CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

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TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: November 16, 2011 Budget and Finance Committee Meeting

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Item 1 File 11-1152	Department: San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objective

- The proposed resolution would authorize a new, approximately nine year and seven month Lease and Use Agreement (Lease) between the San Francisco International Airport (Airport) and Swiss International Air Lines, Limited (Swiss Air), for 632,292 total square feet of exclusive and non-exclusive space in the International Terminal, from approximately December 1, 2011 through June 30, 2021, as a signatory to the 2011 Lease and Use Agreement between the Airport and various airlines. That agreement was previously approved by the Board of Supervisors for 38 other airlines at the Airport.

Key Points

- Airlines can operate at the Airport either by: (a) signing a lease with the Airport authorizing the airline to operate flights in and out of the Airport, including a negotiated amount of exclusive and non-exclusive space for use by the airline as a signatory airline, or (b) obtaining a month-to-month Airline Operating Permit and a month-to-month Terminal Space and Use Permit as a non-signatory airline.
- The Airport has previously entered into a new 2011 Lease and Use Agreement with 38 signatory airlines for a period of ten years, from July 1, 2011 through June 30, 2021, which contain similar terms differentiated only by the number and type of aircraft, landing weights, and square footage of space. The Board of Supervisors has previously approved three resolutions between 2010 and 2011 consisting of 38 different signatory airlines into the 2011 Lease and Use Agreement (File 10-0351, File 10-1213, & File 11-0210). In addition, 12 other airlines operate at the Airport as non-signatory airlines, for a total of 50 airlines currently operating at the Airport.
- Swiss Air has operated at the Airport as a non-signatory airline under a month-to-month Airline Operating Permit and has occupied 631,987 square feet of joint use space under a Terminal Space and Use Permit since June 2, 2010. As of June 27, 2011, Swiss Air has occupied an additional 305 square feet of exclusive use space for a total of 632,292 square feet of space, under their current month to month Terminal Space and Use Permit.

Fiscal Impacts

- From July 1, 2011 through approximately November 30, 2011, Swiss Air is currently paying the Airport $59,533 per month in landing fees as a non-signatory airline. Under the proposed lease, the landing fees paid by Swiss Air to the Airport would be reduced to $47,626 per month from the date the proposed signatory lease is approved, or approximately from December 1, 2011, through June 30, 2012. The annual rent now being paid by Swiss Air to the Airport for both exclusive use space ($49,380) and joint use space ($1,682,395) in the International Terminal would remain the same for the remainder of FY 2011-12.
- Based on air traffic forecasts, projected revenues, and projections in operating expenses and debt service, the Airport projects that Swiss Air will pay the Airport an estimated total of $32,696,907 over the total lease term of approximately nine years and seven months from December 1, 2011 through June 30, 2021.
- Under the Airport's residual rate setting methodology (breakeven policy), the rental rates, and landing fees are adjusted annually such that the total amount of airline revenues received by the Airport is equal to the amount that all of the Airport's costs, including debt service and operating costs, exceed all of the non-airline revenues received by the Airport including concession and parking revenues.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

Section 2A.173 of the City's Administrative Code authorizes the Airport to negotiate and execute leases of Airport lands and space in Airport buildings without undergoing a competitive bid process, as long as the original term of the lease does not exceed 50 years.

City Charter Section 9.118 states that leases which would result in revenues to the City in excess of $1,000,000 are subject to Board of Supervisors approval.

Background

The rent and landing fees, which are charged by the Airport to the airlines, are determined by the Airport's "residual rate setting methodology (breakeven policy)." Under such methodology, the rental rates, landing fees, and related fees are adjusted annually such that the total amount of airline revenues received by the Airport is equal to the amount that all of the Airport's costs, including debt service and operating costs, exceed all of the non-airline revenues received by the Airport including concession and parking revenues.

Airlines can operate at San Francisco International Airport (Airport) either by: (a) signing a lease with the Airport as a "signatory airline" authorizing the airline to operate flights in and out of the Airport, including a negotiated amount of exclusive and non-exclusive space for use by the airline, or (b) obtaining a month-to-month Airline Operating Permit and a month-to-month Terminal Space and Use Permit as a "non-signatory airline." Pursuant to Federal law, non-signatory airlines are not required to enter into leases with the Airport.

According to Ms. Diane Artz, Senior Property Manager at the Airport, there are currently 50 airlines operating at the Airport. Of the 50 airlines, 38[1] signatory airlines are under the Airport's 2011 Lease and Use Agreement and 12 are non-signatory airlines operating under month-to-month Airline Operating Permits and Terminal Space and Use Permits. The 2011 Lease and Use Agreements with the 38 airlines extend for ten years from July 1, 2011 through June 30, 2021. The Board of Supervisors has previously approved three resolutions between 2010 and 2011 consisting of 38 different signatory airlines into the 2011 Lease and Use Agreement (File 10-0351, File 10-1213, & File 11-0210)

Ms. Artz notes that previous to the 2011 Lease and Use Agreement, there was little incentive for airlines to sign a lease with the Airport as both signatory and non-signatory airlines paid the same rental rates, and landing fees, as calculated by the residual rate setting methodology (breakeven policy). However, as part of the 2011 Lease and Use Agreements, beginning on July 1, 2011, each non-signatory airline is required to pay a 25 percent premium on landing fees in excess of the landing fees paid by the signatory airlines to the Airport. According to Ms. Artz, the 25 percent premium on landing fees for non-signatory airlines was intended to create a financial incentive for non-signatory airlines to enter into long term leases with the Airport.

[1] There were 39 airlines who were part of the 2011 Lease Agreement, however, Mexicana Airlines declared bankruptcy, and could not consummate the lease, and is no longer operating at the Airport.

Swiss International Air Lines, Limited (Swiss Air) has operated at the Airport as a non-signatory airline under a month-to-month Airline Operating Permit and has occupied 631,987 square feet of joint use space under a Terminal Space and Use Permit since June 2, 2010.

As of June 27, 2011, Swiss Air occupied an additional 305 square feet of exclusive use space for a total of 632,292 square feet of space, under their current month to month Terminal Space and Use Permit.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new Lease and Use Agreement (Lease) between the Airport and Swiss International Airlines, Limited (Swiss Air) for (a) the right to operate flights at the Airport's International Terminal, and (b) occupy a total of 632,292 square feet of space in the International Terminal, including 305 square feet of exclusive use space and 631,987 of joint use space, for the approximately nine year and seven month period of the lease from December 1, 2011 through June 30, 2021.

Currently, Swiss Air is operating at the Airport as a non-signatory airline under a month-to-month Airline Operating Permit and a month to month Terminal Space and Use Permit.

Under the proposed lease agreement, Swiss Air would become a signatory to the existing 2011 Lease and Use Agreement previously approved in 2010 and 2011 by the Board of Supervisors in three resolutions (File 10-0351, File 10-1213, & File 11-0210) for 38 other airlines at the Airport.

FISCAL IMPACT

As shown in Table 1 below, Swiss Air is currently paying a total of approximately $203,848 per month to the Airport for FY 2011-12. Approval of the proposed resolution would result in Swiss Air paying approximately $207,680 a month for FY 2012-13, the first full year under the proposed Lease and Use Agreement.

Table 1: Approximate Monthly Revenues paid by Swiss Air to the Airport

	FY 2011-12 Non-Signatory Month-to-Month Permits	FY 2012-13 Proposed New Signatory Lease
Landing Fees	$59,533	$51,532
Joint Use Rent	140,200	151,696
Exclusive Use Rent	4,115	4,452
Total Monthly Revenues:	**$203,848**	**$207,680**

As of July 1, 2011, under the terms of the 2011 Lease and Use Agreement with 38 signatory airlines, the 12 non-signatory airlines, which have operated at the Airport under Airline Operating Permits and Terminal Space and Use Permits, have been required to pay a 25 percent premium on landing fees in excess of the landing fees paid by the signatory airlines operating under lease at the Airport. Currently, under the existing month-to-month Airline Operating Permit, Swiss Air pays the Airport $59,533 per month in landing fees. As of the date the proposed new signatory lease is executed, or approximately December 1, 2011, Swiss Air will no longer be required to pay this 25 percent premium, such that Swiss Air will instead pay $47,626 per month in landing fees for the remainder of FY 2011-12 as a signatory airline.

As shown in the Attachment to this report, based on air traffic forecasts, projected revenues, and projections in operating expenses and debt service, the Airport projects that Swiss Air will pay the Airport total estimated revenues of $32,696,907 over the total lease term of approximately nine years and seven months, from approximately December 1, 2011 through June 2021, including $8,113,102 in landing fees, $23,882,827 for joint use rent space, and $700,978 for exclusive use rent space.

Under the proposed new 2011 Lease and Use Agreement, Swiss Air would pay the Airport revenues based on the annual rental rates and landing fees, calculated under the Airport's breakeven policy included under the existing Lease and Use Agreement for the 38 other airlines, such that the lease rates are differentiated only by the number and type of aircraft, landing weights, and square footage of space.

RECOMMENDATION

Approve the proposed resolution.

Projected Revenues over the Proposed 9 Year, 7 Month Lease

LANDING FEES

Fiscal Yr	% Increase	Landing Fee per 1,000 lbs	Max Landed Weight/1,000 lbs	Landing Fee per Flight	Flights per Month	Landing Fees per Month	Landing Fees per Year	
FY 11/12	Base	$3.79	418.88	$1,587.55	30	$47,626.43	$333,385.00	*
FY 12/13	8.2%	$4.10	418.88	$1,717.73	30	$51,531.80	$618,381.55	
FY 13/14	9.1%	$4.47	418.88	$1,874.04	30	$56,221.19	$674,654.27	
FY 14/15	11.4%	$4.98	418.88	$2,087.68	30	$62,630.40	$751,564.86	
FY 15/16	10.8%	$5.52	418.88	$2,313.15	30	$69,394.49	$832,733.86	
FY 16/17	7.6%	$5.94	418.88	$2,488.95	30	$74,668.47	$896,021.63	
FY 17/18	5.1%	$6.24	418.88	$2,615.89	30	$78,476.56	$941,718.74	
FY 18/19	4.7%	$6.54	418.88	$2,738.83	30	$82,164.96	$985,979.52	
FY 19/20	3.7%	$6.78	418.88	$2,840.17	30	$85,205.06	$1,022,460.76	
FY 20/21	3.3%	$7.00	418.88	$2,933.89	30	$88,016.83	$1,056,201.97	
							[redacted]	

* For FY 2011-12, the Landing Fees are based upon the prorated 7 months remaining in FY 2011-12

JOINT USE RENTS

(Based on 631,987 square feet of joint use space)

Fiscal Yr	% Increase	Yearly Rent	
FY 11/12	Base	$981,397.27	*
FY 12/13	8.2%	$1,820,351.74	**
FY 13/14	9.1%	$1,986,003.74	
FY 14/15	11.4%	$2,212,408.17	
FY 15/16	10.8%	$2,451,348.25	
FY 16/17	7.6%	$2,637,650.72	
FY 17/18	5.1%	$2,772,170.91	
FY 18/19	4.7%	$2,902,462.94	
FY 19/20	3.7%	$3,009,854.07	
FY 20/21	3.3%	$3,109,179.25	
		[redacted]	

* For FY 2011-12, Joint Use Rents are based upon the prorated 7 months remaining in FY 2011-12

**Approximately $151,696 per month

EXLUSIVE USE RENTS

(Based on 305 square feet of exclusive use space)

Fiscal Yr	% Increase	Cat II Rate	Yearly Rent	
FY 11/12	Base	$161.90	$28,804.71	*
FY 12/13	8.2%	$175.18	$53,428.62	**
FY 13/14	9.1%	$191.12	$58,290.62	
FY 14/15	11.4%	$212.90	$64,935.75	
FY 15/16	10.8%	$235.90	$71,948.82	
FY 16/17	7.6%	$253.83	$77,416.93	
FY 17/18	5.1%	$266.77	$81,365.19	
FY 18/19	4.7%	$279.31	$85,189.35	
FY 19/20	3.7%	$289.64	$88,341.36	
FY 20/21	3.3%	$299.20	$91,256.62	
			[redacted]	

* For FY 2011-12, the Exclusive Rents are based upon the prorated 7 months remaining in FY 2011-12

**Approximately $4,452 per month

[redacted]	$8,113,102
	$23,882,827
	$700,978
	$32,696,907

Items 2 **Files 11-1111**	**Department:** Controller

EXECUTIVE SUMMARY

Legislative Objectives

- Resolution establishing the City and County's Appropriations Limit for FY 2011-2012 pursuant to Article XIII B of the California Constitution. This report is based on an Amendment of the Whole, submitted by the Controller's Office to the Budget and Finance Committee on November 1, 2011.

Key Points

- The proposed resolution would establish the City's Appropriations Limit in FY 2011-2012 at $2,527,091,225 pursuant to Article XIII B of the California Constitution.
- California Government Code Sections 7901 and 7902(b) define the terms and the calculation to be used in setting the Appropriations Limit, respectively.
- According to Article XIII B, the Appropriations Limit does not apply to any tax proceeds appropriated due to (a) voter approved indebtedness, (b) federally mandated services, (c) qualified capital outlays, and (d) various hazardous waste programs administered by the Department of Public Health.
- For FY 2011-2012, based on the Controller's calculation, the City's total tax proceeds subject to the FY 2011-2012 Appropriations Limit is $2,239,565,962, or $287,525,263 less than the City's Appropriations Limit of $2,527,091,225, as calculated by the Controller.

