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[Issuance of General Obligation Bonds (Embarcadero Seawall Earthquake Safety, 2018) - Not to Exceed \$425,000,000]

**Resolution providing for the issuance of not to exceed \$425,000,000 aggregate principal amount of City and County of San Francisco General Obligation Bonds (Embarcadero Seawall Earthquake Safety, 2018); authorizing the issuance and sale of said bonds; providing for the levy of a tax to pay the principal and interest thereof; providing for the appointment of depositories and other agents for said bonds; providing for the establishment of accounts related thereto; adopting findings under the California Environmental Quality Act ("CEQA"), the CEQA Guidelines and San Francisco Administrative Code Chapter 31; finding that the proposed project is in conformity with the priority policies of Planning Code Section 101.1(8) and with the general plan consistency requirement of Charter Section 4.105 and Administrative Code Section 2A.53; ratifying certain actions previously taken; and granting general authority to city officials to take necessary actions in connection with the issuance and sale of said bonds.**

WHEREAS, By Resolution of Necessity adopted by the Board of Supervisors (the "Board of Supervisors") of the City and County of San Francisco (the "City") on June 12, 2018, it was determined and declared that public interest and necessity demand; and,

WHEREAS, By Ordinance No. 416-18, passed by the Board of Supervisors on June 26, 2018, and signed by the Mayor on June 28, 2018, and Ordinance No. 178-18, passed by the Board of Supervisors, the Board of Supervisors duly called a special election to be held on November 6, 2018 (the "Bond Election") for the purpose of submitting to the qualified election of the City such proposition to incur bonded, indebtedness of the City in the amount of

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\$425,000,000 to finance the Project, and such proposition was approved by two-thirds of the qualified voters of the City voting on such propositions, and declaration of such Bond Election results was made by the Board of Supervisors pursuant to Resolution 420-18 declared by the Board of Supervisors of the City on December 4, 2018, and approved by the Mayor on December 12, 2018; and

WHEREAS, A special election was held in the City on November 8, 2018, for the purpose of submitting to the qualified voters of the City said proposition, denominated as Proposition A ("Proposition A"), as follows:

"To incur the following bonded debt of the City and County: \$425,000,000 to finance the construction, reconstruction, acquisition, improvement, demolition, seismic strengthening and repair of the Embarcadero Seawall and other critical infrastructure, and related costs necessary or convenient for the foregoing purposes . . ."; and

WHEREAS, On December 4, 2018, by Resolution No. 420-18, the Board of Supervisors declared the results of the November 8, 2018 special election finding that, as certified by the Director of Elections of the City, the requisite two-thirds of all voters voting on the proposition approved such proposition; and,

WHEREAS, This Board of Supervisors has determined, and does hereby declare, that it is necessary and desirable that all of said bonds designated generally as "City and County of San Francisco General Obligation Bonds (Embarcadero Seawall Earthquake Safety)" (the "Bonds") in the aggregate principal amount not to exceed \$425,000,000, representing the total amount of authorized, be issued and sold in one or more series from time to time, for the purposes authorized and on the conditions set forth in this Resolution; and,

WHEREAS, The Bonds will be payable from proceeds of the annual tax levy, as provided herein; and,

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WHEREAS, The Bonds are being issued pursuant to (i) this Resolution duly adopted by the Board of Supervisors, (ii) Title 5, Division 2, Part 1, Chapter 3, Article 4.5 of the California Government Code, (iii) the Charter of the City (the "Charter"), (iv) the 2018 Bond Ordinance, and (v) a duly held election; and,

WHEREAS, Pursuant to Section 9.106 of the Charter, there shall be delivered a certificate of a duly authorized officer of the City, concurrently with the issuance of each series of Bonds, except for any series of Bonds issued to refund any bond anticipation notes issued in anticipation of the issuance of such series of Bonds, stating that the outstanding general obligation bond indebtedness of the City, including all series of the Bonds issued and to be issued and outstanding on the date of delivery of such series, will not exceed three percent of the assessed value of all taxable real and personal property located within the City; now, therefore, be it

RESOLVED, By the Board of Supervisors of the City and County of San Francisco, as follows:

Section 1. Recitals. All of the recitals herein are true and correct.

