

1 [Resolution to Establish - Lower Polk Community Benefit District]

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3 **Resolution of formation to establish the property-based business improvement district**
4 **known as the “Lower Polk Community Benefit District” ordering the levy and collection**
5 **of assessments against property located in that district for 15 years commencing with**
6 **FY2014-2015, subject to conditions as specified; and making environmental findings.**

7

8 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
9 California Streets and Highways Code, Sections 36600 *et seq.* ("1994 Act"), as augmented by
10 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), collectively,
11 the “Business Assessment Law,” the Board of Supervisors adopted Resolution No. 177-14,
12 entitled “Resolution declaring the intention of the Board of Supervisors to establish a property-
13 based business improvement district (community benefit district) known as the “Lower Polk
14 Community Benefit District” and levy a multi-year assessment on all parcels in the district;
15 approving the Management District Plan and Engineer’s Report and proposed boundaries
16 map for the district; ordering and setting a time and place for a public hearing thereon;
17 approving the form of the Notice of Public Hearing and Assessment Ballot Proceeding, and
18 Assessment Ballot; directing environmental findings; and directing the Clerk of the Board of
19 Supervisors to give notice of the public hearing and balloting as required by law.” (the
20 "Resolution of Intention," Board of Supervisors File No. 140512); and

21 WHEREAS, The Resolution of Intention to form the Lower Polk Community Benefit
22 District (the "Lower Polk CBD" or "District"), among other things, approved the Lower Polk
23 CBD Management District Plan (the "District Management Plan"), the detailed District
24 Assessment Engineer's Report, the Boundaries Map, and the form of the Notice of Public

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1 Hearing and Assessment Ballot Proceeding that are all on file with Clerk of the Board of
2 Supervisors in File No. 140512; and

3 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
4 the proposed formation of the Lower Polk CBD, and the proposed levy of assessments
5 against property located within the District for a period of fifteen years, for fiscal years 2014-
6 2015 through 2028-2029; and

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

9 WHEREAS, A Management District Plan was filed with the Board on June 3, 2014,
10 containing information about the proposed district and assessments as required by California
11 Streets and Highways Code, Section 36622; and

12 WHEREAS, A detailed Engineer's Report dated May 2014 was filed with the Clerk of
13 the Board on June 3, 2014, as prepared by Brian K. Thomas, California Registered
14 Professional Engineer No. 60907, titled "Lower Polk Community Benefit District Engineer's
15 Report," supporting the assessments within the proposed district; and

16 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of
17 Supervisors pursuant to California Streets and Highways Code, Section 3110, on June 9,
18 2014; and

19 WHEREAS, A public hearing concerning the proposed formation of the Lower Polk
20 CBD and the proposed levy of assessments within such District was held on July 29, 2014, at
21 3 p.m., in the Board's Legislative Chambers located on the Second Floor of City Hall, 1 Dr.
22 Carlton B. Goodlett Place, San Francisco, California; and

23 WHEREAS, At the public hearing, the testimony of all interested persons for or against
24 the proposed formation of the District, the levy of assessments on property within the District,
25 the extent of the District, and the furnishing of specified types of improvements, services and

1 activities within the District, was heard and considered, and a full, fair and complete meeting
2 and hearing was held; and

3 WHEREAS, The Board of Supervisors heard and considered all objections or protests
4 to the proposed assessments and the Director of the Department of Elections tabulated the
5 assessment ballots submitted and not withdrawn, in support of or in opposition to the
6 proposed assessments, and the Clerk of the Board determined that a majority of the ballots
7 cast (weighted according to the proportional financial obligations of the property) by the
8 owners of record of the property located within the proposed District did not oppose
9 establishing the proposed District; and

10 WHEREAS, The public interest, convenience and necessity require the establishment
11 of the proposed Lower Polk Community Benefit District; and

12 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
13 will be specially benefited by the improvements, services and activities funded by the
14 assessments; and no assessment has been imposed on any parcel which exceeds the
15 reasonable cost of the proportional special benefit conferred on that parcel; now, therefore be
16 it

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

18 **Section 1. MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**

19 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
20 Management District Plan and District Assessment Engineer's Report, including the estimates
21 of the costs of the property-related services, activities and improvements set forth in the plan,
22 and the assessment of said costs on the properties that will specially benefit from such
23 services, activities and improvements. The Board also hereby approves the Boundaries,
24 showing the exterior boundaries of the District, and ratifies and approves the Assessment
25 Ballot and the City's use of such ballot, which Assessment Ballot is on file with the Clerk of the

1 Board of Supervisors in File No. 140512 and is hereby declared to be a part of the Resolution
2 as if set forth fully herein. A copy of the Management District Plan, the District Assessment
3 Engineer's Report, and the Boundaries Map are on file with the Clerk of the Board of
4 Supervisors in File No. 140512, which is hereby declared to be a part of this Resolution as if
5 set forth fully herein.

