

File No. 21109

Item No. 9

SUNSHINE ORDINANCE TASK FORCE  
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: November 2, 2022

- ☒ Petition/Complaint
- ☒ Memorandum - Deputy City Attorney
- ☒ Petitioner/Complainant Supporting Documents
- ☒ Respondent's Response
- ☐ Public Correspondence
- ☒ Order of Determination
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- ☐ No Attachments

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Completed by: C. Leger Date 10/28/22

\* An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document is in the file on a disk

**SUNSHINE ORDINANCE  
TASK FORCE**



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**ORDER OF DETERMINATION  
April 30, 2019**

**DATE DECISION ISSUED**  
March 6, 2019

**CASE TITLE – Mark Sullivan v. Mission Dolores Green Benefit District Formation Committee**  
(File No. 18086)

**FACTS OF THE CASE**

The following petition/complaint was filed with the Sunshine Ordinance Task Force (SOTF):

**File No. 18086** - Complaint filed by Mark Sullivan against the Mission Dolores Green Benefit District Formation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.14, by failing to allow video and audio recording filming and still photography of a policy body.

**HEARING ON THE COMPLAINT**

On December 18, 2018, the Compliance and Amendments Committee acting in its capacity to hear petitions/complaints heard the matter.

Conan McHugh (Respondent) provided a summary of the Mission Dolores Green Benefit District Formation Committee (GBD) (Respondent) position within the community. Mr. McHugh stated that this particular GBD committee is made up of neighbors and business owners within the district trying to be good neighbors and make a difference. Mr. McHugh stated that this GBD was not created by ordinance or resolution and is not a city agency or an initiative of a policy body or passive body. Mr. McHugh stated that they are not receiving money from the City and that the neighbors are all volunteers. Mr. McHugh stated that many neighbors volunteer their time and that some funding came from former Supervisor Jeff Sheehy. Mr. McHugh stated that several neighbors got together to discuss the litter and safety issues in their neighborhood. Mr. McHugh stated that they do communicate frequently with the Department of Rec and Parks. Mr. McHugh stated that this particular community group plans to continue to meet to look at ways to improve the neighborhood and that they are not contingent on the GBD.

Mark Sullivan (Petitioner) provided a summary of his position regarding the GBD. Mr. Sullivan stated that Ordinance 14-14, Article 15(a) provided an opportunity for this GBD committee to form and that this committee is required to follow this Article. Mr. Sullivan stated that this committee makes decisions that neighbors cannot opt out of, decide what the boundaries are, the way to vote and when the vote is going to happen. Mr. Sullivan stated that this group votes on decisions that affect their neighbors. Mr. Sullivan stated that if they do form a GBD, it would have to be voted on by the City.

Jim Chappell explained that this is a group of volunteer neighbors who have not received money from the city and they have no obligations to this GBD. Mr. Chappell said that they are not sanctioned by any City department. Mr. Chappell explained that they have lobbied city departments on behalf of their GBD and neither has obligations to the other. Mr. Chappell stated that former Supervisor Jeff Sheehy directed the money to city departments, it did not come to the GBD.

Jonathan Goldberg, San Francisco Public Works, Green Benefits District Program Manager, provided a summary of the Mission Dolores GBD. Mr. Goldberg stated that this particular group is conducting outreach in order to determine what is feasible for them to pursue the formation of an assessment district. Mr. Goldberg stated that this GBD is a collection of business owners and neighbors. Mr. Goldberg stated that Ordinance 14-14 dictates the steps required to create a GBD which includes Board of Supervisor legislation to become a formal entity. Mr. Goldberg stated that this group of neighbors is going through the process to determine what is feasible and appropriate for this district at this time. Mr. Goldberg stated that this committee was not created by any city department. Mr. Goldberg stated that the City Attorney makes certain that these committees get a refresher on the Brown Act and Sunshine Ordinance once they have been officially formed.

Member LaHood, seconded by Member Hyland, moved to refer the matter to the SOTF with the recommendation to find that the SOTF does NOT have jurisdiction over the Mission Dolores Green Benefit District at this time.

On March 6, 2019, the SOTF held a hearing to review the recommendation from Committee and/or to review the merits of the petition/complaint.

Member Cannata provided a summary of the meeting of the Compliance and Amendments Committee's hearing on this matter.

Mark Sullivan (Petitioner) provided a summary of the complaint and requested the Committee to find a violation. Mr. Sullivan stated that Ordinance 14-14, Article 15(a) passed by the Board of Supervisors provides that the Mission Dolores Green Benefits District Formation Committee (GBD) may make policy decisions before the vote on their petition and decide on how long their vote can last. Mr. Sullivan stated that the Green Benefit District would not exist if not for

Article 15(a). John Hooper spoke in support of the Petitioner and stated that he lives in the Haight Ashbury where the neighbors tried to form a Green Benefits District Committee but were unsuccessful. Roger Hoffman spoke in support of Petitioner and commented on jurisdiction and advisory committees created by a member of a policy body or the Mayor. Mr. Hoffman stated that Mr. McHugh received \$11,000 from former Supervisor Sheehy for neighborhood improvement.

Conan McHugh provided a summary of the Mission Dolores Green Benefits District's position. Mr. McHugh stated that he has posted all minutes of public meetings on their website. Mr. McHugh has invited individuals from the Mayor's Office to attend meetings. Mr. McHugh believes that the Sunshine Ordinance does not have jurisdiction.

James Chappell, member of Mission Dolores GBD spoke in support of the Mr. McHugh and stated that this group of neighbors is not a policy body and was not created by Ordinance of the Board of Supervisors.

Member J. Wolf asked if City employees have attended meetings and Mr. McHugh responded that Jonathan Goldberg of Department of Public Works has.

Chair Wolfe wanted to know if City staff have been to meetings and how the money is spent within the process of the committee and why is money being spent on this group now.

Jonathan Goldberg, Public Works, provided a summary of the department's role in advising potential and current GBDs and stated that the city does not provide any funding to potential or current GDBs. Mr. Goldberg stated Public Works' goal is to make certain that potential GBDs have a mission/focus and provide advised as needed. Mr. Goldberg stated there is no timeline for planning groups to create a GBD.

A question and answer period occurred. The parties were provided an opportunity for rebuttals.

#### FINDINGS OF FACT AND CONCLUSION OF LAW

Based on the testimony and evidence presented, the SOTF found that the SOTF does not have jurisdiction over the Mission Dolores Green Benefit District Formation Committee.

## DECISION AND ORDER OF DETERMINATIONS

On March 6, 2019, Member Cannata, seconded by Chair Wolfe, moved to find jurisdiction.

The motion FAILED by the following vote:

Ayes: 5 - B. Wolfe, Hyland, LaHood, J. Wolf, Martin

Noes: 4 - Hinze, Cannata, Tesfai, Yankee

Absent: 2 - Cate and Chopra

*(As the motion to find jurisdiction over the Mission Dolores Green Benefit District Formation Committee failed the SOTF does not have jurisdiction in this matter due to the vote did not meet the threshold of six required votes to affirm the action as per SOTF Bylaws relating to substantive motions and actions.)*



Bruce Wolfe, Chair  
Sunshine Ordinance Task Force

cc. Mark Sullivan (Petitioner/Complainant)

File No. 21109

**Leger, Cheryl (BOS)**

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**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Friday, October 22, 2021 6:11 PM  
**To:** SOTF, (BOS)  
**Subject:** Re: For inclusion in File 21109 /18986 State PROPERTY AND BUSINESS IMPROVEMENT DISTRICT [36600 - 36671]

Subject line short. I am taking it that my original attachment will be included in the file? I do not want to double the inclusion of the attachment.

On 10/22/2021 4:26 PM, SOTF, (BOS) wrote:

Please shorten the subject line. I can't save the record.

Cheryl Leger  
Assistant Clerk, Board of Supervisors  
[Cheryl.Leger@sfgov.org](mailto:Cheryl.Leger@sfgov.org)  
Tel: 415-554-7724  
Fax: 415-554-5163  
[www.sfbos.org](http://www.sfbos.org)



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**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Friday, October 22, 2021 10:30 AM  
**To:** SOTF, (BOS) <sotf@sfgov.org>  
**Subject:** For inclusion in File 21109 reconsideration File 18986 the attached STREETS AND HIGHWAYS CODE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 [36600 - 36671]

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Ms. Leger,

Please include for File 21109 reconsideration File 18986 the attached STREETS AND HIGHWAYS CODE PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 [36600 - 36671]

PROPERTY AND BUSINESS IMPROVEMENT DISTRICT LAW OF 1994 [36600 - 36671] is the state code that allows city and counties to establish benefit districts

36620

A property and business improvement district may be established as provided in this chapter

26620.5

A county may not form a district within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form a district within the unincorporated territory of a county without the consent of the board of supervisors of that county. A city may not form a district within the territorial jurisdiction of another city without the consent of the city council of the other city.

This state code lays out the structure that city and counties must follow. If you read San Francisco (Ordinance 14-14) Article 15A Green Benefit District

Sec. 15A.1 Purpose

(a) State law provides procedures to form property and business improvement districts and levy assessments (California Streets and Highways Code Sections 36600 et seq.). This Article 15A provides authority for the City to augment and modify those state law procedures

Epstein v. Hollywood Entertainment Dist. II Bus. Improvement Dist. (2001) was an Appeal Court Decision

Respondents' petition for review by the Supreme Court was denied June 13, 2001.

M Sullivan

**Leger, Cheryl (BOS)**

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**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Wednesday, March 16, 2022 1:47 PM  
**To:** SOTF, (BOS)  
**Subject:** For Complaint 21109 /18086 Anna Von Herrmann v Superior Court (Management & Training Corporation 2-24-2022

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Anna Von Herrmann v Superior Court (Management & Training Corporation) 2-24-2022

**State Appeals Court holds that transparency extends to third party contractors** “private prison companies that contract with local governments to operate for-profit immigration detention facilities cannot evade transparency simply by subcontracting through a middleman.” **“The Legislature intended the CPRA (California Public Records Act) to apply on a facility-wide basis” and not just to the original city contractor, Justice Judith Haller said in the 3-0 ruling. A contrary interpretation would allow a contractor to avoid public scrutiny by hiring a subcontractor, she said, and lawmakers “could not have intended that a statute enacted to enhance transparency could be so easily frustrated.”**

<https://www.sfchronicle.com/bayarea/article/California-public-records-law-applies-to-some-16945807.php>

Full Opinion: <https://www.courts.ca.gov/opinions/documents/D079157.PDF>

m sullivan

CERTIFIED FOR PUBLICATION  
COURT OF APPEAL, FOURTH APPELLATE DISTRICT  
DIVISION ONE  
STATE OF CALIFORNIA

ANNA VON HERRMANN,

Petitioner,

v.

THE SUPERIOR COURT OF  
IMPERIAL COUNTY,

Respondent;

MANAGEMENT & TRAINING  
CORPORATION,

Real Party in Interest.

D079157

(Imperial County  
Super. Ct. No. ECU001031)

ORIGINAL PROCEEDINGS in mandate. L. Brooks Anderholt, Judge.  
Petition granted.

Law Office of Abenicio Cisneros and Abenicio Cisneros for Petitioner.

Burke, Williams & Sorensen, Susan E. Coleman and Mark J. Austin for  
Real Party in Interest.

No appearance for Respondent.

The California Public Records Act (CPRA) generally applies only to  
government agencies. (Gov. Code, § 6250 et seq.) However, with respect to  
facilities that detain noncitizens as they await federal civil immigration

proceedings, the Legislature enacted Civil Code section 1670.9, which provides (in part) that “[a]ny facility that detains a noncitizen pursuant to a contract with a city” is subject to the CPRA. (Civ. Code, § 1670.9, subd. (c).)<sup>1</sup> We consider here whether, under section 1670.9(c), the CPRA applies to a private entity that operates an immigration detention facility, even when the operator is not a direct party “to a contract with a city.” (§ 1670.9(c).)

The U.S. Immigration and Customs Enforcement agency (ICE) entered into a contract with the City of Holtville (City) to detain noncitizens at the Imperial Regional Detention Facility (Facility). The City did not own the Facility, so the City subcontracted its detention responsibilities to the Facility’s owner. The owner did not operate the facility, so the owner subcontracted its responsibilities (with ICE’s approval) to a private operator, real party in interest Management & Training Corporation (Operator).

Petitioner Anna Von Herrmann (Petitioner) served the Operator with a CPRA request regarding the Facility. Operator refused to comply, reasoning it was not subject to the CPRA because it did not have a contract directly with the City, and, thus, the Facility was not one that “detains a noncitizen *pursuant to a contract with a city.*” (§ 1670.9(c), italics added.) Alternatively, Operator maintained several CPRA exemptions applied. Petitioner sought a writ of mandate from the trial court compelling Operator to comply with the CPRA request, but the court agreed with Operator’s interpretation of section 1670.9(c) and denied the petition without reaching Operator’s CPRA exemption claims.

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<sup>1</sup> Further undesignated statutory references are to the Civil Code. We will refer to section 1670.9, subdivision (c) as “section 1670.9(c),” and will sometimes refer to a “facility that detains a noncitizen” (§ 1670.9(c)) as an “immigration detention facility.”

Petitioner contends the trial court construed section 1670.9(c) too narrowly as applying the CPRA only to an entity that contracts directly with a city to detain noncitizens. We agree. As we will explain, the plain meaning of section 1670.9(c), and the structure of section 1670.9 as a whole, indicate the Legislature intended for the CPRA to apply to immigration detention facilities on a *facility-wide* basis rather than an *entity-specific* basis. Accordingly, we will issue a writ of mandate directing the trial court to vacate its order denying the petition and to enter a new order granting it, subject to resolution of Operator’s CPRA exemption claims.

## **I. FACTUAL AND PROCEDURAL BACKGROUND**

### **A. The Facility and Related Entities and Contracts**

The Facility is an immigration detention facility in Calexico.

The Facility was constructed and is privately owned by Imperial Valley Gateway Center, LLC (Owner).

Effective September 12, 2014, ICE and the City entered into a contract (the ICE–City Contract) under which the City agreed to “provide detention services for detainees” at the Facility as they awaited federal administrative immigration proceedings.<sup>2</sup> It appears from the appellate record that the ICE–City Contract terminated on September 21, 2019.

The ICE–City Contract allowed the City, with ICE’s approval, to “subcontract[ ] the detention and care of detainees to another entity.” In such

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<sup>2</sup> The ICE–City Contract is formally known as “EROIGSA-14-0002 Intergovernmental Services Agreement Between the United States Department of Homeland Security U.S. Immigration and Customs Enforcement Office of Enforcement and Removal Operations and City of Holtville.” The parties refer informally to this contract in their briefing as the “IGSA.” For simplicity and to distinguish it from other relevant contracts, we refer to it as the ICE–City Contract.

an event, the contract provided that ICE would deem the new entity a subcontractor, and the subcontractor would be “subject to the terms and conditions of” the ICE–City Contract.

The City has never owned, operated, or managed the Facility. Consequently, the City and Owner entered into a contract (the City–Owner Contract) under which Owner agreed to detain detainees at the Facility. The City–Owner Contract is not itself in the appellate record, but Operator’s trial counsel and the City’s City Manager acknowledged it exists.<sup>3</sup>

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<sup>3</sup> Operator’s trial counsel wrote the following in an email to Petitioner’s trial counsel: “[Owner] owns the detention facility. *The City . . . contracts with [Owner] to house the detainees*, the City has an [intragovernmental service agreement] with ICE. [Operator] is not a party to the [ICE–City Contract] and we do not have a copy of this document. [Owner] only owns the property and doesn’t manage detention facilities so it contracted with [Operator] in 2014 to operate the facility.” (Italics added.)

The City Manager attested to the following in a trial court declaration: “I am informed and believe that the City . . . , [in] or about May, 2014, entered into a Inter Governmental Service Agreement (IGSA) to provide for the care and custody of detainees in the custody of [ICE]. *That responsibility was subcontracted and delegated to [Owner] as the owner of the facility*, and from them to [Operator]. The City . . . has no contractual relationship or agreements with [Operator]. Furthermore, its involvement in the [Facility] under the [ICE–City Contract] expired in September 21, 2019.” (Italics added.)

Although Operator correctly observes the City Manager made this declaration on information and belief, he explained in his declaration the foundation for his conclusions: “I am the City Manager, as well as interim City Clerk, for the City . . . . I have been City Manager from September 29, 2014 to present. Prior to that, I served as the Finance Manager for the City . . . from July 1, 2011 to September 29, 2014. [¶] As a result of my varied responsibilities throughout my employment with the City . . . , I am extremely familiar with the city’s record keeping practices as well as contractual relationships with other public agencies and third party vendors.”

Owner does not operate the Facility. Instead, from June 2013 through September 22, 2019, Operator operated the Facility under a contract with Owner (the Owner–Operator Contract).<sup>4</sup> Operator acknowledged in its return to the petition that, to “be permitted to operate the Facility,” Operator “sought and obtained the approval of ICE.” Operator’s submissions to ICE included cost information provided by the City. The Owner–Operator Contract required Operator to “operate, maintain, and manage the Facility in accordance with all Operating Standards,” which the contract defined to “include the terms and conditions of” the ICE–City Contract, a complete copy of which was attached to the Owner–Operator Contract.

The Owner–Operator Contract also required Operator to “use its best efforts to pursue Governmental Housing Agreements,” which the contract defined as agreements between other governmental entities and the City, “who then subcontracted to [Owner] to have . . . Detainees housed at the Facility.” Operator then “assumed” all of Owner’s responsibilities under such agreements “in connection with the housing of detainees/offenders.” The Owner–Operator Contract gave Operator the right to approve the terms of Governmental Housing Agreements, and to direct Owner to “cause the City . . . to execute” such agreements.

After the Owner–Operator Contract terminated in September 2019, Operator contracted directly with ICE to operate the Facility.

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<sup>4</sup> The Owner–Operator Contract is formally known as the “Amended and Restated Operations, Management, and Maintenance Agreement for the Imperial Regional Detention Facility between Management & Training Corporation and Imperial Valley Gateway Center, LLC.” For simplicity and clarity, we refer to it as the Owner–Operator Contract. At our request, Operator submitted a copy of this contract as an exhibit to a declaration accompanying Operator’s return to the petition.

Operator has never had a contract *directly with the City* to detain noncitizens at the Facility.

### **B. The CPRA Request**

In January 2019, while Operator was still operating the Facility under the Owner–Operator Contract, Petitioner served on Operator a CPRA request seeking various records relating to the Facility dating back to 2014. The request sought the following:

- “1. Copies of [Operator]’s contracts with the [C]ity . . . and with [ICE] for the [Facility].
- “2. Any reports from the US Department of Homeland Security’s Office of Inspector General (or its contractors) regarding the [Facility].
- “3. Any communications . . . between anyone at the [Facility] and anyone at DHS’s Office of Inspector General (or its contractors).
- “4. Any reports from the California Department of Justice regarding the [Facility].
- “5. Any communications . . . between anyone at the [Facility] and anyone at the California Department of Justice.
- “6. Any records of or related to complaints against any employees or other staff at the [Facility].”

Operator believed it was not subject to the CPRA and informed Petitioner she should submit her request to the federal government under the federal Freedom of Information Act. Operator did not produce any records in response to Petitioner’s request.

### **C. Trial Court Proceedings**

Petitioner filed a petition for writ of mandate in the trial court seeking to compel Operator to produce the requested records.<sup>5</sup> She asserted that Operator was subject to the CPRA under section 1670.9(c) because the Facility detained noncitizens pursuant to the ICE–City Contract. Petitioner mistakenly alleged the City owned the Facility and contracted directly with Operator.

In opposition, Operator argued it was not subject to the CPRA because Operator had no direct contract with the City. Alternatively, Operator maintained that even if the CPRA applied, Operator either had no responsive documents, or any responsive documents were covered by a CPRA exemption.

After a hearing, the trial court denied the petition. The court agreed with Operator that section 1670.9(c) did not apply to the Facility because there was no direct contract between Operator and the City. The court did not address Operator’s alternative arguments.

### **D. Proceedings in This Court**

Petitioner filed a petition in this court seeking a writ of mandate directing the trial court to vacate its order denying her petition, and to enter a new order finding the CPRA applies to Operator with respect to the Facility. At our request, Operator filed an informal response.

We then issued an order to show cause “why the relief sought in the petition should not be granted.” We also directed the parties “to explain the relationship between [Operator], the City . . . , and [Owner]” with respect to the Facility, and to provide copies of pertinent agreements.

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<sup>5</sup> Petitioner also sought to compel the City to produce records requested under a separate CPRA request to the City. This aspect of her petition is not at issue here.

Operator filed a return to the petition. Regarding our request for copies of the agreements, Operator (1) confirmed that the ICE–City Contract was included in Petitioner’s appendix; (2) represented that it did not possess, nor was it “aware of ever having” possessed, the City–Owner Contract; and (3) produced a copy of the Owner–Operator Contract, which included the ICE–City Contract as an attachment.

Petitioner filed a reply.

## II. DISCUSSION

### A. Legal Principles

#### 1. The CPRA

“The [CPRA] and the California Constitution provide the public with a broad right of access to government information. [Citation.] The [CPRA], enacted in 1968, grants access to public records held by state and local agencies. ([Gov. Code], § 6250 et seq.) Modeled after the federal Freedom of Information Act (5 U.S.C. § 522 et seq.), the [CPRA] was enacted for the purpose of increasing freedom of information by giving members of the public access to records in the possession of state and local agencies. [Citation.] Such ‘access to information concerning the conduct of the people’s business,’ the Legislature declared, ‘is a fundamental and necessary right of every person in this state.’” (*Los Angeles County Bd. of Supervisors v. Superior Court* (2016) 2 Cal.5th 282, 290 (*Los Angeles County Bd. of Supervisors*); see *Voice of San Diego v. Superior Court of San Diego County* (2021) 66 Cal.App.5th 669, 683 (*Voice of San Diego*).)

In 2004, voters passed Proposition 59, which “enshrined the [CPRA]’s right of access to information in the state Constitution.” (*Los Angeles County Bd. of Supervisors, supra*, 2 Cal.5th at p. 290; see *City of San Jose v. Superior Court* (2017) 2 Cal.5th 608, 615 (*City of San Jose*); *Voice of San Diego, supra*,

66 Cal.App.5th at p. 683.) “A provision added by Proposition 59 states: ‘The people have the right of access to information concerning the conduct of the people’s business, and, therefore, . . . the writings of public officials and agencies shall be open to public scrutiny.’ (Cal. Const., art. I, § 3, subd. (b)(1).)” (*City of San Jose*, at p. 615; see *Los Angeles County Bd. of Supervisors*, at p. 290; *Voice of San Diego*, at p. 683.) “As amended by the initiative, the Constitution also directs that statutes ‘shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.’ (Cal. Const., art. I, § 3, subd. (b)(2).)” (*Los Angeles County Bd. of Supervisors*, at pp. 290-291; see *Voice of San Diego*, at p. 683.)

## **2. Section 1670.9**

In an effort to regulate detention facilities that house noncitizens as they await federal immigration proceedings, the Legislature added section 1670.9 to the Civil Code (effective January 1, 2018). (Stats. 2017, ch. 494, § 2.)

At issue here, section 1670.9(c) extends the CPRA to immigration detention facilities as follows:

“Any facility that detains a noncitizen pursuant to a contract with a city, county, city and county, or a local law enforcement agency is subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).”

The remaining subdivisions of section 1670.9 impose new contracting restrictions and new notice and hearing requirements regarding certain local government actions involving immigration detention facilities. (See § 1670.9, subds. (a), (b), (d) [quoted in full in fns. 7-9, *post*].)

### 3. Standard of Review

“When we interpret a statute, “[o]ur fundamental task . . . is to determine the Legislature’s intent so as to effectuate the law’s purpose. We first examine the statutory language, giving it a plain and commonsense meaning. We do not examine that language in isolation, but in the context of the statutory framework as a whole in order to determine its scope and purpose and to harmonize the various parts of the enactment. If the language is clear, courts must generally follow its plain meaning unless a literal interpretation would result in absurd consequences the Legislature did not intend. If the statutory language permits more than one reasonable interpretation, courts may consider other aids, such as the statute’s purpose, legislative history, and public policy.” [Citation.] “Furthermore, we consider portions of a statute in the context of the entire statute and the statutory scheme of which it is a part, giving significance to every word, phrase, sentence, and part of an act in pursuance of the legislative purpose.”’ ” (*City of San Jose, supra*, 2 Cal.5th at pp. 616-617.)

“In CPRA cases, this standard approach to statutory interpretation is augmented by” Proposition 59’s “constitutional imperative” that a statute “‘be *broadly* construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.’ ” (*City of San Jose, supra*, 2 Cal.5th at p. 617, quoting Cal. Const., art. I, § 3, subd. (b)(2).)

#### B. Analysis

Whether the CPRA applies to Operator in relation to the Facility hinges on what it means for a “facility [to] detain[ ] a noncitizen pursuant to a contract with a city.” (§ 1670.9(c).) Petitioner—focusing on the word “facility”—contends the Legislature intended the CPRA to apply on a facility-wide basis such that “any entity engaged in the business of detention” of

noncitizens “at [a] [f]acility would be subject to the CPRA.” Operator—focusing on the phrase “pursuant to a contract with a city”—contends the Legislature intended the CPRA to apply on an entity-specific basis such that only “the specific entity that contracted with [a] local agency” for the detention of noncitizens at a facility (or, alternatively, “the owner of the facility itself, [and] not one of its occupants or even an operator”) would be subject to the CPRA.<sup>6</sup> We conclude the Legislature intended the CPRA to apply on a facility-wide basis such that Operator is subject to Petitioner’s request.

To support our conclusion, we need look no further than the plain language of section 1670.9, as a whole. (See *City of San Jose, supra*, 2 Cal.5th at p. 617 [“ ‘we consider portions of a statute in the context of the entire statute and the statutory scheme of which it is a part’ ”].) Three of section 1670.9’s four subdivisions—that is, all but subdivision (c)—operate on an entity-specific basis. Subdivision (a) restricts local governments from entering into new contracts “with the federal government or any federal agency or a private corporation to house or detain noncitizens.” (§ 1670.9, subd. (a).)<sup>7</sup> Subdivision (b) restricts local governments from expanding the

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<sup>6</sup> Operator contends the factual errors in Petitioner’s trial court petition—that the City owned the Facility and contracted directly with Operator—“reveal Petitioner’s own apparent interpretation of Section 1670.9(c)” is the same as Operator’s. This contention is unavailing because the parties’ interpretation of a statute does not bind us. (See *Oakland Raiders v. City of Berkeley* (1976) 65 Cal.App.3d 623, 629 [“interpretation of the Constitution, statutes, and ordinances is a subject within the authority of the courts, not the parties”].)

<sup>7</sup> Section 1670.9, subdivision (a) states: “A city, county, city and county, or local law enforcement agency that does not, as of January 1, 2018, have a contract with the federal government or any federal agency or a private corporation to house or detain noncitizens for purposes of civil immigration

scope of existing contracts “with the federal government or any federal agency or a private corporation to detain noncitizens.” (§ 1670.9, subd. (b).)<sup>8</sup> And subdivision (d) imposes certain public notice and hearing requirements before local governments may make certain land-use decisions regarding “the building or reuse of existing buildings *by any private corporation, contractor, or vendor* to house or detain noncitizens.” (§ 1670.9, subd. (d), italics added.)<sup>9</sup> The plain language of these subdivisions shows the Legislature was concerned with certain local government actions regarding immigration detention facilities involving specific entities.

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custody, shall not, on and after January 1, 2018, enter into a contract with the federal government or any federal agency or a private corporation, to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.”

<sup>8</sup> Section 1670.9, subdivision (b) states: “A city, county, city and county, or local law enforcement agency that, as of January 1, 2018, has an existing contract with the federal government or any federal agency or a private corporation to detain noncitizens for purposes of civil immigration custody, shall not, on and after January 1, 2018, renew or modify that contract in a manner that would expand the maximum number of contract beds that may be utilized to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.”

<sup>9</sup> Section 1670.9, subdivision (d) states: “A city, county, city and county, or public agency shall not, on and after January 1, 2018, approve or sign a deed, instrument, or other document related to a conveyance of land or issue a permit for the building or reuse of existing buildings by any private corporation, contractor, or vendor to house or detain noncitizens for purposes of civil immigration proceedings unless the city, county, city and county, or public agency has done both of the following: [¶] (1) Provided notice to the public of the proposed conveyance or permitting action at least 180 days before execution of the conveyance or permit. [¶] (2) Solicited and heard public comments on the proposed conveyance or permit action in at least two separate meetings open to the public.”

In stark contrast, section 1670.9(c) makes “[a]ny *facility* that detains a noncitizen pursuant to a contract with a city . . . subject to the [CPRA].” (§ 1670.9(c), *italics added*.) If the Legislature had intended the CPRA to apply on an entity-specific basis, subdivision (c) would read more like its neighboring subdivisions. For example: “Any private corporation, contractor, or vendor that has a contract with a local government agency to house or detain noncitizens for purposes of civil immigration custody is subject to the CPRA.” This approach focuses on the specific entities involved in detaining noncitizens, not the facilities at which they are detained. Because the Legislature eschewed this approach in subdivision (c) when it employed it in neighboring subdivisions, we must presume the Legislature intended that subdivision (c) be construed differently—on a facility-wide basis. (See *Kray Cabling Co. v. County of Contra Costa* (1995) 39 Cal.App.4th 1588, 1593 [“ ‘Where the same word or phrase might have been used in the same connection in different portions of a statute but a different word or phrase having different meaning is used instead, the construction employing that different meaning is to be favored.’ ”]; *American Nurses Assn. v. Torlakson* (2013) 57 Cal.4th 570, 585 [“The inescapable inference is that the Legislature, by using different words to define the two exceptions, intended them to have different meanings.”].)

Our construction is also consistent with the requirement that we “ ‘avoid a construction that would produce absurd consequences, which we presume the Legislature did not intend.’ ” (*In re Greg F.* (2012) 55 Cal.4th 393, 406; see *City of San Jose, supra*, 2 Cal.5th at pp. 616-617.) Apart from being unsupported by the plain language of section 1670.9(c), Operator’s proposed interpretation would lead to the absurd result of allowing a direct contracting party to shield an immigration detention facility from CPRA

scrutiny merely by inserting a contractual intermediary between the contracting party and the local government agency. The Legislature could not have intended that a statute enacted to enhance transparency could be so easily frustrated. (See *City of San Jose, supra*, 2 Cal.5th at p. 617 [the state constitution requires that a statute “ ‘be *broadly* construed if it furthers the people’s right of access, and *narrowly* construed if it limits the right of access’ ”].)

Operator contends applying section 1670.9(c) on a facility-wide basis “provides no clear boundaries” such that it could theoretically apply to “every person or entity who stepped foot on the grounds”—“[e]very employee,” “[e]very inmate,” and “[e]very visitor.” We are not persuaded. First, we need not determine how far down the slippery slope section 1670.9(c) reaches because if it applies to facilities *at all*, it certainly applies to Operator. The ICE–City Contract and the City–Owner Contract are “contract[s] with a city” “pursuant to” which the Facility “detains . . . noncitizen[s].” (§ 1670.9(c).) And although Operator was not a direct party to either of these contracts, it was the entity responsible for effectuating them. It did so with ICE’s approval via the Owner–Operator Contract, which was subject to the terms and conditions of the ICE–City Contract, a copy of which was attached to the Owner–Operator Contract.

Similarly, the Owner–Operator Contract required Operator to use its best efforts to procure additional contracts between other governmental entities and the City to house detainees at the Facility. The City would subcontract these contracts to Owner, which, in turn, would subcontract them to Operator. Operator had the right to approve these contracts’ terms, and to direct Owner to cause the City to execute them. Owner was

essentially a conduit through which detention contracts with the City would flow to Operator.

Thus, we disagree with Operator that “it would be a giant leap to suddenly apply the full brunt of the CPRA to a private entity that is not even under contract with a public agency, as is the case with [Operator].”

Second, and in any event, as with all CPRA requests, the courts are capable of determining the extent to which records not in a public agency’s direct possession are subject to the CPRA. (See, e.g., *City of San Jose, supra*, 2 Cal.5th at pp. 620-621 [addressing work-related records on a public employee’s private device]; *Anderson-Barker v. Superior Court* (2019) 31 Cal.App.5th 528, 540-541 [addressing records in a government contractor’s possession].)

In sum, we conclude from the plain and commonsense meaning of section 1670.9(c), framed by section 1670.9 as a whole, that the Legislature intended for the CPRA to apply to immigration detention facilities on a facility-wide basis. Under this construction, we further conclude the CPRA applies to Operator in relation to the Facility, even though Operator did not have a direct contractual relationship with the City.

Operator maintains that even if it is subject to the CPRA, the trial court properly denied the petition either because Operator “does not have the requested records, Petitioner already has them, or exemptions under the CPRA apply.” The trial court did not reach these fact-intensive claims, which we decline to address in the first instance. Operator may raise them on remand.

