AGENDA
NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD
REGULAR MEETING FEBRUARY 18, 2014
CITY COUNCIL CHAMBERS, 3:30 P.M., 938 FRESNO STREET

1. **Call To Order.**

2. **Roll Call.**

3. **Items from the Public - Non-Agenda Items.**

4. **Approval Of Minutes From The September 20, 2013 Meeting.** (View Minutes)

5. **Public Hearing**

   a. Adopt Resolution No. 2014- , A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Approving And Directing The Disposition Of Properties Owned By The Former Redevelopment Agency Of The City Of Newman For Governmental And Non-Governmental Purposes And In Accordance With The Approved Long Range Property Management Plan. (View Report)

6. **Regular Business**

   a. Adopt Resolution No. 2014- , A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Directing And Authorizing The Transfer Of Redevelopment Agency Housing Assets To The City Of Newman As The Successor Housing Entity, Pursuant To Health And Safety Code Sections 34177 And 34181. (View Report)

   b. Adopt Resolution No. 2014- , A Resolution Of The Newman Redevelopment Successor Agency Oversight Board, Approving A Recognized Obligation Payment Schedule Pursuant To Health And Safety Code Section 34177(m). (View Report)

   c. Adopt Resolution No. 2014- , A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Approving The Agreement For Repayment Of The Loan From The Low And Moderate Income Housing Fund To Make The 2009-2010 and 2010-2011 SERAF Payments. (View Report)

7. **Items From Board Members.**

8. **Items From The City Manager And Staff.**

9. **Adjournment.**

MINUTES
NEWMAN REDEVELOPMENT SUCCESSOR AGENCY
OVERSIGHT BOARD
REGULAR MEETING SEPTEMBER 20, 2013
CITY COUNCIL CHAMBERS, 10:00 A.M., 938 FRESNO STREET

1. **Call To Order** Vice-Chairperson Ocasio 10: 02 A.M.

2. **Roll Call - PRESENT:** Board Members - Jim DeMartini, Anne DeMartini, Hunewill, And Ocasio.
   ABSENT: Felt And Hutchins.

3. **Items from the Public - Non-Agenda Items** – None.

4. **Approval Of Minutes From The February 14, 2013 And April 18, 2013 Meetings.**

ACTION: Due To A Lack Of A Quorum Of Board Members Present At The Both The And April 18, 2013 And The February 14, 2013 Oversight Board Meetings, Item 4 Was Postponed To Next Meeting.

5. **Regular Business**

   a. Adopt Resolution No. 2013-3, A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Approving A Long Range Property Management Plan Pursuant To Health And Safety Code Section 34191.5.

Finance Director Humphries Reviewed The Long Range Property Management Plan

ACTION: On Motion By Anne DeMartini Seconded By S. Ocasio And Unanimously Carried, Resolution No. 2013-3, A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Approving A Long Range Property Management Plan Pursuant To Health And Safety Code Section 34191.5., Was Adopted.

   b. Adopt Resolution No. 2013-4, A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Approving A Recognized Obligations Payment Schedule Pursuant To Health And Safety Code Section 34177(m).

Finance Director Humphries Reviewed The Recognized Obligations Payment Schedule.

ACTION: On Motion By A. DeMartini Seconded By Hunewill And Unanimously Carried, Resolution No. 2013-4, A Resolution Of The Newman Redevelopment Successor Agency Oversight Board Approving A Long Range Property Management Plan Pursuant To Health And Safety Code Section 34191.5., Was Adopted.

6. **Items From Board Members –** None.

7. **Items From The City Manager And Staff**

Finance Director Humphries Noted That The Board Would Need To Approve Another Recognized Obligations Payment Schedule In March And That They May Need To Meet Again Regarding City Reimbursements Pertaining To RDA And Oversight Expenditures.

8. **Adjournment.**

ACTION: On Motion By Hunewill Seconded By Jim DeMartini And Unanimously Carried, The Meeting Was Adjourned At 10:12A.M.

Agenda Item: 5.a.

Honorable Chairman and Members of the
Newman Redevelopment Successor Agency
Oversight Board

Board Meeting
of February 18, 2014

RESOLUTIONS OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD, APPROVING AND DIRECTING THE DISPOSITION OF PROPERTIES OWNED BY THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF NEWMAN FOR GOVERNMENTAL AND NON-GOVERNMENTAL PURPOSES AND IN ACCORDANCE WITH THE APPROVED LONG RANGE PROPERTY MANAGEMENT PLAN

RECOMMENDATION:
It is recommended that the Oversight Board adopt Resolution No. 2014 – and 2014 – approving the disposition of properties for (i) governmental purposes and (ii) for private development pursuant to a Purchase and Sale Agreement with Carolyn Beach, pursuant to Health and Safety Code Sections 34177 and 34181.

BACKGROUND:
Pursuant to Health and Safety Code Section 34172, the Redevelopment Agency of the City of Newman ("Agency") was dissolved as of February 1, 2012. The City of Newman ("Successor Agency") is the successor agency to the Agency.

ANALYSIS:
Pursuant to Health and Safety Code Section 34191.4, after the Successor Agency received a finding of completion ("FOC") from the Department of Finance ("DOF"), the Successor Agency must prepare a Long Range Property Management Plan (the "Plan"). The Successor Agency received a FOC on April 3, 2013 and prepared a Plan, which has been approved by the Oversight Board and DOF.

Before properties may be transferred in accordance with an approved Plan, the Oversight Board must hold a public hearing, after giving 10 days' notice, on the proposed dispositions of assets and property, pursuant to Health and Safety Code section 34181. A notice that the Oversight Board would hold a public hearing on February 18, 2014 was published on February 7, 2014.

In accordance with the Plan, there are five (5) properties to be considered for disposition by the Oversight Board as follows:

1. 2161 L Street -- proposed sale to Carolyn Beach, pursuant to a Real Property Purchase and Sale Agreement and Joint Escrow Instructions, a copy of which is enclosed. The sale and development will allow for the expansion of the adjacent manufacturing business.

2. 919 Fresno Street – transfer to City for governmental purposes.

3. 1361 N Street – transfer to City for governmental purposes.

4. 1571 Merced Street – transfer to City for governmental purposes Merced Street (no street address) – transfer to City for governmental purposes

Pursuant to Health and Safety Code sections 34179(h) and 34181, because the State of California Department of Finance may review Oversight Board actions, the Oversight Board's action to approve the transfer of housing assets and functions to the Successor Housing Entity is not effective for five (5) business days, pending a request for review by the State of California Department of Finance.

FISCAL IMPACT:
No new funds are involved with the transfer of the properties of the former Redevelopment Agency as proposed, but the sale of 2161 L Street will general additional property and sales tax, as well as employment opportunities, which will benefit all taxing entities.

CONCLUSION:

Staff recommends that the Oversight Board adopt (1) Resolution No. 2014 – approving the disposition of 2161 L Street pursuant to the Purchase and Sale Agreement with Carolyn Beach; and (2) Resolution No. 2012 – approving the disposition of four (4) properties to the City to be used for governmental purposes.

ATTACHMENTS:

1. Approved Long Range Property Management Plan
2. Resolution 2014 - Approving and Directing the Disposition of Property Owned by the Former Redevelopment Agency of the City of Newman to Carolyn Beach in accordance with the approved Long Range Property Management Plan
3. Resolution 2014 - Approving and Directing the Disposition of Property Owned by the Former Redevelopment Agency of the City of Newman for Governmental Purposes in Accordance with the Approved Long Range Property Management Plan

Respectfully submitted,

Lewis A. Humphries
Finance Director

REVIEWED/CONCUR

Michael Holland
City Manager

DEPARTMENT OF FINANCE
EDMUND G. BROWN JR. • GOVERNOR
915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

November 25, 2013

Mr. Lewis Humphries, Finance Director
City of Newman
938 Fresno Street
Newman, CA 95360

Dear Mr. Lewis Humphries:

Subject: Long-Range Property Management Plan

Pursuant to Health and Safety Code (HSC) section 34191.5 (b), the City of Newman Successor Agency (Agency) submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (Finance) on April 24, 2013. The Agency subsequently submitted a revised LRPMP to Finance on September 24, 2013. Finance has completed its review of the LRPMP, which may have included obtaining clarification for various items.

The Agency received a Finding of Completion on April 3, 2013. Based on our review and application of the law, we are approving the Agency's use or disposition of all the properties listed on the LRPMP.

In accordance with HSC section 34191.4, upon receiving a Finding of Completion from Finance and approval of a LRPMP, all real property and interests in real property shall be transferred to the Community Redevelopment Property Trust Fund of the Agency, unless that property is subject to the requirements of an existing enforceable obligation. Pursuant to HSC section 34191.3 the approved LRPMP shall govern, and supersede all other provisions relating to, the disposition and use of all the real property assets of the former redevelopment agency.

Agency actions taken pursuant to a Finance approved LRPMP are subject to oversight board (OB) approval per HSC section 34181 (f). Any subsequent OB actions addressing the Agency's implementation of the approved LRPMP should be submitted to Finance for approval.

Please direct inquiries to Wendy Griffe, Supervisor, or Medy Lamorena, Lead Analyst at (916) 445-1546.

Sincerely,

JUSTYN HOWARD
Assistant Program Budget Manager

cc: Mr. Michael Holland, City Manager, City of Newman
Ms. Lauren Klein, Auditor-Controller, County of Stanislaus
California State Controller's Office

HSC 34191.5 (c)(1)(E)	HSC 34191.5 (c)(1)(F)	HSC 34191.5 (c)(1)(G)				
Contractual requirements for use of income/revenue	History of environmental contamination, studies, and/or remediation, and designation as a brownfield site	Description of property's potential for transit oriented development	Advancement of planning objectives of the successor agency	Estimate of income/Revenue		
None	None	None	Slated for sale	-		
None	None	None	Building being cleaned up	-		
None	Barred drum of oil that was cleaned and Stanislaus County Department of Environmental Resources reported no further contamination	None	Lawn	-		
None	None	None	Designed	-		
None	None	None	Parking Lot and Park	-		
None	None	None	Slated for sale	-		

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

#1 2161 'L' STREET

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

#2 919 FRESNO ST.

#3 1361 'N' ST.

To see all the details that are visible on the screen, use the "Print" link next to the map.

Google

#4 1571 MERCED ST

#5 MERCED ST.

Imagery ©2013 Google, Map data ©2013 Google

#6 2030 PRINCE ST.

RESOLUTION NO. 2014-

A RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD APPROVING AND DIRECTING THE DISPOSITION OF PROPERTY OWNED BY THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF NEWMAN IN ACCORDANCE WITH THE APPROVED LONG RANGE PROPERTY MANAGEMENT PLAN

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Newman ("Successor Agency") is the successor agency to the former Redevelopment Agency of the City of Newman ("Agency"), confirmed by the minutes of the January 10, 2012 regular City Council meeting, and pursuant to Health and Safety Code Section 34173(g) is a separate public entity from the City; and

WHEREAS, pursuant to Health and Safety Code Section 34179(a), the Oversight Board is the Successor Agency's oversight board; and

WHEREAS, the Successor Agency received a finding of completion (the "FOC") from the Department of Finance on April 3, 2013; and

WHEREAS, pursuant to Health and Safety Code section 34191.4, the Successor Agency prepared a Long Range Management Plan (the "LRPMP"), which has been approved by the Oversight Board and the Department of Finance; and

WHEREAS, pursuant to Health and Safety Code section 34181, prior to considering the disposition of any property, the oversight board must hold a public hearing after at least 10 days' notice to the public of the specific proposed actions; and

WHEREAS, a public notice of the Oversight Board's consideration at a public hearing regarding the disposition of specific properties was published on February 7; and

WHEREAS, the Oversight Board held a public hearing on February 18, 2014 regarding the proposed dispositions of specific properties former owned by the Redevelopment Agency and received public comments; and

WHEREAS, the proposed dispositions of the properties is consistent with the approved LRPMP;

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY FOR THE CITY OF NEWMAN DOES HEREBY RESOLVE AND FIND AS FOLLOWS:

Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

CEQA Compliance. The transfer of properties set forth through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Stanislaus California, within five (5) days following the date of adoption of this Resolution.

Designation and Direction for Disposition of Properties Pursuant to Purchase and Sale Agreement. The Oversight Board hereby approves the sale of the property described in the Real Property Purchase and Sale Agreement and Joint Escrow Instructions, attached hereto as Exhibit A and incorporated herein by reference, pursuant to Health and Safety Code Section 34181. Based on the

evidence contained in the staff report and presented at the public hearing, the Oversight Board finds that the disposition of the property will result in greater revenues to the taxing entities by transferring ownership to a private party. The proposed buyer is a co-owner of Westside Pallet, Inc., a manufacturing facility adjacent to the property to be purchased, who wishes to expand the operations. In addition, the purchase price of the property is equal to fair market value. The sale and development of the site to expand an existing business will result in redevelopment and reuse of a currently vacant and underutilized parcel of land, increase employment opportunities within the City and generate additional property and sales taxes produced from the site.

Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Certification. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

Effective Date. Pursuant to Health and Safety Code sections 34179(h) and 34181, all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

The foregoing resolution was introduced at a regular meeting of the Newman Redevelopment Successor Agency Oversight Board held on the 18th of February, 2014 by Board 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:

_____
Chairman of the Newman Redevelopment
Successor Agency Oversight Board

ATTEST:

_____
Secretary of the Newman Redevelopment
Successor Agency Oversight Board

EXHIBIT "A"

[Insert Purchase and Sale Agreement with Carolyn Beach]

REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (2161 L Street, Newman, CA)

by and between the

SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY

and

CAROLYN BEACH

REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2161 L Street, Newman, CA)

This REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (2161 L Street, Newman, CA) ("**Agreement**") is dated as of September 14, 2012, for reference purposes only, and is entered into by and between the SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY ("**Seller**" or "**Successor Agency**"), and CAROLYN BEACH ("**Buyer**"). Seller and Buyer enter into this Agreement with reference to the following recitals of fact (each, a "**Recital**"):

RECITALS

A. The Newman Redevelopment Agency ("Agency") owned that certain real property consisting of approximately 3.36 acres of real property located at 2161 L Street in the City of Newman (Merced County APN 054-220-001) (the "**Site**"), more specifically defined in Section 1 of this Agreement.

B. Pursuant to AB 1X 26, which took effect June 29, 2011, and the decision of the California Supreme Court in *California Redevelopment Association et al., v. Ana Matosantos, et al.* (Case No. S194861), all redevelopment agencies were deemed dissolved on February 1, 2012. However, pursuant to the authority provided in Health and Safety Code Section 34173, as enacted by AB 1X 26, the City Council of the City of Newman ("City") elected and determined that the City shall become the "successor agency" to the former Newman Redevelopment Agency, and upon dissolution of the Agency under AB 1X 26, all authorities, rights, powers, duties and obligations previously vested with the former Agency, under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), were vested in the Successor Agency.

C. Health and Safety Code Section 34177, added by AB 1X 26, requires the Successor Agency to wind down the affairs of the former redevelopment agency, including disposing of assets and properties of the former agency, expeditiously and in a manner aimed at maximizing value.

D. Buyer owns and operates a pallet manufacturing facility located adjacent to the Site, and has submitted a proposal to the Successor Agency to acquire the Site for expansion of Buyer's business operations. Buyer is proposing to purchase the Site for a price equal to the fair market value of the property. In addition, development and use of the Site in accordance with this Agreement will result in redevelopment and reuse of a currently vacant and underutilized parcel of land, expansion of an existing long-running commercial business within the City, increased employment opportunities within the City, and additional property taxes and sales taxes produced from the Site, which will result in future revenues for the benefit to the City and the other affected taxing agencies that will receive property taxes generated from the Site.

E. Seller and Buyer desire to enter into this Agreement to provide for Buyer's acquisition of the Site at its "as is" fair market value of the fee simple estate.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS OF SELLER AND BUYER SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, SELLER AND BUYER AGREE, AS FOLLOWS:

TERMS AND CONDITIONS

1. DEFINITIONS

1.1 Definitions. The following words, terms and phrases are used in this Agreement with the following meanings, unless the particular context or usage of a word, term or phrase requires another interpretation:

1.1.1 **Agreement**. This Real Property Purchase and Sale Agreement and Joint Escrow Instructions (2161 L Street, Newman, CA) by and between Seller and Buyer, including all of the attached exhibits.

