

1 [Resolution to Establish - Greater Rincon Hill Community Benefit District]

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3 **Resolution to establish the property-based business improvement district known as**
4 **the “Greater Rincon Hill Community Benefit District;” ordering the levy and collection**
5 **of assessments against property located in that district for 15 years commencing with**
6 **FY2015-2016, subject to conditions as specified herein; 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. ("1994 Act"), as augmented
11 by Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"),
12 collectively, the “Business Assessment Law,” the Board of Supervisors adopted Resolution
13 No. 199-15, entitled “Resolution declaring the intention of the Board of Supervisors to
14 establish a property-based business improvement district (community benefit district) known
15 as the ‘Greater Rincon Hill Community Benefit District’ and levy a multi-year assessment on
16 all parcels in the district; approving the management district plan and engineer’s report and
17 proposed boundaries map for the district; ordering and setting a time and place for a public
18 hearing thereon; approving the form of the Notice of Public Hearing and Assessment Ballot
19 Proceeding, and Assessment Ballot; directing environmental findings; and directing the Clerk
20 of the Board of Supervisors to give notice of the public hearing and balloting as required by
21 law” (the "Resolution of Intention," Board of Supervisors File No. 150592); and

22 WHEREAS, The Resolution of Intention to form the Greater Rincon Hill Community
23 Benefit District (the "Greater Rincon Hill CBD" or "District"), among other things, approved the

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1 Greater Rincon Hill Community Benefit District Management Plan (the "District Management
2 Plan"), the detailed District Assessment Engineer's Report, the Boundaries Map, and the form
3 of the Notice of Public Hearing and Assessment Ballot Proceeding, that are all on file with
4 Clerk of the Board of Supervisors in File No. 150592; and

5 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
6 the proposed formation of the Greater Rincon Hill CBD, and the proposed levy of
7 assessments against property located within the District for a period of 15 years, for fiscal
8 year ("FY") 2015-2016 through FY2029-2030; and

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

11 WHEREAS, Ballots have been cast on the proposed District of approximately 3279
12 identified parcels located on approximately 57 whole or partial blocks.

13 Specifically, the exterior boundaries of the proposed District voted on are:

- 14 • 2nd Street from Jessie Street to Harrison Street, and from Harrison Street to the
15 southwest corner of APN 3764-067 (east side only)
- 16 • Harrison Street from 2nd Street to Main Street (east and west side – street and
17 affronting parcels; however specifically excluding the following parcels and
18 affronting public right of way: APN 3764-066, APN 3764-064, APN 3765-018, APN
19 3767-014 to 3767-310)
- 20 • Main Street from Harrison Street to Bryant Street (east side only)
- 21 • Bryant Street from Main Street to The Embarcadero (north side only)
- 22 • The Embarcadero from Bryant Street to Harrison Street (west side only)
- 23 • Steuart Street from Harrison Street to Howard Street (west side only)
- 24 • Howard Street from Steuart Street to Spear Street (south side only)

- 1 • Spear Street from Howard to Mission Street, and from Mission Street to the
- 2 northeast corner of APN 3712-023 (west side only)
- 3 • Mission Street from Spear Street to 1st Street (east and west side – street and
- 4 affronting parcels; however specifically excluding the following parcel and affronting
- 5 public right of way: APN 3712-025)
- 6 • First Street to the northwest corner of APN 3709-019/020 (east side only) to
- 7 Stevenson Street (west side only)
- 8 • Stevenson Street from 1st Street to Ecker Street (south side only)
- 9 • Ecker Street from Stevenson Street to the northeast corner of APN 3708-023 (east
- 10 side only)
- 11 • Northern property line of APN 3708-023 from the northeast corner of the parcel to
- 12 the northwest corner of the parcel
- 13 • Western property line of APN 3708-023 from the northwest corner of the parcel to
- 14 the southwest corner of the parcel
- 15 • From the southwest corner of APN 3708-023 to 2nd Street (south side only); and

16 WHEREAS, A Management District Plan was filed with the Board on June 8, 2015,
17 containing information about the proposed District and assessments as required by California
18 Streets and Highways Code, Section 36622; and

19 WHEREAS, A detailed Engineer's Report dated June 2015 was filed with the Clerk of
20 the Board on June 8, 2015, as prepared by Thomas E. Lowell, California Registered
21 Professional Engineer No. 13398, entitled "Greater Rincon Hill Community Benefit District
22 Engineer's Report," supporting the assessments within the proposed District. The Engineer's
23 Report is attached as Appendix G to the Management District Plan; and

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1 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of
2 Supervisors pursuant to California Streets and Highways Code Section 3110 on June 2, 2015;
3 and

