

BOARD of SUPERVISORS



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July 9, 2019

File No. 190562

Lisa Gibson  
Environmental Review Officer  
Planning Department  
1650 Mission Street, Ste. 400  
San Francisco, CA 94103

Dear Ms. Gibson:

On June 11, 2019, Supervisor Peskin submitted the proposed legislation:

**File No. 190562**

**Resolution to establish (renew and expand) the property-based business improvement district known as the "Union Square Business Improvement District," ordering the levy and collection of assessments against property located in that district for ten years commencing with FY2019-2020, subject to conditions as specified; and making environmental findings.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Clerk  
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Don Lewis, Environmental Planning

1 [Resolution to Establish (Renew and Expand) - Union Square Business Improvement District]

2  
3 **Resolution to establish (renew and expand) the property-based business improvement**  
4 **district known as the "Union Square Business Improvement District," ordering the levy**  
5 **and collection of assessments against property located in that district for ten years**  
6 **commencing with FY2019-2020, subject to conditions as specified; and making**  
7 **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. 221-19,  
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 'Union Square Business  
15 Improvement District' and levy a multi-year assessment on all parcels in the district; approving  
16 the management district plan and engineer's report and proposed boundaries map for the  
17 district; ordering and setting a time and place for a public hearing of the Board of Supervisors,  
18 sitting as a Committee of the Whole, on July 9, 2019, at 3:00 p.m.; approving the form of the  
19 Notice of Public Hearing and Assessment Ballot Proceeding, and Assessment Ballot; directing  
20 environmental findings; and directing the Clerk of the Board of Supervisors to give  
21 notice of the public hearing and ballofing, as required by law." (the "Resolution of Intention,"  
22 Board of Supervisors File No. 190427); and

23 WHEREAS, The Resolution of Intention to renew and expand the Union Square  
24 Business Improvement District (the "Union Square BID" or "District"), among other things,  
25 approved the Union Square BID Management District Plan (the "District Management Plan"),

1 a detailed District Assessment Engineer's Report, a Boundaries Map, and the form of the  
2 Notice of Public Hearing and Assessment Ballot Proceeding, that are all on file with Clerk of  
3 the Board of Supervisors in File No. 190427; and

4 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning  
5 the proposed formation (renewal and expansion) of the Union Square BID, and the proposed  
6 levy of assessments against property located within the District for a period of ten years, from  
7 FYs 2019-2020 through 2028-2029; and

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

10 WHEREAS, A District Management Plan was filed with the Board on May 7, 2019,  
11 containing information about the proposed district and assessments as required by California  
12 Streets and Highways Code, Section 36622; and

13 WHEREAS, A detailed Engineer's Report dated January 2019, was filed with the Clerk  
14 of the Board on May 7, 2019, as prepared by John G. Egan, California Registered  
15 Professional Engineer No. 14853, entitled "Renewal Engineer's Report For: Union Square  
16 Business Improvement District," supporting the assessments within the proposed district; and

17 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of  
18 Supervisors pursuant to California Streets and Highways Code, Section 3110 on May 7, 2019;  
19 and

20 WHEREAS, A public hearing concerning the proposed formation (renewal and  
21 expansion) of the Union Square BID and the proposed levy of assessments within such  
22 District was held pursuant to the notice on July 9, 2019, at 3 p.m., in the Board's Legislative  
23 Chambers located on the Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San  
24 Francisco, California; and  
25

1           WHEREAS, At the public hearing, the testimony of all interested persons for or against  
2 the proposed formation (renewal and expansion) of the District, the levy of assessments on  
3 property within the District, the extent of the District, and the furnishing of specified types of  
4 improvements, services and activities within the District, was heard and considered, and a full,  
5 fair and complete meeting 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 (renewed and expanded) Union Square Business Improvement  
15 District; and

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

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

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

23           **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the January  
24 2019, Management District Plan and the January 2019 District Assessment Engineer's  
25 Report, including the estimates of the costs of the property-related services, activities and

