

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

December 16, 2019

File No. 191027

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

Dear Ms. Gibson:

On December 10, 2019, Supervisor Mandelman introduced the following legislation:

File No. 191027

Resolution to establish (renew) the property-based business improvement district known as the “Noe Valley Community Benefit District,” ordering the levy and collection of assessments against property located in that district for 15 years commencing with FY2020-2021, subject to conditions as specified; and affirming the Planning Department’s determination under the California Environmental Quality Act.

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 January 28, 2020.

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
Don Lewis, Environmental Planner

1 [Resolution to Establish (Renew) - Noe Valley Community Benefit District]

2
3 **Resolution to establish (renew) the property-based business improvement district**
4 **known as the “Noe Valley Community Benefit District,” ordering the levy and collection**
5 **of assessments against property located in that district for 15 years commencing with**
6 **FY2020-2021, 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. 496-19,
13 entitled “Resolution declaring the intention of the Board of Supervisors to renew a property-
14 based business improvement district known as the ‘Noe Valley Community Benefit District’
15 and levy a multi-year assessment on all parcels in the district; approving the management
16 district plan and engineer’s report and proposed boundaries map for the district; ordering and
17 setting a time and place for a public hearing of the Board of Supervisors, sitting as a
18 Committee of the Whole, on January 28, 2020, 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 balloting, as required by law.” (the "Resolution of Intention,"
22 Board of Supervisors File No. 191024); and

23 WHEREAS, The Resolution of Intention to renew the Noe Valley Community Benefit
24 District (the "Noe Valley CBD" or "District"), among other things, approved the Noe Valley
25 CBD Management District Plan (the "District Management Plan"), a detailed District

1 Assessment Engineer's Report, a Boundaries Map, and the form of the Notice of Public
2 Hearing and Assessment Ballot Proceeding, that are all on file with Clerk of the Board of
3 Supervisors in File No. 191024; and

4 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
5 the proposed formation of the Noe Valley CBD, and the proposed levy of assessments
6 against property located within the District for a period of 15 years, from FYs 2020-2021
7 through 2034-2035; 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
11 November 19, 2019, containing information about the proposed district and assessments as
12 required by California Streets and Highways Code, Section 36622; and

13 WHEREAS, A detailed Engineer's Report dated August 2019, was filed with the Clerk
14 of the Board on November 19, 2019, as prepared by Terrance E. Lowell, California Registered
15 Professional Engineer No. 13398, entitled "Noe Valley Community Benefit District Engineer's
16 Report," 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
19 November 19, 2019; and

20 WHEREAS, A public hearing concerning the proposed formation of the Noe Valley
21 CBD and the proposed levy of assessments within such District was held pursuant to the
22 notice on January 28, 2020, at 3:00 p.m., in the Board's Legislative Chamber located on the
23 Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and

24 WHEREAS, At the public hearing, the testimony of all interested persons for or against
25 the proposed formation of the District, the levy of assessments on property within the District,

1 the extent of the District, and the furnishing of specified types of improvements, services and
2 activities within the District, was heard and considered, and a full, fair and complete meeting
3 and hearing was held; and

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

11 WHEREAS, The public interest, convenience and necessity require the renewal of the
12 proposed Noe Valley Community Benefit District; and

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

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

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

1 approves the Assessment Ballot and the City's use of such ballot, which Assessment Ballot is
2 on file with the Clerk of the Board of Supervisors in File No. 191024 and is hereby declared to
3 be a part of the Resolution as if set forth fully herein. A copy of the August 2019,
4 Management District Plan, the District Assessment Engineer's Report, and the Boundaries
5 Map are on file with the Clerk of the Board of Supervisors in File No. 191024, which is hereby
6 declared to be a part of this Resolution as if set forth fully herein.

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

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

15 **Section 4. DESCRIPTION OF DISTRICT.** The Noe Valley Community Benefit
16 District shall include all parcels of real property within the district. The proposed District
17 contains approximately 218 identified parcels located on approximately ten whole or partial
18 blocks.

19 Specifically, the exterior District boundaries are:

- 20 • Diamond Street (both sides) on the west
- 21 • Church Street (both sides) on the east
- 22 • Castro Street (both sides) between 24th Street and mid-way between Jersey
23 Street and 25th Street

24 Reference should be made to the detailed maps and the lists of parcels identified by
25 Assessor Parcel Number that are contained in the August 2019, Management District Plan, in

1 order to determine which specific parcels are included in the Noe Valley Community Benefit
2 District.

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

6 **Section 6. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
7 pay for the activities to be provided within the District, commencing with FY2020-2021, and
8 continuing for 15 years, ending with FY2034-2035. For purposes of levying and collecting
9 assessments within the District, a fiscal year shall commence on each July 1st and end on the
10 following June 30th.

11 (b) The amount of the proposed assessments to be levied and collected for
12 FY2020-2021 shall be a maximum of \$246,750 (as shown in the Management District Plan
13 dated Engineer's Report dated August 2019). The amount of assessments to be levied and
14 collected in fiscal years two through 15 may be increased annually by the Noe Valley
15 Community Benefit District corporation Board of Directors by an amount not to exceed the
16 change in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-
17 San Jose Consolidated Metropolitan Statistical Area or five percent (5%), whichever is less.

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

20 (1) The levy of the assessments shall commence with FY2020-2021. Each year the
21 assessment shall be due and payable in two equal installments. The first installment shall be
22 due on November 1 of each fiscal year during the life of the District, and shall become
23 delinquent on December 10 of that fiscal year. The second installment shall be due on
24 February 1 of each fiscal year during the life of the District, and shall become delinquent on
25 April 10 of that fiscal year.

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

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

10 **Clean and Green:** Clean and Green program includes, but is not limited to, sidewalk
11 and gutter sweeping, sidewalk pressure washing, trash removal, graffiti and handbill removal,
12 greenscape management, and public space activation.

13 **Promotion of District:** Promotion of District programs includes, but is not limited to,
14 events, media relations, website maintenance, and district stakeholder outreach.

15 **Administration:** Administration includes, but is not limited to, a professional staff to
16 properly manage programs, communicate with stakeholders, to provide leadership, and
17 represent the community with one clear voice.

18 **Contingency/Reserve/City Fees:** Contingency/reserve/city fees include, but is not
19 limited to, a contingency reverse fund, and city fee collection fund that will allow the
20 administration staff to allocate assessment revenues to activities that may cost overruns or to
21 cover unforeseen expenses.

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
13 *et seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File No.
14 _____, which is hereby declared to be a part of this Resolution as if set forth fully
15 herein.