

RESOLUTION NUMBER R- 305809

DATE OF FINAL PASSAGE APR 30 2010

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO DETERMINING THE NECESSITY TO INCUR BONDED INDEBTEDNESS FOR CITY OF SAN DIEGO RENEWABLE ENERGY, ENERGY EFFICIENCY AND WATER CONSERVATION IMPROVEMENT DISTRICT NO. 1 AND CALLING AN ELECTION THEREIN

WHEREAS, on March 23, 2010, the City Council of the City of San Diego (City Council) adopted a resolution entitled "Resolution of Intention to Establish City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1" (Resolution of Intention) stating its intention to form "City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1" (Special Tax District), pursuant to Chapter 6, Article 1, Division 26 of the San Diego Municipal Code (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 (Act), for the purpose of financing and refinancing 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 (Facilities), and various incidental expenses as described therein (Incidental Expenses); and

WHEREAS, in the Resolution of Intention, this Council stated its intention 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

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 individual parcel or parcels to be annexed vote in favor of the levy of the special taxes and the bonded indebtedness to be incurred for the Special Tax District, and, thereafter, with the unanimous approval of the owner or owners of the parcel or parcels to be annexed at the time that such parcel or those parcels are annexed; and

WHEREAS, on March 23, 2010, this City Council also adopted a resolution entitled "Resolution of Intention to Incur Bonded Indebtedness with Respect to the City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1" (Resolution of Intention to Incur Indebtedness) stating its intention to incur bonded indebtedness for and on behalf of the Special Tax District for the purpose of financing the Facilities and the Incidental Expenses; and

WHEREAS, in the Resolution of Intention to Incur Indebtedness, this City Council stated its intention 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 may be approved following an election at which the qualified elector or two-thirds or more of the qualified electors consisting of the owners or registered voters, as applicable, of the first individual parcel or parcels to be annexed vote in favor of the proposition to authorize the bonded indebtedness, and, thereafter, by the owner or owners of a parcel or parcels to be annexed at the time that the parcel or parcels are annexed to the Special Tax District pursuant to the unanimous approval described in section 61.2613 of the Code, and pursuant to which no

additional hearings or procedures are required, and such unanimous approval shall be deemed to constitute a unanimous vote in favor of such proposition; and

WHEREAS, this City Council held a noticed public hearing as required by the Code regarding the determination to proceed with the formation of the Special Tax District, the provision of the Facilities by the Special Tax District and the Rate and Method of Apportionment of the special tax to be levied within the Special Tax District; and

WHEREAS, subsequent to the public hearing, this City Council adopted a resolution entitled "Resolution of the City Council of the City of San Diego Establishing City of San Diego Renewable Energy, Energy Efficiency and Water Conservation Improvement District No. 1 and Authorizing the Levy of Special Taxes, and Calling an Election Therein" (Resolution of Formation); and

WHEREAS, this City Council also held a noticed public hearing as required by the Code related to the questions set forth in the Resolution of Intention to Incur Indebtedness; and

WHEREAS, any written protests filed with the City Clerk related to the questions set forth in the Resolution of Intention to Incur Indebtedness are not sufficient to prevent this City Council from approving this resolution; NOW, THEREFORE,

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

Section 1. Recitals. The foregoing recitals are true and correct.

Section 2. Necessity. This City Council deems it necessary to incur bonded indebtedness in a principal amount not to exceed \$200,000,000 for the Special Tax District for the purpose of financing the costs of the Facilities and all Incidental Expenses, including, but not limited to, the costs of issuing and selling bonds to finance all or a portion of the Facilities.

Section 3. Entire Special Tax District Liable. All of the parcels annexed to the Special Tax District shall pay for the bonded indebtedness through the levy of the special tax. 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 subjected to a special tax only following an election at which the qualified elector or two-thirds or more of the qualified electors of the first individual parcel or parcels to be annexed vote in favor of the levy of the special taxes and the bonded indebtedness to be incurred for the Special Tax District, and, thereafter, with the unanimous approval described in section 61.2613 of the Code (each, a Unanimous Approval) of the owner or owners of such parcel or parcels at the time that such parcel or those parcels are annexed.

The special tax is to be apportioned in accordance with the Rate and Method of Apportionment of Special Tax set forth in Exhibit B to the Resolution of Formation.

Section 4. Bonds. Bonds in the maximum principal amount of \$200,000,000 are hereby authorized, subject to approval as described in Section 5 below. The bonds may be issued in one or more series and mature and bear interest at such rate or rates, payable semiannually or in such other manner, all as this City Council or its designee shall determine, at the time or times of sale of such bonds; provided, however, that the interest rate or rates shall not to exceed the maximum interest rate permitted by applicable law at the time of sale of the bonds and the bonds and any series thereof shall have a maximum term of not to exceed 30 years.

Section 5. Election and Unanimous Approval. Pursuant to section 61.2614 of the Code, in lieu of the procedure set forth in sections 53353.5, 53354 and 53355 of the Act, the

proposition to authorize issuance of the bonds for the Special Tax District shall be approved following an election at which the qualified elector or two-thirds or more of the qualified electors of the first individual parcel or parcels to be annexed to the Special Tax District vote in favor of the levy of the issuance of the bonds, and, thereafter, by the owner or owners of a parcel or parcels of property at the time that the parcel or parcels are annexed to the Special Tax District pursuant to the Unanimous Approval of each such owner. No additional hearings or procedures are required, and such unanimous approval shall be deemed to constitute a unanimous vote in favor of such proposition.


The proposition relative to incurring bonded indebtedness for the Special Tax District shall be in the form set forth in Exhibit D of the Resolution of Formation. The election on the proposition of incurring bonded indebtedness shall be consolidated with the election on the proposition to levy a special tax for the Special Tax District, which propositions shall be in the forms set forth in Exhibit D of the Resolution of Formation.

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 the proposition to approve the bonded indebtedness 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, and each landowner shall have one vote for each acre or portion thereof that he or she owns within the Special Tax District, as provided in section 53326 of the Act. 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.

Except as otherwise provided by the Act, the election shall be conducted in accordance with the provisions of law regulating elections of the City of San Diego insofar as such provisions are determined by the City Clerk to be applicable. The City Clerk is authorized to conduct the election following the adoption of the Resolution of Formation and this resolution, and all ballots shall be received by, and the City Clerk shall close the election by, 5:00 p.m. on the election day; provided the elections shall be closed at such earlier time as all qualified electors have voted as provided in section 53326(d) of the Act.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Timothy J. Fitzpatrick
Deputy City Attorney

TJF:jdf
04/13/2010
Or.Dept:Debt Mgmt.
R-2010-752

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of APR 27 2010.

ELIZABETH S. MALAND
City Clerk

By *Sara Richardson*
Deputy City Clerk

Approved: 4-30-10
(date)

JSL
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor