

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: August 26, 2020

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Peskin on August 18, 2020:

File No. 200959

Resolution declaring the intention of the Board of Supervisors to renew and expand a business-based business improvement district known as the "Fisherman's Wharf Portside Community Benefit District" and levy a multi-year assessment on identified businesses in the district; approving the management district plan 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 November 17, 2020, at 3:00 p.m.; approving the form of the Notice of Public Hearing and Assessment Ballots; directing environmental findings; and directing the Clerk of the Board of Supervisors to give notice of the public hearing 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 Portside Community
Benefit District]

2

3 **Resolution declaring the intention of the Board of Supervisors to renew and expand a**
4 **business-based business improvement district known as the “Fisherman’s Wharf**
5 **Portside Community Benefit District” and levy a multi-year assessment on identified**
6 **businesses in the district; approving the management district plan and proposed**
7 **boundaries map for the district; ordering and setting a time and place for a public**
8 **hearing of the Board of Supervisors, sitting as a Committee of the Whole, on**
9 **November 17, 2020, at 3:00 p.m.; approving the form of the Notice of Public Hearing**
10 **and Assessment Ballots; directing environmental findings; and directing the Clerk of**
11 **the Board of Supervisors to give notice of the public hearing as required by law.**

12

13 WHEREAS, State law, including California Government Code, Section 58200, and
14 California Streets and Highways Code, Sections 36600 et seq. (the Property and Business
15 Improvement District Law of 1994, hereafter, the “1994 Act”), both of which are fully
16 incorporated herein by reference, authorizes cities to establish property and business
17 improvement districts funded by special assessments in order to promote the economic
18 revitalization and physical maintenance of such districts; and

19 WHEREAS, Consistent with Section 36603 of the 1994 Act, the City has adopted
20 Article 15 of the San Francisco Business and Tax Regulations Code (“Article 15”), which
21 augments certain procedural and substantive requirements relating to the formation of
22 property and business improvement districts and the assessments on real property or
23 businesses within such districts; and

24 WHEREAS, The Board previously established the Fisherman’s Wharf Portside
25 Community Benefit District (the “District”), which is managed by a non-profit owners’

1 association known as Fisherman’s Wharf Association of San Francisco, and levied
2 assessments on businesses located in the District boundary for a 15-year term which expires
3 on June 30, 2035; and

4 WHEREAS, The Board of Supervisors has received a petition to renew and expand the
5 District and to levy assessments on businesses located in the District in order to continue
6 providing services within the District, for an additional 15-year term, and the petition has been
7 signed by business owners who will pay 30% or more of the total amount of assessments, as
8 reflected in Board of Supervisors File No. 200959; and

9 WHEREAS, A Management District Plan entitled the “Fisherman’s Wharf Portside
10 Community Benefit District Management District Plan” containing information about the
11 proposed district and assessments required by Section 36622 of the 1994 Act, including but
12 not limited to a map showing all identified parcels in the district where the businesses to be
13 assessed are located, a description of the boundaries of the district, the name of the district,
14 the amount of the proposed assessment for each identified business, the total annual amount
15 chargeable to the entire district, the duration of the payments, the services to be funded by the
16 assessments for each year and the maximum cost thereof, the method and basis upon which
17 the assessments are calculated in sufficient detail to allow each business owner to calculate
18 the amount of the assessment to be levied against his or her business, a statement that no
19 bonds will be issued, the time and manner of collecting the assessments, and a list of the
20 businesses to be assessed, has been submitted to the Clerk of the Board of Supervisors; and

21 WHEREAS, A Proposed Boundaries Map, submitted pursuant to California Streets and
22 Highways Code, Section 3110, is on file with the Clerk of the Board of Supervisors in File
23 No. 200959, which is hereby declared to be a part of this Resolution as if set forth fully herein;
24 and

1 WHEREAS, The Board of Supervisors finds that the services to be funded with
2 assessments on businesses within the proposed district will confer specific benefits on the
3 assessed businesses over and above the general benefit to the public at large, that the
4 services will be provided to the assessed businesses only, that the assessments do not
5 exceed the reasonable costs to the City of conferring the benefits, and that the manner in
6 which those reasonable costs are allocated to the businesses bears a fair and reasonable
7 relationship to and is in proportion to the specific benefits received; now, therefore, be it

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

9 Section 1. Pursuant to Section 36621(a) of the 1994 Act and Article 15, the Board of
10 Supervisors declares its intention to renew and expand the property and business
11 improvement district known as the “Fisherman’s Wharf Portside Community Benefit District”
12 (“District”) for a period of 15 years, and to levy and collect assessments against all businesses
13 in the District for fifteen of those years, commencing with FY 2020-2021, subject to the ability
14 of the business owners to file a majority protest with ballots weighted according to their
15 proportionate financial obligations. No bonds will be issued. District operations are expected
16 to commence on or about January 1, 2021 with services beginning July 1, 2021, following
17 collection of the assessments for FY2020-2021 and disbursement of the assessment
18 proceeds to the nonprofit owners’ association that will administer the services in the District
19 pursuant to Section 36651 of the 1994 Act and a written agreement with the City.

20 Section 2. Nonpayment and delinquent payment of assessments shall result in
21 penalties and interest and shall be subject to enforcement procedures as set forth in Article 6
22 of the Business and Tax Regulations Code, as it may be amended from time to time. The City
23 Treasurer and Tax Collector will enforce imposition of interest and penalties and collection of
24 assessments pursuant to the 1994 Act, Article 15 and the San Francisco Business and Tax
25 Regulation Code Article 6, as each may be amended from time to time.

