

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
SPECIAL MEETING MARCH 8, 2011
CITY HALL CONFERENCE ROOM, 6:30 P.M., 1162 MAIN STREET

1. **Call To Order.**
2. **Roll Call.**
3. **Items From The Public.**
4. **Adjourn To Closed Session**
 - a. Conference With Legal Counsel - Pending Litigation - One Case - G.C. 54956.9.
 - b. Return To Open Session.
5. **Adjournment.**

AGENDA
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING MARCH 8, 2011
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. Call To Order.
2. Pledge Of Allegiance.
3. Invocation.
4. Roll Call.
5. Declaration Of Conflicts Of Interest.
6. Ceremonial Matters.
7. Items from the Public - Non-Agenda Items.
8. Consent Calendar
 - a. Waive All Readings Of Ordinances And Resolutions Except By Title.
 - b. Approval Of Warrants.
 - c. Approval Of Minutes Of The February 22, 2011 Regular Meeting.
 - d. Adopt Resolution No. 2011- , A Resolution Rejecting The Claim Of Toni Miller And Richard Sanders.
 - e. Approval Of An Extension Of The Current Agreement To Provide Audit Services By Clendenin Bird And Company, PC And Authorize The City Manager To Sign An Agreement For Audit Services.
9. Public Hearings
 - a. Adopt Resolution No. 2011- , A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 281 Of The City Of Newman (Abatement Of Mistletoe).
 - b. First Reading And Introduction Of Ordinance No. 2011- , An Ordinance Amending SCM Development Agreement.
10. Regular Business
 - a. Adopt Resolution No. 2011- , A Resolution Authorizing The Execution And Delivery Of A Loan Agreement And Authorizing And Directing Certain Actions In Connection With The Refinancing Of The City's Wastewater Treatment Facilities, 1999 Refunding Certificates Of Participation.
 - b. Adopt Resolution No. 2011- , A Resolution Approving West Side Theatre Foundation Radio Station Funding.

- c. Adopt Resolution No. 2011- , A Resolution Approving A Business Loan In The Amount Of \$25,000 To Daniel Gray And Authorizing Michael E. Holland As Executive Director To Negotiate The Final Terms And Execute All Documents Pertaining To The Business Loan.
- d. Adopt Resolution No. 2011- , A Resolution Approving A Funding Agreement Between The Newman Redevelopment Agency And Housing Authority Of The County Of Stanislaus.
- e. Adopt Resolution No. 2011- , A Resolution Approving Funding For West Side Theatre Improvements.
- f. Adopt Resolution No. 2011- , A Resolution Approving The Transfer Of Redevelopment Agency Assets To The City Of Newman.
- g. Adopt Resolution No. 2011- , A Resolution Approving And Establishing A Fee Offset Fund Per The First Amendment To The Sherman Ranch Development Agreement.

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

- March 8 - City Council - 7:00 P.M.
- March 10 - Recreation Commission - 7:00 P.M.
- March 14 - NCLUSD Board Meeting - 6:00 P.M.
- March 15 - Two-On-Two Meeting With The School Board - 4:00 P.M.
- March 17 - Planning Commission - 7:00 P.M.
- March 19 - Chamber Of Commerce Dinner
- March 22 - City Council - 7:00 P.M.
- March 25 - City Furlough Day - City Offices Closed.

- April 11 - NCLUSD Board Meeting - 6:00 P.M.
- April 12 - City Council - 7:00 P.M.
- April 14 - Recreation Commission - 7:00 P.M.
- April 19 - Two-On-Two Meeting With The School Board - 4:00 P.M.
- April 21 - Planning Commission - 7:00 P.M.
- April 22 - City Furlough Day - City Offices Closed
- April 26 - City Council - 7:00 P.M.

Date.: Feb 28, 2011
Time.: 3:49 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 1
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038848	02/22/11	2599.00	OPERATING ENGINEERS/	HEALTH INSURANCE PREMIUM/MARCH 2011
Sub-Total:		----- 2599.00		
Grn-Total:		----- 2599.00		
Count: 1				

Date.: Mar 3, 2011
Time.: 4:27 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 1
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038849	03/04/11	9874.75	AECOM USA, INC	ENGINEERING SERVICES/DOWNTOWN PLAZA/1-4 TO 1-28-11
038849	03/04/11	283.50	AECOM USA, INC	GENERAL ENGINEERING SERVICES/JAN 2011
038849	03/04/11	12868.20	AECOM USA, INC	ENGINEERING SERV/HILL PARK CURB, GUTTER & SW/JAN11
038850	03/04/11	50.00	AMERICAN MOBILE SHREDDING, INC	2 BIN SHREDDING SERVICE/PD
038850	03/04/11	50.00	AMERICAN MOBILE SHREDDING, INC	2 BIN SHREDDING SERVICE/PD
038850	03/04/11	50.00	AMERICAN MOBILE SHREDDING, INC	2 BIN SHREDDING SERVICE/PD
038850	03/04/11	50.00	AMERICAN MOBILE SHREDDING, INC	2 BIN SHREDDING SERVICE/PD
038851	03/04/11	5330.00	KD ANDERSON & ASSOCIATES, INC	TRAFFIC ENGINEERING SERV/MASTER PLAN AREA #3
038852	03/04/11	100.00	ARMCO ROOFING	TEMPORARY ROOF REPAIRS/PD
038853	03/04/11	200.00	PRISCILLA ARTEA	REFUND MEMORIAL BLDG DEPOSIT/ARTEA
038854	03/04/11	405.34	AT&T MOBILITY	WIRELESS ACCESS/1-3-11 TO 2-2-11/PD
038854	03/04/11	1090.14	AT&T MOBILITY	CELL PHONE CHARGES 1-6-11 TO 2-5-11
038855	03/04/11	743.41	AT&T	MONTHLY TELEPHONE SERVICE CHARGES/NEW LINE INSTALL
038856	03/04/11	592.54	AVID TRAFFIC SUPPLIES	25 GALLONS YELLOW OIL BASE PAINT
038857	03/04/11	756.00	BAY ALARM	ANNUAL ALARM MONITORING 3-1-11 TO 3-1-12/MUSEUM
038858	03/04/11	250.00	JAMES BELL (NT)	PER DIEM/TRAINING/JIM BELL
038859	03/04/11	421.50	JAMES J. BELL	CONTRACT SERVICES/EVIDENCE CLERK/2-16 TO 2-28-11
038860	03/04/11	53076.72	BERTOLOTI DISPOSAL	MONTHLY GARBAGE SERVICE/FEB 2011
038861	03/04/11	46.63	B G AUTO	NEW CAST IRON WATER/92 FORD
038861	03/04/11	18.89	B G AUTO	FORD FAN CLUTCH WRENCH
038862	03/04/11	3300.35	CALIFORNIA CONSULTING, LLC	MONTHLY RETAINER/GRANT & LOBBYING SER/MAR 2011
038863	03/04/11	24.00	CIERRA CALZADA	YOUTH BASKETBALL SCOREKEEPER/CALZADA
038864	03/04/11	100.00	JEFF CARTER	PARKING LOT RENT/MAR 2011
038865	03/04/11	227.50	CBA (ADMIN FEES)	DENTAL-VISION ADMIN FEES/MARCH 2011

Date.: Mar 3, 2011
Time.: 4:27 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 2
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038866	03/04/11	387.89	CDW GOVERNMENT, INC	2 COMPUTER MONITORS/ADAPTER/PW
038867	03/04/11	268.00	CENTRAL SANITARY SUPPLY	CANLINERS/GLOVES/HANDSOAP/DEODORIZER
038867	03/04/11	414.37	CENTRAL SANITARY SUPPLY	CANLINERS/PAPER TOWELS/CLEANERS/HAND SANITIZER
038867	03/04/11	79.66	CENTRAL SANITARY SUPPLY	HANDSOAP/URINAL SCREENS
038868	03/04/11	100.48	CHEVRON	GASOLINE PURCHASES/PD
038869	03/04/11	140.00	CITY OF MODESTO PLANNING	34TH ANNUAL PLANNERS WORKSHOP REGISTRATION
038870	03/04/11	1221.50	CODE PUBLISHING COMPANY	NEWMAN CITY CODE ELECTRONIC UPDATE
038871	03/04/11	50.00	CARL J. COELHO (CHUCK)	Veh Operation FIRE/MAR 2011
038872	03/04/11	94.90	COMCAST CABLE	HIGH SPEED INTERNET 2-22-11 TO 3-21-11
038873	03/04/11	778.38	CORBIN WILLITS SYS, INC.	SERVICE & ENHANCEMENT FEE/MARCH 2011
038874	03/04/11	168.00	ROXANNE CORELLA	YOUTH BASKETBALL REFEREE & SCOREKEEPER/CORELLA
038875	03/04/11	49.57	CRESCENT SUPPLY CO. #1	PANTS/BELT/SHIRT PATCHES/
038876	03/04/11	1513.46	CROP PRODUCTION SERVICES	15 GALLONS GOAL/WWTP
038876	03/04/11	2268.07	CROP PRODUCTION SERVICES	2400 LBS TREFLAN/WWTP
038877	03/04/11	88.00	JESSICA CUEVAS	ZUMBA INSTRUCTOR/CUEVAS
038878	03/04/11	248.00	DONALD DUDLEY	YOUTH BASKETBALL REFEREE/DUDLEY
038879	03/04/11	1805.00	EMPLOYMENT DEV DEPT/SUI	FEDERAL EXTENDED UNEMPLOYMENT/4TH QUARTER 2010
038880	03/04/11	257.00	FGL ENVIRONMENTAL, INC	INORGANIC ANALYSIS(NETAKS, WET CHEMISTRY)WWTP
038880	03/04/11	257.00	FGL ENVIRONMENTAL, INC	INORGANIC ANALYSIS (WET CHEMISTRY, METALS) WWTP
038880	03/04/11	2368.00	FGL ENVIRONMENTAL, INC	BACTI & INORGANIC & SUPPORT ANALYSES/WWTP
038881	03/04/11	34.95	FIREtoWIRE, INC	WEB HOSTING 3-17-11 TO 4-17-11
038882	03/04/11	32.00	SANTIAGO G. GARCIA	YOUTH BASKETBALL SCOREKEEPER/GARCIA
038883	03/04/11	200.00	LUCY GONSALVES	REFUND MEMORIAL BLDG DEPOSIT/POMETTA
038884	03/04/11	767.30	GROENIGER & CO.	STEM/INNER VALVE/PTDISC RETAINER

Date.: Mar 3, 2011
Time.: 4:27 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 3
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038885	03/04/11	1575.00	TOM HALLINAN	LEGAL RETAINER FEE/MARCH 2011
038886	03/04/11	488.00	HEWLETT-PACKARD COMPANY	PO #11-42
038886	03/04/11	819.62	HEWLETT-PACKARD COMPANY	PO #11-42
038886	03/04/11	196.99	HEWLETT-PACKARD COMPANY	PO #11-42
038886	03/04/11	323.58	HEWLETT-PACKARD COMPANY	PO #11-42
038886	03/04/11	1803.00	HEWLETT-PACKARD COMPANY	PO #11-42
038886	03/04/11	102.06	HEWLETT-PACKARD COMPANY	PO #11-42
038887	03/04/11	590.86	HEWLETT-PACKARD FINANCIAL SERV	HARDWARE LEASE 3-18-11 TO 4-17-11
038888	03/04/11	226.23	HUB INTERNATIONAL OF CA INS SE	LIABILITY INS PREMIUM/CAREY/ARTEA
038889	03/04/11	321.87	IKON OFFICE SOLUTIONS	COPIER LEASE 2/10/11 TO 3/09/11/CITY HALL
038890	03/04/11	1105.43	IN-SYNCH SYSTEMS	MOBILE RECORDS MANAGEMENT SYSTEM/APR 2011
038891	03/04/11	27.84	IRRIGATION DESIGN & CONSTRUCTI	PRUNING SAW
038891	03/04/11	23.72	IRRIGATION DESIGN & CONSTRUCTI	HOSE SHANK & FIELD WAND/BACKPAK SPRAYER
038892	03/04/11	249.21	JOE'S LANDSCAPING & CONCRETE,	5 YARDS PLAYGROUND BARK
038892	03/04/11	525.00	JOE'S LANDSCAPING & CONCRETE,	REPAIRED 2 TOWER LIGHTS
038892	03/04/11	3984.00	JOE'S LANDSCAPING & CONCRETE,	CANYON CREEK-SANDY CREEK LANDSCAPE SERVICES
038893	03/04/11	15.00	LEAGUE OF CA CITIES	QUARTERLY DINNER MEETING/LCC/HUTCHINS
038894	03/04/11	28.29	LEHR AUTO ELECTRIC	STROBE LIGHT COVERS/BOOM TRUCK
038895	03/04/11	1241.77	MALLARD EXPRESS AUTO	REPLACED STRUTS/TRANSMISSION CONTROL/UNIT 501
038895	03/04/11	44.15	MALLARD EXPRESS AUTO	MOTOR OIL & FILTER CHANGE/UNIT #595
038895	03/04/11	550.41	MALLARD EXPRESS AUTO	TIRE ROTATION/REPLACED BRAKES/TURNED ROTORS/#595
038896	03/04/11	240.00	TRAVIS MART	YOUTH BASKETBALL REFEREE & SCOREKEEPER/MART
038897	03/04/11	208.00	NELSON MENDOZA	YOUTH BASKETBALL REFEREE/SCOREKEEPER/MENDOZA
038898	03/04/11	200.00	KRISTEN MOORE	YOUTH BASKETBALL SCOREKEEPER/MOORE

Date.: Mar 3, 2011
Time.: 4:27 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 4
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038899	03/04/11	3935.00	MOORE TWINING ASSOCIATES	PROFESSIONAL SERV/ORESTIMBA FEASIBILITY/DEC/JAN 11
038900	03/04/11	512.39	NEWMAN ACE HARDWARE/JACT, INC	PAINT/FLUR BULBS/PIPE INSUL/SURGE STRIP/TRASH CAN
038901	03/04/11	3171.00	OTTMAN FARMS, INC	SPREADING TR10-ALFALFA/SPRAY PASTURE/WWTP
038902	03/04/11	376.00	BIANCA PARDO	ZUMBA INSTRUCTOR/FEB 2011
038903	03/04/11	81052.10	PERMA-GREEN HYDROSEEDING	PROGRESS PAYMENT #7/DOWNTOWN PLAZA CONSTRUCTION
038904	03/04/11	252.53	P G & E	NATURAL GAS PURCHASES/1-6-11 TO 2-8-121
038905	03/04/11	165.00	PITNEY BOWES CREDIT CORP.	POSTAGE METER RENTAL /11-30-10 TO 2-28-11
038906	03/04/11	66.32	PITNEY WORKS	RED INK CARTRIDGE/POSTAGE METER
038907	03/04/11	3611.49	PRECISION INSPECTION, INC	Bldg Reg Inspec BLDG REGU
038908	03/04/11	192.00	FRANK RIVAS	YOUTH BASKETBALL REFEREE/RIVAS
038909	03/04/11	353.51	ROBIC REFRIGERATION	INSTALLED SET OF START COMPONENTS/MEM BLDG REFRIG
038910	03/04/11	195.00	ROPERS, MAJESKI, KOHN & BENTLEY	EMPLOYMENT ADVICE AND COUNSEL/JAN 2011
038911	03/04/11	55.00	RRM DESIGN GROUP, INC.	PROFESSIONAL SERVICES/DOWNTON PLAZA/JAN 2011
038912	03/04/11	13.32	SAFE-T-LITE	DAKURA CAMO FRAME
038913	03/04/11	532.00	SAN DIEGO MARRIOTT MISSION VAL	LODGING/CAPE CONFERENCE/JIM BELL
038914	03/04/11	317.19	SA-SO COMPANY	5 CALIFORNIA FLAGS
038915	03/04/11	780.00	SELF HELP ENTERPRISES	LOAN SERVICING/JAN 2011
038916	03/04/11	144.00	SHANE SEQUEIRA	YOUTH BASKETBALL REFEREE/SEQUEIRA
038917	03/04/11	1338.90	SIERRA INSTALLATIONS, INC	2010 HOLIDAY LIGHTING SEASON TUNE-UP
038918	03/04/11	790.00	STATE OF CALIFORNIA	FINGERPRINT APPS/FBI PRINTS/CHILD ABUSE INDX/CCW
038919	03/04/11	54.18	STAPLES CREDIT PLAN	OFFICE CHAIR
038920	03/04/11	31.96	STAPLES ADVANTAGE	COPIER LABELS
038920	03/04/11	31.41	STAPLES ADVANTAGE	CLASP ENVELOPE/TYLENOL EXTRA STRENGTH
038921	03/04/11	446.00	STANTEC CONSULTING SERVICES, I	PROFESSIONAL SERV/PRETREATMENT PROGRAM ASSISTANCE

Date.: Mar 3, 2011
Time.: 4:27 pm
Run by: EMILY M. FARIA

CITY OF NEWMAN
CASH DISBURSEMENTS REPORT

Page.: 5
List.: NEW1
Group: PYCPDP

Ck #	Check Date	CK Amount	Vendor Name	Description
038922	03/04/11	85.00	STOMAR EQUIPMENT	BACKHOE WORK/LIFTED 3 STEEL GATES/WWTP
038923	03/04/11	155.83	TRAVIS BORRELLI	PORTABLE RESTROOM RENTAL-SERVICE/FEB 2011
038924	03/04/11	81.27	T.H.E. OFFICE CITY	HP LASER INK CARTRIDGE
038925	03/04/11	192.00	TIFFINY THELE	YOUTH BAKSETBALL SCOREKEEPER/THELE
038926	03/04/11	5000.00	US BANK	ADDITIONAL HSA DEPOSIT/ROCHA/SHORT
038927	03/04/11	165.54	VALLEY PARTS SERVICE	WASHER FLUID/LENS/BELTS/BEARINGS/OIL FILTER/OIL
038928	03/04/11	50.00	GEORGE VARGAS	MONTHLY GAS ALLOWANCE/MAR 2011
038929	03/04/11	151.12	ARMANDO GARCIA	8 PLANTS FOR DOWNTOWN PLAZA PLANTINGS
038930	03/04/11	29.51	FARA, ADEL	MQ CUSTOMER REFUND FOR FAR0019
038931	03/04/11	11.01	MILLER, CASEY	MQ CUSTOMER REFUND FOR MIL0036
038932	03/04/11	36.86	OROZCO, MARTIN	MQ CUSTOMER REFUND FOR ORO0004
038933	03/04/11	27.96	TORRES, VERONICA D.	MQ CUSTOMER REFUND FOR TOR0036
Sub-Total:		----- 222793.43		
Grn-Total:		----- 222793.43		
Count:	108			

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING FEBRUARY 22, 2011
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. Call To Order - Mayor Katen 7:00 P.M.
2. Pledge Of Allegiance.
3. Invocation - Council Member Martina.
4. Roll Call **PRESENT:** Davis, Hutchins, Martina And Mayor Katen.
ABSENT: Candea (Excused)
5. Declaration Of Conflicts Of Interest - None.
6. Ceremonial Matters - None.
7. Items from the Public - Non-Agenda Items

Chris Tyler, Senator Canella's District Director, Stated That He Would Serve As A Liaison To The Senator's Office. Tyler Updated The City Council On The Committees That Canella Is A Part Of. He Mentioned That Senator Canella Is Working On Compromises For The Budget And Realizes The Importance Of Redevelopment Agencies And Enterprise Zones. Tyler Reported On Legislation That Senator Canella Is Working On. He Reiterated That Senator Canella's Office Is Willing To Assist The City With Any And All State Issues That May Arise.

Magdalena Gonzales, 915 "N" Street, Stated That She Wants The City To Encourage Commercial Development And Increase Local Job Opportunities. She Also Mentioned That She Would Like The City To Purchase Fitness Equipment For Local Seniors.

8. Consent Calendar

- a. Waive All Readings Of Ordinances And Resolutions Except By Title.
- b. Approval Of Warrants.
- c. Approval Of Minutes Of The February 8, 2011 Regular Meeting.
- d. Adopt Resolution No. 2011-09, A Resolution Joining With The League Of California Cities In Declaring Opposition To California Governor Brown's Fiscal Year 2011-12 State Budget Proposal To Eliminate Redevelopment Agencies And Enterprise Zones.
- e. Adopt Resolution No. 2011-10, A Resolution Authorizing Ed Katen As Mayor, And Michael Holland As City Clerk To Record A Notice Of Completion For The Orestimba Flood Control Project Soil Borings.
- f. Adopt Resolution No. 2011-11, A Resolution Authorizing Ed Katen As Mayor, And Michael Holland As City Clerk To Record A Notice Of Completion For The 2010 Sewer Pump Station SCADA Additions Project.
- g. Adopt Resolution No. 2011-12, A Resolution Approving An Environmentally Preferable Purchasing And Practices Policy.

