CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

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TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: November 4, 2020 Budget and Finance Committee Meeting

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Item 1 **File 20-1163**	**Department**: Port of San Francisco

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance authorizes (1) the Port Commission to amend certain leases under the Port's Rent Forgiveness Program with nonresidential tenants without the Board of Supervisors approval under City Charter, Section 9.118, and, (2) waives the Administrative Code and Environmental Code requirements enacted after the most recent modification of each lease for those lease amendments that are conducted under the Rent Forgiveness Program.

Key Points

- The Port's 2020 Rent Forgiveness Program allows the Port Executive Director to amend eligible leases to waive base rent for certain periods related to COVID-19. Tenants would still have to pay applicable percentage rents on any revenues generated during that time.
- The Program is anticipated to provide rent relief to 197 leases across three sectors of Port leases: (1) Percentage Rent Tenants, which includes restaurants, retail, off-street parking, excursions, and maritime attractions that pay both base rent and percentage rent determined by their revenue; (2) Maritime, including commercial fishing, crabbing, fish processing and other maritime support; and, (3) Local Business Enterprises.
- Thirty-eight of the leases eligible for participation in the Program would typically require Board of Supervisors approval for amendments, as outlined in Section 9.118 (c) of the City Charter. The proposed ordinance would waive Board of Supervisors' approval for these leases so the Port may quickly implement the program and provide tenant relief.
- The proposed ordinance would also waive Administrative and Environmental Code provisions for eligible leases enacted after a tenant's original lease or most recent amendments.

Fiscal Impact

- In total, the Port Rent Forgiveness Program is estimated to cost $13.45 million in base rent forgiveness across the 197 eligible leases. The estimated 38 leases that would have Board of Supervisors' approval waived total $8.4 million in estimated rent forgiveness.
- The Program will be partially offset by some revenues that would continue to be paid by a subset of the tenants. The Port estimates that depending on sales performance during the rent forgiveness period, $6.6 to $13.3 million could be recovered.
- According to the Port, the cost of the Program is accounted for in its FY 2020-21 budget.

Policy Consideration

- Because the proposed ordinance waives Administrative and Environmental Code provisions and Board of Supervisors' approval of lease amendments under Charter Section 9.118(c), approval of the proposed ordinance is a policy matter for the Board of Supervisors.

Recommendation

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

MANDATE STATEMENT

City Charter Section 9.118(c) states that (1) any lease of real property for ten or more years, including options to renew, (2) have anticipated revenues to the City of $1,000,000, or (3) the modification, amendment or termination of these leases is subject to Board of Supervisors approval. Leases of property under the Port Commission for maritime use are exempt from this provision of the City Charter.

BACKGROUND

On August 25, 2020, the Port Commission adopted Resolution 20-41, creating the Port's Rent Forgiveness Program. This program is aimed at providing past and future rent forgiveness for three sectors of Port leases: (1) Percentage Rent Tenants, which includes restaurants, retail, off-street parking, excursions, and maritime attractions that pay both base rent and percentage rent determined by their revenue; (2) Maritime, including commercial fishing, crabbing, fish processing and other maritime support; and, (3) Local Business Enterprises.

The program allows the Port Executive Director to amend eligible leases to forgive rent, with certain conditions depending on sector, helping to ease tenant financial losses due to the ongoing COVID-19 pandemic and its effects on the local economy. The Port's rent relief program is anticipated to provide up to $13.45 million in rent relief to 197 leases.

The rent relief program was designed with the following goals, including but not limited to: (1) Protecting the Port's revenue streams and assets by temporarily reducing tenants' rent burdens due to changing operating conditions and current inability to pay; (2) Supporting the Port's maritime mission; and, (3) Providing relief to small local businesses.

This program builds off of earlier Port actions to provide relief to tenants, including implementing a rent deferral program from March 1, 2020 through July 31, 2020, and offering tenants the opportunity to continue rent deferral through December 31, 2020, through the opt-in rent deferral program. According to the Port Commission Staff Report from August 21, 2020, despite the support of this rent deferral program and other federal, state, and local legislation, the Port finds that many tenants continue to struggle to pay rent. The staff report cites that between March 1 and July 15, 2020, the payment rate for Port tenants was 56 percent, or rent receipts of $16.7 million compared to $30.5 million invoiced.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance authorizes (1) the Port Commission to amend certain leases under the Port's Rent Forgiveness Program with nonresidential tenants without the Board of Supervisors approval under City Charter, Section 9.118, and (2) waives the Administrative Code and Environmental Code requirements enacted after the most recent modification of each lease for those lease amendments that are conducted under the Rent Forgiveness Program.