### III. DISPOSITION

Let a writ of mandate issue directing the trial court to vacate its order denying Petitioner's petition and to enter a new order granting the petition, subject to the trial court resolving any CPRA exemption claims Operator may assert. Real party in interest shall pay Petitioner's costs on appeal.

HALLER, Acting P. J.

WE CONCUR:

DATO, J.

GUERRERO, J.





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**Complaint Form for the Sunshine Ordinance Task Force**

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco, CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854

<http://www.sfgov.org/sunshine>

E-mail: [sotf@sfgov.org](mailto:sotf@sfgov.org)

*Deliver Form in person, mailed, faxed or e-mail.*

**Petitioner/Complainant Name: Mark Sullivan**

**Contact Information: [info@sfneighborhoods.net](mailto:info@sfneighborhoods.net)**

*(Reminder All Information Will Be Public. SOTF will not Redact or segregate information sent to them).*

**Date of Request: Today's date May 21-2021 This complaint combines complaints of different dates.**

**Appeal File No. 18086 4-26-2019 Video Taping Meeting of the MDGBD formation committee The appeal has never been heard.**

**File No. 20131 12-17-2020 (1 of 5 complaints) 1 being against SOTF for not hearing the appeal.**

**File No. 21043 2-9-2021 msullivan\_vs\_sotf by-laws sec7 six votes**

**City Official(s) and/or Employee(s), People and the Name Entity against whom the Complaint is being made: SOTF**

**Are you requesting a public hearing before the Sunshine Ordinance Task Force? Yes**

*"Public Access Laws" below will be San Francisco Sunshine Ordinance, San Francisco Administrative Code, 12L5, California Public Records Act and/or the Ralph M. Brown Act.*

**If you know section(s) and subsection(s) of the public access laws that is allegedly violated Here (It is recommended to copy and paste the whole section(s) or subsection(s), but you can also put for section number (like SFSO Sec. 67.21(b)):**

**SFSO Sec. 67.14. Video and Audio Recording, Filming and Still Photography.**

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

**As to SOTF 5 vote in the affirmative and 4 against jurisdiction of SOTF File No 18086 over Green Benefit District Formation Committees and SOTF By-Laws Sec. 7 “majority of the members of the Task Force (six) shall be required for the approval” violates:**

**The Brown Act § 54952.6.**

As used in this chapter, “action taken” means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

**The Brown Act § 54952.2.**

(a) As used in this chapter, “meeting” means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

Note: “Take action” has the same definition “action taken”. “Take action” is just the verb form of the noun form “action taken”.

**California Constitution, Article I – Declaration of Rights, Section 3.**, “(2) A statute, court rule, or other authority, including those in effect on the effective date of this subdivision, shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access. A statute, court rule, or other authority adopted after the effective date of this subdivision that limits the right of access shall be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.”

Note: SOTF determinations would be an “other authority”. This provision “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access” goes to the whole of a determination or rule not to individual votes that make up the “authority” determination.

**Jurisdiction (Section and Subsection definition in public in public access laws that support jurisdiction):** SFSO 67.30 (c)

As to the Mission Dolores Green Benefit District Formation Committee or any such committee in the future.

**The Brown Act § 54952**

“As used in this chapter, “legislative body” means: ....

(c) (1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

(B) Receives funds from a local agency and the membership of whose governing body includes a member of the legislative body of the local agency appointed to that governing body as a full voting member by the legislative body of the local agency.

(2) Notwithstanding subparagraph (B) of paragraph (1), no board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that receives funds from a local agency and, as of February 9, 1996, has a member of the legislative body of the local agency as a full voting member of the governing body of that private corporation, limited liability company, or other entity shall be relieved from the public meeting requirements of this chapter by virtue of a change in status of the full voting member to a nonvoting member.

As to SOTF violation:

**The Brown Act § 54952.** As used in this chapter, “legislative body” means:

(b) A commission, committee, board, or other body of a local agency, whether permanent or temporary, decision making or advisory, created by charter, ordinance, resolution, or formal action of a legislative body. However, advisory committees, composed solely of the members of the legislative body that are less than a quorum of the legislative body are not legislative bodies, except that standing committees of a legislative body, irrespective of their composition, which have a continuing subject matter jurisdiction, or a meeting schedule fixed by charter, ordinance, resolution, or formal action of a legislative body are legislative bodies for purposes of this chapter.

San Francisco Sunshine Ordinance Section 67.5. MEETINGS TO BE OPEN AND PUBLIC; APPLICATION OF BROWN ACT All meetings of any policy body shall be open and public, and governed by the provisions of the Ralph M. Brown Act (Government Code Sections 54950 et. seq.) and of this Article. In case of inconsistent requirements under The Brown Act and this Article, the requirement which would result in greater or more expedited public access shall apply. (Added by Ord. 265-93, App. 8/18/93; amended by Proposition G, 11/2/99)

Summation Court Cases related to your issues on violations or jurisdiction or other things (if known):

**AARON EPSTEIN, Plaintiff and Appellant, v. HOLLYWOOD ENTERTAINMENT DISTRICT II BUSINESS IMPROVEMENT DISTRICT et al., Defendants and Respondents. 87 Cal. App. 4th 862, 872 (2001)**

In this case, the Court has explained that it is sometimes improper to “elevate form over substance” and “turn a blind eye to such a subterfuge” and thus allow a local agency “to circumvent the requirements of The Brown Act.” As a result, the Court interpreted the requirement that the private entity be “created by” the elected legislative body very broadly. The Court found that it was sufficient that the City have “played some role” in bringing the private entity into existence by calling for the creation of the entity, even if it did not actually create it itself. *Thanks to the First Amendment Coalition for this summation.*

**International Longshoremen's & Warehousemen's Union v. Los Angeles Export Terminal, Inc. 69 Cal. App.4th 287, B112263 (1999)**

Trial Court Ruling: “The city's actions in forming LAXT “amount to the creation of LAXT by the City's elected legislative body, the Los Angeles City Council.” LAXT is a private entity created by the elected legislative body of a local agency in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation or entity, within the meaning of section 54952, subdivision (c)(1). Therefore, The Brown Act applies to the LAXT board of directors. On February 2, 1996, ILWU made a proper demand that LAXT comply with The Brown Act. “All actions taken by the LAXT [b]oard of [d]irectors within the 90 days preceding [ILWU's] demand, November 4, 1995 through February 2, 1996, are null and void ....” (See § 54960.1, subd. (a).)”.....

“The Act's statement of intent provides: “In enacting this chapter, the Legislature finds and declares that the public commissions, boards and [69 Cal. App. 4th 294] councils and the other public agencies in this State exist to aid in the conduct of the people's business. It is the intent of the law that their actions be taken openly and that their deliberations be conducted openly. [¶] The people of this State do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” (§ 54950; Stats. 1953, ch. 1588, § 1, p. 3270.)”.....

“In determining whether LAXT's board of directors is a legislative body within the meaning of The Brown Act, we are mindful that as a remedial statute, The Brown Act should be construed liberally in favor of openness so as to accomplish its purpose and suppress the mischief at which it is directed. (San Diego Union v. City Council (1983) 146 Cal. App. 3d 947, 955 [196 Cal. Rptr. 45] [construing open-meeting requirements].) This is consistent with the rule that “civil statutes for the protection of the public are, generally, broadly construed in favor of that protective purpose. [Citations.]” (People ex rel. Lungren v. Superior Court (1996) 14 Cal. 4th 294, 313 [58 Cal. Rptr. 2d 855, 926 P.2d 1042].)”.....

“Thus, the City Council, an elected legislative body with ultimate accountability to the voters, retains plenary decision making authority over Harbor Department affairs and has jurisdiction to overturn any decision of the appointed Board of Harbor Commissioners. Here, by adopting an ordinance which approved the shareholders' agreement to form LAXT, as well as by acquiescing in the Board of Harbor Commissioners' activity in establishing LAXT, the City Council was involved in bringing LAXT into existence. Without the express or implied approval of the City Council, LAXT could not have been created. Accordingly, LAXT was created by an elected legislative body within the meaning of the statute, and the trial court properly so found.”.....

“The trial court properly held LAXT's board of directors is subject to The Brown Act because it is a legislative body within the meaning of section 54952, subdivision (c)(1)(A). This interpretation is informed by the broad purpose of The Brown Act to ensure the people's business is conducted openly. Under LAXT's constrained reading of The Brown Act, the statute's mandate may be avoided by delegating municipal authority to construct and operate a port facility to a private corporation. While there is no indication LAXT was structured in an attempt to avoid The Brown Act, LAXT's narrow reading of the statute would permit that to occur. Surely that is not what the Legislature intended.”

**Description of alleged violations and attach any records to support your allegation(s):**

The fact that the petitioner went to a public meeting of the Mission Dolores GBD Formation Committee (GBDFC) and started to videotape the meeting before being asked to turn the camera off, protested a little that it was a public meeting and then turned it off, has never been in dispute. The video was submitted in SOTF complaint **File No. 18086**, claiming violation of SFSO Sec. 67.14. The digital camera used was “without such noise, illumination or obstruction of view”. The meeting room, the facilitators from Place Labs/SF Park Alliance were paid for under city Contract ID# 1000012901 and a government employee with the title Green Benefit District Program Manager all participated.

Thus since the stopping of videotaping is not in dispute, the petitioner complaint revolves around 2 things: Whether SOTF has jurisdiction of a GBDFC as a private entity under The Brown Act Sec. 54952 (c)(1)(A) and while a majority of SOTF members present did vote for jurisdiction (5 to 4) it fell short of SOTF By-laws Sec. 7 six votes in the majority needed. The minority negative vote stood on jurisdiction and was used in two other complaints (SOTF File 19031 and 19032) as precedence against the petitioner. The petitioner argues that the simple majority vote was correct and should be upheld and that it is SOTF By-laws Sec. 7. that violates The Brown Act § 54952.6, The Brown Act § 54952.2 (a) and California Constitution, Article I – Declaration of Rights, Section 3.(2). If the City or SOTF puts forth arguments of a charter city, the petitioner wishes to be able to submit counter facts and arguments. They are not included in this petition.

**GBDFC as a private entity under The Brown Act Sec. 54952 (c)(1)(A)**

The last three attempts to establish GBDs with GBDFC have been funded by the city through contracts with private facilitators. Records show active involvement and funding of this GBDFC

for over 6 months by Place Labs/SF Park Alliance under two contracts. Records show active participation and promotion by a GBD Program Manager, a Supervisor and other government employees. All records have been previously submitted to SOTF and can be submitted again upon request.

The petitioner argues city funded GBDFC fit the definition of private entities created for the reason of establishing a government non-profit entity under a Board of Supervisor passed ordinance 14-14 establishing Article 15 A “Green Benefit Districts”. The two court cases cited above have private entities more removed from government financing and direct involvement and still found the entities subject to The Brown Act under § 54952 (c)(1)(A). Article 15 A is based on state Business Improvement District (BID) law. In a case involving a BID creation EPSTEIN v. HOLLYWOOD ENTERTAINMENT DISTRICT II BUSINESS IMPROVEMENT DISTRICT (2001), the Court found that it was sufficient that the City have “played some role” in bringing the private entity into existence by calling for the creation of the entity, even if it did not actually create it itself. The other case cited above found similar.

**The simple majority vote was correct and should be upheld. It is SOTF By-laws Sec. 7. that violates The Brown Act § 54952.6, The Brown Act § 54952.2 (a) and California Constitution, Article I – Declaration of Rights, Section 3.(2).**

The petitioner realizes SOTF may feel or conclude some limitation to addressing this issue. Courts and legislative bodies review themselves and make changes all the time. The petitioner asks SOTF to do the best as they see fit.

It is important to keep back in mind that the SFSO Sec. 67.5 incorporates all The Brown Act and “in case of inconsistent requirements” “the requirement which would result in greater or more expedited public access shall apply.”

Sunshine Ordinance Task Force By-Laws, Section 7. Action at a Meeting; Quorum and Required Vote., “The affirmative vote of a majority of the members of the Task Force (six) shall be required for the approval of all substantive matters.”

The Brown Act defines “action taken” in

**§ 54952.6.**

“As used in this chapter, “action taken” means a collective decision made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.”

**The Brown Act requires a majority decision or an actual vote in the positive or negative.**

As read, there should be the requirement of a majority decision/vote in either the positive or negative for the Sunshine Ordinance Taskforce (SOTF) to make an Order of Determination or any motion or any order. A minority negative decision/vote cannot stand just as a minority positive decision/vote cannot stand. SOTF By-laws Sec. 7 fails in requiring 6 votes in the “affirmative” and not also in the negative.

**The Brown Act § 54952.6 with The Brown Act § 54952.2 (below) allows for a Simple Majority Decision/Vote of a Majority Members of a Legislative Body Sitting.**

The Brown Act § 54952.6 “...decision, or an actual vote by a majority of the members of a legislative body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.” There is no “all”. It is a “majority of the members” “when sitting” and this is in the definition of “action taken” on “a motion, proposal, resolution, order or ordinance.”

**The Brown Act § 54952.2.**

(a) “As used in this chapter, “meeting” means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.”

In the definition of “meeting” in The Brown Act § 54952.2 (a) uses “means any congregation of a majority of the members of a legislative body” .. “take action on any item that is within the subject matter jurisdiction of the legislative body.” Again, majority is not “all” members of a legislative body. It is “any congregation of a majority of the members”.

The combination of definitions in The Brown Act § 54952.6 “action taken” and The Brown Act § 54952.2 (a) “meeting” allow for a majority of the member of a legislative body or entity when sitting to make a simple majority decision/vote in the positive or negative “upon a motion, proposal, resolution, order or ordinance.” The requirement of 6 votes affirmative is a local requirement by a local government. A larger than a simple majority of a meeting of a majority of members would violate greater access laws set for in the California Constitution, The Brown Act and the San Francisco Sunshine Ordinance. SOTF is required under SFSO Sec. 67.5 Application of The Brown Act to choose “the requirement which would result in greater or more expedited public access shall apply”.

**Application to SOTF**

The Brown Act § 54952 definition of “legislative body” would include SOTF. The use of “entity” in The Brown Act § 54952.6 definition “action taken” would cover anything under government. The Brown Act trumps over just about everything including SFSO and city charters. It is very powerful.

**SOTF By-law Sec 7 6 vote affirmative requirement violates California Constitution, Article I – Declaration of Rights, Section 3 (2)**

“A statute, court rule, or other authority” (SOTF Order of Determination), .... “shall be broadly construed if it furthers the people’s right of access, and narrowly construed if it limits the right of access.” When a majority votes in the affirmative but less than 6 and the vote is not upheld, the ruling does not further the people’s right of access broadly. If the 6 vote requirement in the affirmative is left, I think petitioners can make a good argument that their petition be heard and voted by the full 11 member SOTF. This would result in a 6 vote majority in the positive or negative. This would effectively slow petitions to SOTF on close votes to rehear a petition before a full SOTF hearing.

There is more information in my letter to Angela Calvillo, Clerk of the Board, dated 5-21-2021 which I also sent a copy to SOTF.

Attached is the request for appeal of **File No. 18086** and the “received” in the affirmative by SOTF within SOTF rules of appeal. I believe this is the fourth time I have sent this record to SOTF over a couple of years. Other records mentioned can be sent on request but are in the possession of SOTF.

## Exhibit 1

**Subject:** RE: Appeal File No 18086 Mark Sullivan MDGBD FC video taping  
**From:** "SOTF, (BOS)" <sotf@sfgov.org>  
**Date:** 4/26/2019, 3:25 PM  
**To:** sfneighborhoods.net <info@sfneighborhoods.net>

Received.

Cheryl Leger  
Assistant Clerk, Board of Supervisors  
Tel: 415-554-7724

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-----Original Message-----

From: sfneighborhoods.net <[info@sfneighborhoods.net](mailto:info@sfneighborhoods.net)>  
Sent: Friday, April 26, 2019 11:20 AM  
To: SOTF, (BOS) <[sotf@sfgov.org](mailto:sotf@sfgov.org)>  
Subject: Appeal File No 18086 Mark Sullivan MDGBD FC video taping

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Ms. Leger,

Attached is my appeal for File No 18086 Mark Sullivan MDGBD FC video taping with new evidence/supporting documents.

Could you please reply back to me that you have received this e-mail.  
Just want to make sure my appeal is received within the 30 day window.

Thank You,  
Mark Sullivan

**Subject:** RE: Request to allow SOTF to change its By-Laws Sec 7 from 6 votes in the affirmative to simple majority legal arguments  
**From:** "Calvillo, Angela (BOS)" <angela.calvillo@sfgov.org>  
**Date:** 5/21/2021, 4:24 PM  
**To:** sfneighborhoods.net <info@sfneighborhoods.net>  
**CC:** "SOTF, (BOS)" <sotf@sfgov.org>, "Peskin, Aaron (BOS)" <aaron.peskin@sfgov.org>, "Melgar, Myrna (BOS)" <myrna.melgar@sfgov.org>, "Somera, Alisa (BOS)" <alisa.somera@sfgov.org>

Hello Mr. Sullivan,  
I hope you are doing well.

I have received your request to change the bylaws of the Sunshine Ordinance Task Force (SOTF). As you know, the Clerk of the Board is required to provide personnel in the form of clerking to administer the SOTF, (we provide two clerks to assist with administrative tasks and think through emerging issues) however, the Clerk of the Board does not have the authority to change the bylaws of the SOTF. Changing bylaws is under the purview of the SOTF. The Clerk of the Board does have a non-voting seat on the SOTF; however, I do not attend those meetings for various reasons.

Therefore, I have forwarded your request to the SOTF administrator for forwarding to the SOTF as a whole for their possible review, consideration and/or response. Please let me know if I can be of further assistance. Thank you and have a great weekend. All the best to you from here.

Angela Calvillo  
Clerk of the Board

-----Original Message-----  
From: sfneighborhoods.net <info@sfneighborhoods.net>  
Sent: Friday, May 21, 2021 10:51 AM  
To: Calvillo, Angela (BOS) <angela.calvillo@sfgov.org>  
Cc: SOTF, (BOS) <sotf@sfgov.org>; Peskin, Aaron (BOS) <aaron.peskin@sfgov.org>; Melgar, Myrna (BOS) <myrna.melgar@sfgov.org>  
Subject: Request to allow SOTF to change its By-Laws Sec 7 from 6 votes in the affirmative to simple majority legal arguments

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Ms. Calvillo,

Attached is letter to angela calvillo on soft by laws section 7.pdf requesting to allow SOTF to change its By-Laws Sec 7 from 6 votes in the affirmative to simple majority legal arguments. If some of the arguments are accepted, it may have ramifications for other committees but I strictly basing these arguments on SOTF.

Thank you for your consideration,

mark sullivan

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2018 NOV 14 AM 9:46

BY [Signature]



SUNSHINE ORDINANCE TASK FORCE

1 Dr. Carlton B. Goodlett Place, Room 244, San Francisco CA 94102

Tel. (415) 554-7724; Fax (415) 554-7854

<http://www.sfgov.org/sunshine>

SUNSHINE ORDINANCE COMPLAINT FORM

Complainant Name (Optional)

Mark Sullivan

Date of Request:

October 10, 2018

Please identify the City Official(s) and/or Employee(s) against whom the complaint is being made:

Please identify the Officials' and/or Employees' Board, Commission, Task Force, Department or other type of agency:

Mission Dolores Green Benefit District Formation Committee

Name of the Custodian of Records tasked with providing the requested information:

- ☐ Alleged violation of public records access  
☐ Alleged failure to provide information in a timely manner in accordance with the provisions of the Sunshine Ordinance  
☒ Alleged violation of a public meeting  
Please indicate date of meeting if known

October 10, 2018

Sunshine Ordinance Section(s)

SEC. 67.14. Video and Audio Recording, Filming and Still Photography

(If known, please cite specific provision(s) being violated)

Please describe the alleged violation. Use additional paper if needed. Please attach any relevant documentation which supports your complaint.

See Attached Description and Video Supporting Material at link

4 pages 6 Attachments

Are you requesting a public hearing before the Sunshine Ordinance Task Force?<sup>1</sup>

☒ yes ☐ no

If yes, please provide 1 or more preferred method(s) of contact:

- ☐ Phone: \_\_\_\_\_ ☐ Mailing Address: \_\_\_\_\_  
☐ Fax: \_\_\_\_\_  
☒ Email: info@sfnighborhoods.net ☐ Other: \_\_\_\_\_

Signature: [Signature]

Date: 11/14/2018

<sup>1</sup> NOTICE: PERSONAL INFORMATION THAT IS PROVIDED WHEN ADDRESSING A PUBLIC POLICY BODY IS SUBJECT TO DISCLOSURE UNDER THE CALIFORNIA PUBLIC RECORDS ACT AND THE SUNSHINE ORDINANCE. MEMBERS OF THE PUBLIC ARE NOT REQUIRED TO PROVIDE PERSONAL IDENTIFYING INFORMATION, AND COMPLAINANTS MAY REMAIN ANONYMOUS. HOWEVER, FOR PROPER NOTICING AND PROCESSING OF A HEARING REQUEST, A RELIABLE MEANS OF CONTACT IS RECOMMENDED. PLEASE NOTE THAT THE SOTF ADMINISTRATOR WILL NOT REDACT ANY INFORMATION PROVIDED IN THESE SUBMISSIONS.

## Leger, Cheryl (BOS)

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**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Wednesday, November 14, 2018 11:39 AM  
**To:** SOTF, (BOS)  
**Subject:** Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Cheryl,

I filed the official complaint this morning 11-14-2018 Room 244, City Hall. I am sending you this e-mail so that you have my e-mail address and you have active links that are in the main text of the document. I can send digital documents of the attached documents of the complaint if you want.

Thank you,

Mark Sullivan

Body text of the Complaint:

On October 10, 2018, at an Informational Meeting of the Mission Dolores Green Benefit District Formation Committee, I started to record the meeting with a digital video camera. One of the Mission Dolores GBD Formation Committee members asked me to stop recording. His name is at the beginning of the recording. The video can be downloaded from a Google Drive here:

[https://drive.google.com/file/d/117vqNDbhXA4sLbcSx4wMYQ5pdIsQk\\_vY/view?usp=sharing](https://drive.google.com/file/d/117vqNDbhXA4sLbcSx4wMYQ5pdIsQk_vY/view?usp=sharing) The video is 1 minute 35 seconds, 86 MB, .mp4.

I did not conceal that I was recording. I was sitting right next to two consultants for the Mission Dolores Green Benefit District Formation Committee. The Mission Dolores GBD Formation Committee is **not** a registered non-profit.

This is in violation of Sunshine Ordinance SEC. 67.14. Video and Audio Recording, Filming and Still Photography

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

The meeting was held at Dolores Park Church, 455 Dolores Street, San Francisco, October 10, 2018, from 6:00 – 7:30 p.m. It was publicly announced on their website: <http://www.doloresgbd.org/meetings/>

The Mission Dolores Green Benefit District (GBD) Formation Committee and all Green Benefit District Formation Committees and all Green Benefit Districts should be under Chapter 67: The San Francisco Sunshine Ordinance of 1999. The Sunshine Ordinance says

### SEC 67.3. Definitions

(d) "Policy Body" shall mean:

(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

California Government Code 54952(c):

As used in this chapter, "legislative body" means:

(c)(1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

The CA Attorney General guide to the Brown Act, page 6:

C. Private or Nonprofit Corporations and Other Entities:

"In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal." In reference to 54952(c).

Green Benefit Districts Formation Committees and Green Benefit Districts are the result of San Francisco ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS ( GREEN BENEFIT DISTRICTS ) (Attachment 1) which is a Board of Supervisor's modification of California Streets and Highways Code Sections 36600 *et seq.*

San Francisco's Department of Public Works has a full time Green Benefit District Program Manager that recruits property owners for Green Benefit District Formation Committees. The GBD Program Manager helps support and facilitates GBD Formation Committee activities. The GBD Program Manager acts as the point person between the GBD Formation Committee and San Francisco City Attorney's Office. See Attached: 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works (Attachment 2) and GBD Program Manager Job Responsibilities (Attachment 3), and an example of communications between the GBD Program Manager, GBD Formation Committees, and GBD Consultants about guidance from the City's Attorney's Office (Attachment 4). As of sometime in March 2018, e-mail communications between the GBD Program Manager and GBD Formation Committee members seem to have ceased to keep information away from the public through the Sunshine Ordinance.

The San Francisco City Attorney's Office reviews documents produced or commissioned by GBD Formation Committees. The City's Attorney Office gives legal advice and suggestions on Formation Committee documents. The main documents are the GBD Engineering Report, the GBD Budget and the GBD draft Management Plan. The City Attorney's Office has to give the approval on these documents for the GBD Formation Committee to proceed. Phase 2: Legal Review and Legislative Process:

<https://sfpublicworks.org/services/green-benefit-district-formation-process>

The City of San Francisco has spent at least \$120,000.00 to support Green Benefit District Formation Committees most of which has come from the Department of Public Works (RE: Inner Sunset GBD Funding Meeting – Advise? (Attachment 5)) but some of which has come from Board of Supervisor members.

Green Benefit District Formation Committee members are self-appointed and given guidance by the DPW's Green Benefit District Program Manager and any consultant they may hire. Among the GBD Formation Committee's activities are the drawing of district boundaries, deciding the methodology of property owner's assessments, determining what constitutes property owner's "special benefits", holding a "special election" through the city on a GBD's establishment, writing the bylaws for the GBD, writing articles of incorporation, forming a nonprofit corporation, and determining the composition of a GBD's board and how they will be elected. These are all important decisions that affect public policy, citizen engagement, and our neighborhoods. Green Benefit Districts are promoted as community building but do not allow for citizens to have equal access to their legislative process or information. They promote that they will be the advocate between citizens and their government.

While mere receipts of public funding to a non-profit corporation or other entity does not subject it to the requirements of the Sunshine Ordinance, Green Benefit District Formation Committees directly support the efforts of the Department of Public Works and the Board of Supervisors in their goals of creating Green Benefit Districts. In Article 15 A, the Board of Supervisors must approve a GBD, SEC. 15A.2 (k)(3), can disestablish a GBD, SEC. 15A.2 (g), can change management of a GBD including by the city, SEC. 15A.2 (j)(3), and can change a GBD management plan, SEC. 15A.2 (j)(4).

The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District (Attachment 6).

The City's Attorney's Office, through the GBD Program Manager, gives legal advice on documents produced by GBD Formation Committees and their consultants. GBD Formation Committees are just a group of property owners of similar minds that get support and access to information that me and other citizens do not have.

In preparing this complaint, on October 22, 2018 by e-mail, I asked the City Attorney's Office under the Sunshine Ordinance:

"I am interested in any guidance that the City Attorney's office has given in regards to the Sunshine Ordinance being applied to Article 15A and Green Benefit Districts."

Their reply on November 2, 2018:

"Thanks for your request. We have no responsive documents, aside from internal communications that are exempt from disclosure under the attorney-client privilege and/or work product privilege. (Cal. Evid. Code §954; Cal. Gov't Code §§ 6254(k), 6276.04; Cal. Code Civ.Proc. §2018.030(a)). We do, however, have the attached public document which relates to Sunshine and community benefit districts, which are established under Business and Taxation Code Article 15 (rather than 15A)." The e-mail exchange is attached.

GBD Formation Committee members and GBD Program Manager have verbally made claims of transparency, California Records Act, the Brown Act, and Sunshine Act. It is unknown if the claims are based on City Attorney's guidance though clearly some citizens are afforded more guidance by the City Attorney's Office than other citizens and these citizens are furthering efforts of some San Francisco government entities. GBD Formation Committees have stopped using e-mail to make decisions.

Sec 67.1. Findings and Purpose of the Sunshine Ordinance says:

"New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible."

You can send me an e-mail [info@sfneighborhoods.net](mailto:info@sfneighborhoods.net) for the body of this complaint which will have active links to the noted sources.

List of Attachments:

1. 1.ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS ( \_ GREEN BENEFIT DISTRICTS \_)
2. 2. 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works
3. 3. GBD Program Manager Job Responsibilities
4. 4. E-mail exchange City attorney's Comments on Inner Sunset GBD's Engineer's Report & Management Plan
5. 5. Email exchange RE: Inner Sunset GBD Funding Meeting – Advise?
6. 6. The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District.



DENNIS J. HERRERA  
City Attorney

MARC PRICE WOLF  
Deputy City Attorney

Direct Dial: (415) 554-3901  
Email: marc.price.wolf@sfcityatt.org

## MEMORANDUM

TO: Sunshine Ordinance Task Force  
FROM: Marc Price Wolf  
Deputy City Attorney  
DATE: December 13, 2018  
RE: Complaint No. 18086 – Mark Sullivan v. Mission Dolores Green Benefit District Formation Committee

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### COMPLAINT

Complainant Mark Sullivan ("Complainant") alleges the Mission Dolores Green Benefit District Formation Committee ("Committee") violated Section 67.14 of the Sunshine Ordinance by asking him to stop video recording the October 10, 2018 Committee meeting.

### COMPLAINANT FILES COMPLAINT

On November 14, 2018, Complainant filed this complaint with the Task Force alleging that the Committee violated Section 67.14 of the Sunshine Ordinance.

### JURISDICTION

Prior to addressing the merits of the Complaint, the SOTF should determine whether it has jurisdiction in this case.

The Task Force should first determine whether the Committee is a "passive meeting body," "policy body," or neither as defined under Section 67.3(c) and (d) of the Sunshine Ordinance. A passive body is defined under 67.3(c) as follows:

- (1) Advisory committees created by the initiative of a member of a policy body, the Mayor, or a department head;
- (2) Any group that meets to discuss with or advise the Mayor or any Department Head on fiscal, economic, or policy issues;
- (3) Social, recreational or ceremonial occasions sponsored or organized by or for a policy body to which a majority of the body has been invited.
- (4) "Passive meeting body" shall not include a committee that consists solely of employees of the City and County of San Francisco created by the initiative of a member of a policy body, the Mayor, or a department head;
- (5) Notwithstanding the provisions of paragraph (4) above, "Passive meeting body" shall include a committee that consists solely of employees of the City and County of San Francisco when such committee is reviewing, developing, modifying, or creating City policies or

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procedures relating to the public health, safety, or welfare or relating to services for the homeless;

A police body is defined under Section 67.3(d) as follows:

(d) "Policy Body" shall mean:

- (1) The Board of Supervisors;
- (2) Any other board or commission enumerated in the Charter;
- (3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;
- (4) Any advisory board, commission, committee or body, created by the initiative of a policy body;
- (5) Any standing committee of a policy body irrespective of its composition.
- (6) "Policy Body" shall not include a committee which consists solely of employees of the City and County of San Francisco, unless such committee was established by Charter or by ordinance or resolution of the Board of Supervisors.
- (7) Any advisory board, commission, committee, or council created by a federal, State, or local grant whose members are appointed by City officials, employees or agents.

If the Committee is not considered a policy body or passive body, a separate ordinance regarding public access issues, the Nonprofit Public Access Ordinance (Administrative Code §§12L.1 *et seq.*, "NPAO"), may apply, but only if the Committee receives funding of at least \$250,000 and has at least one contract with the City. That information is unknown but may be able to be addressed by Respondent. A cursory internet search reveals that there potentially was funding in the past by the City.

However, even assuming the NPAO applies, the Task Force may not have jurisdiction to hear the Complaint at this time under the enforcement provisions of the NPAO. Enforcement consists of a three-step nonbinding dispute resolution process: a mandatory review by the contracting City agency, an optional advisory review by the Sunshine Ordinance Task Force, and review by the Board of Supervisors. Admin Code §12L.5(b). If it is determined that the NPAO applies, Complainant must first address his complaint to the City agency with which NIDA has a contract. Only then can he bring his complaint to the Task Force for optional advisory review.

To aid the Task Force in determining whether it has jurisdiction, please view the Committee's webpage at [www.dloresgbd.org](http://www.dloresgbd.org). I have also attached several printouts from the webpage to aid in your analysis.

**APPLICABLE STATUTORY SECTION(S)****Section 12L of the San Francisco Administrative Code:**

- Section 12L.1 governs intent and interpretation of the NPAO.

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- Section 12L.3 governs contracts and nonprofit organizations covered by the NPAO.
- Section 12L.4 governs public access to meetings.
- Section 12L.5(a) governs disclosure of financial information.
- Section 12L.5(b) governs enforcement of the NPAO.

**Section 67 of the San Francisco Administrative Code:**

- Section 67.3(d) defines a policy body and passive meeting body.
- Section 67.21(b) governs the timeframe for responding to public records requests.

**Section 67 of the San Francisco Administrative Code:**

- Section 67.21 governs responses to a public records request in general.

**BACKGROUND**

On October 10, 2018, Complainant used his digital video camera to record an Informational Meeting of the Missions Dolores Green Benefit District Formation Committee. Within a few minutes of recording, one of the Committee members asked Complainant to stop recording the meeting.

