

1 [Resolution of Intention to Establish Special Tax District.]

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5 WHEREAS, Under Chapter 43, Article X of the San Francisco Administrative Code (the
6 "Code"), which Code incorporates by reference the Mello-Roos Community Facilities Act of
7 1982, as amended (the "Act"), this Board of Supervisors is authorized to establish a special
8 tax district and to act as the legislative body for such special tax district; and,

9 WHEREAS, In connection with adoption of the Code, this Board of Supervisors made,
10 based on the record before it, certain findings, determinations and declarations which are
11 hereby incorporated herein by this reference, including that:

12 A. Global warming and persistent droughts pose a serious threat to the economic well-
13 being, public health, natural resources, and the environment of the City, and that action taken
14 by the City to reduce emissions of greenhouse gases will have far reaching effects by
15 encouraging its citizens and other cities and counties and the State of California, among
16 others, to pursue similar actions.

17 B. A public purpose will be served by using special tax districts to finance the
18 installation of energy efficiency and renewable energy capital improvements to residential,
19 commercial, industrial, or other property.

20 C. Growing population, climate change, and the need to protect and grow the City's
21 economy while protecting and restoring fish and wildlife habitats makes it essential that the
22 City and County manage its water resources as efficiently as possible.

23 D. Article X, Section 2 of the California Constitution declares: "It is hereby declared
24 that because of the conditions prevailing in this State the general welfare requires that the
25 water resources of the State be put to beneficial use to the fullest extent of which they are

1 capable, and that the waste or unreasonable use or unreasonable method of use of water be
2 prevented, and that the conservation of such waters is to be exercised with a view to the
3 reasonable and beneficial use thereof in the interest of the people and for the public welfare."

4 E. This Board of Supervisors has passed Ordinance Nos. 76-09 and 77-09 to adopt
5 new rules for the installation and/or retrofitting of privately-owned water conservation devices
6 to better "allow San Francisco's economy and population to prosper without placing additional
7 demands on this valuable resource."

8 F. Reduced water use through conservation provides significant energy and
9 environmental benefits, and can help protect water quality, improve streamflows, and reduce
10 greenhouse gas emissions.

11 G. The City continues to pursue the improved operation of its stormwater and
12 wastewater management systems to better safeguard bodies of water within and in proximity
13 to the City.

14 H. Although many of these potential improvements to the City's stormwater and
15 wastewater management systems focus on public infrastructure, there are also improvements
16 to privately-owned property that would assist in the efficient and effective operation of the
17 City's water treatment and management systems.

18 I. There are many water conservation practices that produce significant energy and
19 other resource savings that should be encouraged as a matter of state policy, and the Board
20 of Supervisors declares that a public purpose will be served by using special taxes to finance
21 the installation of water conservation and pollution control improvements that are attached to
22 residential, commercial, industrial, or other property; and,

23 WHEREAS, This Board of Supervisors, pursuant to the written request of at least two
24 members of the Board of Supervisors, now desires to proceed with the establishment of a
25 City-wide special tax district in order to finance and refinance the acquisition, installation and

1 improvement of energy efficiency, water conservation and renewable energy improvements to
2 or on real property and in buildings, whether such real property or buildings are privately or
3 publicly owned; and,

4 WHEREAS, This Board of Supervisors wishes to undertake the proceedings to form
5 the special tax district under the alternate procedures established by Section 43.10.17 of the
6 Code, pursuant to which a special tax district may initially consist solely of territory proposed
7 for annexation to the special tax district in the future, with the condition that a parcel or parcels
8 within that territory may be annexed to the special tax district and subjected to the special tax
9 only with the unanimous approval of the owner or owners of such parcel or parcels at the time
10 that such parcel or those parcels are annexed or in compliance with other procedures
11 established by the Code; and,

12 WHEREAS, This Board of Supervisors wishes to undertake the proceedings to
13 authorize the issuance of bonded indebtedness for the special tax district under the alternate
14 procedure established by Section 43.10.18 of the Code, pursuant to which the proposition to
15 authorize bonded indebtedness may be approved by the owner or owners of a parcel or
16 parcels of property at the time that the parcel or parcels are annexed to the special tax district
17 pursuant to the unanimous approval described in 43.10.17 of the Code or in compliance with
18 other procedures established by the Code, and pursuant to which no additional hearings or
19 procedures are required, and each such unanimous approval shall be deemed to constitute a
20 unanimous vote in favor of such proposition; now, therefore, be it

