

1 [Resolution to establish the Castro/Upper Market Community Benefit District.]

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3 **Resolution establishing a property-based business improvement district to be known**  
4 **as the “Castro/Upper Market Community Benefit District (CBD),” ordering the levy and**  
5 **collection of assessments against property located in that district for 15 years,**  
6 **commencing with fiscal year 2005-2006, and making environmental findings.**

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8 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,  
9 California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as augmented by  
10 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board  
11 of Supervisors adopted Resolution No. 421-05 on June 7, 2005, entitled “Resolution declaring  
12 the intention of the Board of Supervisors to establish a property-based business improvement  
13 district to be known as the 'Castro/Upper Market Community Benefit District (CBD),' to order  
14 the levy and collection of a multi-year assessment, and setting a time and place for a public  
15 hearing thereon,” (the "Resolution of Intention"); and,

16 WHEREAS, the Resolution of Intention for the Castro/Upper Market Community Benefit  
17 District (the "Castro/Upper Market CBD" or "District"), among other things, approved the  
18 Castro/Upper Market Community Benefit District Management District Plan (the "District  
19 Management Plan"), the District Assessment Engineer's Report, the Assessment Ballots and  
20 the Notice of Public Hearing, that are on file with Clerk of the Board of Supervisors in File No.  
21 050924; and,

22 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning  
23 the proposed formation of the Castro/Upper Market CBD, the proposed levy of assessments  
24 against property located within the District for a period of 15 years, commencing with fiscal  
25 year 2005-2006, beginning January 1, 2006 and ending December 31, 2020, to be duly

1 published and mailed as required by law, to the record owner of each parcel proposed to be  
2 assessed within the District; and,

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

5 WHEREAS, A public hearing concerning the proposed formation of the Castro/Upper  
6 Market CBD and the proposed levy of assessments within such District was held on August 2,  
7 2005, at 3 p.m., in the Board's Legislative Chambers, located on the Second Floor of City  
8 Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

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

21 WHEREAS, The public interest, convenience and necessity require the establishment  
22 of the proposed Castro/Upper Market Community Benefit District; and,

23 WHEREAS, In the opinion of the Board of Supervisors, the property within the District  
24 will be specially benefited by the improvements, services and activities funded by the  
25 assessments, and no assessment has been imposed on any parcel which exceeds the

1 reasonable cost of the proportional special benefit conferred on that parcel; now therefore be  
2 it

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

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

9 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a  
10 property-based business improvement district designated as the "Castro/Upper Market  
11 Community Benefit District" is hereby established.

12 **Section 3. DESCRIPTION OF DISTRICT.** The Castro/Upper Market Community  
13 Benefit District shall include all parcels of real property within the district, the exterior  
14 boundaries of which are as follows:

15 *Market Street* from Octavia to Castro;

16 *Castro* from Market to 19<sup>th</sup>;

17 *Church Street* from Market to Duboce;

18 *Duboce* from Buchanan to Guerrero;

19 *18<sup>th</sup> Street* from Collingwood to Noe Street;

20 *17<sup>th</sup> Street* from Castro to Prosper;

21 *16<sup>th</sup> Street* from Market to Prosper;

22 *Noe Street* from 17<sup>th</sup> Street to Beaver.

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

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

4           **Section 5. SYSTEM OF ASSESSMENTS.** (a) An assessment will be levied  
5 annually to pay for the activities to be provided within the District, commencing with fiscal year  
6 2005-2006, and continuing for fifteen years, ending with fiscal year 2020-2021. For purposes  
7 of levying and collecting assessments within the District, a fiscal year shall commence on  
8 each July 1st and end on the following June 30th.

9           (b) The total amount of the proposed assessments to be levied and collected for  
10 fiscal year 2005-2006 shall be ~~\$392,825~~ \$392,289.87. The amount of assessments to be  
11 levied and collected in subsequent fiscal years through the first half of fiscal year 2020-2021  
12 may be increased annually by the Board of Directors of the District by an amount not to  
13 exceed the change in the Consumer Price Index for All Urban Consumers in the San  
14 Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, or 5 percent,  
15 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 2005-2006. Each year the assessment shall be due and payable in two equal  
19 installments. The first installment shall be due on November 1 of each fiscal year during the  
20 life of the District, and shall become delinquent on December 10 of that fiscal year. The  
21 second installment shall be due on February 1 of each fiscal year during the life of the District,  
22 and shall become delinquent on April 10 of that fiscal year. Nonpayment of the assessment  
23 shall have the same lien priority and delinquent payment penalties and be subject to the same  
24 enforcement 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 Public Rights of Way and Sidewalk Operations 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, minor  
5 security services, beautification, decorations; enhanced trash emptying in the public rights of  
6 way, removal of bulky items, graffiti removal within 24 hours, installation and maintenance of  
7 banners and/or decorations, tree and plant maintenance and planting; equipment, supplies,  
8 tools, vehicle maintenance and insurance, maintenance personnel and supervisor costs; a  
9 District Identity and Streetscape Improvements component, consisting of special events, web  
10 site, pedestrian kiosks and wayfinding signage system, enhanced beautification, flower pots  
11 on street lights, marketing and promotions, advertising, walking map, public space  
12 development, historical markers and public art; an Administrative and Corporate Operations  
13 component, consisting of staff and administrative costs, insurance, office related expenses,  
14 financial reporting, developing parking strategies with the City, communications, and  
15 repayment of district formation costs; and a Contingency and Reserve component for  
16 delinquencies, a reserve and repayment of district formation costs.

