

File No. 170411

Committee Item No. 6  
Board Item No. \_\_\_\_\_

**COMMITTEE/BOARD OF SUPERVISORS**  
AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Sub-Committee Date May 11, 2017

Board of Supervisors Meeting Date \_\_\_\_\_

**Cmte Board**

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

**OTHER** (Use back side if additional space is needed)

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Completed by: Linda Wong Date May 5, 2017  
Completed by: Linda Wong Date \_\_\_\_\_

[Appropriation - Wastewater Enterprise General Reserve - Claims Settlements and Related Expenses as a Result of Winter Storms - \$5,000,000 - FY2016-2017]

**Ordinance appropriating \$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.**

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

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

Section 1. The sources of funding outlined below are herein appropriated reflected the funding available for FY2016-2017.

**SOURCES Appropriation**

| Fund                               | Index Code /<br>Project Code | Subobject | Description                          | Amount             |
|------------------------------------|------------------------------|-----------|--------------------------------------|--------------------|
| 5CAAAAAA                           | 920109                       | 098GR     | DESIGNATED FOR<br>GENERAL<br>RESERVE | \$5,000,000        |
| <b>Total SOURCES Appropriation</b> |                              |           |                                      | <b>\$5,000,000</b> |

1 Section 2. The uses of funding outlined below are herein appropriated in Subobject  
 2 06P00 (Programmatic Projects - Budget), and reflect the projected uses of funding to pay the  
 3 cost for claims settlements, legal expenses, litigation, judgments, and expenses related to  
 4 mitigating damage alleged to be caused by Wastewater's operations or facilities for Fiscal Year  
 5 2016-17. Additional funding is required in the Wastewater Enterprise budget for such expenses  
 6 due to the extraordinary expenses incurred in response to the Winter 2016-17 storms.

7  
 8 **USES Appropriation**

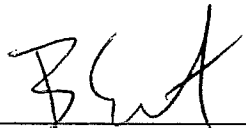
| Fund  | Index Code /<br>Project Code | Subobject | Description   | Amount             |
|---|------------------------------|-----------|---|--------------------|
| 5C AAA ACP –                                  | *CWP5CAAAACP                 | 06P00     | Claims Settlements<br>and related expenses<br>as a result of the<br>Winter Storms | \$5,000,000        |
| Wastewater Continuing<br>Capital Project Fund | PWW10301                     |           |   |                    |
| <b>Total USES Appropriation</b>               |                              |           |   | <b>\$5,000,000</b> |


19 Section 3. The Controller is authorized to record transfers between funds and adjust the  
 20 accounting treatment of sources and uses appropriated in this ordinance as necessary to  
 21 conform to Generally Accepted Accounting Principles.

