

RESOLUTION NO. 2016-39

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWMAN, CALIFORNIA,
ESTABLISHING THE FORMATION OF A COMMUNITY FACILITIES DISTRICT**

**CITY OF NEWMAN
COMMUNITY FACILITIES DISTRICT NO. 2016-1
(COMMUNITY POOL)**

WHEREAS, on April 16, 2016, this City Council (the "City Council") of the City of Newman (the "City") adopted Resolution No. 2016-25 entitled "A Resolution of the City Council of the City of Newman, California, Declaring its Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes" (the "Resolution of Intention"), stating its intention to form the City of Newman, Community Facilities District No. 2016-1 (Community Pool) (the "District"), of the City pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 *et. Seq.*, hereafter referred to as the "Act"); and

WHEREAS, the Resolution of Intention, incorporating a map of the proposed boundaries of the District and stating the Facilities and Services to be provided, the estimated cost of providing such Facilities and Services as defined in Exhibit A (the "Facilities and Services"), and the Rate and Method of Apportionment of the Special Tax to be levied within the District to pay for the Facilities and Services, are on file with the City Clerk and the provisions thereof are incorporated by this reference as if fully set forth herein; and

WHEREAS, under the Resolution of Intention, the Finance Director was directed to make, or cause to be made, and file with the City Clerk a report (the "District Report") in writing, presenting the Facilities and Services to be provided and an estimate of the reasonable cost of providing the Facilities and Services. The District Report was prepared and submitted to the City Clerk prior to the public hearing described below; and

WHEREAS, the Resolution of Intention called for a public hearing pertaining to the formation of the District and the levy of said special tax to be held on June 14, 2016, at 7:00 p.m. at the meeting place of the City Council; and

WHEREAS, under the Resolution of Intention, the City Clerk was directed to cause notice of said public hearing to be given by publication one time in a newspaper published in the area of the District, and the City Clerk caused the publication of such notice at least seven (7) days before the date set for said public hearing; and

WHEREAS, on this date, this City Council held a noticed public hearing as required by the Act and the Resolution of Intention relative to the proposed formation of the District; and

WHEREAS, the City Council adopted Resolution 2016-26 declaring its intention to incur bonded indebtedness, estimating the amount required for the financing of the costs of the Facilities in the territory of the District to be the sum of an amount not to exceed \$6,500,000 (the "Bond Authorization"); and

WHEREAS, the City presently contemplates a loan from the County of Stanislaus (the "County") in an amount not to exceed the Bond Authorization; and

WHEREAS, if the City is unable to obtain a loan from the County or other entity, in order to finance the costs of the Facilities it may be necessary to incur bonded indebtedness in an amount not to exceed \$6,500,000 on behalf of the District; and

WHEREAS, it is in the public interest and for the public benefit that the City declares its official intent to finance the Facilities with bonded indebtedness referenced herein in the event the City is unable to obtain a loan from the County or other entity; and

WHEREAS, at the public hearing all interested persons desiring to be heard on all matters pertaining to the formation of the District, the Facilities and Services to be provided therein and the levy of such special taxes were heard and a full and fair public hearing was held; and

WHEREAS, written protests with respect to the formation of the District, the furnishing of specified types of Facilities and Services and the Rate and Method of Apportionment of the Special Tax have not been filed with the City Clerk by fifty percent (50%) or more of the registered voters residing within the territory of the District or property owners of one-half (1/2) or more of the area of land within the District and not exempt from the proposed special taxes; and

WHEREAS, the special tax proposed to be levied in the District to pay for the proposed Facilities and Services has not been eliminated by protest by fifty percent (50%) or more of the registered voters residing within the territory of the District or the owners of one-half (1/2) or more of the area of land within the District and not exempt from the special taxes; and

NOW, THEREFORE, the City Council of the City of Newman, DOES HEREBY RESOLVE as follows:

