# The Top of Broadway Community Benefit District Management District Plan

## San Francisco, California

*Formed Under California Streets and Highway Code Section 36600 et seq. "Property and Business Improvement District Law of 1994," Augmented by Article 15 of the San Francisco Business and Tax Regulations Code*

SUBMITTED TO:
THE PROPERTY AND BUSINESS OWNERS OF THE PROPOSED TOP OF BROADWAY CBD AND

THE SAN FRANCISCO BOARD OF SUPERVISORS
SUPERVISOR DAVID CHIU

PRESENTED BY:
NEW CITY AMERICA INC.

APRIL 15TH, 2013

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# TOP OF BROADWAY
# COMMUNITY BENEFIT DISTRICT (CBD) MANAGEMENT DISTRICT PLAN

## A. EXECUTIVE SUMMARY

History and Background

This effort for the investigation and formation of the new Top of Broadway Community Benefit District (CBD) has been funded through the combined efforts of various property owners and business owners in the proposed district area.

This current effort to establish the Top of Broadway CBD has been initiated by a subset of business and property owners who are part of the Voice of Broadway (a neighborhood association comprised of property owners, business owners, residents, and stakeholders). This subset of property owners and business owners, have been working to form the CBD in the area since early 2012. These business and property owners would like to form a CBD in order to collectively fund and manage special benefit services, activities, and improvements to improve the Top of Broadway Neighborhood commercial district. The effort to form this CBD is consistent with what business and property owners have done throughout San Francisco over the past seven-plus years. Tenants, working with property owners have discussed, and acted upon this Management District Plan.

Meetings held to organize the district:

February 2nd, 2011
April 18th, 2012
May 23rd, 2012
June 20th, 2012
January 30th, 2013 (Meeting called by Supervisor David Chiu)

Purpose of New District

Top of Broadway business community represents one of the oldest and continuous commercial cultural and entertainment corridors on the West Coast. This district has a very rich history of music and adult entertainment, with venues that have been frequented by millions over the past 130 years. Formerly known as the Barbary Coast, this area is distinct as a special sub-district of the North Beach Community of San Francisco.

As San Francisco continues to build itself as an international destination for visitors and prepares for the 2013 America's Cup competition, the need for an orderly, vibrant business district is crucial. Though there is a high concentration of live entertainment clubs, excellent bars and restaurants and a collection of retailers, this district has a lot of room for improvement.

Whether it is the lack of historical markers, the lack of systematic cleanliness, or the problem of parking - the Top of Broadway CBD area must take the next step and demonstrate that it can deal with the problems associated with a historic, yet evolving district.

The issues of district branding, marketing and promotion, maintenance of order, cleanliness and safety are paramount to all who work in, conduct business in, and visit the district. With the new CBD, the Top of Broadway CBD Steering Committee seeks to work with the City and County of San Francisco as a whole; departments including, but not limited to, the Police Department and the Entertainment Commission; and private entities such as San Francisco Travel to upgrade this area, better manage crowds, attract more visitors and beautify the district.

These are issues that cannot be resolved by the City of San Francisco alone, but must also be addressed at the neighborhood level. This proposed Top of Broadway CBD would be funded through an assessment levied on each and every parcel within the finalized and approved boundaries of the district. This plan outlines the exact costs of funding these services, activities, and improvements. All properties, public and private, commercial, residential and non-profit would be included in this new assessment district and will be required to participate financially upon establishment of the district.

The Top of Broadway CBD assessments would provide basic funding for a variety of services, activities, and improvements including marketing, branding, and promotional programs, regular sidewalk sweeping and trash emptying, signage, and coordination of all of these services, activities, and improvements. Though small, the proposed Top of Broadway CBD area has an intense level of foot traffic within the public rights of way and has an international draw. Additionally, BSC Management, a business within the proposed CBD boundary, has pledged a total of $200,000 in the first two years of operations. This financial commitment will fund categories including, but not limited to: Security, district identity, district cleanup, beautification, administration and any other services, activities, and improvements deemed necessary by the Top of Broadway CBD Owners' Non-Profit Association.

Improving the appearance and cleanliness of the Top of Broadway CBD area will increase pedestrian activity, strengthen existing businesses and cultural institutions, attract new investment, and improve the over-all quality of life for current and future residents, businesses, employees and visitors. The Top of Broadway CBD would provide a reliable, accountable, and independent funding source through property assessments and donations to help restore this vital area to its former glory.

