

1 [Authorizing an alternative procedure for establishing property and business improvement
2 districts.]

3 **Ordinance amending Article 15 of the Business and Tax Regulations Code by**
4 **amending Sections 1510 and 1511 to authorize the Board of Supervisors to initiate**
5 **proceedings to establish property and business improvement districts upon receipt of**
6 **a petition signed by property owners responsible for 30 percent of the proposed**
7 **assessment; authorizing such districts to be formed for a term of up to 20 years;**
8 **authorizing such districts to encompass and assess residential property, and repealing**
9 **Sections 1513 through 1591.**

10 Note: Additions are *single-underline italics Times New Roman*;
11 deletions are *strikethrough italics Times New Roman*.
12 Board amendment additions are double underlined.
Board amendment deletions are ~~strikethrough normal~~.

13 Be it ordained by the People of the City and County of San Francisco:

14 Section 1. The Board of Supervisors finds as follows:

15 (a) It is in the public interest to enable the City to fund property-related
16 improvements, maintenance and activities through the levy of assessments upon the
17 residential, as well as commercial, real property that derives special benefits from those
18 improvements, maintenance and activities.

19 (b) In many of San Francisco's neighborhoods, commercial and residential
20 properties are intermingled, such that both commercial and residential properties are both
21 likely to benefit specially from property-related improvements, maintenance and activities. In
22 San Francisco's unique urban environment, even purely residential neighborhoods are likely
23 to benefit from such activities.

24 (c) Accordingly, it is appropriate in San Francisco that property and business
25 improvement and maintenance districts be able to encompass commercial, mixed use, and

1 residential neighborhoods in which the property owners desire to avail themselves of the
2 benefits provided by such a district.

3 (d) In order to give such districts increased flexibility for planning and financing
4 improvements and activities, it is appropriate to authorize the formation of new assessment
5 districts with a maximum term of up to 20 years.

6 Section 2. The San Francisco Business and Tax Regulations Code is hereby amended
7 by amending Article 15, to read as follows:

8 SEC. 1510. *SHORT TITLE.*

9 ~~*This Article shall be cited and referred to as the San Francisco Business Improvement*~~
10 ~~*District ("BID") Procedure Code.*~~

11 ~~*SEC. 1511. PURPOSE.*~~

12 (a) *State law provides procedures to form business improvement districts.* This Article
13 provides *authority for the City to invoke that state procedure and in addition to apply it to residential*
14 *property that would not be covered were the City to follow the state law exclusively. This Article*
15 *incorporates the state law and then specifies how the Board of Supervisors may choose to augment the*
16 *state law provisions by choosing to: (1) reduce the percentage of petitions required from owners in*
17 *order to initiate formation; (2) have the district encompass and assess residential property; or (3)*
18 *extend the term of the district to a maximum of 20 years.* ~~*an alternative procedure by which the Board*~~
19 ~~*may finance improvements, services, and activities that provide special benefit to property within*~~
20 ~~*specific activities that provide special benefit to property within specific and limited areas.*~~

21 (b) Through proceedings under this Article, the Board may establish *property and*
22 *business improvement and maintenance* ~~*D*~~districts and may finance enhancements through
23 annual assessments apportioned among parcels of real property within such districts. It is the
24 intent of this Article to provide a vehicle for financing enhancements which supplement and
25 compliment existing services. District formation and assessment proceedings may not be

1 initiated under this Article to finance replacing or supplanting existing City services. Nothing
2 herein shall be construed as prohibiting the establishment of districts to finance local capital
3 improvements under any other ordinance or any other law of the State of California.

4 SEC. 1511. SAN FRANCISCO PROCEDURAL AND SUBSTANTIVE AUGMENTATION OF
5 STATE LAW REQUIREMENTS GOVERNING BUSINESS IMPROVEMENT DISTRICTS.

6 In forming assessment districts that will fund improvements and services that confer special
7 benefit on residential, commercial or residential and commercial property, the Board of Supervisors
8 may elect to use the procedures set forth in California Streets & Highways Code Sections 36600 et seq.
9 except as modified herein. The Board of Supervisors shall be bound by, and comply with, the
10 applicable state law governing the formation of property and business improvement and maintenance
11 districts in all other respects not inconsistent with this Article when forming an assessment district to
12 fund improvements and services that provide special benefits to commercial and/or residential
13 property.

14 (a) Notwithstanding Streets & Highways Code Section 36621(a) or any other provision of
15 state law, the Board of Supervisors may initiate proceedings to establish a property and business
16 improvement district upon receipt of a petition signed by property owners in the proposed district who
17 will pay at least 30 percent of the assessments proposed to be levied. The amount of assessment
18 attributable to property owned by the same property owner that is in excess of 40 percent of the amount
19 of all assessments proposed to be levied, shall not be included in determining whether the petition is
20 signed by the property owners who will pay the requisite percentage of assessments.

21 (b) Notwithstanding Streets & Highways Code Section 36622(h) or any other provision of
22 state law, the Board of Supervisors may form a district authorized to levy assessments for a maximum
23 term of up to twenty years.

24 (c) Notwithstanding Streets & Highways Code Section 36632(b) or any other provision of
25 state law, the Board of Supervisors may establish an assessment district pursuant to this Article that

1 that encompasses, and levies assessments upon, and funds improvements and services that specially
2 benefit, properties zoned for residential use.

