

1 [Resolution to establish the Fillmore Jazz District Community Benefit District.]

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3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “Fillmore Jazz District Community Benefit District,” ordering the levy and**
5 **collection of assessments against identified parcels of real property located in that**
6 **district for five years, commencing with fiscal year 2006-2007, and making**
7 **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"), as augmented by
11 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board
12 of Supervisors adopted Resolution No. 389-06 on June 27, 2006, entitled "Resolution (1)
13 declaring the intention of the Board of Supervisors to establish a property-based business
14 improvement district (community benefit district) to be known as the "Fillmore Jazz District
15 Community Benefit District" and order the levy and collection of a multi-year assessment on
16 identified parcels in the district, (2) approving the management district plan and engineer's
17 report for the district, (3) ordering and setting a time and place for a public hearing thereon, (4)
18 approving the form of the Notice of Public Hearing and Assessment Ballots, and (5) directing
19 the Clerk of the Board of Supervisors to give notice of the public hearing as required by law"
20 (the "Resolution of Intention"); and,

21 WHEREAS, the Resolution of Intention for the Fillmore Jazz District Community Benefit
22 District (the "Fillmore Jazz District CBD" or "District"), among other things, approved the
23 Fillmore Jazz District Community Benefit District Management District Plan (the "District
24 Management Plan"), the District Assessment Engineer's Report, the Assessment Ballots and
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1 the Notice of Public Hearing, that are on file with Clerk of the Board of Supervisors in File No.
2 060858; and,

3 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
4 the proposed formation of the Fillmore Jazz District CBD, the proposed levy of assessments
5 against property located within the District for a period of 5 years, commencing with fiscal year
6 2006-2007, to be duly published and mailed as required by law, to the record owner of each
7 identified parcel of real property in the proposed District that would be subject to the proposed
8 assessment; and,

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

11 WHEREAS, A public hearing concerning the proposed formation of the Fillmore Jazz
12 District Community Benefit District and the proposed levy of assessments within such District
13 was held on August 15, 2006, at 3 p.m., in the Board's Legislative Chambers, located on the
14 Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

15 WHEREAS, At the public hearing, the testimony of all interested persons for or against
16 the proposed formation of the District, the levy of assessments on property within the District,
17 the extent of the District, and the furnishing of specified types of improvements, services and
18 activities within the District, was heard and considered, and a full, fair and complete meeting
19 and hearing was held; and,

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

3 WHEREAS, The public interest, convenience and necessity require the establishment
4 of the proposed Fillmore Jazz District Community Benefit District; and,

5 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
6 will be specially benefited by the improvements, services and activities funded by the
7 assessments, and no assessment has been imposed on any parcel which exceeds the
8 reasonable cost of the proportional special benefit conferred on that parcel; now therefore be
9 it

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

11 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
12 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
13 the California Constitution and Section 53753 of the California Government Code with respect
14 to the formation of Fillmore Jazz District Community Benefit District. All objections or protests
15 both written and oral, are hereby duly overruled.

16 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
17 property-based business improvement district designated as the "Fillmore Jazz District
18 Community Benefit District" is hereby established.

19 **Section 3. DESCRIPTION OF DISTRICT.** The Fillmore Jazz District Community
20 Benefit District shall include parcels of real property within the district, the exterior boundaries
21 of which are as follows:

22 Avery Street: from Post St. to Geary Blvd. (East side only);

23 Eddy Street: from Steiner St. to Fillmore St. (including the parcels on the Northeast and
24 Southeast corners of the intersection of Eddy St. and Fillmore St.);

25 Fillmore St.: from Post St. to Golden Gate Ave. (West side only from Post St. to Geary Blvd.);

1 Geary Blvd.: from Steiner St. to Webster St. (South side only from Fillmore St. to Webster
2 St.);

3 Golden Gate Avenue: from Steiner St. to Fillmore St. (North side only)(excluding from
4 West to East the 4th, 5th and 6th parcels along the North side of Golden Gate Ave.,
5 Block 755, Lots 3, 5 and 6, and including the parcel on the Northeast corner of the
6 intersection of Fillmore St. and Golden Gate Ave., Block 756, Lot 14);

