

1 [Resolution of Formation of Special Tax District]

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3 **Resolution of Formation to establish Special Tax District No. 2009-1 (San Francisco**  
4 **Sustainable Financing), establish boundaries of said special tax district, to describe**  
5 **the facilities to be financed, to establish an appropriations limit and to provide for other**  
6 **matters related thereto.**

7  
8 WHEREAS, On November 24, 2009, this Board of Supervisors (the "Board of  
9 Supervisors") of the City and County of San Francisco (the "City") made certain findings,  
10 determinations and declarations, and adopted Resolution No. 464-09, entitled "Resolution of  
11 Intention to Establish Special Tax District" (the "Resolution of Intention"), pursuant to Chapter  
12 43, Article X of the San Francisco Administrative Code (the "Code"), which Code incorporates  
13 the Mello-Roos Community Facilities Act of 1982, as amended (the "Act"); and

14 WHEREAS, The Resolution of Intention, incorporating a map of the proposed  
15 boundaries of the Special Tax District, stated the intention of this Board of Supervisors to  
16 establish a City-wide special tax district, to be called "City and County of San Francisco  
17 Special Tax District No. 2009-1 (San Francisco Sustainable Financing)" (the "Special Tax  
18 District"), in order to finance and refinance the acquisition, installation and improvement of  
19 energy efficiency, water conservation and renewable energy improvements to or on real  
20 property and in buildings, whether such real property or buildings are privately or publicly  
21 owned, and described the method of apportionment of the special tax to be levied within the  
22 Special Tax District; and

23 WHEREAS, The Resolution of Intention stated the intention of the Board of  
24 Supervisors to undertake the proceedings to form the Special Tax District under the alternate  
25 procedures established by Section 43.10.17 of the Code, pursuant to which a special tax

1 district may initially consist solely of territory proposed for annexation to **the special tax**  
2 district in the future, with the condition that a parcel or parcels within that territory may be  
3 annexed to the special tax district and subjected to the special tax only with the unanimous  
4 approval of the owner or owners of such parcel or parcels at the time that such parcel or those  
5 parcels are annexed or in compliance with other procedures established by the Code; and

6 WHEREAS, On January 12, 2010, this Board of Supervisors held a noticed public  
7 hearing as required by the Code and the Resolution of Intention relating to the proposed  
8 formation of the Special Tax District; and

9 WHEREAS, At the hearing all interested persons desiring to be heard on all matters  
10 pertaining to the formation of the Special Tax District, the facilities to be financed by the  
11 Special Tax District and the levy of a special tax on property annexed to the Special Tax  
12 District were heard and a full and fair hearing was held; and

13 WHEREAS, At the hearing evidence was presented to this Board of Supervisors on the  
14 matters before it, including a report caused to be prepared by the Director of the Office of  
15 Public Finance (the "Report") as to the facilities to be provided through the Special Tax District  
16 and the costs thereof, a copy of which is on file with the Clerk of the Board of Supervisors in  
17 File No. 091449, and this Board of Supervisors at the conclusion of said hearing is fully  
18 advised in the premises; and

19 WHEREAS, Written protests with respect to the formation of the Special Tax District,  
20 the furnishing of specified types of facilities and the method of apportionment of the special  
21 taxes have not been filed with the Clerk of the Board of Supervisors by 50% or more of the  
22 registered voters residing within the territory proposed to be annexed to the Special Tax  
23 District in the future, or by the owners of one-half or more of the area of land proposed to be  
24 annexed in the future; now, therefore, be it

25 RESOLVED, That the foregoing recitals are true and correct; and, be it

1 FURTHER RESOLVED, That neither the proposed establishment of the Special Tax  
2 District, the extent of the Special Tax District nor the furnishing of the specified Facilities has  
3 been precluded by majority protest pursuant to Section 43.10.17 of the Code; and, be it

4 FURTHER RESOLVED, That all prior proceedings taken by this Board of Supervisors  
5 in connection with the establishment of the Special Tax District and the levy of a special tax  
6 therein have been duly considered and are hereby found and determined to be valid and in  
7 conformity with the Code; and, be it

