

BOARD of SUPERVISORS



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June 17, 2020

**File No. 200528**

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

Dear Ms. Gibson:

On June 9, 2020, Supervisor Peskin introduced the following legislation:

**File No. 200528**

**Resolution to establish (renew and expand) the property-based business improvement district known as the "Fisherman's Wharf Landside Community Benefit District," ordering the levy and collection of assessments against property located in that district for 15 years commencing with FY2020-2021, subject to conditions as specified; and making environmental findings.**

This legislation is being transmitted to you for environmental review.

The resolution is scheduled for hearing at Board, sitting as a Committee of the Whole on July 14, 2020.

Angela Calvillo, Clerk of the Board

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

Attachment

c: Devyani Jain, Deputy Environmental Review Officer  
Joy Navarrete, Environmental Planner  
Don Lewis, Environmental Planner

1 [Resolution to Establish (Renew and Expand) - Fisherman's Wharf Landside Community  
Benefit District]

2  
3 **Resolution to establish (renew and expand) the property-based business improvement**  
4 **district known as the "Fisherman's Wharf Landside Community Benefit District,"**  
5 **ordering the levy and collection of assessments against property located in that district**  
6 **for 15 years commencing with FY2020-2021, subject to conditions as specified; and**  
7 **making environmental findings.**

8  
9 WHEREAS, Pursuant to the Property and Business Improvement Law of 1994,  
10 California Streets and Highways Code, Sections 36600 et seq. ("1994 Act"), as augmented by  
11 Article 15 of the San Francisco Business and Tax Regulations Code ("Article 15"), collectively,  
12 the "Business Assessment Law," the Board of Supervisors adopted Resolution No. 216-20,  
13 entitled "Resolution declaring the intention of the Board of Supervisors to renew and expand a  
14 property-based business improvement district known as the 'Fisherman's Wharf Landside  
15 Community Benefit District' and levy a multi-year assessment on all parcels in the district;  
16 approving the management district plan and engineer's report and proposed boundaries map  
17 for the district; ordering and setting a time and place for a public hearing of the Board of  
18 Supervisors, sitting as a Committee of the Whole, on July 14, 2020, at 3:00 p.m.; approving  
19 the form of the Notice of Public Hearing and Assessment Ballot Proceeding, and Assessment  
20 Ballot; directing environmental findings; and directing the Clerk of the Board of Supervisors to  
21 give notice of the public hearing and balloting, as required by law." (the "Resolution of  
22 Intention," Board of Supervisors File No. 200380); and

23 WHEREAS, The Resolution of Intention to renew and expand the Fisherman's Wharf  
24 Landside Community Benefit District (the "Fisherman's Wharf Landside CBD," "Landside  
25 CBD," or "District"), among other things, approved the Fisherman's Wharf Landside CBD

1 Management District Plan (the "District Management Plan"), a detailed District Assessment  
2 Engineer's Report, a Boundaries Map, and the form of the Notice of Public Hearing and  
3 Assessment Ballot Proceeding, that are all on file with Clerk of the Board of Supervisors in  
4 File No. 200380; and

5 WHEREAS, The Board of Supervisors caused notice of a public hearing concerning  
6 the proposed formation (renewal and expansion) of the Fisherman's Wharf Landside CBD,  
7 and the proposed levy of assessments against property located within the District for a period  
8 of 15 years, from fiscal years ("FYs") 2020-2021 through 2034-2035; and

9 WHEREAS, The Board of Supervisors has caused ballots to be mailed to the record  
10 owner of each parcel proposed to be assessed within the District, as required by law; and

11 WHEREAS, A District Management Plan was filed with the Board on May 19, 2020,  
12 containing information about the proposed district and assessments as required by California  
13 Streets and Highways Code § 36622, and an Amended District Management Plan dated  
14 May 2020 reflecting certain non-material changes to the District was filed with the Board on  
15 July 14, 2020; and

16 WHEREAS, A detailed Engineer's Report dated February 2020, was filed with the  
17 Clerk of the Board on May 19, 2020, as prepared by John G. Egan, California Registered  
18 Professional Engineer No. 14853, entitled "Renewal Engineer's Report For: Fisherman's  
19 Wharf Landside Property and Business Improvement District," supporting the assessments  
20 within the proposed (renewed and expanded) district, and an Amended Engineer's Report  
21 dated May 2020 was filed with the Board on July 14, 2020; and

22 WHEREAS, A Proposed Boundaries Map was submitted to the Clerk of the Board of  
23 Supervisors pursuant to California Streets and Highways Code, Section 3110 on  
24 May 19, 2020; and

25

1           WHEREAS, A public hearing concerning the proposed formation (renewal and  
2 expansion) of the Fisherman’s Wharf Landside CBD and the proposed levy of assessments  
3 within such District was held pursuant to the notice on July 14, 2020, at 3 p.m., in the Board’s  
4 Legislative Chambers located on the Second Floor of City Hall, 1 Dr. Carlton B. Goodlett  
5 Place, San Francisco, California; and

6           WHEREAS, At the public hearing, the testimony of all interested persons for or against  
7 the proposed formation (renewal and expansion) of the District, the levy of assessments on  
8 property within the District, the extent of the District, and the furnishing of specified types of  
9 improvements, services and activities within the District, was heard and considered, and a full,  
10 fair and complete meeting and hearing was held; and

