

1 [Resolution of Intention to form the Fillmore Jazz District Community Benefit District]

2
3 **Resolution (1) declaring the intention of the Board of Supervisors to establish a**
4 **property-based business improvement district (community benefit district) to be known**
5 **as the “Fillmore Jazz District Community Benefit District” and order the levy and**
6 **collection of a multi-year assessment on identified parcels in the district, (2) approving**
7 **the management district plan and engineer's report for the district, (3) ordering and**
8 **setting a time and place for a public hearing thereon, (4) approving the form of the**
9 **Notice of Public Hearing and Assessment Ballots, and (5) directing the Clerk of the**
10 **Board of Supervisors to give notice of the public hearing as required by law.**

11
12 WHEREAS, The Property and Business Improvement District Law of 1994, Part 7 of
13 Division 18 of the California Streets and Highways Code, commencing with Section 36600
14 (the "Law"), authorizes cities to establish property and business improvement districts within
15 business districts to promote the economic revitalization and physical maintenance of such
16 business districts; and

17 WHEREAS, Section 36603 of the Law recognizes the authority of Charter cities to
18 adopt ordinances providing for different methods of levying assessments for similar or
19 additional purposes from those set forth in the Law; and

20 WHEREAS, Article 15 of the San Francisco Business and Tax Regulation Code
21 ("Article 15") augments certain procedural and substantive requirements relating to the
22 formation of property and business improvement districts and the assessments on real
23 property or businesses within such districts; and

24 WHEREAS, The Law and Article 15 authorize the City to levy and collect assessments
25 on real property within such districts for the purpose of providing improvements and promoting

1 activities and property-related services that specially benefit identified parcels of real property
2 located within such districts; and

3 WHEREAS, Article XIID of the California Constitution and Section 53753 of the
4 California Government Code impose certain procedural and substantive requirements relating
5 to assessments on real property; and

6 WHEREAS, The Law and Article 15 impose additional procedural and substantive
7 requirements relating to assessments on real property within a proposed property and
8 business improvement district, also known as a community benefit district ("CBD"); and

9 WHEREAS, The Board of Supervisors finds that the property-related services, activities
10 and improvements to be funded with assessments on real property within the proposed district
11 will confer substantial special benefits to the assessed properties over and above the general
12 benefits to the public at large from such services, activities and improvements; and

13 WHEREAS, The property owners who will pay more than 30 percent of the total
14 amount of assessments on properties within the proposed district signed and submitted to the
15 Clerk of the Board of Supervisors a petition (the "Petition") requesting that the Board of
16 Supervisors establish a property-based community benefit district to be named the "Fillmore
17 Jazz District Community Benefit District," and to levy assessments on properties located in
18 the proposed district to fund property-related services, activities and improvements within the
19 district; and

20 WHEREAS, A Management District Plan entitled the "Fillmore Jazz District Community
21 Benefit District Management District Plan" containing information about the proposed district
22 and assessments required by Section 36622 of the Law, including but not limited to a map
23 showing all identified parcels located in the district, a description of the boundaries of the
24 district, the name of the district, the amount of the proposed assessment for each identified
25 parcel, the total annual amount chargeable to the entire district, the duration of the payments,

1 the property-related services, activities and improvements to be funded by the assessments
2 for each year and the maximum cost thereof, the method and basis upon which the
3 assessments are calculated in sufficient detail to allow each property owner to calculate the
4 amount of the assessment to be levied against his or her property, a statement that no bonds
5 will be issued, the time and manner of collecting the assessments, and a list of the properties
6 to be assessed (including assessor parcel numbers), has been submitted to the Clerk of the
7 Board of Supervisors; and

8 WHEREAS, A detailed engineer's report supporting the assessments within the
9 proposed district, prepared by Edward V. Henning, California Registered Professional
10 Engineer # 26549, dated June 21, 2006, Edward Henning & Associates, entitled "Fillmore
11 Jazz District Community Benefit District, City and County of San Francisco, California, District
12 Assessment Engineer's Report" has been submitted to the Clerk of the Board of Supervisors;
13 now, therefore, be it

