CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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September 3, 2021

TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: September 8, 2021 Budget and Finance Committee Meeting

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Item 2 **File 21-0774**	**Department:** City Real Estate Division (Real Estate)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize the City to exercise the first of two five-year options to extend the existing lease between the Department of Homelessness and Supportive Housing and BC Capp, LLC for the approximately 6,500 square foot building located at 165 Capp Street.

Key Points

- 165 Capp Street serves as a neighborhood drop-in and referral center for people experiencing homelessness, operated by the Mission Neighborhood Health Center under a contract with the Department of Homelessness and Supportive Housing. The original lease began in 2000. In August 2016, the Board of Supervisors approved a new five-year lease between the City and BC Capp for continued use of the 6,500 square feet of space at 165 Capp Street, with two five-year options to extend.

Fiscal Impact

- Under the existing lease, the rent during the extension term is set at 95 percent of prevailing market rate but no less than the rent in the current year. Therefore, under the proposed lease extension, first year base rent would remain unchanged from the current rent of $42 per square foot, or $270,685 annually, with one-month rent abatement for the month of October 2021 resulting in first year rent that is 91 percent of the current rent. The proposed lease extension includes rent increases by 3 percent per year. All other lease provisions remain the same during the proposed extension term.
- Under the proposed five-year lease extension, total rent payments would be $1,414,547. Lease costs in FY 2021-22 are included in the Department of Homelessness & Supportive Housing's General Fund budget.

Policy Consideration

- Compared to four other similar properties currently available on the market, the 165 Capp Street lease is slightly above the mid-range rent at $42 per square foot (before the one month rent abatement). The Real Estate Division estimates that the cost savings of moving to a comparable site would be outweighed by the costs for furniture, fixtures, and equipment, telecommunication installation, and tenant improvements, and disruption in services during the move and buildout of a new site. We therefore recommend approval of the proposed lease.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Administrative Code 23.27 states that any lease with a term of one year or longer or with rent of $15,000 or more per month and where the City is the tenant is subject to Board of Supervisors approval.

BACKGROUND

In 2000, the Board of Supervisors approved a ten-year lease for the 6,500 square-foot, two story commercial building at 165 Capp Street between the Human Services Agency (HSA) as tenant and BC Capp, LLC, as landlord. Upon expiration of the initial lease in December 2010, HSA continued as tenant on a month-to-month holdover basis, due to the uncertainty of General Fund appropriations to the homeless drop-in and referral center in HSA's annual budget.

In September 2015, HSA requested that the Real Estate Division (Real Estate) begin reviewing comparable properties and negotiate a new lease. Real Estate and HSA determined that the existing location at 165 Capp Street was the most suitable for continued use as the homeless drop-in and referral center because (1) HSA had already spent approximately $167,839 on renovations to the property; and (2) the price per square foot under the proposed lease was less than comparable properties in the neighborhood. The landlord was not interested in selling the property to the City. Under the lease, the City has the right of first refusal in the event of a sale.

The lease was transferred from HSA to the Department of Homelessness and Supportive Housing in 2016 when the new department was created. In September 2016, the Board of Supervisors approved a new five-year lease between the City and BC Capp for continued use of the 6,500 square feet of space at 165 Capp Street, with two five-year options to extend (File 16-0409). The Department of Homelessness and Supportive Housing contracts with the non-profit provider, Mission Neighborhood Health Center to operate the drop-in resource and referral center on location for people experiencing homelessness.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the City to exercise the first of two five-year lease extension options with BC Capp, LLC for continued use of the approximately 6,500 square foot space at 165 Capp Street. The five-year term would run from September 2021 through September 2026.

The existing lease provides that the rent during the extension term would be set at 95 percent of prevailing market rate but no less than the rent in the current year. Under the proposed lease extension, first year base rent would remain unchanged from the current rent of $42 per square foot, or $270,685 with one-month rent abatement for the month of October 2021. Rent increases by 3 percent per year. All other lease provisions remain the same during the extension term, as summarized in Exhibit 1 below.

Exhibit 1. Summary of Lease Provisions

Term	**Proposed Lease Extension Option** (Sept 22, 2021-Sept 30, 2026)
Premises	6,500 square feet at 165 Capp Street
Permitted Use	Neighborhood homeless drop-in and referral center and administrative office for non- profit service provider. Premises may not be used as shelter for temporary or permanent housing
Option to Extend	One more five-year option to extend through July 2031
First Year Rent	$270,685
Rent per Square Foot	$42 per year
Rent Increases	3 percent per year
Rent Adjustment on Exercise of Options to Extend	Rent set at 95 percent of the prevailing market rate but no less than rent in the prior year
Utilities & Services	City is responsible for costs of electricity, gas, telecommunications, and water utility services provided to the premises in addition to janitorial, pest, and debris services
Maintenance & Repairs	Landlord is responsible for maintenance of the exterior and structural portions of the building and the building systems such as the heating, ventilating, air conditioning, plumbing, and electrical systems. City will be responsible for maintenance and repairs to the interior portions of the premises
Building Insurance	Landlord will obtain property insurance for the building and City will reimburse landlord up to $2,500 per year for the insurance premium

Source: Proposed Lease Extension Agreement

FISCAL IMPACT

As noted above, the Department of Homelessness and Supportive Housing currently pays annual rent of $270,685, equal to approximately $42 per square foot, to BC Capp, LLC for the lease of 165 Capp Street. Under the proposed lease extension, first year base rent remains at $270,685, with one month rent abatement, and increases by 3 percent per year. Under the proposed five-year lease extension, total rent payments would be $1,414,547.

Exhibit 2. Annual Rates Under Proposed Five-Year Lease Extension Option

Lease Year	Rent Costs [a]
Lease Year 6 (base rent)	$270,685
Lease Year 6 (one-month rent abatement)	(22,557)
Lease Year 7	278,806
Lease Year 8	287,170
Lease Year 9	295,785
Lease Year 10	304,658
Total	$1,414,547

[a] Annual rent increases are 3 percent per year
Source: BLA calculation

According to Controller's Office, $187,224 in General Fund monies are available in the Department of Homelessness & Supportive Housing's FY 2021-22 budget for pay for extension period costs in that year.

POLICY CONSIDERATION

According to Real Estate Division Director Andrico Penick, the Division reviewed properties available for rent to determine the prevailing market rent, four of which were comparable properties to the existing leased space. The unadjusted rent range of those properties was from $34 to $69 per square foot. The 165 Capp Street lease is slightly above the mid-range rent at $42 per square foot (before the one month rent abatement). Only one of the four properties was below the cost of the proposed lease, with an estimated rent of $34 to $41 per square foot. Director Penick believes that the cost savings of moving to the comparable site would be outweighed by the costs for furniture, fixtures, and equipment, telecommunication installation, and tenant improvements. In addition, there could be significant disruption in services during the move and buildout of the new site. We therefore recommend approval of the proposed lease.

RECOMMENDATION

Approve the proposed resolution.

Item 7 **File 21-0796**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve Modification No. 3 to the contract between San Francisco International Airport (Airport) and Vanderlande Industries, Inc. to operate, maintain, and repair domestic terminal Airport-owned passenger boarding bridges and baggage handling systems, increasing the not-to-exceed amount by $4,262,816, for a total not to exceed $17,010,647, and extending the term by one year through September 2022.

Key Points

- The existing contract with Vanderlande expires on September 30, 2021. Due to COVID-19, as well as a labor objection, the Airport was delayed in issuing a new solicitation for services and is requesting to extend the contract by one year to while the Airport completes a competitive procurement process.
- Under the proposed Modification No. 3, Vanderlande would perform complete maintenance on the Terminal 2 baggage handling system and 40 passenger boarding bridges, as well as on-call maintenance on Baggage Claim 10 in Terminal 3. The Airport is taking on the responsibility of maintaining 19 additional boarding bridges to ensure a consistent level of maintenance.

Fiscal Impact

- The proposed Modification No. 3 would increase the contract's not-to-exceed amount by $4,262,816, for a total not to exceed $17,010,647. The contract costs are billed back to the airlines based on the prorated share of passengers and each airline's portion of passengers.
- Based on actual contract expenditures to date, the Budget and Legislative Analyst recommends reducing the not-to-exceed amount of the proposed Modification No. 3 by $400,000, for a total not to exceed $16,610,647. This reduction still allows contract capacity for unanticipated emergency repairs.

