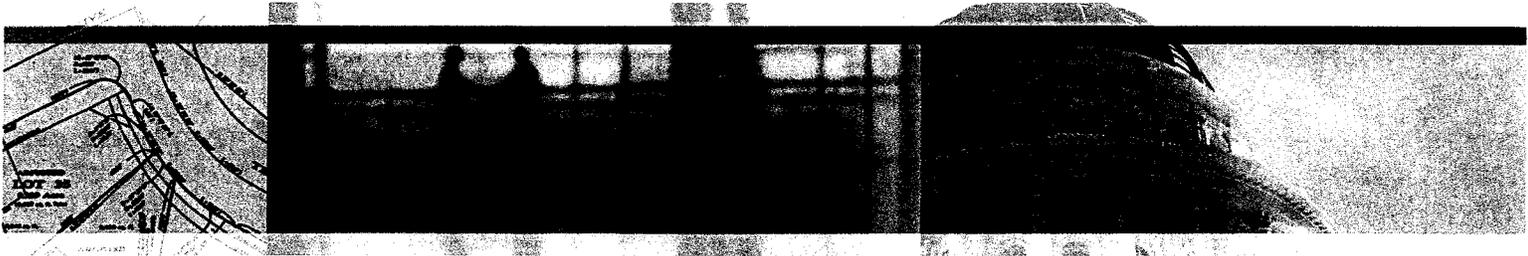
AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman



DRAFT

**City of Newman
Lighting and Landscape Maintenance District**

Fiscal Year 2010/11 Engineer's Report

May, 2010

Submitted by

N | B | S

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800.676.7516

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**CITY OF NEWMAN
LIGHTING AND LANDSCAPE MAINTENANCE DISTRICT
1162 MAIN STREET
P.O. BOX 787
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Tel: (209) 862-3725
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CITY COUNCIL

Ed Katen, Mayor

Nicholas Candea, Mayor Pro Tem

Robert Davis, Council Member

Robert Martina, Council Member

CITY STAFF

Mike Holland, City Manager

Garner Reynolds, Public Works Director

NBS

David Ketcham, Client Services Director

K. Dennis Klingelhofer, P.E., Assessment Engineer

Trond Hildahl, Financial Analyst

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1. ENGINEER'S LETTER

WHEREAS, on October 27, 1987 by Resolution No. 87-83, the City Council of the City of Newman (the "City"), State of California, under the Landscaping and Lighting Act of 1972 (the "1972 Act") established the City of Newman Lighting and Landscape Maintenance District.

WHEREAS, on _____, the City Council, under the 1972 Act, Article XIID of the Constitution of the State of California ("Article XIID") and the Proposition 218 Omnibus Implementation Act ("Proposition 218"), (the 1972 Act, Article XIID and Proposition 218 are collectively referred to as the "Assessment Law"), approved the commencement of Proposition 218 procedures for the City of Newman Lighting and Landscape District so that property owners may consider an increase in assessments for the maintenance of improvements which provide special benefit to them; and

WHEREAS, NBS has been directed to prepare and file an Engineer's Report. The purpose of the proposed assessment covered in this Engineer's Report is to provide a dedicated source of funds for the maintenance of improvements within Benefit Zones of the City of Newman Lighting and Landscape Maintenance District assessment for Fiscal Year 2010-11 and all subsequent years, and includes the reason for the proposed assessment, identifies the parcels upon which the assessment is proposed for imposition, and presents a basis upon which the assessment is to be calculated; and

WHEREAS, the increase in assessments may not be approved by the City Council if there is a majority protest, a majority protest shall exist if, upon the conclusion of the public hearing the ballots submitted in opposition to the increase in assessment exceed the ballots submitted in favor of the increase in assessment weighted according to the proportional obligation of the affected property. If the proposed increase in assessment is not approved, the existing Lighting and Landscape Maintenance District shall remain in place and the City may continue to curtail services to match the revenues provided by the existing assessments.

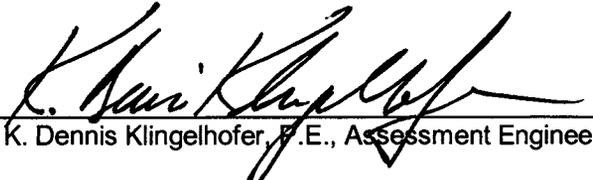
NOW THEREFORE, the following assessment is proposed to be authorized in order to pay the estimated costs of maintenance, operation and servicing of the improvements to be paid by the assessable real property within the boundaries of the District in proportion to the special benefit received. The following table summarizes the proposed assessment for Fiscal Year 2010-11.

Benefit Zone	FY2010-11 Budget		Benefit Units (BU's)	Rate per BU
	Proposed	Adopted		
Zone 1 (Corgiat Estates)	\$ 4,845.69		51.0	\$ 95.01
Zone 2 (Creek Canyon)	\$ 11,354.39		194.0	\$ 58.53
Zone 3 (North Manor Unit No. 4)	\$ 1,326.33		23.0	\$ 57.67
Zone 4 (Oakwood Vista)	\$ 11,675.60		132.0	\$ 88.45
Zone 5 (Lucas Ranch I)	\$ 30,531.93		262.0	\$ 116.53
Zone 6 (Stonegate)	\$ 1,329.90		54.0	\$ 24.63
Zone 7 (Stonehedge Estates)	\$ 4,265.44		53.0	\$ 80.48
Zone 8 (Oakwood Terrace)	\$ 5,692.32		198.0	\$ 28.75
Zone 9 (Silva Ranch Estates)	\$ 5,937.66		55.0	\$ 107.96
Zone 10 (Lucas Ranch II & III)	\$ 17,796.85		118.0	\$ 150.82
Zone 11 (Stephens Ranch)	\$ 29,512.79		230.0	\$ 128.32
Zone 12 (Walnut Creek Estates)	\$ 15,776.04		68.0	\$ 232.00
Zone 13 (Hearthstone Ranch)	\$ 42,552.64		368.0	\$ 115.63
Zone 14 (Sherman Ranch)	\$ 86,375.45		385.5	\$ 224.06
Zone 15 (Monte Vista Estates)	\$ 6,415.32		42.0	\$ 152.75
Total Levy	\$ 275,388.35			

In making the assessments contained herein pursuant to the Assessment Law:

1. I identified all parcels which will have a special benefit conferred upon them from the improvements described in Section 3.2 to this Engineer's Report (the "Specially Benefited Parcels"). For particulars as to the identification of said parcels, reference is made to the Assessment Diagram, a copy of which is included in Section 6 of this Engineer's Report.
2. I have assessed the costs and expenses of the improvements upon the Specially Benefited Parcels within each Benefit Zone. In making such assessment:
 - a. The proportionate special benefit derived by each Specially Benefited Parcel from the improvements was determined in relationship to the entirety of the maintenance costs of the improvements;
 - b. No assessment has been imposed on any Specially Benefited Parcel which exceeds the reasonable cost of the proportional special benefit conferred on such parcel from the improvements; and
 - c. Any general benefits from the improvements have been separated from the special benefits and only special benefits have been assessed.

I, the undersigned, respectfully submit the enclosed Engineer's Report and, to the best of my knowledge, information and belief, the Engineer's Report, Assessments, and the Assessment Diagram herein have been prepared and computed in accordance with the order of the City Council of the City of Newman and the Assessment Law.


K. Dennis Klingelhofer, P.E., Assessment Engineer



2. INTRODUCTION

2.1. Background of District

The City Council of the City of Newman adopted Ordinance No. 85-13 on December 10, 1985 which requires that as a condition of approval of any tentative sub-division map or parcel map the formation of an assessment district to provide a source of funds for the maintenance of street lights and landscape improvements which provide a special benefit to parcels. The City of Newman Lighting and Maintenance District was established in 1987 and new sub-divisions have been annexed to the district as development occurred. For Fiscal Year 2009/10 the district had fifteen (15) Benefit Zones and levied total assessments of \$132,828.46 which were placed on the County Tax Roll for collection last year. With the exception of the last 3 benefit zones which were annexed to the District, the assessment rate within each benefit zone has not increased since the adoption of Proposition 218 in 1996. Zone 13 (Hearthstone), Zone 14 (Sherman Ranch) and Zone 15 (Monte Vista) allow the prior year's assessment rate to be increased by 3% annually. Currently the assessment revenues collected within each zone are not sufficient to fund the operation and maintenance of the improvements. As result, the City Council has initiated proceeding with the adoption of Resolution No. _____ to allow an increase in the assessment for the City of Newman Lighting and Landscape Maintenance District. If the increase in assessment is not approved, the City will continue to levy the current assessments and may reduce the level of services provided to match the available revenues.

2.2. Reason for Proposed Assessment

Approval of the proposed assessment covered by this Engineer's Report will generate the revenue necessary to:

- A. Provide a dedicated source of funds for the continued maintenance and servicing of the improvements described in Section 3.2. within each of the fifteen (15) Benefit Zones.

- B. To add an annual cost of living inflator. The establishment of an annual escalation clause is necessary in order to help ensure that the District can continue the level of maintenance in future years as costs increase due to inflation or due to the increased cost of utilities beyond the City's control.

2.3. Process for Proposed Assessment

The City cannot increase assessments within the District without complying with the procedures specified in Article XIID and Proposition 218. The voters in the State of California in November 1996 added Article XIID to the California Constitution imposing, among other requirements, the necessity for the City to conduct an assessment ballot procedure to enable the owners of each property on which assessments are proposed to be enacted or increased, the opportunity to express their support for, or opposition to the proposed assessment or increase in such assessment. The basic steps of the assessment ballot procedure are outlined below.

The City must prepare a Notice of Public Hearing (“Notice”), which describes, along with other mandated information, the reason for the proposed assessments, and to provide a date and time of a public hearing to be held on the matter. The City must also prepare an assessment ballot, which clearly gives the property owner the ability to sign and mark their assessment ballot either in favor of, or in opposition to the proposed assessment. The Notice and assessment ballot are mailed to each affected property owner within the District a minimum of 45 days prior to the public hearing date as shown in the Notice. The City may also hold community meetings with the property owners to discuss the issues facing the District and to answer property owner questions directly.

After the Notice and assessment ballot are mailed, property owners are given until the close of the public hearing, stated in the Notice, to return their signed and marked assessment ballot. During the public hearing, property owners are given the opportunity to address the City Council and ask questions or voice their concerns. At the public hearing, the returned assessment ballots received prior to the close of the public hearing are tabulated, weighted by the proposed assessment amount on each property and the results are announced by the City Council.

Article XIID provides that if, as a result of the assessment ballot proceeding, a majority protest is found to exist, the City Council shall not have the authority to increase the assessments as proposed. A majority protest exists if the assessments represented by ballots submitted in opposition exceed those submitted in favor of the assessment. All returned ballots are tabulated and weighted according to the financial obligation of each particular parcel.

If there is no majority protest as described above, the City Council may approve the proposed increase in assessments. If there is a majority protest, as described above, the City will continue to levy the existing assessments.

3. PLANS AND SPECIFICATIONS

The District provides for the continued administration, maintenance, operations, and servicing of various improvements located within the public right-of-way, dedicated easements and publicly owned parcels in each of the fifteen (15) benefit zones within the District. The improvements which are a part of each benefit zone are described in the budget for each zone. The engineering drawings for the improvements are on file in the office of the Director of Public Works and are incorporated herein by reference. The specifications for maintenance work to be performed under contract are contained in City contracts on file with the City Clerk and Director of Public Works and may be viewed during normal business hours.

3.1. Description of the Boundaries of the District

The District is located in the City of Newman. An Assessment Diagram has been prepared which shows each of the fifteen (15) benefit zones and the parcels to be assessed. A copy of the Assessment Diagram is included herein and is on file in the office of the City Clerk. The lines and dimensions of each parcel or lot within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of Stanislaus for the year in which this report was prepared, and are incorporated herein by reference and made part of this report.

3.2. Description of Improvements and Services

The improvements which may be maintained and serviced are more generally described as follows:

- a. Street lighting and safety lighting consisting of poles, fixtures, bulbs, conduits and equipment including guys, anchors, posts, and pedestals, metering devices, and appurtenant facilities required to provide lighting in public rights-of-way and public easements within each Benefit Zone.
- b. Landscaping includes plantings, shrubbery, turf, irrigation systems, entry monuments, hardscapes including curbs, gutters and sidewalks, walls and fencing, and appurtenant structures, including ornamental structures in public rights-of-way and on City owned parcels including parks, recreational facilities and other publically owned parcels within each Benefit Zone.

Maintenance as used herein means the furnishing of services and materials for the ordinary and usual operation and servicing of improvements and appurtenant facilities, including the repair, removal or replacement of the facilities. Maintenance is further defined to include trash removal, debris removal, graffiti removal, insect abatement, weed abatement, removal or mitigation of health and safety hazards related to the facilities, cultivation, trimming, spraying, fertilizing, and treating for disease.

Services include personnel, materials, contracting services, utilities, capital projects and all necessary costs associated with the maintenance, replacement and repair required to keep the improvements in operational and in a safe, healthy, vigorous and satisfactory condition.

4. ESTIMATE OF COSTS

The estimated costs of administration, maintenance, operations, and servicing the improvements as described in the Plans and Specifications are summarized below by Benefit Zone. A more detailed budget by Benefit Zone is included in the appendix of this report.

4.1. District Budget

Benefit Zone	FY2010-11 Budget		Benefit Units (BU's)	Rate per BU
	Proposed	Adopted		
Zone 1 (Corgiat Estates)	\$ 4,845.69		51.0	\$ 95.01
Zone 2 (Creek Canyon)	\$ 11,354.39		194.0	\$ 58.53
Zone 3 (North Manor Unit No. 4)	\$ 1,326.33		23.0	\$ 57.67
Zone 4 (Oakwood Vista)	\$ 11,675.60		132.0	\$ 88.45
Zone 5 (Lucas Ranch I)	\$ 30,531.93		262.0	\$ 116.53
Zone 6 (Stonegate)	\$ 1,329.90		54.0	\$ 24.63
Zone 7 (Stonehedge Estates)	\$ 4,265.44		53.0	\$ 80.48
Zone 8 (Oakwood Terrace)	\$ 5,692.32		198.0	\$ 28.75
Zone 9 (Silva Ranch Estates)	\$ 5,937.66		55.0	\$ 107.96
Zone 10 (Lucas Ranch II & III)	\$ 17,796.85		118.0	\$ 150.82
Zone 11 (Stephens Ranch)	\$ 29,512.79		230.0	\$ 128.32
Zone 12 (Walnut Creek Estates)	\$ 15,776.04		68.0	\$ 232.00
Zone 13 (Hearthstone Ranch)	\$ 42,552.64		368.0	\$ 115.63
Zone 14 (Sherman Ranch)	\$ 86,375.45		385.5	\$ 224.06
Zone 15 (Monte Vista Estates)	\$ 6,415.32		42.0	\$ 152.75
Total Levy	\$ 275,388.35			

The maximum allowable assessment per Benefit Unit (BU) listed in the District budget above, is based on the estimated maintenance and services costs for Fiscal Year 2010/11. Each year, prior to the assessments being placed on the tax roll, the City will review the budget and determine the amount needed to maintain the improvements for the upcoming fiscal year. The actual assessment per BU will be based on the total amount of funds needed to maintain the improvements in a satisfactory and healthy condition. The actual assessment amount may be lower than the maximum allowable assessment; however it may not exceed the maximum after the application of the cost of living inflator defined in Section 5.5 of this report unless the increase is approved by the property owners in accordance with Proposition 218.

4.2. Definitions of Budget Items

The City may establish and collect reserve funds for the District as described below based upon the funding available in future years.

Operating Reserve Collection: This item includes the amount to be collected to maintain reserves to enable the City to pay for the maintenance and servicing of the improvements prior to December 10 of the fiscal year, or whenever the City expects to receive its apportionment of special assessments and tax collections from the County, whichever is later. The Reserve Fund contribution will continue

5.2. Special Benefit

The City of Newman has required as a condition of approval of any tentative sub-division map or parcel map that Enhanced lighting and landscaping be provided within new developments. These enhanced levels of lighting and landscaping have proven to benefit parcels within each development by increasing land values, and creating a sense of community identity and pride. All benefits from the improvements are special to parcels within the development and are considered to be a localized benefit that specially benefits parcels within the development. The costs associated with those improvements are assessed to all assessable parcels which receive the localized benefit. Localized benefits include the construction, operation, servicing and maintenance of landscaping, street lighting and park improvements that only benefit the assessable parcels located within each Benefit Zone. The special benefit received by parcels include:

1. **Localized Street Lighting** – Developable parcels that have street lighting within close proximity directly benefit from street lighting and are assessed for the costs of the street lighting. Benefits include:
 - a. Mitigates crime (especially vandalism)
 - b. Reduces traffic accidents and enhances pedestrian safety
 - c. Contributes to a visually pleasing nighttime image, and
 - d. Promotes social interaction during the hours of darkness

2. **Localized Landscaping** - Developable parcels that have localized landscaping such as neighborhood parks, entryway landscaping, streetscape landscaping, etc. adjacent to or near their parcels directly benefit from the landscaping improvements and are assessed for the costs of the localized landscaping. Benefits include:
 - a. Parks and landscaped areas help conserve land, energy, and resources.
 - b. Properly maintained landscaping and parks makes communities more livable, and increases property values.

