

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

3 **Ordinance extending for an additional two years through July 1, 2022, the delegation of**  
4 **authority under Charter, Section 9.118, to the General Manager of the San Francisco**  
5 **Public Utilities Commission (SFPUC), previously authorized by Ordinance No. 26-19, to**  
6 **enter into grant agreements under the SFPUC’s Green Infrastructure Grant Program**  
7 **with terms of up to 20 years and without Commission approval.**

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

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

16 Section 1. Background.

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

21 (b) Green infrastructure uses vegetation, soils, and other elements and practices  
22 that mimic nature to soak up and store stormwater. Green infrastructure is a cost-effective,  
23 resilient approach for managing wet weather impacts that provides many benefits. Green  
24 infrastructure reduces and treats stormwater at its source while delivering environmental,  
25 social, and economic benefits.

1 (c) The SFPUC desires to encourage owners of parcels containing large impervious  
2 areas – such as concrete parking lots and asphalt covered playgrounds – to install Green  
3 infrastructure projects on their parcels that will reduce the amount of stormwater runoff  
4 entering the SFPUC’s sewer system, and thereby improve system performance.

5 (d) Towards that end, at a public hearing on November 13, 2018, the SFPUC, by its  
6 Resolution No. 18-0189, approved the SFPUC Green Infrastructure Grant Program  
7 Guidelines, a copy of which is on file with the Clerk of the Board of Supervisors in File No.  
8 200454. The Resolution authorizes the SFPUC General Manager to award grants to property  
9 owners to construct green infrastructure projects such as permeable pavement, rain  
10 gardens/bioretenion, impervious surface removal, and vegetated roofs, on their parcels.

11 Under the Grant Program Guidelines, grantees must meet the following six eligibility criteria:

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

14 (2) Project Location: The proposed project must be located on a parcel  
15 connected to a SFPUC-owned and operated sewer system service area.

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

20 (4) Grant Team Experience: The grant team must include the property  
21 owner, an identified grant or project manager, and a licensed engineer or landscape architect  
22 registered in the State of California. The proposed project team must collectively demonstrate  
23 a history of successful project implementation and have experience designing, constructing,  
24 and/or maintaining green infrastructure.

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1 (5) Concept Design: The applicant must submit a conceptual design plan  
2 drawing approximately equivalent to a 10% level of design that satisfies specific criteria set  
3 forth in the Grant Program guidelines.

4 (6) At Least Two Co-Benefit Opportunities: Green infrastructure projects  
5 provide a variety of co-benefit opportunities in addition to reducing the amount of stormwater  
6 runoff that enters the SFPUC sewer system. Projects are required to demonstrate at least  
7 two of the following co-benefits: location within or serving an Environmental Justice Area or  
8 Disadvantaged Community, as designated by the SFPUC; provide public access to the project  
9 site to promote awareness of and education about the importance of stormwater  
10 management; groundwater recharge through infiltration of stormwater in the Westside  
11 Groundwater Basin; non-potable water reuse of retained stormwater for other applications,  
12 such as irrigation; the incorporation of education and/or curriculum opportunities into the  
13 project that explain how green infrastructure assets work and their impact on watersheds and  
14 the SFPUC's sewer system; providing job training opportunities in the green infrastructure  
15 sector; and integration of biodiversity and native habitat into the project's design, such as  
16 native pollinator gardens.

17 (e) Under the Grant Program Guidelines, grantees may receive up to \$765,000 per  
18 impervious acre of property, or fraction thereof, for which stormwater is managed by the green  
19 infrastructure project, for up to a maximum amount of \$2,000,000 per grant.

20 (f) To receive funding under the Green Infrastructure Grant Program, a grantee  
21 must enter into a Green Infrastructure Grant Agreement ("Grant Agreement"), a template of  
22 which is on file with the Clerk of the Board of Supervisors in File No. 200454. SFPUC has  
23 determined that the useful life of the type of green infrastructure projects that are eligible for  
24 funding under the Grant Program is approximately 20 years. Ongoing, proper maintenance of  
25 green infrastructure projects is critical for these projects to function properly and benefit the

1 SFPUC sewer system for the useful life of these assets. Accordingly, the Grant Agreement  
2 requires that the Grantee maintain the green infrastructure project for the 20-year term of the  
3 agreement, authorizes the SFPUC to conduct periodic inspections of the Grantee's  
4 construction, operation, and maintenance of the project, and provides the SFPUC with  
5 remedies against the Grantee in the event that the Grantee fails to maintain the project for the  
6 20-year term. The Grant Agreement also requires the Grantee to execute and record against  
7 the property a deed restriction that serves to notify future owners that the 20-year  
8 maintenance obligation runs with the land.

