

1 [Resolution to Establish - Excelsior Community Benefit District]

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3 **Resolution to establish the property-based business improvement district known as**  
4 **the “Excelsior Community Benefit District,” ordering the levy and collection of**  
5 **assessments against property located in that district for 10 years commencing with**  
6 **Fiscal Year 2023-2024, subject to conditions as specified, and making environmental**  
7 **findings.**

8

9 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,  
10 California Streets and Highways Code, Sections 36600 et seq. ("1994 Act"), as augmented by  
11 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), collectively,  
12 the “Business Assessment Law,” the Board of Supervisors adopted Resolution No. 235-23,  
13 entitled “Resolution declaring the intention of the Board of Supervisors to establish a property-  
14 based business improvement district known as the ‘Excelsior Community Benefit District’ and  
15 levy a multi-year assessment on all parcels in the district; approving the management district  
16 plan and engineer’s report, and proposed boundaries map for the district; ordering and setting  
17 a time and place for a public hearing thereon; approving the form of the Notice of Public  
18 Hearing and Assessment Ballot Proceeding, and Assessment Ballot; directing environmental  
19 findings; and directing the Clerk of the Board of Supervisors to give notice of the public  
20 hearing and balloting as required by law” (the "Resolution of Intention," Board of Supervisors  
21 File No. 230386); and

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

1 Assessment Ballot Proceeding, that are all on file with Clerk of the Board of Supervisors in  
2 File No. 230386; and

3 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning  
4 the proposed formation of the Excelsior CBD, and the proposed levy of assessments against  
5 property located within the District for a period of 10 years, from Fiscal Years (“FYs”) 2023-  
6 2024 through 2032-2033; 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 District Management Plan was filed with the Board on April 4, 2023,  
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 March 2023 was filed with the Clerk of  
13 the Board on April 4, 2023, as prepared by Terrence E. Lowell, California Registered  
14 Professional Engineer No. 13398, entitled "Excelsior 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 April 4,  
18 2023; and

19 WHEREAS, A public hearing concerning the proposed formation of the Excelsior CBD  
20 and the proposed levy of assessments within such District was held pursuant to the notice on  
21 July 11, 2023, at 3:00 p.m., in the Board's Legislative Chamber located on the Second Floor  
22 of City Hall, 1 Dr. 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 Downtown 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 March  
20 2023 Management District Plan and District Assessment Engineer's Report, including the  
21 estimates of the costs of the property-related services, activities and improvements set forth in  
22 the plan, and the assessment of said costs on the properties that will specially benefit from  
23 such services, activities and improvements. The Board also hereby approves the March 2023  
24 Boundaries, showing the exterior boundaries of the District, and ratifies and approves the  
25 Assessment Ballot and the City's use of such ballot, which Assessment Ballot is on file with

1 the Clerk of the Board of Supervisors in File No. 230386 and is hereby declared to be a part of  
2 the Resolution as if set forth fully herein. A copy of the March 2023 Management District  
3 Plan, the District Assessment Engineer's Report, and the Boundaries Map are on file with the  
4 Clerk of the Board of Supervisors in File No. 230386, which is hereby declared to be a part of  
5 this Resolution as if 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 Excelsior 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 "Excelsior  
13 Community Benefit District" is hereby established.

14 **Section 4. DESCRIPTION OF DISTRICT.** The Excelsior Community Benefit District  
15 shall include all parcels of real property within the district. The proposed District contains  
16 approximately 195 identified parcels located on approximately 17 whole or partial blocks.

- 17 Specifically, the exterior District boundaries are:
- 18 • Parcels facing on both sides of Mission. Parcels included on Mission begin at Silver  
19 Avenue in the north and continue to France Avenue in the south.
  - 20 • Parcels on Onondaga Avenue between Alemany Boulevard and Mission Street are  
21 included.

22 Reference should be made to the detailed maps and the lists of parcels identified by  
23 Assessor Parcel Number that are contained in the April 2019 Management District Plan, in  
24 order to determine which specific parcels are included in the Downtown Community Benefit  
25 District.

