

1 [Resolution of Intention to form the Fisherman's Wharf Portside Community Benefit District]

2
3 **Resolution (1) declaring the intention of the Board of Supervisors to establish a**
4 **business-based business improvement district (community benefit district) to be**
5 **known as the “Fisherman's Wharf Portside Community Benefit District” and levy a**
6 **multi-year assessment on identified businesses in the district, (2) approving the**
7 **management district plan for the district, (3) ordering and setting a time and place for a**
8 **public hearing thereon, (4) approving the form of the Notice of Public Hearing and**
9 **Assessment Ballots, and (5) directing the Clerk of the Board of Supervisors to give**
10 **notice of the public hearing as required by law.**

11
12 WHEREAS, The Property and Business Improvement District Law of 1994, Part 7 of
13 Division 18 of the California Streets and Highways Code, commencing with Section 36600
14 (the "Law"), authorizes cities to establish property and business improvement districts to
15 promote the economic revitalization and physical maintenance of such districts; and,

16 WHEREAS, Section 36603 of the Law recognizes the authority of Charter cities to
17 adopt ordinances providing for different methods of levying assessments for similar or
18 additional purposes from those set forth in the Law; and,

19 WHEREAS, Article 15 of the San Francisco Business and Tax Regulations Code
20 ("Article 15") augments certain procedural and substantive requirements relating to the
21 formation of property and business improvement districts and the assessments on real
22 property or businesses within such districts; and,

23 WHEREAS, The Law and Article 15 authorize the City to levy and collect assessments
24 on businesses within such districts for the purpose of providing improvements and promoting
25

1 activities and business-related services that specially benefit identified businesses located
2 within such districts; and,

3 WHEREAS, The Law and Article 15 impose additional procedural and substantive
4 requirements relating to assessments on businesses within a proposed property and business
5 improvement district, also known as a community benefit district ("CBD"); and,

6 WHEREAS, The Board of Supervisors finds that the business-related services,
7 activities and improvements to be funded with assessments on businesses within the
8 proposed district will confer substantial special benefits on the assessed businesses over and
9 above the general benefits to the public at large from such services, activities and
10 improvements; and,

11 WHEREAS, The business owners who will pay more than 30 percent of the total
12 amount of assessments on properties within the proposed district signed and submitted to the
13 Clerk of the Board of Supervisors a petition (the "Petition") requesting that the Board of
14 Supervisors establish a business-based community benefit district to be named the
15 "Fisherman's Wharf Portside Community Benefit District" and levy assessments on
16 businesses located in the proposed district to fund business-related services, activities and
17 improvements within the district; and,

18 WHEREAS, A Management District Plan entitled the "Fisherman's Wharf Portside
19 Community Benefit District Management District Plan" containing information about the
20 proposed district and assessments required by Section 36622 of the Law, including but not
21 limited to a map showing all identified parcels in the district where the businesses to be
22 assessed are located, a description of the boundaries of the district, the name of the district,
23 the amount of the proposed assessment for each identified business, the total annual amount
24 chargeable to the entire district, the duration of the payments, the business-related services,
25 activities and improvements to be funded by the assessments for each year and the maximum

1 cost thereof, the method and basis upon which the assessments are calculated in sufficient
2 detail to allow each business owner to calculate the amount of the assessment to be levied
3 against his or her business, a statement that no bonds will be issued, the time and manner of
4 collecting the assessments, and a list of the businesses to be assessed, has been submitted
5 to the Clerk of the Board of Supervisors; and,

6 WHEREAS, evidence supporting the assessments within the proposed district has
7 been submitted to the Clerk of the Board of Supervisors as an Appendix to the Management
8 District Plan; now, therefore, be it

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

10 **Section 1.** Pursuant to section 36621(a) of the Law and Article 15, the Board of
11 Supervisors declares its intention to form a property and business improvement district to be
12 designated as the "Fisherman's Wharf Portside Community Benefit District " (the "District") for
13 a period of 14 years, and to levy and collect assessments against all identified businesses in
14 the District for a period of 14 years, commencing with fiscal year 2006-2007, subject to
15 approval by a majority of the business owners in the District who cast assessment ballots,
16 which ballots shall be weighted according to the proportional financial obligations of the
17 affected businesses. No bonds will be issued. The district term will commence January 1,
18 2007 with services beginning July 1, 2007, following the first disbursement of assessment
19 revenues to the CBD management corporation.

20 **Section 2.** The Board of Supervisors hereby approves the Management District
21 Plan, including the estimates of the costs of the business-related services, activities and
22 improvements set forth in the plan, and the assessment of said costs on the businesses that
23 will specially benefit from such services, activities and improvements, including the appendix
24 of documentation regarding special benefits conferred by similar financing programs. A copy
25 of the Management District Plan is on file with the Clerk of the Board of Supervisors in File

1 No. _____. The Clerk of the Board shall make the Management District Plan and other
2 documents related to the District and included in the record before the Board of Supervisors
3 available to the public for review during normal business hours, Monday through Friday 8:00
4 a.m. through 5:00 p.m., excluding legal holidays.

