

3/23

RESOLUTION NUMBER R- 305716

DATE OF FINAL PASSAGE MAR 26 2010

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO AUTHORIZING THE INTENTION TO ESTABLISH CITY OF SAN DIEGO RENEWABLE ENERGY, ENERGY EFFICIENCY, AND WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1.

WHEREAS, under Chapter 6, Article 1, Division 26 of the San Diego Municipal Code (Code), which Code incorporates by reference the Mello-Roos Community Facilities Act of 1982, as amended (Act), the City Council of the City (City Council) is authorized to establish a special tax district; and

WHEREAS, the City Council, by its own initiative, now desires to proceed with the establishment of a special tax district in order to finance and refinance the acquisition, installation and improvement of renewable energy, energy efficiency and water conservation improvements to or on real property and in buildings, whether such real property or buildings are privately or publicly owned; and

WHEREAS, the City Council wishes to undertake the proceedings to form the special tax district under the alternate procedures established by section 61.2613 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 be subjected to the special tax only following an election at which the qualified elector or two-thirds or more of the qualified electors of the first parcel or parcels to be annexed vote in favor of the special tax and the bonded indebtedness and, thereafter, with the unanimous written approval of the owner or owners of each parcel to be annexed to be delivered at the time that each parcel is annexed; and

WHEREAS, the City Council wishes to undertake the proceedings to authorize the issuance of bonded indebtedness for the special tax district under the alternate procedure established by section 61.2614 of

the Code, pursuant to which the proposition to authorize bonded indebtedness will be submitted for approval by the owner or owners of the first parcel or parcels of property to be annexed to the special tax district at an election to be held at the time that such parcel or parcels are annexed to the special tax district and thereafter pursuant to the unanimous written approval of the owner of such parcel as described in section 61.2613 of the Code; NOW, THEREFORE,

BE IT RESOLVED, by the City Council of the City of San Diego, as follows:

Section 1. Authority. The City Council proposes to conduct proceedings to establish a special tax district pursuant to the alternate procedures established in section 61.2613 of the Code.

Section 2. Name of Special Tax District. The name proposed for the special tax district is “City of San Diego Renewable Energy, Energy Efficiency, and Water Conservation Improvement District No. 1” (Special Tax District).

Section 3. Boundaries Described. The proposed boundaries of the Special Tax District are as shown on the map of the Special Tax District on file with the City Clerk, which boundaries are hereby preliminarily approved and to which map reference is hereby made for further particulars. The Special Tax District shall 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 be subjected to the special tax only following an election at which the qualified elector or two-thirds or more of the qualified electors of the first parcel or parcels to be annexed vote in favor of the special tax and the bonded indebtedness and, thereafter, with the unanimous written approval of the owner or owners of each parcel to be annexed to be delivered at the time that each parcel is annexed.

The City Clerk is hereby directed to record, or cause to be recorded, the map of the boundaries of the Special Tax District in the office of the Recorder of the County of San Diego within 15 days of the date of adoption of this Resolution.

Section 4. Facilities. The type of facilities proposed to be financed by the Special Tax District and pursuant to the Code shall consist of those listed as facilities on Exhibit A hereto and hereby incorporated herein (Facilities). The City Council hereby finds and determines that the description of the Facilities herein is sufficiently informative to allow taxpayers within the proposed District to understand what the funds of the District may be used to finance. The incidental expenses expected to be incurred or financed are set forth in Exhibit A hereto and incorporated by reference herein.

Section 5. Special Tax. Except to the extent that funds are otherwise available, the City will levy a special tax (Special Tax) to pay directly for the Facilities and the incidental expenses not financed from the bonds and to pay the principal and interest on bonds of the Special Tax District issued to finance the Facilities and incidental expenses and other periodic costs on bonds or other indebtedness issued by the District to finance the Facilities and incidental expenses, including the establishment and replenishment of any reserve funds deemed necessary by the City, and any remarketing, credit enhancement and liquidity facility fees (including such fees for instruments which serve as the basis of a reserve fund in lieu of cash).

The Special Tax will be secured by recordation of a continuing lien against all parcels annexed to the Special Tax District, will be levied annually against parcels annexed to the Special Tax District, and will be 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 property owners.

