

1 [Resolution to Establish (Renew and Expand) and Rename Fillmore Jazz Community Benefit
2 District as the Fillmore Community Benefit District]

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4 **Resolution establishing a property-based Community Benefit District to be known as**
5 **the “Fillmore Community Benefit District (CBD),” by renewing and expanding the**
6 **previously established Fillmore Jazz CBD; ordering the levy and collection of**
7 **assessments against property located in the Fillmore Community Benefit District for 7**
8 **years, commencing with FY2011-2012, subject to conditions as specified; and making**
9 **environmental findings.**

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11 WHEREAS, Pursuant to the Property and Business Improvement District Law of 1994,
12 California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as augmented by
13 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board
14 of Supervisors adopted Resolution No. 225-11 on June 7, 2011, entitled "Resolution of
15 Intention to renew the Fillmore Jazz Community Benefit District, to be expanded and renamed
16 the Fillmore Community Benefit District," to order the levy and collection of a multi-year
17 assessment, and setting a time and place for a public hearing thereon" (BOS File No. 110600,
18 the "Resolution of Intention"); and,

19 WHEREAS, The Resolution of Intention for the Fillmore Community Benefit District (the
20 "Fillmore CBD" or "District"), among other things, approved the Fillmore Community Benefit
21 District Management District Plan as amended June 7, 2011 (the "District Management Plan")
22 and the District Assessment Engineer's Report dated May 10, 2011, the form of the
23 Assessment Ballots and the Notice of Public Hearing, that are on file with Clerk of the Board
24 of Supervisors in File No. 110600, which are hereby declared to be a part of this Resolution
25 as if set forth fully herein; and,

1 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
2 the proposed renewal and expansion of the Fillmore CBD, and the proposed levy of
3 assessments against property located within the District for a period of seven (7) years, for
4 fiscal years 2011-2012 through 2017-2018; and,

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

7 WHEREAS, A public hearing concerning the proposed formation of the Fillmore CBD
8 and the proposed levy of assessments within such District was held on July 26, 2011, at
9 3 p.m., in the Board's Legislative Chambers, located on the Second Floor of City Hall,
10 One Dr. Carlton B. Goodlett Place, San Francisco, California; and,

11 WHEREAS, A Management District Plan entitled the "Fillmore Community Benefit
12 District Management District Plan" containing information about the proposed district and
13 assessments required by Section 36622 of the Law, as amended May 10, 2011, and as
14 amended June 7, 2011, has been submitted to the Clerk of the Board of Supervisors, which is
15 hereby declared to be a part of this Resolution as if set forth fully herein; and,

16 WHEREAS, A detailed engineer's report supporting the assessments within the
17 proposed district, prepared by K. Dennis Klingelhofer, California Registered Professional
18 Engineer No. C50255, NBS, dated May 10, 2011 entitled "Fillmore Community Benefit
19 District, Engineer's Report" has been submitted to the Clerk of the Board of Supervisors,
20 which is hereby declared to be a part of this Resolution as if set forth fully herein; and

21 WHEREAS, A proposed Boundaries Map has been submitted to the Clerk of the Board
22 of Supervisors pursuant to California Streets and Highways Code §3110, which is on file with
23 the Clerk of the Board of Supervisors in File No. 110600, which is hereby declared to be a
24 part of this Resolution as if set forth fully herein;

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

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

13 WHEREAS, The public interest, convenience and necessity require the establishment
14 of the proposed Fillmore Community Benefit District; and,

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

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

21 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
22 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
23 the California Constitution and Section 53753 of the California Government Code with respect
24 to the formation of the Fillmore Community Benefit District. All objections or protests both
25 written and oral, are hereby duly overruled.

1 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
2 property-based Community Benefit District designated as the "Fillmore Community Benefit
3 District" is hereby established.

4 **Section 3. MANAGEMENT DISTRICT PLAN AND DISTRICT ASSESSMENT**
5 **ENGINEER'S REPORT.** The Board hereby approves the Management District Plan as last
6 amended June 7, 2011 and District Assessment Engineer's Report dated May 10, 2011,
7 including the estimates of the costs of the property-related services, activities and
8 improvements set forth in the plan, and the assessment of said costs on the properties that
9 will specially benefit from such services, activities and improvements; a copy of each is on file
10 with the Clerk of the Board of Supervisors in File No. 110600, which is hereby declared to be
11 a part of this Resolution as if set forth fully herein.

12 **Section 4. DESCRIPTION OF DISTRICT, BOUNDARIES MAP.** The Fillmore
13 Community Benefit District shall include all parcels of real property within the district, the
14 exterior boundaries of which are as follows, including all parcels on both sides of the street
15 unless otherwise noted. The Board hereby approves the boundaries map showing the
16 exterior boundaries of the district, which is on file with the Clerk of the Board of Supervisors in
17 File No. 110600, which is hereby declared to be a part of this Resolution as if set forth fully
18 herein.

19 The original Fillmore Jazz CBD area consists of an area of approximately 217 parcels
20 centering on Fillmore Street, generally described as extending from Steiner to Webster and
21 Geary to Golden Gate; in addition the half block from Geary to Post and Fillmore to Avery
22 Street is also included. The expanded Fillmore Community Benefit District would extend
23 these boundaries to include:

- 24 • The West side of Steiner between Geary and Ellis (the sidewalk adjoining
25 Kimbell Park);

- The West side of Fillmore between Golden Gate and McAllister; and,
- Miscellaneous inholding parcels that were left out of the existing CBD (726 013, 726 014, 726 014A, 755 003, 755 005, and 755 006.