3 ~~SEC. 1513. WAIVER/ORDERS FINAL.~~

4 ~~———All objections not made within the time or manner herein provided are waived. All~~
5 ~~decisions and determinations of the Board, upon notice and hearing, shall be final and conclusive upon~~
6 ~~all persons entitled to appeal, as to all errors, informalities, omissions and irregularities which might~~
7 ~~have been avoided, or which might have been remedied, and as to illegalities not amounting to a want~~
8 ~~of due process of law.~~

9 ~~SEC. 1514. LIBERALLY CONSTRUED.~~

10 ~~———This Article shall be liberally construed in order to effectuate its purpose. No error,~~
11 ~~irregularity, informality, omission or illegality and no neglect or omission of any officer, in any~~
12 ~~procedure taken hereunder, which does not directly affect the jurisdiction of the Board to form a~~
13 ~~district or levy an assessment, shall void or invalidate such proceedings or any assessment.~~

14 ~~SEC. 1515. VALIDITY.~~

15 ~~———No step in any proceeding shall be invalidated or affected by any error or mistake or~~
16 ~~departure from the provisions of this Article as to the officer or person posting or publishing or~~
17 ~~mailing, or procuring the publication or posting or mailing of any notice, resolution, order or other~~
18 ~~matter when such notice is actually given for the time required.~~

19 ~~SEC. 1516. LIMITATION OF ACTIONS.~~

20 ~~———No action, suit or proceeding to set aside, cancel, void, annul or correct any assessment,~~
21 ~~or to review any of the procedures, acts or determinations in any proceedings, or to question the~~
22 ~~validity or to enjoin the collection of any assessment shall be maintained by any person unless such~~
23 ~~action, suit or proceeding shall have been commenced within 30 days after the effective date of the~~
24 ~~ordinance forming the district. No defense based on invalidity or irregularity in any such proceedings~~
25 ~~shall be raised or pleaded after expiration of such 30-day period.~~

1 *SUBDIVISION 2*

2 *DEFINITIONS*

3 *SEC. 1520. DEFINITIONS.*

4 ~~——— Unless the particular provisions or the context otherwise requires, the definitions~~
5 ~~contained in this Section shall govern the construction of this Article.~~

6 ~~——— (a) ——"Activities" means, but is not limited to the following: (1) promotion of public~~
7 ~~events which benefit businesses in the area and which take place within the area; (2) furnishing of~~
8 ~~music in the area; (3) promotion of tourism within the area; (4) promotion of private investment and~~
9 ~~business expansion in the area; and (5) other activities which provide special benefit to owners of~~
10 ~~property within the area.~~

11 ~~——— (b) ——"Annual plan" means a plan submitted to the Clerk by the district management~~
12 ~~association pursuant to Section 1582 of this Article, or any written request for modification of the~~
13 ~~district plan submitted by the district management association pursuant to Section 1587 of this Article.~~

14 ~~(c) ——"Assessment(s)" means a charge or charges levied or proposed to be levied~~
15 ~~against real property in accordance with the provisions of this Article.~~

16 ~~——— (d) ——"Assessor" means the assessor of the City.~~

17 ~~——— (e) ——"Benefit zone" means any geographic area within a district in which~~
18 ~~enhancements confer a substantially different degree of benefit on property owners than enhancements~~
19 ~~confer in any other area of the district.~~

20 ~~——— (f) ——"Board" means the Board of Supervisors of the City.~~

21 ~~——— (g) ——"Business Improvement District" or "BID" means any district proposed to be~~
22 ~~formed, or formed, pursuant to the provisions of this Article.~~

23 ~~——— (h) ——"Charter" means the Charter of the City.~~

24 ~~——— (i) ——"City" means the City and County of San Francisco.~~

25 ~~——— (j) ——"Clerk" means the Clerk of the Board of Supervisors.~~

1 ~~—— (k) —— "District" means any district proposed to be formed, or formed, pursuant to the~~
2 ~~provisions of this Article.~~

3 ~~—— (l) —— "District formation costs" means actual costs incurred by the City in connection~~
4 ~~with the formation of a district and/or the levy of assessments pursuant to the provisions of this Article.~~

5 ~~—— (m) —— "District plan" means the document which, pursuant to Sections 1532 and 1533~~
6 ~~of this Article, outlines the basis on which a district is proposed to be formed, or is formed, and on~~
7 ~~which assessments are proposed to be levied, or are levied.~~

8 ~~—— (n) —— "Enhancements" means any improvements, services or activities to be financed~~
9 ~~by assessments levied under this Article which provide special benefit to property within a district and~~
10 ~~which are additional to any basic level of such activities, improvements or services which are provided~~
11 ~~with general City revenues in the area proposed for the district, or in other comparable areas.~~

12 ~~(o) —— "Improvement" means the acquisition, construction, or installation of any~~
13 ~~tangible property which provides special benefit to property within a district including, but not limited~~
14 ~~to, the following: (1) benches, (2) trash receptacles, (3) temporary or permanent street lighting, (4)~~
15 ~~decorations, (5) parks, (6) fountains, (7) telephone booths, (8) kiosks, (8) trees, (9) walls and barriers,~~
16 ~~(10) rest rooms, (11) information booths, (12) tunnels and ramps, (13) bus stop shelters, (14) display~~
17 ~~eases and exhibits, (15) signs, (16) pedestrian shelters, (17) fountains, and (18) pedestrian and~~
18 ~~vehicular overpasses and underpasses.~~

19 ~~—— (p) —— "Lot" means: (1) a parcel of real property shown as a single lot in a lawfully~~
20 ~~recorded subdivision map or parcel map approved pursuant to the provisions of the Subdivision Map~~
21 ~~Act; or (2) a parcel of real property with dimensions and boundaries, defined as a single lot by a~~
22 ~~lawfully recorded record or survey map; or (3) any parcel of real property otherwise created or~~
23 ~~measured whether or not deemed lawful pursuant to the City Planning Code; or (4) two or more~~
24 ~~parcels combined by an appropriate recorded written instrument, or, two or more parcels combined by~~
25 ~~a common usage, may be deemed for purposes of this Article a single lot.~~

1 ~~—— (q) —— "Majority protest" means a determination by the Board, in accordance with~~
2 ~~Section 1560 of this Article, that those owners who have filed a protest and who have not withdrawn~~
3 ~~their protest shall pay 50 percent or more of the total dollar amount of an assessment proposed to be~~
4 ~~levied.~~

5 ~~—— (r) —— "Owner" means: a person owning real property within a district or proposed~~
6 ~~district (1) whose name and address appears on the last equalized assessment roll of the City or the last~~
7 ~~equalized State Board of Equalization assessment roll, or (2) who is entitled to be shown on the next~~
8 ~~equalized assessment roll of the City or the next equalized assessment roll of the State Board of~~
9 ~~Equalization. A lessee in possession of tax exempt property, the leasehold interest of which is subject to~~
10 ~~assessment, is deemed to be an owner.~~

