CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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February 11, 2022

TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: February 16, 2022 Budget and Finance Committee Meeting

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Item 1 **File 21-0830** *(Continued from 12/8/2021)*	**Department:** Department of Public Health

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves Amendment No. 3 to the agreement between the Department of Public Health (DPH) and Cross Country Staffing for as-needed registry staff at San Francisco General Hospital and Laguna Honda Hospital. The proposed Amendment No. 3 increases the total agreement amount by $59,711,013, from $25,928,000 to $85,639,013, and extends the agreement term by two years to June 30, 2024.

Key Points

- This report is based on a revised resolution to be submitted by DPH to the December 1, 2021 Budget and Finance Committee meeting.
- According to DPH, although the current agreement does not expire until June 2022, the Department is requesting an increase in the agreement amount and extension of the agreement because the Department has already incurred agreement expenditures that exceed the agreement amount and projects ongoing expenditures for registry staffing due to vacancies, leaves of absence due to the COVID-19 pandemic, and additional staffing requirements due to the COVID-19 pandemic.

Fiscal Impact

- According to DPH staff, the Department's actual agreement expenditures are $32.1 million, or approximately $6.2 million more than the current agreement not-to-exceed amount of $25.9 million. DPH projects total agreement expenditures through June 2024 of $85.6 million.
- Approximately 70% of costs are covered by non-General Fund sources.

Policy Consideration

- Due to the size of the contract and the uncertain future need for temporary staff, we recommend that the Board of Supervisors amend the proposed resolution to request DPH report to our office regarding actual contract spending and for our office to make budget recommendations as needed during the FY 2022-23 and FY 2023-24 budget review.

Recommendation

- Approve the resolution.

MANDATE STATEMENT

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

BACKGROUND

The Department of Public Health (DPH) entered into an agreement with Cross Country Staffing, Inc. in July 2019 following a competitive solicitation for as-need registry staff to augment staff at San Francisco General Hospital and Laguna Honda Hospital to meet mandated staffing levels.[1] The original agreement was in an amount not-to-exceed $9,840,000 for one year through June 2020, with four one-year options to extend the agreement through June 2024. The Department amended the agreement in June 2020, extending the term by six months to December 2020 with no change in the not-to-exceed amount.

In December 2020, the Board of Supervisors approved the second amendment to the agreement, extending the term by one and one-half years to June 2022, and increasing the agreement amount by $16,088,000 to not-to-exceed $25,928,000.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves Amendment No. 3 to the agreement between DPH and Cross Country Staffing for as-needed registry staff at San Francisco General Hospital and Laguna Honda Hospital. The proposed Amendment No. 3 increases the total agreement amount by $59,711,013, from $25,928,000 to $85,639,013, and extends the agreement term by two years to June 30, 2024. The proposed resolution authorizes DPH to enter into amendments or modifications to the agreement prior to its final execution by all parties that do not materially increase the obligations or liabilities to the City and are necessary to implement the agreement.

According to Michelle Ruggels, DPH Business Office Director, although the current agreement does not expire until June 2022, the Department is requesting an increase in the agreement amount and extension of the agreement by two years through June 2024 because the Department has already incurred agreement expenditures that exceed the agreement amount (see Fiscal Impact Section below) and projects ongoing expenditures for registry staffing due to

[1] According to the Budget and Legislative Analyst's report to the December 16, 2020 Budget and Finance Committee (File 20-0933), a panel consisting of representatives from San Francisco General Hospital reviewed proposals from respondents and awarding scores out of 100 points based on their qualifications statement, recent relevant experience, agency and professional background, and budget. Cross Country Staffing was selected as the Primary Contractor with 94.75 points and Aya Healthcare and TaleMed were selected as the two back-up contractors receiving 90.00 and 87.50 points, respectively. These back-up contracts can be potentially used when Cross Country does not have capacity.

vacancies, leaves of absence due to the COVID-19 pandemic, and additional staffing requirements due to the COVID-19 pandemic.

Cross Country staffing provides temporary staff to DPH to backfill for absences or meet increased patient census at San Francisco General Hospital and Laguna Honda Hospital. Cross Country staff include registered nurses, licensed vocational nurses, patient care assistants, certified nursing assistants, and other technical and licensed staff. Amendment No. 3 differs from the original agreement and prior amendments by providing for out-of-state health care staff to practice in California to respond to the COVID-19 pandemic without obtaining California licenses in accordance with the Governor's June 2021 proclamation.[2]

Registry Staffing

According to the December 15, 2020 memorandum from the DPH Chief Operating Officer to the Budget and Finance Committee Chair, the agreement between DPH and Cross County is important because "access to temporary nursing…is crucial to COVID-19 response, in deep demand, and highly competitive." Further, according to the memorandum, because of the agreement with Cross County, DPH "has been able to meet unanticipated staffing gaps due to employee absences, while also staffing COVID-19 response both internally, and at off-site locations, such as Shelter-In-Place and Quarantine hotels. Temporary staffing needs have increased significantly, with the current hospitalization surge greater today than in May."

According to a November 3, 2021 email from the San Francisco General Hospital Director of Nursing, the COVID-19 pandemic required DPH to add nursing positions at San Francisco General Hospital to provide new (and unbudgeted) services, including COVID testing, vaccinations, and monoclonal antibody administration. The Director of Nursing also noted that the Hospital had three census surges due to COVID-19 in March 2020, December 2020, and September 2021.

Cross Country staffing hours in FY 2020-21 at San Francisco General Hospital and Laguna Honda Hospital are shown in Exhibit 1 below.

[2] The Governor's proclamation remains in effect during the declared state of emergency in California, which currently extends through March 2022.

Exhibit 1. Cross County Staff Hours

Staffing Category		SFGH	LHH [a]	Total	Est. FTEs[3]
		7/1/20 - 8/25/21	7/1/20 - 9/30/21		
Registered Nurses	2320	42,377	66,471	108,848	54.68
Licensed Vocational Nurses	2312	117	5,670	5,787	2.82
Patient Care Assistants	2302	22,709	36,961	59,670	29.95
Medical Evaluations Assistants	2430	4,657	7,291	11,948	6.00
Licensed Psychiatric Technicians	2305	5,296	0	5,296	2.80
	Total	**75,155**	**116,392**	**191,547**	**96.25**

Source: Department of Public Health

[a] Laguna Honda Hospital staff hours include 2.0 FTE registered nurse positions for contact investigation and tracing, 1.5 FTE registered nurse positions for EPIC electronic health records, and 8.0 FTE registered nurse positions for COVID response.

