

323-09

1 [Management Agreement with Owners' Association for administration/management of San
2 Francisco Tourism Improvement District.]

3 **Resolution approving an agreement with the nonprofit Owners' Association for**
4 **administration/management of the business-based business improvement district**
5 **known as the "San Francisco Tourism Improvement District," pursuant to Section**
6 **36651 of the California Streets and Highways Code.**

7
8 WHEREAS, on October 28, 2008, acting pursuant to Article XIID of the California
9 Constitution, Section 53753 of the California Government Code, and the California Property
10 and Business Improvement District Law of 1994 (Part 7 of Division 18 of the California Streets
11 and Highways Code, commencing with Section 36600), as augmented by Article 15 of the
12 San Francisco Business and Tax Regulations Code, the Board of Supervisors adopted
13 Resolution No. 430-08 ("Resolution of Intention") declaring the Board's intention to form a
14 business-based business improvement district and to levy assessments on businesses to be
15 included within the district, setting the public hearing, initiating mail ballot majority protest
16 proceedings, approving the Tourism Improvement District Management District Plan (the
17 "Management District Plan" or "Plan"), making various findings and taking other legislative
18 actions required to form the proposed district and levy the proposed assessments (Board File
19 No. 081338); and,

20 WHEREAS, on December 16, 2008, acting pursuant to the aforementioned legal
21 authorities, the Board of Supervisors adopted Resolution No. 504-08 ("Resolution of
22 Formation"), establishing the business-based business improvement district designated as the
23 " San Francisco Tourism Improvement District" and levying multi-year special assessments on
24 Identified businesses included within the District (the "Assessments") (Board File No.
25 081517); and,

1 WHEREAS, pursuant to the aforementioned legal authorities and the Resolution
2 of Formation, the Assessments may only be used to fund business-related services,
3 "Improvements" (as defined in Section 36610 of the Streets and Highways Code) and
4 "Activities" (as defined in Section 36613 of the Streets and Highways Code) within the
5 District in accordance with the Management District Plan (collectively, such authorized
6 services, improvements and activities are referred to as "District Programs"); and,

7 WHEREAS, the District is not a governmental, corporate or separate legal entity,
8 but is a geographic area containing all of the Identified businesses subject to the
9 Assessments for District Programs described in the Plan and included in the annual
10 budgets submitted to and approved by the Board of Supervisors; the annual budget for
11 District Programs for the first year of operations is set forth in the Plan, and for
12 subsequent years, shall be set forth in the Annual Reports submitted to the Board of
13 Supervisors as required by Section 36650 of the Streets and Highways Code; and,

14 WHEREAS, pursuant to the Resolution of Formation and Sections 36614.5 and
15 36650 of the Streets and Highways Code, the Board of Supervisors may contract with a
16 private nonprofit entity referred to as an "Owners' Association" to administer the District
17 Programs. An Owners' Association may be an existing nonprofit entity or a newly
18 formed nonprofit entity. An Owners' Association is a private entity and may not be
19 considered a public entity for any purpose, nor may its board members or staff be
20 considered to be public officials for any purpose; provided, however, that an Owner's
21 Association must comply with the Ralph M. Brown Act (Chapter 9 (commencing with
22 Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times
23 when its board of directors or any committee thereof hears, considers or deliberates on
24 matters concerning the District, and must comply with the California Public Records Act
25 (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government

1 Code), for purposes of providing public access to records relating to the District; and,

2 WHEREAS, an Owners' Association is obligated to hold in trust all funds it
3 receives from the City that are derived from the City's levy and collection of the
4 Assessments, and to use such funds exclusively for the purposes of implementing the
5 Management District Plan and administering, managing and providing District Programs
6 set forth in the Plan, Resolution of Formation, and annual budgets submitted by the
7 Owners' Association and approved by the Board of Supervisors; and,

8 WHEREAS, pursuant to the Resolution of Formation, the Office of Economic and
9 Workforce Development is the City agency responsible for coordination between the
10 City and the Owners' Association for the District; and,