The proposed rate and method of apportionment of the Special Tax among the parcels of real property within the Special Tax District is described in Exhibit B attached hereto and hereby incorporated herein (Rate and Method of Apportionment). The City Council hereby finds that the Rate and Method of Apportionment provides sufficient detail to allow each landowner or resident choosing to annex to the

Special Tax District to estimate the maximum amount that he or she will have to pay. If special taxes of the Special Tax District are levied against any parcel used for private residential purposes, (i) the maximum special tax rate shall not be increased over time; (ii) such special tax shall be levied for a period not to exceed fifty (50) years commencing with Fiscal Year 2010-11, as further described in Exhibit B hereto, with Fiscal Year 2060-61 being the last year in which a special tax may be levied; and (iii) under no circumstances will such special tax be increased as a consequence of delinquency or default by the owner of any other parcel or parcels within the District.

The special tax to be levied on each parcel is based on the expected cost of the Facilities to be installed with respect to each parcel and on the benefit that each parcel derives from the right to access the Facilities. The City Council hereby determines the rate and method of apportionment of the special tax set forth in Exhibit B to be reasonable. The special tax is apportioned to each parcel on the foregoing basis pursuant to section 53325.3 of the Act and such special tax is not on or based upon the value or ownership of real property

Pursuant to section 61.2613, the Special Tax shall be levied only if it is approved at an election at which the qualified elector or two-thirds or more of the qualified electors of the first parcel or parcels to be annexed vote in favor of the Rate and Method of Apportionment, and, thereafter, the rate or rates of the Special Tax applicable to a parcel or parcels in the Special Tax District shall be specified in the unanimous written approval described in Section 6 below relating to such parcel or parcels.

The City Council hereby finds that the provisions of section 53313.6, 53313.7 and 53313.9 of the Act (relating to adjustments to *ad valorem* property taxes and schools financed by a special tax district) are inapplicable to the proposed Special Tax District.

Section 6. Election and Subsequent Unanimous Approval Process for Annexation.

Upon the City Clerk being notified that the first parcel or parcels are requesting annexation to the District, the City Clerk shall call an election at which a proposition to approve the Rate and Method of Apportionment shall be submitted to the qualified elector or qualified electors of such parcel or parcels. If there have been fewer than twelve registered voters within the territory proposed for annexation for each of the 90 days prior to the election, then the qualified electors at the election shall be the owner or owners of the parcel or parcels to be annexed. If there have been more than twelve registered voters residing at the parcels proposed for annexation for each of the 90 days prior to the election then the qualified electors shall be the registered voter or voters residing at such parcel or such parcels. If two-thirds or more of the votes cast at the election are in favor of the proposition, then the proposition shall carry. Thereafter, the Special Tax shall be levied on a parcel or parcels in the Special Tax District only with the unanimous written approval of the owner or owners of the parcel or parcels to their annexation to the Special Tax District, without any requirement for further public hearings or additional proceedings. The unanimous written approval shall be in substantially the form and substance of the Unanimous Approval attached hereto as Exhibit C, or such other form as may be authorized by the Chief Financial Officer of the City or his or her designee, and such unanimous written approval shall constitute a unanimous vote in favor of the authorization to levy a special tax on such parcel and to incur bonded indebtedness for the Special Tax District.

Section 7. Special Tax Bonds. It is the intention of the City Council to cause bonds to be issued for the Special Tax District pursuant to the Code to finance and refinance in whole or in part the construction and/or acquisition of the Facilities. The bonds shall be in the aggregate principal amount of not to exceed \$200,000,000, shall be issued in such series and bear interest payable semi-annually or in such other manner as the City Council shall determine, at a rate not to exceed the lesser of 12% per annum or the

maximum rate of interest as may be authorized by applicable law at the time of sale of such bonds. No bond shall mature later than 30 years from the date of the issuance thereof.

Section 8. Special Tax District Report. The Chief Financial Officer of the City, or his or her designee, is hereby directed to study said proposed Facilities and to make, or cause to be made, and file with the City Clerk a report in writing (Special Tax District Report), presenting the following:

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

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

(c) A description of any provisions of the City's Debt Policy—Special District Formation and Financing Policy that are inconsistent with the proposed financing program to be implemented through the Special Tax District and a recommendation as to specific policies to be waived with respect to the formation of the Special Tax District.

The Special Tax District Report shall be made a part of the record of the public hearing specified below.

