CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

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TO: Government Audit and Oversight Committee

FROM: Budget and Legislative Analyst

SUBJECT: April 18, 2019 Government Audit and Oversight Committee Meeting

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Item 1 File 19-0361	Department: Office of Economic Workforce Development (OEWD)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution authorizes the Mayor to sign petitions in the affirmative for the proposed renewal and expansion of a property and business improvement district to be named the Civic Center Community Benefit District, with respect to 14 parcels of real property owned by the City that would be subject to assessment in the aforementioned district.

Key Points

- Community Benefit Districts (CBDs), also referred to as Business Improvement Districts (BIDS), are defined geographical areas within which property owners and/or business owners choose to make a collective contribution to the development, maintenance and promotion of their neighborhood through a special assessment to their property or business.
- The Civic Center CBD was established in January 2011 as a 10-year special assessment district beginning July 2, 2011. The Civic Center CBD currently consists of approximately 43 whole or partial blocks and approximately 773 parcels. The district is generally bounded by Golden Gate Avenue and Turk Street to the North, Market Street to the South, 7th Street to the East, and Gough Street to the West.
- In 2018, the Civic Center CBD Renewal Steering Committee initiated a series of meetings to discuss renewing the district so that the City could levy further assessments to fund enhanced improvements and activities. The renewal of the Civic Center CBD would terminate the current timeline of the district, which ends in 2021. The renewed 15-year term would begin January 1, 2020 and end December 31, 2034. According to OEWD, the district decided to renew earlier because there is no legislative prohibition on when a district can renew, to annex the United Nations (UN) Plaza which is being removed from the Tenderloin CBD in their renewal, and to provide greater service and stewardship in relation to the recent initiatives at the public spaces connecting City Hall to the United Nations Plaza.

Fiscal Impact

- In the first year of its term, the proposed Civic Center CBD will collect an estimated $975,653 assessment amount from 14 City-owned parcels, which comprise of approximately 30.1 percent of the total assessment amount of $3,240,387 for the district.
- Assessment rates may increase by up to 5 percent per year. The determination of annual adjustments in assessment rates will be subject to the approval of the Civic Center CBD Owners' Association. In addition, individual parcel assessments may be updated as those parcels change (e.g., increased square footage due to development).

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

In accordance with California Government Code Section 53753, and the California Property and Business Improvement District Law of 1994 (Part 7 of Division 18 of the California Streets and Highway Code, commencing with Section 36600), augmented by Article 15 of the City's Business and Tax Regulations Code, the Board of Supervisors may initiate proceedings to establish a property and/or business improvement district and levy assessments on such properties and/or businesses for specified periods of time, when certain requirements are met.

BACKGROUND

Community Benefit Districts

Community Benefit Districts (CBDs), also referred to as Business Improvement Districts (BIDS), are defined geographical areas within which property owners and/or business owners choose to make a collective contribution to the development, maintenance and promotion of their neighborhood through a special assessment to their property or business. Property and business owners pay special assessment taxes to create a revenue source for the provision of additional services and improvements within district boundaries, such as sidewalk cleanliness, public safety, streetscape improvements, district advocacy and other economic development activities. The funds from these property or business improvement districts are administered by non-profit organizations that are established by (a) the steering committee members who lead the formation of the district, or (b) the property and/or business owners who are assessed within the district. In both scenarios, the CBD is subject to the Board of Supervisors' approval of a CBD management agreement between the City and the non-profit organization.

In 2004, the City augmented the California Property and Business Improvement District Law of 1994 with the passage of Article 15 of the San Francisco Business and Tax Regulations Code. Article 15 lengthened the initial term that a district could be in place from 5 to 15 years and lowered the weighted petition threshold required to initiate the legislative approval process and the special ballot election from 50 percent to 30 percent.