Policy Considerations

- Administrative Code Section 21.9.2 requires that terms of professional service contract be included in the solicitation for services. However, the proposed resolution approves a contract extension one year beyond the term originally advertised in the RFP. According to the City Attorney's Office, the Board may still approve the proposed contract extension, given temporary delay to undertake a new solicitation. The Airport reports that the maintenance services are critical to Airport operations. The Office of Contract Administration does not believe a sole source waiver is necessary for the proposed extension.

Recommendations

- Amend the proposed resolution to reduce the not-to-exceed amount by $400,000, for a total not to exceed $16,610,647
- 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

San Francisco International Airport (Airport) owns three baggage handling systems and 40 common use passenger boarding bridges in the domestic terminals.[1] In February 2016, the Airport conducted a Request for Proposals (RFP) to select a contractor to operate, maintain, and repair the domestic terminals baggage handling systems and passenger boarding bridges. Vanderlande Industries, Inc. was deemed the highest scoring responsive and responsible proposer and was awarded a contract.

In July 2016, the Airport Commission approved a contract with Vanderlande for a term of three years from October 2016 through September 2019, for an amount not to exceed $5,397,000, and two one-year options to extend.[2] In August 2019, the Airport Commission approved Modification No. 1, exercising the first one-year option to extend the contract through September 2020, and increasing the not-to-exceed amount by $4,396,875, for a total not to exceed $9,793,875. In July 2020, the Board of Supervisors approved Modification No. 2, exercising the second one-year option to extend the contract through September 2021, and increasing the not-to-exceed amount by $2,953,956, for a total not to exceed $12,747,831 (File 20-0667).

The contract is set to expire September 30, 2021. Due the COVID-19 pandemic's ongoing impact on air travel, as well as a labor objection to the new RFP about the appropriate employee classification to perform the work,[3] Airport staff is requesting to extend the Vanderlande contract by one year to maintain operational continuity while the Airport completes a competitive procurement process. In June 2021, the Airport Commission approved Modification No. 3 to the contract, extending the term by one year through September 2022 and increasing the not-to-exceed amount by $4,262,816, for a total not to exceed $17,010,647.

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[1] One baggage handling system is located in Harvey Milk Terminal 1 (Terminal 1), one is located in Terminal 2, and one is located in Terminal 3. The Terminal 1 baggage handling system is a new system operated under a separate contract with Beumer Lifecycle Management LLC (File 20-0698). 26 passenger boarding bridges are located in Terminal 1, and 14 are in Terminal 2.

[2] The contract was later amended to commence September 2016, to allow Vanderlande to perform preliminary work, with no change to the expiration date or not-to-exceed amount.

[3] The planned solicitation for a new service contract requires approval from the Civil Service Commission. Operating Engineers Local 39 objected to the RFP for the new contract, arguing that City employee classifications are able to perform the scope of work. The Civil Service Commission allowed the RFP process to move forward, with the condition that Airport management would continue to evaluate current City classifications to determine if they can perform the scope of work upon termination of the next five year contract.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 3 to the Airport's contract with Vanderlande, extending the term by one year through September 2022, and increasing the not-to-exceed amount by $4,262,816, for a total not to exceed $17,010,647.

Increase in Scope of Work

The contract scope has changed several times since it was executed in 2016. The proposed Modification No. 3 would expand complete maintenance to 19 additional passenger boarding bridges, as well as on-call maintenance to Baggage Claim 10 in Terminal 3, subject to change. These systems include bridges at newly constructed gates in Harvey Milk Terminal 1, bridges at existing gates that were replaced in Terminal 2, and bridges that were vacated by American Airlines in Terminal 2. The Airport is taking on the responsibility of maintaining additional boarding bridges to ensure a consistent level of maintenance. An overview of the contract scope over time is shown in Exhibit 1 below.

Exhibit 1: Overview of Contract Scope over Time

Contract	Effective Date	Contract Scope
Original Contract	October 2016	Complete maintenance on Terminals 1 and 2 baggage handling systems and two passenger boarding bridges
Original Contract	July 2019	Complete maintenance on Terminals 1 and 2 baggage handling systems and two passenger boarding bridges; on-call maintenance on nine passenger boarding bridges
Modification No. 1	October 2019	Complete maintenance on Terminals 1 and 2 baggage handling systems and three passenger boarding bridges; on-call maintenance on nine passenger boarding bridges
Modification No. 1	May 2020	Complete maintenance on Terminal 2 baggage handling system and three passenger boarding bridges; on-call maintenance on 18 passenger boarding bridges
Modification No. 2	October 2020	Complete maintenance on Terminal 2 baggage handling system and 21 passenger boarding bridges
Modification No. 3 (proposed)	October 2021	Complete maintenance on Terminal 2 baggage handling system and 40 passenger boarding bridges; on-call maintenance on one baggage claim in Terminal 3

Source: Airport

According to Enrique Guadiamos, Airport Director of Terminal Systems and Wayfinding, Vanderlande has exceeded performance targets for the system Availability Standard and Preventive Maintenance Standard. In Years 1-4 of the contract, Vanderlande accurately tracked luggage 96% of the time, which was one percentage point below the Tracking Accuracy performance target of 97%. According to Airport staff, this was due to suboptimal bag handling by airline staff, which is outside of Vanderlande's control. However, Vanderlande is on track to meet the Tracking Accuracy standard in Year 5.

The Airport Commission has approved the issuance of the RFP for the new maintenance contract, and according to Director Guadiamos, the new RFP is scheduled for release in September 2021.

Director Guadiamos anticipates awarding a contract by June 2022. The Airport may terminate the Vanderlande contract early if a new contract is successfully negotiated and a transition plan is defined in a shorter timeframe.

FISCAL IMPACT

The proposed Modification No. 3 would increase the contract's not-to-exceed amount by $4,262,816, for a total not to exceed $17,010,647. The projected cost breakdown for the one-year extension term is shown in Exhibit 2 below.

Exhibit 2: Projected Cost Breakdown for One-Year Extension Term

Position Title	Full-Time Employees	Hourly Wage with Burden[4]	Annual Total Hours (Excluding PTO)	Annual Labor Cost with Burden
Site Manager	1.000	$111.29	1,856	$206,567
Maintenance Technician	9.325	132.71[5]	17,307	2,296,804
Control Room Operator	2.800	59.24	5,197	307,878
Laborer/ Unjammer/ Manual Encoder	4.000	125.83	7,424	934,176
Labor Subtotal				*$3,745,425*
Profit (7.8% of Labor Cost)				$292,143
Costs for Service[6]				125,248
Total Cost				**$4,162,816**

Source: Proposed contract modification. Totals may not add due to rounding.

According to Director Guadiamos, the contract costs are billed back to the Airlines based on prorated share of passengers and each Airline's portion of those passengers. For those gates assigned as common use, the contract costs are built into the Airport's Common Use Fees and charged to Airlines on a "per use" basis. Under the Airport's FY 2021-22 Rates and Charges, airlines using boarding bridges maintained by the Airport are charged an additional $23-25 per arriving or departing flight compared to airlines that maintain their own bridges.

[4] Burden includes paid time off, payroll taxes, pension costs, health insurance, dental insurance, unemployment insurance, workers' compensation insurance, and any other benefits and indirect labor costs.

[5] Employees within the Maintenance Technician classification are paid at the City's prevailing wage rate for either the Millwright or Laborer classifications, depending on the type of work performed. The hourly wage with burden for the Maintenance Technicians is expected to increase from $130.25 in October 2021 to $131.89 in February 2022, and again to $135.17 in May 2022. According to Director Guadiamos, this is due to recently installed bridges that are currently maintained by the manufacturer but will become maintained by Vanderlande after reaching one year of service. This additional maintenance will require a greater percentage of Maintenance Technician work to be performed under the Millwright classification, which is paid a higher wage than the Laborer classification. The hourly wage shown of $132.71 is the weighted average wage across the year. We estimate that this additional scope of work to maintain 19 additional bridges adds approximately $45,967 to the contract cost in the proposed one-year extension term, compared to if Maintenance Technicians were paid at the lower hourly burdened rate of $130.25 for the full year.

[6] Costs for service include use of tools and equipment, uniforms, parking and badging, phones, corporate insurance, office supplies, fuel and consumables, arranging for purchase and delivery of spare parts, training, licenses and permits associated with work, and travel.