11 ~~—— (s) —— "Person" means an individual, partnership, corporation, association, trust or~~
12 ~~any other legal entity.~~

13 ~~—— (t) —— "Petition to form a district" means a petition submitted to the Board pursuant to~~
14 ~~Section 1531 of this Article.~~

15 ~~—— (u) —— "Protest" means an objection by an owner submitted in writing to the Clerk in~~
16 ~~accordance with Sections 1550, 1551 and/or 1586 of this Article.~~

17 ~~—— (v) —— "Public hearing" means a hearing called and noticed by the Board at which any~~
18 ~~and all persons affected may raise any objections or provide relevant testimony relating to a resolution~~
19 ~~of intent.~~

20 ~~—— (w) —— "Resolution of intent" means a resolution adopted pursuant to Section 1532 or~~
21 ~~Subsection (b) of Section 1583 of this Article.~~

22 ~~—— (x) —— "Services" means, but is not limited to the following: (1) sanitation and cleaning~~
23 ~~for the protection and enjoyment of the general public using the business district; (2) landscaping and~~
24 ~~beautification; (3) repair and maintenance of streets, alleys, sidewalks, malls, bridges, ramps, tunnels,~~
25 ~~and other facilities or improvements; (4) services to enhance the security of persons and property; (5)~~

1 ~~public information services; (6) social services and outreach; (7) construction of fixtures, equipment,~~
2 ~~facilities and appurtenances as may enhance the movement, convenience, and enjoyment of the public~~
3 ~~and be of economic benefit to surrounding properties; (8) management and administration of the~~
4 ~~improvements, services and activities financed by assessments on property within the district; and (9)~~
5 ~~any other service which provides special benefit to owners of property within the district.~~

6 ~~—— (y) —— "Tax collector" means the Tax Collector of the City~~

7 ~~SUBDIVISION 3~~

8 ~~INITIATING DISTRICT FORMATION/EXTENSION~~

9 ~~SEC. 1530. DISTRICT AREA.~~

10 ~~—— (a) —— A district may be formed to encompass any area within the City and County~~
11 ~~provided that more than 80 percent of the lots proposed to be included in the district are located within~~
12 ~~a C-2, C-3, or M-1 use district, an NC-2, NC-3, NC-S or Individual Area Neighborhood Commercial~~
13 ~~District, or a Mixed Use District as these districts are defined in Article 2, Article 7 and Article 8,~~
14 ~~respectively, of the San Francisco Planning Code and as they are shown on the Zoning Map of the City.~~

15 ~~—— (b) —— Under no circumstances shall the boundaries of a proposed district overlap with~~
16 ~~the boundaries of another existing district created pursuant to this Article.~~

17 ~~—— (c) —— Public property exempt from taxation shall be exempt from the levy of~~
18 ~~assessments under this Article. This provision shall not exempt from the levy of assessments any~~
19 ~~possessory interest in tax exempt property which is subject to property taxation.~~

20 ~~SEC. 1531. PETITION TO FORM A DISTRICT.~~

21 ~~—— (a) —— Upon the receipt of a written petition, signed by property owners in the proposed~~
22 ~~district who will pay more than 50 percent of the assessment proposed to be levied, the Board may~~
23 ~~initiate proceedings to form a district by adopting a resolution of intent to form a district pursuant to~~
24 ~~Section 1532. The amount of the assessment attributable to property owned by a single owner which is~~
25 ~~in excess of 40 percent of the amount of all assessments proposed to be levied, shall not be included in~~

1 *determining whether the petition is signed by owners who will pay more than 50 percent of the total*
2 *assessment proposed to be levied.*

3 *—— (b) —— A petition to form a district circulated to owners for signature shall include*
4 *district plan.*

5 ~~SEC. 1532. RESOLUTION OF INTENT TO FORM A DISTRICT.~~

6 *—— (a) —— The resolution of intent shall:*

7 *—— (1) —— State the name of the proposed district;*

8 *—— (2) —— State that a petition to form a district has been received or is not required, and*
9 *state that a district is proposed to be formed and that an assessment is proposed to be levied pursuant*
10 *to this Article;*

11 *—— (3) —— Incorporate the district plan, which shall be on file in the Clerk's office for public*
12 *inspection;*

13 *—— (4) —— Identify the time and place for a public hearing on the formation of the district*
14 *and the levy of an assessment;*

15 *—— (5) —— Identify the time and place for a final determination hearing on the formation of*
16 *the district and the levy of assessments;*

17 *—— (6) —— State that any person may testify regarding the formation of the district or the*
18 *levy of the assessment at the public hearing and/or the final determination hearing;*

19 *—— (7) —— State that any owner objecting to the formation of the district or the levy of the*
20 *assessment must file a protest at the office of the Clerk within 45 days of the adoption of the resolution*
21 *of intent, and, further, that if owners of more than 50 percent of the total dollar amount of the*
22 *assessment proposed to be levied on lots within the district proposed for formation file a protest,*
23 *proceedings to form the district will be abandoned for a period of at least one year.*

24 *—— (b) —— Where a resolution of intent proposes to reestablish a district formed by prior*
25 *ordinance of the Board, the Board may adopt the resolution of intent without having received a petition*

1 *to form a district if (1) a district management association submits a district plan to the Board, and (2)*
2 *an assessment was collected in the previously formed district within 12 months prior to the adoption of*
3 *the resolution of intent proposing to reestablish such district.*

4 ~~SEC. 1533. DISTRICT PLAN.~~

5 ~~—— (a) — The formation of a district shall be based upon a district plan filed in the office~~
6 ~~of the Clerk. The district plan shall:~~

7 ~~—— (1) — State the name of the proposed district;~~

8 ~~—— (2) — Include a map of the district in sufficient detail to locate each lot within the~~
9 ~~district;~~

10 ~~—— (3) Describe the boundaries of the district, including the boundaries of any proposed~~
11 ~~benefit zone(s) in a manner sufficient to identify the lots included;~~

