

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

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TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst



SUBJECT: November 10, 2021 Budget and Finance Committee Meeting

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<p>Item 2 File 20-0370</p>	<p>Department: Department of Public Health</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution approves Amendment No. 3 to the contract with the AIDS Foundation, increasing the not-too-exceed amount by \$6,507,312 from \$35,608,159 to \$42,115,471. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • San Francisco AIDS Foundation was awarded the contract in 2016 for an amount not to exceed \$4,976,830 for two years, July 1, 2016 - June 30, 2018, with the option to renew the contract annually for a period of one year through June 30, 2026. The contract has been modified twice, increasing the contract not to exceed amount to \$35,608,159 and extending the term through June 2026. • The San Francisco AIDS Foundation is the lead agency on the contract and partners with community organizations to provide syringe access and disposal services to help reduce syringe sharing and lower the risk of transmission of HIV and other communicable diseases. This includes providing sterile injection equipment, health education, HIV and hepatitis C testing, and collection of disposed needles. • The proposed resolution expands funding and services for syringe clean-up through the Syringe Sweeps Program across the city, focusing on priority neighborhoods, hot spots, and encampments, and a work order with the San Francisco War Memorial Veterans Building. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The Department has spent \$17,277,830 on services under the contract with the AIDS Foundation in FY 2016-17 through FY 2020-21. The Department projects new expenditures in FY 2020-21 through FY 2025-26 of \$24,837,641, including a contingency, for a total contract not-to-exceed amount of \$42,115,471 over ten years. • The \$6,865,202 increase in funding under this proposed amendment will primarily go toward the Syringe Sweeps Program (\$5,850,775), which started as a Mayoral Enhancement in FY 2019-20. The additional \$34,685 in increased funding reflects the work order with the War Memorial. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • Request that the Department of Public Health provide a written report to the Budget and Finance Committee with updated performance data through FY 2020-21 for all service components of the contract with the San Francisco AIDS Foundation once this information is available. • Approve the proposed resolution 	

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

The Department of Public Health (DPH) issued a Request for Proposals (RFP) for an HIV prevention program with citywide syringe access and disposal services in March 2016. The San Francisco AIDS Foundation was the only vendor to respond with a Letter of Intent to submit a proposal. DPH, per the terms of the RFP, directly negotiated with the AIDS Foundation rather than continue a formal solicitation process. The AIDS Foundation is the lead agency on the contract and partners with Homeless Youth Alliance, Drug Users Union, Glide, and St James Infirmary to provide services. As the lead agency, the AIDS Foundation is responsible for coordinating services, mapping locations, centralizing, and distributing supplies, and holding regular meetings with partners to coordinate and problem solve.

The initial contract authorized an amount not to exceed \$4,976,830 for two years, July 1, 2016 - June 30, 2018, with the option to renew the contract annually for a period of one year through June 30, 2026. The contract has been modified twice, increasing the contract not-to-exceed amount to \$35,608,159 and extending the term through June 2026, as shown in Table 1 below.

Exhibit 1: Previous Contract Amendments

No.	Date	Description	Not-to-Exceed Amount
1	10/1/2017	Extended the contract for an additional year: July 1, 2018 - June 30, 2019.	\$9,839,487
2	2/1/2019	Extended the contract for seven years: July 1, 2019 – June 30, 2026 for a total term of 10 years (July 1, 2016 – June 30, 2026). (File 19-0242)	\$35,608,159

In 2020, the Department of Public Health had sought Board of Supervisors approval for Amendment No. 3 to the contract with the AIDS Foundation, increasing the not-to-exceed amount of the contract by \$6,507,312, for a total not to exceed \$42,115,471. However, due to the onset of the COVID-19 pandemic and ensuing City budget deficit, the Mayor’s Office raised concerns about funding availability and the Department of Public Health withdrew its request to approve Amendment No. 3. With an improved fiscal outlook, these concerns have been alleviated and the Department of Public Health is now seeking Board of Supervisors approval for Amendment No. 3 to the contract.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves Amendment No. 3 to the contract with the AIDS Foundation, increasing the not-too-exceed amount by \$6,507,312 from \$35,608,159 to \$42,115,471. This additional funding reflects add-back of General Fund support to address additional syringe clean-up and disposal services, target priority neighborhoods and hot spots, and a work order with the War Memorial.

Services Provided

Through this contract, the AIDS Foundation and its partners provide syringe access and disposal services to help reduce syringe sharing and lower the risk of transmission of HIV and other communicable diseases. This includes providing sterile injection equipment, health education, HIV and hepatitis C testing, and collection of disposed needles. The contract in total supports 26.295 full-time equivalent (FTE) positions annually.