According to Director Guadiamos, actual and projected contract expenditures through September 2021 are approximately $11,814,589, or approximately $933,232 less than the existing not-to-exceed amount of $12,747,831. Therefore, the Budget and Legislative Analyst recommends reducing the not-to-exceed amount of the proposed Modification No. 3 by $400,000, allowing contract capacity for unanticipated emergency repairs, for a total not to exceed $16,610,647.

POLICY CONSIDERATION

Extension Beyond Term Specified in RFP

Chapter 21 of the Administrative Code generally requires competitive solicitations for professional service contracts and Administrative Code Section 21.9.2 requires that terms of professional service contracts be included in the solicitation for services. However, the proposed resolution approves a contract extension one year beyond the term originally advertised in the RFP. According to the City Attorney's Office, the Board of Supervisors may still approve the proposed contract extension, given that a new solicitation for services was delayed due to COVID and to resolve a labor objection. The Airport reports that the maintenance services performed by Vanderlande are critical to Airport operations and cannot be interrupted.

According to the Airport, the Office of Contract Administration does not believe a sole source waiver is necessary for the proposed extension. The proposed contract extension would not be considered a sole-source procurement because the contract was originally awarded through a competitive process, the proposed extension is for a discrete period of one year, and the RFP process for a new contract award is underway.

The Budget and Legislative Analyst agrees the forgoing is reasonable justification to proceed with the proposed contract extension and therefore recommend approval proposed resolution, as amended.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the not-to-exceed amount by $400,000, for a total not to exceed $16,610,647.
2. Approve the resolution as amended.

Item 8 File 21-0675	Department: Airport

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the retail concession lease between Genesco Partners Joint Venture #11 and the Airport for a term of 12 years. Rent is the greater of a Minimum Annual Guarantee (MAG) of $365,000 for the first year of the lease or percentage rent starting at 12 percent of sales. Genesco's minimum investment for tenant improvements is $1.3 million.

Key Points

- In March 2020, following a competitive solicitation process for retail concessions in Harvey Milk Terminal 1, the Airport awarded Retail Concession Lease No.11 to Genesco Partners for its "Johnston & Murphy" apparel store.
- Following Board approval, construction would begin on the 1,834 square foot store on February 1, 2022 and it is expected to open in Terminal 1, Boarding Area B on June 1, 2022.

Fiscal Impact

- Under the proposed lease, Genesco Partners would pay a MAG rent amount of $365,000 per year, or $4,380,000 over the 12-year lease term, not including Consumer Price Index (CPI) adjustments.
- MAG rent is currently suspended, as dictated by the lease due to enplanements dropping below 80 percent of 2019 levels for three consecutive months. MAG will be reinstated when enplanements return to 2019 levels for two consecutive months, which the Airport predicts will occur by 2023. Genesco Partners would pay percentage rent during the MAG suspension period.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(c) states that any lease of real property for ten or more years, including8 options to renew, and having anticipated revenues to the City of $1,000,000, or the modification, amendment or termination of these leases is subject to Board of Supervisors approval.

BACKGROUND

On December 3, 2019, the Airport issued a Request for Proposals (RFP) for three Harvey Milk Terminal 1 Retail Concession Leases in Phase 3 & 4 of the Harvey Milk Terminal 1 Redevelopment Project, including a traveler's retreat, apparel/lifestyle store, and bookstore.[1] Genesco Partners Joint Venture No. 11 (Genesco Partners) was the sole respondent to the RFP for this lease. A four-member Airport scoring panel determined that Genesco Partners was a responsible proposer with a score of 86.67 out of 100. The scoring panel consisted of an Airport Duty Manager, a private sector architect, the Director of Concessions at LAX, and an airport consultant.

On March 17, 2020 the Airport Commission passed a resolution approving the lease.

Genesco Partners is a joint venture based out of Tennessee comprised of Genesco, Inc. and Corliss Stone-Littles, LLC. The joint venture includes 20 percent ownership by the Airport Disadvantaged Business Enterprise Program (ACDBE) partner, Corliss Stone-Littles. The Genesco Partners Apparel store to be located in Terminal 1 at the Airport will be called "Johnston & Murphy," and following Board approval, is expected to open June 1, 2022.[2]

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Harvey Milk Terminal 1 Retail Concession Lease No.11 between Genesco Partners Joint Venture #11 and the Airport for a term of 12 years, and a minimum annual guarantee of $365,000 for the first year of Lease, a percentage rent starting at 12 percent of sales, and a minimum investment of $1.3 million in tenant improvements (See Exhibit 1).[3] The Lease contains an early termination clause enabling the Airport Director to terminate the lease early, with six months' written notice if the space is required to be repurposed in support of the Airport's Five-Year or Ten-Year Capital Plan.

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[1] According to Airport staff, the Harvey Milk Terminal 1 Redevelopment Project construction was put on hold due to the pandemic, delaying the anticipated "Phase 3" store opening on the proposed lease site from May 1, 2021 to June 1, 2022. "Phase 3" and "Phase 4" refer to planned construction start and open for business schedules for specific gates within the concourse. Phase 3 construction start date is now first quarter 2022 and open for business in second quarter 2022; Phase 4 construction in the area associated with Gates BA-C and is still to be determined.

[2] The Airport estimates that following Board approval, the tenant would begin construction on the leased space on February 1, 2022. The development term is 120 days; therefore, the Airport anticipates the store opening on June 1, 2022.

[3] The first year MAG rent of $365,000 and percentage rent amounts were advertised in the RFP.

Exhibit 1. Summary of Proposed Lease Provisions

Facility Name	Johnston & Murphy
Operating Term	12 years
Options to Extend	None
Premises	1,834 square feet of space in Terminal 1, Boarding Area B
Minimum Annual Guarantee (MAG)	Approximately $199 per square foot - $365,000 per year
MAG Adjustment	Adjusted annually based on the regional Consumer Price Index (CPI)
Construction Period Rent	16 percent of Gross Revenues as Base Rent if Tenant operates facility during construction of Initial Improvements
Revenue Percentage Rent	12 percent of revenues up to and including $1,000,000; 14 percent of revenues between $1,000,000.01 up to and including $2,000,000 16 percent of revenues over $2,000,000
Annual Promotional Fee	$1.00 per square foot; $1,834 per year
Pest Control Fee	$75 per month
Deposit Amount	50 percent of the MAG in effect when the lease commences
Minimum Initial Investment	$700 per square foot; $1,283,800

Source: Proposed Lease Agreement

FISCAL IMPACT

Under the proposed lease, Genesco Partners would pay a MAG rent amount of $365,000 per year, or $4,380,000 over the 12-year lease term, not including CPI adjustments that would affect rent. The MAG rent of $365,000, or $199 per square foot, was determined based on the Airport's estimate of projected sales performance, applying the percentage rent structure, and then reducing the amount by 10 to 15 percent to allow for proposers to have a floor for their Minimum Annual Guarantee Offer, which is part of the RFP evaluation criteria.

The proposed lease contains a provision that suspends the MAG rent if enplanements drop below 80 percent of 2019 levels for three consecutive months, to be reinstated when enplanements return to 2019 levels for two consecutive months. According to Cheryl Nashir, Airport Director of Revenue Development and Management, the Airport predicts enplanements will return to 2019 levels by 2023, prior to which the MAG rent would be suspended on the proposed lease. The tenant would continue to pay percentage rent on any applicable sales during the MAG rent suspension period.

RECOMMENDATION

Approve the proposed resolution.

Item 9 File 21-0676	Department: San Francisco International Airport (SFO)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a concession lease between the Airport as landlord and Culinary Heights Hospitality as tenant, for a term of 12 years with one two-year option to extend and the greater of a Minimum Annual Guarantee (MAG) rent of $385,000 or a tiered percentage rent.

Key Points

- Following a competitive bid process for a coffee retail space located in Harvey Milk Terminal 1, the Airport Commission awarded a lease to Culinary Heights Hospitality on March 17, 2020, for their "Ritual Coffee Roasters" proposal. The premises under this lease is 1,349 sq. ft of space located in Boarding Area B of Harvey Milk Terminal 1.
- Culinary Heights Hospitality is estimated to begin operations in June 2022, after completion of required tenant construction work.