These improvements are for the benefit of the properties within each Benefit Zone and as such confer a special and direct benefit to parcels within each Benefit Zone by:

- improving the livability, appearance, and desirability for properties within the boundaries of the Benefit Zone, and
- ensuring that improvements do not reach a state of deterioration or disrepair so as to be materially detrimental to properties within the Benefit Zone.

Only properties within each Benefit Zone receive a special benefit from the localized improvements and are assessed for the maintenance and servicing of the improvements within the Benefit Zone.

5.3. General Benefit

None of the improvements funded by the levy of assessments provide a special or direct benefit to parcels outside of the Benefit Zone in which the assessment is levied. Parcels within the City, not within one of the Benefit Zones included in the assessment district, receive a minimal standard of City funded landscape maintenance and safety lighting. As a result there is no general benefit to parcels not within one of the benefit zones. The assessment district does not fund the maintenance or servicing of street lights or traffic signals on arterial streets which would serve persons or traffic that may travel through the Benefit Zone.

5.4. Benefit Zones

The Act allows the establishment of Benefit Zones "where by reason of variations in the nature, location, and extent of the improvements, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory which will receive substantially the same degree of benefit from the improvements." The City of Newman Landscape and Lighting District has fifteen (15) special benefit zones as described on the following

Benefit Zones "1 through 15" were established as a condition of tentative sub-division map or parcel map approval to accurately track and assess the costs associated with the localized street lighting, landscaping improvements such as neighborhood parks, entryway landscaping, streetscape landscaping, etc. for specific development sites. These improvements are only assessed to the developed parcels within the development sites that directly benefit from the improvements.

5.5. Method of Assessment Spread

Each of the parcels within a Benefit Zone is deemed to receive special benefit from the improvements. Each parcel that has a special benefit conferred upon them as a result of the maintenance and operation of improvements are identified and the proportionate special benefit derived by each identified parcel is determined in relationship to the entire costs of the maintenance and operation of the improvements.

To assess special benefit appropriately, it is necessary to relate the different types of parcel improvements to each other. The Benefit Unit ("BU") method of apportionment uses the single family home as the basic unit of assessment since this is the primary land use within each benefit zone.

Each of the subdivided units within Zones 1 through 15 is deemed to receive special benefit from the improvements.

- In Zones 1 through 13 and Zone 15, each parcel is assigned one (1) BU since they are all single family residential units and receive the same benefit from the improvements. The total annual cost for each Zone is divided by the total number of benefit units within each zone in order to determine the annual assessment rate for each unit.
- In Zone 14, the parcels are categorized as either low density or high density parcels. Each low density parcel is assigned one (1) BU and each high density parcel is assigned one-half (0.5) BU. The total annual cost per BU is calculated by dividing cost by the total number of benefit units within the zone. The assessment for each parcel is calculated by multiplying the number of benefit units assigned to the parcel by the assessment rate per BU.

The table below summarizes the assessment per Benefit Unit for Fiscal Year 2010-11. All Zones have been assessed at their maximum assessment.

Benefit Zone	FY2010-11 Budget		Benefit Units (BU's)	Rate per BU
	Proposed	Adopted		
Zone 1 (Corgiat Estates)	\$ 4,845.69		51.0	\$ 95.01
Zone 2 (Creek Canyon)	\$ 11,354.39		194.0	\$ 58.53
Zone 3 (North Manor Unit No. 4)	\$ 1,326.33		23.0	\$ 57.67
Zone 4 (Oakwood Vista)	\$ 11,675.60		132.0	\$ 88.45
Zone 5 (Lucas Ranch I)	\$ 30,531.93		262.0	\$ 116.53
Zone 6 (Stonegate)	\$ 1,329.90		54.0	\$ 24.63
Zone 7 (Stonehedge Estates)	\$ 4,265.44		53.0	\$ 80.48
Zone 8 (Oakwood Terrace)	\$ 5,692.32		198.0	\$ 28.75
Zone 9 (Silva Ranch Estates)	\$ 5,937.66		55.0	\$ 107.96
Zone 10 (Lucas Ranch II & III)	\$ 17,796.85		118.0	\$ 150.82
Zone 11 (Stephens Ranch)	\$ 29,512.79		230.0	\$ 128.32
Zone 12 (Walnut Creek Estates)	\$ 15,776.04		68.0	\$ 232.00
Zone 13 (Hearthstone Ranch)	\$ 42,552.64		368.0	\$ 115.63
Zone 14 (Sherman Ranch)	\$ 86,375.45		385.5	\$ 224.06
Zone 15 (Monte Vista Estates)	\$ 6,415.32		42.0	\$ 152.75
Total Levy	\$ 275,388.35			

The use of the latest County Assessor's Secured Roll shall be the basis for the Property Type determination and units/acreage assignments, unless better data is available to the City. In addition, if any parcel within the District is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, the Property Type and BU assignment shall be based on the correct parcel number and/or new parcel number(s) County use code and subsequent property information. If a single parcel has changed to multiple parcels, the BU assignment and assessment amount applied to each of the new parcels will be recalculated rather than spread the proportionate share of the original assessment.

5.6. Cost of Living Inflatior

Each fiscal year beginning Fiscal Year 2011/12, the maximum allowable assessment amount may be increased by the percentage change in the year ending February preceding the start of the Fiscal Year of the Consumer Price Index for all Urban Consumers (CPI-U), for the San Francisco-Oakland-San Jose area. If for any reason the percentage change is negative the maximum allowable assessment would not be decreased by reason of such negative percentage change and would remain at the amount as computed on the previous fiscal year regardless of any CPI adjustment. The annual assessment cannot exceed the actual costs to operate the District in any given year. If operating costs are such that the maximum assessment amount is not needed, the City would levy only what is needed for that year.

6. ASSESSMENT DIAGRAM

An Assessment Diagram for the District is on file in the Director of Public Works office. The lines and dimensions of each lot or parcel within the District are those lines and dimensions shown on the maps of the County Assessor of the County of Stanislaus, at the time this report was prepared, and are incorporated by reference herein and made part of this Engineer's Report.

7. ASSESSMENT ROLL

The assessment roll is a listing of the proposed assessment for Fiscal Year 2010/11 apportioned to each lot or parcel, as shown on the last equalized roll of the Assessor of the County of Stanislaus. The assessment roll for Fiscal Year 2010/11 is listed on the following pages.

ESTIMATE OF ANNUAL COSTS
with All Improvements

ZONE	Lighting Maintenance	Landscaping Maintenance	Storm Pump Station	Block Wall Repair/Repl.	Block Wall Annual Maint.	C, G & Sidewalk Repair/Repl.	Drainage District	Administration	Proposed Costs
1	\$ 2,200.32	\$ 1,716.00	\$ -	\$ 137.50	\$ 137.50	\$ 213.85		\$ 440.52	\$ 4,845.69
2	\$ 5,383.20	\$ 2,864.40	\$ 453.00	\$ 341.00	\$ 341.00	\$ 939.58		\$ 1,032.22	\$ 11,354.39
3	\$ 1,092.00		\$ -	\$ -		\$ 113.75		\$ 120.58	\$ 1,326.33
4	\$ 4,548.48	\$ 4,576.00	\$ -	\$ 440.00	\$ 440.00	\$ 609.70		\$ 1,061.42	\$ 11,675.60
5	\$ 10,044.00	\$ 15,222.20	\$ 829.50	\$ 302.50	\$ 302.50	\$ 1,055.60		\$ 2,775.63	\$ 30,531.93
6	\$ 936.00		\$ -	\$ -		\$ 273.00		\$ 120.90	\$ 1,329.90
7	\$ 1,837.92	\$ 1,432.20	\$ -	\$ 165.00	\$ 165.00	\$ 277.55		\$ 387.77	\$ 4,265.44
8	\$ 4,283.04		\$ -	\$ -		\$ 891.80		\$ 517.48	\$ 5,692.32
9	\$ 2,925.60	\$ 1,432.20	\$ 453.00	\$ 165.00	\$ 165.00	\$ 257.08		\$ 539.79	\$ 5,937.66
10	\$ 3,880.80	\$ 10,015.50	\$ 807.00	\$ 412.50	\$ 412.50	\$ 650.65		\$ 1,617.90	\$ 17,796.85
11	\$ 6,999.36	\$ 17,160.00	\$ 483.00	\$ 550.00	\$ 550.00	\$ 1,087.45		\$ 2,682.98	\$ 29,512.79
12	\$ 2,383.68	\$ 10,867.67	\$ 618.00	\$ 77.00	\$ 77.00	\$ 318.50		\$ 1,434.19	\$ 15,776.04
13	\$ 12,840.48	\$ 20,277.32	\$ 828.00	\$ 1,474.00	\$ 1,474.00	\$ 1,790.43		\$ 3,868.42	\$ 42,552.65
14	\$ 12,651.84	\$ 53,121.28	\$ 828.00	\$ 1,237.50	\$ 1,237.50	\$ 1,708.53	\$ 7,738.50	\$ 7,852.31	\$ 86,375.46
15	\$ 2,028.00	\$ 2,689.50	\$ 618.00	\$ 123.75	\$ 123.75	\$ 249.11		\$ 583.21	\$ 6,415.32
Sub Total	\$ 74,034.72	\$ 141,374.27	\$ 5,917.50	\$ 5,425.75	\$ 5,425.75	\$ 10,436.56	\$ 7,738.50	\$ 25,035.31	\$ 275,388.36

**AWARD BID FOR THE SAFE ROUTES TO SCHOOL (SR2S); STREET RECONSTRUCTION
& P, Q, R, S, T, FRESNO, MERCED AND WEST AVENUE PROJECT (PHASE I) TO
TEICHERT CONSTRUCTION AND AUTHORIZE A BUDGET ADJUSTMENT FOR THE
SR2S PORTION OF SAID PROJECT**

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2010- , awarding the Safe Routes to School, Street Reconstruction & P,Q,R,S,T, Fresno, Merced and West Avenue Project (Phase I) to Teichert Construction for \$209,082.40; authorize the City Manager to execute the agreement and approve a budget adjustment for the Safe Routes to School portion of said project.

BACKGROUND:

With the goal of reducing injuries and fatalities to school children and to encourage increased walking and bicycling among students, the People of the State of California legislated a Safe Routes to School (SR2S) Program through the enactment of AB 1475 and AB 57 in 1999 and 2007 respectively. In 2009, the City applied for and received a SR2S grant (Cycle 8) in the amount of \$225,000.00 with a required local match of \$25,000.00. This project consists of the installation of improvements to the intersection area of Merced St, Inyo Ave, Hoyer and Upper Roads to provide a safe route to and from Yolo Middle School. Currently there are no sidewalks in this area and children/students must walk in the street to and from school.

Additionally, the City has received grant funding from the Stanislaus County CDBG Consortium for infrastructure improvements in the City’s income-eligible area (bordered by Yolo Street, “N” Street, Inyo Avenue and the western city limit line). Known as the Street Reconstruction and P, Q, R, S, T, Fresno, Merced and West Avenue Projects, this first phase consists of the installation of curb, gutter, and sidewalks and related street repairs around the Howard B. Hill Jr. Park site (Fresno Street, Merced Street and West Avenue).

ANALYSIS:

The City advertised for bids for approximately two weeks ago; bids were opened and read on May 4, 2010 at 2:00 pm. A total of seven bids were submitted for this project. The Engineer’s Estimate for this project is \$295,470.00. The City Engineer has reviewed the bids and found them to be in proper order. The lowest responsible bidder for this project has been determined to be Teichert Construction with a bid amount of \$209,082.40; please see attachment A for the bid results.

FISCAL IMPACT:

Given that the SR2S portion of the project has yet to expend funding, a budget line item has not yet been created. A FY 09/10 budget adjustment is necessary to create a line item under Fund 17 (State Grants) for the SR2S portion of the project, please refer to attachment B.

CDBG	- \$91,485.00	09/10 CDBG Budgeted amount	- \$268,189.84
<u>Safe Routes to School</u>	<u>- \$117,597.40</u>	Safe Routes to School Grant	- \$225,000.00
Total Bid Amount	- \$209,082.40	<u>SR2S Local Match</u>	<u>- \$25,000.00</u>
		Total Funding	- \$518,189.84

CDBG: Bid Amount – Budgeted Amount = \$176,704.84 remaining funds

SR2S: Bid Amount – Budgeted Amount = \$132,402.60 remaining funds

Total Remaining Funding: \$309,107.44

As noted above, there is a remaining available funding in the amount of \$309,107.44. Remaining CDBG funds will be carried over into next year’s infrastructure project (Phase II) and remaining SR2S funding may be utilized for additional improvements or project costs (such as change orders, engineering, etc).

CONCLUSION:

The City of Newman advertised and received bids for the above mentioned project; Teichert Construction has been determined to be the lowest responsible bidder. Therefore, staff recommends that the City Council adopt Resolution No. 2010- , Awarding the bid for the Safe Routes to School, Street Reconstruction and P, Q, R, S, T, Fresno, Merced and West Avenue Project (Phase I) to Teichert Construction for the bid amount of \$209,082.40; authorize the City Manager to execute the agreement and approve a budget adjustment for the Safe Routes to School portion of said project.

ATTACHMENTS:

1. Exhibit A – Tabulation of Bids
2. Exhibit B – Budget Adjustment
3. Exhibit C - Resolution No. 2010-

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

**ABSTRACT OF BIDS FOR CITY OF NEWMAN
SAFE ROUTES TO SCHOOL, CYCLE 8 and
PQRST/FRESNO/MERCED/WEST AVENUE INFRASTRUCTURE AND STREET RECONSTRUCTION PROJECT - PHASE 1**

Bid Opening: May 4, 2010; 2:00 p.m.