Amendment No. 3 continues citywide syringe access and disposal services, including:

- **Syringe Access & Disposal Services**, which provides access to sterile syringes and safer injection supplies to help reduce the likelihood of syringe sharing and decrease the risk of HIV transmission. In addition, this work includes providing 24-hour access to 10 large disposal kiosks and nine smaller boxes, and services through the Syringe Pick-up crew that provides syringe collection and disposal services 7 days a week from 7am-7pm. Community members may also text the AIDS Foundation 415-810-1337 to report syringe litter or can contact the Department of Public Works via 311.
- **Homeless Youth Alliance (HYA) wrap around program**, which targets wraparound and syringe services to young adults.
- **Harm Reduction Center**, which provides a physical space for clients to drop in, receive education on overdose prevention, harm reduction counseling, crisis intervention, and link to HIV and hepatitis testing and care.
- **Syringe Sweeps**, a Citywide clean-up effort, focusing on priority neighborhoods, hot spots, and encampments.
- **The War Memorial Work Order**, which provides syringe clean-up services around the San Francisco War Memorial Veterans Building.
- **Drug Testing Support**, which was a one-time effort in FY 2020-21 to support mobile drug testing services that allow drug users to test their drugs prior to consumption.

As noted above, the proposed Amendment No. 3 outlines expanded funding and services for syringe clean-up through the Syringe Sweeps Program across the City and specifically at the San Francisco War Memorial Veterans Building. The additional funding for the Syringe Sweeps

Program and War Memorial Work Order will support a total of 9.775 FTEs¹ for syringe clean up and management services, focusing on priority neighborhoods, hot spots, and encampments. The work order with the War Memorial will including managing the syringe disposal boxes in the city building as well as performing clean-up outside around the building property.

Exhibit 2 below shows the units of service included in the proposed third amendment.

Exhibit 2: San Francisco AIDS Foundation Contract Units of Service

Service Component	Units of Service / Number of Contacts in Proposed Amendment #3 (FY 21-22 through FY 25-26)	Change from Amendment #2 (approved 2019)
Syringe Access and Disposal Services	-4,302 hours of syringe access and disposal services per year (~12.63 clients contacted per hour for an estimated 54,300 contacts per year) -12 months of syringe access and disposal coordination and bulk purchasing -3,710 hours of Citywide sweeps	Removes 67 Community-Based Sweeps Events, which involved coordinating residents and staff of agencies working in areas where sweeps are necessary.
Homeless Youth Alliance	-12 months of personnel, operation, and syringe disposal services per year	No Change
Harm Reduction Center	-1,888 hours of syringe access services per year (16.6 contacts per hour for an estimated 31,341 contacts) -2,550 hours of lounge services per year (6 clients contacted per hour for an estimated 15,300 contacts per year)	Increased the estimated number of client contacts per hour for lounge services from 3 per hour to 6 per hour for an additional 7,650 contacts per year
Syringe Sweeps	-4,368 hours of syringe disposal services per year (includes providing education to community about safe disposal options)	New
War Memorial	-52 weeks of syringe disposal services (no direct services provided to individuals)	New

Source: Department of Public Health Contract with San Francisco AIDS Foundation, Appendix A

Note: One full-time equivalent position is approximately 1,768 hours

Units of Service

As shown in Exhibit 3 below, the monitoring report indicates that the AIDS Foundation exceeded the contracted number of units for contacts related to syringe access and disposal services and syringe clean-up services (Syringe Sweeps). However, services provided through the Harm Reduction Lounge did not meet their contracted targets. According to DPH staff, this was likely to do changes in service because of shelter-in-place orders during the spring of 2020.

¹ An additional 9.775 FTE will be supported through the Syringe Sweeps Program (9.65 FTE) and War Memorial Work Order (0.125 FTE); however, the net increase in contract positions is 7.27 FTEs due to a reduction in the existing Syringe Sweeps program from 11.55 to 9.05 FTE. This reduction in FTEs was made to offset increased operating costs.

Exhibit 3: San Francisco AIDS Foundation Contract Performance FY 2019-20

Units of Service	Contracted	Actual	Actual as Percentage of Contracted
Syringe Access and Disposal Contacts	54,300	68,310	125.8%
Harm Reduction Center, Hours	2,550	1,723	67.6%
Harm Reduction Center, Contacts	8,079	9,190	113.8%
Harm Reduction Center, Syringe Access Hours	1,888	1,480	78.4%
Syringe Sweeps Hours	4,368	5,336	122.2%

Source: Monitoring Report FY19-20, San Francisco AIDS Foundation HIV Syringe Access and Disposal Services
 Note: The contract monitoring report for Coordination & Bulk Purchasing and Syringe Access & Disposal Services Contacts have listed contracted numbers that are slightly higher than what is in the contract: 54,310 vs. 54,300 contacts for Coordination & Bulk Purchasing and 8,079 vs. 8,000 for Syringe Access & Disposal Services Contacts.

According to the Department of Public Health, the War Memorial Work Order began in July 2021 and have not yet been monitored for performance. The Drug Testing Support work was one-time funding for FY 2020-21 and not included in monitoring.

Homeless Youth Alliance

The Homeless Youth Alliance, a subcontractor of the AIDS Foundation, was separately monitored in FY 2018-19 but not in FY 2019-20. The Department of Public Health advises that staff that typically monitor contractor performance were re-assigned to pandemic tasks. Moving forward, this program will resume being monitored as a stand-alone program.