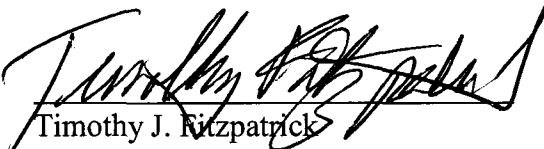
Section 9. Public Hearing. On April 27, 2010, at 2:00 p.m., or as soon as possible thereafter as the matter may be heard, a public hearing shall be conducted in the Council Chambers, 202 C Street, San Diego, California 92101, at which the City Council will conduct a public hearing on the proposed establishment of the Special Tax District and consider and finally determine whether the public interest, convenience and necessity require the formation of the Special Tax District and the levy of the Special Tax.

Section 10. Notice of Hearing. The City Clerk is hereby directed to cause notice of the public hearing to be given by publication one time in a newspaper published in the area of the Special Tax District. The publication shall be completed at least seven days before the date of the public hearing specified above. The notice shall be substantially in the form specified in section 53322 of the Act.

Section 11. Further Action. The Mayor, the Chief Financial Officer, their designees, the City Clerk and all other officers and agents of the City are hereby authorized and directed to take all actions necessary or advisable to give effect to the transactions contemplated by this Resolution.

Section 12. No Obligation. This Resolution shall in no way obligate the City Council of the City to form the Special Tax District. The formation of the Special Tax District shall be subject to the approval of the City Council by resolution following the holding of the public hearing referred to above.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Timothy J. Fitzpatrick  
Deputy City Attorney

TJF:jdf  
03/09/2010  
Or.Dept:Debt. Mgmt.  
R-2010-640

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of MAR 23 2010

ELIZABETH S. MALAND  
City Clerk

By:   
Deputy City Clerk

Approved: 3-26-10  
(date)

  
JERRY SANDERS, Mayor



**EXHIBIT A**

**CITY OF SAN DIEGO RENEWABLE ENERGY, ENERGY  
EFFICIENCY, AND WATER CONSERVATION  
IMPROVEMENT DISTRICT NO. 1**

**DESCRIPTION OF FACILITIES TO BE FINANCED  
BY THE SPECIAL TAX DISTRICT**

The Facilities shown below are proposed to be financed and refinanced by the City of San Diego Renewable Energy, Energy Efficiency, and Water Conservation Improvement District No. 1 (the "Special Tax District").

**FACILITIES**

It is intended that the Special Tax District will be authorized to finance and refinance the acquisition, construction, expansion, installation and improvement of energy efficiency, water conservation, including pollution control, and renewable energy improvements and equipment with an expected useful life of five years or longer to or on real property and in buildings, whether such real property or buildings are privately or publicly owned.

**OTHER**

The Special Tax District may also finance any of the following incidental expenses:

1. Bond related expenses, including underwriters discount, reserve fund, capitalized interest, letter of credit fees and expenses, bond and disclosure counsel fees and expenses, bond remarketing costs, and all other incidental expenses.
2. Administrative fees and costs of the City and the bond trustee or fiscal agent related to the Special Tax District and the bonds.
3. Any other costs or fees authorized by the Code.

**EXHIBIT B**  
**RATE AND METHOD OF APPORTIONMENT FOR**  
**CITY OF SAN DIEGO**  
**RENEWABLE ENERGY, ENERGY EFFICIENCY, AND WATER CONSERVATION**  
**IMPROVEMENT DISTRICT NO. 1**

A Special Tax as hereinafter defined shall be levied on all Assessor's Parcels annexed into the City of San Diego Renewable Energy, Energy Efficiency, and Water Conservation Improvement District No. 1 (the "Special Tax District") and collected each Fiscal Year in an amount determined by the City or its designee through the application of the appropriate Special Tax for "Taxable Property" as described below. All of the real property annexed into the Special Tax District, unless exempted by law or by the provisions hereof, shall be taxed for the purposes, to the extent and in the manner herein provided.

**A. DEFINITIONS**

The terms hereinafter set forth have the following meanings:

**"Administrative Expenses"** means the actual or reasonably estimated costs directly related to the administration of the Special Tax District, including: the costs of computing the Special Taxes and preparing the annual Special Tax collection schedules (whether by the City or designee thereof or both); the costs of collecting the Special Taxes (whether by the City, the County or otherwise); the costs of remitting the Special Taxes to the Trustee; the costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; the costs to the City or any designee thereof of complying with arbitrage rebate requirements; the costs to the City or any designee thereof of complying with disclosure requirements of the City or obligated persons associated with applicable federal and state securities laws and the Code; the costs associated with preparing Special Tax disclosure statements and responding to public inquiries regarding the Special Taxes; the costs of the City or any designee thereof related to an appeal of the Special Tax; and the City's annual administration fees and third party expenses. Administrative Expenses shall also include amounts estimated or advanced by the City for any other administrative purposes relating to the Special Tax District, including costs to process prepayments of the Special Tax and recordings related to such prepayments and satisfaction of Special Taxes and for attorney's fees and other costs related to commencing and pursuing to completion any foreclosure of delinquent Special Taxes.