4 WHEREAS, A public hearing concerning the proposed formation of the Greater Rincon
5 Hill CBD and the proposed levy of assessments within such District was held on July 28,
6 2015, at 3 p.m., in the Board’s Legislative Chamber 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, During the hearing, the Board received new information in a memorandum
21 from the Office of Economic and Workforce Development, dated July 10, 2015, (the “OEWD
22 Memo”) that recommends changing the proposed District boundaries to exclude parcels at the
23 edge of the District that would not benefit from the improvements, maintenance, and activities
24 of the District, as follows:

- 1 • Main Street from Harrison Street to ~~Bryant Street~~ southwest corner of APN 3768-
2 021-089 (east side only)
- 3 • From southwest corner of APN 3768-021-089 to southeast corner of APN 3768-016
4 ~~Bryant Street from Main Street to The Embarcadero~~ (north side only)
- 5 • The Embarcadero from Bryant Street to Harrison Street (west side only – street and
6 affronting parcels; however, specifically excluding the following parcels and
7 affronting public right of way: APN 3769-001); and

8 WHEREAS, Two parcels of proposed District would be eliminated by the change; and

9 WHEREAS, The parcels to be eliminated would not benefit from the improvements,
10 maintenance, and activities of the District because services will not be provided on the parcels
11 or on the streets or sidewalks along the parcel frontages; and

12 WHEREAS, The OEWD Memo, which shows the parcels to be eliminated, is on file
13 with the Clerk of the Board of Supervisors in File No. 150761, which is hereby declared to be
14 a part of this Resolution as if set forth fully herein; and

15 WHEREAS, Section 36624 of the California Streets and Highways Code authorizes
16 this Board to approve the proposed changes to the boundaries of the District; and

17 WHEREAS, The proposed changes are reflected in the amended Engineer's Report,
18 dated July 2015, and amended Management District Plan, dated July 2015, on file with the
19 Clerk of the Board of Supervisors in File No. 150761; and

20 WHEREAS, An amended Boundaries Map reflecting the proposed changes to the
21 District boundaries is on file with the Clerk of the Board of Supervisors in File No. 150761; and

22 WHEREAS, The public interest, convenience and necessity require the establishment
23 of the proposed Greater Rincon Hill Community Benefit District; and

24 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
25 will be specially benefited by the improvements, services and activities funded by the

1 assessments; and no assessment has been imposed on any parcel which exceeds the
2 reasonable cost of the proportional special benefit conferred on that parcel; now, therefore be
3 it

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

5 Section 1. **MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**
6 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
7 amended Management District Plan and amended District Assessment Engineer's Report,
8 including the estimates of the costs of the property-related services, activities and
9 improvements set forth in the plan, and the assessment of said costs on the properties that
10 will specially benefit from such services, activities and improvements. The Board also hereby
11 approves the amended Boundaries, showing the exterior boundaries of the District, and
12 ratifies and approves the Assessment Ballot and the City's use of such ballot, which
13 Assessment Ballot is on file with the Clerk of the Board of Supervisors in File No. 150592 and
14 is hereby declared to be a part of the Resolution as if set forth fully herein. A copy of the
15 amended Management District Plan, the amended District Assessment Engineer's Report,
16 and the amended Boundaries Map are on file with the Clerk of the Board of Supervisors in
17 File No. 150761, which is hereby declared to be a part of this Resolution as if set forth fully
18 herein.

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

1 Section 3. **ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and Article
2 15, the property-based business improvement district designated as the "Greater Rincon Hill
3 Community Benefit District" is hereby established.

4 Section 4. **DESCRIPTION OF DISTRICT.** The Greater Rincon Hill Community
5 Benefit District shall include all parcels of real property within the district. The proposed
6 District contains approximately 3278 identified parcels located on approximately 57 whole or
7 partial blocks.

8 Specifically, the exterior District boundaries are:

- 9 • 2nd Street from Jessie Street to Harrison Street, and from Harrison Street to the
10 southwest corner of APN 3764-067 (east side only)
- 11 • Harrison Street from 2nd Street to Main Street (east and west side – street and
12 affronting parcels; however specifically excluding the following parcels and
13 affronting public right of way: APN 3764-066, APN 3764-064, APN 3765-018, APN
14 3767-014 to 3767-310)
- 15 • Main Street from Harrison Street to southwest corner of APN 3768-021-089 (east
16 side only)
- 17 • From southwest corner of APN 3768-021-089 to southeast corner of APN 3768-016
18 (north side only)
- 19 • The Embarcadero from Bryant Street to Harrison Street (west side only – street and
20 affronting parcels; however, specifically excluding the following parcel and affronting
21 public right of way: APN 3769-001)
- 22 • Steuart Street from Harrison Street to Howard Street (west side only)
- 23 • Howard Street from Steuart Street to Spear Street (south side only)
- 24 • Spear Street from Howard to Mission Street, and from Mission Street to the
25 northeast corner of APN 3712-023 (west side only)

