

1 [General Obligation Bond Election - Seawall and Other Critical Infrastructure - \$425,000,000]

2
3 **Ordinance calling and providing for a special election to be held in the City and County**
4 **of San Francisco on Tuesday, November 6, 2018, for the purpose of submitting to**
5 **San Francisco voters a proposition to incur the following bonded debt of the City and**
6 **County: \$425,000,000 to finance the construction, reconstruction, acquisition,**
7 **improvement, demolition, seismic strengthening and repair of the Embarcadero**
8 **Seawall and other critical infrastructure, and related costs necessary or convenient for**
9 **the foregoing purposes; authorizing landlords to pass-through 50% of the resulting**
10 **property tax increase to residential tenants in accordance with Administrative Code,**
11 **Chapter 37; finding that the estimated cost of such proposed project is and will be too**
12 **great to be paid out of the ordinary annual income and revenue of the City and County**
13 **and will require expenditures greater than the amount allowed therefor by the annual**
14 **tax levy; reciting the estimated cost of such proposed project; fixing the date of**
15 **election and the manner of holding such election and the procedure for voting for or**
16 **against the proposition; fixing the maximum rate of interest on such bonds and**
17 **providing for the levy and collection of taxes to pay both principal and interest;**
18 **prescribing notice to be given of such election; affirming the Planning Department's**
19 **determination under the California Environmental Quality Act, and finding that the**
20 **proposed bond is in conformity with the eight priority policies of Planning Code,**
21 **Section 101.1(b), and with the General Plan; consolidating the special election with the**
22 **general election; establishing the election precincts, voting places and officers for the**
23 **election; waiving the word limitation on ballot propositions imposed by Municipal**
24 **Elections Code, Section 510; complying with the restrictions on the use of bond**
25 **proceeds specified in California Government Code, Section 53410; incorporating the**

1 provisions regarding the Citizens' Bond Oversight Committee in Administrative Code,
2 Sections 5.30-5.36; and waiving the time requirements specified in Administrative
3 Code, Section 2.34.

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

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

11 Section 1. Findings.

12 a. The Embarcadero Seawall (the "Seawall"), which serves as the foundation of the
13 northern waterfront, is one of San Francisco's oldest pieces of infrastructure.

14 b. Constructed by the State of California over one hundred years ago, the Seawall
15 supports San Francisco's historic piers, wharves, local businesses, maritime uses, iconic tourist
16 destinations, recreation facilities, and restaurants, which bring an estimated 24 million people
17 to the waterfront annually.

18 c. The Seawall also supports key lifeline utility networks and infrastructure, including
19 the Bay Area Rapid Transit (BART), Muni Metro, and ferry transportation networks.

20 d. The Seawall serves as a critical emergency response, evacuation and recovery
21 area and provides flood protection to downtown San Francisco ("City") neighborhoods. All told,
22 the Seawall protects over \$100 billion of assets and economic activity.

23 e. The Seawall is a contributing resource to the Embarcadero Historic District listed
24 on the National Register of Historic Places.

1 f. Recent analysis by the City and the Port of San Francisco (the "Port") found that
2 the Seawall will likely suffer significant damage during a major earthquake, causing widespread
3 harm to the Embarcadero; historic buildings and piers; critical transportation, utility, and
4 emergency response infrastructure; and the residents, workers, and visitors who depend on
5 them. A major earthquake would likely cause the Seawall to move towards the bay, potentially
6 by as much as five feet. This seismic risk is compounded by the accelerating risk of flooding,
7 which occurs today during high tides and larger storm events.

8 g. The Seawall is named as a critical infrastructure priority in the City's Lifelines
9 Interdependency Study published in 2014, and the Bond (as defined below) is planned for the
10 November 2018 election as part of the General Obligation Bond Program in the City's FY 2018-
11 27 Capital Plan.

12 h. The Embarcadero Roadway encircles downtown San Francisco. After a major
13 seismic event, up to 250,000 people are expected to exit downtown towards the waterfront.
14 The Embarcadero must provide access to first responders, safe locations for people exiting
15 downtown, and routes for transporting emergency supplies and equipment.

16 i. To address earthquake and flood risks to the Seawall, the Port is leading the
17 Seawall Earthquake Safety and Disaster Prevention Program ("Seawall Program"), a program
18 that will invest a projected \$2-5 billion over the next three decades to protect the San Francisco
19 waterfront from imminent seismic risk and increasing flood risk due to sea level rise.