Complainant filed this complaint with the SOTF on November 14, 2018. Complainant has provided supporting documentation and a legal analysis which purport to show that the Committee is subject to the Sunshine Ordinance. To support his argument Complainant asserts: (1) Green Benefit Districts Formation Committees and Green Benefit Districts are the result of San Francisco Municipal Code, Article 15A – Public Realm Landscaping, Improvement and Maintenance Assessment Districts, which he claims is a Board of Supervisor's modification of California Streets and Highways Code Sections 36600 *et seq*; (2) SF Public Works Department has employees who work on these projects and DPW advises the Committees; (3) the San Francisco City Attorney's Office reviews documents produced or commissioned by the Committees, and the City Attorney's Office advises the Committees; (4) San Francisco has spent at least \$120,000 to support the Committees; (5) and the Committees conduct an important City function.

Complainant made these arguments in more detail in his submissions to the SOTF.

**QUESTIONS THAT MIGHT ASSIST IN DETERMINING FACTS**

- Did Complainant actually stop recording the meeting in response to the Committee members' request?
- Does the Complainant think the Committee is withholding any documents?

**LEGAL ISSUES/LEGAL DETERMINATIONS**

- Is the Committee a passive meeting body, policy body, or neither?
- Did the Committee violate Administrative Code Section 67.14 by requesting that Complainant stop video recording a Committee meeting?

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**CONCLUSION**

THE TASK FORCE FINDS THE FOLLOWING FACTS TO BE TRUE:

THE TASK FORCE FINDS THE ALLEGED VIOLATIONS TO BE **TRUE OR NOT TRUE.**

\* \* \*

**CHAPTER 12L OF THE SAN FRANCISCO ADMINISTRATIVE CODE (PUBLIC ACCESS TO RECORDS AND MEETINGS OF NONPROFIT ORGANIZATIONS)****SEC. 12L.1. INTENT AND INTERPRETATION; COSTS OF COMPLIANCE.**

(a) The intent of this Chapter is to establish a policy wherein the City ensures that nonprofit organizations with which the City chooses to do business operate with the greatest possible openness and maintain the closest possible ties to communities they intend to serve. Nothing in this Chapter shall be construed to limit the level of openness and democracy in nonprofit organizations and any contracting nonprofit organization may establish policies that guarantee additional openness to stakeholders.

(b) This Chapter is intended to be cost-neutral in its effects upon nonprofit organizations, and the requirements imposed by this Chapter shall be subject to that intent. This Chapter is not intended to impose obligations equal to those of governmental agencies upon nonprofit organizations doing business with the City.

**SEC. 12L.3. DEFINITIONS.**

As used in this Chapter the following words and phrases shall have the meanings indicated herein:

- (a) "Board of Directors" shall mean the Board of Directors, the Board of Trustees, or other principal decision making body of any nonprofit organization.
- (b) "City" shall mean the City and County of San Francisco.
- (c) "Contract" shall mean an agreement (however titled, including without limitation a memorandum of understanding) to grant or otherwise provide funds to a nonprofit organization including funds from another governmental entity administered through the City or any City commission, City board, City agency or City department, for such organization's operation, new or existing programs, events, performances, capital improvements, or for goods or services provided by or through such organization, to all or any portion of the public. "Contract" shall not include (1) an agreement to provide goods to the City pursuant to bids or requests for proposals, where the City is the end user of the goods, or (2) an agreement to provide services or benefits to City employees and/or to their family members, dependents, or their other designated beneficiaries.

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(d) "Cost-neutral" shall mean that a nonprofit organization's reasonable costs of complying with this Chapter (not including direct costs of duplication, or mailing costs, of financial documents which are paid by a member of the public pursuant to Section 12L.5(a) herein) shall not exceed five hundred dollars per year.

(e) "Nonprofit organization" shall mean any corporation formed pursuant to California Corporations Code Sections 5000 et seq. for any public or charitable purpose, and/or any organization described within 26 USC Section 501(c), which receives a cumulative total per year of at least \$250,000 in City-provided or City-administered funds.

(f) "Designated public meeting" shall mean any regular or special meeting of the Board of Directors of a nonprofit organization which the Board of Directors designates as open to all members of the public pursuant to Section 12L.4(a)(1) of this Chapter.

**SEC. 12L.4. PUBLIC ACCESS TO MEETINGS.**

(a) Meetings Open to the Public. Except as provided in Subsections (a)(2) or (a)(3), the following requirements shall be included in all City contracts with nonprofit organizations:

(1) Each nonprofit organization shall designate and hold at least two designated public meetings per year. Issues addressed by the Board of Directors at designated public meetings shall be of approximately the same general nature and significance to the nonprofit organization as issues typically addressed by the Board of Directors at its other regular or special meetings. These issues may include adoption of the nonprofit organization's budget, nomination of members of the organization's Board of Directors, and evaluation of the organization's contract(s) with the City. At least one designated public meeting the public shall have an opportunity to address the Board of Directors on membership on the Board of Directors and to propose candidates for membership on the Board of Directors as provided in Section 12L.6(b).

(2) Section 12L.4(a)(1) shall apply to the full extent allowed by State and federal law.

(3) Section 12L.4(a)(1) shall not apply to nonprofit organizations engaged primarily in the provision of abortion counseling or services, domestic violence sheltering services, or suicide prevention counseling services.

(b) Closed Meetings. The Board of Directors may choose to close a portion of a designated public meeting:

(1) When discussing any matters pertaining to the particular recipients of the nonprofit organization's goods or services or donors of in-kind or monetary contributions to the nonprofit organization where the discussion would necessarily reveal the identity of clients or donors;

(2) When discussing any matters pertaining to litigation; real estate negotiations; the appointment, employment, evaluation of performance, or dismissal of an employee of the nonprofit organization; or labor negotiations in which the nonprofit organization is involved; when hearing complaints or charges against an employee of the nonprofit organization; or when discussing attorney-client privileged information, or information which constitutes a trade secret;

(3) Under any circumstances where admitting members of the public is prohibited by State or federal law;

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(4) Under any other circumstances where the Board of Supervisors has approved the closing of a portion of a designated public meeting by the nonprofit organization.

(c) Public Comment.

(1) At every designated public meeting the public shall have an opportunity to directly address the Board of Directors on any item of interest to the public relating to the operations of or services provided by the nonprofit organization.

(2) At any designated public meeting, the Board of Directors may adopt reasonable regulations to insure that the intent of this Section is carried out, provided that the Board of Directors allows for at least 30 minutes of public comment at each designated public meeting.

(d) Notice.

(1) Each nonprofit organization shall provide the public with notice of each designated public meeting at least 30 days in advance of the meeting.

(2) The Board of Directors shall cause a written notice of the date, time and location of each designated public meeting to be submitted to the Clerk of the Board of Supervisors who shall post the written notice where notices of meetings of the Board of Supervisors are posted, and to the San Francisco Main Library Government Information Center which shall post the written notice where notices of meetings of City boards and commissions are posted. In addition, upon inquiry by a member of the public, the nonprofit organization shall disclose the date, time and location of the designated public meeting.

**SEC. 12L.5. PUBLIC ACCESS TO RECORDS.**

(a) Disclosure of Financial Information. Subject to Section 12L.5.(c), each nonprofit organization shall maintain and make available for public inspection and copying a packet of financial information concerning the nonprofit organization. The packet shall include, at a minimum, (1) the nonprofit organization's most recent budget as already provided to the City in connection with the nonprofit organization's application for, or in connection with the review and/or renewal of, the nonprofit organization's contract, (2) its most recently filed State and federal tax returns except to the extent those returns are privileged, and (3) any financial audits of such organization performed by or for the City and any performance evaluations of such organization performed by or for the City pursuant to a contract between the City and the nonprofit organization, to the extent that such financial audits and performance evaluations (I) are in the nonprofit organization's possession, (ii) may be publicly disclosed under the terms of the contract between the City and the nonprofit organization, and (iii) relate to the nonprofit corporation's performance under its contract with the City within the last two years. A member of the public may request additional financial information other than that described above, pursuant to Section 12L.5(b) herein; however, the provision of such additional financial information by a nonprofit organization shall be voluntary, not compulsory. Members of the public, upon giving ten days' notice to the nonprofit organization, shall be entitled to inspect the packet of financial information during the nonprofit organization's regular business hours or to receive a copy of the packet of information for which the nonprofit organization may recover from the member of the public the organization's direct costs of duplication. Notwithstanding the foregoing, a nonprofit organization described within Sections 12L.4(a)(3) herein may comply with Section 12L.5(a) herein by sending a copy of its financial information packet, by first class

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mail, with the costs of such mailing prepaid by the member of the public, to a member of the public who has requested such information.

(b) **Dispute Resolution.** A member of the public who requests additional financial information other than that described in Section 12L.5(a), above, or who has a complaint concerning a nonprofit organization's compliance or noncompliance with this Chapter, may submit that request or complaint to the City agency or department which is a party to and/or which administers the nonprofit organization's contract. That City agency or department shall consider the request or complaint and shall recommend a resolution thereof in accordance with procedures established by that City agency or department. Following such consideration and recommendation, the member of the public or the nonprofit organization may seek an advisory opinion concerning the request or complaint from the Sunshine Ordinance Task Force, which that Task Force shall be authorized to provide; provided, however, that failure to seek such an advisory opinion from the Sunshine Ordinance Task Force shall not prejudice the right of the member of the public and/or the nonprofit organization to obtain a review of the City agency or department's recommendation by the Board of Supervisors as provided herein. The member of the public or the nonprofit organization may request that the Board of Supervisors review the recommendation of the City agency or department, which review shall be conducted in accordance with procedures established by the Board of Supervisors, provided that such request is made in writing to the Clerk of the Board of Supervisors within ten days of the issuance of the City agency or department's recommendation or the Sunshine Ordinance Task Force's advisory opinion, whichever is later. Subject to Section 12L.7. herein, the recommendation of the City agency or department, or the determination of the Board of Supervisors, with respect to any request or complaint by a member of the public shall be nonbinding upon the nonprofit organization.

**CHAPTER 67, SAN FRANCISCO ADMINISTRATIVE CODE (SUNSHINE ORDINANCE)****SEC. 67.3. DEFINITIONS.**

Whenever in this Article the following words or phrases are used, they shall have the following meanings:

- (a) "City" shall mean the City and County of San Francisco.
- (b) "Meeting" shall mean any of the following:
  - (1) A congregation of a majority of the members of a policy body at the same time and place;
  - (2) A series of gatherings, each of which involves less than a majority of a policy body, to hear, discuss or deliberate upon any item that is within the subject matter jurisdiction of the City, if the cumulative result is that a majority of members has become involved in such gatherings; or
  - (3) Any other use of personal intermediaries or communications media that could permit a majority of the members of a policy body to become aware of an item of business

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and of the views or positions of other members with respect thereto, and to negotiate consensus thereupon.

(4) "Meeting" shall not include any of the following:

(A) Individual contacts or conversations between a member of a policy body and another person that do not convey to the member the views or positions of other members upon the subject matter of the contact or conversation and in which the member does not solicit or encourage the restatement of the views of the other members;

(B) The attendance of a majority of the members of a policy body at a regional, statewide or national conference, or at a meeting organized to address a topic of local community concern and open to the public, provided that a majority of the members refrains from using the occasion to collectively discuss the topic of the gathering or any other business within the subject matter jurisdiction of the City; or

(C) The attendance of a majority of the members of a policy body at a purely social, recreational or ceremonial occasion other than one sponsored or organized by or for the policy body itself, provided that a majority of the members refrains from using the occasion to discuss any business within the subject matter jurisdiction of this body. A meal gathering of a policy body before, during or after a business meeting of the body is part of that meeting and shall be conducted only under circumstances that permit public access to hear and observe the discussion of members. Such meetings shall not be conducted in restaurants or other accommodations where public access is possible only in consideration of making a purchase or some other payment of value.

(C-1)\* The attendance of a majority of the members of a policy body at an open and noticed meeting of a standing committee of that body, provided that the members of the policy body who are not members of the standing committee attend only as observers.

(D) Proceedings of the Department of Social Services Child Welfare Placement and Review Committee or similar committees which exist to consider confidential information and make decisions regarding Department of Social Services clients.

...

(d) "Policy Body" shall mean:

(1) The Board of Supervisors;  
(2) Any other board or commission enumerated in the Charter;  
(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

(4) Any advisory board, commission, committee or body, created by the initiative of a policy body;

(5) Any standing committee of a policy body irrespective of its composition.

(6) "Policy Body" shall not include a committee which consists solely of employees of the City and County of San Francisco, unless such committee was established by Charter or by ordinance or resolution of the Board of Supervisors.

(7) Any advisory board, commission, committee, or council created by a federal, State, or local grant whose members are appointed by City officials, employees or agents.

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**SEC. 67.14. VIDEO AND AUDIO RECORDINGS, FILMING AND STILL PHOTOGRAPHY**

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

(b) Each board and commission enumerated in the Charter shall audio record each regular and special meeting. Each such audio recording, and any audio or video recording of a meeting of any other policy body made at the direction of the policy body shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed. Inspection of any such recording shall be provided without charge on an appropriate play back device made available by the City.

(c) Every City policy body, agency or department shall audio or video every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio or video recording facilities, except to the extent that such facilities may not be available for technical or other reasons. Each such audio or video recording shall be a public record subject to inspection pursuant to the California Public Records Act (Government Code Section 6250 et seq.), and shall not be erased or destroyed. The City shall make such audio or video recording available in digital form at a centralized location on the City's web site ([www.sfgov.org](http://www.sfgov.org)) within seventy-two hours of the date of the meeting or hearing and for a period of at least two years after the date of the meeting or hearing. Inspection of any such recording shall also be provided without charge on an appropriate play back device made available by the City. This subsection (c) shall not be construed to limit or in any way modify the duties created by any other provision of this article, including but not limited to the requirements for recording closed sessions as stated in Section 67.8-1 and for recording meetings of boards and commissions enumerated in the Charter as stated in subsection (b) above.

**SEC. 67.21. PROCESS FOR GAINING ACCESS TO PUBLIC RECORDS; ADMINISTRATIVE APPEALS**

(a) Every person having custody of any public record or public information, as defined herein, (hereinafter referred to as a custodian of a public record) shall, at normal times and during normal and reasonable hours of operation, without unreasonable delay, and without requiring an appointment, permit the public record, or any segregable portion of a record, to be inspected and examined by any person and shall furnish one copy thereof upon payment of a reasonable copying charge, not to exceed the lesser of the actual cost or ten cents per page.

(b) A custodian of a public record shall, as soon as possible and within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered to the office of the custodian by the requester orally or in writing by

**MEMORANDUM**

TO: Sunshine Ordinance Task Force  
DATE: December 13, 2018  
PAGE: 10  
RE: Complaint No. 18086 – Mark Sullivan v. Mission Dolores Green Benefit District  
Formation Committee

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fax, postal delivery, or e-mail. If the custodian believes the record or information requested is not a public record or is exempt, the custodian shall justify withholding any record by demonstrating, in writing as soon as possible and within ten days following receipt of a request, that the record in question is exempt under express provisions of this ordinance.

(c) A custodian of a public record shall assist a requester in identifying the existence, form, and nature of any records or information maintained by, available to, or in the custody of the custodian, whether or not the contents of those records are exempt from disclosure and shall, when requested to do so, provide in writing within seven days following receipt of a request, a statement as to the existence, quantity, form and nature of records relating to a particular subject or questions with enough specificity to enable a requester to identify records in order to make a request under (b). A custodian of any public record, when not in possession of the record requested, shall assist a requester in directing a request to the proper office or staff person.

**Sunshine Ordinance Task Force  
Complaint Summary**

File No. 18086

Mark Sullivan v. Mission Dolores Green Benefit District Formation Committee

Date filed with SOTF: 11/14/18

Contacts information (Complainant information listed first):

Mark Sullivan (info@sfneighborhoods.net) (Complainant/Petitioner)

Mission Dolores Green Benefit District Formation Committee ([www.doloresgbd.org/contact/](http://www.doloresgbd.org/contact/))

Jonathan Goldberg ([jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)) (Respondents)

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File No. 18086: Complaint filed by Mark Sullivan against the Mission Dolores Green Benefit District Formation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.14, by failing to allow video and audio recording filming and still photography of a policy body.

**Administrative Summary if applicable:**

**Complaint Attached.**

# **Complainant/Petitioners Documents Submission**

On October 10, 2018, at an Informational Meeting of the Mission Dolores Green Benefit District Formation Committee, I started to record the meeting with a digital video camera. One of the Mission Dolores GBD Formation Committee members asked me to stop recording. His name is at the beginning of the recording. The video can be downloaded from a Google Drive here: [https://drive.google.com/file/d/117vqNDbhXA4sLbcSx4wMYQ5pdlSgk\\_vY/view?usp=sharing](https://drive.google.com/file/d/117vqNDbhXA4sLbcSx4wMYQ5pdlSgk_vY/view?usp=sharing)  
The video is 1 minute 35 seconds, 86 MB, .mp4.

I did not conceal that I was recording. I was sitting right next to two consultants for the Mission Dolores Green Benefit District Formation Committee. The Mission Dolores GBD Formation Committee is **not** a registered non-profit.

This is in violation of Sunshine Ordinance SEC. 67.14. Video and Audio Recording, Filming and Still Photography

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

The meeting was held at Dolores Park Church, 455 Dolores Street, San Francisco, October 10, 2018, from 6:00 – 7:30 p.m. It was publicly announced on their website: <http://www.doloresgbd.org/meetings/>

The Mission Dolores Green Benefit District (GBD) Formation Committee and all Green Benefit District Formation Committees and all Green Benefit Districts should be under Chapter 67: The San Francisco Sunshine Ordinance of 1999. The Sunshine Ordinance says

#### SEC 67.3. Definitions

(d) "Policy Body" shall mean:

(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

California Government Code 54952(c):

As used in this chapter, "legislative body" means:

(c)(1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

The CA Attorney General guide to the Brown Act, page 6:

C. Private or Nonprofit Corporations and Other Entities:

"In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal." In reference to 54952(c).

Green Benefit Districts Formation Committees and Green Benefit Districts are the result of San Francisco ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS (\_GREEN BENEFIT DISTRICTS\_) (Attachment 1) which is a Board of Supervisor's modification of California Streets and Highways Code Sections 36600 *et seq.*

San Francisco's Department of Public Works has a full time Green Benefit District Program Manager that recruits property owners for Green Benefit District Formation Committees. The GBD Program Manager helps support and facilitates GBD Formation Committee activities. The GBD Program Manager acts as the point person between the GBD Formation Committee and San Francisco City Attorney's Office. See Attached: 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works (Attachment 2) and GBD Program Manager Job Responsibilities (Attachment 3), and an example of communications between the GBD Program Manager, GBD Formation Committees, and GBD Consultants about guidance from the City's Attorney's Office (Attachment 4). As of sometime in March 2018, e-mail communications between the GBD Program Manager and GBD Formation Committee members seem to have ceased to keep information away from the public through the Sunshine Ordinance.

The San Francisco City Attorney's Office reviews documents produced or commissioned by GBD Formation Committees. The City's Attorney Office gives legal advice and suggestions on Formation Committee documents. The main documents are the GBD Engineering Report, the GBD Budget and the GBD draft Management Plan. The City Attorney's Office has to give the approval on these documents for the GBD Formation Committee to proceed. Phase 2: Legal Review and Legislative Process: <https://sfpublicworks.org/services/green-benefit-district-formation-process>

The City of San Francisco has spent at least \$120,000.00 to support Green Benefit District Formation Committees most of which has come from the Department of Public Works (RE:

Inner Sunset GBD Funding Meeting – Advise? (Attachment 5)) but some of which has come from Board of Supervisor members.

Green Benefit District Formation Committee members are self-appointed and given guidance by the DPW's Green Benefit District Program Manager and any consultant they may hire. Among the GBD Formation Committee's activities are the drawing of district boundaries, deciding the methodology of property owner's assessments, determining what constitutes property owner's "special benefits", holding a "special election" through the city on a GBD's establishment, writing the bylaws for the GBD, writing articles of incorporation, forming a nonprofit corporation, and determining the composition of a GBD's board and how they will be elected. These are all important decisions that affect public policy, citizen engagement, and our neighborhoods. Green Benefit Districts are promoted as community building but do not allow for citizens to have equal access to their legislative process or information. They promote that they will be the advocate between citizens and their government.

While mere receipts of public funding to a non-profit corporation or other entity does not subject it to the requirements of the Sunshine Ordinance, Green Benefit District Formation Committees directly support the efforts of the Department of Public Works and the Board of Supervisors in their goals of creating Green Benefit Districts. In Article 15 A, the Board of Supervisors must approve a GBD, SEC. 15A.2 (k)(3), can disestablish a GBD, SEC. 15A.2 (g), can change management of a GBD including by the city, SEC. 15A.2 (j)(3), and can change a GBD management plan, SEC. 15A.2 (j)(4).

The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District (Attachment 6).

The City's Attorney's Office, through the GBD Program Manager, gives legal advice on documents produced by GBD Formation Committees and their consultants. GBD Formation Committees are just a group of property owners of similar minds that get support and access to information that me and other citizens do not have.

In preparing this complaint, on October 22, 2018 by e-mail, I asked the City Attorney's Office under the Sunshine Ordinance:

"I am interested in any guidance that the City Attorney's office has given in regards to the Sunshine Ordinance being applied to Article 15A and Green Benefit Districts."

Their reply on November 2, 2018:

"Thanks for your request. We have no responsive documents, aside from internal communications that are exempt from disclosure under the attorney-client privilege and/or

work product privilege. (Cal. Evid. Code §954; Cal. Gov't Code §§ 6254(k), 6276.04; Cal. Code Civ.Proc. §2018.030(a)). We do, however, have the attached public document which relates to Sunshine and community benefit districts, which are established under Business and Taxation Code Article 15 (rather than 15A)." The e-mail exchange is attached.

GBD Formation Committee members and GBD Program Manager have verbally made claims of transparency, California Records Act, the Brown Act, and Sunshine Act. It is unknown if the claims are based on City Attorney's guidance though clearly some citizens are afforded more guidance by the City Attorney's Office than other citizens and these citizens are furthering efforts of some San Francisco government entities. GBD Formation Committees have stopped using e-mail to make decisions.

Sec 67.1. Findings and Purpose of the Sunshine Ordinance says:

"New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible."

You can send me an e-mail [info@sfneighborhoods.net](mailto:info@sfneighborhoods.net) for the body of this complaint which will have active links to the noted sources.

List of Attachments:

1. ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS (\_GREEN BENEFIT DISTRICTS\_)
2. 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works
3. GBD Program Manager Job Responsibilities
4. E-mail exchange City attorney's Comments on Inner Sunset GBD's Engineer's Report & Management Plan
5. Email exchange RE: Inner Sunset GBD Funding Meeting – Advise?
6. The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District.



Attachment 1

## San Francisco Business and Tax Regulations Code

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## ARTICLE 15A: PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS ("GREEN BENEFIT DISTRICTS")

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- Sec. 15A.1. Purpose.
- Sec. 15A.2. Augmentation and Modification of State Law Requirements Governing Property and Business Improvement Districts.
- Sec. 15A.3. Severability.
- Sec. 15A.4. City Planning Referral.
- Sec. 15A.5. Assessment Limitation.

**Editor's Note:**

*The sections of this Article are numbered out of sequence with the rest of this Code. Section 15 of this Code is codified in Article 1 above. The preceding Article 15 comprises sections numbered through 1515. The following Article 17 comprises sections beginning with 1700.*

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### SEC. 15A.1. PURPOSE.

(a) State law provides procedures to form property and business improvement districts and levy assessments (California Streets and Highways Code Sections 36600 *et seq.*). This Article 15A provides authority for the City to augment and modify those state law procedures to provide services, improvements and activities, focused on landscaping, improvements and maintenance in Public Realm areas, by authorizing the Board of Supervisors to do any of the following in conjunction:

- (1) Reduce the percentage of petitions required from property owners in order to initiate formation;
- (2) Have the district encompass residential property, and to assess residential property, including parcels zoned solely for residential use;
- (3) Extend the term of the district to a maximum of 15 years, or such longer term as is authorized by state law;
- (4) Extend the term of the district to a maximum of 40 years, if all or a portion of the assessments will be pledged or applied to pay any bond, financing lease (including certificates of participation therein), or other similar obligations of the City;
- (5) Recover through assessments the costs incurred in formation of the district; and,
- (6) Disestablish a district upon a supermajority vote of the Board of Supervisors.

In addition, this Article augments and modifies state law by: requiring the Clerk of the Board of

Supervisors to notify business owners in English, Cantonese and Spanish when a petition for district formation is received; and providing for representation by stakeholders who do not own property in the district (e.g., residents, business owners, neighborhood organizations) on the governing body of an owners' nonprofit association that administers, implements or provides the services, improvements and activities specified in the management district plan.

(b) Under this Article 15A, the Board of Supervisors may establish property and business improvement districts that focus on landscaping, improvements and maintenance in Public Realm areas, which may be financed through assessments apportioned among parcels of real property within such districts. It is the intent of this Article to provide a vehicle for financing services, activities and improvements that supplement and complement existing services and facilities. The Board of Supervisors may not establish any district or levy any assessment under this Article to replace or supplant existing City services. Nothing in this Article shall be construed as prohibiting the establishment of districts or levying of assessments to finance local capital improvements that are otherwise authorized under the City Charter, any other City ordinance, or state law.

(Added by Ord. 14-14, File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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## **SEC. 15A.2. AUGMENTATION AND MODIFICATION OF STATE LAW REQUIREMENTS GOVERNING PROPERTY AND BUSINESS IMPROVEMENT DISTRICTS.**

The Board of Supervisors may elect to use the procedures set forth in California Streets and Highways Code Sections 36600 *et seq.* as augmented and modified by this Article 15A for the formation of property and business improvement districts and the levy of assessments on real property to fund services, improvements and activities that confer benefits on property, including parcels zoned solely for residential use, by focusing on landscaping, improvements and maintenance of Public Realm areas.

### **(a) Definitions.**

(1) "Public Realm areas." As used in this Article 15A, Public Realm areas are outdoor spaces open to the public that include but are not limited to parks, plazas, parklets, sidewalks, unimproved areas, landscaped areas and gardens. Public Realm areas may be owned by public and/or private entities or persons.

(2) "Ecological system." As used in this Article 15A, "ecological system" means a system of living organisms and the physical environment those organisms inhabit. An ecological system includes elements such as soil, geology, wildlife, vegetation, and watersheds.

(3) "Recreational Improvements." As used in this Article 15A, "recreational improvements" means improvements that will encourage recreational use, either by improving current conditions (e.g., repairing a grass soccer field) or installation of new facilities (e.g., playground equipment).

(b) **Petitions.** Notwithstanding California Streets and Highways Code Section 36621(a) or any other provision of state law to the contrary, the Board of Supervisors may initiate proceedings to establish a property and business improvement district upon receipt of a petition signed by property owners in the proposed district who will pay at least 30 percent of the assessments proposed to be levied.

The amount of assessments attributable to properties owned by the same owner that is in excess of 25 percent of all assessments proposed to be levied, shall not be included in determining whether the

petition is signed by the property owners who will pay the requisite 30 percent or more of the total amount of assessments proposed to be levied.

(c) **Term.** Notwithstanding California Streets and Highways Code Section 36622(h) or any other provision of state law to the contrary, the Board of Supervisors may form a district and levy assessments:

(1) For a maximum term of up to 15 years, or such longer term as is authorized by state law; or,

(2) For a maximum term of up to 40 years, if all or a portion of the assessments will be pledged or applied to pay any bond, financing lease (including any certificates of participation therein), or other similar obligations of the City. Such assessments may be pledged or applied to pay such obligations commencing when the assessments are levied, or such later date as the Board of Supervisors shall determine.

(d) **Property Zoned Solely Residential.** Notwithstanding California Streets and Highways Code Section 36632(c) or any other provision of state law to the contrary, the Board of Supervisors may:

(1) Establish a district pursuant to this Article 15A that encompasses properties zoned solely for residential use;

(2) Levy assessments upon such properties; and

(3) Authorize utilization of the assessments to fund services, improvements and activities that benefit such properties.

(e) Under this Article 15A the Board of Supervisors may authorize:

(1) Assessment district services, improvements and activities consistent with California Streets and Highways Code Sections 36600 *et seq.* that are focused on landscaping, improvements and maintenance of Public Realm areas, notwithstanding any other provisions in Sections 36606, 36610, or 36613 or any other provision of state law to the contrary. Such services, improvements and activities may include, but are not limited to, involvement with ecological systems, water and energy systems, pedestrian and bicycle amenities, and recreational improvements.

(2) Use of assessment funds to purchase real property, in whole or in part, within or contiguous to the District, where that property will be a Public Realm area and the district will provide landscaping, improvements and/or maintenance of the area.

(f) **Formation Cost Recovery.** Notwithstanding any provision of state law to the contrary, the Board of Supervisors may authorize a district formed pursuant to this Article 15A to recover through assessments the costs incurred in forming the district, whether costs are generated by the City or by others, including but not limited to:

(1) The costs of preparation of the management district plan and engineer's report required by state law;

(2) The costs of circulating and submitting the petition to the Board of Supervisors seeking establishment of the district;

(3) The costs of printing, advertising and the giving of published, posted or mailed notices;

(4) The costs of engineering, consulting, legal or other professional services provided in proceedings under this Article 15A or California Streets and Highways Code Sections 36600 *et seq.*; and

(5) The costs of any ballot proceedings required by this Article 15A or other law for approval of a new or increased assessment.

To recover these costs, the management district plan required pursuant to California Streets and Highways Code Section 36622 shall specify the formation costs eligible for recovery through assessments, the schedule for recovery of those costs, and the basis for determining the amount of the additional assessment for recovery of such costs, including the maximum amount of the additional assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

(g) **Disestablishment by Board of Supervisors Supermajority.** Notwithstanding California Streets and Highways Code Section 36670 or any other provision of state law to the contrary, the Board of Supervisors may, by a supermajority vote of eight or more of its 11 members, notice a hearing and initiate proceedings to disestablish a district for any reason. Where the Board of Supervisors seeks to disestablish a district in circumstances not authorized under California Streets and Highways Code Section 36670, both the resolution of intention to disestablish the district and any final resolution to disestablish the district shall require a supermajority vote of no fewer than eight of its 11 members.

(h) **Disestablishment Limitation.** Notwithstanding Section 15A.2(g) of this Article, California Streets and Highways Code Section 36670, or any other provision of law, the Board of Supervisors may not disestablish a district where there are any outstanding bond, financing lease (including any certificates of participation therein), or other similar obligations of the City, payable from or secured by assessments levied within the district.

(i) **Public Financing.** Notwithstanding California Streets and Highways Code Section 36640 or any other provision of state law to the contrary:

(1) The Board of Supervisors may, in the resolution to establish the district, determine and declare that any bond, financing lease (including any certificates of participation therein), or other similar obligations of the City, shall be issued to finance the estimated costs of some or all of the proposed improvements or activities described in such resolution, pursuant to the City Charter, City ordinances or state law, as the Board may determine; and

(2) The amount (including interest) of any City bond, financing lease (including any certificates of participation therein) or other similar obligations, may not exceed the estimated total of (A) revenues to be raised from the assessments over the term of the district, plus (B) such other monies, if any, to be available for such purpose, in each case determined as of the date such obligations are issued or incurred.

(j) **Management of District.**

(1) **Management by Owners' Nonprofit Corporation.** If so provided by the management district plan, the Board of Supervisors may contract with an existing or new owners' nonprofit corporation (California Streets and Highways Code Section 36614.5) to administer or implement services, improvements and activities specified in the management district plan ("Management Contract"). If so, the management district plan shall ensure that on the governing body of the owners' nonprofit corporation:

(i) a majority (over 50%) are district assessees; and,

(ii) there is adequate representation of district stakeholders who do not own or have an ownership interest in property located in the district, including residents, businesses, and neighborhood organizations. Where warranted by the circumstances in a proposed district, the Board of Supervisors in

its discretion may require that the management district plan provide particular levels of such business owner or other district stakeholder representation.

(2) **Management by the City.** Alternatively, if so provided by the management district plan, the Board of Supervisors may authorize the City to administer or implement services, improvements and activities specified in the management district plan by utilizing existing City departments, including but not limited to the Department of Public Works and the Recreation and Park Department, and/or by contracting out.

(3) **Change of Management During Term of District.** If so provided by the management district plan, management may change during the term of the district from an owners' nonprofit association to the City, or from the City to an owners' nonprofit association. Procedures for such a change shall be specified in the management district plan, and may be further detailed in any Management Contract.

(4) This subsection (j) shall not limit the authority of the Board of Supervisors to require the incorporation of any other item or matter into the management district plan under California Streets and Highways Code Section 36622(l) or other applicable law.

