

1 [Resolution of Intention - Community Benefit District - Top of Broadway]

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3 **Resolution declaring the intention of the Board of Supervisors to establish a property-**
4 **based business improvement district (community benefit district) to be known as the**
5 **“Top of Broadway Community Benefit District” and levy a multi-year assessment on**
6 **identified parcels in the district; approving the Management District Plan, Engineer’s**
7 **Report, and proposed boundaries map for the district; ordering and setting a time and**
8 **place for a public hearing thereon; approving the form of the Notice of Public Hearing**
9 **and Assessment Ballots; directing environmental findings; and directing the Clerk of**
10 **the Board of Supervisors to give notice of the public hearing and balloting as required**
11 **by law.**

12
13 WHEREAS, The Property and Business Improvement District Law of 1994 (California
14 Streets and Highways Code Sections 36600 *et seq.*, “1994 Act” or the “Act”), authorizes cities
15 to establish property and business improvement districts within business districts to promote
16 the economic revitalization and physical maintenance of such business districts; and

17 WHEREAS, Section 36603 of the 1994 Act recognizes the authority of Charter cities to
18 adopt ordinances providing for different methods of levying assessments for similar or
19 additional purposes from those set forth in the 1994 Act; and

20 WHEREAS, Article 15 of the San Francisco Business and Tax Regulation Code
21 (“Article 15”) augments certain procedural and substantive requirements relating to the
22 formation of property and business improvement districts and the assessments on real
23 property or businesses within such districts; and

24 WHEREAS, The 1994 Act and Article 15 authorize the City to levy and collect
25 assessments on real property within such districts for the purpose of providing improvements

1 and promoting activities and property-related services that specially benefit identified parcels
2 of real property located within such districts; and

3 WHEREAS, Article XIID of the California Constitution and Section 53753 of the
4 California Government Code impose certain procedural and substantive requirements relating
5 to assessments on real property; and

6 WHEREAS, The 1994 Act and Article 15 impose additional procedural and substantive
7 requirements relating to assessments on real property within a proposed property and
8 business improvement district, also known as a community benefit district (“CBD”); and

9 WHEREAS, The Board of Supervisors finds that the property-related services, activities
10 and improvements to be funded with assessments on real property within the proposed district
11 will confer substantial special benefit on the assessed properties over and above the general
12 benefit to the public at large from such services, activities and improvements; and

13 WHEREAS, The property owners who will pay 30 percent or more of the total amount
14 of assessments on properties within the proposed district signed and submitted to the Clerk of
15 the Board of Supervisors a petition (the “Petition”) requesting that the Board of Supervisors
16 establish a property-based community benefit district to be named the “Top of Broadway
17 Community Benefit District,” and to levy assessments on properties located in the proposed
18 district to fund property-related services, activities and improvements within the district; and

19 WHEREAS, A Management District Plan entitled the “Top of Broadway Community
20 Benefit District Management District Plan” containing information about the proposed district
21 and assessments required by Section 36622 of the 1994 Act, including but not limited to maps
22 showing all identified parcels located in the district, a description of the boundaries of the
23 district, the name of the district, the amount of the proposed assessment for each identified
24 parcel, the total annual amount chargeable to the entire district, the duration of the payments,
25 the property-related services, activities and improvements to be funded by the assessments

1 for each year and the maximum cost thereof, the method and basis upon which the
2 assessments are calculated in sufficient detail to allow each property owner to calculate the
3 amount of the assessment to be levied against his or her property, a statement that no bonds
4 will be issued, the time and manner of collecting the assessments, and a list of the properties
5 to be assessed (including assessor parcel numbers), is on file with the Clerk of the Board of
6 Supervisors in File No. 130419, which is hereby declared to be a part of this resolution as if
7 set forth fully herein; and

8 WHEREAS, A detailed engineer's report supporting the assessments within the
9 proposed district, prepared by Edward V. Henning, California Registered Professional
10 Engineer No. 26549, titled "Top of Broadway Community Benefit District, District Assessment
11 Engineer's Report," is on file with the Clerk of the Board of Supervisors in File No. 130419,
12 which is hereby declared to be a part of this resolution as if set forth fully herein; and

13 WHEREAS, A Proposed Boundaries Map, submitted pursuant to California Streets and
14 Highways Code §3110, is on file with the Clerk of the Board of Supervisors in File No.
15 130419, which is hereby declared to be a part of this resolution as if set forth fully herein; now,
16 therefore, be it

17 RESOLVED, That the Board of Supervisors declares as follows:

18 Section 1. Pursuant to Section 36621(a) of the 1994 Act and Article 15, the Board of
19 Supervisors declares its intention to form a property and business improvement district to be
20 designated as the "Top of Broadway Community Benefit District" (the "District") for a period of
21 eight and one half (8 1/2) years, and to levy and collect assessments against all identified
22 parcels of real property in the District for a period of eight (8) years, commencing with fiscal
23 year 2013-2014, subject to approval by a majority of the property owners in the District who
24 cast assessment ballots, which ballots shall be weighted according to the proportional
25 financial obligations of the affected properties. No bonds will be issued. District operations

1 will commence on or about January 1, 2014, following collection of the assessments for fiscal
2 year 2013-2014 and disbursement of the assessment proceeds to the nonprofit owners'
3 association that will administer the property-related services, activities and improvements in
4 the District pursuant to Section 36651 of the 1994 Act and a written agreement with the City.