12 ~~—— (4) — State the name, address, and telephone number of the district management~~
13 ~~association which shall be responsible for providing the enhancements prescribed by the district plan,~~
14 ~~as well as the names of the officers of the district management association, and state that the district~~
15 ~~management association shall comply with the provisions of Section 1580 of this Article;~~

16 ~~—— (5) — Describe the enhancements proposed, the maximum estimated cost thereof, and~~
17 ~~the estimated district formation costs for each year of operation of the district;~~

18 ~~—— (6) — Identify the proposed source or sources of financing for the enhancements and~~
19 ~~district formation costs, including the proposed assessment(s);~~

20 ~~—— (7) — Explain the method and basis for levying the assessment(s) in proportion to the~~
21 ~~benefits received by lots within the district, including the basis for any benefit zone(s), in sufficient~~
22 ~~detail to allow each owner to calculate the amount of the assessment to be levied against his or her~~
23 ~~property;~~

1 ~~—— (8) — Identify the assessment rates, for the initial year and for subsequent years, or, if~~
2 ~~no specific rates are set for subsequent years, identify any formula by which rates in the initial year are~~
3 ~~proposed to increase in subsequent years;~~

4 ~~—— (9) — Identify the time and manner of collecting the assessments;~~

5 ~~—— (10) Identify the specific number of years, to a maximum of five, in which an assessment~~
6 ~~will be levied;~~

7 ~~—— (11) State any proposed rules and regulations to be applicable to the district;~~

8 ~~—— (12) List, by assessor's parcel number, the properties benefited and the basis of the~~
9 ~~assessment for each lot;~~

10 ~~—— (13) Include any other item or matter required to be incorporated therein by the Board.~~

11 ~~—— (b) — A district plan may provide that all or any class or category of lots within the~~
12 ~~boundaries of a district may be exempt from the levy of the assessment(s). However, where any class or~~
13 ~~category of real property is proposed to be exempt from the levy of the assessment(s), costs~~
14 ~~corresponding to benefits allocable to exempt properties shall not be financed by assessment revenues.~~
15 ~~The district plan shall identify an alternative source or sources of financing to cover costs allocable to~~
16 ~~exempt properties.~~

17 ~~SEC. 1534. CITY PLANNING REFERRAL.~~

18 ~~—— (a) — If a resolution of intent adopted pursuant to Section 1532 of this Article, or any~~
19 ~~annual plan filed pursuant to Section 1582 of this Article, proposes to finance acquisition, extension,~~
20 ~~widening, removal, relocation, vacation, abandonment, sale or change in the use of any public way,~~
21 ~~transportation route, ground, open space, building, or structure which requires referral to the Planning~~
22 ~~Department under Section 3.527 of the Charter, or any successor provision, the resolution of intent or~~
23 ~~annual plan shall be referred to the department for a report regarding conformity with the Master~~
24 ~~Plan.~~

1 ~~—— (b) —— If a resolution of intent or annual plan is referred to the Department of City~~
2 ~~Planning pursuant to this Section, the department shall make its report to the Board at or before the~~
3 ~~public hearing on the resolution of intent or annual plan.~~

4 ~~SEC. 1535. ASSESSMENT LIMITATION.~~

5 ~~—— No amount proposed to be assessed upon any lot for the construction of any~~
6 ~~improvement or the acquisition of any property for public use shall exceed one-half of the assessed~~
7 ~~value of the lot. The total amount of all assessments levied on lots within the district for the~~
8 ~~construction or any improvement or the acquisition of any property for public use shall not exceed one-~~
9 ~~half the assessed value of all lots assessed or proposed to be assessed. Assessment amounts shall satisfy~~
10 ~~any further limitations imposed by Section 6.410 of the Charter and Part 5 of Division 4 of the~~
11 ~~California Streets and Highways Code or any preemptive successor statute.~~

12 ~~SUBDIVISION 4~~

13 ~~NOTICE AND HEARINGS~~

14 ~~SEC. 1540. PUBLISHED NOTICE.~~

15 ~~—— The Board shall publish any resolution of intent adopted pursuant to the provisions of~~
16 ~~this Article, or a summary thereof, as well as the time, date, and place of the public hearing and the~~
17 ~~final determination hearing, in a newspaper of general circulation in the City at least once. The notice~~
18 ~~shall state that the resolution of intent and the accompanying district plan or annual plan shall be~~
19 ~~available for public inspection at the Office of the Clerk.~~

20 ~~SEC. 1541. MAILED NOTICE.~~

21 ~~—— (a) —— The Board shall cause a copy of any resolution of intent adopted pursuant to the~~
22 ~~provisions of this Article, or a summary thereof, as well as the time, date, and place of the public~~
23 ~~hearing and the final determination hearing, to be mailed to each owner of a lot within the proposed~~
24 ~~district, and to the occupants of dwelling units and/or commercial spaces within the district, including~~
25 ~~but not limited to each neighborhood, tenant and business organization known by the Board to be~~

1 *located within the proposed district. Where a resolution of intent concerns an annual plan proposing to*
2 *modify the district plan, notice shall be mailed only to those owners and occupants affected by the*
3 *proposed modification(s).*

4 *—— (b) —— The notice shall include a description of the lot regarding which it is addressed*
5 *sufficient to identify the lot and shall include the estimated amount of the proposed assessment against*
6 *the lot for every year in which such an amount is included in the district plan. The notice shall state*
7 *that the resolution of intention and the district plan or annual plan shall be available for public*
8 *inspection at the Office of the Clerk. The notice shall explain the procedure and deadline by which*
9 *owners may file a protest, shall explain the effect of failing to file such a protest and shall explain the*
10 *effect of a majority protest.*

11 *—— (c) —— The mailed notice shall be sent to all owners proposed to be charged: (i)*
12 *according to their respective addresses as they appear on the State Board of Equalization roll or the*
13 *last equalized City assessment roll, including the possessory interest section of the unsecured roll; or*
14 *(ii) as entitled to be shown on the next State Board of Equalization roll or equalized City assessment*
15 *roll, including the possessory interest section of the unsecured roll, as determined from the records of*
16 *the assessor ascertained prior to the mailing.*

