

1 [Resolution of Intention to Modify the Management Plan and Engineer’s Report for the Central
2 Market Community Benefit District]

3 **Resolution declaring the intention of the Board of Supervisors to modify the**
4 **management district plan and engineer’s report for the property-based business**
5 **improvement district (community benefit district) known as the “Central Market**
6 **Community Benefit District”;** ordering and setting a time and place for a public hearing
7 **thereon; approving the form of the Notice of Public Hearing and Assessment Ballot**
8 **Proceeding and Assessment Ballot; and directing the Clerk of the Board of Supervisors**
9 **to give notice of the public hearing and balloting as required by law.**

10
11 WHEREAS, The Property and Business Improvement District Law of 1994, California
12 Streets and Highways Code Sections 36600 *et seq.* (the “1994 Act”), authorizes cities to
13 establish property and business improvement districts (“community benefit districts”) within
14 business districts to promote the economic revitalization and physical maintenance of such
15 business districts; and

16 WHEREAS, Section 36603 of the 1994 Act recognizes the authority of Charter cities to
17 adopt ordinances providing for different methods of levying assessments for similar or
18 additional purposes from those set forth in the 1994 Act; and

19 WHEREAS, Article 15 of the San Francisco Business and Tax Regulations Code
20 (“Article 15”) augments certain procedural and substantive requirements relating to the
21 formation of community benefit districts and the assessments on real property or businesses
22 within such districts; and

23 WHEREAS, The 1994 Act and Article 15 authorize the City to levy and collect
24 assessments on real property within such districts for the purpose of providing improvements
25 and promoting activities and property-related services that specially benefit parcels of real

1 property located within such districts; and

2 WHEREAS, Article XIID of the California Constitution and Section 53753 of the
3 California Government Code impose certain procedural and substantive requirements relating
4 to assessments on real property; and

5 WHEREAS, Section 36622 of the 1994 Act and Article 15 require the preparation of a
6 management district plan that includes, without limitation, (1) a map showing all parcels
7 located in the district, (2) a description of the boundaries of the district, (3) the name of the
8 district, (4) the amount of the proposed assessment for each parcel, (5) the total annual
9 amount chargeable to the entire district, (6) the duration of the payments, (7) the property-
10 related services, (8) activities and improvements to be funded by the assessments for each
11 year and the maximum cost thereof, (9) the method and basis upon which the assessments
12 are calculated in sufficient detail to allow each property owner to calculate the amount of the
13 assessment to be levied against his or her property, (10) the time and manner of collecting the
14 assessments, (11) and a list of the properties to be assessed (including assessor parcel
15 numbers); and

16 WHEREAS, on September 12, 2006, the Board of Supervisors adopted Resolution No.
17 519-06, declaring its intention to form a community benefit district to be known as the Central
18 Market Community Benefit District (the "District") and to levy multi-year assessments on
19 parcels to be included within the proposed District, and approving the Central Market
20 Community Benefit District Management District Plan (the "2006 Management Plan") as
21 required by Section 36622 of the 1994 Act and a detailed engineer's report supporting the
22 assessments within the proposed District (the "2006 Engineer's Report"), both of which are on
23 file with the Clerk of the Board of Supervisors in File No. 060860; and

24 WHEREAS, on October 31, 2006, after conducting a protest vote and finding that a
25 weighted majority of ballots from the affected property owners in the proposed District did not

1 oppose establishing the proposed District, and after making additional findings and taking
2 other legislative actions, the Board of Supervisors adopted Resolution No. 631-06,
3 establishing the District and levying multi-year special assessments on identified parcels
4 included within the District pursuant to the 2006 Management Plan and 2006 Engineer's
5 Report;

6 WHEREAS, on June 4, 2013, the Board of Supervisors adopted Resolution No. 167-
7 13, declaring its intention to renew and expand the District and levy multi-year assessments
8 on parcels included within the proposed District for 15 years commencing with fiscal year
9 2013-2014, and approving an updated management district plan as required by Section
10 36622 of the 1994 Act (the "2013 Management Plan") and an updated detailed engineer's
11 report supporting the assessments within the proposed District ("2013 Engineer's Report"),
12 both of which are on file with the Clerk of the Board of Supervisors in File No. 130470; and

13 WHEREAS, on July 23, 2013, after conducting a protest vote and after finding that a
14 weighted majority of ballots from the affected property owners in proposed renewed and
15 expanded District did not oppose establishing the proposed renewal and expansion, and after
16 making additional findings and taking other legislative actions, the Board of Supervisors
17 adopted Resolution No. 631-06, establishing the renewed and expanded District, and levying
18 multi-year special assessments on identified parcels included within the renewed and
19 expanded District pursuant to the 2013 Management District Plan and 2013 Engineer's
20 Report; and

21 WHEREAS, The 2013 Management District Plan, along with the 2013 Engineer's
22 Report, in order to ensure that parcels are assessed in proportion to the special benefits
23 derived from the various services and improvements in the District, provide that the City shall
24 quantify the special benefits derived by each parcel and calculate the annual assessment to
25