(k) **Notice to Businesses in Three Languages.** No fewer than 30 days after the Clerk of the Board receives a complete petition seeking formation of a district pursuant to this Article 15A, the Clerk shall mail notice to all businesses located within the proposed district holding a current registration certificate issued by the Tax Collector. The notice shall be in English, Spanish and Cantonese, and shall inform the recipients:

- (1) That a petition for formation of a property and business improvement district has been received;
- (2) That if the district is formed, assessments will be levied against property in the district;
- (3) That formation of the district is subject to the approval of the Board of Supervisors following public hearings and a ballot proceeding by owners of the property subject to the assessment; and,
- (4) How recipients may obtain further information about the petition and proposed district.

(Added by Ord. 14-14, File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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### **SEC. 15A.3. SEVERABILITY.**

If any provision of this Article 15A or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect any other provision or such other application of such provision which can be given effect without such provision or application, and to this end the provisions of this Article are declared to be severable.

(Added by Ord. 14-14, File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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### **SEC. 15A.4. CITY PLANNING REFERRAL.**

(a) If a resolution of intent adopted pursuant to this Article 15A proposes to finance acquisition, extension, widening, removal, relocation, vacation, abandonment, sale or change in the use of any public way, transportation route, ground, open space, building, or structure which requires referral to the Planning Department under Section 4.105 of the Charter, or any successor provision, the resolution of intent shall be referred to the Planning Department for a report regarding conformity with the General Plan.

(b) If a resolution of intent is referred to the Planning Department pursuant to this Section, the department shall make its report to the Board at or before the public hearing on the resolution of formation to establish the District.

(Added by Ord. 14-14, File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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### **SEC. 15A.5. ASSESSMENT LIMITATION.**

No amount proposed to be assessed upon any lot for the construction of any improvement or the acquisition of any property for public use shall exceed one-half of the assessed value of the lot. The total amount of all assessments levied on lots within the district for the construction or any improvement or the acquisition of any property for public use shall not exceed one-half the assessed value of all lots assessed or proposed to be assessed. Assessment amounts shall satisfy any further limitations imposed by Section 1.20 of the Administrative Code and Part 5 of Division 4 of the California Streets and Highways Code (Sections 2900 *et seq.*) or any preemptive successor statute.

(Added by Ord. 14-14, File No. 130462, App. 2/14/2014, Eff. 3/16/2014)

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## **ARTICLE 16: [RESERVED]**

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Ordinance 305-93, App. 09/24/1993, which added sections 1601—1616 of the S.F. Business and Tax Regulations Code, is not operational. Entitled "San Francisco County Transactions and Use Tax," the ordinance established and implemented a tax in the event that CA Senate Constitutional Amendment No. 1 ("SCA 1") failed to be approved at the November 2, 1993 state special election. In the November 1993 California election, the voters passed Proposition 172 ("SCA 1"), the Local Public Safety Protection and Improvement Act of 1993.

# Attachment 2

## 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works (TEX-2917-064386)

The current position is located at General Services Agency, Department of Public Works, Bureau of Street & Environmental Services.

**Appointment Type: Temporary- Exempt As-Needed.** These positions are for as-needed (on-call assignments), for up to a maximum of 1040 working hours. In order to be considered for a permanent appointment, incumbent will be required to successfully compete in a Civil Service Examination.

**Location:** Department of Public Works, Operations Yard, 2323 Cesar Chavez St. San Francisco, CA 94124

### POSITION DESCRIPTION:

The Program Support Analyst will be placed at Public Works Operations division and work as part of the Community Programs team. The Program Support Analyst will report to the Assistant Superintendent who oversees all the community engagement programs.

The Green Benefit Districts (GBD) program is a new program utilizing the Community Benefits District model to improve the quality of public space, open space, and park land within targeted residential and mixed-use neighborhoods through a special assessment district administered by a partnership between the City and the community. This position will manage and provide technical assistance in various stages of the GBD formation, those are: Feasibility, Formation Campaign, Post-Formation, and Renewal. At all stages, community engagement and project management are critical components.

Establishment of Green Benefits Districts requires local property owners vote on adoption of the special assessment district. If adopted, local property owners (or in some cases business owners) are levied a special assessment tax to fund improvements within the district. Assessments are collected by the City and disbursed to and administered by a non-profit organization established by the neighborhood. Although this is the first of its kind in San Francisco, Public Works anticipates a steady growth in the number of GBDs that will be formed in the next 5 years.

Essential functions of this job code include:

Assist GBD Program in the following tasks:

- Project manage GBD feasibility analysis, specifically work with community stakeholders to identify issues and potential services; advise on property and business owner survey tool; and advise community on whether or not to pursue formation at the time.
- Project manage formation campaigns, specifically oversee the drafting of management plans and engineer's reports, legal review process, legislative authorization process, and balloting process.
- Project manage post-formation tasks, specifically advise on the formation of the Board of Directors and non-profit corporation; advise on the setup of key City Accounts; and draft and execute Management Contracts with newly formed GBDs
- Track performance of GBD program as a whole. Specifically, track performance of individual GBD's and prepare quarterly performance reports for overall GBD program and provide performance reports for individual GBDs.
- Review mid-year and annual reports, annual financial statements and other pertinent documents and prepare staff report and budget analysis of each GBD for presentation to the Board of Supervisors at an annual public hearing for each GBD
- Develop and manage support programs for GBDs including trainings on organizational and board development, public meeting management, Brown Act, CA Public Records Act, neighborhood economic development strategies and GBD program service delivery.

- Coordinate communications with Public Works and other city department programs targeting neighborhoods where GBD services exist or are under consideration.
- Assist in the coordination of annual assessment billings and collections with GBD Executive Directors, Controller's Office, and Treasure Tax Collector.
- Assist in the coordination of assessment payments to GBDs, which may include payment reconciliation and parcel troubleshooting
- Perform related duties as required

**Nature of Work:**

This position may require the incumbent to be available after hours, 7 days a week including holidays, to respond to emergency requests and issues.

**MINIMUM QUALIFICATIONS**

1. Possession of a baccalaureate degree from an accredited college or university in public administration, business administration, economics, sociology or a closely related field; **AND** one (1) year professional experience in human resources administrative services in relation to employee selection, work assignments, records management, compensation, discrimination complaints, and/or disciplinary hearings; **OR**
2. Four (4) years professional experience in a general administrative or management capacity of a staff, of which at least two years have included major responsibility for functions in program planning, funding, program administration, policy development, and/or statistical research; **AND** one (1) year of the experience mentioned above **must include** human resources administrative services in relation to employee selection, work assignments, records management, compensation, discrimination complaints, and/or disciplinary hearings; **AND**
3. Possession of a valid driver's license at the time of appointment.

**Verification of all minimum qualifications must be submitted by the filing deadline**

**DESIRABLE QUALIFICATIONS:**

The stated desirable qualifications may be used to identify job finalists at the end of the selection process when candidates are referred for hiring.

- Degree in accounting, business, marketing/public relations, public policy, urban planning or a related degree.
- Five (5) years of experience at supervising/managing in accounting.
- Experience with developing and managing the formation of special assessment taxing districts, community benefits districts or neighborhood business districts. Effective communication (verbal and written) and interpersonal skills, as well as experience in team leadership.
- Three years experience in developing, administering, and monitoring government grants.
- Experience providing technical assistance to community-based organizations.
- Experience working with range of City, small business, nonprofit and neighborhood stakeholders
- Computer skills and proficiency in working with basic software programs e.g., word processing, spreadsheets, presentation applications, and design programs.
- Written and verbal Chinese, Spanish, Japanese or Vietnamese language ability desirable.

**HOW TO APPLY:**

Applications for City and County of San Francisco jobs are being accepted through an online process. Visit [www.jobaps.com/sf](http://www.jobaps.com/sf) to begin the application process by registering an account.

# Attachment 3

## Original Project

**Project Title:** GREEN BENEFITS DISTRICT

**Duration:** 12

### **Project Details:**

The Board of Supervisors provided one time funding to establish this position through the add-back process. The objective of the Green Benefits District program support analyst is to establish a Green Benefits District in Potrero Hill and Dogpatch by November 2015, which means they must be hired by January 2015 to ensure voting and tax assessments are added to the 2015 ballot. As of today, we are only establishing one Green Benefits District, but we anticipate that if this program proves successful, more will need to be established.

### **Job Duties:**

Project manage GBD feasibility analysis, work with community stakeholders to identify issues & services; advise on property and business owner survey tool; advise community on whether or not to pursue formation. Project manage formation campaigns, specifically oversee drafting of management plans & engineer's reports, legal review process, legislative authorization process, and balloting process. Project manage post-formation tasks, incl. advising Board of Dirs. & non-profit corp.; advise on setup of key City Accounts; draft & execute Management Contracts. Track performance of GBD program & prepare performance reports. Review annual financial statements, reports & other documents. Prepare staff report & budget analysis for presentation to Board of Supervisors. Develop & manage support programs for GBDs incl. trainings on organizational & board development, public mtg management, Brown Act, CA Public Records Act, neighborhood economic development strategies and GBD program service delivery. Coordinate communications with other city dept programs. Assist in coordination of annual assessment billings & collections with GBD Exec. Directors, CON and TTX. Assist in coordination of assessment payments to GBDs, which may include payment reconciliation and parcel troubleshooting. Facilitate community mtgs.

## Project Extension

**Project Title:** GREEN BENEFITS DISTRICT

**Duration:** 24

### **Project Details:**

Program mocked after Mayor's CBD- Community Benefit District program which has grown to 13 individual CBD over 10 + years. GBD focus more on neighborhoods while CBD's focus more on merchant corridors.

Extension: As of today, two more Green Benefit Districts are in the work with 5 more communities that need to establish GBD. Program and future GB are in preliminary stages of forming. Therefore, a 2-year extension is needed to complete establishment of the 2 forming and to work with the additional 5 communities to form GBD.

### **Job Duties:**

Back

# Attachment 4

**From:** Toral Patel  
**To:** [Goldberg, Jonathan \(DPW\)](#)  
**Cc:** [Kristin Lowell](#)  
**Subject:** Re: CA Inner Sunset GBD Comments  
**Date:** Tuesday, February 27, 2018 11:58:43 AM

---

Hi Kristin,

Just checking in to see how Engineer's Report updates are coming along? Let us know if you want to discuss today or tomorrow!

Thanks,  
Toral

On Wed, Feb 21, 2018 at 6:25 PM, Toral Patel <[toral@buildpublic.org](mailto:toral@buildpublic.org)> wrote:

Thanks for compiling this! A conference call tomorrow at 2pm would be really useful. Kristin, are you free at that time?

Best,  
Toral

On Wed, Feb 21, 2018 at 4:17 PM, Goldberg, Jonathan (DPW) <[jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)> wrote:

Hi Toral & Kristin,

I've attached the City Attorney's comments and questions regarding the Inner Sunset GBD's Engineer's Report & Management Plan. I've accepted several of his suggested edits and proposed additional text to respond to some of his questions. I've included of his miscellaneous comments and my responses to help better understand his perspective.

The bulk of comments pertain to the Engineer's Report – the Management Plan is largely intact.

Below is a summary of the notable revisions to date (Engineer's Report):

1. General narrative that ISGBD will benefit residential property owners as well as property owners in the commercial corridor.
  - Previous comments questioned economic development/vitality as primary justification to assess residential zoned parcels for special benefits.
  - In Section E, I've added a bit of text to elaborate that the ISGBD's special benefits include community quality of life, neighborhood identity, and recreational opportunities. Mind reviewing this text, elaborating and/or

adjusting as necessary? (see referenced study, pg 13).

2. Justification for commercial vs. residential linear frontage rate

- Manu's requested an argument to justify the different assessment rate per linear foot in the commercial core vs. residential neighborhood
- He's also asked about how the building and lot rates are calculated – I've taken a stab at crafting this narrative.

3. Further justification to support the nonprofit discount

- He has a number of comments on this nonprofit discount rationale (i.e., assessment on linear + lot only). Putting linear aside, one way to address his concerns is in the justification for using building and lot square footages to craft an assessment methodology. Since nonprofit parcels are only assessed on lot sq. ft. basis and contribute only 25% of the costs of Neighborhood Improvements & Beautification, Advocacy & Programming, Management & Operations (the remaining 75% is assigned to building square footage and not assessed to nonprofits), I think it's plausible to justify that nonprofits only accrue 25% of the benefits from NIB+AP+MO activities/improvements. Thus, it's reasonable to assess these parcels on lot square footage alone.

4. General Benefit to the Public At Large

- Manu's asked why the Management & Operations and Advocacy & Program categories are not called-out in this GB analysis. I've inserted some text as a starting point, but I'm also not familiar with any GB analysis that specifically calls-out MP categories that *do not* provide any GBs – these sections have always noted the one or two MP categories that *may* provide GBs and deducted this amount from the total budget.

Outstanding Questions (Engineer's Report):

1. Manu's requested that *Section D: Proportional Benefits* be inserted after *Section E: Special & General Benefits*

- Thoughts?

2. Use of average 1.4% figure from Intercept Surveys

- He's asking for correlations between the neighborhoods listed in the intercept survey vs. the Inner Sunset. This is kind of a ridiculous request and I'm pushing back on it.

3. Special Benefit Analysis – ISGBD activities

- After review of the ISGBD goals, then special benefits to each parcel,

the ER reviews NIB, C&S, and A&P as special benefit activities. There's no mention of M&O in this section.

- Since the GB analysis only references NIB and C&S, do we: 1) add M&O to the SP analysis section and clarify that M&O and A&P are exclusively special benefit activities? 2) merely add that M&O and A&P activities do not provide any GB to the public at large? Or 3) keep things as they are?

Next Steps:

- If there are any significant questions/issues with Manu's comments, shall we schedule a time to chat tomorrow morning (before 11 AM), tomorrow afternoon (after 2:00 PM) or on Friday morning (before 12 noon)?
- If not, let me know if you think it will be possible to address his comments via email.

Cheers,

Jonathan



Jonathan Goldberg

Green Benefit District

Program Manager

Operations | San Francisco Public Works | City and County of San Francisco

2323 Cesar Chavez Street | San Francisco, CA 94124 | (o) [415.695.2015](tel:415.695.2015) | (c) [415.304.0749](tel:415.304.0749)

[sfpublicworks.org](http://sfpublicworks.org) · [twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

**From:** Kristin Lowell  
**To:** "Toral Patel"; Goldberg, Jonathan (DPW)  
**Subject:** RE: CA Inner Sunset GBD Comments  
**Date:** Tuesday, February 27, 2018 12:02:03 PM  
**Attachments:** [Image001.png](#)

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I will have the revised report to you later this afternoon. I'll have time to discuss tomorrow morning.

Thanks!  
Kristin



1420 E Roseville Pkwy #140-342  
Roseville, CA 95661  
p: 916.786.9686

From: Toral Patel [mailto:[toral@buildpublic.org](mailto:toral@buildpublic.org)]  
Sent: Tuesday, February 27, 2018 11:58 AM  
To: Goldberg, Jonathan (DPW) <[jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)>  
Cc: Kristin Lowell <[kristin@klifinance.com](mailto:kristin@klifinance.com)>  
Subject: Re: CA Inner Sunset GBD Comments

Hi Kristin,

Just checking in to see how Engineer's Report updates are coming along? Let us know if you want to discuss today or tomorrow!

Thanks,  
Toral

On Wed, Feb 21, 2018 at 6:25 PM, Toral Patel <[toral@buildpublic.org](mailto:toral@buildpublic.org)> wrote:

Thanks for compiling this! A conference call tomorrow at 2pm would be really useful. Kristin, are you free at that time?

Best,  
Toral

On Wed, Feb 21, 2018 at 4:17 PM, Goldberg, Jonathan (DPW) <[jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)> wrote:

Hi Toral & Kristin,

I've attached the City Attorney's comments and questions regarding the Inner Sunset GBD's Engineer's Report & Management Plan. I've accepted several of his suggested edits and

Reply all Delete Junk

Attachment 5

## RE Inner Sunset GBD Funding Meeting - Advise?

GJ Goldberg, Jonathan (DPW)  
Mon 11/7/2016, 3:21 PM  
Robertson, Bruce (DPW)

Reply all

### Sent Items

Yes, I believe so. The point of using City funding earlier in the GBD formation process is to enter into a contract with all parties – community, consultant, and City – that lays out a firm set of deadlines, schedules, and deliverables. The contract is generally like a challenge grant, requiring the community to leverage the City's investment in their efforts.

Otherwise, the community could fundraise as much as they'd like, hire a consultant to guide them through this process, and the City wouldn't have any leverage to direct or guide the formation process.



Jonathan Goldberg  
Green Benefit District  
Program Manager

Operations | San Francisco Public Works | City and County of San Francisco  
2323 Cesar Chavez Street | San Francisco, CA 94124 | (o) 415.695.2015 | (c) 415.304.0749  
[sfpublicworks.org](http://sfpublicworks.org) • [twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

From: Robertson, Bruce (DPW)  
Sent: Monday, November 07, 2016 3:06 PM  
To: Goldberg, Jonathan (DPW) <[jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)>  
Subject: RE: Inner Sunset GBD Funding Meeting - Advise?

Jonathan,

If we can only find \$50K, is \$25K for each GBD possible for the year and an amount you can live with?

Thanks,  
Bruce

From: Goldberg, Jonathan (DPW)  
Sent: Monday, November 07, 2016 2:32 PM  
To: Robertson, Bruce (DPW) <[bruce.robertson@sfdpw.org](mailto:bruce.robertson@sfdpw.org)>  
Cc: Nuru, Mohammed (DPW) <[Mohammed.Nuru@sfdpw.org](mailto:Mohammed.Nuru@sfdpw.org)>; Stringer, Larry (DPW) <[Larry.Stringer@sfdpw.org](mailto:Larry.Stringer@sfdpw.org)>; Black, Sue (DPW) <[sue.black@sfdpw.org](mailto:sue.black@sfdpw.org)>; Gordon, Rachel (DPW) <[Rachel.Gordon@sfdpw.org](mailto:Rachel.Gordon@sfdpw.org)>  
Subject: RE: Inner Sunset GBD Funding Meeting - Advise?

Thank you for the incredible and welcome news! Thank you for believing in this program!

Reply all | Delete | Junk | ...



Green Benefit District  
Program Manager

Operations | San Francisco Public Works | City and County of San Francisco  
2323 Cesar Chavez Street | San Francisco, CA 94124 | (o) 415.695.2015 | (c) 415.304.0749  
[sfpublicworks.org](http://sfpublicworks.org) • [twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

---

**From:** Robertson, Bruce (DPW)  
**Sent:** Monday, November 07, 2016 2:28 PM  
**To:** Goldberg, Jonathan (DPW) <[jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)>  
**Cc:** Nuru, Mohammed (DPW) <[Mohammed.Nuru@sfdpw.org](mailto:Mohammed.Nuru@sfdpw.org)>; Stringer, Larry (DPW) <[Larry.Stringer@sfdpw.org](mailto:Larry.Stringer@sfdpw.org)>; Black, Sue (DPW) <[sue.black@sfdpw.org](mailto:sue.black@sfdpw.org)>; Gordon, Rachel (DPW) <[Rachel.Gordon@sfdpw.org](mailto:Rachel.Gordon@sfdpw.org)>  
**Subject:** Re: Inner Sunset GBD Funding Meeting - Advise?

Jonathan,

We can provide \$50K for the GBD. At this time we cannot guarantee the full \$100K. After the election we could get a better lead on some other options but for now I feel safe in providing \$59K from our budget.

Bruce

-----  
Bruce Robertson  
Finance Manager  
San Francisco Public Works  
415.554.5418

Sent from my iPhone

On Nov 7, 2016, at 2:00 PM, Goldberg, Jonathan (DPW) <[jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)> wrote:

Hi Mohammed,

I have an Inner Sunset GBD Formation Committee Co-Chair meeting tonight at 5:30 PM to discuss funding for the GBD formation effort. GBD Co-chairs include:

- Ike Kwon (perhaps you know him)
- Andrea Jadwin, former President, Inner Sunset Park Neighbors
- Al Minvielle, former President, Inner Sunset Park Neighbors
- Dave Zimmerman, President, Inner Sunset Merchants Association
- Naomi Porat, Project Manager, Kirkham Heights Development

The Agenda will touch-on how much GBD formation funding can be provided from the community, on-loan from a larger property developer, or with assistance from the City.

Do you have any advice for what I can relay to the community?

Thanks!  
Jonathan

<image003.jpg>Jonathan Goldberg  
Green Benefit District

# Attachment 6

**From:** Andrea Jadwin  
**To:** Nuru, Mohammed (DPW)  
**Cc:** Goldberg, Jonathan (DPW); Breed, London (BOS); Al Minvielle; Brooke Ray Rivera; Ike Kwon  
**Subject:** Thank You for Your Good Idea  
**Date:** Wednesday, September 13, 2017 2:50:22 PM

---

Hi Mohammed,

Back in 2015, we had a meeting at McLaren Lodge to talk about improvements to the Inner Sunset neighborhood and GGPark connections. You kindly suggested we look into a Green Benefit District, to which we say 'what's that?'

Thanks to help from Public Works, Supervisor Breed and the folks at Build Public, **it looks like we have a good shot at forming the Inner Sunset Green Benefit District.** Our neighborhood support is broad and enthusiastic, we've got lots of positive energy about a raft of projects and we're committed to making it happen.

THANK YOU for suggesting the GBD in the first place and for your continued support for the Inner Sunset neighborhood!

Best,

Andrea Jadwin  
Inner Sunset Park Neighbors

**From:** [Breed, London \(BOS\)](#)  
**To:** [Andrea Jadwin](#)  
**Cc:** [Nuru, Mohammed \(DPW\)](#); [Goldberg, Jonathan \(DPW\)](#); [Al Minvielle](#); [Brooke Ray Rivera](#); [Ike Kwon](#)  
**Subject:** Re: Thank You for Your Good Idea  
**Date:** Wednesday, September 13, 2017 5:59:24 PM

---

Thanks Mohammed! You're the best!

Sent from my iPhone

On Sep 13, 2017, at 2:50 PM, Andrea Jadwin <[REDACTED]> wrote:

Hi Mohammed,

Back in 2015, we had a meeting at McLaren Lodge to talk about improvements to the Inner Sunset neighborhood and GGPark connections. You kindly suggested we look into a Green Benefit District, to which we say 'what's that?'

Thanks to help from Public Works, Supervisor Breed and the folks at Build Public, **it looks like we have a good shot at forming the Inner Sunset Green Benefit District.** Our neighborhood support is broad and enthusiastic, we've got lots of positive energy about a raft of projects and we're committed to making it happen.

THANK YOU for suggesting the GBD in the first place and for your continued support for the Inner Sunset neighborhood!

Best,

Andrea Jadwin  
Inner Sunset Park Neighbors


**From:** Ike Kwon  
**To:** [Andrea Jadwin](#); [Breed, London \(BOS\)](#)  
**Cc:** [Al Minvielle](#); [Brooke Ray Rivera](#); [Goldberg, Jonathan \(DPW\)](#); [Nuru, Mohammed \(DPW\)](#)  
**Subject:** Re: Thank You for Your Good Idea  
**Date:** Wednesday, September 13, 2017 6:21:48 PM

---

I'll second that, Mohammed, you are the best!

On Wed, Sep 13, 2017 at 5:59 PM Breed, London (BOS) <[london.breed@sfgov.org](mailto:london.breed@sfgov.org)> wrote:  
Thanks Mohammed! You're the best!

Sent from my iPhone

On Sep 13, 2017, at 2:50 PM, Andrea Jadwin <> wrote:

Hi Mohammed,

Back in 2015, we had a meeting at McLaren Lodge to talk about improvements to the Inner Sunset neighborhood and GGPark connections. You kindly suggested we look into a Green Benefit District, to which we say 'what's that?'

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THANK YOU for suggesting the GBD in the first place and for your continued support for the Inner Sunset neighborhood!

Best,

Andrea Jadwin  
Inner Sunset Park Neighbors

--

Sent from Gmail Mobile

# MISSION DOLORES GBD

HOME ABOUT SURVEY MEETINGS CONTACT



We are a group of neighbors who love Dolores Park and its surrounds, and are concerned about its current conditions. We are exploring the possible formation of a Green Benefit District (GBD).

If formed, a Mission Dolores GBD would aim to cultivate a safe, clean, connected and vibrant neighborhood, where we work together to build a community in which we are proud of living, working and playing.

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# MISSION DOLORES GBD

HOME ABOUT SURVEY MEETINGS CONTACT

## + What is a Green Benefit District?

A Green Benefit District (GBD) allows residents to directly manage and invest in specific enhancements to the shared open spaces in their community. The investment provides services above and beyond baseline City services. A form of property assessment district, a GBD creates a reliable, responsive, transparent and publicly-accountable local funding source for a community to invest in the betterment of its own neighborhood. The GBD encourages civic advocacy, brings neighbors together to address shared problems and implement solutions that help make our local area more vibrant, clean, safe and livable for all.

## + Why a Green Benefit District in Mission Dolores?

If you're like us, then you may feel Dolores Park and surrounding streets are a unique treasure of San Francisco. However, you probably also see the opportunity for improvements - whether additional community events and activities, more green spaces and stewardship efforts, or additional cleaning for our streets and sidewalks. A GBD would empower us to work together to improve our community and quality of life beyond what the City provides.

## + Are there any GBDs in existence?

Yes, there is one GBD in the Dogpatch and Northwest Potrero Hill neighborhoods. Currently, there are three neighborhoods exploring the formation of GBDs, including the Inner Sunset, Dolores Park, and Greater Buena Vista. The GBD program is modeled on San Francisco's successful Community Benefit District program, with 15 districts throughout the City. Whereas CBDs focus on economic development in primarily commercial areas, GBDs focus on public realm improvements in residential and mixed-use neighborhoods.

#### + What is an assessment district?

Legally, a GBD is a type of assessment district authorized by state and local law (Property and Business Improvement District Law of 1994 and San Francisco Business Code Article 15A).

Assessment districts, also called benefit districts, allow citizens to have local control over where their dollars are being spent, much more so than with their citywide taxes. They are geographically defined areas in which each property owner contributes annually towards community-driven solutions such as open space projects, neighborhood beautification, public safety, sustainability activities, enhanced maintenance and more. San Francisco has 16 successfully-operating benefit districts, and these types of districts are also common nationwide, sometimes called Business Improvement Districts.

Individually each member of a district contributes a small amount (in a GBV GBD, the average homeowner might pay only \$150-300 per year), but collectively this generates a reliable, annual dedicated stream of funding that must be used within the district for neighborhood-specific public realm projects and services that have been selected and approved by the neighbors themselves via democratic

voting. Moreover, assessments are different than taxes in this way: assessment funds can only be spent in the area in which they were collected, for the benefit of those paying the assessment; taxes are citywide and controlled by city government. GBDs provide local control of funds for neighborhood benefit.

## + What are the benefits of a GBD?

While we as a community get to decide how to focus the specific services and projects to best meet our collective needs, GBDs typically offer the following benefits:

- **Enhanced Services & Improvements:** Provides a dedicated, reliable funding source to implement neighborhood open space priorities that are above and beyond the City baseline services in a timely and cost-effective manner - making the district's public spaces cleaner, safer, more accessible and vibrant for the community.
- **Accountability & Transparency:** Provides district property owners with direct oversight in how their funds are used for open spaces, and ensures a high degree of transparency through the public engagement process of the non-profit established to manage the district. It can also provide a platform to advocate for the delivery of the City's existing commitments to public spaces.
- **Advocacy for Open Space Issues:** Additional and consistent advocacy for neighborhood open space issues and ballot measures, to ensure that interests are well-represented and augment existing volunteer efforts.
- **Leveraging Additional Funds:** A GBD can leverage additional capital in two ways: (1) using a GBD matching grant line item in the budget, the district can apply for government grants that often require a match

and (2) making a focused effort to solicit additional private funding for special projects.

- **Maximize Volunteer Stewardship:** Provides a boost for neighborhood cohesion and existing volunteer efforts.

### + Which types of services and projects could a GBD provide?

The community gets to determine the GBD's specific services and projects through a robust and transparent outreach process. Types of services and projects may include:

- Enhanced cleaning and maintenance services for high-traffic areas
- Safety projects, for instance additional lighting, bicycle lanes, hazardous tree pruning, and path repair
- Design and planning for specialty landscape projects that leverage existing the San Francisco Recreation and Parks Department's efforts
- Enhanced community programming in partnership with education and recreation providers
- Art, beautification or preservation projects working in collaboration with existing community organizations
- Environmental management and restoration projects, such as micro-green spaces, erosion control, water conservation, and carbon sequestration
- Grant writing and fundraising to advocate for local neighborhood priorities and address urgent community concerns

### + Does a GBD duplicate City services?

No. State and local legislation expressly prohibits a GBD from replacing City services and improvements. A GBD is legally required to fund services and improvements that are

above and beyond the City's existing baseline. This approach also helps ensure that the City maintains the current and future services investment in our community.

#### + Why isn't the City already doing this?

Ideally, the City would be able to provide funding for all the services and projects our community desires. That said, it is easy to appreciate that the City has countless priorities that are perennially underfunded. Parks and open spaces get a small slice (less than 2%) of the City's annual budget. Our efforts seek to supplement RPD's existing funding and services with additional resources controlled by neighbors.

#### + What are the boundaries of the proposed GBD?

Defining the formal boundaries of our proposed GBD will be an iterative process. Our current study area includes Dolores Park and the surrounding blocks. The boundaries will be adjusted based on factors such as the stated willingness of property owners to participate (via survey results), other benefit districts under consideration (e.g. Market St Business District), etc

#### + What will my assessment be?

This depends on the GBD boundaries and what residents decide they want a GBD to do. Only property owners pay assessments. Past average assessments have been \$150-\$300 per year. This is only an estimate; the actual assessment will be determined later in the process during development of the District Management Plan, and shared publicly before residents vote.

#### + Is this a permanent fee?

No, the assessment is not permanent. A District can exist for 5 to 15 years, as determined by local property owners. If

neighbors are not interested in renewing the District after this term expires, the District is disestablished. If neighbors would like to renew the District, the renewal process must follow the same process as initial District formation (petition and ballot votes by property owners).

### + Can landlords pass their assessments to tenants?

The San Francisco Rent Ordinance prohibits owners of rent-controlled rental units from passing through the increased cost of special assessments to tenants in rent-controlled units, with the exception of general obligation bonds approved by 50% of voters and with express language allowing a pass-through. Owners of rent-controlled units do have the right under the San Francisco Rent Ordinance to file a Operating & Maintenance Petition requesting right to pass-through a portion of general operating costs for their buildings (including garbage, water, etc), but not solely for increased costs associated special assessments. General tax increases may be considered as one of several cost factors. The petition must be approved by the Rent Board approval, and even if approved, low-income or fixed-income tenants may obtain a hardship exemption from the Rent Board from any pass-through approved by the Rent Board. For unregulated (post-1979) residential units and commercial buildings, the right of the landlord to pass through new assessments will depend on the terms of each individual lease.

### + What's an "assessment methodology"?

Each property owner's annual assessment is legally required to be determined and calculated by a licensed Assessment Engineer. This Assessment Engineer creates an "assessment methodology" that is applied to all properties in the proposed District and calculates the annual assessment for

each. Assessment methodologies are based on parcel characteristics, such as land use, building size, lot size, or street frontage. For example, in the Dogpatch & Northwest Potrero Hill GBD, residential properties are assessed at a rate of \$0.09 per square foot of building area owned.

The Assessment Engineer consults with local property owners to determine an assessment methodology that is fair, representative, and proportional across all assessed property owners. Assessment rates can be decreased by any amount, but any increase is limited to a maximum of the percentage increase in the Bay Area Consumer Price Index (CPI) or 3% - whichever figure is less. Changes to annual assessment rates must be voted-on and approved by the GBD Board of Directors.

#### + How much would the GBD raise annually?

We do not know yet. The GBD must first go through an extensive community engagement process to identify the specific types of services and projects desired, and also to evaluate the willingness to pay among property owners. Ultimately, the District budget will depend on the number of properties within the District boundaries; the desired services and improvements identified by neighbors; and a professional assessment engineer's assessment methodology.

#### + How is a GBD managed?

State and local law requires that a non-profit organization, representative of the neighborhood, is established to implement the GBD's community-derived goals. This nonprofit is accountable, transparent and responsive, thanks to local governance by a volunteer Board of Directors. The limits of the Board's spending authority are clearly defined in the GBD's Management Plan. The GBD is further subject

to standard non-profit rules of governance, including ethical rules governing disclosure of conflicts of interest and prohibitions against self-dealing.

### + How do we decide who's on the GBD Board of Directors?

The GBD Board must be a representative mix of property owners and other District stakeholders, typically including non-property owning residents. During the development of the Management Plan, the community determines the general composition of the GBD's future Board of Directors.