There are approximately 227 identified parcels within the (expanded) exterior boundaries of the Fillmore CBD.

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

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

Section 6. SYSTEM OF ASSESSMENTS. (a) Annual assessments will be levied to pay for the activities to be provided within the District, commencing with fiscal year 2011-2012, and continuing for seven (7) years, ending with fiscal year 2017-2018. For purposes of levying and collecting assessments within the District, a fiscal year shall commence on each July 1st and end on the following June 30th.

(b) The total amount of the proposed assessments to be levied and collected for fiscal year 2011-2012 is estimated to be \$366,159. The amount of assessments to be levied and collected in years two through seven (fiscal years 2012-2013 through 2017-2018) may be increased annually by the Board of Directors of the District by an amount not to exceed the change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, or three percent (3%), whichever is lower.

(c) The method and basis of levying and collecting the assessment shall be as set forth in the Management District Plan. The levy of the assessments shall commence with

1 fiscal year 2011-2012. Each year the assessment shall be due and payable in two equal
2 installments. The first installment shall be due on November 1 of each fiscal year during the
3 life of the District, and shall become delinquent on December 10 of that fiscal year. The
4 second installment shall be due on February 1 of each fiscal year during the life of the District,
5 and shall become delinquent on April 10 of that fiscal year. Nonpayment of the assessment
6 shall have the same lien priority and delinquent payment penalties and be subject to the same
7 enforcement procedures and remedies as the ad valorem property tax.

8 **Section 7. USE OF REVENUES.** The proposed property-related services,
9 improvements or activities for the District include Cleaning and Maintenance, Beautification,
10 Marketing, Advocacy, and Public Safety:

11 **Cleaning and Maintenance Program:** The Cleaning and Maintenance program
12 utilizes uniformed maintenance workers on a daily or other regular basis to provide services
13 that include: area sidewalk sweeping; area curb cleaning; refuse and trash removal (building
14 edges to gutter); removal of litter from tree basins and grates; remove and disinfect bodily
15 wastes as required; remove debris from plants, trees and greenery; remove leaves in the
16 entire coverage area; remove trash found around and flowing out of City refuse cans; cleaning
17 of trash cans, surrounding areas, newsracks, light poles etc.; remove unauthorized and
18 expired postings; spot clean spills with hose or mop; report City maintenance issues to the
19 City's 311 Customer Service Center; and report crime / safety issues to SFPD. Other
20 services are performed periodically, including: area sidewalk steam cleaning; and weeding of
21 tree basins and sidewalk cracks. In addition, there is on-call graffiti removal within 24 hours.

22 **Beautification:** The Fillmore CBD has previously installed decorative street tree
23 lighting, which needs refurbishment. It has also advocated for resources and provided direct
24 investment via grants raised towards much needed capital streetscape enhancements,
25 plantings, trees, pedestrian lights, banners and other improvements. Within the annual

1 budgeted assessment funds such things as wayfinding signage, additional greening, redoing
2 tree wells, hanging flower baskets at key intersections, public art, seasonal decorations, and
3 other enhancements, will be considered, in addition to promoting the locations of cultural
4 facilities, eating and drinking establishments and other area amenities.

5 **Marketing:** The reauthorized CBD will continue the marketing and district promotional
6 programs that began in 2009. The plan includes print and web based promotion and
7 advertising and news article placements in neighborhood, city-wide and tourist publications.
8 In addition, the CBD will continue to maintain a Facebook site and a Twitter site. Other
9 promotional activities sponsoring local businesses and special events such as coupon books,
10 web based small business information, and district wide special events with local businesses
11 and organizational promotion will continue and be enhanced. The District will continue to
12 monitor results, and adjust accordingly, as outlined in the marketing plan.

13 **Advocacy.** The purpose of advocacy is to promote the Fillmore neighborhood as a
14 beautiful, clean, safe, and vibrant music and entertainment filled residential and small
15 business district. This goes well beyond marketing programs that create image and visibility.
16 The larger purpose is to advocate for services and resources that increase the area's
17 perception as a friendly, clean, and exciting place for attending performances, dining,
18 shopping, and investing in business opportunities and properties. It is intended to support
19 patronage growth, business growth and wellbeing for residents, workers and visitors.

20 The Executive Director of the CBD will have a key role in participating in community
21 meetings, coordinating information between City agencies and Fillmore stakeholders related
22 to events and issues affecting the neighborhood, speaking at hearings, and raising additional
23 resources and investment for the district from decision makers and funders. The Executive
24 Director will coordinate a process for regular exchange of information among Fillmore
25 stakeholders.

1 **Public Safety.** A new element not previously provided, will be the creation of Fillmore
2 Community Benefit District Ambassadors. Some of the cleaners will be cross-trained as
3 Ambassadors, to be eyes and ears on the street. They will be trained in observation and
4 reporting protocols and receive cellular telephones to interface with the SFPD and other City
5 Agencies. Their role is one of deterrence not enforcement.

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

21 **Section 9. AMENDMENTS.** The properties in the District established by this
22 Resolution shall be subject to any amendments to the Act and Article 15.

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

1 Resolution.

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

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

16 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
17 determined that the actions contemplated in this Resolution are in compliance with the
18 California Environmental Quality Act (California Public Resources Code Sections 21000 *et*
19 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File No.
20 _____ and is incorporated herein by reference.

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