[Assessment Ballots for City-Owned Parcels for Proposed Ocean Avenue Community Benefits District]

Resolution authorizing the Mayor to cast assessment ballots in the affirmative on behalf of the City and County of San Francisco as the owner of two parcels and part of a third parcel of real property over which the Board of Supervisors has jurisdiction, where those two parcels and the partial parcel would be subject to assessment in the proposed property and business improvement district to be named the Ocean Avenue Community Benefits District.

WHEREAS, Pursuant to the Property and Business Improvement District Law of 1994 (California Streets and Highways Code Sections 36600 et seq.) as augmented by Article 15 of the San Francisco Business and Tax Regulations Code, the Board of Supervisors adopted Resolution No. 437-10 on September 28, 2010: (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 "Ocean Avenue Community Benefits 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; and,

WHEREAS, Article XIIID, Section 4 of the California Constitution provides that parcels within an assessment district that are owned or used by any agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit; and,
WHEREAS, The Board of Supervisors has jurisdiction over two parcels of real property that are owned by the City and County of San Francisco within the proposed assessment district, and partial jurisdiction over a third such parcel, the details of which are set forth in a spreadsheet entitled "Proposed Assessments for City Owned Parcels in the Ocean Avenue Community Benefits District – Fiscal Year 2010-2011" on file with the Clerk of the Board of Supervisors in File No. 101356, which is hereby declared to be a part of this Resolution as if set forth fully herein; and,

WHEREAS, The Board of Supervisors has jurisdiction over the City-owned parcel used by the Public Library at 1298 Ocean Avenue, Assessor’s Parcel No. 3199-017, which has a proposed assessment of $4,005.63 for fiscal year 2010-2011 out of $239,578.00 in total proposed assessments for all properties in the Ocean Avenue CBD. This parcel’s proposed assessment represents approximately 1.67% of the total assessments for the first year of the District, which is the corresponding weight to be afforded the City’s vote on this parcel’s ballot to approve or disapprove the proposed assessments; and,

WHEREAS, The Board of Supervisors has jurisdiction over the City-owned parcel identified as Assessor’s Parcel No. 6946-061, that has a proposed assessment of $3,610.66 for fiscal year 2010-2011 out of $239,578.00 in total proposed assessments for all properties in the Ocean Avenue CBD. This parcel’s proposed assessment represents approximately 1.51% of the total assessments for the first year of the District, which is the corresponding weight to be afforded the City’s vote on this parcel’s ballot to approve or disapprove the proposed assessments; and,

WHEREAS, The parcel at 11 Phelan Avenue, Assessor’s Parcel No. 3180-001 (sometimes referred to as the "Phelan Loop Parcel"), is currently held in a form of shared jurisdiction among several entities; jurisdiction over the initially assessable portion of the parcel is shared by the City Public Utilities Commission (which will cast a ballot for its portion),
the City's Municipal Transportation Agency (which will cast a ballot for its portion), and the
Board of Supervisors (which may cast a ballot for its portion, which is in use as a city fire
station). The City fire station portion of the parcel has a proposed assessment of $3,679.20
for fiscal year 2010-2011 out of $239,578.00 in total proposed assessments for all properties
in the Ocean Avenue CBD; this fire station assessment represents approximately 1.54% of
the total assessments for the first year of the District, which is the corresponding weight to be
afforded the City's vote on this (partial) parcel ballot to approve or disapprove the proposed
assessments; and,

WHEREAS, the Management District Plan as amended September 22, 2010 (on file
with the Clerk of the Board of Supervisors in BOS File No. 100991), at pages 17-18, describes
the Phelan Loop Parcel and anticipated future development plans as follows, including
description of an exempted use (emergency water storage):

"Zone 1 Phelan Loop Parcel

The Phelan Loop Parcel number 3180-001 is undergoing a major re-
development and is expected to be subdivided into various parcels in the near future.
The project under development consists of a new public plaza and the reconfiguration
of a multi-line MUNI bus transit turn-around, a new mixed-use housing and retail
development, an expanded City College campus, upgrades to the existing fire station,
an expansion of Lee Avenue, a reconfigured emergency water reservoir area and
possibly new reservoir facilities and new open recreation fields. The new plaza,
featuring improved pedestrian and public amenities and space for public events, will
provide a public open space to connect thousands of pedestrians and transit riders to
the multi-line bus turnaround, to the planned new housing development, to the planned
City College new expanded campus, and to the Ocean Avenue neighborhood
commercial district.
Currently, parcel number 3180-001 is used for multiple purposes, including the Municipal Transportation Agency bus turnaround and waiting area, parking lots, a fire station, open space/landscaped areas, Public Utility Commission empty water reservoirs, and City College. All of the sidewalks fronting the Phelan Loop Parcel and Phelan Loop reconfigured parcels along Ocean Avenue and the sidewalk area wrapping around to Phelan Avenue in front of the corner landscaped garden area and in front of the proposed Bus turnaround’s Phelan Avenue edge will receive cleaning and maintenance services, and will be assessed on the length of the linear frontage of the fronting sidewalk. The sidewalks fronting the proposed expanded City College Campus area along Phelan Avenue will not receive Ocean Avenue CBD services and will not be assessed on their linear frontage.

The MUNI bus turnaround will receive cleaning and landscaping services from the Ocean Avenue CBD and will be charged for the square footage internal to the site that will receive maintenance and cleaning services from the Ocean Avenue CBD.