Policy Consideration

- In calculating the cost of living adjustment to the Appropriations Limit, the Controller can use either (a) the percentage change in California per-capita income from the preceding year or (b) the percentage change in the local assessment roll from the preceding year due to the change in local non-residential new construction. In using the change in California per-capita income, the City's Appropriations Limit is calculated at $2,527,091,225. Instead, if the change in non-residential new construction assessment is used, the City's Appropriation Limit is calculated as $2,471,130,859, or $55,960,366 less than the proposed Appropriations Limit of $2,527,091,225 based on the percentage change in California per-capita income from the preceding year. Using either cost of living adjustment, the City's FY 2011-2012 net tax proceeds of $2,239,565,962 is below the FY 2011-2012 Appropriations Limit.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

On November 6, 1979, California voters approved Proposition 4, known as the Gann Initiative, which added Article XIII B to the California Constitution. Article XIII B (later amended by State Proposition 111, as approved by the voters in June of 1990) limits the annual growth in appropriations from the proceeds of Property Taxes to the percentage change in the cost of living and the percentage change in population. According to Article XIII B, the Appropriations Limit does not apply to any Property Tax proceeds appropriated due to (a) voter approved indebtedness, (b) federally mandated services, (c) qualified capital outlays, and (d) various hazardous waste programs administered by the Department of Public Health.

DETAILS OF PROPOSED LEGISLATION

This report is based on an Amendment of the Whole, which was submitted by the Controller's Office to the Budget and Finance Committee on November 1, 2011.

The proposed resolution would establish the City's Appropriations Limit in FY 2011-2012 at $2,527,091,225 as calculated by the Controller, pursuant to Article XIII B of the California Constitution. The City's Appropriations Limit for FY 2011-2012 is based on the amount of the FY 2010-2011 Appropriations Limit multiplied by a cost of living adjustment[1] and a population adjustment[2].

Table 1 below shows how the City's proposed FY 2011-2012 Appropriations Limit of $2,527,091,225 was calculated by the Controller's Office.

Table 1: Proposed Appropriations Limit

FY 2010-2011 Appropriations Limit	$2,441,531,489
Adjusted by:	
Cost of Living (based on the percentage change in California per-capita income from the preceding year)	2.51%
Population (based on the population growth for the calendar year preceding the beginning of the fiscal year)	.97%
Proposed FY 2011-2012 Appropriations Limit	**$2,527,091,225***

*$2,441,531,489 x 1.0251 x 1.0097 equals $2,527,091,225.

California Government Code Sections 7901 and 7902(b) define the terms and the calculation to be used in setting the Appropriations Limit, respectively.

The change in population is defined in California Government Code Section 7901(b) as the population growth for the calendar year preceding the beginning of the fiscal year for which the appropriations limit is to be determined. According to the California Department of Finance, in calendar year 2010, San Francisco's population growth was 0.97 percent.

[1] The cost of living adjustment is defined by California Government Code Section 7902(b) as either (a) the percentage change in California per-capita income from the preceding year or (b) the percentage change in the local assessment roll from the preceding year due to the addition of local non-residential new construction.

[2] The population adjustment is defined as the percentage change in population over the previous calendar year.

The cost of living is defined by California Government Code Section 7902(b) as either (a) the percentage change in California per-capita income from the preceding year or (b) the percentage change in the local assessment roll from the preceding year for the jurisdiction due to the addition of local non-residential new construction. The Controller's Office, at their discretion, used the increase in California per-capita income from calendar year 2010, or 2.51 percent, as the cost of living adjustment.

FISCAL IMPACTS

The City's FY 2011-12 tax proceeds, as determined by the Controller, are $2,493,383,056. As shown in Table 1 above, the proposed resolution would establish the City's Appropriations Limit in FY 2011-2012 at $2,527,091,225, as calculated by the Controller, pursuant to Article XIII B to the California Constitution. According to Article XIII B, the City's Appropriations Limit does not apply to tax proceeds appropriated due to (a) voter approved indebtedness, (b) federally mandated services, (c) qualified capital outlays, and (d) various hazardous waste programs in the Department of Public Health. As a result of these exclusions, as shown in Table 2 below, a total of $253,817,094 is excluded from the City's total FY 2011-2012 tax proceeds of $2,493,383,056. Based on the Controller's calculations, an estimated total of $2,239,565,962 of the City's net tax proceeds would be subject to the City's FY 2011-2012 Appropriations Limit.

Table 2: Tax Proceeds Subject to the Proposed Appropriations Limit

Total FY 2011-2012 Tax Proceeds	$2,493,383,056
Exclusions	
Voter Approved Indebtedness	(189,592,548)
Federally Mandated Services	(55,011,598)
Qualified Capital Outlays	(5,630,131)
Hazardous Waste Program	(3,582,817)
Subtotal Excluded	**($253,817,094)**
FY 2011-2012 Net Tax Proceeds Subject to Appropriations Limit	**$2,239,565,962**

Therefore, the City's FY 2011-2012 net tax proceeds of $2,239,565,962, as shown in Table 2 above, are $287,525,263 less than the City's proposed FY 2011-2012 Appropriations Limit of $2,527,091,225, shown in Table 1 above.

In accordance with the Administrative Provisions of the Annual Appropriations Ordinance, any FY 2011-2012 tax proceeds in excess of current estimates must be appropriated to the City's General Fund General Reserve, which is used as a revenue source (a) to fund supplemental appropriations during the current fiscal year, and (b) to fund the City's budget for the next fiscal year.

POLICY CONSIDERATION

As noted above, to calculate the cost of living adjustment to the City's Appropriations Limit, the Controller has the discretion to use either (a) the percentage change in California per-capita income from the preceding year, or (b) the percentage change in the local assessment roll from the preceding year due to the addition of local non-residential new construction. In using the change in California per-capita income, which is 2.51 percent, the City's Appropriations Limit is calculated to be $2,527,091,225. If the alternative cost of living adjustment, the change in non-residential new construction assessments is used, which is .24 percent, instead of the 2.51 percent, the City's Appropriations Limit would be calculated at $2,471,130,859 ($2,441,531,489 x 1.0024 x 1.0097) or $55,960,366 less than the proposed Appropriations Limit of $2,527,091,225 Under either cost of living adjustment, the FY 2011-2012 net tax proceeds of $2,239,565,962, as shown in Table 2 above, would be below the City's FY 2011-2012 Appropriations Limit.

RECOMMENDATION

Approve the proposed resolution.

Item 6 **File 11-1096**	**Department :** Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would (a) authorize the City, through the Public Utilities Commission (PUC), to execute the second amendment to an existing agreement with the United States, through the Department of Energy's Western Area Power Administration (WAPA) to approve, (a) retroactive to September 30, 2011, the extension of the existing Full Load Service (FLS) agreement, which currently expires on September 30, 2015 by five years which would result in the existing agreement expiring on September 30, 2020, (b) increase the estimated cost of the existing agreement, from September 1, 2005 through September 30, 2020, or 15 years and one month, to not exceed $13,890,000, although the existing agreement would not include a not-to-exceed amount, (c) indemnify and hold WAPA harmless against claims arising from the activities of the PUC under the agreement, (d) waive the requirement of Administrative Code Section 21.35 that every agreement contain a statement regarding the liabilities of claimants submitting false claims, and (e) waive the requirement that every agreement contain a statement regarding guaranteed maximum costs (a not-to-exceed amount).

Key Points

- On January 11, 2005, the Board of Supervisors approved a FLS agreement between the PUC and WAPA for the term from September 1, 2005 through September 30, 2010 for WAPA to provide supplemental electricity for Treasure Island from third party electricity generators (Ordinance No. 17-05). On December 4, 2007, the Board of Supervisors approved the first amendment to this FLS agreement with WAPA, to extend the term by five years through September 30, 2015 (Ordinance No. 276-07). The PUC approved a resolution that this amended agreement, from September 1, 2005 through September 30, 2010, can not exceed $4,240,000.

- The PUC has expended a total of $3,479,545 under the existing FLS agreement from September 1, 2005 through September 30, 2011. The PUC estimates expending an additional approximately $2,827,800 for the four-year period from October 1, 2011 through September 30, 2015 when the existing agreement expires. Therefore, the PUC anticipates expending a total of approximately $6,307,345 for the 10 years and one month period from September 1, 2005 through September 30, 2015, or $2,067,345 more than the existing $4,240,000 not to exceed amount.

Fiscal Impact

- The total estimated cost to the PUC for purchasing supplemental electricity and related portfolio management charges under the proposed five-year extension of the existing agreement, from October 1, 2015 through September 30, 2020, is $9,643,543.

- The total estimated costs under the existing agreement, including the proposed amendment, extending the existing agreement by five years, resulting in a total term of 15 years and one month, from September 1, 2005 through September 30, 2020, are $15,950,888 ($9,643,543 for the proposed five-year extension plus $6,307,345 for the existing agreement term of 10 years and one month), which is $2,060,888 more than the currently estimated not-to-exceed amount of $13,890,000 included in the proposed ordinance.

Policy Consideration

- A competitive process has not been initiated in order to ascertain what the specific costs would be from another third party provider to ensure that the City is obtaining the lowest price possible for the purchase of the supplemental electricity. No competitive process has been initiated because (a) the PUC is purchasing small amounts of electricity in comparison to other purchasers and would pay a premium for the amounts it would purchase, (b) WAPA purchases large amounts of electricity and receives cost savings which it passes on to the PUC, and (c) the purchased electricity would need to be delivered to WAPA's transmission center which is located in Oakland that would require transmission agreements by the PUC in addition to the cost of purchasing the electricity itself. Therefore, the PUC believes that it is getting the lowest price possible for this supplemental electricity. It should be noted that, for the same reasons stated above, the existing agreement between the PUC and WAPA, as previously approved by the Board of Supervisors, was awarded on a sole source basis without utilizing competitive bid processes.

- While the proposed amendment to the existing agreement does not include a not-to-exceed amount, per the waiving of Administrative Code Section 21.19, the proposed ordinance does include a not-to-exceed amount of $13,890,000. The PUC will continue to monitor its expenditures on the existing agreement and, if it is anticipated that the PUC will exceed the $13,890,000 not-to-exceed amount, the PUC would be required to obtain approval by the Public Utilities Commission and subsequently the Board of Supervisors to increase that not-to-exceed amount if that increase exceeds $500,000 as is required by Charter Section 9.118(b).

- Given that the estimated expenditures under the proposed amendment to the existing agreement are $15,950,885, the proposed ordinance should be amended to reflect a not-to-exceed amount of $15,950,885 rather than the $13,890,000 currently included in the proposed ordinance.

Recommendations

- Amend the proposed ordinance to reflect the updated estimate of $15,950,888, rather than the $13,890,000 now included in the proposed ordinance, as the not-to-exceed amount in order to account for the total estimated supplemental electricity costs from September 1, 2005 through September 30, 2020.

- Approve the proposed ordinance as amended.

MANDATE STATEMENT/ BACKGROUND

Mandate Statement

In accordance with Charter Section 9.118(b), City agreements with anticipated expenditures of $10,000,000, or more or amendments to such City agreements with anticipated expenditures of more than $500,000 are subject to approval by the Board of Supervisors.

Background

The City, through the Public Utilities Commission (PUC), is currently providing electricity to Treasure Island and Yerba Buena Island under a multi-year cooperative agreement that the City, through the Treasure Island Development Authority (TIDA), has with the United States Navy.[1]

In order to provide that electricity, the PUC currently has an existing agreement with the U.S. Department of Energy's Western Area Power Administration (WAPA) for the delivery of low-cost Federal electricity services to Treasure Island and Yerba Buena Island from January 1, 2005 through December 31, 2024, which was approved by the Board of Supervisors on January 22, 2001 (Resolution No. 56-01). The existing agreement provides baseline electricity to Treasure Island and Yerba Buena Island from electricity sourced from two federal hydropower projects, the Central Valley Project and the Washoe Project, but does not provide supplemental electricity[2] if electricity needs are in excess of the baseline electricity needs.[3] The costs of the electricity under the existing agreement are recovered in full through Treasure Island and Yerba Buena Island electric utility rates and are included in the PUC's annual budget. From 2009 through 2010, WAPA provided baseline electricity at an average of 7,226 megawatt hours per year.

In order to provide supplemental electricity to Treasure Island and Yerba Buena Island in the event that the baseline electricity provided is not sufficient, the PUC entered into a separate Full Load Service (FLS) agreement with WAPA, with a term from September 1, 2005 through September 30, 2010, which was approved by the Board of Supervisors on January 11, 2005 (Ordinance No. 17-05) in which WAPA provides supplemental electricity from third party electricity generators at market rates. On December 4, 2007, the Board of Supervisors approved the first amendment to the existing FLS agreement with WAPA, which extended the FLS agreement by five years through September 30, 2015 in order to allow WAPA to begin purchasing electricity beyond September 30, 2010 (Ordinance No. 276-07). In addition to providing supplemental electricity, the existing FLS agreement also provides portfolio management services[4] to meet Treasure Island and Yerba Buena Island's electricity needs. All of the costs of the electricity under the existing FLS agreement are recovered in full through Treasure Island and Yerba Buena Island electric utility rates and are included in the PUC's annual budget

[1] Under the cooperative agreement between the TIDA and the United States Navy, TIDA assumes responsibility for (a) operating and maintaining water, waste water, storm water, electricity and gas utility systems, (b) security and public health and safety services, (c) grounds and street maintenance and repair, and (d) property management and caretaker services. On September 13, 2011, the Board of Supervisors authorized the extension of the existing cooperative agreement from October 1, 2011 through September 30, 2012 (Resolution No. 372-11).

