

BOARD of SUPERVISORS



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MEMORANDUM

TO: Joaquin Torres, Director, Office of Economic and Workforce Development
Ben Rosenfield, City Controller, Office of the Controller
Carmen Chu, Assessor-Recorder, Office of the Assessor-Recorder
Jose Cisneros, Treasurer, Office of the Treasurer & Tax Collector
John Rahaim, Director, Planning Department
John Arntz, Director, Department of Elections

FROM: John Carroll, Assistant Clerk, Government Audit and Oversight Committee, Board of Supervisors

DATE: November 16, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following hearing request, introduced by Supervisor Kim on November 13, 2018:

File No. 181090

Resolution declaring the intention of the Board of Supervisors to establish a property-based business improvement district known as the "SoMa West Community Benefit District" and levy a multi-year assessment on all parcels in the district; approving the management district plan and engineer's report and proposed boundaries map for the district; ordering and setting a time and place for a public hearing of the Board of Supervisors, sitting as a Committee of the Whole, on February 5, 2019, at 3:00 p.m.; approving the form of the Notice of Public Hearing and Assessment Ballot Proceeding, and Assessment Ballot; directing environmental findings; and directing the Clerk of the Board of Supervisors to give notice of the public hearing and balloting, as required by law.

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c: J'Wel Vaughan, Office of Economic and Workforce Development
Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development
Chris Corgas, Office of Economic and Workforce Development
Todd Rydstrom, Office of the Controller
Peg Stevenson, Office of the Controller
Nicole Agbayani, Office of the Assessor-Recorder
Amanda Kahn Fried, Office of the Treasurer & Tax Collector
Scott Sanchez, Planning Department
Lisa Gibson, Planning Department
Devyani Jain, Planning Department
AnMarie Rodgers, Planning Department
Dan Sider, Planning Department
Aaron Starr, Planning Department
Joy Navarrete, Planning Department
Laura Lynch, Planning Department
Cuong Quach, Department of Elections

1 [Resolution of Intention - SoMa West Community Benefit District]
2

3 **Resolution declaring the intention of the Board of Supervisors to establish a property-**
4 **based business improvement district known as the “SoMa West Community Benefit**
5 **District” and levy a multi-year assessment on all parcels in the district; approving the**
6 **management district plan and engineer’s report and proposed boundaries map for the**
7 **district; ordering and setting a time and place for a public hearing of the Board of**
8 **Supervisors, sitting as a Committee of the Whole, on February 5, 2019, at 3:00 p.m.;**
9 **approving the form of the Notice of Public Hearing and Assessment Ballot Proceeding,**
10 **and Assessment Ballot; directing environmental findings; and directing the Clerk of the**
11 **Board of Supervisors to give notice of the public hearing and balloting, as required by**
12 **law.**

13
14 WHEREAS, The Property and Business Improvement District Law of 1994 (California
15 Streets and Highways Code, Sections 36600 et seq., “1994 Act”), authorizes cities to
16 establish property and business improvement districts within business districts to promote the
17 economic revitalization and physical maintenance of such business districts; and

18 WHEREAS, Section 36603 of the 1994 Act recognizes the authority of Charter cities to
19 adopt ordinances providing for different methods of levying assessments for similar or
20 additional purposes from those set forth in the 1994 Act; and

21 WHEREAS, Article 15 of the San Francisco Business and Tax Regulations Code
22 (“Article 15”) augments certain procedural and substantive requirements relating to the
23 formation of property and business improvement districts and the assessments on real
24 property or businesses within such districts; and
25

1 WHEREAS, The 1994 Act and Article 15 authorize the City to levy and collect
2 assessments on real property within such districts for the purpose of providing improvements
3 and promoting activities and property-related services that specially benefit parcels of real
4 property located within such districts; and

5 WHEREAS, Article XIID of the California Constitution and Section 53753 of the
6 California Government Code impose certain procedural and substantive requirements relating
7 to assessments on real property; and

8 WHEREAS, The 1994 Act and Article 15 impose additional procedural and substantive
9 requirements relating to assessments on real property within a proposed property and
10 business improvement district, also known as a community benefit district ("CBD"); and

11 WHEREAS, The Board of Supervisors finds that the property-related services, activities
12 and improvements to be funded with assessments on real property within the proposed district
13 will confer special benefits on the assessed properties over and above the general benefit to
14 the public at large from such services, activities and improvements; and

15 WHEREAS, The property owners who will pay 30% or more of the total amount of
16 assessments on properties within the proposed district signed and submitted to the Clerk of
17 the Board of Supervisors a petition ("Petition") requesting that the Board of Supervisors
18 establish the property-based community benefit district known as the "SoMa West Community
19 Benefit District," and levy assessments on properties located in the proposed district to fund
20 property-related services, activities and improvements within the district; and