The City's Office of Economic and Workforce Development's (OEWD) Community Benefit Districts Program oversees the City's community benefit and business improvement districts[1]. According to Ms. Lisa Pagan, Director of Policy and Planning for OEWD, the existing 18[2] San Francisco Community Benefit Districts (CBD), previously approved by the Board of Supervisors, include: (1) Castro/Upper Market, (2) Central Market, (3) Civic Center, (4) and (5) Fisherman's Wharf[3], (6) Lower Polk, (7) Discover Polk, (8) Noe Valley, (9) Ocean Avenue, (10) North of Market/Tenderloin, (11) Union Square, (12) Yerba Buena, (13) The East Cut, (14) Japantown,

[1] All CBD-related activities, such as the special ballot elections, are paid for through OEWD's annual CBD program budget.

[2] 16 are neighborhood-based and 2 are tourism industry sector-based districts (Tourism Improvement District and Moscone Expansion District).

[3] Fisherman's Wharf operates two separate legal CBD districts together: one on Port property (business tenant based) and one on City parcels (property based).

(15) Top of Broadway, (16) SoMa West, (17) Tourism Improvement District, and (18) Moscone Expansion District.

Civic Center Community Benefit District

The Civic Center Community Benefit District (CBD) was established in January 2011 as a 10-year special assessment district beginning July 2, 2011. The Civic Center CBD currently consists of approximately 43 whole or partial blocks and approximately 773 parcels. The district is generally bounded by Golden Gate Avenue and Turk Street to the North, Market Street to the South, 7th Street to the East, and Gough Street to the West.

Renewal and Expansion of Civic Center Community Benefit District

In the summer and fall of 2018, the Civic Center CBD Renewal Steering Committee initiated a series of meetings to discuss renewing the district so that the City could levy further assessments to fund enhanced improvements and activities. The primary needs as determined by the parcel owners include cleaning, safety, beautification, marketing/communications and administration. All of the services to be provided, such as the cleaning work provided by the Clean Team, are services that are over and above the City's baseline of services and are not provided by the City. The renewal of the Civic Center CBD would terminate the current timeline of the district, which ends in 2021. The renewed 15-year term would begin January 1, 2020 and end December 31, 2034. According to OEWD, the district decided to renew earlier because there is no legislative prohibition on when a district can renew, to annex the United Nations (UN) Plaza which is being removed from the Tenderloin CBD in their renewal, and to provide greater service and stewardship in relation to the recent initiatives at the public spaces connecting City Hall to the UN Plaza.

According to the March 2019 Civic Center Management District Plan, the renewal of the Civic Center CBD will finance new and enhanced services and improvements that will be provided directly to the assessed parcels to improve the district's environment. Activities include the following:

- Sidewalk and gutter sweeping, sidewalk pressure washing, graffiti and handbill removal, trash cans and trash removal
- Stewards and night ambassadors, garage greeter program security camera program, and improved district amenities
- Market vending programs, art programs, performance programs, games, and food vending program
- Marketing/communication programs such as destination marketing, branding, events, media relations, social media, and district stakeholder outreach

District formation requires submission of favorable petitions signed by property owners representing at least 30 percent of total assessments to be paid. Petitions are submitted to the Board of Supervisors. If the 30 percent threshold is met, the City will conduct further hearings and mail ballots to all district property owners and 50 percent of ballots returned, as weighted by assessments to be paid, must be in favor of the district in order for the Board of Supervisors to consider approval.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution authorizes the Mayor to sign petitions in the affirmative for the proposed renewal and expansion of a property and business improvement district to be named the Civic Center Community Benefit District, with respect to 14 parcels of real property owned by the City that would be subject to assessment in the aforementioned district[4].

The City owns 14 parcels of real property within the proposed Civic Center CBD boundaries. According to Ms. Pagan, these parcels were included because they are either already within the current Civic Center CBD boundaries or, in the case of the UN Plaza, were in a previous CBD and requested to be a part of the Civic Center CBD instead[5].