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| **Location:** | ▪ ***Columbus Avenue*** from the intersection of Grant and Fresno, running *along the east side only* of Columbus Avenue down to Pacific Avenue.<br>▪ ***Kearny Street*** on both sides of the street from Broadway to Pacific Avenue.<br>▪ ***Broadway,*** from the northeastern corner of the intersection of Columbus and Broadway running eastward on the north side of the street up to west side of Montgomery Street and then from the southeastern corner of the intersection of Columbus and Broadway on the south side running eastward on the south side up to Montgomery, but also including the property at the southeastern corner of the intersection of Montgomery and Broadway (APN 0164/014). |
| **Categories of activities, services, and improvements:** | 1. Sidewalk Operations, Beautification, and Order: regular sidewalk cleaning, periodic steam cleaning, tree maintenance, & graffiti removal<br>2. District Identity: marketing and branding, social media, website development and maintenance, signage, and seasonal decor<br>3. Administration, Organization, and Corporate Operations: operations management, advocacy, financial reporting/monitoring, and other administrative tasks |
| **Allocation of Budget to each service type:** | 28% for Sidewalk Operations, Beautification, and Order<br>42% for District Identity<br>30% for Administration, Organization, and Corporate Operations |
| **Annual Budget:** | The proposed first year budget for the CBD is $106,567.31 and will be funded from both assessment revenues (99% = $105,501.64) and revenue from sources other than assessments (1% = $1,065.67), such as donations, grants, and fees for service contracts.<br><br>The annual budgets for subsequent years will be set forth in annual reports prepared by the management corporation and submitted to the Board of Supervisors as required by state law.<br><br>*BSC Management, a business located within the Top of Broadway CBD boundary, has agreed to fund the CBD to manage additional services, activities, and improvements including, but not limited to security, district identity, administration and hardship, in the total amount of $100,000 in year one (FY 2013/14) and $100,000 in year two (FY 2014/15), for a grand total of $200,000. Whether these supplemental services, activities, and improvements in year 3 and beyond will be continued will depend on whether a separate source of funding is obtained to replace the BSC Management supplemental funding for year 1 and year 2.* |

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| **Rates of Assessment:** | Assessments will be generated based on the following factors:<br><br>Property variables:<br>• Frontage: 3,211 ft. of linear frontage in the proposed district;<br>• 1st Floor Building Square footage: 141,273 building square footage<br>• Lot/Parcel Size: 165,591 square footage in lot size<br><br>Rates for each variable are as follows:<br>• Linear Frontage: $9.4517/linear foot<br>• 1st Floor Building Square Footage: $0.32153/square foot<br>• Lot/Parcel Size: $0.17953106/ square foot<br><br>The total assessment per parcel is determined by adding the first floor building square footage assessment (if applicable to the parcel), plus the linear frontage assessment, plus the parcel/lot square footage assessment. |
| **Method of Collecting Assessment and Enforcement:** | The Top of Broadway Community Benefit District special assessment will appear as a separate line item on the annual property tax bills prepared by the San Francisco City and County Tax Collector. Payment of property taxes is due on November 1 and February 1, with the bill becoming delinquent at the close of business December 10 and April 10, respectively.<br><br>The CBD assessment, including the collection and enforcement of any delinquent assessments and imposition of interest and penalties per City and County of San Francisco Business and Tax Regulations Code Article 6 and related state law, as it may be amended from time to time, will be collected and enforced by the Treasurer and Tax Collector of the City (the Treasurer and Tax Collector). The Treasurer and Tax Collector shall transfer the assessment payments to a non-profit corporation that is designated as the Owners' Non-Profit Association for the District.<br><br>The owners non-profit association will manage and administer the CBD pursuant to a management contract with the City, as approved by the Board of Supervisors. The management contract will also include provisions identifying and defining procedures for collection and enforcement of the assessment, including, for example, recordkeeping requirements, audits, assessment of penalties and interest, claims, and refunds. |
| **Duration:** | If the proposed District established by the Board of Supervisors following the ballot election and public hearing, assessments would be collected for the first 8 years (July 1, 2013 – June 30, 2021). |

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| | Expenditure of those collected assessments can continue for up to 6 months after the end of the assessment collection period (December 31, 2021), at which point the District would then be terminated, if not renewed. |
| **Annual Increase:** | Year 2 – 8 assessments (Fiscal Year 2014-15 through Fiscal Year 2020-21) may be adjusted for inflation based upon the San Francisco-Oakland-San Jose Area Consumer Price Index (CPI) for all urban consumers, not to exceed 3 % annually. |
| **City Services:** | The City currently provides a baseline of services to the Top of Broadway district, based upon annual City budget allocations. By adopting this plan, the Board of Supervisors will confirm and guarantee a baseline level of service equivalent to that being provided in similar areas of the city.<br><br>Throughout the duration of the district, these services will be maintained consistently with other similar areas of the City. The services, activities, and improvements funded by the Top of Broadway CBD annual assessments are in addition to those already provided by the City and County of San Francisco. |
| **Formation:** | District formation requires submission of petitions from owners of property representing at least 30% of the total proposed assessments. Once, the petitions have been submitted, the Board of Supervisors may adopt a Resolution of Intent to establish the district and levy the assessments. The Department of Elections will mail out assessment ballots and notice of public hearing to all owners of property included in the proposed district.<br><br>The Board of Supervisors will hold a public hearing 45 days or more after mailing the ballots and notice of hearing. The Board may form the Top of Broadway CBD if the weighted majority of returned ballots support the district formation. "Weight" is determined by the percentage of monetary contribution each property owner will make to the proposed CBD, relative to all district assessments, based upon the assessment methodology. |
| **Disestablishment:** | During the operation of the district, there shall be a 30-day period each year in which assessees may request disestablishment of the district. The first such period shall begin one year after the date of establishment of the district and shall continue for 30 days. The next such 30-day period shall begin two years after the date of the establishment of the district. Each successive year of operation of the district shall have such a 30-day period. Upon the written petition of the owners of real property or of businesses in the area who pay 50 percent or more of the assessments levied, the Board of Supervisors may disestablish the district. |

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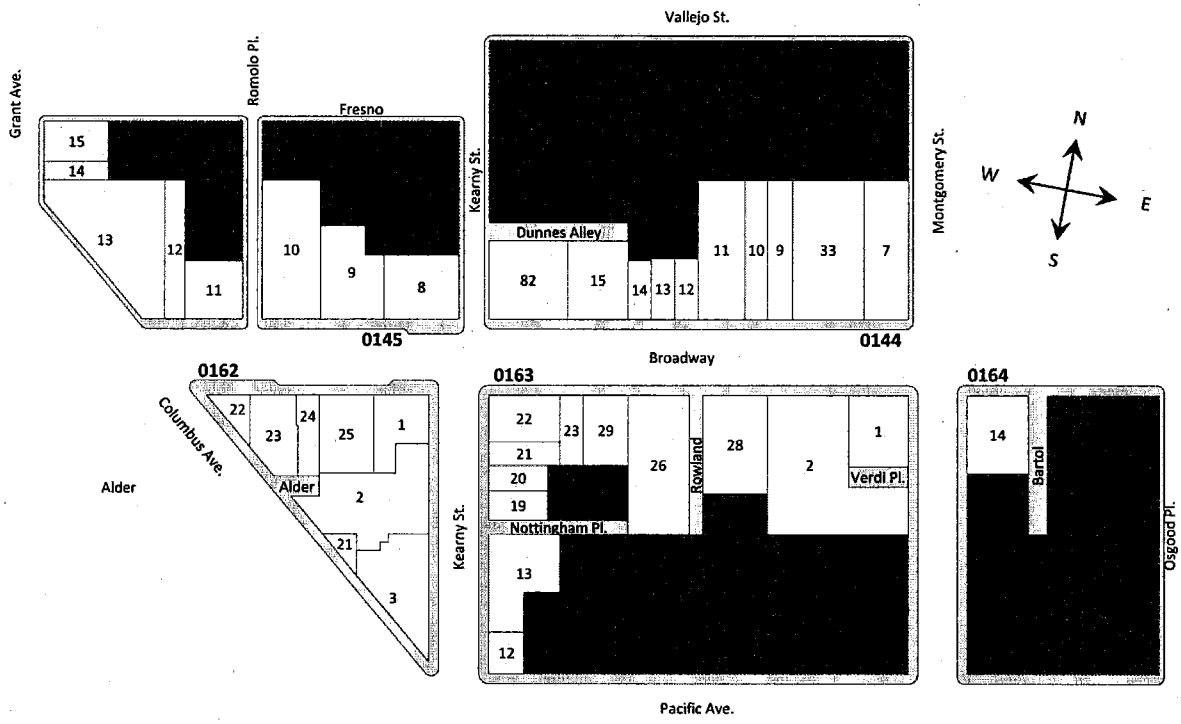
| | A majority of the Board of Supervisors (six members) may initiate disestablishment at any time based on improper actions by the CBD management corporation, such as misappropriation of funds, malfeasance, or violation of law.<br><br>A supermajority (eight members) of the Board of Supervisors may initiate disestablishment proceedings for any reason. |

**B.**

# Top of Broadway CBD Map




NEW·CITY America, Inc. Map created by New City America, Inc.

- ***Columbus Avenue*** from the intersection of Grant and Fresno running *along the east side only* of Columbus Avenue down to Pacific Avenue
- ***Kearny Street*** on both sides of the street from Broadway to Pacific Avenue
- ***Broadway,*** from the northeastern corner of the intersection of Columbus and Broadway running eastward on the north side of the street up to west side of Montgomery Street and then from the southeastern corner of the intersection of Columbus and Broadway on the south side running eastward on the south side up to Montgomery, but also including the property at the southeastern corner of the intersection of Montgomery and Broadway (APN 0164/014).

## C. SERVICE PLAN AND BUDGET

### 1. DISTRICT IDENTITY:

| *DISTRICT IDENTITY*<br>*PROPOSED SERVICES, ACTIVITIES, AND IMPROVEMENTS INCLUDE, BUT ARE NOT LIMITED TO:* | ESTIMATED FIRST YEAR COST |
|---|---|
| Public relations firm to promote the businesses and activities in the district (including coordination of print and social media, Facebook, Twitter, media relations, press releases, etc.) | $ 20,000.00 |
| Web site development and posting including maintenance and upgrades | $ 8,000.00 |
| Special events (2) | $ 8,000.00 |
| Signage, historical markers, banners. decorations | $ 2,500.00 |
| Other programs or activities determined by Owners' Non-Profit Association | $ 6,500.00 |
| *Total Estimated First Year District Identity Expenses* | *$ 45,000.00* |

### 2. SIDEWALK OPERATIONS, BEAUTIFICATION, AND ORDER (SOBO):

| *SIDEWALK OPERATIONS, BEAUTIFICATION, AND ORDER*<br>*PROPOSED SERVICES, ACTIVITIES, AND IMPROVEMENTS INCLUDE, BUT ARE NOT LIMITED TO:* | ESTIMATED FIRST YEAR COST |
|---|---|
| Sidewalk cleaning/personnel, estimated at 20 hours per week for individual employee or contracted service, provided 52 weeks per year | $ 18,000.00 |
| Sidewalk cleaning/materials (brooms, trash bags, cleaners, etc.) | $ 4,000.00 |
| Steam cleaning, tree maintenance, supplemental parking signage, etc.) | $ 8,000.00 |
| *Total Sidewalk Operations and Beautification Expenses* | *$ 30,000.00* |

Proposed services, activities, and improvements for SOBO include, but are not limited to:

- Sidewalk and gutter cleaning 20 hours per week, cleaning district at least 4 to 5 times per week (1 person working 20 hours per week at the rate of $17.30 per hour, which is inclusive of the hourly wage, workers comp, payroll taxes and unemployment insurance, etc.)
    - Taking graffiti and stickers off of street light poles, windows, etc.
    - Enhanced trash emptying in the sidewalks;
    - Graffiti removal, within 24 hours;
- Sidewalk supplies and materials, (brooms, shovels, push cart, graffiti remover, shovel, uniforms, trash bags, cleaning supplies)
- Periodic steam cleaning; (up to twice per year);
- Trimming trees up to 10 feet from the sidewalks;
- Cleaning out tree wells;

## 3. ADMINISTRATION, ORGANIZATION, AND CORPORATE OPERATIONS

| *ADMINISTRATION, ORGANIZATION, AND CORPORATE OPERATIONS PROPOSED SERVICES, ACTIVITIES, AND IMPROVEMENTS INCLUDE, BUT ARE NOT LIMITED TO:* | ESTIMATED FIRST YEAR COST |
|---|---|
| Part time staff (contracted at $1,500 per month) | $ 16,000.00 |
| Insurance, General Liability and Directors and Officers | $ 5,000.00 |
| Office related, CPA, Accounting, Legal, office supplies, printing | $ 4,000.00 |
| Contingency and Reserves | $ 6,567.31 |
| *Total Administration, Organization and Corporate Operations* | *$ 31,567.31* |

Services, activities, and improvements and costs for Administration, Organization and Corporate Operations to support all of the services, activities, and improvements include, but are not limited to:

- Staff and administrative costs (Approximately $ 20.00 per hour, for 15 hours per week has been calculated to oversee the special benefit services, activities, and improvements in this district, specifically to oversee the execution of the services, activities, and improvements within SOBO and District Identity categories. It is also assumed that this person will be a contracted individual or company).
- Insurance;
- Office related expenses;
- Managing contractual relations with City and subcontractors;
- Financial reporting;
- Advocacy

**TABLE C – 1**
**YEAR 1 OPERATING BUDGET ALLOCATED FOR SERVICES, ACTIVITIES, AND IMPROVEMENTS**

| Property Assessment Variable | Estimated Revenues | % of assessment |
|---|---|---|
| First floor commercial building square footage | $ 45,423.51 | 43% |
| Parcel/Lot square footage | $ 29,728.72 | 28% |
| Linear Frontage | $ 30,349.41 | 28% |
| **Total Assessment Revenues** | **$105,501.64** | |
| Fundraising, Donations, In-Kind Support | $ 1,065.67 | 1% |
| **Total Non-Assessment Revenues** | **$ 1,065.67** | |
| **Total first year CBD Revenues*** | **$106,567.31** | **100%** |

*Does not include BSC contribution of $100,000

| Service/Activity/Improvement Funded by the Top of Broadway | Estimated Expenses | % of Annual Budget |
|---|---|---|
| District Identity Activities | $ 45,000.00 | 42% |
| Sidewalk Operations, Beautification and Order | $ 30,000.00 | 28% |
| Administration, Organization, and Corporate Operations | $ 25,000.00 | 24% |
| Contingency and Reserves | $ 6,567.31 | 6% |
| **Total** | **$ 106,567.31** | **100%** |

*BSC Management, a local business, has agreed to fund additional services, activities, and improvements including, but not limited to security, district identity, administration and hardship, dollar for dollar of the assessments anticipated, for the first two years of the district (Fiscal Years 13/14 and 14/15) totaling $200,000. Whether these supplemental services, activities, and improvements in year 3 and beyond will be continued will depend on whether a separate source of funding is obtained to replace the BSC Management supplemental funding for year 1 and year 2.*

CONTINUATION OF CITY SERVICES

The City currently provides a baseline of services to the Top of Broadway area, based upon annual City budget allocations. By adopting this plan, the Board of Supervisors will confirm and guarantee a baseline level of service equivalent to that being provided in similar areas of the City. Throughout the duration of the district, these services will be maintained consistently with other similar areas of the City. The services, activities, and improvements funded by the Top of

Broadway CBD annual assessments are in addition to those already provided by the City and County of San Francisco.

CONTRACTING FOR SERVICES OUTSIDE OF THE CBD

The Top of Broadway CBD may provide services, activities, and improvements to properties outside of the District on a contract basis. As required by law, the Owners' Non-Profit Association shall not use assessments to provide services, activities, and improvements outside the district.

SERVICE PLAN OPERATING BUDGET

The CBD service plan budget has been developed to provide the services, activities, and improvements identified as the highest priorities by the property owners in the Top of Broadway CBD area. The operating budget for the first year of the Top of Broadway CBD is estimated to be $106,567.31 with the 1% general benefit contribution (not including the BSC Management supplemental funding contribution of $100,000).

Of the total operating budget, 99% of the revenues or $105,501.64 will be generated from the CBD assessments. The remaining 1% of revenues or $ 1,065.67 will be generated from other sources such as grants, donations, fees for service contracts and in-kind contributions.

Under this Top of Broadway CBD Management District Plan:

- 28% of the annual assessment district revenues will be derived from the gross parcel lot square footage assessments in the district
- 28% of the annual assessment district revenues will be derived from linear frontage assessments
- 43% of the annual assessment district revenues will be derived from 1st floor commercial building square footage assessments
- 1% of revenues of the total operating budget will be derived from non-assessment sources.

