

Amendment of the Whole  
June 11, 2007.

FILE NO. 070733

RESOLUTION NO.

1 [Castro/Upper Market Community Benefit District Annual Reports to the City; making  
2 assessment formulas the same for all District residential property.]

3 **Resolution regarding Castro/Upper Market Community Benefit District annual reports**  
4 **to the City, and making assessment formulas the same for all District residential**  
5 **property: modifying the "Authority to Contract" provision of the Resolution**  
6 **establishing the District (Resolution No. 582-05) to require an annual financial report**  
7 **that has been reviewed by a Certified Public Accountant who provides a statement of**  
8 **negative assurance, to change the current requirement for an annual CPA**  
9 **"independent audit" to instead require a CPA independent audit upon request of the**  
10 **City, and authorizing amendment of the District's management contract with the City to**  
11 **conform; providing that all residential property be assessed by the same lot size and**  
12 **linear frontage formula, receiving and approving the District Assessment Engineer's**  
13 **Report in support, and authorizing conforming amendments and administrative**  
14 **clarifications to the District's management plan and management contract; and**  
15 **receiving and approving the District's Annual Report for 2005-2006 as submitted**  
16 **pursuant to Section 3.4 of the District's management contract.**

17  
18 WHEREAS, on June 7, 2005, pursuant to the Property and Business Improvement Law  
19 of 1994, California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as  
20 augmented by Article 15 of the San Francisco Business and Tax Regulations Code ("Article  
21 15"), the Board of Supervisors adopted Resolution No. 421-05 "Resolution of Intention to form  
22 the Castro/Upper Market Community Benefit District (CBD)" ("Resolution of Intention," BOS  
23 File No. 050924), which included approval of the District Assessment Engineer's Report and  
24 the District's Management Plan; and,

25 WHEREAS, on August 2, 2005 the Board of Supervisors adopted Resolution No.

1 582-05 "Resolution to Establish the Castro/Upper Market Community Benefit District" for a  
2 period of 15 years commencing with fiscal year 2005-2006 ("Resolution to Establish," BOS  
3 File No. 051187); and,

4 WHEREAS, on January 10, 2006 the Board of Supervisors adopted Resolution No. 14-06  
5 "Contract with Owners' Association for Administration of Castro/Upper Market Community  
6 Benefit District ("Management Contract," BOS File No. 051968);" now be it,  
7 RESOLVED, that the Board of Supervisors declares as follows:

8

9 **Section 1. MODIFYING THE "AUTHORITY TO CONTRACT" PROVISION IN**  
10 **RESOLUTION ESTABLISHING THE DISTRICT (RESOLUTION NO. 582-05).** Section 7  
11 "Authority to Contract" in the Resolution to Establish (Resolution No. 582-05) is hereby  
12 modified to require an annual financial report from the District that has been reviewed by a  
13 Certified Public Accountant who provides a statement of negative assurance, and to change  
14 the current requirement for an annual CPA "independent audit" to instead require a CPA  
15 independent audit upon request of the Controller or the Mayor's Office of Economic and  
16 Workforce Development (MOEWD), so that Section 7 will now provide (changed/additional  
17 words are designated by broken underlining, and deleted words are designated by ~~double~~  
18 ~~strikeout~~):

19 **"AUTHORITY TO CONTRACT.** The Board of Supervisors may contract with a  
20 separate private entity to administer the improvements, services and activities set forth  
21 in Section 6. Any such entity shall hold the funds it receives from the City and County  
22 of San Francisco ("City") in trust for the improvements, services and activities set forth  
23 in Section 6. Any entity that holds funds in trust for purposes related to the contract  
24 shall, at no expense to the City, ~~provide an annual independent audit report by a~~  
25 ~~Certified Public Accountant of all such funds.~~ deliver to City no later than one hundred  
twenty (120) days following the end of any Fiscal Year, a balance sheet and the related  
statement of income and cash flows for each fiscal year, all in reasonable detail  
acceptable to City, reviewed by a Certified Public Accountant (CPA); this review shall  
include a statement of negative assurance from the CPA. In addition, or alternatively,  
the Controller or the Mayor's Office of Economic and Workforce Development may in  
their discretion require Corporation to deliver, at no expense to the City, an annual

1 independent audit report by a Certified Public Accountant of all such funds. The CPA  
2 review or 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  
4 rights of accounting of these funds. The Mayor's Office of Economic and Workforce  
5 Development shall be the City agency responsible for coordination between the City  
6 and the District."

