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

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

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

WHEREAS, The three areas of the City that are the focus of the Regional Board'sclaim are the Wawona area, Folsom area and Lower Alemany area; and

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

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

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

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

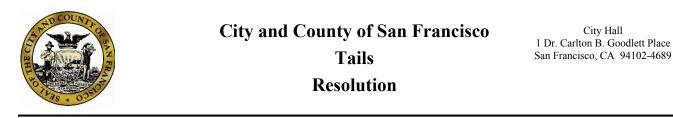
WHEREAS, Nothing in the Stipulation commits the City to approve any project that is 11 12 subject to review under the California Environmental Quality Act ("CEQA") until such 13 environmental review is complete, as required by law; the City's execution of this Stipulation 14 does not constitute approval 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 discretion to (1) make such modifications to any such projects as may be necessary to 16 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 impacts cannot otherwise be avoided; in addition, the City may seek approval from the 22 23 Regional Water Board to pursue an alternative approach in accordance with Provision 8 of the Proposed CAO; and 24

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1	WHEREAS, On July 27, 2021, the SFPU	C approved Resolution No. 21-0124
2	recommending that the Board of Supervisors res	solve and settle the Regional Board's claim on
3	the terms specified in the Stipulation and Cleanu	p 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 Administra	tive 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	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.	
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17	APPROVED:	RECOMMENDED:
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19	DENNIS J. HERRERA	SAN FRANCISCO PUBLIC UTILITIES
20	City Attorney	COMMISSION
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22	/s/	<u>/s/</u>
	FRANCESCA GESSNER	MICHAEL CARLIN
23	Deputy City Attorney	Acting General Manager of the San
24	Public Utilities Commission Team Leader	Francisco Public Utilities Commission
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APPROVED):
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2	/s/
3	DONNA HOOD Secretary of the San Francisco Public Utilities Commission
4	Utilities Čommission
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File Number: 210899

Date Passed: September 28, 2021

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

September 17, 2021 Government Audit and Oversight Committee - RECOMMENDED

September 28, 2021 Board of Supervisors - ADOPTED

Ayes: 11 - Chan, Haney, Mandelman, Mar, Melgar, Peskin, Preston, Ronen, Safai, Stefani and Walton

File No. 210899

I hereby certify that the foregoing Resolution was ADOPTED on 9/28/2021 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo Clerk of the Board

London N. Breed Mayor

10/8/21

Date Approved