The corner landscaped garden area of the Phelan Loop Parcel at Ocean Avenue will receive gardening and maintenance services from the Ocean Avenue CBD and its square footage will be subject to an additional assessment to pay for this additional level of service.

The Phelan Plaza will link the existing commercial district to persons working and studying at the expanded City College campus and living in the 250 units of new housing which are under development. Due to these developments which are underway, thousands of new people will be coming to the Ocean Avenue commercial district. The Ocean Avenue CBD will host and manage special events at the Phelan Loop public plaza which is under development. The Ocean Avenue CBD marketing and promotion services will make sure new visitors, employees, students and residents
know where to shop and eat and will help them enjoy their experience along Ocean Avenue and at the public plaza. City College, the adjacent housing development and ground floor retail fronting the plaza will benefit from an activated, safe and maintained plaza at the entrance to their properties therefore their lot size will be assessed to help fund the plaza activation and management services. Commercial building square footage and lot square footage will be assessed to fund the marketing, special event and promotion services within the entire Ocean Avenue CBD area including special events at the Phelan Plaza as well. The Ocean Avenue CBD will work with City College and the housing owner’s property management company and City departments to ensure the plaza is safe, regularly maintained and cleaned.

Exempted Uses within the Phelan Loop Parcel

The land dedicated for use by the Public Utilities Commission for future Emergency Water Storage will be exempt from assessment within the Ocean Avenue CBD as it will not benefit from Ocean Avenue CBD services and does not have fronting sidewalk along Ocean Avenue or near the corner of Ocean Avenue and Phelan Avenue.

The current assessable portion of the Phelan Loop Parcel Linear Street Frontage is 405.00 linear feet. The current assessable portion of the Phelan Loop Parcel Lot Square Footage is 7,632 square feet.

When Assessor’s Parcel 3180-001 renumbers, consolidates, and subdivides that parcel shall be identified with subsequent Assessor’s Parcel number(s) assigned to their respective portions of land. When the Phelan Loop Parcel developments are constructed the new reconfigured Assessor’s Parcels will be assessed according to their updated land use. An increase in the annual assessment, if any due to the reconfigured parcels and new construction and development projects, will not be
considered an assessment increase per the 1994 Act and Proposition 218. During construction, any portion of the Phelan Loop Parcel under construction will only be charged for linear frontage during construction that will receive cleaning services from the Ocean Avenue CBD during construction. Phelan Loop parcels under construction and not in active use will not be charged for building square footage or lot square footage assessments until construction of the new development is completed."

WHEREAS, The Board of Supervisors will hold a public hearing on November 16, 2010 to consider public testimony on the proposed formation of the Ocean Avenue Community Benefits District, the levy of multi-year assessments on real property located in the proposed district, and assessment ballot proceedings for affected property owners to approve or disapprove the assessments; and,

WHEREAS, The property owners or their authorized representatives may submit, withdraw or change assessment ballots for their respective properties prior to the close of public testimony at the public hearing; and,

WHEREAS, the Board of Supervisors may cast the assessment ballots for those parcels and portion of a parcel over which it has jurisdiction to either approve or disapprove the proposed assessments for those parcels and portion of a parcel that would be subject to assessment, or authorize a representative to submit the assessment ballots for parcels over which the Board has jurisdiction; and,

WHEREAS, At the November 16, 2010 public hearing the Board is likely to receive public testimony both in favor of and against the levying of assessments, and the Department of Elections will tabulate the assessment ballots submitted by the owners of affected properties to determine if there is a majority protest; and,

WHEREAS, It is appropriate for the Board to authorize a representative to submit assessment ballots for those parcels and portions of parcels over which it has jurisdiction that
are within the proposed district, in order to avoid confusion on the Board's dual role as both
the legislative body that may form the district and levy assessments (if there is no majority
protest by the affected property owners), and as the decision-making body for the City as the
owner of property subject to assessments; now, therefore, be it

RESOLVED, That the Mayor is hereby authorized to submit prior to the close of public
testimony at the public hearing any and all assessment ballots in the affirmative for the two
parcels and portion of a third parcel of real property owned by the City and County of San
Francisco over which the Board has jurisdiction, that would be subject to assessment in the
proposed property and business improvement district to be named the Ocean Avenue
Community Benefits District, specifically: Assessor's Parcel No. 3199-017, Assessor's Parcel
No. 6946-061, and the proportional ballot for Assessor's Parcel No. 3180-001; and, be it

FURTHER RESOLVED, That the Clerk of the Board of Supervisors shall cause copies
of this Resolution to be delivered to the Office of Economic and Workforce Development and
the Director of the Department of Elections, and placed in the Board of Supervisors file for the
Resolution to establish the proposed district.
Resolution authorizing the Mayor to cast assessment ballots in the affirmative on behalf of the City and County of San Francisco as the owner of two parcels and part of a third parcel of real property over which the Board of Supervisors has jurisdiction, where those two parcels and the partial parcel would be subject to assessment in the proposed property and business improvement district to be named the Ocean Avenue Community Benefits District.

November 03, 2010 Budget and Finance Committee - RECOMMENDED

November 09, 2010 Board of Supervisors - ADOPTED

Ayes: 10 - Alioto-Pier, Avalos, Campos, Chiu, Chu, Duffy, Elsbernd, Mar, Maxwell and Mirkarimi

Noes: 1 - Daly

I hereby certify that the foregoing Resolution was ADOPTED on 11/9/2010 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Date Approved

November 12, 2010