

1 [Resolution to establish the modification and renewal of the Union Square Business
2 Improvement District.]

3 **Resolution establishing the modification and renewal of an assessment district known**
4 **as the Union Square Business Improvement District, ordering the levy and collection of**
5 **assessments against property located in that district for fiscal years 2004-2005 through**
6 **2008-2009, repealing Resolution No. 1066-98, creating the Union Square Business**
7 **Improvement District Advisory Board, and making environmental findings.**

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9 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
10 California Streets and Highways Code Sections 36600 *et seq.* (“the Act”), the Board of
11 Supervisors adopted Resolution No. 697-03 on October 21, 2003, entitled “Resolution
12 declaring the intention of the Board of Supervisors to authorize renewal and modification of
13 boundaries of a property-based business improvement district known as the ‘Union Square
14 Business Improvement District,’ to order the levy and collection of a multi-year assessment,
15 and setting a time and place for a public hearing thereon,” which among other things,
16 approved the District Management Plan that is on file with Clerk of the Board in File No.
17 031277; and,

18 WHEREAS, the Board of Supervisors adopted Resolution No. 700-03 on October 21,
19 2003, entitled “Resolution establishing ballot and hearing procedures governing ballots cast
20 by property owners of property located within the boundaries of the Business Improvement
21 District known as the ‘Union Square Business Improvement District’ for the purpose of
22 deciding whether to renew the assessment for the Union Square Business Improvement
23 District for an additional five year term;” and,

24 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
25 the proposed renewal of the Union Square Business Improvement District and the proposed

1 levy of assessments against property located within the District for fiscal years 2003-2004
2 through 2008-2009 to be duly published and mailed as required by law, to the record owner of
3 each parcel proposed to be assessed within the District; and,

4 WHEREAS, The Board of Supervisors has caused ballots to be mailed as required by
5 law, to the record owner of each parcel proposed to be assessed within the District; and,

6 WHEREAS, A public hearing concerning the proposed renewal of the Union Business
7 Improvement District and the proposed levy of assessments within such District was held on
8 December 16, 2003, at 4 p.m., in the Board's Legislative Chambers, located on the Second
9 Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

10 WHEREAS, At the public hearing, the testimony of all interested persons for or against
11 the proposed renewal of the Union Square Business Improvement District, the levy of
12 assessments within such District, the extent of the District, and the furnishing of specified
13 types of activities within the District, was heard and considered, and a full, fair and complete
14 meeting and hearing was held; and,

15 WHEREAS, The Board of Supervisors heard and considered all objections or protests
16 to the proposed assessments and the Director of the Department of Elections tabulated the
17 assessment ballots submitted and not withdrawn, in support of or in opposition to the
18 proposed assessments, and the Clerk of the Board determined that a majority of the ballots
19 cast (weighted according to the proportional financial obligations of the property) by the
20 owners of record of the property located within the proposed district did not oppose
21 establishing the proposed district; and,

22 WHEREAS, The public interest, convenience and necessity require the establishment
23 of the proposed renewal of the Union Square Business Improvement District; and,

24 WHEREAS, In the opinion of the Board of Supervisors, the property within the Union
25 Square Business Improvement District will be specially benefited by the improvements,

1 services and activities funded by the assessments, and no assessment has been imposed on
2 any parcel which exceeds the reasonable cost of the proportional special benefit conferred on
3 that parcel; now therefore be it

4 RESOLVED, that the Board of Supervisors declares as follows:

5 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
6 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
7 the California Constitution and Section 53753 of the California Government Code with respect
8 to the renewal and modification of the Union Square Business Improvement District. All
9 objections or protests both written and oral, are hereby duly overruled.

10 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act, a business
11 improvement district designated as the Union Square Business Improvement District is hereby
12 renewed and established.

13 **Section 3. DESCRIPTION OF DISTRICT.** The boundaries of the Union Square
14 Business Improvement District shall include an approximately 10 block area bounded by the
15 north side of Sutter Street to the north, the east side of Stockton Street to the east (but also
16 encompassing all parcels located in the block extending east of Stockton Street, and bounded
17 by O'Farrell Street on the north and Market Street on the south and east), the south side of
18 Market Street between Fourth and Fifth Streets to the south (but also encompassing the first
19 parcel on Market Street east of Fourth Street), and the east side of Cyril Magnin Street from
20 Market Street to O'Farrell Street, and the west side of Powell Street from O'Farrell Street to
21 Sutter Street on the west.

