

1 [Resolution to Establish the Ocean Avenue Community Benefits District]

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3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “Ocean Avenue Community Benefits District,” ordering the levy and collection**
5 **of assessments against property located in that district for fifteen years commencing**
6 **with FY2010-2011, subject to conditions as specified, and making environmental**
7 **findings.**

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9 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
10 California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as augmented by
11 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board
12 of Supervisors adopted Resolution No. 437-10 on September 28, 2010, entitled “Resolution
13 declaring the intention of the Board of Supervisors to establish a property-based business
14 improvement district to be known as the "Ocean Avenue Community Benefits District (CBD),"

15 to order the levy and collection of a multi-year assessment, and setting a time and place for a
16 public hearing thereon” (the "Resolution of Intention"); and,

17 WHEREAS, The Resolution of Intention for the Ocean Avenue Community Benefits
18 District (the "Ocean Avenue CBD" or "District"), among other things, approved the Ocean
19 Avenue Community Benefits District Management District Plan (the " Management District
20 Plan") as amended September 22, 2010, the District Assessment Engineer's Report as
21 amended September 22, 2010, and the form of the Assessment Ballots and the Notice of
22 Public Hearing, that are all on file with Clerk of the Board of Supervisors in File No. 100991;
23 and,

24 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
25 the proposed formation of the Ocean Avenue CBD, and the proposed levy of assessments

1 against property located within the District for a period of fifteen years, for fiscal years 2010-
2 2011 through 2024-2025; and,

3 WHEREAS, The Board of Supervisors has caused ballots to be mailed to the record
4 owner of each parcel proposed to be assessed within the District, as required by law; and,

5 WHEREAS, The District will include a parcel currently known as the Phelan Loop
6 Parcel, that is described in the Management District Plan as amended September 22, 2010
7 (on file with the Clerk of the Board of Supervisors in BOS File No. 100991), at pages 17-18,
8 as follows, including an exempted use (emergency water storage) for part of the property and
9 anticipated future development plans:

10 "Zone 1 Phelan Loop Parcel"

11 The Phelan Loop Parcel number 3180-001 is undergoing a major re-
12 development and is expected to be subdivided into various parcels in the near future.
13 The project under development consists of a new public plaza and the reconfiguration
14 of a multi-line MUNI bus transit turn-around, a new mixed-use housing and retail
15 development, an expanded City College campus, upgrades to the existing fire station,
16 an expansion of Lee Avenue, a reconfigured emergency water reservoir area and
17 possibly new reservoir facilities and new open recreation fields. The new plaza,
18 featuring improved pedestrian and public amenities and space for public events, will
19 provide a public open space to connect thousands of pedestrians and transit riders to
20 the multi-line bus turnaround, to the planned new housing development, to the planned
21 City College new expanded campus, and to the Ocean Avenue neighborhood
22 commercial district.

23 Currently, parcel number 3180-001 is used for multiple purposes, including the
24 Municipal Transportation Agency bus turnaround and waiting area, parking lots, a fire
25 station, open space/landscaped areas, Public Utility Commission empty water

1 reservoirs, and City College. All of the sidewalks fronting the Phelan Loop Parcel and
2 Phelan Loop reconfigured parcels along Ocean Avenue and the sidewalk area
3 wrapping around to Phelan Avenue in front of the corner landscaped garden area and
4 in front of the proposed Bus turnaround's Phelan Avenue edge will receive cleaning
5 and maintenance services, and will be assessed on the length of the linear frontage of
6 the fronting sidewalk. The sidewalks fronting the proposed expanded City College
7 Campus area along Phelan Avenue will not receive Ocean Avenue CBD services and
8 will not be assessed on their linear frontage.

9 The MUNI bus turnaround will receive cleaning and landscaping services from
10 the Ocean Avenue CBD and will be charged for the square footage internal to the site
11 that will receive maintenance and cleaning services from the Ocean Avenue CBD.

12 The corner landscaped garden area of the Phelan Loop Parcel at Ocean
13 Avenue will receive gardening and maintenance services from the Ocean Avenue CBD
14 and its square footage will be subject to an additional assessment to pay for this
15 additional level of service.

