

BOARD of SUPERVISORS



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January 24, 2019

File No. 190029

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

Dear Ms. Gibson:

On January 15, 2019, Supervisor Haney introduced the following legislation:

File No. 190029

Resolution to establish the property-based business improvement district known as the "SoMa West 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 February 5, 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 - SoMa West Community Benefit District]

2
3 **Resolution to establish the property-based business improvement district known as**
4 **the “SoMa West Community Benefit District,” ordering the levy and collection of**
5 **assessments against property located in that district for 15 years, commencing with**
6 **FY2019-2020, subject to conditions as specified; and making environmental findings.**
7

8 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,
9 California Streets and Highways Code, Sections 36600 et seq. ("1994 Act"), as augmented by
10 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), collectively,
11 the "Business Assessment Law," the Board of Supervisors adopted Resolution No. 421-18,
12 entitled "Resolution declaring the intention of the Board of Supervisors to establish a property-
13 based business improvement district (community benefit district) known as the 'SoMa West
14 Community Benefit District' and levy a multi-year assessment on all parcels in the district;
15 approving the management district plan and engineer's report and proposed boundaries map
16 for the district; ordering and setting a time and place for a public hearing thereon; approving
17 the form of the Notice of Public Hearing and Assessment Ballot Proceeding, and Assessment
18 Ballot; directing environmental findings; and directing the Clerk of the Board of Supervisors to
19 give notice of the public hearing and balloting as required by law" (the "Resolution of
20 Intention," Board of Supervisors File No. 181090); and

21 WHEREAS, The Resolution of Intention to establish the SoMa West Community
22 Benefit District (the "SoMa West CBD" or "District"), among other things, approved the SoMa
23 West CBD Management District Plan (the "District Management Plan"), a detailed District
24 Assessment Engineer's Report, a Boundaries Map, and the form of the Notice of Public
25

1 Hearing and Assessment Ballot Proceeding, that are all on file with Clerk of the Board of
2 Supervisors in File No. 181090; and

3 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
4 the proposed formation of the SoMa West CBD, and the proposed levy of assessments
5 against property located within the District for a period of 15 years, from fiscal years ("FYs")
6 2019-2020 through 2033-2034; and

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

9 WHEREAS, A District Management Plan was filed with the Board on December 11,
10 2018, containing information about the proposed district and assessments as required by
11 California Streets and Highways Code, Section 36622; and

12 WHEREAS, A detailed Engineer's Report dated October 2018 was filed with the Clerk
13 of the Board on December 11, 2018, as prepared by Terrance E. Lowell, California Registered
14 Professional Engineer No. 13398, entitled "SoMa West Community Benefit District Engineer's
15 Report," supporting the assessments within the proposed district; and

16 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of
17 Supervisors pursuant to California Streets and Highways Code, Section 3110, on December
18 11, 2018; and

19 WHEREAS, A public hearing concerning the proposed formation of the SoMa West
20 CBD and the proposed levy of assessments within such District was held pursuant to the
21 notice on February 5, 2019, at 3:00 p.m., in the Board's Legislative Chambers located on the
22 Second Floor of City Hall, 1 Dr. Carlton B. Goodlett Place, San Francisco, California; and

23 WHEREAS, At the public hearing, the testimony of all interested persons for or against
24 the proposed formation of the District, the levy of assessments on property within the District,
25 the extent of the District, and the furnishing of specified types of improvements, services and

1 activities within the District, was heard and considered, and a full, fair and complete meeting
2 and hearing was held; and

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

10 WHEREAS, The public interest, convenience and necessity require the establishment
11 of the proposed SoMa West Community Benefit District; and

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

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

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

19 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the October
20 2018 Management District Plan and District Assessment Engineer's Report, including the
21 estimates of the costs of the property-related services, activities and improvements set forth in
22 the plan, and the assessment of said costs on the properties that will specially benefit from
23 such services, activities and improvements. The Board also hereby approves the October
24 2018 Boundaries, showing the exterior boundaries of the District, and ratifies and approves
25 the Assessment Ballot and the City's use of such ballot, which Assessment Ballot is on file

1 with the Clerk of the Board of Supervisors in File No. 181090 and is hereby declared to be a
2 part of the Resolution as if set forth fully herein. A copy of the October 2018 Management
3 District Plan, the District Assessment Engineer's Report, and the Boundaries Map are on file
4 with the Clerk of the Board of Supervisors in File No. 181090, which is hereby declared to be
5 a part of this Resolution as if set forth fully herein.

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

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

14 **Section 4. DESCRIPTION OF DISTRICT.** The SoMa West Community Benefit
15 District shall include all parcels of real property within the district. The proposed District
16 contains approximately 2,700 identified parcels located on approximately 100 whole or partial
17 blocks.