- b. Adopt Resolution No. 2011-15, Authorizing The City Manager To Execute An Agreement For Sale Of Commercial Real Estate For Use As Future Sherman Parkway Right-Of-Way.

ACTION: On Motion By Davis Seconded By Martina And Unanimously Carried, Resolution No. 2011-15, A Resolution Authorizing The City Manager To Execute An Agreement For Sale Of Commercial Real Estate For Use As Future Sherman Parkway Right-Of-Way.

11. Items From District Five Stanislaus County Supervisor.

Supervisor DeMartini Reminded The City Council That The Next West Side Healthcare Taskforce Meeting Had Been Scheduled For March 10th In Patterson And That The 3rd Annual Biggest Loser Contest Was Scheduled To Begin On August 18th. DeMartini Mentioned That Emmanuel Hospital Is Considering The Development Of New Healthcare Clinics On The West Side. DeMartini Noted That The Orestimba Creek Flood Control Project Is Still In The Feasibility Stage. He Again Made The Council Aware That The West Park Proposal Would Be Presented During A Public Hearing At The Board Of Supervisors Meeting On March 8th At 9:00 A.M.

12. Items From The City Manager And Staff.

City Manager Holland Reminded Everyone That The City Was Still Sponsoring Free Computer Courses. Holland Reported That He Had Met With Governor's Staff The Previous Week Regarding The State Budget Proposal And Noted That He Reiterated How Important Redevelopment Agencies And Enterprise Zones Are To The City Of Newman. He Noted That Staff Is In The Process Of Researching A New Citywide Phone System. Holland Notified The Council That The Golden State Warriors Had Picked Our 8-9 Year Old Girls Basketball Team To Play At Oracle Arena. He Mentioned That The Recreation Department Would Be Sponsoring A Speaker Series In March And Reviewed The Status Of The Orestimba Flood Control Project.

Finance Director Humphries Conducted a Review of the Finance Department's Activities, 2010 Financial Statistics And Goals For 2011.

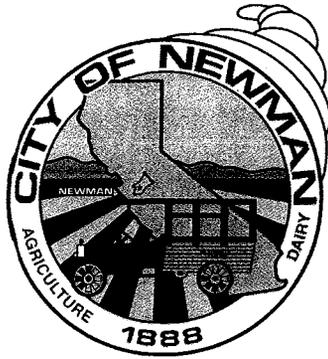
Assistant Planner Ocasio Gave The Council A Presentation That Included Information About The Community Development Department's Responsibilities, Duties, 2010 Accomplishments, Significant Projects Completed, Grants, 2011 Planned Projects And A New Set Of Goals For 2011.

13. Items From City Council Members.

Mayor Katen Mentioned That He Had Attended the Alzheimer's Experience At The West Side Theatre And Remarked That It Was An Eye Opening Event That Helps People Better Understand What It Is Like To Have Alzheimer's.

14. Adjournment.

ACTION: On Motion By Katen Seconded By Martina And Unanimously Carried, The Meeting Was Adjourned At 8:12 P.M.



**City of Newman
City Manager's Office
Memorandum**

Date: February 28, 2011

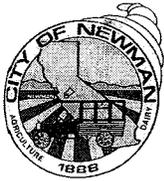
To: City Council

From: Mike Maier

MCM

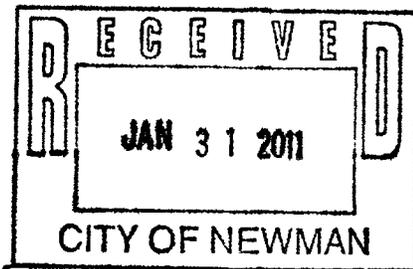
Subject: Rejection of claim.

A claim against the City of Newman was filed by Toni Miller And Richard Sanders on January 31, 2011. Based upon the recommendation of our insurance provider, Staff recommends the Council reject said claim. A copy of the claim submitted by Toni Miller and Richard Sanders along with the proposed resolution rejecting the claim are attached. Any discussions of the claim must be done in closed session as potential litigation.



CITY OF NEWMAN
CLAIM FORM
FORM B

(Please Type Or Print)



CLAIM AGAINST NEWMAN POLICE DEPARTMENT
(Name of Entity)

Claimant's name: TOMI MILLER and RICHARD SANDERS

SS#: 551-31-9040 DOB: 2-7-59 Gender: Male Female

Claimant's address: 648 FIG-LIN., NEWMAN 95360

Address where notices about claim are to be sent, if different from above: PO BOX 143
MOKELUMNE HILL, CA 95245

Date of incident/accident: 1-7-11

Date injuries, damages, or losses were discovered: every day since

Location of incident/accident: NEWMAN City, Tow

What did entity or employee do to cause this loss, damage, or injury? TOOK to
release vehical when it could not be released
after paying P.D. we had \$900 cost to get vehical \$950 - Tow Co
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? UNKNOWN
would not give us a week to pay the \$50 owed

What specific injuries, damages, or losses did claimant receive? money may
have helped to purches Food, PG+E, Rent, BUS Tickets, etc.
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of \$10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] 180 - ONE HUNDRED EIGHTY & NO
100

How was this amount calculated (please itemize)? AMOUNT taken by Police Dept.

(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 1 29 11 Signature: _____

If signed by representative: _____
Representative's Name Richard Sanders Address Box 143 Mokelumne Hill
Telephone # (209) 728-5303 Ca 95245
Relationship to Claimant Brother

RESOLUTION NO. 2011-

A RESOLUTION REJECTING THE CLAIM OF TONI MILLER AND RICHARD SANDERS

WHEREAS, a claim for damages in an amount within the Superior Court jurisdiction was filed against the City of Newman by TONI MILLER And RICHARD SANDERS, on January 31, 2011 for alleged damages.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that it hereby rejects the said claim for alleged damages in an amount within the Superior Court jurisdiction against the City of Newman for alleged damages.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 8th day of March, 2011, 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 roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk

APPROVE AN EXTENSION OF THE CURRENT AGREEMENT TO PROVIDE AUDIT SERVICES BY CLENDENIN BIRD AND COMPANY, PC AND AUTHORIZE THE CITY MANAGER TO SIGN AN AGREEMENT FOR AUDIT SERVICES

RECOMMENDATION:

It is recommended that the City Council consider:

1. Approve the contract renewal to provide audit services from Clendenin Bird & Company, PC and;
2. Authorize the City Manager to sign the Agreement for Audit Services.

BACKGROUND:

Each year the City's financial records are audited by an independent Certified Public Accounting Firm. Using Generally Accepted Accounting Principles (GAAP) and Generally Accepted Auditing Standards, our financial records are reviewed and we are issued audited financial statements along with an Independent Auditor's Report. These reports are used by the Council, Staff, the Public, and Bond Rating Agencies to evaluate the fiscal condition of the City.

ANALYSIS:

The City of Newman is required to have an annual audit of its books and accounts. Clendenin Bird & Company, PC was awarded the original contract in 2006 and has performed the audit satisfactorily for the past five years. The services include auditing the financial statements of the government and business activities, auditing the Redevelopment Agency and preparing various state required reports. Due to the City converting its existing Financial Software, and having received over \$500,000 in Federal Grant money and now have Single-Audit reporting requirements, and due to Clendenin Bird & Company's familiarity with our city's finances, we propose Clendenin Bird & Company, PC perform the auditing services for the fiscal year 2010/11, a one year extension.

FISCAL IMPACT:

Even though we have additional reporting this year, Clendenin Bird & Company, PC has agreed to charge us the same rate as last year. The fiscal impact of renewing the contract for one year is \$26,040. If the Council approves staff's recommendation, funds for this purpose will be available in the 2011-2012 preliminary budget.

CONCLUSION:

Staff recommends that the Council accept the proposal from Clendenin Bird & Company, PC and direct the City Manager to sign the agreement for audit services.

ATTACHMENTS:

1. Letter/Agreement from Clendenin Bird & Company, PC

Respectfully submitted,

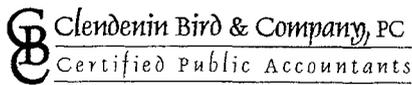


Lewis A. Humphries
Finance Director

REVIEWED/CONCUR:



Michael E. Holland
City Manager



1552 Coffee Road, Ste 200
Modesto, CA 95355
209-526-3091
209-526-2287 fax
cbcpas.com

Gerald L. Clendenin, CPA
Michelle L. Gallagher, CPA
Cathy L. Gatewood, EA

Constance Hillas Bird, CPA
William J. Young, CPA
Robert C. Kehl
Sara Geer

February 9, 2011

City Council
City of Newman
P.O. Box 787
Newman, CA 95360

We are pleased to confirm our understanding of the services we are to provide City of Newman for the year ended June 30, 2011. We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, which collectively comprise the basic financial statements, of the City of Newman. We will also audit the City of Newman Redevelopment Agency and Transportation Development Act Funds as of and for the year ended June 30, 2011. Accounting standards generally accepted in the United States provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), to supplement City of Newman's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statement in an appropriate operational economic, or historical context. As part of our engagement, we will apply certain limited procedures to City of Newman's RSI in accordance with auditing standards generally accepted in the United States of America. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by generally accepted accounting principles and will be subjected to certain limited procedures, but will not be audited:

1. Management's Discussion and Analysis

Supplementary information other than RSI also accompanies City of Newman's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America and will provide an opinion on it in relation to the financial statements as a whole:

1. Schedule of expenditures of federal awards
2. Budgetary comparison schedules

Audit Objectives

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles and to report on fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statement as a whole. The objective also includes reporting on –

- Internal control related to the financial statements and compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Internal control related to major programs and an opinion (or disclaimer of opinion) on compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on each major program in accordance with Single Audit Act Amendments of 1996 and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organization*.

The reports on internal control and compliance will each include a statement that the report is intended solely for the information and use of management, the body or individuals charged with governance, others within the entity specific legislative or regulatory bodies, federal awarding agencies, and if applicable, pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America; the standards for financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; the Single Audit Act Amendments of 1996; and the provisions of OMB Circular A-133, and will include test of accounting records, a determination of major program(s) in accordance with OMB Circular A-133, and other procedures we consider necessary to enable us to express such opinions and to render the required reports. If our opinions on the financial statements or the Single Audit compliance opinions are other than unqualified, we will fully discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

Management Responsibilities

Management is responsible for the basic financial statements and all accompanying information as well as all representations contained therein. Management is also responsible for identifying government award programs and understanding and complying with the compliance requirements, and for preparation of the schedule of expenditures of federal awards in accordance with the requirements of OMB Circular A-133. As part of the audit, we will assist with preparation of your financial statements, schedule of expenditures of federal awards, and related notes. You are responsible for making all management decisions and performing all management functions relating to the financial statements,

schedule of expenditures of federal awards, and related notes and for accepting full responsibility for such decisions. You will be required to acknowledge in the management representation letter our assistance with preparation of the financial statements and the schedule of expenditures of federal awards and that you have reviewed and approved the financial statements, schedule of expenditures of federal awards, and related notes prior to their issuance and have accepted full responsibility for them. Further, you are required to designate an individual with suitable skill, knowledge, or experience to oversee any nonaudit services we provide and for evaluating the adequacy and results of those services and accepting responsibility for them.

Management is responsible for establishing and maintaining effective internal controls, including internal controls over compliance, and for evaluating and monitoring ongoing activities, to help ensure that appropriate goals and objectives are met and that there is reasonable assurance that government programs are administered in compliance with compliance requirements. You are responsible for the selection and application of accounting principles; for the fair presentation in the financial statements of the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Newman and the respective changes in financial position and, where applicable, cash flows in conformity with U.S. generally accepted accounting principles; and for compliance with applicable laws and regulations and the provisions of contracts and grant agreements.

Management is also responsible for making all financial records and related information available to us and for ensuring that management and financial information is reliable and properly recorded. Your responsibilities also include identifying significant vendor relationships in which the vendor has responsibility for program compliance and for the accuracy and completeness of that information. Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud or illegal acts affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the entity complies with applicable laws, regulations, contracts, agreements, and grants. Additionally, as required by OMB Circular A-133, it is management's responsibility to follow up and take corrective action on reported audit findings and to prepare a summary schedule of prior audit findings and a corrective action plan. The summary schedule of prior audit findings should be available for our review prior to commencement of fieldwork. You are responsible for the preparation of the supplementary information in conformity with U.S. generally accepted accounting principles. You agree to include our report on the supplementary information in any document that contains and indicates that we have reported on the supplementary information. You also agree to present the supplementary information with the audited financial statements or make the audited financial statements readily available to users of the supplementary information no later than the date the supplementary information is issued with our report thereon.

Management is responsible for establishing and maintaining a process for tracking the status of audit findings and recommendations. Management is also responsible for identifying for us previous financial audits, attestation engagements, performance audits, or other studies related to the objectives discussed in the Audit Objectives section of this letter. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, attestation engagements, performance audits, or studies. You are also responsible for providing management's views on our current findings, conclusions, and recommendations, as well as your planned corrective actions, for the report, and for the timing and format for providing that information.

With regard to using the auditor's report, you understand that you must obtain our prior written consent to reproduce or use our report in bond offering official statements or other documents. With regard to the electronic dissemination of audited financial statements, including financial statements published electronically on your website, you understand that electronic sites are a means to distribute information and, therefore, we are not required to read the information contained in these sites or to consider the consistency of other information in the electronic site with the original document.

Audit Procedures – General

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the entity or to acts by management or employees acting on behalf of the entity. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable, but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that come to our attention. We will also inform you of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential, and of any material abuse that comes to our attention. We will include such matters in the reports required for a Single Audit. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and may include direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, funding sources, creditors, and financial institutions. We will request written representations from your attorneys as part of the engagement, and they may bill you for responding to this inquiry. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Audit Procedures – Internal Controls

Our audit will include obtaining an understanding of the entity and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

As required by OMB Circular A-133, we will perform tests of controls over compliance to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each major federal award program. However, our tests will be less in scope than would be necessary to render an opinion on those controls and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to OMB Circular A-133.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards, *Government Auditing Standards*, and OMB Circular A-133.

Audit Procedures – Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of City of Newman's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

OMB Circular A-133 requires that we also plan and perform the audit to obtain reasonable assurance about whether the auditee has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major programs. Our procedures will consist of tests of transactions and other applicable procedures described in the *OMB Circular A-133 Compliance Supplement* and related addenda for the types of compliance requirements that could have a direct and material effect on each of City of Newman's major programs.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

At the conclusion of this engagement, we will complete the appropriate sections of the Data Collection Form that summarizes our audit findings. It is management's responsibility to submit the reporting package (including financial statements, schedule of expenditures of federal awards, summary schedule of prior audit findings, auditors' reports, and corrective action plan) along with the Data Collection Form to the federal audit clearinghouse. We will coordinate with you the electronic submission and certification. If applicable, we will provide copies of our report for you to include with the reporting package you will submit to pass-through entities. The Data Collection Form and the reporting package must be submitted within the earlier of 30 days after receipt of the auditors' reports or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audits.

The audit documentation for this engagement is property of Clendenin Bird & Company, P.C. and constitutes confidential information. However, pursuant to authority given by law or regulation, we may be requested to make certain audit documentation available to grantor agencies or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office for purposes of a quality review of the audit, to resolve audit findings, or to carry out oversight responsibilities. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Clendenin Bird & Company, P.C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to the aforementioned parties. These parties may intend, or decide, to distribute the copies or information contained therein to others, including other governmental agencies.

The workpapers for this engagement will be retained for a minimum of seven years after the date the auditors' report is issued or for any additional period requested by the oversight agency for Audit, or Pass-through Entity. If we are aware that a federal awarding agency, pass-through entity, or auditee is contesting an audit finding, we will contact the party contesting the audit finding for guidance prior to destroying the workpapers.

We expect to begin our audit on approximately September 8, 2011 and to issue our report no later than November 30, 2011. Michelle L. Gallagher is the engagement partner and is responsible for supervising the engagement and signing the reports or authorizing another individual to sign them. Our fee for these services will be based on actual time spent at our standard hourly rates for the person assigned to this engagement. Based on our preliminary estimates our fee shall not exceed **\$26,040.00** for the audit. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. In accordance with our firm policies, work may be suspended if your account becomes 30 days or more overdue and may not be resumed until your account is paid in full. The fee will be payable according to the following payment schedule:

- \$ 8,680 Due and payable upon commencement of audit.
- \$ 8,680 Due and payable 30 days following commencement of audit.
- \$ 8,680 Due and payable upon delivery of audit.

The fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances or additional accounting work will not be encountered during the audit. Additional accounting work would include, but not be limited to, the following: assistance with the reconciliation

City of Newman
February 9, 2011
Page 7 of 7

of any accounts or bank statements, preparation of journal entries other than normal audit adjustments and providing direction or supervision to assist you in the completion of routine accounting functions. If significant additional time or accounting work is necessary, we will discuss it with you and give you a new fee estimate before we incur the additional costs.

Client and accountant both agree that any dispute over fees charged by the accountant to the client will be submitted for resolution by arbitration in accordance with the rules of the American Arbitration Association. Such arbitration shall be binding and final. IN AGREEING TO ARBITRATION, WE BOTH ACKNOWLEDGE THAT IN THE EVENT OF A DISPUTE OVER FEES, EACH OF US IS GIVING UP THE RIGHT TO HAVE THE DISPUTE DECIDED IN A COURT OF LAW BEFORE A JUDGE OR JURY AND INSTEAD ARE ACCEPTING THE USE OF ARBITRATION FOR RESOLUTION.

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of contract. Our 2007 peer review will be available upon request.

We appreciate the opportunity to be of service to the City of Newman and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to us.

Very truly yours,

CLENDENIN BIRD & COMPANY, PC


Michelle L. Gallagher CPA
Vice President

RESPONSE:

This letter correctly sets forth the understanding of the City of Newman.

By: _____

Title: _____

Date: _____

Honorable Mayor and Members
of the Newman City Council

Agenda Item: **9.a.**
City Council Meeting
of March 8, 2011

**ADOPT RESOLUTION NO. 2011- , DECLARING THE EXISTENCE OF A PUBLIC
NUISANCE UNDER ORDINANCE NO. 281 MISTLETOE ABATEMENT**

RECOMMENDATION:

It is recommended that the Newman City Council adopt Resolution No. 2011- , a resolution declaring the existence of a public nuisance under Ordinance No. 281 Mistletoe Abatement.

BACKGROUND:

Broadleaf mistletoe is an evergreen parasitic plant that grows on a number of landscape tree species in California. Mistletoe reduces growth in trees by utilizing the host mainly for water and mineral nutrients, and may kill them with heavy infestations. These plants produce small, sticky, whitish berries if they are female or pollen if they are male. The plant is typically spread to other trees from birds, and it is important to remove mistletoe before it is spread to other limbs or trees. The most effective method for control is through complete removal of the branch by mechanical pruning. Mistletoe cannot be completely eradicated; however it can be controlled through complete removal.

ANALYSIS:

Abatement notices for the removal of mistletoe were sent out to 48 properties in accordance with City of Newman Municipal Code Chapter 9.06, Section 9.06.020 Notice to Abate (attachment #3). This notice informs property owners of all nuisance abatement procedures, options and their right to object at a public hearing. It is anticipated that many property owners will comply with the abatement notices prior to the hearing date. Included with the staff report is the list of properties that received a mistletoe abatement notice (attachment #2). A final compliance survey will be done on Tuesday March 8, 2011. An updated list of properties that have not complied with the abatement notice will be handed out at the council meeting prior to the public hearing.

FISCAL IMPACT:

None.

CONCLUSION:

Mistletoe is a parasitic plant afflicting a number of trees in the City. Abatement notices have been sent to the property owners of the infected trees in accordance with City Municipal Code Chapter 9.06. Therefore, staff recommends City Council adopt Resolution 2011- , a resolution declaring the existence of a public nuisance under Ordinance No. 281 Mistletoe Abatement.