Waiver of Administrative and Environmental Code Provisions

Administrative and Environmental Code provisions that were enacted after the commencement of the original Port lease or amendments to the original Port lease must be included in subsequent amendments to the Port lease. These provisions are detailed in Appendix I of the Rent Forgiveness Program and include but are not limited to Administrative Code: Section 4.1-3 (All Gender Toilet Facilities), Section 4.9-1(c) (Vending Machines; Nutritional Standards and Calories Labeling Requirements and Offerings), Chapter 12B and 12C (Nondiscrimination in Contracts and Property Contracts), Chapter 12K (Salary History); and, Environmental Codes: Chapter 3 (Restrictions on Use of Pesticides), Chapter 13 (Preservative-Treated. Wood Containing Arsenic), and Chapter 16(Food Service and Packaging Waste Reduction Ordinance). According to the proposed ordinance, to require tenants to comply with Administrative and Environmental Code provisions enacted after execution of the tenant's original lease or most recent amendments to that lease as a condition to enter into a Rent Forgiveness Program lease amendment would in some cases impose costs counter to the intent of the Rent Forgiveness Program.

Impact on Port Tenants

Approximately 38[1] of the leases eligible for participation in the Rent Forgiveness Program would typically require Board of Supervisors approval for amendments, as outlined in Section 9.118 (c) of the City Charter. The Port is asking to waive Board of Supervisors approval for making lease amendments under the Rent Forgiveness Program in order to quickly implement the program.

As detailed below, the Rent Forgiveness Program waives base rent for certain periods related to COVID-19. Tenants would still have to pay applicable percentage rents on any revenues generated during that time.

Rent Relief Program Requirements and Benefits

Port Tenants who want to participate in the program will be required to submit the following information to Port Staff:

- Description of impact and need for aid due to COVID-19.
- Description of its business plan for operating safely during COVID-19.
- Provide revenue projections and project anticipated cash flow, indicating whether the tenant can resume payment at the end of the program or rent deferral (if applicable).
- Submissions to federal, state, and local relief programs and an update on the application/forgiveness status; and, if no applications were submitted describe why.

Port staff will review this information and determine tenant eligibility.

Program requirements and benefits vary depending on the tenants' sector. Table 1 below outlines the specific requirements for program participation by sector and the benefits that participating tenants will receive.

[1] Note: The proposed ordinance lists approximately 32 leases, but in discussions with the Port the unique number of leases requiring waiver is closer to 38, so this number is used throughout the report.

Table 1. Port Rent Relief Program Proposal Overview by Tenant Sector

Sector	Rent Relief Requirements	Rent Relief Benefits Received	Months of Rent Forgiveness
A. Percentage Rent Tenants (i.e. restaurants, retail, certain maritime activities, and parking)	• Report rent amounts that will not be forgiven (government assistance used for rent) • Report sales monthly or as required by the lease and pay percentage rent under lease • Satisfy existing lease requirements • State and maintain agreed upon hours of operation, with a minimum of 10 operating days per month	• Port will forgive base rents from (a) March 1, 2020 - April 30, 2021 OR (b) until a tenant's percentage rent is equal to or greater than base rent for three consecutive months, if this occurs prior to April 30, 2021 • Rent credits for retail and restaurant tenants for purchase of items needed to safely reopen • Rent credits for rent paid during forgiveness period that could have been forgiven prior to executing lease amendment. These are applicable to rent payable in FY 2021-22	Up to 14 months of minimum rent forgiveness; Percentage rent is still due based upon sales
B. Select Maritime	• Report rent amounts that will not be forgiven (government assistance used for rent) • Satisfy existing lease requirements	• Port will forgive base rents from March 1 - August 31, 2020 • Rent credits for rent paid during forgiveness period that could have been forgiven prior to executing lease amendment. These are applicable to rent payable in FY 2021-22	6 months of rent forgiveness
C. Local Business Enterprise Tenants	• Report rent amounts that will not be forgiven (government assistance used for rent, including Port's Hardship Emergency Loan & Grant Program) • Satisfy existing lease requirements	• Port will forgive base rent from March 1 – May 31, 2020 • Rent credits for rent paid during forgiveness period that could have been forgiven prior to executing lease amendment. These are applicable to rent payable in FY 2021-22	3 months of rent forgiveness