1.1.2 **Approval**. Any approval, consent, certificate, ruling, authorization or amendment to any of the foregoing, as shall be necessary or appropriate under any Law to complete the purchase and sale of the Site.

1.1.3 **Business Day**. Any weekday on which the Seller is open to conduct regular governmental functions.

1.1.4 **Buyer**. Carolyn Beach, and any assignee of or successor to the rights, powers or responsibilities of Carolyn Beach, under this Agreement.

1.1.5 **Buyer Title Policy**. A standard CLTA owner's policy of title insurance issued by the Title Company, with coverage in the amount of the Purchase Price, showing title to the Site vested in Buyer, subject to Permitted Exceptions.

1.1.6 **CEQA**. The California Environmental Quality Act, Public Resources Code Section 21000, *et seq*. and implementing regulations contained in Title 14, Chapter 3, Section 15000, *et seq.* of the California Code of Regulations.

1.1.7 **CEQA Documents**. Any exemption determination, any Negative Declaration (mitigated or otherwise) or any Environmental Impact Report (including any addendum or amendment to, or subsequent or supplemental Environmental Impact Report) required or permitted by any Government Agency, pursuant to CEQA, to issue any discretionary Approval required to approve this Agreement.

1.1.8 **City**. The City of Newman, a California municipal corporation.

1.1.9 **City Manager**. The City Manager of City or his or her designee or successor in function.

1.1.10 **Claim**. Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature, and, if an Indemnitor improperly fails to provide a defense for an Indemnitee, then Legal Costs of the Indemnitee) and any judgment.

1.1.11 **Close of Escrow**. The first date on which the Escrow Agent has filed the Seller Deed with the County for recording in the official records of the County.

1.1.12 **County**. The County of Stanislaus, California.

1.1.13 **Default**. An Escrow Default, a Monetary Default or a Non-Monetary Default.

1.1.14 **Deposit**. Five Thousand Dollars and No Cents ($5,000.00).

1.1.15 **Due Diligence Completion Notice**. A written notice from Buyer delivered to both Seller and Escrow Agent, prior to the end of the Due Diligence Period, indicating Buyer's unconditional acceptance of the condition of the Site or indicating Buyer's rejection of the condition of the Site and refusal to accept a conveyance of title to the Site, describing in reasonable detail the actions that Buyer reasonably believes are indicated to allow Buyer to unconditionally accept the condition of the Site.

1.1.16 **Due Diligence Investigations**. Buyer's due diligence investigations of the Site to determine the suitability of the Site, including investigation of the environmental and geotechnical suitability of the Site, as deemed appropriate in the discretion of Buyer, all at the sole cost and expense of Buyer.

1.1.17 **Due Diligence Period**. The time period of sixty (60) continuous days commencing on the day immediately following the Escrow Opening Date.

1.1.18 **Environmental Claim**. Any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements or expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law or Hazardous Substance Discharge.

1.1.19 **Environmental Laws**. All Federal, State, local (including City) laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any government authority, now in effect or enacted after the Effective Date, regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use or pertaining to occupational health or industrial hygiene or occupational or environmental conditions on, under or about the Site, as now or may at any later time be in effect, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") [42 USC Section 9601 *et seq.*]; the Resource Conservation and Recovery

Act of 1976 ("RCRA") [42 USC Section 6901 *et seq.*]; the Clean Water Act, also known as the Federal Water Pollution Control Act ("FWPCA") [33 USC Section 1251 *et seq.*]; the Toxic Substances Control Act ("TSCA") [15 USC Section 2601 *et seq.*]; the Hazardous Materials Transportation Act ("HMTA") [49 USC Section 1801 *et seq.*]; the Insecticide, Fungicide, Rodenticide Act [7 USC Section 6901 *et seq.*] the Clean Air Act [42 USC Section 7401 *et seq.*]; the Safe Drinking Water Act [42 USC Section 300f *et seq.*]; the Solid Waste Disposal Act [42 USC Section 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 USC Section 101 *et seq.*] the Emergency Planning and Community Right to Know Act [42 USC Section 11001 *et seq.*]; the Occupational Safety and Health Act [29 USC Section 655 and 657]; the California Underground Storage of Hazardous Substances Act [California Health & Safety Code Section 25288 *et seq.*]; the California Hazardous Substances Account Act [California Health & Safety Code Section 25300 *et seq.*]; the California Safe Drinking Water and Toxic Enforcement Act [California Health & Safety Code Section 24249.5 *et seq.*]; or the Porter-Cologne Water Quality Act [California Water Code Section 13000 *et seq.*]; together with any regulations promulgated under the authorities referenced in this Section 1.1.25.

1.1.20 **Escrow**. An escrow, as defined in Civil Code Section 1057 and Financial Code Section 17003(a), that is conducted by the Escrow Agent with respect to the sale of the Site from Seller to Buyer pursuant to this Agreement.

1.1.21 **Escrow Agent**. Gina Belletto at Chicago Title Company or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.22 **Escrow Closing Date**. The date that is not later than sixty (60) calendar days following the Escrow Opening Date; or such other date mutually agreed upon in writing between the Parties for the Close of Escrow.

1.1.23 **Escrow Closing Statement**. A statement prepared by the Escrow Agent indicating, among other things, the Escrow Agent's estimate of all funds to be deposited or received by Seller or Buyer, respectively, and all charges to be paid by Seller or Buyer, respectively, through the Escrow.

1.1.24 **Escrow Default**. The unexcused failure to submit any document or funds to the Escrow Agent as reasonably necessary to close the Escrow, pursuant to the terms and conditions of this Agreement.

1.1.25 **Escrow Opening Date**. The first date on which a copy of this Agreement, signed by both Seller and Buyer, is deposited with the Escrow Agent, as provided in Section 4.1.

1.1.26 **Event of Default**. The occurrence of any one or more of the following:

(a) *Monetary Default*. A Monetary Default that continues for fifteen (15) calendar days after Notice to the Party in Default, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such amount or the bond, surety or insurance not provided;

(b) *Escrow Closing Default*. An Escrow Default that continues for seven (7) calendar days after Notice to the Party in Default, specifying in reasonable detail the document or funds not submitted;

(c) *Non-Monetary Default*. Any Non-Monetary Default that is not cured within fifteen (15) days after Notice to the Party in Default describing the Non-Monetary Default in reasonable detail. In the case of such a Non-Monetary Default that cannot with reasonable diligence be cured within fifteen (15) days after the effective date of such Notice, an Event of Default shall occur, if the Party in Default does not do all of the following: (a) within fifteen (15) days after Notice of such Non-Monetary Default, advise the other Party of the intention of the Party in Default to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such fifteen (15) day period; and (c) diligently prosecute such cure to completion within a reasonable time under the circumstances.

1.1.27 **FIRPTA Affidavit**. A certification that Seller is not a "foreign person" within the meaning of such term under Section 1445 of the United States Internal Revenue Code.

1.1.28 **Form 593**. A California Franchise Tax Board Form 593-C.

1.1.29 **Government Agency**. Any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever of any governmental unit (Federal, State, County, district, municipal, City or otherwise) whether now or later in existence.

1.1.30 **Hazardous Substance**. Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical waste, toxic substance or related material, petroleum, petroleum product and any "hazardous" or "toxic" material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a "hazardous substance" under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) designated as "hazardous substances" pursuant to 33 U.S.C. § 1321; (c) defined as a "hazardous waste" under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq*., as amended; (d) defined as a "hazardous substance" or "hazardous waste" under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, *et seq*., or any so-called "superfund" or "superlien" law; (e) defined as a "pollutant" or "contaminant" under 42 U.S.C. § 9601(33); (f) defined as "hazardous waste" under 40 C.F.R. Part 260; (g) defined as a "hazardous chemical" under 29 C.F.R. Part 1910; (h) any matter within the definition of "hazardous substance" set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act ("TSCA") [15 U.S.C. Sections 2601, *et seq*.]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, et seq.; (k) those substances listed in the United States Department of Transportation (DOT)Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 C.F.R. Part 302]; (m) defined as "hazardous waste" in Section 25117 of the California Health and Safety Code; (n) defined as a "hazardous substance" in Section 25316 of the California Health and Safety Code; (o) subject to any other Law regulating, relating to or imposing

obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) that is or becomes regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to Law.

1.1.31 **Hazardous Substance Discharge**. Any deposit, discharge, generation, release or spill of a Hazardous Substance that occurs at, on, under, into or from the Site, or during transportation of any Hazardous Substance to or from the Site, whether or not caused by a Party.

1.1.32 **Indemnify**. Where this Agreement states that any Indemnitor shall "indemnify" any Indemnitee from, against, or for a particular Claim, that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against such Claim (alleged or otherwise). "**Indemnified**" shall have the correlative meaning.

1.1.33 **Indemnitee**. Any Person entitled to be Indemnified under the terms of this Agreement.

1.1.34 **Indemnitor**. A Party that agrees to Indemnify any other Person under the terms of this Agreement.

1.1.35 **Law**. Every law, ordinance, requirement, order, proclamation, directive, rule or regulation of any Government Agency applicable to the Site, in any way, including relating to any development, construction, use, maintenance, taxation, operation, occupancy of or environmental conditions affecting the Site or otherwise relating to this Agreement or any Party's rights, obligations or remedies under this Agreement, or any Transfer of any of the foregoing, whether in force on the Effective Date or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance or exemption.

1.1.36 **Legal Costs**. In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses.

1.1.37 **Monetary Default**. Any failure by either Party to pay or deposit, when and as this Agreement requires, any amount of money, bond, surety or evidence of any insurance coverage required to be provided under this Agreement, whether to or with a Party or a Third Person.

1.1.38 **Non-Monetary Default**. The occurrence of any of the following, except to the extent constituting a Monetary Default or an Escrow Default: (a) any failure of a Party to perform any of such Party's obligations under this Agreement; (b) any failure of a Party to comply with any material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, would constitute a breach of this Agreement by a Party.

1.1.39 **Notice**. Any consent, demand, designation, election, notice, or request relating to this Agreement, including any Notice of Default. All Notices must be in writing.

1.1.40 **Notice of Default**. Any Notice claiming or giving Notice of a Default.

1.1.41 **Notify**. To give a Notice.

1.1.42 **Parties**. Collectively, Seller and Buyer.

1.1.43 **Party**. Individually, either Seller or Buyer, as applicable.

1.1.44 **Permitted Exception**. All of the following: (a) all items shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy that are approved by Buyer pursuant to Section 3.3; (b) any lien for non-delinquent property taxes or assessments; (c) any Laws applicable to the Site; (d) this Agreement; (e) any existing improvements on the Site, if any; (f) any Approval; (g) any other document or encumbrance expressly required or allowed to be recorded against the Site pursuant to the terms of this Agreement; and (h) all covenants, conditions, restrictions, reservations, rights, rights of way, easements, encumbrances, liens and other matters of record or that would be disclosed by an accurate inspection or survey of the Site.

1.1.45 **Person**. Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization or other entity of any kind.

1.1.46 **Preliminary Report**. A preliminary report issued by the Title Company in contemplation of the issuance of the Buyer Title Policy, accompanied by the best available copies of all documents listed in the preliminary report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.47 **Prohibited Encumbrance**. Any security instrument, mechanic's lien, easement, property interest or other encumbrance recorded or asserted against the Site that is not a Permitted Exception.

1.1.48 **Purchase Note.** The promissory note to be executed and delivered by Buyer, substantially in the form of **Exhibit C**, to evidence a portion of the Purchase Price, as provided in Section 3.1.

1.1.49 **Purchase Price**. Two Hundred Ninety Thousand Dollars ($290,000), which is the "as is" market value of the land as established in an appraisal report conducted by Erik Lundquist, Commercial Valuation, Inc.

1.1.50 **Purchase Deed of Trust.** The deed of trust to be executed and delivered by Buyer, substantially in the form of Exhibit D, and recorded against the Site to secure repayment of the Purchase Note, as provided in Section 3.1.

1.1.51 **Seller**. Successor Agency to the Former Newman Redevelopment Agency, designated under Health and Safety Code Section 34173, and any assignee of or successor to the rights, powers or responsibilities of the Seller.

1.1.52 **Seller Deed**. A grant deed conveying Seller's interest in the Site from Seller to Buyer, at the Close of Escrow, substantially in the form of **Exhibit B** attached to this Agreement.

1.1.53 **Seller Parties**. Collectively, the Seller, and the Seller's officials, employees, agents and attorneys.

1.1.54 **Site**. That real property, as shown in the attached **Exhibit A**, to be conveyed by the Seller to Buyer.

1.1.55 **Third Person**. Any Person that is not a Party, an affiliate of a Party or an official, officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.1.56 **Title Company**. Chicago Title Company, or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.57 **Title Notice**. A written notice from Buyer to Seller indicating Buyer's acceptance of the state of the title to the Site, as described in the Preliminary Report for the proposed Buyer Title Policy, or Buyer's disapproval or conditional approval of specific matters shown in Schedule B of such Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy for the Site, describing in suitable detail the actions that Buyer reasonably believes are indicated to obtain Buyer's unconditional approval of the state of the title to the Site.

1.1.58 **Title Notice Response**. The written response of Seller to the Title Notice, in which Seller either elects to: (a) cause the removal from the Preliminary Report of any matters disapproved or conditionally approved in the Title Notice; (b) obtain title or other insurance or endorsement in a form reasonably satisfactory to Buyer insuring against any matters disapproved or conditionally approved in the Title Notice; or (c) not take either action described in clause "(a)" or "(b)" of this Section 1.1.58.

1.1.59 **Title Notice Waiver**. A written notice from Buyer to Seller waiving Buyer's previous disapproval or conditional approval in the Title Notice of specific matters shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.60 **Unavoidable Delay**. A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strikes, labor troubles or other union activities, casualty, war, acts of terrorism, riots, litigation, governmental action or inaction, regional natural disasters or inability to obtain required materials. Unavoidable Delay shall not include delay caused by a Party's financial condition or insolvency.

2. **EFFECTIVE DATE.** This Agreement shall become effective on the first date on which all of the following have occurred: (**"Effective Date"**): (a) Seller has received three (3) counterpart originals of this Agreement signed by the authorized representative(s) of Buyer; and (b) this Agreement has been approved and executed by Seller's governing body; (c) this Agreement has been approved by the Oversight Board for the Successor Agency; and (d) this Agreement has been approved by the Department of Finance or the Department of Finance has failed to request a review of this Agreement as provided for in Health and Safety Code Section 34181.

3. **PURCHASE AND SALE OF SITE**

3.1 Purchase and Sale of Site. In accordance with and subject to all the terms, covenants and conditions of this Agreement, Seller agrees to sell, and Buyer agrees to purchase, the Site. The purchase price for the Site shall be TWO HUNDRED NINETY THOUSAND DOLLARS ($290,000.00) (the "**Purchase Price**"). The Purchase Price shall be paid by Buyer, as follows:

3.1.1 Buyer has previously paid an Appraisal Fee in the amount of ONE THOUSAND EIGHT HUNDRED DOLLARS ($1,800.00) (the "**Appraisal Fee**"), which amount shall be credited toward the Purchase Price;

3.1.2 Buyer shall pay a cash down payment in the amount of TWENTY-EIGHT THOUSAND EIGHT HUNDRED TWENTY DOLLARS ($28,820.00) ("**Cash Down Payment**"), which shall consist of the Deposit required under Section 3.3.1, and the remaining balance to be paid in cash upon Close of Escrow; and

3.1.3 Buyer shall execute a promissory note (the "**Purchase Note**") in favor of the Seller in the amount of TWO HUNDRED FIFTY-NINE THOUSAND THREE HUNDRED EIGHTY DOLLARS ($259,380.00), which equals the remaining balance of the Purchase Price to be paid by Buyer. The Purchase Note shall be secured by a deed of trust (the "**Purchase Deed of Trust**") which shall be recorded against the Site.

As a condition to and concurrently with the close of escrow for conveyance of the Site to the buyer, the Buyer shall execute and deliver the Purchase Note and the Purchase Deed of Trust into Escrow in forms substantially as set forth in **Exhibits C and D**, respectively, hereto. The Purchase Note shall require the Buyer to repay the Successor Agency over a three (3) year term, with simple interest to accrue at Three and One-Half Percent (3.5%) per annum.

