

1 [Resolution to Establish - Downtown Community Benefit District]

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3 **Resolution to establish the property-based business improvement district known as**
4 **the “Downtown Community Benefit District,” ordering the levy and collection of**
5 **assessments against property located in that district for 15 years commencing with**
6 **FY2019-2020, subject to conditions as specified; and affirming the Planning**
7 **Department’s determination under the California Environmental Quality Act.**

8

9 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
10 California Streets and Highways Code, Sections 36600 et seq. ("1994 Act"), as augmented by
11 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), collectively,
12 the “Business Assessment Law,” the Board of Supervisors adopted Resolution No. 237-19,
13 entitled “Resolution declaring the intention of the Board of Supervisors to establish a property-
14 based business improvement district known as the ‘Downtown Community Benefit District’
15 and levy a multi-year assessment on all parcels in the district; approving the management
16 district plan, engineer’s report, and proposed boundaries map for the district; ordering and
17 setting a time and place for a public hearing thereon; approving the form of the Notice of
18 Public Hearing and Assessment Ballot Proceeding, and Assessment Ballot; directing
19 environmental findings; and directing the Clerk of the Board of Supervisors to give notice of
20 the public hearing and balloting as required by law” (the "Resolution of Intention," Board of
21 Supervisors File No. 190426); and

22 WHEREAS, The Resolution of Intention to establish the Downtown Community Benefit
23 District (the "Downtown CBD" or "District"), among other things, approved the Downtown CBD
24 Management District Plan (the "District Management Plan"), a detailed District Assessment
25 Engineer's Report, a Boundaries Map, and the form of the Notice of Public Hearing and

1 Assessment Ballot Proceeding, that are all on file with Clerk of the Board of Supervisors in
2 File No. 190426; and

3 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
4 the proposed formation of the Downtown CBD, and the proposed levy of assessments against
5 property located within the District for a period of 15 years, from FYs 2019-2020
6 through 2033-2034; and

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

9 WHEREAS, A District Management Plan was filed with the Board on May 14, 2019,
10 containing information about the proposed district and assessments as required by California
11 Streets and Highways Code, Section 36622; and

12 WHEREAS, A detailed Engineer's Report dated April 2019 was filed with the Clerk of
13 the Board on May 14, 2019, as prepared by Edward V. Henning, California Registered
14 Professional Engineer No. 26549, entitled "Downtown Community Benefit District, District
15 Assessment Engineer's Report," supporting the assessments within the proposed district; and

16 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of
17 Supervisors pursuant to California Streets and Highways Code, Section 3110, on
18 May 14, 2019; and

19 WHEREAS, A public hearing concerning the proposed formation of the Downtown CBD
20 and the proposed levy of assessments within such District was held pursuant to the notice on
21 July 16, 2019, at 3:00 p.m., in the Board's Legislative Chamber located on the Second Floor
22 of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and

23 WHEREAS, At the public hearing, the testimony of all interested persons for or against
24 the proposed formation of the District, the levy of assessments on property within the District,
25 the extent of the District, and the furnishing of specified types of improvements, services and

1 activities within the District, was heard and considered, and a full, fair and complete meeting
2 and hearing was held; and

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

10 WHEREAS, The public interest, convenience and necessity require the establishment
11 of the proposed Downtown Community Benefit District; and

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

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

18 **Section 1. MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**

19 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
20 April 2019 Management District Plan and District Assessment Engineer's Report, including
21 the estimates of the costs of the property-related services, activities and improvements set
22 forth in the plan, and the assessment of said costs on the properties that will specially benefit
23 from such services, activities and improvements. The Board also hereby approves the April
24 2019 Boundaries, showing the exterior boundaries of the District, and ratifies and approves
25 the Assessment Ballot and the City's use of such ballot, which Assessment Ballot is on file

1 with the Clerk of the Board of Supervisors in File No. 190426 and is hereby declared to be a
2 part of the Resolution as if set forth fully herein. A copy of the April 2019 Management District
3 Plan, the District Assessment Engineer's Report, and the Boundaries Map are on file with the
4 Clerk of the Board of Supervisors in File No. 190426, which is hereby declared to be a part of
5 this Resolution as if set forth fully herein.

6 **Section 2. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors
7 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of
8 the California Constitution and Section 53753 of the California Government Code with respect
9 to the formation of the Downtown Community Benefit District. All objections or protests both
10 written and oral, are hereby duly overruled.

11 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and Article
12 15, the property-based business improvement district designated as the "Downtown
13 Community Benefit District" is hereby established.

14 **Section 4. DESCRIPTION OF DISTRICT.** The Downtown Community Benefit
15 District shall include all parcels of real property within the district. The proposed District
16 contains approximately 669 identified parcels located on approximately 43 whole or partial
17 blocks.