ATTACHMENTS:

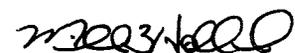
1. Resolution No. 2011- , a resolution declaring the existence of a public nuisance under Ordinance No. 281 Mistletoe Abatement.
2. Mistletoe Abatement Notice List.
3. Notice to Property Owners (Sample)

Respectfully Submitted,



Garner Reynolds
Director of Public Works

REVIEWED/CONCUR:



Michael E. Holland
City Manager

RESOLUTION NO. 2011-

**A RESOLUTION DECLARING THE EXISTENCE OF A PUBLIC NUISANCE UNDER
ORDINANCE NO. 281 MISTLETOE ABATEMENT**

WHEREAS, the Director of Public Works of the City of Newman has reported mistletoe located and existing upon property in the City of Newman not in compliance with Ordinance No 281; and,

WHEREAS, the Director of Public Works caused notice to be mailed to the respective owners of the subject properties in accordance with said Ordinance. Said notice giving notice to abate said nuisance and setting a time and place for hearing objections to the proposed abatement; and,

WHEREAS, said hearing was held on March 8, 2011, at 7:00 p.m., in accordance with said notice; and,

WHEREAS, no objections to the proposed abatement were received at said hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newman that said City Council finds that there is mistletoe growing and existing upon real property in the City of Newman not in compliance with Ordinance 281. A condition exists with regard to the properties in said City which endangers and may injure neighboring property, and endangers and injures the welfare of residents in the vicinity of said property, and said mistletoe shall be removed, destroyed and abated; and that a description of said property is attached hereto and made a part by reference.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 8th day of March, 2011 by Council Member _____, who moved its adoption, which motion was duly seconded and was adopted upon roll call vote.

AYES:
NOES:
ABSENT:

APPROVED:

Ed Katen, Mayor

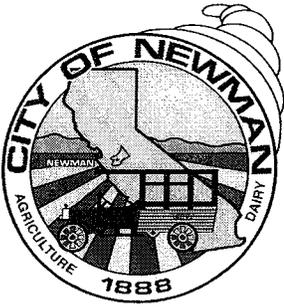
ATTEST:

Mike Maier, Deputy City Clerk

Attachment # 2

City of Newman
Mistletoe Abatement list

1. 1045 T Street
2. 1143 S Street
3. 1151 T Street
4. 1524 W. Tulare St.
5. 1429 Merced St.
6. 1956 T Street
7. 1964 T Street
8. 1505 Patchett Drive
9. 1557 Langston Drive
10. 1938 S Street
11. 1440 R Street
12. 1923 Pine Street
13. 1930 Pine Street
14. 1936 Pine Street
15. 1942 Pine Street
16. 1127 Stanislaus Street
17. 732 Fig Lane
18. 722 Fig Lane
19. 673 Fig Lane
20. 698 Real Avenue
21. 387 Lee Avenue
22. 700 Real Avenue
23. 858 Real Avenue
24. 868 Real Avenue
25. 1065 Yolo Avenue
26. 1038 Q Street
27. 1017 P Street
28. 1107 Kern Street
29. 1150 Main Street
30. 1142 Main Street
31. 1114 & 1118 Main Street
32. 889 Main Street
33. 1210 Amy Drive
34. 1214 Amy Drive
35. 1282 Amy Drive
36. 1138 Balsam Drive
37. 1115 Balsam Drive
38. 1109 Balsam Drive
39. 729 Sweet Gum Lane
40. 1104 Wisteria Way
41. 1110 Wisteria Way
42. 514 Waxwing Lane
43. 516 Goldenrod Lane
44. 1388 Patchett Drive
45. 2219 Canyon Book Lane
46. 564 Merced Street
47. 1437 Kern Street
48. 1158 M Street



City of Newman

1162 Main Street • P.O. Box 787 • Newman, CA 95360 • (209) 862-3725 • Fax (209) 862-3199
www.cityofnewman.com • E-mail info@cityofnewman.com

February 2, 2011

Property Owner
1234 Main Street
Newman, Ca. 95360

RE: Property located at: 1234 Main Street, Newman CA 95360
APN No. XXX-0XX-0X0

NOTICE IS HEREBY GIVEN TO REMOVE AND DESTROY MISTLETOE

NOTICE IS HEREBY GIVEN THAT:

Pursuant to the provisions of Title 9, Chapter 6 of the City Code of Newman, mistletoe growing or existing on private property must be removed and destroyed.

All persons owning any such property shall, without delay, remove and destroy all such mistletoe from their property or such mistletoe will be removed and destroyed by City authorities, in which case the cost of removal and destruction will be assessed upon the lots and lands from, or on which, such mistletoe was removed and destroyed, and such costs will constitute a lien upon the lots or parcels until paid and will be collected on the next tax roll upon which Municipal taxes are collected.

All property owners having objections to the proposed destruction and removal of mistletoe are hereby notified to attend a meeting of the City Council of the City of Newman to be held on **March 8, 2011**, at **7:00 P.M.**, at which time and place all objections will be heard and given due consideration.

Doug Mutoza, Public Works Supervisor

AMENDMENT TO SHERMAN RANCH DEVELOPMENT AGREEMENT

RECOMMENDATION:

1. Conduct Public Hearing; and
2. Introduce Ordinance Amendment No. 2011-01 amending the Sherman Ranch Development Agreement.

BACKGROUND:

In September 2004, the Planning Commission reviewed a proposed Development Agreement for the Sherman Ranch subdivision. (The original project was approved by the Planning Commission in 1999.) Following the recommendation of the Planning Commission, the City County adopted Ordinance No. 2004-03 approving the Sherman Ranch Development Agreement in October 2004. Subsequent to these actions, the City adopted a Substitute Reimbursement and Settlement Agreement (SRSA) to settle 'complete and full satisfaction of ... the total amounts for which Developer remains eligible to receive reimbursement...'

In January 2010, the Developer filed a lawsuit in Stanislaus County Superior Court alleging Breach of Contract, Unjust Enrichment, Common Counts, Conversion and Breach of Fiduciary Duty. While the City remained confident in its legal position, settlement talks to end the lawsuit were initiated. Through diligent work and mutual cooperation, both sides agreed to a settlement agreement in December 2010. Final execution of the Settlement agreement requires approval of the attached changes to the Development Agreement.

On January 20, 2011, the Planning Commission, subsequent to holding a public hearing, recommended approval of the proposed amendments to the Sherman Ranch Development Agreement.

ANALYSIS:

Attached for your review are the proposed changes to the Development Agreement. In summary, the proposed major changes are identified below:

- (1) The City agrees to extend the term of the Development Agreement for an additional three (3) years.
- (2) The City/Redevelopment Agency agrees to set up a Fee Offset program for buyers who qualify under the Low and Moderate income levels.
- (3) The City agrees to extend the validity of building permits submitted prior to December 31, 2010 for a period of two years.
- (4) The City agrees to extend the reimbursement agreement for an additional three (3) years.

Subsequent to the adoption of the attached changes, the applicant agrees to file a Request for Dismissal with prejudice within ten (10) calendar days following the passage of the referendum period.

FISCAL IMPACT:

Overall positive. The City is saving general fund monies through not having to defend our position in court. While the City/Redevelopment Agency will be required to set up a Fee Offset program using Low and Moderate Redevelopment funds and HOME funds; these funds are considered restricted. Any new units constructed using these funds will generate general funds monies through property and sales taxes.

CONCLUSION:

In conclusion, the proposed changes require the developer to dismiss the lawsuit with prejudice, saving the City the cost of defending our legal position in court. While the changes also require extending the duration of the development and reimbursement agreements, there is not a direct cost associated with these extensions. The establishment of a Fee Offset program, for use in Sherman Ranch, utilizes restricted funds, not general funds. As a result, there is minimal impact upon the City/Agency's budget. Overall, if these programs are successful, the City should experience an increase in economic activity due to additional jobs being created within the City and expansion of our property tax base.

ATTACHMENTS:

1. Exhibit D – Summary of the amendments to the Development Agreement.

Respectfully submitted,



Michael Holland
City Manager

**EXHIBIT D
AMENDMENT OF DEVELOPMENT AGREEMENT**

FIRST AMENDMENT TO SHERMAN RANCH DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT ("First Amendment") is made and entered into this ____ day of _____, 2011, by and between SCM Hearthstone, LLC, a California limited liability company ("Developer"), and the City of Newman, a municipal corporation ("City"), pursuant to the authority of section 65864 et seq. of the Government Code of the State of California.

RECITALS

A. To ensure the timely, efficient, orderly, and proper development of the Project known as Sherman Ranch, on November 12, 2004, Developer and City entered into that certain Development Agreement for Sherman Ranch ("Development Agreement") pursuant to which City granted Developer a vested right to develop the Project.

B. The parties wish to extend the term of the Development Agreement for a period of three (3) years.

C. The parties wish to add additional provisions to the Development Agreement which clarify and specify certain rights of Developer associated with the Project.

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

1. The recitals above are true and correct and hereby made a part of this First Amendment.
2. All capitalized terms not defined herein shall have the meanings ascribed to them in the Development Agreement.

3. Section 3.04 of the Development Agreement is hereby amended to read as follows:

3.04. Term. The term of this Agreement shall commence upon the Effective Date and shall extend ~~10-13~~ years from the Effective Date or until the "Project Buildout" as hereinafter defined, whichever is earlier, unless said term is otherwise modified by circumstances set forth in this Agreement or by the mutual consent of the parties hereto. For purposes of this Agreement, "Project Buildout" shall mean the date on which a Certificate of Occupancy (or comparable instrument) is issued for the last Project improvement or residential home or other structure to be constructed pursuant to the Development Plan as it may be amended pursuant to this Agreement. Following the expiration of said term, this Agreement shall be deemed terminated and of no further force and effect, except as may be specified otherwise herein. The term

of the Vesting Tentative Subdivision Map shall be no less than the term of the Agreement as described in this Section.

4. A new Section 8.03 is hereby added to read as follows:

8.03 Fee Offsets. City agrees that it shall establish a Fee Offset Fund, as set forth herein.

A. **Fee Offset Fund.** City agrees that it shall reserve an amount equal to TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) ("Fee Offset Fund") to be used to pay for a portion of certain City fees, as specified in **Exhibit A**, attached hereto and incorporated herein by reference, for the Sherman Ranch Development, and as such fees may be adjusted for inflation by City. ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) of the Fee Offset Fund shall consist of federal HOME funds allocated to City (the "HOME Fee Offset Fund") and ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000) of the Fee Offset Fund (the "Agency Fee Offset Fund") shall consist of funds from the Low and Moderate-Income Housing Fund of the Redevelopment Agency of the City of Newman (the "Agency"). The sole purpose of the Fee Offset Fund is to pay for City fees due at the time of final inspection for those housing units (the "Affordable Units") being sold to Qualified Buyers, as defined below.

The Sherman Ranch Development consists of three models of housing development: (i) the "Classics" homes are low-density units; (ii) the "Heritage" homes are medium-density units; and (iii) the "Villas" homes are high-density units. The HOME Fee Offset Fund shall only be used to pay the fees for up to twelve (12) units within the Villas development. The Agency Fee Offset Fund may be used to pay the fees for units within either the Classics or Heritage developments. The City's obligation to maintain the Fee Offset Fund, in whole or in part, for the uses specified in this Section 2.1 shall terminate upon the earlier of (i) the use of all monies in the Fee Offset Fund; or (ii) December 31, 2013. The City may, in its sole discretion, request that the Agency provide additional funds to be deposited in the Agency Fee Offset Fund, prior to December 31, 2013, so that additional Affordable Units may be sold to Qualified Buyers.

B. **Qualified Buyers.** A Qualified Buyer shall be a person or family of low or moderate income, as defined in Health and Safety Code section 50093, as may be adjusted by the California Department of Housing and Community Development ("HCD"). For purposes of this Settlement Agreement, "area median income" shall mean the median income for households in Stanislaus County, California, as published from time to time by the United States Department of Housing and Urban Development ("HUD"). A 2010 schedule of low and moderate income limits for Stanislaus County is attached hereto as **Exhibit B** and incorporated herein by this reference.

The City's obligation to use the Fee Offset Fund shall be expressly conditioned upon the City receiving from Developer evidence reasonably satisfactory to City certifying the income level of any proposed Qualified Buyer, and that the proposed sales price of any Affordable Unit does not exceed the affordable housing

cost, as defined by Health and Safety Code section 50052.5, for such Qualified Buyer. The maximum sales prices of any Affordable Unit to a Qualified Buyer must comply with the regulations promulgated by HCD.

C. Payment of Fees. City shall pay to Developer, upon the sale of each Affordable Unit to a Qualified Buyer, the amount of fees attributable to such Affordable Unit from either the HOME Fee Offset Fund or the Agency Fee Offset Fund, as the case may be. Such payment may be made either directly to Developer, upon the close of escrow, or through escrow, as the parties may determine.

5. A new Section 10.05 is hereby added to read as follows:

10.05. Building Permits.

A. Applications. For all building permit applications submitted by Developer to the City on or prior to December 31, 2010, for any of the lots identified on Exhibit C, (Sections A-D), attached hereto and incorporated herein by this reference, the City hereby agrees that such application shall be valid for two years. For purposes of applying building standards, conditions, and/or regulations, and/or permit fees, a building permit shall be deemed effective upon the application date. Any failure of Developer to pursue an application shall not be grounds for revocation by abandonment under the California Building Code.

B. Timing of Payment of Fees. For purposes of applying permit fees for the lots identified on Exhibit C, all fees identified on Exhibit F of the Development Agreement that are due and payable at the time a building permit is issued shall be due and payable as stated on Exhibit D, attached hereto and incorporated herein by reference.

C. Indemnity. Developer agrees to defend, indemnify, and hold City harmless from any and all claims, costs and liabilities as a result of any legal action or proceeding brought against the City arising from, or in anyway relating to, this Section 10.05.

6. A new Section 10.06 is hereby added to read as follows:

10.06. Sales Office Use Permit. The City agrees to process in good faith, at Developer's request and expense, three consecutive extensions of one year each of the use permit for the Sherman Ranch sales office.

7. Section 6.10 of the Development Agreement is hereby amended to read as follows:

~~A. Developer shall submit Improvement Plans and Engineering Estimates for the cost of improvements. Developer shall be reimbursed for up-front construction costs of "Backbone Infrastructure" improvements, beyond Developer's pro-rata fair share, as set forth in the Reimbursement Schedule, Exhibit "G". The Reimbursement schedule may be revised from time to time to reflect actual cost of improvements. Said revisions shall be approved by staff and shall not require City Council review.~~

~~To the maximum extent possible, reimbursement shall be in the form of fee credits. Reimbursement amounts over and above fee credits will be paid on a quarterly basis to Developer and shall be paid from the Capital Facilities Funds as Capital Facility Fees are collected from future developments within the area of benefit. In no event shall City General Funds be used to reimburse the Developer. City has no further obligations under this Development Agreement to provide any reimbursements or credits to Developer. All reimbursement matters have been settled under a separate agreement between the Developer and City titled "The Substitute Reimbursement and Settlement Agreement" and subsequent amendment thereto.~~

8. Except as modified by this Amendment, the Development Agreement shall remain unchanged and is in full force and effect.
9. This Amendment may be executed in any number of counterparts with the same effect as if the parties had all signed the same document, and which together shall constitute one and the same instrument.
10. Facsimile, electronically scanned, and photocopied signatures shall be as valid as original signatures only for purposes of demonstrating execution of the Amendment until such time as originally executed documents can be circulated. Said originally executed documents shall be binding and shall constitute evidence of the execution of this Amendment for all purposes.

IN WITNESS WHEREOF, the parties have hereunder set their hand the day and year first written above.

Approved as to Form:

Exhibit "D"

City Attorney

CITY

CITY OF NEWMAN, a municipal corporation

By: **Exhibit "D"**

City Manager

By: **Exhibit "D"**

City Clerk

Approved as to Form:

NEUMILLER & BEARDSLEE

DEVELOPER

SCM Hearthstone, LLC

By: **Exhibit "D"**

Clifford W. Stevens
Attorneys for Developer

By: **Exhibit "D"**

Steve C. Mothersell, Sr.
President

Honorable Mayor and Members
Of the Newman City Council

Agenda Item: **10.a.**
City Council Meeting
of March 8, 2011

REFUNDING OF WASTEWATER TREATMENT FACILITIES
1999 REFUNDING CERTIFICATES OF PARTICIPATION

RECOMMENDATION:

It is recommended that the Newman City Council approve Resolution No. 2011- , authorizing the execution and delivery of a loan agreement, and authorizing and directing certain actions in connection with the refinancing of the City's Wastewater Treatment Facilities, 1999 Refunding Certificates of Participation.

BACKGROUND:

On August 3, 1999 the City of Newman issued Certificates of Participation in the par amount of \$3,455,000 (the "1999 COPs"). Proceeds from the 1999 COPs were used to advance refund the City's outstanding 1991 Certificates of Participation (the "1991 COPs") which were used to finance the construction of major wastewater treatment facilities.

ANALYSIS:

Interest rates on the 1999 COPs range from 5.00% in 2012 to 5.25% in 2018. There is currently \$1,800,000 outstanding on the issue with \$190,000 coming due on May 1, 2011. The 1999 COPs were first eligible for refinancing on May 1, 2009. The call premium is 1/8% per year remaining, which calculates to 1.0% for a May 1, 2011 call. There is a 30 day call notice requirement.

Over the past 12 years, interest rates have declined. In late January of 2011, an interest rate of 3.90% was secured for the refinancing of the 1999 COPs from City National Bank. The City will be contributing cash from their Wastewater Enterprise Fund reserves to pay off approximately 25% of the outstanding 1999 COPs at the time of the refinancing.

FISCAL IMPACT:

Under a private placement method of sale to refinance the 1999 COPs, the new par amount is estimated at \$942,300. The average annual savings, net of the reserve fund and interest earnings thereon, are estimated to be approximately \$97,000. Including the pay down amount the total savings are estimated at \$175,000. Net present value savings are approximately \$102,000 or 5.67% which is above the minimum industry standard of 3.0%.

CONCLUSION:

In order to achieve interest rate savings for the Wastewater Enterprise Fund, the City can refinance the 1999 COPs.

ATTACHMENTS:

1. Resolution No. 2011- , authorizing the execution and delivery of a loan agreement, and authorizing and directing certain actions in connection with the refinancing of a lease.
2. Loan agreement
3. Assignment of loan and acknowledgement of assignment
4. Certificate of City
5. Incumbency and signature certificate
6. Excel Spreadsheets (6 pages) showing details of refunding

Respectfully submitted,



Lewis A. Humphries,
Finance Director

REVIEWED/CONCUR



Michael Holland,
City Manager

RESOLUTION NO. 2011-

**AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT, AND
AUTHORIZING AND DIRECTING CERTAIN ACTIONS IN CONNECTION WITH THE
REFINANCING OF A LEASE**

WHEREAS, the City of Newman (the "City") is a municipal corporation duly organized and existing under and pursuant to the laws of the State of California; and

WHEREAS, the City desires to refinance that certain First Amended and Restated Lease Agreement dated as of August 1, 1999 between the City and the Newman Public Financing Authority (the "Lease") for a refinancing amount not to exceed \$945,000; and

WHEREAS, Brandis Tallman LLC and Municipal Finance Corporation (the "Corporation") have proposed a cost-effective Loan refinancing arrangement at a 3.90% interest rate for a term not to exceed seven years to produce cash flow savings to the City;

WHEREAS, the City is authorized to borrow amounts from the Corporation for the purpose of refinancing the Lease under the laws of the State of California, including the provisions of Article 10, Chapter 3, Part 1, Division 2 of Title 5 of the California Government Code, commencing with Section 53570 of said Code;

NOW, THEREFORE, it is resolved by the City Council of the City of Newman as follows:

SECTION 1. Loan Agreement. The Mayor, City Manager or a designee in writing is hereby authorized to enter into a Loan Agreement (the "Loan") with the Corporation to prepay and refinance the Lease, subject to approval as to form by the City Attorney.

SECTION 2. Attestations. The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the Mayor, the City Manager or of such other person or persons as may have been designated by the Mayor or the City Manager, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the Loan.

SECTION 3. Other Actions. The Mayor, the City Manager and other officers of the City are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all documents, agreements and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution and the Loan, including issuing a notice of prepayment of the Lease. Such actions are hereby ratified, confirmed and approved.

SECTION 4. Qualified Tax-Exempt Obligations. The Loan is hereby designated as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The City, together with all subordinate entities of the City, do not reasonably expect to issue during the calendar year in which the Loan is issued more than \$10,000,000 of obligations which it could designate as "qualified tax-exempt obligations" under Section 265(b) of the Code.

SECTION 6. Effect. This Resolution shall take effect immediately upon its passage.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 8th day of March, 2011 by _____, who moved its adoption, which motion was duly seconded and it was upon roll call carried and the resolution adopted by the following roll call vote:

AYES:
NOES:
ABSENT:

APPROVED:

Mayor of the City of Newman

ATTEST:

Deputy City Clerk of the City of Newman

DOCUMENTATION INSTRUCTIONS AND REFERENCE

The following documents represent the complete Loan documentation package:

1. Loan Agreement with Exhibits A & B
2. Assignment of Loan and Acknowledgment of Assignment
3. Certificate of City
4. Incumbency and Signature Certificate

All of the above documents shall be executed with original signatures by the officer(s) authorized in the resolution.