6 **Section 2. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
7 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
8 the California Constitution and Section 53753 of the California Government Code with respect
9 to the formation of the Lower Polk Community Benefit District. All objections or protests both
10 written and oral, are hereby duly overruled.

11 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and Article
12 15, the property-based business improvement district designated as the "Lower Polk
13 Community Benefit District" is hereby established.

14 **Section 4. DESCRIPTION OF DISTRICT.** The Lower Polk Community Benefit
15 District shall include all parcels of real property within the district. The proposed District
16 contains approximately 307 identified parcels located on approximately 22 whole or partial
17 blocks.

18 Specifically, the exterior District boundaries are:

- 19 • California Street from Larkin Street to Van Ness Avenue (South side only)
- 20 • Van Ness Ave. from California Street to Post Street (East side only)
- 21 • Post Street from Van Ness Avenue to Franklin Street (South Side only)
- 22 • Franklin Street from Post Street to Geary Boulevard (East side only)
- 23 • Geary Boulevard from Franklin Street to Van Ness Avenue (North side only)
- 24 • Van Ness Avenue from Geary Boulevard to Alice B. Toklas Place (East side
25 only)

- 1 • Alice B. Toklas Place from Van Ness Avenue to Polk Street (North side only)
- 2 • Myrtle Street from Polk Street to Larkin Street (North side only)
- 3 • Larkin St. from Myrtle Street to California Street (West Side Only)

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5 In addition to the above boundary description, the District boundaries also include
6 Assessor's Parcel No. 0716-002, with the following boundaries:

- 7 • Myrtle Street from Larkin Street to Northwest corner of Assessor's Parcel No.
8 0716-002 (North side of Assessor's Parcel No. 0716-002 only)
- 9 • Larkin Street from Myrtle Street to O'Farrell Street (West side of Assessor's
10 Parcel No. 0716-002 only)
- 11 • O'Farrell Street from Larkin Street to Southwest corner of Assessor's Parcel No.
12 0716-002 (South side of Assessor's Parcel No. 0716-002 only)
- 13 • Southwest corner of Assessor's Parcel No. 0716-002 to Northwest corner of
14 Assessor's Parcel No. 0716-002 (West side of Assessor's Parcel No. 0716-002
15 only)

16 Reference should be made to the detailed maps and the lists of parcels identified by
17 Assessor Parcel Number that are contained in the Management District Plan, in order to
18 determine which specific parcels are included in the Lower Polk Community Benefit District.

19 **Section 5. FINDING OF BENEFIT.** The Board of Supervisors hereby finds that the
20 property within the District will be benefited by the improvements and activities funded by the
21 assessments proposed to be levied.

22 **Section 6. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
23 pay for the activities to be provided within the District, commencing with fiscal year 2014-
24 2015, and continuing for fifteen (15) years, ending with fiscal year 2028-2029. For purposes
25 of levying and collecting assessments within the District, a fiscal year shall commence on

1 each July 1st and end on the following June 30th.

2 (b) The amount of the proposed assessments to be levied and collected for fiscal
3 year 2014-2015 shall be a maximum of \$799,093.54 (as shown in the Management District
4 Plan and Engineer's Report dated May 2014). The amount of assessments to be levied and
5 collected in fiscal years two (2) through fifteen (15) may be increased annually by the Lower
6 Polk Community Benefit District corporation Board of Directors by an amount not to exceed
7 the change in the Consumer Price Index for All Urban Consumers in the San Francisco-
8 Oakland-San Jose Consolidated Metropolitan Statistical Area, or three percent (3%),
9 whichever is less.

10 (c) The method and basis of levying and collecting the assessment shall be as set
11 forth in the Management District Plan.

