

1 [Resolution to Establish - Japantown Community Benefit District]

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3 **Resolution of formation to establish the property-based business improvement district**
4 **to be known as the “Japantown Community Benefit District,” ordering the levy and**
5 **collection of assessments against property located in that district for ten years**
6 **commencing with FY2017-2018, subject to conditions as specified; and making**
7 **environmental 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. ("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. 198-17,
13 entitled “Resolution declaring the intention of the Board of Supervisors to establish a property-
14 based business improvement district (community benefit district) known as the ‘Japantown
15 Community Benefit District’ and levy a multi-year assessment on all parcels in the district;
16 approving the management district plan and engineer’s report and proposed boundaries map
17 for the district; ordering and setting a time and place for a public hearing thereon; approving
18 the form of the Notice of Public Hearing and Assessment Ballot Proceeding, and Assessment
19 Ballot; directing environmental findings; and directing the Clerk of the Board of Supervisors to
20 give notice of the public hearing and balloting as required by law” (the "Resolution of
21 Intention," Board of Supervisors File No. 170565); and

22 WHEREAS, The Resolution of Intention to establish the Japantown Community Benefit
23 District (the "Japantown CBD" or "District"), among other things, approved the Japantown
24 CBD Management District Plan (the "District Management Plan"), the detailed District
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1 Assessment Engineer's Report, the Boundaries Map, and the form of the Notice of Public
2 Hearing and Assessment Ballot Proceeding, that are all on file with Clerk of the Board of
3 Supervisors in File No. 170565; and

4 WHEREAS, The Board of Supervisors caused the publication of a notice of public
5 hearing concerning the proposed formation of the Japantown CBD, and a notice of the
6 proposed levy of assessments against property located within the District for a period of 10
7 years, for fiscal years ("FYs)" 2017-2018 through 2026-2027; and

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

10 WHEREAS, A Management District Plan was filed with the Board on May 23, 2017,
11 containing information about the proposed district and assessments as required by California
12 Streets and Highways Code, Section 36622; and

13 WHEREAS, A detailed Engineer's Report dated April 2017 was filed with the Clerk of
14 the Board on May 23, 2017, as prepared by Thomas E. Lowell, California Registered
15 Professional Engineer No. 13398, entitled "Japantown Community Benefit District Engineer's
16 Report," supporting the assessments within the proposed district; and

17 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of
18 Supervisors pursuant to California Streets and Highways Code, Section 3110 on
19 May 23, 2017; and

20 WHEREAS, A public hearing concerning the proposed formation of the Japantown
21 CBD and the proposed levy of assessments within such District was held on July 25, 2017
22 at 3 p.m., in the Board's Legislative Chamber located on the Second Floor of City Hall, 1 Dr.
23 Carlton B. Goodlett Place, San Francisco, California; and

24 WHEREAS, At the public hearing, the testimony of all interested persons for or against
25 the proposed formation of the District, the levy of assessments on property within the District,

1 the extent of the District, and the furnishing of specified types of improvements, services and
2 activities within the District, was heard and considered, and a full, fair and complete meeting
3 and hearing was held; and

4 WHEREAS, The Board of Supervisors heard and considered all objections or protests
5 to the proposed assessments and the Director of the Department of Elections tabulated the
6 assessment ballots submitted and not withdrawn, in support of or in opposition to the
7 proposed assessments, and the Clerk of the Board determined that a majority of the ballots
8 cast (weighted according to the proportional financial obligations of the property) by the
9 owners of record of the property located within the proposed District did not oppose
10 establishing the proposed District; and

11 WHEREAS, The public interest, convenience and necessity require the establishment
12 of the proposed Japantown Community Benefit District; and

13 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
14 will be specially benefited by the improvements, services and activities funded by the
15 assessments; and no assessment has been imposed on any parcel which exceeds the
16 reasonable cost of the proportional special benefit conferred on that parcel; now, therefore be
17 it

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

19 **Section 1. MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**
20 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
21 Management District Plan and District Assessment Engineer's Report, including the estimates
22 of the costs of the property-related services, activities and improvements set forth in the plan,
23 and the assessment of said costs on the properties that will specially benefit from such
24 services, activities and improvements. The Board also hereby approves the Boundaries,
25 showing the exterior boundaries of the District, and ratifies and approves the Assessment

1 Ballot and the City's use of such ballot, which Assessment Ballot is on file with the Clerk of the
2 Board of Supervisors in File No. 170565 and is hereby declared to be a part of the Resolution
3 as if set forth fully herein. A copy of the Management District Plan, the District Assessment
4 Engineer's Report, and the Boundaries Map are on file with the Clerk of the Board of
5 Supervisors in File No. 170565, which is hereby declared to be a part of this Resolution as if
6 set forth fully herein.

7 **Section 2. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
8 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
9 the California Constitution and Section 53753 of the California Government Code with respect
10 to the renewal and expansion of the Japantown Community Benefit District. All objections or
11 protests both written and oral, are hereby duly overruled.

12 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and
13 Article 15, the renewed and expanded property-based business improvement district
14 designated as the "Japantown Community Benefit District" is hereby established.