[2] Supplemental electricity is electricity provided by WAPA in addition to the baseline electricity provided to meet the PUC's electricity needs on Treasure Island and Yerba Buena Island.

[3] Under the existing agreement, the amount of baseline electricity that the PUC receives is .17264 percent of the electricity available for market after (a) meeting the electricity needs of the Central Valley Project and the Washoe Project and first preference customers who are wholly located in Trinity, Calaveras, or Tuolomne Counties within California and (b) any other adjustments required for maintenance, regulation, reserves, transformation losses and ancillary services.

[4] Portfolio management services consist of providing (a) historical electricity load data, (b) expected future electricity loads to determine electric power schedules for Treasure Island and Yerba Buena Island, and (c) purchasing and selling electricity from and to third party providers.

The ordinances approving both the original FLS agreement, and the existing amended FLS agreement, as previously approved by the Board of Supervisors, (a) indemnified and held WAPA harmless against claims arising from the activities of the PUC under the agreement, (b) waived the requirement of Administrative Code Section 21.35 that every agreement contain a statement regarding the liabilities of claimants submitting false claims, and (c) waived the requirement that every agreement contain a statement regarding guaranteed maximum costs (a not-to-exceed amount). However, the Public Utilities Commission adopted a resolution on October 9, 2007, which limited the amount of the amended agreement to not exceed $4,240,000 from September 1, 2005 through September 30, 2015, but that not-to-exceed amount was not approved by the Board of Supervisors, although an estimate of the total costs of the agreement was included in the ordinance that was approved. According to a previous Budget and Legislative Analyst report on the first amendment to the existing agreement, dated November 14, 2007, the City Attorney's Office advised that these indemnification and waiver provisions are standard language required by agreements with WAPA and pose little risk to the City. All expenditures under the WAPA agreements are included in the PUC's budget and therefore subject to appropriation approval by the Board of Supervisors. In addition, the existing FLS agreement contains a provision allowing the PUC to terminate the existing FLS agreement without cause, with three months written notice.

According to Mr. Sam Laraño, Manager of Interconnection Services and Redevelopment at the PUC, as shown in Table 1 below, the PUC has expended a total of $3,479,545 for supplemental electricity and related portfolio management charges under the existing FLS agreement from September 1, 2005 through September 30, 2011, with a total megawatt-hour[5] usage of 51,243 megawatt-hours. Based on the PUC's total expenditures of $3,479,545 from September 1, 2005 through September 30, 2011, the PUC expended an average of $571,980 per year over this six-year period.

Table 1: Total Electricity Usage and Cost under FLS Agreement with WAPA for the Six Year and One Month Period from September 1, 2005 through September 30, 2011

	Actual Electricity Usage in Megawatt-hours under FLS Agreement	Cost per Megawatt-hour	Total Cost of Electricity Usage Under FLS Agreement	Portfolio Management Charges (See Footnote 4 Above)	Total Cost of Electricity Plus Portfolio Management Under FLS Agreement
9/2005 - 12/2005	2,823	$76.31	$215,389	$10,200	$225,589
1/2006 - 12/2006	3,654	67.53	246,715	30,600	277,315
1/2006 - 12/2007	9,512	66.16	629,349	30,600	659,949
1/2008 - 12/2008	10,209	74.85	764,097	30,600	794,697
1/2009 - 12/2009	11,182	57.44	642,282	30,600	672,882
1/2010 - 12/2010	9,548	58.35	557,134	30,600	587,734
1/2011- 9/2011	4,315	$55.26	238,429	22,950	261,379
Total	**51,243**		**$3,293,395**	**$186,150**	**$3,479,545***

* - Average annual cost of $571,980

[5] A megawatt-hour is a unit of energy equivalent to one megawatt of electricity expended for one hour of time.

Mr. Laraño estimates that, as shown in Table 2 below, the PUC will expend approximately $2,827,801 for electricity usage and portfolio management charges for the remaining four-year period under the existing agreement, or from October 1, 2011 through September 30, 2015.

Table 2: Projected Cost of Remaining Four-Year Period under the Existing Agreement, from October 1, 2011 through September 30, 2015

	Estimated Electricity Usage Under FLS Agreement (in Megawatt-Hours)	Projected Cost Per Megawatt-Hour	Projected Cost of Electricity Usage Under FLS Agreement	Estimated Portfolio Management Charges	Estimated Total Cost of Electricity Plus Portfolio Management Under FLS Agreement
10/2011-12/2011	3,263	$41.00	$133,787	$8,500	$142,287
1/2012-12/2012	10,333	42.24	436,453	34,000	470,453
1/2013-12/2013	10,303	54.50	561,526	34,000	595,526
1/2014-12/2014	10,457	58.75	614,325	34,000	648,325
1/2015-9/2015	15,131	62.50	945,710	25,500	971,210
Total			**$2,691,801**	**$136,000**	**$2,827,801**

The Budget and Legislative Analyst notes that, given that the PUC has already expended $3,479,545 for supplemental electricity and portfolio management charges for the six-year and one month period from September 1, 2005 through September 30, 2011 and the PUC estimates expending an additional $2,827,801 for the four-year period from October 1, 2011 through September 30, 2015, an estimated total of $6,307,346 will be incurred for supplemental electricity and related portfolio management charges under the existing September 1, 2005 through September 30, 2015 agreement. The Budget and Legislative Analyst also notes that this estimated total of $6,307,346 is $2,067,346 more than the not-to-exceed $4,240,000 amount that the PUC has currently committed to not exceeding.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would authorize the City and County of San Francisco, through the Public Utilities Commission (PUC), to execute the second amendment to the existing agreement between the United States, through the Department of Energy's Western Area Power Administration (WAPA), enabling the PUC to approve (a) retroactive to September 30, 2011, the extension of the existing Full Load Service (FLS) agreement[6], which currently expires on September 30, 2015 by five years which would result in the existing agreement expiring on September 30, 2020, (b) increase the estimated cost of the agreement to a not-to-exceed amount of $13,890,000, (c) indemnify and hold WAPA harmless against claims arising from the activities of the PUC under the agreement, (d) waive the requirement of Administrative Code

[6] A FLS agreement is an agreement by which WAPA provides the PUC with supplemental electricity to meet its electricity needs beyond the baseline electricity provided by WAPA under a separate agreement.

Section 21.35 that every agreement contain a statement regarding the liabilities of claimants submitting false claims, and (e) waive the requirement that every agreement contain a statement regarding guaranteed maximum costs (a not-to-exceed amount).

The proposed five-year extension (proposed second amendment) of the existing agreement between the PUC and WAPA, until September 30, 2020 would allow WAPA to begin purchasing electricity for periods beyond the existing agreement's expiration date of September 30, 2015. The proposed ordinance would be retroactive to September 30, 2011 to accommodate WAPA's requirement that the existing agreement be amended by September 30, 2011 if the PUC wishes to continue their FLS agreement beyond September 30, 2015 when the existing agreement expires.

On September 13, 2011 the Public Utilities Commission approved the subject proposed second amendment to the agreement (Resolution No. 1100153).

FISCAL IMPACTS

According to Mr. Laraño, as shown in Table 3 below, the total estimated cost of purchasing supplemental electricity and the related portfolio management service charges under the proposed five year extension of the existing agreement from October 1, 2015 through September 30, 2020 is $9,643,543 for 125,529 mega-watt hours of electricity.

Table 3: Projected Cost of Proposed Five-Year Extension of Existing Agreement, from October 1, 2015 through September 30, 2020

	Estimated Electricity Usage Under FLS Agreement (in Megawatt-Hours)	Projected Price Per Megawatt-Hour[7] Under FLS Agreement	Projected Cost of Electricity Usage Under FLS Agreement	Estimated Portfolio Management Charges	Estimated Total Cost of Electricity Plus Portfolio Management Under FLS Agreement
10/2015-12/2015	6,020	$62.50	$376,257	$8,500	$384,757
1/2016-12/2016	22,713	66.25	1,504,752	34,000	1,538,752
1/2017-12/2017	23,581	70.00	1,650,662	34,000	1,684,662
1/2018-12/2018	25,680	76.89	1,974,550	34,000	2,008,550
1/2019-12/2019	25,881	81.94	2,120,681	34,000	2,154,681
1/2020 - 9/2020	21,654	$85.28	1,846,640	25,500	1,872,140
Total	**125,529**		**$9,473,543**	**$170,000**	**$9,643,543**

Therefore, under the proposed amended agreement, the estimated cost of $9,643,543 to purchase supplemental electricity for the five year period from October 1, 2015 through September 30,

[7] According to Mr. Larano, the projected prices used to determine total cost of the proposed ordinance are based on the Forward Price Curve for Electricity, which is the industry standard for forward pricing of electricity. The electricity prices provided are location and area-specific based on the point of delivery for the energy.

2020 is an average of $1,928,709 per year, which is $1,356,729, or over 237 percent more than the current average of $571,980 (See Table 1 above) annually expended under the existing agreement from September 1, 2005 through September 30, 2011. According to Mr. Laraño, this increase in demand for supplemental electricity is due to the anticipated development of Treasure Island[8], which includes the development of new housing and commercial offices, estimated to be completed by 2015 at the earliest. The Budget and Legislative Analyst also notes that, as shown in Table 3 above, the projected price per megawatt-hour is also anticipated to increase annually, resulting in higher total costs per mega-watt hour under the proposed extended agreement. However, Mr. Laraño advises that these prices are determined in a standard manner across electricity providers and would not vary if another electricity provider were chosen by the PUC to provide supplemental electricity to Treasure Island and Yerba Buena Island.

The total costs under the agreement, including the proposed five-year extension, from September 1, 2005 through September 30, 2020, or a total term of 15 years and one month, are estimated to be $15,950,888 ($9,643,543 for the five-year extension plus $6,307,345 for the existing agreement of 10 years and one month), which is $2,060,888 more than the currently estimated not-to-exceed amount of $13,890,000 included in the proposed ordinance. Therefore, the Budget and Legislative Analyst recommends that, if the Board of Supervisors approves the proposed amendment to extend the existing agreement by five years, the proposed ordinance be amended to reflect the updated estimate of $15,950,888 as the not-to-exceed amount in order to account for the total estimated supplemental electricity costs and related portfolio management charges from September 1, 2005 through September 30, 2020. The Budget and Legislative Analyst notes that the cost of the proposed increase in the not-to-exceed amount from $13,890,000 to $15,950,888 are fully reimbursed to the PUC from the electricity revenues received by the PUC for electricity charged to customers on Treasure Island and Yerba Buena Island.

POLICY CONSIDERATIONS

The Budget and Legislative Analyst notes that the primary purpose for extending the existing agreement is the assumption that purchasing supplemental electricity for Treasure Island and Yerba Buena Island from another third party provider, such as Pacific Gas & Electric (PG&E), would be more expensive than continuing to purchase supplemental electricity through the existing agreement with WAPA. According to Mr. Laraño, the cost of purchasing supplemental electricity from third party providers from 2015 through 2020 would be determined in the same way that WAPA bases its prices, but that there would be additional costs to provide the service due to the need to coordinate with WAPA to determine the availability of WAPA's base resource energy, and to schedule, procure, and deliver the balance of the energy required to Treasure Island on a timely basis. According to Mr. Larano, while WAPA provides this service at cost to

[8] According to Mr. Laraño, initial transfer of property at Treasure Island to the developer is estimated to occur in 2012. After that initial property transfer, initial design work, including development of new roadways and utility infrastructure, on the transferred property would take from 12 to 24 months. If the planned transfer occurs in the beginning of 2012, the design can be completed by early 2014. Initial infrastructure construction is anticipated to take 12 to 24 months to complete and is currently estimated to be completed between 2014 and 2015. Construction of housing, offices, etc., is anticipated to begin with the first new homes and offices to be occupied between 2015 and 2016.

the PUC, a third party, such as PG&E, would need to cover its costs and would also add additional fees in order to make a profit, making purchasing electricity from a different third party provider more expensive.

However, the Budget and Legislative Analyst notes that a competitive process was not initiated for the subject proposed five-year extension in order to ascertain what the specific costs would be for purchasing supplemental electricity for Treasure Island and Yerba Buena Island from alternative third party providers in order to ensure that the City is obtaining the lowest price possible for this supplemental electricity. Mr. Larano advises that this proposed five-year extension is recommended for award by the PUC on a sole source basis and that no competitive process has been initiated because (a) the PUC is purchasing small amounts of electricity in comparison to other purchasers and would pay a premium for the amounts it would purchase, (b) WAPA purchases large amounts of electricity and receives cost savings which it passes on to the PUC, and (c) the purchased electricity would need to be delivered to WAPA's transmission center which is located in Oakland that would require transmission agreements by the PUC in addition to the cost of purchasing the electricity itself. Therefore, the PUC believes that it is getting the lowest price possible for this supplemental electricity.