1. The foregoing recitals are true and correct.
2. The proposed special tax to be levied within the District has not been precluded by majority protest pursuant to Section 53324 of the Act.
3. All prior proceedings taken by the City Council in connection with the establishment of the District and the levy of the special tax have been duly considered and are hereby found and determined to be valid and in conformity with the requirements of the Act. The City Council has heretofore adopted Local Goals and Policies for Community Facilities Districts, and the City Council hereby finds and determines that the District is in conformity with said goals and policies.
4. The community facilities district designated as the "City of Newman, Community Facilities District No. 2016-1 (Community Pool)" of the City is hereby established pursuant to the Act.
5. The District Report is hereby approved.
6. The boundaries of the District, as set forth in the map entitled "Map of Proposed Boundaries City of Newman, Community Facilities District No. 2016-1 (Community Pool), City of Newman, County of Stanislaus, State of California" heretofore recorded in the Stanislaus County Recorder's Office on May 4, 2016, in Book 5 at Page 48 as Document 2016-0032804-00 of Maps of Assessment and Community Facilities Districts, are hereby approved, are incorporated herein by reference and shall be the boundaries of the District.
7. The type of Facilities and Services proposed to be funded by the District and pursuant to the Act shall consist of those items shown in Exhibit A hereto and by this reference incorporated herein. It is hereby found and determined that the Facilities and Services are necessary to meet the increased demands as the result of development occurring in the District.
8. Except to the extent that funds are otherwise available to the District to pay for the Facilities and Services, a Special Tax sufficient to pay the costs thereof, secured by the recordation of a continuing lien against all non-exempt real property in the District, will be levied annually within the District pursuant to the Rate and Method of Apportionment of the Special Tax, and collected in the same manner as ordinary ad valorem property taxes or in such other manner as the City Council or its designee shall determine, including direct billing of the affected landowners. In the case of the Special Tax when it is levied on any parcel used for private residential purposes to pay for the Facilities, the Special Tax shall not be levied in the District after the final tax year specified in the Rate and Method of Apportionment of the Special Tax, except that a Special Tax that was lawfully levied in or before the final tax year and that remains delinquent may be collected in subsequent years. Under no circumstances shall the Special Tax levied against any parcel in the District to pay for the Facilities and used for private residential purposes be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the District by more than 10% above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults.

9. The Rate and Method of Apportionment of the Special Tax among the parcels of real property within the District, in sufficient detail to allow each landowner within the District to estimate the maximum amount such owner will have to pay, is shown in Exhibit B attached hereto and hereby incorporated herein.

10. The Finance Director of the City, 938 Fresno Street, City of Newman, California, 95360, telephone number (209) 862-3725, is the officer of the City who will be responsible for preparing annually a current roll of the levy of the special tax obligations by assessor's parcel number and who will be responsible for estimating future levies of the special tax.

11. Upon recordation of a notice of Special Tax lien pursuant to Section 3114.5 of the California Streets and Highways Code, a continuing lien to secure each levy of the Special Tax shall attach to all nonexempt real property in the District and this lien shall continue in force and effect until the collection of the special tax by the City ceases.

12. In accordance with the Act, the annual appropriations limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution, of the District is hereby preliminarily established at \$750,000 and such appropriations limit shall be submitted to the voters of the District as hereafter provided. The proposition establishing such annual appropriations limit shall become effective if approved by the qualified electors voting thereon and shall be adjusted in accordance with the applicable provisions of the Act and the California Constitution.

13. Under the Act, the proposition of the levy of the Special Tax and the proposition of the establishment of the appropriations limit specified above shall be submitted to the qualified electors of the District at an election. The time, place and conditions of the election shall be as specified by a separate resolution of this Council.

14. This Resolution shall take effect upon its adoption.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Newman held on the 14th day of June, 2016 by Council Member Candea, 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: Graham, Candea, Day and Mayor Martina.
NOES: None.
ABSENT: Davis.
ABSTAIN: None.