15 **Section 4. DESCRIPTION OF DISTRICT.** The Japantown Community Benefit
16 District shall include all parcels of real property within the district. The proposed expanded
17 District contains approximately 67 identified parcels located on approximately 7 whole or
18 partial blocks.

19 Specifically, the exterior District boundaries are:

- 20 • All parcels in the blocks bounded by Geary Boulevard, Fillmore Street, Post Street
21 and Laguna Street.
- 22 • Parcels on the north side of Post Street between Laguna Street and halfway to
23 Webster Street, APN 0685-012. APNs 0685-(052-101) are not included in the CBD
24 boundary as they constitute a residential condominium project and will not specially
25 benefit from any of the CBD activities.

- 1 • Parcels on the east and west side of Buchanan Street between Post Street and
2 halfway to Bush Street. Parcels in the interior block of
3 Buchanan/Sutter/Laguna/Post (APNs 0686-031,039,042,044,054,056,058,059) are
4 included in the boundary as they are a contiguous use and under same ownership
5 as APN 0686-038.
- 6 • The parcels north of APNs 0676-(72, 73) and 0675-051 on Buchanan Street are
7 residential parcels that will not specially benefit from any of the CBD activities, so
8 therefore, are not included in the CBD boundary.

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

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

16 **Section 6. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
17 pay for the activities to be provided within the District, commencing with FY2017-2018, and
18 continuing for 10 years, ending with FY2026-2027. For purposes of levying and collecting
19 assessments within the District, a fiscal year shall commence on each July 1st and end on the
20 following June 30th.

21 (b) The amount of the proposed assessments to be levied and collected for
22 FY2017-2018 shall be a maximum of \$393,750.00 (as shown in the Management District Plan
23 and Engineer's Report dated April 2017). The amount of assessments to be levied and
24 collected in fiscal years two through 10 may be increased annually by the Japantown
25 Community Benefit District corporation Board of Directors to account for future development

1 that may occur in the District, and by up to three percent (3%) to account for the annual
2 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-
3 San Jose Consolidated Metropolitan Statistical Area.

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

6 (1) The levy of the assessments shall commence with FY2017-2018. Each year the
7 assessment shall be due and payable in two equal installments. The first installment shall be
8 due on November 1 of each fiscal year during the life of the District, and shall become
9 delinquent on December 10 of that fiscal year. The second installment shall be due on
10 February 1 of each fiscal year during the life of the District, and shall become delinquent on
11 April 10 of that fiscal year.

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

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

21 **Environmental Enhancements.** Environmental enhancements includes, but is not
22 limited to, sidewalk sweeping, graffiti removal, pressure washing of sidewalks, safety patrols
23 of the district, business and visitor contacts, outreach with street populations, weed removal,
24 landscaping, seasonal holiday decorations, wayfinding and directional signage, temporary and
25 permanent public art installations, and capital improvements.

1 **Economic Enhancements.** Economic enhancements includes, but is not limited to,
2 marketing of the District, business attraction, District branding, District communications, and
3 business technical assistance.

4 **District Coordinator, Administration, and Reserve.** District coordinator,
5 administration, and reserve includes, but is not limited to a staff that will oversee the
6 administration of the District and the management of office expenses including accounting,
7 rent, utilities, office supplies, insurance, legal, and other professional services related to
8 District activities.

9 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
10 with a separate private entity to administer the improvements, services and activities set forth
11 in Section 7, as provided in California Streets and Highways Code, Sections 36612
12 and 36650. Any such entity shall hold the funds it receives from the City in trust for the
13 improvements, services and activities set forth in Section 7. Any such entity that holds funds
14 in trust for purposes related to the contract shall deliver, at no expense to the City, a balance
15 sheet and the related statement of income and cash flows for each fiscal year, all in
16 reasonable detail acceptable to City, reviewed by a Certified Public Accountant (CPA); this
17 review shall include a statement of negative assurance from the CPA. In addition, or
18 alternatively, the Controller in his or her discretion or the Office of Economic and Workforce
19 Development in its discretion, may require the private entity to deliver, at no expense to the
20 City, an annual independent audit report by a Certified Public Accountant of all such funds.
21 The CPA review and/or audit may be funded from assessment proceeds as part of the
22 general administration of the District. At all times the Board of Supervisors shall reserve full
23 rights of accounting of these funds. The Office of Economic and Workforce Development
24 shall be the City agency responsible for coordination between the City and the District.
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1 **Section 9. AMENDMENTS.** The properties in the District established by this
2 Resolution shall be subject to any amendments to the 1994 Act, and City Business and Tax
3 Regulations Code, Article 6 and Article 15.

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

8 **Section 11. LEVY OF ASSESSMENT.** The adoption of this Resolution and
9 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
10 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
11 referred to in the District Management Plan. Each year, the Assessor shall enter on the
12 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
13 and such assessment shall be collected in the same manner as the County property taxes are
14 collected.

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

22 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
23 determined that the actions contemplated in this Resolution are in compliance with the
24 California Environmental Quality Act (California Public Resources Code, Sections 21000 *et*
25 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in

1 File No. 170784, which is hereby declared to be a part of this Resolution as if set forth fully
2 herein.

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