Teichert Construction
835 South Kilroy Rd
Turlock, California 95380

Ross F. Carroll, Inc.
8873 Wamerville Road
Oakdale, California 95361

Rodgers Construction
1807 Navy Drive, Suite 1
Stockton, California 95206

UDB Enterprises, Inc.
743 W. Anderson St., Ste. 101
Stockton, California 95206

McFadden Construction
7207 Murray Drive
Stockton, California 95210

SAFE ROUTES TO SCHOOL, CYCLE 8

Item No.	Item	Quantity and Unit	Unit Price	Amount								
1	SWPPP	Lump Sum	Lump Sum	1,000.00	Lump Sum	2,000.00	Lump Sum	1,000.00	Lump Sum	840.00	Lump Sum	1,200.00
2	Traffic Control Plan	Lump Sum	Lump Sum	3,000.00	Lump Sum	2,000.00	Lump Sum	1,000.00	Lump Sum	600.00	Lump Sum	4,000.00
3	Demolition	Lump Sum	Lump Sum	11,000.00	Lump Sum	10,000.00	Lump Sum	9,000.00	Lump Sum	7,300.00	Lump Sum	9,000.00
4	Earthwork	Lump Sum	Lump Sum	18,436.00	Lump Sum	20,000.00	Lump Sum	15,000.00	Lump Sum	27,000.00	Lump Sum	11,000.00
5	Furnish & Install Aggregate Base	1,175 TON	20.00	23,500.00	19.00	22,325.00	26.00	30,550.00	21.00	24,675.00	26.00	30,550.00
6	Furnish & Install Asphalt Concrete	275 TON	78.00	21,450.00	80.00	22,000.00	85.00	23,375.00	96.00	26,400.00	85.00	23,375.00
7	Construct Curb & Gutter	592 LF	21.00	12,432.00	19.00	11,248.00	20.00	11,840.00	20.00	11,840.00	24.00	14,208.00
8	Construct Sidewalk	2,904 SF	3.85	11,180.40	4.00	11,616.00	5.00	14,520.00	4.25	12,342.00	8.00	23,232.00
9	Construct Ramps	Lump Sum	Lump Sum	2,500.00	Lump Sum	2,800.00	Lump Sum	5,000.00	Lump Sum	4,800.00	Lump Sum	2,500.00
10	Construct Median	Lump Sum	Lump Sum	8,800.00	Lump Sum	8,000.00	Lump Sum	12,500.00	Lump Sum	8,750.00	Lump Sum	10,000.00
11	Thermoplastic Traffic Striping	230 LF	2.50	575.00	1.40	322.00	2.50	575.00	3.00	690.00	2.00	460.00
12	Thermoplastic Pavement Markings	36 SF	9.00	324.00	3.50	126.00	10.50	378.00	10.00	360.00	10.00	360.00
13	Signs	4 EA	250.00	1,000.00	250.00	1,000.00	250.00	1,000.00	250.00	1,000.00	250.00	1,000.00
14	Adjust Catch Basin to Grade	1 EA	400.00	400.00	1,000.00	1,000.00	300.00	300.00	560.00	560.00	1,500.00	1,500.00
15	Relocate Fire Hydrant	Lump Sum	Lump Sum	2,000.00	Lump Sum	6,600.00	Lump Sum	4,300.00	Lump Sum	4,900.00	Lump Sum	3,000.00
SRTS TOTAL				\$117,597.40		\$121,037.00		\$130,338.00		\$132,057.00		\$135,385.00
PQRST/FRESNO/MERCED/WEST AVE...												
1	SWPPP	Lump Sum	Lump Sum	1,000.00	Lump Sum	1,000.00	Lump Sum	1,000.00	Lump Sum	800.00	Lump Sum	1,200.00
2	Traffic Control Plan	Lump Sum	Lump Sum	3,000.00	Lump Sum	2,000.00	Lump Sum	1,000.00	Lump Sum	600.00	Lump Sum	4,500.00
3	Demolition	Lump Sum	Lump Sum	2,500.00	Lump Sum	10,000.00	Lump Sum	9,000.00	Lump Sum	7,300.00	Lump Sum	8,500.00
4	Earthwork	Lump Sum	Lump Sum	8,000.00	Lump Sum	20,000.00	Lump Sum	6,000.00	Lump Sum	30,000.00	Lump Sum	12,000.00
5	Furnish & Install Aggregate Base	1,200 TON	21.00	25,200.00	19.00	22,800.00	26.00	31,200.00	21.00	25,200.00	26.00	31,200.00
6	Furnish & Install Asphalt Concrete	285 TON	78.00	22,230.00	80.00	22,800.00	85.00	24,225.00	96.00	27,360.00	84.00	23,940.00
7	Construct Curb & Gutter	531 LF	21.00	11,151.00	19.00	10,089.00	20.00	10,620.00	20.00	10,620.00	24.00	12,744.00
8	Construct Sidewalk	3,340 SF	3.85	12,859.00	4.00	13,360.00	5.00	16,700.00	4.25	14,195.00	8.00	26,720.00
9	Construct Ramp	Lump Sum	Lump Sum	1,700.00	Lump Sum	2,800.00	Lump Sum	2,500.00	Lump Sum	2,400.00	Lump Sum	3,500.00
10	Construct Driveway Approach	72 SF	13.00	936.00	8.00	576.00	10.00	720.00	10.00	720.00	15.00	1,080.00
11	Thermoplastic Pavement Striping	206 LF	2.50	515.00	1.40	288.40	2.50	515.00	3.00	618.00	2.00	412.00
12	Thermoplastic Pavement Markings	66 SF	9.00	594.00	3.50	231.00	10.50	693.00	10.00	660.00	10.00	660.00
13	Adjust Manhole Covers to Grade	1 EA	500.00	500.00	300.00	300.00	500.00	500.00	700.00	700.00	800.00	800.00
14	Adjust Valve Covers to Grade	2 EA	400.00	800.00	300.00	600.00	300.00	600.00	300.00	600.00	600.00	1,200.00
15	Signs	2 EA	250.00	500.00	250.00	500.00	250.00	500.00	250.00	500.00	250.00	500.00
PQRST/FRESNO/MERCED/WEST AVE TOTAL				\$91,485.00		\$107,344.40		\$105,773.00		\$122,273.00		\$128,956.00
SRTS WORK ITEMS PLUS												
PQRST/FRESNO/MERCED/WEST AVE WORK ITEMS TOTAL:				\$209,082.40		\$228,381.40		\$236,111.00		\$254,330.00		\$264,341.00

**ABSTRACT OF BIDS FOR CITY OF NEWMAN
SAFE ROUTES TO SCHOOL, CYCLE 8 and
PQRST/FRESNO/MERCED/WEST AVENUE INFRASTRUCTURE AND STREET RECONSTRUCTION PROJECT - PHASE 1**

Bid Opening: May 4, 2010; 2:00 p.m.

BDS Construction, Inc. ** BonaTech Engineering, Inc. **
18448 Avenue 24 234 E. Fremont St.
Chowchilla, California 93610 Stockton, California 95202 Engineer's Estimate

SAFE ROUTES TO SCHOOL, CYCLE 8

Item No.	Item	Quantity and Unit	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	SWPPP	Lump Sum	Lump Sum	1,297.00	Lump Sum	2,500.00	Lump Sum	2,500.00
2	Traffic Control Plan	Lump Sum	Lump Sum	3,554.00	Lump Sum	2,000.00	Lump Sum	5,000.00
3	Demolition	Lump Sum	Lump Sum	14,296.00	Lump Sum	45,643.00	Lump Sum	10,000.00
4	Earthwork	Lump Sum	Lump Sum	5,443.00	Lump Sum	11,875.00	Lump Sum	15,000.00
5	Furnish & Install Aggregate Base	1,175 TON	21.80	25,615.00	18.00	21,150.00	40.00	47,000.00
6	Furnish & Install Asphalt Concrete	275 TON	95.80	26,345.00	90.00	24,750.00	80.00	22,000.00
7	Construct Curb & Gutter	592 LF	34.90	20,660.80	21.00	12,432.00	30.00	17,760.00
8	Construct Sidewalk	2,904 SF	7.70	22,360.80	6.25	18,150.00	6.00	17,424.00
9	Construct Ramps	Lump Sum	Lump Sum	2,093.00	Lump Sum	2,300.00	Lump Sum	1,000.00
10	Construct Median	Lump Sum	Lump Sum	6,684.00	Lump Sum	14,500.00	Lump Sum	6,000.00
11	Thermoplastic Traffic Striping	230 LF	2.20	506.00	4.50	1,035.00	2.00	460.00
12	Thermoplastic Pavement Markings	36 SF	9.40	338.40	12.00	432.00	6.00	216.00
13	Signs	4 EA	240.00	960.00	200.00	800.00	500.00	2,000.00
14	Adjust Catch Basin to Grade	1 EA	1,141.00	1,141.00	1,800.00	1,800.00	500.00	500.00
15	Relocate Fire Hydrant	Lump Sum	Lump Sum	1,615.00	Lump Sum	4,300.00	Lump Sum	5,000.00
		SRTS TOTAL		\$132,909.00		\$163,667.00 *		\$151,860.00
PQRST/FRESNO/MERCED/WEST AVE...								
1	SWPPP	Lump Sum	Lump Sum	1,299.00	Lump Sum	2,500.00	Lump Sum	2,500.00
2	Traffic Control Plan	Lump Sum	Lump Sum	3,561.00	Lump Sum	2,000.00	Lump Sum	7,500.00
3	Demolition	Lump Sum	Lump Sum	21,299.00	Lump Sum	18,000.00	Lump Sum	10,000.00
4	Earthwork	Lump Sum	Lump Sum	5,450.00	Lump Sum	4,200.00	Lump Sum	15,000.00
5	Furnish & Install Aggregate Base	1,200 TON	21.80	26,160.00	18.00	21,600.00	40.00	48,000.00
6	Furnish & Install Asphalt Concrete	285 TON	95.80	27,303.00	90.00	25,650.00	80.00	22,800.00
7	Construct Curb & Gutter	531 LF	33.50	17,788.50	21.00	11,151.00	30.00	15,930.00
8	Construct Sidewalk	3,340 SF	7.80	26,052.00	6.25	20,875.00	6.00	20,040.00
9	Construct Ramp	Lump Sum	Lump Sum	4,120.00	Lump Sum	2,300.00	Lump Sum	2,400.00
10	Construct Driveway Approach	72 SF	8.00	576.00	8.50	612.00	6.00	432.00
11	Thermoplastic Pavement Striping	206 LF	2.20	453.20	4.50	927.00	2.00	412.00
12	Thermoplastic Pavement Markings	66 SF	9.40	620.40	12.00	792.00 *	6.00	396.00
13	Adjust Manhole Covers to Grade	1 EA	835.00	835.00	3,900.00	3,900.00	500.00	500.00
14	Adjust Valve Covers to Grade	2 EA	382.00	764.00	3,200.00	6,400.00	350.00	700.00
15	Signs	2 EA	240.00	480.00	200.00	400.00	500.00	1,000.00
		PQRST/FRESNO/MERCED/WEST AVE TOTAL		\$136,761.10		\$121,307.00 *		\$147,610.00
SRTS WORK ITEMS PLUS								
		PQRST/FRESNO/MERCED/WEST AVE WORK ITEMS TOTAL:		\$269,670.10		\$284,974.00 *		\$299,470.00

* Corrected Amount
** Incomplete Proposal

BUDGET ADJUSTMENT FORM

DESCRIPTION /COUNCIL OR RESOL. REFERENCE	LINE	GL ACCOUNT #	INCREASE BUDGET	DECREASE BUDGET
Cal Trans Grant	1	17-5680	\$ 225,000.00	
Transfer out of Local Transportation Fund	2	24-9900	\$ 25,000.00	
Tranfer Into State Grant Fund	3	17-5900	\$ 25,000.00	
Safe Route to School Project	4	17-7743-32	\$ 250,000.00	
	5			
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<small>C:\bob\forms\je.xls</small>	20			
PREPARED BY: BB			Fiscal Year	2009-10
APPROVED BY:			Period/ Month	May 2010
ENTERED BY:			JE #	

RESOLUTION NO. 2010-

AWARD BID FOR THE SAFE ROUTES TO SCHOOL, STREET RECONSTRUCTION AND P, Q, R, S, T, FRESNO, MERCED AND WEST AVENUE PROJECT (PHASE I) TO TEICHERT CONSTRUCTION IN THE AMOUNT OF \$209,082.40; AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT AND APPROVE A BUDGET ADJUSTMENT FOR THE SAFE ROUTES TO SCHOOL PORTION OF SAID PROJECT.

WHEREAS, the City of Newman is desirous of constructing the Safe Routes to School Project and first phase of the CDBG Street Reconstruction And P, Q, R, S, T, Fresno, Merced And West Avenue Projects; and

WHEREAS, the City of Newman has solicited for and received the following bids:

	Teichert Construction	Ross F. Carroll, Inc.	Rodgers Construction	UDB Enterprises, Inc.	McFadden Construction	BDS Construction, Inc.	BonaTech Engineering, Inc.
CDBG	\$91,485.00	\$107,344.40	\$105,773.00	\$122,273.00	\$128,956.00	\$136,761.10	\$121,307.00
SR2S	\$117,597.40	\$121,037.00	\$130,338.00	\$132,057.00	\$135,385.00	\$132,909.00	\$163,667.00
Total:	\$209,082.40	\$228,381.40	\$236,111.00	\$254,330.00	\$264,341.00	\$269,670.10	\$284,974.00

WHEREAS, Teichert Construction is the lowest responsible bidder in the amount of \$209,082.40; and

WHEREAS, funds for the project are available through a SR2S and CDBG grant allocations; and

WHEREAS, the City Council of the City of Newman has approved a budget adjustment for the SR2S portion of the project; and

WHEREAS, City of Newman staff has recommended that the City Council approve a contract with Teichert Construction for the Safe Routes To School, Street Reconstruction And P, Q, R, S, T, Fresno, Merced And West Avenue (Phase I) Projects; and

WHEREAS, the City Council of the City of Newman has determined it would be in the best interest of the City to enter into a contract with Teichert Construction.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman hereby approves the contract with Teichert Construction and authorizes the City Manager to execute said contract for the Safe Routes to School (SR2S) Cycle 8, CDBG Street Reconstruction and P, Q, R, S, T, Fresno, Merced, West Avenue Infrastructure Projects (Phase I) and authorizes a budget adjustment for the SR2S portion of said project.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 11th day of May 2010 by Council Member _____, who moved its adoption which motion was duly seconded and was upon roll call carried and the resolution adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

ATTEST:

Mayor of the City of Newman

Deputy City Clerk of the City of Newman

Honorable Mayor and Members
of the Newman City Council

**AUTHORIZE AN INCREASE FOR THE ON-CALL CONSULTING SERVICES FROM ECO:LOGIC
ENGINEERING**

RECOMMENDATION:

It is recommended that the City Council authorize a budget increase for On-call consulting services with Eco:Logic Engineering for an amount not-to-exceed \$13,000.00.

BACKGROUND:

On September 8, 2009 City Council approved a proposal from Eco:Logic Engineering for On-Call Water and Wastewater Services for a not-to-exceed amount of \$70,000.00. Of the \$70,000.00 approved by City Council, \$45,000.00 was budgeted for Wastewater and \$25,000.00 for Water on-call services. The on-call budget for the Wastewater has reached the not-to-exceed limit. However, there is a need for assistance with the Dam Safety Certification for the new Effluent Storage Basin, assistance with the Wastewater Facilities Improvement and Planning Update with the Regional Water Quality Control Board, and regulatory assistance for the remainder of this fiscal year. Eco:Logic Engineering is requesting an increase to the on-call budget for these services in the amount of \$13,000.00

ANALYSIS:

The Public Works Department has a need for professional engineering services to assist with the Dam Safety Certification for the new Effluent Storage Basin, assistance with the Wastewater Facilities Improvement and Planning Update with the Regional Water Quality Control Board, and regulatory assistance. Eco:Logic Engineering has submitted a proposal for a not-to-exceed cost of \$13,000.00 to assist the City in meeting these requirements. Eco:Logic Engineering is highly qualified and has in-depth knowledge of these systems due to their long history with the City's Wastewater Facilities and work on the master plans.

FISCAL IMPACT:

On-Call Services	\$13,000.00	2009/10 Sewer Fund	\$13,000.00
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CONCLUSION:

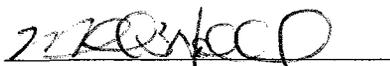
The Public Works Department has a need for professional engineering services for continued wastewater projects and regulatory support. Eco:Logic Engineering is highly qualified and has in-depth knowledge of the City's Wastewater Treatment Plant facilities and the related regulatory issues. Therefore, staff recommends to City Council accept the proposal from Eco:Logic Engineering for an increase to the on-call services for a not-to-exceed cost of \$13,000.00.

Respectfully Submitted,

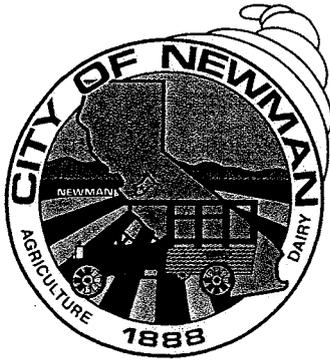


Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager



City of Newman
City Manager's Office
Memorandum

Date: May 10, 2010
To: City Council
From: Michael E. Holland, City Manager

Subject: Personnel Rules – Results of Meet and Confer process

On Friday May 7th, City staff met with representatives of the Newman Police Officer's Association and Operating Engineers Local #3. Based upon that meeting and conversations with the City's Legal Counsel, the following recommendations are being submitted for Council consideration:

Modify Section 504:

- b) ...Merit increases may be granted to employees who have demonstrated exemplary job performance review. To be eligible for a merit, the employee shall not have received a more than two Counseling Letters, a Written Reprimand or a Suspension within the prior 12 months.

Modify Section 520:

If an employee leaves the City Service within one (1) year after the completion of any course paid for by the City, the cost of such course ~~will~~ may be deducted from the employee's last pay check. In-service training courses are not applicable.

Honorable Mayor and Members
of the Newman City Council

City Council Meeting
of May 11, 2010

UPDATED PERSONNEL RULES FOR CITYWIDE EMPLOYEES

RECOMMENDATION:

Adopt Resolution No. 2010- , accepting and adopting the updated Personnel Rules.

BACKGROUND:

In August 1999, the City of Newman adopted its current Personnel Rules. In 2003 and 2005, the City made minor updates. However, a comprehensive review has not completed since 1999. Due to changes in State law and the organization as a whole, City management staff worked with our attorney to do a complete and comprehensive update of the entire document. On March 5th, the City sent the proposed document to the Miscellaneous and Police Officers Association bargaining groups and offered to 'Meet and Confer' on the item. In addition, the City sent a second and final notice to the POA group on April 1st. To date, the Miscellaneous Group has sent written confirmation that they accept the changes as proposed. Unfortunately, the POA group has not completed their review. In a show of good faith, the City continued this item from April 25th meeting to the meeting scheduled for May 11th. To date, no progress has been made.

ANALYSIS:

In an effort to provide a complete and thorough review and update of the Personnel Rules, City management staff went through the complete document individually before coming together as a group. Each of the comments and sections identified by individual staff members was discussed and debated. Once a draft version was completed, the document was sent over to the City's employment attorney for her review and recommendations. The document submitted to the Council has been thoroughly examined and complies with the many changes in State law.

The majority of the changes involved clean up language and clarification of policy. However, there are a few larger changes within the document. The biggest change comes in Section 12 Substance Use and Rehabilitation, where the section was simplified and went from twelve (12) pages to two (2) pages. The changes were recommended by our attorney. Additional changes of note include reducing the number of paid holidays from twelve (12) to eleven (11) plus the elimination of two hours of leave on Good Friday, replacing holiday cash out for Police Officers to time accrual and usage, and a change in payment for stand-by pay and call back pay for both Police and Non-Police employees.

