

1 [Authorizing Grant Agreements - Terms of 20 Years after Project Completion - Public Utilities
Commission Green Infrastructure Grant Program]

2
3 **Ordinance extending for an additional two years from July 1, 2024, through July 1,**
4 **2026, the delegation of authority under Charter, Section 9.118, to the General Manager**
5 **of the San Francisco Public Utilities Commission (“SFPUC”), previously authorized by**
6 **Ordinance No. 26-19 and extended and modified by Ordinance No. 101-20 and**
7 **Ordinance No. 159-22, to enter into grant agreements under the SFPUC’s Green**
8 **Infrastructure Grant Program with terms of up to 20 years after the Project Completion**
9 **Date, as defined by the Grant Agreements.**

10 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
11 **Additions to Codes** are in *single-underline italics Times New Roman font*.
12 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
13 **Board amendment additions** are in double-underlined Arial font.
14 **Board amendment deletions** are in ~~strikethrough Arial font~~.
15 **Asterisks (* * * *)** indicate the omission of unchanged Code
16 subsections or parts of tables.

17 Be it ordained by the People of the City and County of San Francisco:

18 Section 1. Background.

19 (a) San Francisco has a combined sewer system that collects and treats both
20 wastewater and stormwater in the same network of pipes. The San Francisco Public Utilities
21 Commission (“SFPUC” or “Commission”) has a multi-faceted program to maximize the
22 detention and retention of stormwater.

23 (b) Green infrastructure uses vegetation, soils, and other elements and practices
24 that mimic nature to soak up and store stormwater. Green infrastructure is a cost-effective,
25 resilient approach for managing wet weather impacts that provides many benefits. Green

1 infrastructure reduces and treats stormwater at its source, while delivering environmental,
2 social, and economic benefits.

3 (c) The SFPUC wants to encourage owners of parcels containing large, impervious
4 areas – such as concrete parking lots and asphalt-covered playgrounds – to install green
5 infrastructure on their parcels to reduce the amount of stormwater entering the SFPUC’s
6 sewer system and thereby improve system performance.

7 (d) To that end, on November 13, 2018, the SFPUC, by Resolution No. 18-0189,
8 approved a Green Infrastructure Grant Program, adopted Green Infrastructure Grant Program
9 Guidelines (the “Guidelines”), and authorized the SFPUC General Manager to award grants to
10 property owners to construct green infrastructure, such as permeable pavement, rain
11 gardens/bioretention, and vegetated roofs, and remove impervious surfaces, on their parcels.
12 On February 25, 2020, the SFPUC, by Resolution No. 20-0045, updated the funding
13 disbursement procedures in the Guidelines. On July 27, 2021, the SFPUC, by Resolution No.
14 21-0122, updated the Guidelines to increase the maximum cost per acre of impervious area
15 managed from \$765,000 to \$930,000. On March 22, 2022, the SFPUC, by Resolution No. 22-
16 0058, updated the Guidelines to reflect compliance with City Administrative Code Chapter
17 21G, revise grant team experience and co-benefit eligibility criteria, increase the cap on
18 planning and design costs, and revise other program requirements. And on April 9, 2024, the
19 SFPUC, by Resolution No. 24-0093, updated the Guidelines to increase the maximum cost
20 per acre of impervious area managed from \$930,000 to \$1,035,000 and the maximum grant
21 award per project from \$2,000,000 to \$2,500,000; revise funding disbursement requirements
22 for City Departments only; and revise program eligibility criteria and other program
23 requirements. A copy of the current version of the Guidelines is on file with the Clerk of the
24 Board of Supervisors in File No. 240555. Under the Guidelines, grantees must meet the
25 following six eligibility criteria:

1 (1) Project Size: The proposed project must manage stormwater runoff from
2 a minimum of 0.5 acres of impervious surface.

3 (2) Project Location: The proposed project must connect to an SFPUC-
4 owned and operated sewer system service area. The project may be located in either the
5 combined sewer system area, municipal separate storm sewer system area, or in a sanitation
6 district that discharges to the SFPUC sewer system. Projects may be located on a parcel, in
7 the public right-of-way, or a combination of both.