Source: Port Commission

According to the August 21, 2020 Port Commission staff report, the length of rent forgiveness corresponds with impact of shelter-in-place on business operations, with tenants in the Percent Rent Tenant sector taking the most direct reduction to their operations, while maritime tenants were indirectly affected as restaurant customers were shut down. The effect on LBE tenants is less direct, but providing relief aligns with the Port's goal of ensuring the long-term financial viability of existing tenants.

Upon approval and lease execution, the Port will include language in the lease amendments that states a tenant failing to comply with terms of the amendment would result in termination of rent forgiveness as well as release the Port from mutual liability for occurrences under this amendment.

FISCAL IMPACT

In total, the Port Rent Forgiveness program is estimated to cost $13.45 million in base rent forgiveness. The estimated 38 leases that would have Board of Supervisors approval waived total $8.4 million in estimated rent forgiveness. Table 2 summarizes the estimates for amount of rent forgiven.

Rent Forgiveness Program Costs

Table 2. Estimated Rent Forgiveness Costs (Board-Waived Leases and Program Total)

Leases Affected by Board Waiver	Est. # of Leases	Est. Cost Per Month	Months of Rent Forgiveness	Est. Total Rent Forgiven
Percentage Rent Tenants	38	$600,962	14 (maximum)	$8,413,464

Sector	Est. # of Leases	Est. Cost Per Month	Months of Rent Forgiveness	Est. Total Rent Forgiven
A. Percentage Rent Tenants	48	$846,354	14 (maximum)	$11,848,956
B. Select Maritime Total	121	240,562	6	1,443,375
C. Local Business Enterprise Total	28	51,601	3	154,802
Program Total	197			$13,447,133

Source: Port Commission

The estimates in Table 2 for program rent forgiveness do not include potential rent credits for purchases made to safely re-open during COVID-19. According to Ms. Crezia Tano-Lee, Port Business Strategy and Optimization Manager, at the time the Port Commission approved the Rent Forgiveness Program, re-opening guidelines had not been published, and estimates of those potential expenses are not available as of this writing. In addition, Ms. Tano-Lee reports that many of Port tenants report continued uncertainty of what will be required for safe re-opening and continued operations.

Rent Forgiveness Program Funding Sources

The program will be partially offset by some revenues paid by the Percentage Rent Tenant sector as a percent of sales. The Port estimates that depending on sales performance during the rent forgiveness period, $6.6 to $13.3 million could be recovered. This is based on assuming 25 to 50 percent of 2019 sales performance will occur during the 14-month forgiveness period. Table 3 provides an overview of this potential revenue range.

Table 3. Estimated Sources from Percentage Tenant Rent Sales Revenues

Function	2019 Sales	25% of 2019 Sales	50% of 2019 Sales
Restaurants	$6,611,981	$1,652,995	$3,305,990
Other Food & Beverage	4,258,810	1,064,703	2,129,405
Excursion	6,636,048	1,659,012	3,318,024
Retail	750,669	187,667	375,334
Attraction	1,197,837	299,459	598,919
Parking	7,057,953	1,764,488	3,528,976
Total	$26,513,298	$6,628,324	$13,256,649

Source: Port Commission

According to Ms. Tano-Lee, the cost of the Port's Rent Forgiveness Program is accounted for in the Port's FY 2020-21 budget. To accommodate the decrease in revenues in FY 2020-21, the Port eliminated funding for 13.94 positions, reduced capital spending by $30.6 million for the Mission Bay Ferry Landing, the Southern Waterfront Beautification Fund, the Wood Pile Repair Crew, and other projects, and appropriated $55.3 million from its fund balance. According to the Port, $10.4 million remains in fund balance.

