

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

ORDINANCE NO. 01-2018

APPROVING AN ORDINANCE LEVYING SPECIAL TAXES WITHIN THE SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO COMMUNITY FACILITIES DISTRICT NO. 9 (HPS2/CP PUBLIC FACILITIES AND SERVICES)

WHEREAS, Pursuant to the Mello-Roos Community Facilities Act of 1982, constituting Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing with Section 53311, of the California Government Code (“Mello-Roos Act”), on February 20, 2018, this Commission (“Commission”) of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco (“Successor Agency”), State of California, adopted its Resolution No. 1-2018 entitled “Resolution of Intention to Establish Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services), Improvement Area No. 1 and a Future Annexation Area, and Determining Other Matters in Connection Therewith” (“Resolution of Intention to Establish”) stating its intention to establish (i) “Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services)” (“CFD”), (ii) “Improvement Area No. 1 of the Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services)” (“Improvement Area No. 1”), and (iii) “Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services) (Future Annexation Area)” (“Future Annexation Area”), to finance the acquisition and construction of certain public facilities and public services.

A. In the Resolution of Intention to Establish, this Commission determined that it may be necessary to designate additional improvement areas when territory in the Future Annexation Area annexes into the CFD (each, a “Future Improvement Area”).

B. Notice was published as required by the Mello-Roos Act relative to the intention of this Commission to form the CFD, Improvement Area No. 1 and the Future Annexation Area, to provide for certain public facilities and public services and to incur bonded indebtedness and other debt for Improvement Area No. 1 and the Future Improvement Areas.

C. This Commission has held noticed public hearings as required by the Mello-Roos Act relative to (i) the determination to proceed with the formation of the CFD, Improvement Area No. 1 and Future Annexation Area, and the rate and method of apportionment of the special tax to be levied within Improvement

Area No. 1 to finance a portion of the costs of the public facilities and public services and (ii) the issuance of bonded indebtedness and other debt for Improvement Area No. 1 and the Future Improvement Areas.

D. At said public hearings all persons desiring to be heard on all matters pertaining to the formation of the CFD, Improvement Area No. 1 and the Future Annexation Area, and the levy of said special taxes were heard, substantial evidence was presented and considered by this Commission and a full and fair hearing was held.

E. Subsequent to the public hearings, this Commission adopted its Resolution No. 17-2018 entitled "Resolution Forming Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services), Improvement Area No. 1 and a Future Annexation Area, and Determining Other Matters in Connection Therewith" ("Resolution of Formation"), its Resolution No. 18-2018 entitled "Resolution Determining Necessity to Incur Bonded Indebtedness and Other Debt in an Amount Not to Exceed \$6,000,000,000 for the Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services) and determining other matters in connection therewith" ("Resolution of Necessity") and its Resolution No. 19-2018 entitled "Resolution Calling Special Election in Successor Agency to the Redevelopment Agency of the City and County of San Francisco Community Facilities District No. 9 (HPS2/CP Public Facilities and Services)," which resolutions defined the public facilities to be financed by the CFD ("Facilities") and the public services to be financed by the CFD ("Services"), established the CFD, Improvement Area No. 1 and Future Annexation Area, authorized the levy of a special tax within Improvement Area No. 1, determined the necessity to (i) incur bonded indebtedness and other debt (as defined in the Mello-Roos Act) for Improvement Area No. 1 in the maximum aggregate principal amount of \$202,200,000 ("Improvement Area No. 1 Indebtedness Limit") upon the security of the special tax to be levied in Improvement Area No.1 and (ii) incur bonded indebtedness and other debt (as defined in the Mello-Roos Act) for the territory in the CFD that is not in Improvement Area No. 1 in the maximum aggregate principal amount of \$5,797,800,000 ("Non-Improvement Area No. 1 Indebtedness Limit") upon the security of the special tax to be levied in such territory pursuant to the Mello-Roos Act, and called an election within Improvement Area No. 1 on the propositions of incurring indebtedness, levying a special tax, and establishing an appropriations limit within Improvement Area No. 1, respectively.