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

FUNDS AVAILABLE  
BEN ROSENFELD, Controller

By:   
BUCK DELVENTHAL  
Deputy City Attorney

By:   
BEN ROSENFELD  
Controller

|  |   |
|--|---|
| <b>Item 6</b><br><b>File 17-0411</b>   | <b>Department:</b><br>San Francisco Public Utilities Commission (SFPUC) |
| <b>EXECUTIVE SUMMARY</b>   |   |
| <b>Legislative Objectives</b>  |   |
| <ul style="list-style-type: none"> <li>The proposed ordinance would appropriate \$5,000,000 from the San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise's fund designated for general reserve to pay for additional claims settlements, legal expenses and related costs arising from the 2016-17 winter storms.</li> </ul>   |   |
| <b>Key Points</b>  |   |
| <ul style="list-style-type: none"> <li>The SFPUC Wastewater Enterprise operates a combined storm water and sewer system. This past winters' 2016-17 storms in San Francisco caused flooding and damage to various private properties. Property owners who suffered damage as a result of these storms can file claims against the City for compensation.</li> <li>The City Attorney's Office advises that they provided a confidential memorandum to the Board of Supervisors on April 13, 2017 explaining the Wastewater Enterprises' liability exposure from this past winter's storms.</li> <li>As of May 1, 2017 the City Attorney had responded to incidents at 23 properties and received 20 claims related to the 2016-17 winter storms. There are additional properties affected by the winter storms, which may result in additional claims. Individuals filing claims have up to six months to file a claim from the time of damage for personal property, and up to one year to file a claim from the time of damage for real property.</li> </ul>          |   |
| <b>Fiscal Impact</b>   |   |
| <ul style="list-style-type: none"> <li>The requested \$5,000,000 amount is based on the total SFPUC expenses and liability exposure related to the 2014 flooding claims. SFPUC's Wastewater Enterprises' FY 2016-17 budgeted \$160,000 for claims have already been fully expended.</li> <li>To date, the SFPUC has incurred approximately \$637,000 to mitigate water damage and paid or received claims totaling approximately \$422,000, or a total of \$1,059,000.</li> <li>Given that the total amount of claims and related costs are not fully known, the Board of Supervisors should approve the requested \$5 million, making \$2 million immediately available and placing \$3 million on Budget and Finance Committee reserve, pending receipt of a SFPUC report detailing the total actual costs incurred.</li> <li>The Wastewater Enterprises' Fund designated for general reserve currently has a balance of \$23.9 million, which would be reduced to \$18.9 million, if the proposed supplemental appropriation of \$5 million is approved.</li> </ul> |   |
| <b>Recommendations</b>   |   |
| <ul style="list-style-type: none"> <li>Amend the proposed ordinance appropriating \$5 million as requested, placing \$3 million of the requested \$5 million on Budget and Finance Committee reserve.</li> <li>Request the SFPUC submit a report to the Budget and Finance Committee of the Board of Supervisors showing the actual costs of the claims, legal expenses and related costs arising from the 2016-17 winter storms.</li> </ul>   |   |

**MANDATE STATEMENT**

City Charter Section 9.105 states that amendments to the Annual Appropriation Ordinance are subject to Board of Supervisors approval by ordinance after the Controller certifies the availability of funds.

**BACKGROUND**

The San Francisco Public Utilities Commission (SFPUC) Wastewater Enterprise operates a combined storm water and sewer system. The storms during this past 2016-17 winter caused flooding and damage to various private properties. Property owners who suffered damage as a result of these storms filed claims against the City for compensation. These claims are handled by the City Attorney's Office and paid from the operating budget of the SFPUC Wastewater Enterprise. Claims of \$25,000 or more require Board of Supervisors approval.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would appropriate \$5,000,000 from the SFPUC Wastewater Enterprise's fund designated for general reserve to pay for claims settlements, legal expenses and related costs from the claims arising from the winter 2016-17 storms.

The City Attorney's Office advises that they provided a confidential memorandum to the Board of Supervisors on April 13, 2017 explaining the Wastewater Enterprises' liability exposure from this past winter's storms.

As of May 1, 2017, the City Attorney had responded to incidents at 23 properties and received 20 claims related to the 2016-17 winter storms. Ms. Noreen Ambrose of the City Attorney's Office advises that there are additional properties affected by the winter storms, which may result in additional claims. Individuals filing claims have up to six months to file a claim from the time of damage for personal property, and up to one year to file a claim from the time of damage for real property. Litigation can be filed on claims not approved for settlement.

**FISCAL IMPACT**

The requested appropriation of \$5,000,000 would be used to pay for the additional claims settlements, legal expenses, litigation, judgments and other related expenses arising from the 2016-17 winter storms. The total number and amount of such claims are not yet known. The requested \$5,000,000 amount is based on the total expenses and liability exposure related to the 2014 claims received by the SFPUC related to flooding in San Francisco. According to Mr. Carlos Jacobo, SFPUC Budget Manager, SFPUC's Wastewater Enterprises' FY 2016-17 budgeted amount of \$160,000 for such claims has already been fully expended.

