

1 [Contract with Owners' Association for administration/management of Greater Union Square  
2 Business Improvement District.]

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

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8 WHEREAS, on June 2, 2009, 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. 208-09 ("Resolution of Intention") declaring the Board's intention to renew and  
14 expand a property-based business improvement district and to levy assessments on parcels  
15 to be included within the district, setting the public hearing, initiating mail ballot majority  
16 protest proceedings, approving the Greater Union Square Business Improvement District  
17 Management District Plan (the "Management District Plan" or "Plan"), making various findings  
18 and taking other legislative actions required to form the proposed district and levy the  
19 proposed assessments (Board File No. 090569); and,

20 WHEREAS, on July 28, 2009, acting pursuant to the aforementioned legal authorities,  
21 the Board of Supervisors adopted Resolution No. 320-09 ("Resolution of Formation"),  
22 renewing and expanding the property-based business improvement district designated as the  
23 "Greater Union Square Business Improvement District" and levying multi-year special  
24 assessments on Identified Parcels (as defined in Section 53750(g) of the Government Code)  
25 included within the District (the "Assessments") (Board File No. 090935); the Controller's

1 designation for the Assessments for the Greater Union Square Business Improvement District  
2 is Special Assessment No. 57; and,

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

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

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

1 California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of  
2 Title 1 of the Government Code), for purposes of providing public access to records relating to  
3 the District; and,

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

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

13 WHEREAS, the Office of Economic and Workforce Development has negotiated an  
14 agreement with the owners' California nonprofit corporation that also uses the name Union  
15 Square Business Improvement District, Inc., to, in good faith and with diligence as the  
16 Owners' Association for the District, develop, implement, direct, manage, administer, operate  
17 and ensure the timely provision of the District Programs ("Management Agreement" or  
18 "Agreement"). The Management Agreement is on file with the Clerk of the Board of  
19 Supervisors in File No. \_\_\_\_\_ and is incorporated herein by reference; and,

20 WHEREAS, pursuant to the Property and Business Improvement District Law of 1994,  
21 the Resolution of Formation and the express terms of the Management Agreement, the  
22 Agreement shall not be binding unless the Board of Supervisors approves the Agreement by  
23 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 Union Square Business Improvement District, Inc., according to the terms and  
2 conditions set forth therein; now, therefore, be it

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

4 Section 1. AUTHORIZATION TO EXECUTE CONTRACT. The Office of Economic  
5 and Workforce Development is duly authorized to execute the Management Agreement on  
6 behalf of the City and County of San Francisco.

7 Section 2. APPROVAL OF AGREEMENT. The Board of Supervisors hereby  
8 approves the Management Agreement on file with the Clerk of the Board of Supervisors in  
9 File No. \_\_\_\_\_, which is incorporated herein by reference.

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

16 Section 4. AUTHORIZATION FOR AMENDMENTS TO AGREEMENT. Subject to  
17 disapproval by the Board of Supervisors within 30 days of submission to the Clerk of the  
18 Board, the Office of Economic and Workforce Development may execute amendments to the  
19 Agreement on behalf of the City and County of San Francisco that are consistent with the  
20 Management District Plan, Resolution of Formation, official City policies and applicable law.

21 Section 5. DELIVERY. The Clerk of the Board of Supervisors shall cause certified  
22 copies of this Resolution to be delivered to the owners' nonprofit corporation Union Square  
23 Business Improvement District, Inc., and the Office of Economic and Workforce Development.  
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