

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

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April 20, 2018

TO: Budget and Finance Sub-Committee

FROM: Budget and Legislative Analyst



SUBJECT: April 26, 2018 Budget and Finance Sub-Committee Meeting

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<p>Items 4 and 5 Files 18-0269 and 18-0270</p>	<p>Department: General Services Agency - Department of Public Works (DPW)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> • <u>File 18-0269</u>: Resolution authorizing the Department of Public Works (DPW) to (1) file an application to the MTC for \$19,346,000 OneBayArea Grant (OBAG) funds; (2) accept and expend \$19,346,000 OBAG funds; (3) commit to providing \$19,277,000 in matching funds; and (4) state assurance to complete the projects. • <u>File 18-0270</u>: Resolution retroactively authorizing DPW to accept and expend federal financial assistance under Public Law 93-288, as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, from the United States Department of Transportation Federal Highway Administration, and/or state financial assistance under the California Disaster Assistance Act, for an amount not to exceed \$2,789,354. DPW will commit \$307,040 in required matching funds to the grant of \$2,789,354. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> • The OneBayArea Grant Program (OBAG) projects include \$19,346,000 in federal funds for the following two projects submitted by DPW: (1) John Yehall Chin Safe Routes to School Project (\$3,366,000 in OBAG funds, \$436,000 in required local matching funds); and (2) Better Market Street Project (\$15,980,000 in OBAG funds, \$18,841,000 in required local matching funds) • On January 19, 2017, DPW issued Order #185632 declaring a local emergency regarding the severe erosion on O’Shaughnessy Boulevard between Del Vale Avenue and Malta Drive, resulting from the January 2017 storm system. After Caltrans received the authority to use FHWA Emergency Relief Program funds for damages resulting from the storm, DPW requested and was approved to receive \$2,789,354 in federal funds for the emergency stabilization work at O’Shaughnessy Boulevard. 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> • The total budget for the Better Market Street project is approximately \$503,704,591. Of this amount, \$34,821,000 will fund design costs to develop plans, specifications, and estimates for the Better Market Street project. The OBAG grant will fund \$15,980,000, and DPW will fund \$18,841,000 of the design costs. The total budget for the John Yehall Chin Safe Routes to School Project is \$4,200,000. Of this amount, \$3,802,000 will fund the construction of curb extensions and associated catch basin, structural, electrical, and water work at “high injury” intersections around the John Yehall Chin Elementary School. The OBAG grant will fund \$3,366,000, and DPW will contribute the additional \$436,000. • The total budget for the Federal Highway Administration’s (FHWA) Emergency Relief Program grant for the O’Shaughnessy Boulevard project is \$3,096,394. The FHWA grant will fund \$2,789,354, and DPW will contribute an additional \$307,040. 	
<p style="text-align: center;">Recommendations</p>	
<ul style="list-style-type: none"> • Amend File 18-0270 to correctly state that the required grant match is \$307,040. • Approve File 18-0270 as amended, and File 18-0269. 	

MANDATE STATEMENT

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

BACKGROUND**OneBayArea Grant Program (File 18-0269)**

In November 2015, the Metropolitan Transportation Commission (MTC) adopted the second cycle of the OneBayArea Grant Program (OBAG)¹, which will direct approximately \$42,300,000 to San Francisco over the next four years (FY2017-18 to FY2021-22). As the Congestion Management Agency (CMA)² for San Francisco, the San Francisco County Transportation Authority (SFCTA) issued a call for projects to select the San Francisco projects to be funded by this cycle of OBAG. Eligible project types are required to fit into one of the following programs: (1) transit expansion, reliability, and access improvements; (2) smart system management, transportation demand management, safety and streetscape improvements, safe routes to school; and (3) priority development area planning and implementation. In addition, at least 70 percent (or approximately \$30,000,000) of the OBAG funds must go toward projects that support priority development areas.

On July 25, 2017, the SFCTA Board adopted funding³ for three of six projects in San Francisco's OBAG program of projects, totaling \$21,493,000 in federal funds. On September 26, 2017, the SFCTA Board adopted funding for two more projects in San Francisco's program of projects, totaling \$17,980,000 million in federal funds. The adopted program of projects includes \$19,346,000 in federal funds for the following two projects submitted by the Department of Public Works (DPW):

- John Yehall Chin Safe Routes to School Project (\$3,366,000): To construct curb extensions and a raised crosswalk at six high-injury and high-pedestrian volume intersections near 350 Broadway Street to improve the safety and convenience of walking, biking, and taking transit to John Yehall Chin Elementary School.

¹ Established in 2012, OBAG taps federal funds to maintain MTC's commitments to regional transportation priorities while also advancing the Bay Area's land-use and housing goals.

² The Transportation Authority is the designated Congestion Management Agency for San Francisco and is required by state law to develop and adopt a Congestion Management Program to monitor activity on the transportation network and adopt plans for mitigating traffic congestion in the city.

³ SFCTA Board adopted OBAG funding for projects based on SFCTA staff recommendations. SFCTA staff screened projects based on the following Board-adopted screening and prioritization criteria: (1) Proximity to a Priority Development Area (PDA); (2) Proximity to a High-Impact Project Area; (3) Proximity to Communities of Concern (CoC); (4) Proximity to Bay Area Air Quality Management District (BAAQMD) CARE Community; (5) Proximity to PDA with an Affordable Housing Preservation and Creation Strategy; (6) Project Readiness; (7) Planning for Healthy Places; (8) Safety; (9) Multi-Modal Benefits; (10) Multiple Project Coordination; (11) Community Support; (12) Core Capacity; and (13) Alternate Funding Sources.

- Better Market Street Project (\$15,980,000): To completely reconstruct Market Street from Octavia Boulevard to the Embarcadero, prioritizing transit, providing safe pedestrian access for people of all ages and abilities, and building safe bicycle facilities and quality public spaces and streetscapes.

Federal Highway Administration Grant (File 18-0270)

On January 23, 2017, the Governor of California, Jerry Brown, declared that a storm system resulting from an atmospheric river, combined with extreme drought conditions, caused dangerous flash flooding, erosion, and substantial mud and debris flows throughout the State of California. The Governor directed the California Department of Transportation (Caltrans)⁴ to request immediate assistance through the U.S. Department of Transportation Federal Highway Administration's (FHWA) Emergency Relief Program in order to obtain federal assistance for highway repairs and reconstruction for the damages and erosion resulting from the storm system.

On January 19, 2017, San Francisco's DPW had previously issued Order #185632 declaring a local emergency regarding the severe erosion on O'Shaughnessy Boulevard between Del Vale Avenue and Malta Drive, resulting from the storm system. After Caltrans received the authority to use FHWA Emergency Relief Program funds for damages resulting from the storm, DPW requested and was approved to receive \$2,789,354 in federal funds for the emergency stabilization work at O'Shaughnessy Boulevard.

The January 2017 storm system fractured and collapsed a previous stable rock outcropping at O'Shaughnessy Boulevard, resulting in dropped boulders and debris onto the boulevard, blocking the southbound lane. FHWA funds will be used for road clearing, removal of vegetation, scaling and removal of large loose rocks from the slope, road and slope stabilization at O'Shaughnessy Boulevard.

DETAILS OF PROPOSED LEGISLATION

The proposed resolutions would authorize the Department of Public Works (DPW) to accept and expend the following grants:

File 18-0269: Resolution authorizing DPW to (1) file an application to the MTC for \$19,346,000 OneBayArea Grant (OBAG) funds; (2) accept and expend \$19,346,000 OBAG funds; (3) commit to providing \$19,277,000 in matching funds; and (4) state assurance to complete the projects.

The \$19,346,000 in OBAG funds will fund the following two projects, as detailed below:

- John Yehall Chin Safe Routes to School Project (\$3,366,000 in OBAG funds, \$436,000 in required local matching funds): To construct curb extensions and a raised crosswalk at six high-injury and high-pedestrian volume intersections near 350 Broadway Street to improve the safety and convenience of walking, biking, and taking transit to John Yehall

⁴ Caltrans requests Emergency Relief Program funds from FHWA when an emergency event is declared. FHWA authorized Caltrans to use Emergency Relief Program funds for damages associated with the January 2017 storm.

Chin Elementary School. The grant performance period would be from March 2019 through October 2019.

- Better Market Street Project (\$15,980,000 in OBAG funds, \$18,841,000 in local matching funds): To completely reconstruct Market Street from Octavia Boulevard to the Embarcadero, prioritizing transit, providing safe pedestrian access for people of all ages and abilities, and building safe bicycle facilities and quality public spaces and streetscapes. The grant performance period would be from April 2019 through December 2020.

DPW applied for the OBAG funds in April 2017. The OBAG grant funds require 11.47 percent local matching funds. The proposed match of \$19,277,000 is 99.6 percent of grant funds of \$19,346,000. According to Ms. Rachel Alonso, DPW Transportation Finance Analyst, the 99.6 percent match exceeds the required match of 11.47 percent because construction projects, especially large projects like Better Market Street, are often overmatched and leverage multiple sources of funding. No grant funds have been spent to date.

File 18-0270: Resolution retroactively authorizing DPW to accept and expend federal financial assistance under Public Law 93-288, as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, from the United States Department of Transportation Federal Highway Administration, and/or state financial assistance under the California Disaster Assistance Act, for an amount not to exceed \$2,789,354. DPW will commit \$307,040 in required matching funds to the grant of \$2,789,354. The resolution should be amended to correctly state that the required match is \$307,040, rather than \$307,404 as written in the resolution.

The acceptance of the grant is retroactive because the emergency event (storm system) occurred in January 2017. Federal funds were approved in June 2017. According to Ms. Alonso, DPW submitted the proposed resolution approving the acceptance of the grant funds to the Board of Supervisors nine months after the grant funds were awarded because of administrative delays. The grant performance period is from January 2017 through May 2019. The project includes both Emergency Opening ⁵ and Permanent Restoration ⁶ work.

Emergency Opening work (\$419,495) is eligible for 100 percent federal reimbursement. \$419,495 in grant funds for the EO work has been spent to date.

Permanent Restoration work (\$2,676,899) is eligible for 88.53 percent federal reimbursement. The \$307,040 in matching funds meets the required 11.47 percent local match requirement for the PR work.

⁵ Emergency Opening work is defined as any repairs made during and immediately following a disaster that: 1) restores essential traffic, 2) minimizes the extent of damage, or 3) protects the remaining facilities.

⁶ Permanent Restoration work is repairs undertaken to restore the road to its pre-disaster condition.

FISCAL IMPACT**OneBayArea Grant Program (File 18-0269)**Better Market Street Project

The total budget for the Better Market Street project is approximately \$503,704,591. Of this amount, \$34,821,000 will fund design costs for project management, landscape architecture, and engineering staff to develop plans, specifications, and estimates for the Better Market Street project. The OBAG grant will fund \$15,980,000, and DPW will fund \$18,841,000 of the design costs. The source of \$18,841,000 for the Better Market Street project is Proposition A General Obligation Transportation Bond funds approved by San Francisco voters in November 2014. Table 1 below summarizes grant funding for the Better Market Street project.

Table 1. Better Market Street Project Grant Budget

Sources	
OneBayArea Program Grant (Cycle 2) ⁷	\$15,980,000
Proposition A General Obligation Transportation Bond (matching funds)	18,841,000
Total Sources	\$34,821,000
Uses	
Design ⁸	\$34,821,000
Total Uses	\$34,821,000

According to Ms. Alonso, DPW will not incur any ongoing project design costs once the grant funds expire.

John Yehall Chin Elementary Safe Routes to School Project

The total budget for the John Yehall Chin Safe Routes to School Project is \$4,200,000. Of this amount, \$3,802,000 will fund the construction of curb extensions and associated catch basin, structural, electrical, and water work at “high injury” intersections around the John Yehall Chin Elementary School. The OBAG grant will fund \$3,366,000, and DPW will contribute the additional \$436,000. The source of \$436,000 is Proposition K Sales Tax funds, which is a half-cent local sales tax for transportation that was approved by San Francisco voters in November 2003. Table 2 below summarizes grant funding for the John Yehall Chin Safe Routes to School Project.

⁷ OBAG Cycle 2 funds are for design phase only. Previous phases (planning and environmental) are funded by \$5.1 million General Fund, \$3.1 million Octavia Land Sales, \$1.0 million Market-Octavia Impact Fees, and \$17.5 million Prop A GO Transportation Bond. No construction phase funding has been allocated yet.

⁸ Design costs are for Project Management, Landscape Architecture and Engineering staff to develop plans, specifications, and estimates for the project. The end result will be a set of detailed drawings that can be advertised for a construction contractor to build.

Table 2. John Yehall Chin Safe Routes to School Project Grant Budget

Sources	
OneBayArea Program Grant (Cycle 2) ⁹	\$3,366,000
Proposition K Sales Tax (matching funds)	436,000
Total Sources	\$3,802,000
Uses	
Construction ¹⁰	\$3,802,000
Total Uses	\$3,802,000

According to Ms. Alonso, DPW will not incur any ongoing costs for the curb extensions and associated work once the grant funds expire.

Federal Highway Administration Grant (File 18-0270)

The total budget for the Federal Highway Administration's (FHWA) Emergency Relief Program grant for the O'Shaughnessy Boulevard project is \$3,096,394. The FHWA grant will fund \$2,789,354, and DPW will contribute an additional \$307,040. The source of \$307,040 is DPW's Street Structure Repair General Fund. Table 3 below summarizes grant funding for the FHWA Emergency Relief Program grant.

Table 3. O'Shaughnessy Boulevard Project: FHWA Emergency Relief Program Grant Budget

Sources	
FHWA Emergency Relief Program	\$2,789,354
DPW Street Structure Repair General Fund (matching funds)	307,040
Total Sources	\$3,096,394
Uses	
Design ¹¹	\$477,199
Construction ¹²	2,194,388
Construction Management ¹³	424,807
Total Uses	\$3,096,394

According to Ms. Alonso, the FHWA Emergency Relief Program grant funds will be used for road clearing, loose rock removal, as well as slope stabilization at O'Shaughnessy Boulevard. By performing this work, DPW aims to reduce the risk of additional rock fall in the area in order to

⁹ OBAG Cycle 2 funds are for construction phase only. Previous phases (planning, environmental, and design) were funded by \$358,000 in Active Transportation Program funds and \$40,000 in Proposition K Sales Tax funds.

¹⁰ The project will construct curb extensions and a raised crosswalk at intersections in the neighborhood surrounding 350 Broadway Street.

¹¹ Design costs are for engineers to develop plans, specifications, and estimates for the project. The end result will be a set of detailed drawings that can be advertised for a construction contractor to build.

¹² Construction costs include removal of vegetation, scaling and removal of large loose rocks, road clearing, and slope stabilization at O'Shaughnessy Boulevard.

¹³ Construction management costs are for a professional service that uses specialized, project management techniques to oversee a project, from its beginning to its end. The purpose of construction management is to control a project's time, cost and quality.

protect the general public that uses O'Shaughnessy Boulevard. In addition, DPW will not incur any ongoing costs once the grant funds expire.

RECOMMENDATIONS

Amend File 18-0270 to correctly state that the required grant match is \$307,040.

Approve File 18-0270 as amended, and File 18-0269.

<p>Items 7 and 8 Files 17-0297 and 17-0538 <i>(Continued from April 12, 2018)</i></p>	<p>Department: Office of Labor Standards Enforcement</p>
<p>EXECUTIVE SUMMARY</p>	
<p>Legislative Objectives</p>	
<ul style="list-style-type: none"> • File 17-0297 is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, <i>other than nonprofit corporations or public entities</i>, at \$16.86 per hour on July 1, 2018. • File 17-0538 is an ordinance amending Administrative Code Section 12P for to set the minimum hourly compensation rate for employees of City contractors, <i>including employees of nonprofit corporations and public entities</i>, at \$16.86 per hour on July 1, 2018. 	
<p>Key Points</p>	
<ul style="list-style-type: none"> • The City’s Minimum Compensation Ordinance requires City contractors to pay their covered employees no less than the minimum hourly compensation rate and provide 12 days of paid time off each year. The proposed ordinances would set the hourly minimum compensation rate at \$16.86 per hour as of July 1, 2018, which is a \$1.86 more than the City’s minimum wage for employees of all businesses in San Francisco of \$15.00 per hour. • Currently, employees of nonprofit organizations and public entities having contracts with the City are subject to the Minimum Compensation Ordinance if “sufficient funds” are available. File 17-0297 sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses. File 17-0538 applies the minimum compensation of \$16.86 per hour to all employees of nonprofit organizations and public entities that have contracts with the City. • Although the proposed ordinance provides for minimum compensation to increase to \$15.86 as of July 1, 2017, the proposed ordinance is not retroactive. 	
<p>Fiscal Impact</p>	
<ul style="list-style-type: none"> • According to the Controller’s Office, the estimated cost to the City to apply the minimum compensation of \$16.86 per hour (or \$1.86 per hour above the minimum wage) to nonprofit and public contracts (File 17-0538) is \$44 million in FY 2018-19. If the Board of Supervisors were to approve a minimum compensation amount of less than \$1.86 per hour above the minimum wage, the costs to the City would be less, ranging from \$18 million for an increase of \$0.50 per hour to \$38 million for an increase of \$1.50 per hour. 	
<p>Recommendations</p>	
<ul style="list-style-type: none"> • Amend the proposed ordinances to clarify that the approval of the minimum compensation rate is not retroactive. • Approval of the proposed ordinances as amended is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

Administrative Code Section 12P, known as the “Minimum Compensation Ordinance”, requires City contractors to pay minimum compensation to employees.

BACKGROUND

The City currently has a Minimum Compensation Ordinance that requires City contractors to provide their covered employees with no less than the minimum hourly compensation rate. The Minimum Compensation Ordinance was adopted by the Board of Supervisors in August 2000 and covers City contracts with nonprofit corporations, public entities and for-profit companies. Covered contracts include: professional services, construction, grants, Airport leases (including concession leases), and subcontracts.

The Minimum Compensation Ordinance requires covered contractors to:

- Pay a minimum wage to all covered employees¹ who work at least 4 hours per week; and
- Provide 12 days of paid holidays and other leave per year if the employee works full time for one year.

The Minimum Compensation Ordinance set the original minimum wage at \$9 per hour, increasing by 2.5 percent per year through 2005. The Board of Supervisors amended the Minimum Compensation Ordinance in 2007 to require annual Consumer Price Index (CPI) adjustments to the minimum wage on January 1 of each year. The minimum wage required by the Minimum Compensation Ordinance as of January 1, 2018 is \$14.02 per hour, which is \$0.02 per hour more than the San Francisco minimum wage required of all employers located in San Francisco of \$14.00.²

While employees of nonprofit organizations and public entities are covered by the Minimum Compensation Ordinance, the Minimum Compensation Ordinance states that the City will fund wage increases to contracts with nonprofit organizations and public entities only if “sufficient funds” are available. According to the Minimum Compensation Ordinance, a finding of “sufficient funds” shall mean that the City will not be required to reduce services in order to pay the wage increase. The minimum wage for employees of nonprofit organizations and public entities having contracts with the City is currently \$14 per hour, consistent with the minimum wage for all employees of San Francisco businesses.

