

1 [Resolution to establish the North of Market/Tenderloin Community Benefit District.]

2
3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “North of Market/Tenderloin Community Benefit District (CBD),” ordering the**
5 **levy and collection of assessments against property located in that district for 15**
6 **years, commencing with fiscal year 2005-2006, and making environmental findings.**

7
8 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
9 California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as augmented by
10 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board
11 of Supervisors adopted Resolution No. 422-05 on June 7, 2005, entitled “Resolution declaring
12 the intention of the Board of Supervisors to establish a property-based business improvement
13 district to be known as the 'North of Market/Tenderloin Community Benefit District (CBD),' to
14 order the levy and collection of a multi-year assessment, and setting a time and place for a
15 public hearing thereon,” (the "Resolution of Intention"); and,

16 WHEREAS, the Resolution of Intention for the North of Market/Tenderloin Community
17 Benefit District (the "North of Market/Tenderloin CBD" or "District"), among other things,
18 approved the North of Market/Tenderloin Community Benefit District Management District
19 Plan (the "District Management Plan"), the District Assessment Engineer's Report, the
20 Assessment Ballots and the Notice of Public Hearing, that are on file with Clerk of the Board
21 of Supervisors in File No. 050877; and,

22 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
23 the proposed formation of the North of Market/Tenderloin CBD, the proposed levy of
24 assessments against property located within the District for a period of 15 years, commencing
25 with fiscal year 2005-2006, beginning January 1, 2006 and ending December 31, 2020, to be

1 duly published and mailed as required by law, to the record owner of each parcel proposed to
2 be assessed within the District; and,

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

5 WHEREAS, A public hearing concerning the proposed formation of the North of
6 Market/Tenderloin CBD and the proposed levy of assessments within such District was held
7 on August 2, 2005, at 3 p.m., in the Board's Legislative Chambers, located on the Second
8 Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

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

21 WHEREAS, The public interest, convenience and necessity require the establishment
22 of the proposed North of Market/Tenderloin Community Benefit District; and,

23 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
24 will be specially benefited by the improvements, services and activities funded by the
25 assessments, and no assessment has been imposed on any parcel which exceeds the

1 reasonable cost of the proportional special benefit conferred on that parcel; now therefore be
2 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 North of Market/Tenderloin Community Benefit District. All objections or
8 protests both 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 "North of Market/Tenderloin
11 Community Benefit District" is hereby established.

12 **Section 3. DESCRIPTION OF DISTRICT.** The North of Market/Tenderloin
13 Community Benefit District shall include all parcels of real property within the district, the
14 exterior boundaries of which are as follows:

15 North of Market/Tenderloin area, the exterior boundaries of which are as follows:

16 O'Farrell, North side/Jones to Taylor, South side/Larkin to Mason

17 Ellis, Larkin to Mason;

18 Eddy, Larkin to Mason;

19 Larkin, O'Farrell to Turk (both sides)

20 Turk, Larkin to Mason

21 Golden Gate Ave., Larkin to Taylor;

22 McAllister, Larking to Jones

23 United Nations Plaza, Hyde to Leavenworth;

24 Grove Street, Hyde to Market;

25 Market Street, Mason to Hyde (North side only)

1 Hyde, O'Farrell to McAllister;
2 Leavenworth, O'Farrell, - Market St.;
3 Jones, O'Farrell – Market St.;
4 Taylor, O'Farrell – Market St.;
5 Mason, O'Farrell –Market St.(West side only).

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

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

12 **Section 5. SYSTEM OF ASSESSMENTS.** (a) An assessment will be levied
13 annually to pay for the activities to be provided within the District, commencing with fiscal year
14 2005-2006, and continuing for fifteen years, ending with fiscal year 2020-2021. For purposes
15 of levying and collecting assessments within the District, a fiscal year shall commence on
16 each July 1st and end on the following June 30th.

17 (b) The total amount of the proposed assessments to be levied and collected for
18 fiscal year 2005-2006 shall be ~~\$932,413~~ \$927,745.00. The amount of assessments to be
19 levied and collected in subsequent fiscal years through the first half of fiscal year 2020-2021
20 may be increased annually by the Board of Directors of the District by an amount not to
21 exceed the change in the Consumer Price Index for All Urban Consumers in the San
22 Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, or 5 percent,
23 whichever is lower.