In addition to the above documents, the following additional items are required:

- Resolution** Please send an original or certified copy of the resolution adopted by the governing body.
- Legal Opinion** Please send a legal opinion like the sample provided. The legal opinion should be on the counsel's letterhead and bear an original signature.
- Insurance** Please obtain insurance certificates in accordance with the insurance provisions of the Loan Agreement.
- 8038-G Form** Sign and date. MFC will file the form upon funding.

LOAN AGREEMENT #11-006

THIS LOAN AGREEMENT, (this "Loan Agreement"), dated for convenience as of March 8, 2011, is by and between Municipal Finance Corporation, a corporation duly organized and existing under the laws of the State of California (the "Corporation"), and the City of Newman, a municipal corporation duly organized and existing under the Constitution and laws of the State of California (the "City");

WITNESSETH:

WHEREAS, the City presently owns and operates certain facilities and property for the collection, treatment and disposal of wastewater (the "Enterprise"), and the City wishes at this time to refinance that certain First Amended and Restated Lease Agreement dated as of August 1, 1999 between the City and the Newman Public Financing Authority (the "Lease"); and

WHEREAS, the Corporation has agreed to lend the City an amount which the City has determined will be sufficient to prepay and refinance the Lease;

NOW, THEREFORE, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

SECTION 1.1. Definitions. All capitalized terms used in this Section 1.1 shall for all purposes of this Loan Agreement have the meanings herein specified or as hereinafter defined.

"Additional Revenues" means, with respect to the issuance of any Parity Obligations, any or all of the following amounts:

(i) An allowance for Net Revenues from any additions or improvements to or extensions of the Enterprise to be made with the proceeds of such Parity Obligations and also for Net Revenues from any such additions, improvements or extensions which have been made from moneys from any source but in any case which, during all or any part of the latest Fiscal Year or such twelve (12) month period, were not in service, all in an amount equal to ninety percent (90%) of the estimated additional average annual Net Revenues to be derived from such additions, improvements and extensions for the first thirty-six (36) month period in which each addition, improvement or extension is respectively to be in operation, all as shown by the certificate or opinion of a qualified independent engineer (which may but need not be the outside firm providing engineering services) retained by the City.

(ii) An allowance for Net Revenues arising from any increase in the charges made for service from the Enterprise which has become effective prior to the incurring of such Parity Obligations but which, during all or any part of the latest Fiscal Year or such twelve (12) month period, was not in effect, in an amount equal to the total amount by which the Net Revenues would have been increased if such increase in charges had been in effect during the whole of such Fiscal Year or twelve (12) month period, all as shown by the certificate or opinion of an independent certified public accountant (which may but need not be the outside firm providing auditing services) retained by the City.

"Assignee" means (a) initially, City National Bank, as assignee of certain rights of the Corporation hereunder, and (b) any other entity to whom the rights of the Corporation shall be assigned hereunder.

"Closing Date" means the date the Corporation deposits the Loan proceeds with the City pursuant to Section 3.2.

"Corporation" means Municipal Finance Corporation, a corporation duly organized and existing under the laws of the State of California. Whenever in this Loan Agreement any reference is made to the Corporation and such reference concerns rights which the Corporation has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

"City" means City of Newman, a municipal corporation duly organized and existing under the Constitution and laws of the State of California.

"Enterprise" means the existing facilities and property owned by the City in connection with the collection, treatment and disposal of wastewater, together with all extensions thereof and improvements thereto hereafter acquired, constructed or installed by the City.

"Event of Default" means any of the events of default as defined in Section 5.1.

"Federal Securities" means any direct general non-callable obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), or obligations the timely payment of principal of and interest on which are directly guaranteed by the United States of America.

"Fiscal Year" means each twelve-month period during the Term of this Loan Agreement commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

"Gross Revenues" means all gross charges received for, and all other gross income and receipts derived by the City from, the ownership and operation of the Enterprise or otherwise arising from the Enterprise, including but not limited to connection charges and earnings on the investment of any funds held by the City; but excluding (a) the proceeds of any ad valorem property taxes levied for the purpose of paying bonded indebtedness of the City and (b) the proceeds of any special assessments or special taxes levied upon real property within any improvement City served by the City for the purpose of paying special assessment bonds or special tax obligations of the City.

"Loan" means the loan made by the Corporation to the City pursuant to Section 3.1.

"Loan Agreement" means this Loan Agreement, dated as of March 8, 2011, between the Corporation and the City.

"Loan Repayment Date" means May 1 and November 1 in each year, commencing November 1, 2011 and continuing to and including the date on which the Loan Repayments have been paid in full.

"Loan Repayments" means all payments required to be paid by the City on any date pursuant to Section 3.4, including any prepayment thereof pursuant to Section 6.2 or 6.3.

"Maintenance and Operation Costs" means the reasonable and necessary costs and expenses paid by the City for maintaining and operating the Enterprise, including but not limited to the reasonable expenses of management and repair and other costs and expenses necessary to maintain and preserve the Enterprise in good repair and working order, and including but not limited to administrative costs of the City attributable to the Enterprise and the financing thereof, but in all cases excluding depreciation, replacement and obsolescence charges or reserves therefor and excluding amortization of intangibles or other bookkeeping entries of a similar nature.

"Maximum Annual Debt Service" means, as of the date of any calculation, the maximum sum obtained for the current or any future Fiscal Year during the Term of this Loan Agreement by totaling the aggregate amount of (i) the Loan Repayments coming due in such Fiscal Year, and (ii) the principal and interest coming due and payable in such Fiscal Year on any Parity Obligations, including the principal amount coming due and payable by operation of mandatory sinking fund redemption. There shall be excluded from such calculation any principal of and interest on the Loan Repayments and any Parity Obligations which have been defeased or discharged, or for the payment of which a security deposit has been posted. With respect to any Parity Obligations which then bear interest at a variable rate, such interest shall be calculated at an assumed rate equal to the average rate of interest per annum for each of the 5 previous whole calendar

years as shown by the J. J. Kenny Index (or at any time in the event and to the extent such index is not maintained for all or any portion of such period, any similar index of variable rate interest for tax-exempt obligations as may be selected by the City in its sole discretion).

"Net Revenues" means, for any period, an amount equal to all of the Gross Revenues received during such period, minus the amount required to pay all Maintenance and Operation Costs becoming payable during such period.

"Parity Obligations" means any bonds, notes or other obligations of the City payable from and secured by a pledge of and lien upon any of the Net Revenues on a parity with the Loan Repayments.

"Revenue Fund" means the fund heretofore established and held by the City for the receipt and deposit of Gross Revenues.

"Tax Code" means the Internal Revenue Code of 1986. Any reference herein to a provision of the Tax Code shall include all applicable temporary and permanent regulations promulgated under the Tax Code.

"Term of this Loan Agreement" or "Term" means the time during which this Loan Agreement is in effect, as provided in Section 3.3.

SECTION 1.2. Exhibits. The following Exhibits are attached to, and by reference made a part of this Loan Agreement:

Exhibit A: The schedule of Loan Repayments to be paid by the City hereunder, showing the date and amount of each such Loan Repayment.

Exhibit B: The original description of the Project.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 2.1. Representations, Covenants and Warranties of the City. The City represents, covenants and warrants to the Corporation as follows:

(a) Due Organization and Existence. The City is a municipal corporation duly organized and existing under the Constitution and laws of the State of California.

(b) Authorization. The laws of the State of California authorize the City to enter into this Loan Agreement and to enter into the transactions contemplated hereby and thereby, and to carry out its obligations under this Loan Agreement and the Board of Directors of the

City has duly authorized the execution and delivery of this Loan Agreement.

(c) No Violations. Neither the execution and delivery of this Loan Agreement nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the City is now a party or by which the City is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the City, other than as set forth herein.

(d) No Prior Indebtedness. The City has not issued or incurred any obligations which are currently outstanding having any priority in payment out of the Gross Revenues or the Net Revenues over the payment of the Loan Repayments as provided herein.

SECTION 2.2. Representations, Covenants and Warranties of the Corporation. The Corporation represents, covenants and warrants to the City as follows:

(a) Due Organization and Existence. The Corporation is a corporation duly organized and existing under the laws of the State of California.

(b) Authorization. The laws of the State of California authorize the Corporation to enter into this Loan Agreement and to enter into the transactions contemplated hereby and thereby, and to carry out its obligations under this Loan Agreement and the Board of Directors of the Corporation has duly authorized the execution and delivery of this Loan Agreement.

(c) No Violations. Neither the execution and delivery of this Loan Agreement nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Corporation.

(d) No Assignments. Except as provided herein, the Corporation will not assign this Loan Agreement, its right to receive Loan Repayments from the City, or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the

representations, covenants and warranties contained in this Section 2.2.

ARTICLE III

TERMS OF LOAN

SECTION 3.1. Obligation to Make Loan; Amount of Loan. The Corporation hereby agrees to lend to the City, and the City hereby agrees to borrow from the Corporation, the amount of \$942,300.00 under the terms and provisions set forth in this Loan Agreement.

SECTION 3.2. Deposit of Moneys. On the Closing Date the Corporation shall deposit the sum of \$937,245.00 with US Bank, National Association, as successor trustee under that certain Trust Agreement dated as of August 1, 1999 by and among the City, the Newman Public Financing Authority and State Street Bank and Trust Company of California, N.A., and the sum of \$5,055.00 shall be retained by the Corporation to pay costs related to the issuance of the Loan.

SECTION 3.3. Term. The Term of this Loan Agreement shall commence on the Closing Date, and shall end on the date on which the Loan shall be paid in full or provision for such payment shall be made as provided herein.

SECTION 3.4. Loan Repayments.

(a) Obligation to Pay. The City hereby agrees to repay the Loan in the aggregate principal amount of \$942,300.00 together with interest (calculated at the rate of 3.90% on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semiannual Loan Repayments in the respective amounts and on the respective Loan Repayment Dates specified in Exhibit A.

As a result of the assignment by the Corporation to the Assignee of the right of the Corporation to receive the Loan Repayments, the City shall pay all Loan Repayments when due directly to the Assignee.

(b) Effect of Prepayment. In the event that the City prepays the Loan Repayments in full pursuant to Article VI, the City's obligations under this Loan Agreement shall thereupon cease and terminate, including but not limited to the City's obligation to pay Loan Repayments under this Section 3.4; subject however, to the provisions of Section 6.1 in the case of prepayment by application of a security deposit. In the event that the City prepays the Loan in part but not in whole pursuant to Section 6.3, the principal components of the remaining Loan Repayments shall be reduced on a pro rata basis so as to

produce equal Loan Repayments over the remaining Term of this Loan Agreement.

(c) Rate on Overdue Payments. In the event the City should fail to make any of the payments required in this Section 3.4, the payment in default shall continue as an obligation of the City until the amount in default shall have been fully paid, and the City agrees to pay the same with interest thereon, to the extent permitted by law, from the date of default to the date of payment at the rate of eight percent (8%) per annum.

SECTION 3.5. Nature of City's Obligations.

(a) Special Obligation. The City's obligation to pay the Loan Repayments is a special obligation of the City limited solely to the Net Revenues and all amounts on deposit in the Revenue Fund. Under no circumstances is the City required to advance moneys derived from any source of income other than the Net Revenues and other sources specifically identified herein for the payment of the Loan Repayments, and no other funds or property of the City are liable for the payment of the Loan Repayments. Notwithstanding the foregoing provisions of this Section, however, nothing herein prohibits the City voluntarily from making any payment hereunder from any source of available funds of the City.

(b) Obligations Absolute. The obligations of the City to pay the Loan Repayments from the Net Revenues and to perform and observe the other agreements contained herein are absolute and unconditional and are not subject to any defense or any right of setoff, counterclaim or recoupment arising out of any breach of the City or the Corporation of any obligation to the City or otherwise with respect to the Enterprise, whether hereunder or otherwise, or out of indebtedness or liability at any time owing to the City by the Corporation. Until such time as all of the Loan Repayments have been fully paid or prepaid, the City:

(i) will not suspend or discontinue payment of any Loan Repayments,

(ii) will perform and observe all other agreements contained in this Loan Agreement, and

(iii) will not terminate this Loan Agreement for any cause, including, without limiting the generality of the foregoing, the occurrence of any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, destruction of or damage to the Enterprise, sale of the Enterprise, the taking by eminent domain of title to or temporary use of any component of the Enterprise, commercial frustration of purpose, any change in the tax or other laws of the United States of America or the State of California or any political subdivision of either thereof or any failure of the

Corporation to perform and observe any agreement, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement.

(c) Protection of Rights. If the Corporation fails to perform any such agreements on its part, the City may institute such action against the Corporation as the City deems necessary to compel performance so long as such action does not abrogate the obligations of the City contained in the preceding subsection (b). The City may, however, at the City's own cost and expense and in the City's own name or in the name of the Corporation prosecute or defend any action or proceeding or take any other action involving third persons which the City deems reasonably necessary in order to secure or protect the City's rights hereunder, and in such event the Corporation will cooperate fully with the City and take such action necessary to effect the substitution of the City for the Corporation in such action or proceeding if the City shall so request.

SECTION 3.6. Pledge and Application of Net Revenues and Revenue Fund.

(a) Pledge. All of the Net Revenues and all amounts on deposit in the Revenue Fund are hereby irrevocably pledged to the punctual payment of the Loan Repayments and any Parity Obligations. The Net Revenues and amounts on deposit in the Revenue Fund may not be used for any other purpose so long as any of the Loan Repayments and any Parity Obligations remain unpaid; except that out of the Net Revenues and such other amounts there may be apportioned such sums, for such purposes, as are expressly permitted by this Section 3.6. Such pledge constitutes a first and exclusive lien on the Net Revenues and such other moneys for the payment of the Loan Repayments and any Parity Obligations in accordance with the terms hereof and the terms of the instruments authorizing the issuance of any Parity Obligations.

(b) Deposit of Gross Revenues; Transfers to Make Loan Repayments. The City has heretofore established the Revenue Fund, which the City agrees to continue to hold and maintain for the purposes and uses set forth herein. The City shall deposit all Gross Revenues in the Revenue Fund promptly upon the receipt thereof.

All Net Revenues will be held by the City in the Revenue Fund in trust for the benefit of the Corporation and for the benefit of the owners of any Parity Obligations. The City shall withdraw from such fund or funds and transfer to the Corporation an amount of Net Revenues equal to the aggregate amount of the Loan Repayment when and as the same becomes due and payable. In addition, the City shall withdraw from such fund or funds such amounts of Net Revenues at such times as required to pay the principal of and interest on any Parity Obligations and otherwise comply with the provisions of the instruments authorizing the issuance of any Parity Obligations.

(c) Other Uses Permitted. The City shall manage, conserve and apply the Net Revenues in such a manner that all deposits required to be made under the preceding paragraph will be made at the times and in the amounts so required. Subject to the foregoing sentence, so long as no Event of Default has occurred and is continuing hereunder, the City may at any time and from time to time use and apply Net Revenues for (i) the acquisition and construction of improvements to the Enterprise; (ii) the prepayment of the Loan and any Parity Obligations, or (iii) any other lawful purpose of the City.

ARTICLE IV

COVENANTS OF THE CITY

SECTION 4.1. Release and Indemnification Covenants. The City shall indemnify the Corporation and its officers, agents, successors and assigns and hold them harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of the following:

(a) the use, maintenance, condition or management of, or from any work or thing done on or about the Enterprise by the City,

(b) any breach or default on the part of the City in the performance of any of its obligations under this Loan Agreement,

(c) any intentional misconduct or negligence of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Enterprise, and

(d) any intentional misconduct or negligence of any lessee of the City with respect to the Enterprise.

No indemnification is made under this Section 4.1 or elsewhere in this Loan Agreement for willful misconduct, gross negligence, or breach of duty under this Loan Agreement by the Corporation, its officers, agents, employees, successors or assigns.

SECTION 4.2. Sale or Eminent Domain of Enterprise. Except as provided herein, the City covenants that the Enterprise will not be encumbered, sold, leased, pledged, any charge placed thereon, or otherwise disposed of, as a whole or substantially as a whole if such encumbrance, sale, lease, pledge, charge or other disposition would materially impair the ability of the City to pay the Loan Repayments or the principal of or interest on any Parity Obligations, or would materially adversely affect its ability to comply with the terms of this Loan Agreement or the instruments authorizing the issuance of any Parity Obligations. The City shall not enter into any agreement which

impairs the operation of the Enterprise or any part of it necessary to secure adequate Net Revenues to pay the Loan Repayments or any Parity Obligations, or which otherwise would impair the rights of the Corporation with respect to the Net Revenues. If any substantial part of the Enterprise is sold, the payment therefor must either (a) be used for the acquisition or construction of improvements and extensions or replacement facilities or (b) be applied to prepay or redeem the Loan and any Parity Obligations, on a pro rata basis, in the manner provided herein and in the instruments authorizing such Parity Obligations.

Any amounts received as awards as a result of the taking of all or any part of the Enterprise by the lawful exercise of eminent domain, if and to the extent that such right can be exercised against such property of the City, shall either (a) be used for the acquisition or construction of improvements and extension or replacement facilities of the Enterprise, or (b) be applied to prepay or redeem the Loan and any Parity Obligations, on a pro rata basis, in the manner provided herein and in the instruments authorizing such Parity Obligations.

SECTION 4.3. Insurance. The City shall at all times maintain with responsible insurers all such insurance on the Enterprise as is customarily maintained with respect to works and properties of like character against accident to, loss of or damage to the Enterprise. If any useful part of the Enterprise is damaged or destroyed, such part shall be restored to usable condition. All amounts collected from insurance against accident to or destruction of any portion of the Enterprise shall be used to repair or rebuild such damaged or destroyed portion of the Enterprise or if determined not to repair or rebuild such portion and in any event to the extent not so applied, must either (a) be used for the acquisition or construction or improvements and extensions or replacement facilities or (b) be applied on a pro rata basis to prepay or redeem the Loan and the Prior Parity Obligations in the manner provided in this Loan Agreement and in the instruments authorizing such Parity Obligations. The City shall also maintain, with responsible insurers, worker's compensation insurance and insurance against public liability and property damage to the extent reasonably necessary to protect the City, the Corporation and the Assignee. Any insurance required to be maintained hereunder may be maintained under and in accordance with a joint exercise of powers agreement, or may be maintained by the City in the form of self-insurance or in the form of participation by the City in a program of pooled insurance.

SECTION 4.4. Records and Accounts. The City shall keep proper books of records and accounts of the Enterprise, separate from all other records and accounts, in which complete and correct entries shall be made of all transactions relating to the Enterprise. Said books shall, upon prior request, be subject to the reasonable inspection of the Corporation.

The City shall cause the books and accounts of the Enterprise to be audited annually by an independent certified public accountant or firm of certified public accountants, not more than two hundred seventy (270) days after the close of each Fiscal Year, and shall furnish a copy of such report to the Corporation or the Assignee. The audit of the accounts of the Enterprise may be included as part of a general City-wide audit.

The City shall cause to be published annually, not more than two hundred seventy (270) days after the close of each Fiscal Year, a summary statement showing the amount of Gross Revenues and the disbursements from Gross Revenues and from other funds of the City in reasonable detail. The City shall furnish a copy of the statement, upon reasonable written request, to the Corporation and the Assignee.

SECTION 4.5. Rates and Charges.

(a) Covenant Regarding Gross Revenues. The City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which (together with existing unencumbered cash and cash-equivalent balances which are lawfully available to the City for payment of any of the following amounts during such Fiscal Year) are at least sufficient, after making allowances for contingencies and error in the estimates, to pay the following amounts in the following order:

(i) All Maintenance and Operation Costs estimated by the City to become due and payable with respect to such Fiscal Year;

(ii) The Loan Repayments and all principal of and interest and premium (if any) on any Parity Obligations as they become due and payable with respect to such Fiscal Year, without preference or priority;

(iii) All payments coming due and payable with respect to such Fiscal Year and required for compliance with this Loan Agreement and the instruments authorizing any Parity Obligations; and

(iv) All payments required to meet any other obligations of the City which are charges, liens, encumbrances upon or payable from the Gross Revenues with respect to such Fiscal Year.

(b) Covenant Regarding Net Revenues. In addition to the covenant set forth in the preceding clause (a) of this Section, the City shall fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise during each Fiscal Year which are sufficient to yield Net Revenues which (together with existing unencumbered cash and cash-equivalent fund balances which are lawfully available to the City with respect to such Fiscal Year) are at least equal to 115% of the aggregate amount of Loan Repayments and

principal of and interest on any Parity Obligations coming due and payable with respect to such Fiscal Year. If the amount of such existing unencumbered cash and cash-equivalent fund balances, excluding Net Revenues, falls below the amount of Maximum Annual Debt Service with respect to such Fiscal Year, the City shall thereupon fix, prescribe, revise and collect rates, fees and charges for the services and facilities furnished by the Enterprise with respect to such Fiscal Year which are sufficient to yield Net Revenues with respect to such Fiscal Year (excluding connection charges) at least equal to 100% of the aggregate amount of Loan Repayments and principal of and interest on any Parity Obligations coming due and payable with respect to such Fiscal Year.

