

1 [Ordinance Levying Special Taxes Within Special Tax District No. 2009-1 (San Francisco
2 Sustainable Financing)]

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5 **Ordinance to authorize and levy special taxes within City and County of San Francisco**
6 **Special Tax District 2009-1 (San Francisco Sustainable Financing); authorize the**
7 **Director of Public Finance to determine the Special Tax Rate and Amount to be levied**
8 **each fiscal year; to establish the method for the collection of special taxes and other**
9 **matters necessary or advisable in connection therewith.**

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11 NOTE: Additions are *single-underline italics Times New Roman*;
12 deletions are ~~*strike-through italics Times New Roman*~~.
13 Board amendment additions are double-underlined;
14 Board amendment deletions are ~~strike-through normal~~.

15 Be it ordained by the People of the City and County of San Francisco:

16 The Board of Supervisors of the City and County of San Francisco hereby finds,
17 determines and declares [based on the record before it that]:

18 A. On November 24, 2009, this Board of Supervisors (the "Board of Supervisors")
19 of the City and County of San Francisco (the "City"), adopted Resolution No. 464-09 entitled
20 "Resolution of Intention to Establish Special Tax District" (the "Resolution of Intention") stating
21 its intention to establish, for the public purposes set forth in the Resolution of Intention, the
22 "City and County of San Francisco Special Tax District No. 2009-1 (San Francisco
23 Sustainable Financing)" (the "Special Tax District"), pursuant to Chapter 43, Article X of the
24 San Francisco Administrative Code (the "Code"), which Code incorporates the Mello-Roos
25 Community Facilities Act of 1982, as amended, sections 53311, *et. seq.*, of the California
Government Code (the "Act"), to finance and refinance the acquisition, installation and
improvement of energy efficiency, water conservation and renewable energy improvements to

1 or on real property and in buildings, whether such real property or buildings are privately or
2 publicly owned.

3 B. The Resolution of Intention stated the intention of the Board of Supervisors to
4 undertake the proceedings to form the Special Tax District under the alternate procedures
5 established by Section 43.10.17 of the Code, pursuant to which a special tax district may
6 initially consist solely of territory proposed for annexation to the special tax district in the
7 future, with the condition that a parcel or parcels within that territory may be annexed to the
8 special tax district and subjected to the special tax only with the unanimous approval of the
9 owner or owners of such parcel or parcels at the time that such parcel or those parcels are
10 annexed or in compliance with other procedures established by the Code.

11 C. The Resolution of Intention stated that the City may, without additional hearings
12 or procedures, designate a parcel or parcels as an improvement area within the Special Tax
13 District; that, after the designation of a parcel or parcels as an improvement area, all
14 proceedings for approval of the appropriations limit, the rate, method of apportionment and
15 manner of collection of special tax and the authorization to incur bonded indebtedness for
16 such parcel or parcels will apply only to the improvement area; and that the City may incur
17 indebtedness payable solely from special taxes levied on property in the improvement area.

18 D. Notice was published as required by the Code relative to the intention of this
19 Board of Supervisors to form the Special Tax District, to provide for certain facilities and to
20 incur bonded indebtedness for the Special Tax District in an amount not to exceed
21 \$150,000,000.

22 E. This Board of Supervisors held noticed public hearings as required by the Code
23 relative to (i) the determination to proceed with the formation of the Special Tax District and
24 the method of apportionment of the special tax to be levied within the Special Tax District to
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1 finance the costs of the facilities and (ii) the issuance of not to exceed \$150,000,000 of
2 bonded indebtedness for the Special Tax District.

3 F. At the public hearings, all persons desiring to be heard on all matters pertaining
4 to the formation of the Special Tax District and the levy of special taxes were heard,
5 substantial evidence was presented and considered by this Board of Supervisors and a full
6 and fair hearing was held.

7 G. Subsequent to the hearings, this Board of Supervisors adopted Resolution No.
8 _____, "Resolution of Formation of Special Tax District" (the "Resolution of Formation"),
9 and Resolution No. _____, "Resolution Determining the Necessity to Incur Bonded
10 Indebtedness" (the "Resolution of Necessity"), which defined the public facilities to be
11 financed by the Special Tax District (the "Facilities"), established the Special Tax District,
12 authorized the levy of a special tax with the Special Tax District and determined the necessity
13 to incur bonded indebtedness in the Special Tax District, respectively.

14 H. Section 43.10.17 of the Code provides that, notwithstanding the provisions of
15 Section 53340 of the Act, after adoption of the Resolution of Formation for a Special Tax
16 District pursuant to Section 43.10.17, the Board of Supervisors may, by ordinance, provide for
17 the levy of the special taxes on parcels that will annex to the special tax district at the rate or
18 rates to be approved by unanimous approval of the owner or owners of each parcel or parcels
19 to be annexed to the special tax district or pursuant to other procedures established by the
20 Code, and for apportionment and collection of the special taxes in the manner specified in the
21 resolution of formation, and that no further ordinance shall be required even though no parcels
22 may then have annexed to the special tax district.