The staffing provided by Cross Country staffing is equivalent to approximately 96 FTEs, of which nearly 55 FTEs are registered nurses and 30 FTEs are patient care assistants.

Staffing Plan

According to DPH staff, Laguna Honda Hospital monitors minimum staffing requirements for each shift to ensure sufficient staff are scheduled and conducts quality assurance assessments to ensure staffing requirements are sufficiently monitored. Responsibility for hiring staff was transferred from the City’s Department of Human Resources to Laguna Honda Hospital in July 2021 and Laguna Honda Hospital is now actively recruiting staff.

At General Hospital, DPH uses registry staff to backfill vacancies to maintain state-mandated staffing ratios. Staffing needs are evaluated on a weekly basis.

Vacancies at San Francisco General Hospital and Laguna Honda Hospital

According to San Francisco General Hospital Human Resources, the vacancy rate for registered nurse positions at San Francisco General Hospital in FY 2021-22 from July 2021 through October 2021 was 5.25 percent, which was higher than the FY 2020-21 vacancy rate of 4 percent. According to Laguna Honda Hospital Human Resources, the vacancy rate for registered nurse positions at Laguna Honda Hospital in FY 2021-22 from July 2021 through October 2021 was 7.84 percent which was higher than the FY 2020-21 vacancy rate of 7.05 percent.

Patient Census

Average daily patient census at San Francisco General Hospital from July 2019 through October 2021 in the medical surgical units varied from 150 to 182 and in the intensive care units varied from 24 to 40. With the exception of the winter surge in Nov 2020 to Feb 2021, census in FY 20-21 appears to have been below average. According to DPH staff, staffing ratios decreased from 2:1 to 1:1 to account for COVID safety protocols, which required more staffing than usual even

[3] Full time equivalent (FTE) estimates are based on approximately 80 percent time (1,624 hours out of 2,080 annual hours)

when census counts decreased. The monthly change in average daily patient census is shown in the Attachment.

According to information provided by DPH from the EPIC electronic health system, the average daily patient census for Laguna Hospital in FY 2020-21 was 708.84, which is approximately 4.9 percent lower than in FY 2019-20. The average daily patient census at Laguna Honda Hospital in FY 2021-22 from July 2021 through October 2021 was 706.29.

According to DPH staff, Laguna Honda Hospital did not admit new patients between March 2020 to June 2020 due to the Public Health Order, and restarted admissions primarily from San Francisco General Hospital in July 2020.

Performance Monitoring

Cross Country services are monitored through annual reporting of performance measures as outlined in Appendix A of the original agreement, which requires Cross Country to provide qualified staff. Cross Country is monitored to ensure that all services are provided safely and effectively for patient care and support services by reviewing annually the percentage of contract staff who:

- Completed hospital unit orientations
- Met requirements for completing medication pass / narcotic audits
- Have a completed a staff evaluation
- Met criteria as established in the verification requirements
- Performed checklist skills as established in the original agreement

According to Gillian Otway of DPH Nursing Administration, in FY 2020-21, Cross Country Staffing met the above listed performance metrics, and the Department continues to monitor these metrics to ensure the registry staff are qualified and competent to care for the Department's patients.

FISCAL IMPACT

Amendment No. 3 Rates

The original agreement listed hourly rates for registry staff, based on whether the staff person worked an 8- or 12-hour shift, or worked a night shift. The proposed 3rd amendment includes additional rates for COVID response, based on the type of service (medical/surgical unit, intensive or cardiac care, other), and whether the staff are traveling from out-of-state or local.[4]

[4] According to DPH, Cross Country Staffing sets rates based on guaranteed minimum assignments of 48 hours (four 12-hour shifts) and 36 hours (three 12-hour shifts) for nurses traveling from out of state. Minimum guaranteed assignments for nurses in surge/emergency situations are used primarily as a recruitment and retention tool to better compete in the marketplace for scarce registry/traveler resources in an emergency. Where possible, local resources are preferred however, given the high demand across all healthcare facilities out of state travelers are used. In such cases, housing is covered.

Staffing Requirements at San Francisco General Hospital and Laguna Honda Hospital

According to DPH staff, the Department mostly pays the COVID response rates listed in the proposed 3rd amendment; because the Department needed to compete for registry staff with other hospitals, the Department agreed to pay COVID rates to have sufficient staff to care for patients. Initially, the Department limited routine hospital visits such as non-urgent clinic appointments, and all elective surgery and procedures to redeploy nurses to COVID testing and vaccination, Shelter-in-Place hotels, and contact tracing. When clinic appointments and elective surgery and procedures resumed, the Department reassigned staff to their original assignments, requiring hiring of registry staff for COVID-related services.

According to DPH staff, at any given time approximately 125 registered nurses are on leave, such as Family Medical Leave Act (FMLA), COVID-related leave, or other leave, requiring backfilling of shifts with temporary/registry staff. The Department has also hired temporary/registry nurses to cover open shifts that are affected when quarantine measures are enacted for symptomatic COVID-19 or other staff.

Agreement Expenditures

According to the DPH Business Office Director, the Department's actual agreement expenditures are $32.1 million, or approximately $6.2 million more than the agreement not-to-exceed amount of $25.9 million. According to the DPH Business Office Director, expenses incurred above the agreement not-to-exceed amount have not been paid, pending approval of the proposed third amendment. DPH projects total agreement expenditures through June 2024 of $85.6 million, as shown in Exhibit 2 below.

Exhibit 2: Actual and Projected Agreement Expenditures July 2019 – June 2024

	San Francisco General Hospital	Laguna Honda Hospital [a]	Total
Expenditures			
Actual July 2019 - August 2021			
Non-COVID	$10,408,792	$5,865,112	$16,273,904
COVID Response	9,878,546	5,958,963	15,837,510
Subtotal, Actual Expenditures	$20,287,338	$11,824,075	$32,111,413
Projected September 2021 - June 2024			
Non-COVID	$26,272,237	$2,926,248	$29,198,485
COVID Response	20,000,000	4,329,115	24,329,115
Subtotal, Projected Expenditures	$46,272,237	$7,255,363	$53,527,600
Total	**$66,559,575**	**$19,079,438**	**$85,639,013**

Source: DPH

[a] Laguna Honda Hospital actual expenditures are through September 2021.

According to DPH, General Hospital costs are 25% - 30% General Fund sourced and 30% - 35% of Laguna Honda costs are General Fund sourced, depending on the patients served. A portion of the uncompensated costs were also used as part of our claim for CARES Act Provider Relief Funds.