The Owners' Non-Profit Association may reallocate funding within the services, activities, and improvements categories, not to exceed 10% of the annual budgeted amount for each line item, consistent with the Management District Plan.

## D. Assessments and Assessment Methodology

There are three property variables that are to be used in determining individual parcel assessments. These factors are:

1. linear frontage (sidewalk frontage, all sides of a benefitting parcel),
2. parcel/lot square footage, and
3. gross building square footage (applicable only to first floor commercial building square footage in the district).

There is a total of 165,591 square feet in gross lot size, 3,211 feet in linear frontage and approximately 141,273 in first floor commercial building square footage in the proposed Top of Broadway CBD.

Assessment rates for the Top of Broadway CBD will be as follows:

- *Building square footage*: $0.32153 per square foot
  First floor usable commercial building square footage only, all other building uses including residential entryways on the first floor and second floor and above uses are excluded from the building square footage component of the assessment formula.

- *Parcel/lot square footage*: $0.17953106 per square foot

- *Linear Frontage*: $9.4517 per linear foot
  Sidewalk frontage, all sides along public rights-of-ways

The assessment on each parcel in the district is the sum of the amounts calculated for each of the three property variables for the particular parcel, which are calculated by multiplying the square footage of the building (building size), square footage of the parcel (lot size), and the linear frontage of the parcel, by the respective rates of assessment described above. The assessments in years 2 – 8 may be adjusted for inflation subject to a maximum increase of 3% over the assessment in the prior fiscal year (based on the consumer price index for the San Francisco-Oakland-San Jose Area for all urban consumers).

**Table D - 1**

**Assessment Formula Total Measurements for the District**

| *Building square footage (first floor commercial building square footage)* | *Gross Parcel/Lot square footage* | *Gross Linear Frontage (all sides on public rights-of-way)* |
|---|---|---|
| 141,273 square feet | 165,591 square feet | 3,211 linear feet |

Rationale for Proportional Benefit:

Under California Constitution Article XIII D, Section 4, part of Proposition 218, a property based assessment must not exceed "the reasonable cost of the proportional special benefit conferred on that parcel" and all assessments must be supported by an engineer's report. Over the past few years, property variables have been used to articulate that special benefit to each parcel. The various categories that define the potential special benefits conferred to a parcel usually include the benefitting linear frontage of the parcel (all sides that receive benefit), the lot or parcel square footage, the building square footage, and in some cases, building use. The relevant property variables in the Top of Broadway which serve as the basis for proportional benefit will include linear frontage, lot or parcel size and first floor commercial building square footage.

Linear frontage will fund the "Sidewalk Operations, Beautification, and Order" (SOBO) special benefits due to the fact that sidewalk sweeping, graffiti removal, steam cleaning and other services, activities, and improvements conferred on the frontage will benefit this portion of the property. The approximate amount derived from linear frontage assessments will total $30,000 per year for SOBO services, activities, and improvements within the CBD boundaries.

Gross parcel/Lot square footage will fund the "Administration, Organization, and Corporate Operations" components of the CBD. The lot size square footage is used due to the fact that all of the parcels within the district will benefit, based upon their proportion of size relative to the overall district, for the management of all services, activities, and improvements funded by the CBD. The administrative, insurance, legal and accounting services are appropriately distributed to all parcels based upon their relative size in the district. The lot or parcel square footage assessments will generate approximately $30,000 per year and these will fund the overall district management oversight and management operations.

The first floor commercial building square footage (excluding entry ways for residential buildings which are not considered commercial) will fund the "District Identity" special benefit services, activities, and improvements since it is the portion of the property that will derive the benefits from increased sales and other commercial activity. There is a direct relationship between the marketing and promotional activities, public relations and social media funded activities and the sales generation and other commercial activity resulting from these activities. The building square footage assessments will generate approximately $45,000 per year and will fund the services, activities, and improvements that benefit first floor retail and commercial buildings in the CBD boundaries.

Rationale for General Benefit

In order to determine a projected level of general benefit applicable to the Top of Broadway CBD it is noted that in 2009, the Union Square Business Improvement District and the proposed West Portal Community Benefit District, conducted surveys to determine the likelihood of individuals passing through their boundaries without the intention of engaging in any type of commerce activity in the CBD. Of those surveyed, about 1% indicated that they do not nor do they ever have the intention of engaging in any type of commerce

regardless of any future CBD programs and services, activities, and improvements provided. Accordingly, in both districts, 1% was assigned to the general benefit value of their respective program costs. The Union Square business district is similar to the Top of Broadway area in that it has a similar mix of business types and destination and pedestrian orientation. Top of Broadway is similar to the West Portal business district in size and scale. Thus, the general benefit value for programs funded by the TOB CBD should similarly be set at 1% of the total program cost of $106,566, or $1,065 (for further detail please see the Engineers Report).

Application of Assessment Methodology

Under the proposed assessment methodology, for example, a 3,500 square foot lot, with 35 feet of sidewalk frontage and 3,500 square feet of first floor commercial building use would yield a first year annual assessment for the Top of Broadway CBD of:

| | | |
|---|---|---|
| 3,500 x $ 0.32153 | = | $ 1,125.36 in 1st floor commercial building square footage |
| 35 x $ 9.4517 | = | $ 330.81 in linear frontage |
| 3,500 x $0.17953106 | = | $ 628.36 in lot square footage |

Total Assessment: = $ 2,084.52

This assessment methodology has been endorsed by the Top of Broadway CBD Steering Committee as the most fair and equitable for apportionment of assessments to parcels included in the District.