Fiscal Impact

- Culinary Heights Hospitality would be required to pay the Airport the greater of the initial MAG amount of $385,000 (an estimated $4.62 million over the 12-year lease term, not including CPI adjustments) or percentage rent, depending on the value of sales.
- In addition to the MAG rent amount of $385,000 for the first year, the tenant is required to pay at least an approximately $1.35 million in renovation costs.
- The proposed lease contains a provision that suspends the MAG rent if enplanements drop below 80 percent of 2019 levels for three consecutive months and would be reinstated when enplanements return to 2019 levels for two consecutive months. MAG is currently suspended, and the Airport expects that it will be reinstated by 2023. Culinary Heights would continue to pay percentage rent during the MAG suspension period.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

BACKGROUND

In September 2019, The Airport issued a Request for Proposals (RFP) for five food and beverage concession leases located in Harvey Milk Terminal 1, including for a coffee retail space. Three proposals were received for the coffee retail space and were evaluated by a four-member panel of industry experts.[1] Of the three proposals received, Culinary Heights Hospitality received the highest number of points (88.33 points total out of 100) for their "Ritual Coffee Roasters" proposal. On March 17, 2020, the Airport Commission awarded a lease to Culinary Heights.

The Airport is renovating Harvey Milk Terminal 1 and is currently in Phase 3 of the construction process. The Airport is responsible for base building work and concession tenants are responsible for additional construction, design, and mechanical/electrical work of their premises.[2] The Airport's portion of the Phase 3 base building construction work is complete, however according to Cheryl Nashir, Director of Revenue Development and Management at the Airport, the required tenant construction for Phase 3 was delayed from its original completion date in 2021 due to COVID. Following Board approval, Airport staff anticipate that Culinary Heights Hospitality will begin its five-month construction period on January 1, 2022 and begin operating the business on June 1, 2022.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a concession lease between the Airport and Culinary Heights Hospitality. The lease would be for a 12-year term with one two-year option to extend. The tenant would pay the greater of a Minimum Annual Guarantee (MAG) rent, starting at $385,000, or a percentage rent, depending on the value of sales.[3] Exhibit 1 below shows a summary of the proposed lease terms.

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[1] The panel consisted of the following: the Chief Financial Officer at Visum Development Group, a Senior Airport Economic Development Specialist at Sacramento Airport, a Senior Aviation Consultant at ICF, and a Project Manager at the Airport.

[2] Base building work refers to the work required to complete the construction and renovation of Harvey Milk Terminal 1. It is anticipated that the tenant will begin design and construction of its own premises prior to the Airport's completion of the overall Terminal 1 renovation project.

[33] The first year MAG rent of $385,000 and percentage rent amounts were advertised in the RFP

Exhibit 1. Summary of Proposed Lease No. 13 Terms

Facility Name	Ritual Coffee
Total Term	12 Years: (estimated term is June 1, 2022 –May 313, 2034)[4]
Options to Extend	One two-year option to extend
Premises	1,349 sq. ft. in Boarding Area B of Harvey Milk Terminal 1
Minimum Annual Guarantee (MAG)	$286 per square foot; $385,000 per year Annual escalation by regional CPI
Construction Period Percentage Rent	12% of Gross Revenues
Revenue Percentage Rent	8% of Gross Revenues up to and including $500,000; 10% of Gross Revenues between $500,000.01 to $1,000,000; 12% of Gross Revenues over $1,000,000
Food and Beverage Cleaning Fee	$59 per square foot; $79,591 per year
Food and Beverage Infrastructure Fee	$5 per square foot; $6,745 per year
Annual Promotional Fee	$1.00 per square foot; $1,349 per year
Deposit Amount	50 percent of the initial MAG
Minimum Initial Investment	$1,000 per square foot - $1,349,000 total

Source: Proposed Lease Agreement

The lease allows the tenant to operate a temporary facility prior to the start of the 12-year term, during construction site improvements. According to the Airport's Director of Revenue Development and Management, the tenant intends to operate from a small kiosk cart during construction, however they have not yet received approval from the Airport to conduct interim operations.

Minimum Investment Amount

The lease requires a tenant minimum investment amount of $1,000 per square foot for various renovation costs. According to the Airport's Director of Revenue Development and Management, the estimated minimum investment amount from the tenant will likely be closer to $1,200 per square foot, which will result in a total estimated tenant investment of $1.62 million.

FISCAL IMPACT

Under the proposed lease, the tenant would pay a MAG rent amount $385,000 per year, or $4,620,000 over the 12-year lease term, not including CPI adjustments that would increase the rent. The MAG rent of $385,000, or $286 per square foot, was determined based on a sales forecast for the location created by Revenue Development and Management staff. The

[4] The first full lease year is estimated to begin in June 2022 and will end on May 31, 2034.

percentage rent structure was applied to that sales forecast and then discounted slightly by 10% to set the first year's Minimum Annual Guarantee.[5]

The proposed lease contains a provision that suspends the MAG rent if enplanements drop below 80 percent of 2019 levels for three consecutive months, to be reinstated when enplanements return to 2019 levels for two consecutive months. According to the Airport Director of Revenue Development and Management, the Airport expects enplanements will return to 2019 levels by 2023, prior to which the MAG rent would be suspended in the proposed lease. The tenant would continue to pay percentage rent on any applicable sales during the MAG rent suspension period.

RECOMMENDATION

Approve the proposed resolution.

[5] According to the Revenue Development and Management Director, the sales forecast was discounted slightly (by 10%) to arrive at the MAG rent rate, in order to ensure that the MAG rent was aligned with what the vendor could accommodate. The percentage rent represents market rent, and is slightly discounted by SFO to reflect that initial projections may be high. The proposed MAG rent was advertised in the solicitation for this lease.

Item 10 File 21-0736	Department: Airport

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a concession lease between ProperFood SFO Airport, LLC and the Airport for a term of 12 years, with one two-year option to extend at the Airport's sole discretion.

Key Points

- In March 2020, following a competitive solicitation process for food and beverage concessions in Harvey Milk Terminal 1, the Airport awarded Lease No. 10, "Gourmet Grab & Go Market" to ProperFood SFO Airport, LLC for the fast-casual food and beverage business "Proper Food." The Airport expects ProperFood SFO Airport will begin its estimated five-month construction period sometime in January 2022 or February 2022, and ultimately open the 615 square foot store located in Terminal 1, Boarding Area B, between June 2022 and July 2022.

Fiscal Impact

- Under the proposed lease, the tenant would pay the greater of minimum Annual Guarantee (MAG) rent of $275,000 per year or percentage rent. MAG rent is at least $3.3 million for the initial 12-year term, not including Consumer Price Index (CPI) adjustments.
- MAG rent is currently suspended, as dictated by the lease due to enplanements dropping below 80 percent of 2019 levels for three consecutive months. MAG will be reinstated when enplanements return to 2019 levels for two consecutive months, which the Airport predicts will occur by 2023. The Airport expects that ProperFood will pay percentage rent exceeding the MAG amount of $275,000 for the remainder of the lease term

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

BACKGROUND

On December 3, 2019, the Airport issued a Request for Proposals (RFP) for five Harvey Milk Terminal 1 Food and Beverage Concession Leases in Phase 3 & 4,[1] including Lease No. 10, "Gourmet Grab & Go Market". The Airport received a total of 15 proposals in response to the five opportunities in the RFP. A four-member evaluation panel[2] reviewed and scored the ultimately 13 qualifying proposals. Of the three contenders for Lease No. 10, the highest scorer (92.0) was ProperFood SFO Airport, LLC. On March 17, 2020, the Airport awarded Lease No. 10 to ProperFood SFO Airport, LLC. The ProperFood SFO Airport, LLC's concept, "Proper Food", is a fast-casual food and beverage business headquartered in San Francisco that was founded in 2013 and operates stores throughout the Bay Area and New York.

Following Board approval, the Airport's Director of Revenue Development & Management, Cheryl Nashir, expects ProperFood SFO Airport will begin its estimated five-month construction period sometime in January 2022 or February 2022, and ultimately open the store between June 2022 and July 2022.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a concession lease between ProperFood SFO Airport, LLC and the Airport for a term of 12 years, with one two-year option to extend at the Airport's sole discretion. The tenant rent amount would be the greater of the Minimum Annual Guaranteed (MAG) rent starting at $275,000 and adjusted by regional CPI, or percentage rent, depending on the value of sales. (See Exhibit 1).[3]

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[1] "Phase 3" and "Phase 4" refer to the construction and store opening phases of the Harvey Milk Terminal 1 Redevelopment Project. According to Airport staff, Project construction was put on hold due to the pandemic. The Phase 3 construction start date is now the first quarter of 2022 and is expected to open for business in the second quarter of 2022. Phase 4 construction, which is in the area surrounding Gates BA-C, is still to be determined.