**"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.

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

**“Assessor’s Parcel Map”** means an official map of the Assessor of the County designating parcels by Assessor’s Parcel number.

**“Authorized Improvements”** means the improvements authorized to be financed by the Special Tax District.

**“Bonds”** means any bonds or other debt (as defined in the Code), whether in one or more series, issued by the Special Tax District.

**“City”** means the City of San Diego.

**“Code”** means Division 26 of Chapter 6, Article 1 of the San Diego Municipal Code.

**“County”** means the County of San Diego.

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

**“Indenture”** means the indenture, fiscal agent agreement, resolution or other instrument pursuant to which Bonds are issued, as modified, amended and/or supplemented from time to time, and any instrument replacing or supplementing the same.

**“Maximum Special Tax”** means the maximum Special Tax that can be levied on an Assessor’s Parcel of Taxable Property in any Fiscal Year as set forth in Section C below and the Rate Supplement for the Assessor’s Parcel.

**“Non-Residential Property”** means all Assessor’s Parcels of Taxable Property which are not considered Residential Property.

**“Rate Supplement”** means, for any Assessor’s Parcel of Taxable Property within the Special Tax District, the Rate Supplement recorded with respect to such Assessor’s Parcel that identifies the Maximum Special Tax for such Assessor’s Parcel. If it is determined in any Fiscal Year that an Assessor’s Parcel, as identified on the Rate Supplement, has been modified or subdivided, the Administrator shall record a new Rate Supplement as described in Section B below and the Maximum Special Tax identified therein shall become the Maximum Special Tax for each modified or subdivided Assessor’s Parcel.

**“Residential Property”** means any Assessor’s Parcel of Taxable Property which is used for private residential purposes, as determined by the Administrator.

**“Special Tax”** means a special tax to be levied in any Fiscal Year to pay the Special Tax Requirement.

**“Special Tax District”** means City of San Diego Renewable Energy, Energy Efficiency, and Water Conservation Improvement District No. 1.

**“Special Tax Requirement”** means for any Fiscal Year for any Assessor’s Parcel of Taxable Property, the lesser of (a) the Maximum Special Tax or (b) the amount

determined by the Administrator that is required from such Assessor's Parcel to (i) pay principal and interest on Bonds associated with such Assessor's Parcel as shown in the Rate Supplement; (ii) pay a share of Administrative Expenses; (iii) create or replenish a reserve fund for Bonds; and (iv) pay for reasonably anticipated delinquent Special Taxes. Notwithstanding the foregoing no amounts shall be levied on an Assessor's Parcel of Residential Property under item (iv) above with respect to delinquent Special Taxes for any other Assessor's Parcel. In the Administrator's sole and absolute discretion, the amount calculated under item (b) of the preceding sentence for any Assessor's Parcel may be reduced in any Fiscal Year by (i) proceeds from the collection of interest and penalties associated with delinquent Special Taxes, and (ii) any other revenues available to pay debt service on Bonds as determined by the Administrator.

**"State"** means the State of California.

**"Taxable Property"** means all of the Assessor's Parcels (or successors of such Assessor's Parcels) that have annexed into the Special Tax District.

**"Trustee"** means the trustee or fiscal agent under the Indenture.

#### **B. ADMINISTRATION OF SPECIAL TAX**

On or about July 1 of each Fiscal Year, the Administrator shall identify the current Assessor's Parcel numbers for all Taxable Property within the Special Tax District and determine the Special Tax Requirement for each Assessor's Parcel of Taxable Property for the Fiscal Year.