Syringe Collection

Syringe Sweeps Clean-up Team has a contracted objective of collecting 120,000 syringes annually. According to data provided by DPH, the Syringe Sweep Clean-up Team collected 173,598 syringes in calendar year 2020.

FISCAL IMPACT

Exhibit 5 provides an overview of changes between the existing agreement and the proposed amendment.

Exhibit 5: Proposed Funding Changes for San Francisco AIDS Foundation Contract (FY 2016-17 through FY 2025-26)

Program	Current Funding (Approved Under Amendment #2)	Proposed Funding (Amendment #3 Under Consideration)	Change	Explanation
Syringe Access & Disposal	\$21,870,049	\$22,650,163	\$390,707	Cost of Doing Business increase
HYA Wrap Around Program	1,664,821	1,696,126	31,232	Cost of Doing Business increase
Harm Reduction Center	9,228,000	9,543,092	315,092	Cost of Doing Business increase
Syringe Sweeps Program		5,850,775	5,850,775	New Services added in FY 2019-20; Cost of Doing Business increase
War Memorial Work Order		34,685	34,685	Work order added for FY 2021-22 through FY 2025-26
<i>Subtotal</i>	<i>\$32,762,870</i>	<i>\$39,773,841</i>	<i>\$7,010,971</i>	
Contingency Adjustment*	2,845,290	2,341,630	(503,660)	
Total	\$35,608,160	\$42,115,471	\$6,507,312	

Source: Department of Public Health

*The contingency adjustment in the proposed funding amount in Amendment #3 (under consideration) is determined based on projected expenditures for FY 2021-22 through FY 2025-26

**Total varies from the not-to-exceed amount due to rounding.

As shown above, the majority of the increased \$6,507,312 funding is being allocated to the Syringe Sweeps program. Of the increased amount, \$5,850,775 supports a total of 9.65 FTE in the Syringe Sweeps Program for syringe clean-up and management services. The \$34,685 work order with the War Memorial supports 0.125 FTE and includes managing the syringe disposal boxes in the City building as well as performing clean-up outside around the building property. Cost of Doing Business increases added to the contract are projected through FY 2025-26 and amounts beyond the current fiscal year are subject to future Board of Supervisors' approval.

The contract budget covers the units of service, as detailed above, and the health educator and administrative functions at the AIDS Foundation and its subcontractors. Contract expenditures are funded by the General Fund.

Actual and Projected Expenditures

The Department has spent \$17,277,830 on services under the contract with the AIDS Foundation in FY 2016-17 through FY 2020-21. The Department projects new expenditures in FY 2020-21 through FY 2025-26 of \$24,837,641, including a contingency, for a total contract not-to-exceed amount of \$42,115,471 over ten years.

POLICY CONSIDERATION**FY 2020-21 Performance Data**

The Department of Public Health is in the process of conducting its performance monitoring and updating its performance data for this contractor in FY 2020-21. We recommend that the Department of Public Health provide a written report to the Board of Supervisors on the performance of these services in FY 2020-21 upon completing performance monitoring of the program.

RECOMMENDATIONS

1. Request that the Department of Public Health provide a written report to the Budget and Finance Committee with updated performance data through FY 2020-21 for all service components of the contract with the San Francisco AIDS Foundation once this information is available.
2. Approve the proposed resolution.

Item 3 File 21-1082	Department: Public Utilities Commission (PUC)
EXECUTIVE SUMMARY	
<p>Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve the San Francisco Public Utilities Commission (SFPUC) Acting General Manager’s Declaration of Emergency to repair and restore areas of Stern Grove damaged by flooding for a total not-to-exceed cost of \$4 million. <p>Key Points</p> <ul style="list-style-type: none"> • In August 2021, flooding at Stern Grove caused by a failed air valve damaged trees, undermined slopes and storm water pathways, and flooded the concert meadow and three backstage buildings. • According to SFPUC staff, because the emergency repair work needs to occur as soon as possible and is beyond the capabilities of City staff, SFPUC staff selected two contractors, Hernandez Engineering, Inc., and Anvil Builders, Inc., to repair and restore areas damaged by flooding. The Department had an existing contract with Hernandez Engineering and Anvil Builders was selected because of their recent experience with other SFPUC projects. • Repair work began in September 2021. Restoration of the concert area is expected to be completed in Spring 2022 but a damaged slope will remain closed until trees are replanted and well established. <p>Fiscal Impact</p> <ul style="list-style-type: none"> • The not-to-exceed cost to repair and restore areas impacted by the flooding is \$4 million, which includes an 8.1 percent contingency. Repair costs would be funded by SFPUC Water Enterprise funds. <p>Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

Administrative Code Section 6.60 provides that City contracts entered into for emergency work may be executed in the most expeditious manner. However, declarations of emergencies where the repair work is anticipated to be \$250,000 or more are subject to Board of Supervisors approval. Section 6.60(d) also states that if the emergency does not permit Board of Supervisors approval of the emergency before work is commenced or the contract(s) entered into, such approvals from the Board of Supervisors shall be obtained as soon as possible, with the proposed resolution approving the emergency determination submitted to the Board of Supervisors within 60 days of the department head's emergency declaration.