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

15 Section 1. Pursuant to section 36621(a) of the Law and Article 15, the Board of
16 Supervisors declares its intention to form a property and business improvement district to be
17 designated as the "Fillmore Jazz District Community Benefit District" (the "District") for a
18 period of ~~45~~ five years, and to levy and collect assessments against all identified parcels of
19 real property in the District for a period of ~~45~~ five years, commencing with fiscal year 2006-
20 2007, subject to approval by a majority of the property owners in the District who cast
21 assessment ballots, which ballots shall be weighted according to the proportional financial
22 obligations of the affected properties. No bonds will be issued. District operations will
23 commence on or about January 1, 2007, following collection of the assessments for fiscal
24 year 2006-2007 and disbursement of the assessment proceeds to the nonprofit owners'
25 association that will administer the property-related services, activities and improvements in

1 the District pursuant to Section 36651 of the Law and a written agreement with the City. The
2 Management District Plan shall be amended to reflect the reduction in the proposed term of
3 the District from 15 years to five years.

4 Section 2. With the amendments to be incorporated in the Management District Plan
5 set forth below, the The Board of Supervisors hereby approves the Management District Plan
6 ~~and District Assessment Engineer's Report~~, including the estimates of the costs of the
7 property-related services, activities and improvements set forth in the plan, and the
8 assessment of said costs on the properties that will specially benefit from such services,
9 activities and improvements. The Board of Supervisors will consider the District Assessment
10 Engineer's Report prior to or during the public hearing on the District after the Board receives
11 an amended engineer's report reflecting the amendments to the Management District Plan
12 required by this Resolution. A copy of the Management District Plan ~~and the District~~
13 ~~Assessment Engineer's Report~~ is on file with the Clerk of the Board of Supervisors in File
14 No. 060858. The Clerk of the Board shall make the Management District Plan, ~~District~~
15 ~~Assessment Engineer's Report~~ and other documents related to the District and included in the
16 record before the Board of Supervisors available to the public for review during normal
17 business hours, Monday through Friday 8:00 a.m. through 5:00 p.m., excluding legal holidays.

18 The Management District Plan shall be amended to require the following:

19 (i) The annual report submitted to the Board of Supervisors under Streets and
20 Highways Code Section 36650 shall report on all hardship waivers or reductions requested,
21 the waivers and reductions granted in the prior year, the criteria used by the owners'
22 association to make decisions thereon, and the criteria to be used to decide such requests in
23 the following fiscal year;

24 (ii) Thirty percent (30%) of the board of directors of the owners' association shall be
25 individuals who do not own property in the District and are not merchants within the District;

1 (iii) The owner's association, in cooperation with the Mayor's Office of
2 Economic and Workforce Development, shall include in the annual report an analysis of any
3 pass-through of assessments from the property owners to the tenants.

4 Section 3. The exterior boundaries of the District are as set forth in the map
5 contained in the Management District Plan, as amended, on file with the Clerk of the Board of
6 Supervisors in File No. 060858, and incorporated herein by reference. The District contains
7 ~~306~~ 303 identified parcels in the Fillmore Jazz District area. The exterior boundaries of the
8 District include all parcels on both sides of the street unless otherwise noted, as follows:

9 Avery Street: from Post St. to Geary Blvd.;

10 Eddy Street: from Steiner St. to Webster St.;

11 Ellis Street: from Steiner St. to Webster St.;

12 Fillmore St.: from Post St. to Golden Gate Ave. (West side only from Post St. to Geary Blvd.;

13 Geary Blvd., from Steiner St. to Webster St.;

14 Golden Gate Avenue: from Steiner St. to Webster St. (North side only);

15 O'Farrell Street: from Steiner St. to Fillmore St.;

16 Post Street: from Steiner St. to Fillmore St.;

17 Steiner Street: from Golden Gate Ave. to Geary Blvd. (East side only) (excluding the parcel
18 on the Southeast corner of Steiner St. and O'Farrell St., and the two parcels on Steiner
19 St. immediately to the South, Block 726, lots 13, 14 and 14A);

20 Turk Street: from Steiner St. to Webster St.;

21 Webster Street.: from Golden Gate Ave. to Geary Blvd. (West side only).

22 Reference should be made to the detailed map and the list of parcels identified by
23 Assessor Parcel Number contained in the Management District Plan, as amended, in order to
24 determine which specific parcels are included in the District.