20 j. This Board of Supervisors (this "Board") recognizes the need to improve the
21 earthquake safety and performance of the Seawall and other critical infrastructure, provide
22 near-term flood protection improvements, and plan for long-term resilience and sea level rise
23 adaptation along this important stretch of the City's waterfront.

24 k. The Seawall Earthquake Safety Bond (the "Bond") will provide funding to the
25 Seawall Program and other critical infrastructure (as described below in Section 3).

1 I. The Bond sets up a financing mechanism to be used for certain kinds of work,
2 and specific projects at specified locations will not be determined until additional design and
3 budget development, as well as further planning and environmental review processes, are
4 complete.

5 m. The Port, in consultation with the Board, will work with City transportation planners
6 and conduct public outreach to determine the most financially feasible approaches to
7 construction on the Seawall that minimize disruption along the Embarcadero.

8 n. At one or more hearings of the Historic Preservation Commission, the Port, in
9 consultation with seismic and structural engineers, will analyze preferred alternatives for
10 Seawall construction that minimize impact to the San Francisco Bay and preserve historic
11 assets to the fullest extent possible.

12 o. This Board now wishes to describe the terms of a ballot measure seeking approval
13 for the issuance of general obligation bonds to finance all or a portion of the City's Seawall and
14 other critical infrastructure needs as described below.

15 Section 2. A special election is called and ordered to be held on Tuesday, November
16 6, 2018, for the purpose of submitting to the electors of the City a proposition to incur bonded
17 indebtedness of the City for the project described in the amount and for the purposes stated:

18 "SAN FRANCISCO SEAWALL EARTHQUAKE SAFETY BOND, 2018. \$425,000,000 of
19 bonded indebtedness to help finance the overall cost of the Seawall Program, including:
20 repairing and upgrading the City's 100 year old Embarcadero Seawall; strengthening the
21 Embarcadero; protecting transit infrastructure and utilities that provide water, wastewater,
22 power and telecommunications to residents and businesses; and to pay related costs, subject
23 to independent citizen oversight and regular audits, all to protect San Francisco's waterfront,
24 BART and Muni tunnels, buildings, historic piers, and roads from earthquakes, flooding and
25 rising sea levels; and authorizing landlords to pass-through to residential tenants in units subject

1 to Chapter 37 of the Administrative Code (the "Residential Rent Stabilization and Arbitration
2 Ordinance") 50% of the increase in the real property taxes attributable to the cost of the
3 repayment of the bonds."

4 The special election called and ordered shall be referred to in this ordinance as the
5 "Seawall Earthquake Safety Bond Special Election."

6 Section 3. PROPOSED PROGRAM. All contracts that are funded with the proceeds
7 of bonds authorized hereby shall be subject to the provisions of Chapter 83 of the Administrative
8 Code (the "First Source Hiring Program"), which fosters construction and permanent
9 employment opportunities for qualified economically disadvantaged individuals. In addition, all
10 contracts that are funded with the proceeds of bonds authorized hereby shall be subject to the
11 provisions of Chapter 14B of the Administrative Code (the "Local Business Enterprise and Non-
12 Discrimination in Contracting Ordinance"), which assists small and micro local businesses to
13 increase their ability to compete effectively for the award of City contracts. To the extent
14 permitted by law, eligible costs for the proposed program include all costs associated with
15 Seawall Program development and planning, including planning for future sea level rise
16 adaptation, pre-design, design, engineering and other soft costs; and construction
17 management. The proposed program can be summarized as follows:

18 a. EARTHQUAKE PROJECTS. Several construction options are available to
19 improve Seawall seismic reliability. All or a portion of these options may be implemented
20 together, individually, or sequenced over time. A portion of the Bond may be allocated to:

- 21 1) Ground strengthening and liquefaction remediation
- 22 2) Constructing a new Seawall
- 23 3) Bulkhead wall, wharf and pier retrofits and replacements
- 24 4) Bulkhead building retrofits and seismic joints
- 25 5) Critical facility retrofits and replacements

- 6) Utility replacements, relocations and bypasses
- 7) Matching funds for public and private sources or
- 8) Other life safety improvements.

b. FLOOD PROTECTION PROJECTS. The Port will co-design flood mitigations with seismic improvements and will evaluate the applicability, effectiveness, risks, and costs of the short and mid-term seismic reinforcements and flood mitigations to Seawall reaches. Among the projects a portion of this Bond may be allocated to are the following:

