

1 [Resolution to establish the Yerba Buena Community Benefit District.]

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3 **Resolution establishing a property-based business improvement district to be known**  
4 **as the “Yerba Buena Community Benefit District (CBD),” ordering the levy and**  
5 **collection of assessments against property located in that district for seven years,**  
6 **commencing with fiscal year 2008-2009, subject to conditions as specified, and making**  
7 **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"), the Board  
12 of Supervisors adopted Resolution No. 246-08 on June 10, 2006, entitled "Resolution  
13 declaring the intention of the Board of Supervisors to establish a property-based business  
14 improvement district to be known as the "Yerba Buena Community Benefit District (CBD)," to  
15 order the levy and collection of a multi-year assessment, and setting a time and place for a  
16 public hearing thereon" (the "Resolution of Intention"); and,

17 WHEREAS, The Resolution of Intention for the Yerba Buena Community Benefit  
18 District (the "Yerba Buena CBD" or "District"), among other things, approved the Yerba Buena  
19 Community Benefit District Management District Plan (the "District Management Plan"), the  
20 District Assessment Engineer's Report, the form of the Assessment Ballots and the Notice of  
21 Public Hearing, that are on file with Clerk of the Board of Supervisors in File No. 080784; and,

22 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning  
23 the proposed formation of the Yerba Buena CBD, and the proposed levy of assessments  
24 against property located within the District for a period of seven years, for fiscal years 2008-  
25 2009 through 2014-2015; and,

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

3           WHEREAS, A public hearing concerning the proposed formation of the Yerba Buena  
4 CBD and the proposed levy of assessments within such District was held on July 29, 2008, at  
5 3 p.m., in the Board's Legislative Chambers, located on the Second Floor of City Hall, 1 Dr.  
6 Carlton B. Goodlett Place, San Francisco, California; and,

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

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

19           WHEREAS, The public interest, convenience and necessity require the establishment  
20 of the proposed Yerba Buena Community Benefit District; and,

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

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

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

7 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a  
8 property-based business improvement district designated as the "Yerba Buena Community  
9 Benefit District" is hereby established.

10 **Section 3. DESCRIPTION OF DISTRICT.** The Yerba Buena Community Benefit  
11 District shall include all parcels of real property within the district, the exterior boundaries of  
12 which are as follows, including all parcels on both sides of the street unless otherwise noted:

13 NORTHERN BOUNDARY OF MARKET STREET AND JESSIE STREET AND  
14 MISSION STREET:

15 Market Street -- All parcels between the Southwest corner of the intersection of Market  
16 Street and 2<sup>nd</sup> Street, to the Southeast corner of the intersection of Market Street and 4<sup>th</sup>  
17 Street, excluding parcel 3706-047 (that is part of the Union Square business improvement  
18 district "BID");

19 Jessie Street East and Jessie Street West (Between 4<sup>th</sup> Street and 5<sup>th</sup> Street) –  
20 Including all parcels on the North and South sides of Jessie Street East to and including the  
21 Northwest and Southwest corners of its intersection with 4<sup>th</sup> Street, including all parcels on the  
22 North and South sides of Jessie Street West to and including the Northeast and Southeast  
23 corners of its intersection with 5<sup>th</sup> Street, and including parcel 3705z-003 that does not have  
24 Jessie Street frontage, and excluding parcels 3705z-001, 3705z-002, 3705-037, 3705-042,  
25 and 3705-049 (that are part of the Union Square business improvement district "BID");

1 Mission Street – Including parcels on the North and South sides of Mission Street from  
2 the Northeast and Southeast corners of the intersection of Mission Street and 4<sup>th</sup> Street, to the  
3 Northeast and Southwest corners of the intersection of Mission Street and 5<sup>th</sup> Street,  
4 excluding parcel 3705-049 (that is part of the Union Square BID), and including air rights  
5 parcels 3705-050 and 3705-052 located within the Westfield San Francisco Centre (in the  
6 block between Market and Mission Streets, and 4<sup>th</sup> and 5<sup>th</sup> Streets) that do not have Mission  
7 Street frontage;

8 SOUTHERN BOUNDARY OF HARRISON STREET: Harrison Street – Including parcels  
9 on the North side of Harrison Street between the Northwest corner of the intersection of Harrison  
10 Street and 2<sup>nd</sup> Street, and the Northwest corner of the intersection of Harrison and 5<sup>th</sup> Street.  
11 Including parcels on the South side of Harrison Street between the Southwest corner of the  
12 intersection of Harrison Street and 2<sup>nd</sup> Street to the Southeast corner of the intersection of  
13 Harrison Street and 5<sup>th</sup> Street.

14 EASTERN BOUNDARY OF 2<sup>ND</sup> STREET: 2<sup>nd</sup> Street – Including parcels on the West  
15 side of 2<sup>nd</sup> Street from the Southwest corner of the intersection of 2<sup>nd</sup> Street and Market Street,  
16 to the Southwest corner of the intersection of 2<sup>nd</sup> Street and Harrison Street.