FISCAL IMPACT:

Positive.

CONCLUSION:

Staff recommends the Council accept and adopt the new and updated Personnel Rules. The City has expended significant time and energy in completely reviewing the entire document. Copies were provided to our two bargaining groups on March 8th. To date, the Miscellaneous Group has completed its review and provided the City an email stating they are accepting of the changes.

Respectfully submitted,



Michael Holland
City Manager

RESOLUTION NO. 2010-

**A RESOLUTION AMENDING RULES AND REGULATIONS FOR THE
ADMINISTRATION OF A MERIT PERSONNEL SYSTEM FOR THE CITY OF
NEWMAN**

WHEREAS, the City Council, on August 24, 1999, adopted Resolution No. 99-36, A Resolution Adopting Rules And Regulations For The Administration Of A Merit Personnel System For The City Of Newman; and

WHEREAS, the objectives of the Personnel Rules are to facilitate efficient and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal government; and

WHEREAS, city staff recently conducted a comprehensive review and revision of the Personnel Rules to include updated policies and procedures; and

WHEREAS, the aforementioned Personnel Rules have not been comprehensively reviewed and updated since August of 1999;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Newman does hereby adopt the Personnel Rules attached hereto, Marked Exhibit "A" and by reference thereto made a part hereof, effective April 27, 2010.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 27th day of April 2010 by Council Member _____, who moved its adoption which motion was duly seconded and was upon roll call carried and the resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

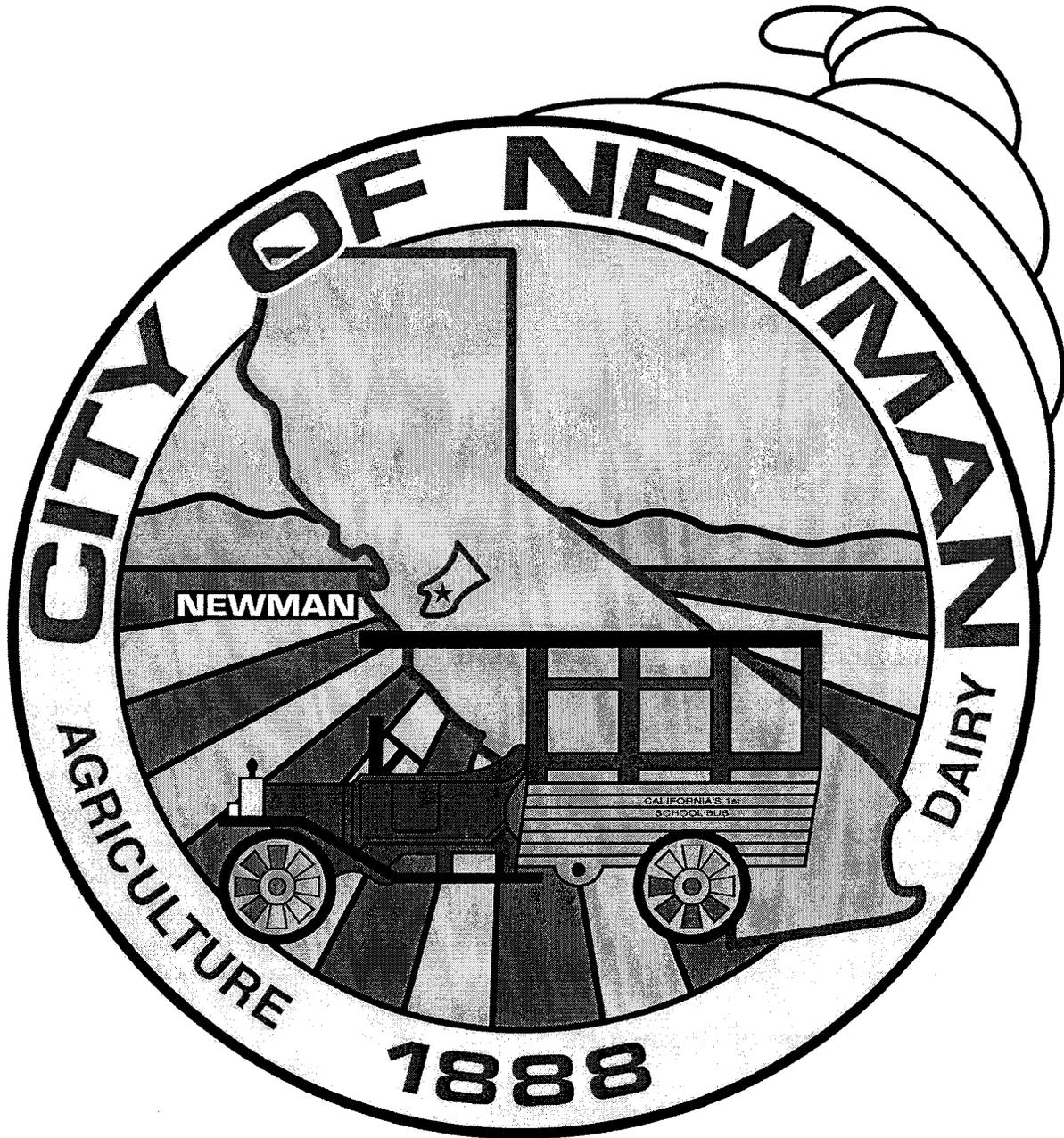
APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman

PERSONNEL RULES



Resolution No. 2010-
Adopted 00/00/00

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CHAPTER 1 – GENERAL

SECTION 101 - ADOPTION OF RULES AND REGULATIONS

The following Rules and Regulations have been approved by the City Council by Resolution No. 99-39 pursuant to the authority granted by Ordinance No. 295 adopted on August 10, 1976 by the Newman City Council in order to establish an equitable and uniform procedure for dealing with personnel matters, and to place municipal employment on a merit basis so that the most qualified available people may be brought into and retained in the municipal service.

SECTION 102 - ADMINISTRATION OF THE MERIT SYSTEM

The City Manager is the Personnel Officer and shall administer the Merit Personnel System in accordance with the provisions of Ordinances No. 295 and 286. The general control and supervision over the same is vested in the City Manager, whereby the power to appoint all officers, heads of departments, and the employees of all City departments, and to remove the same for cause, is subject to these Rules and Regulations.

SECTION 103 - PURPOSE AND POLICY

The objective of these Rules and Regulations is to facilitate effective and economical services to the public and to provide for a fair and equitable system of personnel management in the municipal service. These Rules and Regulations set forth in detail those procedures which insure equal treatment for applicants and employees, and define the obligations, rights, privileges, benefits and prohibitions placed upon all employees in the municipal service.

SECTION 104 - PERSONNEL POLICY/EQUAL OPPORTUNITY

It is hereby the declared personnel policy of the City of Newman that:

- a) Employment and promotion by the City of Newman shall be based on merit and fitness, free of personal and political considerations, and in no way shall discriminate on the basis of race, sex, creed, color, religion, age, marital status, sexual orientation, medical condition, including genetic characteristics, disability, national origin or ancestry.

- b) City personnel programs shall be administered in such a manner as to remove unnecessary barriers to the employment and advancement of women, minority group persons, and the disabled.
- c) Efforts shall be made to attract and assist such under-represented persons in the workforce to qualify for employment and promotion with and within the City of Newman.
- d) Continuance of Employment covered by these Rules and Regulations shall be subject to good behavior, satisfactory work performance, need for work and the availability of funds.

SECTION 105 - EMPLOYMENT CONSTITUTES ACCEPTANCE OF RULES

By accepting employment with the City of Newman, each employee agrees to be governed by and to comply with the Merit System Rules and Regulations, Administrative rules and procedures established by the City Manager pursuant thereto and rules, regulations, and directives of the department in which he/she is employed.

All employees holding a position in the municipal service on the effective date of these rules and regulations shall thereafter be subject in all respects to the provisions herein.

CHAPTER 2 - DEFINITIONS

SECTION 201 - DEFINITION OF TERMS

The following terms whenever used in these Rules and Regulations shall be defined as follows:

"Administrative Leave" shall mean leave with pay granted to an employee at management's discretion which is not charged against the employee's leave accounts.

"Classification Plan" shall mean a list of titles of the classes of all regular positions in the municipal service and a written specification which shall include the class title and general description of the work, a summary statement of duties and responsibilities, and desirable qualifications for appointment, and may include such other pertinent information as the City Manager may deem desirable.

"Continuous Service" shall mean employment on a regular basis which is not interrupted by termination, or leaves of absence without pay for a period in excess of one year, other than military leave.

"Discharge" shall mean disciplinary termination of employment.

"Disciplinary Probation" shall mean a form of disciplinary action, as distinguished from probation for new employees as set forth in SEC. 901 for a specified time not to exceed one year. Persons placed on disciplinary probation may be terminated for failure to meet requirements. Rights, benefits and privileges may be reduced in conformance with Chapter 10)

"Demotion" shall mean the movement of an employee from one class to another class having a lower maximum rate of pay.

"Eligibility List" shall mean a list of applicants who, in addition to the recommended applicant(s), have been assessed as suitable for the position by the selection panel, in order of their relative merit for the position. An eligibility list may be used to fill the same position or a position that is substantially the same, for a period of six (6) months after the list was created. An eligibility list created by one department can also be used by other departments as long as the position is substantially the same as the position the list was created for.

"City" shall mean the City of Newman

"Examination" shall be defined as the following:

1. "Open competitive examination" shall mean an examination for a particular class which is open to all persons meeting the qualifications for the class.
2. "Promotional examination" shall mean an examination for a particular class, with admission to the examination being limited to regular and probationary employees of the City who meet the qualifications of the class.
3. "Continuous examination" shall mean an open competitive examination which is administered periodically as a result of which names are placed on an eligibility list, in order of final scores, for a period of not more than one year.

"Management Leave" shall mean leave with pay granted to designated management or supervisory employees classified as salaried employees.

"Non-pay status" shall mean the period in which an employee is not at work and has been granted a leave of absence without pay.

"Pay status" shall mean the period in which an employee is at work, on vacation leave, sick leave, compensation leave as the result of an industrial accident, leave with full pay in lieu of temporary disability benefits, compensatory time off, paid temporary military leave or absence, or on an approved leave of absence with pay.

"Performance Review Date" shall mean the date an employee as designated by these rules shall receive a performance review but not less than annually, usually on the anniversary date of their hire..

"Personnel Officer" shall mean the City Manager or his/her designee.

"Promotion" shall mean the movement of an employee from one class to another class having a higher maximum rate of pay.

"Salary Ranges" shall mean a series of progressive steps between a specific minimum and maximum rate.

"Salary Schedule" shall mean the composite of all salary ranges assigned to specific positions in the municipal service.

"Seniority" shall mean continuous service full or part-time from date of hire, based on hours for employment for part-time positions.

"Suspension" shall mean the temporary removal of an employee from pay status for reasons of pending disciplinary action.

“Transfer” shall mean the movement of any employee from one job classification to another wherein the same salary range is assigned to both job classifications.

CHAPTER 3 – EMPLOYMENT

SEC 301 - CITIZENSHIP

Employment is open to qualified men and women who are citizens of the United States, or to qualified non-citizens who are residents of the State of California pursuant to 8 U.S.C. Section 13246 (a)(3) (Immigration Reform and Control Act Section 274B (a) (3)).

SECTION 302 - RECRUITMENT

Recruitment for qualified applicants may be a continuing process in order that, where possible, the City will have available applications of interested, qualified persons for possible employment. Notices of employment opportunities may be placed in newspapers, magazines, announcements, or given to reputable agencies offering those services which it is felt will bring response from qualified persons. The City, however, shall not pay any fee or service charge for any applicant who is referred to it by any employment agency.

It is the responsibility of the hiring department head along with the City Manager to see that all applicants are treated fairly and to ensure that the procedures outlined herein are followed. The department head shall be responsible for initiating the recruitment.

SECTION 303 – PROCEDURES

A. Types Of Recruitment

1. Open and Competitive

Open to all applicants who meet the minimum qualifications and other requirements of the position. Open and competitive recruitment may stay open for a minimum of fourteen calendar days, and should be extended one day for any holiday falling within the fourteen days.

2. In-house

The department head shall have the option to open up any recruitment in-house prior to an open recruitment. If no qualified applicants are found in-house, then open and competitive procedures should be followed. In-house recruitment is open to all City employees who meet the minimum qualifications and other

requirements of the position. In-house recruitment may stay open for a minimum of seven calendar days, and should be extended one day for any holiday falling within the seven days.

3. Promotional

Departments may use an in-house recruitment to fill senior, supervisory or management positions when such action is in the best interest of the City. Promotional recruitment may be open to all City employees or only to the requesting department's employees, as determined appropriate by the department head; or

Departments may use an open and competitive recruitment to fill senior, supervisory or management position.

4. Temporary

a) Open to all applicants who meet the minimum qualifications and other requirements of the position,. Temporary recruitment may stay open for seven calendar days, and should be extended one day for any holiday falling within the seven days.

b) Departments may use temporary employment services without open competitive recruitment to fill temporary positions, when such action is in the best interest of the City.

5. Internships

a) Open to all applicants who are attending any college or university within relevant programs and meet the minimum qualifications and other requirements of the position and other employment with the City, as stated in an announcement or position description.

b) Internships may be recruited openly for a minimum of fourteen calendar days or by direct referral from campus placement services, academic advisors, and/or current interns.

SECTION 304 - APPLICATION

All candidates for employment shall file a signed application with the Personnel Office on an official City application form.

SECTION 305 - SELECTION PROCESS

- a) The selection process may consist of such recognized techniques as achievement tests, aptitude tests, evaluation of personality and background through personal interviews, performance tests, evaluation of work performance, work samples, physical agility tests, review and investigation of personal background and references, finger printing, medical examinations/ drug screening or any combination thereof. The selection process will, in no way, be discriminatory because of race, sex, creed, color, religion, political affiliation, age, marital status, sexual orientation, disability, medical condition, including genetic characteristics, national origin or ancestry.
- b) In the event that written examinations are given, a candidate may have the right to inspect his/her own examination paper. Written examinations are only qualifying in nature.
- c) Selection techniques will be impartial and consistent and shall relate to those areas which, in the opinion of the Personnel Officer, will adequately and fairly indicate the relative ability and quality of candidates under consideration to execute the duties and responsibilities of the position to which they seek to be appointed.
- d) Upon completion of the selection process, the Department Head, with City Manager concurrence, may make an appointment(s) from those candidates who meet the job qualifications and, on the basis of their performance in the selection process, appear most qualified for the position under consideration. The appointment shall not become effective until the selected applicant has signed all official papers required by the City, and those papers bear the appropriate signatures confirming the appointment.

SECTION 306 - INELIGIBILITY OR DISQUALIFICATION

The personnel officer may withdraw from consideration anyone whose appointment would be deemed contrary to the best interest of the City. Reasons for disqualification may include, but shall not be limited to the following deficiencies:

1. Lack of any of the minimum qualifications established for the position sought.
2. Physical or mental disability, which can not be reasonably accommodated, such as to render the applicant unfit to perform the essential functions of the position to which appointment is sought.
3. Excessive use of intoxicants.

4. Unlawful use of habit-forming drugs.
5. Conviction of a felony, or conviction of a misdemeanor involving moral turpitude.
6. Dismissal from any previously held position for any cause, which would be cause for dismissal by the City.
7. Resignation from any previously held position to avoid dismissal.
8. Deception or fraud in the application for employment or in the selection process.
9. Request by applicant that his/her name be withdrawn from consideration.
10. Failure to reply within a reasonable time, as specified by the Personnel Office, to a communication concerning availability for employment.
11. Disqualification or unsuitability for employment as specified in any City or pertinent department rules and regulations.
12. Failure to sign application
13. Failure to apply by the established deadline as indicated in the announcement.

SECTION 307 - CATEGORIES OF APPOINTMENT

Employment in the municipal service is divided into the following categories:

- a) Regular. Regular employees are those who have been appointed to an authorized position in the Employee Compensation Plan having a monthly salary, and who have successfully completed their probationary period and have been retained as hereafter provided in chapter 9 of these Rules and Regulations. The City Manager shall be considered as a regular employee and shall be subject to all of the provisions of these Rules and Regulations with the exception of Chapters 10 and 11.
- b) Probationary. Probationary employees are those who, through the regular examination process, have been appointed to an authorized position in the Employee Compensation Plan having a monthly salary, but who have not completed the probationary period provided in Chapter 9 of these Rules and Regulations.
- c) Part-time. Part-time employees are those hired for less than the standard forty (40) hour week and/or paid on an hourly basis. Unless hourly rates are listed and/or

advertised for specific part-time employees, they shall be compensated at an hourly rate equivalent to the applicable salary range and step.