8 FURTHER RESOLVED, That the Special Tax District to be designated "City and  
9 County of San Francisco Special Tax District No. 2009-1 (San Francisco Sustainable  
10 Financing)," is hereby established pursuant to the Code; and, be it

11 FURTHER RESOLVED, That the boundaries of the Special Tax District, as set forth in  
12 the map of the Special Tax District recorded in the City and County of San Francisco  
13 Recorder's Office on December 7, 2009, at 1:01 p.m., as Document 2009-I882362-00, are  
14 hereby approved, are incorporated herein by reference and shall be the boundaries of the  
15 Special Tax District, and that the Special Tax District shall initially consist solely of territory  
16 proposed for annexation to the Special Tax District in the future, with the condition that a  
17 parcel or parcels within that territory may be annexed to the Special Tax District and subjected  
18 to a special tax only with the unanimous approval of the owner or owners of such parcel or  
19 parcels at the time that such parcel or those parcels are annexed or in compliance with other  
20 procedures established by the Code; and, be it

21 FURTHER RESOLVED, That the type of facilities proposed to be financed by the  
22 Special Tax District and pursuant to the Code shall consist of those items listed in Exhibit A  
23 hereto and by this reference incorporated herein (the "Facilities"); and, be it

24 FURTHER RESOLVED, That except to the extent that funds are otherwise available,  
25 the City will levy a special tax (the "Special Tax") to pay directly for the Facilities, to pay the

1 principal and interest on bonds of the City issued to finance the Facilities and/or to make lease  
2 payments on any lease used to finance the Facilities; and, be it

3 FURTHER RESOLVED, That the Special Tax will be secured by recordation of a  
4 continuing lien against all real property in the Special Tax District that annexes to the Special  
5 Tax District, will be levied annually within the Special Tax District, and will be collected in the  
6 same manner as ordinary ad valorem property taxes, or in such other manner as this Board of  
7 Supervisors or its designee shall determine, including direct billing of the affected property  
8 owners; and, be it

9 FURTHER RESOLVED, That the proposed method of apportionment of the Special  
10 Tax among the parcels of real property within the Special Tax District is described in Exhibit B  
11 attached hereto and hereby incorporated herein (the "Method of Apportionment"). Pursuant to  
12 Section 43.10.17 of the Code, the rate or rates of the Special Tax applicable to a parcel or  
13 parcels in the Special Tax District shall be specified in the unanimous approval described in  
14 the following paragraph relating to such parcel or parcels or in compliance with other  
15 procedures established by the Code; and, be it

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

24 FURTHER RESOLVED, That the Special Tax on any parcel or parcels shall not be  
25 levied in the Special Tax District after the fiscal year set forth in the Unanimous Approval for

1 such parcel or parcels or in compliance with other procedures established by the Code,  
2 except that a Special Tax that was lawfully levied in or before the final tax year and that  
3 remains delinquent may be collected in subsequent years. Under no circumstances shall the  
4 Special Tax levied against any parcel in the Special Tax District to be used for private  
5 residential purposes be increased as a consequence of delinquency or default by the owner of  
6 any other parcel or parcels within the Special Tax District by more than 10%; and, be it

7 FURTHER RESOLVED, That the Director of the Office of Public Finance of the City  
8 and County of San Francisco, 1 Dr. Carlton B. Goodlett Place, City Hall, Room 336, San  
9 Francisco, CA 94102, (415) 554-5956, is the officer of the City who will be responsible for  
10 preparing annually a current roll of Special Tax levy obligations by assessor's parcel number  
11 and who will be responsible for estimating future Special Tax levies pursuant to the Code;  
12 and, be it

13 FURTHER RESOLVED, That upon recordation of a notice of Special Tax lien pursuant  
14 to Section 3114.5 of the Streets and Highways Code of California, a continuing lien to secure  
15 each levy of the Special Tax shall attach to all nonexempt real property in the Special Tax  
16 District and this lien shall continue in force and effect until the Special Tax obligation is  
17 prepaid and permanently satisfied and the lien canceled in accordance with law or until  
18 collection of the tax by the City ceases, and that Pursuant to Section 43.10.17 of the Code, a  
19 notice of special tax lien shall not be recorded against any parcel or parcels in the Special Tax  
20 District without the unanimous approval of the owner or owners of such parcel or parcels'  
21 annexation to the Special Tax District or in compliance with other procedures established by  
22 the Code, at which time the notice of special tax lien shall be recorded against such parcel or  
23 parcels as set forth in Section 53328.3 of the Act; and, be it

