

344-07

FILE NO. 070733

RESOLUTION NO.

1 [Castro/Upper Market Community Benefit District Annual Reports to the City; making
2 assessment formulas the same for all District residential property.]

3 **Resolution regarding Castro/Upper Market Community Benefit District annual reports**
4 **to the City, and making assessment formulas the same for all District residential**
5 **property: modifying the "Authority to Contract" provision of the Resolution**
6 **establishing the District (Resolution No. 582-05) to require an annual financial report**
7 **that has been reviewed by a Certified Public Accountant who provides a statement of**
8 **negative assurance, to change the current requirement for an annual CPA**
9 **"independent audit" to instead require a CPA independent audit upon request of the**
10 **City, and authorizing amendment of the District's management contract with the City to**
11 **conform; providing that all residential property be assessed by the same lot size and**
12 **linear frontage formula, receiving and approving the District Assessment Engineer's**
13 **Report in support, and authorizing conforming amendments and administrative**
14 **clarifications to the District's management plan and management contract; and**
15 **receiving and approving the District's Annual Report for 2005-2006 as submitted**
16 **pursuant to Section 3.4 of the District's management contract.**

17
18 WHEREAS, on June 7, 2005, pursuant to the Property and Business Improvement Law
19 of 1994, California Streets and Highways Code Sections 36600 *et seq.* (the "Act"), as
20 augmented by Article 15 of the San Francisco Business and Tax Regulations Code ("Article
21 15"), the Board of Supervisors adopted Resolution No. 421-05 "Resolution of Intention to form
22 the Castro/Upper Market Community Benefit District (CBD)" ("Resolution of Intention," BOS
23 File No. 050924), which included approval of the District Assessment Engineer's Report and
24 the District's Management Plan; and,

25 WHEREAS, on August 2, 2005 the Board of Supervisors adopted Resolution No.

SUPERVISOR DUFTY
BOARD OF SUPERVISORS

1 582-05 "Resolution to Establish the Castro/Upper Market Community Benefit District" for a
2 period of 15 years commencing with fiscal year 2005-2006 ("Resolution to Establish," BOS
3 File No. 051187); and,

4 WHEREAS, on January 10, 2006 the Board of Supervisors adopted Resolution No. 14-06
5 "Contract with Owners' Association for Administration of Castro/Upper Market Community
6 Benefit District ("Management Contract," BOS File No. 051968);" now be it,

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

8
9 **Section 1. MODIFYING THE "AUTHORITY TO CONTRACT" PROVISION IN
10 RESOLUTION ESTABLISHING THE DISTRICT (RESOLUTION NO. 582-05).** Section 7

11 "Authority to Contract" in the Resolution to Establish (Resolution No. 582-05) is hereby
12 modified to require an annual financial report from the District that has been reviewed by a
13 Certified Public Accountant who provides a statement of negative assurance, and to change
14 the current requirement for an annual CPA "independent audit" to instead require a CPA
15 independent audit upon request of the Controller or the Mayor's Office of Economic and
16 Workforce Development (MOEWD), so that Section 7 will now provide (changed/additional
17 words are designated by broken underlining, and deleted words are designated by ~~double~~
18 ~~strikeout~~):

19 **"AUTHORITY TO CONTRACT.** The Board of Supervisors may contract with a
20 separate private entity to administer the improvements, services and activities set forth
21 in Section 6. Any such entity shall hold the funds it receives from the City and County
22 of San Francisco ("City") in trust for the improvements, services and activities set forth
23 in Section 6. Any entity that holds funds in trust for purposes related to the contract
24 shall, at no expense to the City, ~~provide an annual independent audit report by a~~
25 ~~Certified Public Accountant of all such funds.~~ deliver to City no later than one hundred
twenty (120) days following the end of any Fiscal Year, a balance sheet and the related
statement of income and cash flows for each fiscal year, all in reasonable detail
acceptable to City, reviewed by a Certified Public Accountant (CPA); this review shall
include a statement of negative assurance from the CPA. In addition, or alternatively,
the Controller or the Mayor's Office of Economic and Workforce Development may in
their discretion require Corporation to deliver, at no expense to the City, an annual

1 independent audit report by a Certified Public Accountant of all such funds. The CPA
2 review or audit may be funded from assessment proceeds as part of the general
3 administration of the District. At all times the Board of Supervisors shall reserve full
4 rights of accounting of these funds. The Mayor's Office of Economic and Workforce
5 Development shall be the City agency responsible for coordination between the City
6 and the District."

7 **Section 2. MAKING ASSESSMENT FORMULAS THE SAME FOR ALL DISTRICT**
8 **RESIDENTIAL PROPERTY, RECEIVING AND APPROVING THE DISTRICT ASSESSMENT**
9 **ENGINEER'S REPORT IN SUPPORT, AUTHORIZING CONFORMING AMENDMENT OF**
10 **MANAGEMENT PLAN AND ADMINISTRATIVE CLARIFICATIONS.**

11 The Management Plan previously approved by the Board includes formulas for
12 determining the annual assessment for each parcel in the District (see Resolution No. 421-05
13 / BOS File No. 050924 "Resolution of Intention," Resolution No. 582-05 / BOS File No.
14 051187 "Resolution to Establish"). The basic assessment formula has three components: lot
15 size, linear frontage (sidewalk footage), and building square footage [*i.e.* (lot size x \$0.8017) +
16 (linear frontage x \$8.8963) + (building square footage x \$0.11278) = assessment of parcel].