17 *—— (d) —— The mailed notice shall be sent to occupants of dwelling units and commercial*
18 *spaces within the district pursuant to information provided to the Clerk by the proponent of the BID.*
19 *The proponents of a BID shall provide the Clerk with information regarding the number of dwelling*
20 *units and commercial spaces located on each lot proposed to be assessed within a district, and all*
21 *further information as determined by the Clerk to be sufficient to provide reasonable notice to*
22 *occupants.*

23 ***SEC. 1542. POSTED NOTICE.***

24 *—— The Clerk shall post the resolution of intent, or a summary thereof, near the Chamber of*
25 *the Board or on any bulletin board in or adjacent to City Hall. The notice shall state that the resolution*

1 ~~of intent and the district plan or annual plan shall be available for public inspection at the Office of the~~
2 ~~Clerk.~~

3 ~~SEC. 1543. TIME FOR NOTICE.~~

4 ~~———The published, posted, and mailed notice shall be provided at least 20 days prior to the~~
5 ~~date of the public hearing and, where a final determination hearing is required, at least 45 days prior~~
6 ~~to the date of the final determination hearing, unless shorter times are provided by general law. Mailed~~
7 ~~notice shall be deemed given on the date on which notices are deposited in the United States mail.~~

8 ~~SEC. 1544. PUBLIC HEARING.~~

9 ~~———At the public hearing, the Board shall hear and consider oral and written objections~~
10 ~~submitted by any interested person pertaining to the formation of the district, the extent of the district,~~
11 ~~the furnishing of specified enhancements within the district or any other matter contained in the~~
12 ~~resolution of intent. Such Public hearing may be continued or adjourned to a specific time, date, and~~
13 ~~place.~~

14 ~~SEC. 1545. FINAL DETERMINATION HEARING.~~

15 ~~———After the close of the public hearing, the Board shall hold a final determination hearing.~~
16 ~~At the final determination hearing, the Board shall hear and consider oral and written objections~~
17 ~~submitted by any interested person pertaining to the formation of the district, the extent of the district,~~
18 ~~the furnishing of specified enhancements within the district or any other matter contained in the~~
19 ~~resolution of intent. At the final determination hearing, or at any meeting to which the public hearing~~
20 ~~or final determination hearing shall have been adjourned and at which public testimony is taken, the~~
21 ~~Board may establish the proposed district, pursuant to the provisions of Subdivision 6 of this Article, or~~
22 ~~approve an annual plan, pursuant to Section 1586 of this Article.~~

23 ~~SEC. 1546. ADDITIONAL NOTICE AND HEARING(S).~~

24 ~~———To the extent not otherwise satisfied by the provisions of this Article, the Board shall~~
25 ~~cause such additional notice and opportunity for public testimony as may be required by Section~~

1 ~~54954.6 of the California Government Code, by any applicable successor statute, or by any preemptive~~
2 ~~state law.~~

3 ~~SUBDIVISION 5~~

4 ~~PROTESTS~~

5 ~~SEC. 1550. PROTESTS.~~

6 ~~—— (a) — Any interested person may object to the formation or modification of a district,~~
7 ~~the boundaries thereof, the enhancements to be provided within the district, the assessments to be~~
8 ~~levied or the regularity or sufficiency of the proceedings by submitting written objections to the Board~~
9 ~~or by testifying at the public hearing or final determination hearing. After adoption of a resolution of~~
10 ~~intent, any owner may object to the formation or modification of a district, the boundaries thereof, the~~
11 ~~enhancements to be provided within the district, the assessments to be levied or the regularity or~~
12 ~~sufficiency of the proceedings by submitting a protest.~~

13 ~~(b) — All protests must be filed with the Clerk by mail or hand delivery no later than 45~~
14 ~~days after the adoption of the resolution of intent. Any protest not made at the time or in the manner~~
15 ~~provided herein shall be deemed to be waived voluntarily, and the person(s) who might have protested~~
16 ~~shall be deemed to have consented to the proposed assessment and any other act, determination, or~~
17 ~~proceeding regarding which a protest could have been submitted. Notwithstanding the foregoing, the~~
18 ~~Board, in its sole discretion, may consider any untimely protest.~~

19 ~~—— (c) — Any protest may be withdrawn, in writing, by the person who submitted the~~
20 ~~protest at any time prior to the Board's determination, pursuant to Section 1560 of this Article, of~~
21 ~~whether a majority protest exists)~~

22 ~~SEC. 1551. FORM OF PROTEST.~~

23 ~~—— (a) — All protests must be in writing and must be signed by the owner. Protests shall~~
24 ~~contain the name, address and telephone number of the owner and a description of the lot owned~~
25 ~~sufficient to identify it, as well as the nature and grounds of the protest. Any protest pertaining to the~~

1 *regularity or sufficiency of the proceedings shall clearly set forth the irregularity or defect to which the*
2 *objection is made.*

3 ~~—— (b) —— If the person(s) signing the protest is not the addressee of a mailed notice, the~~
4 ~~protester shall certify in the protest that (s)he is the owner of the property and submit written evidence~~
5 ~~of his/her interest in support thereof. The board shall be under no duty to obtain or consider any other~~
6 ~~evidence as to the holding of property interests. The Board's determination as to the validity of any~~
7 ~~protest shall be final and conclusive.~~

8 ~~SEC. 1552. MAJORITY PROTEST; EFFECT.~~

9 ~~—— If the Board finds and determines, pursuant to Section 1560 of this Article, that a~~
10 ~~majority protest exists, and protests are not withdrawn so as to reduce the same to less than a majority,~~
11 ~~the Board shall abandon the proceedings to form the district identified on the resolution of intent and~~
12 ~~no new proceedings shall be initiated based on the same or a substantially similar resolution of intent~~
13 ~~for a period of one year from the date of the majority protest determination. If the Board determines~~
14 ~~that a majority protest exists in connection with a resolution of intent to approve an annual plan,~~
15 ~~pursuant to Section 1586, no further proceedings to establish the same or substantially similar~~
16 ~~modifications proposed by the annual plan shall be initiated for a period of one year from the date of~~
17 ~~the majority protest determination. If the majority protest is only against the furnishing of a specified~~
18 ~~type(s) of enhancement, proceedings to form a district or modify a district may continue as long as such~~
19 ~~enhancement(s) are eliminated from the district plan.~~