Staffing Costs

The estimated agreement cost per FTE from July 2019 to August 2021 is $278,957, which is 14 percent more than the Department's salary and fringe benefit cost for a registered nurse in FY 2021-22 of $244,485. However, as shown in Exhibit 1 above, the FTEs funded by the agreement with Cross Country include staff, such as patient care assistants, who have lower salary and fringe benefit costs than a registered nurse so that actual agreement costs per FTE are higher than the estimated 14 percent.

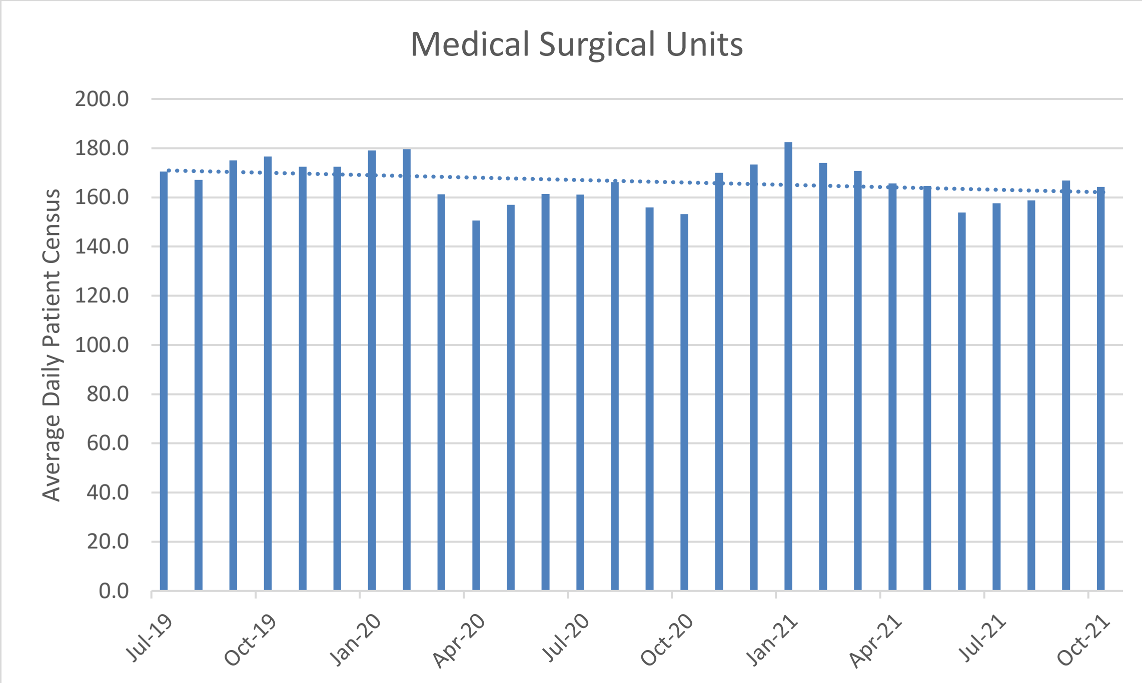
POLICY CONSIDERATION

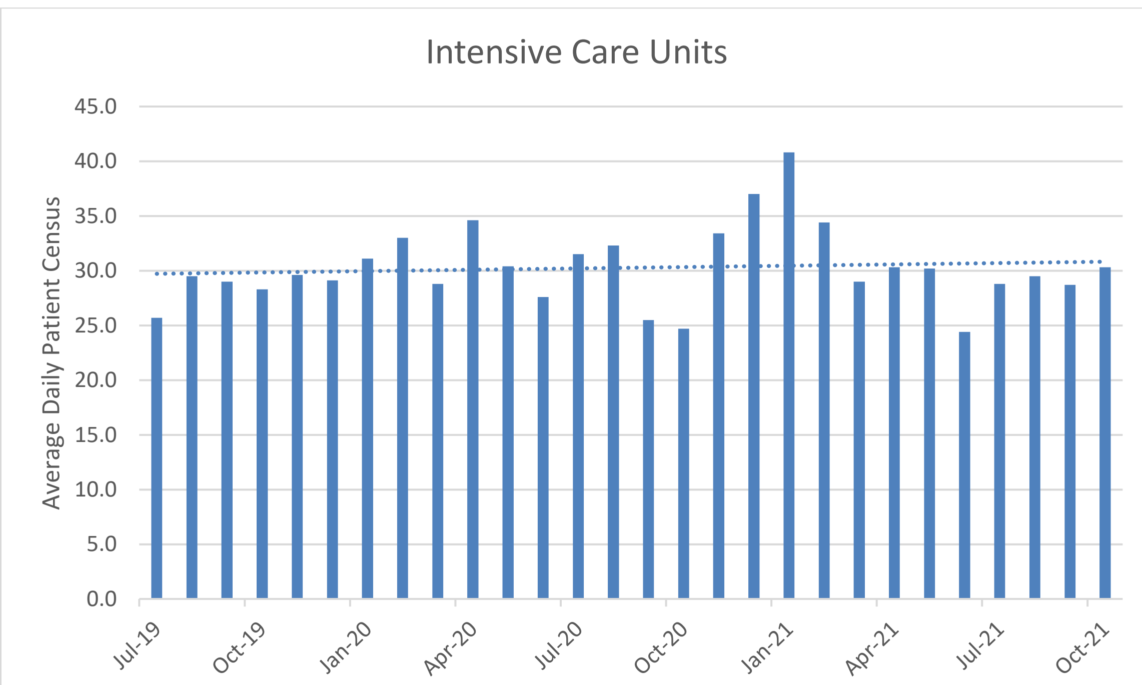
As noted above, the proposed resolution expands an existing DPH contract for temporary nursing staff from by $59,711,013, from $25,928,000 to $85,639,013, and extends the agreement term by two years to June 30, 2024 to manage staffing shortages at Laguna Honda and General Hospital related to the COVID pandemic. Due to the size of the contract and the uncertain future need for temporary staff, we recommend that the Board of Supervisors amend the proposed resolution to: (1) request the Director of Health submit to the Budget and Legislative Analyst for review of the proposed FY 2022-23 – FY 2023-24 annual appropriation ordinance a report that details Cross Country staff at San Francisco General Hospital and Laguna Honda Hospital in FY 2021-22 by classification, hours, and total expenditures by classification; and (2) request the Budget and Legislative Analyst to evaluate details of Cross County staffing and expenditures and make budget recommendations, as appropriate.

RECOMMENDATION

Approve the proposed resolution.

Attachment: General Hospital Average Daily Patient Census





Item 2 **File 21-1295** *(Continued from 2/9/22 meeting)*	**Department:** Recreation & Parks

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would amend the Park Code to waive admission fees for San Francisco residents to the Japanese Tea Garden and the Conservatory of Flowers and reauthorize the Recreation and Parks Department to set admission fees for non-resident adults at the Japanese Tea Garden, the Conservatory of Flowers, and the Botanical Garden through flexible pricing. Fees for non-resident veterans would also be waived.