21 RESOLVED, That this Board of Supervisors proposes to conduct proceedings to
22 establish a special tax district pursuant to the alternate procedures established in
23 Section 43.10.17 of the Code; and, be it

1 FURTHER RESOLVED, That the name proposed for the special tax district is City and
2 County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable
3 Financing) (the "Special Tax District"); and, be it

4 FURTHER RESOLVED, That the proposed boundaries of the Special Tax District are
5 as shown on the map of it on file with the Clerk of the Board of Supervisors, which boundaries
6 are hereby preliminarily approved and to which map reference is hereby made for further
7 particulars. The Special Tax District shall initially consist solely of territory proposed for
8 annexation to the Special Tax District in the future, with the condition that a parcel or parcels
9 within that territory may be annexed to the Special Tax District and subjected to a special tax
10 only with the unanimous approval of the owner or owners of such parcel or parcels at the time
11 that such parcel or those parcels are annexed or in compliance with other procedures
12 established by the Code; and, be it

13 FURTHER RESOLVED, That the Clerk of the Board of Supervisors is hereby directed
14 to record, or cause to be recorded, the map of the boundaries of the Special Tax District in the
15 office of the Recorder of the City and County of San Francisco within 15 days of the date of
16 adoption of this Resolution; and, be it

17 FURTHER RESOLVED, That the type of facilities proposed to be financed by the
18 Special Tax District and pursuant to the Code shall consist of those listed as facilities on
19 Exhibit A hereto and hereby incorporated herein (the "Facilities"); and, be it

20 FURTHER RESOLVED, That except to the extent that funds are otherwise available,
21 the City will levy a special tax (the "Special Tax") to pay directly for the Facilities and/or to pay
22 the principal and interest on bonds of the City issued to finance the Facilities; and, be it

23 FURTHER RESOLVED, That the Special Tax will be secured by recordation of a
24 continuing lien against all non-exempt real property in the Special Tax District, will be levied
25 annually within the Special Tax District, and collected in the same manner as ordinary ad

1 valorem property taxes, or in such other manner as this Board of Supervisors or its designee
2 shall determine, including direct billing of the affected property owners; and, be it

3 FURTHER RESOLVED, That the proposed method of apportionment of the Special
4 Tax among the parcels of real property within the Special Tax is described in Exhibit B
5 attached hereto and hereby incorporated herein (the "Method of Apportionment"). Pursuant to
6 Section 43.10.17, the rate or rates of the Special Tax applicable to a parcel or parcels in the
7 Special Tax District shall be specified in the unanimous approval as described below relating
8 to such parcel or parcels or in compliance with other procedures established by the Code;
9 and, be it

10 FURTHER RESOLVED, That this Board of Supervisors hereby finds that the provisions
11 of Section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem*
12 property taxes and schools financed by a special tax district) are inapplicable to the proposed
13 Special Tax District; and, be it

14 FURTHER RESOLVED, That the Special Tax shall be levied on a parcel or parcels in
15 the Special Tax District only with the written unanimous approval of the owner or owners of
16 the parcel or parcels to their annexation to the Special Tax District or in compliance with other
17 procedures established by the Code, without any requirement for further public hearings or
18 additional proceedings. The unanimous approval shall be in substantially the form and
19 substance of the Unanimous Approval attached hereto as Exhibit C, or such other form
20 authorized by the Director of the Office of Public Finance; and, be it

21 FURTHER RESOLVED, That it is the intention of this Board of Supervisors, acting as
22 the legislative body for the Special Tax District, to cause bonds of the City to be issued for the
23 Special Tax District pursuant to the Code to finance and refinance in whole or in part the
24 construction, installation and/or acquisition of the Facilities. The special tax bonds (including
25 special tax bonds issued for any improvement area) shall be in the aggregate principal

1 amount of not to exceed \$150,000,000, shall be issued in such series and bear interest
2 payable semi-annually or in such other manner as this Board of Supervisors shall determine,
3 at a rate not to exceed the maximum rate of interest as may be authorized by applicable law
4 at the time of sale of such bonds, and shall mature not to exceed 40 years from the date of
5 the issuance thereof; and, be it

6 FURTHER RESOLVED, That the Director of the Office of Public Finance, or the
7 designee of such officer, is hereby directed to study said proposed Facilities and to make, or
8 cause to be made, and file with the Clerk of the Board of Supervisors a report in writing (the
9 "Special Tax District Report") presenting the following:

10 (a) A description of the Facilities by type which will be financed by the Special Tax
11 District.