3.2 Escrow. Seller shall sell and convey fee title to the Site to Buyer and Buyer shall purchase and acquire fee title to the Site from Seller, subject to the Permitted Exceptions and the terms and conditions of this Agreement. For the purposes of exchanging funds and documents to complete the sale of the Site from Seller to Buyer and the purchase of the Site by Buyer from Seller, pursuant to the terms and conditions of this Agreement, Seller and Buyer agree to open the Escrow with the Escrow Agent. The provisions of Section 4 are the joint escrow instructions of the Parties to the Escrow Agent for conducting the Escrow.

3.3 Consideration. Buyer shall purchase the Site from Seller for the Purchase Price . Buyer shall deposit the Purchase Price into the Escrow, as follows:

3.3.1 **Deposit**. Upon the Escrow Opening Date, Buyer shall deposit the Deposit into the Escrow. The Deposit shall be non-refundable unless this Agreement is thereafter terminated due to a Seller default, the failure of a Buyer's condition to Close of Escrow, a termination of this Agreement not due to Buyer's default, or as otherwise expressly provided in this Agreement. The Deposit shall be held in Escrow until the Close of Escrow and shall be applied to the Cash Down Payment portion of the Purchase Price to be paid into Escrow as provided under Section 3.1.

3.3.2 **At Close of Escrow**. At least two (2) business days preceding the Escrow Closing Date, Buyer shall deposit into the Escrow the Purchase Note, the Purchase Deed of Trust, and the Cash Down Payment, less the amount of the Deposit.

3.4 Buyer's Approval of Title to Site.

3.4.1 **Title Notice**. Within fifteen (5) days after the Escrow Opening Date, Seller shall request the Preliminary Report from the Title Company and that the Title Company deliver a copy of the Preliminary Report to Buyer. Within five (5) days following Buyer's receipt of the Preliminary Report, Buyer shall send the Title Notice to both Seller and Escrow Agent.

3.4.2 **Failure to Deliver Title Notice**. If Buyer fails to send the Title Notice to both Seller and Escrow Agent within the time period provided in Section 3.4.1, Buyer will be deemed to disapprove the status of title to the Site and refuse to accept conveyance of the Site and either Buyer or Seller shall have the right to cancel the Escrow and terminate this Agreement by Notice, in their respective sole and absolute discretion.

3.4.3 **Title Notice Response**. Within five (5) days following Seller's receipt of the Title Notice (if any), Seller shall send the Title Notice Response to both Buyer and Escrow Agent. If the Title Notice does not disapprove or conditionally approve any matter in the Preliminary Report for the proposed Buyer Title Policy or Buyer fails to deliver the Title Notice, Seller shall not be required to send the Title Notice Response. If Seller does not send the Title Notice Response, if necessary, within the time period provided in this Section 3.4.3, Seller shall be deemed to elect not to take any action in reference to the Title Notice. If Seller elects in the Title Notice Response to take any action in reference to the Title Notice, Seller shall complete such action, prior to the Escrow Closing Date or as otherwise specified in the Title Notice Response.

3.4.4 **Title Notice Waiver**. If Seller elects or is deemed to have elected not to address one or more matters set forth in the Title Notice to Buyer's reasonable satisfaction, then within five (5) days after the earlier of: (a) Buyer's receipt of Seller's Title Notice Response; or (b) the last date for Seller to deliver its Title Notice Response pursuant to Section 3.4.3, Buyer shall either: (i) refuse to accept the title to and conveyance of the Site, or (ii) waive Buyer's disapproval or conditional approval of all such matters set forth in the Title Notice by sending the Title Notice Waiver to both Seller and Escrow Agent. Failure by Buyer to timely send the Title Notice Waiver, where the Title Notice Response or Seller's failure to deliver the Title Notice Response results in Seller's election not to address one or more matters set forth in the Title Notice to Buyer's reasonable satisfaction, will be deemed Buyer's continued refusal to

accept the title to and conveyance of the Site, in which case either Buyer or Seller shall have the right to cancel the Escrow and terminate this Agreement by Notice, in their respective sole and absolute discretion.

3.4.5 **Disapproval of Encumbrances Securing Seller Obligations**. Notwithstanding any other provision of this Agreement, Buyer disapproves any and all encumbrances against the Site securing monetary (other than non-delinquent property taxes) obligations of Seller.

3.4.6 **No Termination Liability**. Any termination of this Agreement or cancellation of the Escrow pursuant to this Section 3.4.6 shall be without liability to the other Party or any other Person. Termination shall be accomplished by delivery of a Notice of termination to both the other Party and the Escrow Agent. Following issuance of a Notice of termination of this Agreement pursuant to a right provided under this Agreement, the Parties and the Escrow Agent shall proceed pursuant to Section 4.12. Once a Notice of termination is given pursuant to this Section 3.4.6, delivery of a Title Notice or Title Notice Waiver shall have no force or effect and this Agreement shall terminate in accordance with the Notice of termination.

3.5 Due Diligence Investigations.

3.5.1 **Time and Expense**. Buyer shall complete all Due Diligence Investigations within the Due Diligence Period and shall conduct all Due Diligence Investigations at Buyer's sole cost and expense.

3.5.2 **Right to Enter**. Seller hereby grants a license to Buyer and Buyer's consultants, contractors and agents to enter the Site for the sole purpose of conducting the Due Diligence Investigations at Buyer's sole cost and expense, subject to all of the terms and conditions of this Agreement. The license given in this Section 3.5 to enter the Site to conduct Due Diligence Investigations shall terminate regarding Buyer on the earlier of: (i) termination of this Agreement; or (ii) the Close of Escrow. Any Due Diligence Investigations by Buyer shall not unreasonably disrupt any existing use or occupancy of the Site. Buyer's exercise of any license provided pursuant to this Section 3.5 after expiration of the Due Diligence Period shall not extend the Due Diligence Period.

3.5.3 **Limitations**. Buyer shall not conduct any intrusive or destructive testing of any portion of the Site, other than low volume soil samples, without Seller's prior written consent. Buyer shall pay all of Buyer's vendors, inspectors, surveyors, consultants or agents engaged in any inspection or testing of the Site, such that no mechanics liens or similar liens for work performed are imposed upon the Site by any such Persons. Following the conduct of any Due Diligence Investigations on the Site, Buyer shall restore the Site to substantially the Site's condition prior to the conduct of such Due Diligence Investigations. Buyer shall Indemnify Seller against any and all costs or damages arising from or relating to Buyer's Due Diligence Investigations regarding the Site. Buyer shall provide Seller with evidence of liability insurance reasonably acceptable to Seller and naming Seller as an additional insured under such policy of insurance by endorsement prior to the commencement of any Due Diligence Investigations on the Site.

3.5.4 **Due Diligence Completion Notice**. Buyer shall deliver a Due Diligence Completion Notice to both Seller and Escrow Agent prior to the end of the Due Diligence Period. If Buyer does not unconditionally accept the condition of the Site by delivery of its Due Diligence Completion Notice indicating such acceptance, prior to the end of the Due Diligence Period, Buyer shall be deemed to have rejected the condition of the Site and refused to accept conveyance of title to the Site. If the condition of the Site is rejected or deemed rejected by Buyer, then either Seller or Buyer shall have the right to cancel the Escrow and terminate this Agreement, in their respective sole and absolute discretion, without liability to the other Party or any other Person, by delivery of a Notice of termination to the other Party and Escrow Agent, in which case the Parties and Escrow Agent shall proceed pursuant to Section 4.12.

3.6 "AS-IS" Acquisition. The Close of Escrow shall evidence Buyer's unconditional and irrevocable acceptance of the Site in the Site's AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, AS OF THE CLOSE OF ESCROW, WITHOUT WARRANTY as to character, quality, performance, condition, title, physical condition, soil conditions, the presence or absence of fill, shoring or bluff stability or support, subsurface or lateral support, zoning, land use restrictions, the availability or location of utilities or services, the location of any public infrastructure on or off of the Site (active, inactive or abandoned), the suitability of the Site or the existence or absence of Hazardous Substances affecting the Site and with full knowledge of the physical condition of the Site, the nature of Seller's interest in and use of the Site, all laws applicable to the Site and any and all conditions, covenants, restrictions, encumbrances and all matters of record relating to the Site. The Close of Escrow shall further constitute Buyer's representation and warranty to Seller that: (a) Buyer has had ample opportunity to inspect and evaluate the Site and the feasibility of the uses and activities Buyer is entitled to conduct on the Site; (b) Buyer is relying entirely on Buyer's experience, expertise and Buyer's own inspection of the Site in the Site's current state in proceeding with acquisition of the Site; (c) Buyer accepts the Site in the Site's present condition; (d) to the extent that Buyer's own expertise with respect to any matter regarding the Site is insufficient to enable Buyer to reach an informed conclusion regarding such matter, Buyer has engaged the services of Persons qualified to advise Buyer with respect to such matters; (e) Buyer has received assurances acceptable to Buyer by means independent of Seller or Seller's agents of the truth of all facts material to Buyer's acquisition of the Site pursuant to this Agreement; and (f) the Site is being acquired by Buyer as a result of Buyer's own knowledge, inspection and investigation of the Site and not as a result of any representation made by Seller or Seller's agents relating to the condition of the Site, unless such statement or representation is expressly and specifically set forth in this Agreement. Seller hereby expressly and specifically disclaims any express or implied warranties regarding the Site.

3.7 Reservations. The approval of this Agreement by the Seller shall not be binding on the City Council of the City or any other commission, committee, board or body of the City regarding any other Approvals required by such bodies. No action by the Seller with reference to this Agreement or any related documents shall be deemed to constitute issuance or waiver of any required Approvals regarding the Site or Buyer.

4. JOINT ESCROW INSTRUCTIONS

4.1 Opening of Escrow; Escrow Instructions. The purchase and sale of the Site shall take place through the Escrow to be conducted by Escrow Agent. Escrow shall be deemed

opened when a fully signed copy of this Agreement has been delivered to Escrow Agent. Escrow Agent shall confirm the Escrow Opening Date in writing to each of the Parties, with a copy of the Escrow Agent Consent signed by the authorized representative(s) of the Escrow Agent.

4.2 Escrow Instructions. This Section 4 constitutes the joint escrow instructions of the Parties to Escrow Agent for conduct of the Escrow for the purchase and sale of the Site, as contemplated by this Agreement. Buyer and Seller shall sign such further escrow instructions consistent with the provisions of this Agreement as may be reasonably requested by Escrow Agent. In the event of any conflict between the provisions of this Agreement and any further escrow instructions requested by Escrow Agent, the provisions of this Agreement shall control.

4.3 Escrow Agent. Seller and Buyer authorize Escrow Agent to:

4.3.1 **Charges**. Pay and charge Seller and Buyer for their respective shares of the applicable fees, taxes, charges and costs payable by either Seller or Buyer regarding the Escrow;

4.3.2 **Settlement/Closing Statements**. Release each Party's Escrow Closing Statement to the other Party;

4.3.3 **Document Recording**. File any documents delivered for recording through the Escrow with the office of the Recorder of the County for recordation in the official records of the County, pursuant to the joint instructions of the Parties; and

4.3.4 **Counterpart Documents**. Utilize documents signed by Seller or Buyer in counterparts, including attaching separate signature pages to one version of the same document.

4.4 Buyer's Conditions Precedent to Close of Escrow. Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Buyer, Buyer's obligation to purchase the Site from Seller on or before the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Buyer) of each of the following conditions precedent on or before the Escrow Closing Date:

4.4.1 **Title Policy**. Title Company has agreed to issue the Buyer Title Policy to Buyer upon payment of Title Company's premium for such policy;

4.4.2 **CEQA Documents**. Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.4.3 **Seller Escrow Deposits**. Seller deposits all of the items into Escrow required by Section 4.7;

4.4.4 **Settlement/Closing Statement**. Buyer approves Buyer's Escrow Closing Statement; and

4.4.5 **Seller Pre-Closing Obligations**. Seller performs all of Seller's material obligations required to be performed by Seller pursuant to this Agreement prior to the Close of Escrow.

4.5 Seller's Conditions Precedent to Close of Escrow. Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Seller, Seller's obligation to sell the Site to Buyer on the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Seller) of each of the following conditions precedent on or before the Escrow Closing Date:

4.5.1 **Title**. Buyer accepts the state of the title of the Site, in accordance with Section 3.4;

4.5.2 **Due Diligence**. Buyer timely delivers its Due Diligence Completion Notice to both Seller and Escrow Agent stating Buyer's unconditional acceptance of the condition of the Site, in accordance with Section 3.5;

4.5.3 **CEQA Documents**. Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.5.4 **Buyer Escrow Deposits**. Buyer deposits all of the items into Escrow required by Section 4.6;

4.5.5 **Settlement/Closing Statement**. Seller approves the Seller's Escrow Closing Statement;

4.5.6 **Title Policy**. Title Company has agreed to issue the Buyer Title Policy to Buyer upon payment of Title Company's premium for such policy;

4.5.7 **Buyer Pre-Closing Obligations**. Buyer performs all of Buyer's material obligations required to be performed by Buyer pursuant to this Agreement prior to the Close of Escrow.

4.6 Buyer's Escrow Deposits. Buyer shall deposit the following items into Escrow and, concurrently, provide a copy of each document submitted into Escrow to Seller, at least two (2) Business Days prior to the Escrow Closing Date:

4.6.1 **Purchase Price.** The Purchase Note, Purchase Deed of Trust, and the Cash Down Payment, less the amount of the Deposit;

4.6.2 **Closing Funds**. All other amounts required to be deposited into Escrow by Buyer under the terms of this Agreement to close the Escrow;

4.6.3 **Certificate of Seller Deed Acceptance**. The Certificate of Acceptance attached to the Seller Deed signed by Buyer in recordable form;

4.6.4 **Escrow Closing Statement**. The Buyer's Escrow Closing Statement signed by the authorized representative(s) of Buyer;

4.6.5 **Other Reasonable Items**. Any other documents or funds required to be delivered by Buyer under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not previously been delivered by Buyer.

4.7 Seller's Escrow Deposits. Seller shall deposit the following documents into Escrow and, concurrently, provide a copy of each document deposited into Escrow to Buyer, at least two (2) Business Days prior to the Escrow Closing Date:

4.7.1 **Seller Deed**. The Seller Deed signed by the authorized representative(s) of Seller in recordable form;

4.7.2 **Escrow Closing Statement**. The Seller's Escrow Closing Statement signed by the authorized representative(s) of Seller;

4.7.3 **FIRPTA Affidavit**. A FIRPTA affidavit signed by the authorized representative(s) of Seller, in the form provided by the Escrow Agent;

4.7.4 **Form 593**. A Form 593 signed by the authorized representative(s) of Seller; and

4.7.5 **Other Reasonable Items**. Any other documents or funds required to be delivered by Seller under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not been previously delivered by Seller.

4.8 Closing Procedure. When each of Buyer's Escrow deposits, as set forth in Section 4.6, and each of Seller's Escrow deposits, as set forth in Section 4.7, are deposited into Escrow, Escrow Agent shall request confirmation in writing from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow, as set forth in Sections 4.4 or 4.5, respectively, are satisfied or waived. Upon Escrow Agent's receipt of written confirmation from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow are satisfied or waived, Escrow Agent shall close the Escrow by doing all of the following:

4.8.1 **Recording and Distribution of Documents**. Escrow Agent shall cause the Seller Deed, immediately followed by the Purchase Deed of Trust, to be filed with the Recorder of the County for recording in the official records of the County regarding the Site. At Close of Escrow, Escrow Agent shall deliver the original Purchase Note to Buyer, and shall deliver conformed copies of the Seller Deed and the Purchase Deed of Trust filed for recording in the official records of the County through the Escrow to Seller, Buyer and any other Person designated in the written joint escrow instructions of the Parties to receive an original or conformed copy of such document. Each conformed copy of a document filed for recording by Escrow Agent pursuant to this Agreement shall show all recording information;

4.8.2 **Funds**. Distribute all funds held by Escrow Agent pursuant to the Escrow Closing Statements approved in writing by Seller and Buyer;

4.8.3 **FIRPTA Affidavit**. File the FIRPTA Affidavit with the United States Internal Revenue Service;

4.8.4 **Form 593**. File the Form 593 with the California Franchise Tax Board; and

4.8.5 **Title Policy**. Obtain from the Title Company and deliver to Buyer, with a copy to the Seller, the Buyer Title Policy issued by the Title Company.

