

1 [San Francisco Public Utilities Commission Wastewater Revenue Bond Issuance - Various
2 Capital Wastewater Projects Benefitting the Wastewater Enterprise - Not to Exceed
3 \$1,047,288,286]

4 **Ordinance authorizing the issuance and sale of tax-exempt or taxable Wastewater**
5 **Revenue Bonds and other forms of indebtedness (as described below) by the San**
6 **Francisco Public Utilities Commission (“Commission”) in an aggregate principal**
7 **amount not to exceed \$1,047,288,286 to finance the costs of various capital wastewater**
8 **projects benefitting the Wastewater Enterprise pursuant to amendments to the Charter**
9 **of the 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; and ratifying previous actions taken in**
14 **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
26 (“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 23-0038 adopted by the Commission on February 14, 2023
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. 230666; and

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

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

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

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

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2 H. This Board is concurrently considering with this Ordinance, related supplemental
3 appropriation ordinances for the fiscal year ending 2023, 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 I. In order to finance and refinance the costs of any Wastewater Enterprise
8 facilities or improvements financed with bonds issued pursuant Proposition E, the Board now
9 desires to authorize the issuance and sale of Wastewater Revenue Refunding Bonds.

10 Section 2. Authorization to Issue Wastewater Revenue Bonds and other forms of
11 indebtedness. The Board hereby authorizes the issuance and sale of Wastewater Revenue
12 Bonds in one or more series from time to time by the Commission pursuant to Proposition E
13 and in accordance with the Commission Resolution and the execution and delivery of SRF
14 Loan or WIFIA Loan agreements or the issuance of commercial paper, revolving credit notes,
15 or bond anticipation notes, in an aggregate principal amount not to exceed \$1,047,288,286
16 (inclusive of financing costs) bearing a maximum rate or rates of interest of not to exceed
17 twelve percent (12%) per annum to finance a portion of the costs of the design, acquisition
18 and construction of the Capital Improvement Projects. Without limiting the foregoing, the
19 Commission shall be authorized to incur SRF Loans from the State Water Resources Control
20 Board or WIFIA Loans from the U.S. Environmental Protection Agency at such time, in such
21 amounts, and upon such other terms and conditions as the Commission may deem
22 advantageous. The Commission is hereby further authorized to determine the timing, amount
23 and manner of sale (i.e., competitive or negotiated) of each series of Wastewater Revenue
24 Bonds, commercial paper, revolving credit notes, or bond anticipation notes pursuant to this
25 authorization; provided however, the Commission's authorization to issue Wastewater

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

14 Section 3. Authorization to Issue Wastewater Revenue Refunding Bonds;
15 Commercial Paper Retirement. Notwithstanding Section 2 immediately above , the Board
16 further authorizes and approves the issuance by the Commission of Wastewater Revenue
17 Refunding Bonds (“Refunding Bonds”) without limitation as to principal amount, in one or
18 more series on one or more dates, at a maximum interest rate or rates of interest not to
19 exceed twelve percent (12%) per annum, provided that each such Refunding Bond issue is
20 permitted under the applicable policies and procedures of the City and authorized by Section
21 9.109 of the Charter (including related ordinances and resolutions of the Board). The
22 Refunding Bonds may be issued as taxable or tax-exempt obligations, or any combination
23 thereof. Refunding Bonds authorized hereunder shall be subject to the further following
24 conditions, that: (i) three percent (3%) net present value debt service savings or greater is
25 achieved to ensure ratepayer savings (exclusive of any issuance to refund commercial paper,

1 revolving credit notes, or bond anticipation notes); (ii) that the maturity of the refunded bonds
2 is not extended; (iii) this authorization is subject to a 5-year term through June 30, 2028, at
3 which time this Board may consider an extension; (iv) principal payments and term may be
4 adjusted, where permitted under federal and state tax law, only if and when the underlying
5 capital asset funded through said refunded bonds has a useful life not in excess of any limit
6 permitted under federal and state tax law than the refunded term; and (v) the Commission
7 shall within 30 days of any executed refunding transaction provide a refunding savings report
8 (“Bond Refunding Savings Report”) prepared by its municipal advisors (that reflects at least a
9 three percent (3%) net present value debt service savings) to the Board, together with a copy
10 of the final Official Statement (if any) with respect to such series of Refunding Bonds, provided
11 that the failure to deliver such Bond Refunding Savings Report shall in no way affect the
12 validity of any Refunding Bonds. Notwithstanding the foregoing, the Commission is
13 authorized to issue Refunding Bonds that do not meet all of the foregoing conditions provided
14 that the Commission makes a finding, by resolution, that significant non-economic factors
15 exist that justify the waiver of the three percent (3%) net present value debt service savings
16 test and other conditions set forth above. Such non-economic factors may include, by way of
17 illustration and not limitation, eliminating onerous covenants and obsolete provisions
18 contained in the Commission’s indenture or other security documents, or restructuring a
19 series of bonds in response to then-current market conditions. In furtherance of the purpose
20 of managing the Commission outstanding indebtedness, the General Manager is hereby
21 authorized and directed, in consultation the City Attorney, from Available Wastewater
22 Enterprise Revenues to retire outstanding Wastewater Enterprise Commercial Paper at such
23 times and in such amounts advantageous to the Commission.

24 Section 4. Declaration of Official Intent. The Board, on behalf of the Commission,
25 hereby declares the official intent of the Commission to reimburse the Commission with

1 proceeds of the Wastewater Revenue Bonds or other forms of indebtedness (including SRF
2 Loans or other federal loans, commercial paper, revolving credit notes, or bond anticipation
3 notes) for the Expenditures with respect to the Capital Improvement Projects made on and
4 after a date that is no more than 60 days prior to the adoption of this Ordinance. The
5 Commission reasonably expects on the date hereof that it will reimburse the Expenditures
6 with proceeds of the Wastewater Revenue Bonds or other forms of indebtedness (including,
7 without limitation and for illustrative purposes only, SRF Loans, commercial paper, revolving
8 credit notes or bond anticipation notes). Each said Expenditure was and will be either (A) of a
9 type properly chargeable to a capital account under general federal income tax principles
10 (determined in each case as of the date of the Expenditure), (B) a cost of issuance with
11 respect to such obligations, (C) a nonrecurring item that is not customarily payable from
12 current revenues, or (D) a grant to pay a party that is not related to or an agent of the issuer
13 so long as such grant does not impose any obligation or condition (directly or indirectly) to
14 repay any amount to or for the benefit of the Commission. The Commission will make a
15 reimbursement allocation, which is a written allocation by the Issuer that evidences the
16 Commission's use of proceeds of the Wastewater Revenue Bonds or other forms of
17 indebtedness to reimburse an Expenditure, no later than 18 months after the later of the date
18 on which the Expenditure is paid or the component of the Capital Improvement Projects is
19 placed in service or abandoned, but in no event more than three years after the date on which
20 the Expenditure is paid. The Commission recognizes that exceptions are available for certain
21 "preliminary expenditures," costs of issuance, certain de minimis amounts, expenditures by
22 "small issuers" (based on the year of issuance and not the year of expenditure) and
23 expenditures for construction projects of at least 5 years.

24 Section 5. General Authority. The Controller, Treasurer, the City Attorney and other
25 officers of the City, including the Director of the Office of Public Finance, and their duly

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

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

24 Section 7. File Documents. All documents referred to as on file with the Clerk of the
25 Board are in File Nos. 230666.

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

APPROVED AS TO FORM:
DAVID CHIU, City Attorney

By: /s/ Mark D. Blake
Mark D. Blake
Deputy City Attorney
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