# CITY AND COUNTY OF SAN FRANCISCO

## BOARD OF SUPERVISORS

### BUDGET AND LEGISLATIVE ANALYST

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April 21, 2023

**TO:** Budget and Finance Committee

**FROM:** Budget and Legislative Analyst

**SUBJECT:** April 29, 2023 Budget and Finance Committee Meeting

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| **Item 1**<br>**File 23-0257**<br>*(Continued from 4/19/23 meeting)* | **Departments:**<br>Emergency Management, Fire, Public Health, Public Works, Public Utilities Commission, and Sheriff |
|---|---|

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed ordinance (a) appropriates $4,236,098 in Ambulance Service Revenue in the Fire Department; (b) de-appropriates $62,348,096 from permanent salaries and mandatory fringe benefits and appropriates $65,429,619 to overtime in the Department of Emergency Management, Department of Public Health, Department of Public Works, Fire Department, San Francisco Public Utilities Commission, Sheriff's Department, and Recreation and Park Department; and (c) appropriates $1,154,574 to Materials and Supplies in the Fire Department.

### Fiscal Impact

- The Department of Public Health has (a) $30.7 million surplus in salaries due to an increase in budgeted positions, vacant positions, and hiring challenges; and (b) projected excess overtime expenditures of $30.7 million due to back-filling vacancies and increased staffing to meet a higher-than-budgeted patient census at San Francisco General Hospital.
- The Fire Department has (a) $4.2 million surplus in ambulance service revenue due to increases in ambulance call volume; (b) surplus of $17.0 million in salaries and benefits due to vacant positions; (c) projected excess overtime expenditures of $20.1 million largely due to backfilling vacant positions to meet minimum staffing levels for fire suppression as well as increased EMS staffing to manage the increased calls; and (d) projected excess materials and supplies expenditures of $1.2 million for general supplies to run and maintain ambulances due to the increase in call volume.
- The Sheriff's Department has (a) $9.3 million in surplus salaries due to vacant positions; and (b) $9.3 million in projected excess overtime expenditures due to backfilling vacant positions to meet minimum staffing levels in the jails and other security posts.
- The Department of Emergency Management has (a) $2.3 million in surplus salaries due to vacant positions and hiring challenges; and (b) $2.3 million in projected excess overtime expenditures due to backfilling vacant positions to meet minimum staffing levels.
- The San Francisco Public Utilities Commission has (a) $1.4 million in surplus salaries due to vacant positions; and (b) $1.4 million in projected excess overtime expenditures due to increased workload from damage caused by winter storms.
- The Department of Public Works has (a) $500,000 in surplus salaries due to vacant positions in the Bureau of Street Environmental Services; and (b) $500,000 in projected excess overtime expenditures due to increased workload from damage caused by winter storms.
- The Recreation and Park Department has (a) $1.1 million in surplus salaries due to vacant positions and delayed hiring and (b) $1.1 million in projected overtime expenditures due to increased workload from winter storm damage, special events, and service requests.

### Recommendation

- Approve the proposed ordinance.

## MANDATE STATEMENT

Charter Section 9.105 provides that amendments to the Annual Appropriation Ordinance be subject to Board of Supervisors approval by ordinance, after the Controller certifies the availability of funds.

Administrative Code Section 3.17 states that the Airport; Department of Emergency Management; Fire Department; Police Department; Department of Public Health; Public Utilities Commission; Department of Public Works; Recreation and Park Department; and Sheriff must obtain a supplemental appropriation to exceed the overtime budgets in their annual operating funds.

Charter Section 9.113(c) states that, in the event the Mayor or a member of the Board of Supervisors recommends a supplemental appropriation ordinance after the adoption of the budget and prior to the end to the budget year that contains any item rejected by the Mayor or the Board of Supervisors in the original budget appropriation, the supplemental appropriation can only be approved by a two-thirds vote of the Board of Supervisors.

## BACKGROUND

Six departments are requesting a supplemental appropriation to increase their overtime budgets in annual operating funds, as per Administrative Code Section 3.17. The need for additional overtime funds is similar across departments, with many reporting that vacancies combined with minimum staffing levels required for some departments to maintain services are contributing to the need for staff to work overtime. In addition, the Department of Public Works and the San Francisco Public Utilities Commission report that they have seen increased workloads from the winter storms, resulting in a need for additional overtime.

As of the FY 2022-23 Six-Month Budget Status Report, the Department of Public Health had exceeded its overtime budget across its annual operating funds, as of December 31, 2022. The Fire Department, Department of Emergency Management, and Recreation and Park Department have exceeded their overtime budgets at the end of March, after the proposed ordinance was introduced. As of the writing of this report, the Department of Public Works, the Sheriff's Department, and the San Francisco Public Utilities Commission had not yet exceeded their overtime budget across annual operating funds.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance (a) appropriates $4,236,098 in Ambulance Service Revenue in the Fire Department; (b) de-appropriates $62,348,096 from permanent salaries and mandatory fringe benefits and appropriates $65,429,619 to overtime in the Department of Emergency Management, Department of Public Health, Department of Public Works, Fire Department, San Francisco Public Utilities Commission (SFPUC), Sheriff's Department, and Recreation and Park Department; and (c) appropriates $1,154,574 to Materials and Supplies in the Fire Department.

The appropriation totals $66,584,193. Approval of the proposed ordinance requires a two-thirds vote of all members of the Board of Supervisors pursuant to Charter Section 9.113(c).

Exhibit 1 below summarizes the proposed appropriation of $66,584,193 by department.

**Exhibit 1: Appropriation of $66,584,193 by Department**

| | Fire | Emergency Management | Public Health | Public Works | Public Utilities | Sheriff | Recreation and Park | Total |
|---|---|---|---|---|---|---|---|---|
| **Sources** | | | | | | | | |
| Appropriation | | | | | | | | |
| Ambulance Service Revenue | $4,236,098 | | | | | | | $4,236,098 |
| De-appropriation | | | | | | | | |
| Permanent Salaries/Benefits | 17,003,186 | $2,294,910 | $30,700,000 | $500,000 | $1,500,000 | $9,300,000 | $1,050,000 | 62,348,096 |
| **Total Sources** | **$21,239,284** | **$2,294,910** | **$30,700,000** | **$500,000** | **$1,500,000** | **$9,300,000** | **$1,050,000** | **$66,584,193** |
| **Uses** | | | | | | | | |
| Appropriation | | | | | | | | |
| Overtime | 20,084,709 | 2,294,910 | 30,700,000 | 500,000 | 1,500,000 | 9,300,000 | 1,050,000 | 65,429,619 |
| Materials & Supplies | 1,154,575 | | | | | | | 1,154,575 |
| **Total Uses** | **$21,239,284** | **$2,294,910** | **$30,700,000** | **$500,000** | **$1,500,000** | **$9,300,000** | **$1,050,000** | **$66,584,193** |

Source: Proposed Ordinance

## FISCAL IMPACT

### Proposed Increases in Overtime

The proposed percent increases in overtime for the seven departments range from 25.5 percent for SFPUC up to 119.6 percent for Public Health. If the proposed increases are approved, three departments would exceed their FY 2021-22 overtime budgets by more than five percent (Emergency Management, Public Health, and SFPUC). Exhibit 2 summarizes the FY 2022-23 approved overtime budget for each department, the resulting increase from the proposed ordinance, and FY 2021-22 actual expenditures.

**Exhibit 2: FY 2022-23 Overtime Budget and Proposed Increase, Annual Operating Funds***

| | Fire | Emergency Management | Public Health | Public Works | Public Utilities | Sheriff | Recreation and Park |
|---|---|---|---|---|---|---|---|
| FY 2022-23 Overtime Budget | $57,394,339 | $5,402,307 | $25,660,412 | $1,511,371 | $5,875,471 | $17,007,640 | $1,617,509 |
| Proposed Increase in Legislation | 20,084,709 | 2,294,910 | 30,700,000 | 500,000 | 1,500,000 | 9,300,000 | 1,050,000 |
| New Overtime Budget | $77,479,048 | $7,697,217 | $56,360,412 | $2,011,371 | $7,375,471 | $26,307,640 | $2,667,509 |
| Percent Increase | 35.0% | 42.5% | 119.6% | 33.1% | 25.5% | 54.7% | 64.9% |
| | | | | | | | |
| FY 2021-22 Actual Overtime Expenditures | $83,073,039 | $6,128,537 | $44,321,283 | $2,253,363 | $6,239,234 | $25,608,252 | $2,645,395 |
| New Overtime Budget, Percent of FY 2021-22 Actual Expenditures | 93.3% | 125.6% | 127.2% | 89.3% | 118.2% | 102.7% | 100.8% |

Source: FY 2022-23 department overtime budgets for funds considered in this ordinance; Proposed Ordinance
*Excludes work order funds

The following sections provide additional detail on the proposed increases in overtime for each of the six departments and the proposed increase in materials and supplies for the Fire Department.

