

1 [General Obligation Bond Election - Seawall and Other Critical Infrastructure - \$425,000,000]

2

3 **Ordinance calling and providing for a special election to be held in the City and County**
4 **of San Francisco on Tuesday, November 6, 2018, for the purpose of submitting to**
5 **San Francisco voters a proposition to incur the following bonded debt of the City and**
6 **County: \$425,000,000 to finance the construction, reconstruction, acquisition,**
7 **improvement, demolition, seismic strengthening and repair of the Embarcadero**
8 **Seawall and other critical infrastructure, and related costs necessary or convenient for**
9 **the foregoing purposes; authorizing landlords to pass-through 50% of the resulting**
10 **property tax increase to residential tenants in accordance with Administrative Code,**
11 **Chapter 37; finding that the estimated cost of such proposed project is and will be too**
12 **great to be paid out of the ordinary annual income and revenue of the City and County**
13 **and will require expenditures greater than the amount allowed therefor by the annual**
14 **tax levy; reciting the estimated cost of such proposed project; fixing the date of**
15 **election and the manner of holding such election and the procedure for voting for or**
16 **against the proposition; fixing the maximum rate of interest on such bonds and**
17 **providing for the levy and collection of taxes to pay both principal and interest;**
18 **prescribing notice to be given of such election; affirming the Planning Department's**
19 **determination under the California Environmental Quality Act, and finding that the**
20 **proposed bond is in conformity with the eight priority policies of Planning Code,**
21 **Section 101.1(b), and with the General Plan; consolidating the special election with the**
22 **general election; establishing the election precincts, voting places, and officers for the**
23 **election; waiving the word limitation on ballot propositions imposed by Municipal**
24 **Elections Code, Section 510; complying with the restrictions on the use of bond**
25 **proceeds specified in California Government Code, Section 53410; incorporating the**

1 provisions regarding the Citizens’ Bond Oversight Committee in Administrative Code,
2 Sections 5.30-5.36; and waiving the time requirements specified in Administrative
3 Code, Section 2.34.

4
5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

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

13 Section 1. Findings.

- 14 a. The Embarcadero Seawall (the “Seawall”), which serves as the foundation of the
15 northern waterfront, is one of San Francisco’s oldest pieces of infrastructure.
- 16 b. Constructed by the State of California over one hundred years ago, the Seawall
17 supports San Francisco’s historic piers, wharves, local businesses, maritime uses, iconic tourist
18 destinations, recreation facilities, and restaurants, which bring an estimated 24 million people
19 to the waterfront annually.
- 20 c. The Seawall also supports key lifeline utility networks and infrastructure, including
21 the Bay Area Rapid Transit (BART), Muni Metro, and ferry transportation networks.
- 22 d. The Seawall serves as a critical emergency response, evacuation and recovery
23 area and provides flood protection to downtown San Francisco (“City”) neighborhoods. All told,
24 the Seawall protects over \$100 billion of assets and economic activity.
- 25 e. Recent analysis by the City and the Port of San Francisco (the “Port”) found that
the Seawall will likely suffer significant damage during a major earthquake, causing widespread
harm to the Embarcadero; historic buildings and piers; critical transportation, utility, and

1 emergency response infrastructure; and the residents, workers, and visitors who depend on
2 them. A major earthquake would likely cause the Seawall to move towards the bay, potentially
3 by as much as five feet. This seismic risk is compounded by the accelerating risk of flooding,
4 which occurs today during high tides and larger storm events.

5 f. The Seawall is named as a critical infrastructure priority in the City's Lifelines
6 Interdependency Study published in 2014, and the Bond (as defined below) is planned for the
7 November 2018 election as part of the General Obligation Bond Program in the City's FY 2018-
8 27 Capital Plan.

9 g. The Embarcadero Roadway encircles downtown San Francisco. After a major
10 seismic event, up to 250,000 people are expected to exit downtown towards the waterfront.
11 The Embarcadero must provide access to first responders, safe locations for people exiting
12 downtown, and routes for transporting emergency supplies and equipment.

13 h. To address earthquake and flood risks to the Seawall, the Port is leading the
14 Seawall Earthquake Safety and Disaster Prevention Program ("Seawall Program"), a program
15 that will invest a projected \$2-5 billion over the next three decades to protect the San Francisco
16 waterfront from imminent seismic risk and increasing flood risk due to sea level rise.