BACKGROUND

In August 2021, the San Francisco Public Utilities Commission's (SFPUC) City Distribution Division crews were working on a water transmission pipeline on 22nd Avenue and Sloat Boulevard. During their work, an air valve failed, which caused flooding in Stern Grove and around the worksite. No other property was damaged in the accident. The Stern Grove flooding damaged trees, undermined slopes and storm water pathways, and flooded the Stern Grove concert meadow and three backstage buildings. The concert meadow will remain closed until Spring or Summer 2022. SFPUC is currently excavating, inspecting, and completing any as needed repairs on the remaining 14 air valves along the same pipeline to prevent similar events in the future.

The Acting SFPUC General Manager declared a state of emergency in a letter to the PUC Commission President on August 26, 2021. The SFPUC submitted a resolution, declaring a state of emergency, to the Board of Supervisors on October 8, 2021, which falls within the 60-day requirement of Administrative Code Sec. 6.60(d).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the SFPUC's declaration of emergency and related emergency work for a total not-to-exceed cost of \$4 million.

In approving the emergency work, the Board of Supervisors is granting SFPUC exemption from requirements of Chapter 6 of the Administrative Code, which contains policies and procedures for the City's public works contracting, Chapters 12A, 12B and 12C of the Administrative Code, which contain policies related to nondiscrimination in contracts, and Chapter 14B of the Administrative Code, which contains policies for local hiring in the City's contracting process. These provisions are summarized in Attachment II. These exemptions only apply to SFPUC contracting related to emergency site restoration work to repair and restore the areas damaged by the flooding at Stern Grove. The location of the site to be repaired and a map showing impacted areas is shown in Attachment I.

Repairs

According to the SFPUC, the emergency repair work needs to occur as soon as possible and is beyond the capabilities of City staff. The SFPUC is working with two vendors, Hernandez Engineering and Anvil Builders, to complete the repair work. The Department has an existing contract with Hernandez Engineering, which provides for SFPUC to enter into individual task orders with Hernandez Engineering for discrete projects¹. SFPUC entered into a task order with Hernandez Engineering for \$706,000 to secure the site; remove debris from the parking lot, Concert Meadow, and Pine Lake; and begin to restore backstage buildings.

The SFPUC selected Anvil Builders to perform the remainder of the work, which includes phased removal of the hazardous trees, completing engineered slope repair, tennis court restoration, planting and reseeded of the impacted slope and meadow, and refurbishing any damaged structures. SFPUC selected Anvil Builders because of their recent experience and early completion of a difficult tree removal contract at Big Basin after the CZU Lightning Complex Fire and other SFPUC projects. Anvil Builders has made a commitment to utilize LBE subcontractors for the traffic control and trucking or hauling portions of the work. SFPUC issued a "Notice of Authorization to Perform Work" to Anvil Builders in September 2021 in an amount up to \$3 million.

Repair work began in September 2021 and is mostly expected to be completed in Spring 2022, depending on weather conditions. SFPUC issued initial notices-to-proceed to Hernandez Engineering and Anvil Builders for the initial repair work² and will issue subsequent notices-to-proceed as the scope of the work is better detailed. The SFPUC intends to complete repairs to the damaged portions of Stern Grove meadow and buildings to have the concert site ready for Stern Grove Summer Concert Series in Summer 2022. The damaged slope will remain closed beyond that time until new trees are planted and well established.

FISCAL IMPACT

SFPUC's total estimated cost of emergency work to repair and restore areas impacted by the flooding caused by a failed air valve at Stern Grove is \$4 million, based on an estimated cost of \$1 million for soil and tree removal, \$2.5 million for slope stabilization and replanting, and \$500,000 for restoration of the Festival's activities. See Exhibit 1 below.

¹ SFPUC entered into an agreement with Hernandez Engineering in 2018 in an amount not to exceed \$5 million for Job Order Contracting. Administrative Code Section 6.62 defines Job Order Contracts as indefinite quantity contract with a predefined set of bid items that are assigned on a periodic or task order basis for the performance of maintenance, repair, and minor construction projects. According to the agreement with Hernandez Engineering, the scope of work for the agreement will be finalized and authorized incrementally through individual task orders.

² The initial notice-to-proceed for Hernandez Engineering was \$334,314 and for Anvil Builders was \$400,000.

Exhibit 1: Total Estimated Cost for Stern Grove Restoration/Repair

Purpose	Estimated Cost
Soil and Tree Removal	\$1,000,000
Slope Stabilization and Tree Replanting	\$2,500,000
Concert Meadow Restoration	\$500,000
Total	\$4,000,000

Source: SFPUC

According to the SFPUC, cost estimates are based on experience with projects of similar size and scope. The proposed resolution's not to exceed amount of \$4 million includes \$3.7 million in estimated costs for both vendors plus a \$300,000 contingency (or 8.1% of estimated contract costs).