POLICY CONSIDERATION

The proposed ordinance will waive the Board of Supervisors' approval of lease amendments for a subset of the approximately 197 leases in the Rent Forgiveness Program (estimated to be 38 leases which are subject to Board of Supervisors' approval). It will also waive compliance requirements under the Administrative Code and Environmental Code enacted after the most recent modification of each lease for those lease amendments that are entered into under the Program. Because the proposed ordinance waives Administrative and Environmental Code provisions and Board of Supervisors' approval of lease amendments under Charter Section 9.118(c), we consider 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.

Item 2 **File 20-1009**	**Department:** Controller's Office

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would amend Section 3003 of the Business and Tax Regulations Code to temporarily waive the Cannabis Business Tax for one year through December 31, 2021.
- Beginning January 1, 2022, the gross receipts exemption would increase from $500,000 to $1 million. Currently, cannabis retailers pay a tax rate of (i) 2.5 percent for gross receipts from recreational cannabis between $500,000 and $1 million, and (ii) 5 percent for gross receipts over $1 million. Under the proposed ordinance, these amounts would increase to between $1 million and $1.5 million, and over $1.5 million respectively. Also, cannabis retailers currently pay a tax rate of (i) 1 percent for gross receipts for other cannabis business activities between $500,000 and $1 million, and (ii) 1.5 percent for gross receipts over $1 million. Under the proposed ordinance, these amounts would increase to between $1 million and $1.5 million, and over $1.5 million respectively.

Key Points

- Proposition D (also known as the Cannabis Business Tax), which levies a gross receipts tax of 2.5 percent and 5 percent on recreational cannabis businesses earning over $500,000 and $1 million respectively, and exempts the first $500,000 of gross receipts attributable to the City from cannabis business activities, goes into effect on January 1, 2021.
- Proposition D also allows the Board of Supervisors to adjust the tax within a range of 0 percent to 7 percent by an ordinance adopted by a two-thirds vote for any increase (limited to 1 percent annually) or an ordinance adopted by a majority vote for the Board for any decrease.

Fiscal Impact

- The Cannabis Business Tax is expected to generate $4.25 million in FY 20-21 and $8.5 million in FY 2021-22, for an estimated two-year total of $12.75 million in revenue for the City.
- The estimated loss in revenue due to the proposed ordinance is approximately $7.1 million over two years.

Recommendation

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

MANDATE STATEMENT

According to City Charter Section 2.105, all legislative acts shall be by ordinance and require the affirmative vote of at least a majority of the members of the Board of Supervisors.

The Business and Tax Regulations Code Section 3003(b)(4) of Article 30 states that the Board of Supervisors may from time to time by an ordinance adopted by at least two-thirds of the members of the Board increase one or more of the rates provided for in Sections 3003(b)(2) and 3003(b)(3), except that no rate may increase more than one percent annually and no rate may exceed 7 percent. The Board of Supervisors may from time to time by an ordinance adopted by a majority of the members of the Board decrease one or more of the rates provided for in Sections 3003(b)(3) and 3003(b)(3). Any such adjustments in Section 3003(b)(4) shall be effective no sooner than the tax year following the tax year in which the ordinance adjusting the rate is effective.

BACKGROUND

Proposition D: San Francisco Cannabis Business Tax Increase

In November 2018, approximately 66 percent of San Francisco voters approved Proposition D, the Cannabis Business Tax effective January 1, 2021.[1] The proposition levies a gross receipts tax of 1 percent to 5 percent on recreational cannabis businesses. The tax only applies to businesses that earn over $500,000 in recreational cannabis revenue at a rate of 2.5 percent of gross receipts up to (and including) $1 million, and 5 percent of gross receipts over $1 million from the sale of cannabis products. The measure also imposes a tax of 1 percent of gross receipts up to (and including) $1 million and 1.5 percent of gross receipts over $1 million for gross receipts attributable to the City from cannabis business activities other than the retail sale of cannabis or cannabis products.[2] The first $500,000 of gross receipts attributable to the City from cannabis business activities are exempt from the tax. The proposition allows the Board of Supervisors to adjust the tax within a range of 0 percent to 7 percent by an ordinance adopted by a two-thirds vote for any increase (limited to 1 percent annually) or an ordinance adopted by a majority vote for the Board for any decrease.