¹ Exempted employees include summer interns and participants in after-school programs, trainees and disabled workers as defined by federal regulations, and volunteers

² The minimum wage required by the Minimum Compensation Ordinance applies only to employees of City contractors, as defined by Administrative Code Section 12P. In addition, San Francisco voters approved a minimum wage that applies to all San Francisco employers. In November 2014, the voters approved Proposition J, raising the San Francisco minimum wage to \$15 per hour by 2018.

DETAILS OF PROPOSED LEGISLATION

The May 4, 2017 Budget and Finance Committee considered an ordinance setting the minimum compensation hourly rate at \$15.86 per hour on July 1, 2017, and \$16.86 per hour on July 1, 2018 (File 17-0297). File 17-0297 was duplicated and amended in committee. File 17-0297 was re-referred to committee by the Board of Supervisors at the May 16, 2017 meeting. The duplicated file – File 17-0538 – was continued to the call of the chair at the May 11, 2017 Budget and Finance Committee meeting.

File 17-0297 is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, *other than nonprofit corporations or public entities*, at \$16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

The proposed ordinance sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses.³

File 17-0538 is an ordinance amending Administrative Code Section 12P for employees of City contractors, *including employees of nonprofit corporations and public entities*, at \$16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

Other Provisions

File 17-0297 and File 17-0538 would remove the requirement that employees covered by the Minimum Compensation Ordinance work a minimum of 4 hours per week. All employees working on a City contract would be covered by the Minimum Compensation Ordinance regardless of the hours worked.⁴

File 17-0297 and File 17-0538 both provide for minimum compensation to increase to \$15.86 per hour on July 1, 2017. However, the proposed ordinances are not retroactive; therefore, if the Board of Supervisors approves the proposed ordinance, the hourly minimum compensation of \$16.86 would go into effect on July 1, 2018.

FISCAL IMPACT**File 17-0538**

Currently, nonprofit and public contractors with the City pay the minimum wage, which is \$15.00 per hour as of July 1, 2018. The proposed ordinance would require nonprofit and public

³ The ordinance does not change the existing Administrative Code provisions for the Mayor to report to the Board of Supervisors on funding CPI increases in the proposed budget for City contracts with nonprofit corporations and entities.

⁴ Currently, employees working on a City contract but located in the United States outside of City-owned property must work a minimum of 10 hours per week to be covered by the MCO. The proposed legislation removes this provision so that all employees working on a City contract, regardless of the number of hours worked, would be covered by the Minimum Compensation Ordinance.

contractors with the City to pay minimum compensation of \$16.86 per hour as of July 1, 2018, or \$1.86 per hour more than the minimum wage of \$15.00 per hour.

According to estimates by the Controller’s Office, the estimated cost to the City to apply the minimum compensation of \$16.86 per hour (or \$1.86 per hour above the minimum wage) to nonprofit and public contracts is \$44 million in FY 2018-19, as shown in the Table below. If the Board of Supervisors were to approve a minimum compensation amount of less than \$1.86 per hour above the minimum wage, the costs to the City would be less, ranging from \$18 million for an increase of \$0.50 to \$38 million for an of \$1.50, as shown in the Table below.

Table: Estimated Costs of Minimum Compensation for Nonprofit and Public Contract Employees in FY 2018-19

	Hourly Rate Above Minimum Wage			
	\$0.50	\$1.00	\$1.50	\$1.86
In Home Supportive Services - Wage Increase	\$6,000,000	\$12,000,000	\$18,000,000	\$22,000,000
In Home Supportive Services - Paid Time Off	9,000,000	9,000,000	9,000,000	9,000,000
Nonprofit Providers - City's Direct Contract Cost	3,000,000	700,000	11,000,000	13,000,000
Total	\$18,000,000	\$21,700,000	\$38,000,000	\$44,000,000

Source: Controller

RECOMMENDATIONS

1. Amend the proposed ordinances to clarify that the approval of the minimum compensation rate is not retroactive.
2. Approval of the proposed ordinances as amended is a policy matter for the Board of Supervisors.