- d) Part-time employees may be suspended, demoted, or terminated at any time by the Personnel Officer without cause and without recourse to the appeal and grievance procedure provided in chapters 10 and 11 herein.
- e) Temporary employees may be suspended, demoted or terminated at any time by the Personnel Officer without cause and without recourse to the appeal and grievance procedure provide din Chapters 10 and 11 herein.

SECTION 308 - REAPPOINTMENTS

Re-appointment after termination will be considered as new employment. However, re-appointments made within six (6) months from the termination date may be made with reinstatement of prior seniority, sick leave and pay rate with prior approval of the City Manager.

SECTION 309 - CONTINUED EMPLOYMENT

Continued employment of employees with the City of Newman shall be subject to good behavior, satisfactory work performance, need for work and the availability of funds.

SECTION 310 - REGULAR EMPLOYEE PERFORMANCE REPORTS

A performance report for each regular employee shall be made at least annually on or prior to the employee's Performance Review Date by the *Department Head, or his/her designee, on "City of Newman Performance Evaluation" forms according to the directions thereon.* Said report shall be provided to the employee and approved by the Department Head and the City Manager; then forwarded to the Personnel Officer for inclusion in the employee's personnel file..

SECTION 311 - TRANSFER

Any employee may be transferred from one department or division to another based on workload as determined by the Department Head and City Manager.

SECTION 312 - PROMOTION

Because it is the policy of the City of Newman to encourage the advancement of personnel within the organization, promotional examinations for vacancies will be conducted, as the needs of the City require. Promotional opportunities (available to City employees) will be posted on bulletin boards selected by the Personnel Officer at least seven (7) working days before the selection is made.

SECTION 313 - DEMOTION

The City Manager or Department Head, with City Manager approval, may demote an employee whose ability to perform his required duties falls below acceptable standards; for disciplinary reason set forth in Section 1002; when the need for the position filled no longer exists; or when an employee requests such demotion. No employee shall be demoted to a classification for which he does not possess the minimum qualifications. When the action is initiated by the Department Head, written notice of demotion shall be given to an employee at least five working (5) days before the effective date of the demotion. Any employee may appeal such action in the manner provided in Section 1004, et seq.

SECTION 314 - SUSPENSION

- a) By City Manager. The City Manager may suspend an employee under his control from his position at any time for reasons of pending disciplinary action: for disciplinary reasons set forth in Section 1002; or for other just cause; including but not limited to reasons of inefficiency, incompetence, or physical disability or mental incapacity which cannot be reasonably accommodated by the City.
- b) By Department Head. Department Heads may (for cause as specified in Section A above) suspend an employee for not more than three (3) days (33 hours for sworn personnel)) at any one time without the approval of the City Manager. Written notice of suspension shall be given to an employee within seventy-two (72) hours after such determination. An employee may appeal such action in the manner provided in Section 1004, et. seq.

SECTION 315 - REINSTATEMENT

The City Manager may reinstate any suspended employee for good cause, and may upon such reinstatement compensate, in whole or in part, such employee for time lost.

SECTION 316 - OUTSIDE EMPLOYMENT

Any regular employee desiring to engage in outside employment shall first obtain non-City conflict job approval from his/her Department Head. The employee shall submit a signed statement to the Department Head, naming the prospective employer, address and telephone number, and outlining the proposed duties and hours of work. Approval may be denied if, in the opinion of the Department Head, such outside employment is incompatible with the proper discharge of the employee's official duties. All such approvals shall be subject to review by the City Manager, and shall be re-submitted prior to January 10 each year to maintain a valid, continuous authorization.

Authorization for outside employment is automatically terminated whenever the outside employer and/or nature of outside employment changes from that specified on the signed statement submitted to the Department Head. When such a change occurs, employees shall apply for a new approval for outside employment as provided herein.

CHAPTER 4 – TERMINATION OF EMPLOYMENT

SECTION 401 - TERMINATION; RESIGNATION

An employee wishing to leave the service of the City in good standing either by resignation or retirement shall give the department head concerned a minimum of two (2) weeks notice.

SECTION 402 - TERMINATION; ABSENCE WITHOUT LEAVE

Absence without leave for three (3) consecutive work days or shifts may be deemed to be a resignation and may result in termination of employment as provided in Section 802.

SECTION 403 - TERMINATION; LACK OF WORK OR FUNDS

The City Manager may layoff employees whenever it becomes necessary due to lack of funds or when the City Council determines that it is in the best interest of the City to do so.

Order of Lay off:

Employees may be laid off in the following order: part-time temporary, temporary, regular part-time and regular full-time

Management reserves the right to make final decisions regarding layoffs. If requested by the Association, the City Manager will meet with the Association representatives before implementing layoffs to discuss the factors used to identify individual Association members for layoff.

Bumping:

Any regular full-time employee subject to lay off may exercise bumping rights subject to the following limitations:

- 1) Only regular fulltime employees may exercise bumping rights.
- 2) Seniority for purposes of bumping shall be defined in the City Personnel Rules

- 3) An employee subject to lay off may elect to bump into an equal or lower paying classification provided that:
 - a) the employee previously held regular status in that classification; and
 - b) the employee continues to meet the qualifications for that classification; and
 - c) the City Manager has the authority to approve or deny any bumping.

SECTION 404 - TERMINATION; NON-DISCIPLINARY ACTION

Part-time and probationary employees may be terminated by the Personnel Officer at any time, with or without notice, for cause or for the convenience of the City. Regular employees terminated by the Personnel Officer for cause or for the convenience of the City shall be given a written statement of the reasons for such termination and may appeal such action in the manner provided in Section 1004 et seq. Such cause shall be other than cause for disciplinary action set forth in Section 1002, et seq. and shall include, but not be limited to, inefficiency, incompetence, physical disability, or mental incapacity which cannot be reasonably accommodated by the City.

SECTION 405 - TERMINATION; DISCIPLINARY ACTION

An employee may be terminated at any time through disciplinary action as provided in Chapter 10 of these Rules and Regulations.

SECTION 406 - RETIREMENT; APPLICABLE REGULATIONS

Retirement from the municipal service shall be subject to the terms and conditions of the City's retirement system, as provided under the State Public Employee Retirement System.

Specific details regarding this retirement plan are available to employees from the Personnel Department.

SECTION 407 - EXIT INTERVIEWS AND FINAL PAYCHECK

Any probationary or regular employee terminating employment with the City, may be requested to attend an exit interview with the City Manager and/or their Department Head on or before the last day of employment for the following purposes:

1. To obtain a forwarding address and other pertinent information from the employee

2. To assure that the employee is well informed about all matters related to employee benefits such as conversion of health and medical insurance, etc.
3. To assure the clearance of all obligations with the City and to verify receipt of all City equipment, keys, identification cards, etc.
4. To obtain an opinion from the employee relative to City working conditions and reasons for severing employment with the City.

CHAPTER 5 – COMPENSATION AND HOURS

SECTION 501 - EMPLOYEE COMPENSATION PLAN

An Employee Compensation Plan shall be established to provide salary schedules, salary rates, salary ranges, and steps and time intervals for salary review. Each class in the City classification plan shall be assigned a salary range or a rate established in the Compensation Plan. All persons employed by the City shall be compensated in accordance with the Compensation Plan thereby in effect.

SECTION 502 - ADMINISTRATION AND REVIEW OF EMPLOYEE COMPENSATION PLAN

The City Council shall administer the Employee Compensation Plan for the City Engineer, City Treasurer, City Attorney and City Manager. The Personnel Officer shall administer the Employee Compensation Plan for all other employees.

From time to time, the Personnel Officer shall recommend to the City Council an appropriate salary range for each class. In case the salary range for a class is changed by the City Council, all employees within the class shall have their salaries adjusted to the corresponding step in the new salary range.

SECTION 503 - APPLICATION OF SALARY RANGES AND RATES

- a) Appointments. All initial appointments to classes assigned to a pay range in the City Compensation Plan shall begin at the entry step of the salary schedule, except that the City Manager may make an appointment to a higher salary step when, in his opinion, it is difficult to obtain qualified personnel at the starting salary or when the education and experience of the prospective employee is substantially above that required in the entry level position and justifies a salary in excess of the first step.
- b) Promotion. Any employee receiving a promotion shall start on the first step of the salary range within the class to which he/she is promoted, and shall thereafter be eligible for merit increases as elsewhere provided.

However, if an employee's previous salary is equal to or greater than the first step on the salary schedule to which the employee is promoted, the employee shall be assigned to the step within the salary schedule that provides at least a 5% increase in salary.

If the promotion includes a supervisory position, the promoted employee shall be assigned to a step with an applicable salary above salary level of those supervised.

- c) Transfer. A transfer does not affect an employee's salary level.

SECTION 504 - ADVANCEMENT WITHIN A SALARY RANGE

An employee shall be considered for salary advancement in agreement with the time intervals established in the Employee Compensation Plan and the following provisions:

- a) Automatic. For employees beginning employment at 1st step, advancement to step 2 in a salary range shall be automatic and effective on the first day of the payroll period following the successful and satisfactory completion of the probationary period.
- b) Merit. Merit pay increase above step 2 within an established grade shall not be automatic but may be recommended by the Department Head, and approved by the City Manager. Merit increases may be granted to employees who have demonstrated exemplary job performance review. To be eligible for a merit, the employee shall not have received a Counseling Letter, Written Reprimand or Suspension within the prior 12 months. Nothing herein prevents the granting of merit salary increases prior to the normally allotted time intervals established in the employee compensation plan for such reasons as to reward exceptional performance.

Salary adjustments resulting from an employee's promotion or demotion shall be made effective on the first day of the payroll period following or coinciding with the employee's change of position.

- c) Time Requirements. For purposes of determining the time requirements specified in the Employee Compensation Plan, time will commence on the first day of the payroll period following or coinciding with entrance into a given position.

SECTION 505 - TIME INTERVALS FOR SUBSEQUENT SALARY INCREASES

In the event that an employee's job is reclassified to a lower paying level or his salary is reduced because of inability to meet the standards of a current salary step, the same time intervals for subsequent salary increases as provided in the Employee Compensation Plan shall apply unless special review considerations are established at the time of salary reduction.

SECTION 506 - STANDARD WORK PERIODS

The standard work period for employees shall be forty (40) hours to be worked within seven (7) consecutive days; unless otherwise agreed upon in a Memorandum of Understanding. The workday for part-time employees shall be established and directed by the Department Head.

SECTION 507 - EXCEPTIONS TO STANDARD WORK PERIODS

The City Manager is hereby authorized to designate other work periods and working hours for employees when, in his opinion, the best interest of the city may be served by such adjustment of the standard work periods and hours. The procedure for making adjustments in the standard work periods and hours shall be consistent with the provisions of Sec. 3504.5 of the Government Code.

- a) Flexible Scheduling. Upon approval of the Department Head, and concurrence of the City Manager, employees may be granted flexible scheduling, whereby employees may substitute additional time at work, in increments of thirty (30) minute periods, for an additional day off. Employees must accumulate eight (8) total hours of additional work, in lieu of overtime, for each day off.

SECTION 508 - ATTENDANCE

In every case in which an employee is not present for duty, his or her absence shall be reported by the Department Head to the Personnel Office on the City approved form. Since part-time employees are not entitled to leave, only actual time worked will be reported. All forms shall be forwarded to the Personnel Office.

SECTION 509 - PAY PERIODS

The pay period for all employees shall be semi-monthly and salaries will be paid on approximately the ~~first and fifteenth~~ fifteenth and last day of each month. If the scheduled disbursement day falls on a Saturday then payday will be the proceeding Friday. If the scheduled disbursement date falls upon a Sunday the payday will be the following Monday. The method of distributing payroll checks shall be established by the City Manager.

Except for employees being terminated, salaries will be paid only on regular paydays, unless early payment is approved by the City Manager.

Employees leaving the municipal service will normally be paid on the regular pay day following the date of termination and provided that written clearance is obtained

from the Department Head and the employee has returned all City-owned tools, clothing, keys and equipment.

SECTION 510 - COMPUTATION OF SALARY

Salary rates for all authorized City positions are set forth in the Employee Compensation Plan. In the conversion table included in that plan, hourly rates are based on 2080 hours per year.

SECTION 511 - OVERTIME

- a) Policy. All overtime work shall be paid overtime for time worked in excess of the scheduled workday. Use of overtime must be approved prior to it being worked and shall be minimized whenever possible.
- b) Procedure. Overtime shall be compensated at a rate of one and one half (1 1/2) times the regular rate of pay, or compensating time off at the rate of one and one half (1 1/2) hours credit per hour worked to a maximum accrual of eighty (80) hours compensatory time of credit.

Overtime shall commence at the time an employee reaches the place of work and shall continue until released from work or the job is completed.

- c) Approval. All departmental overtime requests for payment shall first be submitted to the Department Head for advance approval if possible. Each department is responsible for providing documentation for overtime payment which shall include: (1) reasons for the overtime, (2) date and time overtime was worked, (3) employee's name, (4) department account number, and (5) number of hours worked.

SECTION 512 - OVERTIME EXCEPTIONS

- a) Overtime not applicable. Overtime compensation provisions in these Personnel Rules shall not apply to Supervisory Employees, Confidential Employees, Department Heads or Council appointed officers.
- b) Court Appearances. Court appearances, for sworn personnel, required in the course and scope of employment shall be compensated at time and one half for time spent in court if such appearance is immediately following a regular work shift or if such appearance is set within one hour's time of the beginning of a regular work shift. A court appearance outside of a regularly scheduled duty shift shall be considered overtime and shall be compensated at time and one half.

- c) A minimum of four (4) overtime hours shall be recorded for any such appearance(s) prior to 1:00 p.m. A separate minimum of four (4) overtime hours shall be recorded for any such appearance between 1:00 p.m. and 6:00 p.m.

SECTION 513 - CALLBACK TIME

- a) Employees other than Supervisory Employees, Confidential Employees, and Department Heads who are required to return to work after completion of their work shift shall receive a minimum of two (2) hours pay at the overtime rate. Sworn police department personnel shall receive a minimum of three- (3) hours overtime pay. Hours worked in excess of the two (2) hours or three (3) hours shall be paid in the manner provided in SEC. 511. Overtime compensation shall commence at the time an employee reaches the place where he/she is directed to report.
- b) As a convenience to an employee and the employee's use of personal time, the City will provide a cellular phone to any police department employee placed on standby, provided the employee is able to appear for duty within 30 minutes.

SECTION 514 – STAND-BY PAY: POLICE

- a) Employees assigned to standby during their normal off-duty time of a regularly scheduled duty day shall receive one (1) hour at straight CTO credit for each 24-hour period.
Employees assigned to standby on a regularly scheduled day off shall receive two (2) hours at straight CTO credit for each 24 hour period. A 24-hour period is defined as beginning at 12:00 am and ending at 11:59 p.m.
- b) Employees assigned to one week on standby shall receive eight (8) hours at straight CTO credit.
- c) Except for employees on weekly standby, if an employee is called out while on standby, the callout provisions supercede and no standby time will be paid.

SECTION 515 – STAND-BY PAY: NON-POLICE

- a) Employees assigned to standby shall be provided with a pager and/or a cellular phone and shall be able to report to the work site within 30 minutes. Employees on standby shall have the option to trade weeks with another qualified employee, with prior approval of the department head.
- b) Duties during standby may include 2 hours on Saturday and 2 hours on Sunday to clean and inspect City parks and public buildings and other tasks as assigned by the Public Works Director.

- c) Compensation for standby duty shall consist of a minimum of two (2) hours of CTO, plus straight CTO time for any additional hours over the minimum.

SECTION 516 - DEDUCTIONS FROM PAY

Deductions from employee's pay shall be made in accordance with prevailing laws, contract and administrative rules and procedures established by the City Manager.

SECTION 517 - PAID HOLIDAYS

- a) Regular holidays for pay purposes. The following holidays are recognized as municipal holidays for pay purposes and all regular and probationary employees shall have these days off:

1. January 1
2. Martin Luther King, Jr's. Birthday
3. Third Monday in February
4. Last Monday in May
5. July 4
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. The day after Thanksgiving
10. December 25
11. Floating Holiday (in lieu of Columbus Day)

When a holiday falls on a Saturday, the proceeding Friday shall be deemed to be the holiday in lieu of the day named. When a holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day named.

Whenever an employee (excluding those employees assigned to the 4/11 schedule) is required to work on a fixed holiday or the fixed holiday falls on the employee's regularly schedule day off, the employee shall accrue, on an hour for hour basis, up to a total of eight (8) hours floating holiday time.

For employees assigned to a 4/10 schedule, whenever a holiday falls on the employee's regularly scheduled work day, a two (2) hour deduction will be made from the employee's regular CTO account, then vacation account. This two (2) hour deduction is necessary to account for the ten (10) hour day.

Employees on leave without pay the last scheduled work day before and/or after the first schedule day after a fixed holiday shall not receive holiday pay.