Cannabis Sales in San Francisco

A 2019 report from the Controller's Office showed that in calendar year 2018, cannabis operators generated over $220 million in revenue, of which the city received $2.2 million in sales tax.[3] The

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[1] San Francisco Controller's Office Five-Year Financial Plan: FY 19-20 through FY 23-24.
https://sfcontroller.org/sites/default/files/Documents/Budget/Five-Year%20Financial%20Plan%20FY19-20%20through%20FY23-24%20FINAL.pdf

[2] Medical marijuana retail sales are exempt. San Francisco, California, Proposition D, Marijuana Business Tax Increase (November 2018).
https://ballotpedia.org/San_Francisco,_California,_Proposition_D,_Marijuana_Business_Tax_Increase_(November_2018)

[3] Cannabis in San Francisco. A Review Following Adult-Use Legalization. City & County of San Francisco. Office of the Controller. December 5, 2019.

industry has steadily increased in sales each year since 2015 (from $123 million in 2015 to $228 million in 2018) until 2019, which saw a decrease of 16% (from $61 million in Q2 2018 to $51 million in Q1 2019). From 2015 to 2018, the total number of cannabis retailers in San Francisco increased from 20 to 64, which resulted in an average revenue decrease earned per retailer. In 2015, the average cannabis retailer earned $6.3 million in sales, compared to an average of $3.5 million in 2018. According to the Office of Cannabis, there are currently 80 permitted cannabis retailers in San Francisco. Of this total, 40 operate storefront businesses and 40 are delivery only.[4]

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance amends Section 3003 of the Business and Tax Regulations Code to temporarily waive the Cannabis Business Tax for one year in 2021 through December 31, 2021. Beginning January 1, 2022, this proposed ordinance would also increase the gross receipts exemption from $500,000 to the first $1,000,000 of gross receipts earned for each person or group that receives gross receipts from Cannabis Business Activities.

The proposed ordinance increases by $500,000 the upper range of gross receipts attributable to the City from the retail sale of cannabis or cannabis products, including the exempt amount, that are subject to the 2.5 percent and 5 percent tax rate. Specifically, the ordinance would apply the 5 percent tax rate to retailers earning over $1.5 million, as opposed to the existing law which applies the 5 percent rate to retailers earning over $1 million. Retailers earning under $1.5 million would be subject to the 2.5 percent tax rate.

The proposed ordinance also increases by $500,000 the upper range of gross receipts attributable to the City from business activities other than retail sales of cannabis products, including the exempt amount, that are subject to the 1 percent and 1.5 percent tax rate. The ordinance would apply the 1.5 percent tax rate to retailers earning over $1.5 million from cannabis business activities other than sales, as opposed to the existing law which applies the 1.5 percent rate to retailers earning over $1 million from non-retail business activities. Individuals or groups earning less than $1.5 million are subject to the 1 percent rate. See Table 1 for a summary of the proposed changes.

Table 1. Overview of Proposed Changes to Cannabis Tax

Proposed Change	Existing Law	Proposed Ordinance
Effective Date	January 1, 2021	January 1, 2022
Initial Exempt Amount	$500,000	$1,000,000
Retail Sales Only		
2.5% Tax Rate	≤ $1,000,000	≤ $1,500,000
5% Tax Rate	> $1,000,000	> $1,500,000

https://sfcontroller.org/sites/default/files/Documents/Auditing/Cannabis%20in%20San%20Francisco_A%20Review%20Following%20Adult-Use%20Legalization_FINAL%20REPORT.pdf

[4] San Francisco Office of Cannabis. Permitted cannabis retail locations. https://officeofcannabis.sfgov.org/retail/permitted-locations

Proposed Change	Existing Law	Proposed Ordinance
Non-Retail		
1% Tax Rate	≤ $1,000,000	≤ $1,500,000
1.5% Tax Rate	> $1,000,000	> $1,500,000

FISCAL IMPACT

Existing Law

According to the Controller's Office, the Cannabis Business Tax is expected to generate $4.25 million in FY 2020-21 and $8.5 million in FY 2021-22, for an estimated two-year total of $12.75 million in revenue for the City. Table 2 below shows the anticipated revenue earned due to this tax for FY 20-21 and FY 21-22.

Table 2. Total Estimated Revenue from Cannabis Tax

Year	Estimated Revenue from Cannabis Business Tax
FY 20-21 (July 1 2020 to June 30 2021)	$4,250,000
FY 21-22 (July 1 2021 to June 30 2022)	$8,500,000
Total	**$12,750,000**

The above revenue estimates are based on analysis conducted by the Controller's Office in 2018.[5] See Table 3 for the estimated impact of waiving the Cannabis Business Tax for one year and adjusting the tax rate thresholds as described in the proposed ordinance.

