

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

TO: Ben Rosenfield, City Controller, Office of the Controller
Todd Rufo, Director, Office of Economic and Workforce Development

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight
Committee, Board of Supervisors

DATE: November 24, 2015

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Kim on November 17, 2015:

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.

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
Ken Rich, Office of Economic and Workforce Development
Lisa Pagan, Office of Economic and Workforce Development
Chris Corgas, Office of Economic and Workforce Development

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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