Key Points

- On February 2, 2022, the Budget & Finance Committee forwarded a resolution (File 21-1305) to the Board of Supervisors that would approve an amendment to the Recreation & Parks Department's lease and management agreement with the Botanical Garden Society to allow the Botanical Garden Society, which operates the Botanical Garden, to operate the Japanese Tea Garden, typically operated by City staff, and the Conservatory of Flowers, currently operated by the San Francisco Parks Alliance. Under the amended agreement, revenues from the Conservatory of Flowers, which previously went to the San Francisco Parks Alliance, together with revenues from the Japanese Tea Garden and Botanical Garden, will pay for Botanical Garden Society admission and community education activities as well as City gardening and maintenance costs. Net revenues will be sent to a Recreation and Parks Department account and dedicated to garden improvements.

Fiscal Impact

- We estimate the annual revenue loss from the elimination of residential admission fees ($271,385) and non-resident veteran admission fees ($300,000) could be offset by an increase of $1.00 in non-resident admission fees.
- Without flexible pricing, the amended lease and management agreement would result in an estimated annual deposit of $514,105 to the Gardens of Golden Gate Park Improvement Fund. Each additional $1 of non-resident adult fees would generate approximately $528,000 in annual fee revenue.
- The amended Botanical Garden Society agreement requires the development of a master plan within three years to improve all three gardens and for the Botanical Garden Society to fundraise to supplement City funding for that purpose. Any private funds exceeding $10,000 and all appropriations of public funds would require Board of Supervisors' approval.

Recommendation

- Approval of File 21-1295 is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

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

BACKGROUND

Gardens of Golden Gate Park

On February 2, 2022, the Budget & Finance Committee forwarded a resolution (File 21-1305) to the Board of Supervisors that would approve an amendment to the Recreation & Parks Department's lease and management agreement with the Botanical Garden Society to allow the Botanical Garden Society, which operates the Botanical Garden, to operate the Japanese Tea Garden, typically operated by City staff, and the Conservatory of Flowers, currently operated by the San Francisco Parks Alliance. Under the amended agreement, revenues from the Conservatory of Flowers, which previously went to the San Francisco Parks Alliance, together with revenues from the Japanese Tea Garden and Botanical Garden, will pay for Botanical Garden Society admission and community education activities as well as City gardening and maintenance costs. Net revenues will be sent to a Recreation and Parks Department account and dedicated to garden improvements.

Admission Fees

The Park Code establishes admission fees for the San Francisco Botanical Garden, the Japanese Tea Garden, and the Conservatory of Flowers. There are different rates for children, adults, and seniors. Currently, San Francisco residents do not pay any fees at the Botanical Garden and receive discounts at the Japanese Tea Garden and Conservatory of Flowers. The fees in the Park Code are escalated by the regional Consumer Price Index.

In 2019, the Board of Supervisors authorized the Recreation and Parks Department to set non-resident adult admission fees for the three gardens through "flexible pricing" (File 19-0629). This allowed the Department to temporarily increase or decrease the fees based on factors such as public demand, facility conditions, and rates at comparable facilities. The Department could only increase prices once per year by up to 50% and was only permitted to increase prices during certain times of the year depending on the facility. The existing law permits price increases for non-resident adults as follows:

- **Botanical Garden**: Increases only on Saturdays and Sundays
- **Conservatory of Flowers**: Increases only on Fridays, Saturdays, and Sundays
- **Japanese Tea Garden**: Increases only March through October

The flexible pricing system was scheduled to sunset on June 30, 2021, but the Board of Supervisors authorized the extension of flexible pricing at the gardens until December 7, 2021 (File 21-0653). The 2019 flexible pricing legislation also allowed the General Manager to adjust non-resident admission fees for Coit Tower, however that authority was never implemented and expired in June 2021.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Park Code to:

- Waive admission fees for San Francisco residents to the Japanese Tea Garden and the Conservatory of Flowers;
- Waive admission fees for non-resident veterans for all three gardens[1]
- Authorize the Recreation and Park Department to waive or discount other admission fees at the Japanese Tea Garden, the Conservatory of Flowers, and the Botanical Garden;
- Re-authorize the Recreation and Park Department to set admission fees for non-resident adults at the three gardens through flexible pricing; and
- Affirm the Planning Department's determination that all associated actions comply with the California Environmental Quality Act.

Admission Fee Changes

As noted above, the proposed ordinance would waive admission fees for residents and non-resident veterans and re-authorize and standardize flexible pricing for adult non-residents. The proposed ordinance would allow the Department to increase prices for non-resident adults only by up to 50% of the Park Code set fee upon 30 days' notice to the public rather than just once per year and does not constrain price increases to certain months or days unlike the existing law. The Department could also decrease fees at any time. In addition, the proposed ordinance would also remove the sunset date for flexible pricing, allowing the Recreation and Park Department to continue using flexible pricing at the three gardens indefinitely. Fee changes must be due to changes in demand at particular days and times, adverse weather, facility conditions, operating costs, or tickets covering multiple gardens.

Flexible Pricing Use at the Gardens

The Recreation and Parks Department provided an update on flexible pricing at the three gardens to the Board of Supervisors in May 2021. The regular non-resident adult admission fee was $9 at all three gardens until FY 2020-21 when it was increased to $10 at the Japanese Tea Garden and the Conservatory of Flowers and in FY 2021-22 when it increased to $10 at the Botanical Garden due to allowable CPI increases. According to that report, flexible pricing for non-resident adults was applied as follows:

- Botanical Garden: Applied on the weekends starting in November 2019 with a $3 increase.
- Conservatory of Flowers: Applied on the weekends starting in October 2019 with a $2 increase.

[1] File 21-1095, approved in December 2021, waived admission fees to certain Recreation & Park facilities, including the Japanese Tea Garden and Conservatory of Flowers, for resident veterans. Under that ordinance, fees for non-resident veterans would be automatically waived if the Controller certifies that sufficient funding has been appropriated for one-year.

- Japanese Tea Garden: Applied starting in March 2020 through September 2020 with a $2 increase. In October 2020, the price was adjusted back to $10, and the $2 increase was restored starting in March 2021.

Other City Departments Use of Flexible Pricing

At the request of a Supervisor, we completed a short survey of City entities that charge for use of City property.