SECTION 4.6. No Priority for Additional Obligations. The City may not issue or incur any bonds or other obligations having any priority in payment of principal or interest out of the Net Revenues over the Loan Repayments.

SECTION 4.7. Issuance of Parity Obligations. Except for obligations incurred to prepay or post a security deposit for the Loan in whole, the City may not issue or incur any Parity Obligations unless:

(a) The City is not then in default under the terms of this Loan Agreement.

(b) The Net Revenues (excluding connection charges), calculated in accordance with sound accounting principles, as shown by the books of the City for the latest Fiscal Year or as shown by the books of the City for any more recent 12 month period selected by the City, in either case verified by a certificate or opinion of an independent certified public accountant (which may be, but not need be, the outside firm providing auditing services) employed by the City, plus (at the option of the City) the Additional Revenues, at least equal 115% of the amount of Maximum Annual Debt Service; *provided, however*, that this subsection (b) does not apply to any issue of Parity Obligations the net proceeds of which are applied to refund the Loan or any Parity Obligations in whole or in part, so long as (i) the final maturity of such Parity Obligations does not exceed the final maturity of the obligations being refunded, and (ii) the aggregate amount of debt service on such Parity Obligations in each Fiscal Year does not exceed the amount of debt service which would otherwise come due and payable in such Fiscal Year on the obligations being refunded.

For purposes of the foregoing calculation of Net Revenues under this subsection (b), the City may add to such Net Revenues any Additional Revenues.

(c) Notwithstanding the above, the City may incur debt payable from Net Revenues (i) to cause a defeasance of this Loan Agreement or

(ii) which is payable on a basis which is junior to the payment of the Loan Repayments.

SECTION 4.9. Assignment by the Corporation. The Corporation's rights under this Loan Agreement, including the right to receive and enforce payment of the Loan Repayments to be made by the City under this Loan Agreement, have been assigned to the Assignee pursuant to an Assignment of Loan Agreement. Whenever in this Loan Agreement any reference is made to the Corporation and such reference concerns rights which the Corporation has assigned to the Assignee, such reference shall be deemed to refer to the Assignee.

The Corporation or the Assignee has the right to make additional assignments of its rights and obligations under this Loan Agreement, but the City shall not be required to pay more than a single payee, regardless of the number of Assignees, and no such assignment will be effective as against the City unless and until the Corporation or the Assignee files with the City written notice thereof. The City shall pay all Loan Repayments hereunder under the written direction of the Corporation or the Assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Loan Agreement, the City shall keep a complete and accurate record of all such notices of assignment.

SECTION 4.10. Assignment by the City. Neither the Loan nor this Loan Agreement may be assigned by the City, other than to a public agency which shall succeed to the interests of the City in and to the Enterprise and which (by operation of law, by contract or otherwise) becomes legally bound to all of the terms and provisions hereof.

SECTION 4.11. Amendment of this Loan Agreement. This Loan Agreement may be amended by the City and the Corporation, but only with the prior written consent of the Assignee (which consent may not be unreasonably withheld).

SECTION 4.12. Tax Covenants.

(a) Generally. The City shall not take any action or permit to be taken any action within its control which would cause or which, with the passage of time if not cured would cause, the interest components of the Loan Repayments to become includable in gross income for federal income tax purposes.

(b) Private Activity Bond Limitation. The City shall assure that the proceeds of the Loan are not so used as to cause the Loan to satisfy the private business tests of section 141(b) of the Tax Code or the private loan financing test of section 141(c) of the Tax Code.

(c) Federal Guarantee Prohibition. The City shall not take any action or permit or suffer any action to be taken if the result of the

same would be to cause the Loan Repayments to be "federally guaranteed" within the meaning of Section 149(b) of the Tax Code.

(d) No Arbitrage. The City shall not take, or permit or suffer to be taken, any action with respect to the proceeds of the Loan Repayments which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Closing Date would have caused the Loan to be "arbitrage bonds" within the meaning of Section 148(a) of the Tax Code.

(e) Small Issuer Exemption from Bank Nondeductibility Restriction. The City hereby designates this Loan Agreement for purposes of paragraph (3) of Section 265(b) of the Tax Code and represents that not more than \$10,000,000 aggregate principal amount of obligations the interest on which is excludable (under Section 103(a) of the Tax Code) from gross income for federal income tax purposes (excluding (i) private activity bonds, as defined in Section 141 of the Tax Code, except qualified 501(c)(3) bonds as defined in Section 145 of the Tax Code and (ii) current refunding obligations to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation), including this Loan Agreement, has been or will be issued by the City, including all subordinate entities of the City, during the calendar year 2011.

(f) Arbitrage Rebate. The City shall take any and all actions necessary to assure compliance with section 148(f) of the Tax Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Loan.

(g) Acquisition, Disposition and Valuation of Investments. Except as otherwise provided in the following sentence, the City covenants that all investments of amounts deposited in any fund or account created by or pursuant to this Loan Agreement, or otherwise containing gross proceeds of the Loan (within the meaning of section 148 of the Tax Code) shall be acquired, disposed of, and valued (as of the date that valuation is required by this Indenture or the Tax Code) at Fair Market Value. Investments in funds or accounts (or portions thereof) that are subject to a yield restriction under applicable provisions of the Tax Code shall be valued at their present value (within the meaning of section 148 of the Tax Code).

For purposes of this subsection (g), the term "Fair Market Value" means the price at which a willing buyer would purchase the investment from a willing seller in a bona fide, arm's length transaction (determined as of the date the contract to purchase or sell the investment becomes binding) if the investment is traded on an established securities market (within the meaning of section 1273 of the Tax Code) and, otherwise, the term "Fair Market Value" means the acquisition price in a bona fide arm's length transaction (as

referenced above) if (i) the investment is a certificate of deposit that is acquired in accordance with applicable regulations under the Tax Code, (ii) the investment is an agreement with specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate (for example, a guaranteed investment contract, a forward supply contract or other investment agreement) that is acquired in accordance with applicable regulations under the Tax Code, (iii) the investment is a United States Treasury Security - State and Local Government Series that is acquired in accordance with applicable regulations of the United States Bureau of Public Debt, or (iv) any commingled investment fund in which the City and related parties do not own more than a 10% beneficial interest therein if the return paid by the fund is without regard to the source of the investment.

ARTICLE V

EVENTS OF DEFAULT AND REMEDIES

SECTION 5.1. Events of Default Defined. The following shall be Events of Default under this Loan Agreement.

(a) Failure by the City to pay the Corporation any Loan Repayment or to pay other amounts required to be paid hereunder within fifteen (15) days of the time specified herein, and such failure is not cured within ten (10) days after written notice thereof by the Corporation.

(b) Failure by the City to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder other than as referred to in the preceding clause (a) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Corporation *provided, however,* if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such thirty (30) day period, the Corporation shall not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within such thirty (30) day period and diligently pursued until the default is corrected.

(c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar acts which may hereafter be enacted.

(d) An event of default as defined under any contracts or agreements relating to any Parity Obligations.

SECTION 5.2 Remedies on Default. Whenever any Event of Default shall have happened and be continuing, the Corporation shall have the rights, at its option and without any further demand or notice to:

(a) declare all principal components of the unpaid Loan Repayments, together with accrued interest thereon at the rate of interest per annum represented by the Loan from the immediately preceding Loan Payment Date on which payment was made, to be immediately due and payable, whereupon the same shall immediately become due and payable; and,

(b) take whatever action at law or in equity may appear necessary or desirable to collect the Loan Repayments then due or thereafter to become due during the Term of this Loan Agreement, or enforce performance and observance of any obligation, agreement or covenant of the City under this Loan Agreement.

The provisions of the preceding clause (a) are subject to the condition that if, at any time after the principal components of the unpaid Loan Repayments shall have been so declared due and payable pursuant to the preceding clause (a), and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the City shall deposit with the Corporation a sum sufficient to pay all principal components of the Loan Repayments coming due prior to such declaration and all matured interest components (if any) of the Loan Repayments, with interest on such overdue principal and interest components calculated at the rate set forth in Section 3.4(c) and the reasonable expenses of the Corporation (including any fees and expenses of its attorneys), and any and all other defaults known to the Corporation (other than in the payment of the principal and interest components of the Loan Repayments due and payable solely by reason of such declaration) shall have been made good, then, and in every such case, the Corporation may, by written notice to the City rescind and annul such declaration and its consequences. However, no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

SECTION 5.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Corporation is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Corporation to exercise any remedy reserved to

it in this Article V it shall not be necessary to give any notice, other than such notice as may be required in this Article V or by law.

SECTION 5.4. Agreement to Pay Attorneys' Fees and Expenses. In the event either party of this Loan Agreement should default under any of the provisions hereof and the nondefaulting party should employ attorneys (including in-house counsel) or incur other expenses for the collection of moneys or the enforcement of performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including the allocable cost of in-house counsel) and such other expenses so incurred by the nondefaulting party.

SECTION 5.5. No Additional Waiver Implied by One Waiver. In the event any agreement contained in this Loan Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

SECTION 5.6. Assignee to Exercise Rights Such rights and remedies as are given to the Corporation under this Article V have been assigned by the Corporation to the Assignee and shall be exercised solely by the Assignee.

ARTICLE VI

PREPAYMENT OF LOAN

SECTION 6.1. Security Deposit. Notwithstanding any other provision of this Loan Agreement, the City may on any date secure the payment of Loan Repayments, in whole, by irrevocably depositing with a fiduciary an amount of cash which, together with other available amounts, is either (a) sufficient to pay all such Loan Repayments, including the principal and interest components thereof, when due pursuant to Section 3.4(a), or (b) invested in whole or in part in Federal Securities in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and together with any cash which is so deposited, be fully sufficient to pay all such Loan Repayments when due pursuant to Section 3.4(a) or when due on any optional prepayment date pursuant to Section 6.2, as the City shall instruct at the time of said deposit. In the event of a security deposit pursuant to this Section for the payment of all remaining Loan Repayments, all obligations of the City under this Loan Agreement, and the pledge of Net Revenues and all other security provided by this Loan Agreement for said obligations, shall cease and terminate, excepting only the obligation of the City to make, or cause to be made, all of Loan Repayments from such security deposit. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of

Westlake Village, CA 91361
Attention: President

If to the Assignee: City National Bank
555 South Flower Street, 24th Floor
Los Angeles, CA 90071
Attention: Credit Management

SECTION 7.2. Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Corporation and the City and their respective successors and assigns.

SECTION 7.3. Severability. In the event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 7.4. Net-net-net Contract. This Loan Agreement shall be deemed and construed to be a "net-net-net" contract, and the City hereby agrees that the Loan Repayments shall be an absolute net return to the Corporation, free and clear of any expenses, charges or set-offs whatsoever.

SECTION 7.5. Further Assurances and Corrective Instruments. The Corporation and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of this Loan Agreement.

SECTION 7.6. Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

SECTION 7.7. Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State of California.

SECTION 7.8. Captions. The captions or headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Loan Agreement.

IN WITNESS WHEREOF, the Corporation has caused this Loan Agreement to be executed in its corporate name by its duly authorized officer, and the City has caused this Loan Agreement to be executed in its name by its duly authorized officer, as of the date first above written.

CITY OF NEWMAN

By _____
Mayor

MUNICIPAL FINANCE CORPORATION

By _____
President

EXHIBIT A

SCHEDULE OF LOAN REPAYMENTS

PMT #	Due Date	Loan Repayment	To Principal	To Interest
1	11/01/11	\$21,539.41	\$0.00	21,539.41
2	05/01/12	155,574.85	137,200.00	18,374.85
3	11/01/12	15,699.45	0.00	15,699.45
4	05/01/13	161,599.45	145,900.00	15,699.45
5	11/01/13	12,854.40	0.00	12,854.40
6	05/01/14	169,254.40	156,400.00	12,854.40
7	11/01/14	9,804.60	0.00	9,804.60
8	05/01/15	171,304.60	161,500.00	9,804.60
9	11/01/15	6,655.35	0.00	6,655.35
10	05/01/16	172,755.35	166,100.00	6,655.35
11	11/01/16	3,416.40	0.00	3,416.40
12	05/01/17	178,616.40	175,200.00	3,416.40
TOTALS:		<u>\$1,079,074.66</u>	<u>\$942,300.00</u>	<u>\$136,774.66</u>

ASSIGNMENT OF LOAN AGREEMENT #11-006

FOR VALUE RECEIVED, MUNICIPAL FINANCE CORPORATION (the "Corporation") as assignor without recourse does hereby sell, assign, and transfer to CITY NATIONAL BANK (the "Assignee") as assignee and its successors and assigns (i) all of its right, title and interest in and to the attached Loan Agreement dated March 8, 2011 between the Corporation as Corporation and CITY OF NEWMAN (the "City") as borrower (hereinafter said Loan and any supplements, amendments, additions thereof and any extension or renewals thereof is referred to as the "Loan") and (ii) all moneys, sums and amounts now due or hereinafter to become due under the Loan.

Corporation further represents and warrants that it has made no prior sale or assignment of any interest covered hereby; that the Loan is genuine and in all respects is what it purports to be; that Assignee shall not be liable for and does not assume responsibility for the performance of any of the covenants, agreements, or obligations specified in the Loan to be kept, paid or performed by Corporation with exception of Assignee's obligation to issue notices upon City's default of the Loan. The Corporation further represents that as of the date this assignment is made, the Loan is in full force and effect, has not been amended except as set forth in instrument delivered to Assignee and the City is not in default of any terms thereunder.

Corporation hereby constitutes and irrevocably appoints Assignee the true and lawful attorney of Corporation to demand, receive and endorse payments and to give receipts, releases and satisfactions either in the name of Assignee or in the name of Corporation in the same manner and with the same effect as Corporation could do if this Assignment of Loan had not been made.

This Assignment of Loan shall be construed and governed in accordance with the laws of the State of California. Any provision of this Assignment of Loan found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Assignment of Loan.

This Assignment shall be binding upon and inure to the benefit of the parties and their respective successors and assigns and is made in accordance with the Municipal Lease Placement Agreement dated as of January 1, 1999, as amended, entered into between Corporation and Assignee. In the case of litigation, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including attorneys' fees which may be the allocable cost of in-house counsel, incurred by the prevailing party in exercising any of its rights or remedies hereunder or enforcing any of the terms, conditions, or provisions hereof.

IN WITNESS WHEREOF, the Corporation has caused this Assignment of Loan to be executed by its duly authorized agent on the date specified below.

MUNICIPAL FINANCE CORPORATION

By _____

Title _____

Date _____

ACKNOWLEDGEMENT OF ASSIGNMENT

The undersigned hereby acknowledges the assignment by MUNICIPAL FINANCE CORPORATION over to CITY NATIONAL BANK of that certain Loan Agreement #11-006 dated as of March 8, 2011 (the "Loan"), entered into between MUNICIPAL FINANCE CORPORATION as Corporation and the undersigned as borrower.

With respect to the Loan, the undersigned agrees to pay, commencing with the first scheduled Loan Repayment, all Loan Repayments and moneys due or to become due under said Loan to CITY NATIONAL BANK, _____ and further agrees it shall have no counterclaim or offset against Loan Repayments due thereunder as to said Assignee and expressly further agrees that said Assignee shall not (except for the obligations specifically set forth in the foregoing Assignment of Loan) be liable for any of the obligations or burdens of the Corporation under said Loan.

IN WITNESS WHEREOF, the City has caused this Acknowledgment of Assignment to be executed by its authorized agent on the date specified below.

CITY OF NEWMAN

By _____

Title _____

Date _____

CERTIFICATE OF CITY

The undersigned, duly authorized representative of City of Newman ("City") as borrower under that Loan Agreement #11-006 dated as of March 8, 2011 ("Loan") with Municipal Finance Corporation as lender, hereby certifies as follows:

1. I have been duly authorized to execute and deliver, on behalf of City, the Loan and related documents pursuant to a resolution adopted by City's governing body, an original or certified copy of which is attached hereto.
2. City has complied with all agreements and covenants and satisfied all conditions contemplated by the Loan on its part to be performed or satisfied on or before the date hereof.
3. The representations, warranties and covenants of City contained in the Loan are true and correct in all material respects as of the date hereof, as if made on this date.
4. No litigation is pending or, to the best of my knowledge, threatened (either in state or federal courts) (a) to restrain or enjoin the issuance and delivery of the Loan or the collection of revenues to be used to meet City's obligations under the Loan; (b) in any way contesting or affecting the authority for the execution or delivery of the Loan, or the validity of the Loan; (c) in any way contesting the existence or powers of City, as such existence or powers in any way relate to the issuance of the Loan or City's obligations under the Loan, or (d) could materially adversely affect the financial position of City.
5. The Project being financed pursuant to the Loan is essential to the function of City and is immediately needed by City. Such need is neither temporary nor expected to diminish during the Loan term. The Project is expected to be used by City for a period in excess of the Loan term.
6. City's federal tax identification number is _____.

The meaning of the capitalized terms in this Certificate are the same as those provided in the Loan.

By: _____

Date: _____

INCUMBENCY AND SIGNATURE CERTIFICATE

I do hereby certify that I am the duly appointed and acting City Clerk of the City of Newman, a municipal corporation validly existing under the Constitution and laws of the State of California (the "City"), and that, as of the date hereof, the individual named below is the duly appointed officer of the City holding the office set forth opposite his/her respective name. I further certify that (i) the signature set forth opposite his/her respective name and title is true and authentic and (ii) such officer has the authority on behalf of the City to enter into that certain Loan Agreement #11-006 dated March 8, 2011, by and between the City and Municipal Finance Corporation and all documents related thereto.

Name

Title

Signature

IN WITNESS WHEREOF, I have duly executed this certificate this
_____ day of _____, 2011.

City Clerk

SAMPLE ONLY
(PLEASE PREPARE ON COUNSEL'S LETTERHEAD
AND FORWARD 1 ORIGINAL TO ADDRESSEE)

MUNICIPAL FINANCE CORPORATION
2945 Townsgate Road, Suite 200
Westlake Village, CA 91361

RE: Loan Agreement dated as of March 8, 2011 by and between
MUNICIPAL FINANCE CORPORATION, (the "Corporation") as lender,
and CITY OF NEWMAN (the "City") as borrower.

Ladies and Gentlemen:

I have acted as counsel to City with respect to the Loan Agreement described above (the "Loan") and in this capacity have reviewed a copy of the executed Loan and related documents or exhibits attached thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. City is a political subdivision of the State of California (the "State"), duly organized, existing and operating under the Constitution and Laws of the State.

2. City is authorized and has the power under applicable State law to enter into the Loan, and to carry out its obligations thereunder and the transactions contemplated thereby.

3. The Loan has been duly authorized, approved, executed and delivered by and on behalf of City, and is a legal, valid and binding contract of City enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditor's rights.

4. A resolution authorizing the execution and delivery of the Loan was duly and validly adopted by the governing body of the City on March 8, 2011 and such resolution has not been amended or repealed and remains in full force and effect.

MUNICIPAL FINANCE CORPORATION

RE: Loan Agreement dated as of March 8, 2011 by and between
MUNICIPAL FINANCE CORPORATION, (the "Corporation") as lender,
and CITY OF NEWMAN (the "City") as borrower.

(Date)

Page 2

5. There is no litigation, action, suit or proceeding pending or, to the best of my knowledge after due inquiry, threatened before any court, administrative agency, arbitrator or governmental body that challenges the authority of City to enter into the Loan or the ability of City to perform its obligations under the Loan and the transactions contemplated thereby.

This opinion may be relied upon by Municipal Finance Corporation, its successors and assigns.

Dated: _____ Very truly yours,

Please type name and title under signature.