4.9 Close of Escrow. The Close of Escrow shall occur on or before the Escrow Closing Date. The Parties may mutually agree to change the Escrow Closing Date by joint written instruction to Escrow Agent. The City Manager, acting on behalf of the Seller, is authorized to agree to one or more extensions of the Escrow Closing Date on behalf of Seller up to a maximum time period extension of two (2) months in the aggregate, in the City Manager's sole and absolute discretion. If for any reason (other than a Default or Event of Default by such Party) the Close of Escrow has not occurred on or before the Escrow Closing Date, then any Party not then in Default under this Agreement may cancel the Escrow and terminate this Agreement, without liability to the other Party or any other Person for such cancellation and termination, by delivering Notice of termination to both the other Party and Escrow Agent. Following any such Notice of termination of this Agreement and cancellation of the Escrow, the Parties and Escrow Agent shall proceed pursuant to Section 4.12. Without limiting the right of either Party to cancel the Escrow and terminate this Agreement, pursuant to this Section 4.9, if the Escrow does not close on or before the Escrow Closing Date and neither Party has exercised its contractual right to cancel the Escrow and terminate this Agreement under this Section 4.9 before the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement, then the Escrow shall close as soon as reasonably possible following the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement.

4.10 Escrow Costs. Escrow Agent shall notify Buyer and Seller of the costs to be borne by each of them at the Close of Escrow by delivering an Escrow Closing Statement to both Seller and Buyer at least four (4) Business Days prior to the Escrow Closing Date. Seller shall pay one-half (1/2) of the Escrow Agent charges for the conduct of the Escrow, all documentary transfer taxes regarding the conveyance of the Site through the Escrow and the full amount of the premium charged by the Title Company for a standard CLTA owner's title insurance policy towards the cost of the premium for the Buyer Title Policy, exclusive of any endorsements or other supplements to the coverage of the Buyer Title Policy that may be requested by Buyer. Buyer shall pay one-half (1/2) of the Escrow Agent charges for the conduct of the Escrow, the amount of the premium for the Buyer Title Policy exceeding the amount paid by Seller toward the cost of the Buyer Title Policy, the premium costs of any and all endorsements to the Buyer Title Policy requested by Buyer, all recording fees and the full amount of any and all other charges, fees and taxes levied by each and every Government Agency relative to the conveyance of the Site through the Escrow.

4.11 Escrow Cancellation Charges. If the Escrow fails to close due to Seller's Default under this Agreement, Seller shall pay all ordinary and reasonable Escrow and title order

cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close due to Buyer's Default under this Agreement, Buyer shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close for any reason other than the Default of either Buyer or Seller, Buyer and Seller shall each pay one-half (1/2) of any ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively.

4.12 Escrow Cancellation. If this Agreement is terminated pursuant to a contractual right granted to a Party in this Agreement to terminate this Agreement (other than due to an Event of Default by the other Party), the Parties shall do all of the following:

4.12.1 **Cancellation Instructions**. The Parties shall, within three (3) Business Days following Escrow Agent's written request, sign any reasonable Escrow cancellation instructions requested by Escrow Agent;

4.12.2 **Return of Funds and Documents**. Within ten (10) Business Days following receipt by the Parties of a settlement statement of Escrow and title order cancellation charges from Escrow Agent (if any) or within twenty (20) days following Notice of termination, whichever is earlier: (a) Buyer or Escrow Agent shall return to Seller all documents previously delivered by Seller to Buyer or Escrow Agent, respectively, regarding the Site or the Escrow; (b) Seller or Escrow Agent shall return to Buyer all documents previously delivered by Buyer to Seller or Escrow Agent, respectively, regarding the Site or the Escrow; (c) Escrow Agent shall, unless otherwise expressly provided in this Agreement, return to Buyer all funds deposited in Escrow, less Buyer's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 4.11; and (d) Escrow Agent shall, unless otherwise expressly provided in this Agreement, return to Seller all funds deposited in Escrow, less Seller's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 4.11.

4.13 Report to IRS. After the Close of Escrow and prior to the last date on which such report is required to be filed with the Internal Revenue Service under applicable Federal law, if such report is required pursuant to Internal Revenue Code Section 6045(e), Escrow Agent shall report the gross proceeds of the purchase and sale of the Site to the Internal Revenue Service on Form 1099-B, W-9 or such other form(s) as may be specified by the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e). Concurrently with the filing of such reporting form with the Internal Revenue Service, Escrow Agent shall deliver a copy of the filed form to both Seller and Buyer.

4.14 Condemnation. If any material portion of the Site, or any interest in any portion of the Site, is taken by condemnation prior to Close of Escrow by any condemning authority other than Seller, including, without limitation, the filing of any notice of intended condemnation or proceedings in the nature of eminent domain, commenced by any governmental authority, other than Seller, Seller shall immediately give Buyer notice of such occurrence, and Buyer shall have the option, exercisable within ten (10) business days after receipt of such notice from Seller, to either: (i) terminate this Agreement; or (ii) continue with this Agreement in accordance

with its terms, in which event Seller shall assign to Buyer any right of Seller to receive any condemnation award attributable to the Site.

5. REMEDIES AND INDEMNITY

5.1 Legal Actions. Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages.

5.2 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties set forth in this Agreement are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by such Party, at the same or different times, of any other rights or remedies for the same Default or the same rights or remedies for any other Default by the other Party.

5.3 Indemnification.

5.3.1 **Seller Indemnity Obligations**. Seller shall Indemnify Buyer against any Claim to the extent such Claim arises from any wrongful intentional act or negligence of the Seller Parties related to this Agreement, but only to the extent that Seller may be held liable under applicable law for such wrongful intentional act or negligence and exclusive of any violation of law (including the State Constitution) relating to Seller's approval, entry into or performance of this Agreement. Nothing in this Agreement is intended nor shall be interpreted to waive any limitation on Seller's liability, any exemption from liability in favor of Seller, any claim presentment requirement for bringing an action regarding any liability of Seller or any limitations period applicable to liability of Seller, all as set forth in Government Code Section 800 *et seq*., Section 900 *et seq*., or in any other law, or require Seller to Indemnify any Person beyond such limitations on Seller's liability.

5.3.2 **Buyer Indemnity Obligations**. Buyer shall Indemnify the Seller Parties against any Claim related to this Agreement to the extent such Claim arises from: (a) any act, omission or negligence of the Buyer; (b) any agreements that Buyer (or anyone claiming by or through Buyer) makes with a Third Person regarding the Site; (c) any workers compensation claim or determination relating to any employee of Buyer or its contractors; or (d) any Environmental Claim attributable to any action or omission by Buyer.

5.3.3 **Independent of Insurance Obligations**. Buyer's indemnification obligations under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Buyer's insurance or other obligations under this Agreement. Buyer's obligation to Indemnify the Seller Parties under this Agreement is independent of Buyer's insurance and other obligations under this Agreement. Buyer's compliance with Buyer's insurance obligations and other obligations under this Agreement shall not in any way restrict, limit or modify Buyer's indemnification obligations under this Agreement and are independent of Buyer's indemnification and other obligations under this Agreement.

5.3.4 **Survival of Indemnification and Defense Obligations**. The indemnity and defense obligations of the Parties under this Agreement shall survive the expiration or earlier termination of this Agreement, until any and all actual or prospective Claims regarding any

matter subject to an indemnity obligation under this Agreement are fully, finally, absolutely and completely barred by applicable statutes of limitations.

5.3.5 **Indemnification Procedures**. Wherever this Agreement requires any Indemnitor to Indemnify any Indemnitee:

(a) *Prompt Notice*. The Indemnitee shall promptly Notify the Indemnitor of any Claim.

(b) *Selection of Counsel*. The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for a Claim shall be deemed reasonably satisfactory, except in the event of a potential or actual conflict of interest for such counsel regarding such representation or such counsel is reasonably determined by Indemnitee to be incompetent regarding such representation. Even though the Indemnitor shall defend the Claim, Indemnitee may, at Indemnitee's option and Indemnitee's own expense (except where Indemnitor provides a defense to Indemnitee under a reservation of rights, a conflict of interest between Indemnitor and Indemnitee exists that requires them to be represented by separate legal counsel or Indemnitor's legal counsel is reasonably determined by Indemnitee to be incompetent regarding such representation, in any such case, Indemnitor shall pay the Legal Costs of Indemnitee's separate legal counsel), engage separate counsel to advise Indemnitee regarding the Claim and Indemnitee's defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel.

(c) *Cooperation*. The Indemnitee shall reasonably cooperate with the Indemnitor's defense of the Indemnitee.

(d) *Settlement*. The Indemnitor may only settle a Claim with the consent of the Indemnitee. Any settlement shall procure a complete release of the Indemnitee from the subject Claims, shall not require the Indemnitee to make any payment to the claimant and shall provide that neither the Indemnitee, nor the Indemnitor on behalf of the Indemnitee, admits any liability.

6. GENERAL PROVISIONS

6.1 Incorporation of Recitals. The Recitals of fact set forth preceding this Agreement are true and correct and are incorporated into this Agreement in their entirety by this reference.

6.2 Maintenance of the Site. The Buyer covenants that it shall maintain, or cause to be maintained, the Site and any improvements to be constructed thereon, in a manner consistent with the provisions set forth therefor in the Newman Municipal Code, and shall keep the Site reasonably free from any accumulation of debris or waste materials.

If, at any time, Buyer fails to maintain and operate the Site in accordance with this Agreement, the Successor Agency shall have the right to take necessary corrective action pursuant to the provisions set forth in the Purchase Note.

Failure by Buyer to maintain, or cause to be maintained, the Site in the condition provided in this Section 6.2 shall, following expiration of all applicable notice and cure periods, constitute a default hereunder and under the Purchase Note and the Purchase Deed of Trust; provided, however, that nothing herein or in the Purchase Note or Purchase Deed of Trust shall be deemed to provide Buyer with more than one notice and cure period for each event of default.

6.3 Notices, Demands and Communications Between the Parties.

6.3.1 **Delivery**. Any and all Notices submitted by any Party to another Party pursuant to or as required by this Agreement shall be proper, if in writing and sent by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) delivery service (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the recipient Party, as designated in Section 6.3.2. Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice in accordance with this Section 6.3. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that the Notice is sent by messenger for immediate personal delivery, one Business Day after delivery to a nationally recognized overnight delivery service or three (3) calendar days after the Notice is placed in the United States mail in accordance with this Section 6.3. Any attorney representing a Party may give any Notice on behalf of such Party.

6.3.2 **Addresses**. The Notice addresses for the Parties, as of the Effective Date, are as follows:

To Buyer:	Westside Pallet, Inc. P.O. Box 786 Newman, CA 95360 Attention: Carolyn Beach
To Seller:	Successor Agency to the former Newman Redevelopment Agency 938 Fresno Street Newman, CA 95360 Attn: City Manager

6.4 Relationship of Parties. The Parties each intend and agree that Seller and Buyer are independent contracting entities and do not intend by this Agreement to create any partnership, joint venture or similar business arrangement, relationship or association between them.

6.5 Warranty Against Payment of Consideration for Agreement. Buyer represents and warrants to Seller that: (a) Buyer has not employed or retained any Person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Buyer and Third Persons to whom fees are paid for professional services related to the documentation of this Agreement; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Buyer or any of Buyer's agents, employees or representatives to any elected or appointed official or employee of the Seller in an attempt to secure this Agreement or favorable terms or conditions for this Agreement. Breach of the representations or warranties of this Section 6.5 shall entitle Seller to terminate this Agreement and cancel the Escrow (if open) upon seven (7) days Notice to Buyer and, if the Escrow is open, to Escrow Agent. Upon any such termination of this Agreement, Buyer shall immediately refund any payments made to or on behalf of Buyer by Seller pursuant to this Agreement or otherwise related to the Site, any Approval or any CEQA Document, prior to the date of such termination.

6.6 Calculation of Time Periods. Unless otherwise specified, all references to time periods in this Agreement measured in days shall be to consecutive calendar days, all references to time periods in this Agreement measured in months shall be to consecutive calendar months and all references to time periods in this Agreement measured in years shall be to consecutive calendar years. Any reference to Business Days in this Agreement shall mean consecutive Business Days.

6.7 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time.

6.8 Governing Law. The procedural and substantive laws of the State of California shall govern the interpretation and enforcement of this Agreement, without application of conflicts or choice of laws principles or statutes. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County of Stanislaus, State of California. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

6.9 Unavoidable Delay; Extension of Time of Performance.

6.9.1 **Notice**. Subject to any specific provisions of this Agreement stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay, performance by either Party under this Agreement shall not be deemed or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within three (3) days after such Party knows of any such Unavoidable Delay; and (b) within three (3) days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

6.9.2 **Assumption of Economic Risks**. EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS AGREEMENT SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF EACH AND EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS AGREEMENT. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES OR MARKET DEMAND OR CONDITIONS AND WAIVE, TO THE GREATEST EXTENT ALLOWED BY LAW, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES. THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE EFFECTIVE DATE.

_____	_____
Initials of Authorized Seller Representative(s)	Initials of Buyer

6.10 Tax Consequences. Buyer acknowledges and agrees that Buyer shall bear any and all responsibility, liability, costs or expenses connected in any way with any tax consequences experienced by Buyer related to this Agreement.

6.11 Real Estate Commissions.

6.11.1 **Seller Warranty**. Seller: (a) represents and warrants that Seller did not engage or deal with any broker or finder in connection with this Agreement, and no Person is entitled to any commission or finder's fee regarding this Agreement on account of any agreement or arrangement made by Seller; and (b) shall Indemnify Buyer against any breach of the representation and warranty set forth in clause "(a)" of this Section 6.11.1.

6.11.2 **Buyer Warranty**. Buyer: (a) represents and warrants that Buyer did not engage or deal with any broker or finder in connection with this Agreement, and no Person is entitled to any commission or finder's fee regarding this Agreement on account of any agreement or arrangement made by Buyer; and (b) shall Indemnify Seller against any breach of the representation and warranty set forth in clause "(a)" of this Section 6.11.2.

6.12 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

6.13 Buyer Assumption of Risks of Legal Challenges. Buyer assumes the risk of delays or damages that may result to Buyer from each and every Third Person legal action related to Seller's approval of this Agreement or any associated Approvals, even in the event that an error, omission or abuse of discretion by Seller is determined to have occurred. If a Third Person files a legal action regarding Seller's approval of this Agreement or any associated Approval (exclusive of legal actions alleging violation of Government Code Section 1090 by officials of Seller), Buyer shall have the option to either: (1) cancel the Escrow and terminate this Agreement, in which case the Parties and the Escrow Agent shall proceed in accordance with Section 4.12; or (2) Indemnify Seller against such Third Person legal action, including all Legal Costs, monetary awards, sanctions and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action; provided, however, that option "(1)" under this Section 6.13 shall only be available to Buyer prior to the Close of Escrow. Should Buyer fail to Notify Seller of Buyer's election pursuant to this Section 6.13 at least fifteen (15) days before response to the legal action is required by Seller, prior to the Close of Escrow, Buyer shall be deemed to have elected to cancel the Escrow and terminate this Agreement pursuant to this Section 5.13 and, following the Close of Escrow, Buyer shall be deemed to have elected to Indemnify Seller against such Third Person legal action pursuant to this Section 6.13, all without further Notice to or action by either Party. Seller shall reasonably cooperate with Buyer in defense of Seller in any legal action subject to this Section 6.13, subject to Buyer completely performing Buyer's indemnity obligations for such legal action. Should Buyer elect or be deemed to elect to Indemnify Seller regarding a legal action subject to this Section 6.13, but fail to or stop providing such indemnification of Seller, then Seller shall have the right to terminate this Agreement or cancel the Escrow (or both) by Notice to Buyer and, if the Escrow is open, to the Escrow Agent. Nothing contained in this Section 6.13 is intended to be nor shall be deemed or construed to be an express or implied admission that Seller may be liable to Buyer or any other Person for damages or other relief regarding any alleged or established failure of Seller to comply with any law. Any legal action that is subject to this

Section 6.13 (including any appeal periods and the pendency of any appeals) shall constitute an Unavoidable Delay and the time periods for performance by either Party under this Agreement may be extended pursuant to the provisions of this Agreement regarding Unavoidable Delay.