Funding Source

The source of funding for this emergency work is the San Francisco Public Utilities Commission Water Enterprise budget. The Controller has certified that funds are available for this emergency work.

RECOMMENDATION

Approve the proposed resolution.

Attachment I



Source: SFPUC

Attachment II**Emergency Declaration Waivers**

If the proposed resolution approving the SFPUC's emergency declaration is approved by the Board of Supervisors, the following Administrative Code provisions would be waived for contracts related to repairing areas damaged by the flooding at Stern Grove.

Board of Supervisors Approval

Section 6.60 of the Administrative Code requires the Board of Supervisors approval for public works emergency repairs costing greater than \$250,000.

Section 6.80 of the Administrative Code requires written notification to the Board of Supervisors if public works contractor submits false claims to the City. The proposed ordinance waives this requirement.

Section 6.81 of the Administrative Code allows the Board of Supervisors, on the recommendation of the Mayor, Department Head or the board or commission concerned, to nullify of a public works contract if contractors are found to have colluded with City officials. The proposed ordinance waives this requirement.

Section 6.26 of the Administrative Code requires public works contractors' performance be monitored and evaluated in a database maintained by the awarding Departments and report performance to the Board of Supervisors. The proposed ordinance waives this requirement.

Lowest Bid for Construction Contracts

Section 6.20 of the Administrative Code requires public works contracts valued over \$600,000 must be awarded to the bids that demonstrate the ability meet project specifications at the lowest possible cost. The proposed legislation waives this requirement. SFPUC has stated that due to the urgent need to repair and restore impacted areas at Stern Grove as soon as possible, they have selected two qualified vendors, one through an existing contract and the other because of its extensive experience in disaster clean up, its excellent safety record, familiarity with CCSF and SFPUC contracting, and immediate capacity.

Local Hiring Requirements

Chapter 14B of the Administrative Code requires adherence to local hiring requirements for construction contracts. The proposed legislation waives this requirement.

Detailed Cost Estimates

Section 6.20 of the Administrative Code requires that for public works contracts valued over \$600,000, no Department Head should recommend a contract or issue an award without preparing a detailed cost estimate of the work to be performed. The proposed legislation waives this requirement.

Requirements for Bids and Quotes

Section 6.21 of the Administrative Code requires that for public works contracts valued over \$600,000, the solicitation must be circulated in at least one newspaper or made publicly available

online not fewer than 10 days prior to the bid opening. The proposed legislation waives this requirement.

Maintenance of Records

Section 6.22(e)(6) requires that public works contractors maintain records verifying compliance with labor standards and the prevailing wage requirements. The proposed legislation waives this requirement.

Nondiscrimination in Public Contracting

Section 12B.2 requires that all contracting City agencies include nondiscrimination provisions in any executed contracts. The proposed legislation waives this requirement.

Item 6 File 21-1083	Department: Office of Contract Administration
EXECUTIVE SUMMARY	
<p>Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve the second amendment to the City’s contract with Recology San Francisco, Recology Sunset Scavenger, and Recology Golden Gate (together “Recology”) increasing the not to exceed contract amount by \$7 million to \$16.9 million and extending the term seven months from November 30, 2021 to June 30, 2022. <p>Key Points</p> <ul style="list-style-type: none"> • The City has a \$9.9 million agreement with Recology to collect refuse at City facilities that expires at the end of November 2021. The current agreement uses Recology’s uniform commercial rates as of April 2021 and the proposed amendment relies on uniform commercial rates as of July 2021. • Residential refuse rates are regulated by the City. However, the uniform commercial rates for refuse collection are not regulated but are influenced by the residential rates. Uniform commercial rates are typically adjusted each fiscal year but Recology may adjust them at any time. • In May 2021, the Board of Supervisors approved a settlement agreement that required Recology to repay customers \$94.5 million and pay civil penalties of \$7 million related to refuse rate increases in 2017 that were based on inaccurate information provided by Recology during the 2017 residential refuse rate setting process and to unlawful gifts to City officials (File 21-0329). The settlement also provided for an approximately 6.8% decrease in commercial rates effective April 2021 as well as a decrease in residential refuse rates. • In response to Recology’s manipulation of the residential rate setting process, the City convened the Refuse Working Group to review changes to the citywide refuse collection service model. Findings of this analysis are expected to be published in November 2021. <p>Fiscal Impact</p> <ul style="list-style-type: none"> • OCA projects \$8.75 million in total expenditures through November 30, 2021, based on average contract expenditures from December 2020 to June 2021. • The proposed not to exceed amount includes a \$2.2 million contingency. However, the contingency is calculated on the total projected spending of the contract, rather than expenditures during the extension term. We believe a contingency of \$896,302, which is approximately 15% of future spending, is appropriate. <p>Policy Consideration</p> <ul style="list-style-type: none"> • The proposed contract extension provides for refuse collection services while options for alternative providers of refuse collection are identified and changes to the service model are evaluated. We therefore recommend approval of the proposed resolution. <p>Recommendations</p> <ol style="list-style-type: none"> 1. Amend the resolution to reduce the not to exceed amount to \$15,622,000. 2. Approve the 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