11 WHEREAS, the Office of Economic and Workforce Development has negotiated
12 an agreement with the owners' California nonprofit corporation that also uses the name
13 San Francisco Tourism Improvement District Management Corporation, to, in good faith
14 and with diligence as the Owners' Association for the District, develop, implement,
15 direct, manage, administer, operate and ensure the timely provision of the District
16 Programs ("Management Agreement" or "Agreement"). The Management Agreement,
17 as amended at Government Audit and Oversight Committee July 23, 2009, is on file
18 with the Clerk of the Board of Supervisors in File No. 090819 and is incorporated herein
19 by reference; and,

20 WHEREAS, pursuant to the Property and Business Improvement District Law of
21 1994, the Resolution of Formation and the express terms of the Management
22 Agreement, the Agreement shall not be binding unless the Board of Supervisors
23 approves the Agreement by resolution; and,

24 WHEREAS, it is in the best interest of the City and the property owners within the
25 District for the City to enter into the Management Agreement with the owners' nonprofit

1 corporation San Francisco Tourism Improvement District Management Corporation
2 according to the terms and conditions set forth therein; now, therefore, be it

3
4 RESOLVED, that the Board of Supervisors declares as follows:

5 Section 1. AUTHORIZATION TO EXECUTE CONTRACT. The Office of
6 Economic and Workforce Development and the Treasurer and Tax Collector are duly
7 authorized to execute the Management Agreement with the San Francisco Tourism
8 Improvement District Management Corporation, on behalf of the City and County of San
9 Francisco.

10 Section 2. APPROVAL OF AGREEMENT. The Board of Supervisors hereby
11 approves the Management Agreement for the Tourism Improvement District as
12 amended at Government Audit and Oversight Committee on July 23, 2009, on file with
13 the Clerk of the Board of Supervisors in File No. 090819, which is incorporated herein
14 by reference.

15 Section 3. AUTHORIZATION FOR ACTIONS CONTEMPLATED IN
16 AGREEMENT. The Office of Economic and Workforce Development, Treasurer and
17 Tax Collector, Controller, and all other Departments, City Officers and Employees are
18 authorized to take all actions, make determinations, exercise discretion, grant or deny
19 approval, and otherwise take all reasonable steps necessary for full performance of the
20 Management Agreement on behalf of the City and County of San Francisco according
21 to its terms.

22 Section 4. AUTHORIZATION FOR AMENDMENTS TO AGREEMENT.
23 Subject to disapproval by the Board of Supervisors within 30 days of submission to the
24 Clerk of the Board, the Office of Economic and Workforce Development and the
25 Treasurer and Tax Collector may execute amendments to the Agreement on behalf of

1 the City and County of San Francisco that are consistent with the Management District
2 Plan, Resolution of Formation, official City policies and applicable law.

3 Section 5. DELIVERY. The Clerk of the Board of Supervisors shall cause
4 certified copies of this Resolution to be delivered to the owners' nonprofit corporation
5 Tourism Improvement District Management Corporation, the Office of Economic and
6 Workforce Development, and the Treasurer and Tax Collector.

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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails
Resolution

File Number: 090819

Date Passed:

Resolution approving an agreement with the nonprofit Owners' Association for administration/management of the business-based business improvement district known as the "San Francisco Tourism Improvement District," pursuant to Section 36651 of the California Streets and Highways Code.

July 28, 2009 Board of Supervisors — ADOPTED


Ayes: 11 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Daly, Dufty, Elsbernd, Mar, Maxwell, Mirkarimi

File No. 090819

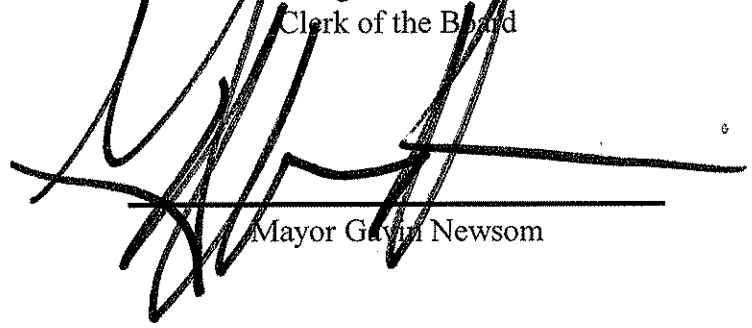
I hereby certify that the foregoing Resolution was ADOPTED on July 28, 2009 by the Board of Supervisors of the City and County of San Francisco.

8/6/09

Date Approved



Angela Calvillo
Clerk of the Board



Mayor Gavin Newsom