It should be noted that for the same reasons stated above, the existing agreement between the PUC and WAPA, as previously approved by the Board of Supervisors, was awarded on a sole source basis without utilizing competitive bid processes.

The Budget and Legislative Analyst also notes that the proposed ordinance (a) approves indemnifying and holding WAPA harmless against claims arising from the activities of the City, (b) waives the Administrative Code Section 21.35 requirement that every agreement contain a statement regarding liability of claimants for submitting false claims, and (c) waives the Administrative Code Section 21.19 requirement that every agreement contain a statement regarding guaranteed maximum costs, or a not-to-exceed amount. However, the City Attorney's Office advises that the above provisions are standard language required by agreements with WAPA, have been included in previous agreements with WAPA for decades, as previously approved by the Board of Supervisors, and pose little risk to the City. The City Attorney's Office also advises that all expenditures under the proposed amendment are subject to appropriations approval by the Board of Supervisors and that the PUC can terminate the FLS agreement without cause, with three months written notice, leaving little risk to the City in approving such waivers.

The Budget and Legislative Analyst also notes that while the proposed amendment to the existing agreement does not specify a not-to-exceed amount, since the proposed ordinance waives Administrative Code Section 21.19, the proposed ordinance specifies a not-to-exceed amount of $13,890,000. Ms. Margarita Gutierrez of the City Attorney's Office advises that if the proposed ordinance is approved, the Board of Supervisors will only have granted the PUC the authority to purchase electricity up to the not-to-exceed amount and therefore the PUC would be required to request approval by the Board of Supervisors for all expenditures which exceed the not-to-exceed $13,890,000 amount by more than $500,000. In any event, expenditures are subject to appropriation approval by the Board of Supervisors. However, given that the estimated expenditures under the proposed amendment to the existing agreement are $15,950,885, the proposed ordinance should be amended to reflect a not-to-exceed amount of $15,950,885 rather than the $13,890,000 currently included in the proposed ordinance.

RECOMMENDATION

1. Amend the proposed ordinance to reflect the updated estimate of $15,950,888, rather than the $13,890,000 now included in the proposed ordinance, as the not-to-exceed amount in order to account for the total estimated supplemental electricity and portfolio management costs from September 1, 2005 through September 30, 2020.

2. Approve the proposed ordinance as amended.

Item 7 File 11-1094	Department: Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objective

- The proposed resolution would approve the First Amendment to the existing Memorandum of Understanding (MOU) between the PUC and the Alameda County Resource Conservation District (ACRCD) to (a) increase the amount of the MOU by $775,000, from not-to-exceed $2,000,000 to not-to-exceed $2,775,000, and (b) extend the MOU term by nine years, from the current term of five years (December 9, 2008 - December 8, 2013) to the new term of 14 years (December 9, 2008 - December 8, 2022).

Key Points

- The Board of Supervisors Budget and Finance Committee originally considered the proposed resolution on November 2, 2011, at which time the PUC asked that the item be continued.
- On April 1, 2010, the PUC, as part of the overall Water System Improvement Program (WSIP), began construction of the $307,000,000 Bay Division Pipeline Reliability Upgrade Project ("Project"), in which the PUC is constructing a tunnel under the San Francisco Bay to transport water from Alameda County to Santa Clara County. In accordance with the California Environmental Quality Act (CEQA), a Final Environmental Impact Report (FEIR) was prepared for the Project, which included a Mitigation, Monitoring and Reporting Program (MMRP) for two impacted areas along the Alameda Creek Watershed, near Sunol, California.
- The PUC entered into a five-year MOU with ACRCD from December 9, 2008 through December 8, 2013, in an amount not-to-exceed $2,000,000, for ACRCD to plan and implement watershed protection projects in the Upper Alameda Watershed and to mitigate for potential impacts associated with WSIP projects in Alameda County, including the Bay Division Pipeline Reliability Upgrade Project, consistent with the MMRP. The MOU between PUC and ACRCD also provides for watershed and environmental improvements, including outreach and education programs, as part of the PUC's Watershed and Environmental Improvement Program (WEIP)

Fiscal Impacts

- The PUC has expended and encumbered $1,960,853 of the not-to-exceed amount of $2,000,000 under the existing MOU, leaving an unencumbered and unexpended balance of $39,147.
- Under the proposed First Amendment to the MOU between the PUC and ACRCD, the PUC is requesting an additional amount of $775,000 to the previously authorized $2,000,000 amount, resulting in a new not-to-exceed amount of $2,775,000. The additional $775,000 will be expended as follows: (a) $363,000 to fund additional mitigation and post-construction monitoring through 2022, in compliance with the MMRP; and (b) $412,000 to continue upper watershed protection and restoration projects as part of the Watershed and Environmental Improvement Program (WEIP).
- The funding source for the $2,000,000 not-to-exceed amount in the existing MOU includes: the WSIP Habitat Reserve Program and Watershed and Environmental Improvement Program Capital Improvement funds; and Water Enterprise operating revenues.
- The funding source for the proposed $775,000 includes $575,000 of WSIP Habitat Reserve Program funds, previously appropriated by the Board of Supervisors, and $200,000 of future Water Enterprise operating revenues, which are subject to annual appropriation by the Board of Supervisors in FY 2012-13 through FY 2015-16.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

San Francisco Charter Section 9.118 provides that agreements, including Memoranda of Understanding (MOU), with terms more than ten years or expenditures greater than $10,000,000, or amendments to such MOUs that are greater than $500,000, are subject to Board of Supervisors approval.

Background

The San Francisco Public Utilities Commission (PUC) is currently undertaking an overall Water System Improvement Program (WSIP) which consists of 86 projects to repair, replace, and seismically upgrade the Hetch Hetchy water system's aging pipelines, tunnels, pumps, tanks, reservoirs and dams. On April 1, 2010, the PUC, as part of the overall WSIP, began construction of the $307,000,000 Bay Division Pipeline Reliability Upgrade Project ("Project"), in which a water pipeline will be constructed under the San Francisco Bay from Alameda County to Santa Clara County, in order to transport water from Hetch Hetchy to the Crystal Springs Reservoir. PUC expects the construction of the Project to be completed in approximately 2015.

In accordance with the California Environmental Quality Act (CEQA), a Final Environmental Impact Report (FEIR) was prepared for the Project, which included a Mitigation, Monitoring and Reporting Program (MMRP) for two impacted areas along the Alameda Creek Watershed, near Sunol, California.[1]

The PUC entered into a Memorandum of Understanding (MOU) with the Alameda County Resource Conservation District (ACRCD)[2] on December 9, 2008, for the ACRCD to plan and implement watershed protection projects in the Upper Alameda Watershed[3] and to mitigate for potential impacts associated with the WSIP, including the Project, consistent with the MMRP. The MOU between PUC and ACRCD also provides for watershed and environmental improvements, including outreach and education programs, as part of the PUC's Watershed and Environmental Improvement Program (WEIP). The existing MOU is for five years, from December 9, 2008 through December 8, 2013, for a not-to-exceed amount of $2,000,000, funded with Habitat Reserve Program Capital Improvement funds[4]. As the existing MOU was less than $10,000,000 and ten years, the MOU was not subject to approval by the Board of Supervisors.

The Board of Supervisors Budget and Finance Committee originally considered the proposed resolution on November 2, 2011, at which time the PUC asked that the item be continued.

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[1] See Attachment for a map of the two impacted areas.

[2] The Alameda County Resource Conservation District (ACRCD) is an independent, non-regulatory, special district, with the primary responsibility of serving as the lead conservation agency for the agricultural lands in central and southern Alameda County. The ACRCD's current 11-member board of directors is appointed by the Alameda County Board of Supervisors.

[3] The Upper Alameda Watershed which empties into the San Antonio Reservoir, is part of the Hetch Hetchy Water System, and is located near Sunol, California.

[4] The Habitat Reserve Program Capital Improvement funds are from the overall WSIP that are set aside for mitigation projects. The Habitat Reserve Program is now known as the Bioregional Habitat Restoration Project, although the name "Habitat Reserve Program" is used in the PUC legislation.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize an amendment to the existing MOU between the PUC and the Alameda County Resource Conservation District to (a) increase the amount by $775,000 from a not-to-exceed amount of $2,000,000 to a not-to-exceed amount of $2,775,000, and (b) extend the term of the MOU by nine years from five years (December 9, 2008 through December 8, 2013) to 14 years (December 9, 2008 through December 8, 2022).

The following Table compares the costs under the existing MOU amount of $2,000,000 with the costs under the proposed not-to-exceed amount of $2,775,000:

Proposed Increased Costs of the Memorandum of Understanding

Purpose of Funds	Existing MOU	Proposed Increase	Proposed Total
WSIP Mitigation and Monitoring of the Bay Division Pipeline Reliability Upgrade Project	$1,212,018	$363,000	$1,575,018
Watershed and Environmental Improvement Program (WEIP) projects	787,982	412,000	1,199,982
Total	**$2,000,000**	**$775,000**	**$2,775,000**

An explanation of the increased cost of $775,000 is explained below.

Mitigation and Monitoring from the Bay Division Pipeline Reliability Upgrade Project ($363,000)

The existing MOU provides for mitigation and monitoring of the impacts of construction of the Bay Division Pipeline Reliability Upgrade Project on the two affected Alameda Creek watershed areas, as required by the MMRP. According to Mr. Greg Lyman, PUC Habitat Mitigation Engineer, when PUC negotiated the MOU with ACRCD in 2008, the four regulatory agencies responsible for oversight had not finalized the scope of necessary post-construction monitoring.[5] The PUC is now requesting $363,000 and a nine-year extension of the existing MOU to pay for ongoing mitigation and monitoring of the impact of the Project after completion of the construction in 2015. According to Mr. Lyman, the requested funds are sufficient to complete the post-construction mitigation and monitoring of the Project impacts on the Alameda Watershed for the nine-year extension from 2013 through 2022.

Watershed and Environmental Improvement Program Projects ($412,000)

In addition to mitigation and monitoring for the Bay Division Pipeline Reliability Upgrade Project, the existing MOU includes (a) outreach to private land owners within the Alameda Watershed to encourage participation in protecting and restoring the Alameda Watershed, (b) the development of environmental education curriculum for children by the non-profit organization, Sustainable Agriculture Education (SAGE), that teaches children farming techniques on SAGE's 18 acre organic farm, (c) the Historical Ecology program for researching the natural state of the

[5] Regulatory agencies include: California Department of Fish and Game, Regional Water Quality Control Board, United States Fish and Wildlife Service, and the United States Army Corps of Engineers.

Alameda Watershed, (d) environmental monitoring of rangeland within the Alameda Watershed, and (e) the Alameda Creek Watershed Center in Sunol Interpretive Master Plan. According to Ms. Carla Schultheis, PUC Watershed and Environmental Improvement Program Coordinator, the proposed increase of $412,000 would allow the PUC to continue to implement and expand these watershed protection, restoration, and education programs as part of the WSIP.

FISCAL IMPACTS

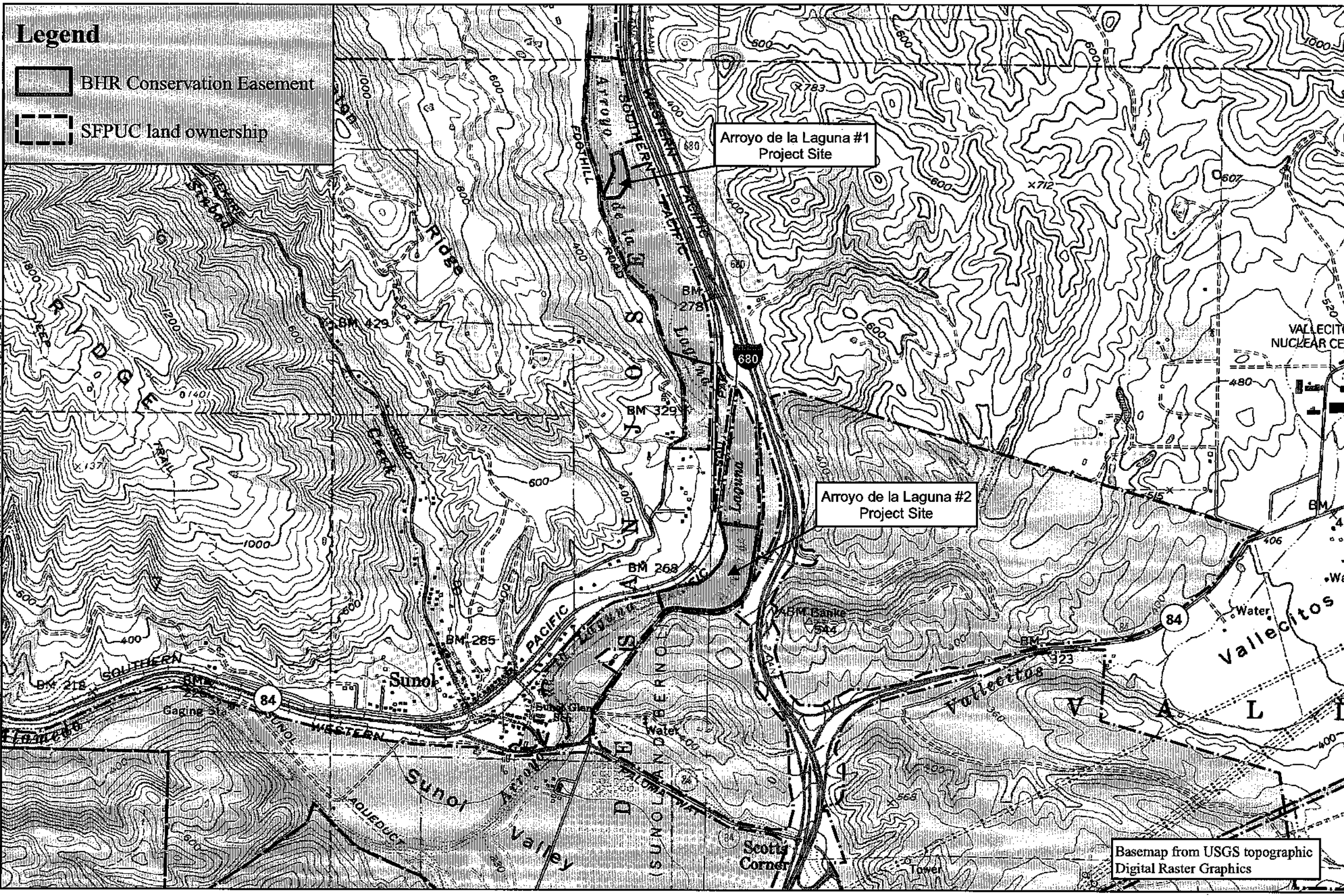
According to Mr. Carlos Jacobo, PUC Budget Manager, as of the writing of this report, expenditures and encumbrances under the existing MOU total $1,960,853, leaving an unencumbered, unexpended balance of $39,147.

