Resolution approving an agreement with the nonprofit Owners' Association for administration/management of the established property-based Green Benefit District known as the "Dogpatch & Northwest Potrero Hill Green Benefit District," pursuant California Streets and Highway Code, Section 36651, for a period commencing upon Board approval through June 30, 2025.

WHEREAS, On June 9, 2015, acting pursuant to Article XIIIID of the California Constitution, Section 53753 of the California Government Code, and the Property and Business Improvement District Law of 1994 (Part 7 of Division 18 of the California Streets and Highways Code, commencing with Section 36600), as augmented by Article 15A of the San Francisco Business and Tax Regulations Code ("Article 15A"), the Board of Supervisors adopted Resolution No. 198-15 ("Resolution of Intention") declaring the Board's intention to establish the property-based special assessment district to be known as the Dogpatch & Northwest Potrero Hill Green Benefit District; and declaring the Board's intention to levy assessments on parcels to be included within the district, setting the public hearing, initiating mail ballot majority protest proceedings, approving the management district plan entitled "The Dogpatch & Northwest Potrero Hill Green Benefit District Management Plan" (the "Management District Plan" or "Plan"), making various findings, and taking other legislative actions required to form the proposed district and levy the proposed assessments (Board File No. 150535); and

WHEREAS, On July 31, 2015, acting pursuant to the aforementioned legal authorities, the Board of Supervisors adopted Resolution No. 301-15 ("Resolution to Establish," Board File No. 150795), establishing the property-based Green Benefit District designated as the
"Dogpatch & Northwest Potrero Hill Green Benefit District" and levying multi-year special assessments on Identified Parcels (as defined in Section 53750(g) of the Government Code) included within the District (the "Assessments"); and the Controller's designation for the Assessments for the Dogpatch & Northwest Potrero Hill Green Benefit District is Special Assessment No. 33; and

WHEREAS, Pursuant to the aforementioned legal authorities and the Resolution to Establish, the Assessments may only be used to fund property-related services, "Improvements" (as defined in California Streets and Highways Code, Section 36610 and Article 15A) and "Activities" (as defined in California Streets and Highways Code, Section 36606) within the District in accordance with the Management District Plan (collectively, such authorized services, improvements and activities are referred to here as "District Programs"); and

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

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

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

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

WHEREAS, Pursuant to the Resolution to Establish, the Department of Public Works
("Public Works") is the City agency responsible for coordination between the City and the
Owners' Association for the District; and

WHEREAS, Public Works has negotiated an agreement with the California nonprofit
corporation Dogpatch & Northwest Potrero Hill Green Benefit District, to, in good faith and
with diligence as the Owners' Association for the District, develop, implement, direct, manage,
administer, operate and ensure the timely provision of the District Programs ("Management
Agreement" or "Agreement"); and
WHEREAS, The Management Agreement is on file with the Clerk of the Board of
Supervisors in File No. 151189, which is hereby declared to be a part of this Resolution as if
set forth fully herein; and

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

WHEREAS, It is in the best interest of the City and the property owners within the
District for the City to enter into the Management Agreement with the Dogpatch & Northwest
Potrero Hill Green Benefit District, according to the terms and conditions set forth therein; and

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

WHEREAS, Said determination is on file with the Clerk of the Board of Supervisors in
File No. 151189 and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the Board of Supervisors declares as follows:

Section 1. AUTHORIZATION TO EXECUTE CONTRACT. The Department of
Public Works is duly authorized to execute the Management Agreement on behalf of the City
and County of San Francisco.

Section 2. APPROVAL OF AGREEMENT. The Board of Supervisors hereby
approves the Management Agreement on file with the Clerk of the Board of Supervisors in
File No. 151189, which is hereby declared to be a part of this Resolution as if set forth fully
herein.

Section 3. AUTHORIZATION FOR ACTIONS CONTEMPLATED IN AGREEMENT.
The Department of Public Works, the Controller and all other Departments, City Officers and
Employees are authorized to take all actions, make determinations, exercise discretion, grant or deny approval, and otherwise take all reasonable steps necessary for full performance of the Management Agreement on behalf of the City and County of San Francisco according to its terms.

Section 4. AUTHORIZATION FOR AMENDMENTS TO AGREEMENT. Subject to disapproval by the Board of Supervisors within 30 days of submission to the Clerk of the Board, the Department of Public Works may execute amendments to the Agreement on behalf of the City and County of San Francisco that are consistent with the Management District Plan, Resolution to Establish, official City policies and applicable law.
Resolution approving an agreement with the nonprofit Owners' Association for administration/management of the established property-based Green Benefit District known as the "Dogpatch & Northwest Potrero Hill Green Benefit District," pursuant to California Streets and Highway Code, Section 36651, for a period commencing upon Board approval, through June 30, 2025.

December 03, 2015 Government Audit and Oversight Committee - RECOMMENDED AS COMMITTEE REPORT

December 08, 2015 Board of Supervisors - ADOPTED

Ayes: 11 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Tang, Wiener, Yee and Peskin

File No. 151189

I hereby certify that the foregoing Resolution was ADOPTED on 12/8/2015 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor

Date Approved

12/16/15