

BOARD of SUPERVISORS



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MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller
Joaquin Torres, Director, Office of Economic and Workforce Development
John Arntz, Director, Department of Elections

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

DATE: April 22, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Peskin on April 14, 2020:

File No. 200380

Resolution declaring the intention of the Board of Supervisors to renew and expand a property-based business improvement district known as the "Fisherman's Wharf Landside 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 14, 2020, 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
J'Wel Vaughan, Office of Economic and Workforce
Development Lisa Pagan, Office of Economic and Workforce
Development Chris Corgas, Office of Economic and Workforce
Development Cuong Quach, Department of Elections

1 [Resolution of Intention - Renewal and Expansion - Fisherman’s Wharf Landside Community
Benefit District]

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3 **Resolution declaring the intention of the Board of Supervisors to renew and expand a**
4 **property-based business improvement district known as the “Fisherman’s Wharf**
5 **Landside Community Benefit District” and levy a multi-year assessment on all parcels**
6 **in the district; approving the management district plan and engineer’s report and**
7 **proposed boundaries map for the district; ordering and setting a time and place for a**
8 **public hearing of the Board of Supervisors, sitting as a Committee of the Whole, on**
9 **July 14, 2020, 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.**

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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

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 renew
18 and expand the property-based community benefit district known as the “Fisherman’s Wharf
19 Landside Community Benefit District,” and levy assessments on properties located in the
20 proposed district to fund property-related services, activities, and improvements within the
21 district; and

22 WHEREAS, A Management District Plan entitled “Fisherman’s Wharf Landside
23 Community Benefit District Management Plan” (“Management District Plan”) containing
24 information about the proposed district and assessments required by Section 36622 of the
25 1994 Act, including but not limited to a map showing all parcels located in the district, a

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

11 WHEREAS, A detailed engineer's report supporting the assessments within the
12 proposed district, prepared by John G. Egan, California Registered Professional Engineer No.
13 14853, entitled "Fisherman's Wharf Landside Community Benefit District Engineer's Report"
14 ("Engineer's Report") is on file with the Clerk of the Board of Supervisors in File No.
15 _____, which is hereby declared to be a part of this Resolution as if set forth fully
16 herein; and

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

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

22 Section 1. Pursuant to Section 36621(a) of the 1994 Act and Article 15, the Board of
23 Supervisors declares its intention to renew and expand the property and business
24 improvement district known as the "Fisherman's Wharf Landside Community Benefit District"
25 ("District") for a period of fifteen and one half (15 1/2) years, and to levy and collect

1 assessments against all parcels of real property in the District for fifteen of those years,
2 commencing with fiscal year (“FY”) 2020-2021, subject to approval by a majority of the
3 property owners in the District who cast assessment ballots, which ballots shall be weighted
4 according to the proportional financial obligations of the affected properties. No bonds will be
5 issued. District operations are expected to commence on or about January 1, 2021, following
6 collection of the assessments for FY2020-2021 and disbursement of the assessment
7 proceeds to the nonprofit owners’ association that will administer the property-related
8 services, activities and improvements in the District pursuant to Section 36651 of the 1994 Act
9 and a written agreement with the City.

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

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

1 Section 4. The Board of Supervisors hereby approves the Proposed Boundaries Map
2 showing the boundaries of the District. The proposed District contains approximately 198
3 identified parcels located on approximately 27 whole or partial blocks.

4 Specifically, the exterior District boundaries are:

- 5 • Jefferson Street to the north.
- 6 • Bay Street to the south (reaching Francisco Street in some areas);
- 7 • The Embarcadero to the east;
- 8 • Van Ness Avenue to the west

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10 Reference should be made to the detailed maps and the lists of parcels identified by
11 Assessor Parcel Number that are contained in the Management District Plan, in order to
12 determine which specific parcels are included in the Fisherman’s Wharf Landside Community
13 Benefit District.
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15 Section 5. A public hearing on the renewal and expansion of the District, and the levy
16 and collection of assessments starting with FY2020-2021 and continuing through FY2034-
17 2035, shall be conducted before the Board of Supervisors sitting as a Committee of the Whole
18 on July 14, 2020, at 3:00 p.m., or as soon thereafter as the matter may be heard in the
19 Board’s Legislative Chamber, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett Place, San
20 Francisco, California, 94102. At this public hearing, the Board of Supervisors will hear public
21 testimony regarding the proposed formation of the District, assessments, and boundaries of
22 the District, including testimony from all interested persons for or against renewal and
23 expansion of the District, the extent of the District, the levy of the assessments, the furnishing
24 of specific types of property-related services, improvements and activities, and other matters
25 related to the District. The Board of Supervisors may waive any irregularity in the form or

1 content of any written protest, and at the public hearing may correct minor defects in the
2 proceedings. All protests submitted by affected property owners and received prior to the
3 conclusion of the public testimony portion of the public hearing shall be tabulated to determine
4 whether a majority protest exists.

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

9 Section 7. The proposed property-related services, improvements and activities for the
10 District include a Clean and Safe program, a Marketing program, and Administration.

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12 **Clean and Safe Program:** Clean and Safe Program includes, but is not limited to,
13 sidewalk cleaning, sidewalk pressure washing, trash collection, graffiti removal and abatement,
14 security patrol, and emergency preparedness.

15 **Marketing and Event Program:** Marketing and Events Program includes, but is not
16 limited to, community events, communications, outreach, public relations efforts, wayfinding,
17 and destination marketing.

18 **Administration:** Administration includes daily oversight and operation of the
19 Fisherman’s Wharf Landside CBD, adherence to the Management District Plan, and
20 compliance with audit/reporting requirements. Also included are office expenses, professional
21 services, organization expenses, and other similar services.

22 **Contingency and Reserves:** Contingency and Reserves fund a contingency reserve
23 that may be used to cover possible unforeseen future expenses and help to smooth out cash
24 flows, which are affected by the timing of property owner payments.

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 (FY2020-2021) is estimated to be \$1,223,783.20. The amount of the
10 total annual assessments to be levied and collected for years two through fifteen
11 (FYs 2021-2022 through 2034-2035) may be increased from one year to the next due to
12 changes to the consumer price index (CPI) or by 5%, whichever is greater. Assessments may
13 also increase based on development in the District. The determination of annual adjustments
14 in assessment rates will be subject to the approval of the Fisherman's Wharf Landside
15 Community Benefit District Owners' Association. Assessment rates may not increase by more
16 than 5% or the CPI annual increase, whichever is greater.

17 Section 10. Environmental Findings. Following the approval of this Resolution, the
18 Planning Department shall determine whether the actions contemplated in this Resolution are
19 in compliance with the California Environmental Quality Act (California Public Resources
20 Code, Sections 21000 et seq.), and respond in writing to the Clerk of the Board of Supervisors
21 prior to the Board's public hearing on the renewal and expansion of the District on July 14,
22 2020 at 3:00 p.m.

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

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