

1 [Public Utilities Commission - Issuance Water Revenue Bonds - Not to Exceed \$264,997,468]

2  
3 **Ordinance authorizing the issuance and sale of tax-exempt or taxable Water Revenue**  
4 **Bonds and other forms of indebtedness by the San Francisco Public Utilities**  
5 **Commission (Commission) in an aggregate principal amount not to exceed**  
6 **\$264,997,468 to finance the costs of various capital water projects benefitting the Water**  
7 **Enterprise pursuant to amendments to the Charter of the City and County of San**  
8 **Francisco enacted by the voters on November 5, 2002, as Proposition E; authorizing**  
9 **the issuance of Water Revenue Refunding Bonds; declaring the Official Intent of the**  
10 **Commission to Reimburse Itself with one or more issues of tax-exempt or taxable**  
11 **bonds or other forms of indebtedness; and ratifying previous actions taken in**  
12 **connection therewith, as defined herein.**

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

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

21 Section 1. Findings. The Board of Supervisors (the “Board”) of the City hereby finds  
22 and declares as follows:

23 A. On November 5, 2002, the voters of the City and County of San Francisco (the  
24 “City”) approved Proposition E (“Proposition E”), which among other things, authorized the  
25 San Francisco Public Utilities Commission (the “Commission”) to issue revenue bonds,  
including notes, commercial paper or other forms of indebtedness, when authorized by

1 ordinance approved by a two-thirds vote of the Board of Supervisors, for the purpose of  
2 reconstructing, replacing, expanding, repairing or improving water facilities or clean water  
3 facilities or combinations of water and clean water facilities under the jurisdiction of the  
4 Commission; and

5 B. The Commission adopted the Amended and Restated Indenture dated as of  
6 January 1, 2002, as further amended and supplemented from time to time (the "Indenture"),  
7 between the Commission and U. S. Bank National Association and in connection therewith,  
8 has from time to time issued revenue bonds to finance projects benefitting the Water  
9 Enterprise; and

10 C. By Resolution 16-0035 adopted by the Commission on February 9, 2016 (the  
11 "Commission Resolution") the Commission has determined to issue Water Revenue Bonds  
12 (the "Water Revenue Bonds") and other forms of indebtedness (including SRF Loans as  
13 described below) to finance the costs of various capital projects benefitting the Water  
14 Enterprise (the "Capital Improvement Projects" such projects being more fully described in the  
15 Commission Resolution), pursuant to Proposition E, and has formally requested this Board to  
16 authorize the issuance and sale of Water Revenue Bonds for such purposes, such  
17 Commission Resolution being on file with the Clerk of the Board of Supervisors in File No.  
18 160472, which is hereby declared to be a part of this Ordinance as if set forth fully herein; and

19 D. In order to finance the costs of the Capital Improvement Projects, the Board now  
20 desires to authorize the issuance and sale of Water Revenue Bonds and other forms of  
21 indebtedness, including obtaining State Revolving Fund Loans and/or grants from the State  
22 Water Resources Control Board (collectively "SRF Loans") for such purposes; and

23 E. The Commission has paid, beginning no earlier than 60 days prior to the  
24 adoption of this Ordinance and will pay, on and after the date hereof, certain expenditures (the  
25

1 “Expenditures”) in connection with the acquisition, construction and/or equipping of the Capital  
2 Improvement Projects, and

3 F. This Board is concurrently considering with this Ordinance a Capital  
4 Improvement Program related supplemental appropriations Ordinance totaling \$316,468,468  
5 for fiscal years ending 2017 and 2018, such amount being inclusive of the Water Revenue  
6 Bonds and other forms of indebtedness (including SRF Loans).

7 G. This Board, on behalf of the Commission, adopts this Ordinance as official  
8 action of the Commission in order to comply with Treasury Regulation §1.150-2 and any other  
9 regulations of the Internal Revenue Service relating to the qualification for reimbursement of  
10 Commission expenditures incurred prior to the date of issue of the Water Revenue Bonds,  
11 and

12 Section 2. Authorization to Issue Water Revenue Bonds and other forms of  
13 indebtedness. The Board hereby authorizes the issuance and sale of Water Revenue Bonds  
14 in one or more series from time to time by the Commission pursuant to Proposition E and in  
15 accordance with the Commission Resolution, and the execution and delivery of SRF Loan  
16 agreements, in an aggregate principal amount not to exceed \$264,997,468 (inclusive of  
17 financing costs), at a maximum rate or rates of interest of not to exceed twelve percent (12%)  
18 per annum to finance a portion of the costs of the design, acquisition and construction of the  
19 Capital Improvement Projects. Without limiting the foregoing, the Commission shall also be  
20 authorized to enter into agreements to obtain State Revolving Fund Loans and/or grants  
21 (collectively “SRF Loans”) from the State Water Resources Control Board on such terms as  
22 the Commission may deem advantageous. The Commission is hereby authorized to  
23 determine the timing, amount and manner of sale (i.e., competitive or negotiated) of each  
24 series of Water Revenue Bonds or the delivery of other forms of indebtedness (including SRF  
25 Loans) pursuant to this authorization; provided however, the Commission’s authorization to

1 issue Water Revenue Bonds or incur other forms of indebtedness (including SRF Loans) is  
2 subject to approval by the Commission of the form of substantially final offering document  
3 related to such bonds (if any) and the approval of any related agreements, financing  
4 documents and the filing with its Board and the Clerk of the Board any certifications required  
5 by Proposition E prior to the issuance of any bonds herein authorized. The Commission shall  
6 also file, within 30 days of any bond sale authorized hereby, with the Clerk of the Board of Supervisors  
7 a report showing the results of the sale of bonds or other form of indebtedness including (i) principal  
8 amount sold and method of sale, (ii) true interest cost, (iii) final maturity, (iv) the facilities constructed  
9 and/or improved, and (v) a statement about the remaining bonding authorization under this Ordinance  
10 (the "Report").