21 WHEREAS, A Management District Plan entitled "SoMa West Community Benefit
22 District Management Plan" ("Management District Plan") containing information about the
23 proposed district and assessments required by Section 36622 of the 1994 Act, including but
24 not limited to a map showing all parcels located in the district, a description of the boundaries
25 of the district, the name of the district, the amount of the proposed assessment for each

1 parcel, the total annual amount chargeable to the entire district, the duration of the payments,
2 the property-related services, activities and improvements to be funded by the assessments
3 for each year and the maximum cost thereof, the method and basis upon which the
4 assessments are calculated in sufficient detail to allow each property owner to calculate the
5 amount of the assessment to be levied against his or her property, a statement that no bonds
6 will be issued, the time and manner of collecting the assessments, and a list of the properties
7 to be assessed (including assessor parcel numbers), is on file with the Clerk of the Board of
8 Supervisors in File No. 181090, which is hereby declared to be a part of this Resolution as if
9 set forth fully herein; and

10 WHEREAS, A detailed engineer's report supporting the assessments within the
11 proposed district, prepared by Terrance E. Lowell, California Registered Professional
12 Engineer No. 13398, entitled "SoMa West Community Benefit District Engineer's Report"
13 ("Engineer's Report") is on file with the Clerk of the Board of Supervisors in File No. 181090,
14 which is hereby declared to be a part of this Resolution as if set forth fully herein; and

15 WHEREAS, A Proposed Boundaries Map, submitted pursuant to California Streets and
16 Highways Code Section 3110, is on file with the Clerk of the Board of Supervisors in File
17 No. 181090, which is hereby declared to be a part of this Resolution as if set forth fully herein;
18 now, therefore, be it

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

20 Section 1. Pursuant to Section 36621(a) of the 1994 Act and Article 15, the Board of
21 Supervisors declares its intention to establish the property and business improvement district
22 known as the "SoMa West Community Benefit District" ("District") for a period of fifteen and
23 one half (15 1/2) years, and to levy and collect assessments against all parcels of real
24 property in the District for 15 of those years, commencing with fiscal year ("FY") 2019-2020,
25 subject to approval by a majority of the property owners in the District who cast assessment

1 ballots, which ballots shall be weighted according to the proportional financial obligations of
2 the affected properties. No bonds will be issued. District operations are expected to
3 commence on or about January 1, 2020, following collection of the assessments for
4 FY2019-2020 and disbursement of the assessment proceeds to the nonprofit owners'
5 association that will administer the property-related services, activities and improvements in
6 the District pursuant to Section 36651 of the 1994 Act and a written agreement with the City.

7 Section 2. Nonpayment of assessments will have the same lien priority and delinquent
8 payment penalties and be subject to the same enforcement procedures and remedies as the
9 ad valorem property tax. All delinquent payment of assessments will be subject to interest
10 and penalties. The City Treasurer and Tax Collector will enforce imposition of interest and
11 penalties and collection of assessments pursuant to the 1994 Act, Article 15 and the San
12 Francisco Business and Tax Regulation Code, Article 6, as each may be amended from time
13 to time.

14 Section 3. The Board of Supervisors hereby approves the Management District Plan
15 and Engineer's Report, including the estimates of the costs of the property-related services,
16 activities and improvements set forth in the plan, and the assessment of said costs on the
17 properties that will specially benefit from such services, activities and improvements. The
18 Clerk of the Board shall make the Management District Plan, Engineer's Report and other
19 documents related to the District and included in the record before the Board of Supervisors
20 available to the public for review during normal business hours, Monday through Friday 8:00
21 a.m. through 5:00 p.m., excluding legal holidays.

22 Section 4. The Board of Supervisors hereby approves the Proposed Boundaries Map
23 showing the boundaries of the District. The proposed District contains approximately 2,700
24 identified parcels located on approximately 100 whole or partial blocks.