20 ~~SUBDIVISION 6~~

21 ~~ESTABLISHMENT OF A DISTRICT~~

22 ~~SEC. 1560. FINDINGS PRIOR TO FINAL DETERMINATION.~~

23 ~~—— (a) —— Majority Protest. Prior to making a final determination on an ordinance forming~~
24 ~~a district or approving an annual plan, the Board shall determine whether a majority protest has been~~
25 ~~presented. In making this determination, the Board shall consider only those protests submitted and not~~

1 ~~withdrawn in accordance with Section 1550 of this Article. Where multiple individuals submit protests~~
2 ~~as owners of a single lot, no more than one protest for the full amount of the assessment proposed~~
3 ~~against that lot shall be counted in the calculation of a majority protest. If assessments are proposed to~~
4 ~~be levied for more than one fiscal year, the Board shall use the proposed assessment for the first fiscal~~
5 ~~year to determine whether a majority protest exists. The Board's determination as to the existence of a~~
6 ~~majority protest shall be final and conclusive.~~

7 ~~—— (b) —— Baseline Service Levels. Where the district plan indicates that assessment~~
8 ~~revenues will be used to pay for improvements, services or activities of a type that has been provided~~
9 ~~with general City revenues in the area proposed for district formation within the previous three years,~~
10 ~~the Board shall make a finding regarding the average annual level of such improvements, services or~~
11 ~~activities so provided during that period. In addition, the Board shall make a finding regarding the~~
12 ~~average level of such improvements, services or activities provided during that period in other~~
13 ~~comparable areas of the City.~~

14 ~~SEC. 1561. FINAL DETERMINATION.~~

15 ~~—— (a) —— Approving District. After making any findings required by Section 1560, the~~
16 ~~Board may adopt an ordinance forming a district or approving an annual plan. An ordinance forming a~~
17 ~~district or approving an annual plan shall contain all of the following:~~

18 ~~—— (1) —— The name of the district;~~

19 ~~—— (2) —— The number, date of adoption, and title of the resolution of intent;~~

20 ~~—— (3) —— The district plan or the annual plan;~~

21 ~~—— (4) —— The time, date and place where the public hearing and final determination~~
22 ~~hearing were held;~~

23 ~~—— (5) —— A finding that the lots within the district will receive special benefit from the~~
24 ~~enhancements and district formation costs financed by the proposed assessment(s);~~

1 ~~—— (6) —— A statement that the district has been formed pursuant to the provisions of this~~
2 ~~Article;~~

3 ~~—— (7) —— A statement of any findings made pursuant to Section 1560 of this Article;~~

4 ~~—— (8) —— A statement that the enhancements provided within the district and district~~
5 ~~formation costs will be funded by the levy of assessments and that the revenue from the levy of~~
6 ~~assessments shall not be used to provide enhancements outside the district or for any purpose other~~
7 ~~than those specified in the district plan or annual plan.~~

8 ~~—— (b) —— Effect of Ordinance Approving District Formation or Modification. The adoption~~
9 ~~of an ordinance forming a district shall constitute the levy of an assessment for the initial year. For any~~
10 ~~subsequent year, the adoption of a resolution approving an annual plan pursuant to Subsection (a) of~~
11 ~~Section 1586, or the adoption of an ordinance approving an annual plan pursuant to Subsection (b) of~~
12 ~~Section 1586 shall constitute the levy of an assessment.~~

13 ~~SUBDIVISION 7~~

14 ~~COLLECTION OF ASSESSMENTS~~

15 ~~SEC. 1570. POSTING OF ASSESSMENTS.~~

16 ~~The Tax Collector shall post an assessment as a separate item on the tax bill. However,~~
17 ~~in any year in which the Controller finds that the level of improvements, services, or activities to be~~
18 ~~financed by an assessment of a type that has been provided in the district area with general City~~
19 ~~revenues and/or which are provided in comparable areas of the City with general City revenues falls~~
20 ~~below the baseline service level found by the Board pursuant to Section 1560(b) of this Article, the Tax~~
21 ~~Collector shall not post the assessment on the tax bill.~~

22 ~~SEC. 1571. COLLECTION OF ASSESSMENTS.~~

23 ~~—— (a) —— Assessments levied on real property shall be collected upon the most recent~~
24 ~~equalized secured and utility tax rolls upon which ad valorem property taxes are collected and shall be~~
25 ~~in addition to all ad valorem property taxes, and shall be collected together with and not separate~~

1 ~~therefrom and shall be enforced in the same manner and by the same persons and at the same time and~~
2 ~~with the same penalties and interest for nonpayment thereof as are ad valorem property taxes. All laws~~
3 ~~applicable to the collection and enforcement of ad valorem property taxes shall be applicable to the~~
4 ~~assessments, and the charged lot, if defaulted for taxes, shall be subject to redemption in the same~~
5 ~~manner as such real property is redeemed from default for ad valorem property taxes, and if not~~
6 ~~redeemed, shall in like manner be subject to sale by the Tax Collector.~~

7 ~~—— (b) —— Assessments levied on possessory interests shall be collected upon the most~~
8 ~~recent unsecured property tax roll and shall be in addition to all of the unsecured property taxes, shall~~
9 ~~be collected together with and not separate therefrom and shall be enforced in the same manner and by~~
10 ~~the same persons and at the same time and with the same penalties and interest for nonpayment thereof~~
11 ~~as are unsecured property taxes. All laws applicable to the collection and enforcement of unsecured~~
12 ~~property taxes shall be applicable to the assessment levy.~~

13 ~~SEC. 1572. OMITTED PROPERTY.~~

14 ~~—— If any property within the district is erroneously omitted from any district plan or annual~~
15 ~~plan, the omitted property shall be charged for the omitted amount in the next fiscal year in addition to~~
16 ~~the amount that shall be owed for that fiscal year, and appropriate provision shall be made in the~~
17 ~~annual plan for the next fiscal year.~~

