

1 [Resolution to establish the Broadway Entertainment Corridor Community Benefit District.]

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3 **Resolution establishing a property-based business improvement district to be known**
4 **as the “Broadway Entertainment Corridor Community Benefit District (CBD),” ordering**
5 **the levy and collection of assessments against property located in that district for ten**
6 **years, commencing with fiscal year 2008-2009, subject to conditions as specified, and**
7 **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"), the Board
12 of Supervisors adopted Resolution No. 245-08 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 "Broadway Entertainment Corridor Community
15 Benefit District (CBD)," to order the levy and collection of a multi-year assessment, and
16 setting a time and place for a public hearing thereon" (the "Resolution of Intention"); and,

17 WHEREAS, The Resolution of Intention for the Broadway Entertainment Corridor
18 Community Benefit District (the "Broadway Entertainment Corridor CBD" or "District"), among
19 other things, approved the Broadway Entertainment Corridor Community Benefit District
20 Management District Plan (the "District Management Plan"), the District Assessment
21 Engineer's Report, the form of the Assessment Ballots and the Notice of Public Hearing, that
22 are on file with Clerk of the Board of Supervisors in File No. 080783; and,

23 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
24 the proposed formation of the Broadway Entertainment Corridor CBD, and the proposed levy
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1 of assessments against property located within the District for a period of ten years, for fiscal
2 years 2008-2009 through 2017-2018; and,

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

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

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

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

21 WHEREAS, The public interest, convenience and necessity require the establishment
22 of the proposed Broadway Entertainment Corridor Community Benefit District; and,

23 WHEREAS, In the opinion of the Board of Supervisors, the property within the District
24 will be specially benefited by the improvements, services and activities funded by the
25 assessments, and no assessment has been imposed on any parcel which exceeds the

1 reasonable cost of the proportional special benefit conferred on that parcel; now therefore be
2 it

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

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

9 **Section 2. ESTABLISHMENT OF DISTRICT.** Pursuant to the Act and Article 15, a
10 property-based business improvement district designated as the "Broadway Entertainment
11 Corridor Community Benefit District" is hereby established.

12 **Section 3. DESCRIPTION OF DISTRICT.** The Broadway Entertainment Corridor
13 Community Benefit District shall include all parcels of real property within the district, the
14 exterior boundaries of which are as follows, including all parcels on both sides of the street
15 unless otherwise noted:

16 Columbus Avenue, from the Northeastern and Southeastern corners of the intersection
17 of Broadway Street and Columbus running south along the east side of Columbus Avenue to
18 the Northeastern corner of the intersection of Columbus Avenue and Kearny Street;

19 Kearny Street from the intersection with Columbus Avenue running up both sides of the
20 street to Broadway Street;

21 Broadway Street, from the Northeastern and Southeastern corners of the intersection
22 of Columbus Avenue and Broadway Street running eastward on both sides of the street to the
23 Northwestern and Southeastern corners of the intersection of Montgomery Street and
24 Broadway Street.

25 Reference should be made to the detailed maps and the lists of parcels identified by

1 Assessor Parcel Number that are contained in the Management District Plan, in order to
2 determine which specific parcels are included in the Broadway Entertainment Corridor
3 Community Benefit District.

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

7 **Section 5. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
8 pay for the activities to be provided within the District, commencing with fiscal year 2008-
9 2009, and continuing for ten years, ending with fiscal year 2017-2018. For purposes of
10 levying and collecting assessments within the District, a fiscal year shall commence on each
11 July 1st and end on the following June 30th.

12 (b) The total amount of the proposed assessments to be levied and collected for
13 fiscal year 2008-2009 shall be \$205,852. The amount of assessments to be levied and
14 collected in subsequent fiscal years through the first half of fiscal year 2017-2018 may be
15 increased annually by the Board of Directors of the District by an amount not to exceed the
16 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-
17 San Jose Consolidated Metropolitan Statistical Area, or 5 percent, whichever is lower.

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

1 enforcement procedures and remedies as the ad valorem property tax.

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

4 A Sidewalk Operations, Beautification and Order (SOBO) component, to include hiring
5 dedicated police officers from the San Francisco Police Department under San Francisco
6 CCSF Administrative Code Chapter 10B, sidewalk cleaning, public rights of way
7 beautification, banners and decorations, enhanced trash emptying in the public rights of way,
8 graffiti removal, parking related activities, programs to market and promote the district, and
9 repayment of district formation costs;

10 An Administrative, Organization and Corporate Operations component to implement
11 and support SOBO, to include staff and administrative costs, insurance, office related
12 expenses, relations with City, public relations, financial reporting, web site development, and
13 communications; and,

14 A Contingency and Reserve component to implement and support SOBO, to include
15 reserves, delinquencies, hardship repayments, and long term capital improvement projects.

16 The above improvements, services and activities will be funded by the levy of the
17 assessments. The revenue from the levy of the assessments within the District shall not be
18 used to provide improvements, services or activities outside the District or for any purpose
19 other than the purposes specified in Board of Supervisors Resolution No. 245-08.

20 **Section 7. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
21 with a separate private entity to administer the improvements, services and activities set forth
22 in Section 6. Any such entity shall hold the funds it receives from the City and County of San
23 Francisco ("City") in trust for the improvements, services and activities set forth in Section 6.
24 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no
25 expense to the City, a balance sheet and the related statement of income and cash flows for

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

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

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

17 **Section 10. LEVY OF ASSESSMENT.** The adoption of this Resolution and
18 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
19 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
20 referred to in the District Management Plan. Each year, the Assessor shall enter on the
21 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
22 and such assessment shall be collected in the same manner as the County property taxes are
23 collected.

24 **Section 11. BASELINE SERVICES.** To ensure that assessment revenues from the
25 District are used to enhance the current level of services provided by the City within the

1 District, the establishment of the District will not affect the City's policy to continue to provide
2 the same level of service to the areas encompassed by the District as it provides to other
3 similar areas of the City for the duration of the District, provided, however, that in the event of
4 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
5 municipal services citywide, including within the District.

6 **Section 12. ENVIRONMENTAL FINDINGS.** The Planning Department has
7 determined that the actions contemplated in this Resolution are in compliance with the
8 California Environmental Quality Act (California Public Resources Code sections 21000 et
9 seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No.
10 080783 and is incorporated herein by reference.

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