Contract History

Recology provides collection, processing, and disposal of refuse (recyclables, compostables, and trash) to commercial and residential customers in the City. In November 2020, the Budget & Finance Committee recommended approval of a resolution (File 20-1213) that would have approved a new \$62.5 million agreement with Recology through November 2026 to collect refuse from City facilities, however the Board of Supervisors re-referred the item back to that Committee after the U.S. Attorney's Office charged a Recology executive with bribing the former Director of Public Works to raise residential refuse collection rates for Recology's financial benefit. In the interim, the Office of Contract Administration entered into a short-term agreement with Recology to continue to collect refuse from City facilities. The current agreement, which was amended once to extend the term, is for one-year from December 2020 through November 2021, and totals \$9.9 million. The agreement and first amendment were not subject to Board of Supervisors approval because the amount was less than \$10 million and the term was less than 10 years.

As with the City's prior refuse collection agreements with Recology, the current agreement was awarded as a sole source procurement on the basis that Recology is the only entity permitted to collect residential and commercial refuse in the City (see Refuse Collection & Disposal Ordinance discussion below) and therefore uniquely positioned to provide such services to the City. According to the City's Attorney's Office, the City may nevertheless competitively procure refuse collection services. OCA is requesting the current contract with Recology be extended while it plans to issue a competitive solicitation for a new contract for the City's refuse collection.

Legal Settlement with Recology

In May 2021, the Board of Supervisors approved an ordinance authorizing a settlement agreement with Recology that required Recology to repay customers \$94.5 million and pay civil penalties of \$7 million related to refuse rate increases in 2017 that were based on inaccurate information provided by Recology during the 2017 residential refuse rate setting process and to unlawful gifts to City officials (File 21-0329). The settlement also provided for an approximately 6.8% decrease in commercial rates effective April 2021 as well as a decrease in residential refuse rates.

Refuse Collection & Disposal Ordinance

In 1932, voters approved the Refuse Collection and Disposal Ordinance, which requires refuse collection firms to obtain a license for operations and permits to collect residential and commercial refuse within certain areas of the City.¹ The regulations do not apply to refuse collection for City facilities. The 1932 Ordinance created 97 permits for refuse collection, which, due to acquisitions since the 1932 Ordinance was approved, are currently all owned by Recology. Under the 1932 Ordinance, additional permits for refuse collection may only be granted if 20 percent of the customers within a permit area sign a petition stating that they are inadequately served or if the license of the refuse collector is revoked. Licenses for refuse collection operators may be revoked if the Director of Public Health determines that the refuse collection license holder is not providing adequate service or is overcharging for service. Modifications to the 1932 Ordinance would require voter approval. Changes to the 1932 Ordinance were rejected by voters in 1993, 1994, and in 2012.²

Rate Setting

Under Section 2.109 of the City Charter, the Board of Supervisors does not have authority over the refuse collection rates. Per the 1932 Ordinance, the City's residential rates are regulated by Public Works. The residential rates are subject to appeal to the Refuse Rate Board, which consists of the City Administrator, the Controller, and the San Francisco Public Utilities Commission Manager. The next residential rate setting process is scheduled for 2022.

The uniform commercial rates for refuse collection are not regulated but are influenced by the residential rates because of the close proximity of residential and commercial customers. The uniform commercial rates are set by Recology and are the reference rates for the existing City contract. Since 2006, Recology has applied rate increases approved for residential rates to their uniform commercial rates. Uniform commercial rates are typically adjusted each fiscal year but Recology may adjust them at any time.

Refuse Working Group

Our November 2020 report to the Budget and Finance Committee on the original December 2020 Recology contract (File 20-1213) recommended that the Board of Supervisors consider the feasibility of alternative models for refuse collection. In response to Recology's manipulation of the residential rate setting process, the City convened the Refuse Working Group, chaired by Supervisor Peskin and staff from the Mayor's Office, to review changes to the citywide refuse collection service model. Findings of this analysis are expected to be published in November 2021.

¹ The Director of Public Health issues refuse collection licenses.

² Proposition Z in November of 1993 was rejected by 76.3 percent of the voters. Proposition K in November of 1994 was rejected by 64.5 percent of the voters. Proposition A in June 2012 was rejected by 76.6 percent of voters.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the second amendment to the City's contract with Recology San Francisco, Recology Sunset Scavenger, and Recology Golden Gate (together "Recology") increasing the not to exceed contract amount by \$7 million to \$16.9 million and extending the term seven months from November 30, 2021 to June 30, 2022.

Services Provided

The scope of services for the proposed agreement includes the following:

- Collection and processing of refuse (recyclables, compostables, and trash) generated by all City departments
- Refuse bins for both interior and exterior collection
- Identifying opportunities to reduce the level of refuse service and eliminate secondary charges to decrease costs to departments
- Providing reports on recovery rates and non-compliance with proper separation of recyclables, compostables, and trash

City Departments determine the frequency for each site's refuse collection.