17 i. This Board of Supervisors (this "Board") recognizes the need to improve the
18 earthquake safety and performance of the Seawall and other critical infrastructure, provide
19 near-term flood protection improvements, and plan for long-term resilience and sea level rise
20 adaptation along this important stretch of the City's waterfront.

21 j. The Seawall Earthquake Safety Bond (the "Bond") will provide funding to the
22 Seawall Program and other critical infrastructure (as described below in Section 3).

23 k. The Bond sets up a financing mechanism to be used for certain kinds of work,
24 and specific projects at specified locations will not be determined until additional design and
25

1 budget development, as well as further planning and environmental review processes, are
2 complete.

3 I. This Board now wishes to describe the terms of a ballot measure seeking approval
4 for the issuance of general obligation bonds to finance all or a portion of the City's Seawall and
5 other critical infrastructure needs as described below.

6 Section 2. A special election is called and ordered to be held on Tuesday, November
7 6, 2018, for the purpose of submitting to the electors of the City a proposition to incur bonded
8 indebtedness of the City for the project described in the amount and for the purposes stated:

9 "SAN FRANCISCO SEAWALL EARTHQUAKE SAFETY BOND, 2018. \$425,000,000 of
10 bonded indebtedness to finance the cost of: repairing and upgrading the City's 100 year old
11 Embarcadero Seawall; strengthening the Embarcadero; protecting transit infrastructure and
12 utilities that provide water, wastewater, power and telecommunications to residents and
13 businesses; and to pay related costs, subject to independent citizen oversight and regular
14 audits, all to protect San Francisco's waterfront, BART and Muni tunnels, buildings, historic
15 piers, and roads from earthquakes, flooding and rising sea levels; and authorizing landlords to
16 pass-through to residential tenants in units subject to Chapter 37 of the Administrative Code
17 (the "Residential Rent Stabilization and Arbitration Ordinance") 50% of the increase in the real
18 property taxes attributable to the cost of the repayment of the bonds."

19 The special election called and ordered shall be referred to in this ordinance as the
20 "Seawall Earthquake Safety Bond Special Election."

21 Section 3. PROPOSED PROGRAM. All contracts that are funded with the proceeds
22 of bonds authorized hereby shall be subject to the provisions of Chapter 83 of the Administrative
23 Code (the "First Source Hiring Program"), which fosters construction and permanent
24 employment opportunities for qualified economically disadvantaged individuals. In addition, all
25 contracts that are funded with the proceeds of bonds authorized hereby shall be subject to the

1 provisions of Chapter 14B of the Administrative Code (the "Local Business Enterprise and Non-
2 Discrimination in Contracting Ordinance"), which assists small and micro local businesses to
3 increase their ability to compete effectively for the award of City contracts. To the extent
4 permitted by law, eligible costs for the proposed program include all costs associated with
5 Seawall Program development and planning, including planning for future sea level rise
6 adaptation, pre-design, design, engineering and other soft costs; and construction
7 management. The proposed program can be summarized as follows:

8 a. EARTHQUAKE PROJECTS. Several construction options are available to
9 improve Seawall seismic reliability. All or a portion of these options may be implemented
10 together, individually, or sequenced over time. A portion of the Bond may be allocated to:

- 11 1) Ground strengthening and liquefaction remediation
- 12 2) Constructing a new Seawall
- 13 3) Bulkhead wall, wharf and pier retrofits and replacements
- 14 4) Bulkhead building retrofits and seismic joints
- 15 5) Critical facility retrofits and replacements
- 16 6) Utility replacements, relocations and bypasses
- 17 7) Matching funds for public and private sources or
- 18 8) Other life safety improvements.

19 b. FLOOD PROTECTION PROJECTS. The Port will co-design flood mitigations with
20 seismic improvements and will evaluate the applicability, effectiveness, risks, and costs of the
21 short and mid-term seismic reinforcements and flood mitigations to Seawall reaches. Among
22 the projects a portion of this Bond may be allocated to are the following:

- 23 1) Flood walls and barriers
- 24 2) Changes to surface grading
- 25 3) Flood proofing

1 4) Enhanced foundation for future adaptation or

2 5) Other flood control improvements.

