

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

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January 20, 2012

**TO:** Budget and Finance Committee  
**FROM:** Budget and Legislative Analyst  
**SUBJECT:** January 25, 2012 Budget and Finance Committee Meeting

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**Item 1**  
**File 12-0022**

**Department:**  
Department of Emergency Management (DEM)

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed resolution would approve a 12-year Site Access and Use Agreement between the City, through the Department of Emergency Management (DEM), and Motorola Solutions Inc. (Motorola), for various San Francisco sites to be used for the Bay Area 700 MHz public safety broadband spectrum, to be managed and operated by the Bay Area Regional Interoperable Communications Systems, and making environmental findings.

### Key Points

- On May 24, 2011, the Board of Supervisors approved a resolution (File 11-0565; Resolution 223-11) authorizing the City to enter into a Joint Powers Agreement to authorize the (a) Bay Area Regional Interoperable Communications Systems (BayRICS) Authority, (b) City's membership in the BayRICS Authority and (c) initial and annual membership payments to the BayRICS Authority.
- On August 8, 2011, the BayRICS Authority was created with the goal of establishing and operating a regional, interoperable voice and data communications network in the San Francisco Bay Area, known as the Bay Area Wireless Enhanced Broadband (BayWEB). This BayWEB project was initiated through a \$50.6 million 2010 Federal Department of Commerce's National Telecommunications and Information Administration (NTIA) stimulus grant to Motorola Solutions, Inc., which requires that (a) two-thirds of the BayWEB network be constructed and two-thirds of the grant funds be expended by July 31, 2012, and (b) the entire BayWEB system be completed with all grant funds expended or encumbered by July 31, 2013.
- The BayWEB system will consist of 140 sites throughout the seven-county Bay Area, including 16 primary and nine alternate sites in San Francisco. Of the 16 primary sites, five are City-owned properties and 11 are not City-owned properties.
- If the Board of Supervisors approves the proposed resolution, DEM would negotiate leases for the 11 non-City-owned properties with the assistance of the Department of Technology and the Department of Real Estate. In accordance with the City's Administrative Code, all leases of \$5,000 or more per month that extend for more than one year would be subject to future Board of Supervisors approval.
- The proposed resolution states that the Planning Department determined that the actions contemplated in this resolution comply with the California Environmental Quality Act (CEQA), based on issuance of a Categorical Exemption.

### Fiscal Impacts

- Under the proposed resolution, which would authorize the subject Site Access and Use Agreement, there would be no exchange of funds between Motorola and the City. Rather, Motorola would be responsible for installing the necessary equipment at its own cost, and then owning, operating and maintaining the regional BayWEB system, including equipment on the 16 primary sites in San Francisco.
- The City would be responsible for site related costs, including any permit fees, City staff costs, lease payments, and other site operating expenses including maintenance, security, electricity, other utilities and Property Taxes on the 16 primary or nine alternate sites.
- The City's initial one-time costs are estimated at \$130,800 in FY 2011-12 and \$180,000 in FY 2012-13, or a total of \$310,800.

- In addition, the City's ongoing annual costs are estimated at (a) electrical utility expenses of \$400 per month for each City-owned site or \$24,000 annually for the five City-owned sites, and (b) lease expenses of \$0 to \$7,500 per month or an estimated \$533,280 annually for the 11 non City-owned sites, or total estimated ongoing annual costs of \$557,280.
- Over the proposed 12-year term of the subject Agreement, the ongoing lease, utility and related expenses are projected to cost the City approximately \$6,687,360. Together, with the initial estimated one-time expenses of \$310,800, the total cost of the proposed resolution would be \$6,998,160.
- DEM is in discussions with the Mayor's Office regarding what source of revenues would be used to fund the subject Agreement and which City departments would budget for such costs.

### **Policy Considerations**

- The City is currently projecting a General Fund shortfall of \$262.7 million for FY 2012-13 and \$375.3 million for FY 2013-14. Yet, the proposed Agreement is estimated to result in \$310,800 of additional one-time expenses in FY 2011-12 and FY 2012-13 and \$557,280 of ongoing additional annual costs commencing in FY 2012-13, resulting in an estimated total cost of approximately \$7 million over the 12-year term of the proposed Agreement. However, as of the writing of this report, no funding sources have been identified to pay for these \$7 million estimated costs.
- The Committee on Information Technology (COIT) recently issued the City's Information and Communication Technology (ICT) Plan for Fiscal Years 2011-12 through 2015-16 to the Mayor and the Board of Supervisors, identifying the City's and individual Department Information and Communication Technology priorities, costs, and funding for each of the next five years. However, a review of this ICT Plan does not reflect a discussion of the proposed BayWEB project.
- Although DEM is requesting approval to develop the proposed BayWEB system with 16 sites in San Francisco, the City has (a) neither developed specific plans for purchasing devices, such as radios or in-vehicle modems, to access the subject new BayWEB system, (b) nor developed estimates of the number of needed devices, under which City departments would subscribe to the proposed new BayWEB system.
- Given that there is not an overall plan to address the proposed new regional BayWEB project within the City's ICT Plan, the Budget and Legislative Analyst recommends that the Department of Emergency Management and the Police Department, which are the two departments representing the City, on the regional BayRICS Authority which is responsible for managing the BayWEB project with Motorola, work directly with COIT, to immediately address the proposed BayWEB project within the City's Five Year ICT Plan. As part of this effort, the Department of Emergency Management and the Police Department should work with COIT to develop a plan, with detailed cost estimates, and to identify funding sources for how the proposed new BayWEB system would be implemented and paid for in San Francisco.

### **Recommendations**

- Request that all City departments that are currently working on various radio communication systems, including DEM, Police, the San Francisco Municipal Transportation Agency (SFMTA) and the Department of Technology immediately convene to discuss and agree on the specific radio improvements needed in the City.
- Request that the Department of Emergency Management and the Police Department work with COIT to immediately address the proposed BayWEB project within the City's Five Year ICT Plan, by developing a plan, with detailed cost estimates, and identify funding sources for how the proposed new BayWEB system would be implemented and paid for in San Francisco.
- Approval of the proposed resolution is a policy decision for the Board of Supervisors.

**MANDATE STATEMENT / BACKGROUND****Mandate Statement**

In accordance with Section 9.118 of the City's Charter, agreements that extend for terms of ten years or more are subject to approval by the Board of Supervisors.

**Background**

On May 24, 2011, the Board of Supervisors approved a resolution (File 11-0565; Resolution 223-11) authorizing the City and County of San Francisco, through the Department of Emergency Management (DEM), to enter into a Joint Powers Agreement<sup>1</sup> to (a) establish the Bay Area Regional Interoperable Communications Systems (BayRICS) Authority, (b) authorize the City's membership in the BayRICS Authority and (c) authorize payments to the BayRICS Authority of initial membership fees of \$49,000 and annual membership fees<sup>2</sup> for the next two years, as set by the BayRICS Authority Joint Powers Board of Directors.

