

1 [Resolution to Establish the West Portal Community Benefit District]

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3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “West Portal Community Benefit District,” ordering the levy and collection of**
5 **assessments against property located in that district for 13 years commencing with**
6 **FY2011-2012, with services, activities, and improvements to be provided for 13**
7 **calendar years commencing January 1, 2012, subject to conditions as specified, and**
8 **making environmental findings.**

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10 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994
11 (California Streets and Highways Code §§36600 *et seq.*, the "Act"), as augmented by Article
12 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board of
13 Supervisors adopted Resolution No. 340-11 on August 2, 2011 entitled “Resolution declaring
14 the intention of the Board of Supervisors to establish a property-based business improvement
15 district to be known as the West Portal Community Benefit District (CBD),” to order the levy
16 and collection of a multi-year assessment, and setting a time and place for a public hearing
17 thereon ("Resolution of Intention," BOS File No. 110772); and,

18 WHEREAS, The Resolution of Intention for West Portal Community Benefit District
19 ("West Portal CBD" or "District"), among other things, approved the West Portal Community
20 Benefit District Management District Plan ("Management District Plan") dated May 17, 2011,
21 the District Assessment Engineer's Report dated May 17, 2011 ("Engineer's Report"), the
22 Boundaries Map dated May 17, 2011, and the form of the Assessment Ballots and the Notice
23 of Public Hearing, that are all on file with Clerk of the Board of Supervisors in File No. 110772,
24 which are hereby declared to be a part of this Resolution as if set forth fully herein; and,

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1 WHEREAS, The Board of Supervisors caused notice of a public hearing to be issued
2 regarding the proposed formation of West Portal CBD and the proposed levy of assessments
3 against property located within the District for a period of thirteen (13) years (commencing
4 July 1, 2011 of fiscal year 2011-2012, through June 30, 2034 of fiscal year 2023-2024); with
5 services, activities and improvements to be provided on a calendar year basis (commencing
6 January 1, 2012, through December 31, 2024); 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, An amended Management District Plan dated September 27, 2011 was
10 filed with the Clerk of the Board on September 27, 2011, containing information about the
11 proposed district and assessments as required by California Streets and Highways Code
12 §36622, on file with the Clerk of the Board of Supervisors in File No. _____, which is
13 hereby declared to be a part of this Resolution as if set forth fully herein; and,

14 WHEREAS, An amended Engineer's Report dated September 27, 2011 was filed with
15 the Clerk of the Board on September 27, 2011, as prepared by Terrance E. Lowell, California
16 Registered Professional Engineer No. 13398, titled "West Portal Community Benefit District
17 Engineer's Report," supporting the assessments within the proposed district, on file with the
18 Clerk of the Board of Supervisors in File No _____, which is hereby declared to be a part
19 of this Resolution as if set forth fully herein; and,

20 WHEREAS, the September 27, 2011 amended Management District Plan and
21 amended Engineer's Report filed with the Clerk of the Board modified the May 17, 2011
22 versions of those documents that were previously approved by the Board of Supervisors, by
23 better clarifying that assessments will be levied on a July 1 to June 30 fiscal year basis (for
24 fiscal year 2011-2012 through fiscal year 2023-2024), while services, activities and
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1 improvements will be provided on a January 1 to December 31 calendar year basis (calendar
2 year 2012 through calendar year 2024), and by providing certain clerical clarifications; and,

3 WHEREAS, A public hearing concerning the proposed formation of the West Portal
4 Community Benefit District and the proposed levy of assessments within such District was
5 held on September 27, 2011 at 3 p.m., in the Board's Legislative Chambers located on the
6 Second Floor of City Hall, One Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

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

19 WHEREAS, The public interest, convenience and necessity require the establishment
20 of the proposed West Portal Community Benefit District; and,

