

1 [San Francisco Public Utilities Commission Wastewater Revenue Bond Issuance - Various
2 Capital Wastewater Projects Benefitting the Wastewater Enterprise - Not to Exceed
3 \$349,919,252]

4 **Ordinance authorizing the issuance and sale of tax-exempt or taxable Wastewater**
5 **Revenue Bonds and other forms of indebtedness, as defined herein, by the San**
6 **Francisco Public Utilities Commission (Commission) in an aggregate principal amount**
7 **not to exceed \$349,919,252 to finance the costs of various capital wastewater projects**
8 **benefitting the Wastewater Enterprise pursuant to amendments to the Charter of the**
9 **City and County of San Francisco enacted by the voters on November 5, 2002, as**
10 **Proposition E; authorizing the issuance of Wastewater Revenue Refunding Bonds and**
11 **the retirement of outstanding Wastewater Enterprise Commercial Paper; declaring the**
12 **Official Intent of the Commission to reimburse itself with one or more issues of tax-**
13 **exempt bonds or other forms of indebtedness, as defined herein; and ratifying**
14 **previous actions taken in connection therewith, as defined herein.**

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

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

23 Section 1. Findings. The Board of Supervisors ("Board") of the City hereby finds
24 and declares as follows:

25 A. On November 5, 2002, the voters of the City and County of San Francisco (the
"City") approved Proposition E ("Proposition E"), which among other things, authorized the

1 San Francisco Public Utilities Commission (“Commission”) to issue revenue bonds, including
2 notes, commercial paper or other forms of indebtedness (which forms of indebtedness may
3 include without limitation for purposes of Proposition E, loans and other forms of indebtedness
4 provided by governmental agencies and/or commercial or investment banks), when
5 authorized by ordinance approved by a two-thirds vote of the Board of Supervisors, for the
6 purpose of reconstructing, replacing, expanding, repairing or improving water facilities or
7 clean water facilities or combinations of water and clean water facilities under the jurisdiction
8 of the Commission; and

9 B. The Commission adopted the Indenture dated as of January 1, 2003, as further
10 amended and supplemented from time to time (“Indenture”), between the Commission and U.
11 S. Bank National Association and in connection therewith, has from time to time issued
12 revenue bonds to finance projects benefitting the Wastewater Enterprise; and

13 C. By Resolution 20-0031 adopted by the Commission on February 11, 2020
14 (“Commission Resolution”) the Commission has determined to issue Wastewater Revenue
15 Bonds (“Wastewater Revenue Bonds”) and other forms of indebtedness (including without
16 limitation SRF Loans or WIFIA Loans , as described below), as well as interim funding
17 vehicles such as commercial paper, revolving credit notes, bond anticipation notes or other
18 forms of notes, which interim funding vehicles will be issued in advance of being paid off by
19 either Wastewater Revenue Bonds or other forms of indebtedness (including, without
20 limitation and for illustrative purposes only, SRF Loans or WIFIA Loans), to finance the costs
21 of various capital wastewater projects benefitting the Wastewater Enterprise ("Capital
22 Improvement Projects", such projects being more fully described in the Commission
23 Resolution), pursuant to Proposition E, and has formally requested this Board to authorize the
24 issuance and sale of Wastewater Revenue Bonds for such purposes, such Commission
25 Resolution being on file with the Clerk of the Board in File No. _____; and

1 D. Pursuant to Section 43.5 of the San Francisco Administrative Code (“Article V”),
2 enacted by Ordinance No. 203-98 adopted by the Board on June 8, 1998, and signed by the
3 Mayor of the City on June 19, 1998, as amended by Ordinance No. 270-06, adopted on
4 October 24, 2006 by the Board and signed by the Mayor on October 31, 2006, the Board
5 established a procedure pursuant to which the Commission may issue short-term
6 indebtedness, including the issuance of commercial paper in anticipation of the issuance of
7 revenue bonds; and

8 E. The Commission has authorized pursuant to Resolution No. 17-0086, approved
9 by the Commission on April 25, 2017, and the Board has approved pursuant to Resolution No.
10 193-17, adopted by the Board on May 23, 2017, and signed by the Mayor on May 26, 2017, a
11 resolution to increase the Wastewater CP Program to an aggregate principal amount not to
12 exceed \$750 million of commercial paper notes outstanding at any one time, and the
13 Commission has caused from time to time wastewater commercial paper to be issued; and

14 F. In order to finance the costs of the Capital Improvement Projects, the Board now
15 desires to authorize pursuant to Proposition E the issuance and sale of Wastewater Revenue
16 Bonds and other forms of indebtedness for such purposes, including without limitation State
17 Revolving Fund Loans and/or grants from the State Water Resources Control Board (“SRF
18 Loans”) or U.S. Environmental Protection Agency Water Infrastructure Finance and Innovation
19 Act loans (“WIFIA Loans”) and such other indebtedness as may be advantageous to the
20 Commission; and

21 G. The Commission has paid, beginning no earlier than 60 days prior to the
22 adoption of this Ordinance and will pay, on and after the date hereof, certain expenditures
23 (“Expenditures”) in connection with the acquisition, construction and/or equipping of the
24 Capital Improvement Projects; and
25