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

1 fiscal year 2005-2006. 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 6. USE OF REVENUES.** The property-related services, improvements or
9 activities for the District include a Public Rights of Way and Sidewalk Operations component,
10 consisting of regular sidewalk and gutter sweeping, periodic sidewalk steam cleaning, spot
11 steam cleaning as necessary, safe passage programs for visitors and employees, minor
12 security services, beautification, decorations; enhanced trash emptying in the public rights of
13 way, removal of bulky items, graffiti removal within 24 hours, installation and maintenance of
14 banners and/or decorations, tree and plant maintenance and planting; equipment, supplies,
15 tools, vehicle maintenance and insurance, maintenance personnel and supervisor costs; a
16 District Identity and Streetscape Improvements component, consisting of special events, web
17 site, pedestrian kiosks and wayfinding signage system, enhanced beautification, flower pots
18 on street lights, marketing and promotions, advertising, walking map, public space
19 development, historical markers and public art; an Administrative and Corporate Operations
20 component, consisting of staff and administrative costs, insurance, office related expenses,
21 financial reporting, developing parking strategies with the City, communications, and
22 repayment of district formation costs; and a Contingency and Reserve component for
23 delinquencies, a reserve and repayment of district formation costs.

24 The above improvements, services and activities will be funded by the levy of the
25 assessments. The revenue from the levy of the assessments within the District shall not be

1 used to provide improvements, services or activities outside the District or for any purpose
2 other than the purposes specified in Board of Supervisors Resolution No. 422-05.

3 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
4 with a separate private entity to administer the improvements, services and activities set forth
5 in Section 6. Any such entity shall hold the funds it receives from the City and County of San
6 Francisco ("City") in trust for the improvements, services and activities set forth in Section 6.
7 Any entity that holds funds in trust for purposes related to the contract shall, at no expense to
8 the City, provide an annual independent audit report by a Certified Public Accountant of all
9 such funds. The audit may be funded from assessment proceeds as part of the general
10 administration of the District. At all times the Board of Supervisors shall reserve full rights of
11 accounting of these funds. The Mayor's Office of Economic and Workforce Development
12 shall be the City agency responsible for coordination between the City and the District.

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

15 **Section 9. RECORDATION OF NOTICE AND DIAGRAM.** The County Clerk of the
16 Board of Supervisors is hereby authorized and directed to record a notice and an assessment
17 diagram pursuant to Section 36627 of the California Streets and Highways Code following
18 adoption of this Resolution, and to make conforming changes thereto to reflect the correction
19 of minor defects specified in Section 13 or as approved by the Board of Supervisors at and
20 duly noted on the official record of the meeting of the Board of Supervisors held on August 2,
21 2005.

22 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
23 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
24 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
25 referred to in the District Management Plan. Each year, the Assessor shall enter on the

1 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
2 and such assessment shall be collected in the same manner as the County property taxes are
3 collected.

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

11 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has
12 determined that the actions contemplated in this Resolution are in compliance with the
13 California Environmental Quality Act (California Public Resources Code sections 21000 et
14 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
15 051192 and is incorporated herein by reference.

16 **Section 13. TECHNICAL CORRECTIONS AND REDUCTIONS.** The Board of
17 Supervisors hereby reduces the assessments for particular identified parcels within the
18 District to correct minor defects in one or more of the data variables (building size, lot size,
19 linear frontage and building use) used to calculate the amount of the assessment for Fiscal
20 Year 2005-2006 under the formula set forth in the Management Plan, as set forth below or as
21 may be duly noted on the official record of the meeting of the Board of Supervisors held on
22 August 2, 2005 on this item. The Board of Supervisors finds that the revisions, changes,
23 reductions or modifications to the assessments made herein or that may be made at the
24 conclusion of the public hearing to correct such minor defects do not render the resulting
25 assessments materially different from the assessments proposed in the Petition and

1 Management Plan. Such technical corrections are authorized under Section 36624 of the Act
2 and Section 4 of the Resolution of Intention. Information and documents supporting the
3 reductions are on file with the Clerk of the Board of Supervisors in File No. 051192 and are
4 incorporated herein by reference.

5 a. APN 0344-006, located at 144 Leavenworth Street, by reducing the category 1
6 assessable building size from 12,143 square feet to zero square feet, resulting in a reduction
7 of the initial assessment from \$1,291.79 to \$927.50.

8 b. APN 0323-007, located at 424 Ellis Street, by reducing the category 1
9 assessable building size from 31,459 square feet to zero square feet, resulting in a reduction
10 of the initial assessment from \$2,803.27 to \$1,859.50.

11 c. APN 0346-006, located at 366-390 Golden Gate Ave., by reducing the category
12 1 assessable building size from 74,390 square feet to 12,398 square feet, resulting in a
13 reduction of the initial assessment from \$6,871.95 to \$5,012.19.

14 d. APN 0323-016, located at 434 Leavenworth Street, by reducing the category 1
15 assessable building size from 34,565 square feet to zero square feet, resulting in a reduction
16 of the initial assessment from \$2,788.58 to \$1,751.63.

17 e. APN 0346-007, located at 444 Larkin Street, by reducing the category 1
18 assessable building size from 15,792 square feet to 342 square feet, resulting in a reduction
19 of the initial assessment from \$1,883.51 to \$1,420.01.