On August 8, 2011, the BayRICS Authority was created with the goal of establishing and operating a regional, interoperable voice and data communications network in the San Francisco Bay Area, known as the Bay Area Wireless Enhanced Broadband (BayWEB), in order to improve regional public safety communications on both a daily basis and during disasters, by deploying a new 700 Megahertz (MHz) broadband technology to share expanded multi-media applications, such as text, graphics and videos. This BayWEB project was initiated through a Broadband Technology Opportunity Program (BTOP), a 2010 Federal stimulus grant program, that provided \$50.6 million of Federal grants from the Department of Commerce's National Telecommunications and Information Administration (NTIA) to Motorola Solutions, Inc. for a 700 MHz Public Safety Broadband System, or BayWEB<sup>3</sup>. BayWEB will consist of 140 sites throughout the seven-county Bay Area, including a minimum of 16 sites in San Francisco. Under the existing Federal BTOP grant between the NTIA and Motorola, (a) two-thirds of the BayWEB network must be constructed and two-thirds of the BTOP funds must be expended by July 31, 2012, and (b) the entire BayWEB system must be completed with all BTOP funds expended or encumbered by July 31, 2013.

According to Ms. Amiee Alden, Policy and Planning Manager at the Department of Emergency Management (DEM), the BayRICS Joint Powers Authority entered into a separate ten-year Build, Own, Operate and Maintain (BOOM) Agreement with Motorola on January 19, 2012 regarding this BayWEB system. Under this separate BOOM Agreement, individual participants,

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<sup>1</sup> The City and County of San Francisco entered into this Joint Powers Agreement (JPA) together with the State of California, and the Bay Area counties of Alameda, Marin, Contra Costa, Marin, Santa Clara, San Mateo and Sonoma and the cities of Oakland, San Jose, South Bay Hub Cities, which includes representative cities in Contra Costa and Alameda Counties, and East Bay Hub Cities, which includes representative cities in Santa Clara and Santa Cruz Counties. San Francisco has two seats on this 13-member BayRICS Authority, including the Director of the Department of Emergency Management (DEM) appointed by the Mayor, and the Police Chief, appointed by the Board of Supervisors.

<sup>2</sup> BayRICS Authority membership fees are capped at \$24,500 annually, with adjustments allowable based on the Consumer Price Index. Membership fees are used to cover the BayRICS Authority administrative expenses.

<sup>3</sup> Motorola also provided a \$21 million match to this \$50.6 million NTIA 2010 Federal stimulus grant. In addition, the City, through the Bay Area's Urban Area Security Initiative (UASI) program in 2009 and 2010 provided a total of \$294,400 in Federal Homeland Security grants for two BayWEB project manager positions.

such as the Police Department and/or Fire Department, could subscribe with the BayRICS Joint Powers Authority for access to this new BayWEB system at a rate of \$43 per month per device (radio, in-vehicle modem, and computer). According to Mr. Barry Fraser, Project Manager at DEM, although the City would not be required to subscribe to the BayWEB system, the BayRICS Joint Powers Authority estimates that approximately 6,000 devices in the Bay Area region would subscribe to the BayWEB system by FY 2013-2014. In accordance with this ten-year BOOM Agreement, when the ten-year term of the BOOM Agreement expires, Motorola would transfer ownership of the BayWEB system at no cost, as well as the responsibility to operate and maintain the system to the BayRICS Authority.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a 12-year Site Access and Use Agreement (Agreement) between the City, through the Department of Emergency Management (DEM), and Motorola Solutions Inc., for a minimum of 16 San Francisco sites to be used to install antennas and other equipment needed for BayWEB, the Bay Area's 700 MHz public safety broadband system, to be managed and operated by the Bay Area Regional Interoperable Communications Systems (BayRICS), and make environmental findings.

According to Ms. Alden, this Agreement would be awarded to Motorola on a sole source basis because Motorola was the recipient of a \$50.6 million Federal Broadband Technology Opportunity Program (BTOP) stimulus grant that will pay for the BayWEB project.

Under the proposed 12-year Site Access and Use Agreement,

- The City would grant Motorola the non-exclusive right to enter, have access to and use on a continuous uninterrupted basis the various public and private sites identified in the subject Agreement in order to deploy, own, operate and maintain the BayWEB system. The City would have the right to enter all public and private sites with at least 24-hour notice, except in cases of emergency, when City representatives would have the right to enter sites immediately.
- The sites listed in Attachment I to this report are identified for installation by Motorola of antenna and other equipment to provide City-wide broadband coverage, totaling 16 sites, including five City-owned sites and 11 non City-owned sites. Additionally, Attachment I identifies nine alternate City-owned sites to be used if any of the primary sites fail to meet the network requirements.
- If Motorola improves a site, such as installing a pole for equipment, Motorola will have exclusive use of that site improvement, such that the City could not install other equipment on that pole, without Motorola's written consent<sup>4</sup>.
- The City would provide the sites in "as is, with all faults" condition and Motorola is solely responsible for putting the sites into installation ready condition. Before installing the necessary equipment at a site, Motorola will inspect, conduct analysis testing as needed, conduct other due diligence, and provide a written report to the City regarding any

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<sup>4</sup> Ms. Alden advises that DEM does not anticipate that Motorola will need to improve any sites or install any poles in San Francisco because Motorola's equipment can be installed on existing poles or other existing structures.

deficiencies regarding Motorola's requirements, such that the City assumes the risk for such uncorrected deficiencies.

- All permitted improvements and equipment installed by Motorola shall remain the property of Motorola, provided that any structural improvements made by Motorola will remain at the sites and become the City's property upon termination of this Agreement.
- The City will pay for all site related costs and expenses, including zoning and permitting fees (if not waived by the City), site maintenance, security, electricity and other utilities, lease payments, and applicable Property Taxes.
- The City will provide signed acknowledgement or approvals of leases for non-City owned sites by January 31, 2012 or as soon as possible thereafter. If the City has not provided signed approvals of leases by February 29, 2012, Motorola may disqualify any of the leased sites by giving notice to City and the City and Motorola will amend the subject Agreement to delete the disqualified leased sites. If a leased site becomes disqualified, Motorola, the City and the BayRICS Joint Powers Authority may agree before May 31, 2012 on an alternative site as substitute for the disqualified lease sites.
- Motorola will maintain at its own expense commercial general liability insurance as specified in the Agreement, and approved by the City's Risk Manager.
- Limitations of liability on Motorola such that any direct damages cannot exceed a cap amount of \$300,000 times the total number of sites provided by the City, or an estimated \$4,800,000 (\$300,000 x 16 sites). In addition, Section 12.2 of the Agreement specifies that although the City and Motorola acknowledge the possibility of such losses or damages, they agree that Motorola will not be liable to City for any special, incidental indirect or consequential damages in any way related to or arising from this Agreement.

According to Ms. Alden, the 16 primary sites are the minimum necessary to provide sufficient City-wide coverage. Ms. Alden advises that the 16 primary sites, plus nine alternate sites, which are shown in Attachment I<sup>5</sup>, were selected based on a comprehensive evaluation conducted by the City and Motorola using several criteria, including coverage requirements, use of existing City public safety radio sites, minimal impact on residential neighborhoods and cost. Mr. Fraser advises that if the 16 primary and/or alternate sites do not provide adequate City-wide coverage, additional sites could be added in the future to address such coverage issues.

If the Board of Supervisors approves the proposed resolution, authorizing the Executive Director of the DEM to enter into the subject Site Use and Access Agreement with Motorola, Ms. Alden advises that the DEM would negotiate leases for the specific sites with the assistance of the Department of Technology and the Department of Real Estate. In accordance with Sections 23.26 and 23.27 of the City's Administrative Code, all leases of \$5,000 or more per month that extend for more than one year are subject to Board of Supervisors approval. Given that 11 of the subject 16 primary sites are not City-owned property, and would require leases extending for more than a year, Mr. John Updike, the Director of the Real Estate Division anticipates bringing these 11 leases to the Board of Supervisors for approval.

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<sup>5</sup> Ms. Alden advises that in addition to these 16 primary and nine alternate sites, Motorola will be entering into a separate agreement with the Bay Area Rapid Transit (BART) Agency, to locate equipment at the Glen Park and Balboa Park BART Stations.

The proposed resolution states that the Planning Department determined that the actions contemplated in this resolution comply with the California Environmental Quality Act (CEQA). According to Ms. Alden, the Planning Department has approved a Categorical Exemption from CEQA for the entire BayWEB project, which will be submitted prior to the January 25, 2012 Budget and Finance Committee meeting.

## **FISCAL IMPACTS**

Under the proposed resolution, which would authorize the subject 12-year Site Access and Use Agreement, there would be no exchange of funds between Motorola and the City. Rather, Motorola would be responsible for installing the necessary equipment at its own cost, and then owning, operating and maintaining the regional BayWEB system, including the equipment on the 16 primary sites in San Francisco. As discussed above, in accordance with a separate ten-year Build, Own, Operate and Maintain (BOOM) Agreement between Motorola and the Bay Area Regional Interoperable Communications Systems (BayRICS) Authority, Motorola would transfer ownership of the regional BayWEB system at no cost to the BayRICS Authority, after the ten-year term expires, or 2022.

Under the proposed resolution and Site Access and Use Agreement, the City would be responsible for site related costs, including permit fees, City staffing, lease payments, and other site operating expenses including maintenance, security, electricity, other utilities and Property Taxes for the 16 primary or potentially nine alternate sites identified in Attachment I.

According to Mr. Fraser, initial one-time expenditures to be incurred by the City are currently estimated at \$130,800 in FY 2011-12 and \$180,000 in FY 2012-13, or a total of \$310,800. As shown in Table 1 below, the total estimated \$310,800 of one-time costs include (a) \$5,800 to the City Planning Department for the required CEQA Categorical Exemption, which has already been paid by DEM, (b) \$110,000 to be incurred by the Department of Real Estate to develop and negotiate the 11 anticipated leases, (c) \$45,000 to be incurred by the Department of Building Inspection (DBI) for permit fees related to installation of the Motorola equipment, assuming one-third of such fees would be paid in FY 2011-12 and the remaining two-thirds would be paid in FY 2012-13, and (d) \$150,000 to be incurred by the Department of Technology (DT) to provide one radio technician to escort Motorola representatives to remediate and install the required equipment at each site. Assuming DT can absorb these staff-related costs in FY 2011-12, DT would require \$150,000 funding in FY 2012-13.

Mr. Fraser advises that all of the selected sites are in secure locations, such that there are not anticipated to be any additional security expenditures to be incurred by the City.

**Table 1: Anticipated FY 2011-12 and FY 2012-13 One-Time Costs of Proposed Site Access and Use Agreement**

<b>Initial One-Time Costs</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>	<b>Total</b>
Categorical Exemption -Planning Department	\$5,800	\$0	\$5,800
Leases - Department of Real Estate	110,000	0	110,000
Permits - Department of Building Inspection	15,000	30,000	45,000
Staff – Department of Technology	0	150,000	150,000
<b>Total One-Time Costs</b>	<b>\$130,800</b>	<b>\$180,000</b>	<b>\$310,800</b>

As shown in Attachment II, provided by Mr. Fraser, and summarized in Table 2 below, DEM conservatively estimates additional electrical utility expenses of \$400 per month or a total of \$2,000 per month for the five anticipated City sites, or total annual costs of \$24,000 annually for the five City sites. As also detailed by site in Attachment II, DEM conservatively estimates additional lease and related expenses for the remaining 11 primary sites from \$0 to \$7,500 per month<sup>6</sup> or an estimated total of \$44,440 monthly, or up to \$533,280 annually. Together, as shown in Table 2 below, these estimated ongoing annual costs total \$557,280. According to Mr. Fraser, these ongoing costs are anticipated to commence in FY 2012-13, subject to approval by the Board of Supervisors of the 11 leases and installation and operation of the Motorola equipment.

As shown in Table 2 below, over the proposed 12-year term of the subject Agreement, the ongoing lease, utility and related expenses are projected to cost the City approximately \$6,687,360. Together, with the initial estimated one-time expenses of \$310,800 shown in Table 1 above, the total estimated cost to the City of the proposed 12 year Site Access and Use Agreement would be \$6,998,160, as summarized in Table 2 below.

<sup>6</sup> As shown in Attachment II, DEM is projecting maximum lease costs of \$7,500 per month per site based on estimates provided by the Department of Real Estate. In addition, as shown in Attachment II, based on discussions with representatives at each of the sites, Mr. Fraser reports that alternative arrangements, such as sharing of the City's available fiber optic cable with City College or San Francisco State University, in lieu of the City paying monthly lease payments, are reflected.



**Table 2: Anticipated Ongoing Cost of Proposed Site Access and Use Agreement**

<b>Ongoing Costs</b>	<b>Monthly</b>	<b>Annual</b>
Electricity/Utilities at Five City Sites	\$2,000	\$24,000
Leases at 11 Non-City Sites	44,440	533,280
<b>Total Ongoing Costs</b>	<b>\$46,440</b>	<b>\$557,280</b>
<b>Total 12-Year Ongoing Costs</b>		<b>\$6,687,360</b>
<b>Total One-Time Costs</b> (see Table 1 above)		<b>\$310,800</b>
<b>Total One-Time and Ongoing Costs</b>		<b>\$6,998,160</b>

As of the writing of this report, funding sources have not been identified to pay the total estimated costs of \$6,998,160. Ms. Alden advises that the Department of Emergency Management is in discussions with the Mayor's Office regarding what source of revenues would be used to fund the subject Agreement and which City departments would budget for such costs.

In addition to the above-noted costs, under the proposed Agreement, Motorola's liability for direct damages would be limited to \$300,000 times the total number of sites provided by the City, or an estimated \$4,800,000 (\$300,000 x 16 sites). In addition, Section 12.2 of the Agreement states that although the City and Motorola acknowledge the possibility of such losses or damages, the City and Motorola agree that Motorola will not be liable to City for any special, incidental indirect or consequential damages in any way related to or arising from this Agreement. The City would also indemnify Motorola and hold it harmless for any negligent or intentional wrongful acts or omissions by the City. According to Mr. William Sanders, Deputy City Attorney, the proposed limitations on liability and the waiver of incidental damages were included in the proposed Agreement based on a business and policy decision by the Department. According to Mr. Matt Hansen, Director of the City's Risk Management Division, the proposed indemnity provision is acceptable because the City is on the receiving end of the grant funds through Motorola, which would otherwise not be available to implement the subject BayWEB system.

## **POLICY CONSIDERATIONS**

In the presentation to the Budget and Finance Committee on December 7, 2011 and the Mayor's FY 2012-13 budget instructions to City departments, the Mayor's Office projected a City General Fund shortfall of \$262.7 million for FY 2012-13 and \$375.3 million for FY 2013-14. Yet, as discussed above, the proposed Agreement is estimated to result in \$310,800 of additional one-time expenses in FY 2011-12 and FY 2012-13 and up to \$557,280 of ongoing additional

annual costs commencing in FY 2012-13. As shown in Table 2 above, over the 12-year term of the proposed Agreement with Motorola, the City is estimated to incur \$6,998,160 of additional costs. However, as of the writing of this report, the DEM and the Mayor's Office have not yet identified a funding source to pay for these costs, such that these costs are likely to become a City General Fund expense.

In addition, as discussed in the Background Section above, the BayRICS Joint Powers Authority entered into a separate ten-year Build, Own, Operate and Maintain (BOOM) Agreement with Motorola on January 19, 2012, such that individual participants, such as the Police Department and the Fire Department, could subscribe for access to this new BayWEB system at a rate of \$43 per month per device (radio, in-vehicle modem, computer). According to Mr. Fraser, although the City would not be required to subscribe to this BayWEB system, the City will incur the above-noted estimated costs of \$6,998,160 to help establish the regional BayWEB system. Additionally, to actually access the proposed BayWEB system, the City would then have to purchase additional radio, in-vehicle modems or computer devices that are compatible with the new BayWEB system, and then pay for individual monthly subscriptions per device through the BayRICS Joint Powers Authority. However, as of the writing of this report, the City has neither developed specific plans for purchasing such additional devices to access the subject new BayWEB system, nor developed estimates of the number of devices, under which City departments would subscribe to the proposed new BayWEB system, nor identified funding sources to pay for these additional devices or subscriptions.

In 2011, the Committee on Information Technology (COIT)<sup>7</sup> issued a report on the City's Information and Communication Technology (ICT) Plan: Moving from Vision to Results, Fiscal Years 2011-12 through 2015-16 to the Mayor and the Board of Supervisors. As required by the City's Administrative Code, COIT's ICT Plan is intended to align the City's Information and Communication Technology resources with the City's goals and objectives, by identifying City and department Information and Communication Technology priorities, costs, and funding for each of the next five years. However, the ICT Plan does not include the proposed BayWEB project.

Yet, the ICT Plan identifies a major 800 MHz Citywide emergency radio replacement project to replace 7,500 radio voice two-way devices at a cost of approximately \$65 million of primarily General Fund revenues for all public safety departments, Parking and Traffic and the Recreation and Park Department. In addition, Mr. Jon Walton, Director of the Department of Technology advises that the San Francisco Municipal Transportation Agency (SFMTA) is also embarking on a new separate 800 MHz radio system, at an estimated cost of \$50-\$100 million. According to Mr. Fraser, the proposed subject regional BayWEB 700 MHz system would not be compatible with either of these Citywide 800 MHz radio systems.

Given that there is not an overall plan to address the proposed new regional BayWEB project within the City's ICT Plan, the Budget and Legislative Analyst recommends that the Department of Emergency Management and the Police Department, which are the two

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<sup>7</sup> The Committee on Information Technology (COIT), the City's Information and Communication Technology governing body, is comprised of five permanent members, including the Mayor, President of the Board of Supervisors, Controller, City Administrator and Chief Information Officer, and eight department heads distributed among functional areas of City government.

departments representing the City on the regional BayRICS Authority which is responsible for managing the BayWEB project with Motorola, work directly with COIT, to immediately address the proposed BayWEB project within the City's Five Year ICT Plan. As part of this effort, the Department of Emergency Management and the Police Department should work with COIT to develop a plan, with detailed cost estimates, and to identify funding sources for how the proposed new BayWEB system would be implemented and paid for in San Francisco.

In addition, the Budget and Legislative Analyst recommends that the Board of Supervisors request that all City departments that are currently working on various radio communication systems, including DEM, Police, SFMTA and the Department of Technology, immediately convene to discuss and agree on the specified radio and related communication improvements that are needed in the City.

Given that the subject BayWEB project has not been incorporated within the City's Five-Year Information and Communication Technology (ICT) Plan, the Budget and Legislative Analyst considers approval of the proposed resolution to be a policy decision for the Board of Supervisors.

## RECOMMENDATIONS

1. Request that all City departments that are currently working on various radio communication systems, including DEM, Police, SFMTA and the Department of Technology immediately convene to discuss and agree on what radio improvements are needed in the City.
2. Request that the Department of Emergency Management and the Police Department work with the Committee on Information and Technology to immediately address the proposed BayWEB project within the City's Five Year Information and Technology Plan, by developing a plan, with detailed cost estimates, and identify funding sources for how the proposed new BayWEB system would be implemented and paid for in San Francisco.
3. Approval of the proposed resolution is a policy decision for the Board of Supervisors.

**EXHIBIT A**

**SITE LIST**

**City owned sites:**

1. MUNI Building Presidio
2. Forest Hill
3. CRS Twin Peaks
4. Department of Technology Radio Shop (901 Rankin St.)
5. Community Health Network

**Other entity owned sites:**

6. Fort Miley/VA Hospital
7. Presidio Hill
8. Clay Jones
9. One Market Plaza
10. City College Downtown Campus
11. State Compensation Fund Building (1275 Market St.)
12. San Francisco State University
13. Bernal Heights -99 Moultrie
14. 200 Paul Avenue
15. South Hill
16. Sutro Tower

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**DEM has identified alternate sites owned by the City to be used if any of the primary sites fail to meet the network requirements.**

- A. City OPWS siren pole at 25<sup>th</sup> and Fulton
- B. City OPWS siren pole at 37th & Pacheco (45' Wood Pole)
- C. City OPWS siren pole at 22nd & Sloat (45' Wood Pole)
- D. City OPWS siren pole at 47<sup>th</sup> and Sloat

Right of Entry Agreement with Motorola for  
City and County of San Francisco Sites

- E. Candlestick Park – Candlestick Point**
  - F. 1800 Oakdale – Southeast Community Center**
  - G. City OPWS siren pole at Fitch and Egbert**
  - H. City OPWS siren pole at Jamestown and Ingalls**
  - I. San Francisco Fire Department Station 17 – 1295 Shafter**
-

## SITE USE AGREEMENT PROJECTED RECURRING COSTS

Sites	Estimated Monthly Lease Costs	Estimated Monthly Utilities Costs	NOTES
<b>City Owned Primary Sites</b>			
Muni Building - 949 Presidio	\$0	\$400	Use of City owned sites require no lease or net cost, other than utility costs, which are estimated at \$400/month (high end range from BayRICS Systems Funding Plan)
Forest Hill Radio Site – 150 Mendosa Avenue	\$0	\$400	Use of City owned sites require no lease or net cost, other than utility costs, which are estimated at \$400/month (high end range from BayRICS Systems Funding Plan)
Central Radio Station at Twin Peaks – 1 Christmas Tree Point Road	\$0	\$400	Use of City owned sites require no lease or net cost, other than utility costs, which are estimated at \$400/month (high end range from BayRICS Systems Funding Plan)
Department of Technology Radio Shop - 901 Rankin Street	\$0	\$400	Use of City owned sites require no lease or net cost, other than utility costs, which are estimated at \$400/month (high end range from BayRICS Systems Funding Plan)
Community Health Network – 25 <sup>th</sup> Street at Potrero Avenue	\$0	\$400	Use of City owned sites require no lease or net cost, other than utility costs, which are estimated at \$400/month (high end range from BayRICS Systems Funding Plan)
<b>Other Entity-Owned Primary Sites</b>			
Fort Miley/VA Hospital – 43 <sup>rd</sup> Avenue at Clement Street	\$7,500	\$0	High end Lease projection based on RED estimate
Presidio Hill – Building 314, Deems Road	\$0	\$0	Presidio desires to enter into a City fiber sharing agreement in lieu of monthly lease
Clay Jones - 1250 Jones Street	\$7,500	\$0	High end Lease projection based on RED estimate
One Market Plaza – 1 Market Street	\$1,500	\$0	Lower estimate based on recent negotiations with landlord (25% markup)
City College Downtown Campus – 88 – 4 <sup>th</sup> Street	\$1,500	\$0	City College desires \$1,500/m in concessions for shared facilities at 200 Paul Ave.
Former State Compensation Fund Building - 1275 Market Street	\$7,500	\$0	High end Lease projection based on RED estimate
San Francisco State University – Thornton Hall	\$1,500	\$0	SFSU desires concessions for fiber and maintenance agreements in lieu of lease payments
Bernal Heights Radio Site -99 Moultrie	\$2,440	\$0	Lower estimate based on recent negotiations with landlord (25% markup)
200 Paul Avenue	\$7,500	\$0	High end Lease projection based on RED estimate
South Hill Radio Site (57 Alta Vista Way in Daly City)	\$7,500	\$0	High end Lease projection based on RED estimate
Sutro Tower	\$0	\$0	Sutro desires to enter into a City fiber sharing agreement in lieu of monthly lease
<b>TOTAL MONTHLY LEASE COSTS</b>	<b>\$44,440</b>	<b>\$2,000</b>	
<b>TOTAL ANNUAL LEASE COST</b>	<b>\$533,280</b>	<b>\$24,000</b>	

**Item 3**  
**File 11-1355**

**Department:**  
Port

## EXECUTIVE SUMMARY

Note: This item was continued from the January 11, 2012 Budget and Finance Committee meeting.

### Legislative Objectives

The Port is requesting release of \$8,450,894 previously appropriated by the Board of Supervisors from the Watermark Condominiums and Seawall Lot 330 sale proceeds to partially fund the development of the Port's Pier 27 Cruise Terminal.

### Key Points

- The new Pier 27 Cruise Terminal will be the Port's primary cruise terminal, replacing the existing cruise terminal on Pier 35, which has insufficient capacity for large cruise ships and has difficulty accommodating the operational security needs of the cruise industry. The Pier 27 Cruise Terminal project is a \$93.1 million development, funded by Watermark Condominiums and Seawall Lot 330 sales proceeds, 2010 Port Revenue Bonds, a planned 2012 General Obligation Bond issuance, General Fund contributions, and other sources. The Host City and Venue Agreement (HVA) between the City and the 34<sup>th</sup> America's Cup Event Authority (Event Authority) gives the Event Authority use of Pier 27 during the 34<sup>th</sup> America's Cup in 2013. The Event Authority is required to contribute \$2 million to relocate shore power.
- The Board of Supervisors determined that the Pier 27 Cruise Terminal project is fiscally feasible, in accordance with Administrative Code Chapter 29 (File 10-0920) in May 2011. At the time of the fiscal feasibility determination, the proposed Pier 27 Cruise Terminal budget was \$97.8 million. The total Pier 27 Cruise Terminal project budget has decreased by \$4.7 million since the Board of Supervisors' determination of fiscal feasibility, from \$97.8 million to \$93.1 million. Budget reductions are due primarily to cost savings for demolishing the Pier 27 shed
- In 2003 the Board of Supervisors adopted an ordinance, (a) directing the Port to set aside Watermark Condominiums and Seawall Lot 330 sale proceeds and interest earnings to pay for the development of the Brannan Street Wharf Park and the Cruise Terminal, and (b) appropriating and placing on Budget and Finance Committee reserve \$26,907,635 in sale proceeds (File 03-1229). The Budget and Finance Committee has previously approved release of \$18,456,741, retaining \$8,450,894 on reserve pending completion of the EIR. The Port Commission adopted the EIR on the Cruise Terminal project on December 16, 2011. However, two appeals of the EIR are pending before the Board of Supervisors.

### Fiscal Impacts

- The Port currently has \$24,057,179 in available Cruise Terminal funding. Approval of the proposed appropriation of interest earnings of \$603,563 pending before the Board of Supervisors (File 11-1332) and release of reserves of \$8,450,894 (File 11-1355) would provide \$9,054,457 in additional funding, resulting in total available funding of \$33,111,636, or 53 percent of the Phase I budget of \$62,359,983 for the Pier 27 Cruise Terminal.

### Recommendation

- Approve the requested release of \$8,540,894 of funds, previously reserved by the Board of Supervisors, for the Pier 27 Cruise Terminal project subject to the Board of Supervisors final determination of the pending appeals of the EIR.

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

Administrative Code Section 3.3 provides that the Board of Supervisors' committee that has jurisdiction over the budget (i.e., Budget and Finance Committee) may place any proposed budget expenditures on reserve until released by the Budget and Finance Committee

### Pier 27 Cruise Terminal

The new Pier 27 Cruise Terminal will be the Port's primary cruise terminal, replacing the existing cruise terminal on Pier 35, which has insufficient capacity for large cruise ships and has difficulty accommodating the operational security needs of the cruise industry. Pier 35 will serve as the secondary cruise facility for the Port. The Pier 27 Cruise Terminal project is a \$93.1 million development, funded by Watermark Condominiums and Seawall Lot 330 sales proceeds, 2010 Port Revenue Bonds, a planned 2012 General Obligation Bond issuance, General Fund contributions, reallocation of existing capital project funds, passenger facility charges, and other sources.

### 34<sup>th</sup> America's Cup Event Authority

The Host City and Venue Agreement (HVA) between the City and the 34<sup>th</sup> America's Cup Event Authority (Event Authority) gives the Event Authority use of Pier 27 during the 34<sup>th</sup> America's Cup in 2013. The Event Authority is required to contribute \$2 million to relocate shore power. According to Ms. Elaine Forbes, the Port's Deputy Director of Administration and Finance, the revised HVA and Disposition and Development Agreement, which will be considered by the Budget and Finance Committee in February 2012, removes the obligation of the Event Authority to demolish the shed on Pier 27. According to Ms. Forbes, the Port's decision to assume demolition costs was due to project schedule and site control requirements; also, the Port determined that paying Pier 27 shed demolition costs was preferable to repaying the Event Authority later, through rent credits.

### Board of Supervisors Determination of Fiscal Feasibility

In May of 2011, the Board of Supervisors determined that the Pier 27 Cruise Terminal project is fiscally feasible, in accordance with Administrative Code Chapter 29 (File 10-0920). At the time of the fiscal feasibility determination, the proposed Pier 27 Cruise Terminal budget was \$97.8 million, of which the City's obligations were \$90.3 million, and the Event Authority's obligations were \$7.5 million to relocate shore side power (\$2.0 million) and demolish the Pier 27 shed (\$5.5 million).



### Pier 27 Cruise Terminal Budget

The total Pier 27 Cruise Terminal project budget has decreased by \$4.7 million since the Board of Supervisors determination of fiscal feasibility, from \$97.8 million to \$93.1 million. Budget reductions are due primarily to cost savings for demolishing the Pier 27 shed.

In order to meet the requirements for the 34<sup>th</sup> America's Cup, the Pier 27 Cruise Terminal Project, with a total budget of \$93,121,722, will be divided into two phases:

- Phase I will involve construction of the core and shell of the facility including passenger circulation improvements such as escalators and elevators, completion of the interior of the facility, design and initial site improvement for an adjacent 2.5 acre waterfront park called the Northeast Wharf Plaza. Phase I will include minimal site improvements to allow the America's Cup Event Authority to install temporary tenant improvements for the America's Cup racing events. Phase I is expected to be completed in March 2013. As shown in the Attachment provided by the Port, the budget for Phase I is \$62,359,983.
- Phase II will take place following completion of the America's Cup racing events. Phase II includes the build-out of offices for the U.S. Customs and Border Protection as well as the installation of a glass enclosure in the lobby, additional escalators, certain interior finishes and installation of maritime equipment and amenities necessary to create a modern cruise terminal. Phase II, at the Port's option, may also include related site improvements to the Northeast Wharf Plaza and the ground transportation area, pier repair work, and interior renovation of a portion of the adjacent Pier 29 shed. Phase II is expected to be completed in October 2014. As shown in the Attachment, the budget for Phase II is \$30,761,739.

## **DETAILS OF LEGISLATION**

In 2003 the Board of Supervisors adopted an ordinance, (a) directing the Port to set aside Watermark Condominiums and Seawall Lot 330 sale proceeds and interest earnings to pay for the development of the Brannan Street Wharf Park and the Cruise Terminal<sup>1</sup>, and (b) appropriating and placing on Budget and Finance Committee reserve \$26,907,635 in such sale proceeds (File 03-1229).

In June 2009 the Board of Supervisors appropriated \$1,622,880 in Watermark Condominiums and Seawall Lot 330 sale proceeds interest earnings in the Port's FY 2009-10 budget to partially fund development of the Pier 27 Cruise Terminal.

Table 1 shows the total appropriation of Watermark Condominiums and Seawall Lot 330 sale proceeds and interest earnings to date.

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<sup>1</sup> In 2003, the Port had not yet identified Pier 27 as the site for the Cruise Terminal.

**Table 1**  
**Appropriated Watermark Condominiums and Seawall Lot 330 Sale Proceeds and Interest Earnings**

<b>Watermark Condominium and Seawall Lot 330</b>	<b>Cruise Terminal</b>	<b>Brannan Street Wharf Park</b>	<b>Total</b>
Sales Proceeds (File 03-1229)	\$17,907,635	\$9,000,000	\$26,907,635
Interest Earnings (FY 2009-10 Budget)	1,622,880	0	1,622,880
<b>Total</b>	<b>\$19,530,515</b>	<b>\$9,000,000</b>	<b>\$28,530,515</b>

Source: Budget and Legislative Analyst

The Budget and Finance Committee has previously approved release of \$18,456,741 of the \$26,907,635 in Watermark Condominium and Seawall Lot 330 sales proceeds, previously reserved by the Board of Supervisors, to partially fund the Pier 27 Cruise Terminal project and the Brannan Street Wharf Park, with the balance of \$8,450,894 for the Cruise Terminal remaining on reserve pending completion of the Environmental Impact Report (EIR). The Port Commission adopted the EIR on the Cruise Terminal project on December 16, 2011. However, two appeals of the EIR are pending before the Board of Supervisors.

The Port is now requesting release of the balance of \$8,450,894 previously reserved by the Board of Supervisors to partially fund Phase I of the Pier 27 Cruise Terminal project.

## FISCAL IMPACT

### **Pier 27 Cruise Terminal**

The Phase I budget of the Pier 27 Cruise Terminal project is \$62,359,983, as shown in the Attachment. Table 2 below provides details of the funding sources for Phase I of the Pier 27 Cruise Terminal project, including the subject requested \$8,450,894 previously placed on reserve by the Board of Supervisors.

**Table 2**  
**Cruise Terminal Project Phase I Budget**

<b>Funds previously appropriated by the Board of Supervisors</b>		
<u>Watermark Condominiums and Seawall Lot 330</u>		
Sales proceeds	\$9,456,741	
Interest earnings (FY 2009-10 budget)	<u>1,622,880</u>	
Subtotal, Watermark Condominiums and Seawall Lot 330		11,079,621
<u>Other funds</u>		
2010 Port revenue bonds	10,139,456	
Port operating budget	295,905	
Capital budget appropriations	1,375,347	
FEMA security grant (File 11-0660)	<u>1,166,850</u>	
Subtotal, other funds		<u>12,977,558</u>
<b>Subtotal, appropriated funds</b>		<b>24,057,179</b>
<b>Pending and reserve funds</b>		
<u>Watermark Condominiums and Seawall Lot 330</u>		
Interest earnings (File 11-1332) <sup>1</sup>	603,563	
Sales proceeds on reserve (File 11-1355, subject of this report)	<u>8,450,894</u>	
Subtotal, pending and reserve funds		<u>9,054,457</u>
<b>Total, appropriated funds and Files 11-1332 and 11-1355</b>		<b>33,111,636</b>
<b>Funds not yet appropriated by the Board of Supervisors</b>		
Event Authority contribution to relocation of shorepower	2,000,000	
Repurposing 2010 Port revenue bonds and reimbursements	17,300,000	
Capital budget supplemental appropriation	3,448,347	
FY 2012-13 General Fund contribution	<u>6,500,000</u>	
Subtotal, funds not yet appropriated		<u>29,248,347</u>
<b>Total</b>		<b>\$62,359,983</b>

<sup>1</sup> Appropriation of \$603,563 is pending before the Board of Supervisors. In addition to the \$603,563 in actual interest earnings, the Port is requesting \$367,000 in projected interest earnings to be placed on Controller's reserve pending receipt of the actual funds (File 11-1332).

As shown in Table 2 above, if the Board of Supervisors approves (a) \$9,054,457, including \$603,563 in interest earnings pending before the Board of Supervisors (File 11-1332) and (b) the subject requested \$8,450,894 on reserve (File 11-1355), the Board of Supervisors will have appropriated \$33,111,636, or 53.1 percent of the Phase I budget of \$62,359,983 for the Pier 27 Cruise Terminal project.

The Port has awarded architecture and design and construction contracts through a competitive selection process, as noted below. The Department of Public Works is providing project management.

<b>Contract</b>	<b>Contractor</b>	<b>Amount</b>
Construction	Turner Construction	\$45,408,424
Architecture and Design	KMD Architects	9,173,292
Management	Department of Public Works	7,778,267
<b>Total</b>		<b>\$62,359,983</b>

The Port has expended \$8.9 million to date on Phase I Pier 27 Cruise Terminal project costs, including \$5.9 million for architectural and design services provided by KMD Architects, \$2.8 million for project management and other soft costs provided by DPW and \$0.2 million for preconstruction activities conducted by Turner Construction.

## **RECOMMENDATION**

Approve the requested release of \$8,540,894 of funds, previously reserved by the Board of Supervisors, for the Pier 27 Cruise Terminal project subject to the Board of Supervisors final determination of the pending appeals of the EIR.

<b>CRUISE TERMINAL PROJECT BUDGET</b>		Appropriation Date	Approved by Port Commission (12/16/11)		
			Phase I	Phase II	Total
<b>USES</b>					
<i>Construction</i>					
	Construction Purchase and Installation (IPD)		\$ 40,257,833	\$ 23,242,500	\$ 63,500,333
	Construction Contingency		\$ 3,927,676	\$ 3,486,375	\$ 7,414,051
	<u>Construction Mngr./ Gen. Contractor Svcs.</u>		<u>\$ 1,222,915</u>	<u>\$ 664,850</u>	<u>\$ 1,887,765</u>
	<i>Subtotal, Construction</i>		\$ 45,408,424	\$ 27,393,725	\$ 72,802,149
<i>Other</i>					
	Design & Engin'g, Project Managem't & Entitlement Costs		\$ 16,951,559	\$ 2,968,014	\$ 19,919,573
	DPW, Program Contingency		\$ -	\$ 400,000	\$ 400,000
	<i>Subtotal, Design &amp; Contingency</i>		\$ 16,951,559	\$ 3,368,014	\$ 20,319,573
<b>Total Uses</b>			<b>\$ 62,359,983</b>	<b>\$ 30,761,739</b>	<b>\$ 93,121,722</b>
<b>SOURCES</b>					
<i>Secured - Port</i>					
	Watermark Sale Proceeds		\$ 20,134,075	\$ -	\$ 20,134,075
	Actual Sale Proceeds	7/15/2003	\$ 17,583,635	\$ -	\$ 17,583,635
	Deferred Land Sale Proceeds (SWL 330)	7/15/2003	\$ 324,000	\$ -	\$ 324,000
	Interest Earnings (Port Capital Budget FY09-10)	7/1/2009	\$ 1,622,880	\$ -	\$ 1,622,880
	Interest Earnings as of 06/30/11 (Condo Funds not yet Appropriated)	Pending	\$ 603,560	\$ -	\$ 603,560
	Series A&B 2010 Port Revenue Bonds		\$ 10,139,456	\$ -	\$ 10,139,456
	Operating Budget - Workorder, including prior year carryfd	7/1/2009	\$ 295,905	\$ -	\$ 295,905
	<u>Capital Budget Appropriations</u>		<u>\$ 1,375,347</u>	<u>\$ -</u>	<u>\$ 1,375,347</u>
	<i>Subtotal, Port</i>		\$ 31,944,783	\$ -	\$ 31,944,783
<i>Secured - Other</i>					
	Contribution to Shorepower, Event Authority	Pending	\$ 2,000,000	\$ -	\$ 2,000,000
	<u>FEMA Security Grant</u>	FY2011-12	<u>\$ 1,166,850</u>	<u>\$ 6,333,150</u>	<u>\$ 7,500,000</u>
	<i>Subtotal, Other</i>		\$ 3,166,850	\$ 6,333,150	\$ 9,500,000
<b>Subtotal, Secured</b>			<b>\$ 35,111,633</b>	<b>\$ 6,333,150</b>	<b>\$ 41,444,783</b>
<i>Planned - Port</i>					
	Repurposing Existing 2010 Debt & 2012 Revenue Bond Reimbursement	03/01/12, Planned	\$ 15,500,000	\$ -	\$ 15,500,000
	Capital Budget Appropriation	03/01/12, Planned	\$ 3,448,350	\$ -	\$ 3,448,350
<b>Subtotal, Planned</b>			<b>\$ 18,948,350</b>	<b>\$ -</b>	<b>\$ 18,948,350</b>
<i>Proposed - Port</i>					
	<u>Repurposing Existing 2010 Debt &amp; Go.O Bond Reimbursement</u>	03/01/12, Planned	<u>\$ 1,800,000</u>	<u>\$ (1,600,000)</u>	<u>\$ 200,000</u>
	<i>Subtotal, Port</i>		\$ 1,800,000	\$ (1,600,000)	\$ 200,000
<i>Proposed - Other</i>					
	City Contribution	7/1/2012, planned	\$ 6,500,000	\$ -	\$ 6,500,000
	2012 G.O. Bond	Pending	\$ -	\$ 9,122,943	\$ 9,122,943
	Cruise Operator Contribution	Pending	\$ -	\$ 2,750,000	\$ 2,750,000
	<u>Passenger Facility Charge</u>	Pending	<u>\$ -</u>	<u>\$ 7,250,000</u>	<u>\$ 7,250,000</u>
	<i>Subtotal, Proposed</i>		\$ 6,500,000	\$ 19,122,943	\$ 25,622,943
<b>Subtotal, Proposed</b>			<b>\$ 8,300,000</b>	<b>\$ 17,522,943</b>	<b>\$ 25,822,943</b>
<b>Total Sources</b>			<b>\$ 62,359,983</b>	<b>\$ 23,856,093</b>	<b>\$ 86,216,076</b>
<b>PROJECT BALANCE (Shortfall) / Surplus</b>			<b>\$ -</b>	<b>\$ (6,905,646)</b>	<b>\$ (6,905,646)</b>

**Item 4**  
**File 12-0018**

**Department:**  
Department of Public Health (DPH), Office of the Controller

## EXECUTIVE SUMMARY

### Legislative Objectives

- The proposed ordinance would (a) de-appropriate \$1,846,265 of State Revenue Loss Reserve funds previously appropriated by the Board of Supervisors to the Human Services Agency (HSA) and (b) re-appropriate \$1,846,265 to the Department of Public Health (DPH).

### Key Points

- The FY 2011-12 budget, as previously approved by the Board of Supervisors, included a \$15,000,000 State Revenue Loss Reserve Fund. On November 15, 2011, the Board of Supervisors appropriated \$3,370,001 from the State Revenue Loss Reserve Fund to the Human Services Agency (HSA) to replace the loss of State funding for Adult Day Health Care centers. In November 2011, the State Department of Health Care Services settled a lawsuit to block the State funding reductions to Adult Day Health Care centers, resulting in the State continuing to fund the Adult Day Health Care centers. Therefore, according to Ms. Shireen McSpadden, HSA's Deputy Director of the Department of Aging and Adult Services, HSA will not require the \$3,370,001 previously appropriated by the Board of Supervisors
- The Department of Public Health (DPH) receives recurring annual Federal Ryan White Program grants for services to persons with HIV and AIDS. According to Mr. Dean Goodwin, Administrator of the DPH HIV Health Services, DPH estimates that the total Ryan White grant awards for the next grant period from March 1, 2012 through February 28, 2013, will be reduced by approximately \$4,722,380, as follows: (a) \$4,153,125 estimated reduction due to the loss of "Stop Loss" funds, approved by Congress in prior years to offset reductions in Ryan White Program grant funds to San Francisco, which will not be approved for the next grant period; and (b) \$569,255 estimated reduction in Ryan White Program grant funds.