If it is determined in any Fiscal Year that an Assessor's Parcel of Taxable Property has been modified or subdivided, the Administrator shall assign the Maximum Special Tax for such Assessor's Parcel to the resulting Assessor's Parcel(s) based on the percentage of the Authorized Improvements for such original Assessor's Parcel that are located on each resulting Assessor's Parcel as determined by the Administrator. If multiple new Assessor's Parcels have been created and the Authorized Improvements no longer exist, the Administrator shall allocate the Special Tax on a per-acre basis to each of the resulting Assessor's Parcels unless the Administrator, in its sole discretion, determines that the Special Tax should be allocated in an alternate manner to the resulting Assessor's Parcels. Under no circumstances shall the total Maximum Special Tax that may be levied against the resulting Assessor's Parcels be reduced as a result of this reallocation from the Maximum Special Tax for the original Assessor's Parcel. The Administrator shall record an amended notice of special tax lien (with an updated Rate Supplement) for all affected Assessor's Parcels. Notwithstanding the foregoing sentence, if the resulting Maximum Special Tax for any new Assessor's Parcel is zero, the Administrator shall record a notice of cancellation of tax lien for such Assessor's Parcel.

#### **C. MAXIMUM SPECIAL TAX**

The Maximum Special Tax for an Assessor's Parcel of Residential Property shall be the lesser of (i) \$16,600 or (ii) the largest annual amount identified in the Rate Supplement for such Assessor's Parcel. The Maximum Special Tax for an Assessor's Parcel of Non-

Residential Property shall be the largest annual amount identified in the Rate Supplement for such Assessor's Parcel. The Maximum Special Tax as shown in the Rate Supplement for any Assessor's Parcel shall be calculated based on the amount needed for such Assessor's Parcel to fund its applicable share of (i) the Authorized Improvements, (ii) any reserve funds for the Bonds, (iii) costs of Special Tax District formation and Bond issuance, (iv) other capitalized costs, and (v) estimated annual Administrative Expenses.

**D. METHOD OF LEVY OF THE SPECIAL TAX**

Each Fiscal Year, commencing in Fiscal Year 2010-11, the Administrator shall determine the Special Tax Requirement for each Assessor's Parcel of Taxable Property and provide for the levy of the Special Tax at up to 100% of the Maximum Special Tax for such Assessor's Parcel in order to pay the Special Tax Requirement.

**E. MANNER OF COLLECTION**

The 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 Tax, may collect Special Taxes at a different time or in a different manner if necessary to meet its financial obligations, and may covenant to foreclose and may actually foreclose on delinquent Assessor's Parcels as permitted by the Code.

**F. EXEMPTIONS**

No property shall be exempt from the Special Tax after such property has been annexed into the Special Tax District.

**G. PREPAYMENT OF SPECIAL TAX**

The Special Tax obligation applicable to an Assessor's Parcel of Taxable Property may be prepaid in full or in part as described herein, provided that a prepayment may be made only if there are no delinquent Special Taxes with respect to such Assessor's Parcel at the time of prepayment.

**1. Payment in Full**

An owner of an Assessor's Parcel of Taxable Property who intends to prepay the Special Tax obligation in full shall provide the Administrator with written notice of intent to prepay. Within thirty (30) days of receipt of such written notice, the Administrator shall notify such owner of the prepayment amount for the Assessor's Parcel. The Administrator may charge such owner a reasonable fee for providing this service. To compute the prepayment amount the Administrator shall:

1. Sum the unpaid principal payments as shown on the Rate Supplement for such Assessor's Parcel. From this amount, subtract the principal payment for the current Fiscal Year as shown on the Rate Supplement for such Assessor's Parcel (the "*Bond Redemption Amount*").

2. Compute the applicable redemption premium, if any, on the Bond Redemption Amount as computed in paragraph 1 (the "*Redemption Premium*").
3. Compute the amount, if any, needed to pay interest on the Bond Redemption Amount from the first Bond interest and/or principal payment date following the current Fiscal Year until the earliest redemption date for the Bonds associated with such Assessor's Parcel (the "*Defeasance Amount*").
4. Compute the administrative fees and expenses of the Special Tax District which shall include the costs of computation of the prepayment, the costs of redeeming Bonds, and the costs of recording any notices to evidence the prepayment and the redemption (the "*Administrative Fees and Expenses*").
5. Determine the Special Taxes levied on such Assessor's Parcel in the current Fiscal Year which have not yet been paid.
6. If reserve funds for the Bonds, if any, are at or above 100% of the reserve requirement (as defined in the Indenture and as it may be reduced a result of the prepayment) on the prepayment date, compute the reserve fund credit, which shall equal the expected reduction in the reserve requirement, if any, associated with the redemption of the Bond Redemption Amount as a result of the prepayment (the "*Reserve Fund Credit*"). No Reserve Fund Credit shall be granted if reserve funds are below 100% of the reserve requirement.
7. The Special Tax prepayment is equal to the sum of the amounts computed pursuant to paragraphs 1 through 5, less the amount computed pursuant to paragraph 6 (the "*Prepayment Amount*").