8 (3) Performance: The proposed project must capture runoff from the 90th
9 percentile 24-hour storm, equivalent to three quarters of an inch total depth. The 90th
10 percentile 24-hour storm represents an amount of precipitation that 90% of all rainfall events
11 do not exceed, as compared to the historical period of record.

12 (4) Grant Team Experience: The grant team must include the property
13 owner, an identified grant or project manager, and a licensed engineer or landscape architect
14 registered in the State of California. The proposed project team must collectively demonstrate
15 a history of successfully implementing projects, have experience designing, constructing,
16 and/or maintaining green infrastructure, and be in good standing on any currently active
17 Green Infrastructure Grant Program projects.

18 (5) Concept Design: The applicant must submit a conceptual design plan
19 drawing approximately equivalent to a 10% level of design that satisfies specific criteria set
20 forth in the Guidelines.

21 (6) At Least Two Co-Benefit Opportunities: Green infrastructure projects
22 provide a variety of co-benefit opportunities, in addition to reducing the amount of stormwater
23 runoff that enters the SFPUC sewer system. Projects are required to demonstrate at least
24 two of the following co-benefits: environmental justice; public access, open space, and
25 recreation; community engagement, collaboration, and placemaking; education and

1 watershed stewardship; green infrastructure job training; water supply; climate resilience; and
2 biodiversity. Specific criteria for each co-benefit is set forth in the Guidelines.

3 (e) Under the Guidelines, grantees may receive up to \$1,035,000 per acre of
4 impervious area managed by the green infrastructure project, up to a maximum of \$2,500,000
5 per grant.

6 (f) To receive funding under the Green Infrastructure Grant Program, a grantee
7 must enter into a Green Infrastructure Grant Agreement (“Grant Agreement”). An updated
8 template for the Grant Agreement is on file with the Clerk of the Board of Supervisors in File
9 No. 240555. The SFPUC has determined that the useful life of the type of green
10 infrastructure eligible for funding under the Green Infrastructure Grant Program is
11 approximately 20 years. Ongoing maintenance of green infrastructure is critical for these
12 projects to function properly and benefit the SFPUC sewer system for the useful life of these
13 assets. Accordingly, the Grant Agreement requires the grantee to maintain the green
14 infrastructure for 20 years, authorizes the SFPUC to conduct periodic inspections of the
15 grantee’s construction, operation, and maintenance of the project, and provides the SFPUC
16 with remedies against the grantee if the grantee fails to maintain the project for 20 years. The
17 Grant Agreement also requires the grantee to execute and record a deed restriction on the
18 title of the property to notify future owners that the 20-year maintenance obligation runs with
19 the land.

20 (g) In approving the Green Infrastructure Grant Program, the Commission
21 delegated authority to the SFPUC General Manager to negotiate, award, and execute Grant
22 Agreements with terms of up to 20 years after the Project Completion Date, as defined by the
23 Grant Agreements. The Commission recommended that the Board of Supervisors adopt an
24 ordinance delegating its authority under Charter Section 9.118 to the SFPUC General
25 Manager to execute the Grant Agreements for terms in excess of 10 years.

1 (h) By Ordinance No. 26-19 (File No. 181113), the Board of Supervisors delegated
2 authority to the SFPUC General Manager through July 1, 2020, to enter into Grant
3 Agreements under the SFPUC Green Infrastructure Grant Program provided that: (1) the term
4 of the grant agreement does not exceed 20 years; and (2) the Commission approves each
5 grant award at a public hearing. By Ordinance No. 101-20 (File No. 200454), the City
6 extended the delegated authority for an additional two years, through July 1, 2022, and
7 removed the requirement that each grant award be approved by the Commission at a public
8 hearing. By Ordinance No. 159-22 (File No. 220537), the City extended the delegated
9 authority for an additional two years, through July 1, 2024. Since 2019, the SFPUC has
10 awarded twenty-three grants totaling just over \$23,650,000 for green infrastructure projects.