Impact of Proposed Ordinance

Table 3. Estimated Impact of Proposed Ordinance on Tax Collections[6]

Estimated Impact	Fiscal Year 20-21	Fiscal Year 21-22	Total
Estimated Revenue from Existing Law	$4,250,000	$8,500,000	$12,750,000
Estimated Revenue with Ordinance	0	5,640,000	5,640,000
Estimated Revenue Lost with Proposed Ordinance	($4,250,000)	($2,860,000)	**($7,110,000)**

The estimated loss in tax revenue due to the proposed ordinance is approximately $4.25 million for FY 2020-21 and $2.86 million for FY 2021-22, for an overall total of $7.1 million over two years.

[5] According to the Controller's Office, the model relies on San Francisco cannabis sales tax data between 2015 to 2017, as well as data from Seattle and King County for the same time period. The Controller's Office has indicated that they will provide an updated estimate in November 2020.
[6] Based on estimates provided by the Controller's Office.

RECOMMENDATION

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

Item 3 **File 20-1085** *Continued from 10/28/20*	**Department:** Controller's Office

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would appropriate $126.9 million in 2016 Public Health & Safety General Obligation Bonds to the Department of Public Health, and $260 million of 2019 Affordable Housing General Obligation Bonds and $102.6 million of PASS General Obligation Bonds to the Mayor's Office of Housing & Community Development.

Key Points

- On October 6, 2020, the Board of Supervisors approved Files 20-1091, 20-1092, 20-1093, and 20-1094, which were four resolutions authorizing actions and approving documents associated with the sale and issuance of General Obligation Bonds. In particular, the resolutions authorized (1) issuance of $600 million in 2019 Affordable Housing General Obligation Bonds; (2) sale of $260 million of 2019 Affordable Housing General Obligation Bonds; (3) sale of $102.6 million of Preservation and Seismic Safety ("PASS") General Obligation Bonds (4) sale of $126.9 million of 2016 Public Health & Safety General Obligation Bonds. The appropriation ordinance providing the spending authority for these bonds' proceeds was not considered at that time.

Fiscal Impact

- The proposed appropriation totals $489,505,000. The total projected total debt service over the term of the bonds would be $762,059,000 and the estimated average annual debt service is $26,670,000.

Policy Consideration

- Of the $252.6 million in Affordable Housing Bond proceeds for housing projects, the top three neighborhoods that would receive Affordable Housing Bond proceeds based on identified projects include the Outer Mission, Visitacion Valley, and Treasure Island, totaling $136.7 million in bond proceeds
- Of the $101.2 million in PASS Bond proceeds for housing projects, the top three neighborhoods that would receive PASS Bond proceeds based on identified projects include the Mission, the Tenderloin, and Bernal Heights, totaling $53.9 million in bond proceeds.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT

City Charter Section 9.105 states that amendments to the Annual Appropriations Ordinance, after the Controller certifies the availability of funds, are subject to Board of Supervisors approval by ordinance.

BACKGROUND

On October 6, 2020, the Board of Supervisors approved Files 20-1091, 20-1092, 20-1093, and 20-1094, which were four resolutions authorizing actions and approving documents associated with the sale and issuance of General Obligation Bonds. In particular, the resolutions authorized (1) issuance of $600 million in 2019 Affordable Housing General Obligation Bonds; (2) sale of $260 million of 2019 Affordable Housing General Obligation Bonds; (3) sale of $102.6 million of Preservation and Seismic Safety ("PASS") General Obligation Bonds; and (4) sale of $126.9 million of 2016 Public Health & Safety General Obligation Bonds. The appropriation ordinance providing the spending authority for these bonds' proceeds was not considered at that time.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would appropriate $126.9 million in 2016 Public Health & Safety General Obligation Bonds to the Department of Public Health, and $260 million of 2019 Affordable Housing General Obligation Bonds and $102.6 million of PASS General Obligation Bonds to the Mayor's Office of Housing & Community Development (MOHCD). The details of the proposed uses for the bond proceeds are shown below.

FISCAL IMPACT

Table 1 below summarizes the uses of PASS, Affordable Housing, and Public Health and Safety bond proceeds.