6.14 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

6.15 Time Declared to be of the Essence. As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence.

6.16 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned in this Agreement or incidental to this Agreement, and supersedes all prior or contemporaneous negotiations or previous agreements between the Parties, whether written or oral, with respect to all or any portion of the Site.

6.17 Waivers and Amendments. All waivers of the provisions of this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. All amendments to this Agreement must be in writing and signed by the authorized representative(s) of both Seller and Buyer.

6.18 No Implied Waiver. Failure to insist on any one occasion upon strict compliance with any term, covenant, condition, restriction or agreement contained in this Agreement shall not be deemed a waiver of such term, covenant, condition, restriction or agreement, nor shall any waiver or relinquishment of any rights or powers under this Agreement, at any one time or more times, be deemed a waiver or relinquishment of such right or power at any other time or times.

6.19 City Manager Implementation. Seller shall implement this Agreement through the City Manager, acting on behalf of the Seller. The City Manager or his/her designee is hereby authorized by Seller to enter into agreements and sign documents referenced in this Agreement or reasonably required to implement this Agreement on behalf of Seller, issue approvals, interpretations or waivers and enter into certain amendments to this Agreement on behalf of Seller, to the extent that any such action(s) does/do not increase the monetary obligations of Seller. All other actions shall require the consideration and approval of the Seller's governing body, unless expressly provided otherwise by action of the Seller's governing body. Nothing in this Section 6.19 shall restrict the submission to the Seller's governing body of any matter within the City Manager's authority under this Section 6.19, in the City Manager's sole and absolute discretion, to obtain the Seller's governing body's express and specific authorization on such matter. The specific intent of this Section 6.19 is to authorize certain actions on behalf of Seller by the City Manager, but not to require that such actions be taken by the City Manager including, without limitation, any extension(s) granted pursuant to Section 6.19, without consideration by the Seller's governing body.

6.20 Survival of Agreement. All of the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or following expiration or termination of this Agreement, until any such dispute is finally and

completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Agreement relating to dispute resolution, indemnity or limitations on damages or remedies shall survive any expiration or termination of this Agreement.

6.21 Counterparts. This Agreement shall be signed in three (3) triplicate originals, each of which is deemed to be an original. This Agreement includes twenty-six (26) pages and two (2) exhibits (each exhibit is incorporated into this Agreement by reference) that constitute the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement.

6.22 Facsimile or Electronic Signatures. Signatures delivered by facsimile or electronic mail shall be binding as originals upon the Party so signing and delivering; provided, however, that original signature(s) of each Party shall be required for each document to be recorded.

[*Signatures on following page*]

SIGNATURE PAGE
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2161 L Street, Newman, CA)

IN WITNESS WHEREOF, the Parties have signed and entered into this Agreement by and through the signatures of their respective authorized representative(s) as follow:

SELLER:	**BUYER:**
SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY	CAROLYN BEACH,
By:_____ Chairman	By:_____ Carolyn Beach Westside Pallet, Inc. Its: Vice President, Operations

ESCROW AGENT CONSENT

Chicago Title Company accepts that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions (2161 L Street, Newman, CA) dated September 14, 2012, by and between the Successor Agency to the former Newman Redevelopment Agency, and Carolyn Beach, and agrees to act as "Escrow Agent" pursuant to such agreement and agrees to be bound by all provisions of such agreement applicable to it as the Escrow Agent.

ESCROW AGENT:

Gina Belletto

By:_____
Name:_____
Its:_____

Dated:_____

EXHIBIT A
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2161 L Street, Newman, CA)

Description / Map of the Site

EXHIBIT B
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2161 L Street, Newman, CA)

Seller Deed

[Attached behind this cover page]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

_____
_____
_____
_____

APN: _____ SPACE ABOVE FOR RECORDER'S USE ONLY

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY ("**Transferor**"), does hereby grant to **CAROLYN BEACH,** ("**Transferee**"), all right, title and interest of Transferor in that certain real property in the City of Newman, County of Stanislaus, State of California, specifically described in Exhibit "1" attached to this Grant Deed ("**Site**") and made a part of this Grant Deed by this reference.

The Newman Redevelopment Agency ("**Agency**") previously owned the Site. Pursuant to AB 1X 26, which took effect June 29, 2011, and the decision of the California Supreme Court in *California Redevelopment Association et al., v. Ana Matosantos, et al.* (Case No. S194861), all redevelopment agencies were deemed dissolved on February 1, 2012. However, pursuant to the authority provided in Health and Safety Code Section 34173, as enacted by AB 1X 26, the City Council of the City of Newman ("**City**") elected and determined that the City shall become the "successor agency" to the former Newman Redevelopment Agency, and upon dissolution of the Agency under AB 1X 26, all authorities, rights, powers, duties and obligations previously vested with the former Agency, under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), were vested in the Successor Agency.

Health and Safety Code Section 34177, added by AB 1X 26, requires the Successor Agency to wind down the affairs of the former redevelopment agency, including disposing of assets and properties of the former agency, expeditiously and in a manner aimed at maximizing value.

The Site is conveyed to Transferee pursuant to the terms and conditions of that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions between Transferor and Transferee, dated September 14, 2012.

Transferee covenants and agrees for itself, its successors, its assigns and every successor-in-interest to all or any portion of the Site, 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 Site nor shall Transferee, 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, tenants, lessees, sub-tenants, sub-lessees or vendees of the Site. The covenant shall be a covenant running with the land and binding on successive owners of all or any portion of the Site, in perpetuity.

The covenants contained herein shall run with the land and shall inure to the benefit of and be binding upon the Transferor and Transferee and their respective assigns, heirs and voluntary and involuntary successors in interest.

Dated:_____

SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY

By:_____
Chairman

EXHIBIT "1"
TO
GRANT DEED

Site Legal Description

That certain property situated in the City of Newman, County of Stanislaus, State of California described as follows:

CERTIFICATE OF ACCEPTANCE OF GRANT DEED

This is to certify that the interest in real property conveyed by the foregoing Grant Deed from the SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY, to CAROLYN BEACH, is hereby accepted by the undersigned officer on behalf of Grantee, through his signature below, and Grantee consents to recordation thereof by its duly authorized officer.

CAROLYN BEACH, INC.

By: _____
Its:_____

STATE OF CALIFORNIA
COUNTY OF _____

On _____before me, _____ (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

STATE OF CALIFORNIA
COUNTY OF _____

On _____before me, _____ (here insert name and title of the officer), personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under penalty of perjury under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT C
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2161 L Street, Newman, CA)

Purchase Note

[Attached behind this cover page]

PURCHASE NOTE

_____, 2012

$259,380.00 Newman, California

FOR VALUE RECEIVED, CAROLYN BEACH, (the "Maker"), having an address of 2138 L Street, Newman, California 95360, promises to pay the SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY ("Holder"), the principal sum not to exceed TWO HUNDRED FIFTY-NINE THOUSAND THREE HUNDRED EIGHTY DOLLARS ($259,380.00), together with simple interest at the rate of Three and One-Half Percent (3.5%) per annum, pursuant to the terms and conditions set forth below.

1. This Note is made pursuant to Section 3.1 of that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions (2161 L Street, Newman, CA) (the "Purchase Agreement") between Maker (as the Buyer) and Holder (as the Seller or Successor Agency) dated September 14, 2012. Pursuant to the Purchase Agreement, the Holder has conveyed certain real property (the "Site") to the Maker for use in expansion of Maker's existing pallet manufacturing business located adjacent to the Site. This is a purchase money note to evidence a portion of the Purchase Price paid by Maker for the Site pursuant to the Purchase Agreement. All capitalized terms not defined in this Note shall have the meaning set forth in the Purchase Agreement.

2. Payment of this Note is secured by a deed of trust, together with an Addendum thereto (collectively, the "Deed of Trust") from Maker to Holder recorded upon the Site.

3. So long as Maker is not in default under the Purchase Agreement or this Note, and subject to the limitations in this Note, the principal and accrued interest shall be due and payable in equal monthly payments of THREE THOUSAND NINE HUNDRED NINETY-NINE AND 22/100 DOLLARS ($3,999.22) for a period of three (3) years, at which time the entire remaining unpaid principal and all accrued and unpaid interest shall be due and payable in full. The first monthly payment shall be due and payable on January 15, 2013, and each subsequent monthly payment shall be due and payable on the 15th day of each month thereafter; the entire unpaid principal balance, including all accrued and unpaid interest shall be due and payable in full on December 15, 2015. Notwithstanding the foregoing, the entire outstanding principal and all accrued and unpaid interest shall be due and payable in full immediately upon the sale, lease or other transfer of the Site by Maker.

4. Any payments due hereunder shall be made in lawful money of the United States to the Successor Agency to the Former Newman Redevelopment Agency, 938 Fresno Street, Newman, CA 95360. The place of payment may be changed from time to time as the Holder may from time to time designate in writing.

5. Maker hereby covenants and agrees that it shall maintain, or cause to be maintained; the Site in a manner consistent with the provisions set forth therefor in the Newman Municipal Code, and shall keep the entire Site reasonably free from any accumulation of debris or waste materials prior to and after construction.

6. The occurrence of any of the following shall constitute an event of default under this Note: (i) Maker fails to pay any amount due hereunder within fifteen (15) days of its due date; (ii) Any default by Maker under this Note, the Deed of Trust or the Purchase Agreement after the expiration of applicable notice and cure periods; (iii) Any default by Maker under any other document affecting the Site, after the expiration of any applicable notice or cure periods provided therein; (iv) The sale, transfer or other conveyance of all or any part of the Site, or any interest in it, without Holder's prior written consent.

Upon the occurrence of any event of default, or at any time thereafter, at the option of the Holder hereof and without notice, the entire unpaid principal and interest owing on this Note shall become immediately due and payable. This option may be exercised at any time following any such event, and the acceptance of one or more installments thereafter shall not constitute a waiver of Holder's option. Holder's failure to exercise such option shall not constitute a waiver of such option with respect to any subsequent event. Holder's failure in the exercise of any other right or remedy hereunder or under any agreement which secures the indebtedness or is related thereto shall not affect any right or remedy and no single or partial exercise of any such right or remedy shall preclude any further exercise thereof.

7. At all times when Maker is in default hereunder by reason of Maker's failure to pay principal due under this Note or any amounts due under any loan documents securing this Note, the interest rate on the sums as to which Maker is in default (including principal, if Holder has elected to declare it immediately due and payable), shall be the lower of the highest rate then allowed by law or two percent (2%) over the prime interest rate announced by Wells Fargo Bank, N.A., as of the date of the default.

8. Maker and any endorsers hereof and all others who may become liable for all or any part of this obligation, severally waive presentment for payment, demand and protest and notice of protest, and of dishonor and nonpayment of this Note, and expressly consent to any extension of the time of payment hereof or of any installment hereof, to the release of any party liable for this obligation, and any such extension or release may be made without notice to any of said parties and without any way affecting or discharging this liability.

9. Maker agrees to pay immediately upon demand all costs and expenses of Holder including reasonable attorneys' fees, (i) if after default this Note be placed in the hands of an attorney or attorneys for collection, (ii) if after a default hereunder or under the Deed of Trust, the Purchase Agreement or under any loan document referred to herein Holder finds it necessary or desirable to secure the services or advice of one or more attorneys with regard to collection of this Note against Maker, any guarantor or any other party liable therefore or to the protection of its rights under this Note, the Deed of Trust, the Purchase Agreement or other loan document, or (iii) if Holder seeks to have the Site abandoned by or reclaimed from any estate in bankruptcy, or attempts to have any stay or injunction prohibiting the enforcement or collection of the Note or prohibiting the enforcement of the Deed of Trust or any other agreement evidencing or securing this Note lifted by any bankruptcy or other court.

10. If Holder shall be made a party to or shall reasonably intervene in any action or proceeding, whether in court or before any governmental agency, affecting the property or the title thereto or the interest of the Holder under the Deed of Trust, including, without limitation,

any form of condemnation or eminent domain proceeding, Holder shall be reimbursed by maker immediately upon demand for all costs, charges and attorneys' fees incurred by Holder in any such case, and the same shall be secured by the Deed of Trust as a further charge and lien upon the Site.

11. Any notices provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested, at the address stated in this Note or at such other address as either party may designate in written notice. Copies of any notice of default given by Holder to Maker under this Note shall also be sent to Fortuna Redevelopment Agency a the following address:

Successor Agency to the Former
Newman Redevelopment Agency
628 Fresno Street
Newman, CA 95360
Attn: Newman City Manager

12. This Note shall be binding upon Maker, its successors and assigns.

13. This Note shall be construed in accordance with and be governed by the laws of the State of California.

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

CAROLYN BEACH

By:_____

Name: _____

Its:_____

EXHIBIT D
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS
(2161 L Street, Newman, CA)

Purchase Deed of Trust

CHICAGO TITLE COMPANY (OR OTHER TITLE COMPANY APPROVED BY SUCCESSOR AGENCY) STANDARD FORM OF DEED OF TRUST TO BE USED WITH THE ATTACHED "ADDENDUM TO DEED OF TRUST" ATTACHED THERETO.]

ADDENDUM TO DEED OF TRUST
(Purchase Note)

This Addendum to Deed of Trust is part of the Deed of Trust dated _____ _____to which it is attached between CAROLYN BEACH, as Trustor, and the SUCCESSOR AGENCY TO THE FORMER NEWMAN REDEVELOPMENT AGENCY, as Beneficiary. The Deed of Trust, together with this Addendum to Deed of Trust, are executed and delivered pursuant to and in furtherance of that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions (2161 L Street, Newman, CA), dated September 14, 2012, between Trustor (as the Buyer) and Beneficiary (as the Seller or Successor Agency) (the "Purchase Agreement"), which provides in part for Beneficiary to convey certain real property (the "Property" or "Site") to Trustor, all as more fully set forth in the Purchase Agreement. All capitalized terms not defined herein shall have the meaning set forth in the Purchase Agreement.

Pursuant to the Purchase Agreement, Trustor executed and delivered to Beneficiary a promissory note (the "Note"), in the principal amount of TWO HUNDRED FIFTY-NINE THOUSAND EIGHT HUNDRED EIGHTY THOUSAND DOLLARS ($259,380.00) evidencing a portion of the Purchase Price paid by Trustor for the Site. The following provisions are made a part of the Deed of Trust:

1. No Discrimination. The Trustor covenants by and for itself and any successors in interest 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 Property, nor shall the Trustor 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 tenants, lessees, subtenants, sublessees or vendees in the Property.

2. Hazardous Substances.

(a) As used in this Section 2, the following terms shall have the following meanings:

(i) "Environmental Laws" means all statutes, ordinances, orders, rules, regulations, plans, policies or decrees and the like now or hereafter in effect relating to (A) Hazardous Substance Activity or Hazardous Substances; (B) the generation, use, storage, transportation or disposal of Hazardous Substances, or solid waste; or (C) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health, safety or welfare, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 *et seq.*) ("CERCLA"); the Hazardous Material Transportation Act (49 U.S.C. Section 180 *et seq.*); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 *et seq.*); the Resource Conservation and Recovery Act (42 U.S.C. Section 6901

et seq.); the Clean Air Act (42 U.S.C. Section 740 *et seq.*); the Federal Water Pollution Control Act (33 U.S.C. Section 1251 *et seq.*); the Occupational Safety and health Act (29 U.S.C. Section 651 *et seq.*); the Safe Drinking Water Act (42 U.S.C. Section 300f *et seq.*); the Porter-Cologne Water Quality Control Act (California Water Code Section 13020 *et seq.*); the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health & Safety Code Section 25249.5 *et seq.*); the Hazardous Substance Account Act (California Health & Safety Code Section 25300 *et seq.*); the Hazardous Waste Control Act (California Health & Safety Code Section 25100 *et seq.*); The California Environmental Quality Act (California Public Resources Code Section 2100 *et seq.*); and the rules, regulations and ordinances of the City or County of San Francisco or any applicable federal, state and local agencies or bureaus, as amended from time to time.

(ii) "Foreclosure Transfer" means the transfer of title to all or any part of the Property or the Trust Estate at a foreclosure sale under the Deed of Trust, either pursuant to judicial decree or the power of sale contained in the Deed of Trust, or by deed in lieu of such foreclosure.

