

1 [Resolution to establish the Fisherman's Wharf Community Benefit District.]

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3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “Fisherman's Wharf Community Benefit District (CBD),” ordering the levy and**
5 **collection of assessments against property located in that district for 15 years,**
6 **commencing with fiscal year 2005-2006, 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.* (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. 386-05 on June 7, 2005, entitled “Resolution declaring
13 the intention of the Board of Supervisors to establish a property-based business improvement
14 district to be known as the 'Fisherman's Wharf Community Benefit District (CBD),' to order the
15 levy and collection of a multi-year assessment, and setting a time and place for a public
16 hearing thereon,” (the "Resolution of Intention"); and,

17 WHEREAS, the Resolution of Intention for the Fisherman's Wharf Community Benefit
18 District (the "Fisherman's Wharf CBD" or "District"), among other things, approved the
19 Fisherman's Wharf Community Benefit District Management District Plan (the "District
20 Management Plan"), the District Assessment Engineer's Report, the Assessment Ballots and
21 the Notice of Public Hearing, that are on file with Clerk of the Board of Supervisors in File No.
22 050878; and,

23 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
24 the proposed formation of the Fisherman's Wharf CBD, the proposed levy of assessments
25 against property located within the District for a period of 15 years, commencing with fiscal

1 year 2005-2006, beginning January 1, 2006 and ending December 31, 2020, if a new
2 business-based business improvement district (BID) is established on or before December 31,
3 2006 that (i) includes business license holders on Port of San Francisco property in the
4 Fisherman's Wharf area (between Pier 35 and the Aquatic Park), (ii) receives not less than
5 \$50,000 in annual assessments on businesses located therein, (iii) is formed to fund, at a
6 minimum, District Identity and Streetscape Improvement services as outlined in the
7 Management District Plan for the proposed Fisherman's Wharf Community Benefit District,
8 and if the foregoing condition is not met, the District will expire on June 30, 2007, to be duly
9 published and mailed as required by law, to the record owner of each parcel proposed to be
10 assessed within the District; and,

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

13 WHEREAS, A public hearing concerning the proposed formation of the Fisherman's
14 Wharf CBD and the proposed levy of assessments within such District was held on July 26,
15 2005, at 3 p.m., in the Board's Legislative Chambers, located on the Second Floor of City
16 Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

22 WHEREAS, The Board of Supervisors heard and considered all objections or protests
23 to the proposed assessments and the Director of the Department of Elections tabulated the
24 assessment ballots submitted and not withdrawn, in support of or in opposition to the
25 proposed assessments, and the Clerk of the Board determined that a majority of the ballots

1 cast (weighted according to the proportional financial obligations of the property) by the
2 owners of record of the property located within the proposed District did not oppose
3 establishing the proposed district; and,

4 WHEREAS, The public interest, convenience and necessity require the establishment
5 of the proposed Fisherman's Wharf Community Benefit District; and,

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

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

12 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
13 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
14 the California Constitution and Section 53753 of the California Government Code with respect
15 to the formation of Fisherman's Wharf Community Benefit District. All objections or protests
16 both written and oral, are hereby duly overruled.

17 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
18 property-based business improvement district designated as the "Fisherman's Wharf
19 Community Benefit District" is hereby established.

20 **Section 3. DESCRIPTION OF DISTRICT.** The Fisherman's Wharf Community
21 Benefit District shall include all parcels of real property within the district, the exterior
22 boundaries of which are as follows:

23 Jefferson St.: from Hyde to Embarcadero (South side only)

24 Beach St.: from Van Ness to Embarcadero

25 North Point: from Van Ness to Embarcadero

- 1 Bay St.: from Mason to Powell
- 2 Hyde St.: from North Point to Jefferson
- 3 Columbus Ave.: from Francisco to Beach
- 4 Taylor St.: from Bay to Jefferson
- 5 Stockton St: from Bay to Embarcadero
- 6 Leavenworth St: from North Point to Jefferson
- 7 Jones St. from Francisco to Jefferson
- 8 Powell St.: from Bay to Embarcadero
- 9 Embarcadero: from Powell to North Point
- 10 Larkin St.: from North Point to Beach
- 11 Mason St.: from Bay to Jefferson
- 12 Grant Ave. from North Point to Embarcadero
- 13 Van Ness Ave.: from Beach to mid block south, (East side only).

14 Reference should be made to the detailed map and the list of parcels identified by
15 Assessor Parcel Number contained in the Management District Plan approved by the
16 Resolution of Intention in order to determine which specific parcels are included in the District.