**Department of Public Health: $30,700,000**

The proposed ordinance de-appropriates $30,700,000 in surplus salaries in the Department of Public Health's (DPH) FY 2022-23 budget to pay for additional overtime. This funding will be appropriated across Zuckerberg San Francisco General Hospital (ZSFGH)[1], Laguna Honda Hospital (LHH), and multiple other divisions across DPH, including Jail Health, Primary Care, Behavioral Health, Administration, Health Network Services, and Public Health. Exhibit 3 below summarizes the de-appropriation and appropriation of funds. As of the FY 2022-23 Six-Month Budget Status Report, DPH had exceeded their overtime budget across its annual operating funds, expending 103 percent of its overall budget. As of the pay period ending March 3, 2023, DPH had spent 182 percent of budgeted overtime at ZSFGH, 86 percent of budgeted overtime at Laguna Honda, and 172 percent of budgeted overtime in divisions outside of ZSFGH and Laguna Honda.

[1] The appropriation of overtime at ZSFGH will go toward addressing overtime needs across the hospital, including the pharmacy, engineering and maintenance, the Family Health Center, maternal and child health, emergency ambulator care, intensive care, medical-surgical, environmental services, and patient accounting.

**Exhibit 3: DPH Appropriation**

| Sources | Amount |
|---|---|
| De-appropriation | |
| ZSFGH Permanent Salaries | $23,500,000 |
| Laguna Honda Permanent Salaries | 4,000,000 |
| Other DPH Permanent Salaries (Non-ZSGFH or Laguna Honda) | 3,200,000 |
| **Total Sources** | **$30,700,000** |

| Uses | Amount |
|---|---|
| Appropriation | |
| ZSFGH Overtime | $23,700,000 |
| Laguna Honda Overtime | 4,000,000 |
| Other DPH Overtime (Non-ZSGFH or Laguna Honda) | 3,200,000 |
| **Total Uses** | **$30,700,000** |

Source: Proposed Ordinance, File 23-0257 and BLA consolidation

DPH's surplus budget in salaries is primarily driven by vacant positions that affect ZSFGH, Laguna Honda, and other divisions within DPH. A Department vacancy report shows 1,408 vacancies in permanent positions, or a vacancy rate of 17.9 percent of authorized positions. In FY 2022-23 DPH added 391 FTEs across all divisions, increasing the Department's FTE count by five percent, from 7,466 FTEs in FY 2021-22 to 7,857 FTEs in FY 2022-23. In the Department's February 28, 2023 memo to the Health Commission, staff report that the surplus in budgeted salaries is a result of the increase in budgeted FTEs, combined with the number of vacant positions and challenges with the City's hiring process. DPH reports it has increased its human resources staff[2] and is working to increase the efficiency of their hiring processes.

DPH's Budget Manager, James Alexander, and Deputy Financial Officer, Emily Gibbs, report that the overtime needs are driven by high vacancies across several job classifications as well as a higher-than-average patient census at ZSFGH, which requires additional staffing to maintain staff-patient ratios.[3] In addition, there have been increases in non-productive time over the last two years across job classifications because of additional hours of COVID sick leave, resulting in the need to cover missed shifts with overtime according to Deputy Financial Officer Gibbs.

As of March 15, 2023, DPH reports vacancies in key classifications contributing to overtime spending. Exhibit 4 below shows a summary of the 15 job classifications with the highest overspending and corresponding vacancy rate. This is across DPH, including ZSFGH and Laguna Honda. As shown in this exhibit, patient-facing staff have some of the highest vacancies and overtime spending rates (Registered nurses, Patient Care Assistances, Nurse Practitioners, and Nurse Managers). Porters and food service workers also have high overtime spending despite

[2] The FY 2022-23 budget increased number of Human Resource Analyst FTE from 25.50 FTE in FY 2021-22 to 33.30 FTE in FY 2022-23.

[3] According to Deputy Financial Officer Gibbs, the average daily census for FY 2022-23 year to date is 325, which is 18 over budgeted levels. In FY 2022-23, the average daily census was 298, which was five over budgeted levels.

relatively lower vacancy rates in March 2023 because workload for these positions is impacted by the high patient census. In addition, vacancy rates are point in time figures and year-to-date overtime expenditures are impacted by vacancy rates that have changed throughout the year.

**Exhibit 4: DPH Classifications with Largest Overtime Expenditures and Vacancies**

| Classification | Authorized Positions | Vacancies (As of 3/15/23) | Percent Vacant (As of 3/15/23) | Year to Date Overtime Expenditures (3/3/23) |
|---|---|---|---|---|
| 2320 Registered Nurse | 1,481 | 232 | 16% | $11,735,745 |
| 2303 Patient Care Assistant | 550 | 53 | 10% | 4,034,519 |
| P103 Special Nurse* | n/a | n/a | n/a | 3,072,301 |
| 2736 Porter | 335 | 17 | 5% | 3,030,013 |
| 2312 Licensed Vocational Nurse | 184 | 34 | 19% | 1,577,774 |
| 2604 Food Service Worker | 122 | 8 | 7% | 1,165,753 |
| 2328 Nurse Practitioner | 162 | 19 | 12% | 1,160,017 |
| 2322 Nurse Manager | 103 | 14 | 14% | 909,214 |
| 2430 Medical Evaluations Assistant | 253 | 33 | 13% | 872,397 |
| 2903 Hospital Eligibility Worker | 224 | 45 | 20% | 656,242 |
| 7334 Stationary Engineer | 46 | 15 | 32% | 640,549 |
| 2471 Radiologic Tech I, II, III | 79 | 3 | 3% | 601,085 |
| 2302 Nursing Assistant | 107 | 18 | 17% | 531,406 |
| 2409 Pharmacy Technician | 89 | 10 | 11% | 524,915 |
| 2583 Home Health Aide | 61 | 18 | 30% | 335,571 |
| **Total** | **3,807** | **519** | **14%** | **$30,847,501** |

Source: Department of Public Health
*All P103 position appointments are as needed to backfill paid time off, 2320 vacancies, and to staff for increased census. Therefore, there are no P103 vacancies.

### Fire Department: $21,239,284

The proposed ordinance appropriates $4,236,098 in additional ambulance service revenue and de-appropriates $17,003,186 in surplus salaries and benefits in the Fire Department's FY 2022-23 budget to pay for $20,084,709 additional overtime and $1,154,575 additional materials and supplies. Exhibit 5 below summarizes the de-appropriation and appropriation of funds. Mark Corso, the Fire Department's Deputy Director for Finance and Planning, reports that the Fire Department exceeded the current budget in the pay period ending March 31, 2022.

**Exhibit 5: Fire Department Appropriation**

| Sources | Amount |
|---|---|
| Appropriation | |
| Ambulance Billings | $4,236,098 |
| De-appropriation | |
| Fire Salaries | 15,503,186 |
| Retirement Fringe | 1,500,000 |
| **Total Sources** | **$21,239,284** |

| Uses | Amount |
|---|---|
| Appropriation | |
| Fire Overtime | $20,084,709 |
| Fire Materials and Supplies | 1,154,575 |
| **Total Uses** | **$21,239,284** |

Source: Proposed Ordinance

The $4,236,098 in additional ambulance billing revenues is a result of an increase in the volume of ambulance calls as well as the Fire Department taking on a larger share of the calls relative to the private ambulance providers. This has increased revenues from ambulance billings. From July 1, 2022 through February 2023, call volume has averaged 5,379 per month, which is 10 percent higher than the previous fiscal year, which averaged 4,911 per month in FY 2021-22.

The surplus salary budget is a result of the Department being unable to hold a third academy to enter the field in the FY 2022-23 budget. The Fire Department's Deputy Director for Finance and Planning reports that the Department was unable to accommodate the third class[4] due to an insufficient number of instructors and because the Department wanted to stagger the number of probationary firefighters in the field. In addition, the Department reports that they will often have trainees in the academies who come from EMS, which requires backfilling these positions. To meet mandatory minimum staffing levels, the Fire Department uses overtime when there are not a sufficient number of full-time staff. The $1,500,000 in de-appropriation from retirement is an estimate of the fringe benefit savings associated with vacant positions.