- b) Police Department Personnel. The first pay period of January, employees assigned to the 4/11 schedule shall be credited with eighty-eight (88) hours of holiday time, reduced by twenty-two (22) hours for payback of the 4/11 schedule, for a net of sixty-six (66) hours. Hours are credits at 5.5 hours per month. When an employee's employment is discontinued, by either the employee or City, any deficit hours used above those earned shall be deducted from the employee's final paycheck. Employees assigned to the 4/11 schedule are not entitled to any additional compensation when the holiday falls on their regular work day.
- c) All holiday time in the employee's holiday time account shall be taken as time off or shall be forfeited at the end of the calendar year. (The end of the calendar year is defined as the last day of the last full pay period, end on or before December 31.) Holiday time shall not be cashed out upon termination of employment.
- d) Prior to an employee's promotion to a management classification, all holiday time in excess of fifty (50) hours shall be compensated in cash at straight time rates.

Payments for accrued paid days in lieu of holidays shall be at the employee's regular rate of pay.

SECTION 519 - COMPENSATION DURING ATTENDANCE AT TRAINING COURSES DURING VACATION, HOLIDAYS, AND DAYS OFF

City employees should feel free to attend training courses available during their vacation, holiday or days off if they so desire. However, compensation for attendance at training courses held during days off (weekends), vacations, or holidays will be authorized only where employees have been directed by their Department Head to attend such, on the following basis:

1. Holidays. Employees directed to attend training courses on a holiday will be compensated as provided in Sec. 517.
2. Vacation. Employees directed to attend training courses held on their vacation days will be allowed to reschedule their vacation days spent in such training courses in lieu of compensation.

SECTION 520 EDUCATION INCENTIVE

- a) Tuition Reimbursement. Regular city employees are eligible to receive tuition reimbursement for educational purposes which clearly improve their ability to accomplish their City jobs.

Eligibility for such reimbursement shall be applicable to regular employees and shall be based upon:

1. The satisfactory completion of the course (passing grade of "C") or its numerical equivalent.
2. The course must be offered by an accredited college or university, or must be an approved correspondence course.
3. The course attendance and outside course work will be accomplished on the employee's non-work time.
4. The prior approval of the Department Head and the City Manager.

If an employee leaves the City Service within one (1) year after the completion of any course paid for by the City, the cost of such course will be deducted from the employee's last pay check.

Reimbursement shall be made in accordance with appropriate administrative procedures (see Personnel Policy Statement 1).

- b) Recognition Of Employees Who Complete City Authorized Training Programs. Employees who complete City authorized job-training programs, either in service or by volunteer study, will receive official City and public recognition by a presentation of any certificate of completion at a regular City Council meeting. It shall be the responsibility of each Department Head to notify the City Manager's office concerning an employees' eligibility for certificate presentation and appropriate scheduling on Council Agenda.

Employees scheduled on the Council Agenda for certificate presentation are encouraged to be in attendance at the council meeting.

SECTION 521 - COMPENSATION FOR USE OF PRIVATE AUTOMOBILE IN CITY BUSINESS

City employees may receive compensation for use of their personal vehicle in City business in the amounts listed in the Employee Compensation Plan. Use of any private vehicle must be approved by the employee's Department Head in advance and is subject to the provision of appropriate administrative procedure. There will be no authorization for use of City credit cards, gas or other City materials, equipment or supplies in conjunction with the use of a private vehicle.

SECTION 522 - UNIFORM ALLOWANCE

Regular Police personnel required to wear uniforms in the performance of their duties shall receive an allowance as provided in the Employee Compensation Plan.

Such allowances are to be used to acquire and maintain the specific departmental uniform in a neat and proper manner. Uniform allowance payments shall be made quarterly. New officers, upon approval of the Police Chief, may draw an advance on their uniform allowance to purchase their uniforms. Should the officer leave city service prior to accruing the uniform allowance advance, such outstanding advances shall be deducted from the officer's final compensation.

Other Regular City employees may receive uniform allowances when they are approved in the budgets of the respective departments.

SECTION 523 – INCENTIVE PAY; CONFIDENTIAL AND SUPERVISORY

The following incentive pay shall apply to all confidential and supervisory employees as classified by the City Manager:

Bilingual Pay: Employees who are certified as Bilingual in English-Spanish both spoken and written, shall receive additional compensation in the amount of two and one-half percent (2.5% of base pay). Said certification shall be determined by the City. Bilingual employees shall be fluent to a level so as to easily communicate with Spanish speaking customers and the public on City business matters.

Education: Employees who have obtained a job related Bachelor or Associate of Science or Arts Degree from an accredited college shall receive additional compensation in the amount of three percent (3%) of base pay. Job related degrees may include as appropriate: construction or project management, building science, engineering, water and wastewater management, business administration and accounting. Employees whose job description, notice or advertisement includes the degree as a prerequisite are not eligible for the incentive.

CHAPTER 6 – SICK LEAVE

SECTION 600 - STATEMENT OF POLICY

Sick leave shall not be treated as a privilege, which an employee may use at his/her own discretion but shall be granted only upon the approval of the Department Head. Sick leave shall be allowed and used only in case of necessity and actual personal sickness or disability, medical or dental treatment, or in case of an emergency illness in the immediate family which requires the employee's personal care and attendance. Immediate family shall mean the spouse, parent, child, brother, sister, or registered domestic partner residing in the household of the employee.

Nothing shall abridge the City's right to discipline an employee for abuse of sick leave or excessive absenteeism.

No sick leave shall be payable for any sickness, disability or injury which results or occurs as follows:

1. Intentionally self-inflicted;
2. Participation in a criminal act;
3. Participation in a riot;
4. Working for an employer other than the City;
5. During vacation unless the employee was confined to a hospital;
6. During a layoff, leave of absence or disciplinary suspension; and/or
7. After the termination date.

SECTION 601 - ELIGIBILITY

- a) Regular and probationary employees shall be eligible to accrue sick leave. Such employees shall be entitled to use sick leave, as authorized in this Chapter, upon the completion of three (3) months of employment with the City.

Notification and certification. In order to receive compensation while absent on sick leave, the employee shall notify his/her Supervisor and/or Department Head at the beginning of the workday he/she is absent. The employee may be required at any time, by the Department Head, to file a physician's certificate or a personal affidavit stating the cause of the absence and attesting to the employee's ability to resume work. However, when an employee is absent due to illness or injury for three (3) or more work days, a physician's certificate or a personal affidavit shall be required. The City shall revoke pay, sick leave time and take appropriate disciplinary action if the employee using sick leave is not sick or has engaged in private or other public work while on sick leave.

SECTION 602 - ACCRUAL

Sick leave shall be accrued monthly, beginning with the first month of employment, provided the employee has been in pay status for 50% or more of the first month or any month thereafter. Sick leave shall be accrued at the rate of eight (8) hours per month for all City employees. Employees shall not accrue sick leave for any pay period during which they are on layoff or other leaves of absence without pay.

SECTION 603 - DEDUCTION

Unless otherwise provided, sick leave will be deducted as follows:

- a) All employees. All City employees shall be charged sick leave hour for hour for days or portions of days absent (i.e. police department employees working an 11 hour shift would deduct 11 hours sick leave per day absent; employees working an 8 hour shift would deduct 8 hours sick leave for each full day absent). Unless exceptions are approved by the City Manager, absences less than a full day will be charged sick leave at the rate of one (1) hour sick leave for each hour and in one quarter hour fractions or portions of an hour, e.g., for ten (10) minutes, one quarter hour, for sixteen (16) minutes, one-half hour, etc.

SECTION 604 - USE AND ACCUMULATION

Sick leave may be accrued to a maximum of one thousand four hundred and seventy-two (1,472) hours.

Sick leave may be used as needed and approved, to the point of depletion, at which time the employee will no longer receive pay for sick leave.

Sick leave will not be granted for illness occurring during any leave of absence other than sick leave, with one exception: Any illness or injury occurring while on vacation leave may be covered by sick leave when such illness or injury causes the employee to be hospitalized.

SECTION 605 - FUNERAL LEAVE

Up to three (3) days sick leave may be granted a regular employee by the head of a department in the event of death in the employee's family. For the purposes of this section only, the employee's family shall mean the spouse, parent, child, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparents, or registered domestic partner residing in the house of the employee. Request for sick leave in excess of three (3) days for this purpose shall be subject to approval of the City Manager.

SECTION 606 - LEAVE FOR PREGNANCY DISABILITY

- a) Employees are entitled to use their accumulated sick leave for disabilities caused, or contributed to, by pregnancy, miscarriage, childbirth, and recovery therefrom on the same terms and conditions governing the use of sick leave for other illness or medical disability. Such leave shall not be used for child care, child rearing, or preparation for child rearing, but shall be limited to those disabilities as set forth above. The length of such leave, including the date on which the leave shall commence and the date on which the duties are to be resumed, shall be determined by the employee and her physician.
- b) After paid sick leave has been exhausted, employees are entitled to additional leave without pay up to a total combined leave of four (4) months for disabilities because of pregnancy, miscarriage, childbirth or recovery therefrom or as stated under Sec.805.

SECTION 607 WORKER'S COMPENSATION-POLICE DEPARTMENT PERSONNEL

Any sworn employee of the Police Department who is entitled to the benefit of Labor Code Section 4850, who is absent from work by reason of an injury or illness covered by Worker's Compensation, shall be allowed up to one year leave of absence, as required by the his/her condition, with the City supplying the difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay.

- a) A sworn employee of the Police Department who is absent from work by reason of an injury or illness covered by Worker's Compensation will continue to accrue sick leave and vacation benefits and consideration for normal salary increases as though he/she were not on leave of absence; but shall not receive credit for holidays or paid days in lieu of holidays.

- b) Whenever such disability is temporary in nature, an employee of the Police Department may continue on leave of absence for a period beyond one year, until the expiration of the employee's accrued sick leave, vacation and previously accrued compensating time off for overtime and paid days in lieu of holidays, calculated to the nearest one-half day, which compensation at the employee's regular rate of pay.
- c) Whenever it appears that a Police Department employee's disability is permanent in nature and the employee cannot return to work either with or without accommodation by the expiration of a period of one year from the commencement of such disability, disability retirement may be requested by the City, pursuant with the provisions of the City Retirement Plan, to become effective at the end of such one year period, unless the employee applies for or consents to be compensated for all of his/her accrued benefits at his/her regular rate of pay, excepting for accrued sick leave which shall be forfeited.
- d) An employee of the Police Department who is receiving any disability indemnity payments, either temporary or permanent, under worker's compensation who is also receiving his/her regular paycheck during such time as he/she is entitled to his/her regular rate of pay from the City.
- e) No employee of the Police Department shall receive wage and salary payments from the City after a period of five years from the date of injury for any one injury.
- f) Family and Medical Leave shall run concurrently with Workers' Compensation time off.

SECTION 608 - WORKER'S COMPENSATION-ALL OTHER EMPLOYEES

Any employee who is absent from work by reason of an injury or illness covered by Worker's Compensation shall continue in pay status under the following provisions:

- a) The difference between the amount granted pursuant to such Worker's Compensation and the employee's regular rate of pay shall be deducted from the employee's accumulated sick leave, compensatory time, and when authorized by the employee, vacation days.
- b) Such an employee will continue in pay status and receive his/her regular rate of pay until accumulated sick leave, compensatory time, and vacation days have been depleted to the nearest one-half (1/2) day.
- c) During this time the employee is in pay status while absent from work by reason of injury or illness covered by Worker's Compensation, shall continue to accrue sick leave and vacation benefits as though the employee were not on leave of absence; but shall not receive credit for holidays;

- d) Family and Medical Leave shall run concurrently with Worker's Compensation time off.
- e) Any employee who depleted his/her accumulated sick leave, compensatory time, holidays, and vacation days to maintain pay status while absent from work by reason of an injury or illness covered by Workers' Compensation shall be removed from pay status and be covered under provisions of Section 610.

SECTION 609 - LIGHT DUTY ASSIGNMENTS

The City's policy may be to place injured employees (where injuries are temporary in nature) covered under Worker's Compensation in light duty assignments whenever possible as outlined below:

1. Light duty assignments may be applied in accordance to the employee's limitations as determined by the employee's physician.
2. The purpose of such light duty assignments is to provide the injured employee with productive city activities until he/she is ready to return to full duty.
3. If no light duty work is available, the City shall not be required to create a light duty assignment.

SECTION 610 - DEPLETION OF SICK LEAVE BENEFITS

When an employee has been off work due to an injury or illness and upon depletion of Family and Medical Leave time and/or accumulated sick leave, and when all accrued time has been exhausted, and upon the recommendation of the employee's Department Head, an employee may be placed on medical leave of absence without pay for a period not to exceed sixty (60) days. If the employee is unable to return to work at the end of this period, he must request further medical leave which will be subject to approval of the City Manager. If further leave is granted, the employee must notify the City of his/her intent to return to work every (30) days. If further leave is not granted the employee's service with the City shall be considered terminated.

SECTION 611 - WELLNESS INCENTIVE PLAN

Employees other than management, supervisory and confidential shall have the option each year of converting sick leave to cash at the employee's regular rate of pay on an hour for hour basis subject to the following conditions:

1. The employee must have a minimum of four hundred (400) hours of accumulated sick leave after conversion;
2. The employee must not have used more hours than the equivalent of four (4) work day shifts during the previous calendar year;
3. The employee must notify the City of the employee's desire to convert sick leave to cash prior to April 1 each year.

Having met these conditions, the employee will be able to convert up to 48 hours of such leave. Payment will be made on or before May 1 each year, provided the employee submits a Personnel Action Form requesting sick leave conversion prior to April 1.

SECTION 612 - FORFEITURE UPON TERMINATION

Accumulated sick leave shall be forfeited by all employees upon leaving the municipal service, whether voluntarily or by termination and whether by reason of retirement for disability, age, or for any reason whatsoever.

SECTION 613 - TRANSFER OF SICK LEAVE BETWEEN EMPLOYEES

Any employee suffering from a long-term, non-job related illness may request the voluntary transference of sick leave from other employees to his/her account. Such requests are subject to review by the Department Head and subject to final approval by the City Manager.

Eligibility shall be based upon the following conditions:

1. The subject employee must first deplete all of his/her personal accrued sick leave and comp time and at least 50% of vacation time before any transfers of sick leave shall be provided.
2. No employee shall receive transfers of more than 500 hours, nor shall any individual employee donate more than 80 hours of sick leave or more than 10 percent of his/her accrued sick leave per calendar year.
3. No employee shall lobby or otherwise pressure any other employee to donate or transfer sick leave.
4. Time that has been donated to an employee which is unused shall be placed in a sick leave bank to be provided to employees who meet the above conditions.

CHAPTER 7 - VACATION LEAVE

SECTION 701 - USE OF VACATION

The purpose of annual vacation leave is to enable each eligible employee to return to his work mentally refreshed. For this reason, it is the intention of the City that vacation be taken, insofar as possible, in periods of one week or more.

- a) **Scheduling Vacations.** The time at which an employee may use his/her accrued vacation leave and the length of the vacation leave shall be determined by his Department Head with particular regard for the needs of the City, but also insofar as possible, considering the wishes of the employee.
- b) **Request For Vacation.** Each employee wishing to schedule a vacation should request such vacation leave as far in advance as possible, but usually at least one (1) week in advance of the requested vacation period. Vacation requests submitted prior to March 31 of each year shall be approved by seniority whenever possible.
- c) **Request for Vacation – Police.** Employees who submit requests for their priority vacations at least thirty (30) days prior to the posting of the six (6) month shift schedule shall receive every effort in order to accommodate their vacation request. Vacation requests shall be approved by seniority. Vacation requests submitted after the posting of the six (6) month shift schedule are subject to the approval of the Department Head on a first submission basis.
- d) **Double Compensation Prohibited.** Employees shall not work for the City during their vacation.

SECTION 702 - ELIGIBILITY

Regular employees shall be eligible for vacation leave after twelve (12) months employment with the City, while part-time and temporary employees shall not be eligible for vacation leave.

SECTION 703 - VACATION ACCRUAL

A. Vacation will be accrued and credited on a monthly basis beginning on the date of the employee's regular employment. Each eligible employee shall accrue vacation at the

following rate, for continuous service performed in pay status:

<u>Years of Continuous Service</u>	<u>Days Earned Monthly</u>	<u>Days Earned Annually</u>	<u>Maximum Days of Accumulation</u>
1 – 5	5/6	10	20
5 -15	1 - 1/4	15	30
After 15 years	1 - 2/3	20	40

B. No employee shall accumulate more vacation than provided above, except that no employee shall lose vacation due to the business needs of the City.

SECTION 704 - HOLIDAYS FALLING DURING VACATION

In the event a City holiday falls within an employee's vacation period which would have excused the employee from work and for which no other compensation is made (see Sec. 517 of the City's Merit System Rules and Regulations) said holiday shall not be charged as a vacation day.

SECTION 705 - VACATION AT TERMINATION

Employees leaving the Municipal Service with accrued vacation leave shall be paid the amounts of accrued vacation to the date of termination.

Payments for accrued vacation shall be at the employee's current rate of pay.

