

**[RESOLUTION DETERMINING NECESSITY TO INCUR BONDED INDEBTEDNESS.]****Resolution Determining Necessity to Incur Bonded Indebtedness in a maximum principal amount of \$150,000,000 within the boundaries of Special Tax District No. 2009-1 (San Francisco Sustainable Financing) and determining other matters in connection therewith**

WHEREAS, On November 24, 2009, this Board of Supervisors (the "Board of Supervisors") of the City and County of San Francisco (the "City") adopted a resolution entitled "Resolution of Intention to Establish Special Tax District" (the "Resolution of Intention") stating its intention to form "City and County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable Financing)" (the "Special Tax District"), pursuant to Chapter 43, Article X of the San Francisco Administrative Code (the "Code"), which Code incorporates the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (the "Act"), for the purpose of financing and refinancing the acquisition, installation and improvement of energy efficiency, water conservation and renewable energy improvements to or on real property and in buildings, whether such real property or buildings are privately or publicly owned (the "Facilities"); and,

WHEREAS, In the Resolution of Intention, for the public purposes specified therein, which findings, declarations and determinations are incorporated herein by this reference, this Board of Supervisors stated its intention to undertake the proceedings to form the Special Tax District under the alternate procedures established by Section 43.10.17 of the Code, pursuant to which a special tax district may initially consist solely of territory proposed for annexation to the special tax district in the future, with the condition that a parcel or parcels within that territory may be annexed to the special tax district and subjected to the special tax only with

1 the unanimous approval of the owner or owners of such parcel or parcels at the time that such  
2 parcel or those parcels are annexed or in compliance with other procedures established by  
3 the Code; and,

4 WHEREAS, On November 24, 2009, this Board of Supervisors also adopted a  
5 resolution entitled "Resolution of Intention to Incur Bonded Indebtedness" (the "Resolution of  
6 Intention to Incur Indebtedness") stating its intention, for the public purposes specified therein,  
7 to incur bonded indebtedness within the boundaries of the Special Tax District for the purpose  
8 of financing the Facilities; and,

9 WHEREAS, In the Resolution of Intention to Incur Indebtedness, this Board of  
10 Supervisors stated its intention to undertake the proceedings to authorize the issuance of  
11 bonded indebtedness for the Special Tax District under the alternate procedure established by  
12 Section 43.10.18 of the Code, pursuant to which the proposition to authorize bonded  
13 indebtedness may be approved by the owner or owners of a parcel or parcels of property at  
14 the time that the parcel or parcels are annexed to the Special Tax District pursuant to the  
15 unanimous approval described in 43.10.17 of the Code or in compliance with other  
16 procedures established by the Code; and,

17 WHEREAS, This Board of Supervisors held a noticed public hearing as required by the  
18 Code about the determination to proceed with the formation of the Special Tax District, the  
19 provision of the Facilities by the Special Tax District and the method of apportionment of the  
20 special tax to be levied within the Special Tax District; and,

21 WHEREAS, Subsequent to the public hearing, this Board of Supervisors adopted a  
22 resolution entitled "Resolution of formation to establish Special Tax District No. 2009-1 (San  
23 Francisco Sustainable Financing), establish boundaries of said special tax district, to describe  
24 the facilities to be financed, to establish an appropriations limit and to provide for other  
25 matters related thereto" (the "Resolution of Formation"); and,

1           WHEREAS, This Board of Supervisors also held a noticed public hearing as required  
2 by the Code related to the questions set forth in the Resolution of Intention to Incur  
3 Indebtedness; and,

4           WHEREAS, No written protests related to the questions set forth in the Resolution of  
5 Intention to Incur Indebtedness have been filed with the Clerk of the Board of Supervisors;  
6 now, therefore, be it

7           RESOLVED, that the foregoing recitals are true and correct; and, be it

8           FURTHER RESOLVED, that this Board of Supervisors deems it necessary to incur  
9 bonded indebtedness in the maximum aggregate principal amount of \$150,000,000 within the  
10 boundaries of the Special Tax District for the purpose of financing the costs of the Facilities,  
11 including, but not limited to, the costs of issuing and selling bonds to finance all or a portion of  
12 the Facilities and the costs of the City in establishing and administering the Special Tax  
13 District; and, be it