### + Is there any oversight of GBDs?

There is significant City oversight of GBDs. All GBDs and CBDs must submit annual performance reports to the Public Works Department, including a transparent accounting of all income and expenses. These are reviewed by Public Works and annually presented to the San Francisco Board of Supervisors in a public hearing. They will also be posted on the GBD website for added transparency and accountability.

### + Can a GBD be disestablished?

Yes. GBDs are not permanent and need to be renewed at the end of their term. Additionally, property owners have the opportunity to request disestablishment of a GBD during a 30-day period each year. A written petition must be submitted by property owners who pay 50% or more of the assessments levied in the district. The Board of Supervisors will then hold a hearing on whether to disestablish a GBD. A majority of the Board of Supervisors (6 members) can also initiate disestablishment at any time based on misappropriation of funds, malfeasance, or violation of law in connection with the management of a GBD.

### + How is a GBD formed?

The GBD formation process is in-depth and transparent. District property owners vote on the proposed District during first a Petition (need 30% weighted support) and then a special Ballot (need 50%+1 weighted support). You can learn more details about the overall formation process and voting procedures [here](#).

#### + What is a weighted vote?

Each property owner's vote is weighted according to their property assessment as a share of the total District budget. Ex: if my assessment is \$5 per year and the total District budget is \$100, then I am responsible for 5% of the total vote.

#### + How can I get involved?

Increased community engagement is one of our guiding principles and we readily admit that we don't have the market cornered on ideas to improve our neighborhood. We welcome your feedback, as well as your time. Please visit the [contact page](#) to submit your suggestions and whether you might be interested in volunteering.

Email Address

Sign Up

# MISSION DOLORES GBD

HOME ABOUT SURVEY MEETINGS CONTACT

## WHY A GBD?

We live, work and play in the Dolores neighborhood. We want to build a safe, clean, connected and vibrant community, and think the Green Benefit District is an idea worth exploring.

Our exploratory formation effort is guided by the following values:

- We share a sense of responsibility to work together to care for and enhance our neighborhood
- We align and collaborate with residents, local businesses, neighborhood associations, and City government to make our community as livable and enjoyable as it can be
- We are inclusive and respectful of the diversity of our community and visitors
- We commit to a green, sustainable city and environment
- We share a concern for the safety and well-being of all

Ultimately, we are working toward the following outcomes:

- A connected and engaged community
- Enhanced maintenance and safety of our neighborhood's public spaces
- Small scale greening improvements such as sidewalk and median gardens
- Improved pedestrian and bicycle safety
- Thriving local businesses
- Honoring our history while actively shaping our future

- City agencies held accountable for providing their baseline services
- A formation process that is democratic, accountable and responsive to community interests



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# MISSION DOLORES GBD

HOME ABOUT SURVEY MEETINGS CONTACT

## FORMATION PROCESS

Forming a Green Benefit District requires a robust community engagement process and demonstrated support. It starts with community members who love their neighborhood's open spaces, but see a clear need for improvements and additional resources to supplement the City's existing services.

### 1: PLANNING & FEASIBILITY

A group of neighbors explores whether and how a GBD could work for their neighborhood. They conduct outreach through stakeholder meetings, community events, pre-survey, and canvassing. The feasibility survey (coming Sept 1) is a particularly important tool for collecting feedback and developing an understanding of the neighborhood's interests, priorities, and willingness to support a GBD. Results from this survey will help determine *if* and *where* there is enough property owner support for the district formation effort to proceed to the next step.

### 2: FORMATION DOCUMENTS

Through a series of public meetings, the community must create a Management Plan that outlines the goals, boundaries, services and assessment methodology for the proposed district. An Assessment Engineer helps inform this process, and develops an accompanying Engineer's Report to provide a legal justification for the assessment. This process includes an extensive public outreach and benefit evaluation process, to ensure that the GBD boundaries

contain only parcels that will receive a special benefit from proposed services, activities and improvements. Both the Management Plan and Engineer's Report must be approved by Public Works and the City Attorney's office.

### 3: PETITION

If the Management Plan and Engineer's Report are approved by the City Attorney, the community can launch a petition process to obtain the Board of Supervisors' approval to initiate a ballot. Each parcel within the proposed district will receive a petition indicating their individualized assessment and the percentage it represents of the total assessment budget. If the petition is signed by **property owners representing 30% of the proposed district budget**, the Board of Supervisors may initiate a ballot.

### 4: BALLOT

If the petition phase demonstrates sufficient support and the Board of Supervisors approves, a ballot proceeding will be launched. The Department of Elections issues a ballot to each property owner within the proposed boundaries of a GBD. This would be a **special ballot election** independent of the general elections in November. For the district to be formed, a **simple majority** (50% + 1) of the returned weighted ballots must be in favor. If the vote hits this required mark, the Board of Supervisors will adopt an ordinance to officially establish a GBD.

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# MISSION DOLORES GBD

HOME ABOUT SURVEY MEETINGS CONTACT

## FORMATION COMMITTEE

We are a group of neighbors interested in exploring a potential Mission Dolores GBD to enhance our community's parks and open spaces. To learn how you can get involved, please [contact us!](#)

### BRUCE BOWEN

I first moved to San Francisco in 1957. I have lived in Fort Mason, the Presidio, the Richmond, the Sunset - and now, for over 30 years, Eureka Valley and Dolores Heights. Although I moved away temporarily for various educational, professional or personal reasons, my love of the City and its neighborhoods and people have always brought me back.

### CAROLYN THOMAS

I moved from the Garden State to the Golden State 22 years ago. My husband said this is our last house so we were picky, and chose to live in Eureka Valley, where its relatively sunny and flat. I participate in the community as a member of the Community Oriented Police Strategy working group, SF SAFE captain, NERT certified, and have served on 5 juries during my time in San Francisco. I enjoy going out for long hikes with my spouse and dog, listening to jazz and roots music, and helping out with gardening projects. I work as a strategic planning manager for a financial institution designing customer systems.

### CLAUDE IMBAULT

Born and raised in San Francisco's Ashbury Heights neighborhood, Claude comes from a strong family background in civic engagement and community stewardship. He lives in the Castro with his partner and is involved with the Eureka Valley Neighborhood Association. He previously worked for the Union Square Business Improvement District in operations and strategic planning to support the area as a safe, vibrant, and attractive destination. He currently works for the SF Parks Alliance.

### **CONAN MCHUGH**

Enjoy visiting Dolores Park regularly? Love our unique intersection of the Castro, Mission & Noe neighborhoods? Want to give back? Careful...answering "Yes" to all three of those questions was the only qualification required to get Conan engaged in the Dolores GBD. While luck brought him and his family to the Castro back in 2006, it was intentional that they've stayed within a handful of blocks of Dolores Park since then despite multiple moves. Conan is passionate about our neighborhood and looks forward to engaging with all of you to make it an even better community. When he is not busy between work (engineering sales) and assisting with the GBD, you can find Conan at the Park daily with his wife and dogs, Bodie & Juno.

### **HANS KOLBE**

coming soon

### **JIM CHAPPELL**

Jim Chappell has lived in the Dolores Park neighborhood since 1985 and been a homeowner since 1990. He is an urban planner by training, and helped form and expand the Union Square Business Improvement District, and the Yerba Buena Community Benefit District and been on their boards. He also helped form the Central Market, Civic Center, and East Cut Community Benefit Districts. He taught a course "Gardens, Parks and Urban Open Spaces" for over 25 years.

## **NED MORAN**

I have been a resident of San Francisco for the past ten years and have lived in the Dolores Park neighborhood for the past six years. My work experience is in financial services technology and I retired in 2013. I volunteer at the SF Botanical Garden and at Cesar Chavez Elementary School with the non-profit group, Reading Partners. I've also worked on projects to plant and maintain the Guerrero Street median. I am committed to doing whatever I can to keep my neighborhood vibrant, clean and safe. That's why I'm a big supporter for the Dolores Park GBD.

## **ROBERT BRUST**

Robert Brust has been a proud Californian since moving to San Francisco in 1977. He now lives on Liberty Street in a home he bought with Joel Costa, his partner of 27 years. He is a private chef and caterer, a member of the Dolores Heights Improvement Club, board member of the Mission Dolores Neighborhood Association, and appointed District 8 representative on the Parks Recreation and Open Space Advisory Committee (PROSAC). In 2009, Robert helped found Dolores Park Works, an advocacy and service organization which joined with the Dolores Park Ambassadors in 2017.

Noted accomplishments are the continued vibrancy of Dolores Park Works and current park conditions, thanks to significant direct community engagement and outreach; partnerships with city officials, local merchants, journalists, bloggers and neighborhood groups; and regular open invitation public meet-ups. Last year, Robert founded the Dolores Garden Club, a group committed to monthly garden projects in Dolores Park. He also produced the first Dolores History Day along with the Dolores Park Ambassadors and Love Dolores Campaign. As a PROSAC member, Robert advocated for the acquisition and development of more open space and park land to address our growing population and underserved areas, as well as for full staffing for the Dolores Park Rangers and an increase in tree maintenance.

## **SAM MOGANNAM**

Sam is the second-generation owner of Bi-Rite Market, which has been in his family since 1964. Under his direction for the past 20 years, Sam has been actively involved in his

community. He co-founded 18 Reasons, a non-profit community cooking school, located next to Bi-Rite Creamery, and is an active partner with Mission High School. Having spent the past 40+ years of his life on and around 18th Street, Sam knows the neighborhood and many of its residents intimately.



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# MISSION DOLORES GBD

[HOME](#) [ABOUT](#) [SURVEY](#) [MEETINGS](#) [CONTACT](#)

## MEETINGS & EVENTS

We want to start a conversation about whether a GBD could work for Mission Dolores. We hope you will join our meetings to learn more and weigh in.

### UPCOMING MEETINGS

- TBD

### PAST MEETINGS

- **November 15, 2018 - Survey Report-Back Meeting**

[Meeting Slides](#), [Audience Q&A Summary](#)

- **September 17, 2018 - Informational Meeting**

[Meeting Slides](#), [Audience Q&A Summary](#)

- **October 10, 2018 - Informational Meeting**

[Meeting Slides](#), [Audience Q&A Summary](#)

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**CITY AND COUNTY OF SAN FRANCISCO  
OFFICE OF ECONOMIC AND WORKFORCE DEVELOPMENT**

**GRANT AGREEMENT**

between

CITY AND COUNTY OF SAN FRANCISCO

and

SAN FRANCISCO PARKS ALLIANCE

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**THIS GRANT AGREEMENT** (this "Agreement") is made this JULY 1, 2018, in the City and County of San Francisco, State of California, by and between SAN FRANCISCO PARKS ALLIANCE, a California nonprofit public benefit corporation ("Grantee" or "Contractor"), and the **CITY AND COUNTY OF SAN FRANCISCO**, a municipal corporation ("City"), acting by and through the Agency (as hereinafter defined),

**WITNESSETH:**

**WHEREAS**, Grantee has submitted to the Agency the Application Documents (as hereinafter defined) seeking a **BUENA VISTA AND DOLORES PARK GBDs** grant for the purpose of funding the matters set forth in the Grant Plan (as hereinafter defined); and summarized briefly as follows:

To determine the level of support for the formation of a two new Green Benefit Districts (GBDs);  
and

**WHEREAS**, City desires to provide such a grant on the terms and conditions set forth herein:

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

**ARTICLE 1  
DEFINITIONS**

**1.1 Specific Terms.** Unless the context otherwise requires, the following capitalized terms (whether singular or plural) shall have the meanings set forth below:

(a) "**ADA**" shall mean the Americans with Disabilities Act (including all rules and regulations thereunder) and all other applicable federal, state and local disability rights legislation, as the same may be amended, modified or supplemented from time to time.

(b) "**Agency**" shall mean the Office of Economic and Workforce Development (OEWD).

(c) "**Application Documents**" shall mean collectively: (i) the grant application submitted by Grantee, including all exhibits, schedules, appendices and attachments thereto; (ii) all documents,

correspondence and other written materials submitted in respect of such grant application; and (iii) all amendments, modifications or supplements to any of the foregoing approved in writing by City.

- (d) **"Budget"** shall mean the budget attached hereto as part of Appendix A.
- (e) **"Charter"** shall mean the Charter of City.
- (f) **"CMD"** shall mean the Contract Monitoring Division of the City.
- (g) **"Controller"** shall mean the Controller of City.
- (h) **"Eligible Expenses"** shall have the meaning set forth in Appendix A.
- (i) **"Event of Default"** shall have the meaning set forth in Section 11.1.
- (j) **"Fiscal Quarter"** shall mean each period of three (3) calendar months commencing on July 1, October 1, January 1 and April 1, respectively.
- (k) **"Fiscal Year"** shall mean each period of twelve (12) calendar months commencing on July 1 and ending on June 30 during all or any portion of which this Agreement is in effect.
- (l) **"Funding Request"** shall have the meaning set forth in Section 5.3(a).
- (m) **"Grant Funds"** shall mean any and all funds allocated or disbursed to Grantee under this Agreement.
- (n) **"Grant Plan"** shall have the meaning set forth in Appendix B

Or

shall mean the plans, performances, events, exhibitions, acquisitions or other activities or matter described in the Application documents; provided, however, that in the event of any inconsistency in such description, the most recent of the conflicting documents shall govern.

(o) **"Indemnified Parties"** shall mean: (i) City, including the Agency and all commissions, departments, agencies and other subdivisions of City; (ii) City's elected officials, directors, officers, employees, agents, successors and assigns; and (iii) all persons or entities acting on behalf of any of the foregoing.

(p) **"Losses"** shall mean any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, judgments, fees, expenses and costs of whatsoever kind and nature (including legal fees and expenses and costs of investigation, of prosecuting or defending any Loss described above) whether or not such Loss be founded or unfounded, of whatsoever kind and nature.

(q) **"Publication"** shall mean any report, article, educational material, handbook, brochure, pamphlet, press release, public service announcement, web page, audio or visual material or other communication for public dissemination, which relates to all or any portion of the Grant Plan or is paid for in whole or in part using Grant Funds.

**1.2 Additional Terms.** The terms "as directed," "as required" or "as permitted" and similar terms shall refer to the direction, requirement, or permission of the Agency. The terms "sufficient," "necessary"

or "proper" and similar terms shall mean sufficient, necessary or proper in the sole judgment of the Agency. The terms "approval," "acceptable" or "satisfactory" or similar terms shall mean approved by, or acceptable to, or satisfactory to the Agency. The terms "include," "included" or "including" and similar terms shall be deemed to be followed by the words "without limitation". The use of the term "subcontractor," "successor" or "assign" herein refers only to a subcontractor ("subgrantee"), successor or assign expressly permitted under Article 13.

**1.3 References to this Agreement.** References to this Agreement include: (a) any and all appendices, exhibits, schedules, attachments hereto; (b) any and all statutes, ordinances, regulations or other documents expressly incorporated by reference herein; and (c) any and all amendments, modifications or supplements hereto made in accordance with Section 17.2. References to articles, sections, subsections or appendices refer to articles, sections or subsections of or appendices to this Agreement, unless otherwise expressly stated. Terms such as "hereunder," herein or "hereto" refer to this Agreement as a whole.

## **ARTICLE 2 APPROPRIATION AND CERTIFICATION OF GRANT FUNDS; LIMITATIONS ON CITY'S OBLIGATIONS**

**2.1 Risk of Non-Appropriation of Grant Funds.** This Agreement is subject to the budget and fiscal provisions of the Charter. City shall have no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. Grantee acknowledges that City budget decisions are subject to the discretion of its Mayor and Board of Supervisors. Grantee assumes all risk of possible non-appropriation or non-certification of funds, and such assumption is part of the consideration for this Agreement.

**2.2 Certification of Controller; Guaranteed Maximum Costs.** No funds shall be available under this Agreement until prior written authorization certified by the Controller. In addition, as set forth in Section 21.10-1 of the San Francisco Administrative Code: City's obligations hereunder shall not at any time exceed the amount certified by the Controller for the purpose and period stated in such certification. Except as may be provided by City ordinances governing emergency conditions, City and its employees and officers are not authorized to request Grantee to perform services or to provide materials, equipment and supplies that would result in Grantee performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies specified in this Agreement unless this Agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. City is not required to pay Grantee for services, materials, equipment or supplies that are provided by Grantee which are beyond the scope of the services, materials, equipment and supplies agreed upon herein and which were not approved by a written amendment to this Agreement having been lawfully executed by City. City and its employees and officers are not authorized to offer or promise to Grantee additional funding for this Agreement which would exceed the maximum amount of funding provided for herein. Additional funding for this Agreement in excess of the maximum provided herein shall require lawful approval and certification by the Controller. City is not required to honor any offered or promised additional funding which exceeds the maximum provided in this Agreement which requires lawful approval and certification of the Controller when the lawful approval and certification by the Controller has not been obtained. The Controller is not authorized to make payments on any agreement for which funds have not been certified as available in the budget or by supplemental appropriation.

**2.3 Automatic Termination for Nonappropriation of Funds.** This Agreement shall automatically terminate, without penalty, liability or expense of any kind to City, at the end of any Fiscal Year if funds are not appropriated for the next succeeding Fiscal Year. If funds are appropriated for a portion of any

Fiscal Year, this Agreement shall terminate, without penalty, liability or expense of any kind to City, at the end of such portion of the Fiscal Year.

**2.4 SUPERSEURE OF CONFLICTING PROVISIONS.** IN THE EVENT OF ANY CONFLICT BETWEEN ANY OF THE PROVISIONS OF THIS ARTICLE 2 AND ANY OTHER PROVISION OF THIS AGREEMENT, THE APPLICATION DOCUMENTS OR ANY OTHER DOCUMENT OR COMMUNICATION RELATING TO THIS AGREEMENT, THE TERMS OF THIS ARTICLE 2 SHALL GOVERN.

### **ARTICLE 3 TERM**

**3.1 Effective Date.** This Agreement shall become effective when the Controller has certified to the availability of funds as set forth in Section 2.2 and the Agency has notified Grantee thereof in writing.

**3.2 Duration of Term.** The term of this Agreement shall commence on the later of (a) JULY 1, 2018 and (b) the effective date specified in Section 3.1. Such term shall end at 11:59 p.m. San Francisco time on JUNE 30, 2020.

### **ARTICLE 4 IMPLEMENTATION OF GRANT PLAN**

**4.1 Implementation of Grant Plan; Cooperation with Monitoring.** Grantee shall, in good faith and with diligence, implement the Grant Plan on the terms and conditions set forth in this Agreement and the Application Documents. Grantee shall not materially change the nature or scope of the Grant Plan during the term of this Agreement without the prior written consent of City. Grantee shall promptly comply with all standards, specifications and formats of City, as they may from time to time exist, related to evaluation, planning and monitoring of the Grant Plan and shall cooperate in good faith with City in any evaluation, planning or monitoring activities conducted or authorized by City.

**4.2 Grantee's Personnel.** The Grant Plan shall be implemented only by competent personnel under the direction and supervision of Grantee.

**4.3 Grantee's Board of Directors.** Grantee shall at all times be governed by a legally constituted and fiscally responsible board of directors. Such board of directors shall meet regularly and maintain appropriate membership, as established in Grantee's bylaws and other governing documents and shall adhere to applicable provisions of federal, state and local laws governing nonprofit corporations. Grantee's board of directors shall exercise such oversight responsibility with regard to this Agreement as is necessary to ensure full and prompt performance by Grantee of its obligations under this Agreement.

#### **4.4 Publications and Work Product.**

(a) Grantee understands and agrees that City has the right to review, approve, disapprove or conditionally approve, in its sole discretion, the work and property funded in whole or part with the Grant Funds, whether those elements are written, oral or in any other medium. Grantee has the burden of demonstrating to City that each element of work or property funded in whole or part with the Grant Funds is directly and integrally related to the Grant Plan as approved by City. City shall have the sole and final discretion to determine whether Grantee has met this burden.

(b) Without limiting the obligations of Grantee set forth in subsection (a) above, Grantee shall submit to City for City's prior written approval any Publication, and Grantee shall not disseminate any

such Publication unless and until it receives City's consent. In addition, Grantee shall submit to City for approval, if City so requests, any other program material or form that Grantee uses or proposes to use in furtherance of the Grant Plan, and Grantee shall promptly provide to City one copy of all such materials or forms within two (2) days following City's request. The City's approval of any material hereunder shall not be deemed an endorsement of, or agreement with, the contents of such material, and the City shall have no liability or responsibility for any such contents. The City reserves the right to disapprove any material covered by this section at any time, notwithstanding a prior approval by the City of such material. Grantee shall not charge for the use or distribution of any Publication funded all or in part with the Grant Funds, without first obtaining City's written consent, which City may give or withhold in its sole discretion.

(c) Grantee shall distribute any Publication solely within San Francisco, unless City otherwise gives its prior written consent, which City may give or withhold in its sole discretion. In addition, Grantee shall furnish any services funded in whole or part with the Grant Funds under this Agreement solely within San Francisco, unless City otherwise gives its prior written consent, which City may give or withhold in its sole discretion.

(d) City may disapprove any element of work or property funded in whole or part by the Grant Funds that City determines, in its sole discretion, has any of the following characteristics: is divisive or discriminatory; undermines the purpose of the Grant Plan; discourages otherwise qualified potential employees or volunteers or any clients from participating in activities covered under the Grant Plan; undermines the effective delivery of services to clients of Grantee; hinders the achievement of any other purpose of City in making the Grant under this Agreement; or violates any other provision of this Agreement or applicable law. If City disapproves any element of the Grant Plan as implemented, or requires any change to it, Grantee shall immediately eliminate the disapproved portions and make the required changes. If City disapproves any materials, activities or services provided by third parties, Grantee shall immediately cease using the materials and terminate the activities or services and shall, at City's request, require that Grantee obtain the return of materials from recipients or deliver such materials to City or destroy them.

(e) City has the right to monitor from time to time the administration by Grantee or any of its subcontractors of any programs or other work, including, without limitation, educational programs or trainings, funded in whole or part by the Grant Funds, to ensure that Grantee is performing such element of the Grant Plan, or causing such element of the Grant Plan to be performed, consistent with the terms and conditions of this Agreement.

(f) Grantee shall acknowledge City's funding under this Agreement in all Publications. Such acknowledgment shall conspicuously state that the activities are sponsored in whole or in part through a grant from the Agency. Except as set forth in this Section, Grantee shall not use the name of the Agency or City (as a reference to the municipal corporation as opposed to location) in any Publication without prior written approval of City.

## ARTICLE 5 USE AND DISBURSEMENT OF GRANT FUNDS

**5.1 Maximum Amount of Grant Funds.** In no event shall the amount of Grant Funds disbursed hereunder exceed ONE HUNDRED FIFTY-SIX THOUSAND NINE HUNDRED EIGHTY-FOUR Dollars (\$156,984).

**5.2 Use of Grant Funds.** Grantee shall use the Grant Funds only for Eligible Expenses as set forth in Appendix A and for no other purpose. Grantee shall expend the Grant Funds in accordance with the

Budget, if any, and shall obtain the prior approval of City before transferring expenditures from one line item to another within the Budget.

**5.3 Disbursement Procedures.** Grant Funds shall be disbursed to Grantee as follows:

(a) Grantee shall submit to the Agency, in the manner specified for notices pursuant to Article 15, a document (a "Funding Request") substantially in the form attached as Appendix C. Any Funding Request that is submitted and is not approved by the Agency shall be returned by the Agency to Grantee with a brief statement of the reason for the Agency's rejection of such Funding Request. If any such rejection relates only to a portion of Eligible Expenses itemized in such Funding Request, the Agency shall have no obligation to disburse any Grant Funds for any other Eligible Expenses itemized in such Funding Request unless and until Grantee submits a Funding Request that is in all respects acceptable to the Agency.

(b) The Agency shall make all disbursements of Grant Funds pursuant to this Section by check payable to Grantee, sent via U.S. mail in accordance with Article 15, unless the Agency otherwise agrees in writing, in its sole discretion. The Agency shall make disbursements of Grant Funds no more than once during each MONTH.

**5.4 Disallowance.** With respect to Grant Funds, if any, which are ultimately provided by the state or federal government, Grantee agrees that if Grantee claims or receives payment from City for an Eligible Expense, payment or reimbursement of which is later disallowed by the state or federal government, Grantee shall promptly refund the disallowed amount to City upon City's request. At its option, City may offset all or any portion of the disallowed amount against any other payment due to Grantee hereunder or under any other Agreement. Any such offset with respect to a portion of the disallowed amount shall not release Grantee from Grantee's obligation hereunder to refund the remainder of the disallowed amount.

**5.5 Construction.**

(a) For Grant Plans that include construction or renovation activity, Grantee shall obtain all permits and comply with all applicable laws with respect to the work including the payment of prevailing wages. Grantee shall exercise prudent construction management and oversight, including ensuring that all contractors are licensed and bonded for the work, and that they maintain builders all risk and general liability insurance. City's funding contribution will not exceed the amounts set forth in this Agreement, and Grantee will be responsible for any and all cost overruns or construction defects or deficiencies. Grantee shall maintain appropriate reserves for contingencies.

(b) For any construction project costing \$200,000 or more, Grantee shall competitively bid the work. For any project costing more than \$5,000 but less than \$200,000, Grantee shall informally or formally solicit at least 3 proposals or bids from eligible contractors. Grantee may seek a waiver of these requirements from the City with justification, but any such waiver may be given or withheld in the City's sole discretion. For construction and rehabilitation projects that require building permits, Grantee shall consult with the Mayor's Office on Disability before applying for such permit to ensure that any disability accommodation issues are appropriately addressed.

(c) If the Grant Funds are used for the rehabilitation or improvement of real property, then Grantee shall maintain the nonprofit eligible purpose and use of the property consistent with this Agreement for the Tenure Period. The "Tenure Period" of this Agreement is the period of time that starts on the date of completion of the rehabilitation or improvements and that ends five (5) years thereafter. If Grantee leases the property and the remaining term of the lease is less than five (5) years following the expected date of completion such that Grantee may not be in a position to satisfy the Tenure Period

Compliance with the PCI DSS shall be achieved through a third party audit process. The Grantee shall comply with Visa Cardholder Information Security Program (CISP) and MasterCard Site Data Protection (SDP) programs.

3. (c) For any Grantee that processes PIN Debit Cards, payment card devices supplied by Grantee shall be validated against the PCI Council PIN Transaction Security (PTS) program.
4. (d) For items (a) to (c) above, Grantee shall provide a letter from their qualified security assessor (QSA) affirming their compliance and current PCI or PTS compliance certificate.
5. (e) Grantee shall be responsible for furnishing City with an updated PCI compliance certificate 30 calendar days prior to its expiration.
6. (f) Bank Accounts. Collections that represent funds belonging to the City and County of San Francisco shall be deposited, without detour to a third party's bank account, into a City and County of San Francisco bank account designated by the Office of the Treasurer and Tax Collector.

## **ARTICLE 17 MISCELLANEOUS**

**17.1 No Waiver.** No waiver by the Agency or City of any default or breach of this Agreement shall be implied from any failure by the Agency or City to take action on account of such default if such default persists or is repeated. No express waiver by the Agency or City shall affect any default other than the default specified in the waiver and shall be operative only for the time and to the extent therein stated. Waivers by City or the Agency of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition. The consent or approval by the Agency or City of any action requiring further consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar act.

**17.2 Modification.** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement.

**17.3 Administrative Remedy for Agreement Interpretation.** Should any question arise as to the meaning or intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the director or president, as the case may be, of the Agency who shall decide the true meaning and intent of the Agreement. Such decision shall be final and conclusive.

**17.4 Governing Law; Venue.** The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws principles. Venue for all litigation relative to the formation, interpretation and performance of this Agreement shall be in San Francisco.

**17.5 Headings.** All article and section headings and captions contained in this Agreement are for reference only and shall not be considered in construing this Agreement.

**17.6 Entire Agreement.** This Agreement and the Application Documents set forth the entire Agreement between the parties, and supersede all other oral or written provisions. If there is any conflict between the terms of this Agreement and the Application Documents, the terms of this Agreement shall govern. The following appendices are attached to and a part of this Agreement:

Appendix A, Definition of Eligible Expenses  
Appendix B, Definition of Grant Plan  
Appendix C, Invoicing and Payment Instructions

Appendix D, Interests in Other City Contracts  
Appendix E, Permitted Subgrantees

**17.7 Certified Resolution of Signatory Authority.** Upon request of City, Grantee shall deliver to City a copy of the corporate resolution(s) authorizing the execution, delivery and performance of this Agreement, certified as true, accurate and complete by the secretary or assistant secretary of Grantee.

**17.8 Severability.** Should the application of any provision of this Agreement to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

**17.9 Successors; No Third-Party Beneficiaries.** Subject to the terms of Article 13, the terms of this Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their successors and assigns. Nothing in this Agreement, whether express or implied, shall be construed to give any person or entity (other than the parties hereto and their respective successors and assigns and, in the case of Article 9, the Indemnified Parties) any legal or equitable right, remedy or claim under or in respect of this Agreement or any covenants, conditions or provisions contained herein.

**17.10 Survival of Terms.** The obligations of Grantee and the terms of the following provisions of this Agreement shall survive and continue following expiration or termination of this Agreement:

Section 6.4	Financial Statements	Article 9	Indemnification and General Liability
Section 6.5	Books and Records		
Section 6.6	Inspection and Audit	Section 10.4	Required Post-Expiration Coverage
Section 6.7	Submitting False Claims; Monetary Penalties	Article 12	Disclosure of Information and Documents
Section 6.8	Ownership of Results	Section 13.4	Grantee Retains Responsibility
Article 7	Taxes	Section 14.3	Consequences of Recharacterization
		Article 17	Miscellaneous

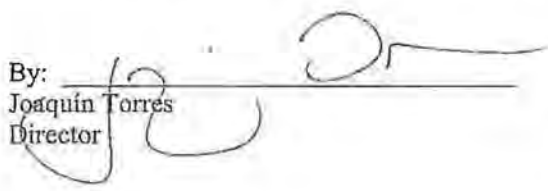
**17.11 Further Assurances.** From and after the date of this Agreement, Grantee agrees to do such things, perform such acts, and make, execute, acknowledge and deliver such documents as may be reasonably necessary or proper and usual to complete the transactions contemplated by this Agreement and to carry out the purpose of this Agreement in accordance with this Agreement.

**17.12 Cooperative Drafting.** This Agreement has been drafted through a cooperative effort of both parties, and both parties have had an opportunity to have the Agreement reviewed and revised by legal counsel. No party shall be considered the drafter of this Agreement, and no presumption or rule that an ambiguity shall be construed against the party drafting the clause shall apply to the interpretation or enforcement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first specified herein.

CITY:

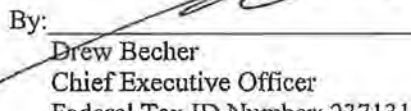
**CITY AND COUNTY OF SAN FRANCISCO,**  
a municipal corporation, acting by and through its  
**OFFICE OF ECONOMIC AND  
WORKFORCE DEVELOPMENT**

By:   
Joaquín Torres  
Director

GRANTEE:


By signing this Agreement, I certify on behalf of  
Grantee and not in my individual capacity that  
Grantee complies with the requirements of the  
Minimum Compensation Ordinance, which entitle  
Covered Employees to certain minimum hourly  
wages and compensated and uncompensated time  
off.

**SAN FRANCISCO PARKS ALLIANCE,**  
a California nonprofit public benefit corporation

By:   
Drew Becher  
Chief Executive Officer  
Federal Tax ID Number: 237131784  
City Supplier Number: 0000011535

**Approved as to Form:**

Dennis J. Herrera  
City Attorney

By:   
Charles R. Sullivan  
Deputy City Attorney

## **Appendix A—Definition of Eligible Expenses**

The term “Eligible Expenses” shall mean expenses incurred and paid by Grantee during the term of this Agreement in implementing the terms of the Grant Plan.

### **All Eligible Expenses *must* be:**

- (a) paid by Grantee prior to the submission of the applicable Funding Request (no advances of Grant Funds shall be made unless agreed to in writing between both parties);
- (b) direct out-of-pocket expenses incurred by Grantee or its officers, directors and employees;
- (c) operating (as opposed to capital) expenses;
- (d) within the scope of the applicable Budget line item; and
- (e) directly related to activities performed within the physical boundaries of the City and County of San Francisco.

### **Eligible Expenses shall *include*:**

- (1) net salaries and wages
- (2) rent or related fees for equipment, performance or meeting halls or studios;
- (3) telephone charges, stationery and office supplies;
- (4) advertising and publicity costs; and
- (5) items detailed in the budget below.