The proposed resolution would increase the existing MOU not-to-exceed amount of $2,000,000 by $775,000, for a new total not-to-exceed amount of $2,775,000, as shown in the Table above. The additional $775,000 includes (a) $575,000 of funds previously appropriated by the Board of Supervisors from the WSIP Habitat Reserve Program, and (b) $200,000 of future Water Enterprise operating revenues, which are subject to annual appropriation by the Board of Supervisors in FY 2012-13 through FY 2015-16.

RECOMMENDATIONS

Approve the proposed resolution.

Attachment



San Francisco Public Utilities Commission
Natural Resources Division

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Bioregional Habitat Restoration
Arroyo de la Laguna
Projects 1 and 2
Location Map

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Items 8 and 9 **Files 11-1191 & 11-1192**	**Department(s):** Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objective

- 11-1191: The proposed resolution would (a) authorize the PUC to issue Qualified Energy Conservation Revenue Bonds (Conservation Bonds) for a not-to-exceed $8,291,079 to finance the costs of acquiring and constructing sustainability measures for the PUC's new headquarters at 525 Golden Gate Avenue, (b) approve an Equipment Lease/Purchase Agreement, (c) approve an Acquisition Fund and Account Control Agreement, (d) approve a Direct Purchase Agreement, (e) approve a Filing Agent Agreement, and (f) authorize taking appropriate actions in connection with the Bond issuance.

- 11-1192: The proposed resolution would (a) authorize the PUC to issue Clean Renewable Energy Revenue Bonds (Renewable Energy Bonds) for a not-to-exceed $6,600,000 to finance the costs of acquiring and installing solar energy facilities at the City Hall Solar Energy Facility, the Davies Symphony Hall Solar Energy Facility and the University Mound Reservoir North Basin Micro Hydro Energy Facility, (b) approve a Equipment Lease/Purchase Agreement, (c) approve an Acquisition Fund and Account Control Agreement, (d) approve a Direct Purchase Agreement, and (e) approve a Filing Agent Agreement, and (f) authorize taking appropriate actions in connection with the Bond issuance.

Key Points

- 11-1191: The total estimated cost to acquire and construct the sustainability measures for the PUC's new headquarters is $9,407,606. The proposed issuance of $8,291,000 of the not-to-exceed $8,291,079 in Conservation Bonds, less issuance costs of $55,000, will provide net funding of $8,236,000 to fund the sustainability measures for the new PUC headquarters, such that an additional $1,171,606 is needed to fully fund the sustainability measures. The remaining $1,171,606 will be funded from the $167,670,000 in COPs previously issued to fund the overall construction of the new PUC headquarters.

- 11-1192: The total estimated cost for the three renewable energy projects is $8,280,687. The proposed issuance of $6,600,000 of Renewable Energy Bonds, less $40,000 in issuance costs, will provide net funding of $6,560,000 to fund the proposed renewable energy projects, such that an additional $1,680,687 in is needed to fully fund the three projects. The remaining $1,720,687 will be funded from PUC's Hetch Hetchy Power Enterprise revenues, which were appropriated by the Board of Supervisors for the University Mound Reservoir North Basin Micro Hydro Energy Facility project in the FY 2009-10 and FY 2010-11 budgets.

Fiscal Impacts

- 11-1191: The proposed $8,291,000 Conservation Bonds issuance, at an estimated annual interest rate of 4.87 percent, for a period of 16 years or through FY 2027-28 has a total estimated debt service cost of $11,836,432 including (a) $3,545,432 for interest costs, and (b) $8,291,000 for principal costs. Based on the Federal subsidy of 70 percent of the interest, equal to $2,685,647, the net effective interest rate is 1.18 percent, or a total debt service cost over 16 years of

$9,150,785,000 including (a) $859,785 for interest costs, and (b) $8,291,000 for principal costs. The annual net debt service cost for the PUC would be $590,373.

- 11-1192: The proposed $6,600,000 Renewable Energy Bonds issuance, at an estimated annual interest rate of 4.87 percent, for a period of 16 years or through FY 2027-28 has a total estimated debt service cost of $9,422,320 including (a) $2,822,320 estimated interest costs and (b) $6,600,000 estimated principal costs. Based on the Federal subsidy of 70 percent of the interest, equal to $2,137,893, the net effective interest rate is 1.18 percent, or a total debt service cost over 16 years of $7,284,427 including (a) $684,427 for interest costs and (b) $6,600,000 for principal costs. The annual net debt service cost for the PUC would be $469,963.

Recommendations

- Approve the two proposed resolutions.

MANDATE STATEMENT & BACKGROUND

Mandate Statement

According to San Francisco Charter Section 9.107(8), any revenue bonds issued to finance or refinance the acquisition, construction, installation, equipping, improvement or rehabilitation of equipment or facilities for renewable energy and energy conservation is subject to approval by the Board of Supervisors.

Background

11-1191: On September 15, 2009, the Board of Supervisors approved the appropriation of $194,279,046 to fund the construction of a new Public Utilities Commission (PUC) headquarters building at 525 Golden Gate Avenue. This $194,279,046 appropriation was funded from (a) $167,670,000 from the issuance of Certificates of Participation (COPs) and (b) $26,609,046 from Hetch Hetchy Power Enterprise revenues (Ordinance No. 211-09). Construction at 525 Golden Gate Avenue commenced in December, 2009 and is estimated to be completed by June, 2012.

According to Mr. Mike Brown, Utility Specialist for the PUC, on July 22, 2009, the City, through the Office of Public Finance, received an allocation of $8,291,079 from the California Debt Limit Allocation Committee[1] under the Federal Internal Revenue Service's (IRS) Qualified Energy Conservation Revenue Bonds (Conservation Bonds) Program[2]. The $8,291,079 allocation was not subject to Board of Supervisors approval because the allocation simply gives the City permission to issue the bonds but doesn't take any definitive action on that issuance. The City has three years from the date of allocation, on July 22, 2009, or through July 21, 2012, to issue the Conservation Bonds. Conservation Bonds are tax credit bonds that allow the qualified issuer to receive up to 70 percent of the interest cost on the bonds in the form of a Federal subsidy to reimburse a portion of the interest owed by the issuer. Mr. Brown advises that

[1] The California Debt Limit Allocation Committee is a State Committee which sets and allocates California's annual debt ceiling, and administers the State's tax-exempt bond program to issue debt.

[2] The Conservation Bond Program allows for a Federal subsidy of up to 70 percent of interest on the bonds issued by local governments with populations of 100,000 or more, to fund projects, including those that (a) reduce energy consumption in publicly-owned buildings, (b) implement green community programs, and (c) fund rural development involving the production of electricity from renewable energy resources.

the initial $8,291,079 allocation was based on San Francisco's population. The PUC submitted an initial Plan of Issuance, required by the IRS, in January 29, 2010, stating the PUC's intention to use the $8,291,079 allocation to finance the purchase and installation of light-emitting diodide (LED) lights. However, on August 13, 2010, the initial Plan of Issuance was revised to state that the PUC will use the $8,291,079 allocation for sustainability measures associated with the construction of the new PUC headquarters.

11-1192: In July of 2005, Congress passed the Energy Tax Incentives Act, which included the New Clean Renewable Energy Revenue Bonds (Renewable Energy Bonds) Program under the IRS. The Renewable Energy Bonds Program authorizes the issuance of tax credit bonds by municipalities and power providers in order to finance renewable energy projects, such as the installation of solar panels. Renewable Energy Bonds are tax credit bonds that allow the qualified issuer to receive up to 70 percent of the interest cost on the bonds in the form of a Federal subsidy to reimburse a portion of the interest owed by the issuer.

According to Mr. Brown, on July 28, 2009, the PUC applied to the Federal IRS to receive an allocation for Renewable Energy Bonds for renewable energy projects and was awarded an allocation of $6,600,000 on October 27, 2009. The $6,600,000 allocation was not subject to Board of Supervisors approval because the allocation simply gives the City permission to issue the bonds but doesn't take any definitive action on that issuance. The PUC has three years from the date of allocation, on October 27, 2009, or through October 26, 2012, to issue the Renewable Energy Bonds. Mr. Brown advises that this is the second Renewable Energy Bonds allocation that the PUC has been granted by the IRS.[3]

DETAILS OF PROPOSED LEGISLATION

11-1191: The proposed resolution would (a) authorize the PUC to issue Conservation Bonds for a not-to-exceed amount of $8,291,079 to finance the costs of acquiring and constructing sustainability measures for the new PUC headquarters at 525 Golden Gate Avenue, (b) approve an Equipment Lease/Purchase Agreement, (c) approve the execution and delivery of an Acquisition Fund and Account Control Agreement, (d) approve the execution and delivery of a Direct Purchase Agreement, (e) approve the execution and delivery of a Filing Agent Agreement, and (f) authorize the taking of appropriate action in connection with the issuance. Mr. Brown advises that the PUC anticipates issuing the not-to-exceed $8,291,079 Conservation Bonds in December, 2011, subsequent to Board of Supervisors approval of this proposed resolution.

The not-to-exceed $8,291,079 would be used by the PUC to finance a portion of the sustainability measures at the new PUC headquarters at 525 Golden Gate Ave., including (a) the equipment and construction of a solar power generation system and roof support structure for that system, (b) the equipment and construction of a wind power generation system and support structure for that system, (c) the equipment and construction of wastewater and stormwater

[3] On October 7, 2008, the Board of Supervisors approved the issuance of not-to-exceed $6,325,000 in Renewable Energy Bonds to fund the installation of renewable energy equipment projects (Resolution No. 413-08).

treatment systems, (d) construction of envelope solar controls[4], and (e) Heating, Ventilation, and Air Conditioning (HVAC) system for under floor air distribution previously included in the construction plan for the new PUC headquarters.

Mr. Brown advises that the construction of the HVAC system has already begun due to its integral nature in the construction of the building itself. The other projects, which would be constructed after building completion, are currently in the final design phase. Construction of the new PUC headquarters, including the sustainability measures proposed to be funded with the subject Conservation Bonds, has undergone California Environmental Quality Act (CEQA) review and the project was certified to be compliant with CEQA regulations by the Planning Department on October 3, 2003.

11-1192: The proposed resolution would (a) authorize the PUC to issue Renewable Energy Bonds for a not-to-exceed amount of $6,600,000 to finance the costs of acquiring and installing solar energy facilities at the City Hall Solar Energy Facility, the Davies Symphony Hall Solar Energy Facility and the University Mound Reservoir North Basin Micro Hydro Energy Facility, (b) approve a Equipment Lease/Purchase Agreement, (c) approve the execution and delivery of an Acquisition Fund and Account Control Agreement, (d) approve the execution and delivery of a Direct Purchase Agreement, (e) approve the execution and delivery of a Filing Agent Agreement, and (f) authorize the taking of appropriate actions in connection with the issuance.

The not-to-exceed $6,600,000 in Renewable Energy Bonds would be used to fund the following projects:

(a) **City Hall Solar Energy Facility** – Includes the installation of a 100 kilowatt solar energy system on 9,900 square feet of the south half roof and parts of the north half roof of City Hall, located at 1 Dr. Carlton B. Goodlett Place. The electricity generated from the proposed solar panels would be used to power City Hall. The project is estimated to generate a minimum of 134,000 kilowatt-hours per year and would offset a portion of the current electrical load of City Hall.

