

1 [Waiver of Municipal Code Requirements for Public Utilities Commission Agreements with  
2 Caltrans]

3 **Ordinance exempting from requirements of the Administrative Code and the**  
4 **Environment Code two agreements between the San Francisco Public Utilities**  
5 **Commission and the California Department of Transportation for professional services**  
6 **for sewer improvement projects; and affirming the Planning Department's**  
7 **determination under the California Environmental Quality Act.**

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

10 Section 1. Environmental Findings.

11 The Planning Department has determined that the actions contemplated in this  
12 ordinance comply with the California Environmental Quality Act (California Public Resources  
13 Code Sections 21000 et seq.). The determination is on file with the Clerk of the Board of  
14 Supervisors in File No. 230349 and is incorporated by reference. The Board affirms the  
15 determination.

16 Section 2. Background and Findings.

17 (a) The San Francisco Public Utilities Commission (SFPUC) is planning to construct  
18 two projects to reduce the likelihood of future sewer and stormwater overflows from the  
19 combined sewer system during the five-year, three-hour storm: the Lower Alemany Area  
20 Stormwater Improvement Project and the Folsom Area Stormwater Improvement Project (the  
21 Projects). On November 10, 2021, the San Francisco Bay Regional Water Quality Control  
22 Board issued Stipulated Cleanup and Abatement Order No. R2-2021-0021 to the SFPUC  
23 (approved by the Board of Supervisors on September 28, 2021, by Resolution No. 210899),  
24 which requires, among other things, the SFPUC to implement the Projects.

1 (b) Because the Projects would construct new facilities within property designated as  
2 part of the State Highway System, under the jurisdiction of the California Department of  
3 Transportation (Caltrans), Caltrans is requiring the SFPUC to enter into two agreements – one  
4 for each project (the Agreements), which provide for the SFPUC to pay for Caltrans to review  
5 design and environmental review documents for the Projects. Caltrans does not allow  
6 modifications to its form of agreement, including the addition of contract language normally  
7 required by the San Francisco Municipal Code.

8 (d) On March 28, 2023, by Resolution No.23-0065, the San Francisco Public Utilities  
9 Commission authorized the General Manager of the SFPUC to seek appropriate waivers of  
10 Administrative Code and Environment Code requirements for the Agreements from the Board  
11 of Supervisors. Resolution No.23-0065 is on file with the Clerk of the Board of Supervisors in  
12 File No. 230349.

13 Section 3. Waiver of Administrative Code and Environment Code Requirements.

14 The Board of Supervisors hereby exempts the Agreements from all otherwise  
15 applicable sections of the Administrative Code and Environment Code.

16 Section 4. Effective Date.

17 This ordinance shall become effective 30 days after enactment. Enactment occurs  
18 when the Mayor signs the ordinance, the Mayor returns the ordinance unsigned or does not  
19 sign the ordinance within ten days of receiving it, or the Board of Supervisors overrides the  
20 Mayor’s veto of the ordinance.

21 Section 5. Filing of Executed Agreement

22 Within 30 days of the Agreement being fully executed by all parties, the SFPUC shall  
23 provide a copy of the Agreement to the Clerk of the Board of Supervisors for inclusion into the  
24 file.

1 APPROVED AS TO FORM:  
2 DAVID CHIU, City Attorney

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4 NICHOLAS T. NIIRO  
5 Deputy City Attorney  
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