With respect to any Assessor's Parcel that is prepaid in full, the Administrator shall cause a suitable notice to be recorded in compliance with the Code, to indicate the prepayment of Special Taxes and the release of the Special Tax lien on such Assessor's Parcel, and the obligation of such Assessor's Parcel to pay the Special Tax shall cease.

## **2. Prepayment in Part**

An owner of an Assessor's Parcel of Taxable Property who intends to prepay the Special Tax obligation in part shall provide the Administrator with written notice of intent to prepay. Such notice shall include the percentage by which such owner would like to reduce the Maximum Special Tax for the Assessor's Parcel. Within thirty (30) days of receipt of such written notice, the Administrator shall notify such owner of the partial prepayment amount for the Assessor's Parcel. The Administrator may charge such owner a reasonable fee for providing this service. To compute the partial prepayment amount the Administrator shall:

1. Determine the amount of Special Taxes available from such Assessor's Parcel to pay interest and principal on Bonds after the partial prepayment. This amount is equal to the original Maximum Special Tax as shown on the Rate Supplement

multiplied by the prepayment percentage less Administrative Expenses as shown on the Rate Supplement.

2. Determine the amount of Bonds that can be supported by the revenue stream calculated in paragraph 1.
3. Determine the amount of Bonds to be redeemed. This amount is equal to the outstanding Bonds associated with such Assessor's Parcel less the amount calculated in paragraph 2.
4. Determine the partial prepayment amount using the prepayment formula described in Section G.1, with the following exceptions: (i) the Bond Redemption Amount in paragraph 1 of Section G.1 shall equal the amount calculated pursuant to paragraph 3 above; and (ii) no determination of amounts pursuant to paragraph 5 in Section G.1 need be made.

With respect to any Assessor's Parcel that is partially prepaid, the Administrator shall record an amended Rate Supplement to indicate the partial prepayment of Special Taxes and the new Maximum Special Tax for such Assessor's Parcel.

#### **H. APPEALS AND INTERPRETATIONS**

Any landowner or resident may file a written appeal of the Special Tax on his/her property with the Administrator, provided that the appellant is current in his/her payments of Special Taxes. During the pendency of an appeal, all Special Taxes must be paid on or before the payment date established when the levy was made. The appeal must specify the reasons why the appellant claims the Special Tax is in error. The Administrator shall review the appeal, meet with the appellant if the Administrator deems necessary, and advise the appellant of its determination. If the Administrator agrees with the appellant, the Administrator shall make a recommendation to the City's Chief Financial Officer ("CFO") or designee to eliminate or reduce the Special Tax on the appellant's property and/or to provide a refund to the appellant. The approval of the CFO or designee must be obtained prior to any such elimination or reduction and no such action shall be approved that would impair the repayment of Bonds. If the Administrator disagrees with the appellant and the appellant is dissatisfied with the determination, the appellant then has thirty (30) days in which to appeal to the CFO or designee by filing a written notice of appeal with the City Clerk, provided that the appellant is current in his/her payments of Special Taxes. The second appeal must specify the reasons for the disagreement with the Administrator's determination.

The City may interpret and clarify this Rate and Method of Apportionment of Special Tax to correct any inconsistency, vagueness, or ambiguity that does not materially affect the levy and collection of the Special Taxes or any security for any Bonds, as determined by the CFO.

**I. TERM OF SPECIAL TAX**

The Special Tax shall be levied for a period not to exceed fifty years commencing with Fiscal Year 2010-11.

Notwithstanding the foregoing, the Special Tax for an Assessor's Parcel of Taxable Property shall not be levied after the final Fiscal Year as shown in the Rate Supplement for such Assessor's Parcel, except that a Special Tax that was lawfully levied in or before the final Fiscal Year identified in the Rate Supplement and that remains delinquent may be collected in subsequent years.