City of Newman, California
Refunding Certificates of Participation, Series 2010
(Wastewater Treatment Facilities)

Costs of Issuance

Title / Miscellaneous	5,000.00
Rounding / Contingency	55.00
Total	5,055.00

City of Newman, California
Refunding Certificates of Participation, Series 2010
(Wastewater Treatment Facilities)

Summary Statistics

Arbitrage Yield	3.89890 %
TIC	3.89890 %
"All-In" TIC	4.05790 %
Average Coupon	3.90000 %
Net Interest Cost (NIC)	3.90000 %
Average Life	3.722 Years

City of Newman, California
Refunding Certificates of Participation, Series 2010
(Wastewater Treatment Facilities)
Gross Debt Service Schedule

Date	Principal	Rate	Interest	Periodic Debt Service	Annual Debt Service
3/30/2011					
5/1/2011					-
11/1/2011			21,539.41	21,539.41	
5/1/2012	137,200	3.900	18,374.85	155,574.85	177,114.26
11/1/2012			15,699.45	15,699.45	
5/1/2013	145,900	3.900	15,699.45	161,599.45	177,298.90
11/1/2013			12,854.40	12,854.40	
5/1/2014	156,400	3.900	12,854.40	169,254.40	182,108.80
11/1/2014			9,804.60	9,804.60	
5/1/2015	161,500	3.900	9,804.60	171,304.60	181,109.20
11/1/2015			6,655.35	6,655.35	
5/1/2016	166,100	3.900	6,655.35	172,755.35	179,410.70
11/1/2016			3,416.40	3,416.40	
5/1/2017	175,200	3.900	3,416.40	178,616.40	182,032.80
11/1/2017			-	-	
5/1/2018	-	-	-	-	-
Totals	942,300		136,774.66	1,079,074.66	1,079,074.66

City of Newman, California
 Refunding Certificates of Participation, Series 2010
 (Wastewater Treatment Facilities)

Net Debt Service Schedule and Savings Calculation (Cash Flow NPV Basis)

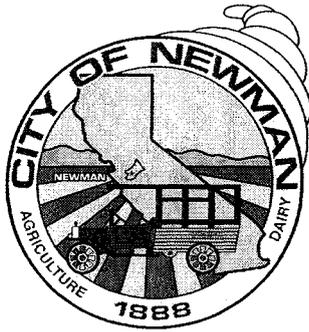
New Issue Reserve Fund - Prior Issue Reserve Fund 282,330.00
 Investment Rate - Investment Rate 1.50000

Date	Periodic Debt Service	Less: RF Earnings	Net Periodic Debt Service	Net Annual Debt Service	Prior Issue Periodic Debt Service	Less: RF Earnings	Plus: Trust Fees	Net Prior Issue Periodic Debt Service	Net Prior Issue Annual Debt Service	Annual (Savings) / Cost	3.89890 Present Value
3/30/2011											
5/1/2011					235,796.25	(2,117.48)	1,000.00	234,678.78	234,678.78	(234,678.78)	(233,899.75)
11/1/2011	21,539.41	-	21,539.41		41,165.00	(2,117.48)	1,000.00	40,047.53			(18,093.95)
5/1/2012	155,574.85	-	155,574.85	177,114.26	236,165.00	(2,117.48)	1,000.00	235,047.53	275,095.05	(97,980.79)	(76,208.60)
11/1/2012	15,699.45	-	15,699.45		36,290.00	(2,117.48)	1,000.00	35,172.53			(18,316.22)
5/1/2013	161,599.45	-	161,599.45	177,298.90	241,290.00	(2,117.48)	1,000.00	240,172.53	275,345.05	(98,046.15)	(72,492.01)
11/1/2013	12,854.40	-	12,854.40		31,165.00	(2,117.48)	1,000.00	30,047.53			(15,559.17)
5/1/2014	169,254.40	-	169,254.40	182,108.80	251,165.00	(2,117.48)	1,000.00	250,047.53	280,095.05	(97,986.25)	(71,716.82)
11/1/2014	9,804.60	-	9,804.60		25,665.00	(2,117.48)	1,000.00	24,547.53			(12,836.46)
5/1/2015	171,304.60	-	171,304.60	181,109.20	255,665.00	(2,117.48)	1,000.00	254,547.53	279,095.05	(97,985.85)	(71,092.57)
11/1/2015	6,655.35	-	6,655.35		19,800.00	(2,117.48)	1,000.00	18,682.53			(10,075.25)
5/1/2016	172,755.35	-	172,755.35	179,410.70	259,800.00	(2,117.48)	1,000.00	258,682.53	277,365.05	(97,954.35)	(70,605.36)
11/1/2016	3,416.40	-	3,416.40		13,650.00	(2,117.48)	1,000.00	12,532.53			(7,347.38)
5/1/2017	178,616.40	-	178,616.40	182,032.80	268,650.00	(2,117.48)	1,000.00	267,532.53	280,065.05	(98,032.25)	(70,293.94)
11/1/2017	-	-	-		6,956.25	(2,117.48)	1,000.00	5,838.78			(4,527.66)
5/1/2018	-	-	-	-	271,956.25	(284,447.48)	1,000.00	(11,491.23)	(5,652.45)	5,652.45	8,740.45
Totals	1,079,074.66	-	1,079,074.66	1,079,074.66	2,195,178.75	(314,092.13)	15,000.00	1,896,086.63	1,896,086.63	(817,011.97)	(744,324.68)
								Plus: Prior Issue Funds		642,321.25	642,321.25
								Net Total		(174,690.72)	(102,003.43)
										Savings % New	10.82%
										Savings % Prior	5.67%

City of Newman, California
Refunding Certificates of Participation, Series 2010
(Wastewater Treatment Facilities)

Prior Issue Debt Service Schedule and Redemption Provisions

Date	Principal	Rate	Interest	Periodic Debt Service	Annual Debt Service	5/1/2011 Called Bonds	1.00% Redemption Premium	Periodic Debt Service	Defeasance Debt Service
11/1/2010									
5/1/2011	190,000	4.875	45,796.25	235,796.25	235,796.25			235,796.25	1,861,896.25
11/1/2011			41,165.00	41,165.00					
5/1/2012	195,000	5.000	41,165.00	236,165.00	277,330.00	195,000	1,950.00		
11/1/2012			36,290.00	36,290.00					
5/1/2013	205,000	5.000	36,290.00	241,290.00	277,580.00	205,000	2,050.00		
11/1/2013			31,165.00	31,165.00					
5/1/2014	220,000	5.000	31,165.00	251,165.00	282,330.00	220,000	2,200.00		
11/1/2014			25,665.00	25,665.00					
5/1/2015	230,000	5.100	25,665.00	255,665.00	281,330.00	230,000	2,300.00		
11/1/2015			19,800.00	19,800.00					
5/1/2016	240,000	5.125	19,800.00	259,800.00	279,600.00	240,000	2,400.00		
11/1/2016			13,650.00	13,650.00					
5/1/2017	255,000	5.250	13,650.00	268,650.00	282,300.00	255,000	2,550.00		
11/1/2017			6,956.25	6,956.25					
5/1/2018	265,000	5.250	6,956.25	271,956.25	278,912.50	265,000	2,650.00		
Totals	1,800,000		395,178.75	2,195,178.75	2,195,178.75	1,610,000	16,100.00	235,796.25	1,861,896.25



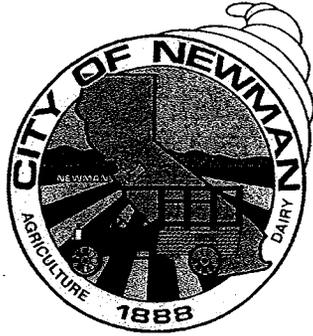
City of Newman
Executive Director's Office
Memorandum

Date: March 4, 2011
To: Redevelopment Agency Board
From: Michael E. Holland, Executive Director *MEH*

Subject: March 8th Meeting – Item No. 10.b.

In October 2007, the City Council pledged \$30,000 to the West Side Theatre Foundation to assist with the licensing and construction of a non-commercial radio station, subject to the application being approved by the Federal Communications Committee. At our previous meeting, Rick Nagel informed the Council/Agency that the application was approved by the FCC and would like the City/Agency to re-confirmed its pledge.

Based upon the recent actions of the Assembly & Senate joint budget committee yesterday, staff is now recommending the Redevelopment Agency fund this project. Our RDA attorney is currently evaluating this request. If applicable, the necessary documentation will be drafted for the Board's review and approval. If Redevelopment Funds are not eligible, staff will request this item be continued to the March 22nd meeting.



**City of Newman
City Manager's Office
Memorandum**

Date: October 5, 2007
To: City Council
From: Michael E. Holland

Subject: Item 10c – Presentation by Rick Nagle: WST Radio Station

At the request of Rick Nagel and Councilman Katen, this item has been scheduled on this agenda. Mr. Nagel would like to present the WST Radio Station Project to the Council and request City funding. Please find attached an email he sent to the Council.

Michael E Holland

From: Rick Nagle [rick@westsidetheatre.org]
Sent: Friday, September 28, 2007 8:22 PM
To: John Fantazia; Robert Martina; Mike Crinklaw; Ed Katen; Ted Kelly
Cc: Michael Holland
Subject: Proposed 10/9 Agenda Item - WST Radio Station Project

Gentlemen,

Though it has yet to be confirmed, I believe the West Side Theatre Foundation will be on the agenda for the forthcoming (10/9/07) City Council meeting.

The West Side Theatre is planning to apply to the FCC (Federal Communications Commission) for a radio broadcast frequency. For the first time in about ten years, the FCC will accept applications for full power (100 watts or more) NCE (Non-commercial Educational) channels on the FM (88.1-91.9) band. A broadcast engineer I've been working with has identified one available channel in the Newman/Gustine area. The FCC's application window opens on 10/12/07 and closes on 10/19/07.

The West Side Theatre Foundation is working toward submitting an application to the FCC during the October window. Our hope is to provide a community access radio station that would serve the populace of Newman and Gustine. This will probably be our one and only chance to establish such a station as there will be competition for the one available channel. If we were successful at getting the frequency, the station would, to name a few, be used for:

- Communicating social programs available locally
- Reaching out to underprivileged, isolated, and disabled audiences
- A reading service for the blind (the subcarrier FM channel)
- Art, poetry, local affairs, and music shows focused on nontraditional formats not heard on "top 40" or NPR
- Educational programming of all sorts
- Public debate, social and voting issues, and non-corporate, independent news
- Involving the local schools to provide training to aspiring broadcasters
- Local Emergency Alert System (EAS) for weather and other alerts
- Local issues such as urban planning, preservation, land rights, local rights
- Forums for local community organizations (e.g. historical society, VFW, garden clubs, senior organizations, chamber of commerce)
- City Council meetings

The City of Gustine has agreed to let us use their water tower for the transmitter antenna. The studio would be located in the West Side Theatre building. We have engaged the services of a NCE broadcast engineer (<http://www.well.com/user/dmsml/>) and a broadcasting lawyer (<http://www.alankorn.com/>). A friend of the theatre has donated what I believe will be adequate funds to defray the engineer and lawyer fees.

The proposed agenda item has to do with financial support. The FCC requires applicants to assure it has adequate funding to obtain the necessary equipment to put the station on the air and operate it for three months without income. This assurance can be in the form of actual available cash and/or pledges of what the FCC calls "committed sources." The theatre has been pouring a lot of money into refurbishment and improvement of the building. As such, our financial situation would not come close to demonstrating to the FCC we have the resources (\$30,000-50,000) needed to put a station on the air in the event they granted the available frequency to the Foundation. We must have documentation in place when our application is filed that demonstrates we have funds on hand and/or pledges of future financial support that would meet the required budget. This document from our legal advisor should provide some insight on this matter:

<http://www.westsidetheatre.org/financialadvisal.pdf>

What we'll be asking for relative to the above is a pledge from the City of a gift (1st choice) or a loan (2nd choice) of a substantial amount toward defraying the startup costs.

An amount in the vicinity of \$10,000-15,000 would, in my mind, qualify as "substantial." Certainly any amount would be welcome, however. Yes, there is a third option (No!), but we'd just as soon not go there. ;-) The pledge would look something like this:
<http://www.westsidetheatre.org/pledgesample.pdf>
The Foundation will be addressing the Gustine City Council at their meeting on 10/2 with a similar request.

If the FCC grants the Foundation a construction permit to actually put the station on the air, we will have three years to do so. I can assure you much of the first two years will be spent raising "real" cash, not "pledges", for the necessary equipment. Ideally, we would raise the necessary funds and not have to "cash in" the pledges. Of course, if at that juncture the City would like to convert their pledge to an actual gift, the Foundation would be absolutely delighted to accept. :) Any financial support, if it was forthcoming, could be budgeted for 2008. Perhaps even over multiple years.

As mentioned, the FCC's application window opens on 10/12/07 and closes on 10/19/07. Applications from organizations throughout the US will be submitted to the FCC during the application window. There will likely be competing applications for any frequency(ies) available in a given applicant's particular region. I know for certain the theatre has at least one competitor, UC Merced. In total, the FCC will be receiving hundreds, probably thousands, of applications. They will have a lot of stuff to wade through. We would probably know fairly soon if our application is rejected, especially if we neglected to dot the i's and cross the t's, so to speak. There is no opportunity for resubmission. It could be a year or more before we are advised the CP (construction permit) was granted, if it was. This is, after all, the Federal Government. :)

Though it's not directly pertinent, I thought you might be interested in this engineering study: <http://www.westsidetheatre.org/contour.pdf>
It shows the projected 60 dBu signal propagation from an antenna mounted on the City of Gustine's water tower. "60 dBu" is broadcast engineering mumbojumbo meaning strongest signal. The proposed station's signal would extend beyond what is depicted, but at less strength. My guess is it would still be listenable north to Crows Landing (maybe Patterson), south to Santa Nella, and east to Stevinson.

Thank you very much for your time and consideration. Please do not hesitate to contact me if you have questions and/or concerns.

Sincerely,

Rick Nagle
West Side Theatre
P.O. Box 202 (mail address)
1331 Main Street (performance address)
Newman, CA 95360
209.862.4490 (theatre)
209.752.8805 (cell)
209.862.2682 (fax)
www.westsidetheatre.org

MINUTES
NEWMAN CITY COUNCIL/REDEVELOPMENT AGENCY
REGULAR MEETING OF OCTOBER 9, 2007
CITY COUNCIL CHAMBERS, 7:00 P.M., 1200 MAIN STREET

1. Call To Order- Mayor Fantazia 7:03 p.m.
2. Pledge Of Allegiance
3. Invocation - Council Member Kelly
4. Roll Call **PRESENT:** Katen, Kelly, Crinklaw, Martina and Mayor Fantazia
ABSENT: None

Request To Add Emergency Item

City Manager Holland Requested Item 10.f. Be Added To The Agenda. He Explained The Item Was Brought To Him After The Agenda Was Posted And Requires Immediate Action. The Item Was A Discussion Regarding Replacement of Downtown Holiday Lights.

ACTION: On Motion By Crinklaw Seconded By Martina And Unanimously Carried, Item 10.f. Was Added To The Agenda.

5. Declaration Of Conflicts Of Interest

City Attorney Hallinan Informed The Council That He Had A Potential Conflict With The Crows Landing Air Base Item As He Has Worked As A Consultant For PPC West Park. He Informed The Council That He Would Leave The Room During Air Base Discussion.

6. Ceremonial Matters

- a. Badge Pinning Of Officer Vera and Reserve Officer Alcantar

Chief Ulibarri Introduced New Police Officer Vera and Reserve Officer Alcantar And Performed The Swearing In Of Both Officers.

7. Items from the Public - Non-Agenda Items

Olivia Gonzales, 1452 Main Street, Informed The Council That She Was Planning On Holding A Event On May 5, 2008. She Explained That She Was Planning The Event And Gathering The Funds To Pay The Amount Owed To The City For The Previous Event And The Funds For The Upcoming Event.

8. Public Hearings

- a. Second Reading And Adoption Of Ordinance #2007-9, Amending Title 9 Of The Newman City Code, Adding 9.12 Junk Dealer And Scrap Metal Recycler.

Mayor Fantazia Opened A Public Hearing On The Above Matter At 7:22 P.M.
There Being No Public Comment The Hearing Was Declared Closed At 7:23 P.M.

ACTION: Ordinance # 2007-9, Had Its Second Reading By Title Only. A Motion By Crinklaw Seconded By Martina Dispensed With Further Reading Of Said Ordinance. Ordinance Was Unanimously Adopted Upon Roll Call Vote.

- b. Conduct A Public Hearing For Supplemental Law Enforcement Services Fund (SLESF) And Authorize Expenditures For This Funding (AB 1913).

Mayor Fantazia Opened The Public Hearing At 7:25 P.M.
There Being No Public Comment Fantazia Closed The Public Hearing At 7:26 P.M.

ACTION: On Motion By Katen Seconded By Kelly And Unanimously Carried, Council Approved List Of Needs As Presented

- c. Adopt Resolution No. 2007- 55 A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4 .

Mayor Fantazia Opened The Public Hearing At 7:27 P.M.
There Being No Public Comment Fantazia Closed The Public Hearing At 7:29 P.M.

ACTION: On Motion By Martina Seconded By Kelly And Unanimously Carried, Resolution #2007-55, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4, Was Adopted.

- d. Adopt Resolution No. 2007-56 A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4 .

Mayor Fantazia Opened The Public Hearing At 7:30 P.M.
There Being No Public Comment Fantazia Closed The Public Hearing At 7:31P.M.

ACTION: On Motion By Kelly Seconded By Crinklaw And Unanimously Carried, Resolution #2007-56, A Resolution Declaring The Existence Of A Public Nuisance Under Ordinance No. 95-4, Was Adopted

9. Consent Calendar

- a. Waive All Readings Of Ordinances And Resolutions Except By Title.
- b. Approval Of Warrants.
- c. Approval Of Minutes Of The September 25, 2007 Regular Meeting.

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

10. Regular Business

- a. Presentation Of Water And Wastewater Rate Studies By Eco:Logic.

Jeff Richmond With Eco:Logic Presented The Water And Wastewater Rate Studies. He Reviewed Both Residential And Commercial Rates And Went Over Key Highlights And Details Of The Studies.

ACTION: No Action Was Taken.

- b. Adopt Final Guidelines And Conditions Of The Employee Home Loan Program.

7. **ACTION:** On Motion By Katen Seconded By Crinklaw And Unanimously Carried, The Council Adopted The Final Guidelines And Conditions Of The Employee Home Loan Program With The Following Two Additional Requirements: If At Any Time The Participant Refinances The Subject Property, The Loan Shall Be Paid In Full. The Participant Shall Not Subject The Property To Loans In Excess Of 100% Of The Original Appraised Value Of The Property.

- c. West Side Theatre Radio Station Funding Request - Presentation By Rick Nagle.

Rick Nagle, 404 Jensen Road, Gustine, Informed The Council About The Rare Opportunity To Apply For Federal Communications Commission (FCC) Radio Station Broadcast Frequency And That The West Side Theatre Foundation Was Interested In Running An Educational Radio Station. He Asked The Council To Consider A Monetary Donation To The West Side Theatre Foundation In Order To Meet The FCC Funding Requirements.

ACTION: On Motion By Katen Seconded By Kelly And Unanimously Carried, The Council Pledged A Thirty-Thousand Dollar Gift To The West Side Theatre Foundation, Provided They Are Awarded A Radio Station License And Construction Permit By The Federal Communications Commission.

- d. Discussion And Development Of City Policy Regarding Crows Landing Air Base Development.

City Attorney Hallinan Stepped Down And Left The Room During Air Base Discussion.

County Supervisor Jim DeMartini Confirmed That The Board Of Supervisors Did Receive The City Of Newman's Original Letter Back In February. DeMartini stated that The Project Continues To Change And Many Things Have Just Not Panned Out. He

Explained To The Council That He Had Met With The Port Of Oakland A Year And A Half Ago And Even Then They Expressed No Interest In The Crows Landing Project. DeMartini Voiced Some Of His Additional Concerns As Well As Some From The City Of Patterson.

ACTION: The Council Directed City Manger Holland To Write A Letter To The Stanislaus County Board Of Supervisors Regarding The Council's Concerns About The Direction Of The Crows Landing Air Base Development.

City Attorney Hallinan Returned To The Room After The Air Base Discussion Had Concluded.

e. Discussion And Development Of City Policy Regarding Future StanCOG Actions.

ACTION: The Council Agreed To Give Direction To The City's StanCOG Representative And To Have Full Council Input On StanCOG Votes That Affect The City Of Newman And The West Side.

f. Discussion Regarding Replacement of Downtown Holiday Lights.

ACTION: On Motion By Martina Seconded By Kelly And Unanimously Carried, The Council Authorized The Replacement Of Downtown Holiday Lights, Not To Exceed Ten-Thousand Dollars.

11. Items From The City Manager And Staff.

City Manager Holland Mentioned That The Newman Youth Baseball League Had Distributed Agendas For Their Next Board Meeting And Reminded The Council The Board's Meetings Are Open To The Public. He Informed The Council That Dr. Fauss Had Requested That The Next Two On Two Meeting Between The City And The School District Be Rescheduled. Holland Stated That He Would Work With Cleve Morris To Set Up A Two On Two Meeting With The City Of Patterson. Holland Reminded The Council That Eco:Logic Will Be Presenting The Master Plans At The Next Council Meeting.