1 improvements set forth in the plan, and the assessment of said costs on the properties that  
2 will specially benefit from such services, activities and improvements. The Board also hereby  
3 approves the January 2019 Boundaries, showing the exterior boundaries of the District, and  
4 ratifies and approves the Assessment Ballot and the City's use of such ballot, which  
5 Assessment Ballot is on file with the Clerk of the Board of Supervisors in File No. 190427 and  
6 is hereby declared to be a part of the Resolution as if set forth fully herein. A copy of the  
7 January 2019 Management District Plan, the January 2019 District Assessment Engineer's  
8 Report, and the Boundaries Map are on file with the Clerk of the Board of Supervisors in File  
9 No. 190427, which is hereby declared to be a part of this Resolution as if set forth fully herein.

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

15 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and Article  
16 15, the renewed and expanded property-based business improvement district designated as  
17 the "Union Square Business Improvement District" is hereby established.

18 **Section 4. DESCRIPTION OF DISTRICT.** The Union Square Business  
19 Improvement District shall include all parcels of real property within the district. The proposed  
20 District contains approximately 620 identified parcels located on approximately 27 whole or  
21 partial blocks.

22 Specifically, the exterior District boundaries are:

- 23 • South side of Geary Street from Shannon Alley to Taylor Street
- 24 • South side of Post Street from Taylor Street to Mason Street
- 25 • South side of Bush Street from Mason Street to the west side of Kearney Street

- 1 • North side of Market Street from Kearney Street to Cyril Magnin including parcel
- 2 0341 -013 on the West intersection of Cyril Magnin and Market Streets
- 3 • South side of Market Street from 4<sup>th</sup> street to 5<sup>th</sup> street including parcel 3706 -047
- 4 on the east corner of 4<sup>th</sup> and Market Streets
- 5 • West side of Kearney Street from Market Street to Bush Street
- 6 • East side of Mason Street from Eddy Street to O'Farrell Street
- 7 • East side of Mason Street from Post Street to Bush Street
- 8 • East side of Taylor Street from Geary Street to Post Street
- 9 • East side of Shannon Alley from O'Farrell Street & Geary Street (0317 -002, 0317 -
- 10 026, and 0317 -027).

11 Reference should be made to the detailed maps and the lists of parcels identified by  
12 Assessor Parcel Number that are contained in the January 2019, Management District Plan,  
13 in order to determine which specific parcels are included in the Union Square Business  
14 Improvement District.

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

18 **Section 6. SYSTEM OF ASSESSMENTS.** a) Annual assessments will be levied to  
19 pay for the activities to be provided within the District, commencing with FY2019-2020, and  
20 continuing for ten years, ending with FY2028-2029. For purposes of levying and collecting  
21 assessments within the District, a fiscal year shall commence on each July 1st and end on the  
22 following June 30th.

23 b) The amount of the proposed assessments to be levied and collected for  
24 FY2019-2020 shall be a maximum of \$6,036,110.88 (as shown in the Management District  
25 Plan and Engineer's Report dated January 2019). The amount of assessments to be levied

1 and collected in fiscal years two through ten may be increased annually by the Union Square  
2 Business Improvement District corporation Board of Directors by an amount not to exceed the  
3 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-  
4 San Jose Consolidated Metropolitan Statistical Area, or 5%, whichever is more.

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

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

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

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

22 **Clean and Safe:** The Clean portion of this program includes, but is not limited to,  
23 sidewalk cleaning, sidewalk pressure washing, trash collection, graffiti removal, landscape  
24 maintenance. The Safe portion of this program includes, but is not limited to, Community  
25 Service Ambassadors, and security cameras.

1           **Marketing:** Marketing includes, but is not limited to, destination marketing, wayfinding  
2 and district signage, branding, public space activations, media relations, website, streetscape  
3 improvements, advocacy, and district stakeholder outreach.

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

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



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

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

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

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

22           **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has  
23 determined that the actions contemplated in this Resolution are in compliance with the  
24 California Environmental Quality Act (California Public Resources Code, Sections 21000  
25

1            *et seq.*) Said determination is on file with the Clerk of the Board of Supervisors in File  
2 No. \_\_\_\_\_, which is hereby declared to be a part of this Resolution as if set forth  
3 fully herein.

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