Of the $20,084,709 in overtime, $19,769,270 will support Fire Department operations (including $17,963,255 for fire suppression, $1,367,313 for EMS, and $438,703 for other Department operations), and a small portion of the appropriation will also support Fire operations with the Port ($58,551) and the Airport ($256,888), which have experienced staffing shortages. The overtime appropriation will increase the Fire Department's annual operating overtime budget (including Airport operations) by 35 percent from $57,394,339 to $77,479,048. The increase in call volume described above has also required overtime from EMS staff to manage the increased

[4] The Fire Department reports that each academy has 50 to 55 trainees with low attrition rates, estimating that of 54 in an academy, approximately 48 will complete it. The Department reports that a new fire training facility will expand the size of academies.

calls. The FY 2022-23 budget increased ambulance staffing by 60 FTEs to help respond to calls, but the Department reports that while additional staffing has helped, the call volume has required additional overtime.

The materials and supplies appropriation of $1,154,575 will go toward general supplies needs to run and maintain ambulances (fuel, medical supplies, pharmaceuticals) that the Department also attributes to the increase in call volume. The FY 2022-23 annual operating materials and supplies budget is $4,989,299, of which the Department has spent $4,583,169 (91.9 percent). If approved, this supplemental appropriation will increase their materials and supplies budget to $6,143,874, an increase of 23.1 percent.

**Sheriff's Department: $9,300,000**

The proposed ordinance de-appropriates $9,300,000 in permanent salaries in the Sheriff's Department FY 2022-23 budget to pay for $9,300,000 in overtime expenditures.

According to Kevin Fisher-Paulson, Chief Deputy Sheriff, the permanent salaries surplus and overtime needs are largely due to vacancies, mostly in the 8504 Deputy Sheriff classification.[5] The Sheriff's Department projects that FY 2022-23 General Fund permanent salaries will total approximately $69.3 million compared to the budgeted amount of $113.7 million, resulting in a projected surplus of $44.3 million, which is offset by sick pay, other paid time off, and projected use of overtime. The Sheriff's Department projects total overtime expenditures of approximately $25.8 million compared to the budgeted amount of $17.2 million, resulting in a projected deficit of $8.6 million. The Sheriff's Department is requesting a $9.3 million appropriation to provide a buffer in case overtime expenditures increase in the final three months of the fiscal year. The Sheriff's Department reports that the Department exceeded their overtime budget, excluding work orders, in the pay period ending March 3, 2023, but the Department had not exceeded their total overtime budget including work orders.

According to Chief Deputy Sheriff Fisher-Paulson, the Sheriff's Department has 146 vacancies within the 8504 Deputy Sheriff classification out of 746 FTE positions, a 20 percent vacancy rate. Additionally, the Sheriff's Department has 29 vacancies within the 8300 Sheriff's Cadet classification and 28 vacancies within the sworn supervisor classifications (8306 Senior Deputy Sheriff, 8308 Sheriff's Sergeant, and 8310 Sheriff's Lieutenant). Overtime has been used to backfill vacancies to meet minimum staffing requirements in the jails and other security posts (such as City Hall) for these classifications.

According to Chief Deputy Sheriff Fisher-Paulson, the Sheriff's Department plans to hire 21 Deputy Sheriff recruits to begin an academy class in July 2023, although it would take approximately eight months before these new hires would be able to reduce overtime utilization. Additionally, the Sheriff's Department plans to hire five Cadets in April 2023, as well as promote

[5] The Sheriff's Department uses the 8304 classification for Deputy Sheriffs who were hired before the change in retirement plans and remain within the California Public Employees' Retirement System (CalPERS), while the 8504 classification is used for more recent hires who are within the City's San Francisco Employees' Retirement System (SFERS). Functionally, the two classifications are interchangeable.

internally and recruit lateral transfers to fill supervisory roles. The Sheriff's Department has worked with the Department of Human Resources to produce a promotional examination for sworn supervisor positions. Internal promotions would help to fill supervisory positions but would create new vacancies within the Deputy Sheriff classification.

**Department of Emergency Management: $2,294,910**

The proposed ordinance de-appropriates $2,294,910 in permanent salaries in the Department of Emergency Management's (DEM) FY 2022-23 budget to pay for $2,294,910 in overtime expenditures, as shown in Exhibit 1 above.

According to Thomas Chen, DEM Budget Manager, the permanent salaries surplus and overtime needs are largely due to vacancies in the 8238 Public Safety Communications Dispatcher classification. DEM projects that FY 2022-23 General Fund permanent salaries will total approximately $30.5 million compared to the budgeted amount of $35.1 million, resulting in a projected surplus of $4.6 million. However, DEM projects total overtime expenditures of approximately $6.9 million compared to the budgeted amount of $5.4 million, resulting in a projected deficit of $1.5 million. DEM is requesting the $2.3 million appropriation to provide a buffer in case overtime expenditures increase in the coming months. DEM exceeded its overtime budget in the pay period ending March 31, 2023.

According to Budget Manger Chen, DEM has approximately 18 vacancies within the 8238 Public Safety Communications Dispatcher classification, which translates into a 11 percent vacancy rate.[6] DEM had anticipated holding three training classes in FY 2022-23 with 12 trainees in each class, but due to recruitment difficulties, the second class only had nine candidates and the third class will likely be canceled due to a low number of applicants. DEM has hired a 1250 Recruiter position to assist with hiring, and DEM has received 724 applicants for the 8238 Public Safety Communications Dispatcher position in the two-month period after the Recruiter started. DEM plans to have three training classes in FY 2023-24 with 12 trainees in each class.

Due to the high level of vacancies, DEM has been using overtime to meet minimum staffing levels in the 911 call center. DEM's service standard is to answer at least 90 percent of calls within 10 seconds, and performance has ranged from 73 to 79 percent each month over the current fiscal year, despite high overtime utilization. Budget Manager Chen reports that without the requested overtime appropriation, DEM's performance compared to this service standard would be worse.

**Public Utilities Commission: $1,500,000**

The proposed ordinance de-appropriates $1,500,000 in permanent salaries in the San Francisco Public Utilities Commission's (SFPUC) FY 2022-23 budget to pay for $1,500,000 in overtime expenditures. This amount is an increase from SFPUC's request for a $1,400,000 overtime appropriation due to damage caused by recent storms, as shown in Exhibit 6 below.

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[6] DEM has 189 full-time equivalent (FTE) 8238 Public Safety Communication Dispatcher positions in the FY 2022-23 budget. However, due to attrition savings within the 911 call center, there are effectively 156.7 FTE funded positions, which translates into in an eleven percent vacancy rate.

**Exhibit 6: SFPUC Proposed Overtime Appropriation**

| Sources | Amount (Original) | Amount (Amended) |
|---|---|---|
| De-Appropriation | | |
| Permanent Salaries (Wastewater Enterprise) | $745,000 | $800,000 |
| Permanent Salaries (Hetch Hetchy Water & Power) | 180,000 | 250,000 |
| Permanent Salaries (Water Enterprise) | 475,000 | 450,000 |
| **Total Sources** | **$1,400,000** | **$1,500,000** |

| Uses | Amount (Original) | Amount (Amended) |
|---|---|---|
| Appropriation | | |
| Overtime (Wastewater Enterprise) | $745,000 | $800,000 |
| Overtime (Hetch Hetchy Water & Power) | 180,000 | 250,000 |
| Overtime (Water Enterprise) | 475,000 | 450,000 |
| **Total Uses** | **$1,400,000** | **$1,500,000** |

Source: Proposed Ordinance, SFPUC

According to Laura Busch, SFPUC Budget Director, SFPUC's increased overtime usage in FY 2022-23 is largely due to the severe storm events that have persisted since December 2022. Between the Wastewater, Water, and Hetch Hetchy Water and Power Enterprises, SFPUC projects that FY 2022-23 overtime expenditures will total approximately $7.2 million, exceeding the budgeted amount of $5.7 million by $1.5 million. Overtime has been utilized as follows:

- Wastewater Enterprise: The primary overtime drivers include installation of flood barriers during heavy rains, deployment of Collections Systems wet weather field crews, and staffing the North Point Wet Weather Facility. SFPUC projects total overtime expenditures of $3,245,585, exceeding the budgeted amount of $2,445,585 by $800,000. SFPUC estimates that the Wastewater Enterprise will exceed its overtime budget in the pay period ending March 31, 2023.
- Water Enterprise: The primary overtime drivers include response to urgent requests at water treatment facilities for critical repairs and power outages, repairing damage to watershed infrastructure, and wet weather water testing. SFPUC projects total overtime expenditures of $2,737,544, exceeding the budgeted amount of $2,287,544 by $450,000. SFPUC estimates that the Water Enterprise will exceed its overtime budget in the pay period ending May 12, 2023.
- Hetch Hetchy Water and Power: The primary overtime drivers include emergency work to restore electrical and streetlighting infrastructure, roadway failures impairing access to facilities, wildfire mitigation, and staffing shortages. SFPUC projects total overtime expenditures of $1,265,002, exceeding the budgeted amount of $1,015,002 by $250,000. SFPUC estimates that the Hetch Hetchy Enterprise will exceed its overtime budget in the pay period ending April 28, 2023.