### **Eligible Expenses shall specifically *exclude*:**

- (1) personal or business-related costs or expenses related to meals, catering, transportation, lodging, fundraising or educational activities;
- (2) capital expenses;
- (3) any costs or expenses which are prohibited under the terms and conditions of any federal or state grant supplying all or any portion of the Grant Funds;
- (4) penalties, late charges or interest on any late payments; or
- (5) taxes or other amounts withheld from wages or salaries which have not actually been paid by Grantee during the term of this Agreement or which relate to periods before or after the term of this Agreement.

**Program Budget**

<b>Budget Line Item</b>	<b>Description of Deliverable / Payment Trigger</b>	<b>Budget Amount</b>
Deliverable 1	Buena Vista Survey Report	\$ 20,950.00
Deliverable 2	Feasibility Survey Report (DP)	\$ 20,000.00
Deliverable 3	Final Management Plan (DP)	\$ 30,000.00
Deliverable 4	Final Engineer's Report (DP)	\$ 27,284.00
Deliverable 5	Proof of Petition Mailing package (DP)	\$ 19,000.00
Deliverable 6	Assessment Database (DP)	\$ 15,000.00
Deliverable 7	Ballot Materials (DP)	\$ 20,050.00
Deliverable 8	Inner Sunset GBD - Letter to Property Owners (IS)	\$ 4,700.00
Deliverable 9	Buena Vista GBD - Letter to Property Owners (BV)	\$ -
Deliverable 10	Dolores Park GBD - Letter to Property Owners (DP)	\$ -
	<b>Total Budget Amount</b>	<b>\$ 156,984.00</b>

## **Appendix B--Definition of Grant Plan**

The term "Grant Plan" shall be defined as follows:

### **I. PROJECT DEFINITIONS**

**APN** – Assessor's Parcel Number

**GBD** – Green Benefit District

**City** – City and County of San Francisco

**City's Team** –

Christopher Corgas, Senior Program Manager, OEWD  
Jonathan Goldberg, Program Manager, Public Works  
Helen Mar, Project Specialist, OEWD

**District Supervisor** – Supervisor on the City and County of San Francisco Board of Supervisors, representing District 8

**FPS** – GBD Feasibility Phase Survey

**Grantee** – San Francisco Parks Alliance

**Grantee's Team** –

Brooke Ray Rivera, San Francisco Parks Alliance  
Julia Ayeni, San Francisco Parks Alliance  
Madeline Porter, San Francisco Parks Alliance  
Drew Becher, CEO, San Francisco Parks Alliance

**Inner Sunset GBD** – a proposed GBD in San Francisco Supervisorial District 5

**MOU** – Memorandum of Understanding

**OEWD** – Office of Economic and Workforce Development, a department of the City.

**Project Area A** – Neighborhood surrounding Buena Vista Park

**Project Area B** – Neighborhood surrounding Dolores Park.

**PW** – Department of Public Works, a department of the City.

**Steering Committee** – A committee that will work with Grantee to determine the feasibility of GBD formation or expansion

### **II. DESCRIPTION OF SERVICES**

A Green Benefit District is a public/private partnership in which property owners choose to make a collective contribution to the maintenance, development and promotion of their neighborhoods and public realm assets through a special assessment of their properties.

GBDs represent a long-term financial commitment; therefore the formations or expansions of GBDs require the support of property owners in the district. GBDs are formed or expanded when there is widespread support among property owners who are fully informed about the proposed district.

The intent of this Agreement is to determine the level of support for the formation of a two new GBDs, one in the area surrounding Buena Vista Park and one in the area surrounding Dolores Park. This determination of support is referred to as the GBD Feasibility Phase.

### **III. TASKS AND DELIVERABLES FOR PROJECT**

#### **Task 1. Project Area A Survey Report**

- Grantee shall prepare a final survey report for Project Area A and send to City's Team.
- Final survey report shall contain:
  - Number of survey respondents
  - Survey respondents broken down between property owners, businesses, renters, and other (as needed) stakeholder organizations or groups
  - Break down of responses to each question by all respondents and subcategorized by how property owners, businesses, renters, and others (as needed stakeholder organizations or groups) respond
  - Appropriate charts, graphs, and tables to facilitate data understanding
  - A conclusion on whether or not the GBD project should continue in Project Area A

#### **Task 1 Deliverables**

- A. Greater Buena Vista GBD Survey Report

#### **Task 2. Project Area B Survey Report**

- Grantee shall prepare a final survey report for Project Area B and send to City's Team.
- Final survey report shall contain:
  - Number of survey respondents
  - Survey respondents broken down between property owners, businesses, renters, and other (as needed) stakeholder organizations or groups
  - Break down of responses to each question by all respondents and subcategorized by how property owners, businesses, renters, and others (as needed stakeholder organizations or groups) respond
  - Appropriate charts, graphs, and tables to facilitate data understanding
  - A conclusion on whether or not the GBD project should continue in Project Area B

#### **Task 2 Deliverables**

- B. Dolores Park GBD Survey Report

#### **Task 3. Final Management Plan**

- Grantee shall submit a final Management District Plan (management plan) for Project Area B to City's Team
- Management District Plan shall meet all requirements under pertinent state and local statutes

- Management District Plan shall be approved by the Project Area B steering committee
- Management District Plan shall be approved by the Green Benefit District Program Manager and City Attorney

#### **Task 3 Deliverables**

C. Final Management District Plan

#### **Task 4. Final Engineer's Report**

- Grantee shall submit a final engineer's report for Project Area B to City's Team
- Engineer's Report shall meet all requirements under pertinent state and local statutes
- Engineer's Report shall have been approved by the Project Area B steering committee
- Engineer's Report shall be approved by Green Benefit District Program Manager and City Attorney

#### **Task 4 Deliverables**

D. Final Engineer's Report for Project Area B

#### **Task 5. Petition Mailing**

- Grantee shall mail petitions and all related documents, via United States Postal Service, to initiate a special assessment election

#### **Task 5 Deliverables**

E. Proof of petition mailing package (receipt from United States Postal Service)

#### **Task 6. Assessment Database**

- Grantee shall provide Green Benefit District Program Manager a final assessment database indicating the following for each property:
  - APN
  - SITUS
  - Property Owner Name
  - Mailing Address
  - Mailing City
  - Mailing State
  - Mailing Zip Code
  - Necessary parcel characteristic information to determine individual assessment
  - Assessment for each parcel
  - Percentage of total assessment budget that each individual parcel is

#### **Task 6 Deliverables**

F. Final Assessment Database for Project Area B

### Task 7. Ballot Materials

- Grantee shall provide all necessary ballot materials to the Green Benefit District Program Manager and City's Team, which shall include
  - Mailing database
  - Ballot cover letter from Project Area B steering committee
  - USBs or CDs containing the Management District Plan, Management District Plan Summary, Engineer's Report, and cover letter for Project Area B in PDF format
    - Grantee shall provide City's Team with USBs or CDs 50% in excess of the amount of parcels in the district
      - For example, if the GBD has 1,000 unique parcels grantee shall provide 1,500 USBs or CDs containing the aforementioned information to City's Team

### Task 7 Deliverables

- G. All three ballot materials submitted to City's Team
  - a. For the USBs or CDs a letter of receipt from City's Team will suffice

### Task 8. Closure

- Grantee shall be responsible for close out procedures in the Inner Sunset GBD area
- Grantee shall be responsible for close out procedures in Project Area A and B, if respective steering committee determines it is not feasible to move forward with the project either after surveying or completion of a final Management Plan and Engineer's Report
- Close out responsibilities shall include:
  - Email communications to GBD supporters and stakeholders indicating the status of the project and why it will no longer be actively pursued
  - An online survey to gauge whether or not the community at large would be interested in pursuing another GBD in the future
    - Survey may include additional questions that steering committee deems necessary
  - Updating the GBD website to inform the community of the status change
  - A direct mailing to property owners indicating the change in status of the potential GBD
  - Advising the steering committee and its leadership team on any next steps

### Task 8 Deliverables

- H. Letter to Inner Sunset GBD property owners and stakeholders
- I. Letter to Project Area A property owners and stakeholders
- J. Letter to Project Area B property owners and stakeholders

## Appendix C—Invoicing and Payment Instructions

- I. Grantee will submit an invoice along with all supporting documentation (receipts, invoices, copies of checks, or confirmation of deliverable approval from Program Manager) within 10 days after the month that expenses were incurred or the deliverable was approved by OEWD. These documents must be submitted electronically via the online electronic reporting system Total Grant Solution (TGS).
  - A. Expenses shall be billed against appropriate and available budget line items as seen in TGS 7c2 by fund sources and service activities following the agency's cost allocation basis.
  - B. There shall be no variance from the line item budget submitted which adversely affects program performance as contained in the grantee's proposal and required in the agreement.
  - C. Personnel expenditures will show position detail as required in 7c2 to include first and last name, position title, and percentage of FTE.
  - D. Invoices shall be electronically submitted by the Organizational Administrator. Agencies shall maintain their own list of authorized users (including level of permission) in the agency information section of TGS. This includes setting up new users, deactivating users, and adjusting permissions as appropriate.
  - E. All supporting documentation shall be uploaded onto TGS 7c2 and submitted with the invoice. In addition, grantee must keep and make available as requested such supporting documentation for all expenditures for which reimbursement is requested for all costs so claimed. Documentation shall include, but not be limited to, receipts for purchases and expenses incurred, invoices, copies of checks, confirmation of deliverable approval from the Program Manager, and payroll records. Payroll information can be from a payroll service or a payroll ledger from the Grantee's accounting system. All charges incurred shall be due and payable only after services have been rendered, except as stated otherwise. Grantee shall supply additional specific documentation when requested by OEWD. **NOTE: All deliverables must first be emailed to the Program Manager for approval. The Program Manager's approval email should then be uploaded into the online Total Grant Solution system as the supporting documentation required for invoice submission.**
- II. Failure to submit required reports by specified deadlines may result in withholding of grant payments. Failure to submit sufficient supporting documentation and/or any discrepancies on the invoice may result in withholding of grant payments. Failure to meet project performance goals will result in a corrective action plan, withholding of grant payments in full or part, and/or termination.
- III. Following OEWD verification that claimed services are authorized and delivered satisfactorily and charges are properly supported, OEWD will authorize payment no later than 30 days after receipt of the invoice and all billing information set forth above.
- IV. Grantee shall be prepared to submit a final fiscal year-end cost reimbursement invoice which reconciles all charges for the fiscal year in addition to covering the charges incurred for the final month of the fiscal year, even if the agreement term extends beyond the end of the fiscal year. If a refund is due OEWD, it must be submitted with the final invoice. OEWD will inform grantee of the due date for all close-out deadlines. Any expenses submitted after the communicated deadline (generally 20 days following the fiscal year end) will not be paid. **NOTE: All**

deliverables must be completed, submitted, and approved by the Program Manager on or before the agreement term end date.

V. OEWD may change the invoice submission method at its discretion by notifying Grantee.

VI. Acquisition and Disposition of Nonexpendable Property

- A. Title to all nonexpendable property (nonexpendable property is property other than real property that costs more than \$1,000.00 and has a useful life which exceeds one year) acquired by Grantee in whole or in part with funds (including WIA, WIOA, CDBG, and General Fund, unless prohibited by the source) provided under this Agreement, shall vest immediately in City for the purpose of securing Grantee's performance under this Agreement, unless City notifies Grantee to the contrary. Grantee shall take any and all steps necessary to take title to such property in City's name. Grantee shall have the right to possession of such property, and shall be solely responsible for the use and maintenance of such property and for any liability associated with the property that arises or relates to any act or omission occurring at any point prior to Grantee's delivery of the property to City. Grantee may not alienate, transfer or encumber such property without City's prior written consent. At the end of the term or upon earlier expiration of this Agreement, possession of said property should be immediately surrendered if requested by the City.
- B. Following the term or earlier expiration of this Agreement, City may release the nonexpendable property to Grantee, reallocate it to Grantee under subsequent Agreements, or allocate it to other beneficial public agencies or private nonprofit grantees.
- C. Any interest of Grantee or any subcontractor/subgrantee, in drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, or other documents or Publications prepared by Grantee or any subcontractor/subgrantee in connection with this Agreement or the implementation of the Work Program or the services to be performed under this Agreement, shall become the property of and be promptly transmitted to City. Notwithstanding the foregoing, Grantee may retain and use copies for reference and as documentation of its experience and capabilities.

VII. Prior Written Approval

- A. Nonexpendable property or equipment, including the purchase, rent, licensing, maintenance fee, or subscription of information-technology applications/software/services, with a per-unit single or cumulative cost totaling \$5000 or more within a twelve-month period and a useful life of more than one year ("Nonexpendable Personal Property"), of which a percentage of the cost is funded with federal sources, shall not be purchased unless granted prior approval. Prior approval in these cases may need to be granted by the master funding agency (e.g. Department of Labor, or CA State of Employment Development Department). Grantees should anticipate equipment needs in order to submit requests early to account for the multiple required approvals. Expenses may not be approved if items are purchased prior to the pre-approval being secured. Approval of budget plans that include equipment purchases DOES NOT constitute approval of the equipment request. Requests for pre-approvals shall be submitted to OEWD using the preapproval request form and process located on OEWD's Workforce Development Division's Directives website. If an approval letter is issued, funds can be used for purchases and the approval letter shall be included as invoice backup when grantee submits for billing. If a letter not approving a request for purchases is issued, the letter will specify the reason for the disapproval. If the request is not approved and/or an

approval letter is not submitted with the monthly invoice to OEWD and equipment/property is billed, then the expenses may be disallowed.

Department of Public Works 2017-18 (BY+1) Budget Initiative Bureau of Street Environmental Services Green Benefit District (GBD) Feasibility, Support, and Empowerment Program									
Prepared By:	Jonathan Goldberg			Phone Number:	695-2015			Prepared Date: 1/11/2018	
<b>SECTION I</b>	<b>Budget Initiative Summary Information</b>								
Budget Year	2017-18 (BY+1)								
Bureau/Division	Bureau of Street Environmental Services								
Initiative Request	\$100,000	One-time or On-going Expenditure		Both					
Funding Source	General Fund	Program		Other, please describe: Green Benefit District Grant Program					
Initiative Title	Green Benefit District (GBD) Feasibility, Support, and Empowerment Program								
Initiative Description	Resources to study feasibility of GBD formation, provide organizational support to existing GBDs, and empower communities to launch new GBDs.								
Initiative Purpose	Modeled on the Community Benefit District Program, Public Works Green Benefit District ("GBD") Program facilitates the creation of locally-funded, non-profit neighborhood improvement organizations. This initiative will help community groups conduct stakeholder outreach, develop legally-required Management Plans and Engineer's Reports, and ensure neighborhood-driven GBD formation efforts are successful.								
Customer Service Benefits	The customer service benefits include 1) Empowering neighborhoods to help fund community-driven improvement projects & services, 2) Connecting residents with City services, 3) Assisting GBDs through organizational support.								
City Benefits	1) Reduced 311 service requests via cleaner and better maintained sidewalks and plazas, 2) Privately-funded improvements & services to parks and greenspaces, 3) Streamlines neighborhood outreach and communications through 1 point of contact, 4) Fosters sense of community and neighborhood place								
DPW Strategic Plan Goal	This initiative aligns with Goal 1: Ensure safe, clean, sustainable and inviting public spaces.								
<b>SECTION II</b>	<b>Budget Detail</b>								
<b>A. Labor</b>									
Class	Position/Description	Head Count	% of FY	FTE Count	Annual Salary	Annual MFB	FY 2016-2017 total cost	FY 2017-2018 total cost	Comments
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
<b>Total Labor Cost</b>		-	-	-	-	-	\$ -	\$ -	-
<b>B. Non-Labor</b>									
Char	Subobject	Description	FY 2016-2017 total cost	FY 2017-2018 total cost	Comments				
038	03800	grant to non-profit to form Green Benefit Districts	\$ 100,000	\$ 100,000	-				
-	-	-	-	-	-				
-	-	-	-	-	-				
<b>Total Non-Labor Cost</b>			\$ 100,000	\$ 100,000	-				
<b>Grand Total</b>			\$ 100,000	\$ 100,000	-				

Neighborhood improvements can be funded in a variety of ways, through fundraising, private donors, and special assessment districts.

Across North America, over 2,000 communities have created special assessment districts in order to achieve their specific neighborhood goals. In San Francisco, they are called Community and Green Benefit Districts. Dogpatch & NW Potrero Hill formed the City's first GBD in 2015.

A GBD could be used to fund improvements above and beyond the City baseline in the Mission Dolores neighborhood. If formed, property owners would pay an annual assessment for a finite term. The assessments, collected by the City Assessor's Office, would fund projects and activities decided on by a local Board, made up of property owners, businesses and other community stakeholders - rather than City Hall. It would allow our neighborhood to advocate and predictably implement a range of public improvements otherwise not available.

In the case of the Dogpatch & NW Potrero Hill, now in its third year of operation, their GBD completed 50 community projects, engaged 3,000 volunteer hours, and leveraged over \$12.5 million in outside funding.

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Department of Public Works  
2017-18 (BY+1) Budget Initiative  
Bureau of Street Environmental Services  
Green Benefit District (GBD) Feasibility, Support, and Empowerment Program

Prepared By: Jonathan Goldberg Phone Number: 695-2015 Prepared Date: 1/11/2016

**SECTION I Budget Initiative Summary Information**

Budget Year	2017-18 (BY+1)		
Bureau/Division	Bureau of Street Environmental Services		
Initiative Request	\$ 100,000	One-time or On-going Expenditure	Both
Funding Source	General Fund	Program	Other, please describe: Green Benefit District Grant Program
Initiative Title	Green Benefit District (GBD) Feasibility, Support, and Empowerment Program		
Initiative Description	Resources to study feasibility of GBD formation, provide organizational support to existing GBDs, and empower communities to launch new GBDs.		
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Customer Service Benefits	The customer service benefits include 1) Empowering neighborhoods to help fund community-driven improvement projects & services, 2) Connecting residents with City services, 3) Assisting GBDs through organizational support.		
City Benefits	1) Reduced 311 service requests via cleaner and better maintained sidewalks and plazas, 2) Privately-funded improvements & services to parks and greenspaces, 3) Streamlines neighborhood outreach and communications through 1 point of contact, 4) Fosters sense of community and neighborhood place		
DPW Strategic Plan Goal	This initiative aligns with Goal 1: Ensure safe, clean, sustainable and inviting public spaces.		

**SECTION II Budget Detail**

**A. Labor**

Class	Position/Description	Head Count	% of FY	FTE Count	Annual Salary	Annual MFB	FY 2016-2017 total cost	F 2017-2018 total cost	Comments
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
-	-	-	-	-	-	-	-	-	-
Total Labor Cost		-		-			\$ -	\$ -	

**B. Non-Labor**

Char	Subobject	Description	FY 2016-2017 total cost	F 2017-2018 total cost	Comments
038	03800	grant to non-profit to form Green Benefit Districts	\$ 100,000	\$ 100,000	
Total Non-Labor Cost			\$ 100,000	\$ 100,000	
Grand Total			\$ 100,000	\$ 100,000	

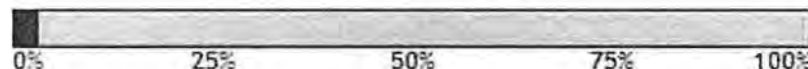
Dear Neighbor:

We are a group of fellow Mission Dolores residents and business owners that love our community and are exploring ways to better maintain and improve our neighborhood. We value your opinion on the current conditions and needs of our neighborhood's parks and open spaces, as well as possible solutions to address shared concerns. One solution we are exploring is a Green Benefit District: if formed, it would allow our community to prioritize, fund, and implement a range of public space improvements *above and beyond* the baseline of services currently provided by the City. This survey should take 10 minutes or less.

We plan to collect inputs from neighbors between September 5 - October 20, 2018, and will share results in mid-November. Meaningful neighborhood improvements happen only when a community organizes around shared interests - so it is critical we hear from you!

829 Thanks for your time,  
Robert Brust, Jim Chappell, Dana DeLara, Hans Kolbe, Conan McHugh, Liore Milgrom-Gartner, Sam Mogannam, Ned Moran,  
Carolyn Thomas, Nori Yatsunami Tong, Bruce Bowen

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18. Considering what you know now, how strongly would you support formation of a Green Benefit District in Mission Dolores?

- ☐ I strongly favor formation of the GBD
- ☐ It is an interesting idea but I need more information
- ☐ I don't favor formation of the GBD

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## **Leger, Cheryl (BOS)**

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**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Wednesday, November 14, 2018 3:51 PM  
**To:** SOTF, (BOS)  
**Subject:** Re: Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

Hello Cheryl Leger,

The Mission Dolores Formation Committee only has a website contact page: <http://www.doloresgbd.org/contact/>

I would contact Goldberg, Jonathan (DPW)- [jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)

He is the Green Benefit District Program Manager and is involved with all GBD formation committees. He was at the meeting when I was asked by the Formation Committee member to turn off my video recorder.

Thanks,  
Mark

On 11/14/2018 3:13 PM, SOTF, (BOS) wrote:

Dear Mr. Sullivan:

Thank you for your materials received this morning. I have opened a file for this complaint, however, I do not have an email with which to notify the respondent that there is a Sunshine matter in their name. Could you please provide that? Thank you.

Cheryl Leger  
Assistant Clerk, Board of Supervisors  
Tel: 415-554-7724



Click [here](#) to complete a Board of Supervisors Customer Service Satisfaction form.

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*Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Wednesday, November 14, 2018 11:39 AM  
**To:** SOTF, (BOS) <sotf@sfgov.org>

**Subject:** Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Cheryl,

I filed the official complaint this morning 11-14-2018 Room 244, City Hall. I am sending you this e-mail so that you have my e-mail address and you have active links that are in the main text of the document. I can send digital documents of the attached documents of the complaint if you want.

Thank you,

Mark Sullivan

Body text of the Complaint:

On October 10, 2018, at an Informational Meeting of the Mission Dolores Green Benefit District Formation Committee, I started to record the meeting with a digital video camera. One of the Mission Dolores GBD Formation Committee members asked me to stop recording. His name is at the beginning of the recording. The video can be downloaded from a Google Drive here: [https://drive.google.com/file/d/117vqNDbhXA4sLbcSx4wMYQ5pdIsQk\\_vY/view?usp=s\\_haring](https://drive.google.com/file/d/117vqNDbhXA4sLbcSx4wMYQ5pdIsQk_vY/view?usp=s_haring) The video is 1 minute 35 seconds, 86 MB, .mp4.

I did not conceal that I was recording. I was sitting right next to two consultants for the Mission Dolores Green Benefit District Formation Committee. The Mission Dolores GBD Formation Committee is **not** a registered non-profit.

This is in violation of Sunshine Ordinance SEC. 67.14. Video and Audio Recording, Filming and Still Photography

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

The meeting was held at Dolores Park Church, 455 Dolores Street, San Francisco, October 10, 2018, from 6:00 – 7:30 p.m. It was publicly announced on their website: <http://www.doloresgbd.org/meetings/>

The Mission Dolores Green Benefit District (GBD) Formation Committee and all Green Benefit District Formation Committees and all Green Benefit Districts should be under Chapter 67: The San Francisco Sunshine Ordinance of 1999. The Sunshine Ordinance says

SEC 67.3. Definitions

(d) "Policy Body" shall mean:

(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

California Government Code 54952(c):

As used in this chapter, “legislative body” means:

(c)(1) A board, commission, committee, or other multimember body that governs a private corporation, limited liability company, or other entity that either:

(A) Is created by the elected legislative body in order to exercise authority that may lawfully be delegated by the elected governing body to a private corporation, limited liability company, or other entity.

The CA Attorney General guide to the Brown Act, page 6:

C. Private or Nonprofit Corporations and Other Entities:

“In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal.” In reference to 54952(c).

Green Benefit Districts Formation Committees and Green Benefit Districts are the result of San Francisco ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS ( \_ GREEN BENEFIT DISTRICTS \_ ) (Attachment 1) which is a Board of Supervisor’s modification of California Streets and Highways Code Sections 36600 *et seq.*

San Francisco’s Department of Public Works has a full time Green Benefit District Program Manager that recruits property owners for Green Benefit District Formation Committees. The GBD Program Manager helps support and facilitates GBD Formation Committee activities. The GBD Program Manager acts as the point person between the GBD Formation Committee and San Francisco City Attorney’s Office. See Attached: 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works (Attachment 2) and GBD Program Manager Job Responsibilities (Attachment 3), and an example of communications between the GBD Program Manager, GBD Formation Committees, and GBD Consultants about guidance from the City’s Attorney’s Office (Attachment 4). As of sometime in March 2018, e-mail communications between the GBD Program Manager and GBD Formation Committee members seem to have ceased to keep information away from the public through the Sunshine Ordinance.

The San Francisco City Attorney’s Office reviews documents produced or commissioned by GBD Formation Committees. The City’s Attorney Office gives legal advice and suggestions on Formation Committee documents. The main documents are the GBD Engineering Report, the GBD Budget and the GBD draft Management Plan. The City Attorney’s Office has to give the approval on these documents for the GBD Formation Committee to proceed. Phase 2: Legal Review and Legislative Process: <https://sfpublicworks.org/services/green-benefit-district-formation-process>

The City of San Francisco has spent at least \$120,000.00 to support Green Benefit District Formation Committees most of which has come from the Department of Public Works (RE:

Inner Sunset GBD Funding Meeting – Advise? (Attachment 5)) but some of which has come from Board of Supervisor members.

Green Benefit District Formation Committee members are self-appointed and given guidance by the DPW's Green Benefit District Program Manager and any consultant they may hire. Among the GBD Formation Committee's activities are the drawing of district boundaries, deciding the methodology of property owner's assessments, determining what constitutes property owner's "special benefits", holding a "special election" through the city on a GBD's establishment, writing the bylaws for the GBD, writing articles of incorporation, forming a nonprofit corporation, and determining the composition of a GBD's board and how they will be elected. These are all important decisions that affect public policy, citizen engagement, and our neighborhoods. Green Benefit Districts are promoted as community building but do not allow for citizens to have equal access to their legislative process or information. They promote that they will be the advocate between citizens and their government.

While mere receipts of public funding to a non-profit corporation or other entity does not subject it to the requirements of the Sunshine Ordinance, Green Benefit District Formation Committees directly support the efforts of the Department of Public Works and the Board of Supervisors in their goals of creating Green Benefit Districts. In Article 15 A, the Board of Supervisors must approve a GBD, SEC. 15A.2 (k)(3), can disestablish a GBD, SEC. 15A.2 (g), can change management of a GBD including by the city, SEC. 15A.2 (j)(3), and can change a GBD management plan, SEC. 15A.2 (j)(4).

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"I am interested in any guidance that the City Attorney's office has given in regards to the Sunshine Ordinance being applied to Article 15A and Green Benefit Districts."

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"Thanks for your request. We have no responsive documents, aside from internal communications that are exempt from disclosure under the attorney-client privilege and/or work product privilege. (Cal. Evid. Code §954; Cal. Gov't Code §§ 6254(k), 6276.04; Cal. Code Civ.Proc. §2018.030(a)). We do, however, have the attached public document which relates to Sunshine and community benefit districts, which are established under Business and Taxation Code Article 15 (rather than 15A)." The e-mail exchange is attached.

GBD Formation Committee members and GBD Program Manager have verbally made claims of transparency, California Records Act, the Brown Act, and Sunshine Act. It is unknown if the claims are based on City Attorney's guidance though clearly some citizens are afforded more guidance by the City Attorney's Office than other citizens and these citizens are furthering

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6. 6. The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District.

## Leger, Cheryl (BOS)

---

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Thursday, November 15, 2018 11:03 AM  
**To:** SOTF, (BOS)  
**Subject:** Re: Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint  
**Attachments:** o0014-14.pdf

Hello Cheryl Leger,

The Mission Dolores GBD website is: <http://www.doloresgbd.org/>

The Ordinance No. 14-14 for Article 15 A, I have attached the pdf. It can be download from SF City Ordinances here: [http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco\\_ca](http://library.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca)

The contact information for the Mission Dolores GBD Formation Committee is hidden so far from the public that does not relieve them of obligations under SF Sunshine Ordinance. Jonathan Goldberg (DPW), the Green Benefit District Program Manager does have this information [jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org) (o) 415.695.2015 | (c) 415.304.0749. Me getting the contact information of someone on this committee may take some as it is not on their website beyond the contact page.



**Jonathan Goldberg**  
Green Benefit District  
Program Manager

Operations | San Francisco Public Works | City and County of San Francisco  
2323 Cesar Chavez Street | San Francisco, CA 94124 | (o) 415.695.2015 | (c) 415.304.0749  
[sfpublicworks.org](http://sfpublicworks.org) • [twitter.com/sfpublicworks](https://twitter.com/sfpublicworks)

Thanks,  
Mark Sullivan

On 11/15/2018 9:51 AM, SOTF, (BOS) wrote:

Dear Mr. Sullivan:

After careful research on the Mission Dolores gbd, we see that this particular committee is not a city entity, we cannot use a website as a contact. Please call us to discuss the matter further as additional information is needed prior to proceeding any further.

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Dear Mr. Sullivan:

Could you please send me your telephone number. We need to speak. Thank you.

Cheryl Leger  
Assistant Clerk, Board of Supervisors  
Tel: 415-554-7724



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Hello Cheryl Leger,

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I would contact Goldberg, Jonathan (DPW)- [jonathan.goldberg@sfdpw.org](mailto:jonathan.goldberg@sfdpw.org)

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I filed the official complaint this morning 11-14-2018 Room 244, City Hall. I am sending you this e-mail so that you have my e-mail address and you have active links that are in the main text of the document. I can send digital documents of the attached documents of the complaint if you want.

Thank you,

Mark Sullivan

Body text of the Complaint:

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I did not conceal that I was recording. I was sitting right next to two consultants for the Mission Dolores Green Benefit District Formation Committee. The Mission Dolores GBD Formation Committee is **not** a registered non-profit.

This is in violation of Sunshine Ordinance SEC. 67.14. Video and Audio Recording, Filming and Still Photography

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

The meeting was held at Dolores Park Church, 455 Dolores Street, San Francisco, October 10, 2018, from 6:00 – 7:30 p.m. It was publicly announced on their website: <http://www.doloresgbd.org/meetings/>

The Mission Dolores Green Benefit District (GBD) Formation Committee and all Green Benefit District Formation Committees and all Green Benefit Districts should be under Chapter 67: The San Francisco Sunshine Ordinance of 1999. The Sunshine Ordinance says

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## MISSION DOLORES GBD



We are a group of neighbors who love Dolores Park and its surrounds, and are concerned about its current conditions. We are exploring the possible formation of a Green Benefit District (GBD).

If formed, a Mission Dolores GBD would aim to cultivate a safe, clean, connected and vibrant neighborhood, where we work together to build a community in which we are proud of living, working and playing.

[LEARN MORE](#)

To stay up-to-date on the Dolores GBD formation effort, sign up for our mailing list!

## MISSION DOLORES GBD



11/29/18 Message sent to the webpage of the Mission Dolores GBD as follows:

The Sunshine Ordinance Task Force is in receipt of a complaint by Mark Sullivan against the Mission Dolores GBD Committee. Please contact me at Cheryl.Leger@sfgov.org or telephone me at 415-554-7724 and let me know the name of the person to notify of this complaint. We would like to schedule this matter for a hearing before the Compliance and Amendments Committee of the Sunshine Ordinance Task Force on December 18, 2018. Thank you.

## **Leger, Cheryl (BOS)**

---

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Thursday, November 15, 2018 3:32 PM  
**To:** SOTF, (BOS)  
**Subject:** Re: Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

Hello Cheryl Leger,

Here are two contact e-mails for the Mission Dolores GBD Formation Committee members. I will send more as I get them.

Robert Brust - [rkbrust@gmail.com](mailto:rkbrust@gmail.com)  
Conan McHugh - [conanmchugh@hotmail.com](mailto:conanmchugh@hotmail.com)

This is the full list of names on Mission Dolores GBD Formation Committee

CAROLYN THOMAS  
BRUCE BOWEN  
CLAUDE IMBAULT  
Conan McHugh  
Hans Kolbe  
Jim Chappell  
Ned Moran  
Robert Brust  
Sam Mogannam

Thank You for your help,

Mark

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In preparing this complaint, on October 22, 2018 by e-mail, I asked the City Attorney's Office under the Sunshine Ordinance:

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Their reply on November 2, 2018:

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## Leger, Cheryl (BOS)

---

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Friday, November 16, 2018 10:44 AM  
**To:** SOTF, (BOS)  
**Subject:** Re: Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

Hello Cheryl Leger,

I know you have expressed some concern that the Mission Dolores Green Benefit District Formation Committee are not government officials and most complaints before SOTF involve government officials, but I want to reassure you that CA Public Record laws and the SF Sunshine Ordinance does cover committees or other bodies that do not have a government employee in them as long as they are the result of a BOS ordinance or resolution. Beyond what I explained in my complaint here are two other supporting facts:

Mission Dolores GBD Formation Committee is making decision on use and administration of **public funds** that the City is liable for and must account for because it is City money. The City enters into an agreement with the final voted in and formed Green Benefit District.

