

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

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3 **Resolution of Formation: Establishing a business-based business improvement**
4 **district to be known as the "Fisherman's Wharf Portside Community Benefit District**
5 **(CBD)," ordering the levy and collection of assessments against businesses located in**
6 **that district for fourteen (14) years commencing with fiscal year 2006-2007, subject to**
7 **conditions as specified, and making 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"), Resolution
12 No. 586-06 "Resolution of Intention to form the Fisherman's Wharf Portside Community
13 Benefit District" was adopted by the Board of Supervisors on October 24 and signed by the
14 Mayor on October 25, 2006, declaring the City's intention to establish this business-based
15 business improvement district and order the levy and collection of a multi-year assessment,
16 and setting a time and place for a public hearing (the "Resolution of Intention"); and,

17 WHEREAS, The Resolution of Intention for the Fisherman's Wharf Portside Community
18 Benefit District (the "Fisherman's Wharf Portside CBD" or "District"), among other things,
19 approved the Fisherman's Wharf Portside Community Benefit District Management District
20 Plan dated October 6, 2006 (the "District Management Plan"), the Assessment Ballots and the
21 Notice of Public Hearing, that are on file with Clerk of the Board of Supervisors in File No.
22 061419; and,

23 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
24 the proposed formation of the Fisherman's Wharf Portside CBD, and the proposed levy of
25 assessments against businesses located within the District for a period of fourteen years,

1 commencing with fiscal year 2006-2007, beginning January 1, 2007 and ending December
2 31, 2020; and,

3 WHEREAS, The Board of Supervisors has caused ballots to be mailed to the record
4 business registration certificate (business license) holder for each business proposed to be
5 assessed within the District, as required by law; and,

6 WHEREAS, The Board of Supervisors has received and considered the Management
7 District Plan dated December 11, 2006, on file with the Clerk of the Board of Supervisors in
8 File No. 061419, which modifies the Management District Plan dated October 6, 2006 by
9 updating according to Port records some of the Facility Code, Pier, Sea Wall and Berth
10 Numbers on pages 27-29, and by including more detail on the boundary map on page 26;
11 and,

12 WHEREAS, A public hearing concerning the proposed formation of the Fisherman's
13 Wharf Portside CBD and the proposed levy of assessments within such District was held on
14 December 12, 2006, at 3:00 p.m., in the Board's Legislative Chambers, located on the
15 Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

21 WHEREAS, The Board of Supervisors heard and considered all objections or protests
22 to the proposed assessments and the Director of the Department of Elections tabulated the
23 assessment ballots submitted and not withdrawn, in support of or in opposition to the
24 proposed assessments, and the Clerk of the Board determined that a majority of the ballots
25 cast (weighted according to the proportional financial obligations of the business) by the

1 record business registration certificate (business license) holders of the businesses located
2 within the proposed District did not oppose establishing the proposed district; and,

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

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

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

11 **Section 1. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
12 hereby finds pursuant to California Streets and Highways Code §36623, that a majority
13 protest does not exist with respect to the formation of Fisherman's Wharf Portside Community
14 Benefit District. All objections or protests both written and oral, are hereby duly overruled.

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

18 **Section 3. DESCRIPTION OF DISTRICT.** The exterior boundaries of the
19 Fisherman's Wharf Portside District are as set forth in the map contained in the Management
20 District Plan on file with the Clerk of the Board of Supervisors in File No. 061419, and
21 incorporated herein by reference. The exterior boundaries of the District include all
22 businesses on both sides of the street unless otherwise noted, as follows:

23 All businesses in possession of a San Francisco business registration certificate
24 (business license) that are under contract with the Port of San Francisco, plus master
25 tenants in Benefit Zone 1, within the following areas: from the East side of Pier 39

1 (including all of Pier 39), westward to the West side of the Hyde Street Pier (with noted
2 exemptions and benefit zones as outlined in this plan). The southerly boundary of The
3 Fisherman’s Wharf/Portside CBD shall run along the approximate center line of The
4 Embarcadero from the easterly line of the existing Pier 39 lease premises,
5 northwesterly to its intersection with the easterly prolongation of the approximate
6 centerline of Jefferson Street, thence westerly along said easterly prolongation and
7 said centerline of Jefferson Street to the northerly prolongation of the westerly line of
8 Hyde Street.

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

12 **Section 4. FINDING OF BENEFIT.** The Board of Supervisors hereby finds that the
13 businesses within the District will be benefited by the improvements and activities funded by
14 the assessments proposed to be levied.

15 **Section 5. SYSTEM OF ASSESSMENTS.**

16 (a) Annual assessments will be levied to pay for the activities to be provided within the
17 District, commencing with fiscal year 2006-2007 and continuing for fourteen years, ending
18 with fiscal year 2020-2021. For purposes of levying and collecting assessments within the
19 District, a fiscal year shall commence on each July 1st and end on the following June 30th.