7 O'Farrell Street: from Steiner St. to Fillmore St. (excluding the parcel on the Southeast
8 corner of the intersection of Steiner St. and O'Farrell St., Block 726, Lot 14A);

9 Post Street: from Avery St. to Fillmore St. (South side only);

10 Steiner Street: from Golden Gate Ave. to Geary Blvd. (East side only)(excluding the parcel
11 on the Southeast corner of Steiner St. and O'Farrell St., and the two parcels on Steiner
12 St. immediately to the South, Block 726, Lots 13, 14 and 14A);

13 Turk Street: from Steiner St. to Fillmore St. (including the parcel on the Northeast corner of
14 the intersection of Fillmore St. and Turk St., Block 749, Lot 9, and including the parcel
15 on the Southeast corner of the intersection of Fillmore St. and Turk St. extending from
16 Fillmore St. to Webster St., Block 756; Lot 1);

17 Webster Street.: Geary Blvd. To Eddy St. (West side only)(excluding the parcels on the
18 West side of Webster St. that are South of southern property line of Block 725, Lot 30,
19 and including the parcel on the West side of Webster St. on the South side of Turk St.
20 extending from Webster St. to Fillmore St., Block 756, Lot 1).

21 Reference should be made to the detailed map and the list of parcels identified by
22 Assessor Parcel Number contained in the Management District Plan approved by the
23 Resolution of Intention in order to determine which specific parcels are included in the District.

24 **Section 4. FINDING OF BENEFIT.** The Board of Supervisors has considered and
25 approves the District Assessment Engineer's Report dated June 27, 2006, which reflects the

1 amendments to the Management District Plan required by the Resolution of Intention

2 (Resolution No. 389-06). The Board of Supervisors hereby finds that the parcels of real
3 property included within the District will be benefited by the improvements and activities
4 funded by the assessments proposed to be levied.

5 **Section 5. SYSTEM OF ASSESSMENTS.** (a) An assessment will be levied
6 annually to pay for the activities to be provided within the District, commencing with fiscal year
7 2006-2007, and continuing for five years, ending with fiscal year 2010-2011. For purposes of
8 levying and collecting assessments within the District, a fiscal year shall commence on each
9 July 1st and end on the following June 30th.

10 (b) The total amount of the proposed assessments to be levied and collected for
11 fiscal year 2006-2007 shall be \$311,114. The amount of assessments to be levied and
12 collected in subsequent fiscal years may be increased annually by the Board of Directors of
13 the nonprofit owners' association for the District by an amount not to exceed the change in the
14 Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
15 Consolidated Metropolitan Statistical Area, or 5 percent, whichever is lower.

16 (c) The method and basis of levying and collecting the assessment shall be as set
17 forth in the District Management Plan. The levy of the assessments shall commence with
18 fiscal year 2006-2007. Each year the assessment shall be due and payable in two equal
19 installments at the same time ad valorem property taxes are due and payable. The first
20 installment shall be due on November 1 of each fiscal year during the life of the District, and
21 shall become delinquent on December 10 of that fiscal year. The second installment shall be
22 due on February 1 of each fiscal year during the life of the District, and shall become
23 delinquent on April 10 of that fiscal year. Nonpayment of the assessment shall have the same
24 lien priority and delinquent payment penalties and be subject to the same enforcement
25 procedures and remedies as the ad valorem property tax.