[2] The panel consisted of the Chief Financial Officer at Visum Development Group, a Senior Airport Economic Development Specialist at the Sacramento Airport, a Senior Aviation Management Consultant at ICF, and a Project Manager at the Airport.

[3] The first year MAG rent of $275,000 and percentage rent amounts were advertised in the RFP.

Exhibit 1. Summary of Proposed Lease No. 10 Provisions

Facility Name	ProperFood
Initial Term	12 years
Options to Extend	One two-year option to extend
Premises	615 square feet of space in Terminal 1, Boarding Area B
Minimum Annual Guarantee (MAG)	Approximately $447 per square foot - $275,000 per year
MAG Adjustment	Adjusted annually based on the Consumer Price Index (CPI)
Construction Period Rent	12 percent of Gross Revenues as Base Rent if Tenant operates facility during construction of Initial Improvements
Percentage Rent	8 percent of Gross Revenues up to and including $500,000; Plus 10 percent of revenues between $500,000.01 up to and including $1,000,000; Plus 12 percent of revenues over $1,000,000
Annual Promotional Fee	$1.00 per square foot- $615 per year
Pest Control Fee	$125 per month
Food & Beverage Cleaning Fee	$59 per square foot- $36,285 per year
Food & Beverage Infrastructure Fee	$5 per square foot- $3,075 per year
Deposit Amount	50 percent of the MAG in effect when the lease commences
Minimum Initial Investment	$1,000 per square foot - $615,000

Source: Airport Lease Agreement No. 20-0041 with ProperFood SFO Airport, LLC

FISCAL IMPACT

Under the proposed lease, the tenant would pay a MAG rent of $275,000 per year or $3.3 million for the initial 12-year term, not including CPI adjustments. The MAG rent of $275,000 or $447 per square foot was determined based on the Airport's estimate of projected sales performance, applying the percentage rent structure, and then reducing the amount by 10 to 15 percent to allow for proposers to have a floor for their Minimum Annual Guarantee Offer, which is part of the RFP evaluation criteria.

The proposed lease contains a provision that suspends the MAG rent if enplanements drop below 80 percent of 2019 levels for three consecutive months, to be reinstated when enplanements return to 2019 levels for two consecutive months. Airport staff expect enplanements will return to 2019 levels in by 2023, prior to which the MAG rent would be suspended in the proposed lease. The tenant would continue to pay percentage rent on any applicable sales during the MAG rent suspension period. The Revenue Development & Management expects that ProperFood will pay percentage rent exceeding the MAG amount of $275,000 for the remainder of the lease term.

RECOMMENDATION

Approve the proposed resolution.

Item 11 **File 21-0164**	**Department:** Airport

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the concession lease between HG SFO Retailers 2017 JV and the Airport for a term of 12 years, with no option to extend. Rent is the greater of a Minimum Annual Guarantee (MAG) of $460,000 for the first year of the lease or a percentage rent starting at 8 percent of sales. The tenant's minimum required investment for tenant improves is approximately $1.5 million.

Key Points

- In March 2020, following a competitive bid process, the Airport awarded bookstore concession Lease No. 12 to HG SFO Retailers 2017 JV for its "Green Apple Books" concept in Boarding Area B of Harvey Milk Terminal 1. Construction is expected to begin in October 2023 and the space is expected to be open for business in March 2024.

Fiscal Impact

- Under the proposed lease, HG SFO Retailers 2017 JV would pay a MAG rent amount of at least $5,520,000 over the 12-year lease term, not including Consumer Price Index (CPI) adjustments.
- MAG rent is currently suspended, as dictated by proposed lease due enplanements dropping below 80 percent of 2019 levels for three consecutive months. MAG will be reinstated when enplanements return to 2019 levels for two consecutive months, which the Airport predicts will occur by 2023. If MAG rent is still suspended in 2024 when Green Apple Books is expected to open for business, then the tenant will pay percentage rent on applicable sales until MAG is reinstated.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

BACKGROUND

On September 3, 2019, the Airport issued a Request for Proposals (RFP) for three Harvey Milk Terminal 1 Retail Concession Leases in Phase 3 & 4 of the Harvey Milk Terminal 1 Redevelopment Project, including a traveler's retreat, apparel/lifestyle store, and bookstore.[1]

Two proposers submitted proposals for the bookstore lease and a four-member[2] Airport scoring panel determined that HG SFO Retailers 2017 JV was the highest proposer with a score of 91.67 out of 100, compared to Books, Inc. whose proposal scored 84.77. On March 17, 2020 the Airport Commission passed a resolution approving the lease.

HG SFO Retailers 2017 JV is a Joint Venture of Hudson Group (HG) Retail, RDJ Enterprises, LLC and Stewart Manhattan Investments, together as business partners. The Terminal 1, Boarding Area B bookstore will be called "Green Apple Books," and following Board approval, the Airport expects Green Apple Books to begin construction in October 2023, and open for business March 2024. The delay in construction start date is because the proposed location for Green Apple Books is in a part of Terminal 1 that is not yet finished with the Airport's base building construction.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the concession lease between HG SFO Retailers 2017 JV and the Airport for a term of 12 years, with no option to extend. The tenant rent amount would pay the greater of the Minimum Annual Guarantee (MAG), starting at $460,000 and adjusted annually by regional CPI, or percentage rent depending on the value of sales (See Exhibit 1).[3] The lease contains an early termination clause enabling the Airport Director to terminate the lease early, with six months' written notice if the space is required to be repurposed in support of the Airport's Five-Year or Ten-Year Capital Plan.

[1] "Phase 3" and "Phase 4" refer to the construction and store opening phases of the Harvey Milk Terminal 1 Redevelopment Project. According to Airport staff, Project construction was put on hold due to the pandemic. The Phase 3 tenants' construction start date is now the first quarter of 2022 and is expected to open for business in the second quarter of 2022. Phase 4 construction, which is adjacent to the Security Checkpoint of the Boarding Area, is targeting for late 2023.

[2] The scoring panel consisted of an Airport Duty Manager, a private sector architect, the Director of Concessions at Los Angeles International Airport, and an airport consultant.

[3] The first year MAG rent of at least $230,000 (or the successful Proposer's MAG offer) and percentage rent amounts were advertised in the RFP.

Exhibit 1. Summary of Proposed Lease Provisions

Facility Name	Green Apple Books
Initial Term	12 years
Options to Extend	None
Premises	2,107 square feet of space in Terminal 1, Boarding Area B
Minimum Annual Guarantee (MAG)	Approximately $218 per square foot - $460,000 per year
MAG Adjustment	Adjusted annually based on the regional Consumer Price Index (CPI)
Construction Period Rent	16 percent of Gross Revenues as Base Rent if Tenant operates facility during construction of Initial Improvements
Revenue Percentage Rent	8 percent of revenues up to and including $2,000,000; 10 percent of revenues over $2,000,000
Annual Promotional Fee	$1.00 per square foot; $2,107 per year
Pest Control Fee	$75 per month
Deposit Amount	50 percent of the MAG in effect when the lease commences
Minimum Initial Investment	$700 per square foot; $1,474,900

Source: Proposed Lease Agreement

FISCAL IMPACT

Under the proposed lease, HG SFO Retailers 2017 JV would pay a MAG rent amount $460,000 per year, or $5,520,000 over the 12-year lease term, not including CPI adjustments that would affect rent. The MAG rent of $460,000, or $218 per square foot, was determined based on the Airport's estimate of projected sales performance, applying the percentage rent structure, and then reducing the amount by 10 to 15 percent to allow for proposers to have a floor for their Minimum Annual Guarantee Offer, which is part of the RFP evaluation criteria.

The proposed lease contains a provision that suspends the MAG rent if enplanements drop below 80 percent of 2019 levels for three consecutive months, to be reinstated when enplanements return to 2019 levels for two consecutive months. According to Airport Revenue Manager Cheryl Nashir, the Airport predicts enplanements will return to 2019 levels by 2023, prior to which the MAG rent would be suspended on the proposed lease. The tenant would continue to pay percentage rent on any applicable sales during the MAG rent suspension period.

