Resolution establishing a property-based business improvement district to be known as the "Fillmore Jazz District Community Benefit District," ordering the levy and collection of assessments against identified parcels of real property located in that district for five years, commencing with fiscal year 2006-2007, and making environmental findings.

WHEREAS, Pursuant to the Property and Business Improvement Law of 1994, California Streets and Highways Code Sections 36600 et seq. (the "Act"), as augmented by Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), the Board of Supervisors adopted Resolution No. 389-06 on June 27, 2006, entitled "Resolution (1) declaring the intention of the Board of Supervisors to establish a property-based business improvement district (community benefit district) to be known as the "Fillmore Jazz District Community Benefit District" and order the levy and collection of a multi-year assessment on identified parcels in the district, (2) approving the management district plan and engineer's report for the district, (3) ordering and setting a time and place for a public hearing thereon, (4) approving the form of the Notice of Public Hearing and Assessment Ballots, and (5) directing the Clerk of the Board of Supervisors to give notice of the public hearing as required by law" (the "Resolution of Intention"); and,

WHEREAS, the Resolution of Intention for the Fillmore Jazz District Community Benefit District (the "Fillmore Jazz District CBD" or "District"), among other things, approved the Fillmore Jazz District Community Benefit District Management District Plan (the "District Management Plan"), the District Assessment Engineer's Report, the Assessment Ballots and
the Notice of Public Hearing, that are on file with Clerk of the Board of Supervisors in File No. 060858; and,

WHEREAS, The Board of Supervisors caused notice of a public hearing concerning the proposed formation of the Fillmore Jazz District CBD, the proposed levy of assessments against property located within the District for a period of 5 years, commencing with fiscal year 2006-2007, to be duly published and mailed as required by law, to the record owner of each identified parcel of real property in the proposed District that would be subject to the proposed assessment; and,

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

WHEREAS, A public hearing concerning the proposed formation of the Fillmore Jazz District Community Benefit District and the proposed levy of assessments within such District was held on August 15, 2006, at 3 p.m., in the Board’s Legislative Chambers, located on the Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and,

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

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

WHEREAS, The public interest, convenience and necessity require the establishment
of the proposed Fillmore Jazz District Community Benefit District; and,

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

RESOLVED, that the Board of Supervisors declares as follows:

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

Section 2. ESTABLISHMENT OF DISTRICT. Pursuant to the Act and Article 15, a
property-based business improvement district designated as the "Fillmore Jazz District
Community Benefit District" is hereby established.

Section 3. DESCRIPTION OF DISTRICT. The Fillmore Jazz District Community
Benefit District shall include parcels of real property within the district, the exterior boundaries
of which are as follows:

Avery Street: from Post St. to Geary Blvd. (East side only);
Eddy Street: from Steiner St. to Fillmore St. (including the parcels on the Northeast and
Southeast corners of the intersection of Eddy St. and Fillmore St.);
Fillmore St.: from Post St. to Golden Gate Ave. (West side only from Post St. to Geary Blvd.)
Geary Blvd.: from Steiner St. to Webster St. (South side only from Fillmore St. to Webster St.);

Golden Gate Avenue: from Steiner St. to Fillmore St. (North side only) (excluding from West to East the 4th, 5th and 6th parcels along the North side of Golden Gate Ave., Block 755, Lots 3, 5 and 6, and including the parcel on the Northeast corner of the intersection of Fillmore St. and Golden Gate Ave., Block 756, Lot 14);

O'Farrell Street: from Steiner St. to Fillmore St. (excluding the parcel on the Southeast corner of the intersection of Steiner St. and O'Farrell St., Block 726, Lot 14A);

Post Street: from Avery St. to Fillmore St. (South side only);

Steiner Street: from Golden Gate Ave. to Geary Blvd. (East side only) (excluding the parcel on the Southeast corner of Steiner St. and O'Farrell St., and the two parcels on Steiner St. immediately to the South, Block 726, Lots 13, 14 and 14A);

Turk Street: from Steiner St. to Fillmore St. (including the parcel on the Northeast corner of the intersection of Fillmore St. and Turk St., Block 749, Lot 9, and including the parcel on the Southeast corner of the intersection of Fillmore St. and Turk St. extending from Fillmore St. to Webster St., Block 756; Lot 1);

Webster Street: Geary Blvd. To Eddy St. (West side only) (excluding the parcels on the West side of Webster St. that are South of southern property line of Block 725, Lot 30, and including the parcel on the West side of Webster St. on the South side of Turk St. extending from Webster St. to Fillmore St., Block 756, Lot 1).

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

Section 4. FINDING OF BENEFIT. The Board of Supervisors has considered and approves the District Assessment Engineer's Report dated June 27, 2006, which reflects the
amendments to the Management District Plan required by the Resolution of Intention
(Resolution No. 389-06). The Board of Supervisors hereby finds that the parcels of real
property included within the District will be benefited by the improvements and activities
funded by the assessments proposed to be levied.

Section 5. SYSTEM OF ASSESSMENTS. (a) An assessment will be levied
annually to pay for the activities to be provided within the District, commencing with fiscal year
2006-2007, and continuing for five years, ending with fiscal year 2010-2011. For purposes of
levying and collecting assessments within the District, a fiscal year shall commence on each
July 1st and end on the following June 30th.