Linear frontage will be assessed (sidewalk frontage, all sides of the benefitting parcel). Both linear frontage and parcel/lot square footage will be assessed based upon measurement data from the City and County of San Francisco; and the first floor commercial building square footage was computed from data extracted from City and County of San Francisco Assessor's records and maps.

*Issuance of Bonds or Debt Service*

No bonds, or bond related indebtedness, will be issued with this district.

Publicly Owned Parcels and Government Assessments

Public property owners such as the City and County of San Francisco and the State of California are subject to assessments for the services, activities, and improvements conferred upon government owned property within the boundaries of the CBD. Article XIIID, Section 4, of the California Constitution (part of 1996 Proposition 218) requires that government owned parcels be assessed unless they receive no service, activity, or improvement from assessments:

> *"Parcels within a district that are owned or used by any agency, the State of California or the United States shall not be exempt from Assessments unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit."*

Exemptions and Exclusions

Consistent with Article XIIID of the State Constitution (part of Proposition 218), it has been determined that all parcels within the proposed district will receive services, activities, and improvements from the assessments. Therefore, no parcels will be exempted from payment of assessments, regardless of use or ownership.

Annual Assessment Increases

Assessments in years 2 – 8 may be adjusted for inflation based on the consumer price index for the San Francisco-Oakland-San Jose Area for all urban consumers, not to exceed 3% annually. This assessment increase can only be approved by the Top of Broadway CBD Owners' Non-Profit Association.

The annual budgets below assume a 3% percent maximum increase in overall assessments revenues collected each year. This is the maximum allowable increase based upon this plan.

**TABLE D - 4:**

**PROJECTION OF ASSESSMENTS OVER THE LIFE OF THE DISTRICT ASSUMING MAXIMUM ANNUAL ADJUSTMENTS 2013 – 2021 (BASED UPON ANNUAL 3% MAXIMUM INCREASE IN ASSESSMENTS AS APPROVED BY DISTRICT OWNERS' NON-PROFIT ASSOCIATION)**

| Year | Fiscal Year | Maximum Annual Assessment |
|---|---|---|
| 1 | FY 2013-14 | $ 105,501.64 |
| 2 | FY 2014-15 | $ 108,666.69 |
| 3 | FY 2015-16 | $ 111,926.69 |
| 4 | FY 2016-17 | $ 115,284.49 |
| 5 | FY 2017-18 | $ 118,743.03 |
| 6 | FY 2018-19 | $ 122,305.32 |
| 7 | FY 2019-20 | $ 125,974.48 |
| 8 | FY 2020-21 | $ 129,753.71 |

Statutory Considerations

Proposition 218, the "Right to Vote on Taxes Act" was approved by California voters in 1996, which added Articles XIIIC and XIIID to the California State Constitution. The primary results of Proposition 218 were stricter definitions of assessments, special taxes, fees, and charges and a general mandate for some type of voter approval for any new or increased tax, assessment or property related fee. California Government Code, § 53750 et seq., "Proposition 218 Omnibus Implementation Act", was enacted in 1997 ("Implementation Act"). The Implementation Act includes further procedures for the notice, protest and hearing process. It should be noted that this report has been prepared to be consistent with current practices and the Implementation Act.

Special Benefit

Pursuant to Proposition 218, at Article XIIID Section 2(i), *"Special benefit means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute special benefits".*

In accordance with Article XIIID Section 4 (a) "No assessment shall be imposed on any parcel which exceeds the reasonable costs of the proportional special benefit conferred on that parcel. Only special benefits are assessable and any agency shall separate the general benefits from the special benefits conferred on a parcel". (Please see the "Rationale for Proportional Benefit Section on page 15 for the reasoning for the assessment methodology for this plan).

All parcels that have services, activities, or improvements conferred upon them shall be identified, and the proportionate assessment paid by each identified parcel will be determined in relationship to the entire cost of the services, activities, and improvements.

General Benefit

Proposition 218 requires any local agency proposing to increase or impose a special assessment, to "separate the general benefits from the special benefit conferred on a parcel". The rationale for separating special and general benefits is to ensure that the property owners are not charged with an assessment that pays for general benefits. Thus, a local agency carrying out services, activities, or improvements that provide both special and general benefits may levy an assessment to pay for the special benefit portion of proposed activities, services, and improvements but must acquire separate funding to pay for the general benefit portion of the activities, services, and improvements.

All of the services, activities, and improvements are more fully presented in Section C, "Service Plan" of this Management District Plan. There will be no services, activities, or improvements funded by the assessments that will be provided outside of the Top of Broadway CBD boundaries. Please see the attached Assessment Engineer's report for a further detailed elaboration on the breakdown of general vs. special benefits in the Top of Broadway CBD.

## E. TIME AND MANNER OF COLLECTING ASSESSMENTS AND ENFORCEMENT

The Top of Broadway Community Benefit District assessment will appear as a separate line item on the annual property tax bills prepared by the San Francisco County Tax Collector. A special assessment bill will also be issued annually by San Francisco Treasurer and Tax Collector's office to any parcels that are exempt from payment of property taxes. Payment of property taxes is due on November 1 and February 1, with the bill becoming delinquent at the close of business on December 10 and April 10, respectively. The total bill may be paid with the first installment. The San Francisco Treasurer and Tax Collector shall distribute the assessments collected by the City and County of San Francisco to the Owners' Non-Profit Association pursuant to the management agreement between the City and the Owners' Non-Profit Association for the district. The first time assessments will be billed for this District will be in 2013 on the FY 2013-2014 property tax bill.