17 Each parcel and its building use were categorized into one of seven Building Use
18 Categories, and the three formula components were given varying weights for each Building
19 Use Category according to the anticipated relative value of the special benefits from the
20 District's services. Building Use Category A is retail space, hotels, motels, and visitor-related
21 uses; Category B is office and commercial uses, free standing parking structures, and ground
22 floor residential; Category C is industrial, manufacturing, and distribution; Category D is
23 institutional (city, county, school, public utility, parks, etc.); Category E is church, non-profit,
24 and tax-exempt; Category F is multi-unit housing, apartments, condos; and Category G is
25 single family housing units.

26 The Management Plan assessment formula for residential square footage above the
27 ground floor modifies the basic formula by utilizing two of the three components and excluding

1 the third: lot size and linear frontage are calculated but not building square footage [i.e. (lot
2 size x \$0.8017) + (linear frontage x \$8.8963) + (building square footage x \$0.0) = assessment
3 of residential space above the ground floor].

4 Since the existing Management Plan does not provide the same modified formula for
5 ground floor residential square footage, the District and MOEWD now request and
6 recommend that the Management Plan be changed to provide that the same modified
7 assessment formula be used for all residential square footage in the District [i.e. (lot size x
8 \$0.8017) + (linear frontage x \$8.8963) + (building square footage x \$0.0) = assessment of the
9 residential space]. The District and MOEWD estimate that this formula modification will
10 reduce the District's assessments of residential property by approximately \$6,900 in Fiscal
11 Year 2006-2007. The Board hereby receives and approves the District Assessment
12 Engineer's Report as updated for City and County of San Francisco Fiscal Year 2006-2007 in
13 support of these Management Plan modifications, which Report is on file with the Clerk of the
14 Board of Supervisors in File No. 070733. The Board hereby finds good cause under law and
15 authorizes amendment of the District's Management Plan for City and County of San
16 Francisco Fiscal Year 2006-2007 as on file with the Clerk of the Board of Supervisors in File
17 No. 070733, to make the assessment formula the same for all residential square footage in
18 the District in conformance with this Resolution Section 2, Fourth Paragraph, and to make
19 administrative clarifications.

20 The Board finds that the revisions, changes, reductions or modifications
21 ("modifications") to the assessments made herein do not render the resulting assessments
22 materially different from the assessments previously authorized by the Management Plan as
23 approved by Resolutions No. 421-05 and 582-05. Such modifications and administrative
24 clarifications are permissible and authorized under Section 36650 of the Act and related
25 provisions of law.

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2 **Section 3. CONFORMING THE DISTRICT'S MANAGEMENT CONTRACT**
3 **BETWEEN THE CITY AND THE NONPROFIT PROPERTY OWNERS' ASSOCIATION.**

4 The Mayor's Office of Economic and Workforce Development is hereby authorized to
5 enter into an amendment of the City's agreement/contract with the nonprofit property owners'
6 association Castro/Upper Market Community Benefit District for administration and
7 management of the district known as the Castro/Upper Market Community Benefit District
8 ("Management Contract," see Resolution No. 14-06), that conforms the Management Contract
9 to Sections 1 and 2 of this Resolution, above.
10

11 **Section 4. RECEIVING AND APPROVING THE DISTRICT'S ANNUAL REPORT**
12 **TO THE CITY.** The Board hereby receives and approves the District's Annual Report for
13 2005-2006, as submitted pursuant to Section 3.4 of the District's Management Contract (*i.e.*,
14 §3.4 of the City's agreement/contract with the nonprofit property owners' association
15 Castro/Upper Market Community Benefit District for management and administration of the
16 Castro/Upper Market Community Benefit District), on file with the Clerk of the Board of
17 Supervisors in File No. 070733.
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City and County of San Francisco

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Tails Resolution

File Number: 070733

Date Passed:

Resolution regarding Castro/Upper Market Community Benefit District annual reports to the City, and making assessment formulas the same for all District residential property: modifying the "Authority to Contract" provision of the Resolution establishing the District (Resolution No. 582-05) to require an annual financial report that has been reviewed by a Certified Public Accountant who provides a statement of negative assurance, to change the current requirement for an annual CPA "independent audit" to instead require a CPA independent audit upon request of the City, and authorizing amendment of the District's management contract with the City to conform; providing that all residential property be assessed by the same lot size and linear frontage formula, receiving and approving the District Assessment Engineer's Report in support, and authorizing conforming amendments and administrative clarifications to the District's management plan and management contract; and receiving and approving the District's Annual Report for 2005-2006 as submitted pursuant to Section 3.4 of the District's management contract.

June 19, 2007 Board of Supervisors — ADOPTED

Ayes: 11 - Alioto-Pier, Ammiano, Daly, Dufty, Elsbernd, Jew, Maxwell,
McGoldrick, Mirkarimi, Peskin, Sandoval

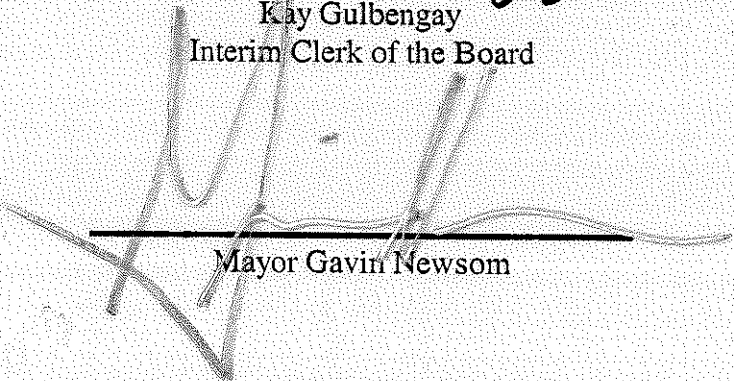
File No. 070733

I hereby certify that the foregoing Resolution was ADOPTED on June 19, 2007 by the Board of Supervisors of the City and County of San Francisco.



Kay Gulbengay
Interim Clerk of the Board

JUN 27 2007
Date Approved



Mayor Gavin Newsom