(b) **Davies Symphony Hall Solar Energy Facility** – Includes the installation of a 214 kilowatt solar energy system on 17,800 square feet of the main roof and portions of the low roof of the Davies Symphony Hall, located at 201 Van Ness Avenue. The electricity generated from the proposed solar panels would be used to power Davies Symphony Hall. The project is estimated to generate a minimum of 269,000 kilowatt-hours per year and would offset a portion of the current electrical load of Davies Symphony Hall.

(c) **University Mound Reservoir North Basin Micro Hydro Energy Facility** – Includes the installation of a non-hydroelectric dam facility, located at University Mound Reservoir in the Portola District of San Francisco, which will produce renewable electrical energy recovered from excess hydraulic energy (or pressure) within the water system that would otherwise be unused. Electricity from this hydro energy facility would

[4] An envelope solar control is part of a solar installation system which reads the direction of the sun and communicates that data to program lighting and shade controls.

be generated using pre-filtered and chlorinated drinking water that normally flows in the potable water system, without changing the normal system flow rates or the water quality. The proposed hydro energy facility would be immediately adjacent to the north end of the existing pedestrian and vehicle pavement within the McLaren Pumping Plant at the University Mound Reservoir. The power generated from this facility would be exported, via the existing McLaren Pumping Plant, to serve other off-site City municipal loads. The project is estimated to generate approximately 1,500,000 kilowatt-hours of renewable energy per year.

Mr. Brown advises that the City Hall Solar Energy Facility project and the Davies Symphony Hall Solar Energy Facility project are currently in the planning phase, such that the bid packages to select the contractors are anticipated to be issued in March, 2012, with bids received in May, 2012, and contracts[5] for the construction expected to be awarded in June, 2012. Construction is estimated to commence between October and December, 2012 and be completed by September, 2013. An Environmental Impact Report for the San Francisco City Hall Solar Energy Facility project and the Davies Symphony Hall Solar Energy Facility project was completed and certified to be compliant with California Environmental Quality Act (CEQA) regulations by the Planning Department on April 15, 2009.

According to Mr. Brown, the University Mound Reservoir North Basin Micro Hydro Energy Facility project, located at the University Mound Reservoir in the Portola District of San Francisco, is currently in the design phase, such that the PUC will issue bids to select the contractor in the summer of 2012 with the contract award expected in October, 2012. Construction is estimated to commence between October and December, 2012 and be completed by September, 2014. The University Mound Reservoir North Basin Micro Hydro Energy Facility project is currently under CEQA review and a categorical CEQA exemption is expected by early 2012.

FISCAL IMPACTS

Financing Agreements and Structure

The proposed resolutions would individually approve the execution and delivery of both the Conservation Bonds and Renewable Energy Bonds in the form of (a) an Equipment Lease/Purchase Agreement, (b) an Acquisition Fund and Account Control Agreement, (c) a Direct Purchase Agreement, and (d) a Filing Agent Agreement, to allow for the currently estimated proposed issuances of an aggregate principal amount not to exceed $8,291,079 in Conservation Bonds and an aggregate principle amount not to exceed $6,600,000 in Renewable Energy Bonds. Upon approval by the Board of Supervisors, the PUC will execute the Lease/Purchase Agreements with Bank of America[6] for each of the Conservation Bonds and the Renewable Energy Bonds projects for the purpose of financing the costs of acquiring and

[5] Mr. Brown advises that contractors for all three Renewable Energy Bonds-funded projects will be selected through a competitive process with specific qualifications and award given to the lowest responsive responsible bidder.

[6] Mr. Brown advises that a competitive Request for Proposal (RFP) was sent to 20 firms on March 12, 2010 and PUC received responses from six firms. The selected firm, Bank of America, offered the lowest overall cost and was the most experienced respondent with over 35 relevant transactions.

installing the Conservation Bonds and Renewable Energy Bonds projects, as well as for the payment of costs of issuance.

Mr. Brown advises that the Conservation Bonds are anticipated to be issued in December, 2011 and the Renewable Energy Bonds are anticipated to be issued in May, 2012. Upon issuance, the Bank of America will deposit the net proceeds into an Acquisition Fund, one for each of the Conservation Bond and Renewable Energy Bond projects as specified by the Direct Purchase Agreement. The Acquisition Fund will be maintained by US Bank[7], acting as the Fund Custodian, who will be responsible for releasing reimbursement or disbursement funds specified by the Acquisition Fund and Account Control Agreement. US Bank will file the necessary Federal tax credit forms in accordance with the terms of the Filing Agent Agreement to assure the PUC's receipt of the Federal subsidy payable by the Federal government as reimbursement for the interest payments due by the PUC under the Equipment Lease/Purchase Agreement.

Anticipated Annual Debt Service and Total Costs

11-1191: Mr. Brown anticipates that the requested not-to-exceed $8,291,079 Conservation Bond issuance will have an estimated annual interest rate of 4.87 percent, to be repaid over 16 years or through FY 2027-28 for a total debt service cost of $11,836,432 including (a) estimated total interest costs of $3,545,432 and (b) estimated total principal costs of $8,291,000. Mr. Brown notes that the estimated total principal amount of Conservation Bonds that would be issued is $8,291,000, out of the requested not-to-exceed authorized amount of $8,291,079, due to rounding. In addition, due to the Federal subsidy of 70 percent of the interest expense, which is equal to $2,685,647[8], the net effective interest rate is 1.18 percent[9]. Based on the 70 percent Federal subsidy, the total estimated debt service cost over 16 years is $9,150,785 including (a) estimated total interest costs of $859,785 and (b) estimated total principal costs of $8,291,000.

As shown in Attachment 1, based on an actual issuance of $8,291,000 in Conservation Bonds, and including the reduction for the Federal subsidy, the annual net debt service cost for the PUC would be $590,373. Mr. Brown states that the annual debt service payments would be paid over the next 16 years from net revenues from the City's Hetch Hetchy Power Enterprise. Based on an estimated issuance of $8,291,000 Conservation Bonds, Mr. Brown estimates issuance costs of $55,000[10], which leaves a remaining $8,236,000 available to fund the sustainability measures for the new PUC building.

[7] According to Mr. Brown, US Bank will act as the Fund Custodian or trustee bank. Mr. Brown notes that the firm competitively awarded the issuance of the Conservation Bonds and CREBs to Bank of America, which requested that Deutsche Bank be used as Fund Custodian. On July 26, 2011, Deutsche Bank estimated their Fund Custodian fee at $7,500 -$10,000 per year. On September 8, 2011 PUC requested fee quotes to act as Fund Custodian from US Bank. On September 9, 2011 PUC received a fee quote of $250 per year from US Bank and therefore selected US Bank as the Fund Custodian.

[8] The estimated Federal subsidy for the proposed Conservation Bonds issuance is determined by calculating 70 percent of the Federal tax credit rate, estimated to be 5.27 percent, with 70 percent of that Federal tax credit rate equal to 3.69 percent rather than 70 percent of the 4.87 percent tax credit rate by which the interest is actually calculated. The 3.69 percent interest rate by which the Federal subsidy is calculated on the $8,291,000 Conservation Bonds issuance will result in an estimated Federal subsidy of $2,685,647.

[9] The estimated 1.18 percent effective interest rate was calculated by subtracting the estimated interest rate of 4.87 percent from the estimated interest rate at which the federal subsidy would be calculated, 3.69 percent.

[10] An estimated $55,000 of issuance costs are comprised of $45,000 for Bond Counsel and $10,000 for the Financial Advisor.

As shown in Table 1 below, the total costs of acquiring and constructing the sustainability measures at the new PUC headquarters at 525 Golden Gate Avenue is currently budgeted at $9,407,606 and are currently included in the budget for the construction of the new PUC headquarters.

Table 1: Summary of Sustainability Measures Financed with $8,291,000 in Conservation Bonds	
Project	Budget
Solar Power	$1,732,126
Wind Power	1,830,967
Wastewater and Stormwater Treatment Systems	1,661,711
Solar Controls	1,285,789
HVAC	2,897,013
Total	**$9,407,606**

Therefore, an additional $1,171,606 ($9,407,606 less $8,236,000) would be needed to complete the sustainability measures at the new PUC headquarters. Mr. Brown advises that the remaining $1,171,606 needed to finance the construction of the sustainability measures at the new PUC headquarters would be funded from Hetch Hetchy Power Enterprise revenues previously appropriated to fund the overall construction of the new PUC headquarters.

This not-to-exceed $8,291,079 allocation would allow the PUC to issue Conservation Bonds to finance a portion of the costs to acquire and construct sustainability measures, explained above and summarized in Table 1 above, for the new PUC headquarters, which is currently under construction[11]. Therefore, the PUC will not have to expend the $8,236,000 in revenue from Hetch Hetchy Power Enterprise revenues which were previously appropriated by the Board of Supervisors to fund the construction of the sustainability measures. This savings would enable the PUC to invest in other projects or increase the Hetch Hetchy Power Enterprise Fund balance. The construction agreement currently in place would not need to be increased because the sustainability measures proposed to be funded with funds from the Conservation Bonds issuance were already included in the total estimated budget for the new PUC headquarters.

11-1192: Mr. Brown anticipates that the requested not-to-exceed $6,600,000 Renewable Energy Bond issuance will have an estimated annual interest rate of 4.87 percent, to be paid over 16 years or through FY 2027-28 for a total debt service cost of $9,422,320 including (a) estimated total interest costs of $2,822,320 and (b) estimated total principal costs of $6,600,000. Due to the Federal subsidy of 70 percent of the interest expense, which is equal to $2,137,893[12], the net

[11] According to Mr. Brown, the contractor who is responsible for the overall construction of the new PUC headquarters, WebCor Builders, who was selected through a competitive RFP process, will also acquire and construct the sustainability measures which would be funded by the subject Conservation Bonds. The existing agreement with Webcor Builders has a not-to-exceed amount of $145,500,000, which would not be changed and $101,800,000 has been expended as of November 7, 2011.

[12] The estimated Federal subsidy for the proposed $6,600,000 Renewable Energy Bonds issuance was determined by calculating 70 percent of the Federal Tax Credit rate, estimated to be 5.27 percent, with 70 percent of that Federal Tax Credit rate equal to 3.69 percent rather than 70 percent of the 4.87 percent tax credit rate by which the interest is actually calculated. The 3.69 percent interest rate on the $6,600,000 Renewable Energy Bonds issuance will result in an estimated subsidy of $2,137,893.

effective interest rate would be 1.18[13] percent. Assuming the 70 percent Federal subsidy results in a total debt service cost over 16 years of $7,284,427 including (a) estimated total interest costs of $684,427 and (b) estimated total principal costs of $6,600,000.

As shown in Attachment II, based on the issuance of the $6,600,000 in Renewable Energy Bonds, including the reduction for the Federal subsidy, the annual net debt service cost for the PUC would be $469,963. Mr. Brown states that the annual debt service payments would be paid over the next 16 years from the City's Hetch Hetchy Power Enterprise revenues.

Based on an estimated issuance of $6,600,000, Mr. Brown estimates issuance costs of $40,000[14], which leaves a remaining $6,560,000 available to fund the three proposed renewable energy projects. As shown in Table 2 below, the total budget for the three renewable energy projects is $8,280,687.

Table 2: Summary of Projects To be Funded with $6,600,000 in Renewable Energy Bonds

Project	Budget
City Hall Solar Energy Facility	$1,500,000
Davies Symphony Hall Solar Energy Facility	2,600,000
University Mound Reservoir North Basin Micro Hydro Energy Facility	4,180,687
Total	**$8,280,687**

Therefore, an additional $1,720,687 ($8,280,687 total costs less $6,560,000 available funds) would be needed to complete the three projects. Mr. Brown advises that the source of funding for this additional $1,720,687 would be PUC Hetch Hetchy Power Enterprise revenues and would be used to supplement funding for the University Mound Reservoir North Basin Micro Hydro Energy Facility project, previously appropriated for this purpose.

The Board of Supervisors previously appropriated $890,000 in the FY 2009-10 budget and $3,000,000 in the FY 2010-11 budget from Hetch Hetchy Power Enterprise revenues for the University Mound Reservoir North Basin Micro Hydro Energy Facility project, for a total appropriation of $3,890,000. In addition, the Board of Supervisors previously appropriated $2,600,000 for the Davies Symphony Hall Solar Energy Facility project and $1,500,000 for the City Hall Solar Energy Facility project in the FY 2010-11 budget from Hetch Hetchy Power Enterprise revenues, for a total of $4,100,000[15]. Therefore, a total of $7,990,000 was previously

[13] The estimated 1.18 percent effective interest rate was calculated by subtracting the estimated interest rate of 4.87 percent from the estimated interest rate at which the Federal subsidy would be calculated, 3.69 percent.

[14] An estimated $40,000 of issuance costs are comprised of $35,000 for Bond Counsel and $5,000 for a Financial Advisor.