The job classifications driving the largest overtime usage to date are shown in Exhibit 7 below.

**Exhibit 7: SFPUC Classifications with Largest Overtime Expenditures**

| Classification | Enterprise | Overtime Expenditures (As of 3/3/2023) |
|---|---|---|
| 7372 Stationary Engineer, Sewage Plant | Wastewater | $824,367 |
| 7388 Utility Plumber | Water | 665,805 |
| 7449 Sewer Service Worker | Wastewater | 421,089 |
| 7250 Utility Plumber Supervisor 1 | Water | 394,316 |
| 7373 Sr. Stationary Engineer, Sewage Plant | Wastewater | 383,850 |
| 7482 Power Generation Technician 2 | Hetch Hetchy Power | 206,070 |

Source: SFPUC

The proposed de-appropriation of $1,400,000 from permanent salaries is due to projected salary savings in the enterprise budgets. SFPUC projects that permanent salary expenditures in the enterprises will total approximately $104.1 million, compared to the budgeted amount of $156.2 million, resulting in projected savings of $52.1 million. Between the Water, Wastewater, and Hetch Hetchy Water and Power Enterprises, SFPUC has approximately 303 FTE vacant budgeted positions out of 1,273 budgeted positions, a 24 percent vacancy rate.[7] According to Budget Director Busch, SFPUC is working with the Department of Human Resources to reduce the vacancy rate as part of the Citywide Government Operations Recovery Initiative.

**Department of Public Works: $500,000**

The proposed ordinance de-appropriates $500,000 in surplus permanent salaries in the Department of Public Works (DPW) FY 2022-23 budget to pay for additional overtime. The amount is an increase from DPW's initial overtime appropriation request of $267,591 due to recent winter storms.

According to DPW's Finance Manager Jennifer Marquez, additional overtime funding is needed to cover the labor costs associated with responding to the winter storms. Response work includes clearing fallen trees and other debris as well as sandbag distribution, patching potholes, repair of damaged City buildings, and clearing City gutters. Positions supporting the storm response efforts include, but are not limited to, communications dispatchers, urban forestry inspectors, arborist technicians, and engineering staff.

The funding being de-appropriated in permanent salaries comes from the Bureau of Street Environmental Services, which is in the process of hiring 135 vacant positions. According to Public Works' Hiring and Vacancy Update to the Public Works Commission on March 1, 2023, Public Works had a functional vacancy rate of 20.8 percent, after adjusting for positions that are about to be filled and positions that are expected to be deleted due to the passage of Proposition B in November 2022, which eliminated the Department of Sanitation and Streets and transferred its duties back to DPW. Public Works' FY 2022-23 budget included funding for a new Human

[7] SFPUC has 495 vacant budgeted positions. However, due to attrition savings totaling 192.16 FTE positions, only 302.84 FTE vacant positions may be filled within budget.

Resources section, and the Human Resources section has a goal to fill 250 positions department-wide by the end of the fiscal year.

DPW's current FY 2022-23 annual operating fund overtime budget of $1,511,371 will increase by 33.1 percent with the proposed $500,000 appropriation. As of the FY 2022-23 Six-Month Budget Status Report, DPW had expended 96 percent of its annual operating overtime budget, which does not include overtime for General Fund work orders. DPW staff reports that the Department exceeded their overtime budget, excluding work orders, in the pay period ending January 6, 2023, but the Department has not exceeded its total overtime budget including work orders.

**Recreation and Park Department: $1,050,000**

The proposed ordinance de-appropriates $1,050,000 in surplus permanent salaries in the Recreation and Park Department (REC) FY 2022-23 budget to pay for additional overtime. REC plans to propose an amendment to distribute the de-appropriation and appropriation across three funds, rather than just within the General Fund, as follows: (1) $400,000 in the General Fund (Fund 10000); (2) $400,000 in the Open Space Fund (Fund 13370); and (3) $250,000 in the Golf Fund (Fund 12360). REC exceeded its overtime budget in March 2023.

According to Antonio Guerra, REC Director of Administration and Finance, additional overtime funding is needed due to storm damage response, vandalism, Park Ranger overtime for special events, and backfilling three vacant Stationary Engineer positions for weekend maintenance. Winter storms have caused hundreds of trees to fall in City parks, including 120 trees in Stern Grove. Fallen tree roots have pulled up electrical conduit and knocked down light poles in Sharp Park, Trocadero, Stern Grove, Coit Tower, Alamo Square, and McLaren Park. Harding Park had over 40 large tree failures that had to be removed immediately to reopen and continue revenue generation. REC has also received an increase of 1,500 graffiti abatement work orders compared to prior years. Additional Park Ranger overtime is needed to cover unpermitted special events that do not reimburse overtime, such as 4/20 and public protests, as well as for public safety at UN Plaza and Union Square. According to Director Guerra, REC is working with DEM to seek Federal Emergency Management Agency (FEMA) reimbursement for storm-related overtime.

REC projects permanent salary expenditures (not including paid time off) across all funds of $52.6 million compared to the budgeted amount of $68.5 million, for a projected surplus of $15.9 million. However, REC projects total overtime expenditures of $2.7 million compared to the budgeted amount of $1.6 million, for a projected deficit of $1.1 million. According to Director Guerra, contributing factors to savings include 10 Park Ranger positions added in the FY 2022-23 budget that will begin May 27, 2023, rather than January 2023, as well as additional Park Ranger resignations that have not been filled. Within the Structural Maintenance Yard, most hires are internal promotions, which in turn create new vacancies. The 0923 Structural Maintenance Assistant Superintendent and three Analyst positions have been vacant for approximately six months. Additionally, hiring for the 3434 Arborist Technician classification has been delayed, creating additional savings.

## RECOMMENDATION

Approve the proposed ordinance.

| Item 4<br>File 23-0352 | Department: Department of Public Health (DPH) |
|---|---|

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed resolution would approve the third amendment to the agreement between the Department of Public Health (DPH) and the Asian and Pacific Islander Wellness Center (doing business as the San Francisco Community Health Center) to: (1) increase the not to exceed amount to $15,240,599; and (2) extend the term through February 28, 2027.

### Key Points

- In February 2017, DPH issued a Request for Proposals (RFP No. 16-2017) for an HIV Health Services contract seeking proposals from community-based non-profit organizations that could provide primary care, a drop-in center, HIV care management, and outreach to low-income persons living with HIV/AIDS in San Francisco's Tenderloin neighborhood.
- API Wellness Center was the sole applicant that submitted a letter of intent in response to the RFP. Prior to this solicitation, DPH had contracted with the API Wellness Center for the same scope of services.
- In May 2017, DPH executed a new contract with the API Wellness Center for a term of three years and 10 months, from May 1, 2017 through February 28, 2021. The City provided six options to renew the Agreement for a period of one year each through February 2027.

### Fiscal Impact

- The proposed Amendment No. 3 would increase the not-to-exceed amount of the API Wellness Center contract by $5,585,276, for a total not to exceed $15,240,599. A 12 percent contingency is included.
- Amendment No. 3 would be funded entirely by Ryan White Federal and State funding. City General Fund monies were used in 2018 to fully fund the Rebranding Federally Qualified Health Center Project.

### Recommendation

- Approve the proposed resolution.

## MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

## BACKGROUND

In February 2017, the Department of Public Health (DPH) issued a Request for Proposals (RFP No. 16-2017) for an HIV Health Services contract. The solicitation sought proposals from community-based non-profit organizations that could provide all three of the following services to low-income persons living with HIV/AIDS in San Francisco's Tenderloin neighborhood: (1) Tenderloin Area Center of Excellence (TACE), (2) Tenderloin Integrated Case Management, and (3) Tenderloin Early Intervention Services.

Asian Pacific Islander Wellness Center doing business as San Francisco Community Health Center (API Wellness Center) was the sole applicant that submitted a letter of intent in response to the HIV Health Services RFP. Prior to this solicitation, DPH had contracted with the API Wellness Center for TACE and Early Intervention Services.

In May 2017, DPH executed a new contract with the API Wellness Center for a term of three years and 10 months, from May 1, 2017 through February 28, 2021. The City provided six options to renew the Agreement for a period of one year each through February 2027. The original not to exceed amount was $3,931,705.

