

File No. 211281

Committee Item No. 2

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date January 26, 2022

Board of Supervisors Meeting Date _____

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- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER (Use back side if additional space is needed)

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Completed by: Brent Jalipa Date January 19, 2022

Completed by: Brent Jalipa Date _____



December 9, 2021

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 \$865,000 Reserve For Wastewater Enterprise Flood Claims, Per Ordinance No. 114-17

I would like to request your assistance to calendar the release of \$865,000 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.

In June 2020, by Ordinance No. 114-17, the Board of Supervisors released \$2,135,000 from 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 December 2014 storms and the storms from the winter of 2016-2017.

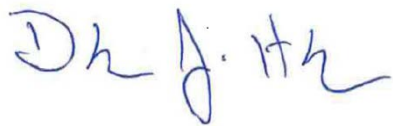
In late November 2021, PUC was notified of 12 settlements totaling \$4,946,480, approved by Ordinance No. 181-21 thru 192-21. The 12 settlements are for the David Alfaro et al v CCSF Case No. CGC-15-547492 relating to inverse condemnation arising out of flood damage during major rainstorms in December 2014 and the winter of 2016-2017. Given the urgency of the payment, Wastewater Enterprise used its fund balance, under the City’s Budget and Appropriation Ordinance, No. 165-20 (section 10.10 Litigation Reserve, Payments), which states: Amounts required to pay settlements of claims or litigation involving the Public Utilities Commission are hereby appropriated from the Public Utilities Commission Wastewater Enterprise fund balance or the Public Utilities Commission Water Enterprise fund balance, as appropriate, for the purpose of paying such settlements following final approval of those settlements by resolution or ordinance. The remaining \$865,000 on reserve is

- London N. Breed**
Mayor
- Anson Moran**
President
- Newsha Ajami**
Vice President
- Sophie Maxwell**
Commissioner
- Tim Paulson**
Commissioner
- Ed Harrington**
Commissioner
- Dennis J. Herrera**
General Manager



requested to be released and will be used to reimburse the Wastewater Enterprise's fund balance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dh J. Herrera". The signature is written in a cursive, flowing style.

Dennis J. Herrera,
General Manager

<p>Item 2 File 21-1281</p>	<p>Department: Public Utilities Commission (PUC)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed hearing would release \$865,000 from Budget and Finance Committee reserve for the San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise to partially reimburse the Wastewater Enterprise for the \$4,946,480 settlement payments paid in December 2021 related to damage caused by major rainstorms in December 2014. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise operates a combined storm water and sewer system. Storms during December 2014 and the 2016-17 winter caused flooding and damage to various private properties. Property owners who suffered damage from these storms filed claims against the City for compensation. • The Board of Supervisors has approved \$10 million in supplemental appropriations to pay for legal claims related to the storms. In 2017, the Board of Supervisors appropriated \$5 million from the Wastewater Enterprise (File 17-0411) to pay possible claims settlements, legal expenses, and related costs arising from the 2016-2017 storms. The Board had previously appropriated \$5 million in 2015 (Ordinance 184-15) to pay possible claims settlements, legal expenses, and related costs arising from the 2014 storms. • \$865,000 remains on Budget and Finance Committee reserve for flood claims. SFPUC is requesting this remaining balance be released from reserve, to partially reimburse the SFPUC Wastewater Enterprise fund balance for approved settlement payments made in December of 2021 totaling \$4,946,480. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed hearing would release \$865,000 from Budget and Finance Committee reserve. • In December of 2021, the SFPUC Wastewater Enterprise paid 12 settlement payments totaling \$4,946,480 related to damage from the 2014 storms, which were approved by the Board of Supervisors. • SFPUC made these payments from its fund balance and is now requesting the remaining \$865,000 from the 2017 appropriation be released from reserve to partially reimburse the SFPUC Wastewater Enterprise fund balance. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the requested release of \$865,000 from Budget and Finance Committee 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. The practice of the Board of Supervisors is for the Budget and Finance Committee to approve release of funds placed on reserve by the Committee, without further Board of Supervisors approval.

BACKGROUND

The San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise operates a combined storm water and sewer system. Storms during December 2014 and the 2016-17 winter caused flooding and damage to various private properties. Property owners who suffered damage from these storms filed claims against the City for compensation.

The Board of Supervisors has previously considered \$10 million in supplemental appropriations to pay for legal claims related to the storms. In 2017, the Board of Supervisors appropriated \$5 million from the Wastewater Enterprise (File 17-0411) to pay possible claims settlements, legal expenses, and related costs arising from the 2016-2017 storms. The Board had previously appropriated \$5 million in 2015 (Ordinance 184-15) to pay possible claims settlements, legal expenses, and related costs arising from the 2014 storms.

When considering the 2017 supplemental appropriation, the Board held \$3 million of the \$5 million appropriation request for flood claims on Budget and Finance Committee reserve, since it was not known at the time whether the City would need to spend the entire \$5,000,000. The Budget and Finance Committee released \$2,135,000 in July 2020 to pay settlements related to damage caused by the December 2014 storms (File 20-0725). This left \$865,000 on Budget and Finance Committee reserve for flood claims.

In December of 2021, the SFPUC Wastewater Enterprise paid 12 settlement payments totaling \$4,946,480 related to damage from the 2014 storms, which were approved by the Board of Supervisors (Ordinance No. 181-21 through Ordinance No. 192-21). SFPUC made these payments from its fund balance and is now requesting the remaining balance be released from reserve, to partially reimburse the SFPUC Wastewater Enterprise fund balance.

DETAILS OF PROPOSED LEGISLATION

The proposed hearing would release \$865,000 from Budget and Finance Committee reserve for the SFPUC Wastewater Enterprise to partially reimburse the Wastewater Enterprise for the \$4,946,480 it paid in December 2021 settlement payments related to damage caused by the December 2014 storms.

The 2017 appropriation that was the source of the \$865,000 remaining 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

settlements approved in November 2021 are for claims arising from the December 2014 winter storms, but SFPUC may use this reserve to pay settlements on 2014 storms claims because the budget authority in the financial system is “Flood Claims” in general.

FISCAL IMPACT

The proposed hearing would release \$865,000 from Budget and Finance Committee reserve. This is the remaining balance of the \$3 million placed on reserve in 2017 appropriation, following the release of \$2,135,000 in July 2020 to pay settlements related to damage caused by the storms as shown in Exhibit 1 below.

Exhibit 1: Committee Reserve

Held on Reserve in 2017	\$3,000,000
Released in 2020	\$2,135,000
Currently Remaining	\$865,000
Remaining Balance If Request Approved	\$0

Source: BLA Analysis

To date, the SFPUC Wastewater Enterprise has paid \$11,032,226 to settle property damage and diminution claims resulting from the 2014 and 2016-2017 storms, exceeding the \$10 million appropriated by the Board of Supervisors. The remaining \$1,032,226 in payments were funded from the SFPUC Wastewater operating budget and fund balance. In this proposed hearing, SFPUC is not asking the Board to appropriate additional funds to make up for this difference; its request is to release the relevant funds remaining in Budget and Finance Committee reserve.

According to Rick Sheinfield, Deputy City Attorney, the Office of the City Attorney plans to seek Board approval for \$3,626,445 to pay for the attorney’s fees, costs, and interest associated with the settlements related to the 2014 and 2016-2017 storms. Deputy City Attorney Sheinfield is not aware of any other pending lawsuits regarding damages from the 2014 and 2016-2017 storms.

RECOMMENDATION

Approve the requested release of \$865,000 from Budget and Finance Committee reserve.