1 Section 4. A public hearing on the establishment of the District, and the levy and
2 collection of assessments starting with fiscal year 2006-2007 and continuing through fiscal
3 year 2010-2011 ~~2020-2024~~, shall be conducted before the Board of Supervisors on August
4 15, 2006 at 3:00 p.m., or as soon thereafter as the matter may be heard, in the Board's
5 Legislative Chambers, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place, San
6 Francisco, California, 94102. At this public hearing, the Board of Supervisors will hear public
7 testimony regarding the proposed formation of the District, assessments, boundaries of the
8 District, including testimony from all interested persons for or against establishment of the
9 District, the extent of the District, the levy of the assessments, the furnishing of specific types
10 of property-related services, improvements and activities, and other matters related to the
11 District. The Board of Supervisors may waive any irregularity in the form or content of any
12 written protest, and at the public hearing may correct minor defects in the proceedings. All
13 protests submitted by affected property owners and received prior to the conclusion of the
14 public testimony portion of the public hearing shall be tabulated to determine whether a
15 majority protest exists.

16 Section 5. The Board of Supervisors hereby approves the form of the Notice of
17 Public Hearing and Assessment Ballot, as amended to reflect the amendments to the
18 Management District Plan required by this resolution, which are on file with the Clerk of the
19 Board of Supervisors in File No. 060858.

20 Section 6. The proposed property-related services, improvements or activities for
21 the District include a Sidewalk Operations, Beautification and Order component, consisting of
22 regular sidewalk and gutter sweeping, periodic sidewalk steam cleaning, spot steam cleaning
23 as necessary, safe passage programs for visitors and employees, private security services,
24 beautification, decorations; supplemental trash removal in the public rights of way, removal of
25 bulky items, graffiti removal, installation and maintenance of banners and/or decorations, tree

1 and plant maintenance and planting, equipment, supplies, tools, vehicle maintenance and
2 insurance, salaries, benefits, payroll expenses related to maintenance staff and supervision,
3 and maintenance of sidewalk furnishings; a District Identity and Streetscape
4 Improvements/Marketing and Promotions component, consisting of special events, marketing
5 and promotions strategies, personnel related to marketing and promotions, logo development
6 and web site, pedestrian kiosks and way-finding signage system, public space planning and
7 implementation, farmer's market, walking map, advertising, historical markers and public art,
8 and replacement and upgrading of street furnishings; an Administrative, Organization and
9 Corporate Operations component, consisting of staff and administrative costs, insurance,
10 office related expenses, financial reporting, and communications; and a Contingency and
11 Reserve component for delinquencies due to non-payment of assessments by property
12 owners; hardship contributions; and unallocated reserves.

13 Section 7. Within the area encompassed by the proposed District, the City currently
14 provides services at the same level provided to other similar areas of the City. It is the intent
15 of the Board of Supervisors to continue to provide the area encompassed by the District with
16 the same level of services provided to these other similar areas of the City. The
17 establishment of the District will not affect the City's policy to continue to provide the same
18 level of service to the areas encompassed by the District as it provides to other similar areas
19 of the City during the duration of the District.

20 Section 8. The annual assessment proposed to be levied and collected for the first
21 five years of the District (fiscal year 2006-2007 through fiscal year 2010-2011) is
22 \$311,114~~\$315,361~~. ~~The amount of the annual assessment to be levied and collected for~~
23 ~~years six through fifteen (fiscal years 2011-2012 through fiscal year 2020-2021) may be~~
24 ~~increased from one year to the next by a percentage that does not exceed either the change~~
25

1 in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San
2 Jose Consolidated Metropolitan Statistical Area, or 5 percent, whichever is less.

3 Section 9. The Clerk of the Board is directed to give notice of the public hearing as
4 provided in Section 53753 of the Government Code, Section 4 of Article XIID of the California
5 Constitution, Section 16.112 of the San Francisco Charter and Section 67.7-1 of the San
6 Francisco Administrative Code.

7 Section 10. The Department of Elections and City Attorney's Office shall amend the
8 Notice of Public Hearing and Assessment Ballot to reflect the changes to the Management
9 District Plan required by this Resolution.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25