Our survey found that the Recreation and Parks Department uses a flexible pricing structure for golf fees, which allows the General Manager to adjust resident and tournament rates based on demand, prices at other golf courses, and course conditions.[2] The Academy of Sciences uses dynamic admissions pricing, which varies by day and time. However, the Fine Arts Museums, which include the De Young and Legion of Honor Museums, does not use dynamic pricing for admissions, though the museums charge higher fees for special exhibits.

Additionally, we found that the San Francisco Municipal Transportation Agency (SFMTA) uses dynamic pricing (referred to as transportation demand management) for garage and parking meter fees, both of which are generally based on demand. According to SFMTA staff, since the implementation of dynamic pricing in 2011, garage fees have generally increased and parking meter fees have fluctuated between $0.50 and $10 per hour based on demand for curb space. Garage and parking meter fees are adjusted by SFMTA staff.

FISCAL IMPACT

Admission Fee Changes

Exhibit 1 below shows the number of visitors and total admissions revenue for the three gardens for FY 2018-19. Admissions were lower in subsequent years due to the impacts of COVID-19. In FY 2018-19 non-resident adult admission fee collections across the three gardens accounted for approximately three-quarters of total admissions revenue.

[2] Park Code Section 12.12(d), which relates to municipal golf courses, states that the General Manager may discount resident rates by 50% and increase them by 25%; tournament rates may be increased by 50%.

Exhibit 1: Total Visitors and Admissions Revenue, FY 2018-19

Facility	Resident	Non-Resident Adult	Non-Resident Other [a]	Other Free [b]	Total Visitors
Botanical Garden	211,719	107,056	54,339	63,618	436,732
Conservatory of Flowers	20,338	74,383	49,064	25,042	168,827
Japanese Tea Garden	29,400	380,145	100,364	246,270	756,179
Total Visitors	**261,457**	**561,584**	**203,767**	**334,930**	**1,361,738**
Admissions Revenue	**$271,385**	**$5,054,301**	**$1,221,695**	**$0**	**$6,547,381**
Percent of Total Revenue	4.1%	77.2%	18.7%	0.0%	100.0%

Source: Recreation and Parks Department

[a] Non-Resident other includes discounted admissions for children and senior non-residents.

[b] Other Free includes free admissions for low-income residents and non-residents, free admissions hours at the gardens, and other free admissions.

Note: FY 2018-19 revenues for the Botanical Garden was $1.2 million, $1.0 million for the Conservatory of Flowers, and $4.3 million for the Japanese Tea Garden.

As noted above, under the proposed ordinance, fees for resident admissions and non-resident veterans would be waived at the Conservatory of Flowers and the Japanese Tea Garden to align with current practices at the Botanical Garden, and the Department could raise fees for non-residents by a maximum of $5, up to a total of $15 for all three gardens. Recreation and Parks Department staff estimate that waiving resident fees at the Conservatory of Flowers and the Japanese Tea Garden would result in $271,385 in annual lost revenue based on admission fee collections for residents in FY 2018-19, as shown above. Based on a Department of Defense data, approximately 6% of the statewide population are veterans or actively serving in the armed forces. Therefore, waiving non-resident veteran admissions fees may cost approximately $300,000 (6% of $5 million non-resident adult admission fees). We estimate the annual revenue loss from the elimination of residential admission fees ($271,385) and non-resident veteran admission fees ($300,000) could be offset by an increase of $1.00 in non-resident admission fees.[3] Each additional $1 of non-resident adult fees would generate approximately $528,000 in annual fee revenue.[4] According to the Recreation and Parks Department, the elimination of residential fees was accounted for in the FY 2021-22 – FY 2022-23 budget.

Garden Improvement Fund

As detailed in our report on File 21-1305, the resolution approving the Botanical Garden Society agreement amendment, without flexible pricing, the amended lease and management

[3] In FY 2018-19, the three gardens had 561,584 visitors. Therefore, a $1.00 increase in admissions fees with the same number of visitors would provide $561,584, or roughly equivalent to the combined $571,385 revenue loss from the elimination of residential admission fees ($271,385) and non-resident veteran admission fees ($300,000).

[4] In FY 2018-19, the three gardens had 561,584 non-resident adult visitors. Excluding the estimated 6% of non-resident veterans, the fee-paying non-resident adult visitors is reduced to 527,889.

agreement would result in an estimated annual deposit of $514,105 to the Gardens of Golden Gate Park Improvement Fund for expenses associated with maintenance, renovation, and improvement of the gardens. This figure does not account for the $571,385 revenue loss from waiving resident fees and waiving non-resident veteran fees that is included in the proposed ordinance.

The Recreation and Parks Department provided information on the maintenance needs of all three gardens, shown below in Exhibit 2. The costs are based on a lifecycle assessment of existing assets in the gardens, prioritized by condition.

Exhibit 2: Ten Year Garden Maintenance Needs

	Priority 1 (Years 1-3)	**Priority 2 (Years 4-6)**	**Priority 3 (Years 7-10)**	**Total**
Botanical Garden	$13,554,742	$8,214,166	$4,399,069	$26,167,977
Japanese Tea Garden	3,680,981	263,146	101,007	4,045,134
Conservatory of Flowers	6,055,851	932,476	1,438,159	8,426,486
Total	**$23,291,574**	**$9,409,788**	**$5,938,235**	**$38,639,597**

Source: Recreation & Parks Department

As shown above, total maintenance needs are estimated to cost $38.6 million over the next 10 years.

The amended Botanical Garden Society agreement requires the development of a master plan within three years to improve all three gardens and for the Botanical Garden Society to fundraise to supplement City funding for that purpose. Any private fundraising exceeding $10,000 and all appropriations of public funds would require Board of Supervisors' approval. According to Recreation and Parks Department staff, the FY 2021-22 budget includes $500,000 for a plant nursery project and $600,000 for restoration of a pagoda in the Japanese Tea Garden.

RECOMMENDATION

Approval of File 21-1295 is a policy matter for the Board of Supervisors.

Item 3 **File 21-1235**	**Department:** Human Services Agency (HSA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the third amendment to the Emergency Agreement between the City and SF Americania LLC, for the continued use of 143 hotel rooms and associated services by increasing the agreement amount by $6,670,714, from $9,759,450 to not to exceed $16,430,164, and extending the term from November 15, 2021 to October 9, 2022.

Key Points

- Americania Hotel, located at 121 Seventh Street, is a 143-room hotel, which is contracted with the City through the Shelter In Place Hotel program to provide housing for unhoused people at-risk for COVID-19. The Human Services Agency (HSA) entered into the original agreement with SF Americania LLC in March 2020, which has been amended two times. The first two Amendments to the agreement did not require Board of Supervisors approval because they were below $10 million.