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

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

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

3 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
4 Management District Plan and District Assessment Engineer's Report as each amended
5 September 27, 2011, including the estimates of the costs of the property-related services,
6 activities and improvements set forth in the plan, and the assessment of said costs on the
7 properties that will specially benefit from such services, activities and improvements. The
8 Board also hereby approves the Boundaries Map dated May 17, 2011, showing the exterior
9 boundaries of the District. A copy of the Management District Plan and the District
10 Assessment Engineer's Report as each amended September 27, 2011, and the Boundaries
11 Map dated May 17, 2011, are all on file with the Clerk of the Board of Supervisors in File
12 No. _____, which are hereby declared to be a part of this Resolution as if set forth fully
13 herein.

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

19 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
20 property-based business improvement district designated as the "West Portal Community
21 Benefit District" is hereby established.

22 **Section 4. DESCRIPTION OF DISTRICT.** The West Portal Community Benefit
23 District shall include all parcels of real property within the district. The proposed District
24 contains approximately 84 identified parcels located on approximately three (3) linear blocks
25 in the central business area of West Portal Avenue. The exterior boundaries of the District

1 encompass all parcels that front West Portal Avenue between Ulloa Street and 15th Avenue;
2 and in addition include the public library, the Muni transfer station, and the parcels on both
3 sides of Ulloa Street between West Portal Avenue and Claremont Boulevard.

4 Reference should be made to the detailed maps and the lists of parcels identified by
5 Assessor Parcel Number that are contained in the Management District Plan, in order to
6 determine which specific parcels are included in the West Portal Community Benefit District.

7 **Section 5. FINDING OF BENEFIT.** The Board of Supervisors hereby finds that the
8 property within the District will be benefited by the services, activities and improvements
9 funded by the assessments proposed to be levied.

10 **Section 6. SYSTEM OF ASSESSMENTS.**

11 (a) Annual assessments will be levied to pay for the services, activities and
12 improvements to be provided within the District, commencing with fiscal year 2011-2012 and
13 continuing for thirteen (13) years, ending with fiscal year 2023-2024. For purposes of levying
14 and collecting assessments within the District, a fiscal year shall commence on each July 1st
15 and end on the following June 30th. Services, activities and improvements will be provided on
16 a calendar year basis commencing January 1, 2012, through December 31, 2024.

17 (b) The total amount of the proposed assessments to be levied and collected for
18 fiscal year 2011-2012 shall be \$198,000 as shown in the Management District Plan and
19 Engineer's Report, as each amended September 27, 2011. The amount of assessments to
20 be levied and collected in fiscal years two (2) through thirteen (13) may be increased annually
21 by the Board of Directors of the District by an amount not to exceed the change in the
22 Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
23 Consolidated Metropolitan Statistical Area, or three percent (3%), whichever is less.

24 (c) The method and basis of levying and collecting the assessment shall be as set
25 forth in the Management District Plan. The levy of the assessments shall commence with

1 fiscal year 2011-2012. Each year the assessment shall be due and payable in two equal
2 installments. The first installment shall be due on November 1 of each fiscal year during the
3 life of the District, and shall become delinquent on December 10 of that fiscal year. The
4 second installment shall be due on February 1 of each fiscal year during the life of the District,
5 and shall become delinquent on April 10 of that fiscal year. Except that, for Fiscal Year
6 2011-2012 only, the City will send out a separate direct bill to each property owner for
7 payment of the assessment amount.

8 Unpaid or otherwise delinquent assessments shall have the same lien priority and
9 delinquent payment penalties as for the ad valorem property tax, and shall be subject to the
10 same enforcement procedures and remedies as the ad valorem property tax.

11 **Section 7. USE OF REVENUES.** The proposed property-related services, activities
12 and improvements for the District will be delivered through two principal programs:
13 Maintenance and Streetscape Improvements, and Economic Development. There will also be
14 an Advocacy and Administration component.