Table 1: Sources and Uses of Bond Proceeds

	Series 2020D Public Health & Safety	**Series 2020C Affordable Housing**	**Series 2020F PASS**
Sources			
Bond Proceeds	$126,925,000	$260,000,000	$102,580,000
Uses			
San Francisco General Hospital Building 5	$107,764,985		
Southeast Community Health Center	11,608,725		
Community Health Centers	3,713,202		
Neighborhood Fire Stations	2,540,000		
Public Housing		50,620,000	
Low Income Housing		143,700,000	
Preservation - Middle Income Housing		37,100,000	
Senior Housing		21,200,000	
Deferred Below Market Rate Program			5,567,541
Below Market Rate Program			34,012,613
Market Rate Program			61,647,860
Subtotal Projects	$125,626,912	$252,620,000	$101,228,014
City Services Auditor	$251,254	$505,240	$202,456
General Obligation Bond Oversight Committee	126,925	255,555	102,580
Costs of Issuance [a]	602,596	1,151,985	790,500
Underwriters Discount [b]	317,313	1,022,220	256,450
Reserve for Market Uncertainty [e]		4,445,000	
Subtotal Oversight & Financing	$1,298,088	$7,380,000	$1,351,986
Total	$126,925,000	$260,000,000	$102,580,000

Source: Proposed Appropriation Ordinance

[a] Costs of issuance include costs to complete the transaction such as legal, rating and municipal advisor fees.
[b] Underwriters discount is the difference in the price paid to the issuer and the prices at which the bonds are initially offered to investors.
[c] Reserve for market uncertainty accounts for changes in interest rates at time of sale of bonds.

The proposed appropriation totals $489,505,000. As noted in our October 6, 2020 report to the Budget & Finance Committee on Files 20-1091 – 20-1094, the total debt service on all bond issuances associated with the proposed appropriation would cost $762,059,000 over the term of the bonds. Estimated average annual debt service is $26,670,000.

POLICY CONSIDERATIONS

The October 28, 2020 Budget and Finance Committee continued the proposed ordinance to the Budget and Finance meeting of November 4, 2020 in order to receive a report from the Mayor's Office of Housing and Community Development on the geographic distribution of affordable housing projects. According to the Planning Department's 2018 Housing Needs and Trends

Report, 60 percent of the City's affordable units are located in five neighborhoods in the eastern part of the city, including the Tenderloin, South of Market, Western Addition, Bayview Hunters Point, and the Mission.

Table 2 below summarizes the neighborhood distribution of housing projects that have been identified by MOHCD to receive the proposed Affordable Housing and PASS bond proceeds.

Table 2: Housing Projects Neighborhood Summary

Neighborhood	Series 2020C Affordable Housing	Series 2020F PASS
Bayview Hunters Point		$2,024,000
Bernal Heights		10,428,000
Chinatown	3,000,000	8,508,000
Haight Ashbury		2,000,000
Hayes Valley	4,000,000	
Lone Mountain/USF		892,000
Mission		26,186,000
Outer Mission	53,600,000	
Outer Richmond		1,318,000
South of Market	25,000,000	4,572,000
Tenderloin		17,272,000
Treasure Island	38,000,000	
Twin Peaks	3,000,000	
Visitacion Valley	45,120,000	
Subtotal (14 Neighborhoods)	$171,720,000 (7 Neighborhoods)	$73,200,000 (9 Neighborhoods)
Geographic Equity [a]	30,000,000	
Other Scattered/Not Specified	49,400,000	28,028,000
Subtotal Neighborhood Not Specified	$79,400,000	$28,028,000
Legal and Other Incidentals	1,500,000	
Total Projects	**$252,620,000**	**$101,228,000**

Source: MOHCD October 6, 2020 Presentation to the Budget & Finance Committee

[a] $30 million dedicated for projects in neighborhoods with: (a) limited affordable housing production; or (b) limited affordable housing production and a high number of housing units removed from protected status

Of the $252.6 million in Affordable Housing Bond proceeds for housing projects, $171.7 million (68.0 percent) would fund projects in seven neighborhoods, $79.4 million (31.4 percent) would fund projects that have not yet been identified (including $30 million dedicated for projects in neighborhoods with limited affordable housing production), and $1.5 million (0.6 percent) would fund legal and other incidental project costs. The top three neighborhoods that would receive Affordable Housing Bond proceeds based on identified projects include the Outer Mission, Visitacion Valley, and Treasure Island, totaling $136.7 million in bond proceeds (54.1 percent of project spending).