Change in Rate Structure

In the City's prior contract with Recology, rates were based on the uniform commercial rates, with charges capped at certain amounts every month and with discounts for recycling and composting. The current contract continues to use the uniform commercial rates but removes the monthly charge cap and provides deeper discounts for recycling and composting.³ The existing contract's rate structure was designed to incentivize City departments to recycle and compost more. Prior to the April 2021 decrease in the uniform commercial rates required by the City's settlement agreement with Recology, the new rate structure was estimated to save the City 9.7% in contract costs.

As noted above, Recology reduced uniform commercial rates in April 2021 in connection with a settlement agreement with the City regarding the rate setting process. In July 2021, Recology increased uniform commercial rates to provide for a 1.54% cost of living adjustment. The July 2021 rates would be reference rates for proposed amendment period starting December 2021.

³ Under the prior contract with Recology, the recovery discount could not exceed 65 percent. The recycling and composting recovery rate was capped at 75 percent (i.e., the total recycling and composting divided by total recycling/composting/trash volume), less a fixed charge of 10 percent (of all volume charges). Under the current contract, the discount is not capped. The recovery discount is based on the recovery rate, less the recovery floor of 25 percent offset by a composting credit of 20 percent. Therefore, if the recovery rate is 75 percent less 5 percent (the net of the 25 percent floor plus the 20 percent composting credit) the recovery discount is 70 percent.

FISCAL IMPACT

Exhibit 1 below summarizes the expenditures on the existing Recology contract and the projected expenditures from the proposed second amendment.

Exhibit 1: Actual and Projected Expenditures

Actual & Projected Expenditures Through Nov 2021	8,752,272
Projected Expenditures for Extension Term, Dec 2021 - June 2022	5,973,426
Subtotal, Total Projected Expenditures	14,725,698
Contingency (15%)	2,208,855
Projected Expenditures, including Contingency	16,934,553
Requested Not to Exceed Amount	16,900,000

Source: Office of Contract Administration

As shown above, OCA projects \$8.75 million in total expenditures through November 30, 2021, based on average contract expenditures from December 2020 to June 2021. Projected expenditures for the proposed extension are based on those average expenditures plus an additional 17% of usage to account for both the City’s return to in-person office work starting November 1, 2021, as well as a cost-of-living adjustment to the Uniform Commercial Rates of 1.54%, which will become effective on this contract during the proposed second amendment, starting December 2021.

The proposed not to exceed amount includes a fifteen percent contingency to account for new refuse collection locations and other unexpected needs. However, the contingency is calculated on the total projected spending of the contract, rather than expenditures during the extension term. We believe a contingency of \$896,302 is appropriate (approximately 15% of projected expenditures of \$5,976,698), for a revised not to exceed amount of \$15,622,000.

Sources of funding

The revenues to pay for the proposed agreement with Recology would be funded through the individual City departments’ annual budgets, as approved by the Board of Supervisors. City departments are responsible for creating purchase orders against the agreement.

POLICY CONSIDERATION

As noted above, the Office of Contract Administration is planning to undertake a competitive solicitation for a new refuse collection contract for City departments. That process will likely take longer than the proposed extension term and if so, OCA intends to return to the Board of Supervisors to seek approval for an additional contract extension. During the proposed extension period, the Refuse Working Group is scheduled to deliver recommendations for reforms to the refuse collection service delivery model for residents and businesses. Although Recology has recently manipulated the refuse collection rates, the company has paid \$94.5 million in

restitution fees and reduced residential and commercial refuse rates under a settlement agreement approved by the Board of Supervisors. The proposed contract extension provides for refuse collection services while options for alternative providers of refuse collection are identified and changes to the service model are evaluated. We therefore recommend approval of the proposed resolution.

RECOMMENDATIONS

1. Amend the resolution to reduce the not to exceed amount to \$15,622,000.
2. Approve the resolution, as amended.

<p>Item 7 File 21-1126</p>	<p>Department: Mayor’s Office City Administrator’s Office</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> The proposed ordinance retroactively authorizes the Mayor’s Office to accept and expend a \$3,407,000 grant from Bloomberg Philanthropies. The grant term is approximately three years from approximately October 2021 through August 2024. According to Sophia Kittler, Mayor’s Liaison to the Board of Supervisors, grant funds have not been received nor expended. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> The City applied for a Digital Innovation Team grant from Bloomberg Philanthropies in March 2021. The grant application proposed potential projects, including small business navigation to create a centralized application process for grant and assistance programs, and government accountability for City-funded programming to connect City residents to services that cross policy areas. The proposed ordinance creates five new grant-funded positions, including one Director of Innovation in the Mayor’s Office, and four positions (two Senior IS Business Analysts and two Senior IS Engineers) in the City Administrator’s Office to be assigned to the Digital Services and Data Policy and Privacy groups. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> The grant requires \$1,135,667 in matching funds, which according to the Mayor’s Liaison to the Board, the Mayor’s Office intends to meet the required match through fundraising but would request General Fund monies to meet the matching fund requirement in the FY 2022-23 and FY 2023-24 budgets if fundraising is insufficient. The proposed grant would fund five positions for approximately 11 months in the first year, 12 months in the second year, and five months in the third year. The required match would fund salaries and benefits of the five positions in the third year and any additional technical staff (such as Digital Services staff) assigned to this project. The Mayor’s Office intends to transfer the five positions from the grant to the General Fund at the end of the grant term. This would create a new annual General Fund cost of approximately \$1.1 million in FY 2024-25, based on FY 2021-22 salary and benefit rates, which would be subject to future Board of Supervisors appropriation approval. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> Because the proposed grant could result in new General Fund costs to (1) meet the required match if fundraising is insufficient, and (2) fund five positions at the end of the grant term, the Budget and Legislative Analyst considers approval of the proposed ordinance to be a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