APPROVED:



Bob Martina
Mayor

ATTEST:



Mike Maier
City Clerk

EXHIBIT A

CITY OF NEWMAN
COMMUNITY FACILITIES DISTRICT NO. 2016-1
(COMMUNITY POOL)

DESCRIPTION OF FACILITIES AND SERVICES TO BE
FINANCED BY THE DISTRICT

The District is authorized to fund all or a portion of the cost of construction, acquisition and financing of a public aquatic facility project within the City, including but not limited to a swimming pool or pools and related equipment, changing rooms, rest rooms, bathhouse, splash pad, equipment building, and any and all on-site improvements and facilities related to the use and operation of the project.

The District is also authorized to fund all or any portion of the cost of maintenance services and operation of the facilities and project described in the preceding paragraph, including but not limited to maintaining equipment, apparatuses, facilities and fixtures in and around the facilities or used to maintain the facilities; paying the salaries and benefits of personnel necessary or convenient to provide project services; reimbursements to the City for the cost of plans, specifications, approvals and/or work conducted prior to District formation; payment of insurance costs and other related expenses; and the provision of reserves for repairs, replacements, and for the future provision of maintenance services, whether provided by the City's own employees or by contract with third parties, or any combination thereof. The District is further authorized to fund administrative fees of the City related to the District and any debt service payments associated with the issuance of debt used to finance the Facilities and Services referenced herein.

EXHIBIT B

CITY OF NEWMAN
COMMUNITY FACILITIES DISTRICT NO. 2016-1
(COMMUNITY POOL)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

**RATE AND METHOD OF APPORTIONMENT
FOR CITY OF NEWMAN
COMMUNITY FACILITIES DISTRICT NO. 2016-1
(COMMUNITY POOL)**

A Special Tax as hereinafter defined shall be levied on each Assessor's Parcel of Taxable Property within the City of Newman Community Facilities District No. 2016-1 (Community Pool) ("CFD No. 2016-1") and collected each Fiscal Year commencing in Fiscal Year 2017-2018 in an amount determined by the City Council through the application of the appropriate Special Tax for Taxable Property as described below. All of the real property in CFD No. 2016-1, unless exempted by law or by the provisions hereof, shall be taxed for purposes of CFD No. 2016-1, to the extent and in the manner herein provided.

A. DEFINITIONS

The terms hereinafter set forth have the following meaning:

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Division 2 of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means the actual or reasonably estimated costs directly related to the administration of CFD No. 2016-1 including, but not limited to, the following: the costs of computing the Special Tax and preparing the annual Special Tax collection schedules (whether by the City, the CFD Administrator, or both); the costs of collecting the Special Taxes (whether by the County, the City, or otherwise); the costs to the City, CFD No. 2016-1, or any designee thereof of complying with disclosure requirements; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; and the costs of the City, CFD No. 2016-1, or any designee thereof related to any appeal of the levy or application of the Special Tax. Administrative Expenses shall also include amounts estimated or advanced by the City or CFD No. 2016-1 for any other administrative purposes, including, but not limited to, attorney's fees.

"Agricultural Property" means all Assessor's Parcels of property used for farming or agricultural purposes.

"Assessor's Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the Stanislaus County Assessor of the County designating parcels by an Assessor's parcel number.

"CFD Administrator" means an official of the City, or designee thereof, responsible for determining the Special Tax Requirement and providing for the levy and collection of the Special Taxes.

"CFD No. 2016-1" or **"CFD"** means the City of Newman Community Facilities District No. 2016-1 (Community Pool).

"CFD No. 2016-1 Debt Service" means the repayment of debt associated with the issuance of any bonds, loan agreement or other debt (as defined in Section 53317(d) of the Act), whether in one or more series, issued by the City for CFD No. 2016-1 under the Act.

"City" means the City of Newman.

"City Council" means the City Council of the City, acting as the legislative body of CFD No. 2016-1.

"County" means the County of Stanislaus.