11 (i) By this ordinance, the Board of Supervisors has determined to extend the
12 authority delegated to the SFPUC General Manager in Ordinance No. 26-19, as extended and
13 modified by Ordinance No. 101-20 and Ordinance No. 159-22, for an additional two years,
14 through July 1, 2026.

15 (j) The term of the Grant Agreements is 20 years, in addition to the time it takes to
16 construct the green infrastructure. Ordinance No. 159-22 clarified that the term of the Grant
17 Agreements starts upon the Project Completion date, as reflected in the Grant Agreement
18 template that was on file with the Board of Supervisors for all previous ordinances.

19
20 Section 2. Delegation of Authority Under Charter Section 9.118 to SFPUC General
21 Manager.

22 (a) Delegation of Authority. Pursuant to its authority under Charter Section 9.118,
23 the Board of Supervisors delegates authority to the SFPUC General Manager to enter into
24 Grant Agreements under the Green Infrastructure Grant Program, in substantially the form on
25 file with the Clerk of the Board of Supervisors in File No. 240555, for a term in excess of 10

1 years, so long as the term does not exceed 20 years after the Project Completion Date, as
2 defined by the Grant Agreements. The Board of Supervisors further authorizes the SFPUC
3 General Manager to enter into any amendments or modifications to the Grant Agreements
4 that do not extend the terms of the agreements beyond 20 years after the Project Completion
5 Date, as defined by the Grant Agreements, and that the SFPUC General Manager
6 determines, in consultation with the City Attorney, are in the best interest of the City, do not
7 materially decrease the City's rights or materially increase the City's obligations or liabilities,
8 are necessary or advisable to effectuate the purposes and intent of the Green Infrastructure
9 Grant Program, and are in compliance with all applicable laws, including the Charter.

10 (b) Reporting Requirement. Starting with the quarter beginning July 1, 2024,
11 SFPUC shall submit quarterly written reports to the Clerk of the Board of Supervisors
12 summarizing all Grant Agreements SFPUC has entered into during the prior quarter pursuant
13 to the authority granted under subsection 2(a) of this ordinance and shall post the reports on
14 its website. SFPUC shall submit each report no later than 30 days following the completion of
15 the quarter that is the subject of the report.

16 (c) Sunset Dates.

17 (1) The authority delegated under subsection 2(a) of this ordinance shall
18 apply only to Grant Agreements, and amendments or modifications of Grant Agreements,
19 executed before July 1, 2026, and shall expire by operation of law on July 1, 2026.

20 (2) The reporting requirements provided for under subsection 2(b) of this
21 ordinance shall expire by operation of law upon submission of the quarterly report covering
22 the quarter ending June 30, 2026.

23
24 Section 3. Directions to Clerk.
25

1 The Clerk of the Board of Supervisors is hereby directed to place a copy of this
2 ordinance in File No. 181113 for Ordinance No. 26-19, File No. 200454 for Ordinance No.
3 101-20, and File No. 220537 for Ordinance No. 159-22; and to make a notation cross-
4 referencing this ordinance where Ordinance No. 26-19, Ordinance No. 101-20, and Ordinance
5 No. 159-22 appear as legislation passed on the Board of Supervisors website.

6
7 Section 4. Effective Date; Retroactivity.

8 (a) This ordinance shall become effective 30 days after enactment. Enactment
9 occurs when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or
10 does not sign the ordinance within ten days of receiving it, or the Board of Supervisors
11 overrides the Mayor’s veto of the ordinance.

12 (b) Upon its effective date, this ordinance shall be retroactive to July 1, 2024.

13
14 APPROVED AS TO FORM:
15 DAVID CHIU, City Attorney

16 By: /s/ _____
17 TYSON ARBUTHNOT
18 Deputy City Attorney

19
20
21
22
23
24
25
n:\legana\as2024\2200424\01759590.docx