**EXHIBIT A**

**RATE SUPPLEMENT**

RATE SUPPLEMENT

CITY OF SAN DIEGO  
 RENEWABLE ENERGY, ENERGY EFFICIENCY, AND WATER CONSERVATION  
 IMPROVEMENT DISTRICT NO. 1

Property Address: \_\_\_\_\_

Property Assessor's Parcel Number: \_\_\_\_\_

Year	Fiscal Year	Bond Interest (a)	Bond Principal (b)	Total Bond Payment (a) + (b)	Administrative Expenses (c)	Maximum Special Tax (a) + (b) + (c)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
Total	NA					

Note: Amounts shown on the above schedule are for purposes of calculating the Maximum Special Tax only and may not reflect allocation of funds in any fiscal year. The Maximum Special Tax is equal to the largest amount shown in any year in the table above.

**EXHIBIT C**

**CITY OF SAN DIEGO  
Renewable Energy, Energy Efficiency, and  
Water Conservation Improvement District No. 1**

**FORM OF UNANIMOUS APPROVAL**

**CITY OF SAN DIEGO  
RENEWABLE ENERGY, ENERGY EFFICIENCY, AND  
WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1**

\_\_\_\_\_, 20\_\_

To the Honorable City Council City of San Diego  
202 C Street, #10  
San Diego, California 92101-3860

Members of the City Council:

The City Council of the City of San Diego (the "City") has added Chapter 6, Article 1, Division 26 to the City of San Diego Municipal Code entitled the "Renewable Energy, Energy Efficiency and Water Conservation Improvements and Equipment Financing Program" (the "Code") and, for the purpose of financing and refinancing the acquisition, installation and improvement of energy efficiency, renewable energy and water conservation improvements to or on real property and in buildings, whether such real property or buildings are privately or publicly owned, formed the "City of San Diego Renewable Energy, Energy Efficiency, and Water Conservation Improvement District No. 1" (the "Special Tax District").

The Property Owner hereby states and certifies, under penalty of perjury, as follows:

**1. Property Owner.** This Unanimous Approval is submitted by the record owner(s) (the "Property Owner") of the fee title to the real property identified below (the "Property"). The Property Owner has supplied to the City current evidence of its ownership of fee title to the Property and possesses all legal authority necessary to execute this Unanimous Approval.

**2. Unanimous Approval.** This Unanimous Approval constitutes the approval and unanimous vote of the Property Owner in favor of the following matters for the purposes of Sections 61.2613 and 61.2614 of the Code and Article XIII A of the California Constitution:

(a) Annexation: The annexation of the Property to the Special Tax District for the purpose of financing the installation on the Property of the energy efficiency and/or renewable energy and/or water conservation improvements described in Appendix 1 hereto and made a part hereof (the "Improvements");

(b) Special Tax: The levy of special taxes (the "Special Taxes") on the Property to finance the Improvements, according to (A) the Rate and Method of Apportionment of Special Tax, attached as Appendix 2 and (B) the Rate Supplement to Rate and Method of Apportionment of Special Taxes, attached as Appendix 3 (the "Rate Supplement" and, together with Appendix 2, the "Rate and Method"); and

(c) Bonds and Appropriations Limit: The issuance of bonded indebtedness for the Special Tax District in an aggregate principal amount not to exceed \$200,000,000.

**3. Waivers and Acknowledgment.** To the maximum extent permitted by law, the Property Owner hereby waives any right to repeal the Special Tax by initiative or any other action and any necessity, requirement or right to further public hearings or election with respect to the annexation of the Property to the Special Tax District or the levy of the Special Taxes on the Property.

The Property Owner hereby acknowledges that the City has formed the Special Tax District solely for the purpose of assisting the owners of property in the City with the financing of energy efficiency, renewable energy and water conservation improvements, and that the City has no responsibility of any kind for, and shall have no liability or obligations whatsoever arising out of or relating to, the installation, operation, financing, refinancing or maintenance of the Improvements. The Property Owner hereby agrees that the Property Owner and its successors in interest to fee title in the Property shall be solely responsible for the installation, operation, financing, refinancing, maintenance, or any matters related thereto of the Improvements. The Property Owner hereby acknowledges that the Property will be responsible for payment of the Special Tax according to the Rate and Method regardless of whether the Improvements are properly installed or operate as expected.