18 ~~SEC. 1573. LIENS.~~

19 ~~—— (a) —— Except as hereinafter provided, the priority of the lien of any assessment levied~~
20 ~~under this Article shall be governed by Title 5, Division 2, Part 1, Chapter 4, Article 13 of the~~
21 ~~California Government Code, commencing with Section 53930, as amended.~~

22
23 ~~—— (b) —— All assessments and the interest, costs and penalties upon same, levied~~
24 ~~hereunder, shall continue as liens against the lots on which they are levied and imposed until fully paid.~~

25 ~~SUBDIVISION 8~~

1 *DISTRICT MANAGEMENT*

2 *SEC. 1580. DISTRICT MANAGEMENT ASSOCIATION.*

3 *(a) — The district management association identified in the district plan shall be*
4 *incorporated under the California Nonprofit Corporation Law.*

5 *—— (b) — The board of the district management association and any committee of the*
6 *board or of the district management association shall be composed of representatives of owners and*
7 *tenants within the district; provided, however, that not less than a majority of its members shall*
8 *represent owners and provided further that tenants of commercial space and dwelling units within the*
9 *district shall also be represented.*

10 *—— (c) — The district management association and any of its boards and committees shall*
11 *operate as if they were subject to the provisions of the Ralph M. Brown Act (commencing with Section*
12 *54950 of the California Government Code) and the Sunshine Ordinance (commencing with Section*
13 *67.1 of the San Francisco Administrative Code).*

14 *SEC. 1581. CONTRACT/EXPENDITURE OF DISTRICT FUNDS.*

15 *—— The proceeds of any assessment levied pursuant to this Article shall be held by the*
16 *Controller and shall be separately accounted for in the books and records of the City. The City shall*
17 *enter into a contract obliging the district management association to provide the enhancements for a*
18 *specified term. The City shall disburse assessment revenues, minus district formation costs, to the*
19 *district management association in accordance with the budgetary and fiscal provisions of the Charter.*
20 *The district management association shall use best efforts to hire district residents and homeless people*
21 *to perform the work required by the district plan. None of the proceeds collected pursuant to this*
22 *Article shall be used for any purposes other than those set forth in the district plan.*

23 *SEC. 1582. ANNUAL PLAN.*

1 ~~—— (a) —— On or before March 1st of each year, the district management association shall~~
2 ~~file an annual plan with the Clerk for any upcoming fiscal year during which the district plan~~
3 ~~contemplates the levy of an assessment.~~

4 ~~—— (b) —— The annual plan may specify assessment rates for any fiscal year in which no~~
5 ~~rates were established by the district plan and may propose modifications to the district plan. The~~
6 ~~annual plan shall identify the district by name, specify the fiscal year to which it applies, and contain~~
7 ~~the following information:~~

8 ~~—— (1) —— An explanation of any proposed modifications to the district plan. Where such~~
9 ~~modifications would authorize enhancements not contemplated in the district plan, would increase the~~
10 ~~assessment levied upon any lot over amounts previously authorized, or would authorize an assessment~~
11 ~~against any lot not previously subject to assessment, the modification must be explained in sufficient~~
12 ~~detail to allow each owner to estimate the amount of the assessment to be levied against his or her~~
13 ~~property for that fiscal year;~~

14 ~~—— (2) —— An estimate of the costs of providing the enhancements and district formation~~
15 ~~costs for that fiscal year;~~

16 ~~—— (3) —— The amount of any surplus or deficit revenues to be carried over from a previous~~
17 ~~fiscal year;~~

18 ~~—— (4) —— The amount of any contributions to be made from sources other than assessments~~
19 ~~levied pursuant to this Article.~~

20 ~~SEC. 1583. NOTICE OF FILING OF ANNUAL PLAN; RESOLUTION OF INTENT.~~

21 ~~—— (a) —— If the annual plan contains no proposed modifications to the district plan which~~
22 ~~would authorize enhancements not contemplated in the district plan, increase the assessment levied~~
23 ~~upon any lot over amounts previously authorized, or authorize an assessment against any lot not~~
24 ~~previously subject to the levy of an assessment, and if the assessment rates for the specified fiscal year~~
25 ~~have been previously established or reflect a decrease from previously established rates, the clerk shall~~

1 ~~cause notice of the filing of the annual plan and the scheduling of a public hearing to be published~~
2 ~~pursuant to Section 1540 of this Article and posted pursuant to Section 1542 of this Article.~~

3 ~~—— (b) —— If the annual plan proposes modifications to the district plan which would~~
4 ~~authorize enhancements not contemplated in the district plan, increase the assessment levied upon any~~
5 ~~lot over amounts previously authorized or authorize an assessment against any lot not previously~~
6 ~~subject to the levy of an assessment, or if the assessment rates for the specified fiscal year have not~~
7 ~~been previously established, the Board may adopt a resolution of intent to approve the annual plan and~~
8 ~~modify the district plan. The Clerk shall cause notice of the filing of the annual plan, the Board's~~
9 ~~adoption of the Resolution of intent to approve the annual plan and modify the district plan, and the~~
10 ~~scheduling of a public hearing and a final determination hearing to be published pursuant to Section~~
11 ~~1540, and posted pursuant to Section 1542 of this Article. In addition, the Clerk shall provide mailed~~
12 ~~notice, pursuant to Section 1541 of this Article, to any owner affected by the proposed modification(s)~~
13 ~~to the district plan.~~

14 ~~SEC. 1584. HEARING(S) ON ANNUAL PLAN.~~

15 ~~—— If notice of filing of the annual plan may be provided pursuant to Subsection (a) of~~
16 ~~Section 1583, the Board shall conduct a public hearing pursuant to Section 1544. If notice is required~~
17 ~~to be provided pursuant to Subsection (b) of Section 1583, the Board shall conduct a public hearing~~
18 ~~pursuant to Section 1544 and a final determination hearing pursuant to Section 1545.~~

19 ~~SEC. 1585. PROTESTS TO ANNUAL PLAN.~~

20 ~~—— (a) —— If notice is required to be provided pursuant to Subsection (b) of Section 1583,~~
21 ~~those owners affected by the modification proposed by the annual plan may submit a protest regarding~~
22 ~~the proposed modification. The time for such protests shall be governed by Section 1550, and the form~~
23 ~~of such protests shall be governed by Section 1551 of this Article.~~