RECOMMENDATION

Approve the proposed resolution.

Item 15 **File 21-0838**	**Department:** Municipal Transportation Agency (SFMTA)

EXECUTIVE SUMMARY

Legislative Objectives

The proposed resolution would approve the tenth modification to the contract between the SFMTA and Siemens Industry, Inc. (Siemens) to exercise Option 2 to procure 30 out of a possible 45 additional light rail vehicles in the amount of $130,409,780 plus applicable escalation costs up to $92,162,994, with cancellation provisions through June 2025.

Key Points

- In September 2014, the Board of Supervisors approved a 15-year contract between the SFMTA and Siemens for the manufacture and delivery of up to 260 new light-rail vehicles, including two options for expansion light-rail vehicles, in an amount not-to-exceed $1,192,651,577. The Board of Supervisors amended the original resolution to require Board approval for the second of the two options to expand the number of light rail vehicles.
- SFMTA previously purchased 68 vehicles, including 40 vehicles purchased under Option 1, and on approval of the proposed resolution would purchase an additional 30 vehicles under Option 2 by 2029. According to SFMTA staff, the tenth modification aligns with growth scenarios and projected ridership levels developed prior to the pandemic. SFMTA has negotiated option milestones that provide for a no-cost cancellation through June 2025.

Fiscal Impact

- The proposed modification would authorize the purchase of 30 light rail vehicles at a cost of $130,409,780 plus applicable escalation costs for Phase II vehicles and spare parts up to $92,162,994. The total not-to-exceed contract amount of $1,192,651,577 remains unchanged.

Policy Consideration

- SFMTA has not finalized its planned sources to pay for Option 2 because the purchase is beyond the agency's capital planning cycle. However, federal procurement rules require that all contract Options be exercised by September 30, 2021. As of this writing, SFMTA plans to use Proposition B Baseline funds as backstop funding while the Agency identifies other funding sources.

Recommendations

- Because the original approval of this contract required identification of a funding source for Option 2 expenses, we recommend amending the proposed resolution to request SFMTA to provide a written report detailing the final sources of funding for the Option 2 expenses once SFMTA orders the Option 2 vehicles, and include that report in the legislative file for this item.
- Approve the proposed resolution, as amended.

MANDATE STATEMENT

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

BACKGROUND

The San Francisco Municipal Transportation Agency (SFMTA) currently operates 213 light-rail vehicles to provide mass transportation over 71 miles of track throughout the City. In September 2014, the Board of Supervisors approved a 15-year contract between the SFMTA and Siemens Industry, Inc. (Siemens) for the manufacture and delivery of up to 260 new light-rail vehicles and associated spare parts, special tools, training and documentation, including two options for expansion light-rail vehicles, in an amount not-to-exceed $1,192,651,577 (File 14-0882). The purchase plan under the original agreement provided for 175 light rail vehicles and options for 85 additional expansion light rail vehicles, totaling 260. Of the 175 vehicles, 24 were to be purchased in Phase 1 to expand the fleet, and 151 were to be purchased in Phase 2 to replace the old fleet. Of the 85 option vehicles, 40 were to be purchased under Option 1 and 45 were to be purchased under Option 2.

Approval of the contract was subject to the following conditions: (1) that the contract provide for two separate options, Option 1 for 40 light rail vehicles and Option 2 for up to 45 light rail vehicles; (2) that the SFMTA obtain approval from the Board of Supervisors prior to exercising Option 2, contingent on identification of $234,664,852 in funding to pay for the option; and (3) that the SFMTA obtain approval from the Board of Supervisors for any vendor-financing agreement with Siemens.

Competitive Process

SFMTA selected Siemens after issuing a competitive Request for Qualifications (RFQ) in March 2013 to select a group of manufacturers that would be eligible to provide proposals for a new contract to procure new light rail vehicles. Four vendors submitted statements of qualification, and all were deemed qualified. In September 2013, SFMTA issued a Request for Proposals (RFPs) to the four qualified vendors, of which only two[1] submitted responsive proposals. Siemens received the highest score in every category of the RFP, including qualitative responsibility, technical evaluation, price evaluation and alternate approaches. Selection panels[2] reviewed the

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[1] Vendors that submitted a proposal include Construcciones y Auxiliar de Ferrocarriles (CAF) and Siemens, Inc.

[2] The Minimum Qualification Evaluation Panel included the following: SFMTA Senior Program Manager and an SFMTA Transit Division Budget Manager. The Qualitative Responsibility Evaluation Panel included the following: SFMTA Chief Financial Officer, Director of Risk Management for the City, and an SFMTA Transit Division Budget Manager. The Technical Evaluation Panel included the following: SFMTA Senior Program Manager, SFMTA Lead Light Rail Vehicle Engineer, SFMTA Supervisor of Rail Maintenance, Principal Transportation Planner for Fleet Planning

proposals and scored them. The contract term specified in the RFP is 15 years effective on the date that the contract is certified.

Contract Modifications

SFMTA modified the contract nine times, as shown in Exhibit 1 below. Modifications did not require Board of Supervisors' approval because they did not change the total not-to-exceed contract amount of $1,192,651,577.

Exhibit 1: Siemens, Inc. Contract Modifications

Modification No.	Date	Description
1	3/31/15	Exercised Option 1 for 40 additional light-rail vehicles to be delivered after the Phase 1 delivery of 24 vehicles. No change to total contract amount.
2	10/30/15	Updated list of approved major suppliers and clarified contract language. No change to total contract amount.
3	8/16/16	Added design changes to provide enhancements to passengers, enable full systems integration and reduce the life-cycle costs of the light-rail vehicles. No change to total contract amount.
4	6/17/17	Provided four additional vehicles (to be funded by the Mission Bay Transportation Improvement Fund) to serve the Chase Center. No change to total contract amount.
5	10/22/19	Expedited the design and pilot installation of track brakes to the power trucks to reduce frequency of flat spots on wheels caused by the activation of the push button emergency brake. No change to total contract amount.
6	11/19/19	Enhanced vehicle design with passenger comforts, updated operator cab features, and engineering refinements that improve fleet performance, advanced Phase 2 (purchase of 151 replacement vehicle) long-lead[3] activities to accelerate fleet replacement. No change to total contract amount.
7	3/27/20	Provided for completion of Phase 2 long-lead activities, implemented interior configuration and seating changes based on the approved redesign, competed installation of the track brakes, and provided for other equipment updates and vehicle enhancements. No change to total contract amount.
8	10/30/20	Modified the vehicles, including adding larger cab monitors and a second sensitive edge to the middle doors, deleting fareboxes for 141 of the vehicles and expedited work to avoid Phase 2 production delays. No change to total contract amount.
9	8/3/21	Updated vehicle equipment including center door sensing capabilities, completed enhancements of cameras, made changes to the operator cab and controls, and reduced scope in preparation for next generation Clipper, resolved calculation of escalation costs for the 151 Phase 2 replacement vehicles using funds from the escalation allowance. No change to total contract amount.

Source: Siemens, Inc. Contract Modifications One through Nine

and Capital Planning, and SFMTA Director of System Safety. The Price Evaluation Panel included the following: SFMTA Senior Program Manager, SFMTA Transit Division Budget Manager, Contract Compliance Office Representative, and Contract Compliance Officer.

[3] Long lead items refer to the equipment, product or system that is identified at the earliest stage of a project to have a delivery time long enough to affect directly the overall lead time of the project.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the tenth modification to the contract between SFMTA and Siemens, Inc. to exercise Option 2 to procure 30 out of a possible 45 additional light rail vehicles in the amount of $130,409,780 plus applicable escalation costs up to $92,162,994, with cancellation provisions through June 2025. The total not-to-exceed contract amount of $1,192,651,577 and term of 15 years remains unchanged.

As noted above, options for more vehicles were built into the original contract to provide the SFMTA with flexibility to adjust the total number of vehicles purchased depending on changing service projections and/or economic conditions during the 15 years of the contract.

Requirement to Exercise Options by September 2021

The proposed modification would exercise Option 2 of the original contract to procure 30 out of a possible 45 additional light rail vehicles to be delivered after the Phase 2 delivery of 151 vehicles. Under Federal Transportation Administration (FTA) procurement rules[4], transportation agencies must exercise any contract options within seven years of the effective date of the contract, which in the case of this 15-year contract, would be September 30, 2021.