**4. Recordation of Notice of Special Tax Lien. [FOR FIRST PARCELS TO BE ANNEXED USE THIS PARAGRAPH]** The Property Owner hereby authorizes and directs the City Clerk of the City to execute and cause to be recorded in the office of the County Recorder of the County of San Diego a Notice of Special Tax Lien as required by Section 61.2613(a)(5) of the Code. The Notice of Special Tax Lien shall include the Rate and Method of Apportionment of Special Tax attached hereto as Appendix 2. The Property Owner further authorizes and directs the City Clerk of the City to execute and cause to be recorded in the office of the County Recorder of the County of San Diego as an amendment and supplement to the Notice of Special Tax Lien this Unanimous Approval and the Rate Supplement when prepared and finalized, which together shall constitute the notice of special tax lien for the Property as required by Section 61.2613(a)(5) of the Code. The amendment and supplement shall reference the Notice of Special Tax Lien by book and page number or other recording number used by the County Recorder.

**[USE THIS PARAGRAPH FOR ALL PARCEL ANNEXED AFTER THE INITIAL RECORDATION OF THE NOTICE OF SPECIAL TAX LIEN].**The Property Owner hereby authorizes and directs the City Clerk of the City to execute and cause to be recorded in the office of the County Recorder of the County of San Diego the Rate Supplement and this Unanimous Approval as an amendment and supplement to the Notice of Special Tax Lien recorded on \_\_\_\_\_, 2010 at Book \_\_, Page \_\_, which, together, shall constitute the notice of special tax lien for the Property as required by Section 61.2613(a)(5) of the Code. The amendment and supplement shall reference the Notice of Special Tax Lien by book and page number or other recording number used by the County Recorder.

**5. Notice.** To the extent required by applicable law, the Property Owner hereby agrees to provide written notice to any subsequent purchaser of the Property of the annexation of the Property to the

Special Tax District and of the authority of the City to levy the Special Taxes on the Property pursuant to the Rate and Method.

**6. Indemnification.** The Property Owner agrees to indemnify and hold harmless the City and its agencies and departments and their respective officers, directors, agents, attorneys and employees from and against any and all damages, claims, losses, liabilities, costs and expenses of every kind and description, contingent or otherwise, including attorney fees, arising out of or related to the installation, operation, financing, refinancing, maintenance or any matters related thereto, of the Improvements, or the failure of the Property Owner to pay the Special Taxes when due.

**7. Carbon Credits.** The Property Owner hereby agrees that any carbon credits attributable to the Improvements shall be owned by the Property Owner but may be assigned by the Property Owner to the City.

**8. Right to Inspect Property and Related Documents.** The Property Owner hereby grants the City, its agents and representatives the right to enter the Property at any reasonable time, upon reasonable notice, to inspect the Improvements. The Property Owner further hereby grants the City, its agents and representatives the right to examine and copy any documentation relating to the Improvements.

**9. Application.** The Property Owner hereby represents and warrants to the City that the information provided in the Application submitted to the City in connection with the Property Owner's request for financing is true and correct as of the date hereof, and that the representations set forth in the Application are true and correct with respect to the Property Owner as of the date hereof as if made on the date hereof.

**10. Delinquencies.** The Property Owner acknowledges that, if Special Taxes are not paid when due, the City has the right to have the delinquent Special Taxes and the associated penalties and interest stripped off the secured property tax roll and immediately enforced through a judicial foreclosure action that could result in a sale of the Property for the payment of the delinquent installments, associated penalties and interest, and all costs of suit, including attorneys' fees. The Property Owner acknowledges that, if bonds are sold to finance the Improvements or if the City enters into any other financing relationship in order to finance the Improvements, the City may obligate itself, through a covenant with the owners of the bonds or the provider of any other financing relationship, to exercise its foreclosure rights with respect to delinquent Special Taxes under specified circumstances.

**11. The Property.** The Property subject to this Unanimous Approval and to be annexed to the Special Tax District consists of the following:

<i>Property Address:</i>	
<i>San Diego County Assessors Parcel(s) Number(s):</i>	

The foregoing Unanimous Approval is hereby executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in \_\_\_\_\_, California.

PROPERTY OWNER

Name: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPENDIX 1**

**CITY OF SAN DIEGO  
RENEWABLE ENERGY, ENERGY EFFICIENCY,  
AND WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1**

**DESCRIPTION OF IMPROVEMENTS**

The Improvements are described in the attached invoice.

**APPENDIX 2**

**CITY OF SAN DIEGO  
RENEWABLE ENERGY, ENERGY EFFICIENCY,  
AND WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1**

**RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**



**APPENDIX 3**

**CITY OF SAN DIEGO  
RENEWABLE ENERGY, ENERGY EFFICIENCY,  
AND WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1**

**RATE SUPPLEMENT TO  
RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX**