

Item 7
File 11-0336

Departments:
Department of Public Health

EXECUTIVE SUMMARY

Legislative Objective

- The proposed ordinance would appropriate \$150,000 from the City’s General Fund Reserve to the Department of Public Health (DPH) for Women’s and Lesbian, Gay, Bi-sexual, and Transgender (LGBT) health services in FY 2010-2011. This appropriation would be allocated to Lyon-Martin Health Services through an existing DPH contractor.

Key Points

- Founded in 1979, Lyon-Martin Health Services (Lyon-Martin) is a non-profit organization that provides health care primarily to women and transgender people.
- Lyon-Martin currently has \$1,100,000 in debt. Lyon-Martin’s current debt and fiscal problems are a result of (a) insufficient cash flow, (b) insufficient payor mix, (c) expanded services without adequate financial systems to monitor growth and ensure solvency, (d) inadequate billing infrastructure and insufficient billing to MediCal for services provided, and (e) reduced fundraising activities.

Fiscal Analysis

- The requested \$150,000 supplemental appropriation would be funded from the City’s General Fund Reserve, which if approved, would reduce the City’s General Fund Reserve to \$14,226,448.
- Based on the first quarter of 2011, Lyon-Martin has projected that it will incur a net loss of \$148,701 in calendar year 2011.
- Lyon-Martin projects a total budgetary shortfall of \$500,000, \$200,000 of which is needed by July 31, 2011 in order to continue operations and avoid possible closure and \$300,000 of which is needed by December 31, 2012 to continue operations until Lyon-Martin regains fiscal solvency.

Policy Considerations

- DPH requests that this \$150,000 appropriation be an interest free loan of City General Fund monies and has suggested various stipulations and conditions for the repayment of the loan by Lyon-Martin.
- The Budget and Legislative Analyst questions whether Lyon-Martin would be able to repay a \$150,000 loan, even without interest, given that Lyon-Martin has an existing debt of \$1,100,000 owed to various entities including the Federal Internal Revenue Service and the California State Franchise Tax Board. In April, 2011 the Budget and Legislative Analyst requested that Lyon-Martin provide their draft financial recovery plan. Lyon-Martin never provided such a financial plan to the Budget and Legislative Analyst. On May 5, 2011, the date of the issuance of the Budget and Legislative Analyst report, Ms. Tangerine Brigham, Deputy Director of Health for DPH provided Lyon-Martin’s draft final plan to the Budget and Legislative Analyst.

Recommendation

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

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

In accordance with Section 9.105 of the City Charter, subject to the Controller's certification of the availability of funds, the Board of Supervisors and/or the Mayor may initiate amendments to the annual appropriations ordinance, which must be subsequently approved by the Board of Supervisors.

Background

Founded in 1979, Lyon-Martin Health Services (Lyon-Martin) is a non-profit organization that provides health care primarily to women and transgender people, as part of the San Francisco Community Clinic Consortium (SFCCC).¹ According to Lyon-Martin's website, Lyon-Martin community clinic provides community health services in or around San Francisco with a dedicated focus on lesbian and transgender health care and provides services to its patients regardless of ability to pay.

In 2010, Lyon-Martin served 2,500 patients who generated 10,800 visits. Of those 2,500 patients, (a) 2,100, or 84 percent, are below 200 percent of the Federal poverty level,² (b) 1,050, or 42 percent, are Lesbian, Gay, Bisexual, and Transgender (LGBT), (c) 825, or 33 percent, are people of color, and (d) 425, or 17 percent, are homeless or marginally housed. Approximately 900 patients are Healthy San Francisco³ participants.

As shown in Table 1 below, as of the writing of this report, Lyon-Martin owes various entities, including the Federal Internal Revenue Service (IRS) and the California State Franchise Tax Board, a total of \$1,100,000. Approximately 50 percent of Lyon-Martin's debt is a \$550,000 loan Lyon-Martin received from NCB Capital Impact (NCB).⁴ Approximately 36.4 percent of the total debt of \$1,100,000 is unpaid Federal and State Payroll Taxes, including \$300,000 owed to the IRS and \$100,000 owed to the California State Franchise Board.

¹ SFCCC is a nonprofit organization comprised of community clinic partners which are located in underserved neighborhoods. SFCCC promotes the health of its clinic partners through capacity-building, supporting a functioning clinic network, public policy work, and community engagement.

² The 2010 Federal poverty level was \$10,830.

³ Healthy San Francisco is a City program that makes health care services accessible and affordable for uninsured San Francisco residents whose income is at or below 500% of the Federal poverty level regardless of immigration status, employment status, or pre-existing medical conditions.

⁴ NCB Capital Impact is a national nonprofit organization and a certified Community Development Finance Institution.

Federal Internal Revenue Service (IRS)	\$300,000
California State Franchise Tax Board	100,000
NCB Capital Impact Loan	550,000
Robert Woods Johnson Foundation Loan	75,000
Other miscellaneous debt	75,000
Total	\$1,100,000

Lyon-Martin's existing debt and fiscal problems are a result of (a) insufficient cash flow, (b) insufficient payor mix⁵, (c) expanded services without adequate financial systems to monitor growth and ensure solvency, (d) inadequate billing infrastructure and insufficient billing to MediCal for services provided, and (e) reduced fundraising activities. As a result of Lyon-Martin's financial problems, both their previous Executive Director and their previous Finance Director have resigned their positions. In addition, the Lyon-Martin's Board of Directors Chairperson has resigned and a new Board of Directors Chairperson was elected on March 23, 2011.

The Lyon-Martin Board of Directors recently began to address its current fiscal problems. As part of that effort, the Lyon-Martin Board of Directors made the decision to replace key leadership positions, including the Executive Director. On March 1, 2011, Lyon-Martin appointed a new Interim Executive Director, Mr. Eric Fimbres. Mr. Fimbres is currently in the process of seeking solutions to Lyon-Martin's financial predicament.

Lyon-Martin recently completed a 2011 calendar year projected cash-flow analysis which is summarized in Table 2 below. As reflected in Table 2 below, based on Lyon-Martin's 2011 first quarter⁶ of actual revenues and expenditures, Lyon-Martin's estimated total year revenues are \$1,468,124 and their estimated total year expenditures are \$1,768,420, resulting in an annual projected net loss of \$300,296 for 2011. As also shown below in Table 2, including debt service costs⁷, Lyon-Martin will incur additional expenditures of \$232,400 resulting in a total net estimated loss of \$532,696 in 2011. However, according to the cash flow analysis for 2011 provided to the Budget and Legislative Analyst by Mr. Fimbres on May 2, 2011, Lyon-Martin has received an additional \$383,995 in undisclosed grants and private individual donations to partially offset this estimated loss of \$532,696, resulting in a total estimated net loss for 2011 of \$148,701 (\$532,696 less \$383,995).

⁵ A payor mix is the percentages of fund sources that a clinic/medical practice receives to provide services, such as Medicare, MediCal and private insurance.

⁶ Lyon-Martin's operates under a calendar year, with first quarter from January 1, 2011 through March 30, 2011.

⁷ According to Mr. Fimbres, Lyon-Martin has not entered into debt schedule payment agreements with the IRS, State Franchise Tax Board, vendors, or NCB Capital Loan yet, but has estimated the debt servicing costs shown in Table 2 as part of their cash flow analysis.

Patient Annual Revenue	\$920,724
Grant Annual Revenue	547,400
Total Annual Revenue	\$1,468,124
Total Annual Expenses	(1,768,420)
Annual Net Loss Before Debt Servicing	(\$300,296)
Proposed Annual Schedule for Repayment of Unpaid Federal and State Taxes	(120,000)
Proposed Annual Repayment of Unpaid Vendors	(22,400)
Proposed Annual Repayment of NCB Capital Loan	(90,000)
Total Anticipated Debt Servicing for 2011	(\$232,400)
Annual Net Loss with Debt Servicing	(\$532,696)
Private Individual Donations to Date	297,995
Foundation Contributions	86,000
Total Additional Undisclosed Grants and Donations	\$383,995
Estimated Net Cost for 2011	(\$148,701)

According to Mr. Fimbres, Lyon-Martin has identified four options to address this estimated shortfall of \$148,701 in funding: (1) change the existing business model, (2) merge with another organization, (3) reduce the size of the organization, and (4) close the organization. While Lyon-Martin has developed two different versions of a closure plan, the Lyon-Martin Board of Directors has advised Mr. Fimbres to pursue only the first three options at the present time, such that closing Lyon-Martin would only be an option if staying open under the other three options is not financially feasible.

Mr. Fimbres advises that the third option, reducing the size of Lyon-Martin, is not a viable option because the Lyon-Martin organization needs to expand and increase its revenue stream in order to achieve financial stability. Mr. Fimbres advises that regarding the first two options, changing the existing business model and/or merging with another organization, Lyon-Martin is currently in discussions with a potential undisclosed merger partner. However, Mr. Fimbres estimates that such a merger could take up to one to two years to complete. Therefore, in the meantime, Lyon-Martin is considering entering into an agreement with the same undisclosed potential merger partner within the next 30 days to provide management services⁸ to Lyon-Martin. According to Mr. Fimbres, such an arrangement would provide needed budget relief by allowing Lyon-Martin to shift some of its staff from administrative functions to the provision of direct clinical services which would allow the clinic to see more patients and increase operating revenues.

Mr. Fimbres advises that Lyon-Martin staff was in the process of developing a (a) needs assessment, (b) cash flow analysis, and (c) business plan as part of an overall financial recovery plan. Mr. Fimbres previously advised the Budget and Legislative Analyst that the cash flow analysis and overall financial recovery plan, which includes the business plan, would be completed and presented at the Lyon-Martin Board of Directors' meeting on April 27, 2011 and that the needs assessment would likely be completed by the first week of May, 2011. Mr. Fimbres provided the Budget and Legislative Analyst with the

⁸ Under this agreement, an outside organization would provide management and administrative support services for the Lyon-Martin's clinic, which would relieve Lyon-Martin staff of non-medical functions.

cash flow analysis, as shown in Table 2 above, on May 2, 2011. However, as of the writing of this report, Mr. Fimbres advises that the needs assessment has not been pursued due to the ongoing discussions regarding the potential management services agreement and possible merger with an undisclosed partner. Mr. Fimbres did not provide the Lyon-Martin draft financial recovery plan, which included the business plan, to the Budget and Legislative Analyst, due to concerns that the document is (a) still in draft form, (b) not yet fully adopted by the Lyon-Martin Board of Directors and (c) not appropriate for public disclosure.

On May 5, the date of issuance of the Budget and Legislative Analyst's report, Ms. Tangerine Brigham, Deputy Director of Health for DPH, provided the Budget and Legislative Analyst with a copy of the Lyon-Martin's draft financial recovery plan. This draft financial recovery plan identifies the problem statements, key action steps with dates of implementation, evaluation methods and progress in the following six areas: (1) finance, (2) governance, (3) organizational leadership, (4) information technology, (5) community relations and (6) oversight.

Lyon-Martin is a City Subcontractor

According to Ms. Brigham, Lyon-Martin does not have a direct contract with the City. Rather, the City has contracts with the San Francisco AIDS Foundation and the San Francisco Community Clinic Consortium (SFCCC) who in turn subcontract with Lyon-Martin to provide behavioral health services and general health services for Healthy San Francisco patients. In FY 2010–2011, Lyon-Martin will be allocated \$200,000 as a subcontractor under the San Francisco AIDS Foundation contract. In addition, in FY 2010–2011, Lyon-Martin will be allocated \$122,000 as a subcontractor under the SFCCC contract. As shown in Table 3 below, Lyon-Martin will be allocated a total of \$322,000 of City funds from these two sources in FY 2010-2011.

Table 3: City Funds that Lyon-Martin, as a Subcontractor, Will be Allocated in FY 2010-2011	
City Contractor	Funding Received in FY 2010-2011
San Francisco AIDS Foundation (Behavioral Health Funds)	\$200,000
San Francisco Community Clinic Consortium (Healthy San Francisco Funds)	122,000
Total Allocation	\$322,000
Amount advanced by DPH from both contracts	160,000
Balance Still to be Allocated	\$162,000

As shown in Table 3 above, Ms. Brigham advises that as part of DPH's efforts to address Lyon-Martin's cash flow problems, DPH advanced \$160,000 from both contracts that total \$322,000 to fund Lyon-Martin, with \$162,000 remaining. Ms. Brigham also advises

that DPH has decided to essentially treat Lyon-Martin as a direct contractor so DPH can have access to Lyon-Martin's financial information and provide DPH's expertise to Lyon-Martin in identifying solutions to their financial problems. As part of this effort, Ms. Brigham advises that DPH has instituted a Corrective Action Plan⁹ for Lyon-Martin and that DPH staff are meeting regularly with Lyon-Martin and SFCCC staff to track progress on the various components of DPH's Corrective Action Plan.

In addition, Ms. Brigham advises that DPH has restricted Lyon-Martin from receiving any new Healthy San Francisco patients, and has worked with Lyon-Martin to identify and transfer some existing Healthy San Francisco patients to other Healthy San Francisco service providers.

DETAILS OF PROPOSED LEGISLATION

The proposed supplemental appropriation ordinance would appropriate \$150,000 of General Fund monies to the Department of Public Health for Women's and LGBT health services in FY 2010-2011. According to Ms. Brigham, if the proposed supplemental appropriation ordinance is approved for DPH, the subject \$150,000 of General Fund monies would be allocated by DPH to Lyon-Martin through an existing yet-to-be determined City contractor.

FISCAL ANALYSIS

The requested \$150,000 supplemental appropriation would be funded from the City's General Fund Reserve. According to Ms. Cindy Czerwin of the Controller's Office, the City's General Fund Reserve currently has a balance of \$20,891,000. However, on May 4, 2011 the Budget and Finance Committee approved a Sheriff's supplemental appropriation which included \$6,209,064 from the General Fund Reserve (File 11-0437), which is currently pending before the Board of Supervisors. If that supplemental appropriation ordinance is approved by the Board of Supervisors, the General Fund Reserve will be reduced to \$14,681,936. Therefore, if the proposed supplemental appropriation ordinance of \$150,000 is also approved, the General Fund Reserve will be reduced to a remaining balance of \$14,531,936.

According to Mr. Fimbres, and as shown in Table 4 below, the requested \$150,000 would be used to fund Lyon-Martin additional staff to (a) sustain clinical operations and patient care, (b) prevent increased liability from not properly managing legally mandated tasks, such as required financial reporting and responding to debtors, and (c) preserve any grant funds already received or anticipated by ensuring that Lyon-Martin provides specified grant services. Mr. Fimbres believes that Lyon-Martin's inability to do these three tasks could likely result in the clinic's closure in the coming months.

⁹ A Corrective Action Plan identifies existing organizational problems, potential solutions, and tracks the organization's progress towards achieving such solutions.

Clinical Operations	
Front Desk	\$40,560
Patient Assistance	20,280
Receptionist	20,280
Legally Mandated	
Human Resource Clerk	16,224
Accounts Payable Clerk	32,448
Preserving Grant Funds	
Billing Clerk	20,280
Total	\$150,072
* - Budgeted amounts include both salaries and fringe benefits at 30 percent of each individual salary.	

If Lyon-Martin's need for additional staffing is essential to Lyon-Martin sustaining its operations, the projected annual expenditures to operate Lyon-Martin which is reflected in the cash flow analysis in Table 2 above, may not be an accurate picture of Lyon-Martin's annual expenditures. With higher annual salary expenditures, if Lyon-Martin's revenues are not similarly increased, the estimated net loss of \$148,701 for Lyon-Martin for calendar year 2011, as shown in Table 2 above, will likely be greater.

Lyon-Martin Needs \$200,000 by July 31, 2011

In addition to the subject proposed General Fund supplemental appropriation of \$150,000 Lyon-Martin has identified an additional need of \$50,000 by July 31, 2011, or a total need of \$200,000, (\$150,000 plus \$50,000). As shown below in Table 5, according to Mr. Fimbres, Lyon-Martin has identified \$50,000 in potential private donations. Therefore, if the proposed ordinance is approved, the \$150,000 from the City's General Fund together with the \$50,000 potential private donations would potentially satisfy Lyon-Martin's need for \$200,000 by July 31, 2011. However, Mr. Fimbres notes that the \$50,000 in potential private donations is contingent on Lyon-Martin's future fiscal solvency. Further, the use of the \$50,000 in private donations is restricted to being used to pay off a \$50,000 debt owed to an undisclosed entity.

Mr. Fimbres acknowledges that closure is not certain if Lyon-Martin does not receive the \$200,000 but that he believes closure of Lyon-Martin is likely if the clinic does not have sufficient financial resources to (a) continue operations, (b) fulfill its legal obligations, and (c) maintain its foundation grant funding stream discussed above.

Potential Private Donations	\$50,000
General Fund Monies Requested Under This Subject Proposed Supplemental Appropriation Ordinance	150,000
Total Needed to be Received by June 30, 2011	\$200,000

Lyon-Martin Needs an additional \$300,000 by December 31, 2012

In addition to this subject request of a \$150,000 General Fund supplemental appropriation ordinance, and the receipt of potential private donations of \$50,000, or a total of \$200,000 which is needed by July 31, 2011, Lyon-Martin will still have a need of an additional \$300,000 by December 31, 2012. Mr. Fimbres advises that Lyon-Martin anticipates receiving (a) \$80,000 from the nonprofit agency SFCCC and (b) an additional \$25,000 private donation pledged by an undisclosed donor, for a total of \$105,000, which would be used to partially offset the projected \$300,000 additional projected shortfall. As shown in Table 6 below, this \$105,000 would reduce Lyon-Martin’s projected \$300,000 shortfall to \$195,000.

Table 6: Summary of Lyon’s Martin’s Funding Need of \$300,000 by December 31, 2012	
Total Needed to be Received by December 31, 2012	\$300,000
Funds expected from SFCCC	80,000
Private Donation Pledged from Undisclosed Donor	25,000
Funds Still Needed	\$195,000

According to Mr. Fimbres, Lyon-Martin plans to obtain the remaining \$195,000 from outside contributions and increased revenues as a result of improved productivity. Mr. Fimbres advises that (a) Horizon Foundation and Blue Shield Foundation are working to convene local foundations to discuss Lyon-Martin’s programs and gain understanding of their funding needs, (b) Lyon-Martin hired an experienced medical biller on March 1, 2011, and (c) Lyon-Martin expects to receive an additional unknown amount of revenues from MediCal and Medicare due to such anticipated improved billing.

POLICY CONSIDERATIONS

The Budget and Legislative Analyst notes that it is difficult to justify appropriating \$150,000 of General Fund revenues to one nonprofit agency when the City is currently facing a \$306,000,000 projected budgetary shortfall for FY 2011-2012 and when the City is being forced to reduce funding to other nonprofit agencies and for other services that are also in need.

Ms. Brigham advises that if the Board of Supervisors approves \$150,000 of funding for Lyon-Martin, it is DPH’s position that the requested \$150,000 should not be a direct allocation of General Fund revenues, but rather should be in the form of a loan, without interest. According to Ms. Brigham, such loan funds could be disbursed in two installments of \$75,000 each, contingent upon specific conditions being met for each disbursement, prior to the funds being provided, including conditions for the repayment of such a loan.

For example, Ms. Brigham advises that, prior to the first \$75,000 disbursement, Lyon-Martin could be required to (a) provide detailed projected financial data, such as a cash

flow analysis and balance sheet, (b) continue ongoing discussions with potential merger partners, (c) stipulate that the use of the City loan funds could only be used for specific operating needs and not be used to pay existing debts, and (d) make substantive progress on the previously discussed DPH Corrective Action Plan.

To continue such oversight, Ms. Brigham advises that, prior to the second \$75,000 disbursement, Lyon-Martin could be required to (a) continue to provide detailed projected financial data that documents improved financial conditions, (b) identify specifically how the first \$75,000 in City loan funds were expended, (c) make substantive progress towards a merger with another organization or towards revamping of the Lyon-Martin clinic model, (d) stipulate use of additional \$75,000 loan funds for specific operating needs and not to pay existing debts, and (e) make additional substantive progress on the previously discussed DPH Corrective Action Plan.


Ms. Brigham also suggests that such Lyon-Martin loan repayments totaling \$150,000 commence in July 2013 and extend through June 2016, a total of three years, with 36 monthly payments of \$4,166.67.

The Budget and Legislative Analyst questions whether Lyon-Martin would be able to repay a \$150,000 loan, even without interest, given that Lyon-Martin currently owes various entities including the Federal Internal Revenue Service and the California State Franchise Tax Board, \$1,100,000, as shown in Table 1 above. As noted above, under the current plan, Lyon-Martin will have to shift its administrative functions to a third party within the next 30 days while working towards a possible merger in one to two year's time, in order to avoid potential closure. As discussed above, neither the agreement with the third party nor the potential merger were finalized as of the writing of this report.

As noted above, even if the requested \$150,000 General Fund supplemental appropriation is approved, and Lyon-Martin receives a \$50,000 restricted donation from an undisclosed source by July 31, 2011, Lyon-Martin will still need an additional \$300,000 by December 31, 2012 to avoid future closure. Given that the proposed \$150,000 General Fund appropriation, which DPH would deem as an interest free loan, would not require any repayments until at least July 2013, the Budget and Legislative Analyst questions whether Lyon-Martin would be able to repay the City such loan funds.

RECOMMENDATION

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



Harvey M. Rose

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