15 A. Maintenance and Streetscape Improvements:

16 The Maintenance and Streetscape Improvements Program will provide a cleaner and
17 more aesthetically appealing environment for businesses, employees and pedestrians. CBD
18 maintenance teams will provide enhanced cleaning services, including sidewalk sweeping and
19 litter removal, power washing and scrubbing of sidewalks, removal of illegal
20 signs/posters/stickers, and graffiti removal. In addition, the CBD will undertake efforts to
21 beautify the public right-of-way streetscape and provide maintenance, which may include such
22 items as seasonal banners, flower baskets, tree installation, and other beautification efforts.

23 B. Economic Development:

24 The Economic Development program will provide activities to support the growth and
25 vitality of existing businesses, attract new businesses, and enhance the image of West Portal

1 as a destination for consumer and investment revenues. CBD funds will be used for market
2 and demographic research, to identify what is needed to attract future development and
3 investment. This program will identify the types of businesses and activities that are missing
4 and needed in the West Portal business corridor. A variety of options will be developed, that
5 may include:

- 6 • Design and dissemination of investor marketing materials to assist real estate
7 brokers, developers and property owners in business recruitment efforts.
- 8 • Creation and maintenance of a database with a variety of market and real estate
9 information.
- 10 • Provision of counseling, financing referrals and business support to start locally
11 owned independent businesses.
- 12 • Provision of trouble-shooting and liaison services between property and business
13 owners and the City, in an effort to entice investment and business operations in
14 West Portal.

15 C. Advocacy and Administration:

16 The District will support a professional staff that advocates on behalf of the District and
17 delivers programs. The CBD advocacy services will provide direction on policies and issues
18 that affect the central business district. Administrative services will include an Executive
19 Director, and a part-time administrative assistant if needed, for the day to day operations of
20 the CBD. The administrative services budget will also include office expenses such as rent,
21 bookkeeping, annual reporting expenses, insurance, and related expenses.

22 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
23 with a separate private entity to administer the services, activities and improvements set forth
24 in Section 7, as provided in California Streets and Highways Code §36614.5 and §36650.
25 Any such entity shall hold the funds it receives from the City and County of San Francisco

1 ("City") in trust for the services, activities and improvements set forth in Section 7. Any such
2 entity that holds funds in trust for purposes related to the contract shall deliver, at no expense
3 to the City, a balance sheet and the related statement of income and cash flows for each
4 fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public
5 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.
6 In addition, or alternatively, the Controller or the Office of Economic and Workforce
7 Development may in their discretion require the private entity to deliver, at no expense to the
8 City, an annual independent audit report by a Certified Public Accountant of all such funds.
9 The CPA review and/or audit may be funded from assessment proceeds as part of the
10 general administration of the District. At all times the Board of Supervisors shall reserve full
11 rights of accounting of these funds. The Office of Economic and Workforce Development
12 shall be the City agency responsible for coordination between the City and the District.

13 **Section 9. AMENDMENTS.** The properties in the District established by this
14 Resolution shall be subject to any amendments to the Act and Article 15.

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

19 **Section 11. LEVY OF ASSESSMENT.** The adoption of this Resolution and
20 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
21 Streets and Highways Code constitutes the levy of an assessment in each of the District's
22 fiscal years identified in the District Management Plan. Each year the Assessor shall enter
23 the amount of the assessment on the County Assessment Roll opposite each lot or parcel of
24 land in the District, and such assessment shall be collected in the same manner as the
25 County property taxes are collected; except that, for Fiscal Year 2011-2012 only, the City will

1 send out a separate direct bill to each property owner for payment of the assessment amount.

2 **Section 12. BASELINE SERVICES.** To ensure that assessment revenues from the
3 District are used to enhance the current level of services provided by the City within the
4 District, the establishment of the District will not affect the City’s policy to continue to provide
5 the same level of service to the areas encompassed by the District as it provides to other
6 similar areas of the City for the duration of the District; provided, however, that in the event of
7 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
8 municipal services citywide, including within the District.

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

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