5 Section 2. The Board of Supervisors hereby approves the Management District Plan
6 and District Assessment Engineer's Report, including the estimates of the costs of the
7 property-related services, activities and improvements set forth in the plan, and the
8 assessment of said costs on the properties that will specially benefit from such services,
9 activities and improvements. The Clerk of the Board shall make the Management District
10 Plan, District Assessment Engineer's Report and other documents related to the District and
11 included in the record before the Board of Supervisors available to the public for review during
12 normal business hours, Monday through Friday, 8:00 a.m. through 5:00 p.m., excluding legal
13 holidays.

14 Section 3. The Board of Supervisors hereby approves the Proposed Boundaries Map
15 showing the exterior boundaries of the District. The proposed District contains approximately
16 39 identified parcels, located on approximately six whole or partial blocks near the intersection
17 of Columbus Avenue and Broadway Street and the intersection of Montgomery Street and
18 Broadway Street. The District is generally located at: (1) Columbus Avenue from the
19 intersection of Grant Avenue and Fresno Street running along the east side only of Columbus
20 Avenue down to Pacific Avenue; (2) Kearny Street on both sides of the street from Broadway
21 Street to Pacific Avenue; and (3) Broadway Street, from the northeastern corner of the
22 intersection of Columbus Avenue and Broadway Street running eastward on the north side of
23 the street up to west side of Montgomery Street and then from the southeastern corner of the
24 intersection of Columbus Avenue and Broadway Street on the south side running eastward on
25 the south side up to Montgomery Street, but also including the property at the southeastern

1 corner of the intersection of Montgomery Street and Broadway Street.

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 Top of Broadway Community Benefit
5 District.

6 Section 4. A public hearing on the establishment of the District, and the levy and
7 collection of assessments starting with fiscal year 2013-2014 and continuing through fiscal
8 year 2020-2021, shall be conducted before the Board of Supervisors, sitting as a Committee
9 of the Whole, on July 23, 2013, at 3:00 p.m., or as soon thereafter as the matter may be heard
10 in the Board's Legislative Chambers, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place,
11 San Francisco, California, 94102. At this public hearing, the Board of Supervisors will hear
12 public testimony regarding the proposed formation of the District, assessments, boundaries of
13 the District, including testimony from all interested persons for or against establishment of the
14 District, the extent of the District, the levy of the assessments, the furnishing of specific types
15 of property-related services, improvements and activities, and other matters related to the
16 District. The Board of Supervisors may waive any irregularity in the form or content of any
17 written protest, and at the public hearing may correct minor defects in the proceedings. All
18 protests submitted by affected property owners and received prior to the conclusion of the
19 public testimony portion of the public hearing shall be tabulated to determine whether a
20 majority protest exists.

21 Section 5. The Board of Supervisors hereby approves the form of the Notice of Public
22 Hearing and Assessment Ballot which are on file with the Clerk of the Board of Supervisors in
23 File No. 130419; which are declared to be a part of this resolution as if set forth fully herein.

24 Section 6. The proposed property-related services, improvements or activities for the
25 District include District Identity, Sidewalk Operations, Beautification and Order, and

1 Administration, Organization, and Corporate Operations:

2 **District Identity:** District Identity includes, but is not limited to, use of a public relations
3 firm to promote the business and activities in the District, development of a website, having
4 special events for the District, preparation of signage, historical markers, banners and
5 decorations, and other programs or activities to be determined by the nonprofit owners'
6 association that will administer the property-related services, activities, and improvements for
7 the District.

8 **Sidewalk Operations, Beautification and Order:** Sidewalk Operations,
9 Beautification and Order includes, but is not limited to, cleaning sidewalks and gutters, graffiti
10 removal, trimming trees, periodic steam cleaning, and cleaning tree wells.

11 **Administration, Organization, and Corporate Operations:** Administration,
12 Organization, and Corporate Operations includes, but is not limited to, staffing to oversee and
13 support the property-related services, activities and improvements for the District, acquiring
14 office-related services and supplies, such as accounting, legal services and office supplies,
15 acquiring insurance for the District, managing contractual relations with the City and others,
16 financial reporting, and advocacy for the District.

17 Section 7. Within the area encompassed by the proposed District, the City currently
18 provides services at the same level provided to other similar areas of the City. It is the intent
19 of the Board of Supervisors to continue to provide the area encompassed by the District with
20 the same level of services provided to these other similar areas of the City. The
21 establishment of the District will not affect the City's policy to continue to provide the same
22 level of service to the areas encompassed by the District as it provides to other similar areas
23 of the City during the duration of the District.

24 Section 8. The annual total assessments proposed to be levied and collected for the
25 first year of the District (fiscal year 2013-2014) is estimated to be \$105,502. The amount of

1 the total annual assessments to be levied and collected for years two through eight (fiscal
2 years 2014-2015 through 2020-2021) may be increased from one year to the next by a
3 percentage that does not exceed either the change in the Consumer Price Index for All Urban
4 Consumers in the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical
5 Area, or three percent (3%), whichever is less.

6 Section 9. Environmental Findings. Following the approval of this Resolution, the
7 Planning Department shall determine whether the actions contemplated in this Resolution are
8 in compliance with the California Environmental Quality Act (California Public Resources
9 Code Sections 21000 *et seq.*), and respond in writing to the Clerk of the Board of Supervisors.

10 Section 10. The Clerk of the Board is directed to give notice of the public hearing as
11 provided in California Streets and Highways Code Section 36623, California Government
12 Code Section 53753, California Constitution Article XIID Section 4, San Francisco Charter
13 Section 16.112, and San Francisco Administrative Code Section 67.7-1.

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