### About the Asian & Pacific Islander Wellness Center

The API Wellness Center was launched in 1996, growing out of the response to the 1980s AIDS crisis, to specifically support the impact of the epidemic on the Asian and Pacific Islander community while also serving others in need of services.[1] In 2015, the Center was recognized as a federally qualified health center (FQHC), allowing it to increase its capacity to serve more people. In 2018, the name of the Center became the San Francisco Community Health Center, although colloquially it is still referred to as the API Wellness Center.

The API Wellness Center is located in the Tenderloin at 730 Polk Street, which is 0.4 miles away from the primary medical care provider for the shared clients served by the programs in this contract, the Tom Waddell Urban Health Center, which is located at 230 Golden Gate Avenue.

Clients learn about the API Wellness Center's services through word of mouth, referrals from other service providers, outreach by peer navigators, and health educators who follow up with clients following positive HIV antibodies test results.

### Contract Amendment History

In January 2018, the Office of Contract Administration (OCA) approved Amendment No. 1 to the contract between DPH and API Wellness Center, increasing the not-to-exceed amount by

[1] https://sfcommunityhealth.org/history/

$931,640 for a new total not to exceed amount of $4,863,345, with no change in duration. The funding increase included $300,000 for the FQHC Rebranding Project and $631,640 to provide 18 months of funding for the HHOME and TransAccess programs, which were not originally included in the agreement because funding was still being secured. The goal of the Rebranding Project was to promote API Wellness Center's expansion as a federally qualified health center and to ensure that all low-income and homeless individuals in San Francisco can easily access the culturally and linguistically competent primary care services and all other wraparound services provided.

In July 2020, OCA approved Amendment No. 2 to the contract which exercised three out of the six one-year options to renew the contract, extending the contract term by three years from February 28, 2021 to February 29, 2024, for a total six years and 10 months term from May 1, 2017 through February 29, 2024. Amendment No. 2 also increased the not-to-exceed amount by $4,791,978, from $4,863,345 to $9,655,323.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the third amendment to the agreement between the Department of Public Health (DPH) and the Asian and Pacific Islander Wellness Center doing business as the San Francisco Community Health Center (API Wellness Center) to (a) increase the agreement by $5,585,276, from $9,655,323 to a new not to exceed amount of $15,240,599; (b) exercise the remaining three one-year term extensions to extend the term from February 29, 2024 to February 28, 2027, for a total nine-year, 10-month term of May 1, 2017 through February 28, 2027; and (c) authorize DPH to enter into amendments or modifications to the contract prior to its final execution that do not increase the obligations to the City.

### Population Eligible for Services

The focus population for services include the transgender community, homeless and marginally housed community, and the Asian and Pacific Islander community specifically in the South of Market and Tenderloin/North of Market areas. Clients are eligible for services if they meet the following criteria: Uninsured or under-insured, resident of San Francisco, positive diagnosis of HIV infection, active substance use or mental illness, and low-income, defined as annual income equal to or less than 500 percent of the Federal Poverty Line.[2]

### Scope of Services

Under the contract, the API Wellness Center provides the following services: (1) Tenderloin Area Center of Excellence (TACE); (2) Tenderloin Ohana Integrated Case Management; and (3) HHOME and TransAccess programs. Between the three programs, DPH estimates that the contractor annually serves approximately 300 unduplicated clients. Further details on these programs are below:

[2] As defined by the U.S. Department of Health and Human Services, in 2023, 500 percent under the Federal Poverty Level was $72,900 for one person and $98,600 for two. Eligibility for services is checked at intake, six months, and annually.

1. Tenderloin Area Center of Excellence (TACE) (200 annual unduplicated clients)[3]: The purpose of TACE is to expand access to primary care and support services for severe need populations (such as homeless or marginally housed and dealing with mental health and substance abuse issues) and special populations who live with HIV/AIDS in the Tenderloin. TACE offers a physical health center operated by, and co-located with, the API Wellness Center where eligible individuals can drop-in to receive medical care, behavioral support services, and linkages with other client services. In accordance with contract requirements, TACE refers clients to primary medical care via a Memorandum of Understanding (MOU) with Tom Waddell Urban Health Center, the primary medical care provider for the area. The MOU details logistics and program coordination to ensure seamless delivery of services, as well as compliance with funder reporting requirements.
2. Ohana Integrated Medical Case Management (58 annual unduplicated clients)[4]**:** Integrated Medical Case Management services provide service plans, treatment adherence and/or medication assistance, peer advocacy, and coordination of services, primarily to HIV-positive API clients. The program provides biweekly plan monitoring and treatment adherence services, available in the client's home, in the field, and at the API Wellness Center. This subset of clients is more stably engaged in primary care and typically do not require higher level of mental health or substance abuse support services, provided in other programs in this contract, nor do they receive primary care through TWUHC. Staff also provide health screening and linkages to other essential services.
3. HHOME and TransAccess (100 annual unduplicated clients): Early Intervention Services provided by the contract include HIV Homeless Outreach Mobile Engagement (HHOME) and TransAccess programming to connect target populations with specialized medical care at the TACE or the Tom Waddell Urban Health Center. HHOME serves severe need unhoused individuals living with HIV/AIDS who need intensive case management, mobile services, and delivered care. TransAccess serves Transgender women living with HIV/AIDS who experience stigma and other barriers to care and who need higher levels of behavioral support and group services to remain engaged in primary care.

**Fiscal Monitoring**

In April 2023, the DPH Business Office, Office of Contract Compliance (BOCC) conducted a financial analysis of the Asian and Pacific Island Wellness Center dba San Francisco Community Health Center (API Wellness Center) for the Fiscal Years FY 2014-15 to FY 2020-21. The BOCC analysis found that the Center is a "moderate risk" agency. Moderate risk agencies are agencies that have good financial standing, but also require close monitoring as there might be a few items that could tip the agency into financial trouble In this case, according to BOCC, the external Certified Public Accountant firm that conducted the agency's single (A-133) audit for FY 2020-21 identified some monthly internal control deficiencies specific to monthly financial reporting and

[3] The San Francisco Department of Public Health supports a total of seven HIV Health Service "Centers of Excellence" throughout the City. Each Center of Excellence provides primary HIV medical care and support services to specific populations living with HIV/AIDS.

[4] According to the Center's description, the program is named "Ohana" after the Hawai'ian word for family, in order to convey its family systems-oriented model of service. No reference to Ohana medical insurance.

closure procedures. The Center submitted its proposed corrective action for each deficiency identified. At this time, the Center has not submitted its FY 2021-22 single (A-133) audit to BOCC, which BOCC is expecting to receive in May 2023. The Center attributed the deficiencies cited in its external audit to be finance staffing turnover, also indicating that they had since hired new leadership with the required knowledge and accounting skills. BOCC advised that as part of the FY 2021-22 Citywide Fiscal and Compliance monitoring, which is currently underway for the Center, it will continue to monitor for risk, and specifically the Center's follow-up in remediating the deficiencies identified by its external audit.

**Program Monitoring**

Under the contract, DPH annually reviews the API Wellness Center's HIV Health Services programs by analyzing performance, deliverables, compliance, and client satisfaction (client satisfaction surveys by APIWC were suspended during FY 2020-21 due to the COVID-19 pandemic). DPH has not yet completed program monitoring for FY 2021-22. We reviewed FY 2020-21 monitoring reports for all programs, which showed that two programs (TACE and Integrated Medical Case Management) did not meet contracted unduplicated client targets and one program did not meet contracted units of service targets (TACE) due in part to staffing challenges due to the pandemic.

Although the FY 2021-22 monitoring report is not complete, DPH data from the ARIES client services database demonstrate that TACE served 157 Unduplicated Clients (UDC), Ohana Integrated Medical Case Management (IMCM) served 70, HHOME served 91 and TransAccess served 43. This represents 78.5 percent of the client target for the TACE COE program, 120.6 percent of the Ohana/IMCM UDC target, 182 percent of HHOME's UDC target, and 86 percent of the TransAccess UDC target.

1. Tenderloin Area Center of Excellence (TACE): According to the most recent programmatic monitoring report from September 2022 for FY 2020-21, the program met approximately 83 percent of its contracted performance objectives, 55 percent of contracted units of service target, and 70 percent of its contracted unduplicated client target. In 2022, 141 unduplicated clients received care, representing 71 percent of the contract mandate (200 clients). DPH notes that during the review period, one program manager was out of the office for two months and COVID-restrictions affected group interventions, testing services, and mental health referrals and linkages. In addition, the report states that staff burnout was a problem, and staff were overburdened with high needs clients due to insufficient relief staff.

2. Ohana Integrated Medical Case Management: According to the most recent programmatic monitoring report from September 2022 for FY 2020-21, the program met 70 percent of its contracted performance objectives, 156 percent of its contracted units of service target, and 86 percent of its contracted unduplicated client target. In 2022, 52 unduplicated clients received care, representing 86 percent of the contract mandate (58 clients). The monitoring report indicated that staff burnout was a major problem during this reporting period, and staff resignations impacted the provision of treatment adherence services for individuals.

