

BOARD of SUPERVISORS



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November 24, 2015

**File No. 151192**

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

Dear Ms. Jones:

On November 17, 2015, Supervisor Kim introduced the following legislation:

**File No. 151192**

**Resolution approving an agreement with the nonprofit Owners' Association for administration/management of the established property-based Community Benefit District known as the "Greater Rincon Hill Community Benefit District," pursuant to California Streets and Highways Code, Section 36651, for a period commencing upon Board approval, through June 30, 2030.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in cursive script, appearing to read "Erica Major".

By: Erica Major, Assistant Committee Clerk  
Government Audit and Oversight Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

1 [Agreement - Owners' Association for Administration/Management of Greater Rincon Hill  
2 Community Benefit District]

3 **Resolution approving an agreement with the nonprofit Owners' Association for**  
4 **administration/management of the established property-based Community Benefit**  
5 **District known as the "Greater Rincon Hill Community Benefit District," pursuant to**  
6 **California Streets and Highways Code, Section 36651, for a period commencing upon**  
7 **Board approval, through June 30, 2030.**

8  
9 WHEREAS, On June 9, 2015, acting pursuant to Article XIID of the California  
10 Constitution, Section 53753 of the California Government Code, and the Property and  
11 Business Improvement District Law of 1994 (Part 7 of Division 18 of the California Streets and  
12 Highways Code, commencing with Section 36600), as augmented by Article 15 of the San  
13 Francisco Business and Tax Regulations Code, the Board of Supervisors adopted Resolution  
14 No. 199-15 ("Resolution of Intention") declaring the Board's intention to establish the property-  
15 based special assessment district to be known as the Greater Rincon Hill Community Benefit  
16 District; and declaring the Board's intention to levy assessments on parcels to be included  
17 within the district, setting the public hearing, initiating mail ballot majority protest proceedings,  
18 approving the management district plan entitled "The Greater Rincon Hill Community Benefit  
19 District Management Plan" (the "Management District Plan" or "Plan"), making various  
20 findings, and taking other legislative actions required to form the proposed district and levy the  
21 proposed assessments (Board File No. 150592); and

22 WHEREAS, On July 31, 2015, acting pursuant to the aforementioned legal authorities,  
23 the Board of Supervisors adopted Resolution No. 299-15 ("Resolution to Establish," Board  
24 File No. 150761), establishing the property-based Community Benefit District designated as  
25 the "Greater Rincon Hill Community Benefit District" and levying multi-year special

1 assessments on Identified Parcels (as defined in Section 53750(g) of the Government Code)  
2 included within the District (the "Assessments"); and the Controller's designation for the  
3 Assessments for the Greater Rincon Hill Community Benefit District is Special Assessment  
4 No. 32; and

5 WHEREAS, Pursuant to the aforementioned legal authorities and the Resolution to  
6 Establish, the Assessments may only be used to fund property-related services,  
7 "Improvements" (as defined in Section 36610 of the California Streets and Highways Code)  
8 and "Activities" (as defined in Section 36606 of the California Streets and Highways Code)  
9 within the District in accordance with the Management District Plan (collectively, such  
10 authorized services, improvements and activities are referred to here as "District Programs");  
11 and

12 WHEREAS, The District is not a governmental, corporate or separate legal entity, but is  
13 a geographic area containing all of the Identified Parcels subject to the Assessments for  
14 District Programs described in the Plan and included in the annual budgets submitted to and  
15 approved by the Board of Supervisors; the annual budget for District Programs for the first  
16 year of operations is set forth in the Plan, and for subsequent years, shall be set forth in the  
17 Annual Reports submitted to the Board of Supervisors as required by Section 36650 of the  
18 California Streets and Highways Code; and

19 WHEREAS, Pursuant to the Resolution to Establish and Sections 36612 and 36650 of  
20 the California Streets and Highways Code, the Board of Supervisors may contract with a  
21 private nonprofit entity referred to as an "Owners' Association" to administer the District  
22 Programs; and