16 The Phelan Plaza will link the existing commercial district to persons working
17 and studying at the expanded City College campus and living in the 250 units of new
18 housing which are under development. Due to these developments which are
19 underway, thousands of new people will be coming to the Ocean Avenue commercial
20 district. The Ocean Avenue CBD will host and manage special events at the Phelan
21 Loop public plaza which is under development. The Ocean Avenue CBD marketing and
22 promotion services will make sure new visitors, employees, students and residents
23 know where to shop and eat and will help them enjoy their experience along Ocean
24 Avenue and at the public plaza. City College, the adjacent housing development and
25 ground floor retail fronting the plaza will benefit from an activated, safe and maintained

1 plaza at the entrance to their properties therefore their lot size will be assessed to help
2 fund the plaza activation and management services. Commercial building square
3 footage and lot square footage will be assessed to fund the marketing, special event
4 and promotion services within the entire Ocean Avenue CBD area including special
5 events at the Phelan Plaza as well. The Ocean Avenue CBD will work with City
6 College and the housing owner's property management company and City
7 departments to ensure the plaza is safe, regularly maintained and cleaned.

8 Exempted Uses within the Phelan Loop Parcel

9 The land dedicated for use by the Public Utilities Commission for future
10 Emergency Water Storage will be exempt from assessment within the Ocean Avenue
11 CBD as it will not benefit from Ocean Avenue CBD services and does not have fronting
12 sidewalk along Ocean Avenue or near the corner of Ocean Avenue and Phelan
13 Avenue.

14 The current assessable portion of the Phelan Loop Parcel Linear Street
15 Frontage is 405.00 linear feet. The current assessable portion of the Phelan Loop
16 Parcel Lot Square Footage is 7,632 square feet.

17 When Assessor's Parcel 3180-001 renumbers, consolidates, and subdivides
18 that parcel shall be identified with subsequent Assessor's Parcel number(s) assigned to
19 their respective portions of land. When the Phelan Loop Parcel developments are
20 constructed the new reconfigured Assessor's Parcels will be assessed according to
21 their updated land use. An increase in the annual assessment, if any due to the
22 reconfigured parcels and new construction and development projects, will not be
23 considered an assessment increase per the 1994 Act and Proposition 218. During
24 construction, any portion of the Phelan Loop Parcel under construction will only be
25 charged for linear frontage during construction that will receive cleaning services from

1 the Ocean Avenue CBD during construction. Phelan Loop parcels under construction
2 and not in active use will not be charged for building square footage or lot square
3 footage assessments until construction of the new development is completed."

4 WHEREAS, A public hearing concerning the proposed formation of the Ocean Avenue
5 CBD and the proposed levy of assessments within such District was held on November 16,
6 2010, at 3 p.m., in the Board's Legislative Chambers located on the Second Floor of City Hall,
7 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

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

20 WHEREAS, The public interest, convenience and necessity require the establishment
21 of the proposed Ocean Avenue Community Benefits District; and,

22 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
23 will be specially benefited by the improvements, services and activities funded by the
24 assessments, except that specified land to be used as Emergency Water Storage will receive
25 no special benefit; and no assessment has been imposed on any parcel which exceeds the

1 reasonable cost of the proportional special benefit conferred on that parcel;

2 Now therefore be it

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

4 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
5 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
6 the California Constitution and Section 53753 of the California Government Code with respect
7 to the formation of Ocean Avenue Community Benefits District. All objections or protests both
8 written and oral, are hereby duly overruled.

9 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
10 property-based business improvement district designated as the "Ocean Avenue Community
11 Benefits District" is hereby established.

12 **Section 3. DESCRIPTION OF DISTRICT.** The Ocean Avenue Community Benefits
13 District shall include all parcels of real property within the district. The exterior boundaries of
14 the District are those properties that front Ocean Avenue from Manor Drive on the west,
15 running along Ocean Avenue to Interstate 280, including all parcels on both sides of the street
16 unless otherwise noted. The proposed District contains approximately 148 identified parcels.
17 (See the map and list of parcels attached to the Management District Plan, for further detail.)

18 Within the Ocean Avenue CBD, there are two separate benefit zones established in
19 order to reflect the different levels of service provided:

20 Zone 1 includes properties fronting the northern side of Ocean Avenue from Manor
21 Drive on the west to Phelan Avenue on the east. Zone 1 also includes the properties fronting
22 the south side of Ocean Avenue from Victoria Street on the west to Geneva Avenue on the
23 east. There are currently 145 properties located within Zone 1. The properties consist of a
24 variety of different land use types such as commercial, non-profit, religious, public, and
25 residential.

1 Zone 2 includes three properties located east of Geneva Avenue and Phelan Drive to
2 Interstate 280, designated as Assessor's Parcels 3179-010, 6946-061, and 6948-023. The
3 three properties in Zone 2 include the portion of the San Francisco City College Ocean
4 Avenue campus and Lick Wilmerding High School that front Ocean Avenue, and a City owned
5 median, landscaped property located at the intersection of Ocean Avenue and Geneva
6 Avenue. Zone 2 does not include any of the Assessor's Parcels within Assessor's Block
7 6947. In comparison to Zone 1, Zone 2 receives a reduced level of improvements, services,
8 and activities.