- 1) Flood walls and barriers
- 2) Changes to surface grading
- 3) Flood proofing
- 4) Enhanced foundation for future adaptation or
- 5) Other flood control improvements.

c. MITIGATION AND ENHANCEMENT PROJECTS. The Port will decide whether to include enhancements for both the urban landscape and the bay environment based on the scale and location of the site-specific seismic and near-term flood risk reduction methods and the cost-benefit ratio of these infrastructure investments. A portion of the Bond may be allocated to:

- 1) Public access enhancements
- 2) Transportation/mobility improvements
- 3) Environmental benefits or
- 4) Other public benefits.

d. CITIZENS' OVERSIGHT COMMITTEE. A portion of the Bond shall be used to perform audits of the Bond, as further described in Section 15.

e. ART ENRICHMENT. Consistent with Section 3.19 of the San Francisco Administrative Code and to the extent permitted by law, up to 2% of Bond proceeds may be

1 used to 1) fund educational and interpretative art to inform the public about the Seawall and
2 earthquake and flood risks to the City's waterfront, and 2) fund other art enrichment, in either
3 case on Port property as approved by the Port Commission in consultation with the Arts
4 Commission.

5 Section 4. BOND ACCOUNTABILITY MEASURES.

6 The Bond shall include the following administrative rules and principles:

7 a. OVERSIGHT. The proposed bond funds shall be subjected to approval processes
8 and rules described in the Charter and Administrative Code. Pursuant to Administrative Code
9 Section 5.31, the Citizens' General Obligation Bond Oversight Committee shall conduct an
10 annual review of bond spending, and shall provide an annual report of the bond program to the
11 Mayor and the Board of Supervisors.

12 b. TRANSPARENCY. The City shall create and maintain a Web page outlining and
13 describing the bond program, progress, and activity updates. The City shall also hold an annual
14 public hearing and reviews on the bond program and its implementation before the Board of
15 Supervisors, the Port Commission, the Capital Planning Committee, and the Citizens' General
16 Obligation Bond Oversight Committee.

17 Section 5. The estimated cost of the bond financed portion of the project described in
18 Section 2 above was fixed by the Board by Resolution No. 183-18, in the amount of
19 \$425,000,000. Said resolution was passed by two-thirds or more of the Board and approved by
20 the Mayor. In such resolution it was recited and found by the Board that the sum of money
21 specified is too great to be paid out of the ordinary annual income and revenue of the City in
22 addition to the other annual expenses or other funds derived from taxes levied for those
23 purposes and will require expenditures greater than the amount allowed by the annual tax levy.

24 The method and manner of payment of the estimated costs described in this ordinance
25 are by the issuance of bonds of the City not exceeding the principal amount specified.

1 Such estimate of costs as set forth in such resolution is adopted and determined to be
2 the estimated cost of such bond financed improvements and financing, as designed to date.

3 Section 6. The Bond Special Election shall be held and conducted and the votes
4 received and canvassed, and the returns made and the results ascertained, determined, and
5 declared as provided in this ordinance and in all particulars not recited in this ordinance such
6 election shall be held according to State law and the Charter and any regulations adopted under
7 State law or the Charter, providing for and governing elections in the City, and the polls for such
8 election shall be and remain open during the time required by such laws and regulations.

9 Section 7. The Bond Special Election is consolidated with the General Election
10 scheduled to be held in the City on Tuesday, November 6, 2018. The voting precincts, polling
11 places, and officers of election for the November 6, 2018 General Election are hereby adopted,
12 established, designated, and named, respectively, as the voting precincts, polling places, and
13 officers of election for the Bond Special Election called, and reference is made to the notice of
14 election setting forth the voting precincts, polling places, and officers of election for the
15 November 6, 2018 General Election by the Director of Elections to be published in the official
16 newspaper of the City on the date required under State law.

17 Section 8. The ballots to be used at the Bond Special Election shall be the ballots
18 used at the November 6, 2018 General Election. The word limit for ballot propositions imposed
19 by Municipal Elections Code Section 510 is waived. On the ballots to be used at the Bond
20 Special Election, in addition to any other matter required by law to be printed thereon, shall
21 appear the following as a separate proposition:

22 "SAN FRANCISCO SEAWALL EARTHQUAKE SAFETY BOND, 2018. "To protect San
23 Francisco's waterfront, BART and Muni tunnels, buildings, historic piers, and roads from
24 earthquakes, flooding and rising sea levels by: repairing and upgrading the City's 100 year old
25 Embarcadero Seawall; strengthening the Embarcadero; protecting transit infrastructure and

1 utilities that provide water, wastewater, power and telecommunications to residents and
2 businesses; shall the City of San Francisco issue \$425,000,000 in bonds, subject to
3 independent citizen oversight and regular audits?"