Chapter 9 (commencing with Section 51299) is added to Part 1 of Division 1 of Title 5 of the Government Code 51299.11.

(2) A nonprofit management corporation 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. Notwithstanding this paragraph, a nonprofit management corporation shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), at all times when matters within the subject matter of the district are heard, discussed, or deliberated, and with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), for all documents relating to activities of the district.

I do realize this complaint is not something that is usually seen by SOTF.

Thank You for your help,  
Mark

On 11/15/2018 4:10 PM, SOTF, (BOS) wrote:

Thank you.

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Thursday, November 15, 2018 3:32 PM  
**To:** SOTF, (BOS) <sotf@sfgov.org>  
**Subject:** Re: Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

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Cheryl Leger  
Assistant Clerk, Board of Supervisors  
Tel: 415-554-7724



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Thank you,

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Body text of the Complaint:

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I did not conceal that I was recording. I was sitting right next to two consultants for the Mission Dolores Green Benefit District Formation Committee. The Mission Dolores GBD Formation Committee is **not** a registered non-profit.

This is in violation of Sunshine Ordinance SEC. 67.14. Video and Audio Recording, Filming and Still Photography

(a) Any person attending an open and public meeting of a policy body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera, or to broadcast the proceedings, in the absence of a reasonable finding of the policy body that the recording or broadcast cannot continue without such noise, illumination or obstruction of view as to constitute a persistent disruption of the proceedings.

The meeting was held at Dolores Park Church, 455 Dolores Street, San Francisco, October 10, 2018, from 6:00 – 7:30 p.m. It was publicly announced on their website:  
<http://www.doloresgbd.org/meetings/>

The Mission Dolores Green Benefit District (GBD) Formation Committee and all Green Benefit District Formation Committees and all Green Benefit Districts should be under Chapter 67: The San Francisco Sunshine Ordinance of 1999. The Sunshine Ordinance says

#### SEC 67.3. Definitions

(d) "Policy Body" shall mean:

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As used in this chapter, "legislative body" means:

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"In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal." In reference to 54952(c).

Green Benefit Districts Formation Committees and Green Benefit Districts are the result of San Francisco ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS ( \_ GREEN BENEFIT DISTRICTS \_ ) (Attachment 1) which is a Board of Supervisor's modification of California Streets and Highways Code Sections 36600 *et seq.*

San Francisco's Department of Public Works has a full time Green Benefit District Program Manager that recruits property owners for Green Benefit District Formation Committees. The GBD Program

Manager helps support and facilitates GBD Formation Committee activities. The GBD Program Manager acts as the point person between the GBD Formation Committee and San Francisco City Attorney's Office. See Attached: 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works (Attachment 2) and GBD Program Manager Job Responsibilities (Attachment 3), and an example of communications between the GBD Program Manager, GBD Formation Committees, and GBD Consultants about guidance from the City's Attorney's Office (Attachment 4). As of sometime in March 2018, e-mail communications between the GBD Program Manager and GBD Formation Committee members seem to have ceased to keep information away from the public through the Sunshine Ordinance.

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## CONTACT US MISSION DOLORES GBD



Curious about getting involved? Have comments, questions or concerns? Please get in touch with us here!

Name \*

Cheryl

Leger

First Name

Last Name

Email Address \*

sotf@sfgov.org; or use Cheryl.Leger@sfgov.org

Message \*

The Sunshine Ordinance Task Force is in receipt of a Complaint against the Mission Dolores Green Benefit District Formation Committee. We are unsure of who to email the Complaint to as the Respondent. Can you please provide so that we can move forward? Thank you.

SUBMIT

To stay up-to-date on the Dolores GBD formation effort, sign up for our mailing list!

Email Address

SIGN UP

## **Leger, Cheryl (BOS)**

---

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Tuesday, November 20, 2018 9:36 AM  
**To:** SOTF, (BOS)  
**Subject:** Re: Sunshine Ordinance SEC. 67.14. Video Recording stopped at Mission Dolores GBD Public Meeting Complaint

Hello Cheryl Leger,

Another contact for a person on the Mission Dolores GBD Formation Committee.

Carolyn Thomas  
25 Ford Street  
San Francisco, CA 94114-2011

Phone (973) 239-5876

The area code is ? but now a days with cell phones and people moving area codes can be all from all over the place.

Thanks,  
Mark Sullivan

On 11/15/2018 4:10 PM, SOTF, (BOS) wrote:

Thank you.

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"In some instances, they are created by the governmental entity to support the efforts of the governmental entity. Other times they are privately created and, to some degree, may partner with a governmental entity to accomplish a common goal." In reference to 54952(c).

Green Benefit Districts Formation Committees and Green Benefit Districts are the result of San Francisco ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS (\_ GREEN BENEFIT DISTRICTS\_) (Attachment 1) which is a Board of Supervisor's modification of California Streets and Highways Code Sections 36600 *et seq.*

San Francisco's Department of Public Works has a full time Green Benefit District Program Manager that recruits property owners for Green Benefit District Formation Committees. The GBD Program Manager helps support and facilitates GBD Formation Committee activities. The GBD Program Manager acts as the point person between the GBD Formation Committee and San Francisco City Attorney's Office. See Attached: 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works (Attachment 2) and GBD Program Manager Job Responsibilities (Attachment 3), and an example of communications between the GBD Program Manager, GBD Formation Committees, and GBD Consultants about guidance from the City's Attorney's Office (Attachment 4). As of sometime in March 2018, e-mail communications between the GBD Program Manager and GBD Formation Committee members seem to have ceased to keep information away from the public through the Sunshine Ordinance.

The San Francisco City Attorney's Office reviews documents produced or commissioned by GBD Formation Committees. The City's Attorney Office gives legal advice and suggestions on Formation Committee documents. The main documents are the GBD Engineering Report, the GBD Budget and the GBD draft Management Plan. The City Attorney's Office has to give the approval on these documents for the GBD Formation Committee to proceed. Phase 2: Legal Review and Legislative Process: <https://sfpublicworks.org/services/green-benefit-district-formation-process>

The City of San Francisco has spent at least \$120,000.00 to support Green Benefit District Formation Committees most of which has come from the Department of Public Works (RE: Inner Sunset GBD Funding Meeting – Advise? (Attachment 5)) but some of which has come from Board of Supervisor members.

Green Benefit District Formation Committee members are self-appointed and given guidance by the DPW's Green Benefit District Program Manager and any consultant they may hire. Among the GBD Formation Committee's activities are the drawing of district boundaries, deciding the methodology of property owner's assessments, determining what constitutes property owner's "special benefits", holding a "special election" through the city on a GBD's establishment, writing the bylaws for the GBD, writing articles of incorporation, forming a nonprofit corporation, and determining the composition of a GBD's board and how they will be elected. These are all important decisions that affect public policy, citizen engagement, and our neighborhoods. Green Benefit Districts are promoted as community building but do not allow for citizens to have equal access to their legislative process or information. They promote that they will be the advocate between citizens and their government.

While mere receipts of public funding to a non-profit corporation or other entity does not subject it to the requirements of the Sunshine Ordinance, Green Benefit District Formation Committees directly support the efforts of the Department of Public Works and the Board of Supervisors in their goals of creating Green Benefit Districts. In Article 15 A, the Board of Supervisors must approve a GBD, SEC. 15A.2 (k)(3), can disestablish a GBD, SEC. 15A.2 (g), can change management of a GBD including by the city, SEC. 15A.2 (j)(3), and can change a GBD management plan, SEC. 15A.2 (j)(4).

The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District (Attachment 6).

The City's Attorney's Office, through the GBD Program Manager, gives legal advice on documents produced by GBD Formation

Committees and their consultants. GBD Formation Committees are just a group of property owners of similar minds that get support and access to information that me and other citizens do not have.

In preparing this complaint, on October 22, 2018 by e-mail, I asked the City Attorney's Office under the Sunshine Ordinance:

"I am interested in any guidance that the City Attorney's office has given in regards to the Sunshine Ordinance being applied to Article 15A and Green Benefit Districts."

Their reply on November 2, 2018:

"Thanks for your request. We have no responsive documents, aside from internal communications that are exempt from disclosure under the attorney-client privilege and/or work product privilege. (Cal. Evid. Code §954; Cal. Gov't Code §§ 6254(k), 6276.04; Cal. Code Civ.Proc. §2018.030(a)). We do, however, have the attached public document which relates to Sunshine and community benefit districts, which are established under Business and Taxation Code Article 15 (rather than 15A).“ The e-mail exchange is attached.

GBD Formation Committee members and GBD Program Manager have verbally made claims of transparency, California Records Act, the Brown Act, and Sunshine Act. It is unknown if the claims are based on City Attorney's guidance though clearly some citizens are afforded more guidance by the City Attorney's Office than other citizens and these citizens are furthering efforts of some San Francisco government entities. GBD Formation Committees have stopped using e-mail to make decisions.

Sec 67.1. Findings and Purpose of the Sunshine Ordinance says:

"New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible."

You can send me an e-mail [info@sfneighborhoods.net](mailto:info@sfneighborhoods.net) for the body of this complaint which will have active links to the noted sources.

List of Attachments:

1. 1.ARTICLE 15A\_ PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE ASSESSMENT DISTRICTS (\_GREEN BENEFIT DISTRICTS\_)
2. 2. 2917 Program Support Analyst, Green Benefit District Program, Department of Public Works

3. 3. GBD Program Manager Job Responsibilities
4. 4. E-mail exchange City attorney's Comments on Inner Sunset GBD's Engineer's Report & Management Plan
5. 5. Email exchange RE: Inner Sunset GBD Funding Meeting – Advise?
6. 6. The Director of the Department of Public Works gave the suggestion to one group of citizen to form a Green Benefit District.

**Leger, Cheryl (BOS)**

---

**From:** sfneighborhoods <sfneighborhoods.net@gmail.com>  
**Sent:** Thursday, December 6, 2018 1:58 PM  
**To:** SOTF, (BOS)  
**Subject:** Submission of Additional Evidence in: File No. 18086: Mission Dolores Green Benefit District Formation Committee  
**Attachments:** Submission of Additional Evidence File No 18086.docx

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Ms. Leger,

Attached is additional evidence for my complaint against the Mission Dolores Green Benefit District Formation Committee. It goes to GBD formation committees making policies.

Thank You,  
Mark Sullivan

### **Submission of Additional Evidence in:**

**File No. 18086:** Complaint filed by Mark Sullivan against the Mission Dolores Green Benefit District Formation Committee for allegedly violating Administrative Code (Sunshine Ordinance), Section 67.14, by failing to allow video and audio recording filming and still photography of a policy body.

The following evidence is being submitted to support Green Benefit District Formation Committee as being policy bodies that form a course of action intended to influence and determine decisions, actions, and other matters in the formation of a Green Benefit District (GBD). The evidence is not the totality of evidence that could be submitted to support policy action of GBD formation committees as outlined in the body text of the complaint. This should be enough evidence to support GBD formation committees in making policies that affect the lives of their neighbors and how a GBD will look and operate.

Attached are maps drawn by GBD formation committees. A GBD formation committee draws a map of a survey area and conducts a survey of all residents in that area. From the survey information, they then draw a map of the boundaries of the proposed Green Benefit District. The boundaries of a GBD are supposed to be determined by whether or not a property will receive a "special benefit" from the project and services a GBD will offer. GBD boundaries have been drawn to maximize the assessments that will be received from property owners and to draw out portions of property owners that may be a larger no vote to the establishment of a GBD. This drawing of maps is without regard to the "special benefit" determination. It is making a policy decision as to who can or cannot have say or participate in a Green Benefit District. This can be seen in the Inner Sunset GBD Formation Committee survey map and the proposed boundary map. In the Inner Sunset GBD proposed boundary map, you can see blocks along Lincoln that have been excluded from the proposed GBD. It is a hard argument that these blocks within the Inner Sunset would not receive any "special benefit" from a GBD. The Inner Sunset GBD maps have been submitted because the Mission Dolores Green Benefit District Formation Committee is still in the survey stage of its process. San Francisco residents do not have the right to opt out of the GBD process. It is not voluntary.

Attached are examples of calculation formulas of property owner's assessments that also determine the weighted vote property owners have in the petition and final ballot phase of a Green Benefit District. In the case of the Dogpatch & NW Potrero Hill Green Benefit District, the weighted vote of property owners is also used to elect some of the board members. GBD formation committees decide the calculation formula of property owner's assessments and the weighted vote. These calculations are not set in any assessment district legislation including Article 15A. These policies by GBD formation committees have a direct impact on neighbors say on the existence and activities of Green Benefit District.

The Mission Dolores Green Benefit District Formation Committee is still in the survey stage but they will have to make the above policy decisions and more as they go through the process set out in Article 15A.

I am asking that the Sunshine Ordinance Task Force not only find the Mission Dolores Green Benefit District Formation Committee to be covered by the Sunshine Ordinance and in violation of the Sunshine Ordinance but that all past, current and future Green Benefit District Formation Committees need to follow the Sunshine Ordinance.

Attached:

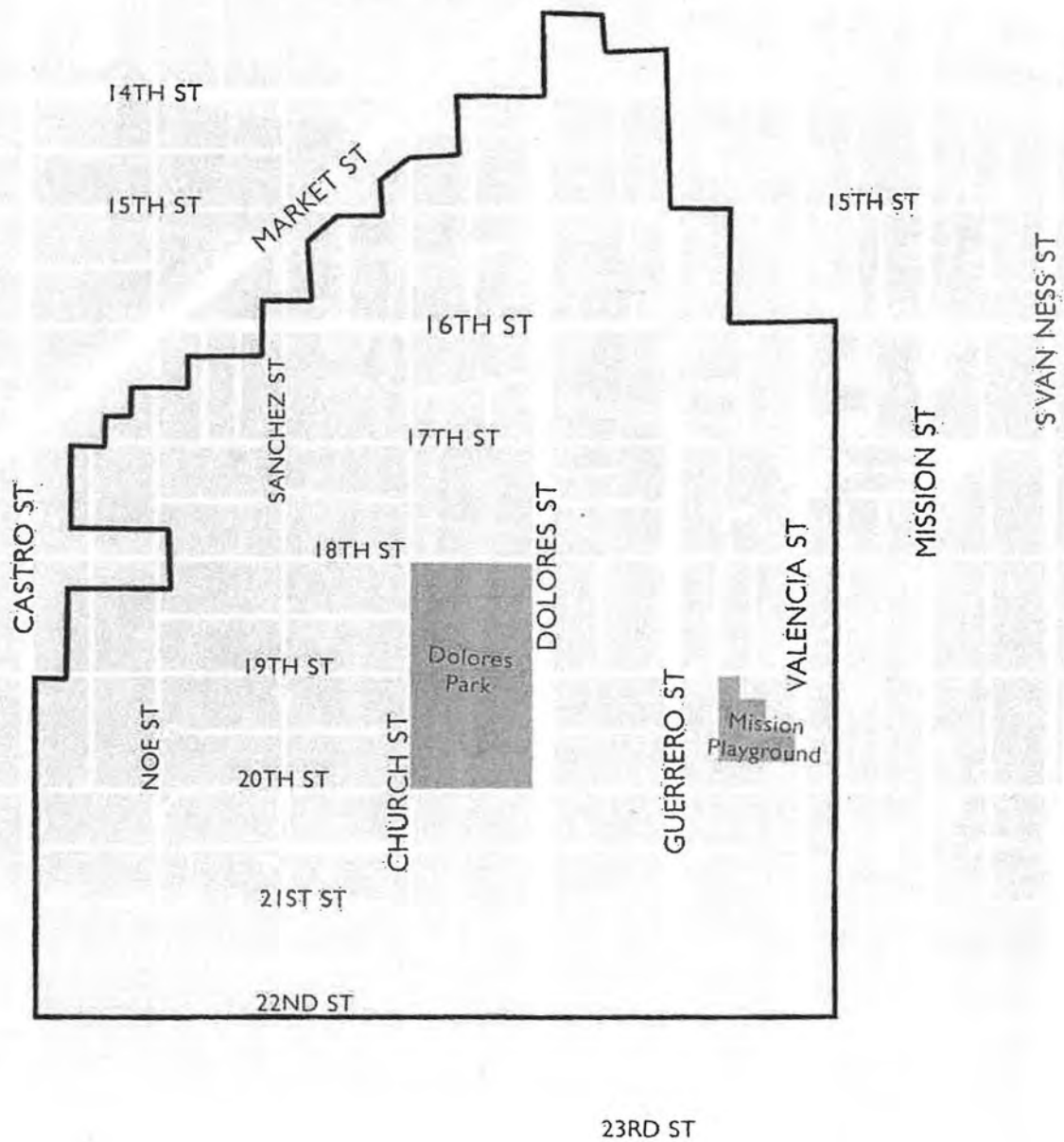
Survey Map of the Mission Dolores Green Benefit District Formation Committee

Survey Map and Boundary Map of the Inner Sunset Green Benefit District Formation Committee

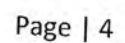
Property Owner's Assessment and Weighted Vote Formulas of the Inner Sunset Green Benefit District Formation Committee

Property Owner's Assessment and Weighted Vote Formulas of the Dogpatch & NW Potrero Hill Green Benefit District Formation Committee

Survey Map of the Mission Dolores Green Benefit District Formation Committee



The dotted line is the survey area and went into Golden Gate Park. The green areas were the proposed Green Benefit District.



## Property Owner's Assessment and Weighted Vote Formulas of the Inner Sunset Green Benefit District Formation Committee

### Calculation of Assessments

Based on the benefit zones, special benefit factors, and the proposed budget, the following table illustrates the first year's maximum annual assessment per parcel assessable square foot by zone.

Table 4. Fiscal Year 1 Annual Assessment Rates

Benefit Zone	Per Building Sq Ft	Per Lot Sq Ft	Per Ft Linear Frontage
Commercial Corridor	\$ 0.0724	\$ 0.0217	\$ 10.2708
Neighborhood Zone	\$ 0.0724	\$ 0.0217	\$ 2.3991
Non-Profit and Open Space	\$ 0.0000	\$ 0.0217	\$ 2.3991

### Sample Parcel Assessments

To calculate the assessment for a parcel in the Commercial Corridor with a 1,000-square foot lot, a 1,500-square foot building, and 50 linear feet the calculation is as follows:

Lot square feet (1,000) x \$0.0217	=	\$21.70
Building square feet (1,500) x \$0.0724	=	\$108.60
Linear street frontage (50) x \$10.2708	=	\$513.54
Total Parcel Assessment	=	\$643.84

To calculate the assessment for a parcel in the Neighborhood Zone with a 1,000-square foot lot, a 1,500-square foot building, and 50 linear feet the calculation is as follows:

Lot square feet (1,000) x \$0.0217	=	\$21.70
Building square feet (1,500) x \$0.0724	=	\$108.60
Linear street frontage (50) x \$2.3991	=	\$119.96
Total Parcel Assessment	=	\$250.26

To calculate the assessment for a Non-Profit/Open Space parcel with a 1,000-square foot lot, a 1,500-square foot building, and 50 linear feet the calculation is as follows:

Lot square feet (1,000) x \$0.0217	=	\$21.70
Building square feet (1,500) x \$0.0724	=	\$0.00
Linear street frontage (50) x \$2.3991	=	\$119.96
Total Parcel Assessment	=	\$141.66

The assessment calculation is the same for every parcel in the ISGBD respective of the benefit zone and land use and assessment rates.

**Weighted Vote Percentage** = Your First Year Assessment / the GBD First Year Budget (ISGBD currently is 925,000)

The largest property owner had 2.07 weighted vote. The average property owner falls between .03-.06%

**Property Owner's Assessment and Weighted Vote Formulas of the Dogpatch & NW Potrero Hill Green Benefit District Formation Committee**

**Assessment Rate**

Tables 12 and 13 show the assessment rates for Zones I and II.

Table 12 - ZONE I: Dogpatch	
Parcel Land Use:	Assessment Rate
Commercial/Residential/Other	\$0.0951 ( <i>Building SF</i> )
Industrial	\$0.0475 ( <i>Building SF</i> )
Greenspace Parcels	\$0.0238 ( <i>Lot SF</i> )
Non-Accessible Parcels	\$0.0000
Vacant/Parking Lots	\$0.0951 ( <i>Lot SF</i> )

Table 13 - ZONE II: Northwest Potrero Hill	
Parcel Land Use:	Assessment Rate
Commercial/Residential/Other	\$0.0951 ( <i>Building SF</i> )
Industrial	\$0.0475 ( <i>Building SF</i> )
Greenspace Parcels	\$0.0238 ( <i>Lot SF</i> )
Non-Accessible Parcels	\$0.0000
Vacant/Parking Lots	\$0.0951 ( <i>Lot SF</i> )

To calculate each parcel's assessment, multiply each parcel's Building Square Footage or Lot Square Footage by the appropriate assessment rate for that Land Use.

For example, the assessment for a Commercial Parcel in Zone 1 with a 10,000 square foot building is

$$(10,000 \times \$0.0951 = \$951.00 \text{ annual parcel assessment})$$

The assessment for an Industrial Parcel in Zone 1 with a 10,000 square foot building is

$$(10,000 \times \$0.0475 = \$475.00 \text{ annual parcel assessment})$$

The assessment for a Greenspace Parcel in Zone 1 with a 10,000 square foot lot is

$$(10,000 \times \$0.0238 = \$238.00 \text{ annual parcel assessment})$$

The assessment formula, parcel's assessable square footage multiplied by the parcel's assessment rate, is the same for every parcel in the GBD.

**VOTE WEIGHTING** The Directors of the Nonprofit shall be elected by district property owners under the terms set forth herein:

Each individual or entity owning property within the boundaries of the District shall be entitled to a minimum of one vote per ballot.

Each property owner's annual assessment(s) shall be divided by 3,000 and the resulting number added to 1 (the minimum vote guarantee).

For the purposes of the election, unique owners of multiple properties shall be considered a single owner with one minimum vote plus additional vote(s) determined by the dividing the combined assessments of the multiple properties by 3,000.



[Business and Tax Regulations Code - Public Realm Landscaping, Improvement and Maintenance Assessment Districts]

**Ordinance amending the Business and Tax Regulations Code by adding Article 15A "Public Realm Landscaping, Improvement and Maintenance Assessment Districts" ("Green Benefit Districts") to provide for establishment of assessment districts to finance landscaping, improvements and maintenance of Public Realm areas (outdoor spaces open to the public), including parks, parklets, sidewalks, unimproved areas, landscaped areas, plazas, and gardens; to authorize the purchase of real property with assessment funds, where property will be a Public Realm area and the district will provide landscaping, improvements and/or maintenance; and making environmental findings.**

**NOTE:** **Unchanged Code text and uncodified text** are in plain Arial font.  
**Additions to Codes** are in single-underline italics Times New Roman font.  
**Deletions to Codes** are in ~~strikethrough italics Times New Roman font~~.  
**Board amendment additions** are in double-underlined Arial font.  
**Board amendment deletions** are in ~~strikethrough Arial font~~.  
**Asterisks (\* \* \* \*)** indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. This section is uncodified.

The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 130462 and is incorporated herein by reference.

1           Section 2. The San Francisco Business and Tax Regulations Code is hereby amended  
2 by adding Article 15A, to read as follows:

3  
4                                   ARTICLE 15A

5                   PUBLIC REALM LANDSCAPING, IMPROVEMENT AND MAINTENANCE

6                                   ASSESSMENT DISTRICTS ("GREEN BENEFIT DISTRICTS")

7  
8                   SEC. 15A.1. PURPOSE.

9                   (a) State law provides procedures to form property and business improvement districts and levy  
10 assessments (California Streets and Highways Code Sections 36600 et seq.). This Article 15A provides  
11 authority for the City to augment and modify those state law procedures to provide services,  
12 improvements and activities, focused on landscaping, improvements and maintenance in Public Realm  
13 areas, by authorizing the Board of Supervisors to do any of the following in conjunction:

14                                   (1) Reduce the percentage of petitions required from property owners in order to  
15 initiate formation;

16                                   (2) Have the district encompass residential property, and to assess residential property,  
17 including parcels zoned solely for residential use;

18                                   (3) Extend the term of the district to a maximum of 15 years, or such longer term as is  
19 authorized by state law;

20                                   (4) Extend the term of the district to a maximum of 40 years, if all or a portion of the  
21 assessments will be pledged or applied to pay any bond, financing lease (including certificates of  
22 participation therein), or other similar obligations of the City;

23                                   (5) Recover through assessments the costs incurred in formation of the district; and,

24                                   (6) Disestablish a district upon a supermajority vote of the Board of Supervisors.  
25

1 In addition, this Article augments and modifies state law by: requiring the Clerk of the Board of  
2 Supervisors to notify business owners in English, Cantonese and Spanish when a petition for district  
3 formation is received; and providing for representation by stakeholders who do not own property in the  
4 district (e.g., residents, business owners, neighborhood organizations) on the governing body of an  
5 owners' nonprofit association that administers, implements or provides the services, improvements and  
6 activities specified in the management district plan.

7 (b) Under this Article 15A, the Board of Supervisors may establish property and business  
8 improvement districts that focus on landscaping, improvements and maintenance in Public Realm  
9 areas, which may be financed through assessments apportioned among parcels of real property within  
10 such districts. It is the intent of this Article to provide a vehicle for financing services, activities and  
11 improvements that supplement and complement existing services and facilities. The Board of  
12 Supervisors may not establish any district or levy any assessment under this Article to replace or  
13 supplant existing City services. Nothing in this Article shall be construed as prohibiting the  
14 establishment of districts or levying of assessments to finance local capital improvements that are  
15 otherwise authorized under the City Charter, any other City ordinance, or state law.

16  
17 **SEC. 15A.2. AUGMENTATION AND MODIFICATION OF STATE LAW**  
18 **REQUIREMENTS GOVERNING PROPERTY AND BUSINESS IMPROVEMENT DISTRICTS.**

19 The Board of Supervisors may elect to use the procedures set forth in California Streets and  
20 Highways Code Sections 36600 et seq. as augmented and modified by this Article 15A, for the  
21 formation of property and business improvement districts and the levy of assessments on real property  
22 to fund services, improvements and activities that confer benefits on property, including parcels zoned  
23 solely for residential use, by focusing on landscaping, improvements and maintenance of Public Realm  
24 areas.

25 (a) Definitions: of

1       (1) "Public Realm areas." As used in this Article 15A, Public Realm areas are outdoor spaces  
2 open to the public that include but are not limited to parks, plazas, parklets, sidewalks, unimproved  
3 areas, landscaped areas and gardens. Public Realm areas may be owned by public and/or private  
4 entities or persons.

5       (2) "Ecological system." As used in this Article 15A, "ecological system" means a  
6 system of living organisms and the physical environment those organisms inhabit. An  
7 ecological system includes elements such as soil, geology, wildlife, vegetation, and  
8 watersheds.

9       (3) "Recreational Improvements." As used in this Article 15A, "recreational  
10 improvements" means improvements that will encourage recreational use, either by improving  
11 current conditions (e.g., repairing a grass soccer field) or installation of new facilities (e.g.,  
12 playground equipment).

13       (b) Petitions. Notwithstanding California Streets and Highways Code Section 36621(a) or any  
14 other provision of state law to the contrary, the Board of Supervisors may initiate proceedings to  
15 establish a property and business improvement district upon receipt of a petition signed by property  
16 owners in the proposed district who will pay at least 30 percent of the assessments proposed to be  
17 levied.

18       The amount of assessments attributable to properties owned by the same owner that is in excess  
19 of 25 percent of all assessments proposed to be levied, shall not be included in determining whether the  
20 petition is signed by the property owners who will pay the requisite 30 percent or more of the total  
21 amount of assessments proposed to be levied.

22       (c) Term. Notwithstanding California Streets and Highways Code Section 36622(h) or any  
23 other provision of state law to the contrary, the Board of Supervisors may form a district and levy  
24 assessments:

1                   (1) For a maximum term of up to 15 years, or such longer term as is authorized by state  
2 law; or,

3                   (2) For a maximum term of up to 40 years, if all or a portion of the assessments will be  
4 pledged or applied to pay any bond, financing lease (including any certificates of participation  
5 therein), or other similar obligations of the City. Such assessments may be pledged or applied to pay  
6 such obligations commencing when the assessments are levied, or such later date as the Board of  
7 Supervisors shall determine.

8                   (d) Property Zoned Solely Residential. Notwithstanding California Streets and Highways Code  
9 Section 36632(c) or any other provision of state law to the contrary, the Board of Supervisors may:

10                   (1) Establish a district pursuant to this Article 15A that encompasses properties zoned  
11 solely for residential use;

12                   (2) Levy assessments upon such properties; and

13                   (3) Authorize utilization of the assessments to fund services, improvements and  
14 activities that benefit such properties.

15                   (e) Under this Article 15A the Board of Supervisors may authorize:

16                   (1) Assessment district services, improvements and activities consistent with California  
17 Streets and Highways Code Sections 36600 et seq. that are focused on landscaping, improvements and  
18 maintenance of Public Realm areas, notwithstanding any other provisions in Sections 36606, 36610, or  
19 36613 or any other provision of state law to the contrary. Such services, improvements and  
20 activities may include, but are not limited to, involvement with ecological systems, water and  
21 energy systems, pedestrian and bicycle amenities, and recreational improvements.

22                   (2) Use of assessment funds to purchase real property, in whole or in part, within or  
23 contiguous to the District, where that property will be a Public Realm area and the district will provide  
24 landscaping, improvements and/or maintenance of the area.

1        (f) Formation Cost Recovery. Notwithstanding any provision of state law to the contrary, the  
2        Board of Supervisors may authorize a district formed pursuant to this Article 15A to recover through  
3        assessments the costs incurred in forming the district, whether costs are generated by the City or by  
4        others, including but not limited to:

5                (1) The costs of preparation of the management district plan and engineer's report  
6                required by state law;

7                (2) The costs of circulating and submitting the petition to the Board of Supervisors  
8                seeking establishment of the district;

9                (3) The costs of printing, advertising and the giving of published, posted or mailed  
10               notices;

11               (4) The costs of engineering, consulting, legal or other professional services provided in  
12               proceedings under this Article 15A or California Streets and Highways Code Sections 36600 et seq.;  
13               and

14               (5) The costs of any ballot proceedings required by this Article 15A or other law for  
15               approval of a new or increased assessment.

16        To recover these costs, the management district plan required pursuant to California Streets  
17        and Highways Code Section 36622 shall specify the formation costs eligible for recovery through  
18        assessments, the schedule for recovery of those costs, and the basis for determining the amount of the  
19        additional assessment for recovery of such costs, including the maximum amount of the additional  
20        assessment, expressed either as a dollar amount, or as a percentage of the underlying assessment.

21        (g) Disestablishment by Board of Supervisors Supermajority. Notwithstanding California  
22        Streets and Highways Code Section 36670 or any other provision of state law to the contrary, the  
23        Board of Supervisors may, by a supermajority vote of eight or more of its 11 members, notice a  
24        hearing and initiate proceedings to disestablish a district for any reason. Where the Board of  
25        Supervisors seeks to disestablish a district in circumstances not authorized under California Streets

1 and Highways Code Section 36670, both the resolution of intention to disestablish the district and any  
2 final resolution to disestablish the district shall require a supermajority vote of no fewer than eight of  
3 its 11 members.

4 (h) Disestablishment Limitation. Notwithstanding Section 15A.2(g) of this Article, California  
5 Streets and Highways Code Section 36670, or any other provision of law, the Board of Supervisors may  
6 not disestablish a district where there are any outstanding bond, financing lease (including any  
7 certificates of participation therein), or other similar obligations of the City, payable from or secured  
8 by assessments levied within the district.

9 (i) Public Financing. Notwithstanding California Streets and Highways Code Section 36640 or  
10 any other provision of state law to the contrary:

11 (1) The Board of Supervisors may, in the resolution to establish the district, determine  
12 and declare that any bond, financing lease (including any certificates of participation therein), or other  
13 similar obligations of the City, shall be issued to finance the estimated costs of some or all of the  
14 proposed improvements or activities described in such resolution, pursuant to the City Charter, City  
15 ordinances or state law, as the Board may determine; and

16 (2) The amount (including interest) of any City bond, financing lease (including any  
17 certificates of participation therein) or other similar obligations, may not exceed the estimated total of  
18 (A) revenues to be raised from the assessments over the term of the district, plus (B) such other monies,  
19 if any, to be available for such purpose, in each case determined as of the date such obligations are  
20 issued or incurred.

21 (j) Management of District.