5 **Section 3.** The exterior boundaries of the District are as set forth in the map
6 contained in the Management District Plan on file with the Clerk of the Board of Supervisors in
7 File No. _____, and incorporated herein by reference. The exterior boundaries of the
8 District include all businesses on both sides of the street unless otherwise noted, as follows:

9 All businesses in possession of a San Francisco business license that are under
10 contract with the Port of San Francisco, plus master tenants in Benefit Zone 1, within
11 the following areas: from the East side of Pier 39 (including all of Pier 39), westward to
12 the West side of the Hyde Street Pier (with noted exemptions and benefit zones as
13 outlined in this plan). The southerly boundary of The Fisherman's Wharf/Portside CBD
14 shall run along the approximate center line of The Embarcadero from the easterly line
15 of the existing Pier 39 lease premises, northwesterly to its intersection with the easterly
16 prolongation of the approximate centerline of Jefferson Street, thence westerly along
17 said easterly prolongation and said centerline of Jefferson Street to the northerly
18 prolongation of the westerly line of Hyde Street.

19
20 Reference should be made to the detailed map and the list of businesses identified by
21 Operating Number and Facility Name in the Management District Plan Appendices, in order to
22 determine which businesses are included in the District.

23 **Section 4.** A public hearing on the proposed establishment of the District and the
24 levy and collection of assessments starting with fiscal year 2006-2007 and continuing through
25 fiscal year 2012-2013, shall be conducted before the Board of Supervisors on December 12,

1 2006 at 3:00 p.m., or as soon thereafter as the matter may be heard, in the Board's
2 Legislative Chambers, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place, San
3 Francisco, California, 94102. At this public hearing, the Board of Supervisors will hear public
4 testimony regarding the proposed formation of the District, assessments, and boundaries of
5 the District, including testimony from all interested persons for or against establishment of the
6 District, the extent of the District, the levy of the assessments, the furnishing of specific types
7 of business-related services, improvements and activities, and other matters related to the
8 District. The Board of Supervisors may waive any irregularity in the form or content of any
9 written protest, and at the public hearing may correct minor defects in the proceedings. All
10 protests submitted by affected business owners and received prior to the conclusion of the
11 public testimony portion of the public hearing shall be tabulated to determine whether a
12 majority protest exists.

13 **Section 5.** The Board of Supervisors hereby approves the form of the Notice of
14 Public Hearing and Assessment Ballot which are on file with the Clerk of the Board of
15 Supervisors in File No. _____.

16 **Section 6.** The proposed business-related services, improvements or activities for
17 the District include:

18 District Identity and Streetscape Improvements, Marketing and Promotions;
19 Administration, Organization and Corporate Operations; and,
20 Contingency/Reserve.

21 Examples of the "District Identity and Streetscape Improvements, Marketing and
22 Promotions" special benefit services and costs related to the provision of these services
23 include but are not limited to: special events; marketing and promotions strategies; personnel
24 related to marketing and promotions; logo development, web site creation and maintenance;
25 pedestrian kiosks and way-finding signage system; public space planning and

1 implementation; walking map; advertising; branding of the Fisherman's Wharf; historical
2 markers and public art; replacement and upgrading of street furnishings; beautification;
3 decorations; parking and transportation related issues for visitors and employees;
4 supplemental trash removal in the public rights of way; security and maintenance of order;
5 economic development and transportation issues; other public right of way special benefits;
6 and, repayment of district formation costs.

7 Examples of the "Administration, Organization and Corporate Operations" special
8 benefit services and costs related to the provision of these services include but are not limited
9 to: staff and administrative costs; insurance; office related expenses; financial reporting; and
10 communications. (These costs are to be shared with the existing Fisherman's Wharf CBD.)

11 Examples of the "Contingency/Reserve" special benefit services and costs related to
12 the provision of these services include but are not limited to: delinquencies due to non-
13 payment of assessments by business owners; hardship contributions; and unallocated
14 reserves.

15 **Section 7.** Within the area encompassed by the proposed District, the City currently
16 provides services at the same level provided to other similar areas of the City. It is the intent
17 of the Board of Supervisors to continue to provide the area encompassed by the District with
18 the same level of services provided to these other similar areas of the City. The
19 establishment of the District will not affect the City's policy to continue to provide the same
20 level of service to the areas encompassed by the District as it provides to other similar areas
21 of the City during the duration of the District.

22 **Section 8.** The annual assessment proposed to be levied and collected for the first
23 year of the District (fiscal year 2006-2007) is \$187,113.00. The amount of the annual
24 assessment to be levied and collected for year two through year fourteen (fiscal year 2007-
25 2008 through fiscal year 2020-2021) on businesses that are not subject to the gross sales

1 assessment formula may be increased from one year to the next by a percentage that does
2 not exceed either the change in the Consumer Price Index for All Urban Consumers in the
3 San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, or 5 percent,
4 whichever is less. For businesses whose annual assessments are calculated based on a
5 gross sales assessment formula, year two through year fourteen assessments may increase
6 or decrease annually according to their reported gross sales. In no event shall any business
7 be assessed more than \$65,000 annually. The total maximum assessments that could be
8 collected annually for the district, is \$500,000.

9 **Section 9.** The Clerk of the Board is directed to give notice of the public hearing as
10 provided in the Property and Business Improvement District Law of 1994 (California Streets
11 and Highways Code §§36600 *et seq.*), Section 16.112 of the San Francisco Charter, and
12 Section 67.7-1 of the San Francisco Administrative Code.

13
14
15
16
17
18
19
20
21
22
23
24
25