18 Specifically, the exterior District boundaries are:

- 19 • Eastern Boundary: From the southwestern parcel of the intersection of Howard
20 Street and the Embarcadero running northward along the west side of the
21 Embarcadero to the parcel at (APN) 3714-019.
- 22 • Southern Boundary: Parcels on the south side of Market Street, not included in the
23 Transbay/East Cut CBD, have been included in the Downtown CBD boundaries.
24 This is to prevent any parcels from being excluded from either CBD. The only
25 parcel not included on the south side of Market is the Federal Reserve building

1 because, based upon CBD billing experience in San Francisco, the General
2 Services Agency refuses to pay into the assessment district, and therefore should
3 not receive the special benefits funded from the CBD. The boundaries are
4 therefore as follows: From the southwestern parcel of the intersection of Howard
5 Street and the Embarcadero, running westward to the parcel at the northeastern
6 corner of the intersection of Howard and Spear Street. Continuing northward along
7 the eastern side of Spear Street to Market Street. Continuing westward on Market
8 Street and running south to mid-block Market to Mission on the west side of Main
9 Street. Continuing along a line which includes all the parcels that border the current
10 East Cut Community Benefit District westward to 2nd Street. Continuing northward
11 along the western side of 2nd Street to Market Street, continuing westward down
12 the middle of Market Street to the parcel at the northeastern parcel at the
13 intersection of Kearny Street and Market Street.

- 14 • Northern Boundary: From the northern side of the Hyatt hotel at the northeastern
15 parcel at the intersection of Market Street and Drumm Street, running westward
16 along the southern side of Sacramento Street up to the intersection of Sacramento
17 and Battery Street. Then moving northward, up west side of Battery until reaching
18 Washington Street, then heading one block west bound (south side only) to
19 Sansome. Continuing northbound on Sansome (including only the west side of the
20 Street), to the intersection of Sansome and Pacific Avenue. Then heading west
21 bound on Pacific including only the parcels along the south side of Pacific until the
22 boundaries reach the intersection of Pacific and Montgomery. From that point, the
23 CBD includes parcels on both sides of Pacific Avenue up to the parcels just east of
24 the two parcels at Columbus and Pacific. Those two parcels (0176-016 and 0163-
25 012) have not been included because they are included in a study of the expansion

1 of the current Top of Broadway CBD, and because the 1994 Act prohibits the same
2 parcel from being included in two separate property-based assessment districts.

- 3 • Western Boundary: From the parcel at the northeastern corner of the intersection of
4 Market Street and Kearny Street, continue northbound along the east side of
5 Kearny Street to the parcel at the southeastern corner of the intersection of
6 Sacramento Street and Kearny Street. Continue eastward to mid-block to the parcel
7 APN 0227 – 011 and run on the west side of that parcel up to mid-block on Clay
8 Street. Include the western side of the parcels APN 0208 -026 – 028, 29-61 to the
9 middle of the intersection of Washington and Montgomery Streets. along the middle
10 of the street of Montgomery Street up to Jackson Street, head west to mid- block
11 and include the parcels on both sides of Pacific Avenue, excluding all parcels
12 fronting along Columbus Avenue as those parcels are anticipated to be included in
13 an expansion of the Top of Broadway CBD.

14 Reference should be made to the detailed maps and the lists of parcels identified by
15 Assessor Parcel Number that are contained in the April 2019 Management District Plan, in
16 order to determine which specific parcels are included in the Downtown Community Benefit
17 District.

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

21 **Section 6. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
22 pay for the activities to be provided within the District, commencing with FY2019-2020, and
23 continuing for 15 years, ending with FY2033-2034. For purposes of levying and collecting
24 assessments within the District, a fiscal year shall commence on each July 1st and end on the
25 following June 30th.

1 (b) The amount of the proposed assessments to be levied and collected for
2 FY2019-2020 shall be a maximum of \$3,873,491.14 (as shown in the Management District
3 Plan dated April 2019 and Engineer's Report dated April 2019). The amount of assessments
4 to be levied and collected in fiscal years two through 15 may be increased annually by the
5 Downtown Community Benefit District corporation Board of Directors by an amount not to
6 exceed five percent (5%).

7 (c) The method and basis of levying and collecting the assessment shall be as set
8 forth in the District Management Plan.

9 (1) The levy of the assessments shall commence with FY2019-2020. Each year the
10 assessment shall be due and payable in two equal installments. The first installment shall be
11 due on November 1 of each fiscal year during the life of the District, and shall become
12 delinquent on December 10 of that fiscal year. The second installment shall be due on
13 February 1 of each fiscal year during the life of the District, and shall become delinquent on
14 April 10 of that fiscal year.