(iii) "Hazardous Substances" means (A) any chemical, compound, material, mixture or substance that is now or hereafter defined or listed in, or otherwise classified pursuant to, any Environmental Laws as a "hazardous substance," "hazardous material," "hazardous waste," "extremely hazardous waste," "acutely hazardous waste," "radioactive waste," "infectious waste," "biohazardous waste," "toxic substance," "pollutant," "toxic pollutant," "contaminant" as well as any other formulation not mentioned herein intended to define, list, or classify substances by reason of deleterious properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "EP toxicity" or "TCLP toxicity"; (B) petroleum, natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas) and ash produced by a resource recovery facility utilizing a municipal solid waste stream, and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas, or geothermal resources; (C) "hazardous substance" as defined in Section 2782.6(d) of the California Civil Code; (D) "waste" as defined in Section 13050(d) of the California Water Code; (E) asbestos in any form; (F) urea formaldehyde foam insulation; (G) polychlorinated biphenyls (PCBs); (H) radon; and (I) any other chemical, material, or substance that, because of its quantity, concentration, or physical or chemical characteristics, exposure to which is limited or regulated for health and safety reasons by any governmental authority, or which poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.

(iv) "Hazardous Substance Activity" means any actual, proposed, or threatened use, storage, holding, existence, location, release (including, without limitation, any spilling, leaking, leaching, pumping, pouring, emitting, emptying,

dumping, disposing into the environment, and the continuing migration into or through soil, surface water, groundwater or any body of water or the air), discharge, deposit, placement, generation, processing, construction, treatment, abatement, removal, disposal, disposition, handling, or transportation of any Hazardous Substance from, under, in, into, or on the Property, including without limitation, the movement or migration of any Hazardous Substances from surrounding property, surface water, groundwater or any body of water, or the air under, in, into or onto the Property and any residual Hazardous Substances contamination in, on, or under the Property.

(v) "Losses" means all charges, losses, liabilities, damages (whether actual, consequential, punitive, or otherwise denominated), costs, fees, demands, claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, causes of action, assessments, fines, penalties, costs, and expenses of any kind or character, foreseeable and unforeseeable, liquidated and contingent, proximate and remote, including, without limitation, the following: (A) the reasonable fees and expenses of outside legal counsel; (B) the reasonable fees and expenses of accountants, third-party consultants, and other independent contractors retained by an Beneficiary; (C) costs, including capital, operating and maintenance costs, incurred in connection with any investigation or monitoring of site conditions or any clean-up, remedial, removal or restoration work required or performed by any federal, state or local governmental agency or political subdivision or performed by any non-governmental entity or person that is required by Environmental Laws or administrative ruling or directive because of the presence, suspected presence, release or suspected release of Hazardous Substances in violation of Environmental Laws in the air, soil, surface water or groundwater at the Property; (D) any and all diminution in value of the Property, loss of use or damage to the Property, or loss of profits or loss of business opportunity; and (E) reasonable costs and expenses of enforcing this Section 6.09.

(vi) "Environmental Losses" means Losses rising out of or as a result of: (A) the occurrence of any Hazardous Substance Activity; (B) any violation of any applicable Environmental laws relating to the Property or to the ownership, use, occupancy or operation thereof; (C) any investigation, inquiry, order, hearing, action, or other proceeding by or before any governmental agency in connection with any Hazardous Substance Activity; or (D) any claim, demand or cause of action, or any action or other proceeding, whether meritorious or not, brought or asserted against any Indemnitee which directly or indirectly relates to, arises from or is based on any of the matters described in clauses (A), (B), or (C), or any allegation of any such matters.

(b) Trustor represents and warrants to Beneficiary that Trustor has conducted as appropriate inquiry and investigation, and, to the best of Trustor's knowledge, based on such inquiry and investigation, no portion of the Property is being used or has ever been used at any previous time, for the disposal, storage, treatment, processing or other handling of Hazardous

Substances, nor have any Hazardous Substances migrated onto or from the Property. Neither the Property nor Trustor is in violation of or subject to any existing, pending or threatened investigation by any governmental authority under any Environmental Law. Trustor's intended use of the Property will not result in the disposal or release of any Hazardous Substances on, under, about or to the Property or the migration of any Hazardous Substances from the Property. The foregoing representations and warranties shall be continuing and shall be true and correct for the period from the date hereof to the release of this Deed of Trust (whether by payment of the indebtedness secured hereby or foreclosure or action in lieu thereof), and these representations and warranties shall survive such release.

(c) Trustor represents and warrants to Beneficiary that Trustor has complied with all recommendations by any engineers retained by Trustor and all requirements of any applicable department of environmental resources, environmental protection agency or similar governmental agency, and there are no recommendations by said engineers or requirements ordered by said agency or any other governmental body for environmental investigation or cleanup with respect to the Property.

(d) On and after the date hereof, Trustor shall not: (a) allow any Hazardous Substances to be installed, used, introduced, stored, treated, disposed of, generated, manufactured, discharged, dumped, transported or brought in, upon or over the Property in violation of applicable law; (b) allow any soil or ground water contamination or pollution with any Hazardous Substances on the Property in violation of applicable law; (c) allow any Hazardous Substances to migrate from the Property in violation of applicable law; (d) allow any Hazardous Substances to migrate onto the Property from any adjacent properties in violation of applicable law; or (e) allow or cause the Property to be in violation of, or to trigger a duly initiated and prosecuted investigation of the Property by any governmental authority under applicable limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules or timetables contained in any local, state and/or federal laws, regulations, codes, ordinances, plans, administrative or judicial orders, decrees, judgments, notices or demand letters issued, entered, promulgated or approved thereunder relating to the environment, land use, water and air quality and Hazardous Substances ("Environmental Requirements").

(e) If the presence of any Hazardous Substances on the Property caused or permitted by Trustor results in any contamination of the Property, Trustor shall promptly take all actions, at its sole expense, as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Substances to the Property; provided that Beneficiary's approval of such actions shall first be obtained, which approval shall not be unreasonably withheld so long as such actions would not potentially have any material adverse long-term or short-term effect on the Property.

(f) At any time after the occurrence and during the continuance of any default under this Section 2, Beneficiary shall have the following rights and remedies, in addition to any other rights and remedies Beneficiary has under this Deed of Trust:

(i) As provided in California Code of Civil Procedure Section 564, Beneficiary or its employees, acting by themselves or through a court appointed receiver may do any of the following: (i) enter upon, possess, manage, operate,

dispose of, and contract to dispose of the Property or any part thereof; (ii) take custody of all accounts; (iii) negotiate with governmental authorities with respect to the Property's environmental compliance and remedial measures; (iv) take any action necessary to enforce compliance with environmental provisions, including spending Rent Payments to abate any environmental problem; (v) make, terminate, enforce or modify leases of part or all of the Property; (vi) contract for goods and services, hire agents, employees, and counsel, make repairs, alterations, and improvements to the Property necessary in Beneficiary's judgment to protect or enhance the security hereof; and/or (vii) take any and all other actions which may be necessary or desirable to comply with Trustor's obligations hereunder and under the Loan Documents. All sums realized by the receiver or Beneficiary under this subparagraph, less all costs and expenses incurred by either of them under this subparagraph, including attorneys' fees, and less such sums as Beneficiary or the receiver deems appropriate as a reserve to meet future expenses under this subparagraph, shall be applied on any indebtedness secured hereby in such order as Beneficiary shall determine. Neither application of said sums to said indebtedness, nor any other action taken by Beneficiary or the receiver under this subparagraph shall cure or waive any default or notice of default hereunder, or nullify the effect of any such notice of default. Beneficiary, or any employee or agent of Beneficiary, or a receiver appointed by a court, may take any action or proceeding hereunder without regard to the adequacy of the security for the indebtedness secured hereunder, the existence of a declaration that the indebtedness secured hereby has been declared immediately due and payable, or the filing of a notice of default.

(ii) With or without notice, and without releasing Trustor from any obligation hereunder, to cure any default of Trustor or in connection with any such default, Beneficiary or its agents, acting by themselves or through a court-appointed receiver, may enter upon the Property or any part thereof and perform such acts and things as Beneficiary deems necessary or desirable to inspect, investigate, assess, and protect the security hereof, including of any of Beneficiary's other rights: (i) to obtain a court order to enforce Beneficiary's right to enter and inspect the Property under California Civil Code Section 2929.5 (in respect of which the decision of Beneficiary as to whether there exists a release or threatened release of hazardous substance, as defined therein, onto the Property shall be deemed reasonable and conclusive as between the parties hereto); and (ii) to have a receiver appointed under California Code of Civil Procedure Section 564 to enforce Beneficiary's right to enter and inspect the Property for hazardous substances as defined therein. All costs and expenses incurred by Beneficiary with respect to the audits, tests, inspections, and examinations which Beneficiary or its agents or employees may conduct, including the fees of engineers, laboratories, contractors, consultants, and attorneys, shall be paid by Trustor. All costs and expenses incurred by Trustee and Beneficiary pursuant to this subparagraph (including court costs, consultant fees and attorney fees, whether incurred in litigation or not and whether before or after judgment) shall

bear interest at the Note Rate, from the date they are incurred until said sums have been paid.

(iii) Beneficiary may seek a judgment that Trustor has breached its covenants, representations and/or warranties with respect to the environmental matters set forth above in this Section 2, by commencing and maintaining an action or actions in any court of competent jurisdiction for breach of contract pursuant to California Code of Civil Procedure Section 736, whether commenced prior to foreclosure of the Property or after foreclosure of the Property, and to seek the recovery of any and all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Beneficiary or advanced by Beneficiary (collectively, the "Environmental Costs") relating to the cleanup, remediation or other response action required by applicable law or which Beneficiary believes necessary to protect the Property, it being conclusively presumed between Beneficiary and Trustor that all such Environmental Costs incurred or advanced by Beneficiary relating to the cleanup, remediation, or other response action respecting the Property were made by Beneficiary in good faith. All Environmental Costs incurred by Beneficiary under this subparagraph (including court costs, consultant fees and attorney fees, whether incurred in litigation or not and whether before or after judgment) shall bear interest at the Note Rate, from the date of expenditure until said sums have been paid. Beneficiary shall be entitled to bid, at any sale of the Property held hereunder, the amount of said costs, expenses and interest in addition to the amount of the other obligations hereby secured as a credit bid, the equivalent of cash.

(iv) As provided in California Code of Civil Procedure Section 726.5, Beneficiary may waive its lien against the Property or any portion thereof, to the extent such property is found to be environmentally impaired as defined therein, and to exercise any and all rights and remedies of an unsecured creditor against Trustor and all of Trustor's assets and property for the recovery of any deficiency and Environmental Costs, including seeking an attachment order under California Code of Civil Procedure Section 483.010. Beneficiary and Trustor each represents and warrants for itself that it has no actual knowledge of any release of any Hazardous Substance (as defined in Section 726.5) on, to or under the Property. As between Beneficiary and Trustor, for purposes of California Code of Civil Procedure Section 726.5, Trustor shall have the burden of proving that Trustor or any related party (or any affiliate or agent of Trustor or any related party) did not cause or contribute to, and was not in any way negligent in permitting, any release or threatened release of the Hazardous Substance.

(v) Trustor acknowledges and agrees that notwithstanding any term or provision contained herein or in the Loan Documents, the Environmental Costs and all judgments and awards entered against Trustor pursuant to Section 2(f)(iv) above shall be exceptions to any nonrecourse or exculpatory provision of the Loan Documents, and Trustor shall be fully and personally liable for the

Environmental Costs and such judgments and awards and such liability shall not be limited to the original principal amount of the obligations secured by this Deed of Trust, and Trustor's obligations shall survive the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Deed of Trust.

(g) Trustor hereby agrees to indemnify, defend and hold harmless Beneficiary from and against any and all Environmental Losses.

_____, 2012 CAROLYN BEACH

By:_____

Name: _____

Its:_____

"TRUSTOR"

SUCCESSOR AGENCY TO THE FORMER
NEWMAN REDEVELOPMENT AGENCY

By: _____
Chairman

"BENEFICIARY"

RESOLUTION NO. 2014-

A RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD APPROVING AND DIRECTING THE DISPOSITION OF PROPERTIES OWNED BY THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF NEWMAN FOR GOVERNMENTAL PURPOSES IN ACCORDANCE WITH THE APPROVED LONG RANGE PROPERTY MANAGEMENT PLAN

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Newman ("Successor Agency") is the successor agency to the former Redevelopment Agency of the City of Newman ("Agency"), confirmed by the minutes of the January 10, 2012 regular City Council meeting, and pursuant to Health and Safety Code Section 34173(g) is a separate public entity from the City; and

WHEREAS, pursuant to Health and Safety Code Section 34179(a), the Oversight Board is the Successor Agency's oversight board; and

WHEREAS, the Successor Agency received a finding of completion (the "FOC") from the Department of Finance on April 3, 2013; and

WHEREAS, pursuant to Health and Safety Code section 34191.4, the Successor Agency prepared a Long Range Management Plan (the "LRPMP"), which has been approved by the Oversight Board and the Department of Finance; and

WHEREAS, pursuant to Health and Safety Code section 34181, prior to considering the disposition of any property, the oversight board must hold a public hearing after at least 10 days' notice to the public of the specific proposed actions; and

WHEREAS, a public notice of the Oversight Board's consideration at a public hearing regarding the disposition of specific properties was noticed on February 7, 2014; and

WHEREAS, the Oversight Board held a public hearing on February 18, 2014 regarding the proposed dispositions of specific properties former owned by the Redevelopment Agency and received public comments; and

WHEREAS, the proposed dispositions of the properties is consistent with the approved LRPMP;

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY FOR THE CITY OF NEWMAN DOES HEREBY RESOLVE AND FIND AS FOLLOWS:

Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

CEQA Compliance. The transfer of properties set forth through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Stanislaus California, within five (5) days following the date of adoption of this Resolution.

Designation and Direction for Disposition of Properties for Governmental Purpose. The Oversight Board hereby designates the properties set forth in Exhibit A attached to this Resolution as

properties to be used for governmental purposes and directs the Successor Agency to transfer such properties to the City, pursuant to Health and Safety Code Section 34181.

Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Certification. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

Effective Date. Pursuant to Health and Safety Code sections 34179(h) and 34181, all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

The foregoing resolution was introduced at a regular meeting of the Newman Redevelopment Successor Agency Oversight Board held on the 18th of February, 2014 by Board 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:

_____
Chairman of the Newman Redevelopment
Successor Agency Oversight Board

ATTEST:

_____
Secretary of the Newman Redevelopment
Successor Agency Oversight Board

EXHIBIT "A"

PROPERTIES TO BE TRANSFERRED TO CITY FOR GOVERNMENTAL PURPOSES

1. 919 Fresno Street (APN 128-010-014-000)
2. 1361 N Street (APN 128-010-013-000)
3. 1571 Merced Street (APN 128-002-020-000)
4. Merced Street (APN 128-002-032-000)

Agenda Item: 6.a.

Honorable Chairman and Members of the
Newman Redevelopment Successor Agency
Oversight Board

Board Meeting
of February 18, 2014

RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD, DIRECTING AND AUTHORIZING THE TRANSFER OF REDEVELOPMENT AGENCY HOUSING ASSETS TO THE CITY OF NEWMAN AS THE SUCCESSOR HOUSING ENTITY, PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 34177 AND 34181

RECOMMENDATION:
It is recommended that the Oversight Board adopt Resolution No. 2014- directing the transfer of the housing assets and functions and encumbered Low and Moderate Income Housing Funds to the City of Newman as the housing successor entity, pursuant to Health and Safety Code Sections 34177 and 34181.

BACKGROUND:
Pursuant to Health and Safety Code Section 34172, the Redevelopment Agency of the City of Newman ("Agency") was dissolved as of February 1, 2012. The City of Newman ("Successor Housing Entity") is the successor housing entity to the Agency.

ANALYSIS:
Pursuant to Health and Safety Code Section 34176, the City of Newman as the entity that authorized the creation of the Agency, could elect to retain the housing assets and functions of the Agency, upon the Agency's dissolution. The City elected to retain the housing assets and functions of the Agency pursuant to City Council Resolution No. 2012-10, adopted on the 24th of January, 2012.

Pursuant to Health and Safety Code Section 34177(g), the Successor Agency is required to transfer the housing assets and functions of the Agency to the entity designated pursuant to Health and Safety Code Section 34176, in this case, the City, as the Successor Housing Entity. Pursuant to Health and Safety Code Section 34181(c), the Oversight Board is to direct the Successor Agency to transfer housing assets to the entity designated pursuant to Health and Safety Code Section 34176, in this case, the City, as the Successor Housing Entity. Exhibit A, attached to this Agenda Report, provides a list of Agency housing assets to be considered by the Oversight Board for transfer by the Successor Agency to the Successor Housing Entity.