Section 2. Conditions Precedent. All conditions, things and acts required by law to exist, to happen and to be performed precedent to the adoption of this Resolution authorizing the issuance of the Bonds exist, have happened and have been performed in due time, form and manner in accordance with applicable law, and the City is now authorized pursuant to the Charter and applicable law to incur indebtedness in the manner and form provided in this Resolution.

Section 3. Issuance of the Bonds. The Board of Supervisors hereby authorizes the issuance and sale of \$425,000,000 aggregate principal amount of Bonds, designated generally as "City and County of San Francisco General Obligation Bonds (Embarcadero

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Seawall Earthquake Safety, 2018)". The Director of the Office of Public Finance is hereby authorized to modify the general designation of the Bonds if in her sole discretion a different designation is in the best interest of the City for administrative, marketing or descriptive purposes. The Bonds may be sold in one or more series as the Board of Supervisors shall determine, and shall be sold in accordance with law, as such law may from time to time be amended, supplemented or revised, and on the terms and conditions approved by the Board of Supervisors in this Resolution, as supplemented by such other resolution or resolutions relating to such series of Bonds and as provided in the resolution of the Board of Supervisors authorizing and directing the sale of each series of Bonds (each, a "Sale Resolution"). Each series of such Bonds may bear such additional or other designation as may be necessary or appropriate to distinguish such series from every other series and from other bonds issued by the City, or to identify the tax treatment of interest, interest rate determination methodology or other characteristics of such series, in each case as set forth in the applicable Sale Resolution or as may be determined by the Director of the Office of Public Finance in her sole discretion. The offering and sale of the Bonds may be aggregated with the offering and sale of other general obligation bonds being issued by the City, as authorized from time to time by the Board of Supervisors. Each series of Bonds may bear interest at fixed or variable rates, in each case as provided in the applicable Sale Resolution.

Section 4. Authentication and Registration. The Sale Resolution for each series of Bonds shall set forth the form of such Bond, with such necessary or appropriate variations, omissions and insertions as may be permitted by resolution. "CUSIP" identification numbers may be imprinted on Bonds, but such numbers shall not constitute a part of the contract evidenced by the Bonds and any error or omission with respect thereto shall not constitute cause for refusal of any purchaser to accept delivery of and to pay for the Bonds. In addition,

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failure on the part of the City to use such CUSIP numbers in any notice to owners of the Bonds shall not constitute an event of default or any violation of the City's contract with such owners and shall not impair the effectiveness of any such notice.

The Bonds shall be signed by the Mayor of the City (the "Mayor") and countersigned by the Clerk of the Board of Supervisors. The signature of the Mayor may be facsimile or manual. The signature of the Clerk of the Board of Supervisors shall be manual. The Treasurer of the City (the "City Treasurer") shall authenticate the Bonds by facsimile or manual signature and, when so authenticated, shall deliver the Bonds to or for the account of the purchasers in exchange for the purchase price thereof.

In case such officer(s) whose signature(s) or countersignature(s) appear(s) on a Bond shall cease to be such officer(s) before the delivery of such Bond to the purchaser, such signature(s) or countersignature(s) shall nevertheless be valid and sufficient for all purposes as if the officer(s) had remained in office until the delivery of such Bond.

Section 5. Transfer or Exchange and Registration of Bonds. Any Bond may be transferred or exchanged in accordance with its terms and the applicable Sale Resolution. Each Bond shall be registered in accordance with the applicable Sale Resolution.

Section 6. General Redemption Provisions. The terms of redemption (whether optional or mandatory redemption), if any, of any series of Bonds and the manner prescribed for notice of any redemption of such series of Bonds shall be set forth in the applicable Sale Resolution.

Each Sale Resolution shall provide that the Controller of the City (the "Controller") shall establish a redemption account for such series of Bonds. The City Treasurer shall provide for the deposit and application of moneys in such redemption account.

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Section 7. Tax Levy; Pledge of Bond Account.