22 (1) Management by Owners' Nonprofit Corporation. If so provided by the  
23 management district plan, the Board of Supervisors may contract with an existing or new owners'  
24 nonprofit corporation (California Streets and Highways Code Section 36614.5) to administer or  
25 implement services, improvements and activities specified in the management district plan

1 ("Management Contract"). If so, the management district plan shall ensure adequate  
2 representation that on the governing body of the owners' nonprofit corporation;

3 (i) a majority (over 50%) are district assesses; and,

4 (ii) there is adequate representation of district stakeholders who do not own or have  
5 an ownership interest in property located in the district, including residents, businesses, and  
6 neighborhood organizations. Where warranted by the circumstances in a proposed district, the Board  
7 of Supervisors in its discretion may require that the management district plan provide particular levels  
8 of such business owner or other district stakeholder representation.

9 (2) Management by the City. Alternatively, if so provided by the management  
10 district plan, the Board of Supervisors may authorize the City to administer or implement services,  
11 improvements and activities specified in the management district plan by utilizing existing City  
12 departments, including but not limited to the Department of Public Works and the Recreation and Park  
13 Department, and/or by contracting out.

14 (3) Change of Management during Term of District. If so provided by the  
15 management district plan, Management may change during the term of the district from an  
16 owners' nonprofit association to the City, or from the City to an owners' nonprofit association, by  
17 changing the parties to the Management Contract. Procedures for such a change shall be  
18 specified in the management district plan, and may be further detailed in any Management  
19 Contract.

20 (4) This subsection (j) shall not limit the authority of the Board of Supervisors to  
21 require the incorporation of any other item or matter into the management district plan under  
22 California Streets and Highways Code Section 36622(l) or other applicable law.

23 (k) Notice to Businesses in Three Languages. No fewer than 30 days after the Clerk of the  
24 Board receives a complete petition seeking formation of a district pursuant to this Article 15A, the  
25 Clerk shall mail notice to all businesses located within the proposed district holding a current

1 registration certificate issued by the Tax Collector. The notice shall be in English, Spanish and  
2 Cantonese, and shall inform the recipients:

3 (1) That a petition for formation of a property and business improvement district has  
4 been received;

5 (2) That if the district is formed, assessments will be levied against property in the  
6 district;

7 (3) That formation of the district is subject to the approval of the Board of Supervisors  
8 following public hearings and a ballot proceeding by owners of the property subject to the assessment;  
9 and,

10 (4) How recipients may obtain further information about the petition and proposed  
11 district.

### 13 **SEC. 15A.3. SEVERABILITY.**

14 If any provision of this Article 15A or the application thereof to any person or circumstance  
15 shall be held invalid, such invalidity shall not affect any other provision or such other application of  
16 such provision which can be given effect without such provision or application, and to this end the  
17 provisions of this Article are declared to be severable.

### 19 **SEC. 15A.4. CITY PLANNING REFERRAL.**

20 (a) If a resolution of intent adopted pursuant to this Article 15A proposes to finance  
21 acquisition, extension, widening, removal, relocation, vacation, abandonment, sale or change in the use  
22 of any public way, transportation route, ground, open space, building, or structure which requires  
23 referral to the Planning Department under Section 4.105 of the Charter, or any successor provision,  
24 the resolution of intent shall be referred to the Planning Department for a report regarding conformity  
25 with the General Plan.

1        (b) If a resolution of intent is referred to the Planning Department pursuant to this Section, the  
2        department shall make its report to the Board at or before the public hearing on the resolution of  
3        formation to establish the District.

4  
5        **SEC. 15A.5. ASSESSMENT LIMITATION.**

6        No amount proposed to be assessed upon any lot for the construction of any improvement or the  
7        acquisition of any property for public use shall exceed one-half of the assessed value of the lot. The  
8        total amount of all assessments levied on lots within the district for the construction or any  
9        improvement or the acquisition of any property for public use shall not exceed one-half the assessed  
10       value of all lots assessed or proposed to be assessed. Assessment amounts shall satisfy any further  
11       limitations imposed by Section 1.20 of the Administrative Code and Part 5 of Division 4 of the  
12       California Streets and Highways Code (Sections 2900 et seq.) or any preemptive successor statute.

13  
14       Section 3. ~~This section is uncodedified.~~

15       Effective Date. This ordinance shall become effective 30 days from the date of  
16       passage after enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor  
17       returns the ordinance unsigned or does not sign the ordinance within ten days of receiving it,  
18       or the Board of Supervisors overrides the Mayor's veto of the ordinance.

19  
20       Section 4. ~~This section is uncodedified.~~

21       ~~In enacting this ordinance, the Board intends to amend only those words, phrases,~~  
22       ~~paragraphs, subsections, sections, articles, numbers, punctuation marks, charts, diagrams, or~~  
23       ~~any other constituent parts of the Administrative Code that are explicitly shown in this~~  
24       ~~ordinance as additions, deletions, Board amendment additions, and Board amendment~~  
25       ~~deletions in accordance with the "Note" that appears under the official title of the ordinance.~~

1  
2 APPROVED AS TO FORM:  
3 DENNIS J. HERRERA, City Attorney  
4

5 By:

  
6 Marie Corlett Blits  
7 Deputy City Attorney

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Thank you for hearing my complaint.

The main purpose of my complaint is to get a judgement as to if and when the Sunshine Ordinance applies to Green Benefit District Formation Committees and any future constructions of private/government bodies or privatization of parts of government. The complaint filed against the Mission Dolores Green Benefit District Formation Committee of stopping the videotaping at one of their public meetings is easily provable by looking at the video.

In the Sunshine Ordinance under 67.3 Definitions:

(d) "Policy Body" shall mean:

(3) Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;

In regards to "policy body", I have submitted many pieces of evidence that as a Green Benefit District Formation Committee goes through the process set forth in Article 15A of Ordinance 14-14, they make policy decisions on citizens of San Francisco that the citizens cannot opt out of.

In regards to the question of creation of a body in the clause "Any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors;", I interpret this clause to mean that it is the ordinance or resolution that creates the board, commission, committee or other body. The use of "of the Board of Supervisors" stipulates to the origin of the ordinance or resolution, but does not mean that the Board of Supervisors actively assembles or names a body created by the ordinance they have passed. Committees or other bodies that actively pursue the goals of the ordinance are a creation of that ordinance. Under this interpretation, city departments and SF citizens can create committees and other bodies in having powers given by the ordinance to make policy decisions in pursuit of the goals of the ordinance. As to Green Benefit District Formation Committees, they would not exist if not for Article 15A. The Green Benefit District goal and the process and power given to Formation Committees come from Article 15A, Ordinance 14-14 of the Board of Supervisors.

Article 15A of Ordinance 14-14 lays out the procedures a Green Benefit District Formation Committee or the city government needs to follow in order to establish a Green Benefit District. Article 15A has a couple of points that anybody establishing a Green Benefit District must go through the Board of Supervisors. The first of which is:

Under Definitions, page 2 of Article 15A

(b) **Petitions.** Notwithstanding California Streets and Highways Code Section 36621(a) or any other provision of state law to the contrary, the Board of Supervisors may initiate proceedings to establish a property and business improvement district upon receipt of a petition signed by property owners in the proposed district who will pay at least 30 percent of the assessments proposed to be levied.

After a Green Benefit District Formation Committee has made policy decisions like which property owners will be in a Green Benefit District, their assessment, their weighted vote, the Green Benefit District board composition, and how it is elected in the Green Benefit District's management plan, the BOS **may** decide to initiate proceedings to form a Green Benefit District. The Green Benefit District Formation Committee plan with a weight petition of 30% of property owners advises the BOS to initiate proceedings early in the process and before Green Benefit District is constituted. On behalf of Public Works, the City Attorney's Office reviews and makes suggested changes to the draft management plan and engineering report before the petition drive to make sure what is in them is legally OK for the BOS after the petition. It is during the policy decision and creation of a management plan that Sunshine is needed most. After a Green Benefit District is established and many important hard to change policy decisions have been made, Sunshine or no Sunshine after is not open government.

The very fact that the BOS has passed Article 15A in Ordinance 14-14 and the need to have Green Benefit District Formation Committees to reach the goal of Article 15A to establish Green Benefit Districts should be enough to have formation committees covered under the Sunshine Ordinance. The BOS, the City Attorney's Office, the Department of Public Works, and now the Office of Economic Workforce Development all participate in the formation of Green Benefit Districts. Specifically to the Mission Dolores Green Benefit District Formation Committee, SF Park Alliance and their Place Labs have been awarded a \$156,984.00 grant to explore the level of support for the formation of two GBD the Buena Vista and Dolores Park (Mission Dolores) Green Benefit Districts. Of the \$156,984.00, a \$131,334.00 goes to establishing the Mission Dolores Green Benefit District. In the supporting documents submitted, Chris Corgas of OEWD participated in the formation of the Mission Dolores GBD formation committee. In the supporting documents, Jonathan Goldberg of DPW stated "The point of using City funding earlier in the GBD formation process is to enter into a contract with all parties – community, consultant, and City – that lays out a firm set of deadlines, schedules, and deliverables. The contract is generally like a challenge grant, requiring the community to leverage the City's investment in their efforts. Otherwise, the community could fundraise as much as they'd like, hire a consultant to guide them through this process, and the City wouldn't have any leverage to direct or guide the formation process."

The representatives of Mission Dolores GBD failed to disclose at the SOTF Compliance and Amendments hearing that they were getting financial, consultation, website and survey support from SF Park Alliance Place Labs. They may not have known of the DPW and OEWD grant, but they did know about the consulting they were getting. The Mission Dolores GBD formation representatives at the last hearing stated that they were just a group of citizens exploring a variety of community options including Green Benefit Districts. They may state that, but in their survey, website and meetings they have yet to put forth any community options other than a Green Benefit District. The term Green Benefit District and GBD is in their name, on their website, what they speak about at their meetings and on the materials that the public sees.

The writers of the Sunshine Ordinance understood that the making of public policy would evolve when they wrote:

(c) Although California has a long tradition of laws designed to protect the public's access to the workings of government, every generation of governmental leaders includes officials who feel more comfortable conducting public business away from the scrutiny of those who elect and employ them. New approaches to government constantly offer public officials additional ways to hide the making of public policy from the public. As government evolves, so must the laws designed to ensure that the process remains visible.

I do not think it was the intention of the BOS in passing Article 15A to hide anything, I just think the Sunshine Ordinance must catch up to the evolution of government.

Thank you for your time.

**Leger, Cheryl (BOS)**

---

**From:** sfneighborhoods <sfneighborhoods.net@gmail.com>  
**Sent:** Saturday, December 8, 2018 9:04 AM  
**To:** SOTF, (BOS)  
**Subject:** Fwd: Submission of Additional Evidence in: File No. 18086: Mission Dolores Green Benefit District Formation Committee  
**Attachments:** Submission of Additional Evidence File No 18086.docx

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Hello Ms. Leger,

Could you confirm that you got this e-mail with additional evidence for File No. 18086: Mission Dolores Green Benefit District Formation Committee?

Thank You,  
Mark Sullivan

----- Forwarded Message -----

**Subject:**Submission of Additional Evidence in: File No. 18086: Mission Dolores Green Benefit District Formation Committee

**Date:**Thu, 6 Dec 2018 13:58:00 -0800

**From:**sfneighborhoods <sfneighborhoods.net@gmail.com>

**To:**SOTF, (BOS) <sotf@sfgov.org>

Hello Ms. Leger,

Attached is additional evidence for my complaint against the Mission Dolores Green Benefit District Formation Committee. It goes to GBD formation committees making policies.

Thank You,  
Mark Sullivan

## Leger, Cheryl (BOS)

---

**From:** Conan McHugh <conanmchugh@hotmail.com>  
**Sent:** Tuesday, December 11, 2018 7:26 PM  
**To:** SOTF, (BOS)  
**Subject:** Sunshine Ordinance Follow-Up

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Greetings Cheryl,

Sounds like we received a request for the Mission Dolores GDB Exploration Committee to attend an upcoming Sunshine Ordinance Task Force meeting.

The Committee is entirely comprised of local residents and business owners using our free time to take an active role in improving our neighborhood by exploring a cleaning & greening initiative.

Therefore, we have a couple of questions before committing to attend...

- 1) Given that we're not City employees or a legislative body, why is our attendance required at this time?
- 2) What specific questions can only be answered directly by us (vs answered by the City)?
- 3) How & how frequently will this request be triggered?

As demonstrated by our pro-active hosting of community meetings, we certainly prioritize transparency and will be willing to answer specific questions assuming that only we can answer them.

That said, given we're community members donating our free time, we don't want to be held hostage to whims of a select few that have more free time than we do (and may or may not live in our neighborhood).

Sincerely,  
Conan  
Guerrero & 20th  
650.722.6347  
Mission Dolores GBD Exploration Committee

**Leger, Cheryl (BOS)**

---

**From:** Denis Mosgofian <denismosgofian@gmail.com>  
**Sent:** Tuesday, December 18, 2018 4:46 PM  
**To:** Roger Hofmann  
**Cc:** Leger, Cheryl (BOS); Mark Sullivan; John Hooper; Lori Liederman; Maria Wabl; Mei Chan; David Eldred; Ray Dudum; Allan Chalmers; Karen Pierotti; Linda Chalmers; Lilian Tsi; Winton Davies; Miriam Rupert; Johnny Welch; Pam; Daniel Tomasevich; Dennis Antenore; Cynthia Pereira; Daniel Vago; Susan Wilde; Peder Jones; missiondna  
**Subject:** Re: SOTF Comments regarding File 18086, Dec 18, 2018

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Wow! Roger. Succinct and to the point!  
Denis & Lori

Sent from my iPhone

On Dec 18, 2018, at 1:07 PM, Roger Hofmann <[bosco22@hotmail.com](mailto:bosco22@hotmail.com)> wrote:

Dear Ms. Ledger,

Please enter my comments below into the public record for the Sunshine Ordinance Task Force (BOS) meeting scheduled for today, December 18, 2018 at 4:30pm at City Hall Room 408.

Sincerely yours,

Roger Hofmann

**Comments regarding File 18086, Mark Sullivan against Mission Dolores Green Benefit District Formation Committee, Dec 18, 2018**

My name is Roger Hofmann.

I attended two meetings of the Mission Dolores Formation Committee: On September 17, 2018 and November 15, 2018. I can verify that committee organizers requested that no video recordings of the meeting occur.

The first question in this case is, "Does the Sunshine Ordinance Task Force (SOTF) have jurisdiction?"

Per the City Attorney, the SOTF has jurisdiction over passive meeting bodies defined as follows in section 67.3(c) (1) of the Sunshine Ordinance:

**Advisory committees created by the initiative of a member of a policy body, the mayor, or a department head.**

*Was the committee created by the initiative of a department head?*

The complaint demonstrates that the initiative for creating the Mission Dolores Green Benefit District Formation Committee came from Mohammed Nuru, Department Head of Public Works. Funding for the committee came from DPW.

*Is the committee an advisory committee?*

Going forward, this committee will develop a Mission Dolores Green Benefit District management plan. The intention is to submit this plan to the Board of Supervisors for their approval. Without the advice of the Green Benefit Formation Committee, the Board of Supervisors would not entertain creation of a Mission Dolores Green Benefit District.

So the Mission Dolores Green Benefit Committee satisfies the conditions of section **67.3(c) (1)**. It is an advisory committee created by the initiative of a department head. I believe these facts show that the Sunshine Ordinance Task Force has jurisdiction over this complaint.

## **Leger, Cheryl (BOS)**

---

**From:** Roger Hofmann <bosco22@hotmail.com>  
**Sent:** Tuesday, December 18, 2018 7:23 PM  
**To:** Leger, Cheryl (BOS)  
**Cc:** mark; Lilian Tsi  
**Subject:** Re: SOTF Comments regarding File 18086, Dec 18, 2018

Dear Ms. Leger,

Thank you for your reply. I attended the SOTF meeting this afternoon. Two important points were not addressed.

Please add the following to the file for case 18086:

### **Point 1**

Respondent was asked if City funds were supplied to their committee. Respondent indicated that former Supervisor Sheehy provided \$11,000.

I cannot reconcile this with DPW emails indicating that DPW budgeted \$33,000 for the Mission Dolores Green Benefit District formation effort. Also, the activity this committee has performed to date - a full-color mailer to over 4,000 property owners, an on-line survey, retaining a \$100 per hour consultant, and a fancy web site, does not seem possible with that limited amount of funds.

It did not occur to me until after the meeting that an important question should have been asked: "Did **the City provide funds to the committee's consultant** to aid the committee's efforts?" Although internal DPW emails indicate that DPW budgeted \$33,000 for the Mission Dolores Green Benefit District formation, I do not know whether these funds were distributed, and if they were, to whom they were directed.

Other DPW documents indicate that this consultant, Build Public, Inc., doing business as Place Lab, was the City's contractor meant to guide Green Benefit District formation committees..

A fair assessment on whether the City is funding the formation of the Mission Dolores Green Benefit District effort needs to include possible direct City funding of this behind-the-scenes consultant.

### **Point 2**

The "Audience Q & A Summary" from the November 15, 2018 meeting of the Mission Dolores Green Benefit District formation committee indicates that the total formation budget for the Mission Dolores Green Benefit is expected to be approximately \$150,000. This document is linked from this page: <http://www.doloresgbd.org/meetings/>

## Meetings — Mission Dolores GBD

Mission Dolores GBD Home About Survey Meetings Contact Back Why a GBD? Our Committee Formation Process FAQs Links

[www.doloresgbd.org](http://www.doloresgbd.org)

The source of funding is not disclosed. Will the City provide this funding, or a portion of this funding?

If the City has provided funding to the consultant, or expects to provide future funding of this committee effort, it casts a very different light on this issue.

Again, thank you for your consideration. My apologies for misspelling your name in my first email.

Best regards,

Roger Hofmann

---

**From:** Leger, Cheryl (BOS) <[cheryl.leger@sfgov.org](mailto:cheryl.leger@sfgov.org)>  
**Sent:** Tuesday, December 18, 2018 2:25 PM  
**To:** Roger Hofmann  
**Subject:** RE: SOTF Comments regarding File 18086, Dec 18, 2018

Dear Mr. Hofmann:

Thank you for your email of today. The Sunshine Administrator does not read public comment into the record. We will put it into the file.

Cheryl Leger  
Assistant Clerk, Board of Supervisors  
Tel: 415-554-7724



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**From:** Roger Hofmann <bosco22@hotmail.com>

**Sent:** Tuesday, December 18, 2018 1:08 PM

**To:** Leger, Cheryl (BOS) <cheryl.leger@sfgov.org>

**Cc:** Mark Sullivan <mark@innersunset.org>; John Hooper <hooparb@aol.com>; Denis Mosgofian <denismosgofian@gmail.com>; Lori Liederman <lbliederman@gmail.com>; 'Maria Wabl' <mariawabl@gmail.com>; Mei Chan <y2kmei@gmail.com>; David Eldred <djeldred@earthlink.net>; Ray Dudum <ray@consolidated-elec.com>; Allan Chalmers <allanchalmers@yahoo.com>; Karen Pierotti <karenpierotti@yahoo.com>; Linda Chalmers <lichalmers@yahoo.com>; Lilian Tsi <liliantsistielstra@gmail.com>; Winton Davies <wdavies@cs.stanford.edu>; Miriam Rupert <mirorrup@yahoo.co.uk>; Johnny Welch <johnnywelch@gmail.com>; 'Pam' <pshofmann@hotmail.com>; Daniel Tomasevich <dtomasevich@gmail.com>; Dennis Antenore <antenored@gmail.com>; Cynthia Pereira <cpereira02@yahoo.com>; Daniel Vago <Daniel-Vago@att.net>; Susan Wilde <wildething@sbcglobal.net>; Peder Jones <pederj@earthlink.net>; missiondna <missiondna@earthlink.net>

**Subject:** SOTF Comments regarding File 18086, Dec 18, 2018

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Dear Ms. Ledger,

Please enter my comments below into the public record for the Sunshine Ordinance Task Force (BOS) meeting scheduled for today, December 18, 2018 at 4:30pm at City Hall Room 408.

Sincerely yours,

Roger Hofmann

**Comments regarding File 18086, Mark Sullivan against Mission Dolores Green Benefit District Formation Committee, Dec 18, 2018**

My name is Roger Hofmann.

I attended two meetings of the Mission Dolores Formation Committee: On September 17, 2018 and November 15, 2018. I can verify that committee organizers requested that no video recordings of the meeting occur.

The first question in this case is, "Does the Sunshine Ordinance Task Force (SOTF) have jurisdiction?"

Per the City Attorney, the SOTF has jurisdiction over passive meeting bodies defined as follows in section 67.3(c) (1) of the Sunshine Ordinance:

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*Was the committee created by the initiative of a department head?*

The complaint demonstrates that the initiative for creating the Mission Dolores Green Benefit District Formation Committee came from Mohammed Nuru, Department Head of Public Works. Funding for the committee came from DPW.

*Is the committee an advisory committee?*

Going forward, this committee will develop a Mission Dolores Green Benefit District management plan. The intention is to submit this plan to the Board of Supervisors for their approval. Without the advice of the Green Benefit Formation Committee, the Board of Supervisors would not entertain creation of a Mission Dolores Green Benefit District.

So the Mission Dolores Green Benefit Committee satisfies the conditions of section **67.3(c)(1)**. It is an advisory committee created by the initiative of a department head. I believe these facts show that the Sunshine Ordinance Task Force has jurisdiction over this complaint.

## **Leger, Cheryl (BOS)**

---

**From:** mark <mark@innersunsetsf.org>  
**Sent:** Tuesday, December 18, 2018 9:35 PM  
**To:** Roger Hofmann; Leger, Cheryl (BOS)  
**Cc:** Lilian Tsi  
**Subject:** Re: SOTF Comments regarding File 18086, Dec 18, 2018

Yes, Roger I think you are hitting one area the committee did not understand. I did bring up the city paying for their consultants Place Labs. The fact that Place Labs was getting city money to support the MD Formation committee activities is not legally indirect as the committee directly benefits even though it can say it does not actually handle the money.

i could list a bunch of things, but Jonathan Goldberg misinformed the committee when he said the petition was a weighted vote of 30% plus one, and the final vote was a majority +1. He failed to say that the final vote is also weighted and the MD Formation Committee decides on how much that weight will be for every person.

I do appreciate all you have done Ms. Leger, to at least have a chance to be heard.  
Thank You,  
mark

On 12/18/2018 7:23 PM, Roger Hofmann wrote:

Dear Ms. Leger,

Thank you for your reply. I attended the SOTF meeting this afternoon. Two important points were not addressed.

Please add the following to the file for case 18086:

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Again, thank you for your consideration. My apologies for misspelling your name in my first email.

Best regards,

Roger Hofmann

---

**From:** Leger, Cheryl (BOS) <[cheryl.leger@sfgov.org](mailto:cheryl.leger@sfgov.org)>  
**Sent:** Tuesday, December 18, 2018 2:25 PM  
**To:** Roger Hofmann  
**Subject:** RE: SOTF Comments regarding File 18086, Dec 18, 2018

Dear Mr. Hofmann:

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Cheryl Leger  
Assistant Clerk, Board of Supervisors

Tel: 415-554-7724



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**Sent:** Tuesday, December 18, 2018 1:08 PM

**To:** Leger, Cheryl (BOS) <[cheryl.leger@sfgov.org](mailto:cheryl.leger@sfgov.org)>

**Cc:** Mark Sullivan <[mark@innersunset.org](mailto:mark@innersunset.org)>; John Hooper <[hooparb@aol.com](mailto:hooparb@aol.com)>; Denis Mosgofian <[denismosgofian@gmail.com](mailto:denismosgofian@gmail.com)>; Lori Liederman <[lbliederman@gmail.com](mailto:lbliederman@gmail.com)>; 'Maria Wabl' <[mariawabl@gmail.com](mailto:mariawabl@gmail.com)>; Mei Chan <[y2kmei@gmail.com](mailto:y2kmei@gmail.com)>; David Eldred <[djeldred@earthlink.net](mailto:djeldred@earthlink.net)>; Ray Dudum <[ray@consolidated-elec.com](mailto:ray@consolidated-elec.com)>; Allan Chalmers <[allanchalmers@yahoo.com](mailto:allanchalmers@yahoo.com)>; Karen Pierotti <[karenpierotti@yahoo.com](mailto:karenpierotti@yahoo.com)>; Linda Chalmers <[lichalmers@yahoo.com](mailto:lichalmers@yahoo.com)>; Lilian Tsi <[liliansistielstra@gmail.com](mailto:liliansistielstra@gmail.com)>; Winton Davies <[wdavies@cs.stanford.edu](mailto:wdavies@cs.stanford.edu)>; Miriam Rupert <[mirorrup@yahoo.co.uk](mailto:mirorrup@yahoo.co.uk)>; Johnny Welch <[johnnywelch@gmail.com](mailto:johnnywelch@gmail.com)>; 'Pam' <[pshofmann@hotmail.com](mailto:pshofmann@hotmail.com)>; Daniel Tomasevich <[dtomasevich@gmail.com](mailto:dtomasevich@gmail.com)>; Dennis Antenore <[antenored@gmail.com](mailto:antenored@gmail.com)>; Cynthia Pereira <[cpereira02@yahoo.com](mailto:cpereira02@yahoo.com)>; Daniel Vago <[Daniel-Vago@att.net](mailto:Daniel-Vago@att.net)>; Susan Wilde <[wildething@sbcglobal.net](mailto:wildething@sbcglobal.net)>; Peder Jones <[pederj@earthlink.net](mailto:pederj@earthlink.net)>; missiondna <[missiondna@earthlink.net](mailto:missiondna@earthlink.net)>

**Subject:** SOTF Comments regarding File 18086, Dec 18, 2018

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**Comments regarding File 18086, Mark Sullivan against Mission Dolores Green Benefit District Formation Committee, Dec 18, 2018**

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## **Leger, Cheryl (BOS)**

---

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Thursday, December 20, 2018 10:29 AM  
**To:** SOTF, (BOS)  
**Subject:** Public Records Request for SOTF Information

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

Request for SOTF Handbook, Procedures, Organization Information, Job Description, and Legal Guidance.

### **PUBLIC RECORDS REQUEST**

I am requesting information to better understand how the Sunshine Ordinance Task Force works.

1. Any SOTF handbook /guides given to SOTF members.
2. Information on procedures that should be followed by SOTF or its supporting staff when a complaint is received to resolution of a complaint.
3. Organization of SOTF and supporting staff including government employees, who at least part of their job is assisting SOTF, but not if the assistance is as respondent. This includes any hierarchy, seniority, and committees. I am looking for the structure.
4. Information on how all SOTF members are appointed.
5. Jobs description or expectation of all SOTF members and supporting staff including government employees who at least part of their job is assisting SOFT, but not if the assistance is as respondent.
6. Any legal guide/ guidance or "juror instructions" that helps SOTF members in interpreting the Sunshine Ordinance.
7. Any information that allows a citizens to get a hearing on how SOFT interprets a specific clause(s) in the Sunshine Ordinance.

If any of the above requests are not clear or specific enough, please do not close the request. Please work with me in making my request effective to obtain identifiable records. I have made the above request with below in mind trying to describe the content of the information I would like to access.

A writing includes all forms of recorded information that currently exist or that may exist in the future. 9 The essence of the CPRA is to provide access to information, not merely documents and files.10 However, it is not enough to provide extracted information to the requestor, the document containing the information must be provided. In order to invoke the CPRA, the request for records must be both specific and focused. The requirement of clarity must be tempered by the reality that a requester, having no access to agency files or their scheme of organization, may be unable to precisely identify the documents sought.

Thus, writings may be described by their content.<sup>11</sup> To the extent reasonable, agencies are generally required to assist members of the public in making focused and effective requests for identifiable records.<sup>12</sup> One legislatively-approved method of providing assistance is to make available an index of the agency's records.<sup>13</sup>

10. *San Gabriel Tribune v. Superior Court* (1983) 143 Cal.App.3d 762, 774; *Cook v. Craig* (1976) 55 Cal.App.3d 773, 782.

11. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469.

12. Government Code section 6253.1.

Thank You for your help.

Mark Sullivan

## **Leger, Cheryl (BOS)**

---

**From:** sfneighborhoods.net <info@sfneighborhoods.net>  
**Sent:** Thursday, January 3, 2019 3:48 PM  
**To:** SOTF, (BOS)  
**Subject:** Re: Public Records Request for SOTF Information

Hello Ms Leger,

One of the things I was hoping to learn in my request for information was about the individual that was at the Complaint Committee hearing in the horseshoe but did not appear to be a committee member. City employee? I have no idea what his role was in being there and the documents you sent me seem to shed no light. He seemed to interject a few statements. Can you tell me his role or send me documents to explain what his role is with SOTF and being at the Complaint Committee hearing?

Also, I am unclear after reading the procedures whether my notification from the Complaint Committee that they did not have jurisdiction happened at the Complaint Committee meeting or will I get a Order of Determination?

Thank You for your help,

Mark Sullivan

On 12/24/2018 4:03 PM, SOTF, (BOS) wrote:

> Dear Mr. Sullivan:

>

> Attached please find some of the materials that I think you are requesting. I will be on vacation returning January 2, 2019. If you need further information, please contact Victor Young, my colleague. Have a nice Holiday.

>

> Cheryl Leger

> Assistant Clerk, Board of Supervisors

> Tel: 415-554-7724

>

> [Click here to complete a Board of Supervisors Customer Service Satisfaction form.](#)

>

> The Legislative Research Center provides 24-hour access to Board of Supervisors legislation, and archived matters since August 1998.

>

> Disclosures: Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.

>

>

> -----Original Message-----

> From: sfneighborhoods.net <info@sfneighborhoods.net>

> Sent: Thursday, December 20, 2018 10:29 AM

> To: SOTF, (BOS) <sotf@sfgov.org>

> Subject: Public Records Request for SOTF Information

>

>

> This message is from outside the City email system. Do not open links or attachments from untrusted sources.

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> Request for SOTF Handbook, Procedures, Organization Information, Job Description, and Legal Guidance.

>

> PUBLIC RECORDS REQUEST

>

> I am requesting information to better understand how the Sunshine Ordinance Task Force works.

>

> 1. Any SOTF handbook /guides given to SOTF members. Please check our website for frequently asked questions. There is no specific handbook.

>

> 2. Information on procedures that should be followed by SOTF or its supporting staff when a complaint is received to resolution of a complaint. Please find attached the Complaint Procedures.

>

> 3. Organization of SOTF and supporting staff including government employees, who at least part of their job is assisting SOTF, but not if the assistance is as respondent. This includes any hierarchy, seniority, and committees. I am looking for the structure. We do not have documents responsive to this request.

>

> 4. Information on how all SOTF members are appointed. The American Legal Publishing Code provides the information.

>

> 5. Jobs description or expectation of all SOTF members and supporting staff including government employees who at least part of their job is assisting SOTF, but not if the assistance is as respondent. Please see attachment.

>

> 6. Any legal guide/ guidance or "juror instructions" that helps SOTF members in interpreting the Sunshine Ordinance. The description for the job description is provided in Chapter 67 provides for legal guidance.

>

> 7. Any information that allows a citizens to get a hearing on how SOTF interprets a specific clause(s) in the Sunshine Ordinance. We do not have documents responsive to this request.

>

> If any of the above requests are not clear or specific enough, please do not close the request. Please work with me in making my request effective to obtain identifiable records. I have made the above request with below in mind trying to describe the content of the information I would like to access.

>

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> 55 Cal.App.3d 773, 782.  
>  
> 11. *California First Amendment Coalition v. Superior Court* (1998) 67 Cal.App.4th 159; *Rogers v. Superior Court* (1993)  
> 19 Cal.App.4th 469.  
>  
> 12. Government Code section 6253.1.  
>  
> Thank You for your help.  
>  
> Mark Sullivan  
>

## **Appendix B--Definition of Grant Plan**

The term "Grant Plan" shall mean the following:

### **I. PROJECT DEFINITIONS**

**APN** – Assessor's Parcel Number

**GBD** – Green Benefit District

**City** – City and County of San Francisco

**City's Team** –

Christopher Corgas, Senior Program Manager, OEWD  
Jonathan Goldberg, Program Manager, Public Works  
Helen Mar, Project Specialist, OEWD

**District Supervisor** – Supervisor on the City and County of San Francisco Board of Supervisors, representing District 8

**FPS** – GBD Feasibility Phase Survey

**Grantee** – Place Lab (a DBA/FBN of Build Public)

**Grantee's Team** –

Brooke Ray Rivera, Executive Director, Place Lab  
Toral Patel, Program Manager, Place Lab

**MOU** – Memorandum of Understanding

**OEWD** – Office of Economic and Workforce Development, a department of the City.

**Project Area A** – Neighborhood surrounding Buena Vista Park

**Project Area B** – Neighborhood surrounding Dolores Park.

**PW** – Department of Public Works, a department of the City.

**Steering Committee** – A committee that will work with Grantee to determine the feasibility of GBD formation or expansion

### **II. DESCRIPTION OF SERVICES**

A Green Benefit District is a public/private partnership in which property owners choose to make a collective contribution to the maintenance, development and promotion of their neighborhoods and public realm assets through a special assessment of their properties.