11 Section 3. Authorization to Issue Water Revenue Refunding Bonds. The Board  
12 further authorizes and approves the issuance by the Commission of Water Revenue  
13 Refunding Bonds and other forms of indebtedness (including SRF Loans) (the "Refunding  
14 Bonds"), without limitation as to principal amount, in one or more series on one or more dates,  
15 at a maximum interest rate or rates of interest not to exceed twelve percent (12%) per annum,  
16 provided that each such Refunding Bond issue or obligation is permitted under the applicable  
17 policies and procedures of the City and authorized by either Section 9.109 of the Charter or  
18 Proposition E of 2002 (including related ordinances and resolutions of the Board). The  
19 Refunding Bonds may be issued as tax-exempt or taxable bonds, or any combination thereof.  
20 Refunding Water Revenue Bonds authorized hereunder shall be subject to the further  
21 following conditions, that: (i) three percent (3%) net present value debt service savings or  
22 greater is achieved to ensure ratepayer savings; (ii) this authorization is subject to a 2-year  
23 term through June 30, 2018, at which time this Board may consider an extension; principal  
24 payments and term may be adjusted, where permitted under federal and state tax law, only if  
25 and when the underlying capital asset funded through said refunded bonds has a useful life

1 not in excess of any limit permitted under federal and state tax law than the refunded term;  
2 and (iii) the Commission shall within 30 days of any executed refunding transaction provide a  
3 savings report prepared by its financial advisors (that reflects at least a three percent (3%) net  
4 present value debt service savings) to the Board, together with a copy of the final Official  
5 Statement with respect to such series of Refunding Bonds.

6 Section 4. Declaration of Official Intent. The Board, on behalf of the Commission,  
7 hereby declares the official intent of the Commission to reimburse the Commission with  
8 proceeds of the Water Revenue Bonds or other forms of indebtedness (including SRF Loans)  
9 for the Expenditures with respect to the Capital Improvement Projects made on and after a  
10 date that is no more than 60 days prior to the adoption of this Ordinance. The Commission  
11 reasonably expects on the date hereof that it will reimburse the Expenditures with proceeds of  
12 the Water Revenue Bonds or other forms of indebtedness (including SRF Loans). Each said  
13 Expenditure was and will be either (A) of a type properly chargeable to a capital account  
14 under general federal income tax principles (determined in each case as of the date of the  
15 Expenditure), (B) a cost of issuance with respect to the Water Revenue Bonds or other forms  
16 of indebtedness (including SRF Loans), (C) a nonrecurring item that is not customarily  
17 payable from current revenues, or (D) a grant to pay a party that is not related to or an agent  
18 of the issuer so long as such grant does not impose any obligation or condition (directly or  
19 indirectly) to repay any amount to or for the benefit of the Commission. The maximum  
20 principal amount of the Water Revenue Bonds or other forms of indebtedness (including SRF  
21 Loans) to be issued for the Capital Improvement Projects is \$264,997,468 (inclusive of  
22 financing costs).

23 The Commission will make a reimbursement allocation, which is a written allocation by  
24 the Issuer that evidences the Commission's use of proceeds of the Water Revenue Bonds or  
25 other forms of indebtedness (including SRF Loans) to reimburse an Expenditure, no later than

1 18 months after the later of the date on which the Expenditure is paid or the component of the  
2 Capital Improvement Projects is placed in service or abandoned, but in no event more than  
3 three years after the date on which the Expenditure is paid. The Commission recognizes that  
4 exceptions are available for certain “preliminary expenditures,” costs of issuance, certain de  
5 minimis amounts, expenditures by “small issuers” (based on the year of issuance and not the  
6 year of expenditure) and expenditures for construction projects of at least 5 years.

7 Section 5. General Authority. The Controller, Treasurer, the City Attorney and other  
8 officers of the City and their duly authorized deputies and agents are hereby authorized and  
9 directed, jointly and severally, to take such actions and to execute and deliver such  
10 certificates, agreements, requests or other documents, as they may deem necessary or  
11 desirable to facilitate the issuance, sale and delivery of the Water Revenue Bonds, Refunding  
12 Bonds, to obtain bond insurance or other credit enhancements with respect to such  
13 obligations, to obtain surety, to obtain title and other insurance with respect to the facilities to  
14 be financed, and otherwise to carry out the provisions of this Ordinance. The Commission is  
15 hereby directed to provide the final form to the Clerk of the Board of any disclosure document  
16 prepared in connection with the execution of any Water Revenue Bonds or Refunding Bonds,  
17 and the final executed Installment Sale Agreement or other document reflecting the  
18 incurrence of an SRF Loan, within 30 days of the closing of such transactions.

19 Section 6. Ratification of Prior Actions. All actions authorized and directed by this  
20 Ordinance in connection with the issuance of the Water Revenue Bonds or other forms of  
21 indebtedness (including SRF Loans), Refunding Bonds, and heretofore taken are hereby  
22 ratified, approved and confirmed by this Board.

23 Section 7. File Documents. All documents referred to as on file with the Clerk of the  
24 Board are in File No. 160472.

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

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

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7 By: \_\_\_\_\_  
8     Mark D. Blake  
9     Deputy City Attorney  
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