(a) Tax Levy. For the purpose of paying the principal of and interest on the Bonds, the Board of Supervisors at the time of fixing the general tax levy shall fix, and in the manner provided for such general tax levy, levy and collect annually until the Bonds are paid, or until there shall be a sum set apart for that purpose in the treasury of the City sufficient to meet all sums coming due for payment of principal of and interest on the Bonds, a tax sufficient to pay the annual interest on the Bonds as the same becomes due and also such part of the principal thereof as shall become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of such interest or principal; provided, however, that in fixing such tax levy for each fiscal year, the Board of Supervisors shall take into account amounts then on deposit in the Program Revenues Subaccount pursuant to the provisions of subsection (b) of this Section 7 and amounts then on deposit in the Tax Revenues Subaccount pursuant to this subsection (a), if such amounts will be available to pay debt service on the Bonds.

Said tax shall be in addition to all other taxes levied for City purposes, shall be collected at the time and in the same manner as other taxes of the City are collected, and shall be used only for the payment of the Bonds and the interest thereon.

All taxes collected pursuant to this Section 7(a) shall be deposited forthwith in a special subaccount to be designated as the "Tax Revenues Subaccount," which shall be a subaccount within a special account to be designated as the " General Obligation Bonds (Embarcadero Seawall Earthquake Safety, 2018) Bond Account" (the "Bond Account"). The Bond Account and all subaccounts therein shall be administered by the City Treasurer with all disbursements of funds therefrom subject to authorization of the Controller. The Bond Account shall be kept separate and apart from all other accounts, and each subaccount

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therein shall be kept separate and apart from all other subaccounts. Pursuant to the applicable Sale Resolution, the Controller may establish such additional accounts and subaccounts within the Bond Account or with any agent, including but not limited to any paying agent or fiscal agent, as may be necessary or convenient in connection with the administration of any series of Bonds, to provide for the payment of principal and interest on such series of Bonds.

The City Treasurer shall deposit in the Bond Account from the proceeds of sale of the Bonds, any moneys received on account of original issue premium and interest accrued on the Bonds to the date of payment of the purchase price thereof, and such other moneys, if any, as may be specified in the applicable Sale Resolution. So long as any of the Bonds are outstanding, moneys in the Bond Account shall be used and applied by the City Treasurer solely for the purpose of paying the principal of and interest on the Bonds as such principal and interest shall become due and payable, or for purchase of Bonds if permitted by the applicable Sale Resolution; provided, however, that when all of the principal of and interest on the Bonds have been paid, any moneys then remaining in said Bond Account shall be transferred to the City for any legally permitted purpose. The Board of Supervisors shall take such actions annually as are necessary or appropriate to cause the debt service on the Bonds due in any fiscal year to be included in the budget for such fiscal year and to make the necessary appropriations therefor.

(b) Pledge. The Bond Account and all subaccounts and amounts on deposit therein are hereby pledged for the payment of the principal of and interest on the Bonds when and as the same become due, including the principal of any term Bonds required to be paid upon the mandatory sinking fund redemption thereof. In addition, the payment of such principal and interest shall be secured by the statutory lien of California Government Code Section 53515,

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to the extent applicable to the amounts on deposit in the Bond Account. Each and every series of Bonds issued under this Resolution shall be equally and ratably secured by the pledge of this subsection (c), the foregoing statutory lien, and the taxes collected pursuant to this Section 7.

Section 8. Administration and Disbursements From Bond Account.

(a) Interest. On or before June 15 and December 15 in each year that any of the Bonds are outstanding (or, for any series of Bonds bearing interest at variable rates, on such other dates as may be provided by the applicable Sale Resolution), the City Treasurer shall set aside in the Bond Account and the appropriate subaccounts therein relating to each series of the Bonds an amount which, when added to the amount contained in the Bond Account and subaccounts therein on that date, if any, will be equal to the aggregate amount of the interest becoming due and payable on each series of the Bonds outstanding on such interest payment date.

(b) Principal. On or before June 15 in each year that any of the Bonds are outstanding, the City Treasurer shall set aside in the Bond Account and the appropriate subaccounts therein relating to each series of the Bonds an amount which will be equal to the principal on each series of the Bonds outstanding that will become due and payable on said June 15, including those Bonds subject to mandatory redemption on such date pursuant to the provisions of the applicable Sale Resolution.

