

1 [Authorizing Grant Agreements - Public Utilities Commission Green Infrastructure Grant
2 Program - Terms of 20 Years]

3 **Ordinance delegating authority under Charter, Section 9.118, to the General Manager of**
4 **the San Francisco Public Utilities Commission (SFPUC) to enter into grant agreements**
5 **with terms of 20 years under the SFPUC’s Green Infrastructure Grant Program, subject**
6 **to certain specified conditions, as defined herein, including a July 1, 2020, sunset date.**

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

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

15 Section 1. Background.

16 (a) San Francisco has a combined sewer system that collects and treats both
17 wastewater and stormwater in the same network of pipes. The San Francisco Public Utilities
18 Commission (“SFPUC” or “Commission”) has a multi-faceted program to maximize the
19 detention and retention of stormwater.

20 (b) Green infrastructure uses vegetation, soils, and other elements and practices
21 that mimic nature to soak up and store stormwater. Green infrastructure is a cost-effective,
22 resilient approach for managing wet weather impacts that provides many benefits. Green
23 infrastructure reduces and treats stormwater at its source while delivering environmental,
24 social, and economic benefits.

25 (c) The SFPUC desires to encourage owners of parcels containing large impervious
areas – such as concrete parking lots and asphalt covered playgrounds – to install Green

1 infrastructure projects on their parcels that will reduce the amount of stormwater runoff
2 entering the SFPUC's sewer system, and thereby improve system performance.

3 (d) Towards that end, at a public hearing on November 13, 2018, the Commission, by
4 its Resolution No. 18-0189, approved the SFPUC Green Infrastructure Grant Program
5 Guidelines, a copy of which is on file with the Clerk of the Board of Supervisors in File No.
6 181113. The Resolution authorizes the SFPUC General Manager to award grants to
7 property owners to construct green infrastructure projects on their parcels such as permeable
8 pavement, rain gardens/bioretenion, impervious surface removal, and vegetated roofs.
9 Under the Grant Program Guidelines, grantees must meet the following six eligibility criteria:

10 1. Project Size: The proposed project must manage stormwater runoff from
11 a minimum of 0.5 acres of impervious surface.

12 2. Project Location: The proposed project must be located on a parcel
13 connected to a SFPUC-owned and operated sewer system service area.

14 3. Performance: The proposed project must capture runoff from the 90th
15 percentile 24-hour storm, equivalent to 0.75-inch total depth. The 90th percentile 24-hour
16 storm represents an amount of precipitation that 90% of all rainfall events do not exceed, as
17 compared to the historical period of record.

18 4. Grant Team Experience: The grant team must include the property
19 owner, an identified grant or project manager, and a licensed engineer or landscape architect
20 registered in the State of California. The proposed project team must collectively demonstrate
21 a history of successful project implementation and have experience designing, constructing,
22 and/or maintaining green infrastructure.

23 5. Concept Design: The applicant must submit a conceptual design plan
24 drawing approximately equivalent to a 10% level of design that satisfies specific criteria set
25 forth in the Grant Program guidelines.

1 6. At Least Two Co-Benefit Opportunities: Green infrastructure projects
2 provide a variety of co-benefit opportunities in addition to reducing the amount of stormwater
3 runoff that enters the SFPUC sewer system. Projects are required to demonstrate at least
4 two of the following co-benefits: location within or serving an Environmental Justice Area or
5 Disadvantaged Community, as designated by the SFPUC; provide public access to the project
6 site to promote awareness of and education about the importance of stormwater
7 management; groundwater recharge through infiltration of stormwater in the Westside
8 Groundwater Basin; non-potable water reuse of retained stormwater for other applications,
9 such as irrigation; the incorporation of education and/or curriculum opportunities into the
10 project that explain how green infrastructure assets work and their impact on watersheds and
11 the SFPUC's sewer system; providing job training opportunities in the green infrastructure
12 sector; and/or integration of biodiversity and native habitat into the project's design, such as
13 native pollinator gardens.

14 (e) Under the Grant Program Guidelines, grantees may receive up to \$765,000 per
15 impervious acre of property, or fraction thereof, for which stormwater is managed by the green
16 infrastructure project, for up to a maximum amount of \$2,000,000 per grant.

17 (f) To receive funding under the Green Infrastructure Grant Program, a grantee
18 must enter into a Stormwater Management Agreement ("Grant Agreement"), a template of
19 which is on file with the Clerk of the Board of Supervisors in File No. 181113. SFPUC has
20 determined that the useful life of the type of green infrastructure projects that are eligible for
21 funding under the Grant Program is at least 20 years. Ongoing, proper maintenance of green
22 infrastructure projects is critical for these projects to function properly and benefit the SFPUC
23 sewer system for the useful life of these assets. Accordingly, the Grant Agreement requires
24 that the Grantee maintain the green infrastructure project for the 20-year term of the
25 agreement, authorizes the SFPUC to conduct periodic inspections of the Grantee's

1 construction, operation, and maintenance of the project, and provides the SFPUC with
2 remedies against the Grantee in the event that the Grantee fails to maintain the project for the
3 20-year term. The Grant Agreement also requires the Grantee to execute and record against
4 the property a deed restriction that serves to notify future owners that the 20-year
5 maintenance obligation runs with the land.

6 (g) In approving the Grant Program, the Commission delegated authority to the
7 SFPUC General Manager to negotiate, award, and execute Grant Agreements with a term of
8 20 years and recommended that the Board of Supervisors adopt an ordinance delegating its
9 authority under Charter Section 9.118 to the SFPUC General Manager to execute the Grant
10 Agreements for a term in excess of 10 years.

11
12 Section 2. Delegation of Authority Under Charter Section 9.118 to SFPUC General
13 Manager.

14 (a) Delegation of Authority. Pursuant to its authority under Charter Section 9.118, the
15 Board of Supervisors delegates to the SFPUC General Manager authority to enter into Grant
16 Agreements under the Green Infrastructure Grant Program referenced in Section 1 of this
17 ordinance, in substantially the same form as on file with the Clerk of the Board of Supervisors
18 in File No. 181113, for a term in excess of 10 years, so long as the term does not exceed 20
19 years. The Board of Supervisors further authorizes the SFPUC General Manager to enter into
20 any amendments or modifications to the Grant Agreements that do not extend the terms of
21 the agreements beyond 20 years, and that the SFPUC General Manager determines, in
22 consultation with the City Attorney, are in the best interest of the City, do not materially
23 decrease the City's rights or materially increase the obligations or liabilities of the City, are
24 necessary or advisable to effectuate the purposes and intent of the Grant Program, and are in
25 compliance with all applicable laws, including the City Charter.

1 (b) Reporting Requirement. Starting on July 1, 2019, SFPUC shall submit quarterly
2 written reports to the Clerk of the Board summarizing all Grant Agreements SFPUC has
3 entered into pursuant to the authority granted under this ordinance.

4 (c) Sunset Date. The delegation of authority and reporting requirements provided for
5 under this ordinance shall (i) apply only to Grant Agreements executed before July 1, 2020,
6 and (ii) expire by operation of law on July 1, 2020.

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8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

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

15 By: _____
16 JONATHAN P. KNAPP
17 Deputy City Attorney

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