San Francisco Administrative Code Section 10.170-1 requires Board of Supervisors approval for acceptance and expenditure of federal, state, and other grants of \$100,000 or more.

BACKGROUND

The City applied for a Digital Innovation Team grant from Bloomberg Philanthropies in March 2021. The grant application identified three potential projects:

1. Small business navigation to create a centralized application process for grant and assistance programs;
2. Mental and behavioral health treatment coordination to efficiently connect clients to the appropriate treatment services; and
3. Government accountability for City-funded programming to connect City residents to services that cross policy areas.

According to the grant application, grant funds would be used to create a Director of Innovation position and Innovation Policy Advisor position in the Mayor's Office. These positions would be supplemented by existing Director of Civic Innovation and two Innovation Strategist positions in the Department of Technology's Office of Civic Innovation.

In addition, the grant application proposed new positions in the City Administrator's Digital Services division to supplement the existing 45 information technology designer, engineers, and product manager positions. As noted in the grant application, the Digital Services division had recently been merged with DataSF, and the new positions would report to the Chief Digital Services Officer and Chief Data Officer.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance retroactively authorizes the Mayor's Office to accept and expend a \$3,407,000 grant from Bloomberg Philanthropies. The grant term is approximately three years from approximately October 2021 through August 2024. According to Sophia Kittler, Mayor's Liaison to the Board of Supervisors, grant funds have not been received nor expended.

New Grant-Funded Positions

The proposed ordinance amends the Annual Salary Ordinance to create five new positions as follows:

Exhibit 1. Proposed New Grant-Funded Positions

Position	FTE
Mayor's Office	
0904 Mayoral Staff XVI	1.0
Subtotal, Mayor's Office	1.0
City Administrator	
<i>Digital Services</i>	
1053 Senior IS Business Analyst	1.0
1043 Senior IS Engineer	2.0
<i>Data Policy & Privacy</i>	
1053 Senior IS Business Analyst	1.0
Subtotal, City Administrator	4.0
Total	5.0

Source: Proposed Ordinance

Although the five new positions would be grant-funded for the first three years (including matching funds, discussed below), the Mayor intends to move these positions to the General Fund at the end of the grant term.

Matching Funds

The grant requires \$1,135,667 in matching funds. One-half (\$567,833.50) needs to be secured by October 2022 and one-half (\$567,833.50) needs to be secured by October 2023. According to the Mayor's Liaison to the Board, the Mayor's Office intends to meet the required match through fundraising but would request General Fund monies to meet the matching fund requirement in the FY 2022-23 and FY 2023-24 budgets if fundraising is insufficient.

FISCAL IMPACT

The grant budget of \$3.4 million is shown in Exhibit 2 below.

Exhibit 2. Grant Budget

	Year 1	Year 2	Year 3	Total
Salary & Benefits	\$941,544	\$1,008,250	\$423,430	\$2,373,224
Contracts/Consulting	283,909	238,959	239,529	762,397
Other	31,547	119,791	119,791	271,129
Total	\$1,257,000	\$1,367,000	\$782,750	\$3,406,750

Source: Draft Grant Agreement

Positions

The proposed grant would fund five positions for approximately 11 months in the first year, 12 months in the second year, and five months in the third year. According to the Mayor's Liaison to the Board, the required match would fund salaries and benefits of the five positions in the third year and any additional technical staff (such as Digital Services staff) assigned to this project.

POLICY CONSIDERATION

The proposed ordinance provides for five new grant-fund positions in the Mayor's Office and City Administrator's Office, in addition to the existing three Office of Civic Innovation positions and 45 Digital Services/DataSF positions. The Mayor's Office intends to transfer these positions from the grant to the General Fund at the end of the grant term, as stated in the Grant Information Form. This would create a new General Fund cost of approximately \$1.1 million per year in FY 2024-25, based on FY 2021-22 salary and benefit rates, which would be subject to future Board of Supervisors appropriation approval.

Because the proposed grant could result in new General Fund costs to (1) meet the required match if fundraising is insufficient, and (2) fund five positions at the end of the grant term, the Budget and Legislative Analyst considers approval of the proposed ordinance to be a policy matter for the Board of Supervisors.

RECOMMENDATION

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