1 Section 3. The Board of Supervisors hereby approves the Management District Plan,
2 including the estimates of the costs of the services set forth in the plan, and the assessment
3 of said costs on the businesses that will receive specific benefits from such services. A copy
4 of the Management District Plan is on file with the Clerk of the Board of Supervisors in File
5 No. 200959. The Clerk of the Board shall make the Management District Plan and other
6 documents related to the District and included in the record before the Board of Supervisors
7 available to the public for review during normal business hours, Monday through Friday 8:00
8 a.m. through 5:00 p.m., excluding legal holidays.

9 Section 4. The Board of Supervisors hereby approves the Proposed Boundaries Map
10 showing the boundaries of the District. The exterior boundaries of the District is as follows
11 and includes all businesses on both sides of the street unless otherwise noted:

12 The Portside CBD will be located in the historic Fisherman’s Wharf neighborhood of the
13 City of San Francisco. The Portside CBD will generally be bounded by the
14 Embarcadero to the North (extending to the waterfront), Jefferson Street to the South,
15 Pier 35 and the Embarcadero to the East (extending to the waterfront), and Hyde
16 Street to the West. The Portside CBD will include restaurants, food and beverage
17 businesses, retail businesses, for-profit parking lots, non-profit entities, and various tour
18 or charter operators, existing and in the future, within and around the boundaries
19 described above. There are 45 businesses to be assessed within the Portside CBD.

20 Reference should be made to the detailed map and the list of businesses identified by
21 Operating Number and Facility Name in the Management District Plan Appendices, in order to
22 determine which businesses are included in the District.

23 Section 5. A public hearing on the renewal and expansion of the District, and the levy
24 and collection of assessments starting with FY2020-2021 and continuing through
25 FY2034-2035, shall be conducted before the Board of Supervisors sitting as a Committee of

1 the Whole on November 17, 2020 at 3:00 p.m., or as soon thereafter as the matter may be
2 heard in the Board's Legislative Chamber, Second Floor, City Hall, 1 Dr. Carlton B. Goodlett
3 Place, San Francisco, California, 94102. At this public hearing, the Board of Supervisors will
4 hear public testimony regarding the proposed renewal and expansion of the District,
5 assessments, and boundaries of the District, including testimony from all interested persons
6 for or against the proposed renewal and expansion of the District, the extent of the District, the
7 levy of the assessments, the furnishing of specific types of services, and other matters related
8 to the District. The Board of Supervisors may waive any irregularity in the form or content of
9 any written protest, and at the public hearing may correct minor defects in the proceedings.
10 All protests submitted by affected business owners and received prior to the conclusion of the
11 public testimony portion of the public hearing shall be tabulated to determine whether a
12 majority protest exists.

13 Section 6. The Board of Supervisors hereby approves the form of the Notice of Public
14 Hearing and Assessment Ballot Proceeding, and Assessment Ballot, which are on file with the
15 Clerk of the Board of Supervisors in File No. 200959; which are hereby declared to be a part
16 of this Resolution as if set forth fully herein.

17 Section 7. The proposed services for the District include a Clean and Safe program, a
18 Marketing and Event program, Contingency/Reserve Allocation, and Administration.

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

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

25

1 **Contingency/Reserve Allocation:** Contingency and Reserves fund a contingency
2 reserve that may be used to cover possible unforeseen future expenses and help to smooth
3 out cash flows, which are affected by the timing of the assessment payments.

4 **Administration:** Administration includes daily oversight and operation of the District,
5 adherence to the Management District Plan, and compliance with audit/reporting
6 requirements. Also included are office expenses, professional services, organization
7 expenses, and other similar services.

8 Section 8. Within the area encompassed by the proposed District, the City currently
9 provides services at the same level provided to other similar areas of the City. It is the intent
10 of the Board of Supervisors to continue to provide the area encompassed by the District with
11 the same level of services provided to other similar areas of the City; renewal and expansion
12 of the District will not affect the City's policy to continue to provide the same level of service to
13 the areas encompassed by the District as it provides to other similar areas of the City during
14 the term of the District.

15 Section 9. The annual assessment proposed to be levied and collected for the first
16 year of the District (FY2020-2021) is \$275,000.00. The amount of the annual assessment to
17 be levied and collected for year two through year fifteen (FY2020-2021 through FY2034-2035)
18 on businesses that are not subject to the gross sales assessment formula may be increased
19 from one year to the next by a percentage that does not exceed either the change in the
20 Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose
21 Consolidated Metropolitan Statistical Area, or 5 percent, whichever is greater. For businesses
22 whose annual assessments are calculated based on a gross sales assessment formula, year
23 two through year fifteen assessments may increase or decrease annually according to their
24 reported gross sales.

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1 Section 10. Environmental Findings. Following the approval of this Resolution, the
2 Planning Department shall determine whether the actions contemplated in this Resolution are
3 in compliance with the California Environmental Quality Act (California Public Resources
4 Code, Sections 21000 et seq.), and respond in writing to the Clerk of the Board of Supervisors
5 prior to the Board’s public hearing on the renewal and expansion of the District on
6 November 17, 2020 at 3:00 p.m.

7 Section 11. The Clerk of the Board is directed to give notice of the public hearing as
8 provided in California Streets and Highways Code, Section 36623, California Government
9 Code, Section 54954.6(c), San Francisco Charter, Section 16.112, and San Francisco
10 Administrative Code, Section 67.7-1.