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

4           **Section 6. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to  
5 pay for the activities to be provided within the District, commencing with FY2023-2024, and  
6 continuing for 10 years, ending with FY2032-2033. For purposes of levying and collecting  
7 assessments within the District, a fiscal year shall commence on each July 1st and end on the  
8 following June 30th.

9           (b) The amount of the proposed assessments to be levied and collected for fiscal  
10 year 2023-2024 shall be a maximum of \$340,762.50 (as shown in the Management District  
11 Plan dated March 2023 and Engineer's Report dated March 2023). The amount of  
12 assessments to be levied and collected in fiscal years two through 10 may be increased  
13 annually by the Excelsior Community Benefit District corporation Board of Directors by the  
14 amount not to exceed that year's increase in the San Francisco, Oakland, and San Jose area  
15 Consumer Price Index with approval of the Owners' Association Board of Directors.  
16 Assessments may also increase over time if changes to the parcels result in the parcels being  
17 assigned additional benefit points.

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

20           (1) The levy of the assessments shall commence with fiscal year 2023-2024. Each  
21 year the assessment shall be due and payable in two equal installments. The first installment  
22 shall be due on November 1 of each fiscal year during the life of the District, and shall become  
23 delinquent on December 10 of that fiscal year. The second installment shall be due on  
24 February 1 of each fiscal year during the life of the District, and shall become delinquent on  
25 April 10 of that fiscal year.

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

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

10 **Clean & Beautiful.** Clean & Beautiful includes, but is not limited to, sidewalk and gutter  
11 sweeping, sidewalk pressure washing, trash removal, graffiti removal, and landscape  
12 maintenance.

13 **Marketing and Economic Development.** Marketing and Economic Development  
14 Improvements include, but is not limited to, promoting local businesses, attracting tenants  
15 through advertising, branding of the Excelsior CBD parcels, storefront improvement efforts,  
16 management and coordination of special event, marketing, managing media relations,  
17 maintaining website, conducting district stakeholder outreach, activating public spaces in the  
18 District that may be developed, and creating a program of temporary, permanent and  
19 performing art and art workspaces. .

20 **Administration.** Administration includes, but is not limited to, staff and administrative  
21 costs, advocacy to ensure that City and County services and policies support the Excelsior  
22 CBD, paying for grant writing expenses, office expenses, professional services, organizational  
23 expenses such as insurance, and a yearly financial review.

24 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract  
25 with a separate private entity to administer the improvements, services and activities set forth

1 in Section 7, as provided in California Streets and Highways Code, Sections 36612 and  
2 36650. Any such entity shall hold the funds it receives from the City and County of San  
3 Francisco ("City") in trust for the improvements, services and activities set forth in Section 7.  
4 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no  
5 expense to the City, a balance sheet and the related statement of income and cash flows for  
6 each fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public  
7 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.  
8 In addition, or alternatively, the Controller in his or her discretion or the Office of Economic  
9 and Workforce Development in its discretion, may require the private entity to deliver, at no  
10 expense to the City, an annual independent audit report by a Certified Public Accountant of all  
11 such funds. The CPA review and/or audit may be funded from assessment proceeds as part  
12 of the general administration of the District. At all times the Board of Supervisors shall  
13 reserve full rights of accounting of these funds. The Office of Economic and Workforce  
14 Development shall be the City agency responsible for coordination between the City and the  
15 District.

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

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

23 **Section 11. LEVY OF ASSESSMENT.** The adoption of this Resolution and  
24 recordation of the notice and assessment diagram pursuant to Section 36627 of the California  
25 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years

1 referred to in the District Management Plan. Each year, the Assessor shall enter on the  
2 County Assessment Roll opposite each lot or parcel of land the amount of the assessment  
3 and such assessment shall be collected in the same manner as the County property taxes are  
4 collected.

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

12 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has  
13 determined that the actions contemplated in this Resolution are in compliance with the  
14 California Environmental Quality Act (California Public Resources Code, Sections 21000 *et*  
15 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File No.  
16 230515, which is hereby declared to be a part of this Resolution as if set forth fully herein.