22 **Section 4. FINDING OF BENEFIT.** The Board of Supervisors hereby finds that the
23 property within the District will be benefited by the improvements and activities funded by the
24 assessments proposed to be levied.

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1 **Section 5. SYSTEM OF ASSESSMENTS.** (a) An assessment will be levied

2 annually to pay for the activities to be provided within the District, commencing with fiscal year
3 2004-2005, and continuing for five years, ending with fiscal year 2008-2009. For purposes of
4 levying and collecting assessments within the Union Square Business Improvement District, a
5 fiscal year shall commence on each July 1st and end on the following June 30th.

6 (b) The total amount of the proposed assessments to be levied and collected for
7 fiscal year 2004-2005 shall be \$979,815. The amount of assessments to be levied and
8 collected in subsequent fiscal years through fiscal year 2008-2009 may be increased annually
9 by the Board of Directors of the District by an amount not to exceed the change in the
10 Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
11 Consolidated Metropolitan Statistical Area, or 3 percent, whichever is greater.

12 (c) The method and basis of levying and collecting the assessment shall be as set
13 forth in the District Management Plan. The levy of the assessments shall commence with
14 fiscal year 2004-2005. Each year the assessment shall be due and payable in two equal
15 installments. The first installment shall be due on November 1 of each fiscal year during the
16 life of the District, and shall become delinquent on December 10 of that fiscal year. The
17 second installment shall be due on February 1 of each fiscal year during the life of the District,
18 and shall become delinquent on April 10 of that fiscal year. Nonpayment of the assessment
19 shall have the same lien priority and delinquent payment penalties and be subject to the same
20 enforcement procedures and remedies as the ad valorem property tax.

21 **Section 6. USE OF REVENUES.** The activities and services for District include

22 providing security, sanitation, graffiti removal, street and sidewalk cleaning and other
23 municipal services supplemental to those normally provided by the City, marketing and
24 economic development, and other improvements and activities which benefit businesses and
25 real property located in the District. The above improvements and activities will be funded by

1 the levy of the assessments. The revenue from the levy of the assessments within the District
2 shall not be used to provide improvements or activities outside the District or for any purpose
3 other than the purposes specified in Board of Supervisors Resolution No. 697-03.

4 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
5 with a separate private entity to administer the activities and services set forth in Section 6.
6 Any such entity shall hold the funds it receives from the City in trust for the services and
7 activities set forth in Section 6. Any entity that holds funds in trust for purposes related to the
8 contract shall, at no expense to the City, provide an annual independent audit report by a
9 Certified Public Accountant of these funds. The audit may be funded from assessment
10 proceeds as part of the general administration of the District. At all times the Board of
11 Supervisors shall reserve full rights of accounting of these funds. The Mayor's Office of Public
12 Finance and Business Affairs shall be the agency responsible for coordination between the
13 City and the District.

14 **Section 8. AMENDMENTS.** The properties in the District established by this
15 resolution shall be subject to any amendments the Act.

16 **Section 9. RECORDATION OF NOTICE AND DIAGRAM.** The County Clerk is
17 hereby authorized and directed to record a notice and an assessment diagram pursuant to
18 Section 36627 of the California Streets and Highways Code following adoption of this
19 Resolution.

20 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
21 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
22 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
23 referred to in the District Management Plan. Each year, the Assessor shall enter on the
24 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
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1 and such assessment shall be collected in the same manner as the County taxes are
2 collected.

3 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the
4 District are used to enhance the current level of services provided by the City within the
5 District, the Board of Supervisors hereby establishes as the baseline levels of service
6 throughout the duration of the District, those levels set forth in the District Management Plan,
7 provided, however, that in the event of a significant downturn in citywide revenues, the Board
8 of Supervisors may reduce the level of municipal services citywide, including within the
9 District.

10 **Section 12. ADVISORY BOARD REPEALED.** Board of Supervisors Resolution No.
11 1066-98, establishing an advisory board to the Board of Supervisors known as the Union
12 Square Business Improvement District Advisory Board, is hereby repealed effective June 30,
13 2004.

14 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
15 determined that the actions contemplated in this Resolution are in compliance with the
16 California Environmental Quality Act (California Public Resources Code sections 21000 et
17 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
18 _____ and is incorporated herein by reference.

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