9 Reference should be made to the detailed maps and the lists of parcels identified by
10 Assessor Parcel Number that are contained in the Management District Plan, in order to
11 determine which specific parcels are included in the Ocean Avenue Community Benefits
12 District.

13 **Section 4. FINDING OF BENEFIT; EXEMPTION.** The Board of Supervisors hereby
14 finds that, except where specifically exempted, the property within the District will be benefited
15 by the improvements and activities funded by the assessments proposed to be levied.

16 Exemption of certain land as future Emergency Water Storage area: As provided in the
17 Management District Plan, the portion of the Phelan Loop Parcel that is dedicated for future
18 Emergency Water Storage use by the Public Utilities Commission will be exempt from
19 assessment by the Ocean Avenue CBD, as it does not have fronting sidewalk along Ocean
20 Avenue or near the corner of Ocean Avenue and Phelan Avenue, and the Board finds by clear
21 and convincing evidence that it will receive no special benefit from Ocean Avenue CBD
22 services and programs. (The Phelan Loop Parcel is current Assessor's Parcel No. 3180-001,
23 where several entities hold jurisdiction, that is expected to be divided into more than one
24 parcel in the future.)

25 **Section 5. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to

1 pay for the activities to be provided within the District, commencing with fiscal year 2010-
2 2011, and continuing for fifteen (15) years, ending with fiscal year 2024-2025. For purposes
3 of levying and collecting assessments within the District, a fiscal year shall commence on
4 each July 1st and end on the following June 30th.

5 (b) The total amount of the proposed assessments to be levied and collected for
6 fiscal year 2010-2011 shall be \$239,578. The amount of assessments to be levied and
7 collected in fiscal years four (4) through fifteen (15) may be increased annually by the Board
8 of Directors of the District by an amount not to exceed the change in the Consumer Price
9 Index for All Urban Consumers in the San Francisco-Oakland-San Jose Consolidated
10 Metropolitan Statistical Area, or three percent (3%), whichever is less.

11 (c) The method and basis of levying and collecting the assessment shall be as set
12 forth in the District Management Plan. The levy of the assessments shall commence with
13 fiscal year 2010-2011. Each year the assessment shall be due and payable in two equal
14 installments. The first installment shall be due on November 1 of each fiscal year during the
15 life of the District, and shall become delinquent on December 10 of that fiscal year. The
16 second installment shall be due on February 1 of each fiscal year during the life of the District,
17 and shall become delinquent on April 10 of that fiscal year. Except that, for Fiscal Year 2010-
18 2011 only, the City will send out a separate direct bill to each property owner for payment of
19 the assessment amount. Nonpayment of the assessment shall have the same lien priority
20 and delinquent payment penalties and be subject to the same enforcement procedures and
21 remedies as the ad valorem property tax.

22 **Section 6. USE OF REVENUES.** The proposed property-related services,
23 improvements or activities for the District include two principal programs: a Cleaning,
24 Maintenance, and Safety program; and a Marketing, Streetscape, and Beautification program.
25 In addition, there will be a Management and Operations component.

1 **A. Cleaning, Maintenance, and Safety Program:**

2 The Cleaning, Maintenance, and Safety Program includes continuous sidewalk
3 sweeping, refuse removal, regularly scheduled steam cleaning, pressure washing, graffiti
4 removal, tree pruning and watering, tree well weeding with crushed granite replenishment,
5 and a variety of safety services efforts. A team of maintenance and safety workers will carry
6 out these tasks for each benefit zone, summarized as follows:

7 Benefit Zone 1 District services, improvements, and activities will include, but are not
8 limited to:

- 9 • Regular sidewalk cleaning including but not limited to steam cleanings, sweeping, hot
10 water scrubbing and cleaning of the Municipal Railway boarding islands as needed,
11 and the Phelan Loop Bus Turn-Around Pedestrian layover areas.
- 12 • Graffiti removal.
- 13 • Paint over major graffiti attacks, approximately 6 times per year (ground or second
14 floor).
- 15 • Sidewalk, gutter, and tree well sweeping and trash removal (daily).
- 16 • Utility pole/box flyer and mastic tape removal and graffiti removal as required.
- 17 • Tree well weeding (quarterly) and crushed granite replenishing as needed.
- 18 • Small tree pruning – approximately 20 to 36 times per year, prune for shape and for air
19 circulation.
- 20 • Large tree pruning - approximately 6 to 12 times per year, prune for shape and air
21 circulation.
- 22 • Tree watering, every 3 weeks during the dry season.
- 23 • Tree trunk graffiti removal using soapy water and wire brushes, as needed.
- 24 • Gardening and maintenance of Phelan Loop corner landscaped public garden,
25 including trash removal (weekly).