11           WHEREAS, The Board of Supervisors heard and considered all objections or protests  
12 to the proposed assessments and the Director of the Department of Elections tabulated the  
13 assessment ballots submitted and not withdrawn, in support of or in opposition to the  
14 proposed assessments, and the Clerk of the Board determined that a majority of the ballots  
15 cast (weighted according to the proportional financial obligations of the property) by the  
16 owners of record of the property located within the proposed District did not oppose  
17 establishing the proposed District; and

18           WHEREAS, The public interest, convenience and necessity require the renewal and  
19 expansion of the proposed (renewed and expanded) Fisherman’s Wharf Landside Community  
20 Benefit District; and

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

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

2 **Section 1. MANAGEMENT DISTRICT PLAN, DISTRICT ASSESSMENT**

3 **ENGINEER'S REPORT, AND BOUNDARIES MAP.** The Board hereby approves the  
4 May 2020 Amended Management District Plan and Amended District Assessment Engineer's  
5 Report, including the estimates of the costs of the property-related services, activities and  
6 improvements set forth in the plan, and the assessment of said costs on the properties that  
7 will specially benefit from such services, activities and improvements. The Board also hereby  
8 approves the Boundaries, showing the exterior boundaries of the District, and ratifies and  
9 approves the Assessment Ballot and the City's use of such ballot, which Assessment Ballot is  
10 on file with the Clerk of the Board of Supervisors in File No. 200380 and is hereby declared to  
11 be a part of the Resolution as if set forth fully herein. A copy of the May 2020 Amended  
12 Management District Plan, the May 2020 Amended District Assessment Engineer's Report,  
13 and the Boundaries Map are on file with the Clerk of the Board of Supervisors in File  
14 No. 200528, which is hereby declared to be a part of this Resolution as if set forth fully herein.

15 **Section 2. FINDING OF NO MAJORITY PROTEST.** The Board of Supervisors  
16 hereby finds that a majority protest does not exist as defined in Section 4(e) of Article XIID of  
17 the California Constitution and Section 53753 of the California Government Code with respect  
18 to the renewal and expansion of the Fisherman's Wharf Landside Community Benefit District.  
19 All objections or protests both written and oral, are hereby duly overruled.

20 **Section 3. ESTABLISHMENT OF DISTRICT.** Pursuant to the 1994 Act and  
21 Article 15, the renewed and expanded property-based business improvement district  
22 designated as the "Fisherman's Wharf Landside Community Benefit District" is hereby  
23 established.

24 **Section 4. DESCRIPTION OF DISTRICT.** The Fisherman's Wharf Landside  
25 Community Benefit District shall include all parcels of real property within the district. The

1 proposed District contains approximately 718 identified parcels located on approximately 27  
2 whole or partial blocks.

3 Specifically, the exterior District boundaries are:

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

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 May 2020 Management District Plan, in  
10 order to determine which specific parcels are included in the Fisherman’s Wharf Landside  
11 Community 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 FY2020-2021, and  
17 continuing for 15 years, ending with FY2034-2035. 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 FY2020-2021 shall be a maximum of \$1,218,905.88 (as shown in the Amended Management  
22 District Plan and Engineer’s Report dated May 2020). The amount of assessments to be  
23 levied and collected in fiscal years two through 15 may be increased annually by the  
24 Fisherman’s Wharf Landside Community Benefit District corporation Board of Directors by an  
25 amount not to exceed the change in the Consumer Price Index for All Urban Consumers in

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

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

5 (1) The levy of the assessments shall commence with FY2020-2021. 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 **Clean and Safe Program:** Clean and Safe Program includes, but is not limited to,  
21 sidewalk cleaning, sidewalk pressure washing, trash collection, graffiti removal and abatement,  
22 security patrol, and emergency preparedness.

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

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

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

8           **Section 8. AUTHORITY TO CONTRACT.** The Board of Supervisors may contract  
9 with a separate private entity to administer the improvements, services and activities set forth  
10 in Section 7, as provided in California Streets and Highways Code, Sections 36612  
11 and 36650. Any such entity shall hold the funds it receives from the City and County of San  
12 Francisco ("City") in trust for the improvements, services and activities set forth in Section 7.  
13 Any such entity that holds funds in trust for purposes related to the contract shall deliver, at no  
14 expense to the City, a balance sheet and the related statement of income and cash flows for  
15 each fiscal year, all in reasonable detail acceptable to City, reviewed by a Certified Public  
16 Accountant (CPA); this review shall include a statement of negative assurance from the CPA.  
17 In addition, or alternatively, the Controller in his or her discretion or the Office of Economic  
18 and Workforce Development in its discretion, may require the private entity to deliver, at no  
19 expense to the City, an annual independent audit report by a Certified Public Accountant of all  
20 such funds. The CPA review and/or audit may be funded from assessment proceeds as part  
21 of the general administration of the District. At all times the Board of Supervisors shall  
22 reserve full rights of accounting of these funds. The Office of Economic and Workforce  
23 Development shall be the City agency responsible for coordination between the City and the  
24 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 Amended District Management Plan. Each year, the Assessor shall enter on  
12 the 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.

22           **Section 13. ENVIRONMENTAL FINDINGS.** The Planning Department has  
23 determined that the actions contemplated in this Resolution are in compliance with the  
24 California Environmental Quality Act (California Public Resources Code, Sections 21000 *et*  
25 *seq.*). Said determination is on file with the Clerk of the Board of Supervisors in File

1 No. \_\_\_\_\_, which is hereby declared to be a part of this Resolution as if set forth  
2 fully herein.

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