

BOARD of SUPERVISORS



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July 17, 2018

File No. 180621

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

Dear Ms. Gibson:

On July 10, 2018, Supervisor Peskin introduced the following legislation:

File No. 180621

Resolution to establish the property-based business improvement district known as the "Discover Polk Community Benefit District," ordering the levy and collection of assessments against property located in that district for 11 years commencing with FY2018-2019, subject to conditions as specified, and making environmental findings.

This legislation is being transmitted to you for environmental review. The file is scheduled for Board of Supervisors consideration on July 24, 2018.

Angela Calvillo, Clerk of the Board

By: John Carroll, Assistant Clerk
Government Audit and Oversight Committee

Attachment

c: Joy Navarrete, Environmental Planner
Laura Lynch, Environmental Planner
Chris Corgas, Office of Economic and Workforce Development

1 [Resolution to Establish - Discover Polk Community Benefit District]

2
3 **Resolution to establish the property-based business improvement district known as**
4 **the “Discover Polk Community Benefit District,” ordering the levy and collection of**
5 **assessments against property located in that district for 11 years commencing with**
6 **FY2018-2019, 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. 171-18,
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 'Discover Polk
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. 180467); and

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

1 Notice of Public Hearing and Assessment Ballot Proceeding, that are all on file with Clerk of
2 the Board of Supervisors in File No. 180467; and

3 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning
4 the proposed formation of the Discover Polk CBD, and the proposed levy of assessments
5 against property located within the District for a period of 11 years, for fiscal years
6 ("FYs") 2018-2019 through 2028-2029; 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 May 22, 2018,
10 containing information about the proposed district and assessments as required by California
11 Streets and Highways Code §36622; and

12 WHEREAS, A detailed Engineer's Report dated May 2017 was filed with the Clerk of
13 the Board on May 22, 2017, as prepared by Thomas E. Lowell, California Registered
14 Professional Engineer No. 13398, entitled "Discover Polk Community Benefit District
15 Engineer's 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
18 May 22, 2018; and

19 WHEREAS, An updated District Management Plan, Engineer's Report, and Proposed
20 Boundaries Map were submitted to the Clerk of the Board in July 2018, to reflect the removal
21 of a single parcel that had been inadvertently included in District previously; and

22 WHEREAS, A public hearing concerning the proposed formation of the Discover Polk
23 CBD and the proposed levy of assessments within such District was held on July 24, 2018
24 at 3 p.m., in the Board's Legislative Chamber located on the Second Floor of City Hall, 1 Dr.
25 Carlton B. Goodlett Place, San Francisco, California; and

1 WHEREAS, At the public hearing, the testimony of all interested persons for or against
2 the proposed formation of the District, the levy of assessments on property within the District,
3 the extent of the District, and the furnishing of specified types of improvements, services and
4 activities within the District, was heard and considered, and a full, fair and complete meeting
5 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 renewing
12 and expanding the proposed District; and

13 WHEREAS, The public interest, convenience and necessity require the establishment
14 of the proposed Discover Polk Community Benefit District; and

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

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

21 **Section 1. MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**
22 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the
23 July 2018 Management District Plan and District Assessment Engineer's Report, including the
24 estimates of the costs of the property-related services, activities and improvements set forth in
25 the plan, and the assessment of said costs on the properties that will specially benefit from

1 such services, activities and improvements. The Board also hereby approves the July 2018
2 Boundaries, showing the exterior boundaries of the District, and ratifies and approves the
3 Assessment Ballot and the City's use of such ballot, which Assessment Ballot is on file with
4 the Clerk of the Board of Supervisors in File No. 180467 and is hereby declared to be a part of
5 the Resolution as if set forth fully herein. A copy of the July 2018 Management District Plan,
6 the District Assessment Engineer's Report, and the Boundaries Map are on file with the Clerk
7 of the Board of Supervisors in File No. 180467, which is hereby declared to be a part of this
8 Resolution as if set forth fully herein.

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

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

17 **Section 4. DESCRIPTION OF DISTRICT.** The Discover Polk Community Benefit
18 District shall include all parcels of real property within the district. The proposed expanded
19 District contains approximately 535 identified parcels located on approximately 14 whole or
20 partial blocks.

21 Specifically, the exterior District boundaries are:

- 22 • To the south, the proposed DPCBD abuts the existing Lower Polk CBD at California
23 Street.
- 24 • To the east, the proposed DPCBD includes properties adjacent to Polk Street, plus
25 encompasses the city park space along Broadway.

- 1 • To the north, the proposed DPCBD ends at Broadway.
- 2 • To the west, the proposed DPCBD includes properties encompass full blocks west
- 3 to Van Ness Avenue.
- 4 • The western boundary also includes properties owned by the Academy of Art
- 5 University on the west side of Van Ness Avenue, since students and faculty from
- 6 this institution frequent businesses along the Polk Street corridor.

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8 Reference should be made to the detailed maps and the lists of parcels identified by
9 Assessor Parcel Number that are contained in the July 2018 Management District Plan, in
10 order to determine which specific parcels are included in the Discover Polk Community
11 Benefit District.

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

15 **Section 6. SYSTEM OF ASSESSMENTS.** (a) Annual assessments will be levied to
16 pay for the activities to be provided within the District, commencing with FY2018-2019, and
17 continuing for 11 years, ending with FY2028-2029. For purposes of levying and collecting
18 assessments within the District, a fiscal year shall commence on each July 1st and end on the
19 following June 30th.

20 (b) The amount of the proposed assessments to be levied and collected for
21 FY2018-2019 shall be a maximum of \$601,784 (as shown in the Management District Plan
22 dated July 2018 and Engineer's Report dated July 2018). The amount of assessments to be
23 levied and collected in fiscal years two through 11 may be increased annually by the Discover
24 Polk Community Benefit District corporation Board of Directors by an amount not to exceed
25 the change in the Consumer Price Index for All Urban Consumers in the San Francisco-

1 Oakland-San Jose Consolidated Metropolitan Statistical Area, or five percent (5%), whichever
2 is less.

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

5 (1) The levy of the assessments shall commence with FY2018-2019. Each year the
6 assessment shall be due and payable in two equal installments. The first installment shall be
7 due on November 1 of each fiscal year during the life of the District, and shall become
8 delinquent on December 10 of that fiscal year. The second installment shall be due on
9 February 1 of each fiscal year during the life of the District, and shall become delinquent on
10 April 10 of that fiscal year.

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

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

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

1 **Economic Enhancements.** Economic enhancements includes, but is not limited to,
2 marketing of the District, business attraction, District branding, District communications, and
3 business technical assistance.

4 **District Coordinator, Administration, and Reserve.** District coordinator,
5 administration, and reserve includes, but is not limited to a staff that will oversee the
6 administration of the District and the management of office expenses including accounting,
7 rent, utilities, office supplies, insurance, legal, and other professional services related to
8 District 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 36650.
12 Any such entity shall hold the funds it receives from the City and County of San Francisco
13 ("City") in trust for the improvements, services and activities set forth in Section 7. Any such
14 entity that holds funds in trust for purposes related to the contract shall deliver, at no expense
15 to the City, a balance sheet and the related statement of income and cash flows for each
16 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.

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

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