Pursuant to Health and Safety Code Section 34177(d), the Successor Agency is required to remit only the unencumbered balances of Agency funds to the County of Stanislaus Auditor-Controller, including the unencumbered balance of the Housing Fund. Pursuant to Health and Safety Code Section 34177(l), the Successor Agency has prepared and the Oversight Board has approved a Recognized Obligation Payment Schedule ("ROPS") setting forth the obligations of the Agency to be paid from property tax increment revenue, including obligations related to specified housing obligations to be paid from the Housing Fund. The Successor Housing Entity, upon receiving the responsibility of performing certain Agency housing obligations, will also require the Housing Fund money encumbered for such obligations.

Pursuant to Health and Safety Code Section 34179(h), because the State of California Department of Finance may review Oversight Board actions, the Oversight Board's action to approve the transfer of housing assets and functions to the Successor Housing Entity is not effective for five (5) business days, pending a request for review by the State of California Department of Finance.

FISCAL IMPACT:
No new funds are involved with the transfer of the housing functions and assets of the Agency to the Successor Housing Entity, but the Successor Housing Entity will be allocated existing encumbered Housing Fund monies for specified housing obligations.

CONCLUSION:
Staff recommends that the Oversight Board adopt Resolution No. 2014- directing and authorizing the transfer of Redevelopment Agency Housing Assets to the City of Newman as the Successor Housing Entity, pursuant to Health and Safety Code Sections 34177 and 34181.

ATTACHMENTS:

1. Resolution No. 2014-
2. Exhibit A – list of assets to transfer

Respectfully submitted,

Lewis A. Humphries
Finance Director

REVIEWED/CONCUR

Michael Holland
City Manager

RESOLUTION NO. 2014-

A RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD DIRECTING AND AUTHORIZING THE TRANSFER OF REDEVELOPMENT AGENCY HOUSING ASSETS TO THE CITY OF NEWMAN AS THE SUCCESSOR HOUSING ENTITY, PURSUANT TO HEALTH AND SAFETY CODE SECTIONS 34177 AND 34181

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Newman ("Successor Agency") is the successor agency to the former Redevelopment Agency of the City of Newman ("Agency"), confirmed by minutes of the January 10, 2012 regular City Council meeting, and pursuant to Health and Safety Code Section 34173(g) is a separate public entity from the City; and

WHEREAS, pursuant to Health and Safety Code Section 34179(a), the Oversight Board is the Successor Agency's oversight board; and

WHEREAS, pursuant to Health and Safety Code Section 34176, the City of Newman ("Successor Housing Entity"), as the entity that authorized the creation of the Agency, elected to retain the housing assets and functions previously performed by the Agency, including all rights, powers, assets, liabilities, duties and obligations associated with the housing activities of the Agency, excluding any unencumbered amounts on deposit in the Low and Moderate Income Housing Fund; and

WHEREAS, pursuant to Health and Safety Code Section 34177(g), the Successor Agency is required to effectuate the transfer of housing functions and assets to the entity designated pursuant to Health and Safety Code Section 34176, in this case, the City, as the Successor Housing Entity; and

WHEREAS, a list of all Agency housing assets to be transferred by the Successor Agency to the Successor Housing Entity is attached to this Resolution as Exhibit A; and

WHEREAS, pursuant to Health and Safety Code Section 34177(d), the Successor Agency is required to remit only the unencumbered balances of Agency funds to the county-auditor controller, including the unencumbered balance of the Low and Moderate Income Housing Fund ("Housing Fund"); and

WHEREAS, pursuant to Health and Safety Code Section 34177(l), the Successor Agency has prepared and the Oversight Board has approved a Recognized Obligation Payment Schedule ("ROPS") setting forth the obligations of the Agency to be paid from property tax increment revenue, including obligations related to specified housing obligations to be paid from the balance of the Housing Fund; and

WHEREAS, the Successor Agency desires to transfer funds from the Housing Fund that are encumbered for specified housing obligations provided in the ROPS to the Successor Housing Entity for the Successor Housing Entity to perform such housing obligations, as described in Exhibit B attached to this Resolution; and

WHEREAS, pursuant to Health and Safety Code Section 34181(c), the Oversight Board is to direct the Successor Agency to transfer housing assets to the entity designated pursuant to Health and Safety Code Section 34176.

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY FOR THE CITY OF NEWMAN DOES HEREBY RESOLVE AND FIND AS FOLLOWS:

Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

CEQA Compliance. The transfer of housing assets through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board, is authorized and directed to file a Notice of Exemption with the appropriate official of the County of Stanislaus, California, within five (5) days following the date of adoption of this Resolution.

Designation and Direction to Transfer Housing Assets. The Oversight Board hereby designates the assets set forth in Exhibit A attached to this Resolution as the housing assets of the Agency to be transferred to the Successor Housing Entity and directs the Successor Agency to transfer such housing assets to the Housing Successor Entity, pursuant to Health and Safety Code Sections 34176, 34177 and 34181.

Transfer of Encumbered Funds from the Housing Fund. The Oversight Board hereby directs the Successor Agency to transfer the encumbered balance of the Housing Fund designated for housing obligations provided in the ROPS, all as provided in Exhibit B attached to this Resolution, to the Successor Housing Entity, pursuant to Health and Safety Code Section 34181.

Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Certification. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

Effective Date. Pursuant to Health and Safety Code Section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

The foregoing resolution was introduced at a regular meeting of the Newman Redevelopment Successor Agency Oversight Board held on the 18th of February, 2014 by Board 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:

_____
Chairman of the Newman Redevelopment
Successor Agency Oversight Board

ATTEST:

_____
Secretary of the Newman Redevelopment
Successor Agency Oversight Board

EXHIBIT "A"

NEWMAN SUCCESSOR AGENCY
HOUSING SUCCESSOR ASSET DETAILS

1. Loan Receivable - Supplemental Educational Revenue Augmentation Fund (SERAF) - $485,822.00 plus any interest if applicable.

2. Loan Receivable – Newman Family Apartments - $300,000 plus any interest if applicable.

3. Cash and Investments – $33,200 - amount determined by State Controller's Office Audit.

Agenda Item: 6.b.

Honorable Chairman and Members of the
Newman Redevelopment Successor Agency
Oversight Board

Board Meeting
of February 18, 2014

RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD, APPROVING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(m)

RECOMMENDATION:
It is recommended that the Oversight Board adopt Resolution No. 2014- approving the Recognized Obligation Payment Schedule (ROPS) pursuant to Health and Safety Code section 34177(m).

BACKGROUND:
Pursuant to Health and Safety Code Section 34172, the Redevelopment Agency of the City of Newman ("Agency") was dissolved as of February 1, 2012. The City of Newman ("RDA Successor Agency") is the successor agency of the Agency. The Oversight Board is responsible for approving the actions of the RDA Successor Agency pursuant to Health and Safety Code Section 34179.

ANALYSIS:
Pursuant to Health and Safety Code Section 34177(m) successor agencies are to prepare the July 1 to December 31, 2014 ROPS listing all of the outstanding debts and obligations of the former Agency, for that period, and submit the ROPS to the Oversight Board for approval. Once approved by the Oversight board it is to be forwarded to the Department of Finance and the County Auditor-Controller. ROPS must be submitted to the Department of Finance 90 days prior to the property tax distribution dates to avoid a penalty. The property tax distribution dates are on January 2nd and June 1st. The submission deadline dates are October 4th and March 3rd. Successor agencies may be assessed a $10,000 per day penalty for failure to timely submit the ROPS (section 34177(m)(2)).

The Department of Finance ROPS reporting format contains five pages; Summary, Report of Fund Balances, ROPS Detail, Report of Prior Period Adjustments, and Notes. No new obligations have been added to the ROPS.

The Department of Finance has 45 days to make any determinations on the ROPS. Within 5 days of notification of any Department of Finance determinations successor agencies my request additional review and meet and confer.

CEQA
The actions taken by enactment of this Resolution do not commit the Oversight Board to any actions that may have a significant effect on the environment. As a result, this action does not constitute a project subject to the requirements of the California Environmental Quality Act.

FISCAL IMPACT:
There is no impact to the Oversight Board. No funds are involved with the approval of the ROPS.

CONCLUSION:
Staff recommends that the Oversight Board adopt Resolution No. 2014- approving the Recognized Obligation Payment Schedule.

ATTACHMENTS:
1. Resolution No. 2014-
2. Exhibit A – Recognized Obligation Payment Schedule pages 1-5

Respectfully submitted,

Lewis A. Humphries
Finance Director

REVIEWED/CONCUR

Michael Holland
City Manager

RESOLUTION NO. 2014-

A RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD APPROVING A RECOGNIZED OBLIGATION PAYMENT SCHEDULE PURSUANT TO HEALTH AND SAFETY CODE SECTION 34177(m)

WHEREAS, pursuant to Health and Safety Code Section 34173(d), the City of Newman ("RDA Successor Agency") is the successor agency to the dissolved Redevelopment Agency of the City of Newman ("Agency"); and

WHEREAS, the Oversight Board is the RDA Successor Agency's oversight board pursuant to Health and Safety Code Section 34179(a); and

WHEREAS, Health and Safety Code Section 34177(m), requires the RDA Successor Agency to prepare a "recognized obligation payment schedule" ("ROPS") listing outstanding obligations of the Agency to be performed by the RDA Successor Agency during the time period from July 1, 2014 through December 31, 2014; and

WHEREAS, Health and Safety Code Section 34177(m) requires the RDA Successor Agency to submit this period ROPS to the Department of Finance and County Auditor-Controller for review at least 90 days prior to property tax distribution dates (90 days prior being March 3, 2014);

NOW, THEREFORE, THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD DOES HEREBY RESOLVE AS FOLLOWS:

Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

CEQA Compliance. The approval of the ROPS through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

Approval of the ROPS. The Oversight Board hereby approves and adopts the ROPS, in substantially the form attached to this Resolution as Exhibit A, pursuant to Health and Safety Code Section 34177.

Implementation. The Oversight Board hereby directs the RDA Successor Agency to submit copies of the ROPS approved by the Oversight Board to all required agencies after the effective date of this Resolution, and to post the ROPS on the RDA Successor Agency's website.

Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Certification. The City Clerk of the City of Newman, acting on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

Effective Date. Pursuant to Health and Safety Code Section 34177(m), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance within 45 days during which time the Department of Finance will provide a determination.

The foregoing resolution was introduced at a regular meeting of the Newman Redevelopment Successor Agency Oversight Board held on the 18th of February, 2014 by Board 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:

_____
Chairman of the Newman Redevelopment
Successor Agency Oversight Board

ATTEST:

_____
Secretary of the Newman Redevelopment
Successor Agency Oversight Board

Recognized Obligation Payment Schedule (ROPS 14-15A) - Summary

Filed for the July 1, 2014 through December 31, 2014 Period

Name of Successor Agency: **Newman**

Name of County: Stanislaus

	Current Period Requested Funding for Outstanding Debt or Obligation	Six-Month Total
A	**Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding Sources (B+C+D):**	**$ -**
B	Bond Proceeds Funding (ROPS Detail)	-
C	Reserve Balance Funding (ROPS Detail)	-
D	Other Funding (ROPS Detail)	-
E	**Enforceable Obligations Funded with RPTTF Funding (F+G):**	**$ 349,563**
F	Non-Administrative Costs (ROPS Detail)	252,563
G	Administrative Costs (ROPS Detail)	97,000
H	**Current Period Enforceable Obligations (A+E):**	**$ 349,563**

	Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
I	Enforceable Obligations funded with RPTTF (E):	349,563
J	Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)	-
K	**Adjusted Current Period RPTTF Requested Funding (I-J)**	**$ 349,563**

	County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding	
L	Enforceable Obligations funded with RPTTF (E):	349,563
M	Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)	
N	**Adjusted Current Period RPTTF Requested Funding (L-M)**	**349,563**

Certification of Oversight Board Chairman:
Pursuant to Section 34177(m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

Name Title

/s/

Signature Date

Recognized Obligation Payment Schedule (ROPS) 14-15A - ROPS Detail
July 1, 2014 through December 31, 2014
(Report Amounts in Whole Dollars)

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
										Funding Source					
										Non-Redevelopment Property Tax Trust Fund (Non-RPTTF)			RPTTF		
Item #	Project Name / Debt Obligation	Obligation Type	Contract/Agreement Execution Date	Contract/Agreement Termination Date	Payee	Description/Project Scope	Project Area	Total Outstanding Debt or Obligation	Retired	Bond Proceeds	Reserve Balance	Other Funds	Non-Admin	Admin	Six-Month Total
								$ 8,248,412		$ -	$ -	$ -	$ 252,563	$ 97,000	$ 349,563
1	1997 Tax Allocation Bonds	Bonds Issued On or	12/2/1997	8/1/2027	US Bank	Bond Payment	Project No. 1	2,961,759	N				192,563		$ 192,563
2	ABX4-36 SERAF Payments	SERAF/ERAF	5/1/2010	8/1/2027	Newman LMIHF - 74	LMIHF loan to RDA from SERAF Payments	Project No. 1	485,822	N						
3	Borrowed Funds from Cash Pool	City/County Loans On or Before 6/27/11	6/30/2010	8/1/2027	City of Newman	Negative Cash Position	Project No. 1	371,232	N						
4	LMIH Project w/ Housing Authority	OPA/DDA/Construction	3/1/2011	7/1/2017	Housing Authority	Housing Authority 60 units of LMIH	Project No. 1	200,000	N				-		$ -
6	Loan from Stanislaus County for Plaza	City/County Loans On or Before 6/27/11	1/1/2010	3/1/2018	Stanislaus County	Stanislaus Cnty Economic Dev. Bank Loan	Project No. 1	240,000	N				60,000		$ 60,000
7	Employee Costs - Estimated	Admin Costs	6/28/2011	8/1/2028	Employees of Agency	Payroll Costs	Project No. 1	2,255,998	N					70,000	$ 70,000
8	Project Administration Costs - Estim.	Admin Costs	6/28/2011	8/1/2028	City of Newman	Project Administration Costs - Gen Alloc	Project No. 1	1,346,401	N					7,000	$ 7,000
9	Audit and Financial Reports - Estim.	Admin Costs	6/28/2011	8/1/2028	Clendenin Bird & Co., P.C.	Audit Services	Project No. 1	157,800	N					7,000	$ 7,000
10	Theatre Operation - Estimated	Admin Costs	6/28/2011	8/1/2028	City of Newman	Maintenance of Theatre	Project No. 1	146,000	N					8,000	$ 8,000
12	Industrial Park Oper - Estimated	Admin Costs	6/28/2011	8/1/2028	PG&E	Gas & Electric for Industrial Park	Project No. 1	83,400	N					5,000	$ 5,000

Recognized Obligation Payment Schedule (ROPS) 14-15A - Report of Cash Balances

(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177(l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.

