

July 31, 2020

Budget & Finance Committee
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Subject: SFPUC Wastewater Enterprise Flood Claims Reserves

At the Budget and Finance Committee meeting on July 22nd, the Committee heard File No. 200725, a hearing to consider the release of reserved funds to the Public Utilities Commission. At the hearing, Supervisor Walton requested that SFPUC draft a memo detailing if there is another source within the PUC budget of reserves to access additional funds, and if not explain why.

The Committee reviewed the matter and approved the release of \$2,135,000 of the requested \$3,000,000 for settlements relating to inverse condemnation arising out of flood damage during major rainstorms in December 2014 and the winter of 2016-2017. Through the Budget and Finance Committee, the Controller has been authorized to release \$2,135,000 to the Public Utilities Commission.

Typically, when a claim greater than \$25,000 against the San Francisco Public Utilities Commission (SFPUC) is settled, the San Francisco Board of Supervisors not only approves the settlement but concurrently appropriates funding to pay for the settlement. The appropriation in these cases comes out of the specific fund balance for the relevant SFPUC Enterprise (Water, Wastewater, Hetch Hetchy Water & Power or CleanPowerSF). Each SFPUC Enterprise has its own fund balance which represents previous revenues earned from rate payers which were not expended, similar to the balance in an individual savings account.

This process represents the normal course of business for settlements of unlitigated claims against the SFPUC. Historically, SFPUC has only deviated from this process in cases where the amount or number of potential claims was deemed significant.

In December 2014, the City & County of San Francisco experienced severe rainstorms which led to significant flooding. To ensure that funds were set aside and would be available at a later date for an unknown numbers of claims that would likely arise from the event, the Board of Supervisors passed

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Ordinance No. 184-15 in October 2015. The ordinance appropriated \$5,000,000 out of the Wastewater Enterprise's Designated for General Reserve budget line item. Amounts that are budgeted as Designated for General Reserve in the Wastewater Enterprise represent the revenues budgeted to be earned from rate payers during the fiscal year which are not budgeted to be expended during the same period, similar to what an individual would expect to add to their savings account during the year.

Likewise, in May 2017, by Ordinance No. 114-17, the Board of Supervisors appropriated \$5,000,000 from Wastewater Enterprise designated for general reserve in the Public Utilities Commission Wastewater Enterprise to pay the claims, settlements, legal expenses and related costs due to the large volume of claims arising from the winter 2016-2017 storms in FY2016-2017. However, Ordinance No. 114-17 also placed \$3,000,000 of that appropriation on Budget and Finance Committee reserve, meaning that the Wastewater Enterprise would be unable to access their funds without Budget and Finance Committee approval. This reserve does not represent a different source of funds outside of the Wastewater Enterprise, but rather an additional restriction on appropriated Wastewater Enterprise funds.

If the Board of Supervisors had not passed Ordinance No. 184-15 and Ordinance No. 114-17, the \$4,395,150 in settlements arising from the David Alfaro et al v CCSF Case No. CGC-15-547492 would have been appropriated out of the Wastewater Enterprise's fund balance concurrently with the Board of Supervisors approval of the settlements as per the normal course of business.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Norby', written in a cursive style.

Greg Norby
Assistant General Manager, Wastewater Enterprise