

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 and including an amended Boundaries Map, on file with the Clerk of the Board of
13 Supervisors in File No. 111008, which is hereby declared to be a part of this Resolution as if
14 set forth fully herein; and,

15 WHEREAS, An amended Engineer's Report dated September 27, 2011 was filed with
16 the Clerk of the Board on September 27, 2011, as prepared by Terrance E. Lowell, California
17 Registered Professional Engineer No. 13398, titled "West Portal Community Benefit District
18 Engineer's Report," supporting the assessments within the proposed district, on file with the
19 Clerk of the Board of Supervisors in File No 111008, which is hereby declared to be a part of
20 this Resolution as if set forth fully herein; and,

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

1 improvements will be provided on a January 1 to December 31 calendar year basis (calendar
2 year 2012 through calendar year 2024), by slightly reducing the boundary on the west side of
3 West Portal Avenue near 15th Street (removing Parcels No. 2483-012 and 2483-013, a/k/a
4 380 and 398 West Portal Avenue). and by providing certain clerical clarifications; and,

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

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

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

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

23 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
24 will be specially benefited by the services, activities and improvements funded by the
25 assessments; and no assessment has been imposed on any parcel which exceeds the

1 reasonable cost of the proportional special benefit conferred on that parcel; now therefore
2 be it

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

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

5 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
6 Management District Plan and District Assessment Engineer's Report as each amended
7 September 27, 2011, including the estimates of the costs of the property-related services,
8 activities and improvements set forth in the plan, and the assessment of said costs on the
9 properties that will specially benefit from such services, activities and improvements. The
10 Board also hereby approves the Boundaries Map ~~dated May 17~~ as amended September 27,
11 2011, showing the exterior boundaries of the District. A copy of the Management District
12 Plan, Boundaries Map, and the District Assessment Engineer's Report as each amended
13 September 27, 2011, ~~and the Boundaries Map dated May 17, 2011,~~ are all on file with the
14 Clerk of the Board of Supervisors in File No. 111008, which are hereby declared to be a part
15 of this Resolution as if set forth fully herein.

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

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

24 **Section 4. DESCRIPTION OF DISTRICT.** The West Portal Community Benefit
25 District shall include all parcels of real property within the district. The proposed District

1 contains approximately ~~84~~ 82 identified parcels located on approximately three (3) linear
2 blocks in the central business area of West Portal Avenue. The exterior boundaries of the
3 District encompass all parcels that front West Portal Avenue between Ulloa Street and 15th
4 Avenue, except not Parcel No. 2483-013 (380 West Portal Avenue) or Parcel No. 2483-013
5 (398 West Portal Avenue); and in addition include the public library, the Muni transfer station,
6 and the parcels on both sides of Ulloa Street between West Portal Avenue and Claremont
7 Boulevard.

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

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

14 **Section 6. SYSTEM OF ASSESSMENTS.**

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

21 (b) The total amount of the proposed assessments to be levied and collected for
22 fiscal year 2011-2012 shall be ~~\$198,000~~ \$193,210 as shown in the Management District Plan
23 and Engineer's Report, as each amended September 27, 2011. The amount of assessments
24 to be levied and collected in fiscal years two (2) through thirteen (13) may be increased
25 annually by the Board of Directors of the District by an amount not to exceed the change in

1 the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
2 Consolidated Metropolitan Statistical Area, or three percent (3%), whichever is less.

3 (c) The method and basis of levying and collecting the assessment shall be as set
4 forth in the Management District Plan. The levy of the assessments shall commence with
5 fiscal year 2011-2012. Each year the assessment shall be due and payable in two equal
6 installments. The first installment shall be due on November 1 of each fiscal year during the
7 life of the District, and shall become delinquent on December 10 of that fiscal year. The
8 second installment shall be due on February 1 of each fiscal year during the life of the District,
9 and shall become delinquent on April 10 of that fiscal year. Except that, for Fiscal Year
10 2011-2012 only, the City will send out a separate direct bill to each property owner for
11 payment of the assessment amount.

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

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

19 A. Maintenance and Streetscape Improvements:

20 The Maintenance and Streetscape Improvements Program will provide a cleaner and
21 more aesthetically appealing environment for businesses, employees and pedestrians. CBD
22 maintenance teams will provide enhanced cleaning services, including sidewalk sweeping and
23 litter removal, power washing and scrubbing of sidewalks, removal of illegal
24 signs/posters/stickers, and graffiti removal. In addition, the CBD will undertake efforts to
25 beautify the public right-of-way streetscape and provide maintenance, which may include such

1 items as seasonal banners, flower baskets, tree installation, and other beautification efforts.

2 B. Economic Development:

3 The Economic Development program will provide activities to support the growth and
4 vitality of existing businesses, attract new businesses, and enhance the image of West Portal
5 as a destination for consumer and investment revenues. CBD funds will be used for market
6 and demographic research, to identify what is needed to attract future development and
7 investment. This program will identify the types of businesses and activities that are missing
8 and needed in the West Portal business corridor. A variety of options will be developed, that
9 may include:

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

19 C. Advocacy and Administration:

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

1 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
2 with a separate private entity to administer the services, activities and improvements set forth
3 in Section 7, as provided in California Streets and Highways Code §36614.5 and §36650.
4 Any such entity shall hold the funds it receives from the City and County of San Francisco
5 ("City") in trust for the services, activities and improvements set forth in Section 7. Any such
6 entity that holds funds in trust for purposes related to the contract shall deliver, at no expense
7 to the City, a balance sheet and the related statement of income and cash flows for each
8 fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public
9 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.
10 In addition, or alternatively, the Controller or the Office of Economic and Workforce
11 Development may in their discretion require the private entity to deliver, at no expense to the
12 City, an annual independent audit report by a Certified Public Accountant of all such funds.
13 The CPA review and/or audit may be funded from assessment proceeds as part of the
14 general administration of the District. At all times the Board of Supervisors shall reserve full
15 rights of accounting of these funds. The Office of Economic and Workforce Development
16 shall be the City agency responsible for coordination between the City and the District.

17 **Section 9. AMENDMENTS.** The properties in the District established by this
18 Resolution shall be subject to any amendments to the Act 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 District's

1 fiscal years identified in the District Management Plan. Each year the Assessor shall enter
2 the amount of the assessment on the County Assessment Roll opposite each lot or parcel of
3 land in the District, and such assessment shall be collected in the same manner as the
4 County property taxes are collected; except that, for Fiscal Year 2011-2012 only, the City will
5 send out a separate direct bill to each property owner for payment of the assessment amount.

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

13 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
14 determined that the actions contemplated in this Resolution are in compliance with the
15 California Environmental Quality Act (California Public Resources Code §§21000 *et seq.*).
16 Said determination is on file with the Clerk of the Board of Supervisors in File
17 No. 111008, which is hereby declared to be a part of this Resolution as if set forth
18 fully herein.

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