To date, the SFPUC has incurred approximately \$637,000 to immediately mitigate water damage to personal and real property by dispatching approved City vendors to remove water, dry and sanitize interiors to prevent mold and mildew and inventory and document damaged

personal and real property. In addition, the City has paid or received claims totaling approximately \$422,000. Together, these costs reflect a current total of \$1,059,000.

The SFPUC has only incurred total costs of \$1,059,000, although the proposed request is for \$5,000,000. However, as noted above, individuals have up to six months to file a claim from the time of damage to personal property and up to one year to file a claim from the time of damage to real property. Given that the total amount of such claims and related costs are not fully known, the Budget and Legislative Analyst recommends that the Board of Supervisors approve the requested \$5 million, making \$2 million immediately available and placing \$3 million on Budget and Finance Committee reserve. The SFPUC should submit a report to the Budget and Finance Committee of the Board of Supervisors showing the total actual costs of the claims, legal expenses and related costs arising from the 2016-17 winter storms.

The SFPUC Wastewater Enterprises' Fund designated for general reserve is the source of funding for this appropriation. If approved, the requested appropriation of \$5,000,000 would decrease the Wastewater Enterprises' Fund Designated for General Reserve by \$5 million from \$23.9 million to \$18.9 million..

## RECOMMENDATIONS

1. Amend the proposed ordinance appropriating \$5 million as requested, placing \$3 million of the requested \$5 million on Budget and Finance Committee reserve.
2. Request the SFPUC submit a report to the Budget and Finance Committee of the Board of Supervisors showing the actual costs of the claims, legal expenses and related costs arising from the 2016-17 winter storms.



San Francisco  
Water Power Sewer

Services of the San Francisco Public Utilities Commission

525 Golden Gate Avenue, 13th Floor  
San Francisco, CA 94102  
T 415.554.3155  
F 415.554.3161  
TTY 415.554.3488

March 30, 2017

The Honorable Edwin M. Lee

The Honorable Board of Supervisors

The Honorable Ben Rosenfield, Controller

Subject: SFPUC – Wastewater Claims Settlements  
Supplemental Appropriation Request \$5,000,000

Ladies and Gentlemen:

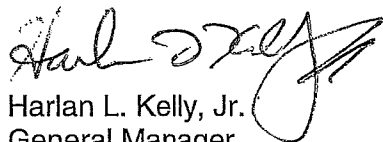
Attached is a completed copy of the Request for Supplemental Appropriation in the amount of \$5,000,000 for claims settlements and legal expenses related to winter storms.

The Wastewater Enterprise regularly budgeted funds to pay claims and related expenses which have been depleted due to the large volume of claims arising from the Winter 2016-17 storms.

The requested funding will allow the SFPUC to pay claims settlements, legal expenses litigation, judgements; and expenses relegated to mitigating damage alleged to be caused by Wastewater’s operations or facilities.

Funding for this supplemental request will come from the Wastewater Enterprise’s General Reserve.

Regards,

  
Harlan L. Kelly, Jr.  
General Manager

Attachments

Edwin M. Lee  
Mayor

Anson Moran  
President

Ike Kwon  
Vice President

Ann Moller Caen  
Commissioner

Francesca Viotor  
Commissioner

Vince Courtney  
Commissioner

Harlan L. Kelly, Jr.  
General Manager





**REQUEST FOR SUPPLEMENTAL APPROPRIATION**

DEPARTMENT SFPUC DIVISION Wastewater Enterprise DATE 3/30/2017

To the Mayor:

Request is hereby made for supplemental appropriation from the following appropriations(s) or fund(s) in the amount(s) indicated:

| APPROPRIATION NUMBER   | DESCRIPTION OF APPROPRIATION OR FUND | AMOUNT      |
|--|--------------------------------------|-------------|
| FD/GROUP FD 5C AAA AAA<br>DEPT-DIV-SEC CWP0101<br>INDEX 920109<br>CHAR/SUB-OBJ 098GR | Designated for Reserve               | \$5,000,000 |

to the credit of the following appropriation(s) or fund(s) in the amount(s) indicated:

| APPROPRIATION NUMBER  | DESCRIPTION OF APPROPRIATION OR FUND | AMOUNT REQUESTED | AMOUNT APPROVED MAYOR |
|---|--------------------------------------|------------------|-----------------------|
| FD/GROUP FD 5C AAA ACP<br>DEPT-DIV-SEC CWPAA<br>INDEX *CWP5CAAAACP<br>CHAR/SUB-OBJ 06700<br>Project PWW103-01 | Winter Storms                        |                  | \$5,000,000           |


There are no surpluses in any of this department's appropriations available for transfer for the requested purposes(s). Complete detail as to the necessity for THIS appropriation is stated below.

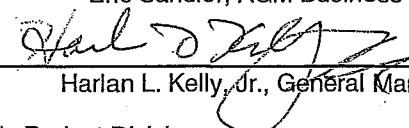
**APPLICABLE BOXES MUST BE CHECKED.**

This request includes capital projects (s.o.2020 or 2030); a separate copy has been sent to the Chair, Capital

- Improvement Advisory Committee
- These funds have not been previously requested.
- These funds were previously requested by:  Supplemental Appropriation or
- Budget Estimate and were  reduced or  denied by:  The Mayor, or  The Board of Supervisors.

**CERTIFIED AS TO FACTS AND AMOUNTS AS ABOVE STATED, AND**

**RECOMMENDED:**  (Department Head)  
Eric Sandler, AGM Business Services & CFO, SFPUC

**APPROVED:**  (C.A.O., Board or Commission)  
Harlan L. Kelly, Jr., General Manager, SFPUC

Recorded Controller's Budget Division


By \_\_\_\_\_ Date \_\_\_\_\_ Request No. \_\_\_\_\_

**FOR MAYOR'S USE**

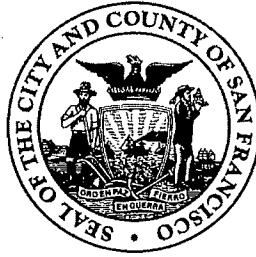
To the Controller:

The above request meets with my approval, as indicated above. You are hereby requested to prepare the necessary appropriation ordinance.

**APPROVED:**  
Edwin M. Lee  
MAYOR

By  Date \_\_\_\_\_

President, District 5  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7630  
Fax No. 554-7634  
TDD/TTY No. 544-5227

ORIG - Cont.  
Clerk, BOS-1  
Aides, CoP, Rep. to  
Dep. City Atty, Mayors  
Office.

London Breed

**PRESIDENTIAL ACTION**

Date: 4/26/2017

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,  
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. 170411 Mayor  
(Primary Sponsor)

Title. Appropriation - Wastewater Enterprise General Reserve - Claims Settlements and Related Expenses as a Result of Winter Storms -

Transferring (Board Rule No 3.3)

File No. \_\_\_\_\_  
(Primary Sponsor)

Title. \_\_\_\_\_

From: \_\_\_\_\_ Committee

To: \_\_\_\_\_ Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

RECEIVED  
BOARD OF SUPERVISORS  
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2017 APR 26 PM 1:09  
BY [Signature]

*London Breed*

London Breed, President  
Board of Supervisors

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *for* Mayor Edwin M. Lee *[Signature]*  
RE: Appropriation - \$5,000,000 from Wastewater Enterprise General Reserve  
for Claims Settlements and related expenses as a result of Winter Storms  
- FY2016-2017  
DATE: April 11, 2017

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Attached for introduction to the Board of Supervisors is an ordinance appropriating \$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 2016-17 storms in FY2016-2017.

Should you have any questions, please contact Mawuli Tugbenyoh (415) 554-5168.

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2017 APR 11 PM 1:41  
BY *[Signature]*