SECTION 706 - EFFECT OF EXTENDED MILITARY LEAVE

An employee who interrupts his/her municipal service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

SECTION 707 - VACATION - INDUSTRIAL INJURY

Vacation shall not be used to extend a date of industrial disability retirement.

CHAPTER 8 - OTHER LEAVES OF ABSENCE

SECTION 801 - LEAVE OF ABSENCE WITHOUT PAY

- a) The City Manager, in his/her unrestricted discretion, may grant a regular or probationary employee leave of absence, without pay or accrual of seniority, for a period not to exceed three (3) months. After three (3) months, the leave of absence may be extended if so authorized. No such leave shall be granted except upon written request of the employee, setting the reason for the request, and the City's response shall be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice to return to duty, the employee shall be reinstated to the same or similar position held at the time leave was granted. Failure on the part of an employee on leave to report promptly to work at the expiration of the leave, shall be deemed to constitute a discharge. The depositing in the United States mail a first class letter, postage paid, addressed to the employee's last known place of address shall be reasonable notice.
- b) Department Heads may grant a regular or probationary employee leave of absence without pay for periods not to exceed one calendar week. Such leaves shall be reported to the Personnel Officer.

SECTION 802 - ABSENCE WITHOUT LEAVE

Absence without leave shall be considered to be without pay, and reductions in the employee's pay shall be made accordingly. Absence without leave for three (3) consecutive days may result in termination of employment. The City Manager, in considering such termination, may consider all circumstances including the employee's ability to contact his/her supervisor.

SECTION 803 - LEAVE OF ABSENCE: DEATH OUTSIDE THE IMMEDIATE FAMILY

Leave without pay, in accordance with Sec. 801, may be granted to a regular employee in the event of death to family members outside of the immediate family.

SECTION 804 - MILITARY LEAVE OF ABSENCE

- a) Military leave shall be granted in accordance with applicable state and federal laws. All employees entitled to military leave shall give the appointing power an opportunity within the limits of military regulations to determine when such leave shall be taken.
- b) The employee shall furnish to the City satisfactory proof of his/her order to report for duty and of his/her actual service pursuant to such orders.

SECTION 805 - FAMILY CARE AND MEDICAL LEAVE

- a) Up to three (3) months of cumulative unpaid leave with health benefits shall be granted to any regular City employee for any one of the following conditions, as pursuant to the 1993 Family Medical Leave Act and/or California Family Rights Act:
 - 1. Parental Leave. Leave shall be granted to care for the employee's child after birth, or for placement for adoption, or for foster care.
 - 2. Family Leave. Leave shall be granted for the care of an employee's spouse, son or daughter, or parent, or registered domestic partner who has a serious health condition requiring an absence of more than three (3) days.
 - 3. Medical Leave. Leave shall be granted for a serious health condition, requiring an absence of more than three (3) days, that makes the employee unable to perform his/her job.
- b) Upon return from leave for such conditions provided, an employee will be reinstated to his/her original position, or a position of equivalent pay and benefits.
- c) The City shall require the employee to provide advance notice and may require appropriate medical certification within fifteen (15) days of leave. Ordinarily, the employee must provide thirty (30) days of advance notice when the leave is foreseeable. If these requirements are not met, leave may otherwise be denied.
- d) Family Care and Medical Leave shall be cumulative and an employee may not accumulate more than three (3) months total leave within a 12 month period commencing the first of the calendar year.
- e) Employees shall be required to use accrued sick time or vacation leave concurrently with Family and Medical Leave so long as such paid leave is available.

- f) Family Care and Medical Leave shall run concurrently with Worker's Compensation time off.
- g) Such leave may be intermittent or may be applied on a reduced schedule basis only in cases where it is deemed medically necessary by the employee's physician and is further approved by the City Manager.
- h) Additional leave of absence will be covered under the provisions authorized in Sec. 801.

SECTION 806 - EMPLOYEE'S TIME OFF TO VOTE

Time off with pay to vote at any general, direct primary, or presidential primary election shall be granted as provided in the State of California Elections Code, and notice that an employee desires such time off shall be given in accordance with the provisions of said Code.

SECTION 807 - SUBPOENAS: LEAVE OF ABSENCE

Regular employees who are subpoenaed to appear as witnesses on behalf of the State of California or any of its agencies may be granted leave of absence with pay from their assigned duties until released. The employee shall remit all fees received for such appearances to the city within sixty (60) days from the termination of services. Compensation for mileage or subsistence allowance shall not be considered as a fee and may be retained by the employee.

SECTION 808 - LEAVE FOR ATTENDANCE AT INDUSTRIAL ACCIDENT COMMISSION HEARINGS OR RELATED PHYSICAL EXAMINATIONS

Employees who have been injured in the course and scope of their employment with the City and who are required, as a result of such injury, to be absent from duty to take physical examinations required by the City's Workman's Compensation Insurer or the Industrial Accident Commission or to attend hearings of the Industrial Accident Commission may be granted leave with pay for such absences by the City Manager when he/she determines such absences are in the best interest of the City and only if the employee in pay status at the time of the scheduled examination or hearing. Applications for such leaves of absences shall be filed in advance on the City of Newman Personnel Action Forms.

SECTION 809 – MANAGEMENT LEAVE

Management and supervisory employees who are not eligible for overtime or call back pay shall be granted management leave each calendar year (January 1). Management leave is accrued at the following rates:

Supervisory and confidential:	3.33 hours per month - five days per year.
Mid Management:	3.33 hours per month - five days per year
Department Heads	6.67 hours per month - ten days per year

Employees may use this allotted management leave prior to its actual accrual. Should the employee leave city service with a deficit, that amount shall be subtracted from any accrued vacation leave that is cashed out.

Scheduling of management leave shall be done in the same manner as vacation scheduling as outlined in Chapter 7. Maximum accrued management leave shall be 10 days for supervisory and confidential and 20 days for management. Accrued management leave will not be cashed out at the end of employment.

SECTION 810 – JURY DUTY

Every regular employee of the city who is called or required to serve as a trial juror, upon notification and appropriate verification submitted to his/her supervisor, shall be entitled to be absent from his/her duties with the City during the period of such service or would necessarily being present in court as a result of such call. Employees shall report back to work if they are excused from jury service in the middle of the day or earlier. The employee's normal pay shall be reduced by the amount of pay received for jury duty.

CHAPTER 9 - PROBATIONARY STATUS

SECTION 901 - PROBATIONARY PERIOD

All original and promotional appointments to regular municipal service positions shall be tentative and subject to a probationary period of twelve (12) months. The probationary period may be extended with the approval of the City Manager for a period not to exceed six (6) additional months where the department head finds that extraordinary conditions justify such extension.

SECTION 902 - OBJECTIVE OF PROBATIONARY PERIOD

The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of any new employee to the position, and for rejecting any probationary employee whose performance does not meet an acceptable standard of work.

SECTION 903 - PROBATIONARY EMPLOYEE PERFORMANCE REPORTS

A performance report of each probationary employee shall be made by the Department Head, or his/her designee, on "City of Newman Performance Evaluation" forms according to the directions thereon and forwarded to the Personnel Office. The Employee Performance Evaluation Form shall be filed by the Department Head upon the completion of the employee's sixth and twelfth month of service with the City.

In other cases where the probationary period extends beyond twelve months, the Employee Performance Evaluation form shall be required from the Department Head at the conclusion of each six-month interval.

SECTION 904 - REJECTION OF PROBATIONER

During the probationary period, an employee may be terminated at any time, subject to the approval of the City Manager, without cause and without the right to appeal.

SECTION 905 - REJECTION FOLLOWING PROMOTION

Any employee rejected during the probationary period following a promotional appointment shall be reinstated to the position from which the employee was promoted or a comparable position, if vacancies exist, unless charges are filed and the employee is discharged.

Employees who elect a voluntary demotion after the twelve (12) month probationary period from a promotional appointment may be reinstated to the position from which the employee was promoted or to a comparable position subject, however, to the vacancies available at that time.

CHAPTER 10 - DISCIPLINARY PROCEEDINGS

SECTION 1001 - DISCIPLINARY ACTION; DEFINITION

As used in this chapter, "Disciplinary Action" shall mean discharge, demotion, reduction in salary, written reprimand, disciplinary probation or suspension.

SECTION 1002 - CAUSES FOR DISCIPLINARY ACTION

Causes for disciplinary action against any employee may include, but shall not be limited to, the following:

1. Fraud or dishonesty in securing appointment.
2. Unsatisfactory performance or inexcusable neglect of duty.
3. Insubordination or willful disobedience.
4. Dishonesty
5. Consumption of or being under the influence of alcoholic beverages or narcotics while on duty.
6. Unlawful use, sale or possession of narcotics or habit-forming drugs.
7. Commission or conviction of a felony, or of a misdemeanor involving moral turpitude.
8. Discourteous treatment of the public or other employees.
9. Unlawful political activity.
10. Repeated violation of safety procedures.
11. Misuse or unauthorized use of City property.
12. Violation of any of the provisions of these Merit System Rules and Regulations or departmental rules and regulations.
13. Other failure of good behavior either during or outside of duty hours which is of such a nature that causes discredit to the City.
14. Refusal to take or subscribe to any oath or affirmation which is required by law in connection with his/her employment.
15. Theft of City Property.
16. Failure to maintain required certifications or licenses.

SECTION 1003 – DISCIPLINARY ACTION

The City of Newman promotes a disciplinary system which provides positive motivation through progressive discipline applied fairly and consistently.

If an alleged wrongdoing by an employee is brought to the attention of the immediate supervisor and/or the department head, the following steps should be considered and necessary action taken:

- Nature of the Discipline Action
- Date of the Violation
- Causes for the Discipline
- Act(s) Committed Causing Discipline
- Documentation supporting the Violation
- Right to Appeal

In notifying an employee of disciplinary action, the above information shall be provided to the employee.

Stages of Progressive Discipline may include the following:

1. Verbal Warnings shall be given for minor violations of employee conduct standards or rules or other City policies deemed to be minor in nature.
2. Written Reprimand may be given for first time minor violations or repeated minor violations.
3. Suspensions may be given for major violations of conduct standards, work rules or policies and procedures deemed necessary to require suspension. All suspensions greater than three days must be approved by the City Manager.
4. Disciplinary Probation may be given for major violations of conduct standards, work rules or policies and procedures or repeated violations of minor or major conduct standards, work rules or policies and procedures. Employees on Disciplinary Probation may be dismissed without right to appeal.
5. Dismissal from employment may be necessary after one or all of the following:
 - continued violation of conduct standards, work rules or policies after proceeding through the above steps of progressive discipline.
 - violation of a major conduct standard or work rule which the Department Head and City Manager deem serious enough to warrant dismissal.

Copies of all disciplinary actions shall be forwarded to the Personnel Officer for inclusion in the employee's personnel file.

Dismissal Procedures:

Any department head who feels an employee has reached a point where dismissal is necessary should present the documentation to the City Manager in writing. After

approval from the City Manager, the City Attorney shall be directed to prepare the "Notice of Intent to Dismiss" letter.

The "Notice of Intent to Dismiss" letter shall be given to the employee and the employee placed on immediate paid Administrative Leave.

SECTION 1004 - RIGHT TO APPEAL

Any disciplinary action involving Suspension, Demotion, Reduction in Pay or Dismissal may be appealed to the City Manager. If the employee receiving the discipline desires to appeal the action he/she shall provide written notice of appeal within (10) ten working days of receipt of the notice of discipline.

Following receipt of the appeal, the City Manager will schedule an appeal hearing within 30 days. The City may extend or the employee may request an extension of the appeal hearing not to exceed 30 days. Following the hearing the City Manager shall have 10 working days to submit a written response to the appeal.

An employee may be represented by a union representative or by any other employee other than supervisory, management or confidential employees. The employee must be present at the hearing.

The City Manager shall issue notices to appear to all witnesses, employed by the City, requested in writing by the employee or representative. All costs incurred for witnesses on behalf of the employee shall be paid by the employee.

The City Manager shall be the final level of appeal for all personnel matters. If it is deemed necessary under applicable law or under the determination of the City Manager, a court recorder may be used for hearings involving termination.

SECTION 1005 - EFFECT OF CERTAIN DISCIPLINARY ACTIONS

- a) Suspension. Employees suspended from the municipal service shall forfeit their rights, privileges and salary while on such suspension with the exception of Group Health and Life Insurance benefits.
- b) Discharge. Employees terminated pursuant to this policy shall be paid salary accumulated to the effective date of termination only and shall be paid for accumulated vacation and accumulated compensatory time.

SECTION 1006 - RELEASE OF INFORMATION RELATIVE TO DISCIPLINARY ACTION AGAINST MUNICIPAL EMPLOYEES

In the interest of preventing undue embarrassment and subsequent loss of ability to perform City work in an effective manner, no information will be released by the

Department Head without prior approval of the City Manager, and in accordance with state and federal law.

CHAPTER 11 – GRIEVANCE PROCEDURES

SECTION 1101 - PURPOSE OF CHAPTER

Grievance procedures for employees are provided herein:

1. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other means.
2. To afford employees individually or through the employee organization a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions.
3. To provide that grievances be settled as near as possible to the point of origin.
4. To provide that grievances shall be heard and settled as informally as possible.

SECTION 1102 - MATTERS SUBJECT TO GRIEVANCE PROCEDURES

Any regular full-time or part-time employee shall have the right to present a grievance regarding wages, salaries, hours and working conditions for which appeal is not provided or is not prohibited under the provisions of Chapter 10 of these rules.

SECTION 1103 - INFORMAL GRIEVANCE PROCEDURE

An employee should first attempt to resolve a grievance through discussion with his immediate supervisor without undue delay. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, the employee shall have the right to discuss it with this supervisor's immediate superior, if any. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If the employee is not in agreement with the decision reached through such discussion, he shall then have the right to file a formal grievance with the Department Head, in writing, within ten (10) working days after receiving the informal decision of his superior or superiors. An informal grievance shall not be taken above the Department Head.

SECTION 1104 - FORMAL GRIEVANCE PROCEDURE

After the exhaustion of the informal grievance procedure, the formal grievance procedure shall proceed as follows:

- a) Department Head Review. The grievance shall be presented in writing to the employee's Department Head who may discuss the grievance with the employee, his representative, if any, and with any other appropriate persons. The Department Head shall render his decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance. If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, he may present the grievance in writing to the City Manager. Failure of the employee to take further action within ten (10) working days after receipt of the decision will constitute withdrawal of the grievance.
- b) Decision. If the grievance is presented directly to the City Manager, the City Manager shall discuss the grievance with the employee, his representative, if any, and with all other appropriate persons. The City Manager shall render a decision in writing to the employee within (10) working days after receiving the grievance. The decision of the City Manager shall be final.

SECTION 1105 - CONDUCT OF GRIEVANCE PROCEDURE

- a) Time Limits. The time limits specified above may be extended to a definite date by mutual agreement of the employee and the reviewer concerned.
- b) Representation. The employee may request the assistance of another person chosen by the employee in preparing and presenting a grievance at any level of review.
- c) Non-reprisal. Employees shall be free from reprisal for using the grievance procedure.

CHAPTER 12 - SUBSTANCE USE AND REHABILITATION

SECTION 1201 – POLICY

The City is concerned about the use of alcohol, illegal drugs, or controlled substances as it affects the workplace. Use of these substances, whether on or off the job can detract from an employee's work performance, efficiency, safety, and health, and therefore seriously impair the employee's value to the City. In addition, the use or possession of these substances on the job constitutes a potential danger to the welfare and safety of other employees and exposes the City to the risks of property loss or damage, or injury to other persons.

Furthermore, the use of prescription drugs and/or over-the-counter drugs also may affect an employee's job performance and may seriously impair the employee's value to the City.

The following rules and standards of conduct apply to all employees during the workday (including meals and rest periods). Behavior that violates the policy includes:

- Possession or use of an illegal or controlled substance, or being under the influence of an illegal or controlled substance, including alcohol while on the job;
- Driving a Company vehicle while under the influence of alcohol or an illegal or controlled substance; and
- Distribution, sale, or purchase of an illegal or controlled substance while on the job.

Violation of these rules and standards of conduct will not be tolerated. The City also may bring the matter to the attention of appropriate law enforcement authorities.

Any employee who is using prescription or over-the-counter drugs that may impair the employee's ability to safely perform the job, or affect the safety or well-being of others, must notify a supervisor of such use immediately before starting or resuming work.

In addition, blood or urine samples or other medical tests may be taken and screened by a laboratory for the presence of drugs or alcohol whenever the City has reason to believe that such employee is under the influence of drugs or alcohol.