12 (b) An estimate of the fair and reasonable cost of the Facilities, including the costs of
13 the proposed bond financing and all other related costs as provided in Section 53345.3 of the
14 Act.

15 The Special Tax District Report shall be made a part of the record of the public hearing
16 specified below; and, be it

17 FURTHER RESOLVED, That Tuesday, January ____, 2010 at 2:00 p.m. or as soon as
18 possible thereafter, in the Board of Supervisors' Chambers, 1 Dr. Carlton B. Goodlett Place,
19 City Hall, San Francisco, California, be, and the same are hereby appointed and fixed as the
20 time and place when and where this Board of Supervisors, as legislative body for the Special
21 Tax District, will conduct a public hearing on the establishment of the Special Tax District and
22 consider and finally determine whether the public interest, convenience and necessity require
23 the formation of the Special Tax District and the levy of the Special Tax; and, be it

24 FURTHER RESOLVED, That the Clerk of the Board of Supervisors is hereby directed
25 to cause notice of the public hearing to be given by publication one time in a newspaper

1 published in the area of the Special Tax District. The publication shall be completed at least
2 seven days before the date of the public hearing specified above. The notice shall be
3 substantially in the form specified in Section 53322 of the Act; and, be it

4 FURTHER RESOLVED, That pursuant to Section 43.10.19 of the Code, in connection
5 with the annexation of a parcel or parcels to the Special Tax District pursuant to the alternate
6 and independent procedure set forth in Section 43.10.17 of the Code and the conduct of an
7 election on the proposition to authorize bonded indebtedness pursuant to the alternate and
8 independent procedure set forth in Section 43.10.18 of the Code, the City may, without
9 additional hearings or procedures, designate a parcel or parcels as an improvement area
10 within the Special Tax District. Each improvement area will be known as "Improvement Area
11 No. ____ of City and County of San Francisco Special Tax District No. 2009-1 (San Francisco
12 Sustainable Financing)." After the designation of a parcel or parcels as an improvement area,
13 all proceedings for approval of the appropriations limit, the rate, method of apportionment and
14 manner of collection of special tax and the authorization to incur bonded indebtedness for
15 such parcel or parcels shall apply only to the improvement area; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors reserves to itself the right and
17 authority set forth in Section 43344.1 of the Act, subject to any limitations set forth in any bond
18 resolution, fiscal agent agreement or trust indenture related to the issuance of bonds; and, be
19 it

20 FURTHER RESOLVED, That the Director of the Office of Public Finance, or a
21 designee thereof, is hereby authorized and directed to select a trustee or fiscal agent for any
22 bonds issued for the Special Tax District on such terms as are acceptable to the Director of
23 the Office of Public Finance; and, be it

24 FURTHER RESOLVED, That the Mayor, the Controller, the City Attorney, the Director
25 of the Office of Public Finance, designees of the Director of the Office of Public Finance, the

1 Clerk of the Board of Supervisors and all other officers and agents of the City are hereby
2 authorized and directed to take all actions necessary or advisable to give effect to the
3 transactions contemplated by this Resolution; and, be it

4 FURTHER RESOLVED, That this Board of Supervisors proposes to conduct
5 proceedings to establish a special tax district pursuant to the alternate procedures established
6 in Section 43.10.17 of the Code; and, be it

7 FURTHER RESOLVED, That this Resolution shall in no way obligate the Board of
8 Supervisors of the City to form the Special Tax District. The formation of the Special Tax
9 District shall be subject to the approval of this Board of Supervisors by resolution following the
10 holding of the public hearing referred to above.

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13 APPROVED AS TO FORM:
14 DENNIS J. HERRERA, City Attorney

15 By: _____
16 MARK D. BLAKE
17 Deputy City Attorney
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