

File No. 210899

Committee Item No. 9

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

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Committee: Government Audit and Oversight

Date: Sept. 17, 2021

Board of Supervisors Meeting:

Date: \_\_\_\_\_

#### Cmte Board

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- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract/Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

#### OTHER

- SFPUC Reso No. 21-0124 – July 27, 2021
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Prepared by: John Carroll

Date: Sept. 10, 2021

Prepared by: John Carroll

Date: \_\_\_\_\_

Prepared by: John Carroll

Date: \_\_\_\_\_

1 [Settlement of Unlitigated Claim - San Francisco Bay Regional Water Quality Control Board -  
2 Regulatory Enforcement Action]

3 **Resolution approving the settlement of an unlitigated claim of the San Francisco Bay**  
4 **Regional Water Quality Control Board against the City and County of San Francisco**  
5 **regarding alleged violations of the California Water Code related to wet weather-related**  
6 **overflows from the City’s combined sewer system; no formal claim has been filed; the**  
7 **settlement involves entry of a stipulated enforcement order requiring the City to**  
8 **implement flood control projects in the Wawona area, Folsom area, and Lower Alemany**  
9 **area and flooding response actions.**

10  
11 WHEREAS, The San Francisco Bay Regional Water Control Board (“Regional Board”)  
12 has communicated to the San Francisco Public Utilities Commission (“SFPUC”) its intention to  
13 issue a Cleanup and Abatement Order to the City for alleged violations of the California Water  
14 Code with respect to overflows from the City’s sewer collection system during storms in three  
15 areas of the City that the Regional Board alleges threaten the quality of groundwater in those  
16 areas; and

17 WHEREAS, The three areas of the City that are the focus of the Regional Board’s  
18 claim are the Wawona area, Folsom area and Lower Alemany area; and

19 WHEREAS, The SFPUC and the City Attorney have negotiated with the Regional  
20 Board to resolve these allegations by entering into a Stipulation accompanying the Regional  
21 Board’s issuance of a Cleanup and Abatement Order that requires the SFPUC to construct  
22 overflow reduction capital projects in the three aforementioned areas of the City at a total cost  
23 to the SFPUC of approximately \$622 million and with completion of all three projects to occur  
24 no later than March 31, 2028; and

1           WHEREAS, The three overflow reduction capital projects are included in the SFPUC's  
2 Wastewater Enterprise Capital Plan, and will be funded from annual Wastewater capital  
3 improvement funds; and

4           WHEREAS, The stipulated Cleanup and Abatement Order also requires the SFPUC to  
5 undertake flooding response activities in those three areas before, during, and after large  
6 storms; and

7           WHEREAS, On May 15, 2020, under Case Number 2020-002636ENV, the City,  
8 through its Planning Department, determined that the Wawona area project described in  
9 Finding 19 of the Stipulated Order is categorically exempt from the CEQA Guidelines under  
10 Section 15303, Class 3 (New Facilities); and

11           WHEREAS, Nothing in the Stipulation commits the City to approve any project that is  
12 subject to review under the California Environmental Quality Act ("CEQA") until such  
13 environmental review is complete, as required by law; the City's execution of this Stipulation  
14 does not constitute approval of any of the potential projects that the City may undertake  
15 pursuant to the Stipulation; in considering any such potential projects, the City retains  
16 discretion to (1) make such modifications to any such projects as may be necessary to  
17 mitigate significant environmental impacts, (2) select feasible alternatives to any such projects  
18 that avoid significant adverse impacts, (3) require the implementation of specific measures to  
19 mitigate significant adverse environmental impacts as part of the decision to approve any  
20 such projects, and (4) balance the benefits of any such projects against any significant  
21 environmental impacts before taking final actions to approve such projects if such significant  
22 impacts cannot otherwise be avoided; in addition, the City may seek approval from the  
23 Regional Water Board to pursue an alternative approach in accordance with Provision 8 of the  
24 Proposed CAO; and

1 WHEREAS, On July 27, 2021, the SFPUC approved Resolution No. 21-0124  
2 recommending that the Board of Supervisors resolve and settle the Regional Board's claim on  
3 the terms specified in the Stipulation and Cleanup and Abatement Order that are on file with  
4 the Clerk of the Board of Supervisors in File No. 210899; now, therefore, be it