Article XIIID, Section 4 of the California Constitution provides that parcels within an assessment district that are owned or used by any government agency, the State of California or the United States shall not be exempt from assessment unless the agency can demonstrate by clear and convincing evidence that those publicly owned parcels in fact receive no special benefit[6].

In addition, Proposition 218 provides that no parcel can be assessed for more than its fair share of special benefits, including public property. All publicly-owned parcels, including parcels owned by the State of California and City and County of San Francisco, will pay their proportional share of costs based on the special benefits conferred to those individual parcels.

Pursuant to Section 1511(a) of the Business and Tax Regulations Code, if the City submits these petitions in the affirmative, their petition and ballots collectively may not count for more than 25 percent of the 30 percent required to initiate formation proceedings.

FISCAL IMPACT

In the first year of its term, the proposed Civic Center CBD will collect an estimated $975,653 assessment amount from 14 City-owned parcels, which comprise of approximately 30.1 percent of the total assessment amount of $3,240,387 for the district. Table 1 below shows the 14 City-owned parcels and estimated assessments amounts for each parcel.

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[4] The Board of Supervisors authorizes a representative to submit assessment petitions for the City-owned parcels within the proposed district to avoid confusion on the Board's dual role as both the legislative body that may form the district and levy assessments if there is no majority protest by the affected property owners, and as the decision-making body for the City in its capacity as the owner of property that would be subject to assessments.

[5] According to OEWD, the UN Plaza has been removed from the renewed term of the Tenderloin CBD. The Civic Center CBD is interested in managing its activation, and the Tenderloin CBD agreed that it is in the best interest of the UN Plaza to be provided with coordinated supplemental services under the Civic Center CBD.

[6] According to OEWD, no City-owned parcels that receive CBD supplemental services are currently exempted.

Table 1. Estimated Assessment Amount of City-Owned Parcels in Proposed Civic Center Community Benefit District

Address	Name/Description of Building	Estimated Assessment Amount	Percentage of Total Assessment Amount
1122 Market Street	BART Entry at UN Plaza – Public Works	$5,683.21	0.18%
UN Plaza	BART Entry at UN Plaza – Public Works	1,397.71	0.04%
1130 Market Street	BART Entry at UN Plaza – Public Works	20,881.98	0.64%
UN Plaza	BART Entry at UN Plaza – Public Works	11,111.15	0.34%
101 Grove Street	Department of Public Health	44,938.58	1.39%
155 Grove Street	Art Commission Gallery	5,211.21	0.16%
240 Van Ness Ave.	Vacant Building	6,590.18	0.20%
165 Grove Street	Art Commission – Vacant Lot	4,660.38	0.14%
150 Grove Street	Bill Graham Auditorium	146,892.12	4.53%
100 Larkin Street	SF Main Public Library	138,067.81	4.26%
1 So Van Ness Ave.	City Office Building	59,727.06	1.84%
1 Dr. Carlton B Goodlett Place	City Hall	262,269.21	8.09%
Civic Center Plaza, Civic Center Garage	Recreation & Park Department	250,191.02	7.72%
25 Van Ness Ave.	City Office Building	18,031.02	0.56%
	Total	**$975,652.64**	**30.09%**

Over the 15-year term of the proposed Civic Center CBD, the district will collect a total maximum projected assessment amount of $20,077,530 from the 14 City-owned parcels if assessment rates increase five percent per year.

Civic Center CBD Property Assessment Methodology and Annual Adjustments

According to the March 2019 Civic Center Management District Plan, annual assessments are allocated among the parcels based on the special benefit to each parcel. Three property assessment variables – lot square footage, building square footage, and linear front footage – are used in the calculation. Additionally, the following three land use considerations are also factored in as assessment variables: commercial/office/cultural, residential, and educational/philanthropic/religious.

Assessment rates may increase by up to 5 percent per year. The determination of annual adjustments in assessment rates will be subject to the approval of the Civic Center CBD Owners' Association. In addition, individual parcel assessments may be updated as those parcels change (e.g., increased square footage due to development).