1 **Section 6. USE OF REVENUES.** The property-related services, improvements or
2 activities for the District include a Sidewalk Operations, Beautification and Order component,
3 consisting of regular sidewalk and gutter sweeping, periodic sidewalk steam cleaning, spot
4 steam cleaning as necessary, safe passage programs for visitors and employees, private
5 security services, beautification, decorations; supplemental trash removal in the public rights
6 of way, removal of bulky items, graffiti removal, installation and maintenance of banners
7 and/or decorations, tree and plant maintenance and planting, equipment, supplies, tools,
8 vehicle maintenance and insurance, salaries, benefits, payroll expenses related to
9 maintenance staff and supervision, and maintenance of sidewalk furnishings; a District
10 Identity and Streetscape Improvements/Marketing and Promotions component, consisting of
11 special events, marketing and promotions strategies, personnel related to marketing and
12 promotions, logo development and web site, pedestrian kiosks and way-finding signage
13 system, public space planning and implementation, farmer's market, walking map, advertising,
14 historical markers and public art, and replacement and upgrading of street furnishings; an
15 Administrative, Organization and Corporate Operations component, consisting of staff and
16 administrative costs, insurance, office related expenses, financial reporting, and
17 communications; and a Contingency and Reserve component for delinquencies due to non-
18 payment of assessments by property owners; hardship contributions; and unallocated
19 reserves.

20 The above improvements, services and activities will be funded by the levy of the
21 assessments. The revenue from the levy of the assessments within the District shall not be
22 used to provide improvements, services or activities outside the District or for any purpose
23 other than the purposes specified in Board of Supervisors Resolution No. 389-06.

24 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may authorize
25 the Mayor's Office of Economic and Workforce development to contract with a separate

1 private entity to administer the improvements, services and activities set forth in Section 6.
2 Any such entity shall hold the funds it receives from the City and County of San Francisco
3 ("City") in trust for the improvements, services and activities set forth in Section 6. Any entity
4 that holds funds in trust for purposes related to the contract shall, at no expense to the City,
5 provide an annual report approved by a Certified Public Accountant of all such funds. The
6 services of the Certified Public Accountant may be funded from assessment proceeds as part
7 of the general administration of the District. At all times the Board of Supervisors shall
8 reserve full rights of accounting of these funds. The Mayor's Office of Economic and
9 Workforce Development shall be the City agency responsible for coordination between the
10 City and the District.

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

13 **Section 9. RECORDATION OF NOTICE AND DIAGRAM.** The Office of the
14 Assessor-Recorder is hereby authorized and directed to record a notice and an assessment
15 diagram pursuant to Section 36627 of the California Streets and Highways Code following
16 adoption of this Resolution.

17 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
18 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
19 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
20 referred to in the District Management Plan. Each year, the Assessor shall enter on the
21 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
22 and such assessment shall be collected in the same manner as the County ad valorem
23 property taxes are collected. Each lot or parcel subject to the assessment that is exempt from
24 property tax shall be billed in any reasonable manner, and the assessment shall be due and
25 payable as provided in section 5 of this Resolution.

1 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the
2 District are used to enhance the current level of services provided by the City within the
3 District, the establishment of the District will not affect the City's policy to continue to provide
4 the same level of service to the areas encompassed by the District as it provides to other
5 similar areas of the City for the duration of the District, provided, however, that in the event of
6 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
7 municipal services citywide, including within the District.

8 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has
9 determined that the actions contemplated in this Resolution are in compliance with the
10 California Environmental Quality Act (California Public Resources Code sections 21000 et
11 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
12 060858 and is incorporated herein by reference.

13 **Section 13. MANAGEMENT DISTRICT PLAN.** The Board of Supervisors hereby
14 approves the Management District Plan dated August 14, 2006, on file with the Clerk of the
15 Board of Supervisors in File No. 061149, modifying the Management District Plan dated June
16 27, 2006, to provide that 25% of the Board of Directors of the nonprofit Owners' Association
17 for the District must be non-property owning merchants within the District, (Article 15, Section
18 1511 (f) of the San Francisco Business Tax and Regulations Code) and 25% must be set
19 aside for individuals who do not own real property in the District and are not merchants within
20 the District. The Board of Supervisors finds that this modification does not substantially
21 change the assessment for the District under Section 36626 of the California Streets and
22 Highways Code.