Employees who violate this policy are subject to discipline, including immediate termination. However, the City will encourage and reasonably accommodate employees with alcohol or drug dependencies to seek treatment and/or rehabilitation. Employees desiring such assistance should request a treatment or rehabilitation leave. The City is not obligated, however, to continue to employ any person whose performance of essential job duties is impaired because of drug or alcohol use, nor is the City obligated to re-employ any person who has participated in treatment and/or

rehabilitation if that person's job performance remains impaired as a result of dependency. Additionally, employees who are given the opportunity to seek treatment and/or rehabilitation, but fail to successfully overcome their dependency or problem, will not automatically be given a second opportunity to seek treatment and/or rehabilitation. This policy on treatment and rehabilitation is not intended to affect the City's treatment of employees who violate the regulations described previously. Rather, rehabilitation is an option for an employee who acknowledges a chemical dependency and voluntarily seeks treatment to end that dependency.

SECTION 1202 – SMOKING POLICY

Use of tobacco products endangers the health of employees and their co-workers, reduces productivity, increases absenteeism, increases the use of health benefits, and is often offensive to the public and co-workers. The City discourages use of any tobacco products in the interest of the health of its employees and others.

- A) The City of Newman has adopted a tobacco-free workplace policy. Under this policy, use of any tobacco product is not allowed in City of Newman owned facilities and vehicles. Use of tobacco products is allowed only outside of City vehicles and a minimum of 20 feet away from City buildings during approved/regularly scheduled breaks.
- B) Employees shall not smoke in any City vehicle.
- C) Tobacco products shall include the use of cigarettes, cigars, pipes, and/or smokeless tobacco.

CHAPTER 13 – WORKING CONDITIONS/MISCELLANEOUS

SECTION 1301 - REPORTS OF CHANGE OF STATUS

All actions involving employment and change in status of employment shall be reported by the Department Head to the City Manager. Copies of such reports shall be furnished to the employee involved.

SECTION 1302 - EMPLOYEE REST BREAKS

Full time employees shall be entitled to a fifteen - (15) minute rest break around the midpoint of each four- (4) hour segment worked during a shift. Unless a supervisor specifically requires an employee to miss a scheduled break, rest breaks shall not be combined with a lunch period or otherwise banked.

SECTION 1303 - POLITICAL ACTIVITY

The political activity of City employees shall be governed by the appropriate provisions of the Government Code.

SECTION 1304 - CONFLICTS OF INTEREST

No employee shall engage in any business transaction or shall have a financial interest, direct or indirect, which is incompatible with the proper discharge of the employee's official duties in the public interest or which would tend to impair his/her independence of judgment or action in the performance of his/her official duties.

SECTION 1305 - GRATUITIES

No officer or employee of the City shall solicit or accept any gratuity for municipal services rendered.

CHAPTER 14 – COMPUTER SYSTEM /TELEPHONE / COMMUNICATION DEVICES USAGE POLICY

SECTION 1401 - GENERAL

The City of Newman computer systems (including all hardware and software) are the exclusive property of the City of Newman and are provided for creating and transmitting BUSINESS-related information. The City of Newman treats all computer files, including electronic mail (e-mail) sent or received, as business information. The City of Newman has the capability and reserves the right, with or without notice, to access, monitor, review, copy, and/or delete any computer files, including e-mail sent or received, and all web site communications and/or transactions. If employees make incidental use of the computer system for personal files or e-mail, employees should not expect personal files or e-mail to be protected from review by other employees. Accordingly, employees should not use computer systems to create or transmit any information they wish to keep private.

SECTION 1402 – CONFIDENTIAL INFORMATION

City of Newman employees must exercise extreme caution when creating or transmitting City of Newman business information. Business information should not be transmitted to employees or other individuals who are not authorized to receive such information. Only authorized City of Newman representatives are permitted to speak on behalf of the City of Newman via the computer system.

Unless authorized, employees should refrain from engaging in dialogue about confidential, proprietary, or non-public information involving the City of Newman or any City of Newman employee, investor, client, or contact. Any employee that receives such requests should direct the inquiry to an appropriate member of the City of Newman staff.

The City of Newman computer systems should not be used to solicit or proselytize for commercial ventures, religious or political causes, or outside organizations that are not authorized by the City of Newman.

SECTION 1403 – E-MAIL

When transmitting messages via e-mail, employees should consider that e-mail messages can be read by persons other than the addressee and that e-mail messages can be read by persons other than the addressee and that the message may be later disclosed to outside parties or a court in connection with litigation. Because of these concerns, City of Newman employees are required to maintain the highest standards of courtesy and professionalism when transmitting e-mail.

SECTION 1404 – INTERNET

The City of Newman provides all employees with access to the Internet for business-related purposes. The City of Newman has the capability to review web site access. Employees should not have any expectation of privacy regarding the web sites accessed through the City of Newman computer system. Computer systems may “leave tracks” at web sites visited. Because of the nature of the City of Newman business, any incidental use of the Internet for personal use must be conducted with the highest degree of professionalism.

SECTION 1405 – SOFTWARE

The City of Newman prohibits the unauthorized use of software. The City of Newman expects its employees to conduct themselves responsibly in this regard. Employees should refrain from making or using unauthorized copies of software programs.

SECTION 1406 - HARASSMENT VIA COMPUTER

The City of Newman does not tolerate sexual, racial or other forms of harassment. If you are harassed or discriminated against through the use of the City of Newman computer system, you must report the act of harassment or discrimination to your immediate supervisor, the supervisor’s supervisor or the City Manager immediately. If you feel uncomfortable doing so, or if your supervisor is the source of the problem, condones the problem, or ignores the problem, then you can direct your questions, problems complaints, or reports to the City Manager. You are not required to directly confront the person who is the source of your report, question, or complaint before notifying any of those individuals listed.

Use of the computer system to engage in any communications that are in violation of this or any City of Newman policy, including but not limited to the acquisition, possession or transmission of defamatory, obscene, offensive, or harassing material, is strictly prohibited. The City of Newman reserves the right to inspect any City of Newman computer system/equipment for violations of this policy.

SECTION 1407 - TELEPHONE / COMMUNICATION DEVICES

The City of Newman provides cellular/wireless communication devices to improve productivity, enhance public safety services, and enhance customer service to the citizens of Newman. Cellular/wireless communication devices are a City resource and are provided for business purposes only. Employees are to ensure their usage complies with City requirements and policies. Employees of the City are to be efficient, economical, and ethical in their use and management of City resources.

Telephone / Communication Devices shall include communication devices and all communications on any such device including, but not limited to, cellular telephones and pagers, radios, personal data assistants (PDAs), BlackBerries, facsimiles, emails, and text messages. This policy does not cover the use of Police Mobile Computers. All City employees assigned a City-owned communication device are required to use the devices:

1. For City business only, except in the event of an emergency. If an employee uses the device for an emergency, he/she shall let their supervisor know of the use.
2. In compliance with the City of Newman policies, and local, state, and federal laws.
3. In a safe manner.

Communication devices shall not be used to defame, harass, threaten, or transmit obscene, suggestive or offensive messages or communications, political endorsements or activities, outside employment messages, or engage in any illegal activity.

SECTION 1408 - USE OF A PERSONAL CELLULAR TELEPHONE FOR CITY BUSINESS

An employee may choose to use his/her personal cellular telephone for City business. (All usage of personal communications devices shall be subject to Department Head approval.) If an employee opts to use his/her personal cellular telephone, he/she is required to pay for any expenses for the personal cellular telephone and the City will not reimburse the employee for the cost of its use. Communications made on a personal communication device for City business may be subject to disclosure under the Public Information Act.

SECTION 1409 - USE OF COMMUNICATION DEVICES WHILE OPERATING VEHICLES

An employee shall only use a cellular/wireless communication device when it is safe to do so.

An employee shall only use a cellular/wireless communication device that is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving

An employee may use a digital two-way radio that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, when driving certain vehicles, as defined in the California Vehicle Code.

This requirement does not apply to police and fire employees using a wireless device for emergency purposes as defined in the California Vehicle Code.

Text messaging is prohibited at all times when operating a vehicle.

SECTION 1410 - CONFORMANCE WITH POLICY AND PROHIBITED PERSONAL USE

Department Heads are responsible for ensuring compliance with this policy

The City prohibits personal use of City-owned communication devices. The City excludes the value of City-owned cellular telephones from an employee's taxable income by this written policy and by routine audits of employee telephone billings to confirm that personal calls are not made.

Department Heads or his/her designee shall:

1. Review cellular telephone billings monthly to ensure conformance to this policy. Inappropriate personal use of City-owned communication devices shall be addressed in accordance with City rules, regulations, and policies.
2. Monitor and review at least quarterly cellular telephone service plans to ensure cost effective use of service plans.
3. Periodically review an employee's business need for a communication device.
4. Notify the Information Technology Division of account or equipment changes, and monitor and return any unused devices and/or equipment that are no longer needed.

The Finance Department shall periodically audit the City's compliance with the Internal Revenue Service substantiation requirements regarding business use of City-owned cellular telephones.

Misuse or abuse of the City's communication devices, contracts, or programs under this policy shall result in disciplinary action up to and including dismissal of employment.

SECTION 1411 - Right To Access and Disclose Any and All Communications

All communications created or received using City communication devices and all data stored on City communication devices is the property of the City. Employees have no personal or property right in these communications and data and no expectation of privacy with regard to their use of City communication devices. Furthermore, the City reserves the right to access and monitor any and all communications created or received using City communication devices, any record of such communications and all data stored on City communication devices, including, without limitation, e-mails, text messages, facsimiles, communication records and communication logs to ensure that all use of City communication devices is consistent with this policy and all City rules, regulations, policies and procedures.

SECTION 1412 - Safekeeping of Return of Communication Devices

An employee is responsible for the safekeeping, care, and custody of communication devices. Lost or stolen communication devices shall be reported to the appropriate

Department supervisor or manager and the Information Technology Division as soon as possible.

Any City-owned communication device shall be returned to the City when the need for such devices no longer exists or when employee separates from employment.

CHAPTER 15 – DISCRIMINATORY HARASSMENT

SECTION 1501 – PURPOSE AND SCOPE

To prevent City employees from being subjected to discrimination or sexual harassment and to ensure full equal employment opportunity, in conformance with Title VII of the Civil Rights Act of 1964, the guidelines issued by the Equal Employment Opportunity Commission, the California Fair Employment and Housing Act and the guidelines issued by the California Fair employment and Housing Commission.

SECTION 1502 - POLICY

The City of Newman is committed to creating and maintaining a work environment that is free of all forms of discrimination and intimidation, including sexual harassment. The City will take preventative, corrective and disciplinary action for any behavior that violates this policy or the rights and privileges it is designed to protect.

SECTION 1503 - DEFINITIONS

1503.1 - DISCRIMINATION – Any act or omission of an act which would create a hostile work environment, or exclude any person from employment or promotional opportunities, because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition, including genetic characteristics, age, marital status or denial of family care or pregnancy disability leave.

Discrimination includes, but is not limited to, derogatory comments, slurs or jokes, picture, cartoons or posters, and actions which result in an employee being offended or insulted because of a protected classification status enumerated in this section (1503.1) of this order.

1503.2 – SEXUAL HARASSMENT – Sexual Harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature when:

- (a) Submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment or,
- (b) Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee or,
- (c) Conduct that has the purpose or effect of interfering with an employee's work

performance or creating an intimidating, hostile, or offensive work environment.

Harassment will also include use of the computer system to engage in any communications that are in violation of any City of Newman Policy as outlined in section 1406 (Harassment Via Computer) of the Personnel Rules.

Discrimination/harassment does not include the following:

- Bona fide acts or omission of acts based solely upon bona fide occupational qualifications under Equal Employment Opportunity Commission and California Fair Employment and Housing Commission Guidelines.
- Bona fide requests or demands by a supervisor that the employee improve his/her work quality or output, that the employee report to the job site on time, that the employee comply with city or departmental rules or regulations, or any other appropriate work related communication between supervisor and employee.

SECTION 1504 - RESPONSIBILITIES

This policy applies to all city personnel. All employees shall follow the intent of these guidelines in a manner that reflects the city policy and the best interest of the city and its mission.

All employees shall promptly report any observed or known violations of this policy to a supervisor. Employee(s) not comfortable with reporting violations of this policy to their immediate supervisor may bypass the chain of command and report it to a higher-ranking member. Complaints may also be filed with the city's Personnel Officer.

Supervisors and managers receiving information regarding violation(s) of this order shall determine if there is any basis for the allegation and shall proceed with resolution as stated in section 1504.1.

1504.1 - SUPERVISOR RESPONSIBILITY

Each supervisor and manager shall:

- (a) Ensure that the work environment is free from all types of unlawful discrimination, including sexual harassment.
- (b) Take prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination.
- (c) Train their subordinates as to what constitutes discrimination and harassment.
- (d) Notify the Department Head in writing of the circumstances surrounding any

reported allegations of discrimination/harassment no later than the next business day.

Individual employees may be held personally liable for discriminatory acts, including sexual harassment.

1504.2 – SUPERVISOR’S ROLE

Because of differences in individual values, supervisors and managers may find it difficult to recognize that their behavior or the behavior of others is discriminatory or harassing. Supervisors and managers shall be aware of the following considerations:

- (a) Behavior of supervisors and managers should represent the values of the City of Newman.
- (b) False or mistaken accusations of discrimination and sexual harassment have negative effects on the careers of innocent employees.
- (c) Supervisors and managers must act responsibly in the handling of such situations.
- (d) Supervisors and managers must make a determination on any allegations based upon all available facts

SECTION 1505 – INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved employees should take reasonable steps to mitigate or eliminate any continuing hostile work environment.

1505.1 – SUPERVISORY RESOLUTION

Whenever possible, employees who believe they are experiencing discrimination and/or harassment are encouraged to inform the individual that his/her behavior is unwelcome, offensive, unprofessional or highly inappropriate. If this does not resolve the concern, or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, supervisory or management assistance or counseling should be sought from a supervisor or manager one rank higher than the alleged offender.

1505.2 – FORMAL INVESTIGATION

Upon being notified of any complaint that cannot be satisfactorily resolved through the supervisory means cited above, the Department Head or his or her designee shall initiate a formal investigation.

The employee assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. The investigative authority includes

accessibility to records and cooperation of any employees/volunteers involved. No influence will be used to suppress any complaint and (except as herein provided) no employee/volunteer will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint or for offering testimony or evidence in an investigation.

Formal investigation of the complaint will be confidential and will include, but not be limited to, details of the specific incident, frequency and dates of occurrences and names of any witnesses.

Optional Resolution – employees/volunteers who believe they have been discriminated against or harassed because of their protected status described in section 1503.1 of this procedure are encouraged to follow the chain of command but may also file a complaint directly with the Department Head or the City Manager/Director of Personnel.

1505.3 - DISPOSITION OF COMPLAINTS

Only one of the following 4 dispositions will be used to classify the disposition of an allegation of harassment:

- (a) Sustained Complaints –If the complaint is substantiated, this policy and procedure prohibiting discrimination/harassment will be reviewed with the offender. Appropriate disciplinary action and/or training, will be taken pursuant to the City disciplinary procedures.
- (b) Not Sustained Complaints – If there is insufficient evidence to either prove or disprove the allegation(s), both parties to the complaint will be informed of the reason(s) for this disposition.
- (c) Unfounded Complaint- If it is determined that an act reported pursuant to this policy/procedure did not in fact occur, a finding of unfounded shall be made.
- (d) Exonerated Complaints – If it is determined that an act reported pursuant to this policy/procedure did in fact occur, but was lawful and proper within the guidelines established herein, a finding of exonerated shall be made.

Should it be determined that the reporting party filed the complaint in good faith and/or through a mistake of fact, the employee shall be counseled/trained pursuant to Personnel Rules 1504.1(c).

Should it be determined that the reporting party maliciously filed the complaint knowing that it was false or frivolous at the time of the complaint, that employee shall be subject to the disciplinary process up to, and including termination.

SECTION 1506 - NOTIFICATION OF DISPOSITION

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint.

SECTION 1507 - DOCUMENTATION OF COMPLAINTS

All complaint or allegations shall be documented on forms and in a manner designated by the Department Head. All reports shall be:

- Approved by the Department Head
- Maintained for a minimum of five (5) years.

SECTION 1508 - GRIEVANCE PROCEDURE

Disputes arising out of the interpretation and enforcement of this policy and procedure shall be resolved through the established Newman Grievance Procedure.

1508.1 - QUESTIONS REGARDING DISCRIMINATION OR SEXUAL HARASSMENT

Employees having questions are encouraged to contact a supervisor, manager, Department Head or the City Manager/Personnel Director, or they may contact the California Department of Fair Employment and Housing at (800) 884-1684.

SECTION 1509 – JUVENILES

The city has employees and/or volunteers who are minors. A minor is defined as anyone under the age of 18 years. Any case that involves a minor, a parent(s) or legal guardian(s) will be informed that their child has lodged an allegation of a violation of this policy or is named in the allegation. The parent(s) or legal guardian(s) will be given the opportunity to be present during any investigation that involves their child. Parent(s) or legal guardian(s) will receive the notification of the outcome of the investigation, if their child is the person making the allegation or offender as outlined under section 1506.

Volunteers are not employees and do not have the same rights as employees.