17           The above improvements, services and activities will be funded by the levy of the  
18 assessments. The revenue from the levy of the assessments within the District shall not be  
19 used to provide improvements, services or activities outside the District or for any purpose  
20 other than the purposes specified in Board of Supervisors Resolution No. 421-05.

21           **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract  
22 with a separate private entity to administer the improvements, services and activities set forth  
23 in Section 6. Any such entity shall hold the funds it receives from the City and County of San  
24 Francisco ("City") in trust for the improvements, services and activities set forth in Section 6.  
25 Any entity that holds funds in trust for purposes related to the contract shall, at no expense to

1 the City, provide an annual independent audit report by a Certified Public Accountant of all  
2 such funds. The audit may be funded from assessment proceeds as part of the general  
3 administration of the District. At all times the Board of Supervisors shall reserve full rights of  
4 accounting of these funds. The Mayor's Office of Economic and Workforce Development  
5 shall be the City agency responsible for coordination between the City and the District.

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

8 **Section 9. RECORDATION OF NOTICE AND DIAGRAM.** The ~~County Clerk of the~~  
9 Board of Supervisors is hereby authorized and directed to record a notice and an assessment  
10 diagram pursuant to Section 36627 of the California Streets and Highways Code following  
11 adoption of this Resolution, and to make conforming changes thereto to reflect the correction  
12 of minor defects specified in Section 13 or as approved by the Board of Supervisors at and  
13 duly noted on the official record of the meeting of the Board of Supervisors held on August 2,  
14 2005.

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

22 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the  
23 District are used to enhance the current level of services provided by the City within the  
24 District, the establishment of the District will not affect the City's policy to continue to provide  
25 the same level of service to the areas encompassed by the District as it provides to other

1 similar areas of the City for the duration of the District, provided, however, that in the event of  
2 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of  
3 municipal services citywide, including within the District.

4 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has  
5 determined that the actions contemplated in this Resolution are in compliance with the  
6 California Environmental Quality Act (California Public Resources Code sections 21000 et  
7 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.  
8 051187 and is incorporated herein by reference.

9 **Section 13. TECHNICAL CORRECTIONS AND REDUCTIONS.** The Board of  
10 Supervisors hereby reduces the assessments for particular identified parcels within the  
11 District to correct minor defects in one or more of the data variables (building size, lot size,  
12 linear frontage and building use) used to calculate the amount of the assessment for Fiscal  
13 Year 2005-2006 under the formula set forth in the Management Plan, as set forth below or as  
14 may be duly noted on the official record of the meeting of the Board of Supervisors held on  
15 August 2, 2005 on this item. The Board of Supervisors finds that the revisions, changes,  
16 reductions or modifications to the assessments made herein or that may be made at the  
17 conclusion of the public hearing to correct such minor defects do not render the resulting  
18 assessments materially different from the assessments proposed in the Petition and  
19 Management Plan. Such technical corrections are authorized under Section 36624 of the Act  
20 and Section 4 of the Resolution of Intention. Information and documents supporting the  
21 reductions are on file with the Clerk of the Board of Supervisors in File No. 051187 and are  
22 incorporated herein by reference.

23 a. APN 2647-035, located at 400-418 Castro Street, by reducing the category 1  
24 assessable building size from 4,756 square feet to 4,267 square feet, and reducing the lot  
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1 size from 4,756 to 4,267 square feet, resulting in a reduction of the initial assessment from  
2 \$2,234.41 to \$2,140.05.

3 b. APN 3535-012, located at 2055-2057 Market Street, by reducing the category 1  
4 assessable building size from 2,870 square feet to 1,928 square feet, resulting in a reduction  
5 of the initial assessment from \$776.23 to \$669.97.

6 c. APN 3558-147, located at 2185 Market Street, by reducing the category 1  
7 assessable building size from 3,335 square feet to 2,027 square feet, reducing the lot size  
8 from 3,335 square feet to 2,027 square feet, and reducing the frontage from 49 linear feet to  
9 39.8 linear feet, resulting in a reduction of the initial assessment from \$1,079.47 to \$745.22.

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