24 ~~—— (b) —— Any protest not made at the time or in the manner provided herein shall be~~
25 ~~deemed to be waived voluntarily and the person(s) who might have protested shall be deemed to have~~

1 *consented to the assessment for that fiscal year, to any proposed modifications and to any other act,*
2 *determination, or proceedings on which a protest or objection could have been made.*

3 *——— (c) ——— Protests shall be considered and passed upon by the Board in the same manner*
4 *and with like effect as provided in Subdivision 5 and in Section 1560 of this Article.*

5 ~~SEC. 1586. APPROVAL OF ANNUAL PLAN.~~

6 *——— (a) ——— If notice of filing of the annual plan may be provided pursuant to Subsection (a)*
7 *of Section 1583, the annual plan shall be reviewed by the Board at the public hearing, and may be*
8 *approved and adopted by resolution. The adoption of the resolution shall constitute the levy of an*
9 *assessment for the fiscal year specified in the annual plan.*

10 *——— (b) ——— If notice of filing of the annual plan is required to be provided pursuant to*
11 *Subsection (b) of Section 1583, the annual plan shall be reviewed by the Board at a public hearing and*
12 *a final determination hearing and may be approved and adopted by ordinance. The adoption of the*
13 *ordinance shall constitute the levy of an assessment for the fiscal year specified in the annual plan.*

14 ~~SEC. 1587. MODIFICATIONS TO DISTRICT PLAN.~~

15 *——— (a) ——— The district management association may, at any time, request in writing that the*
16 *Board modify the boundaries, assessments, improvements or activities provided for in the district plan.*
17 *The Board shall consider any such written request to modify the district plan in the same manner, and*
18 *with the same notice, hearings, and opportunity for protests as provided in this Article for the*
19 *consideration of an annual plan.*

20 *——— (b) ——— Any modification of district boundaries or benefit zones shall be reflected in*
21 *subsequent notices and maps.*

22 ~~SEC. 1588. RULES AND REGULATIONS.~~

23 *——— Subject to approval, disapproval or amendment by the Board, the Mayor's Office of*
24 *Business and Community Services shall have power to adopt rules and regulations, not inconsistent*
25 *with the provisions of this Article, to administer the initiation, formation, management and expiration*

1 ~~of districts and the levy and collection of assessments under this Article until such time as the Board~~
2 ~~designates another City office or department to perform this function. Such rules and regulations shall~~
3 ~~be available for public examination in the Mayor's Office of Business and Community Services, or any~~
4 ~~other office or department is designated by the Board to adopt rules and regulations. The Mayor's~~
5 ~~Office of Business and Community Services shall consult with the Human Rights Commission to ensure~~
6 ~~that the rules and regulations adopted pursuant to this Section are consistent with the City's human~~
7 ~~rights policies.~~

8 ~~SUBDIVISION 9~~

9 ~~DISTRICT EXPIRATION~~

10 ~~SEC. 1590. EXPIRATION AND REFORMATION.~~

11 ~~—— Any district formed pursuant to this Article shall expire automatically upon expiration of~~
12 ~~the term provided in the district plan, which term shall not exceed five years. Any district formed~~
13 ~~pursuant to this Article may be reformed by the initiation of proceedings pursuant to Section 1532 of~~
14 ~~this Article.~~

15 ~~SEC. 1591. DISESTABLISHMENT.~~

16 ~~—— (a) Any district established pursuant to the provisions of this Article, where there is~~
17 ~~no indebtedness, outstanding and unpaid, incurred to accomplish any of the purposes of the district,~~
18 ~~may be disestablished by ordinance of the Board in either of the following circumstances:~~

19 ~~—— (1) If the Board finds that there has been misappropriation of funds, malfeasance, or~~
20 ~~a violation of law in connection with the management of the district, it shall adopt a resolution~~
21 ~~declaring its intent to disestablish the district.~~

22 ~~—— (2) During the operation of the district there shall be a 30-day period each year in~~
23 ~~which owners may request disestablishment of the district. The first such period shall begin one year~~
24 ~~after the date of the formation of the district and shall continue for 30 days. The next such 30-day~~
25 ~~period shall begin two years after the date of formation of the district. Each successive year of~~

1 ~~operation of the district shall have such a 30-day period. Upon the written petition of owners who pay~~
2 ~~50 percent or more of the assessments levied, the Board may adopt a resolution declaring its intent to~~
3 ~~disestablish the district. The resolution shall state the reason for disestablishment.~~

4 ~~———— (b) ——— The Board shall publish and post notice of adoption of a resolution declaring its~~
5 ~~intent to disestablish the district and notice of a public hearing on disestablishment pursuant to~~
6 ~~Sections 1540, 1542, 1543, 1544, and 1546 of this Article. The public hearing shall be held not more~~
7 ~~than 30 days after the adoption of the resolution.~~

8 ~~———— (c) ——— The Board may request and consider the recommendations of the district~~
9 ~~management association concerning any proposed disestablishment; provided that if the association~~
10 ~~has not submitted recommendations to the Board within 60 days after request thereof, the Board may~~
11 ~~adopt an ordinance disestablishing the district without considering such recommendations.~~

12 ~~———— (d) ——— Upon the disestablishment of a district, any remaining revenues derived from the~~
13 ~~levy of assessments shall be refunded to owners by applying the same method and basis that was used~~
14 ~~to calculate the assessment levied in the fiscal year during which the district was disestablished. If the~~
15 ~~disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that~~
16 ~~was used to calculate the assessment levied in the immediate prior fiscal year shall be used to calculate~~
17 ~~the amount of any refund. In the event of district expiration or disestablishment, all assets of the district~~
18 ~~shall revert to the City.~~

19 ~~(e) ——— Notice of the disestablishment shall be published once in a newspaper of general~~
20 ~~circulation in the City, not later than 15 days after the ordinance disestablishing the district is adopted.~~

21 APPROVED AS TO FORM:
22 DENNIS J. HERRERA, City Attorney

23 By: _____
24 DAVID A. GREENBURG
25 Deputy City Attorney