[15] Mr. Brown advises that the PUC had already received the $6,600,000 Renewable Energy Bonds allocation at the time the $2,600,000 appropriation for the Davies Symphony Hall Solar Energy Facility project, the $1,500,000 appropriation for the City Hall Solar Energy Facility project, and the $3,000,000 appropriation for the University Mound Reservoir North Basin Micro Hydro Energy Facility project was approved by the Board of Supervisors in FY 2010-11 and anticipated that these Hetch Hetchy Power Enterprise revenues, less any of those monies needed to

appropriated for these three renewable energy projects proposed to be funded by the PUC. According to Mr. Brown, the PUC would not need to expend $6,269,313 ($7,990,000 in previously appropriated funds less $1,720,687 in additional needed funds) of funds previously appropriated if the net bond proceeds of $6,560,000 from the proposed Renewable Energy Bonds are issued to finance the three renewable projects.

RECOMMENDATIONS

Approve the two proposed resolutions.

complete the projects, would be returned to the Hetch Hetchy Power Enterprise Fund upon issuance of the $6,600,000 in Renewable Energy Bonds.

Attachment I

Estimated Debt Service on $8,921,000 QECBs Issuance

Pmt. No.	Payment Date	Taxable Outstanding Balance	Taxable Principal Portion	Taxable Interest Portion	Taxable Payment Amount	US Treasury Subsidy Amount	Net Payment After Subsidy	Annual Net Debt Service
1	11/1/12	$ 8,093,730	$ 197,270	$ 403,772	$ 601,042	$ 305,855	$ 295,187	
2	5/1/13	$ 7,846,337	$ 247,393	$ 197,082	$ 444,475	$ 149,289	$ 295,187	
	6/30/13							$ 590,373
3	11/1/13	$ 7,597,483	$ 248,854	$ 191,058	$ 439,912	$ 144,726	$ 295,187	
4	5/1/14	$ 7,347,159	$ 250,323	$ 184,999	$ 435,322	$ 140,136	$ 295,187	
	6/30/14							$ 590,373
5	11/1/14	$ 7,095,358	$ 251,802	$ 178,903	$ 430,705	$ 135,518	$ 295,187	
6	5/1/15	$ 6,842,069	$ 253,289	$ 172,772	$ 426,061	$ 130,874	$ 295,187	
	6/30/15							$ 590,373
7	11/1/15	$ 6,587,285	$ 254,784	$ 166,604	$ 421,389	$ 126,202	$ 295,187	
8	5/1/16	$ 6,330,996	$ 256,289	$ 160,400	$ 416,689	$ 121,502	$ 295,187	
	6/30/16							$ 590,373
9	11/1/16	$ 6,073,194	$ 257,802	$ 154,160	$ 411,962	$ 116,775	$ 295,187	
10	5/1/17	$ 5,813,870	$ 259,324	$ 147,882	$ 407,207	$ 112,020	$ 295,187	
	6/30/17							$ 590,373
11	11/1/17	$ 5,553,014	$ 260,856	$ 141,568	$ 402,423	$ 107,237	$ 295,187	
12	5/1/18	$ 5,290,618	$ 262,396	$ 135,216	$ 397,612	$ 102,425	$ 295,187	
	6/30/18							$ 590,373
13	11/1/18	$ 5,026,672	$ 263,946	$ 128,827	$ 392,772	$ 97,585	$ 295,187	
14	5/1/19	$ 4,761,168	$ 265,504	$ 122,399	$ 387,904	$ 92,717	$ 295,187	
	6/30/19							$ 590,373
15	11/1/19	$ 4,494,096	$ 267,072	$ 115,934	$ 383,006	$ 87,820	$ 295,187	
16	5/1/20	$ 4,225,447	$ 268,649	$ 109,431	$ 378,080	$ 82,894	$ 295,187	
	6/30/20							$ 590,373
17	11/1/20	$ 3,955,212	$ 270,235	$ 102,890	$ 373,125	$ 77,938	$ 295,187	
18	5/1/21	$ 3,683,381	$ 271,831	$ 96,309	$ 368,141	$ 72,954	$ 295,187	
	6/30/21							$ 590,373
19	11/1/21	$ 3,409,945	$ 273,436	$ 89,690	$ 363,127	$ 67,940	$ 295,187	
20	5/1/22	$ 3,134,894	$ 275,051	$ 83,032	$ 358,083	$ 62,896	$ 295,187	
	6/30/22							$ 590,373
21	11/1/22	$ 2,858,219	$ 276,675	$ 76,335	$ 353,010	$ 57,823	$ 295,187	
22	5/1/23	$ 2,579,910	$ 278,309	$ 69,598	$ 347,906	$ 52,720	$ 295,187	
	6/30/23							$ 590,373
23	11/1/23	$ 2,299,958	$ 279,952	$ 62,821	$ 342,773	$ 47,586	$ 295,187	
24	5/1/24	$ 2,018,352	$ 281,605	$ 56,004	$ 337,609	$ 42,423	$ 295,187	
	6/30/24							$ 590,373
25	11/1/24	$ 1,735,084	$ 283,268	$ 49,147	$ 332,415	$ 37,229	$ 295,187	
26	5/1/25	$ 1,450,143	$ 284,941	$ 42,249	$ 327,190	$ 32,004	$ 295,187	
	6/30/25							$ 590,373
27	11/1/25	$ 1,163,519	$ 286,624	$ 35,311	$ 321,935	$ 26,748	$ 295,187	
28	5/1/26	$ 875,203	$ 288,316	$ 28,332	$ 316,648	$ 21,461	$ 295,187	
	6/30/26							$ 590,373
29	11/1/26	$ 585,185	$ 290,019	$ 21,311	$ 311,330	$ 16,143	$ 295,187	
30	5/1/27	$ 293,454	$ 291,731	$ 14,249	$ 305,980	$ 10,794	$ 295,187	
	6/30/27							$ 590,373
31	11/1/27	$ (0)	$ 293,454	$ 7,146	$ 300,599	$ 5,413	$ 295,187	
	6/30/28							$ 295,187
Total			**$ 8,291,000**	**$ 3,545,432**	**$ 11,836,432**	**$ 2,685,647**	**$ 9,150,785**	**$ 9,150,785**

Estimated Debt Service on $6,600,000 NCREBs Issuance

Pmt. No.	Payment Date	Taxable Outstanding Balance	Taxable Principal Portion	Taxable Interest Portion	Taxable Payment Amount	US Treasury Subsidy Amount	Net Payment After Subsidy	Annual Net Debt Service
1	11/1/12	$ 6,442,964	$ 157,036	$ 321,420	$ 478,456	$ 243,474	$ 234,982	
2	5/1/13	$ 6,246,029	$ 196,936	$ 156,886	$ 353,822	$ 118,840	$ 234,982	
	6/30/13							$ 469,963
3	11/1/13	$ 6,047,930	$ 198,099	$ 152,091	$ 350,190	$ 115,208	$ 234,982	
4	5/1/14	$ 5,848,661	$ 199,268	$ 147,267	$ 346,536	$ 111,554	$ 234,982	
	6/30/14							$ 469,963
5	11/1/14	$ 5,648,216	$ 200,445	$ 142,415	$ 342,860	$ 107,879	$ 234,982	
6	5/1/15	$ 5,446,588	$ 201,629	$ 137,534	$ 339,163	$ 104,181	$ 234,982	
	6/30/15							$ 469,963
7	11/1/15	$ 5,243,768	$ 202,819	$ 132,624	$ 335,444	$ 100,462	$ 234,982	
8	5/1/16	$ 5,039,751	$ 204,017	$ 127,686	$ 331,703	$ 96,721	$ 234,982	
	6/30/16							$ 469,963
9	11/1/16	$ 4,834,529	$ 205,222	$ 122,718	$ 327,940	$ 92,958	$ 234,982	
10	5/1/17	$ 4,628,096	$ 206,434	$ 117,721	$ 324,154	$ 89,173	$ 234,982	
	6/30/17							$ 469,963
11	11/1/17	$ 4,420,443	$ 207,653	$ 112,694	$ 320,347	$ 85,365	$ 234,982	
12	5/1/18	$ 4,211,564	$ 208,879	$ 107,638	$ 316,517	$ 81,535	$ 234,982	
	6/30/18							$ 469,963
13	11/1/18	$ 4,001,452	$ 210,112	$ 102,552	$ 312,664	$ 77,682	$ 234,982	
14	5/1/19	$ 3,790,099	$ 211,353	$ 97,435	$ 308,788	$ 73,807	$ 234,982	
	6/30/19							$ 469,963
15	11/1/19	$ 3,577,498	$ 212,601	$ 92,289	$ 304,890	$ 69,908	$ 234,982	
16	5/1/20	$ 3,363,642	$ 213,856	$ 87,112	$ 300,968	$ 65,987	$ 234,982	
	6/30/20							$ 469,963
17	11/1/20	$ 3,148,522	$ 215,119	$ 81,905	$ 297,024	$ 62,042	$ 234,982	
18	5/1/21	$ 2,932,133	$ 216,389	$ 76,667	$ 293,056	$ 58,074	$ 234,982	
	6/30/21							$ 469,963
19	11/1/21	$ 2,714,466	$ 217,667	$ 71,397	$ 289,065	$ 54,083	$ 234,982	
20	5/1/22	$ 2,495,513	$ 218,953	$ 66,097	$ 285,050	$ 50,068	$ 234,982	
	6/30/22							$ 469,963
21	11/1/22	$ 2,275,268	$ 220,246	$ 60,766	$ 281,011	$ 46,030	$ 234,982	
22	5/1/23	$ 2,053,722	$ 221,546	$ 55,403	$ 276,949	$ 41,967	$ 234,982	
	6/30/23							$ 469,963
23	11/1/23	$ 1,830,867	$ 222,854	$ 50,008	$ 272,862	$ 37,881	$ 234,982	
24	5/1/24	$ 1,606,697	$ 224,170	$ 44,582	$ 268,752	$ 33,770	$ 234,982	
	6/30/24							$ 469,963
25	11/1/24	$ 1,381,203	$ 225,494	$ 39,123	$ 264,617	$ 29,636	$ 234,982	
26	5/1/25	$ 1,154,378	$ 226,826	$ 33,632	$ 260,458	$ 25,476	$ 234,982	
	6/30/25							$ 469,963
27	11/1/25	$ 926,213	$ 228,165	$ 28,109	$ 256,274	$ 21,292	$ 234,982	
28	5/1/26	$ 696,700	$ 229,512	$ 22,553	$ 252,066	$ 17,084	$ 234,982	
	6/30/26							$ 469,963
29	11/1/26	$ 465,833	$ 230,867	$ 16,965	$ 247,832	$ 12,851	$ 234,982	
30	5/1/27	$ 233,602	$ 232,231	$ 11,343	$ 243,574	$ 8,592	$ 234,982	
	6/30/27							$ 469,963
31	11/1/27	$ (0)	$ 233,602	$ 5,688	$ 239,290	$ 4,309	$ 234,982	
	6/30/28							$ 234,982
Total			**$ 6,600,000**	**$ 2,822,320**	**$ 9,422,320**	**$ 2,137,893**	**$ 7,284,427**	**$ 7,284,427**

Item 10 **File 11-1153**	**Department(s):** Department of Elections

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve an amendment to an existing agreement between the City, through the Department of Elections, and Dominion Voting Systems to either (a) exercise the two existing one-year options in order to extend the term of the existing agreement through December 10, 2013, for an additional cost of $2.26 million; or (b) exercise the two existing one-year options, and further extend the agreement by an additional three years, or through December 11, 2016, for an additional cost of $4.53 million.

Key Points

- On December 11, 2007, based on the results of a competitive RFP process, the Board of Supervisors approved the award of a not-to-exceed $12,650,233 agreement between the Department of Elections and Sequoia Voting Systems, Inc. for the purchase of a new voting system and the provision of associated voting services for the four-year period from December 11, 2007 through December 10, 2011, with two one-year options to extend the agreement, through December 10, 2013 (File 07-0040; Resolution 654-07).

- On June 4, 2010, Sequoia Voting Systems, Inc. was acquired by Dominion Voting Systems, Inc.

Fiscal Impact

- All of the additional Dominion Voting System Inc costs would be paid with General Fund revenues, subject to appropriation approval by the Board of Supervisors in future years.

Policy Considerations

- Although the existing agreement does not provide for more than two one-year options to extend, the Department of Elections is requesting an extension of the existing agreement for five years without undergoing a new competitive RFP process because: (a) the last time the Department of Elections issued a RFP for a new voting system, it took over two and a half years to complete, (b) the Department of Elections does not anticipate having additional funds to secure new voting equipment, (c) there are no new voting systems currently available, (d) only one vendor offers Ranked Choice Voting options, which is the City’s current Dominion Voting Systems contractor, and (e) the existing four year agreement with two one-year options, or a total of six years, is extremely short and unique to San Francisco for a voting system.

Recommendations

1. <u>Regarding the proposed amendment to exercise the two one-year options:</u>

- Amend the proposed resolution’s title to delete “for an amount not to exceed $4,529,600 and to extend the term of the contract through December 11, 2013 [or December 11, 2016]” and replace this language with “for an amount not to exceed $2,264,800 and to extend the term of the contract through December 10, 2013”.
- Amend the proposed resolution on page 1, line 24 to delete “at a cost of $2.26 million” and insert “at a cost not-to-exceed $2,264,800”.
- Approve the proposed resolution, as amended, in order to exercise the two one-year options to extend the term through December 10, 2013, for an additional cost of $2,264,800.

