

1 [Resolution of Intention - Disestablishment - Top of Broadway Community Benefit District -
Annual Report FY2018-2019]

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3 **Resolution declaring the intention of the Board of Supervisors to receive and approve a**
4 **final annual report for the property-based business improvement district (community**
5 **benefit district) known as the “Top of Broadway Community Benefit District” for**
6 **FY2018-2019, to disestablish the District, and to remove a multi-year assessment on all**
7 **parcels in the District; ordering and setting a time and place for a public hearing of the**
8 **Board of Supervisors, sitting as a Committee of the Whole, on November 17, 2020,**
9 **at 3:00 p.m., on the proposed disestablishment; approving the form of the Notice of**
10 **Public Hearing; and directing environmental findings.**

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12 WHEREAS, Article XIID of the California Constitution, the Property and Business
13 Improvement District Law of 1994 (California Streets and Highways Code, Sections 36600 et
14 seq., “1994 Act”), and Article 15 of the San Francisco Business and Tax Regulations Code
15 (“Article 15”) authorize cities to establish property-based improvement districts, funded
16 through the levy and collection of special assessments on real property within such districts,
17 for the purpose of providing improvements and promoting activities and property-related
18 services that specially benefit parcels of real property located within such districts; and

19 WHEREAS, Pursuant to the foregoing authorities, the Board of Supervisors in 2013
20 established a Community Benefit District known as the Top of Broadway Community Benefit
21 District (the “District”) which has a term of eight years commencing with FY2013-2014 (File
22 No. 130636); and

23 WHEREAS, The Board of Supervisors approved a contract with a nonprofit Owners’
24 Association for Administration/Management of the Top of Broadway Community Benefit
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1 District, to administer the District, pursuant to the management plan for the district (File
2 No. 140100); and

3 WHEREAS, The Owners' Association operated the District with assessment revenues
4 and matching private funds, but eventually lost access to matching funds, and determined at
5 the end of FY2018-2019 that it could not operate the District effectively with assessment
6 revenue alone, and therefore asked the City to disestablish the District, as reflected in the
7 August 2019 letter on file with the Clerk of the Board of Supervisors in File
8 No. 200956; and

9 WHEREAS, Based on the August 2019 letter, the City stopped collecting assessment
10 revenue starting with FY2019-2020, and instead allowed the Owners' Association to expend
11 its remaining assessment funds as set forth in the District management plan, and to then
12 cease operating; and

13 WHEREAS, The Owners' Association circulated a petition to the owners and
14 representatives of real property in the District, and received signatures in favor of the
15 disestablishment from owners and representatives representing 47.29 percent of the total
16 assessments levied, and based on the petition results remains in favor of disestablishing the
17 District; and

18 WHEREAS, The Owners' Association asks the City to disestablish the District under
19 Business and Tax Regulations Code, Section 15.11(e), which provides that the Board of
20 Supervisors may, by a supermajority vote of eight or more members, initiate proceedings to
21 disestablish for any reason, by adopting a resolution of intention to disestablish, and by then
22 mailing a notice to the property owners of a public hearing, which shall occur not less than 30
23 days after mailing the notice and not more than 60 days after the adoption a resolution of
24 intention, as set forth in California Streets and Highways Code, Section 36670(b); and

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1 WHEREAS, The Owners' Association has submitted for the Board's receipt and
2 approval an annual report, for FY2018-2019 ("the Annual Report"), as required by
3 Section 36650 of the Act and Section 3.4 of the Management Contract, as well as supporting
4 documents, including a transmittal letter and memorandum report from the City's Office of
5 Economic and Workforce Development, dated August 13, 2020, all of which are on file with
6 the Clerk of the Board of Supervisors in File No. 200956; and

7 WHEREAS, The Annual Report and supporting documents show that the Owners'
8 Association has ceased operating, and that it does not have any assessment funds remaining,
9 or any assets that it acquired with assessment revenues; now therefore, be it

10 RESOLVED, The Annual Report for FY2018-2019 is received and approved; and

11 FURTHER RESOLVED, Pursuant to Section 36670 of the Act, the Board of
12 Supervisors declares its intention to disestablish the property and business improvement
13 district known as the "Top of Broadway Community Benefit District" ("District") and to remove
14 assessments against all parcels of real property in the District, commencing with fiscal year
15 ("FY") 2019-2020, for the reasons stated herein; and, be it

16 FURTHER RESOLVED, The Clerk of the Board of Supervisors is hereby directed to
17 give notice by mail to each property owner subject to the assessment, as provided by law, that
18 a hearing on the proposed disestablishment shall take place remotely at the Board of
19 Supervisors' meeting, on November 17, 2020, or as soon thereafter as the matter may be
20 heard, to hear public testimony regarding the proposed disestablishment of the District and
21 removal of assessments on properties within the District; and, be it

22 FURTHER RESOLVED, The Board of Supervisors hereby approves the form of the
23 Notice of Public Hearing on file with the Clerk of the Board of Supervisors in File No. 200956,
24 which is hereby declared to be a part of this Resolution as if set forth fully herein; and, be it

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1 FURTHER RESOLVED, The Planning Department shall determine whether the actions
2 contemplated in this resolution are in compliance with the California Environmental Quality Act
3 (California Public Resources Code, Sections 21000 et seq.), and respond in writing to the
4 Clerk of the Board of Supervisors prior to the Board’s public hearing on the disestablishment
5 of the District as set forth above.

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