All moneys in the Bond Account shall be used and withdrawn by the City Treasurer solely for the purpose of paying the principal of and interest on each series of the Bonds as the same shall become due and payable. On June 15 and December 15 in each year that any Bond is outstanding, the City Treasurer shall allocate, transfer and apply to the various subaccounts in the Bond Account created pursuant to the applicable Sale Resolution, on such



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date on which payment of principal or interest on any series of Bonds is due, from moneys on deposit in the Bond Account, an amount equal to the amount of principal of, premium, if any, or interest due on said date with respect to each series of the Bonds then outstanding. Unless other provision shall have been made pursuant to this Resolution for the payment of any Bond, all amounts held in the various subaccounts of the Bond Account created pursuant to a Sale Resolution shall be used and applied by the City Treasurer to pay principal of, premium, if any, and interest due on the series of the Bonds to which such subaccount relates, as and when due.

Section 9. Appointment of Depositories and Other Agents. The City Treasurer is hereby authorized and directed to appoint one or more depositories as he or she may deem desirable and may authorize such depository to perform, under the supervision of the City Treasurer, any of the City Treasurer's duties and responsibilities under this Resolution, to the extent permitted by applicable law.

The City Treasurer is hereby also authorized and directed to appoint one or more agents as he or she may deem necessary or desirable. To the extent permitted by applicable law and under the supervision of the City Treasurer, such agents may serve as paying agent, fiscal agent, escrow agent or registrar for the Bonds or may assist the City Treasurer in performing any or all of such functions and such other duties as the City Treasurer shall determine including such duties and responsibilities of the City Treasurer provided for in this Resolution. Such agents shall serve under such terms and conditions as the City Treasurer shall determine. The City Treasurer may remove or replace agents appointed pursuant to this paragraph at any time.

Section 10. Project Account. There is hereby established a project account to be designated as the "General Obligation Bonds (Embarcadero Seawall Earthquake Safety,

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2018) Project Account" (the "Project Account"). The Project Account shall be maintained by the City Treasurer, as a separate account, segregated and distinct from all other accounts. The City Treasurer may establish such accounts and subaccounts within the Project Account as may be necessary or convenient in connection with the administration of the Project or the Bonds.

All of the proceeds of the sale of the Bonds (excluding any premium and accrued interest received thereon, unless otherwise determined by the Director of Public Finance) shall be deposited by the City Treasurer to the credit of the Project Account and shall be applied exclusively to the objects and purposes of the Project. When such objects and purposes have been accomplished, any moneys remaining in such account shall be transferred to the Bond Account established pursuant to Section 7 hereof and applied to the payment of the principal of and interest on any series of Bonds. Amounts in the Project Account may be applied to the payment of costs of issuance of the Bonds, including, without limitation, bond and financial printing expenses, mailing and publication expenses, rating agency fees, and the fees and expenses of paying agents, registrars, financial consultants, bond counsel and disclosure counsel.

Section 11. Defeasance Provisions. A Sale Resolution may provide for the defeasance of such series of Bonds authorized therein. Any Bonds which have been deemed paid in accordance with the defeasance provisions of the applicable Sale Resolution shall no longer be deemed outstanding under this Resolution.

Section 12. Tax Covenants. The Bonds may be issued as bonds the interest on which is excluded from gross income for federal or state income tax purposes or as bonds the interest on which is included in gross income for federal or state income tax purposes. With respect to any series of the Bonds the interest on which is excluded from gross income for

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federal or state income tax purposes, the City may make such covenants and representations as are necessary to comply with applicable laws and regulations.

Section 13. Other Terms and Provisions Relating To the Bonds. The Sale Resolution for any series of Bonds may provide for (a) the purchase of bond insurance or other credit enhancement relating to such series of Bonds and to the establishment of such additional terms and procedures as may be necessary to provide for the application of such bond insurance or other credit enhancement for the benefit of the bondholders; (b) the investment of moneys held in any fund or account relating to the Bonds in specific categories or types of investments, so long as such investments are legal investments for the City and in compliance with any policy or guideline of the City applicable thereto; and (c) the adoption of any supplemental resolutions relating solely to such series of Bonds.