3. HHOME and TransAccess: According to the most recent programmatic monitoring report from August 2022 for FY 2019-20, API Wellness Center met approximately 89 percent of its contracted performance objectives, 113 percent of its contracted units of service target, and 111 percent of its contracted unduplicated client target. The lowest scoring performance objectives for both HHOME and TransAccess programs were the targets for viral suppression and treatment adherence (67 percent of HHOME HIV+ clients and 67 percent of TransAccess HIV+ clients had viral loads indicating viral suppression and treatment adherence, compared to a goal of 80 percent for both programs). Per ARIES data in 2019, 120 unduplicated clients received care, representing 120 percent of the contract mandate (100 clients). While the Monitoring Report for FY 2020-21 has not been completed, HHS ARIES client data documented that the HHOME program achieved 27 out of 81 (33.3%) met the definition of being engaged in care (one medical visit in the first six months and last six-month period of the term. And 42 out of 86 HHOME clients (48.8%) were virally suppressed. For the TransAccess program, 15 out of 33 (45.4%) met the definition of engaged in care and 18 out of 34 (52.9%) were virally suppressed. The goal for each of these performance objectives is 80 percent. Additionally, for FY 2020-21 HHOME delivered 2,310 UOS of its target of 2,430 (95%) and served 34 UDC of a target of 50 (68%). For FY 2020-21, TransAccess delivered 2,183 UOS of their target of 2,376 (91.9%) and served 86 UDC of a target of 50 (172%).

## FISCAL IMPACT

The proposed Amendment No. 3 would increase the not-to-exceed amount of the API Wellness Center contract by $5,585,276, for a total not to exceed $15,240,599. The actual and projected contract expenditures by year are shown in Exhibit 1 below.

A 12 percent contingency is included to account for escalation, new programs, and/or expansions of existing programs. Amendment No. 3 would be funded entirely by Ryan White Federal and State funding. City General Fund monies were used in 2018 to fully fund the Rebranding Federally Qualified Health Center Project.[5]

[5] Funds were allocated for internal brand development, facilitation of stakeholder meetings, public presentations, and the hiring of Imprenta Communications Group (following a competitive selection process) for marketing campaigns.

**Exhibit 1: Actual and Projected Contract Sources and Uses by Year**

| Sources | Amount |
|---|---|
| Federal Sources (Ryan White Program) | $14,189,092 |
| General Fund | 298,270 |
| **Total Sources** | **$14,487,362** |
| *Contingency (12% of Projected Expenditures)* | 753,237 |
| **Total Sources and Contingency** | **$15,240,599** |
| **Expenditures** | |
| May 1, 2017-Feb 28, 2018 (Actual) | $1,238,685 |
| March 1, 2018-Feb 28, 2019 (Actual) | 1,279,936 |
| March 1, 2019-Feb 29, 2020 (Actual) | 1,318,749 |
| March 1 2020-Feb 28, 2021 (Actual) | 1,298,179 |
| March 1, 2021-Feb 28, 2022 (Actual) | 1,505,593 |
| March 1, 2022-Feb 28, 2023 (Actual) | 1,569,244 |
| *Subtotal, Actual Expenditures* | *$8,210,386* |
| March 1, 2023-Feb 29, 2024 (Projected) | 1,569,244 |
| March 1, 2024-Feb 28, 2025 (Projected) | 1,569,244 |
| March 1, 2025-Feb 28, 2026 (Projected) | 1,569,244 |
| March 1, 2026-Feb 28, 2027 (Projected) | 1,569,244 |
| *Subtotal, Projected Expenditures* | *$6,276,976* |
| **Total Expenditures** | **$14,487,362** |
| Contingency (12% of Projected Expenditures) | 753,237 |
| **Total Not-to-Exceed** | **$15,240,599** |
| *Less Existing Not-to-Exceed* | $9,655,323 |
| Proposed Increase | $5,585,276 |

Source: DPH

Appendix B of the proposed amendment details a budget for each program which totals $1,569,244 and forms the basis for the proposed resolution's not to exceed amount. Exhibit 2 below shows the annual budget for each program in Year 6 of the agreement (March 2022 through February 2023).

**Exhibit 2: Annual Program Costs, March 2022 to February 2023**

| | Tenderloin Area Center of Excellence | Ohana Integrated Medical Case Management | Early Intervention Services | Total |
|---|---|---|---|---|
| Salaries & Benefits | $618,715 | $111,809 | $463,373 | $1,193,897 |
| Operating Expense | 159,361 | 18,166 | 69,644 | 247,171 |
| Indirect Cost (9%) | 70,028 | 11,698 | 46,450 | 128,176 |
| **Total Expenses** | **$848,104** | **$141,673** | **$579,467** | **$1,569,244** |

Source: DPH

**Funded Positions**

The DPH contract with API Wellness Center funds approximately 15.84 full-time equivalent (FTE) employees, including 8.27 FTE for TACE, 1.60 FTE for the Ohana Integrated Medical Case Management Program, and 5.98 FTE for the Tenderloin Early Intervention Services.

## RECOMMENDATION

Approve the proposed resolution.

| **Item 6**<br>**File 23-0281** | **Department:**<br>Public Utilities Commission (PUC) |
|---|---|

**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed ordinance would amend the Administrative Code to modify the waivers of specified contract-related requirements in the Administrative and Environment Codes for electricity and related product transactions, authorize binding arbitration for contracts with investor-owned utilities, and increase the annual expenditure limit for energy procurements from $150 million to $200 million.

**Key Points**

- In July 2022, the Board of Supervisors approved an ordinance to add Chapter 21.43 to the Administrative Code, which approves form electricity purchase and sale contracts for the SFPUC, grants Administrative and Environment Code waivers for these contracts, and delegates authority to the SFPUC General Manager under Charter Section 9.118 to execute certain contracts with terms in excess of 10 years, or requiring expenditures of $10 million or more, or having anticipated revenues of at least $1 million, for a period of three years through June 30, 2025.
- Due to rapid increases in wholesale energy market prices, SFPUC believes that the $150 million annual expenditure limit is no longer sufficient to purchase the electricity products needed for Hetch Hetchy Power and CleanPowerSF and is requesting that the limit be increased to $200 million. The proposed ordinance would also waive additional provisions of the Administrative and Environment Codes, which are not included in form energy contracts used by SFPUC, as well as authorize binding arbitration in Resource Adequacy contracts with investor-owned utilities, which is a standard provision in these contracts.

**Fiscal Impact**

- The authority delegated by the proposed ordinance would be used to enter into contracts with total annual expenditures of up to $200 million, an increase of $50 million from the existing authority. Contracts may have a total term length of up to 25 years. Therefore, a total of $5 billion in contract expenditures may be authorized by the proposed ordinance. This is an increase of $1.25 billion over the existing total authorized expenditures of $3.75 billion allowed through the $150 million annual limit.

**Recommendation**

- Because the proposed ordinance waives (1) additional standard contracting provisions required by the City's municipal codes, and (2) the Board of Supervisors' authority under Charter Section 9.118, authorizing the SFPUC to enter into contracts longer than 10 years or in an amount of $10 million or more without further Board of Supervisors approval, approval of the proposed ordinance is a policy matter for the Board of Supervisors.

## MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

## BACKGROUND

In July 2022, the Board of Supervisors approved an ordinance to add Chapter 21.43 of the Administrative Code, which approves form electricity purchase and sale contracts for the San Francisco Public Utilities Commission (SFPUC), grants Administrative and Environment Code waivers for these contracts, and delegates the SFPUC General Manager authority under Charter Section 9.118 to execute certain contracts with terms in excess of 10 years or requiring expenditures of $10 million or more or having anticipated revenues of at least $1 million, for a period of three years through June 30, 2025 (File 22-0652).

SFPUC requested the ordinance because CleanPowerSF and Hetch Hetchy Power must enter into contracts for electricity products under compressed timelines to comply with state law and California Public Utilities Commission (CPUC), California Energy Commission (CEC), and California Independent System Operator (CAISO) rules and regulations, such as Resource Adequacy requirements.[1] The energy market is highly volatile and increasingly competitive, with six Investor-Owned Utilities, 71 Publicly Owned Electric Utilities, 24 Community Choice Aggregation (CCA) programs, and 19 Energy Service Providers supplying wholesale customers and retail customers (as of July 2022). The time-limited pricing typically offered in the industry cause the SFPUC to size commitments to the authority of the General Manager to secure power supplies on market timelines, even when the SFPUC is aware that a larger purchase commitment may have produced more favorable outcomes for ratepayers were the SFPUC able to execute a contract within the time-limited window. As such, SFPUC staff believes the Board of Supervisors approval is not always feasible or convenient.