3 c. MITIGATION AND ENHANCEMENT PROJECTS. The Port will decide whether
4 to include enhancements for both the urban landscape and the bay environment based on the
5 scale and location of the site-specific seismic and near-term flood risk reduction methods and
6 the cost-benefit ratio of these infrastructure investments. A portion of the Bond may be allocated
7 to:

8 1) Public access enhancements

9 2) Transportation/mobility improvements

10 3) Environmental benefits or

11 4) Other public benefits.

12 d. CITIZENS' OVERSIGHT COMMITTEE. A portion of the Bond shall be used to
13 perform audits of the Bond, as further described in Section 15.

14 e. ART ENRICHMENT. Consistent with Section 3.19 of the San Francisco
15 Administrative Code and to the extent permitted by law, up to 2% of Bond proceeds may be
16 used to 1) fund educational and interpretative art to inform the public about the Seawall and
17 earthquake and flood risks to the City's waterfront, and 2) fund other art enrichment, in either
18 case on Port property as approved by the Port Commission in consultation with the Arts
19 Commission.

20 Section 4. BOND ACCOUNTABILITY MEASURES.

21 The Bond shall include the following administrative rules and principles:

22 a. OVERSIGHT. The proposed bond funds shall be subjected to approval processes
23 and rules described in the Charter and Administrative Code. Pursuant to Administrative Code
24 Section 5.31, the Citizens' General Obligation Bond Oversight Committee shall conduct an
25

1 annual review of bond spending, and shall provide an annual report of the bond program to the
2 Mayor and the Board of Supervisors.

3 ///

4 b. TRANSPARENCY. The City shall create and maintain a Web page outlining and
5 describing the bond program, progress, and activity updates. The City shall also hold an annual
6 public hearing and reviews on the bond program and its implementation before the Board of
7 Supervisors, the Port Commission, the Capital Planning Committee, and the Citizens' General
8 Obligation Bond Oversight Committee.

9 Section 5. The estimated cost of the bond financed portion of the project described in
10 Section 2 above was fixed by the Board by Resolution No. _____, in the amount of
11 \$425,000,000. Said resolution was passed by two-thirds or more of the Board and approved by
12 the Mayor. In such resolution it was recited and found by the Board that the sum of money
13 specified is too great to be paid out of the ordinary annual income and revenue of the City in
14 addition to the other annual expenses or other funds derived from taxes levied for those
15 purposes and will require expenditures greater than the amount allowed by the annual tax levy.

16 The method and manner of payment of the estimated costs described in this ordinance
17 are by the issuance of bonds of the City not exceeding the principal amount specified.

18 Such estimate of costs as set forth in such resolution is adopted and determined to be
19 the estimated cost of such bond financed improvements and financing, as designed to date.

20 Section 6. The Bond Special Election shall be held and conducted and the votes
21 received and canvassed, and the returns made and the results ascertained, determined, and
22 declared as provided in this ordinance and in all particulars not recited in this ordinance such
23 election shall be held according to State law and the Charter and any regulations adopted under
24 State law or the Charter, providing for and governing elections in the City, and the polls for such
25 election shall be and remain open during the time required by such laws and regulations.

1 Section 7. The Bond Special Election is consolidated with the General Election
2 scheduled to be held in the City on Tuesday, November 6, 2018. The voting precincts, polling
3 places, and officers of election for the November 6, 2018 General Election are hereby adopted,
4 established, designated, and named, respectively, as the voting precincts, polling places, and
5 officers of election for the Bond Special Election called, and reference is made to the notice of
6 election setting forth the voting precincts, polling places, and officers of election for the
7 November 6, 2018 General Election by the Director of Elections to be published in the official
8 newspaper of the City on the date required under State law.

9 Section 8. The ballots to be used at the Bond Special Election shall be the ballots
10 used at the November 6, 2018 General Election. The word limit for ballot propositions imposed
11 by Municipal Elections Code Section 510 is waived. On the ballots to be used at the Bond
12 Special Election, in addition to any other matter required by law to be printed thereon, shall
13 appear the following as a separate proposition:

14 "SAN FRANCISCO SEAWALL EARTHQUAKE SAFETY BOND, 2018. "To protect San
15 Francisco's waterfront, BART and Muni tunnels, buildings, historic piers, and roads from
16 earthquakes, flooding and rising sea levels by: repairing and upgrading the City's 100 year old
17 Embarcadero Seawall; strengthening the Embarcadero; protecting transit infrastructure and
18 utilities that provide water, wastewater, power and telecommunications to residents and
19 businesses; shall the City of San Francisco issue \$425,000,000 in bonds, subject to
20 independent citizen oversight and regular audits?"