23 2. By the passage of this Ordinance, this Board of Supervisors hereby authorizes
24 and levies special taxes within the Special Tax District (and all improvement areas established
25 in the Special Tax District) pursuant to the Code, at the rate or rates to be approved by

1 unanimous approval (each, a “Unanimous Approval”) of the owner or owners of each parcel or
2 parcels to be annexed to the Special Tax District (and all improvement areas established in
3 the Special Tax District) or pursuant to other procedures established by the Code, and in
4 accordance with the method of apportionment (the "Method of Apportionment") set forth in the
5 Resolution of Formation, which Unanimous Approvals, Method of Apportionment and
6 Resolution of Formation are by this reference incorporated herein. The special taxes are
7 hereby levied commencing in the first fiscal year in which a parcel or parcels annexes to the
8 Special Tax District (and all improvement areas established in the Special Tax District) and in
9 each fiscal year thereafter until payment in full of any bonds issued by the City for the Special
10 Tax District (and all improvement areas established in the Special Tax District) (the “Bonds”),
11 as contemplated by the Resolution of Formation and the Resolution of Necessity, and all
12 costs of administering the Special Tax District (and all improvement areas established in the
13 Special Tax District), or such longer period provided for in the Unanimous Approvals or
14 pursuant to other procedures established by the Code.

15 3. The Director of the Office of Public Finance of the City is hereby authorized and
16 directed each fiscal year to determine the specific special tax rate and amount to be levied for
17 the next ensuing fiscal year for each parcel of real property within the Special Tax District (and
18 all improvement areas established in the Special Tax District), in the manner and as provided
19 in the Resolution of Formation.

20 4. The Special Tax District initially consists solely of territory proposed for
21 annexation to the Special Tax District in the future. A parcel or parcels within the territory of
22 the Special Tax District may be annexed to the Special Tax District and subjected to the
23 special tax only with the unanimous approval of the owner or owners of such parcel or parcels
24 at the time that such parcel or those parcels are annexed or pursuant to other procedures
25 established by the Code. In no event shall the special taxes be levied on any parcel within the

1 Special Tax District in excess of the maximum tax specified in the Unanimous Approval
2 applicable to such parcel or pursuant to other procedures established by the Code.

3 5. All of the collections of the special tax shall be used as provided for in the Code,
4 in the Resolution of Formation and the applicable Unanimous Approval or other annexation
5 proceedings, including, but not limited to, the payment of principal and interest on the Bonds,
6 the replenishment of a debt service reserve fund for the Bonds, the payment of the costs of
7 the Facilities, the payment of the costs of the City in administering the Special Tax District
8 (and all improvement areas established in the Special Tax District), and the costs of collecting
9 and administering the special tax.

10 6. The special taxes shall be collected in the same manner as ordinary ad valorem
11 taxes are collected and shall have the same lien priority, and be subject to the same penalties
12 and the same procedure and sale in cases of delinquency as provided for ad valorem taxes;
13 provided, however, that this Board of Supervisors may provide for other appropriate methods
14 of collection by resolutions of this Board of Supervisors. In addition, the provisions of Section
15 53356.1 of the Act shall apply to delinquent special tax payments. The Director of the Office
16 of Public Finance of the City is hereby authorized and directed to provide all necessary
17 information to the auditor/tax collector of the City and County of San Francisco in order to
18 effect proper billing and collection of the special tax, so that the special tax shall be included
19 on the secured property tax roll of the City and County of San Francisco for the first fiscal year
20 in which a parcel or parcels annexes to the Special Tax District (and all improvement areas
21 established in the Special Tax District) and for each fiscal year thereafter until the Bonds are
22 paid in full or such longer period of time provided in the Unanimous Approvals or such other
23 procedures established by the Code.

24 7. If for any reason any portion of this Ordinance is found to be invalid, or if the
25 special tax is found inapplicable to any particular parcel within the Special Tax District (and all

1 improvement areas established in the Special Tax District), in each case by a court of
2 competent jurisdiction, the balance of this Ordinance and the application of the special tax to
3 the remaining parcels within the Special Tax District (and all improvement areas established
4 in the Special Tax District) shall not be affected.

5 8 The Mayor shall sign this Ordinance and the Clerk of the Board of Supervisors
6 shall cause the same to be published within 15 days after its passage at least once in a
7 newspaper of general circulation published and circulated in the City.

8 9. This Ordinance shall take effect 30 days from the date of final passage.

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

12 By: _____
13 MARK D. BLAKE
14 Deputy City Attorney