Fiscal Impact

- Under the agreement, the average daily rate for rooms and reimbursable expenses (hotel services) is $123.68. Total new spending provided by the proposed amendment is $6,670,714.
- Actual expenses totaled $9,744,232 through the current agreement term, which ended on November 15, 2021, and the hotel incurred additional room costs of $1,047,328 for the remainder of November, as well as December and January, for total actual spending of $10,791,561 as of January 2022.
- The contingency amount for repair costs is increasing from 15% to 25% of the room costs under the proposed Third Amendment, or approximately $22,979 per room. According to Section 8.1.3 of the agreement, the City is responsible for all repair costs associated with restoring the hotel to its previous condition, even if they exceed the contingency amount.
- An estimated 93 percent of agreement costs are reimbursable by FEMA through March 2022 according to HSA staff. Costs not reimbursed by FEMA will be paid from the State's Project Roomkey Allocation (expiring in June 2022) and the Federal Emergency Solutions Grant.

Recommendations

- Amend the proposed resolution to clarify that approval is retroactive.
- Approve the proposed resolution, as amended.

MANDATE STATEMENT

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

BACKGROUND

In response to the COVID-19 emergency, the City established the COVID-19 Alternative Shelter Program. This Program provided shelter in place sites, congregate setting sites, and isolation and quarantine sites to COVID-vulnerable individuals, most of whom were experiencing homelessness. These shelters included hotel rooms, congregate units, and recreational vehicles. As discussed below, as of July 1, 2022, the operation of ongoing Alternative Shelter Programs moved back to home departments. The City is in the process of winding down the Shelter in Place Hotel program by September 30, 2022 as the City moves from response to recovery.

One of the Shelter in Place Hotel agreements is for the Americania Hotel located at 121 Seventh Street, which has 143 rooms. Under the agreement, the San Francisco Human Services Agency (HSA) controls the entire hotel; no rooms are rented to the general public at this time.

Historical Changes to the Agreement

The original emergency services agreement between the City and SF Americania LLC was for a 122-night term from March 24, 2020 through July 23, 2020, for a not to exceed amount of $6,696,144. (See Exhibit 1 below) The original agreement gave the City the right to extend the Term (“Booking Period”) on a month-to-month basis after July 23, 2020 through March 23, 2021 upon 30 days prior notice to the Hotel owner.

The first two Amendments to the agreement did not require Board of Supervisors approval because they were below $10 million. On June 11, 2020, HSA adopted the First Amendment to the Agreement which added an additional available room and incorporated provisions necessary to be eligible for cost recovery from the Federal Emergency Management Agency (FEMA).

Exhibit 1. Historical Terms of Americania Hotel Agreement

	Original Agreement Total	Amendment 1	Amendment 2	Proposed Amendment 3	Unit Cost
Number of Rooms	142 rooms	143 rooms	143 rooms	143 rooms	
Monthly Billing Rate	$429,240	$432,210	$432,210	$432,210	
Expiration Date	July 23, 2020	July 23, 2020	Nov 15, 2021	Oct 9, 2022	
Term length	122 nights	122 nights	601 nights	929 nights	
Room Costs	$5,150,880	$5,186,520	$8,486,478	$13,144,131	$98.94
Contingency (% of Room Costs)	$1,545,264 (30%)	$1,509,624 (29%)	$1,272,972 (15%)	$3,286,033 (25%)	$24.74
Not to Exceed Amount	**$6,696,144**	**$6,696,144**	**$9,759,450**	**$16,430,164**	**$123.68**

Source: Amendments 1-3 of the Emergency Agreement with 1231 Market Street Owner, LP

On June 23, 2020, the City exercised its option under Section 2.1 of the Agreement to extend the term on a month-to-month basis commencing July 23, 2020.

On March 22, 2021, HSA administratively adopted the Second Amendment to the Agreement under its Emergency Ordinance Authority to extend the term by 479 nights and increase the total not to exceed amount from $6,696,144 to $9,759,450.

Shelter in Place Hotel Program- Status as of February 2022

At its highest capacity, San Francisco's Shelter in Place Hotel Program, provided 2,288 rooms across 25 sites. According to Department of Homelessness and Supportive Housing (HSH) staff, the program has served over 3,700 guests, including adults, families, and Transitional Aged Youth (ages 18-24). The Program provides non-congregate temporary shelter for people experiencing homelessness who are most vulnerable to COVID-19. The City has begun the process of rehousing guests temporarily sheltered in Shelter in Place hotels and closing the hotels. HSH took over operations of the Shelter in Place Hotel Program in July 2021 after the City's COVID-19 Command Center was closed.

HSH is responsible for matching individuals with long-term placements and will continue through September 2022 when HSH expects the last hotels to close. As of February 1, 2022, HSH has rehoused 1,057 Shelter in Place hotel guests out of 2,596 total exited hotel guests[1] and closed nine out of 25 hotels. The remaining 14 hotels are still open. As of February 2, 2022, there were 1,163 active Shelter in Place Hotel guests, occupying 1,079 units (including units that may be occupied by more than one guest). The hotels stopped accepting new guests in June 2021. The hotel closing schedule is shown in Exhibit 2 below.

[1] According to HSH staff, many of the guests who left the program did so voluntarily. Others moved to another institutional setting (e.g. hospital or other residential non-psychiatric medical facility) or transferred to other shelter programs (e.g. Navigation Centers or Transitional Housing) based on their needs. An unspecified number were discharged from the program due to unsafe behavior.

Exhibit 2. Shelter in Place (SIP) Hotel Closure Schedule, As of January 27, 2022

Site Status	Number of Sites
Closed SIP Sites	9
Active SIP Sites	14
Sites Closing in 2022 Q1	4
Sites Closing in 2022 Q2	5
Sites Closing in 2022 Q3	5

Source: HSH

According to HSH staff, HSH notifies service providers at least three months in advance of starting the closure of that site so that HSH and the provider can ensure 90-day notification to guests prior to site closure and to allow HSH to assist guests with rehousing. Given the planned hotel closure schedule through September 2022, there may be additional Shelter in Place Hotel contracts that will require Board of Supervisors approval to extend.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve the third amendment to the Emergency Agreement between the City and SF Americania LLC, for the continued use of 143 hotel rooms and associated services by increasing the agreement amount by $6,670,714, from $9,759,450 to not to exceed $16,430,164; and would extend the booking period by an additional 328 nights, for a total term of 929 nights from March 24, 2020 to October 9, 2022.

