

BOARD of SUPERVISORS



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June 18, 2019

File No. 190469

Lisa Gibson
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Gibson:

On April 30, 2019, Supervisor Haney introduced the following legislation:

File No. 190469

Resolution to establish (renew and expand) the property-based business improvement district known as the “North of Market/Tenderloin Community Benefit District,” ordering the levy and collection of assessments against property located in that District for 15 years commencing with FY2019-2020, subject to conditions as specified; and making environmental findings.

This legislation is being transmitted to you for environmental review.

The resolution is scheduled for hearing at Board, sitting as a Committee of the Whole on June 25, 2019.

Angela Calvillo, Clerk of the Board

By: John Carroll, Assistant Clerk
Government Audit and Oversight Committee

Attachment

c: Devyani Jain, Deputy Environmental Review Officer
Joy Navarrete, Environmental Planner
Laura Lynch, Environmental Planner

1 [Resolution to Establish (Renew and Expand) - North of Market/Tenderloin Community Benefit
2 District]

3 **Resolution to establish (renew and expand) the property-based business improvement**
4 **district known as the "North of Market/Tenderloin Community Benefit District,"**
5 **ordering the levy and collection of assessments against property located in that**
6 **District for 15 years commencing with FY2019-2020, subject to conditions as specified;**
7 **and making environmental findings.**

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. 195-19,
13 entitled "Resolution declaring the intention of the Board of Supervisors to renew and expand a
14 property-based business improvement district known as the
15 'North of Market/Tenderloin Community Benefit District' and levy a multi-year assessment on
16 all parcels in the district; approving the management district plan and engineer's report and
17 proposed boundaries map for the district; ordering and setting a time and place for a public
18 hearing of the Board of Supervisors, sitting as a Committee of the Whole, on June 25, 2019,
19 at 3:00 p.m.; approving the form of the Notice of Public Hearing and Assessment Ballot
20 Proceeding, and Assessment Ballot; directing environmental findings; and directing the
21 Clerk of the Board of Supervisors to give notice of the public hearing and balloting, as
22 required by law." (the "Resolution of Intention," Board of Supervisors File No. 190363); and

23 WHEREAS, The Resolution of Intention to renew and expand the North of
24 Market/Tenderloin Community Benefit District (the "North of Market/Tenderloin CBD" or
25 "District"), among other things, approved the North of Market/Tenderloin CBD Management

1 District Plan (the "District Management Plan"), a detailed District Assessment Engineer's
2 Report, a Boundaries Map, and the form of the Notice of Public Hearing and Assessment
3 Ballot Proceeding, that are all on file with Clerk of the Board of Supervisors in File No.
4 190363; and

5 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
6 the proposed formation of the North of Market/Tenderloin CBD, and the proposed levy of
7 assessments against property located within the District for a period of 15 years, from
8 FY2019-2020 through FY2033-2034; and

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

11 WHEREAS, A District Management Plan was filed with the Board on April 23, 2019,
12 containing information about the proposed district and assessments as required by California
13 Streets and Highways Code, Section 36622; and

14 WHEREAS, A detailed Engineer's Report dated January 2019, was filed with the Clerk
15 of the Board on April 23, 2019, as prepared by Terrance E. Lowell, California Registered
16 Professional Engineer No. 13398, entitled "North of Market/Tenderloin Community Benefit
17 District Engineer's Report," supporting the assessments within the proposed district; and

18 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of
19 Supervisors pursuant to California Streets and Highways Code, Section 3110 on April 23,
20 2019; and

21 WHEREAS, A public hearing concerning the proposed formation of the North of
22 Market/Tenderloin CBD and the proposed levy of assessments within such District was held
23 pursuant to the notice on June 25, 2019, at 3 p.m., in the Board's Legislative Chambers
24 located on the Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco,
25 California; and

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

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

13 WHEREAS, The public interest, convenience and necessity require the renewal and
14 expansion of the proposed North of Market/Tenderloin Community Benefit District; and

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

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

21 **Section 1. MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**
22 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the January
23 2019, Management District Plan and District Assessment Engineer's Report, including the
24 estimates of the costs of the property-related services, activities and improvements set forth in
25 the plan, and the assessment of said costs on the properties that will specially benefit from

1 such services, activities and improvements. The Board also hereby approves the January
2 2019, Boundaries, showing the exterior boundaries of the District, and ratifies and approves
3 the Assessment Ballot and the City's use of such ballot, which Assessment Ballot is on file
4 with the Clerk of the Board of Supervisors in File No. 190363 and is hereby declared to be a
5 part of the Resolution as if set forth fully herein. A copy of the January 2019, Management
6 District Plan, the District Assessment Engineer's Report, and the Boundaries Map are on file
7 with the Clerk of the Board of Supervisors in File No. 190363, which is hereby declared to be
8 a part of this Resolution as if set forth fully herein.

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

14 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and Article
15 15, the renewed and expanded property-based business improvement district designated as
16 the "North of Market/Tenderloin Community Benefit District" is hereby established.