- 1 • Landscape maintenance of Phelan Bus turnaround.
- 2 • Corridor safety, to include way-finding, assistance to visitors,
- 3 ambassadors/guides/security that promote citizen efforts through assistance in crime
- 4 prevention, provide street population/homeless with social services information; and
- 5 continued collaboration with SFPD on crime prevention and pedestrian safety.
- 6 Benefit Zone 2 services, improvements and activities will include, but are not limited to:
- 7 • Regular sidewalk cleanings, at approximately a 50% reduced frequency of
- 8 Zone 1, including but not limited to steam cleanings, sweeping, hot water scrubbing
- 9 and cleaning of the Municipal Railway boarding islands as needed, and the Phelan
- 10 Loop Bus Turn-Around Pedestrian layover areas.
- 11 • Sidewalk, gutter, and tree well sweeping and trash removal (3 days per week).
- 12 • Utility pole/box flyer and mastic tape removal and graffiti removal as required.
- 13 • Weed removal within 10 feet of sidewalk, tree well weeding (quarterly) and crushed
- 14 granite replenishing as needed.
- 15 • Small tree pruning – approximately 10 to 18 times per year, prune for shape and for air
- 16 circulation.
- 17 • Large tree pruning - approximately 3 to 6 times per year, prune for shape and air
- 18 circulation.
- 19 • Corridor safety, to include way-finding, assistance to visitors,
- 20 ambassadors/guides/security that promote citizen efforts through assistance in crime
- 21 prevention, provide street population/homeless with social services information; and
- 22 continued collaboration with SFPD on crime prevention and pedestrian safety.

23 **B. Marketing, Streetscape Improvements, and Beautification Program:**

24 Marketing, Streetscape, and Beautification program services and activities can include,
25 but are not limited to:

- 1 • Advocacy.
- 2 • Beautification.
- 3 • Capital improvements.
- 4 • Business retention activities.
- 5 • Newsletters, advertisements, brochures, and website.
- 6 • Holiday decorations.
- 7 • Concerts, street festivals and other special events.
- 8 • Banners and other public art.

9 **C. Management and Operations**

10 The Management and Operations component will focus on community relationships,
11 involvement, and support. Regular activities and initiatives that will support this task include:

- 12 • A dedicated Ocean Avenue part-time executive director who will serve as a focal point
13 person and advocate for Ocean Avenue
- 14 • Office expenses including accounting, rent, utilities, office supplies, insurance, legal,
15 and other professional services
- 16 • Grant applications and facilitation, including safety related efforts.

17 The revenue from the levy of the assessments within the District shall not be used to
18 provide improvements, services or activities outside the District or for any purpose other than
19 the purposes specified in this Board of Supervisors Resolution.

20 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
21 with a separate private entity to administer the improvements, services and activities set forth
22 in Section 6. Any such entity shall hold the funds it receives from the City and County of San
23 Francisco ("City") in trust for the improvements, services and activities set forth in Section 6.
24 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no
25 expense to the City, a balance sheet and the related statement of income and cash flows for

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

10 **Section 8. AMENDMENTS.** The properties in the District established by this
11 Resolution shall be subject to any amendments to the Act and Article 15.

12 **Section 9. RECORDATION OF NOTICE AND DIAGRAM.** The County Clerk is
13 hereby authorized and directed to record a notice and an assessment diagram pursuant to
14 Section 36627 of the California Streets and Highways Code, following adoption of this
15 Resolution.

16 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
17 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
18 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
19 referred to in the District Management Plan. Each year, the Assessor shall enter on the
20 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
21 and such assessment shall be collected in the same manner as the County property taxes are
22 collected; except that, for Fiscal Year 2010-2011 only, the City will send out a separate direct
23 bill to each property owner for payment of the assessment amount.

24 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the
25 District are used to enhance the current level of services provided by the City within the

1 District, the establishment of the District will not affect the City's policy to continue to provide
2 the same level of service to the areas encompassed by the District as it provides to other
3 similar areas of the City for the duration of the District, provided, however, that in the event of
4 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
5 municipal services citywide, including within the District.

6 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has
7 determined that the actions contemplated in this Resolution are in compliance with the
8 California Environmental Quality Act (California Public Resources Code sections 21000 *et*
9 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File No.
10 _____ and is incorporated herein by reference.

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