FISCAL IMPACT

Actual expenses totaled $9,744,232 through the current agreement term, which ended on November 15, 2021, and the hotel incurred additional room costs of $1,047,328 for the remainder of November, as well as December and January, for total actual spending of $10,791,561 as of January 2022. Americania Hotel budgeted and actual expenditures for the current agreement term are shown in Exhibit 3 below

Exhibit 3. Americania Hotel Budget vs Actuals, March 24, 2020 – January 31, 2022

	Total Budgeted	Actual Expenses thru Nov 15, 2021
Room	$8,486,478	$8,486,478
Contingency [a]	1,272,972	1,257,754
Total	**$9,759,450**	**$9,744,232**
Expenses incurred after agreement term (Nov 15, 2021 - January 31, 2022)		
Room Costs		$1,047,328
Total Actual Expenses to Date		**$10,791,561**

Source: HSA

[a] The Second Amendment to the Agreement provides for Americania Hotel to invoice the City each month for the flat rate of $432,210 and for additional reimbursable services, up to 15 percent of the flat room rate.

Reimbursable Expenses

The contract not to exceed amount includes a contingency for reimbursable expenses above the monthly room rate. According to HSA staff, the contingency amount is for use at the City's discretion and is primarily intended for repair costs at contract close-out. Under the Original Agreement, the City is required to return the property to the Hotel "in as good order and condition and repair as when received, except for reasonable, ordinary use and wear thereof."

Section 8.1.3 of the Original Agreement included a contingency amount calculated as 30% of the room costs. The contingency was reduced to 15% of the room costs in the Second Amendment, but would increase to 25% under the proposed Third Amendment, or approximately $22,979 per room. According to HSA staff, the change in contingency calculation reflects the change in use of the property over the term of the agreement from Shelter in Place to Isolation and Quarantine and back to Shelter in Place. According to Robert Walsh, HSA Director of Facilities, Shelter in Place rooms typically require additional repair costs compared to Isolation and Quarantine rooms because Shelter in Place guests stay longer compared to Isolation and Quarantine guests. The change in contingency calculation from 15% to 25% of room costs results in an additional $9,192 contingency amount per room (from $13,788 to $22,979). Restoration of rooms is completed by hotel contractors. According to Section 8.1.3 of the agreement, the City is responsible for all repair costs, even if they exceed the contingency amount. According to HSA, the City is not expecting to exceed the contingency amount to restore the hotel.

Funding Sources

The Third Amendment to the Agreement would be initially funded by the General Fund. HSA staff anticipate that around 93 percent of costs from the beginning of the agreement through March 31, 2022, will be reimbursed by FEMA. The remaining costs that are not eligible for FEMA reimbursement—due to client ineligibility or costs incurred after the April 2022 expiration of FEMA funding—will be funded by other state and federal sources, including the State's Project Roomkey Allocation (expiring in June 2022) and the Federal Emergency Solutions Grant.

RECOMMENDATIONS

1. Amend the proposed resolution to clarify that approval is retroactive.
2. Approve the resolution, as amended.

Item 6 File 22-0058	Department: San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve Modification No. 2 to the Fixed Base Operator Lease and Operating Agreement (lease) between the San Francisco International Airport (Airport) and Signature Flight Support, LLC, extending the term by three years through September 2025, with an estimated Minimum Annually Guaranteed (MAG) rent of $16,246,762 for the first year of the additional term extension.

Key Points

- In 2007, after the Airport conducted a Request for Proposals (RFP), the Board of Supervisors approved a lease with Signature for a term of 10 years and initial minimum rent of $11,000,000. In 2021, Airport staff conducted a survey to evaluate the financial implications of issuing an RFP to award a new Fixed Base Operator lease. Airport staff determined that Signature's minimum guaranteed rent was above market-rate and that it would be in the Airport's best interest to extend Signature's lease for an additional three years. In December 2021, the Airport Commission approved Modification No. 2, extending the term by three years through September 2025.
- Services under the Fixed Base Operator lease include retail fuel sales for general aviation aircraft; aircraft marshalling, parking, and chocking; on-Airport transportation for passengers and crew; aircraft maintenance and repair services; management of the Executive Terminal for passengers and crews; and management of hangar facilities.

Fiscal Impact

- Under the lease, Signature pays the greater of minimum annual guaranteed rent, adjusted annually based on the regional CPI, or percentage rent based on revenues. Over the three-year term of the proposed lease extension, Signature would pay at least $48,740,286 in MAG rent, not including annual adjustments based on the regional CPI.

Policy Consideration

- The Airport's determination that Signature's rent is above market-rate is based on a survey of six leases at other airports, but did not account differences in flight volumes or services. Neither the Airport nor Signature track enplanements. Because the Budget and Legislative Analyst is unable to verify that MAG rent is above market-rate, and the agreement is eight years beyond the 10-year term originally contemplated by the 2006 RFP, approval of the proposed resolution is a policy matter for the Board of Supervisors.

Recommendation

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

MANDATE STATEMENT

City Charter Section 9.118(c) states that (1) any lease of real property for ten or more years, including options to renew, or having anticipated revenues to the City of $1,000,000, or (2) the modification, amendment, or termination of these leases is subject to Board of Supervisors approval.

BACKGROUND

In 2006, the San Francisco International Airport (Airport) issued a Request for Proposals (RFP) to award a Fixed Base Operator Lease and Operating Agreement (lease) to provide aviation services to charter and private aviation customers. The services include retail fuel sales, aircraft maintenance, and management of the Executive Air Terminal Building and Hangars A and B.[1] Signature Flight Support (Signature) was deemed the highest scoring responsive and responsible proposer and was awarded a lease.

In July 2007, the Board of Supervisors approved a lease with Signature for a term of 10 years, from October 2007 through September 2017, with initial Minimum Annually Guaranteed (MAG) rent of $11,000,000 (File 07-0762).[2] Under the lease, Signature was required to make tenant improvements to the Executive Air Terminal Building and Hangars A and B, with a minimum investment of $2,222,750, and also construct a new hangar (Hangar C), which was estimated to cost $7,500,000.[3] In November 2014, the Board of Supervisors approved Modification No. 1 to the lease, extending the term by five years through September 2022, and requiring Signature to make additional improvements to the Executive Air Terminal Building (File 14-1079).[4]

In 2021, Airport staff conducted market research to evaluate the financial implications of issuing an RFP to award a new Fixed Base Operator lease. Airport staff determined that Signature's MAG rent was above market-rate because of the decline in general aviation operations due to the COVID-19 pandemic and that it would be in the Airport's best interest to extend Signature's lease for an additional three years. In December 2021, the Airport Commission approved Modification No. 2, extending the term by three years through September 2025.

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[1] The Executive Air Terminal Building provides services for charter and private aviation travelers and crews. Hangars A, B, and C provide storage for private aircraft.