12 (1) The levy of the assessments shall commence with fiscal year 2014-2015. Each
13 year the assessment shall be due and payable in two equal installments. The first installment
14 shall be due on November 1 of each fiscal year during the life of the District, and shall become
15 delinquent on December 10 of that fiscal year. The second installment shall be due on
16 February 1 of each fiscal year during the life of the District, and shall become delinquent on
17 April 10 of that fiscal year.

18 (2) Nonpayment of the assessment shall have the same lien priority and delinquent
19 payment penalties and be subject to the same enforcement procedures and remedies as the
20 ad valorem property tax. All delinquent payment of assessments shall be subject to interest
21 and penalties. The City Treasurer and Tax Collector will enforce imposition of interest and
22 penalties and collection of delinquent assessments pursuant to the Business Assessment Law
23 and City Business and Tax Regulations Code Article 6, as each may be amended from time to
24 time.

1 **Section 7. USE OF REVENUES.** The proposed property-related services,
2 improvements and activities for the District include:

3 **Cleaning, Maintenance, and Safety Program:** The Cleaning, Maintenance, and
4 Safety program is oriented towards crime deterrence and the cleanliness of sidewalks, curbs,
5 fixtures, landscaping, and buildings. The program includes, but is not limited to, removal of
6 graffiti, power washing sidewalks, removal of litter, foot patrols to deter crime, social service
7 outreach, providing directions and other information to members of the public, and the
8 exchange of information with merchant.

9 **Marketing, Streetscape Improvements, and Beautification Program:** The
10 Marketing, Streetscape Improvements, and Beautification program is focused on improving
11 the district's image, appeal and visibility. It includes, but is not limited, marketing to
12 prospective new businesses, hosting special events, promoting the district, holiday decoration
13 and other forms of beautification, and capital improvements in the district.

14 **Management and Operations:** Management and Operations includes but is not
15 limited to handling of day-to-day operations, advocacy, grant writing, financials, and all
16 administrative tasks.

17 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
18 with a separate private entity to administer the improvements, services and activities set forth
19 in Section 7, as provided in California Streets and Highways Code §36614.5 and §36650.
20 Any such entity shall hold the funds it receives from the City and County of San Francisco
21 ("City") in trust for the improvements, services and activities set forth in Section 7. Any such
22 entity that holds funds in trust for purposes related to the contract shall deliver, at no expense
23 to the City, a balance sheet and the related statement of income and cash flows for each
24 fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public
25 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.

1 In addition, or alternatively, the Controller in his or her discretion or the Office of Economic
2 and Workforce Development in its discretion, may require the private entity to deliver, at no
3 expense to the City, an annual independent audit report by a Certified Public Accountant of all
4 such funds. The CPA review and/or audit may be funded from assessment proceeds as part
5 of the general administration of the District. At all times the Board of Supervisors shall
6 reserve full rights of accounting of these funds. The Office of Economic and Workforce
7 Development shall be the City agency responsible for coordination between the City and the
8 District.

9 **Section 9. AMENDMENTS.** The properties in the District established by this
10 Resolution shall be subject to any amendments to the 1994 Act, and City Business and Tax
11 Regulations Code Article 6 and Article 15.

12 **Section 10. RECORDATION OF NOTICE AND DIAGRAM.** The County Clerk is
13 hereby authorized and directed to record a notice and an assessment diagram pursuant to
14 Section 36627 of the California Streets and Highways Code, following adoption of this
15 Resolution.

16 **Section 11. LEVY OF ASSESSMENT.** The adoption of this Resolution and
17 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
18 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
19 referred to in the District Management Plan. Each year, the Assessor shall enter on the
20 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
21 and such assessment shall be collected in the same manner as the County property taxes are
22 collected.

23 **Section 12. BASELINE SERVICES.** To ensure that assessment revenues from the
24 District are used to enhance the current level of services provided by the City within the
25 District, the establishment of the District will not affect the City's policy to continue to provide

1 the same level of service to the areas encompassed by the District as it provides to other
2 similar areas of the City for the duration of the District, provided, however, that in the event of
3 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
4 municipal services citywide, including within the District.

5 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
6 determined that the actions contemplated in this Resolution are in compliance with the
7 California Environmental Quality Act (California Public Resources Code, Sections 21000
8 *et seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File No.
9 140512, which is hereby declared to be a part of this Resolution as if set forth fully herein..

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