“Exempt Property” means all Assessor’s Parcels that are exempt from the Special Tax pursuant to Section E.

“Facilities” means the facilities authorized to be funded by CFD No. 2016-1 as described in the proceedings for formation of CFD No. 2016-1,

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Low Income Household” means a household in the City that meets the Low Income limit of eighty percent (80%) of the Area Median Income (AMI) or lower for Stanislaus County, as determined annually by the California Department of Housing and Community Development.

“Maximum Annual Special Tax” means the maximum annual Special Tax, determined in accordance with the provisions of Section C, which may be levied in any Fiscal Year on any Assessor’s Parcel of Taxable Property.

“Multi-Family Property” means all Assessor’s Parcels of Taxable Property for which a map has been recorded designating Residential Lots for the purpose of developing Multi-Family Units.

“Multi-Family Unit(s)” means attached residential dwelling units included in, but not limited to, duplexes, triplexes, townhomes, condominiums, and apartment units.

“Other Property” means all Assessor’s Parcels of Taxable Property, whether developed or undeveloped, for which a map has been recorded designating the Assessor’s Parcel as a lot and cannot be classified as Single-Family Residential Property or Multi-Family Residential Property.

“Proportionately” means for Taxable Property that the ratio of the Special Tax levy to the Maximum Annual Special Tax is equal for all Assessor’s Parcels of Taxable Property within CFD No. 2016-1.

“Public Property” means any property within the boundaries of CFD No. 2016-1 that is (i) used for parks, schools, drainage and detention easements, rights-of-way or any other public purpose and is owned by or irrevocably offered for dedication to the federal government, the State of California, the County, the City or any other public agency or (ii) encumbered by an unmanned utility easement making impractical its utilization for purposes other than the purpose set forth in the easement, provided, however, that any property leased by a public agency to a private entity and subject to taxation under the Act shall be taxed and classified in accordance with its use.

“Residential Lot(s)” means an individual lot of land for which a building permit could be issued to construct one or more residential dwelling units.

“Senior Citizen” means a person 65 years of age or older residing within the City.

“Services” means the maintenance and operation services authorized to be funded by CFD No. 2016-1 as described in the proceedings for formation of CFD No. 2016-1.

“Single-Family Property” means all Assessor’s Parcels of Taxable Property for which a map has been recorded designating Residential Lots for the purpose of developing a single-family dwelling unit.

“Special Tax” means the annual special tax to be levied in each Fiscal Year on each Assessor’s Parcel of Taxable Property to fund the Special Tax Requirement.

“Special Tax Requirement” means that amount of Special Tax revenue required in any Fiscal Year for CFD No. 2016-1 to: (a) pay directly for the Facilities and Services; (b) pay CFD No. 2016-1 Debt Service; (c) pay Administrative Expenses; (d) pay any amounts required to establish or replenish any

repair and contingency funds, capital improvement funds, or reserve funds for CFD No. 2016-1; (e) pay for reasonably anticipated delinquent Special Taxes based on the delinquency rate for Special Taxes levied in the previous Fiscal Year; and (f) a credit for funds available to reduce the annual Special Tax levy, as determined by the CFD Administrator.

“State” means the State of California.

“Taxable Property” means all of the Assessor’s Parcels within the boundaries of CFD No. 2016-1 that are not exempt from the Special Tax pursuant to law or Section E below.

B. ASSIGNMENT TO LAND USE CATEGORIES

On, or around, July 1 of each Fiscal Year, all Assessor’s Parcels of Taxable Property within CFD No. 2016-1 shall be classified as Single-Family Residential Property, Multi-Family Residential Property or Other Non-Residential Property and shall be subject to the levy of annual Special Taxes determined pursuant to Sections C and D below.