F. On April 17, 2018 a special election was held within Improvement Area No. 1 at which the eligible landowner-electors approved such propositions by the two-thirds vote required by the Mello-Roos Act; now therefore, it is

ORDAINED, The Commission authorizes and levies special taxes within Improvement Area No. 1, at the rate and in accordance with the formula ("Rate and Method") set forth in the Resolution of Formation, which Resolution of Formation is by this reference incorporated herein. The special taxes are hereby levied commencing in

fiscal year 2018-19 and in each fiscal year thereafter for the period provided in the Rate and Method, as contemplated by the Resolution of Formation and the Resolution of Necessity, and all costs of administering the CFD; and, be it further

ORDAINED, The designation as an improvement area of any territory annexing to the CFD, the maximum amount of bonded indebtedness and other debt for such improvement area, the rate and method of apportionment of special tax for such improvement area and the appropriations limit for such improvement area shall be identified and approved in the unanimous approval executed by property owners in connection with their annexation to the CFD (each, a “Unanimous Approval”) and in accordance with the Annexation Approval Procedures described in the Resolution of Formation, and the amount of the maximum indebtedness for such improvement area shall be subtracted from the Non-Improvement Area No. 1 Indebtedness Limit as set forth in a resolution of this Commission, which shall result in a reduction in the Non-Improvement Area No. 1 Indebtedness Limit; and, be it further

ORDAINED, This Commission hereby authorizes (i) the levy of special taxes on parcels in the Future Annexation Area that are annexed into the CFD (whether as part of a then-existing improvement area or as a newly-designated improvement area) at the rate or rates approved in the applicable Unanimous Approval and in accordance with the Annexation Approval Procedures described in the Resolution of Formation, and (ii) the apportionment and collection of the special taxes approved pursuant to the applicable Unanimous Approval and the Annexation Approval Procedures in the manner specified in the Resolution of Formation; and, be it further

ORDAINED, The Executive Director of the Successor Agency (“Executive Director”) (or designee) is hereby authorized and directed each fiscal year to determine the specific special tax rate and amount to be levied for the next ensuing fiscal year for each parcel of real property within Improvement Area No. 1 and each Future Improvement Area, in the manner and as provided in the Resolution of Formation or the applicable Unanimous Approval; and, be it further

ORDAINED, Except as provided in the Rate and Method or the rate and method of apportionment of special tax for a Future Improvement Area, properties or entities of the State, federal or local governments shall be exempt from any levy of the special taxes. In no event shall the special taxes be levied on any parcel within Improvement Area No. 1 or a Future Improvement Area (including any parcels in the Future Annexation Area that are annexed into the CFD) in excess of the maximum tax specified in the Resolution of Formation or the applicable Unanimous Approval for a Future Improvement Area; and, be it further

ORDAINED, All of the collections of the special tax shall be used as provided for in the Mello-Roos Act, the Resolution of Formation, or the applicable Unanimous Approval, including, but not limited to, the payment of principal and interest on bonds and other debt (as defined in the Mello-Roos Act) issued by the Successor Agency for Improvement Area No. 1 or a Future Improvement Area (“Bonds”), the replenishment of the reserve fund for the Bonds, the payment of the costs of the Facilities and the Services, the payment of the costs of the City in administering

the CFD, and the costs of collecting and administering the special tax; and, be it further

ORDAINED, The special taxes shall be collected in the same manner as ordinary *ad valorem* taxes are collected and shall have the same lien priority, and be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes; provided, however, that this Commission may provide for other appropriate methods of collection by resolutions of this Commission. In addition, the provisions of Mello-Roos Act Section 53356.1 shall apply to delinquent special tax payments. The Executive Director (or designee) is hereby authorized and directed to provide all necessary information to the auditor/tax collector of the City and County of San Francisco in order to effect proper billing and collection of the special tax, so that the special tax shall be included on the secured property tax roll of the City and County of San Francisco for fiscal year 2018-19 and for each fiscal year thereafter until the Bonds are paid in full or such longer period of time provided in the Rate and Method with respect to Improvement Area No. 1, or the rate and method of apportionment of special tax for the applicable Future Improvement Area; and, be it further

ORDAINED, If for any reason the special tax is found inapplicable to any particular parcel within Improvement Area No. 1 or a Future Improvement Area, by a court of competent jurisdiction, the application of the special tax to the remaining parcels within Improvement Area No. 1 or Future Improvement Area (including any parcels in the Future Annexation Area that are annexed into the CFD) shall not be affected. Furthermore, if any section, subsection, sentence, clause, phrase, or word of this ordinance, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this ordinance, this Commission hereby declaring that it would have passed this ordinance and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this ordinance or application thereof would be subsequently declared invalid or unconstitutional; and, be it further

ORDAINED, The Secretary of the Successor Agency shall cause this Ordinance to be published within 15 days after its passage at least once in a newspaper of general circulation published and circulated in the City and County of San Francisco.

I hereby certify that the foregoing ordinance was adopted by the Commission at its meeting of May 1, 2018.

Commission Secretary