Chief Ulibarri Informed The Council That The Entire Department Had Now Attended Emergency Vehicle Operations Training, To Hone Their Driving Skills. Ulibarri Reminded The Council That The Department Would Be At Fully Staffed On October 19th. He Updated The Council On The Main Street Loitering Problem. He Stated That The Downtown Business Owners Are Helping To Combat The Loitering Issue And That Police Department Will Be Stepping Up Enforcement.

Public Works Director Garza Stated That He Had Recently Met With The County Regarding The Street Overlay Project. He Informed The Council That The Striping Of The Roadways And Bike Lanes Will Be Commencing Soon. Garza Stated That The Public Works Department Will

Be Refurbishing All The Landscape Areas And That They Would Be Starting Near Hills Ferry Road.

12. Items From City Council Members.

Council Member Crinklaw reminded the council that only people looking out for the West Side's best interests are West-Siders themselves. He urged everyone to standup and be counted.

Council Member Martina Requested An Update On The Aquatic Center.

13. Adjournment.

ACTION: On Motion By Katen Seconded By Crinklaw And Unanimously Carried, The Meeting Was Adjourned At 9:32 P.M.

Honorable Chairman and Members
of the Newman Redevelopment Agency

Agenda Item: **10.c.**
Newman Redevelopment Meeting
of March 8th, 2011

**REQUEST FOR BUSINESS LOAN TO INSTALL
IMPROVEMENTS TO DOWNTOWN PROPERTY**

RECOMMENDATION:

Adopt Resolution No. 2011- , approving a business loan in the amount of \$25,000 to Daniel Gray and authorizing Michael E. Holland as Executive Director to negotiate the final terms and execute all documents pertaining to the business loan.

BACKGROUND:

Early this week, Mr. Daniel Gray approached the Redevelopment Agency to inquire about a business loan to make improvements to his downtown property. Mr. Gray desires to rehab the rear patio at The Grille to take advantage of the new Downtown Plaza improvements. Based up recent actions of the State, staff is fast tracking this item.

ANALYSIS:

Mr. Gray has submitted a request seeking a \$25,000 business loan. Due to expedited processing of this request, final terms are currently being negotiated. An agreement will be submitted for Agency Board review at the meeting.

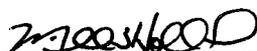
FISCAL IMPACT:

\$25,000. The current budget anticipates approximately \$81,500 reserve at the end of the fiscal year. However, if the State is successful all cash reserves will confiscated by the State.

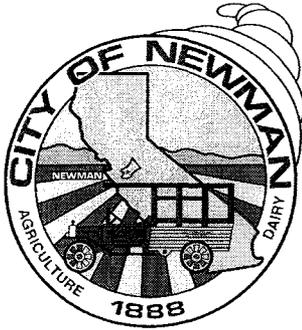
CONCLUSION:

Staff recommends the Council approved a \$25,000 business loan to Daniel Gray for improvements to 933 Fresno Street. Additional documents including a loan agreement and/or resolution will be distributed prior to the meeting on March 8th.

Respectfully submitted,



Michael Holland
City Manager



City of Newman
Executive Director's Office
Memorandum

Date: March 4, 2011

To: Redevelopment Agency Board

From: Michael E. Holland, Executive Director *MEN*

Subject: March 8th Meeting – Item No. 10.d.

Over the past couple of months, Agency staff has been working with the Housing Authority to secure long-term (55 year) affordability covenants for units within the City of Newman and Redevelopment boundaries. Based upon Ca Redevelopment Law, the Agency is required to set-aside 20% of all funding to be used towards the development of Low and Moderate Housing. It is estimated that the Agency will be required to provided or secure a minimum of 60 affordable units by 2014. Approval of the proposed Funding Agreement will secure long-term covenants for 63 existing units. (The Agency would have 3 excess units that will be credited towards our 2014-2019 requirement.) In exchange for the covenants, the Agency will provide the Housing Authority a sum of \$250,000. All monies must be used to rehab units located within the City of Newman.

Based upon the recent actions of the Assembly & Senate joint budget committee yesterday, staff is now recommending the Redevelopment Agency immediately approved the Funding Agreement. Our RDA attorney is currently drafting the Resolution to approve the attached agreement. Said Resolution will be submitted to the Board prior to the March 8th meeting.

FUNDING AGREEMENT

This FUNDING AGREEMENT (the "Agreement") is made and entered into as of _____, 2011, by and between the NEWMAN REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency") and HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, a California public housing authority ("Housing Authority"). The Agency and the Housing Authority are sometimes referred to in this Agreement individually as a "Party" or collectively as the "Parties." The Agency and Housing Authority enter into this Agreement with reference to the following recited facts (each a "Recital"):

RECITALS

A. Agency is responsible for implementing the redevelopment plan ("Redevelopment Plan") for the redevelopment project area known as the "_____ Project Area" ("Project Area").

B. Housing Authority owns two (2) multi-family housing facilities known as Valley Manor, which is located at 719 Driskell Avenue, Newman, California ("Valley Manor"), and Merced Street Apartments, which is located at 512-568 Merced Street, Newman, California ("Merced Street Apartments"), both of which are located within the Project Area and are more particularly described in Exhibit A-1 and Exhibit A-2, respectively, which are attached hereto and incorporated herein by this reference (Valley Manor and Merced Street Apartments are collectively referred to herein as the "Property").

C. Valley Manor consists of 48 residential units, 47 of which are currently rented to very low income households, as defined in Health and Safety Code Section 50105.

D. Merced Street Apartments consists of 30 residential units, 16 of which are currently rented to low or moderate income households, as defined in Health and Safety Code Section 50093.

E. Housing Authority desires to make certain capital improvements to the Property over the next five (5) years, as further described in Exhibit B ("Improvements") and, in order to complete the Improvements, requires financial assistance from the Agency.

F. The Agency agrees to provide financial assistance to the Housing Authority to allow for the completion of the Improvements in exchange for Housing Authority's agreement to restrict the use of the Property for a period of fifty-five (55) years to affordable rental housing.

G. Agency and Housing Authority intend and agree that all Units may be counted by the Agency towards satisfying the Agency's obligations under Health and Safety Code Section 33413.

H. Housing Authority is willing to enter into this Agreement, and to impose the conditions, covenants, restrictions and agreements set forth in this Agreement upon the Property, Housing Authority, and Housing Authority's successors and assigns, to ensure that the Property is operated for the purpose of increasing and improving the supply of affordable rental housing

in the City of Newman and, specifically, within the Project Area.

NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION AND THE MUTUAL PROMISES AND COVENANTS OF THE PARTIES SET FORTH IN THIS AGREEMENT, AGENCY AND HOUSING AUTHORITY AGREE AS FOLLOWS:

1. **DEFINED TERMS.** As used in this Agreement, the following words, phrases and terms shall have the meaning as provided in the initial paragraph of this Agreement, the Recitals or as follows, unless the specific context of usage of a particular word, phrase or term may otherwise require:

1.1 “Affordable Rent” shall have the meaning given that term in California Health and Safety Code Section 50053(b) and accompanying regulations of the California Department of Housing and Community Development, as such law or regulations may hereafter be amended, replaced or renumbered from time-to-time, with allowance for utilities, as such allowance may be established by the County of Stanislaus.

1.2 “Affordability Covenants” shall have the meaning set forth in Exhibit C attached hereto and incorporated herein by this reference.

1.3 “Agency” shall mean the Newman Redevelopment Agency, a public body, corporate and politic.

1.4 “Agency Assistance” shall mean the aggregate amount of Two Hundred Fifty Thousand Dollars (\$250,000), which shall be paid in annual payments of Fifty Thousand Dollars (\$50,000) as further described in Section 2.

1.5 “Agreement” shall mean this Funding Agreement.

1.6 “City” shall mean the City of Newman, a municipal corporation.

1.7 “Event of Default” shall have the meaning set forth in Section 6.1.

1.8 “Housing Authority” shall mean the Housing Authority of the County of Stanislaus, a California housing authority.

1.9 “Improvements” shall have the meaning set forth in Exhibit B attached hereto and incorporated herein by this reference.

1.10 “Manager Units” shall mean one (1) Unit at Valley Manor and one (1) Unit at Merced Street Apartments, which shall be occupied by the respective property managers.

1.11 “Property” shall mean the real property described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by this reference, and all current and future improvements thereon, including the Improvements.

1.12 “Qualified Household” shall mean a household that: (1) intends to reside in the Unit; and (2) whose income does not exceed the maximum income allowable for the subject Unit, as set forth in the Affordability Covenants.

1.13 "Units" shall mean the 48 units at Valley Manor and the 30 units at Merced Street Apartments.

2. AGENCY ASSISTANCE

2.1 In consideration for the Affordability Covenants, the Agency agrees to pay the Agency Assistance to the Housing Authority, subject to the terms, conditions and limitations set forth in this Agreement. Provided that an Event of Default does not exist at the time the Agency Assistance or a portion thereof is to be paid, the Agency shall pay to Housing Authority an annual payment of \$50,000 on the Effective Date and on each anniversary of the Effective Date for the following four (4) years, which funds shall be used for the sole purpose of assisting the Housing Authority with the costs of designing and constructing the Improvements, including professional services relating thereto. Housing Authority shall not use any portion of the Agency Assistance for any purpose other than those direct or third party expenses directly attributable to the design and construction of the Improvements. The Housing Authority shall have either expended the Agency Assistance or have committed all funds under contract through a formal bid process by June 20, 1015.

2.2 Prior to each anniversary of the Effective Date for the first five (5) years of this Agreement, the Housing Authority shall submit an annual report to the Agency detailing the Housing Authority's expenditure of the Agency Assistance, including any commitment of the Agency Assistance made under contract through a formal bid process, and any remaining balance, if any. In the event that a balance of the Agency Assistance remains as of the fifth (5th) anniversary of the Effective Date, the Housing Authority shall, prior to June 20, 2015, submit a final report to the Agency detailing the commitment of the remaining balance of the Agency Assistance. In addition to the reports set forth herein, Housing Authority shall provide any additional information as reasonably requested by the Agency regarding the use of the Agency Assistance. Housing Authority shall maintain complete, accurate and current records pertaining to the Property for five (5) years after creating such records, and shall permit any duly authorized representative of the Agency to inspect and copy records.

2.3 The Agency's obligations under this Agreement to pay the Agency Assistance are junior and subordinate to (1) all Agency bonded indebtedness or other obligations entered into or existing prior to the Effective Date secured by a pledge of tax increment and all subsequent refunding or refinancing thereof, and (2) all bonded or other indebtedness secured by a pledge of tax increment which is issued or incurred after the Effective Date. Upon the Agency's written request, the Housing Authority shall promptly execute and deliver such documents or instruments (in recordable form, if necessary or convenient) as may be required by the Agency or its financial or legal consultants, in a form reasonably acceptable to Housing Authority, to evidence such subordination, although the Housing Authority's failure to execute and deliver such documents shall not impair or defeat the self-executing operation of this Section 2.3. Notwithstanding the foregoing, nothing set forth in this Section 2.3 will relieve the Agency of any of its obligations under this Agreement, including, without limitation, the obligation to pay the Agency Assistance.

3. CONSTRUCTION OF IMPROVEMENTS

3.1 Housing Authority covenants to and for the exclusive benefit of the Agency that it shall construct the Improvements in conformance with the terms and conditions of this Agreement, except for such changes as may be mutually agreed upon in writing by and between Housing Authority and the Agency, and in conformity with all applicable laws, regulations, orders and conditions.

3.2 The approval of this Agreement by the City or the Agency shall not be binding on the City Council or the Planning Commission of the City regarding any approvals of the Improvements required by such bodies. Housing Authority obtains no right or entitlement to construct or install the Improvements on the Property or any portion of the Property by virtue of this Agreement. If any revisions of the Improvements are required by a governmental agency, Housing Authority shall promptly make any such revisions that are substantially consistent with this Agreement.

3.3 Notwithstanding any provision to the contrary in this Agreement, Housing Authority agrees to accept and comply fully with any and all reasonable conditions of approval applicable to all approvals, permits and other governmental actions regarding the construction or installation of the Improvements on the Property, substantially consistent with this Agreement.

3.4 Housing Authority shall have the right, during the course of construction of the Improvements, to make "minor field changes," without seeking the approval of the Agency, if such changes do not affect the type of use to be conducted within all or any portion of a structure. "Minor field changes" shall be defined as those changes from the approved construction drawings, plans and specifications that have no substantial effect on the Improvements. Nothing contained in this Section 3.4 shall be deemed to constitute a waiver of or change in any laws governing any such "minor field changes" or in any approvals by any governmental agency otherwise required for any such "minor field changes."

4. AFFORDABILITY COVENANTS

4.1 Recordation of Affordability Covenants. In consideration for the payment of the Agency Assistance by the Agency, Housing Authority hereby agrees to the recordation of the Affordability Covenants in substantially the form attached hereto as Exhibit C and incorporated herein by this reference. An Affordability Covenant shall be recorded for both Valley Manor and Merced Street Apartments, individually, and shall be recorded concurrently with the first payment of the Agency Assistance. The Affordability Covenants shall have a term of 55 years.

5. NO ASSIGNMENT OF AGREEMENT

5.1 Housing Authority may not assign this Agreement without the express written consent of the Agency.

6. DEFAULT

6.1 Any failure by Housing Authority to perform any term or provision of this Agreement shall constitute an "Event of Default" (1) if Housing Authority does not cure such failure within thirty (30) days following written notice of default from Agency, including notice and opportunity to cure for lenders approved by the Agency, or (2) if such failure is not of a

nature which can be cured within such thirty (30) day period, the Housing Authority does not within such thirty (30) day period commence substantial efforts to cure such failure, or thereafter does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure. Agency shall not enforce any of its rights and remedies for breach by Housing Authority except upon the occurrence of an Event of Default.

6.2 Any notice of default given hereunder shall specify in detail the nature of the failure in performance which Agency claims constitutes the Event of Default and the manner in which such Event of Default may be satisfactorily cured in accordance with the terms and conditions of this Agreement. During the time periods herein specified for cure of a failure to perform, including the opportunities to cure for lenders approved by the Agency, Housing Authority shall not be considered to be in default of this Agreement for any purposes.

6.3 Any failure or delay by Agency in asserting any of its rights or remedies as to any Event of Default shall not operate as a waiver of any Event of Default or of any such rights or remedies or deprive Agency of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

7. MISCELLANEOUS

7.1 Estoppel Certificate. Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the current, actual knowledge of the certifying Party, (a) this Agreement is in full force and effect and a binding obligation of the Parties, (b) this Agreement has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (c) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, to describe therein the nature and extent of any such defaults. The requesting Party may designate a reasonable form of certificate (including a lender's form) and the Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. Failure of Housing Authority to execute an estoppel certificate shall not be deemed a default, provided that in the event Housing Authority does not respond within the required thirty (30) day period, Agency may send a second and final request to Housing Authority and failure of Housing Authority to respond within fifteen (15) days from receipt thereof (but only if Agency's request contains a clear statement that failure of Housing Authority to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by Housing Authority of the estoppel certificate and may be relied upon as such by Agency, tenants, transferees, investors, bond counsel, underwriters and bond holders. Failure of Agency to execute an estoppel certificate shall not be deemed a default, provided that in the event Agency fails to respond within the required thirty (30) day period, Housing Authority may send a second and final request to Agency, and failure of Agency to respond within fifteen (15) days from receipt thereof (but only if Housing Authority's request contains a clear statement that failure of Agency to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by Agency of the estoppel certificate and may be relied upon as such by Housing Authority, tenants, transferees, investors, partners, bond counsel, underwriters and bond holders.

7.2 Attorneys Fees and Costs. In any action brought to enforce this Agreement, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees.

7.3 Amendments. This Agreement may be amended only by a written instrument executed by all the parties hereto or their successors in title, and duly recorded in the Official Records of Stanislaus County.

7.4 Notice. All notices given or certificates delivered under this Agreement shall be in writing and be deemed received on the delivery or refusal date shown on the delivery receipt, if: (i) personally delivered by a commercial service which furnishes signed receipts of delivery or (ii) mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

Agency: Newman Redevelopment Agency
1162 Main Street
(P.O. Box 787)
Newman, CA 95360
Attention: Executive Director

Housing Authority: Housing Authority of the County of Stanislaus
1701 Robertson Road
Modesto, CA 95351
Attention: Executive Director

Any of the Parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or communications shall be sent.

7.5 Severability. If any provision of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Agreement shall not in any way be affected or impaired thereby.

7.6 Counterparts. This Covenant may be signed in multiple counterparts which, when signed by all Parties, shall constitute a binding agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Agency and Housing Authority have executed this Agreement by duly authorized representatives as of the dates written below.

AGENCY:

THE NEWMAN REDEVELOPMENT AGENCY, a public body, corporate and politic

Dated: _____

By: _____

Name: Michael E. Holland

Title: Executive Director

ATTEST:

By: _____

Agency Secretary

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____

Agency Counsel

HOUSING AUTHORITY:

THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, a California housing authority

Dated: _____

By: _____

Name:

Title: Executive Director

ATTEST:

By: _____

Authority Secretary

APPROVED AS TO FORM:

By: _____

Authority Counsel

FUNDING AGREEMENT

EXHIBIT "A-1"

VALLEY MANOR REAL PROPERTY DESCRIPTION

FUNDING AGREEMENT

EXHIBIT "A-2"

MERCED STREET APARTMENTS REAL PROPERTY DESCRIPTION

FUNDING AGREEMENT

EXHIBIT "B"

IMPROVEMENTS

FUNDING AGREEMENT

EXHIBIT "C"

FORM OF AFFORDABILITY COVENANT

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

Newman Redevelopment Agency
1162 Main Street
(P.O. Box 787)
Newman, CA 95360
Attention: Executive Director

Space above line for Recorder's use only
Exempt from Recording Fees pursuant to Govt. Code § 27383

AFFORDABLE HOUSING COVENANT

For valuable consideration, the receipt of which is hereby acknowledged, NEWMAN REDEVELOPMENT AGENCY, a public body, corporate and politic (the "Agency") and HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS, a California public housing authority ("Housing Authority") agree as follows with reference to the following facts:

A. Housing Authority owns that certain real property, as further described in Section 1.A and Exhibit 1 (the "Property").

B. Agency, in acting to carry out the obligations under the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) with respect to affordable housing, has entered into that certain Funding Agreement, dated _____, between Housing Authority and Agency (the "Agreement") with respect to the Property. Capitalized terms used but not otherwise defined in this Affordable Housing Covenant (this "Covenant") shall have the meaning set forth in the Agreement.

C. Housing Authority and Agency agree that the Property shall be subject to the conditions and restrictions, and the rights of Agency under this Covenant as specified below, for a period of fifty-five years, commencing on _____, 2011 ("Term").

1. USE OF THE PROPERTY.

Housing Authority hereby covenants and agrees that during the Term of this Covenant, Housing Authority shall use the Property in compliance with all of the following:

A. Affordable Housing. The Property consists of a multi-family housing facility owned by Housing Authority and known as [enter either "Valley Manor, which is located at 719 Driskell Avenue, Newman, California, and consists of 48 residential rental housing units (each, a "Unit")" or "Merced Street Apartments, which is located at 512-568 Merced Street, Newman, California, and consists of 30 residential rental housing units (each, a "Unit")"]. As described below in Section 1.B, all of the Units except one, which shall be reserved for the Property manager, shall be restricted to households of very low, low or moderate income ("Qualified Households").

B. Occupancy Requirements. With the exception of one Unit, which shall be reserved for the Property manager, the Units shall be rent restricted and occupied by, or, if vacant, available for rental and occupancy by, Qualified Households whose gross income does not exceed the limits set forth below:

1. Not less than _____ (_____) of the Units shall be available to Qualified Households whose household income did not exceed the qualifying limits for very low income households, based on the actual number of individuals in the household, as established and amended from time to time pursuant to Health and Safety Code section 50105, Section 8 of the United States Housing Act of 1937, and as published by the State of California Department of Housing and Community Development.

2. All remaining Units shall be available to Qualified Households whose household income did not exceed the qualifying limits for low or moderate income households, based on the actual number of individuals in the household, as established and amended from time to time pursuant to Health and Safety Code section 50093, Section 8 of the United States Housing Act of 1937, and as published by the State of California Department of Housing and Community Development.

Upon termination of occupancy of a Unit by an occupant, such Unit shall be deemed to be continuously occupied by a Qualified Household of the same income level as the income level of the vacating occupant until such Unit is reoccupied, at which time the income character of the Unit shall be redetermined to meet the occupancy requirements set forth in this Section 1.B.

C. Allowable Rent. Housing Authority covenants that no Qualified Household shall pay an amount in excess of the applicable Affordable Rent. "Affordable Rent" shall have the meaning given that term in California Health and Safety Code Section 50053(b) and accompanying regulations of the California Department of Housing and Community Development, as such law or regulations may hereafter be amended, replaced or renumbered from time-to-time, with allowance for utilities, as such allowance may be established by the County of Stanislaus.