Projected Total Assessment Funds for Civic Center CBD

According to the March 2019 Civic Center Management District Plan, based on the most recent parcel characteristics, total assessment rates for all parcels are expected to generate approximately $3,240,387 in revenue during the first year of levy (FY 2019-20)[7]. This assessment revenue will be supplemented by non-assessment funds[8] of $163,381, to meet the total estimated FY 2019-20 budget of $3,403,768.

Future changes to parcel characteristics (lot, building, frontage, and land use) may cause changes in the total assessment revenue. The assessment revenue for any given year will be the product of the district's parcel characteristics and the budget in effect for such fiscal year. Development within the district that increases the overall building square footage, for example, will lead to increased assessment revenue, even if assessment rates are not increased.

RECOMMENDATION

Approve the proposed resolution.

[7] Based on the FY18-19 assessment roll, the current assessment revenue amount for the district is $871,688.92.
[8] This includes sources such as grants, donations, contracts for services, in-kind services, etc.

Item 4 **File 19-0214**	**Department:** Mayor's Office

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would amend San Francisco's Building Code to waive specified fees for 100 percent affordable housing projects and accessory dwelling unit (ADU) projects for an approximately one-year pilot program.
- The specific fees to be waived are: building inspection fees (excluding electrical and plumbing fees); plan review fees; records retention fees; and site surcharge fees. All fees included in the proposed waiver are assessed by the Department of Building Inspection.

Key Points

- DBI assesses building inspection fees, plan review fees, records retention fees, and site surcharge fees to recover the costs to the Department of monitoring permitted projects. Waiving these fees would prevent the Department from recovering those costs.
- An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot.

Fiscal Impact

- According to DBI, for a typical ADU project the average dollar value of these fees is $3,200. For affordable housing projects, fees average $150,000 for new construction and $15,000 for "small site" small/alteration projects.
- Using these numbers, we estimate that the proposed ordinance will cause a reduction in DBI permit fee revenue of approximately $2 million.
- The reduction in permit fee revenue will likely be spread over several fiscal years due to the timing of the pilot program and depending upon the length of each project's permit application process.
- If the number of ADU and affordable housing projects increases, either as a result of the fee waiver program or other external factors, the fee revenue loss will be higher.

Policy Consideration

- The use of a pilot program would allow the Board of Supervisors to assess the impacts of the pilot program, including any increases in ADU and affordable housing construction, and the actual revenue reduction at DBI.

Recommendation

- Approval of the proposed ordinance is a policy decision for the Board of Supervisors.

MANDATE STATEMENT

Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

BACKGROUND

An accessory dwelling unit (ADU), also known as an in-law unit, granny flat, or secondary unit, is a residential unit that is added to an existing housing lot. ADUs may be constructed within the existing building, as an extension to the existing building, or as a separate structure, and are typically developed using underutilized spaces within lots, such as garages, storage areas, rear yards, or attics. ADUs are independent living units with their own kitchens, bathrooms, and living areas. Ordinance 162-16 (File 16-0657), adopted by the Board of Supervisors on July 26, 2016, amended San Francisco's Planning Code to allow the construction of ADUs on all lots in the City that allow for residential use.

City departments such as the Department of Building Inspection (DBI), the Planning Department, and the Fire Department, among others, assess fees on construction projects in San Francisco, including ADU projects and affordable housing projects. Types of fees assessed include 1) permit fees, which are fees imposed by a Department to compensate for the cost of reviewing applications, issuing permits, and inspecting permitted work; 2) service fees or charges, such as water and wastewater capacity charges, record retention fees, and other fees or charges; and 3) development impact fees, which are fees imposed on development projects to mitigate the impacts on public services, infrastructure, and facilities. These fees are paid by the property owner or developer on top of the cost of the construction project itself.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend San Francisco's Building Code to waive specified fees for 100 percent affordable housing projects and ADU projects for an approximately one-year pilot program. The specific fees to be waived are: building inspection fees (excluding electrical and plumbing fees); plan review fees; records retention fees; and site surcharge fees. All fees included in the proposed waiver are assessed by DBI.