23 WHEREAS, An Owners' Association may be an existing nonprofit entity or a newly  
24 formed nonprofit entity; and



1           WHEREAS, An Owners' Association is a private entity and may not be considered a  
2 public entity for any purpose, nor may its board members or staff be considered to be public  
3 officials for any purpose; provided, however, that an Owner's Association must comply with  
4 the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2  
5 of Title 5 of the Government Code) at all times when its board of directors or any committee  
6 thereof hears, considers or deliberates on matters concerning the District, and must comply  
7 with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of  
8 Division 7 of Title 1 of the Government Code) for purposes of providing public access to  
9 records relating to the District; and

10           WHEREAS, An Owners' Association is obligated to hold in trust all funds it receives  
11 from the City that are derived from the City's levy and collection of the Assessments, and to  
12 use such funds exclusively for the purposes of implementing the Management District Plan  
13 and administering, managing and providing District Programs set forth in the Plan, Resolution  
14 to Establish, and annual budgets submitted by the Owners' Association and approved by the  
15 Board of Supervisors; and

16           WHEREAS, Pursuant to the Resolution to Establish, the Office of Economic and  
17 Workforce Development is the City agency responsible for coordination between the City and  
18 the Owners' Association for the District; and

19           WHEREAS, The Office of Economic and Workforce Development has negotiated an  
20 agreement with the California nonprofit corporation, Greater Rincon Hill Association, to, in  
21 good faith and with diligence as the Owners' Association for the District, develop, implement,  
22 direct, manage, administer, operate and ensure the timely provision of the District Programs  
23 ("Management Agreement" or "Agreement"); and

1 WHEREAS, The Management Agreement is on file with the Clerk of the Board of  
2 Supervisors in File No. 151192, which is hereby declared to be a part of this Resolution as if  
3 set forth fully herein; and

4 WHEREAS, Pursuant to the Property and Business Improvement District Law of 1994,  
5 the Resolution to Establish and the express terms of the Management Agreement, the  
6 Agreement shall not be binding unless the Board of Supervisors approves the Agreement by  
7 Resolution; and

8 WHEREAS, It is in the best interest of the City and the property owners within the  
9 District for the City to enter into the Management Agreement with the Greater Rincon Hill  
10 Association according to the terms and conditions set forth therein; and

11 WHEREAS, The Planning Department has determined that the actions contemplated in  
12 this Resolution comply with the California Environmental Quality Act (California Public  
13 Resources Code Sections 21000 et seq.); and

14 WHEREAS, Said determination is on file with the Clerk of the Board of Supervisors in  
15 File No. 151192 and is incorporated herein by reference; now, therefore, be it

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

17 Section 1. AUTHORIZATION TO EXECUTE CONTRACT. The Office of Economic  
18 and Workforce Development is duly authorized to execute the Management Agreement on  
19 behalf of the City and County of San Francisco.

20 Section 2. APPROVAL OF AGREEMENT. The Board of Supervisors hereby  
21 approves the Management Agreement on file with the Clerk of the Board of Supervisors in  
22 File No. 151192, which is hereby declared to be a part of this Resolution as if set forth fully  
23 herein.

24 Section 3. AUTHORIZATION FOR ACTIONS CONTEMPLATED IN AGREEMENT.  
25 The Office of Economic and Workforce Development, Controller and all other Departments,

1 City Officers and Employees are authorized to take all actions, make determinations, exercise  
2 discretion, grant or deny approval, and otherwise take all reasonable steps necessary for full  
3 performance of the Management Agreement on behalf of the City and County of San  
4 Francisco according to its terms.

5 Section 4. AUTHORIZATION FOR AMENDMENTS TO AGREEMENT. Subject to  
6 disapproval by the Board of Supervisors within 30 days of submission to the Clerk of the  
7 Board, the Office of Economic and Workforce Development may execute amendments to the  
8 Agreement on behalf of the City and County of San Francisco that are consistent with the  
9 Management District Plan, Resolution to Establish, official City policies and applicable law.

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