D. Recertification. If, upon recertification of the income of an occupant that qualifies as a very low income household, the Housing Authority determines that the occupant has an adjusted income exceeding the maximum qualifying income for that very low income Unit, such occupant shall be permitted to continue occupying the Unit and upon expiration of the occupant's lease and upon sixty (60) days written notice, the rent may be increased to the rent established for the appropriate income level that applies to the occupant. If, upon recertification of the income of an occupant of a low or moderate income Unit, the Housing Authority determines that the occupant has an adjusted income exceeding the maximum qualifying income for a low or moderate income Unit, such occupant shall be permitted to continue occupying the Unit and upon expiration of the occupant's lease and upon sixty (60) days written notice, the rent may be increased to the lesser of one-twelfth (1/12) of thirty percent (30%) of the actual adjusted income of the occupant or fair market rent, and the Housing Authority shall rent the next available Unit to a very low income household or low or moderate income household, as applicable, to meet the occupancy requirements of Section 1.B.

E. Affordable Residential Rental Property Restrictive Covenant. The Housing Authority covenants to and for the benefit of the Agency that the Housing Authority shall own, manage and operate, or cause the management and operation of, the Property to provide rental housing available only to Qualified Households at an Affordable Rent and for no other purposes than in accordance with this Covenant during the Term. The Housing Authority will not knowingly permit any Unit to be used on a transient basis. No Unit will, at any time, be leased or rented for use as a hotel, motel, time share, dormitory, fraternity house, sorority house, rooming house, hospital, nursing home, sanitary or rest home. The Housing Authority covenants to and for the benefit of the Agency to cause the Property to be continuously operated, in accordance with this Covenant, throughout the Term.

F. Condominium Conversion. The Housing Authority shall not convert Units to condominium or cooperative ownership or sell condominium or cooperative conversion rights to the Property during the Term of this Covenant.

G. Reporting Requirements. Annual reports and annual income certifications or recertifications must be submitted to the Agency. The reports, at a minimum, shall include: (1) the number of persons per unit, (2) tenant's name, (3) initial occupancy date, (4) rent paid per month, (5) gross income per year, (6) percent of rent paid in relation to income, and (7) copies of those documents used by Housing Authority to certify the tenant as an Qualified Household.

1. The first annual report and annual income certification shall be submitted to the Agency within thirty (30) days of the date of the initial rental of all the Units. Subsequent annual reports and annual income certifications or recertifications shall be submitted to the Agency on the anniversary date of submittal of the first report.

2. The Agency may, from time to time during the term of this Covenant, request additional or different information and Housing Authority shall promptly supply such information in the reports required hereunder. Housing Authority shall maintain all necessary books and records, including property, personal and financial records, in accordance with requirements prescribed by the Agency with respect to all matters covered by this Covenant. Housing Authority, at such time and in such forms as the Agency may require, shall furnish to Agency statements, records, reports, data and information pertaining to matters covered by this Covenant. Upon request for examination by the Agency, Housing Authority, at any time during normal business hours, shall make available all of its records with respect to all matters covered by this Covenant. Housing Authority shall permit the Agency to audit, examine and make excerpts or transcripts from these records.

2. LIMITATIONS ON TRANSFER.

A. No voluntary or involuntary successor in interest of Housing Authority shall acquire any interest in the Property except as expressly set forth herein. It is hereby expressly stipulated and agreed that any assignment, sale, transfer or other disposition of the Property, or any portion(s) thereof or interest(s) therein, in violation of this Section 2 shall be null, void and without effect, shall cause a reversion of title to Housing Authority, and shall be ineffective to relieve Housing Authority of its obligations under this Covenant. Upon any assignment, sale, transfer or other disposition of the Property that complies with the requirements of this Section 2, Housing Authority shall be fully released from its obligations hereunder to the extent such

obligations have been fully assumed in writing by the transferee of the Property pursuant to an assignment and assumption agreement in a form reasonably acceptable to the Agency's legal counsel. No later than the date the assignment becomes effective, Housing Authority shall deliver to Agency a fully executed counterpart of the assignment and assumption agreement. Housing Authority shall request approval by written notice at least sixty (60) days prior to any proposed assignment, sale, transfer or other disposition of the Property, or any portion(s) thereof or interest(s) therein.

B. Housing Authority shall not assign, sell or transfer the Property, or any portion(s) thereof, or interest(s) therein without the prior written approval of the Agency's Executive Director, which approval shall not be unreasonably withheld or delayed, and shall be granted upon Agency's receipt of evidence acceptable to Agency that the following conditions have been satisfied:

1. Housing Authority is not in default hereunder or the purchaser or assignee agrees to undertake to cure any defaults of Housing Authority to the reasonable satisfaction of Agency;

2. The continued operation of the Property shall comply with the provisions of this Covenant;

3. Either (i) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other state or federal laws or regulations or local governmental requirements applicable to such projects, or (ii) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (i) above, or (iii) Housing Authority or its management company will continue to manage the Property for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Units;

4. The person or entity which is to acquire the Property does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation and regulatory agreement compliance of any of its projects as identified by any local, state or federal regulatory agencies; and

5. The proposed purchaser or assignee enters into a written assignment and assumption agreement in form and content reasonably satisfactory to Agency's legal counsel, and, if requested by Agency, an opinion of such purchaser or assignee's counsel to the effect that this Covenant is valid, binding and enforceable obligations of such purchaser or assignee, subject to bankruptcy and other standard limitations affecting creditor's rights.

C. Notwithstanding any other provision of this Covenant to the contrary, Agency approval of an assignment, sale or transfer of the Property or any interest therein shall not be required in connection with any of the following:

1. The granting of temporary or permanent easements or permits to facilitate development of the Improvements;

2. Any assignment for financing purposes, including the grant of a deed of trust, assignment of rents and security agreement to secure the funds necessary for construction and permanent financing of the Improvements;

3. Any transfer by foreclosure or deed in lieu of foreclosure; and

4. The rental of the Units in accordance with the terms of this Covenant.

D. Nothing in this Covenant shall be deemed to restrict Housing Authority's right to encumber the Property for the benefit of lenders providing financing for the Property.

E. Nothing in this Section 2 or elsewhere in this Covenant shall prohibit (i) sale or transfer of all or any portion of the Property through foreclosure of a mortgage or deed of trust, (ii) transfer to the holder of such permitted mortgage or deed of trust by deed in lieu of foreclosure or (iii) transfer of the Property by any such holder subsequent to acquisition by foreclosure or deed in lieu. Agency shall not be obligated to pay the Agency Assistance to any transferee of the Property after foreclosure or transfer in lieu of foreclosure unless such transferee assumes all of Housing Authority's obligations under this Covenant.

F. Notwithstanding the provisions of Section 2.E, any successor of Housing Authority to the Property shall be bound by the covenants, conditions, restrictions, limitations and provisions set forth in this Covenant, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

3. NO DISCRIMINATION.

A. Obligation to Refrain from Discrimination. Housing Authority covenants and agrees for itself, its successors, its assigns and every successor-in-interest to all or any portion of the Property, that there shall be no discrimination against or segregation of any person, or group of persons, on account of gender, sexual orientation, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property nor shall Housing Authority, itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of purchasers, Housing Authority, lessees, sub-lessees or vendees of the Property. The covenant of this Section 3 shall be a covenant running with the Property and shall be enforceable by the Agency.

B. Form of Non-discrimination and Non-segregation Clauses. Housing Authority covenants and agrees for itself, its successors, its assigns, and every successor-in-interest to all or any portion of the Property, that Housing Authority, and such successors and such assigns, shall refrain from restricting the rental, sale or lease of the Property on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

1. In deeds: “(1) The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

2. In leases: “(1) The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).”

3. In contracts: “There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed or leased, nor shall the transferee or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants,

lessees, sub-lessees, sub-tenants, or vendees of the premises herein transferred.” The foregoing provision shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.”

4. MAINTENANCE AND MANAGEMENT.

A. Housing Authority shall maintain in accordance with the Maintenance Standards the Property, including, but not be limited to, buildings, sidewalks, pedestrian lighting, landscaping, irrigation of landscaping, architectural elements identifying the Property and any and all other improvements on the Property, including the Improvements, and in the public right-of-way to the nearest curblin(e) abutting the Property. To accomplish the maintenance, Housing Authority shall either staff or contract with and hire licensed and qualified personnel to perform the maintenance work, including the provision of labor, equipment, materials, support facilities, and any and all other items necessary to comply with the requirements of this Covenant. The maintenance covenants and obligations set forth in this Section 4 shall remain in effect for the Term of this Covenant.

B. The following standards (collectively, “Maintenance Standards”) shall be complied with by Housing Authority and its maintenance staff, contractors and subcontractors but do not require extraordinary expenditures or reconstruction after condemnation or the occurrence of a substantial casualty event:

1. Landscape maintenance shall include: watering/irrigation; fertilization; mowing; edging; trimming of grass; tree and shrub pruning; trimming and shaping of trees and shrubs to maintain a healthy, natural appearance, safe road conditions and visibility, and irrigation coverage; replacement, as needed, of all plant materials; control of weeds in all planters, shrubs, lawns, ground covers, or other planted areas; and staking for support of trees.

2. Clean-up maintenance shall include: maintenance of all sidewalks, paths and other paved areas in clean and weed-free condition; maintenance of all such areas clear of dirt, mud, trash, debris or other matter which is unsafe or unsightly; removal of all trash, litter and other debris from improvements and landscaping prior to mowing; clearance and cleaning of all areas maintained prior to the end of the day on which the maintenance operations are performed to ensure that all cuttings, weeds, leaves and other debris are properly disposed of by maintenance workers.

3. All maintenance work shall conform to all applicable federal and state Occupation Safety and Health Act standards and regulations for the performance of maintenance.

4. Any and all chemicals, unhealthful substances, and pesticides used in and during maintenance shall be applied in strict accordance with all governmental requirements. Precautionary measures shall be employed recognizing that all areas are open to public access.

5. The Property shall be maintained in accordance with the custom and practice generally applicable to comparable multi-family residential units located within Newman, California. The public right-of-way improvements to the curblin(e) on and abutting the Property shall be maintained in good condition and in accordance with the custom and practice generally applicable to public rights-of-way within the City of Newman.

C. If the Housing Authority does not maintain the Property in accordance with the Maintenance Standards, Agency and/or the City shall have the right to maintain the Property, or to contract for the correction of such deficiencies. However, prior to taking any such action, Agency agrees to notify Housing Authority in writing if the condition of said improvements does not conform to the Maintenance Standards and to specify the deficiencies and the actions required to be taken by Housing Authority to cure the deficiencies. Upon notification of any maintenance deficiency, Housing Authority shall have thirty (30) days within which to correct, remedy or cure the deficiency. If the written notification states that the problem is urgent and relates to the public health and safety, then Housing Authority shall have twenty-four (24) hours to rectify the problem. If Agency and/or City exercise their right to maintain the Property pursuant to this Section 4.C, then Housing Authority agrees to pay Agency upon demand all charges and costs incurred by Agency or City for such maintenance. Until so paid, the Agency shall have a lien on the Property for the amount of such charges or costs, which lien shall be perfected by the recordation of a "Notice of Claim of Lien" against the Property. Any lien in favor of the Agency created or claimed hereunder is expressly made subject and subordinate to any mortgage or deed of trust made in good faith and for value, recorded as of the date of the recordation of the Notice of Claim of Lien, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of any such mortgage or deed of trust, unless the mortgagee or beneficiary thereunder expressly subordinates his interest, of record, to such lien. No lien in favor of the Agency created or claimed hereunder shall in any way defeat, invalidate, or impair the obligation or priority of any lease, sublease or easement unless such instrument is expressly subordinated to such lien. Housing Authority acknowledges and agrees that the City and Agency may also pursue any and all other remedies available in law or equity in the event of a breach of the Maintenance Standards, subject to the limitations otherwise set forth in this Covenant.

5. NO IMPAIRMENT OF LIEN.

No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Covenant shall defeat or render invalid or in any way impair the lien or charge of any mortgage, deed of trust or other financing or security instrument; provided, however, that any successor of Housing Authority to the Property shall be bound by such covenants, conditions, restrictions, limitations and provisions, whether such successor's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

6. DURATION.

The covenants set forth at Sections 1, 2, and 4 shall remain in effect until the date that is fifty-five (55) years from the date of recordation of this Covenant. The covenants set forth at Section 3 shall remain in effect in perpetuity.

7. DEFAULT.

A. Any failure by Housing Authority to perform any term or provision of this Covenant shall constitute an "Event of Default" (1) if Housing Authority does not cure such failure within thirty (30) days following written notice of default from Agency, including notice and opportunity to cure for lenders approved by the Agency, or (2) if such failure is not of a nature which can be cured within such thirty (30) day period, the Housing Authority does not within such thirty (30) day period commence substantial efforts to cure such failure, or thereafter

does not within a reasonable time prosecute to completion with diligence and continuity the curing of such failure. Agency shall not enforce any of its rights and remedies for breach by Housing Authority except upon the occurrence of an Event of Default.

B. Any notice of default given hereunder shall specify in detail the nature of the failure in performance which Agency claims constitutes the Event of Default and the manner in which such Event of Default may be satisfactorily cured in accordance with the terms and conditions of this Covenant. During the time periods herein specified for cure of a failure to perform, including the opportunities to cure for lenders approved by the Agency, Housing Authority shall not be considered to be in default of this Covenant for any purposes.

C. Any failure or delay by Agency in asserting any of its rights or remedies as to any Event of Default shall not operate as a waiver of any Event of Default or of any such rights or remedies or deprive Agency of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

8. ESTOPPEL CERTIFICATE.

Either Party may, at any time, and from time to time, deliver written notice to the other Party requesting such Party to certify in writing that, to the current, actual knowledge of the certifying Party, (a) this Covenant is in full force and effect and a binding obligation of the Parties, (b) this Covenant has not been amended or modified or, if so amended or modified, identifying the amendments or modifications, and (c) the requesting Party is not in default in the performance of its obligations under this Covenant, or if in default, to describe therein the nature and extent of any such defaults. The requesting Party may designate a reasonable form of certificate (including a lender's form) and the Party receiving a request hereunder shall execute and return such certificate or give a written, detailed response explaining why it will not do so within thirty (30) days following the receipt thereof. Failure of Housing Authority to execute an estoppel certificate shall not be deemed a default, provided that in the event Housing Authority does not respond within the required thirty (30) day period, Agency may send a second and final request to Housing Authority and failure of Housing Authority to respond within fifteen (15) days from receipt thereof (but only if Agency's request contains a clear statement that failure of Housing Authority to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by Housing Authority of the estoppel certificate and may be relied upon as such by Agency, tenants, transferees, investors, bond counsel, underwriters and bond holders. Failure of Agency to execute an estoppel certificate shall not be deemed a default, provided that in the event Agency fails to respond within the required thirty (30) day period, Housing Authority may send a second and final request to Agency, and failure of Agency to respond within fifteen (15) days from receipt thereof (but only if Housing Authority's request contains a clear statement that failure of Agency to respond within this fifteen (15) day period shall constitute an approval) shall be deemed approval by Agency of the estoppel certificate and may be relied upon as such by Housing Authority, tenants, transferees, investors, partners, bond counsel, underwriters and bond holders.

9. SUCCESSORS AND ASSIGNS.

The covenants contained in this Covenant shall be binding for the benefit of the Agency and its respective successors and assigns and any successor in interest to the Property or any part

thereof, and such covenants shall run in favor of Agency and such aforementioned parties for the entire period during which such covenants shall be in force and effect, without regard to whether Agency is or remains an owner of any land or interest therein to which such covenants relate. Agency, and such aforementioned parties, in the event of any breach of any such covenants, shall have the right to exercise all of the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach. The covenants contained in this Covenant shall be for the benefit of and shall be enforceable only by Agency, and its respective successors and such aforementioned parties.

10. ATTORNEYS FEES AND COSTS.

In any action brought to enforce this Covenant, the prevailing party shall be entitled to all costs and expenses of suit, including reasonable attorneys' fees.

11. RECORDING AND FILING.

This Agency and Housing Authority shall cause this Covenant to be recorded against the Property in the Official Records of Stanislaus County.

12. NOTICE.

All notices given or certificates delivered under this Covenant shall be in writing and be deemed received on the delivery or refusal date shown on the delivery receipt, if (i) personally delivered by a commercial service which furnishes signed receipts of delivery or (ii) mailed by certified mail, return receipt requested, postage prepaid, addressed as follows:

Agency: Newman Redevelopment Agency
1162 Main Street
P. O. Box 787
Newman, CA 95360
Attention: Executive Director

Housing
Authority: Housing Authority of the County of Stanislaus
1701 Robertson Road
Modesto, CA 95351
Attention: Executive Director

Any of the Parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates of communications shall be sent.

13. SEVERABILITY.

If any provision of this Covenant shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions of this Covenant shall not in any way be affected or impaired thereby.

14. COUNTERPARTS.

This Covenant may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

[Signatures on following page]

IN WITNESS WHEREOF, Agency and Housing Authority have caused this Covenant to be executed on their behalf by their respective officers thereunto duly authorized.

AGENCY:

THE NEWMAN REDEVELOPMENT
AGENCY, a public body, corporate and
politic

Dated: _____

By: _____

Name: Michael E. Holland

Title: Executive Director

ATTEST:

By: _____

Agency Secretary

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: _____

Agency Counsel

HOUSING AUTHORITY:

THE HOUSING AUTHORITY OF THE
COUNTY OF STANISLAUS, a California
housing authority

Dated: _____

By: _____

Name:

Title: Executive Director

ATTEST:

By: _____

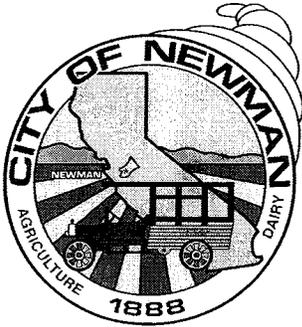
Authority Secretary

APPROVED AS TO FORM:

By: _____

Authority Counsel

Exhibit 1
Property Description



City of Newman
Executive Director's Office
Memorandum

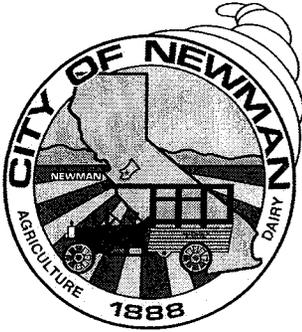
Date: March 4, 2011

To: Redevelopment Agency Board

From: Michael E. Holland, Executive Director *MH*

Subject: March 8th Meeting – Item No. 10.e.

Based upon the recent actions of the Assembly & Senate joint budget committee yesterday, staff is now recommending the Redevelopment Agency gift \$10,000 to the West Side Theatre Foundation to be used towards physical improvements at the West Side Theatre. Improvements include, but are not limited to, painting, floor and stage rehabilitation, and ADA accessibility.



City of Newman
Executive Director's Office
Memorandum

Date: March 4, 2011

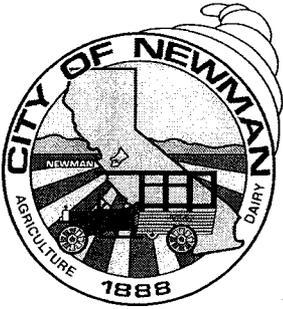
To: Redevelopment Agency Board

From: Michael E. Holland, Executive Director

MEL

Subject: March 8th Meeting – Item No. 10.f.

Based upon the recent actions of the Assembly & Senate joint budget committee yesterday, staff is now recommending the Redevelopment Agency transfers all real property assets to the City of Newman. Said properties include 919 Fresno Street (McBride Building) and 1571/1583 Merced Street (Howard B. Hill Park). If the Governor's proposal continues to move forward as presented, these assets could be potentially confiscated and sold. All documents necessary for the transfer are being drafted by our attorneys and will be presented prior to the March 8th meeting.



City of Newman
Executive Director's Office
Memorandum

Date: March 4, 2011

To: Redevelopment Agency Board

From: Michael E. Holland, Executive Director *MH*

Subject: March 8th Meeting – Item No. 10.g.

Agenda Item 9.b, if approved, requires the Redevelopment Agency to set up a Fee Offset Fund to assist Low and Moderate buyers in the Sherman Ranch subdivision. Based upon the recent actions of the State, staff recommends the Agency encumber those funds immediately. Upon final approval of the Ordinance Amendment and expiration of the appeal period, staff will release those funds for their intended use. Again, our attorneys are preparing the documents necessary to complete this action. Staff will distribute said documents prior to the March 8th meeting.