17 **Section 4. FINDING OF BENEFIT.** The Board of Supervisors hereby finds that the
18 property within the District will be benefited by the improvements and activities funded by the
19 assessments proposed to be levied.

20 **Section 5. SYSTEM OF ASSESSMENTS.** (a) An assessment will be levied
21 annually to pay for the activities to be provided within the District, commencing with fiscal year
22 2005-2006, and continuing for fifteen years, ending with fiscal year 2020-2021, if a new
23 business-based business improvement district (BID) is established on or before December 31,
24 2006 that (i) includes business license holders on Port of San Francisco property in the
25 Fisherman's Wharf area (between Pier 35 and the Aquatic Park), (ii) receives not less than

1 \$50,000 in annual assessments on businesses located therein, (iii) is formed to fund, at a
2 minimum, District Identity and Streetscape Improvement services as outlined in the Resolution
3 of Intention and the Management District Plan for the proposed Fisherman's Wharf
4 Community Benefit District on file with Clerk of the Board of Supervisors in File No. 050878,
5 and if the foregoing condition is not met, the District will expire on June 30, 2007 and the
6 assessments for fiscal year 2007-2008 shall be cancelled upon expiration of the District. For
7 purposes of levying and collecting assessments within the District, a fiscal year shall
8 commence on each July 1st and end on the following June 30th.

9 (b) The total amount of the proposed assessments to be levied and collected for
10 fiscal year 2005-2006 shall be \$591,485. The amount of assessments to be levied and
11 collected in subsequent fiscal years through the first half of fiscal year 2020-2021 may be
12 increased annually by the Board of Directors of the District by an amount not to exceed the
13 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-
14 San Jose Consolidated Metropolitan Statistical Area, or 5 percent, whichever is lower.

15 (c) The method and basis of levying and collecting the assessment shall be as set
16 forth in the District Management Plan. The levy of the assessments shall commence with
17 fiscal year 2005-2006. Each year the assessment shall be due and payable in two equal
18 installments. The first installment shall be due on November 1 of each fiscal year during the
19 life of the District, and shall become delinquent on December 10 of that fiscal year. The
20 second installment shall be due on February 1 of each fiscal year during the life of the District,
21 and shall become delinquent on April 10 of that fiscal year. Nonpayment of the assessment
22 shall have the same lien priority and delinquent payment penalties and be subject to the same
23 enforcement procedures and remedies as the ad valorem property tax.

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1 **Section 6. USE OF REVENUES.** The property-related services, improvements or
2 activities for the District include a Public Rights of Way and Sidewalk Operations component,
3 consisting of regular sidewalk and gutter sweeping, periodic sidewalk steam cleaning, spot
4 steam cleaning as necessary, safe passage programs for visitors and employees, minor
5 security services, beautification, decorations; enhanced trash emptying in the public rights of
6 way, removal of bulky items, graffiti removal within 24 hours, installation and maintenance of
7 banners and/or decorations, tree and plant maintenance and planting; equipment, supplies,
8 tools, vehicle maintenance and insurance, maintenance personnel and supervisor costs; a
9 District Identity and Streetscape Improvements component, consisting of special events, web
10 site, pedestrian kiosks and wayfinding signage system, enhanced beautification, flower pots
11 on street lights, marketing and promotions, advertising, walking map, public space
12 development, historical markers and public art; an Administrative and Corporate Operations
13 component, consisting of staff and administrative costs, insurance, office related expenses,
14 financial reporting, developing parking strategies with the City, communications, and
15 repayment of district formation costs; and a Contingency and Reserve component for
16 delinquencies, a reserve and repayment of district formation costs.

17 The above improvements, services and activities will be funded by the levy of the
18 assessments. The revenue from the levy of the assessments within the District shall not be
19 used to provide improvements, services or activities outside the District or for any purpose
20 other than the purposes specified in Board of Supervisors Resolution No. 386-05.

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

1 the City, provide an annual independent audit report by a Certified Public Accountant of all
2 such funds. The audit may be funded from assessment proceeds as part of the general
3 administration of the District. At all times the Board of Supervisors shall reserve full rights of
4 accounting of these funds. The Mayor's Office of Economic and Workforce Development
5 shall be the City agency responsible for coordination between the City and the District.

6 **Section 8. AMENDMENTS.** The properties in the District established by this
7 resolution shall be subject to any amendments to the Act and Article 15.

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

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

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

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

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