According to SFMTA Deputy Project Manager Joe Speaks, the agency projects a need for 30 out of a possible 45 additional vehicles before the end of this decade, contingent on the trajectory of the post-pandemic recovery. Deputy Project Manager Speaks states that while the pandemic and budget reality have generated uncertainty around future service needs and growth, the SFMTA is preparing for transit needs anticipated in 2030 and beyond and, as shown below, estimates purchase of the proposed additional 30 vehicles for delivery in FY 2027-28 and FY 2028-29. According to Deputy Project Manager Speaks, the addition of 30 light rail vehicles would most reasonably match growing service needs, which includes increasing frequency and improving reliability on the T-Third, increasing capacity with longer trains on the N Judah (future 3-car trains), providing a high-capacity shuttle in the subway (future 4-car shuttles), and improving frequency and reliability systemwide.

No-Cost Cancellation Clause and Restart Fee

The addition of 30 vehicles by 2029 under the proposed modification aligns with growth scenarios and projected ridership levels developed prior to the pandemic. Consequently, to preserve flexibility and address planning and economic uncertainty created by the pandemic, the SFMTA has negotiated option milestones that provide for a no-cost cancellation through June 2025. Under the proposed modification, Option 2 may be cancelled at no cost to the City at any time prior to issuance of the Release for Production Notice, the action that authorizes the start of production of the vehicles. SFMTA can provide Siemens a Release for Production Notice at any

[4] Per FTA rule titled "Time Limits for Options on Rolling Stock Contracts" as defined per 49 U.S.C. § 5325(e)(1)(B) FTA Circular 4220.1F, Chap. IV, §2.e(10(b)

time prior to June 2025. Failure to provide the Release for Production Notice will initiate the no-cost cancellation.[5]

Under the proposed modification, if SFMTA provides a Release for Production Notice before June 2023, vehicle production can continue uninterrupted with no additional restart fee costs. Therefore, if the post-pandemic recovery period between now and June 2023 (approximately two years), establishes clear trendlines for growth and shows demonstrated need before 2030, then SFMTA has the option to initiate the Release for Production notice and avoid any restart fees. However, if SFMTA provides notice after June 2023 (but before the no-cost cancellation deadline of June 2025), then SFMTA must pay the actual costs of restarting production, which is not-to-exceed $11,064,200.[6] This restart fee amount is included as part of the proposed modification amount of $130,409,780.

Purchase Plan

As shown in Exhibit 2 below, the first 68 light-rail vehicles were delivered to the SFMTA between 2017 and 2019.[7] These vehicles expanded the fleet to accommodate growing service needs including service to the Chase Center[8] and launch of the Central Subway. Phase 2 of the contract is now underway with the first vehicle to be delivered Fall of 2021. Phase 2 provides for the replacement of the old 151 Breda light-rail vehicles through 2026, which are being retired concurrently. The proposed Option 2 addition of 30 vehicles is expected to be delivered from 2027 through 2029. Exhibit 2 below shows the purchase plan related to the phases and options for up to 249 light-rail vehicles.

[5] The FTA has approved SFMTA's approach to no-cost cancellation modification to the contract terms.

[6] The actual cost of restart fees to be reimbursed could be less than $11,064,200 but cannot exceed this amount. According to Deputy Project Manager Speaks, the exact costs associated with restarting production depend on several factors including the duration of the shutdown, the production location available for restart, the availability of specialized equipment, and the need for retooling.

[7] This includes Phase 1 (24 expansion vehicles), Option 1 (40 expansion vehicles), and Phase W (4 vehicles for the Chase Center).

[8] The fourth contract modification added the four light-rail vehicles (Phase W) to accommodate service needs for the new Chase Center. The cost was $3,968,750 per vehicle totaling $15,875,000. Per File 15-0995, the Mission Bay Transportation Improvement Fund will eventually fully pay for the four light-rail vehicles and, in the meantime, SFMTA has financed the procurement of the vehicles through the issuance of 2017 revenue bonds. From the 2017 revenue bond, SFMTA financed $128 million for both replacement and expansion vehicles and has spent $126.4 million of this amount per the SFMTA revenue bond report from May 14, 2021. The portion of revenue bonds specifically for the four light-rail vehicles has all been spent. SFMTA anticipates it will be more than 10 years before the department is fully reimbursed for capital improvements made in advance of the Chase Center opening.

Exhibit 2: Purchase Plan of New Vehicles and Removal of Vehicles at End of Service

Year	Existing Number of Vehicles	Phase I - Increase Fleet by 24 Vehicles	Option I - Increase Fleet by 40 Vehicles	Phase W - Increase Fleet by 4 Vehicles	Phase II - Replace 151 Vehicles	Remove End of Service Vehicles	Option II - Increase Fleet by 30 Vehicles	Total Vehicles
2014-15	151							151
2015-16	151							151
2016-17	151	3						154
2017-18	154	21	6					181
2018-19	181		31	4				216
2019-20	216		3					219
2020-21	219							219
2021-22	219				24	(15)		228
2022-23	211				24	(24)		228
2023-24	211				26	(26)		228
2024-25	211				47	(47)		228
2025-26	211				30	(30)		228
2026-27	211					(9)		219
2027-28	219						22	241
2028-29	241						8	249
Total		**24**	**40**	**4**	**151**	**(151)**	**30**	

Source: San Francisco Municipal Transportation Agency

FISCAL IMPACT

The proposed modification would authorize the purchase of 30 light rail vehicles at a cost of $130,409,780 plus applicable escalation costs for Phase 2 vehicles and spare parts up to $92,162,994. The total not-to-exceed contract amount of $1,192,651,577 remains unchanged.

Escalation Allowance

The initial price per light-rail vehicle for the first light-rail vehicles delivered in Phase 1 was $3,327,350. The contract between the SFMTA and Siemens includes an escalation[9] allowance to provide for the costs of inflation on labor and materials that Siemens may apply to: (1) Phase 2

[9] Escalation is the adjustment of prices to keep pace with inflation. Escalation built into the SFMTA contract with Siemens ensures that prices quoted at the beginning of the contract change in accordance with key economic indicators of labor and materials fluctuations over the 15 years of vehicle production.

(151) light-rail vehicles, (2) all option (up to 85) light-rail vehicles, (3) training simulators, and (4) spare parts for the Phase 2 and optional light-rail vehicles.

For Phase 2 light-rail vehicles, the SFMTA has calculated the escalation using the contractually defined formula for applying labor and materials indices from the U.S. Bureau of Labor and Statistics across the escalation period spanning 2014 to 2020. The Phase 2 escalation was calculated to May of 2020 at 2.44 percent per year compounded, 14.71 percent total, resulting in a Phase 2 vehicle price of $3,826,439. The Option 2 vehicle price is based on the Phase 2 price calculation, plus additional escalation after May 2020 (and any applicable modification adjustments).

The Option 2 price per light-rail vehicle will be $3,978,186, which includes escalation of 14.71 percent through May 2020 (mirroring the confirmed Phase 2 escalation rate methodology). The Option 2 price is then to be escalated further for the escalation period following May 2020 through the end of the Option 2 escalation period, which ends one year before the scheduled delivery date of the first Option 2 vehicle. The Option 2 escalation period will depend on when SFMTA chooses to provide Siemens with the Release for Production Notice, but is expected to end between January 2024 and October 2026. The value of indexes at the end of the Option 2 escalation period is defined in the contract as the "arithmetic average of the final published labor and material indices for the three months after one year prior to the Delivery Date for the first Option 2 Vehicle." The price for Option 2 vehicles will be escalated using the same methods applied for Phase 2 vehicles but will not be less than 0.15 percent per month compounded – or 1.81 percent per year compounded.

The remaining escalation allowance of $92,162,994 is the funding remaining under the total contract not-to-exceed amount of $1,192,651,577 that is available for future expected escalation costs. Escalation cost increases are tied to future economic indicators so these costs cannot be calculated yet. The project maintains an escalation allowance as part of the planned budget to cover future escalation. The largest remaining price item that will require escalation in the future will be the Option 2 vehicles. The remaining escalation allowance is also the source for funds to cover escalation on spare parts.[10] The total available funds remaining in this escalation allowance are $92,162,994 and will not exceed this amount.