### Fiscal Impact

- DPH is requesting \$1,846,265 for the four-month period from March 1, 2012 through June 30, 2012 to replace expected reductions in Federal Ryan White Program grant funds and Stop Loss funds. The Budget and Legislative Analyst estimates that the actual reduction in Ryan White Program grant funds and Stop Loss funds for the four-month period from March 1, 2012 through June 30, 2012 is \$1,574,127 (\$4,722,380 divided by 3). Therefore, the Budget and Legislative Analyst recommends reducing the requested appropriation by \$272,138, from \$1,846,265 to \$1,574,127.

### Recommendation

- Amend the proposed ordinance to reduce the proposed appropriation of State Revenue Loss Reserve Fund monies by \$272,138, from the requested \$1,846,265 to \$1,574,127.
- Approve the proposed ordinance as amended.

## MANDATE STATEMENT

Under the City's Charter, the Board of Supervisors is responsible for amending and approving the Annual Appropriation Ordinance.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would (a) de-appropriate \$1,846,265 of State Revenue Loss Reserve Fund monies previously appropriated by the Board of Supervisors to the Human Services Agency (HSA) and (b) re-appropriate this \$1,846,265 to the Department of Public Health (DPH).

### **HSA De-appropriation of \$1,864,265**

In order to provide for reduced State funding allocations, the City's FY 2011-12 budget included a \$15,000,000 State Revenue Loss Reserve Fund appropriated from the City's General Fund. On November 15, 2011, the Board of Supervisors appropriated \$3,370,001 from the State Revenue Loss Reserve Fund to the Human Services Agency (HSA) in order to replace the loss of State funding for Adult Day Health Care centers. According to Ms. Shireen McSpadden, HSA's Deputy Director of the HSA's Department of Aging and Adult Services, the \$3,370,001 supplemental appropriation was necessary to maintain basic Adult Day Health Care center services, previously funded by the State, from December 1, 2011 through June 30, 2012.

A class action lawsuit was filed in August 2009 on behalf of California seniors and disabled residents to block reductions in State funding for Adult Day Health Care centers. In November 2011, the State Department of Health Care Services settled the lawsuit, resulting in the State continuing to fund the Adult Day Health Care centers. Therefore, according to Ms. McSpadden, HSA will not require any of the \$3,370,001 previously appropriated by the Board of Supervisors for Adult Day Health Care centers located in the City.

### **DPH Re-appropriation of \$1,846,265**

DPH receives annual recurring federal Ryan White Program grants to pay for health and other services for low-income, un-insured and under-insured San Franciscans living with HIV and AIDS, including primary care services and critical support services, hospice, treatment adherence, case management, housing and related services. The Ryan White Program grant is divided into two subcategories: Ryan White Part A and Ryan White Part B. The Ryan White Part A grant period is from March 1, 2011 through February 28, 2012 and the Ryan White Part B grant period is from July 1, 2011 through June 30, 2012. DPH's total current Ryan White Part A and Part B grant funding is \$25,800,873<sup>1</sup>.

DPH has applied for the (a) Ryan White Part A grant for the grant year from March 1, 2012 through February 28, 2013, and (b) Ryan White Part B grant for the grant year from approximately July 1, 2012 through June 30, 2013. According to Mr. Dean Goodwin, Administrator of the DPH HIV Health Services, DPH has not been notified of the amount of the

<sup>1</sup> The \$25,800,873 includes (a) \$22,795,508 for the Ryan White Part A grant from March 1, 2011 through February 28, 2012; and (b) \$3,005,365 for the Ryan White Part B grant from July 1, 2011 through June 30, 2012.

grant award for the Ryan White Part A grant from March 1, 2012 through February 28, 2013 and the Ryan White Part B grant from July 1, 2012 through June 30, 2013. However, Mr. Goodwin estimates that the total Ryan White Part A and Part B grant awards will be reduced by approximately \$4,722,380 as follows:

- \$4,153,125 estimated reduction due to the loss of “Stop Loss” funds to offset reductions in Ryan White Program grant funds to San Francisco. DPH has been notified that Congress will not appropriate Stop Loss funds for the next grant period beginning March 1, 2012.
- \$569,255 estimated reduction in Ryan White Part A and Part B grant funds. According to Mr. Goodwin, the Ryan White Program grant funds to San Francisco for the grant period beginning March 1, 2011 were reduced by \$569,255. DPH expects the Ryan White Program grant funds to San Francisco for the grant year beginning March 1, 2012 to be reduced by the same amount.

## FISCAL IMPACTS

The proposed ordinance would de-appropriate \$1,846,265 of the \$3,370,001 in the State Revenue Loss Reserve Fund previously appropriated by the Board of Supervisors for HSA to offset State funding reductions for Adult Day Health Care centers, and appropriate such funds to DPH. The balance of \$1,523,736 previously allocated to HSA (\$3,370,001 less \$1,846,265) would be returned to the City’s State Revenue Loss Reserve Fund. According to Ms. Cindy Czerwin, Citywide Budget Manager in the Controller’s Office, as of the writing of this report, the balance of the State Revenue Loss Reserve Fund is \$11,629,999. With the return of the \$1,523,736, the new balance will be \$13,153,735.

The proposed appropriation of \$1,846,265 would replace estimated reductions in Ryan White Program grant funds to DPH for the four-month period from March 1, 2012 through June 30, 2012. According to Mr. Goodwin, DPH will request additional monies to replace further reductions in Ryan White Program grant funds in DPH’s FY 2012-13 budget.

The following table shows the estimated reduction in Ryan White Program grant funds and Stop Loss funds for the 12-month period from March 1, 2012 through February 28, 2013. The Budget and Legislative Analyst estimates that the reduction in Ryan White Program grant funds and Stop Loss funds for the 4-month period from March 1, 2012 through June 30, 2012 is \$1,574,127 (\$4,722,380 divided by 3)<sup>2</sup>.

<b>Estimated Reduction in Grant Funding for the Ryan White Program</b>		
	12-Month Period from March 1, 2012 through February 28, 2013	4-Month Period from March 1, 2012 through June 30, 2013 (Need for the remainder of this fiscal year)
Estimated Reduction in Stop Loss Funds	\$4,153,125	\$1,384,375
Estimated Reduction in Ryan White Program Grant Funds	569,255	189,752
<b>Total</b>	<b>\$4,722,380</b>	<b>\$1,574,127</b>

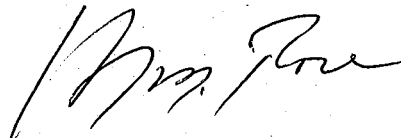
<sup>2</sup> There are three 4-month periods in 12 months.  
SAN FRANCISCO BOARD OF SUPERVISORS



As shown in the table above, the Budget and Legislative Analyst recommends reducing the proposed appropriation of State Revenue Loss Reserve Fund monies by \$272,138, from the requested \$1,846,265 to the needed amount of \$1,574,127 for the four-month period from March 1, 2012 through June 30, 2013.

## RECOMENDATIONS

1. Amend the proposed ordinance to reduce the proposed appropriation of State Revenue Loss Reserve Fund monies by \$272,138, from the requested \$1,846,265 to \$1,574,127.
2. Approve the proposed ordinance as amended.



Harvey M. Rose

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