Section 14. Supplemental Resolutions. For any one or more of the following purposes and at any time or from time to time, a supplemental resolution of the City may be adopted, which, without the requirement of consent of the owners of the Bonds, shall be fully effective in accordance with its terms:

(a) To add to the covenants and agreements of the City in this Resolution or any Sale Resolution, other covenants and agreements to be observed by the City which are not contrary to or inconsistent with this Resolution or any Sale Resolution as theretofore in effect;

(b) To add to the limitations and restrictions in this Resolution or any Sale Resolution, other limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this Resolution or any Sale Resolution as theretofore in effect;

(c) To confirm, as further assurance, any pledge under, and the subjection to any lien or pledge created or to be created by this Resolution or any Sale Resolution as then in effect,

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of any moneys, securities or funds, or to establish any additional funds or accounts to be held under this Resolution or any Sale Resolution;

(d) To cure any ambiguity, supply any omission, or cure or correct any defect or inconsistent provision in this Resolution or any Sale Resolution; or

(e) To make such additions, deletions or modifications as shall not be materially adverse to the owners of the Bonds.

Any modification or amendment of this Resolution or any Sale Resolution and of the rights and obligations of the City and of the owners of the Bonds, in any particular, may be made by a supplemental resolution, with the written consent of the owners of at least a majority in aggregate principal amount of the Bonds outstanding at the time such consent is given (except as provided in the preceding paragraph). No such modification or amendment shall permit a change in the terms or maturity of the principal of any outstanding Bonds or of any interest payable thereon or a reduction in the principal amount thereof or in the rate of interest thereon, or shall reduce the percentage of Bonds the consent of the owners of which is required to effect any such modification or amendment, or shall reduce the amount of moneys for the repayment of the Bonds, without the consent of all the owners of such affected Bonds.

Section 15. Citizens' Oversight Committee. The Bonds are subject to, and incorporate by reference, the applicable provisions of San Francisco Administrative Code Section 5.30 – 5.36 (the "Admin. Code"). Under Section 5.31 of the Admin. Code, to the extent permitted by law, one-tenth of one percent (0.1%) of the gross proceeds of each series of the Bonds shall be deposited in the fund established by the Controller's Office and appropriated by the Board of Supervisors at the direction of the Citizens' General Obligation Bond Oversight Committee to cover the costs of such Committee.

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Section 16. CEQA Findings. The Board of Supervisors finds and declares that this legislation is not a project subject to CEQA because it is a funding mechanism involving no commitment to any specific projects at any specific locations, as set forth in the CEQA Guidelines Section 15378.

Section 17. Planning Code. The Board of Supervisors hereby adopts and incorporates by reference the findings and declarations in Ordinance No. 136-16 relative to (i) the conformance of the Bonds to the priority policies of Section 101.1(b) of the San Francisco Planning Code, (ii) the conformance of the Bonds to Section 4.105 of the San Francisco Charter and Section 2A.53(f) of the San Francisco Administrative Code, and (iii) the consistency of the Bonds with the City's General Plan, all as more fully set forth in the General Plan Referral Report dated May 11, 2015, a copy of which is on file with the Clerk of the Board of Supervisors in File No. 150490.

Section 18. Ratification. All actions heretofore taken by officials, employees and agents of the City with respect to the sale and issuance of the Bonds consistent with any documents presented and this Resolution are hereby approved, confirmed and ratified.

Section 19. General Authority. The Clerk of the Board of Supervisors, the Finance Committee of the Board of Supervisors, the Mayor, the City Treasurer, the City Administrator, the City Attorney, the Director of Public Finance of the City and the Controller are each hereby authorized and directed in the name and on behalf of the City to take any and all steps and to issue and deliver any and all certificates, requisitions, agreements, notices, consents, and other documents, including but not limited to, letters of representations to any depository or depositories, which they or any of them might deem necessary or appropriate in order to consummate the lawful issuance, sale and delivery of the Bonds and otherwise to give effect to this Resolution. Any such actions are solely intended to further the purposes of this

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Resolution, and are subject in all respects to the terms of this Resolution. No such actions shall increase the risk to the City or require the City to spend any resources not otherwise granted herein. Final versions of any such documents shall be provided to the Clerk of the Board of Supervisors for inclusion in the official file within 30 days (or as soon thereafter as final documents are available) of execution by all parties.

APPROVED AS TO FORM:

DENNIS J. HERRERA City Attorney

By: \_\_\_\_\_  
KENNETH D. ROUX  
Deputy City Attorney