4 Each voter to vote in favor of the issuance of the foregoing bond proposition shall mark
5 the ballot in the location corresponding to a "YES" vote for the proposition, and each voter to
6 vote against the proposition shall mark the ballot in the location corresponding to a "NO" vote
7 for the proposition.

8 Section 9. If at the Bond Special Election it shall appear that two-thirds of all the voters
9 voting on the proposition voted in favor of and authorized the incurring of bonded indebtedness
10 for the purposes set forth in such proposition, then such proposition shall have been accepted
11 by the electors, and bonds authorized shall be issued upon the order of the Board. Such bonds
12 shall bear interest at a rate not exceeding applicable legal limits.

13 Section 10. For the purpose of paying the principal and interest on the bonds, the Board
14 shall, at the time of fixing the general tax levy and in the manner for such general tax levy
15 provided, levy and collect annually each year until such bonds are paid, or until there is a sum
16 in the Treasury of the City, or other account held on behalf of the Treasurer of the City, set apart
17 for that purpose to meet all sums coming due for the principal and interest on the bonds, a tax
18 sufficient to pay the annual interest on such bonds as the same becomes due and also such
19 part of the principal thereof as shall become due before the proceeds of a tax levied at the time
20 for making the next general tax levy can be made available for the payment of such principal.

21 Section 11. This ordinance shall be published in accordance with any State law
22 requirements, and such publication shall constitute notice of the Bond Special Election and no
23 other notice of the Bond Special Election hereby called need be given.

24 Section 12. The Board, having reviewed the proposed legislation, makes the following
25 findings in compliance with the California Environmental Quality Act, California Public

1 Resources Code Sections 21000 et seq., the CEQA Guidelines, 15 California Administrative
2 Code Sections 15000 et seq., and San Francisco Administrative Code Chapter 31 (collectively,
3 "CEQA"): The Planning Department has determined that The Planning Department has
4 determined that this legislation is not defined as a "project" under CEQA, because it is only the
5 creation of a government funding mechanism and does not involve any commitment to any
6 specific project, as defined in CEQA Guidelines Section 15378(b)(4). The Board affirms this
7 determination.

8 Section 13. The Board finds and declares that the proposed Bond is in conformity with
9 the priority policies of Section 101.1(b) of the San Francisco Planning Code and consistent with
10 the City's General Plan, and adopts the findings of the Planning Department, as set forth in the
11 General Plan Referral Report dated May 24, 2018, a copy of which is on file with the Clerk of
12 the Board of Supervisors in File No. 180454 and incorporates such findings by reference.

13 Section 14. Under Section 53410 of the California Government Code, the bonds shall
14 be for the specific purposes authorized in this ordinance and the proceeds of such bonds will
15 be applied only for such specific purposes. The City will comply with the requirements of
16 Sections 53410(c) and 53410(d) of the California Government Code.

17 Section 15. The Bonds are subject to, and incorporate by reference, the applicable
18 provisions of Administrative Code Sections 5.30 – 5.36 (the "Citizens' General Obligation Bond
19 Oversight Committee"). Under Section 5.31, to the extent permitted by law, one-tenth of one
20 percent (0.1%) of the gross proceeds of the Bonds shall be deposited in a fund established by
21 the Controller's Office and appropriated by the Board of Supervisors at the direction of the
22 Citizens' General Obligation Bond Oversight Committee to cover the costs of said committee.

23 Section 16. The time requirements specified in Section 2.34 of the Administrative Code
24 are waived.
25

1 Section 17. The appropriate officers, employees, representatives, and agents of the
2 City are hereby authorized and directed to do everything necessary or desirable to accomplish
3 the calling and holding of the Bond Special Election, and to otherwise carry out the provisions
4 of this ordinance.

5 Section 18. Documents referenced in this ordinance are on file with the Clerk of the
6 Board of Supervisors in File No. 180454 which is hereby declared to be a part of this ordinance
7 as if set forth fully herein.

8
9 APPROVED AS TO FORM:
10 DENNIS J. HERRERA,
City Attorney

11
12 By: 
13 Mark D. Blake
Deputy City Attorney

14 n:\financlas2018\1800446\01280687.docx