

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

MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller
Todd Rufo, Director, Office of Economic and Workforce Development

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

DATE: May 8, 2018

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Peskin on May 1, 2018:

File No. 180467

Resolution declaring the intention of the Board of Supervisors to establish a property-based business improvement district (community benefit district) known as the "Discover Polk 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 July 24, 2018, 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: Todd Rydstrom, Office of the Controller
Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development

1 [Resolution of Intention - Discover Polk Community Benefit District]
2

3 **Resolution declaring the intention of the Board of Supervisors to establish a property-**
4 **based business improvement district (community benefit district) known as the**
5 **“Discover Polk Community Benefit District” and levy a multi-year assessment on all**
6 **parcels in the district; approving the management district plan and engineer’s report**
7 **and proposed boundaries map for the district; ordering and setting a time and place for**
8 **a public hearing of the Board of Supervisors, sitting as a Committee of the Whole on**
9 **July 24, 2018, at 3:00 p.m.; approving the form of the Notice of Public Hearing and**
10 **Assessment Ballot Proceeding, and Assessment Ballot; directing environmental**
11 **findings; and directing the Clerk of the Board of Supervisors to give notice of the**
12 **public hearing and balloting as required by 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 establish
16 property and business improvement districts within business districts to promote the economic
17 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 percent or more of the total amount
16 of 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 "Discover Polk
19 Community Benefit District," and levy assessments on properties located in the proposed
20 district to fund property-related services, activities and improvements within the district; and

21 WHEREAS, A Management District Plan entitled "Discover Polk 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. 180467, 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 Thomas E. Lowell, California Registered Professional Engineer
12 No. 13398, entitled "Discover Polk Community Benefit District Engineer's Report" ("Engineer's
13 Report") is on file with the Clerk of the Board of Supervisors in File No. 180467, which is
14 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. 180467, 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 "Discover Polk Community Benefit District" ("District") for a period of eleven and
23 one half (11 1/2) years, and to levy and collect assessments against all parcels of real
24 property in the District for 11 of those years, commencing with fiscal year ("FY") 2018-2019,
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, 2019, following collection of the assessments for
4 FY2018-2019 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 536
24 identified parcels located on approximately 14 whole or partial blocks.

25 Specifically, the exterior District boundaries are:

- 1 • To the south, the proposed DPCBD abuts the existing Lower Polk CBD at California
- 2 Street.
- 3 • To the east, the proposed DPCBD includes properties adjacent to Polk Street, plus
- 4 encompasses the city park space along Broadway.
- 5 • To the north, the proposed DPCBD ends at Broadway.
- 6 • To the west, the proposed DPCBD includes properties encompass full blocks west
- 7 to Van Ness Avenue.
- 8 • The western boundary also includes large properties owned by the Academy of Art
- 9 University on the west side of Van Ness Avenue, since students and faculty from
- 10 this institution frequent businesses along the Polk Street corridor.

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 Management District Plan, in order to
13 determine which specific parcels are included in the Discover Polk Community Benefit District.

14 Section 5. A public hearing on the establishment of the District, and the levy and
15 collection of assessments starting with fiscal year 2018-2019 and continuing through
16 FY2029-2030, shall be conducted before the Board of Supervisors sitting as a Committee of
17 the Whole on July 24, 2018 at 3:00 p.m., or as soon thereafter as the matter may be heard in
18 the Board's Legislative Chambers, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place,
19 San Francisco, California, 94102. At this public hearing, the Board of Supervisors will hear
20 public testimony regarding the proposed formation of the District, assessments, and
21 boundaries of the District, including testimony from all interested persons for or against
22 establishment of the District, the extent of the District, the levy of the assessments, the
23 furnishing of specific types of property-related services, improvements and activities, and
24 other matters related to the District. The Board of Supervisors may waive any irregularity in
25 the form or content of any written protest, and at the public hearing may correct minor defects

1 in the proceedings. All protests submitted by affected property owners and received prior to
2 the conclusion of the public testimony portion of the public hearing shall be tabulated to
3 determine whether a majority protest exists.

4 Section 6. The Board of Supervisors hereby approves the form of the Notice of Public
5 Hearing and Assessment Ballot Proceeding, and Assessment Ballot, which are on file with the
6 Clerk of the Board of Supervisors in File No. 180467; which are hereby declared to be a part
7 of this Resolution as if set forth fully herein.

8 Section 7. The proposed property-related services, improvements and activities for the
9 District include Environmental Enhancements, Economic Enhancements, Parks and District
10 Coordinator, Administration, and Reserve.

11 **Environmental Enhancements.** Environmental enhancements includes, but is not
12 limited to, sidewalk sweeping, graffiti removal, pressure washing of sidewalks, safety patrols
13 of the district, business and visitor contacts, outreach with street populations, weed removal,
14 landscaping, seasonal holiday decorations, wayfinding and directional signage, temporary and
15 permanent public art installations, and capital improvements.

16 **Economic Enhancements.** Economic enhancements includes, but is not limited to,
17 marketing of the District, business attraction, District branding, District communications, and
18 business technical assistance.

19 **District Coordinator, Administration, and Reserve.** District coordinator,
20 administration, and reserve includes, but is not limited to a staff that will oversee the
21 administration of the District and the management of office expenses including accounting,
22 rent, utilities, office supplies, insurance, legal, and other professional services related to
23 District activities
24
25

1 Section 8. Within the area encompassed by the proposed District, the City currently
2 provides services at the same level provided to other similar areas of the City. It is the intent
3 of the Board of Supervisors to continue to provide the area encompassed by the District with
4 the same level of services provided to other similar areas of the City; formation of the District
5 will not affect the City's policy to continue to provide the same level of service to the areas
6 encompassed by the District as it provides to other similar areas of the City during the term of
7 the District.

8 Section 9. The annual total assessments proposed to be levied and collected for the
9 first year of the District (FY2018-2019) is estimated to be \$604,000.00. The amount of the
10 total annual assessments to be levied and collected for years two through eleven (FY2018-
11 2019 through 2028-2019) may be increased from one year to the next by a percentage that
12 does not exceed either the change in the Consumer Price Index for All Urban Consumers in
13 the San Francisco-Oakland-San Jose Consolidated Metropolitan Statistical Area (the "CPI"),
14 or five percent (5%), whichever is less.

15 Section 10. Environmental Findings. Following the approval of this Resolution, the
16 Planning Department shall determine whether the actions contemplated in this Resolution are
17 in compliance with the California Environmental Quality Act (California Public Resources
18 Code Sections 21000 et seq.), and respond in writing to the Clerk of the Board of Supervisors
19 prior to the Board's public hearing on the establishment of the District on July 24, 2018 at 3:00
20 p.m.

21 Section 11. The Clerk of the Board is directed to give notice of the public hearing as
22 provided in California Streets and Highways Code Section 36623, California Government
23 Code Section 53753, California Constitution Article XIID Section 4, San Francisco Charter
24 Section 16.112, and San Francisco Administrative Code Section 67.7-1.
25