14           FURTHER RESOLVED, that except as set forth in the immediately succeeding  
15 paragraph, the whole of the Special Tax District shall pay for the bonded indebtedness  
16 through the levy of the special tax, and that the Special Tax District shall initially consist solely  
17 of territory proposed for annexation to the Special Tax District in the future, with the condition  
18 that a parcel or parcels within that territory may be annexed to the Special Tax District and  
19 subjected to a special tax only with the unanimous approval (each, a "Unanimous Approval")  
20 of the owner or owners of such parcel or parcels at the time that such parcel or those parcels  
21 are annexed or in compliance with other procedures established by the Code, and that the tax  
22 is to be apportioned in accordance with the Method of Apportionment of Special Tax set forth  
23 in Exhibit "B" to the Resolution of Formation. Pursuant to Section 7.98.160(a)(i), the rate or  
24 rates of the Special Tax applicable to a parcel or parcels in the Special Tax District shall be  
25

1 specified in the Unanimous Approval or such other procedures established by the Code  
2 relating to such parcel or parcels; and, be it

3 FURTHER RESOLVED, that Bonds in the maximum amount of \$150,000,000 are  
4 hereby authorized, subject to approval as described in the immediately succeeding paragraph  
5 below, and that the bonds may be issued in one or more series and mature and bear interest  
6 at such rate or rates, payable semiannually or in such other manner, all as this Board of  
7 Supervisors or its designee shall determine, at the time or times of sale of such bonds;  
8 provided, however, that the interest rate or rates shall not to exceed the maximum interest  
9 rate permitted by applicable law at the time of sale of the bonds and the bonds or any series  
10 thereof shall have a maximum term of not to exceed 40 years; and, be it

11 FURTHER RESOLVED, that pursuant to Section 43.10.17 of the Code, in lieu of the  
12 procedure set forth elsewhere in the Code and in Sections 53353.5, 53354 and 53355 of the  
13 Act, the proposition to authorize issuance of the Bonds for the Special Tax District shall be  
14 approved by the owner or owners of a parcel or parcels of property at the time that the parcel  
15 or parcels are annexed to the Special Tax District pursuant to the unanimous approval  
16 described in 43.10.17 or in compliance with other procedures established by the Code. No  
17 additional hearings or procedures are required, and such unanimous approval shall be  
18 deemed to constitute a unanimous vote in favor of such proposition; and, be it

19 FURTHER RESOLVED, that consistent with the Resolution of Intention to Incur  
20 Indebtedness, and pursuant to Section 43.10.19 of the Code, in connection with the  
21 annexation of a parcel or parcels to the Special Tax District pursuant to the alternate and  
22 independent procedure set forth in Section 43.10.17 of the Code and the conduct of an  
23 election on the proposition to authorize bonded indebtedness pursuant to the alternate and  
24 independent procedure set forth in Section 43.10.18 of the Code, the City may, without  
25 additional hearings or procedures, designate a parcel or parcels as an improvement area

1 within the Special Tax District. Each improvement area will be known as "Improvement Area  
2 No. \_\_\_\_ of City and County of San Francisco Special Tax District No. 2009-1 (San Francisco  
3 Sustainable Financing),” and after the designation of a parcel or parcels as an improvement  
4 area, all proceedings for approval of the appropriations limit, the rate, method of  
5 apportionment and manner of collection of special tax and the authorization to incur bonded  
6 indebtedness for such parcel or parcels shall apply only to the improvement area, and the City  
7 may incur indebtedness payable solely from special taxes levied on property in the  
8 improvement area; and be it

9 FURTHER RESOLVED, that this Resolution shall take effect upon its adoption.

10 APPROVED AS TO FORM:  
11 DENNIS J. HERRERA, City Attorney

12  
13 By: \_\_\_\_\_  
14 MARK D. BLAKE  
15 Deputy City Attorney  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25