The CBD assessment, including the collection and enforcement of any delinquent assessments and imposition of interest and penalties per City and County of San Francisco Business and Tax Regulations Code Article 6 and related state law, as it may be amended from time to time, will be collected and enforced by the Treasurer and Tax Collector of the City (the Treasurer and Tax Collector). The Treasurer and Tax Collector shall transfer the assessment payments to a non-profit corporation that is designated as the Owners' Non-Profit Association for the District. The owners non-profit association will manage and administer the CBD pursuant to a management contract with the City, as approved by the Board of Supervisors. The management contract will also include provisions identifying and defining procedures for collection and enforcement of the assessment, including, for example, recordkeeping requirements, audits, assessment of penalties and interest, claims, and refunds.

## F. NUMBER OF YEARS ASSESSMENTS WILL BE LEVIED

This Top of Broadway CBD will be established for an assessment period of 8 years (with service delivery time period of 8 ½ years). This term is used to allow for enough time for property owners to produce and review sustainable improvement to the public rights of way in terms of public safety and cleanliness and other undertakings as results of the services, activities, and improvements administered by the CBD.

Assessments would be levied starting July 1, 2013 to June 30, 2021 (and would have the ability to expend assessments until December 31, 2021). The CBD would commence operations January 1, 2014 and expire on December 31, 2021 unless disestablished sooner. (The CBD may also commence operations as of July 1, 2013, if the first installment of the BSC Management contribution is made soon after the Board of Supervisors has established the CBD and levied the assessments)

Disestablishment

Each year that the Top of Broadway CBD is in existence, there will be a 30-day period during which the property owners will have the opportunity to request disestablishment of the CBD. This 30-day period begins each year on the anniversary of the date the District/CBD was established. Within that 30-day period, if a written petition is submitted by the owners of real property who pay 50% or more of the assessments levied, the CBD may be disestablished by the Board of Supervisors.

A majority of the Board of Supervisors (six members) may initiate disestablishment at any time based on improper actions by the CBD Owners' Non-Profit Association, such as misappropriation of funds, malfeasance, or violation of law.

A supermajority (eight members) of the Board of Supervisors may initiate disestablishment proceedings for any reason.

All outstanding indebtedness must be paid prior to disestablishment of the CBD.

## G. TIMELINE FOR IMPLEMENTATION AND COMPLETION OF THE TOP OF BROADWAY COMMUNITY BENEFIT DISTRICT

TABLE G – 1:

| *Task* | *Time task is anticipated to be, or was completed* |
|---|---|
| Final approval of Draft Management District Plan by Top of Broadway CBD Steering Committee | January 2013 |
| Submit the final draft Management District Plan for review to Supervisor Chiu's office, the Mayor's office and City Attorney's office | March 2013 |
| Circulate petitions endorsing plan to affected Top of Broadway property owners | April 2013 |
| Submit minimum 30% weighted petitions endorsing plan and their related assessments to the Office of Economic and Workforce Development | May 2013 |
| Ballots and notice of public hearing and proposed assessments distributed by mail to property owners upon Resolution of the Board of Supervisors | May 2013 |
| Ballots due, public hearing, ballots counted, district formed | June 2013 |
| First installment of assessment paid through property tax bill | Fall 2013 |
| First assessments transferred from City to Top of Broadway CBD Owners' Non-Profit Association | January 2014 |

## H. MANAGEMENT OF THE DISTRICT

A new Top of Broadway Owners' Non-Profit Association will be formed to administer the Top of Broadway CBD. During its first year of operation, the Top of Broadway District Owners' Non-Profit Association shall strive to allocate Board seats among the following categories of business and property owners in the District

1. Restaurant owners, or their designated representatives;
2. Retail businesses or their designated representatives;
3. Night clubs or their designated representatives;
4. Operators of Adult Entertainment facilities, or their designated representatives;
5. Community at Large representatives, from the surrounding neighborhoods

Other Conditions include:

1. Of the total number of seats, at least 50% plus one of the seats must be filled by property owners paying Top of Broadway CBD assessments;
2. Of the total number of seats, at least 20% of the seats must be filled by business owners with a business located within the CBD boundaries, but who do not own or have an ownership interest in commercial property within the CBD boundaries, in compliance with Section 15(f) of the San Francisco Business and Tax Regulations Code.

Once the Top of Broadway CBD has been established by the Board of Supervisors, the current CBD Steering Committee will select an interim Owners' Non-Profit Association Board of Directors consistent with the above Owners' Non-Profit Association Board structure, prepare to commence operations, obtain a business registration certificate from the Tax Collector's Office, create by-laws, obtain insurance, and complete other requirements imposed by law and/or the management contract with the City and County of San Francisco. The current CBD Steering Committee is cognizant of the need to have this new Owners' Non-Profit Association be as transparent as possible and responsive to all sectors of the diverse Top of Broadway CBD community.

The new CBD Owners' Non-Profit Association may hire paid staff and sub-contractors to implement the services, activities, and improvements as outlined in this Management District Plan. The Owners' Non-Profit Association, per California Streets and Highway Code Section 36600 et seq., is required to comply with state open meeting and public records laws when conducting CBD business, i.e. the Ralph M. Brown Act (Government Code §§54950 *et seq.*) and the California Public Records Act (Government Code §§6250 *et seq.*).