18 Specifically, the exterior District boundaries are:

- 19 • South Van Ness Avenue from Mission Street to U.S. Highway 101 Freeway (east
20 side only)
- 21 • U.S. Highway 101 Freeway from Van Ness Street to 9th Street (north side only)
- 22 • Townsend Street from 9th Street to 6th Street (north side only)
- 23 • 6th Street from Brannan Street to Interstate 80 Freeway (west side only)
- 24 • Interstate 80 Freeway from 6th Street to 5th Street (north side only)
- 25 • 5th Street from 80 Freeway to Harrison Street (west side only)

- 1 • APN's 3753-056, 3753-057, 3753-101, 3753-146, 3753-302, 3753-303, 3753-304
- 2 between Harrison Street and Folsom Street
- 3 • APN's along Folsom Street including: 3732-024, 3732-026, 3732-028, 3732-151,
- 4 3732-152
- 5 • APN's 3731-012, 3731-113, 3731-116, 3731-117, 3726-012, 3726-055, 3726-57A,
- 6 3726-098 between Howard Street and Minna Street
- 7 • APN's along Minna Street, Grace Street and Washburn Street between 6th Street
- 8 and Lafayette Street including: 3726-101, 3726-103, 3727-089, 3727-095, 3727-
- 9 108, 3727-113, 3727-114, 3727-135, 3728-002, 3728-105 to 3728-116, 3728-171 to
- 10 3728-191, 3509-002, 3509-020, 3509041, 3510-003, 3510-059, 3511-003, 3511-
- 11 073, 3511-128 to 3511-130, 3511-119 to 3511-121, 3511-078, 3511-135 to 3511-
- 12 137
- 13 • Mission Street from Lafayette Street to South Van Ness Avenue (south side only)

14 Reference should be made to the detailed maps and the lists of parcels identified by
15 Assessor Parcel Block Nos./Lot Nos. (APN) that are contained in the October 2018
16 Management District Plan, in order to determine which specific parcels are included in the
17 SoMa West Community Benefit District.

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

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

1 (b) The amount of the proposed assessments to be levied and collected for
2 FY2019-2020 shall be a maximum of \$3,809,459.85 (as shown in the Management District
3 Plan dated October 2018 and Engineer's Report dated October 2018). The amount of
4 assessments to be levied and collected in fiscal years two through 15 may be increased
5 annually by the SoMa West Community Benefit District corporation Board of Directors by an
6 amount not to exceed the change in the Consumer Price Index for All Urban Consumers in
7 the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area, or three
8 percent (3%), whichever is more.

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

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

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

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

1 **Clean, Safe, and Beautiful.** Clean, safe, and beautiful includes, but is not limited to,
2 enhanced safety activities make the area safer, cleaner and more aesthetically appealing
3 environment. This is achieved through corridor landscaping, art installation in public spaces,
4 sidewalk sweeping and power washing, removing litter and graffiti, and trash removal.

5 **Marketing and Advocacy.** Marketing and advocacy includes, but is not limited to,
6 destination marketing, branding, events, media relations, advocacy, community grants,
7 website maintenance, district stakeholder communication, It will aim to encourage business
8 development and investment that generates customer traffic and increase commercial activity.

9 **Administration.** Administration includes, but is not limited to, a professional staff to
10 properly manage programs, communicate with stakeholders, to provide leadership, and
11 represent the community with one clear voice. Also included are office expenses, professional
12 services, organizational expenses such as insurance, the cost to conduct a yearly financial
13 review.

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

18 **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract
19 with a separate private entity to administer the improvements, services and activities set forth
20 in Section 7, as provided in California Streets and Highways Code, Sections 36612 and
21 36650. Any such entity shall hold the funds it receives from the City and County of San
22 Francisco ("City") in trust for the improvements, services and activities set forth in Section 7.
23 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no
24 expense to the City, a balance sheet and the related statement of income and cash flows for
25 each fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public

1 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.
2 In addition, or alternatively, the Controller in his or her discretion or the Office of Economic
3 and Workforce Development in its discretion, may require the private entity to deliver, at no
4 expense to the City, an annual independent audit report by a Certified Public Accountant of all
5 such funds. The CPA review and/or audit may be funded from assessment proceeds as part
6 of the general administration of the District. At all times the Board of Supervisors shall
7 reserve full rights of accounting of these funds. The Office of Economic and Workforce
8 Development shall be the City agency responsible for coordination between the City and the
9 District.

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

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

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

24 **Section 12. BASELINE SERVICES.** To ensure that assessment revenues from the
25 District are used to enhance the current level of services provided by the City within the

1 District, the establishment of the District will not affect the City's policy to continue to provide
2 the same level of service to the areas encompassed by the District as it provides to other
3 similar areas of the City for the duration of the District, provided, however, that in the event of
4 a significant downturn in citywide revenues, the Board of Supervisors may reduce the level of
5 municipal services citywide, including within the District.

6 **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has
7 determined that the actions contemplated in this Resolution are in compliance with the
8 California Environmental Quality Act (California Public Resources Code sections 21000
9 *et seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File
10 No. _____, which is hereby declared to be a part of this Resolution as if set forth
11 fully herein.