15 (2) Nonpayment of the assessment shall have the same lien priority and delinquent
16 payment penalties and be subject to the same enforcement procedures and remedies as the
17 ad valorem property tax. All delinquent payment of assessments shall be subject to interest
18 and penalties. The City Treasurer and Tax Collector will enforce imposition of interest and
19 penalties and collection of delinquent assessments pursuant to the Business Assessment Law
20 and City Business and Tax Regulations Code Article 6, as each may be amended from time to
21 time.

22 **Section 7. USE OF REVENUES.** The proposed property-related services,
23 improvements and activities for the District include:

24 **Civil Sidewalks/Mobility Management.** Civil Sidewalks/Mobility Management include,
25 but is not limited to, sidewalk and gutter sweeping, sidewalk steam cleaning, trash removal,

1 graffiti removal, tree and vegetation maintenance, public space maintenance, maintenance of
2 existing and new public spaces, responding to quality of life issues, implementing the “Live
3 Well, Live Safe” program, advocacy for increased resources to improve traffic management at
4 major intersections throughout the District, additional traffic and mobility efforts such as
5 shared of improved parking, possible community valet program, and updated commercial and
6 other special parking zones and curb cuts.

7 **District Identity and Streetscape Improvements.** District and Streetscape
8 Improvements include, but is not limited to, branding of the Financial District, Jackson Square
9 and the Downtown CBD parcels on the south side of Market Street so a positive image is
10 promoted to the public and the new tenants, funding website development and updates,
11 funding an App development, management and coordination of special events, hiring a social
12 media company, hiring a public relations firm, installation of holiday and seasonal decorations,
13 creating unique banner programs to tie the district together, funding and planning public art
14 displays, funding logo development, funding public space design and improvements, creating
15 programs that fund business attractions workshops and fairs to attract future tenants.

16 **Program Management and Reserve.** Program Management and Reserve includes,
17 but is not limited to, staff and administrative costs, advocacy for improved traffic management
18 with the San Francisco Municipal Transportation Agency, paying for Directors and Officers as
19 well as General Liability Insurance, office related expenses, financial reporting and accounting
20 expenses, legal work-related costs, relations with other CBDs and the City, delinquencies,
21 City and County fees, reserves.

22 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
23 with a separate private entity to administer the improvements, services and activities set forth
24 in Section 7, as provided in California Streets and Highways Code, Sections 36612
25 and 36650. Any such entity shall hold the funds it receives from the City and County of San

1 Francisco ("City") in trust for the improvements, services and activities set forth in Section 7.
2 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no
3 expense to the City, a balance sheet and the related statement of income and cash flows for
4 each fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public
5 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.
6 In addition, or alternatively, the Controller in his or her discretion or the Office of Economic
7 and Workforce Development in its discretion, may require the private entity to deliver, at no
8 expense to the City, an annual independent audit report by a Certified Public Accountant of all
9 such funds. The CPA review and/or audit may be funded from assessment proceeds as part
10 of the general administration of the District. At all times the Board of Supervisors shall
11 reserve full rights of accounting of these funds. The Office of Economic and Workforce
12 Development shall be the City agency responsible for coordination between the City and the
13 District.

14 **Section 9. AMENDMENTS.** The properties in the District established by this
15 Resolution shall be subject to any amendments to the 1994 Act, and City Business and Tax
16 Regulations Code Article 6 and Article 15.

17 **Section 10. RECORDATION OF NOTICE AND DIAGRAM.** The County Clerk is
18 hereby authorized and directed to record a notice and an assessment diagram pursuant to
19 Section 36627 of the California Streets and Highways Code, following adoption of this
20 Resolution.

21 **Section 11. LEVY OF ASSESSMENT.** The adoption of this Resolution and
22 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
23 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
24 referred to in the District Management Plan. Each year, the Assessor shall enter on the
25 County Assessment Roll opposite each lot or parcel of land the amount of the assessment

1 and such assessment shall be collected in the same manner as the County property taxes are
2 collected.

3 **Section 12. BASELINE SERVICES.** To ensure that assessment revenues from the
4 District are used to enhance the current level of services provided by the City within the
5 District, the establishment of the District will not affect the City’s policy to continue to provide
6 the same level of service to the areas encompassed by the District as it provides to other
7 similar areas of the City for the duration of the District, provided, however, that in the event of
8 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
9 municipal services citywide, including within the District.

10 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
11 determined that the actions contemplated in this Resolution are in compliance with the
12 California Environmental Quality Act (California Public Resources Code sections 21000 *et*
13 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File
14 No. 190564, which is hereby declared to be a part of this Resolution as if set forth fully herein.