[2] The 2006 RFP included minimum acceptable MAG of $3.5 million.

[3] The original lease required Signature to complete construction of Hangar C within one year. However, citing a decline in demand for hangar storage, Signature requested deferrals to construct Hangar C, which were approved by the Airport until 2013. Construction began on Hangar C in November 2013 and was completed in October 2014.

[4] The additional improvements included: (1) roof restorations for the Executive Air Terminal Building and Hangars A and B; (2) upgrading the camera monitoring system; (3) upgrades to HVAC systems; (4) replacement of existing signage with an LED sign; and (5) updated paint, carpeting, and furniture. According to Diana Chow, Airport Senior Property Manager, the improvements were completed on time.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 2 to the Airport's lease with Signature, extending the term by three years through September 2025, with an estimated initial MAG rent of $16,246,762. Other material terms of the lease would not change.

The proposed Modification No. 2 would require Signature to install at least 55 solar powered covered parking stalls and at least four electric vehicle charging stations in the parking lot adjacent to the Executive Air Terminal. Signature would be required to offer industry standard sustainable aviation fuel, and all fuel trucks would be replaced by low emission models. Modification No. 2 would also update the lease to comply with all applicable local, state, and federal laws.

The lease requires Signature to perform the following services: retail fuel sales for general aviation aircraft; aircraft marshalling, parking, and chocking;[5] on-Airport transportation for passengers and crew; aircraft maintenance and repair services; management of the Executive Terminal for passengers and crews; and management of hangar facilities for aircraft storage, maintenance, and other services. Optional services include retail fuel sales for aircraft outside of the Fixed Base Operator (FBO) facilities; services for commercial itinerant aircraft; dispensing contract aviation fuels and oils from the FBO facilities and other areas; selling aircraft or aircraft parts; sale of food, beverages, and retail concessions; acting as an agent for car rental organizations or other passenger services; and repair and service vehicles such as tugs, tractors, motorized ramps, baggage handling equipment, ground power units, and space heaters, and sales of fuel, lubricants, and accessories to service such vehicles.[6]

Under the lease, Signature pays the greater of MAG rent, adjusted annually based on the Consumer Price Index (CPI), or percentage rent based on various revenues. The percentage rent structure is as follows:

- 100 percent of aircraft Landing Fees collected;
- 27 percent of all fuel sales;
- 55 percent of aircraft parking fees;
- 40 percent of advertising gross revenues;
- 26 percent of other gross revenues; and
- 1 percent of the gross sales prices received from the sale of any general aviation aircraft.

Term Extension

The extended lease term of 18 years is longer than the maximum term of 10 years allowed by the 2006 RFP.[7] In 2021, Airport staff conducted a survey of six other Fixed Base Operator leases,

[5] Chocking is the placement of sturdy wedges around an aircraft's wheels to prevent accidental movement.

[6] Optional services are performed at Signature's discretion and paid for by aircraft fees.

[7] The previous five-year extension included in Modification No. 1, which was not authorized by the original terms of the RFP, was granted by the Airport and approved by the Board of Supervisors to help Signature amortize the construction costs of Hangar C.

including: Atlanta, Fort Lauderdale, Las Vegas (which has leases with both Signature and Atlantic Aviation), San Diego, and Washington Dulles.[8] Only Washington Dulles had a higher MAG rent than the Airport's lease with Signature. According to Diana Chow, Airport Senior Property Manager, the Airport may have to reduce the MAG rent in a new RFP to generate interest from potential proposers. By extending the lease by three years, the Airport would likely continue to receive MAG rent from Signature, which has been higher than percentage rent since the beginning of the COVID-19 pandemic. The extension allows time for the aviation industry to recover towards a more favorable bidding environment for a new RFP in 2025. Senior Property Manager Chow does not anticipate further extensions to the lease.

FISCAL IMPACT

Under the lease, Signature pays the greater of MAG rent, adjusted annually based on the CPI, or percentage rent based on revenues. The Airport estimates that initial MAG rent for the first year of the proposed lease extension is approximately $16,246,762. Over the three-year term of the proposed lease extension, Signature would pay at least $48,740,286 in MAG rent, not including annual adjustments based on the regional CPI. Annual rents paid by Signature to date are shown in Exhibit 1 below.

Exhibit 1: Historical Annual Rent Paid by Signature

Year	Rent Paid	Rent Type
Year 1 (10/2007-9/2008)	$11,396,404	Percentage Rent
Year 2 (10/2008-9/2009)	11,667,887	Percentage Rent
Year 3 (10/2009-9/2010)	11,486,362	MAG
Year 4 (10/2010-9/2011)	11,748,474	Percentage Rent
Year 5 (10/2011-9/2012)	12,022,187	Percentage Rent
Year 6 (10/2012-9/2013)	12,268,174	MAG
Year 7 (10/2013-9/2014)	12,517,536	MAG
Year 8 (10/2014-9/2015)	12,887,964	MAG
Year 9 (10/2015-9/2016)	13,858,624	Percentage Rent
Year 10 (10/2016-9/2017)	13,626,082	MAG
Year 11 (10/2017-9/2018)	15,943,610	Percentage Rent
Year 12 (10/2018-9/2019)	14,900,808	Percentage Rent
Year 13 (10/2019-9/2020)	15,031,400	MAG
Year 14 (10/2020-9/2021)	15,270,080	MAG
Year 15 (10/2021-9/2022)[9]	15,828,880	MAG
Total	**$200,454,472**	

Source: Airport

Unlike Airport concession leases, the Signature lease does not contain a provision to suspend MAG rent during periods of severe decline in enplanements, such as the COVID-19 pandemic.

[8] According to Senior Property Manager Chow, other airports were contacted, but did not respond to the survey.
[9] The amount shown for Year 15 is projected, as the Airport expects to receive the MAG rent.

According to Senior Property Manager Chow, the Airport anticipates receiving MAG rent, rather than percentage rent, over the three-year term of the lease extension.

POLICY CONSIDERATION

The Airport's determination that Signature's MAG rent is above market-rate is based on a survey of six Fixed Base Operator leases at other airports. However, the Budget and Legislative Analyst is unable to verify this determination because the other leases may have different flight volumes or provide different services. Neither the Airport nor Signature track enplanements of general aviation aircraft. According to Senior Property Manager Chow, Signature indicated that they would have offered a lower MAG rent if a new RFP were issued. Because the Budget and Legislative Analyst is unable to verify that MAG rent is above market-rate, and the proposed extension is eight years beyond the 10-year term originally contemplated by the 2006 RFP, approval of the proposed resolution is a policy matter for the Board of Supervisors.

RECOMMENDATION

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