(b) The total amount of the proposed assessments to be levied and collected for
fiscal year 2006-2007 shall be $311,114. The amount of assessments to be levied and
collected in subsequent fiscal years may be increased annually by the Board of Directors of
the nonprofit owners' association for the District by an amount not to exceed the change in the
Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
Consolidated Metropolitan Statistical Area, or 5 percent, whichever is lower.

(c) The method and basis of levying and collecting the assessment shall be as set
forth in the District Management Plan. The levy of the assessments shall commence with
fiscal year 2006-2007. Each year the assessment shall be due and payable in two equal
installments at the same time ad valorem property taxes are due and payable. The first
installment shall be due on November 1 of each fiscal year during the life of the District, and
shall become delinquent on December 10 of that fiscal year. The second installment shall be
due on February 1 of each fiscal year during the life of the District, and shall become
delinquent on April 10 of that fiscal year. Nonpayment of the assessment shall have the same
lien priority and delinquent payment penalties and be subject to the same enforcement
procedures and remedies as the ad valorem property tax.
Section 6. USE OF REVENUES. The property-related services, improvements or activities for the District include a Sidewalk Operations, Beautification and Order component, consisting of regular sidewalk and gutter sweeping, periodic sidewalk steam cleaning, spot steam cleaning as necessary, safe passage programs for visitors and employees, private security services, beautification, decorations; supplemental trash removal in the public rights of way, removal of bulky items, graffiti removal, installation and maintenance of banners and/or decorations, tree and plant maintenance and planting, equipment, supplies, tools, vehicle maintenance and insurance, salaries, benefits, payroll expenses related to maintenance staff and supervision, and maintenance of sidewalk furnishings; a District Identity and Streetscape Improvements/Marketing and Promotions component, consisting of special events, marketing and promotions strategies, personnel related to marketing and promotions, logo development and web site, pedestrian kiosks and way-finding signage system, public space planning and implementation, farmer’s market, walking map, advertising, historical markers and public art, and replacement and upgrading of street furnishings; an Administrative, Organization and Corporate Operations component, consisting of staff and administrative costs, insurance, office related expenses, financial reporting, and communications; and a Contingency and Reserve component for delinquencies due to non-payment of assessments by property owners; hardship contributions; and unallocated reserves.

The above improvements, services and activities will be funded by the levy of the assessments. The revenue from the levy of the assessments within the District shall not be used to provide improvements, services or activities outside the District or for any purpose other than the purposes specified in Board of Supervisors Resolution No. 389-06.

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

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

Section 9. RECORDATION OF NOTICE AND DIAGRAM. The Office of the Assessor-Recorder is hereby authorized and directed to record a notice and an assessment diagram pursuant to Section 36627 of the California Streets and Highways Code following adoption of this Resolution.

Section 10. LEVY OF ASSESSMENT. The adoption of this Resolution and recordation of the notice and assessment diagram pursuant to Section 36627 of the California Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years referred to in the District Management Plan. Each year, the Assessor shall enter on the County Assessment Roll opposite each lot or parcel of land the amount of the assessment and such assessment shall be collected in the same manner as the County ad valorem property taxes are collected. Each lot or parcel subject to the assessment that is exempt from property tax shall be billed in any reasonable manner, and the assessment shall be due and payable as provided in section 5 of this Resolution.
Section 11. BASELINE SERVICES. To ensure that assessment revenues from the District are used to enhance the current level of services provided by the City within the District, the establishment of the District will not affect the City’s policy to continue to provide the same level of service to the areas encompassed by the District as it provides to other similar areas of the City for the duration of the District, provided, however, that in the event of a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of municipal services citywide, including within the District.

Section 12. ENVIRONMENTAL FINDINGS. The Planning Department has determined that the actions contemplated in this Resolution are in compliance with the California Environmental Quality Act (California Public Resources Code sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 060858 and is incorporated herein by reference.

Section 13. MANAGEMENT DISTRICT PLAN. The Board of Supervisors hereby approves the Management District Plan dated August 14, 2006, on file with the Clerk of the Board of Supervisors in File No. 061149, modifying the Management District Plan dated June 27, 2006, to provide that 25% of the Board of Directors of the nonprofit Owners' Association for the District must be non-property owning merchants within the District, (Article 15, Section 1511 (f) of the San Francisco Business Tax and Regulations Code) and 25% must be set aside for individuals who do not own real property in the District and are not merchants within the District. The Board of Supervisors finds that this modification does not substantially change the assessment for the District under Section 36626 of the California Streets and Highways Code.
Resolution establishing a property-based business improvement district to be known as the "Fillmore Jazz District Community Benefit District," ordering the levy and collection of assessments against identified parcels of real property located in that district for five years, commencing with fiscal year 2006-2007, and making environmental findings.

August 15, 2006 Board of Supervisors — AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE
Ayes: 9 - Ammiano, Daly, Duffy, Elsbernd, Ma, Maxwell, Mirkarimi, Peskin, Sandoval
Absent: 1 - McGoldrick
Excused: 1 - Alioto-Pier

August 15, 2006 Board of Supervisors — ADOPTED AS AMENDED
Ayes: 9 - Ammiano, Daly, Duffy, Elsbernd, Ma, Maxwell, Mirkarimi, Peskin, Sandoval
Absent: 1 - McGoldrick
Excused: 1 - Alioto-Pier
I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on August 15, 2006 by the Board of Supervisors of the City and County of San Francisco.

Gloria L. Young
Clerk of the Board

8/17/06
Date Approved

Mayor Gavin Newsom