9 (g) In approving the Grant Program, the Commission delegated authority to the  
10 SFPUC General Manager to negotiate, award, and execute Grant Agreements with a term of  
11 up to 20 years and recommended that the Board of Supervisors adopt an ordinance  
12 delegating its authority under Charter Section 9.118 to the SFPUC General Manager to  
13 execute the Grant Agreements for a term in excess of 10 years.

14 (h) In February 2019, the City enacted Ordinance No. 26-19 (File No. 181113)  
15 delegating authority to the SFPUC General Manager through July 1, 2020, to enter into Grant  
16 Agreements under the SFPUC Green Infrastructure Grant Program provided that (1) the term  
17 of the grant agreement does not exceed 20 years and (2) each grant award is approved by  
18 the Commission at a public hearing. Since that time, the Commission has awarded three  
19 grants totaling just over \$2 million dollars for construction of green infrastructure projects in  
20 schoolyards at two public schools (Lafayette Elementary School and Bessie Carmichael  
21 Middle School) and one private school (St. Thomas More School).

22 (i) The Board of Supervisors now desires to extend the delegation of authority to the  
23 SFPUC General Manager provided for in Ordinance No. 26-19 for an additional two years,  
24 with a sunset date of July 1, 2022, and remove the requirement that each grant award be  
25 approved by the Commission at a public hearing.

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

(a) Delegation of Authority. Pursuant to its authority under Charter Section 9.118, the Board of Supervisors delegates to the SFPUC General Manager authority to enter into Grant Agreements under the Green Infrastructure Grant Program referenced in Section 1 of this ordinance, in substantially the same form as on file with the Clerk of the Board of Supervisors in File No. 200454, for a term in excess of 10 years, so long as the term does not exceed 20 years. The Board of Supervisors further authorizes the SFPUC General Manager to enter into any amendments or modifications to the Grant Agreements that do not extend the terms of the agreements beyond 20 years, and that the SFPUC General Manager determines, in consultation with the City Attorney, are in the best interest of the City, do not materially decrease the City’s rights or materially increase the City’s obligations or liabilities, are necessary or advisable to effectuate the purposes and intent of the Grant Program, and are in compliance with all applicable laws, including the City Charter.

(b) Reporting Requirement. Starting with the quarter beginning July 1, 2019, SFPUC shall submit quarterly written reports to the Clerk of the Board of Supervisors summarizing all Grant Agreements SFPUC has entered into during the prior quarter pursuant to the authority granted under subsection 2(a) of this ordinance. Each such report shall be submitted no later than 30 days following the completion of the quarter that is the subject of the report.

(c) Sunset Dates.

(1) The delegation of authority provided for under subsection 2(a) of this ordinance shall apply only to Grant Agreements, and amendments or modifications of Grant Agreements, executed before July 1, 2022, and shall expire by operation of law on July 1, 2022.

1 (2) The reporting requirements provided for under subsection (2)(b) shall expire  
2 by operation of law upon submission of the quarterly report covering the quarter ending June  
3 30, 2022.

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5 Section 3. Directions to Clerk.

6 The Clerk of the Board of Supervisors is hereby directed to place a copy of this  
7 ordinance in File No. 181113 for Ordinance No. 26-19, and to make a notation cross-  
8 referencing this ordinance where Ordinance No. 26-19 appears as legislation passed on the  
9 Board of Supervisors website.

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11 Section 4. Effective Date and Operative Date.

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

16 (b) The operative date of this ordinance shall be July 1, 2020.

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18 APPROVED AS TO FORM:  
19 DENNIS J. HERRERA, City Attorney

20 By: /s/  
21 FRANCESCA GESSNER  
22 Deputy City Attorney

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