The Owners' Non-Profit Association shall aim to meet the following operational objectives for the Top of Broadway CBD:

- *Create and manage programs that best respond to the top priorities of Top of Broadway CBD stakeholders;*
- *Maximize coordination with the City and County of San Francisco to avoid duplication of services, activities, and improvements and to leverage resources;*
- *Deliver services, activities, and improvements through a cost-effective, non-bureaucratic and easy to access organizational structure; and*
- *Provide accountability and responsiveness to those who pay assessments into the district.*

The non-profit association shall establish rules and regulations that uniquely apply to the District. The following rules and regulations shall be employed by the Top of Broadway CBD management corporation in the administration of the district:

*Competitive Bidding*

Following the formation of the district, the management corporation board shall develop a policy for competitive bidding as it pertains to contracted services for the Top of Broadway CBD.

*Conflict of Interest*

Any board member of the Top of Broadway CBD management corporation shall recuse themselves from any vote in which a potential financial conflict of interest is apparent. Such potential conflicts include, but are not limited to, prioritizing capital improvement projects which result in services, activities, and improvements to specific property owners, prioritization of services, activities, and improvements to benefit a particular owner or group of owners, hiring or selecting the relatives of board members.

*Open Door Policy, Public Access to Meetings and District Records*

Meetings of the management corporation board are subject to the Ralph M. Brown Act and must be open to the public, when CBD business is heard, discussed, or deliberated. Required annual budgets and financial reports shall be submitted to the board members for approval, prior to submission of the Annual Report to the Board of Supervisors. Records concerning the district are subject to public inspection in accordance with the California Public Records Act.

## I. LIST OF ASSESSED PARCELS

| APN | Site Address | Site Address | Annual Assessment | Percent |
|---|---|---|---|---|
| 0144 007 | 400 | Broadway St | $4,664.08 | 4.42% |
| 0144 009 | 426-430 | Broadway St | $1,958.94 | 1.86% |
| 0144 010 | 432-434 | Broadway St | $1,758.22 | 1.67% |
| 0144 011 | 438-440 | Broadway St | $3,603.99 | 3.42% |
| 0144 012 | 450-452 | Broadway St | $908.85 | 0.86% |
| 0144 013 | 458-460 | Broadway St | $908.85 | 0.86% |
| 0144 014 | 462-464 | Broadway St | $885.80 | 0.84% |
| 0144 015 | 470 | Broadway St | $1,401.92 | 1.33% |
| 0144 033 | 412 | Broadway St | $5,182.12 | 4.91% |
| 0144 082 | 490-498 | Broadway St | $4,435.30 | 4.20% |
| 0145 008 | 500-508 | Broadway St | $3,671.85 | 3.48% |
| 0145 009 | 530 | Broadway St | $1,524.41 | 1.44% |
| 0145 010 | 534-540 | Broadway St | $5,804.47 | 5.50% |
| 0145 011 | 546-554 | Broadway St | $2,743.45 | 2.60% |
| 0145 012 | 556-558 | Broadway St | $1,566.95 | 1.49% |
| 0145 013 | 300-318 | Columbus Ave | $7,136.43 | 6.76% |
| 0145 014 | 1224 | Grant Ave | $718.29 | 0.68% |
| 0145 015 | 1226-1230 | Grant Ave | $1,630.72 | 1.55% |
| 0162 001 | 501-513 | Broadway St | $2,599.31 | 2.46% |
| 0162 002 | 1031-1051 | Kearny St | $5,981.69 | 5.67% |
| 0162 003 | 222 | Columbus Ave | $4,946.49 | 4.69% |
| 0162 021 | 228-234 | Columbus Ave | $869.15 | 0.82% |
| 0162 022 | 270 | Columbus Ave | $1,568.44 | 1.49% |
| 0162 023 | 535 | Broadway St | $2,732.98 | 2.59% |
| 0162 024 | 527-529 | Broadway St | $1,277.27 | 1.21% |
| 0162 025 | 515-525 | Broadway St | $2,606.83 | 2.47% |
| 0163 001 | 401-407 | Broadway St | $3,274.62 | 3.10% |
| 0163 002 | 425 | Broadway St | $3,648.81 | 3.46% |
| 0163 012 | 592 | Pacific Ave | $1,113.49 | 1.06% |
| 0163 013 | 1020-1028 | Kearny St | $3,550.46 | 3.37% |
| 0163 019 | 1030 | Kearny St | $1,114.88 | 1.06% |
| 0163 020 | 1032-1034 | Kearny St | $985.31 | 0.93% |
| 0163 021 | 1042 | Kearny St | $991.60 | 0.94% |
| 0163 022 | 483-493 | Broadway St | $2,671.80 | 2.53% |
| 0163 023 | 475-479 | Broadway St | $1,007.06 | 0.95% |
| 0163 026 | 447-461 | Broadway St | $4,744.88 | 4.50% |
| 0163 028 | 435-443 | Broadway St | $3,673.48 | 3.48% |
| 0163 029 | 463-473 | Broadway St | $2,013.62 | 1.91% |
| 0164 014 | 381-389 | Broadway St | $3,624.82 | 3.44% |
| TOTAL | | | $105,501.64 | 100.00% |