1 be levied on each parcel by taking into account objective parcel characteristics such as lot
2 size, building square footage, linear frontage, and land use; and

3 WHEREAS, The 2013 Management Plan and 2013 Engineer's Report establish a limit
4 on the total assessment revenues to be collected from all parcels across the entire District in
5 fiscal year 2013, and state that the total assessments in future fiscal years may only be
6 increased by the amount of the change to the local Consumer Price Index ("CPI), up to a
7 maximum of 3% per year; and

8 WHEREAS, the limit established for fiscal year 2013 was based on the projected needs
9 of the District at the time the District was renewed and expanded in 2013, and did not take
10 into account future development in the District; and

11 WHEREAS, the District is experiencing significant development and is expected to
12 experience significant further development during the fifteen year assessment term, which will
13 create increased demand for services and improvements in the District; and

14 WHEREAS, the 1994 Act and Article 15 allow the City to propose modifications to the
15 2013 Management Plan and 2013 Engineer's Report, and allow the property owners in the
16 District to vote on the proposed modifications; and

17 WHEREAS, the non-profit owners' association that administers the services and
18 improvements in the District has submitted a written request that the City modify the 2013
19 Management Plan and 2013 Engineer's Report to clarify that the 3% limit on CPI increases
20 does not prohibit the City from updating the assessments under the existing formula to reflect
21 changes to parcels after they were first assessed in 2013, as reflected in the revised
22 Management Plan and Engineer's Report, both of which are on file with the Clerk of the Board
23 of Supervisors in File No. 160793 and are incorporated by reference as though set forth fully
24 herein; and

25

1 WHEREAS, approving the proposed modifications to the 2013 Management Plan and
2 2013 Engineer's Report will enable the District's budget to increase commensurate with the
3 District's growth; and

4 WHEREAS, allowing the District's budget to increase commensurate with the District's
5 growth would effectuate the purposes of the District; and

6 WHEREAS, in the event that the proposed modifications are not approved, the existing
7 2013 Management Plan and 2013 Engineer's Report will remain effective; now, therefore, be
8 it

9 RESOLVED, That the Board of Supervisors declares as follows:

10 Section 1. Pursuant to Section 36636 of the 1994 Act and Article 15, the Board of
11 Supervisors declares its intention to modify the 2013 Management Plan and 2013 Engineer's
12 Report for the Central Market Community Benefit District, as set forth in the revised
13 Management Plan and Engineer's Report for the District, both of which are hereby approved.
14 The Clerk of the Board shall make the revised Management Plan and Engineer's Report and
15 other documents related to the proposed modification and included in the record before the
16 Board of Supervisors available to the public for review during normal business hours, Monday
17 through Friday 8:00 a.m. through 5:00 p.m., excluding legal holidays.

18 Section 2. A public hearing on the proposed modifications shall be conducted before
19 the Board of Supervisors sitting as a Committee of the Whole on September 20, 2016 at 3:00
20 p.m., or as soon thereafter as the matter may be heard in the Board's Legislative Chambers,
21 Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California, 94102. At
22 this public hearing, the Board of Supervisors will hear public testimony regarding the proposed
23 modifications, including testimony from all interested persons for or against the proposed
24 modifications and any other related matters. The Board of Supervisors may waive any
25 irregularity in the form or content of any written protest, and at the public hearing may correct

1 minor defects in the proceedings. All protests submitted by affected property owners and
2 received prior to the conclusion of the public testimony portion of the public hearing shall be
3 tabulated to determine whether a majority protest exists.

4 Section 3. The Board of Supervisors hereby approves the form of the Notice of Public
5 Hearing and Assessment Ballot Proceeding, and Assessment Ballot, both of which are on file
6 with the Clerk of the Board of Supervisors in File No. 160793, and which are hereby declared
7 to be a part of this Resolution as if set forth fully herein.

8 Section 4. It is the intent of the Board of Supervisors to continue to provide the area
9 encompassed by the District with the same level of services provided to other similar areas of
10 the City; the proposed modifications will not affect the City's policy to continue to provide the
11 same level of service to the areas encompassed by the District as it provides to other similar
12 areas of the City during the term of the District.

13 Section 5. Environmental Findings. Following the approval of this Resolution, the
14 Planning Department shall determine whether the actions contemplated in this Resolution are
15 in compliance with the California Environmental Quality Act (California Public Resources
16 Code Sections 21000 *et seq.*), and shall respond in writing to the Clerk of the Board of
17 Supervisors prior to the Board's public hearing on the proposed actions on September 20,
18 2016 at 3:00 p.m.

19 Section 6. The Clerk of the Board is directed to give notice of the public hearing as
20 provided in California Streets and Highways Code Section 36623, California Government
21 Code Section 53753, California Constitution Article XIID Section 4, San Francisco Charter
22 Section 16.112, and San Francisco Administrative Code Section 67.7-1.

23

24

25 n:\legana\as2013\0800634\1122908.doc