Contract Costs

As shown in Exhibit 3 below, the cost items in the proposed modification for 30 additional light rail vehicles total $130,409,780. This includes 30 vehicles at $3,978,186 per vehicle (including all of the modifications to date and escalated up to May 2020), as well as the not-to-exceed restart fee of $11,064,200. As previously mentioned, additional escalation costs will be calculated after the Release for Production Notice is issued and will come from the escalation allowance of $92,162,994. As shown in Exhibit 3 below, SFMTA has paid Siemens $326,601,308, or approximately 33.7 percent, of the current contracted amount.[11] As previously mentioned,

[10] Escalation on spare parts varies depending on when the spare parts are to be delivered.

[11] This amount does not include the Option 2 amount of $130,409,780 and the remaining escalation allowance of $92,162,994.

SFMTA has received 68 out of 219 approved vehicles (31 percent) per the current purchase plan. Exhibit 3 below shows the base and escalation costs, as well as the invoiced expenditures to date, for the contract with Siemens under the not-to-exceed contract amount of $1,192,651,577.

Exhibit 3: Total Contract Costs and Invoiced Expenditures to Date for All Phases and Options

Current Contract	Base	Escalation	Invoiced to Date	Total ($)
Design, Project Management, and Testing	$37,541,102	N/A	$34,485,909	$37,541,102
Phase 1 Vehicles (24)	79,854,000	N/A	77,298,672	79,854,000
Phase 2 Light-Rail Vehicles (151)	502,414,750	$75,377,539	24,155,835	577,792,289
Manuals	809,478	N/A	0	809,478
Training	361,557	N/A	343,479	361,557
Train Simulator (1 of 2)	1,704,650	N/A	1,619,418	1,704,650
Train Simulator (2 of 2)	1,704,650	TBD	0	1,704,650
Phase I and Phase II Spare Parts	14,153,840	TBD (Phase 2)	7,460,165	14,153,840
Special Tools and Equipment	1,792,624	N/A	0	1,792,624
Additional Spare Parts	11,269,527	TBD	0	11,269,527
Optional Spare Parts	15,000,000	TBD	2,056,610	15,000,000
Option 1: Light-Rail Vehicles (40)	$133,160,440	810,360	$133,133,483	$133,970,800
Modification 4: Light-Rail Vehicles (4) for Chase Center	$15,875,000	N/A[12]	$15,398,750	$15,875,000
Modifications 3, 5 through 9	$78,249,286	N/A	$30,648,987	$78,249,286
Subtotal, Phases I/II, Option 1, Mods. 1 - 9	**$893,890,904**	**$76,187,899**	**$326,601,308**	**$970,078,803**
Option 2 (Proposed Modification): Light Rail Vehicles (30) and Restart Fee[13]	$115,426,373	$14,983,407	N/A	$130,409,780
Remaining Contingency (Escalation Allowance) **[14]**		N/A	N/A	$92,162,994
Total	**$1,009,317,277**	**$91,171,306**	**$326,601,308**	**$1,192,651,577**

Source: San Francisco Municipal Transportation Agency

As shown in Exhibit 3 above, the fourth contract modification added four light-rail vehicles (Phase W) to accommodate service needs for the new Chase Center. The cost was $3,968,750 per vehicle totaling $15,875,000. Per File 15-0995, the Mission Bay Transportation Improvement Fund will eventually fully pay for the four light-rail vehicles and, in the meantime, SFMTA has financed the procurement of the vehicles through the issuance of 2017 revenue bonds. From the 2017

[12] Included in base cost

[13] Option 2 vehicles escalated to May 2020. Additional escalation to be added later.

[14] Escalation allowance to apply to vehicles and spares as needed.

revenue bond, SFMTA financed $128 million for both replacement and expansion vehicles and has spent $126.4 million of this amount per the SFMTA revenue bond report from May 14, 2021. Modifications 3, 5 through 9 provided for updates to vehicle design, enabling of full systems integration, passenger comforts and engineering refinements, updates to vehicle equipment, and vehicle equipment design enhancements, as detailed in Exhibit 1 above.

The proposed resolution approves only the contract modification costs between the SFMTA and Siemens and does not reflect the costs for sales tax, project support costs, and a five percent project contingency. Those costs will be included in the SFMTA biennial capital budgets, through FY 2029, which includes funding sources subject to Board of Supervisors appropriation approval. SFMTA estimates these associated costs at a total of approximately $39,770,000 and is currently planning on paying these costs with the same funding sources used to pay for the light-rail vehicles.

Sources of Funds

The maximum funding needed for Option 2 is approximately $222,572,774[15] and is outside of the current SFMTA 5-Year Capital Improvement Program (CIP) which ends in FY 2025. Because past funding awards are not a guarantee of future funding from those sources and Option 2 will not be delivered in the next five years, SFMTA has not yet identified specific sources to fund the balance of $130,409,780 for the 30 light-rail vehicles under Option 2 and the remaining escalation allowance of $92,162,994. SFMTA anticipates a mix of funding from these likely sources: (1) development impact fees, (2) cap and trade funds, (3) bridge toll funds, (4) Proposition K ½ cent transportation sales tax funds, (5) Proposition B Population Baseline funds, (6) SFMTA revenue bond program, and (7) competitive grants (including the Transit and Intercity Rail Capital Program). SFMTA is using Proposition B Population Baseline funds[16] as a planned backstop currently to meet the costs of the proposed modification. Deputy Project Manager Speaks states that the baseline funding can potentially come from the following future allocations of Proposition B Population Baseline funds: $36,000,000 in FY 2023-24, $50,025,000 in FY 2024-25 and $44,384,780 in FY 2025-26, as updated in the March Joint Report released by the Controller's Office, Budget and Legislative Analyst Office and Mayor's Budget Office on March 31, 2021.[17] According to Deputy Project Manager Speaks, given the flexibility of Proposition B Population Baseline funds, SFMTA intends to pursue options for other funding sources in the meantime to replace the anticipated baseline funds in the future. The earliest funding required to support the cashflow for Option 2 will be included as part of the update on the 5-Year CIP in Spring 2022.

[15] This amount includes the Option 2 amount of $130,409,780 and the remaining escalation allowance of $92,162,994.

[16] Proposition B, approved by the voters in November 2014, provides additional City General Fund baseline transfers to SFMTA tied to the City daytime population growth.

[17] The report states the following: "As San Francisco's economy recovers from the pandemic, its daytime population is projected to grow by nearly 10 percent in 2022, as office workers return downtown and visitors travel to the City for leisure and business. As a result of this rapid increase in daytime population, the Prop B baseline is anticipated to more than double from FY 2020-21 level of $55.6 million to $129.7 million by FY 2025-26."

POLICY CONSIDERATION

As previously mentioned, approval of the original contract was subject to the following conditions that (1) the SFMTA obtain approval from the Board of Supervisors prior to exercising Option 2, contingent on identification of $234,664,852 in funding to pay for the option and (2) that the SFMTA obtain approval from the Board of Supervisors for any vendor-financing agreement with Siemens. SFMTA has not finalized its planned sources to pay for Option 2 because the purchase is beyond the agency's capital planning cycle. However, federal procurement rules require that all contract options be exercised by September 30, 2021.

SFMTA plans to use Proposition B General Fund Population Baseline funds as backstop to meet the costs of the proposed modification and the agency intends to identify other funding sources in the meantime. However, if Proposition B General Fund Population Baseline fund revenue is less than projected, SFMTA will need to re-prioritize the Capital Plan to ensure that the light-rail vehicles are delivered as planned. A final funding plan for Option 2 will be available once SFMTA orders the Option 2 vehicles via a Release for Production Notice and will be included in SFMTA's FY 2025-2029 CIP. Because the original approval of this contract required identification of a funding source for Option 2 expenses, we recommend amending the proposed resolution to request SFMTA provide a written report detailing the final sources of funding for the Option 2 expenses once SFMTA orders the Option 2 vehicles and to include that report in the legislative file for this item.

Purchase of the 30 additional light rail vehicles is based on pre-pandemic assumptions of ridership growth. The proposed contract modification provides for a cancellation clause exercisable through June 2025 if economic conditions no longer justify the purchase.

RECOMMENDATIONS

1. Amend the proposed resolution to request SFMTA provide a written report detailing the final sources of funding for the Option 2 expenses once SFMTA orders the vehicles in Option 2, and include that report in the legislative file for this item.
2. Approve the proposed resolution, as amended.