The proposed ordinance defines "100 percent affordable housing" as a multi-family residential building, including any ancillary commercial space, where either:

- 100 percent of the residential units, excluding a manager's unit, are subject to a recorded regulatory restriction to ensure affordability based on income; or
- 100 percent of the residential units, excluding a manager's unit, are funded by a nonprofit charitable organization and will provide permanent housing for homeless or formerly homeless people.

The proposed ordinance would become effective 30 days after enactment and would be retroactive to February 26, 2019, when the proposed ordinance was introduced. The fee waiver provisions would apply for one year from the effective date of the ordinance. The proposed ordinance would also require DBI to submit a report to the Board of Supervisors three months before the expiration of the fee waiver program. The report would include the number of projects that have taken advantage of the fee waiver, the type and location of the projects, the total amount of fees waived or projected to be waived during the pilot program, and any administrative impacts associated with the fee waiver program.

According to the Planning Department, the proposed ordinance is not defined as a project under the California Environmental Quality Act (CEQA) because it would not result in a direct or indirect physical change in the environment.

FISCAL IMPACT

DBI assesses building inspection fees, plan review fees, records retention fees, and site surcharge fees to recover the costs to the Department of monitoring permitted projects. Waiving these fees would prevent the Department from recovering those costs.

According to DBI, for a typical ADU project the average dollar value of these fees is $3,200. For affordable housing projects, fees average $150,000 for new construction and $15,000 for “small site” small/alteration projects. Using these numbers, Exhibit 1 below summarizes our estimate of the fiscal impact of the proposed one-year fee waiver program. In total, the proposed ordinance will cause a reduction in DBI permit fee revenue of approximately $2 million. The reduction in permit fee revenue will likely be spread over several fiscal years due to the timing of the pilot program and depending upon the length of each project’s permit application process.

The estimates for each project type are discussed in more detail below. If the number of ADU and affordable housing projects increases, either as a result of the fee waiver program or other external factors, the fee revenue loss will be higher.

Exhibit 1: Estimation of fiscal impact of one-year fee waiver program

	Average fee per project*	Projects during one-year pilot	Total cost
Accessory dwelling unit	$3,200	200	$640,000
Affordable housing new construction	$150,000	6	900,000
HOPE SF-Sunnydale, Block 6	$150,000+	1	150,000+
Affordable housing alteration/small construction	$15,000	18	270,000
Total cost – all projects			**$1,960,000+**

*Only fees specified in the proposed ordinance

We estimate that approximately 200 ADU projects would be subject to a one-year fee waiver program, based on the 92 ADU project permits issued for the first six months of FY 2018-19 (if total permits issued in FY 2018-19 are 184, or two times the permits issued in the first six months of the fiscal year).

The Mayor’s Office of Housing and Community Development (MOHCD) projects that there will be six 100 percent affordable housing projects during FY 2019-20 that would be subject to a one-year fee waiver program. MOHCD also believes that the HOPE SF-Sunnydale, Block 6 project will likely be subject to this fee waiver, and that the fees waived for this project will likely be higher than DBI's average estimate of $150,000 in fees due to its size.

MOHCD has estimated that 17 to 18 "small site" projects would be subject to this fee waiver during FY 2019-20: 15 known small sites that are expected to be assessed DBI fees in FY 2019-20, as well as 2-3 potential new projects that MOHCD staff believe may be created in FY 2019-20 due to new Educational Revenue Augmentation Fund (ERAF) funding.

POLICY CONSIDERATION

The use of a pilot program and the Department of Building Inspection's report to the Board of Supervisors would allow the Board to assess the impacts of the pilot program, including any increases in ADU and affordable housing construction, and the actual revenue reduction at DBI.

RECOMMENDATION

Approval of the proposed ordinance is a policy decision for the Board of Supervisors.