

File No. 200725

Committee Item No. 3

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget & Finance Committee

Date July 22, 2020

Board of Supervisors Meeting

Date _____

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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date July 17, 2020

Completed by: Linda Wong

Date _____

Item 3 File 20-0725	Department: Public Utilities Commission (PUC)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed hearing would release \$3,000,000 from Budget and Finance Committee reserve for the San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise for settlements related to flood damage from the 2016-17 winter storms. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The storms during December 2014 and the 2016-17 winter caused flooding and damage to various private properties. Property owners who suffered damage as a result of these storms filed claims against the City for compensation. In May 2017, the Board of Supervisors appropriated \$5,000,000 from the SFPUC Wastewater Enterprise general reserve to pay the claims settlements, legal expenses, and related costs due to the 2016-17 winter storms. • In May 2020, the SFPUC Commission approved 19 proposed settlements totaling \$4,395,150. Although the claims were from December 2014 storm floods, SFPUC is requesting to release \$3,000,000 in reserves appropriated for 2016-17 winter storms because the budget authority in financial system is for “Flood Claims” generally. The 19 proposed settlements require Board of Supervisors approval. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed settlements and estimated plaintiffs’ attorneys’ fees total approximately \$4,895,100. SFPUC Wastewater Enterprise has \$2,763,857 in available fund balance for flood claims. Therefore, approximately \$2,131,243 from Budget and Finance Committee reserve is needed at this time to pay out the settlements and attorneys’ fees. • There are approximately 10-20 commercial properties whose diminution in value claims have not been resolved. The Budget and Legislative Analyst recommends retaining \$865,000 on Budget and Finance Committee reserve until these claims have been resolved. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the release of \$2,135,000 from Budget and Finance Committee reserve and retain \$865,000 on reserve. 	

MANDATE STATEMENT

City Administrative Code Section 3.3(j) states that the Budget and Finance Committee of the Board of Supervisors has jurisdiction over the City's budget and may reserve proposed expenditures to be released at a later date subject to Board of Supervisors approval.

BACKGROUND

The San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise operates a combined storm water and sewer system. The storms during December 2014 and the 2016-17 winter caused flooding and damage to various private properties. Property owners who suffered damage as a result of these storms filed claims against the City for compensation. According to Ms. Megan Imperial, SFPUC Policy and Government Affairs, 48 claims were received from the December 2014 storms and three claims were received from the 2016-17 winter storms. The claims were handled by the City Attorney's Office and paid from the operating budget of the SFPUC Wastewater Enterprise. Claims of \$25,000 or more require Board of Supervisors approval.

In May 2017, the Board of Supervisors appropriated \$5,000,000 from the SFPUC Wastewater Enterprise general reserve to pay the claims settlements, legal expenses, and related costs due to the 2016-17 winter storm flooding (File 17-0411, Ordinance 114-17). Out of the \$5,000,000 appropriation, \$3,000,000 was placed on Budget and Finance Committee reserve, because the total amount of claims and other costs was not yet known. SFPUC is now requesting the \$3,000,000 to be released from reserve.

DETAILS OF PROPOSED LEGISLATION

The proposed hearing would release \$3,000,000 from Budget and Finance Committee reserve for the SFPUC Wastewater Enterprise to pay settlements related to damage caused by the December 2014 storms.

On May 26, 2020, the SFPUC Commission approved 19 proposed settlements totaling \$4,395,150. The proposed settlements require Board of Supervisors approval. As of the writing of this report, legislation approving the proposed settlements has not been introduced to the Board of Supervisors.

Ordinance 114-17, which placed the \$3,000,000 on Budget and Finance Committee reserve, stated that the appropriation was to be used to pay the claims settlements, legal expenses, and related expenses due to claims arising from the 2016-17 winter storms. The 19 proposed settlements are for claims arising from the December 2014 winter storms. According to Ms. Imperial, SFPUC may use this reserve to pay settlements on 2014 storm claims because the budget authority in the financial system is "Flood Claims" in general.

FISCAL IMPACT

The proposed hearing would release \$3,000,000 from Budget and Finance Committee reserve. According to Ms. Imperial, \$2,763,857 is currently available in the SFPUC Wastewater Enterprise Flood Claims Budget Authority. The total amount of the 19 settlements is \$4,395,150. According

to Ms. Imperial, SFPUC will also have to pay approximately \$500,000 for the plaintiffs' attorneys' fees. The additional funding needed is shown in Table 1 below.

Table 1: Funding Needed to Settle Flood Claims

Available Fund Balance	\$2,763,857
Claims Settlements	\$4,395,100
Attorneys' Fees	500,000
Total Expenditures	\$4,895,100
Additional Funding Needed	\$2,131,243

SFPUC needs approximately \$2,131,243 from the reserve to settle the 19 cases and pay attorneys' fees. According to Ms. Imperial, there are approximately 10-20 commercial properties whose diminution in value claims have not been resolved. SFPUC does not have an estimate for these claims. The Budget and Legislative Analyst recommends releasing \$2,135,000 from Budget and Finance Committee reserve and retaining \$865,000 on reserve until the diminution in value claims have been resolved.

RECOMMENDATION

Approve the release of \$2,135,000 from Budget and Finance Committee reserve and retain \$865,000 on reserve.



July 2, 2020

Angela Calvillo
Clerk of the Board of Supervisors
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102

Subject: Release of \$3,000,000 Reserve For Wastewater Enterprise Flood Claims, Per Ordinance No. 114-17

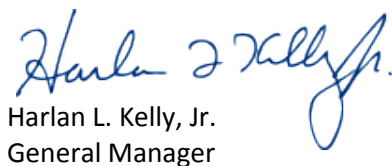
I would like to request your assistance to calendar the release of \$3,000,000 on Budget and Finance Committee reserve from the WW December 2014 Storm reserve. (Authority 17722)

In October 2015, by Ordinance 184-15, the Board of Supervisors appropriated \$5,000,000 in the Public Utilities Commission Wastewater Enterprise to pay the claims, settlements, legal expenses and related costs due to the extraordinary expenses incurred as a result of the December 2014 rainstorms.

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 and placed \$3,000,000 of the appropriation on Budget and Finance Committee reserve.

The \$3,000,000 on reserve will be needed to pay 19 settlements totaling \$4,395,150, if those settlements are approved by the Board of Supervisors. The 19 settlements are for the David Alfaro et al v CCSF Case No. CGC-15-547492 relating to inverse condemnation arising out of flood damage during major rainstorms in December 2014 and the winter 2016-2017. On May 26, 2020, the SFPUC Commission adopted Resolutions Nos. 20-0102 through 20-0121, recommending that the Board of Supervisors approve the 19 settlements. The settlements will be introduced for consideration at the Board of Supervisors in the near future.

Sincerely,


Harlan L. Kelly, Jr.
General Manager

- London N. Breed**
Mayor
- Ann Moller Caen**
President
- Francesca Vietor**
Vice President
- Anson Moran**
Commissioner
- Sophie Maxwell**
Commissioner
- Tim Paulson**
Commissioner
- Harlan L. Kelly, Jr.**
General Manager