- 1 • Mission Street from Spear Street to 1st Street (east and west side – street and
- 2 affronting parcels; however specifically excluding the following parcel and affronting
- 3 public right of way: APN 3712-025)
- 4 • First Street to the northwest corner of APN 3709-019/020 (east side only) to
- 5 Stevenson Street (west side only)
- 6 • Stevenson Street from 1st Street to Ecker Street (south side only)
- 7 • Ecker Street from Stevenson Street to the northeast corner of APN 3708-023 (east
- 8 side only)
- 9 • Northern property line of APN 3708-023 from the northeast corner of the parcel to
- 10 the northwest corner of the parcel
- 11 • Western property line of APN 3708-023 from the northwest corner of the parcel to
- 12 the southwest corner of the parcel
- 13 • From the southwest corner of APN 3708-023 to 2nd Street (south side only)

14 Reference should be made to the detailed maps and the lists of parcels identified by
15 Assessor Parcel Number that are contained in the amended Management District Plan, in
16 order to determine which specific parcels are included in the Greater Rincon Hill Community
17 Benefit District.

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

21 Section 6. **SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
22 pay for the activities to be provided within the District, commencing with FY 2015-2016, and
23 continuing for 15 years, ending with FY 2029-2030. For purposes of levying and collecting
24 assessments within the District, a fiscal year shall commence on each July 1st and end on the
25 following June 30th.

1 (b) The amount of the proposed assessments to be levied and collected for FY
2 2015-2016 shall be a maximum of \$2,428,821.39 (as shown in the amended Management
3 District Plan and amended Engineer's Report dated July 2015). The amount of assessments
4 to be levied and collected in fiscal years two through 15 may be increased annually by the
5 Owners' Association's Board of Directors by an amount not to exceed the change in the
6 Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
7 Consolidated Metropolitan Statistical Area, or three percent (3%), whichever is less. In
8 addition, to account for new assessments from potential future development in the District, the
9 assessment for each of years five (FY 2019-2020) through 15 of the District may be increased
10 by not more that 5% of the prior year's assessment, including any CPI adjustment for the prior
11 year, for a total maximum increase of 8%.

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

14 (1) The levy of the assessments shall commence with fiscal year 2015-2016. Each
15 year the assessment shall be due and payable in two equal installments. The first installment
16 shall be due on November 1 of each fiscal year during the life of the District, and shall become
17 delinquent on December 10 of that fiscal year. The second installment shall be due on
18 February 1 of each fiscal year during the life of the District, and shall become delinquent on
19 April 10 of that fiscal year.

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

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

5 **Public Safety:** Public Safety includes, but is not limited to, a variety of safety
6 programs and strategies to prevent crime and increase pedestrian safety throughout the
7 District. The District will provide Community Guides to assist visitors, connect those in need
8 with social services, and report cleaning and safety issues. In addition, Public Safety includes
9 funding for safety work through the San Francisco Patrol Specials.

10 **Cleaning and Maintenance:** Cleaning and Maintenance includes, but is not limited to,
11 sidewalk sweeping, scheduled steam cleanings, graffiti removal, reporting trash for removal,
12 spot cleaning of street furniture and fixtures, and minor repair and maintenance of streetscape
13 amenities, furnitures, and fixtures.

14 **Parks and Greenspace:** Parks and Greenspace includes, but is not limited to, street
15 tree maintenance, gardening and weeding, irrigation system management and repair, trash
16 off-haul, pest control, pavement and pathway repairs and care, and minor capital
17 improvements. The District will also operate the District's parks in conjunction with their public
18 owners, this will include park promotion and neighborhood outreach.

19 **Communication and Development:** Communication and Development includes, but
20 is not limited to, periodic newsletters distributed via email and posted on the District's website,
21 brochures advertising the District, creation and maintenance of a District website, property
22 owner and merchant outreach programs, and coordinated networking for businesses, property
23 owners, and residents. Additionally, the District will focus on business retention and
24 recruitment by gathering information from brokers and potential retailers.

1 **Management:** Management includes, but is not limited to, a staff that will oversee the
2 administration of the District and the management of office expenses including accounting,
3 rent, utilities, office supplies, insurance, legal, and other professional services related to
4 District activities.

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

22 Section 9. **AMENDMENTS.** The properties in the District established by this
23 Resolution shall be subject to any amendments to the 1994 Act, and City Business and Tax
24 Regulations Code Article 6 and Article 15.

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

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

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

19 Section 13. **ENVIRONMENTAL FINDINGS.** The Planning Department has
20 determined that the actions contemplated in this Resolution are in compliance with the
21 California Environmental Quality Act (California Public Resources Code, Sections 21000,
22 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File
23 150761, which is hereby declared to be a part of this Resolution as if set forth fully herein.
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