

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.**

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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:

18
19 DENNIS J. HERRERA
20 City Attorney

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

RECOMMENDED:

SAN FRANCISCO PUBLIC UTILITIES
COMMISSION

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

APPROVED:

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

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City and County of San Francisco

Tails Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

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