7 **Section 2. MAKING ASSESSMENT FORMULAS THE SAME FOR ALL DISTRICT**  
8 **RESIDENTIAL PROPERTY, RECEIVING AND APPROVING THE DISTRICT ASSESSMENT**  
9 **ENGINEER'S REPORT IN SUPPORT, AUTHORIZING CONFORMING AMENDMENT OF**  
10 **MANAGEMENT PLAN AND ADMINISTRATIVE CLARIFICATIONS.**

11 The Management Plan previously approved by the Board includes formulas for  
12 determining the annual assessment for each parcel in the District (see Resolution No. 421-05  
13 / BOS File No. 050924 "Resolution of Intention," Resolution No. 582-05 / BOS File No.  
14 051187 "Resolution to Establish"). The basic assessment formula has three components: lot  
15 size, linear frontage (sidewalk footage), and building square footage [*i.e.* (lot size x \$0.8017) +  
16 (linear frontage x \$8.8963) + (building square footage x \$0.11278) = assessment of parcel].

17 Each parcel and its building use were categorized into one of seven Building Use  
18 Categories, and the three formula components were given varying weights for each Building  
19 Use Category according to the anticipated relative value of the special benefits from the  
20 District's services. Building Use Category A is retail space, hotels, motels, and visitor-related  
21 uses; Category B is office and commercial uses, free standing parking structures, and ground  
22 floor residential; Category C is industrial, manufacturing, and distribution; Category D is  
23 institutional (city, county, school, public utility, parks, etc.); Category E is church, non-profit,  
24 and tax-exempt; Category F is multi-unit housing, apartments, condos; and Category G is  
25 single family housing units.

The Management Plan assessment formula for residential square footage above the  
ground floor modifies the basic formula by utilizing two of the three components and excluding

1 the third: lot size and linear frontage are calculated but not building square footage [*i.e.* (lot  
2 size x \$0.8017) + (linear frontage x \$8.8963) + (building square footage x \$0.0) = assessment  
3 of residential space above the ground floor].

4 Since the existing Management Plan does not provide the same modified formula for  
5 ground floor residential square footage, the District and MOEWD now request and  
6 recommend that the Management Plan be changed to provide that the same modified  
7 assessment formula be used for all residential square footage in the District [*i.e.* (lot size x  
8 \$0.8017) + (linear frontage x \$8.8963) + (building square footage x \$0.0) = assessment of the  
9 residential space]. The Board hereby receives and approves the District Assessment  
10 Engineer's Report as updated for City and County of San Francisco Fiscal Year 2006-2007 in  
11 support of these Management Plan modifications, which Report is on file with the Clerk of the  
12 Board of Supervisors in File No. 070733. The Board hereby finds good cause under law and  
13 authorizes amendment of the District's Management Plan for City and County of San  
14 Francisco Fiscal Year 2006-2007 as on file with the Clerk of the Board of Supervisors in File  
15 No. 070733, to make the assessment formula the same for all residential square footage in  
16 the District in conformance with this Resolution Section 2, Fourth Paragraph, and to make  
17 administrative clarifications.

18 The Board finds that the revisions, changes, reductions or modifications  
19 ("modifications") to the assessments made herein do not render the resulting assessments  
20 materially different from the assessments previously authorized by the Management Plan as  
21 approved by Resolutions No. 421-05 and 582-05. Such modifications and administrative  
22 clarifications are permissible and authorized under Section 36650 of the Act and related  
23 provisions of law.

1           **Section 3.    CONFORMING THE DISTRICT'S MANAGEMENT CONTRACT**  
2 **BETWEEN THE CITY AND THE NONPROFIT PROPERTY OWNERS' ASSOCIATION.**

3           The Mayor's Office of Economic and Workforce Development is hereby authorized to  
4 enter into an amendment of the City's agreement/contract with the nonprofit property owners'  
5 association Castro/Upper Market Community Benefit District for administration and  
6 management of the district known as the Castro/Upper Market Community Benefit District  
7 ("Management Contract," see Resolution No. 14-06), that conforms the Management Contract  
8 to Sections 1 and 2 of this Resolution, above.

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10           **Section 4.    RECEIVING AND APPROVING THE DISTRICT'S ANNUAL REPORT**  
11 **TO THE CITY.** The Board hereby receives and approves the District's Annual Report for  
12 2005-2006, as submitted pursuant to Section 3.4 of the District's Management Contract (*i.e.*,  
13 §3.4 of the City's agreement/contract with the nonprofit property owners' association  
14 Castro/Upper Market Community Benefit District for management and administration of the  
15 Castro/Upper Market Community Benefit District), on file with the Clerk of the Board of  
16 Supervisors in File No. 070733.