Additionally, the ordinance authorized SFPUC to use two widely used industry standard agreements (the Western Systems Power Pool Agreement and Edison Electric Institute Master Agreement), the SFPUC's purchase, storage, and sale agreements, and form contracts developed by California Community Power (CC Power).[2] The form agreements do not include provisions required under the City's Administrative Code, such as: (1) non-discrimination in contracts (Chapter 12B); (2) MacBride Principles (Chapter 12F); (3) local business enterprise utilization and non-discrimination in contracting (Chapter 14B); (4) consideration of criminal history in hiring (Chapter 12T); (5) consideration of salary history in hiring (Chapter 12K); (6) prohibition on

[1] State law requires all electric service providers, including CleanPowerSF and Hetch Hetchy Power, to maintain certain quantities of Resource Adequacy (RA) to ensure sufficient electric generation resources to meet unusually high levels of consumer demand.

[2] CC Power is a Joint Powers Authority comprised of nine California CCA programs, including CleanPowerSF.

contracting in certain states (Chapter 12X); (7) first source hiring (Chapter 83); (8) competitive bidding requirements (Section 21.1); and (9) tropical hardwood and virgin redwood ban (Environment Code Chapter 8). These requirements were waived under the ordinance.

SFPUC reports that wholesale energy market prices have increased faster than anticipated due to supply chain delays, Russia's invasion of Ukraine, heat waves, and drought conditions (prior to December 2022) impacting hydroelectric energy outputs. We noted these impacts in a March 2023 amendment to SFPUC's scheduling coordinator services contract with APX Inc. (File 23-0091).[3] SFPUC's contract originally had an amount not to exceed $134,742,800 over a five-year term, or approximately $27 million per year in projected expenditures. Due to rising costs, and after consulting trade industry projections, SFPUC requested an amendment less than one year later to increase the not-to-exceed amount to $895,742,800 over the same five-year term, or approximately $179 million per year, a 565 percent increase. As such, the SFPUC Power Enterprise no longer believes that the annual expenditure authority of $150 million is sufficient to meet operational needs and requests that this limit be increased to $200 million.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Chapter 21.43 of Administrative Code to modify the waivers of specified contract-related requirements in the Administrative and Environment Codes for electricity and related product transactions, authorize binding arbitration for contracts with investor-owned utilities, and increase the annual expenditure limit for energy procurements from $150 million to $200 million.

### Waiver of Administrative and Environment Code Requirements

As noted above, the previous ordinance (File 22-0652) authorized SFPUC to waive several Administrative and Environment Code provisions that are not included in power purchasing form contracts used by SFPUC. The proposed ordinance would expand these waivers to include the following: (1) Minimum Compensation Ordinance (Administrative Code Chapter 12P); (2) Health Care Accountability Ordinance (Administrative Code Chapter 12Q); (3) public access to meetings and records of non-profit organizations (Administrative Code Section 12L.2); (4) sweatfree contracting (Administrative Code Section 12U.4); and (5) food service waste reduction (Environment Code Section 1605).

### Binding Arbitration

The proposed ordinance would authorize SFPUC to enter into contracts for resource adequacy from California investor-owned utilities with binding arbitration provisions. Under binding arbitration, a dispute between two parties is decided by a neutral arbitrator rather than in court before a judge or jury, and parties signing a binding arbitration agreement forfeit their rights to go to court or appeal an arbitrator's decision. According to Michael Hyams, SFPUC Deputy

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[3] The SFPUC does not meet the CAISO requirement for a "scheduling coordinator," an entity that is authorized to complete power transactions on the CAISO network and as able to make payments to CAISO for power transactions, so SFPUC has contracted for these services.

Assistant General Manager of Power, SFPUC is requesting this authority because binding arbitration is a standard provision in form contracts with investor-owned utilities.[4]

**Increase of Expenditure Authority**

The proposed ordinance would increase the annual expenditure limit for energy procurements under authority delegated to SFPUC from $150 million to $200 million. As noted above, this is due to rapid increases in wholesale energy market prices and SFPUC's belief that the $150 million annual expenditure limit is no longer sufficient to purchase the electricity products needed for Hetch Hetchy Power and CleanPowerSF. The ordinance would retain its requirement that SFPUC provide quarterly reports to the Board of Supervisors with the duration, product purchased, and cost of contracts entered into under the delegated authority, as well as annual reports with program costs, the rates charged to CleanPowerSF customers to recover those costs, and a comparison of those rates to PG&E rates.

## FISCAL IMPACT

The authority delegated by the proposed ordinance would be used to enter into contracts with total annual expenditures of up to $200 million, an increase of $50 million from the existing authority. Contracts may have a total term length of up to 25 years. Therefore, a total of $5 billion in contract expenditures may be authorized by the proposed ordinance. This is an increase of $1.25 billion over the existing total authorized expenditures of $3.75 billion allowed through the $150 million annual limit.

According to Deputy Assistant General Manager Hyams, SFPUC has entered into nine contracts under the existing authority with total expenditures of up to $830 million. SFPUC projects total FY 2022-23 power contract expenditures of $276.7 million for CleanPowerSF and $19 million for Hetch Hetchy Power, for total expenditures of approximately $295.7 million. For FY 2023-24, the SFPUC projects total contract expenditures of approximately $321.6 million for CleanPowerSF and $30 million for Hetch Hetchy Power, for total expenditures of approximately $351.6 million.

## POLICY CONSIDERATION

**Waiver of Administrative and Environment Code Requirements**

As noted above, the proposed ordinance would delegate authority to the SFPUC General Manager to waive additional standard contract and City code provisions. According to SFPUC, the City's standard contract terms identified in the proposed ordinance are not standard electric industry terms and many energy sellers reject such terms or will mark up the cost of energy to account for what they may consider a non-market condition and liability.

**Increase of Expenditure Authority**

The proposed ordinance would increase the annual expenditure limit for energy procurements under authority delegated to SFPUC from $150 million to $200 million. Since the SFPUC

[4] In 2018, the Board of Supervisors authorized SFPUC to enter into power contracts with binding arbitration (File 18-0708). Binding arbitration was also included in recent SFPUC power contracts with PG&E (File 19-0997) and Southern California Edison (File 20-1280).

Commission has also delegated its approval authority to the General Manager, the terms of power purchase and sale agreements executed under this authority may not be publicly visible prior to the SFPUC entering into the agreements. As noted above, the ordinance would retain its requirement that SFPUC provide quarterly reports to the Board of Supervisors with the duration, product purchased, and cost of contracts entered into under the delegated authority, as well as annual reports with program costs, the rates charged to CleanPowerSF customers to recover those costs, and a comparison of those rates to PG&E rates. Since the Board of Supervisors approved the ordinance adding Chapter 21.43, the SFPUC has submitted three quarterly reports. Additionally, the SFPUC transmitted the most recent CleanPowerSF annual report to the Clerk of the Board on March 6, 2023.

Because the proposed ordinance waives (1) additional standard contracting provisions required by the City's municipal codes, and (2) the Board of Supervisors' authority under Charter Section 9.118, authorizing the SFPUC to enter into contracts longer than 10 years or in an amount of $10 million or more without further Board of Supervisors approval, approval of the proposed ordinance is a policy matter for the Board of Supervisors.

## RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

| **Item 8**<br>**File 23-0381** | **Department:** Airport |
|---|---|

**EXECUTIVE SUMMARY**

**Legislative Objectives**

- Authorize the Airport Commission to accept and expend one or more grants from the Federal Aviation Administration (FAA) Airport Terminal Program in the amount of up to $31,000,000, plus additional amounts up to 15 percent of the original grant amount that may be offered.

**Key Points**

- The Airport's International Terminal Building was built in 2000, and according to the Airport, the roof has reached the end of its useful life (20-25 years). The waterproofing and wet sealant systems have degraded and are failing in multiple locations, allowing water to enter the building. Buckets were placed throughout the terminal to collect rainwater during 2023 winter storms.
- The proposed grant would partially fund the Terminal Building Roof Upgrade Project to replace the roof membrane, waterproofing and wet sealant systems, remove corrosion, and other related activities. The project will also include installing photovoltaic panels that will generate approximately 2,000 megawatts of on-site power per year and replacement of the exterior envelope sealant to improve the air quality and energy efficiency of the building.

**Fiscal Impact**

- The total budget for the project is $90,000,000. The FAA Airport Terminal Program grant will fund $31,000,000. In addition, the Airport will fund approximately $59,000,000 of the total project costs. The source of the local matching funds is Airport Revenue Bonds as part of the Airport Capital Improvement Plan.