5 RESOLVED, That pursuant to Administrative Code, Section 10.22, the Board of  
6 Supervisors hereby authorizes the City Attorney to settle and compromise the Regional  
7 Board's unlitigated claim as described herein by entry into the Stipulation on file with the Clerk  
8 of the Board; and, be it

9 FURTHER RESOLVED, That the Board of Supervisors hereby authorizes the SFPUC's  
10 General Manager to enter into any amendments or modifications to the Stipulation and  
11 Cleanup and Abatement Order that the General Manager determines in consultation with the  
12 City Attorney are in the best interest of the City, do not materially increase the obligations or  
13 liabilities of the City, are necessary and advisable to effectuate the purpose and intent of the  
14 Stipulation and Cleanup and Abatement Order or this Resolution, and are in compliance with  
15 all applicable laws.

16  
17 APPROVED:

RECOMMENDED:

18  
19 DENNIS J. HERRERA  
20 City Attorney

SAN FRANCISCO PUBLIC UTILITIES  
COMMISSION

21  
22 /s/  
23 FRANCESCA GESSNER  
24 Deputy City Attorney  
25 Public Utilities Commission Team Leader

/s/  
MICHAEL CARLIN  
Acting General Manager of the San  
Francisco Public Utilities Commission

1 APPROVED:

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/s/ \_\_\_\_\_  
DONNA HOOD  
Secretary of the San Francisco Public  
Utilities Commission

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**PUBLIC UTILITIES COMMISSION**  
City and County of San Francisco


RESOLUTION No.: 21-0124

RESOLVED, That on recommendation of the General Manager of the Public Utilities Commission, and the City Attorney, this Commission hereby recommends that the Board of Supervisors resolve and settle the claim listed below on the terms specified below.

<u>Claimant</u>	<u>Claim Number</u>	<u>Amount</u>
California Regional Water Quality Control Board, San Francisco Bay Region	N/A (Unlitigated claim regarding overflows from San Francisco's combined sewage and stormwater collection system during rainstorms)	N/A (Injunctive relief)

*I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission at its meeting of July 27, 2021.*

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Secretary, Public Utilities Commission

## LEGISLATION RECEIVED CHECKLIST

Date 8/6/21

File Number (if applicable) \_\_\_\_\_

- |                                     |   |     |                   |
|-------------------------------------|---|-----|-------------------|
| <input checked="" type="checkbox"/> | Legislation for Introduction ( <b>NEW</b> )         | ▶▶▶ | Legislative Clerk |
| <input type="checkbox"/>            | Legislation Pending in Committee ( <b>AMENDED</b> ) | ▶▶▶ | Committee Clerk   |
| <input type="checkbox"/>            | Legislation for Board Agenda ( <b>AMENDED</b> )     | ▶▶▶ | Deputy Clerk      |

### Supervisor, Mayor, and Departmental Submittals

#### Grant Ordinance

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** Department Head, Mayor or the Mayor's designee, plus the Controller
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Grant budget/application
  - Grant information form, including signed disability checklist
  - Letter of Intent or grant award letter from funding agency
  - Contract, Leases/Agreements (if applicable)
  - Ethics Form 126 (*if applicable*) in **Word** format
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

#### Ordinance

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** City Attorney (For Settlement of Lawsuits - City Attorney, Department Head, Controller, Commission Secretary)
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Settlement Report/Agreement (for settlements)
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

#### Grant Resolution

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** Department Head, Mayor or the Mayor's designee, plus the Controller
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Grant budget/application
  - Grant information form, including signed disability checklist
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  - Contract, Leases/Agreements (if applicable)
  - Ethics Form 126 (*if applicable*) in **Word** format
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

#### Resolution

- Legislation:** Original, 1 hard copy, and 1 electronic copy in **Word** format
- Signature:** None (Note: Required for Settlement of Claims - City Attorney, Department Head, Controller, Commission Secretary)
- Supporting documents:** 1 full set, and separate **pdf** copies of each in email
  - Cover letter (original)
  - Settlement Report/Agreement (for settlements)
  - Other support documents *as identified in the cover letter and legislation*
- E-Copy of legislation/supporting documents: Sent to BOS.Legislation@sfgov.org**

Joy Perez 415-554-3869  
Name and Telephone Number

City Attorney  
Department