1 F. This Board is concurrently considering with this Ordinance, another Ordinance
2 approving a Capital Improvement Program related supplemental appropriation totaling
3 \$579,185,142 for fiscal years ending 2021 and 2022, including the proceeds of such
4 Wastewater Revenue Bonds and other forms of indebtedness (including, without limitation
5 and for illustrative purposes only) SRF Loans, WIFIA Loans, commercial paper, revolving
6 credit notes and bond anticipation notes); and

7 G. This Board, on behalf of the Commission, adopts this Ordinance as official
8 action of the Commission in order to comply with Treasury Regulation §1.150-2 and any other
9 regulations of the Internal Revenue Service relating to the qualification for reimbursement of
10 Commission expenditures incurred prior to the date of issue of the Wastewater Revenue
11 Bonds or other forms of indebtedness (including, without limitation and for illustrative
12 purposes only, SRF Loans, WIFIA Loans, commercial paper, revolving credit notes and bond
13 anticipation notes).

14 Section 2. Authorization to Issue Wastewater Revenue Bonds and other forms of
15 indebtedness. The Board hereby authorizes the issuance and sale of Wastewater Revenue
16 Bonds in one or more series from time to time by the Commission pursuant to Proposition E
17 and in accordance with the Commission Resolution and the execution and delivery of SRF
18 Loan or WIFIA Loan agreements or the issuance of commercial paper, revolving credit notes,
19 or bond anticipation notes, in an aggregate principal amount not to exceed \$349,919,252
20 (inclusive of financing costs), but exclusive of refunding indebtedness), bearing a maximum
21 rate or rates of interest of not to exceed twelve percent (12%) per annum to finance a portion
22 of the costs of the design, acquisition and construction of the Capital Improvement Projects.
23 Without limiting the foregoing, the Commission shall be authorized to incur SRF Loans from
24 the State Water Resources Control Board or WIFIA Loans from the U.S. Environmental
25 Protection Agency at such time, in such amounts, and upon such other terms and conditions

1 as the Commission may deem advantageous. The Commission is hereby further authorized
2 to determine the timing, amount and manner of sale (i.e., competitive or negotiated) of each
3 series of Wastewater Revenue Bonds, commercial paper, revolving credit notes, or bond
4 anticipation notes pursuant to this authorization; provided however, the Commission's
5 authorization to issue Wastewater Revenue Bonds or incur other forms of indebtedness
6 (including SRF Loans, WIFIA Loans, bond anticipation notes, commercial paper or revolving
7 credit notes) is subject to approval by the Commission of the form of substantially final offering
8 document related to such obligations (if any) and the approval of any related agreements,
9 financing documents and the filing with its Board and the Clerk of the Board any certifications
10 required by Proposition E prior to the issuance of any bonds or the incurrence of any
11 indebtedness herein authorized. The Commission shall also file, within 30 days of any bond
12 sale authorized hereby, with the Clerk of the Board of Supervisors a report showing the
13 results of the sale of Wastewater Revenue Bonds, SRF Loans or other form of indebtedness
14 including (i) principal amount sold and method of sale, (ii) true interest cost, (iii) final maturity,
15 (iv) the facilities constructed and/or improved, and (v) a statement about the remaining
16 bonding authorization under this Ordinance ("Bond Report"); provided however that failure to
17 file the Bond Report shall not affect the validity of any bonds authorized hereunder.

18 Section 3. Authorization to Issue Wastewater Revenue Refunding Bonds and to Retire
19 Outstanding Commercial Paper. The Board further authorizes and approves the issuance by
20 the Commission of Wastewater Revenue Refunding Bonds ("Refunding Bonds") to refund
21 any outstanding obligations of the Wastewater Enterprise, without limitation as to principal
22 amount, in one or more series on one or more dates, at a maximum interest rate or rates of
23 interest not to exceed twelve percent (12%) per annum, provided that each such Refunding
24 Bond issue is permitted under the applicable policies and procedures of the Commission and
25 authorized by Section 9.109 of the Charter (including related ordinances and resolutions of

1 the Board). The Refunding Bonds may be issued as tax-exempt or taxable obligations, or any
2 combination thereof. Refunding Bonds authorized hereunder shall be subject to the further
3 following conditions, that: (i) three percent (3%) net present value debt service savings or
4 greater is achieved to ensure ratepayer savings (exclusive of any issuance to refund
5 commercial paper or bond anticipation notes); (ii) that the maturity of the refunded bonds is
6 not extended, provided that principal payments and term may be adjusted, where permitted
7 under federal and state tax law, only if and when the underlying capital asset funded through
8 said refunded bonds has a useful life not in excess of any limit permitted under federal and
9 state tax law than the refunded term (iii) this authorization is subject to a 5-year term through
10 June 30, 2025, at which time this Board may consider an extending such authority, which the
11 Board may do by resolution; and (iv) the Commission shall within 30 days of any executed
12 refunding transaction provide a refunding savings report (“Refunding Savings Report”)
13 prepared by its financial advisors (that reflects at least a three percent (3%) net present value
14 debt service savings) to the Board, together with a copy of the final Official Statement (if any)
15 with respect to such series of Refunding Bonds; provided that the failure to deliver such
16 Refunding Savings Report shall in no way affect the validity of any Refunding Bonds.
17 Notwithstanding the foregoing, the Commission is authorized to issue Refunding Bonds for
18 non-economic factors, including by way of illustration, eliminating onerous covenants and
19 obsolete provisions contained in the Commission’s indenture or other security documents.
20 The Commission shall request a waiver of the savings requirement for any Refunding Bonds
21 issued for non-economic reasons, which the Board may grant by resolution. In furtherance of
22 the purpose of managing the Commission outstanding indebtedness, the General Manager is
23 hereby authorized and directed, in consultation the City Attorney, from Available Wastewater
24 Enterprise Revenues to retire outstanding Wastewater Enterprise Commercial Paper at such
25 times and in such amounts advantageous to the Commission.