A	B	C	D	E	F	G	H	I
		Fund Sources						
		Bond Proceeds		Reserve Balance		Other	RPTTF	
	Cash Balance Information by ROPS Period	Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR balances retained	Prior ROPS RPTTF distributed as reserve for next bond payment	Rent, Grants, Interest, Etc.	Non-Admin and Admin	Comments
ROPS 13-14A Actuals (07/01/13 - 12/31/13)								
1	**Beginning Available Cash Balance (Actual 07/01/13)** Note that for the RPTTF, 1 + 2 should tie to columns J and O in the Report of Prior Period Adjustments (PPAs)	254,206	-			(265,262)	-	$254,206 is Bond Reserve Requirement
2	**Revenue/Income (Actual 12/31/13)** Note that the RPTTF amounts should tie to the ROPS 13-14A distribution from the County Auditor-Controller during June 2013	1,080	-			11,501	221,505	$11,501 is Rev from outstanding loans. $1,080 is Int on Bond Reserve Account.
3	**Expenditures for ROPS 13-14A Enforceable Obligations (Actual 12/31/13)** Note that for the RPTTF, 3 + 4 should tie to columns L and Q in the Report of PPAs	-	-			2,193	261,622	$2,193 was pmt for Prior Period accrued invoices.
4	**Retention of Available Cash Balance (Actual 12/31/13)** Note that the RPTTF amount should only include the retention of reserves for debt service approved in ROPS 13-14A	255,286	-			-	-	$ 255,286 is Bond Reserve Requirement
5	**ROPS 13-14A RPTTF Prior Period Adjustment** Note that the RPTTF amount should tie to column S in the Report of PPAs.	No entry required					-	
6	**Ending Actual Available Cash Balance C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)**	$ -	$ -	$ -	$ -	$ (255,955)	$ (40,117)	
ROPS 13-14B Estimate (01/01/14 - 06/30/14)								
7	**Beginning Available Cash Balance (Actual 01/01/14) (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)**	$ 255,286	$ -	$ -	$ -	$ (255,955)	$ (40,117)	
8	**Revenue/Income (Estimate 06/30/14)** Note that the RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014	-	-				205,008	
9	**Expenditures for 13-14B Enforceable Obligations (Estimate 06/30/14)**	2,382	-				205,008	
10	**Retention of Available Cash Balance (Estimate 06/30/14)** Note that the RPTTF amounts may include the retention of reserves for debt service approved in ROPS 13-14B	252,904	-				-	
11	**Ending Estimated Available Cash Balance (7 + 8 - 9 -10)**	$ -	$ -	$ -	$ -	$ (255,955)	$ (40,117)	

Recognized Obligation Payment Schedule (ROPS) 14-15A - Report of Prior Period Adjustments
Reported for the ROPS 13-14A (July 1, 2013 through December 31, 2013) Period Pursuant to Health and Safety Code (HSC) section 34186 (a)
(Report Amounts in Whole Dollars)

ROPS 13-14A Successor Agency (SA) Self-reported Prior Period Adjustments (PPA): Pursuant to HSC Section 34186 (a), SAs are required to report the differences between their actual available funding and their actual expenditures for the ROPS 13-14A (July through December 2013) period. The amount of Redevelopment Property Tax Trust Fund (RPTTF) approved for the ROPS 14-15A (July through December 2014) period will be offset by the SA's self-reported ROPS 13-14A prior period adjustment HSC Section 34186 (a) also specifies that the prior period adjustments self-reported by SAs are subject to audit by the county auditor-controller (CAC) and the State Controller.

ROPS 13-14A CAC PPA: To be completed by the CAC upon submittal of the ROPS 14-15A by the SA to Finance and the CAC. Note that CACs will need to enter their own formulas at the line item level pursuant to the manner in which they calculate the PPA. Also note that the admin amounts do not need to be listed at the line item level and may be entered as a lump sum.

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z	AA	AB
		Non-RPTTF Expenditures						RPTTF Expenditures												RPTTF Expenditures							
		Bond Proceeds		Reserve Balance		Other Funds		Non-Admin					Admin					Net SA Non-Admin and Admin PPA (Amount Used to Offset ROPS 14-15A Requested RPTTF)		Non-Admin CAC			Admin CAC			Net CAC Non-Admin and Admin PPA (Amount Used to Offset ROPS 14-15A Requested RPTTF)	
Item #	Project Name / Debt Obligation	Authorized	Actual	Authorized	Actual	Authorized	Actual	Authorized	Available RPTTF (ROPS 13-14A distributed + all other available as of 07/1/13)	Net Lesser of Authorized / Available	Actual	Difference (If K is less than L, the difference is zero)	Authorized	Available RPTTF (ROPS 13-14A distributed + all other available as of 07/1/13)	Net Lesser of Authorized / Available	Actual	Difference (If total actual exceeds total authorized, the total difference is zero)	Net Difference (M+R)	SA Comments	Net Lesser of Authorized / Available	Actual	Difference	Net Lesser of Authorized / Available	Actual	Difference	Net Difference	CAC Comments
		$ -	$ -	$ -	$ -	$ -	$ -	$ 191,008	$ 191,008	$ -	$ 191,008	$ -	$ 82,556	$ 30,497	$ 30,497	$ 70,614	$ -	$ -				$ -			$ -	$ -	
1	1997 Tax Allocation	-		-		-		191,008	-	$ -	191,008	$ -						$ -									
2	ABX4-36 SERAF	-		-		-		-		$ -	-	$ -						$ -									
3	Borrowed Funds from Cash Pool			-		-				$ -		$ -						$ -									
4	LMIH Project w/ Housing Authority									$		$						$									
5	Fee Offset Fund	-		-		-		-		$ -	-	$ -						$ -									
6	Loan from Stanislaus County for Plaza									$		$						$									
7	Employee Costs - Estimated									$		$	64,556			58,509		$									
8	Project Administration Costs - Estim.									$		$	5,000			5,095		$									
9	Audit and Financial Reports - Estim									$ -		$	6,350					$									
10	Theatre Operation - Estimated	-								$ -		$	4,250			5,398		$									
11	Property Tax Admin - Estimated	-		-						$ -		$ -						$									
12	Industrial Park Oper - Estimated	-		-				-		$ -		$ -	2,400			1,612		$									
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Recognized Obligation Payment Schedule 14-15A - Notes

July 1, 2014 through December 31, 2014

Item #	Notes/Comments
1	Bonds expire 8/1/2027, Principal and Interest payment on this ROPS
2	Not enough RPTTF to pay SERAF on this ROPS
3	Ongoing since 2009/2010 RDA/SA has been in negative cash position
4	Next payment is during 14-15B period
5	Fee offset fund expired on 12/31/2013. DOF approved on all ROPS except for ROPS 13-14A.
6	Loan payment due each July 1
7	Estimated employee costs. Execution date is date Governor signed ABx1-26
8	Projected General Admin Costs. Execution date is date Governor signed ABx1-26
9	Execution date is date Governor signed ABx1-26
10	Estmated Theatre costs. Execution date is date Governor signed ABx1-26
11	Property Tax Admin Costs now removed prior to RPTTF distribution.
12	Industrial park operation costs. Execution date is date Governor signed ABx1-26

Agenda Item: 6.c.

Honorable Chairman and Members of the
Newman Redevelopment Successor Agency
Oversight Board

Board Meeting
of February 18, 2014

RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD, APPROVING THE AGREEMENT FOR REPAYMENT OF THE LOAN FROM THE LOW AND MODERATE INCOME HOUSING FUND TO MAKE THE 2009-2010 AND 2010-11 SERAF PAYMENTS

RECOMMENDATION:
It is recommended that the Oversight Board adopt Resolution No. 2014 – approving and authorizing the agreement to repay the funds borrowed from the Low and Moderate income Housing fund to make the Supplemental Educational Revenue Augmentation Fund (SERAF) payment.

BACKGROUND:
The Redevelopment Agency was required by Health and Safety Code section 33690 to make a payment in 2009-10 and 2010-11 to the Supplemental Educational Revenue Augmentation Fund all of which was borrowed from the Low- and Moderate-Income Housing Fund.

The legislation that dissolved redevelopment agencies, AB 1x 26 and AB 1484 (collectively, the "Dissolution Law") also prescribes the procedures to be followed for winding down the former redevelopment agency's affairs. The Dissolution Law provides that after fiscal year 2013-14, repayment of loans made by the Low- and Moderate-Income Housing Fund of the former Redevelopment Agency may be repaid, if the Oversight Board approves the repayment schedule.

ANALYSIS:
The proposed Agreement to repay the loan from Low- and Moderate-Income Housing Fund for 2009-2010 and 2010-2011 SERAF Payment, if approved, would allow the Successor Agency to claim RPTTF for repayment of the loan. The repayment schedule is in accordance with the formula set forth in Health and Safety Code section 34176(e)(6)(B).

Health and Safety Code section 34176(e)(6)(B) authorizes the repayment of loans from the former redevelopment agency's Low- and Moderate-Income Housing Fund after 2013-2014. The proposed Agreement to Repay Loan from Low- and Moderate-Income Housing Fund for 2009-2010 and 2010-11 SERAF payments would allow the loan to be repaid, and deposited into a new Low- and Moderate-Income Housing Asset Fund to be used for affordable housing purposes.

FISCAL IMPACT:
None.

CONCLUSION:
Staff recommends approving and authorizing the agreement to repay the funds borrowed from the Low and Moderate Income Housing fund.

ATTACHMENTS:
1. Resolution 2014 –
2. Agreement to Repay Loan from Low and Moderate Income Housing Fund

Respectfully submitted,

Lewis A. Humphries
Finance Director

REVIEWED/CONCUR

Michael Holland
City Manager

RESOLUTION NO. 2014-

A RESOLUTION OF THE NEWMAN REDEVELOPMENT SUCCESSOR AGENCY OVERSIGHT BOARD APPROVING AGREEMENT FOR REPAYMENT OF LOAN FROM LOW- AND MODERATE-INCOME HOUSING FUND TO MAKE 2009-10 AND 2010-11 SERAF PAYMENTS

WHEREAS, pursuant to Assembly Bill 1X 26, enacted on June 28, 2011, and Assembly Bill 1484, enacted on June 27, 2012, (collectively the "Dissolution Law"), the Redevelopment Agency of the City of Newman ("Redevelopment Agency") was dissolved on February 1, 2012; and

WHEREAS, under the authority of the Dissolution Act, the City of Newman("City") elected to be the successor agency to the former Redevelopment Agency ("Successor Agency") upon the Redevelopment Agency's dissolution; and

WHEREAS, under the authority of the Dissolution Act, the City opted to retain the housing functions and obligations of the former Redevelopment Agency as the designated housing successor ("Housing Successor");

WHEREAS, the Oversight Board to the Successor Agency was established under the Dissolution Law to direct and oversee the Successor Agency's action in winding down the affairs of the Redevelopment Agency and to perform other related functions; and

WHEREAS, pursuant to Health and Safety Code section 34176(e)(6)(B), repayment of loans made by the Low- and Moderate-Income Housing Fund are authorized after fiscal year 2013-14 if the oversight board has approved the repayment schedule; and

WHEREAS, the Low- and Moderate-Income Housing Fund loaned $485,822 (the "Loan") to the former Redevelopment Agency to enable the Redevelopment Agency to make payments to the Supplemental Educational Revenue Augmentation Fund ("SERAF") for the 2009-10 and 2010-11 fiscal years, as required by Health and Safety Code sections 33690 and 33690.5; and

WHEREAS, no portion of the Loan has been repaid;

NOW, THEREFORE, THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY FOR THE CITY OF NEWMAN DOES HEREBY RESOLVE AND FIND AS FOLLOWS:

Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

The Agreement to Repay Loan from Low and Moderate-Income Housing Fund for 2009-10 and 2010-11 SERAF payments, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, is hereby approved and the Successor Agency is hereby authorized to execute said agreement.

All legal prerequisites to the adoption of this Resolution have been satisfied.

Implementation. The Executive Director of the Successor Agency or designee is hereby authorized to take such actions as are necessary and appropriate to implement this decision of the Oversight Board, including, but not limited to, listing the Agreement to Repay Loan from Low- and Moderate-Income Housing Fund for 2009-10 and 2010-11 SERAF Payments on the Successor Agency's ROPS as an enforceable obligation. The repayment schedule is consistent with the provisions of Health and Safety Code section 34176(e)(6)(B).

Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Certification. The City Clerk of the City of Newman acting ex officio on behalf of the Oversight Board as its Secretary, shall certify to the adoption of this Resolution.

Effective Date. Pursuant to Health and Safety Code sections 34179(h) and 34181, all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for five (5) business days, pending a request for review by the State of California Department of Finance.

The foregoing resolution was introduced at a regular meeting of the Newman Redevelopment Successor Agency Oversight Board held on the 18th of February, 2014 by Board 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:

_____
Chairman of the Newman Redevelopment
Successor Agency Oversight Board

ATTEST:

_____
Secretary of the Newman Redevelopment
Successor Agency Oversight Board

EXHIBIT "A"

[Insert Agreement to Repay Loan from Low and Moderate Income Housing Fund]

AGREEMENT TO REPAY LOAN FROM LOW- AND MODERATE INCOME HOUSING FUND FOR 2009-10 AND 2010-11 SERAF PAYMENTS

THIS AGREEMENT (this "Agreement") is entered into this _____ day of _____, 2014, by and between the SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF NEWMAN, a public body (the "Successor Agency") and the CITY OF NEWMAN, in its capacity as the Housing Successor to the former Redevelopment Agency ("City").

RECITALS

The City and the Successor Agency (individually, a "Party" and collectively, the "Parties") enter into this Agreement with reference to the following facts and circumstances:

A. Pursuant to the provisions of the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.), the City Council of City activated the Redevelopment Agency of the City of Newman (the "Redevelopment Agency") and subsequently adopted the Redevelopment Plan for the Newman Redevelopment Project (the "Redevelopment Plan").

B. Pursuant to Health and Safety Code sections 33690 and 33690.5, the Redevelopment Agency was required to make payments to the Supplemental Educational Revenue Augmentation Fund ("SERAF") for fiscal years 2009-10 and 2010-11. Because the Redevelopment Agency did not have sufficient funds to make the payment in those fiscal years, it borrowed the necessary funds from its Low and Moderate-Income Housing Fund, as authorized by those statutes.

C. In May, 2010, the Redevelopment Agency borrowed $402,877 from the Low- and Moderate-Income Housing Fund, and in May, 2011, borrowed another $82,945, in order to make the required SERAF payments for fiscal years 2009-10 and 2010-11, respectively. Thus the total amount of the loans was $485,822 (the "SERAF Loan").

D. Assembly Bill 1X 26 ("AB 26"), enacted in June 2011, and AB 1484 ("AB 1484"), enacted in June 2012 (collectively, the "Dissolution Act") required the dissolution of redevelopment agencies and established certain procedures and requirements for the wind-down of their activities.

E. The Successor Agency is the successor entity to the former Redevelopment Agency and, pursuant to the Dissolution Act, is responsible for the wind-down of the former Redevelopment Agency, including without limitation the performance and repayment of all enforceable obligations of the former Redevelopment Agency.

F. Pursuant to Health and Safety Code section 34176, the City elected to retain the housing assets and functions previously performed by the Redevelopment Agency.

G. Pursuant to Health and Safety Code section 34176(e)(6)(B), after fiscal year 2013-14, amounts borrowed from the Low- and Moderate-Income Housing Fund may begin to

be repaid.

H. The parties desire to enter into this Agreement in repay the amounts borrowed from the Low- and Moderate-Income Housing Fund and to have the payments deposited into the newly-created Low- and Moderate-Income Housing Asset Fund to be used by the City, as the housing successor, for affordable housing purposes.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, including the mutual promises and covenants contained herein, the Parties mutually agree as follows:

1. Recitals. All of the above recitals are true and correct and are incorporated herein.

2. Purpose. The purpose of this Agreement is to document the obligation to repay the SERAF Loan as an enforceable obligation to be listed by the Successor Agency on each successive Recognized Obligation Payment Schedule ("ROPS"), as required to be prepared under Health and Safety Code section 34177, until such time as the SERAF Loan has been fully repaid.

3. Loan Amount. It is the understanding and agreement of the parties that the total amount of the SERAF Loan is Four Hundred Eighty-Five Thousand Eight Hundred Twenty Two Dollars ($485,822).

4. Schedule of Repayment. Pursuant to Health and Safety Code section 34176 (e)(6)(B), repayments of SERAF loans are restricted to the formula set forth therein. Therefore the repayment of the SERAF Loan each fiscal year shall be equal to the maximum amount allowed under Health and Safety Code section 34176(e)(6)(B).

5. Deposit in Low- and Moderate-Income Housing Asset Fund. Repayments of the SERAF Loan shall be made to the City as the housing successor. City shall deposit such repayments in a Low- and Moderate-Income Housing Asset Fund, established pursuant to Health and Safety Code section 34176(d), and shall use them in accordance with the requirements for such fund.

[*Signatures on following page*]

IN WITNESS WHEREOF, the City, as housing successor, and Successor Agency have executed this Agreement as of the date first set forth above.

CITY OF NEWMAN, as Housing Successor

By:_____
Michael Holland, City Manager

ATTEST:

By:_____
_____, City Clerk

APPROVED AS TO FORM:

By:_____
_____, City Attorney

SUCCESSOR AGENCY TO THE FORMER REDEVELOPMENT AGENCY OF THE CITY OF NEWMAN

By:_____
Michael Holland, Executive Director

ATTEST:

By:_____
_____, Agency Secretary

APPROVED AS TO FORM:

By:_____
_____, Agency Counsel