**Recommendation**

- Approve the proposed resolution.

## MANDATE STATEMENT

City Administrative Code Section 10.170-1 states that accepting Federal, State, or third-party grant funds in the amount of $100,000 or more, including any City matching funds required by the grant, is subject to Board of Supervisors approval.

## BACKGROUND

On November 15, 2021, President Biden signed into law the Infrastructure Investment and Jobs Act of 2021 (i.e., the Bipartisan Infrastructure Law). The Bipartisan Infrastructure Law included $5 billion for the newly established Airport Terminal Program. Under the Airport Terminal Program, the Federal Aviation Administration (FAA) makes annual competitive grants available to eligible airports for airport terminal development projects that address aging infrastructure.[1] The Airport Terminal Program reimburses up to 80 percent of eligible terminal development project costs, subject to availability of funding.

The San Francisco International Airport (Airport) applied for Airport Terminal Program grant funds for the International Terminal Building Roof Upgrade Project. In February 2023, Airport staff received an email Notice of Intent to Fund the Terminal Building Roof Upgrade Project; one of the 104 total projects selected at 99 airports throughout the United States for Fiscal Year 2022-23. The International Terminal Building was built in 2000, and according to the Airport, the roof has reached the end of its useful life (20-25 years). The waterproofing and wet sealant systems have degraded and are failing in multiple locations, allowing water to enter the building. Buckets were placed throughout the terminal to collect rainwater during 2023 winter storms.

### Airport Commission Approval

On March 21, 2023, pursuant to Resolution No. 23-0061, the Airport Commission authorized the Airport Director to accept and expend an anticipated $31,000,000 in Airport Terminal Program funding, subject to approval by resolution of the Board of Supervisors.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Airport Commission to accept and expend a grant from the FAA Airport Terminal Program in the amount of up to $31,000,000, plus additional amounts up to 15 percent of the original grant amount that may be offered for a period of October 2022 through September 2027.[2] The Airport is required to provide matching funds of $7,750,000.

### Grant Disbursement Schedule

The Airport anticipates receiving the FAA grant offer in June 2023. On October 1, 2022, the design work for the International Terminal Building Roof Upgrade Project began, paid for by General Airport Revenue Bonds. Airport staff expect the entire project to be completed by September

[1] https://www.faa.gov/sites/faa.gov/files/2022-02/Airport-Terminal-Program-NOFO_0.pdf

[2] According to Airport staff, this "15 percent" clause is standard language included in all Airport grant resolutions in case additional grant funding becomes available.

2025. However, the FAA grant performance period is four years from grant acceptance, likely ending in 2027.

**Project Scope**

The International Terminal Building Roof Upgrade Project will include replacement of the roof membrane, replacement of the waterproofing and wet sealant systems, removal of corrosion, and replacement of the façade access system.[3] The Project will also include installing photovoltaic panels that will generate approximately 2,000 megawatts of on-site power per year and replacement of the exterior envelope sealant[4] to improve the air quality and energy efficiency of the building. Attachment A provides an aerial view of the project.

**Contracted Services**

According to Airport staff, professional services for project design are being provided by a waterproofing consultant (WJE and Associates), architectural design firm (Hamilton Aitken), an electrical and photovoltaic design firm (Burns and McDonnell), a cost estimator (Hattin Construction Management), and a structural engineering firm (FTF Engineering). WJE and Associates was contracted through an existing As-Needed Exterior Envelope and Waterproofing Consulting Services contract. Hamilton Aitken, Burns and McDonnell, Hattin Construction Management, and FTF Engineering are sub-consultants as part of WJE and Associates' team on this project.

In addition, a project management support services (PMSS) firm will help manage the project during pre-construction and construction. PMSS services will be provided through an as-needed PMSS contract. The PMSS firm for this project has not yet been selected from the short-listed firms. Airport staff are expecting to negotiate the scope and budget for these services and issue a Notice to Proceed (NTP) in May/June 2023.

Webcor Construction, LP is the Construction Manager/General Contractor (CM/GC) for the construction of this project. Webcor Construction, LP was selected through a Request for Qualification/Request for Proposal (RFQ/RFP) process. On January 6, 2023, the Airport issued an RFP/RFQ for CM/GC Services for this project. On February 6, 2023, the Airport received three proposals in response to the RFQ/RFP. The Airport convened a four-member selection panel that reviewed qualified and responsive proposals as well as interviewed the shortlisted proposers and key personnel in accordance with the criteria stated in the RFQ/RFP. Based upon the evaluations by the selection panel and the results of the cost criteria calculation, Webcor Construction, LP has been determined to be the proposer providing the best value to the Airport. The Airport issued a Notice of Award to Webcor Construction, LP on April 4, 2023. The anticipated date for NTP will be in May 2023.

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[3] A façade access system is a system that allows workers to perform their daily tasks on a building's exterior facade. Façade access systems provide safe access to all necessary areas of a building's façade to perform tasks such as: window washing, inspections, façade repairs, cleaning, and maintenance, etc.

[4] Exterior envelope sealant is part of a curtain wall system that helps keep water out of the building envelope. It is the elastic material in between each piece of glazing or metal panel to allow for movement and keeping the water out.

## FISCAL IMPACT

The total cost of the Airport International Terminal Building Roof Upgrade Project is $90 million, as shown in Exhibit 1 below. No indirect costs are included in the budget to maximize use of grant funds. The Project is funded by the anticipated $31 million grant from the FAA's Airport Terminal Program (approximately 34 percent), and $59 million in Airport Revenue Bonds (66 percent), including required City matching funds of $7.75 million. Due to the availability of Airport Terminal Project funding in 2023, the actual grant amount that the Airport is receiving is less than 80 percent of the allowable reimbursable expenses.

**Exhibit 1. International Terminal Building Roof Upgrade Project, March 2023**

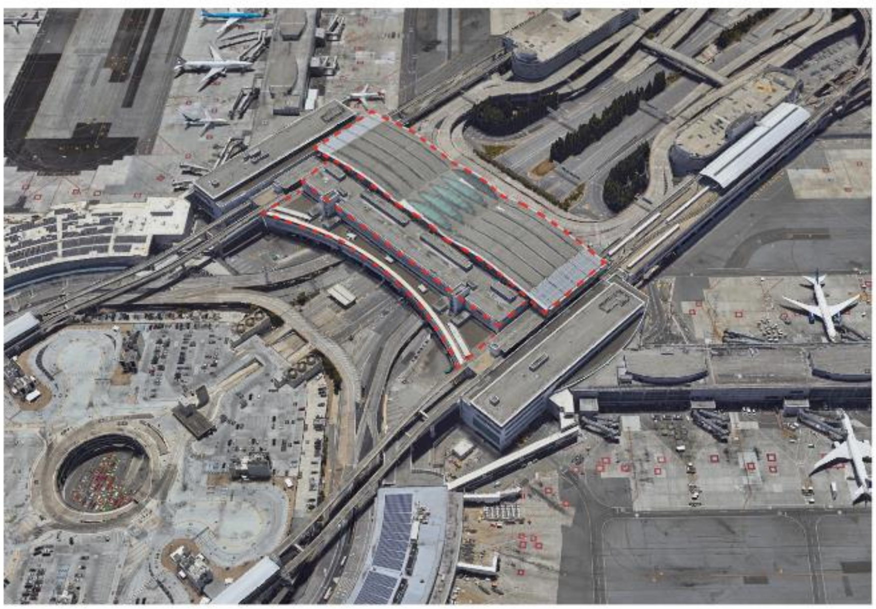
| | |
|---|---|
| **Sources** | |
| FAA Grant | 31,000,000 |
| Airport Revenue Bonds | 59,000,000 |
| **Total Sources** | **90,000,000** |
| **Expenditures** | |
| Internal Cost | 2,000,000 |
| Professional Services | 4,000,000 |
| Construction Services | |
| Cost of construction | $65,000,000 |
| Bond premiums | $500,000 |
| Management fee for pre-construction services | $800,000 |
| Management fee for construction services | $2,700,000 |
| Builder's fee for the construction of the project | $4,500,000 |
| Airport contingency | $10,500,000 |
| Subtotal, Construction | 84,000,000 |
| **Total Expenditures** | **90,000,000** |

Source: Airport
Notes: Internal Costs include Airport staff labor costs such as architectural, engineering, construction management, surveying facilities and airfield safety services. Professional Services and Construction Services will be completed by contractors.

## RECOMMENDATION

Approve the proposed resolution.

**Attachment A. Aerial View of International Terminal Building Roof Upgrade Project**



Source: Airport