1 Section 4. Declaration of Official Intent. The Board, on behalf of the Commission,
2 hereby declares the official intent of the Commission to reimburse the Commission with
3 proceeds of the Wastewater Revenue Bonds or other forms of indebtedness (including SRF
4 Loans, WIFIA Loans, bond anticipation notes or commercial paper) for the Expenditures with
5 respect to the Capital Improvement Projects made on and after a date that is no more than 60
6 days prior to the adoption of this Ordinance. The Commission reasonably expects on the date
7 hereof that it will reimburse the Expenditures with proceeds of the Wastewater Revenue
8 Bonds or other forms of indebtedness (including SRF Loans, WIFIA Loans, bond anticipation
9 notes or commercial paper). Each said Expenditure was and will be either (A) of a type
10 properly chargeable to a capital account under general federal income tax principles
11 (determined in each case as of the date of the Expenditure), (B) a cost of issuance with
12 respect to such obligations, (C) a nonrecurring item that is not customarily payable from
13 current revenues, or (D) a grant to pay a party that is not related to or an agent of the issuer
14 so long as such grant does not impose any obligation or condition (directly or indirectly) to
15 repay any amount to or for the benefit of the Commission. The Commission will make a
16 reimbursement allocation, which is a written allocation by the Issuer that evidences the
17 Commission's use of proceeds of the Wastewater Revenue Bonds or other forms of
18 indebtedness to reimburse an Expenditure, no later than 18 months after the later of the date
19 on which the Expenditure is paid or the component of the Capital Improvement Projects is
20 placed in service or abandoned, but in no event more than three years after the date on which
21 the Expenditure is paid. The Commission recognizes that exceptions are available for certain
22 "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by
23 "small issuers" (based on the year of issuance and not the year of expenditure) and
24 expenditures for construction projects of at least 5 years.

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1 Section 5. General Authority. The Controller, Treasurer, the City Attorney and other
2 officers of the City, including the Director of the Office of Public Finance, and their duly
3 authorized deputies and agents are hereby authorized and directed, jointly and severally, to
4 take such actions and to execute and deliver such certificates, agreements, requests or other
5 documents, as they may deem necessary or desirable to facilitate the issuance, sale and
6 delivery of the Wastewater Revenue Bonds, SRF Loans, WIFIA Loans, bond anticipation
7 notes, commercial paper or Refunding Bonds, to obtain bond insurance or other credit or
8 liquidity enhancements with respect to any such obligations, and otherwise to carry out the
9 provisions of this Ordinance. The Commission is hereby directed to provide the final form to
10 the Clerk of the Board of any disclosure document (if any) prepared in connection with the
11 execution of any Wastewater Revenue Bonds, SRF Loans, WIFIA Loans, bond anticipation
12 notes, commercial paper or Refunding Bonds, and the final executed Installment Sale
13 Agreement or other document reflecting the incurrence of an SRF Loan or a WIFIA Loan,
14 within 30 days of the closing of such transactions; provided however that failure to provide
15 such document shall not affect the validity of the obligations authorized hereunder. The
16 Commission is further directed as a part of the two-year budget review to provide to this Board
17 of Supervisors a written report about Wastewater Revenue Bonds authorized hereunder,
18 detailing the total amount authorized, the total amount sold, the remaining authorized but
19 unissued amount, and the bond authorization no longer necessary due to changes in projects
20 and project financing.

21 Section 6. Ratification of Prior Actions. All actions authorized and directed by this
22 Ordinance in connection with the issuance of the Wastewater Revenue Bonds or other forms
23 of indebtedness (including, without limitation and for illustrative purposes only, SRF Loans,
24 WIFIA Loans, bond anticipation notes or commercial paper), Refunding Bonds, and heretofore
25 taken are hereby ratified, approved and confirmed by this Board.

1 Section 7. File Documents. All documents referred to as on file with the Clerk of the
2 Board are in File Nos. _____.

3 Section 8. Effective Date. Pursuant to Charter Section 8B.124, this Ordinance shall
4 take effect thirty (30) days after its adoption.

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6 APPROVED AS TO FORM:
7 DENNIS J. HERRERA, City Attorney

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9 By: /s/ Mark D. Blake
10 Mark D. Blake
11 Deputy City Attorney

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