2. Regarding the alternative proposed amendment to exercise the two one-year options and further extend the agreement by three additional years:

- Amend the proposed resolution's title to delete "for an amount not to exceed $4,529,600 and to extend the term of the contract through December 11, 2013 [or December 11, 2016]" and replace this language with "for an amount not to exceed $5,910,700 and to extend the term of the contract through December 10, 2016".
- Amend the proposed resolution on page 2, lines 3 and 4 to delete "at a total cost of $4.53 million" and insert "at a cost not-to-exceed $5,910,700".
- Continue the proposed resolution to the next meeting of the Budget and Finance Committee, in accordance with the City Attorney's recommendation.
- Approval of the alternative proposed amendment, as amended, to both exercise the two one-year options and extend the agreement by an additional three years is a policy decision for the Board of Supervisors because the additional three years were not provided for in the existing agreement, as previously approved by the Board of Supervisors.

MANDATE STATEMENT/ BACKGROUND

Mandate Statement

In accordance with Charter Section 9.118(b), City agreements with anticipated expenditures of $10,000,000, or more or amendments to such City agreements with anticipated expenditures of more than $500,000 are subject to approval by the Board of Supervisors.

Background

On December 11, 2007, based on the results of a competitive Request for Proposal (RFP) process, the Board of Supervisors approved the award of a not-to-exceed $12,650,233 agreement between the Department of Elections and Sequoia Voting Systems, Inc. for the purchase of a new voting system and the provision of associated voting services for the four-year period from December 11, 2007 through December 10, 2011, with two one-year options to extend the agreement, through December 10, 2013 (File 07-0040; Resolution 654-07).

Table 1 below summarizes the sources and uses of the funds totaling $12,650,233 to purchase the City's new voting equipment, including hardware and software, installation, training, warehouse improvements, election services, maintenance and license fees under the original agreement between the Department of Elections and Sequoia Voting Systems, Inc.

Table 1: Sources and Uses of Funds for the Original Agreement

Source of Funds	
Help America Vote Act (HAVA) (Federal Funds)	$ 1,950,235
Proposition 41 (State Funds)	3,544,110
General Fund	7,155,888
Total Funding Sources	**$12,650,233**
Use of Funds	
Voting Equipment, Software, Training and Outreach	$ 9,094,933
Trade-in of City's Existing Voting Equipment	(1,130,000)
Warehouse Capital Improvements	542,000
Election Services ($497,400 x 6 elections[1])	2,984,400
Maintenance and License Fees ($386,300 x 3 years)[2]	1,158,900
Total Funding Uses	**$ 12,650,233**

As shown in Table 1 above, as part of the $12,650,233 agreement approved in December of 2007 with Sequoia Voting Systems, Inc. the City was to receive a $1,130,000 credit by trading in the City's previous voting equipment. However, on February 12, 2008, the Board of Supervisors approved a settlement of a lawsuit (File 08-0123; Ordinance No. 18-08) between the City and Election Systems and Software, Inc. (ES&S), the City's previous voting equipment contractor prior to Sequoia Voting Systems, Inc, for ES&S to pay the City a net amount of $3,457,865, in exchange for the City returning all of the previous voting equipment back to ES&S. As part of that lawsuit settlement, the Board of Supervisors approved a first amendment to the agreement with Sequoia Voting Systems, Inc. to pay Sequoia an additional $1,130,000 from the lawsuit settlement proceeds received from ES&S, instead of transferring the City's old voting machines to Sequoia (Resolution No. 65-08).

On June 4, 2010, Sequoia Voting Systems, Inc. was acquired by Dominion Voting Systems, Inc., such that Dominion Voting Systems, Inc. has assumed the existing agreement with the Department of Elections and has continued to provide voting services for the City.

DETAILS OF PROPOSED LEGISLATION

As noted above, the existing $12,650,233 agreement between the Department of Elections and Dominion Voting Systems, Inc. (formerly Sequoia Voting Systems, Inc.) extends for four years from December 11, 2007 through December 10, 2011, and

[1] Elections services are provided for six elections including two elections in 2008, one election in 2009, two elections in 2010 and one election in 2011.
[2] Only three years of Maintenance and License Fees were charged, under the subject four-year agreement, because there were no Maintenance and License Fees charged for the first year of the agreement.

includes two one-year options to extend the agreement, through December 10, 2013. The proposed resolution provides two alternative amendments to the existing agreement with Dominion Voting Systems, Inc.

Under the first alternative, the proposed resolution would approve an amendment to the existing agreement between the Department of Elections and Dominion Voting Systems, Inc. to exercise the two existing one-year options in order to extend the term of the existing agreement through December 10, 2013, for an additional cost of $2.26 million in order for Dominion Voting Systems, Inc. to continue to provide the Department of Elections with (a) election services, that includes ballot layouts, logic and accuracy testing of the voting equipment and certification of the election results, and (b) maintenance and license agreements in order to maintain the equipment and operate the voting systems.

Under the second alternative, the proposed resolution would approve an amendment to the existing agreement between the Department of Elections and Dominion Voting Systems, Inc. to (a) exercise the two existing one-year options, and (b) further extend the agreement by an additional three years, or through December 10, 2016, for an additional cost of $4.53 million in order for Dominion Voting Systems, Inc. to continue to provide the Department of Elections with election services and maintenance and license agreements.

FISCAL IMPACTS

Table 2 below, provided by Mr. John Arntz, the Director of the Department of Elections, provides a summary breakdown of the total $12,650,233 in costs that were incurred by the City each year under the existing agreement through December 10, 2011, when the current agreement with Dominion Voting Systems expires.

Table 2: Expenditures Made by the Department of Elections Under the Existing Dominion Voting Systems Agreement

	2007	2008 (two elections)	2009 (one election)	2010 (two elections)	2011 (one election)	Total
Hardware and Software	$4,000,000	$2,905,933				$6,905,933
Installation and Training		999,000				999,000
Outreach		60,000				60,000
Warehouse Improvements	542,000					542,000
Election Services		994,800	497,400	994,800	497,400	2,984,400
Maintenance and License Agreements			386,300	386,300	386,300	1,158,900
Total	$4,542,000	$4,959,733	$883,700	$1,381,100	$883,700	$12,650,233

Under the first alternative, the proposed resolution would exercise the two one-year options under the existing agreement with Dominion Voting Systems, Inc. to extend the term of the existing agreement, that currently is scheduled to terminate on December 10, 2011, through December 10, 2013, for an additional cost of $2,264,800 (the proposed resolution states $2.26 million), as shown in Table 3 below.

Table 3: Proposed Expenditures Under the Two-Year Option to Extend the Dominion Voting Systems Agreement

	2012 (two elections)	2013 (one election)	Total
Election Services	$994,800	$497,400	$1,492,200
Maintenance and License Agreements	386,300	386,300	772,600
Total	$1,381,100	$883,700	$2,264,800

Although Table 3 above identifies total additional costs of $2,264,800, the Budget and Legislative Analyst notes the proposed resolution currently specifies additional total costs of $2.26 million for this two-year option to extend. Therefore, the Budget and Legislative Analyst recommends that the proposed resolution be amended on page 1, line 24 to delete “at a cost of $2.26 million” and insert “at a cost not-to-exceed $2,264,800”.

All of these costs under the proposed two-year extension period are anticipated to be paid with the Department of Elections General Fund revenues, subject to appropriation approval by the Board of Supervisors in the FY 2012-2013 and FY 2013-2014 budgets.

Under the second alternative, the proposed resolution would exercise both the existing two one-year options through December 11, 2013, and also, without undergoing a new competitive RFP process, further extend the existing agreement for an additional three years, or through December 10, 2016, for a total additional cost of $5,910,700, as shown in Table 4 below.

Table 4: Proposed Expenditures for the Alternative Which Includes the Existing Two-Year Option to Extend and Further Extends the Agreement by an Additional Three Years Under the Dominion Voting Systems Agreement

	2012 (two elections)	2013 (one election)	2014 (two elections)	2015 (one election)	2016 (two elections)	Total
Election Services	$994,800	$497,400	$994,800	$497,400	$994,800	$3,979,200
Maintenance and License Agreements	386,300	386,300	386,300	386,300	386,300	1,931,500
Total	$1,381,100	$883,700	$1,381,100	$883,700	$1,381,100	$5,910,700

Although Table 4 above identifies total additional costs of $5,910,700, the Budget and Legislative Analyst notes the proposed resolution currently specifies additional total costs of $4.53 million for this second alternative request to extend the agreement by a total of five years. Therefore, the Budget and Legislative Analyst recommends that the proposed resolution be amended on page 2, lines 3 and 4 to delete “at a total cost of $4.53 million” and insert “at a cost not-to-exceed $5,910,700”.

All of these additional costs are anticipated to be paid with General Fund revenues, subject to appropriation approval by the Board of Supervisors in the Department of Elections budgets in future years.

As shown in Tables 2, 3 and 4 above, under both the proposed two year extension and five year extension, the cost for Election Services would remain at the same rate of $497,400 per election as currently charged by Dominion Voting Systems, Inc. in the existing 2007 through 2011 agreement as shown in Table 2 above. Similarly, the annual Maintenance and License Agreement costs under both the proposed two year extension and five year extension would remain at the same $386,300 per year (see Tables 2, 3 and 4 above) as under the existing agreement.

POLICY CONSIDERATIONS

The proposed resolution provides two alternative amendments: (a) an amendment to exercise the two one-year options under the existing agreement with Dominion Voting Systems, Inc. in order to extend the term of the existing agreement through December 10, 2013, for an additional cost of $2,264,800, or (b) an amendment to both exercise the two one-year options and further extend the agreement by an additional three years, or through December 10, 2016, for an additional cost of $5,910,700. However, as noted above, the existing agreement only provides for the first alternative, to exercise the two one-year options.

Although the existing agreement does not provide for more than two one-year options to extend, Mr. Arntz advises that he is requesting approval of the second alternative amendment to enable the existing agreement to be extended for five years, without undergoing a new competitive Request for Proposal (RFP) process, because: (a) the last time the Department of Elections issued a RFP for a new voting system, the RFP process took over two and a half years to complete, (b) the Department of Elections does not anticipate having additional funds to secure new voting equipment, (c) there are no new voting systems currently available, (d) only one contractor offers Ranked Choice Voting options, which is the City's current contactor, Dominion Voting Systems, and (e) the existing four year agreement with two one-year options, or a total of six years, is extremely short and unique to San Francisco for a voting system.

The Budget and Legislative Analyst also notes that the existing language in lines 5 and 6 of the title of the proposed resolution that states: "for an amount not to exceed $4,529,600 and to extend the term of the contract through December 11, 2013 [or December 11, 2016]" should be deleted. If the Board of Supervisors approves the first alternative, lines 5 and 6 of the title of the proposed resolution should be amended to state "for an amount not to exceed $2,264,800 and to extend the term of the contract through December 10, 2013" for the two-year option. If the Board of Supervisors approves the second alternative, lines 5 and 6 of the title of the proposed resolution should be amended to state "for an amount not to exceed $5,910,700 and to extend the term of the contract through December 10, 2016" for the five-year option.

Ms. Cheryl Adams of the City Attorney's Office advises that if the Board of Supervisors approves the second alternative to extend the existing agreement for a total of five years, which will require increasing the amount that is to be included in the proposed resolution from $4,529,600 to $5,910,700 as noted above, the proposed resolution would require additional public comment, such that the proposed resolution would need to be continued.

RECOMMENDATIONS

1. Regarding the first alternative to amend the existing agreement to exercise the two one-year options:

- Amend the proposed resolution's title to delete "for an amount not to exceed $4,529,600 and to extend the term of the contract through December 11, 2013 [or December 11, 2016]" and replace this language with "for an amount not to exceed $2,264,800 and to extend the term of the contract through December 10, 2013".
- Amend the proposed resolution on page 1, line 24 to delete "at a cost of $2.26 million" and insert "at a cost not-to-exceed $2,264,800".
- Approve the proposed resolution, as amended, in order to exercise the two one-year options to extend the term through December 10, 2013, for an additional cost of $2,264,800.

2. Regarding the second alternative to amend the existing agreement to exercise the two one-year options and further extend the agreement by three additional years:

- Amend the proposed resolution's title to delete "for an amount not to exceed $4,529,600 and to extend the term of the contract through December 11, 2013 [or December 11, 2016]" and replace this language with "for an amount not to exceed $5,910,700 and to extend the term of the contract through December 10, 2016".
- Amend the proposed resolution on page 2, lines 3 and 4 to delete "at a total cost of $4.53 million" and insert "at a cost not-to-exceed $5,910,700".
- Continue the proposed resolution to the next meeting of the Budget and Finance Committee, in accordance with the City Attorney's recommendation.
- Approval of the second alternative proposed amendment, as amended, to both exercise the two one-year options under the existing agreement and extend the agreement by an additional three years, is a policy decision for the Board of Supervisors because the additional three years were not provided for in the existing agreement, as previously approved by the Board of Supervisors.

Harvey M. Rose

cc: Supervisor Chu
Supervisor Mirkarimi
Supervisor Kim
President Chiu
Supervisor Avalos
Supervisor Campos
Supervisor Cohen
Supervisor Elsbernd
Supervisor Farrell
Supervisor Mar
Supervisor Wiener
Clerk of the Board
Cheryl Adams
Controller
Rick Wilson