24 FURTHER RESOLVED, That in accordance with the Code, the annual appropriations  
25 limit, as defined by subdivision (h) of Section 8 of Article XIII B of the California Constitution,

1 of the Special Tax District is hereby preliminarily established at \$150,000,000, and pursuant  
2 to Section 43.10.17 of the Code, the appropriations limit for the Special Tax District shall be  
3 specified and approved by the Unanimous Approval of the owner or owners of each parcel or  
4 parcels at the time that such parcel or parcels are annexed to the Special Tax District or in  
5 compliance with other procedures established by the Code. No additional hearings or  
6 procedures are required, and such Unanimous Approval shall be deemed to constitute a  
7 unanimous vote in favor of the appropriations limit, and the proposition shall be adjusted in  
8 accordance with the applicable provisions of the Code; and, be it

9       FURTHER RESOLVED, That pursuant to Section 43.10.17 of the Code, in lieu of  
10 approval pursuant to an election held in accordance with the procedures set forth elsewhere  
11 in the Code and in Sections 53326, 53327, 53327.5 and 53328 of the Act, the appropriations  
12 limit for the Special Tax District, the applicable rate, method of apportionment and manner of  
13 collection of the Special Tax and the authorization to incur bonded indebtedness for the  
14 Special Tax District shall be specified and approved by the Unanimous Approval of the owner  
15 or owners of each parcel or parcels at the time that such parcel or parcels are annexed to the  
16 Special Tax District 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 the appropriations limit for the Special Tax  
19 District, the authorization to levy the Special Tax on such parcel or parcels and the  
20 authorization to incur bonded indebtedness for the Special Tax District; and, be it

21       FURTHER RESOLVED, That pursuant to Section 43.10.19 of the Code, in connection  
22 with the annexation of a parcel or parcels to the Special Tax District pursuant to the alternate  
23 and independent procedure set forth in Section 43.10.17 of the Code and the conduct of an  
24 election on the proposition to authorize bonded indebtedness pursuant to the alternate and  
25 independent procedure set forth in Section 43.10.18 of the Code, the City may, without

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

10           FURTHER RESOLVED, That this resolution shall take effect upon its adoption.

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

14 By: (See File for Signature)  
15       MARK D. BLAKE  
16       Deputy City Attorney



City and County of San Francisco

Tails  
Resolution

City Hall  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4689

File Number: 091449

Date Passed: January 12, 2010

Resolution of formation to establish Special Tax District No. 2009-1 (San Francisco Sustainable Financing), establish boundaries of said special tax district, to describe the facilities to be financed, to establish an appropriations limit and to provide for other matters related thereto.

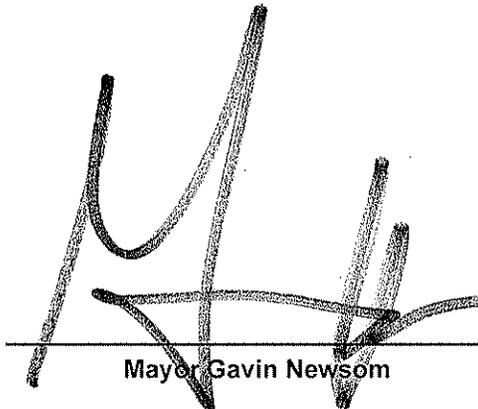
January 12, 2010 Board of Supervisors - ADOPTED

Ayes: 10 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell and Mirkarimi

Excused: 1 - Alioto-Pier

File No. 091449

I hereby certify that the foregoing Resolution was ADOPTED on 1/12/2010 by the Board of Supervisors of the City and County of San Francisco.

  
\_\_\_\_\_  
Mayor Gavin Newsom  
\_\_\_\_\_  
Angela Calvillo  
Clerk of the Board

1-22-10

\_\_\_\_\_  
Date Approved