25 Specifically, the exterior District boundaries are:

- 1 • South Van Ness Avenue from Mission Street to U.S. Highway 101 Freeway (east
- 2 side only)
- 3 • U.S. Highway 101 Freeway from Van Ness Street to 9th Street (north side only)
- 4 • Townsend Street from 9th Street to 6th Street (north side only)
- 5 • 6th Street from Brannan Street to Interstate 80 Freeway (west side only)
- 6 • Interstate 80 Freeway from 6th Street to 5th Street (north side only)
- 7 • 5th Street from 80 Freeway to Harrison Street (west side only)
- 8 • APN's 3753-056, 3753-057, 3753-101, 3753-146, 3753-302, 3753-303, 3753-304
- 9 between Harrison Street and Folsom Street
- 10 • APN's along Folsom Street including: 3732-024, 3732-026, 3732-028, 3732-151,
- 11 3732-152
- 12 • APN's 3731-012, 3731-113, 3731-116, 3731-117, 3726-012, 3726-055, 3726-57A,
- 13 3726-098 between Howard Street and Minna Street
- 14 • APN's along Minna Street, Grace Street and Washburn Street between 6th Street
- 15 and Lafayette Street including: 3726-101, 3726-103, 3727-089, 3727-095, 3727-
- 16 108, 3727-113, 3727-114, 3727-135, 3728-002, 3728-105 to 3728-116, 3728-171 to
- 17 3728-191, 3509-002, 3509-020, 3509041, 3510-003, 3510-059, 3511-003, 3511-
- 18 073, 3511-128 to 3511-130, 3511-119 to 3511-121, 3511-078, 3511-135 to 3511-
- 19 137
- 20 • Mission Street from Lafayette Street to South Van Ness Avenue (south side only)

21 Reference should be made to the detailed maps and the lists of parcels identified by
 22 Assessor Parcel Number that are contained in the Management District Plan, in order to
 23 determine which specific parcels are included in the SoMa West Community Benefit District.

24 Section 5. A public hearing on the establishment of the District, and the levy and
 25 collection of assessments starting with FY2019-2020 and continuing through FY2033-2034,

1 shall be conducted before the Board of Supervisors sitting as a Committee of the Whole on
2 February 5, 2019 at 3:00 p.m., or as soon thereafter as the matter may be heard in the
3 Board's Legislative Chamber, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place, San
4 Francisco, California, 94102. At this public hearing, the Board of Supervisors will hear public
5 testimony regarding the proposed formation of the District, assessments, and boundaries of
6 the District, including testimony from all interested persons for or against establishment of the
7 District, the extent of the District, the levy of the assessments, the furnishing of specific types
8 of property-related services, improvements and activities, and other matters related to the
9 District. The Board of Supervisors may waive any irregularity in the form or content of any
10 written protest, and at the public hearing may correct minor defects in the proceedings. All
11 protests submitted by affected property owners and received prior to the conclusion of the
12 public testimony portion of the public hearing shall be tabulated to determine whether a
13 majority protest exists.

14 Section 6. The Board of Supervisors hereby approves the form of the Notice of Public
15 Hearing and Assessment Ballot Proceeding, and Assessment Ballot, which are on file with the
16 Clerk of the Board of Supervisors in File No. 181090; which are hereby declared to be a part
17 of this Resolution as if set forth fully herein.

18 Section 7. The proposed property-related services, improvements and activities for the
19 District include Public Safety, Cleaning and Maintenance, Parks and Greenspace,
20 Communication and Development, and Management.

21 **Clean, Safe, and Beautiful.** Clean, safe, and beautiful includes, but is not limited to,
22 enhanced safety activities make the area safer, cleaner and more aesthetically appealing
23 environment. This is achieved through corridor landscaping, art installation in public spaces,
24 sidewalk sweeping and power washing, removing litter and graffiti, and trash removal.
25

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

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

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

14 Section 8. Within the area encompassed by the proposed District, the City currently
15 provides services at the same level provided to other similar areas of the City. It is the intent
16 of the Board of Supervisors to continue to provide the area encompassed by the District with
17 the same level of services provided to other similar areas of the City; formation of the District
18 will not affect the City's policy to continue to provide the same level of service to the areas
19 encompassed by the District as it provides to other similar areas of the City during the term of
20 the District.

21 Section 9. The annual total assessments proposed to be levied and collected for the
22 first year of the District (FY2019-2020) is estimated to be \$3,809,459.85. The amount of the
23 total annual assessments to be levied and collected for years two through fifteen
24 (FYs 2019-2020 through 2033-2034) may be increased from one year to the next due to
25 changes to the consumer price index (CPI). Assessments may also increase based on

1 development in the District. The determination of annual adjustments in assessment rates will
2 be subject to the approval of the SoMa West Community Benefit District Owners' Association.
3 Assessment rates may increase more than 3% if the CPI annual increase is more than 3%.

4 Section 10. Environmental Findings. Following the approval of this Resolution, the
5 Planning Department shall determine whether the actions contemplated in this Resolution are
6 in compliance with the California Environmental Quality Act (California Public Resources
7 Code, Sections 21000 et seq.), and respond in writing to the Clerk of the Board of Supervisors
8 prior to the Board's public hearing on the establishment of the District on February 5, 2019,
9 at 3:00 p.m.

10 Section 11. The Clerk of the Board is directed to give notice of the public hearing as
11 provided in California Streets and Highways Code, Section 36623, California Government
12 Code, Section 53753, California Constitution Article XIID, Section 4, Charter, Section 16.112,
13 and Administrative Code, Section 67.7-1.