17 **Section 4. DESCRIPTION OF DISTRICT.** The North of Market/Tenderloin
18 Community Benefit District shall include all parcels of real property within the district. The
19 proposed District contains approximately 800 identified parcels located on approximately 41
20 whole or partial blocks.

21 Specifically, the exterior District boundaries are:

- 22 • Polk Street from O'Farrell Street to Turk Street
- 23 • Turk Street (north side only) from Polk Street to Larkin Street
- 24 • Larkin Street (east side only) from Turk Street to McAllister Street
- 25 • McAllister Street (north side only) from Larkin Street to Leavenworth

- 1 • Market Street (north side only) from Charles J Brenham Place to Mason Street
- 2 • Mason Street (west side only) from Market Street to O'Farrell Street
- 3 • O'Farrell Street (south side only) from Mason Street to Taylor Street
- 4 • O'Farrell Street from Taylor Street to Larkin Street
- 5 • O'Farrell Street from Larkin Street to Polk Street, excluding APN 0716-002

6 Reference should be made to the detailed maps and the lists of parcels identified by
7 Assessor Parcel Number that are contained in the January 2019, Management District Plan,
8 in order to determine which specific parcels are included in the North of Market/Tenderloin
9 Community Benefit District.

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

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

18 (b) The amount of the proposed assessments to be levied and collected for
19 FY2019-2020 shall be a maximum of \$1,963,840.10 (as shown in the Management District
20 Plan and the Engineer's Report dated January 2019,). The amount of assessments to be
21 levied and collected in fiscal years 2 through 15 may be increased annually by the North of
22 Market/Tenderloin Community Benefit District corporation Board of Directors by an amount
23 not to exceed the change in the Consumer Price Index for All Urban Consumers in the San
24 Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, or 4%, whichever is
25 more.

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

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

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

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

18 **Clean and Safe:** The Clean and Safe portion of this program includes, but is not limited
19 to, sidewalk cleaning, sidewalk pressure washing, trash collection, graffiti removal, landscape
20 maintenance,, Safe Passage, block safety groups, a camera network, and public space
21 activation.

22 **Marketing and Economic Development:** Marketing and Economic Development
23 includes, but is not limited to, destination marketing, branding, events, media relations,
24 website, and district stakeholder outreach.
25

1 **Administration:** Administration includes, but is not limited to, a professional staff to
2 properly manage programs, communicate with stakeholders, to provide leadership, and
3 represent the community with one clear voice. Also included are office expenses, professional
4 services, organizational expenses such as insurance, the cost to conduct a yearly financial
5 review.

6 **Contingency/Reserve/City Fees:** Contingency/reserve/city fees include, but is not
7 limited to, an operating reserve budget as a contingency for any payment of delinquencies,
8 uncollectible assessments, Community Benefit District renewal efforts, and/or unseen budget
9 adjustments.

10 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
11 with a separate private entity to administer the improvements, services and activities set forth
12 in Section 7, as provided in California Streets and Highways Code, Sections 36612 and
13 36650. Any such entity shall hold the funds it receives from the City and County of San
14 Francisco ("City") in trust for the improvements, services and activities set forth in Section 7.
15 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no
16 expense to the City, a balance sheet and the related statement of income and cash flows for
17 each fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public
18 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.
19 In addition, or alternatively, the Controller in his or her discretion or the Office of Economic
20 and Workforce Development in its discretion, may require the private entity to deliver, at no
21 expense to the City, an annual independent audit report by a Certified Public Accountant of all
22 such funds. The CPA review and/or audit may be funded from assessment proceeds as part
23 of the general administration of the District. At all times the Board of Supervisors shall
24 reserve full rights of accounting of these funds. The Office of Economic and Workforce
25

1 Development shall be the City agency responsible for coordination between the City and the
2 District.

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

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

10 **Section 11. LEVY OF ASSESSMENT.** The adoption of this Resolution and
11 recordation of the notice and assessment diagram pursuant to Section 36627 of the California
12 Streets and Highways Code constitutes the levy of an assessment in each of the fiscal years
13 referred to in the District Management Plan. Each year, the Assessor shall enter on the
14 County Assessment Roll opposite each lot or parcel of land the amount of the assessment
15 and such assessment shall be collected in the same manner as the County property taxes are
16 collected.

17 **Section 12. BASELINE SERVICES.** To ensure that assessment revenues from the
18 District are used to enhance the current level of services provided by the City within the
19 District, the establishment of the District will not affect the City's policy to continue to provide
20 the same level of service to the areas encompassed by the District as it provides to other
21 similar areas of the City for the duration of the District, provided, however, that in the event of
22 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
23 municipal services citywide, including within the District.

24 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
25 determined that the actions contemplated in this Resolution are in compliance with the

1 California Environmental Quality Act (California Public Resources Code, Sections 21000 *et*
2 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File No.
3 _____, which is hereby declared to be a part of this Resolution as if set forth fully
4 herein.

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