21 Each voter to vote in favor of the issuance of the foregoing bond proposition shall mark
22 the ballot in the location corresponding to a "YES" vote for the proposition, and each voter to
23 vote against the proposition shall mark the ballot in the location corresponding to a "NO" vote
24 for the proposition.

1 Section 9. If at the Bond Special Election it shall appear that two-thirds of all the voters
2 voting on the proposition voted in favor of and authorized the incurring of bonded indebtedness
3 for the purposes set forth in such proposition, then such proposition shall have been accepted
4 by the electors, and bonds authorized shall be issued upon the order of the Board. Such bonds
5 shall bear interest at a rate not exceeding applicable legal limits.

6 Section 10. For the purpose of paying the principal and interest on the bonds, the Board
7 shall, at the time of fixing the general tax levy and in the manner for such general tax levy
8 provided, levy and collect annually each year until such bonds are paid, or until there is a sum
9 in the Treasury of the City, or other account held on behalf of the Treasurer of the City, set apart
10 for that purpose to meet all sums coming due for the principal and interest on the bonds, a tax
11 sufficient to pay the annual interest on such bonds as the same becomes due and also such
12 part of the principal thereof as shall become due before the proceeds of a tax levied at the time
13 for making the next general tax levy can be made available for the payment of such principal.

14 Section 11. This ordinance shall be published in accordance with any State law
15 requirements, and such publication shall constitute notice of the Bond Special Election and no
16 other notice of the Bond Special Election hereby called need be given.

17 Section 12. The Board, having reviewed the proposed legislation, makes the following
18 findings in compliance with the California Environmental Quality Act, California Public
19 Resources Code Sections 21000 et seq., the CEQA Guidelines, 15 California Administrative
20 Code Sections 15000 et seq., and San Francisco Administrative Code Chapter 31 (collectively,
21 "CEQA"): The Planning Department has determined that the actions contemplated in this
22 ordinance comply with CEQA. Said determination is on file with the Clerk of the Board of
23 Supervisors in File No. 180454 and is incorporated herein by reference. The Board affirms this
24 determination.

1 Section 13. The Board finds and declares that the proposed Bond is in conformity with
2 the priority policies of Section 101.1(b) of the San Francisco Planning Code and consistent with
3 the City's General Plan, and adopts the findings of the Planning Department, as set forth in the
4 General Plan Referral Report dated May 24, 2018, a copy of which is on file with the Clerk of
5 the Board of Supervisors in File No. 180454 and incorporates such findings by reference.

6 Section 14. Under Section 53410 of the California Government Code, the bonds shall
7 be for the specific purposes authorized in this ordinance and the proceeds of such bonds will
8 be applied only for such specific purposes. The City will comply with the requirements of
9 Sections 53410(c) and 53410(d) of the California Government Code.

10 Section 15. The Bonds are subject to, and incorporate by reference, the applicable
11 provisions of Administrative Code Sections 5.30 – 5.36 (the "Citizens' General Obligation Bond
12 Oversight Committee"). Under Section 5.31, to the extent permitted by law, one-tenth of one
13 percent (0.1%) of the gross proceeds of the Bonds shall be deposited in a fund established by
14 the Controller's Office and appropriated by the Board of Supervisors at the direction of the
15 Citizens' General Obligation Bond Oversight Committee to cover the costs of said committee.

16 Section 16. The time requirements specified in Section 2.34 of the Administrative Code
17 are waived.

18 Section 17. The appropriate officers, employees, representatives, and agents of the
19 City are hereby authorized and directed to do everything necessary or desirable to accomplish
20 the calling and holding of the Bond Special Election, and to otherwise carry out the provisions
21 of this ordinance.

22 Section 18. Documents referenced in this ordinance are on file with the Clerk of the
23 Board of Supervisors in File No. 180454 which is hereby declared to be a part of

24 ///

1 this ordinance as if set forth fully herein.

2

3 APPROVED AS TO FORM:
4 DENNIS J. HERRERA,
City Attorney

5

6 By:

Kenneth David Roux
Deputy City Attorney
n:\finan\las2018\1800446\01269593.docx

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25