20 (b) The annual assessment proposed to be levied and collected for the first year of
21 the District (fiscal year 2006-2007) is \$187,113.00. The amount of the annual assessment to
22 be levied and collected for year two through year fourteen (fiscal year 2007-2008 through
23 fiscal year 2020-2021) on businesses that are not subject to the gross sales assessment
24 formula may be increased from one year to the next by a percentage that does not exceed
25 either the change in the Consumer Price Index for All Urban Consumers in the San Francisco-

1 Oakland-San Jose Consolidated Metropolitan Statistical Area, or 5 percent, whichever is less.
2 For businesses whose annual assessments are calculated based on a gross sales
3 assessment formula, year two through year fourteen assessments may increase or decrease
4 annually according to their reported gross sales. In no event shall any business be assessed
5 more than \$65,000 annually. The total maximum assessments that could be collected
6 annually for the district, is \$500,000.

7 (c) The method and basis of levying and collecting the assessment shall be as set
8 forth in the District Management Plan. The levy of the assessments shall commence with
9 fiscal year 2006-2007, and the final assessment shall be for fiscal year 2020-2021. Each year
10 the assessments shall be due and payable. The assessments shall be collected through a
11 special annual billing sent by the City's Treasurer/Tax Collector by May 1st of each year to
12 each holder of a City business registration certificate (business license) in the District. District
13 businesses will have until the last day of June each year to pay their annual assessments.

14 **Section 6. USE OF REVENUES.** The proposed business-related services,
15 improvements or activities for the District include:

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

19 Examples of the "District Identity and Streetscape Improvements, Marketing and
20 Promotions" special benefit services and costs related to the provision of these services
21 include but are not limited to: special events; marketing and promotions strategies; personnel
22 related to marketing and promotions; logo development, web site creation and maintenance;
23 pedestrian kiosks and way-finding signage system; public space planning and
24 implementation; walking map; advertising; branding of the Fisherman's Wharf; historical
25 markers and public art; replacement and upgrading of street furnishings; beautification;

1 decorations; parking and transportation related issues for visitors and employees;
2 supplemental trash removal in the public rights of way; security and maintenance of order;
3 economic development and transportation issues; other public right of way special benefits;
4 and, repayment of district formation costs.

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

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

14 The above improvements, services and activities will be funded by the levy of the
15 assessments. The revenue from the levy of the assessments within the District shall not be
16 used to provide improvements, services or activities outside the District or for any purpose
17 other than the purposes specified in Board of Supervisors Resolution No. 586-06.

18 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
19 with a separate private entity to administer the improvements, services and activities set forth
20 in Section 6. Any such entity shall hold the funds it receives from the City and County of San
21 Francisco ("City") in trust for the improvements, services and activities set forth in Section 6.
22 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no
23 expense to the City, a balance sheet and the related statement of income and cash flows for
24 each fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public
25 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.

1 In addition, or alternatively, the Controller or the Mayor's Office of Economic and Workforce
2 Development may in their discretion require the private entity to deliver, at no expense to the
3 City, an annual independent audit report by a Certified Public Accountant of all such funds.
4 The CPA review and/or audit may be funded from assessment proceeds as part of the
5 general administration of the District. At all times the Board of Supervisors shall reserve full
6 rights of accounting of these funds. The Mayor's Office of Economic and Workforce
7 Development shall be the City agency responsible for coordination between the City and the
8 District.

9 **Section 8. AMENDMENTS.** The businesses in the District established by this
10 Resolution shall be subject to any amendments to the Act and Article 15.

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

15 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
16 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
17 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
18 covered by the District Management Plan. The assessments shall be collected through a
19 special annual billing sent by the City's Treasurer/Tax Collector by May 1st of each year to
20 each holder of a City business registration certificate (business license) in the District. District
21 businesses will have until the last day of June each year to pay their annual assessments.

22 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the
23 District are used to enhance the current level of services provided by the City within the
24 District, the establishment of the District will not affect the City's policy to continue to provide
25 the same level of service to the areas encompassed by the District as it provides to other

1 similar areas of the City for the duration of the District, provided, however, that in the event of
2 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
3 municipal services citywide, including within the District.

4 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has
5 determined that the actions contemplated in this Resolution are in compliance with the
6 California Environmental Quality Act (California Public Resources Code sections 21000 et
7 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
8 061419 and is incorporated herein by reference.

9 **Section 13. MANAGEMENT DISTRICT PLAN.** The Board of Supervisors hereby
10 approves the Management District Plan dated December 11, 2006, on file with the Clerk of
11 the Board of Supervisors in File No. 061419, which modifies the Management District Plan
12 dated October 6, 2006 by updating according to Port records some of the Facility Code, Pier,
13 Sea Wall and Berth Numbers on pages 27-29, and by including more detail on the boundary
14 map on page 26.

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