17 WESTERN BOUNDARY OF 5<sup>TH</sup> STREET: 5<sup>th</sup> Street – Including parcels on the East side  
18 of 5<sup>th</sup> Street from the Northeast corner of the intersection of 5<sup>th</sup> Street and Jessie Street, to the  
19 Southeast corner of the intersection of 5<sup>th</sup> Street and Harrison Street. Including parcels on the  
20 West side of 5<sup>th</sup> Street from the Southwest corner of the intersection of 5<sup>th</sup> Street and Mission  
21 Street, to the Northwest corner of the intersection of 5<sup>th</sup> Street and Harrison Street.

22 The Yerba Buena CBD boundaries do not include the following bordering parcels that  
23 are part of the existing Union Square business improvement district (BID): 3705z-001, 3705z-  
24 002, 3705-037, 3705-042, 3705-049, and 3706-047. A BID is another term used in San  
25 Francisco to describe a community benefit district (CBD) or special assessment district

1 formed under California Streets and Highways Code Sections 36600 *et seq.*

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

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

8 **Section 5. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to  
9 pay for the activities to be provided within the District, commencing with fiscal year 2008-  
10 2009, and continuing for seven years, ending with fiscal year 2014-2015. For purposes of  
11 levying and collecting assessments within the District, a fiscal year shall commence on each  
12 July 1st and end on the following June 30th.

13 (b) The total amount of the proposed assessments to be levied and collected for  
14 fiscal year 2008-2009 shall be \$2,384,045. The amount of assessments to be levied and  
15 collected in subsequent fiscal years through the first half of fiscal year 2014-2015 may be  
16 increased annually by the Board of Directors of the District by an amount not to exceed the  
17 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-  
18 San Jose Consolidated Metropolitan Statistical Area, or 5 percent, whichever is lower.

19 (c) The method and basis of levying and collecting the assessment shall be as set  
20 forth in the District Management Plan. The levy of the assessments shall commence with  
21 fiscal year 2008-2009. Each year the assessment shall be due and payable in two equal  
22 installments. The first installment shall be due on November 1 of each fiscal year during the  
23 life of the District, and shall become delinquent on December 10 of that fiscal year. The  
24 second installment shall be due on February 1 of each fiscal year during the life of the District,  
25 and shall become delinquent on April 10 of that fiscal year. Nonpayment of the assessment

1 shall have the same lien priority and delinquent payment penalties and be subject to the same  
2 enforcement procedures and remedies as the ad valorem property tax.

3 **Section 6. USE OF REVENUES.** The proposed property-related services,  
4 improvements or activities for the District include:

5 A Sidewalk Operations, Beautification and Order (SOBO) component, to include street-  
6 level staff as Ambassadors/Community Guides, hiring dedicated police officers from the San  
7 Francisco Police Department under San Francisco CCSF Administrative Code Chapter 10B,  
8 sidewalk and gutter sweeping, sidewalk steam cleaning and power washing, enhanced trash  
9 emptying in public rights of way including removal of bulky trash items, removal of graffiti, tree  
10 and hanging flower basket planting and maintenance, equipment/tools and supplies, vehicle  
11 insurance and maintenance, personnel and supervisor/oversight costs to implement SOBO,  
12 banners and decorations, public right of way beautification, maintenance of pedestrian public  
13 spaces in addition to sidewalks, and distribution of small annual grants to community  
14 organizations providing services in the district that support the SOBO improvements and  
15 activities of the CBD;

16 A District Identity and Streetscape Improvements (DISI) component, to include  
17 development of neighborhood brand/identity, district-wide special events, district web site and  
18 newsletter, marketing and promotions strategies, personnel costs to implement DISI, public  
19 space development and planning, district map and brochure, advertising, communications,  
20 markers and public art highlighting the district's history and residents, and distribution of small  
21 annual grants to community organizations providing services in the district that support the  
22 DISI improvements and activities of the CBD;

23 An Administrative, Organization and Corporate Operations component, to include  
24 personnel and administrative costs for this component, corporate operations insurance, office  
25 related expenses, relations with City, public relations, and financial reporting; and

1 A Contingency and Reserve component to implement SOBO and DISI, to include  
2 reserves, late or non-paid assessments, long term capital improvement projects, and  
3 repayment of district formation costs.

4 The above improvements, services and activities will be funded by the levy of the  
5 assessments. The revenue from the levy of the assessments within the District shall not be  
6 used to provide improvements, services or activities outside the District or for any purpose  
7 other than the purposes specified in Board of Supervisors Resolution No. 246-08.

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

24 **Section 8. AMENDMENTS.** The properties in the District established by this  
25 Resolution shall be subject to any amendments to the Act and Article 15.

1           **Section 9. 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 10. 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 11. 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 12. 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 et  
22 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.  
23 080784 and is incorporated herein by reference.