C. MAXIMUM ANNUAL SPECIAL TAX

The Maximum Annual Special Tax for each Assessor’s Parcel of Taxable Property shall be assigned according to the table below:

Property Land Use	Maximum Special Tax Amount
Single-Family Property	\$148.00 per Residential Lot
Multi-Family Property	\$96.20 per Multi-Family Unit
Other Property	\$148.00 per Assessor’s Parcel

The Maximum Annual Special Tax is not subject to an annual increase. Under no circumstances shall the Special Tax levied in any fiscal year against any parcel used for private residential purposes be increased as a consequence of delinquency or default by the owner or owners of any other parcel or parcels within the CFD by more than 10 percent (10%) above the amount that would have been levied in that fiscal year had there never been any such delinquencies or defaults.

D. METHOD OF APPORTIONMENT OF THE SPECIAL TAX

Commencing with Fiscal Year 2017-2018 and for each following Fiscal Year, the CFD Administrator shall determine the Special Tax Requirement and the City shall levy the Special Tax until the amount of Special Taxes equal the Special Tax Requirement. The Special Tax shall be levied each Fiscal Year Proportionately on each Assessor’s Parcel of Taxable Property at up to one hundred percent (100%) of the applicable Maximum Special Tax.

E. EXEMPTIONS

The CFD Administrator shall classify the following as Exempt Property: (a) Public Property; (b) Agricultural Property; and (c) Assessor's Parcels with public or utility easements making impractical their utilization for any use other than the purposes set forth in the easement.

If the use of an Assessor's Parcel of Exempt Property changes so that such Assessor's Parcel is no longer classified as one of the uses set forth above that would make such Assessor's Parcel eligible to be classified as Exempt Property, such Assessor's Parcel shall cease to be classified as Exempt Property and shall be deemed to be Taxable Property.

F. SENIOR DISCOUNT

Senior Citizens that qualify as a Low Income Household shall be eligible for a fifty percent (50%) reduction of the Special Tax if they own and reside in a Single Family Property or Multi-Family Property within the CFD. Eligible Senior Citizens meeting the criteria to qualify for the reduction shall complete and submit annually to the City a Special Tax Reduction Claim Form. The Special Tax Reduction Claim Form must be submitted on an annual basis and no later than June 30 of each tax year.

G. SPECIAL TAX REVIEW/APPEAL

Any landowner or resident who feels that the amount of the Special Tax levied on their Assessor's Parcel is in error shall first consult with the CFD Administrator regarding such error. If following such consultation, the CFD Administrator determines that an error has occurred; the CFD Administrator may amend the amount of the Special Tax levied on such Assessor's Parcel. If following such consultation and action (if any by the CFD Administrator), the landowner or resident believes such error still exists, such person may file a written notice with the City appealing the amount of the Special Tax levied on such Assessor's Parcel. Upon the receipt of any such notice, the City may establish such procedures, as it deems necessary to undertake the review of any such appeal. The review/appeal shall interpret this Rate and Method of Apportionment and make determinations relative to the annual administration of the Special Tax and any landowner or resident appeals, as herein specified. The decision of the City shall be final and binding as to all persons.

H. INTERPRETATION OF SPECIAL TAX FORMULA

The City Council reserves the right to make minor administrative and technical changes to this Rate and Method of Apportionment that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City Council's discretion. Interpretations may be made by the City Council by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in the Rate and Method of Apportionment of Special Taxes.

I. MANNER OF COLLECTION

The annual Special Tax shall be collected in the same manner and at the same time as ordinary *ad valorem* property taxes; provided, however, that the City may directly bill the Special Taxes, and may collect Special Taxes at a different time or in a different manner as necessary to meet its financial obligations.

J. PREPAYMENT OF SPECIAL TAX

The Special Tax may not be prepaid.

K. TERM OF SPECIAL TAX

The Special Tax shall be levied for a period of thirty (30) years, commencing in Fiscal Year 2017-2018, and shall not be levied after Fiscal Year 2047-2048, except that a Special Tax that was lawfully levied in or before Fiscal Year 2047-2048 and that remains delinquent may be collected in subsequent years.