Of the $101.2 million in PASS Bond proceeds for housing projects, $73.2 million (72.3 percent) would fund projects in nine neighborhoods and $28.0 million (27.7 percent) would fund projects that have not yet been identified. The top three neighborhoods that would receive PASS Bond proceeds based on identified projects include the Mission, the Tenderloin, and Bernal Heights, totaling $53.9 million in bond proceeds (53.2 percent of project spending).

Tables 3 and 4 below detail the specific Affordable Housing and PASS bond projects.

Table 3: Series 2020C Affordable Housing Projects

Project Name	Units	Amount	Neighborhood
HOPE SF - Sunnydale Ph 1B, Blk 7 & 9 Vertical & Infra Predev	0	$8,120,000	Visitacion Valley
HOPE SF - Sunnydale 1A-3 Infrastructure Gap	172	16,000,000	Visitacion Valley
SFHA Potrero & Sunnydale Accelerated Conversion HQS	125	5,000,000	Visitacion Valley
HOPE SF - Sunnydale Blk 3A Vertical Gap	0	14,500,000	Visitacion Valley
HOPE SF - Sunnydale Blk 3B Vertical Gap	0	1,500,000	Visitacion Valley
Public Housing Scattered Sites	70	5,000,000	*
Legal and other incidentals		500,000	
Subtotal Public Housing	367	$50,620,000	
Geographic Equity Family Acquisition**	75	15,000,000	*
921 Howard Gap	102	17,500,000	South of Market
Balboa Park Upper Yard Gap	130	15,600,000	Outer Mission
4840 Mission Gap	130	38,000,000	Outer Mission
Treasure Island C3.1 Mercy + CC Gap	135	38,000,000	Treasure Island
Perm Supportive for Single Adults	75	10,000,000	*
Perm Supportive for People with Chronic Mental Illness	4	5,000,000	*
78 Haight - Parcels (R, S &) U Gap	60	4,000,000	Hayes Valley
Legal and other incidentals		600,000	
Subtotal Low-Income Housing	711	143,700,000	
Preservation: Small Sites NOFA	94	29,400,000	*
Middle Income: 921 Howard Gap	101	7,500,000	South of Market
Legal and other incidentals		200,000	
Subtotal Preservation and Middle-Income Housing	195	37,100,000	
Laguna Honda Hospital Senior Housing Predev	100	3,000,000	Twin Peaks
Geographic Equity Senior Acquisition**	75	15,000,000	Not Specified
772 Pacific Predev	70	3,000,000	Chinatown
Legal and other incidentals		200,000	
Subtotal Senior Housing	245	21,200,000	
Total	**1,518**	**$252,620,000**	

Source: MOHCD October 6, 2020 Presentation to the Budget & Finance Committee

* Neighborhood not specified

** Dedicated for projects in neighborhoods with: (a) limited affordable housing production; or (b) limited affordable housing production and a high number of housing units removed from protected status

Table 4: Series 2020F PASS Projects

Project Name	Units	Loans	Neighborhood
344 Precita Ave	3	$988,000	Bernal Heights
3840 Folsom St	4	706,000	Bernal Heights
Pigeon Palace	6	1,739,000	Mission
308 Turk St	20	3,190,000	Tenderloin
SOMA - TBD	4	621,000	South of Market
239 Clayton St	8	2,000,000	Haight Ashbury
151 Duboce Ave	4	643,000	Mission
3800 Mission St	5	1,378,000	Bernal Heights
Mission - TBD	25	2,783,000	Mission
Merry-Go-Round House	14	2,154,000	Mission
534 Natoma St	5	1,296,000	South of Market
1049 Market St	15	688,000	South of Market
3254-3264 23rd St	6	2,386,000	Mission
Tenderloin1 - TBD	33	10,106,000	Tenderloin
1684 Grove St	3	892,000	Lone Mountain/USF
1353 Folsom St	3	918,000	South of Market
Bayview - TBD	10	2,024,000	Bayview Hunters Point
2260 Mission St	6	1,725,000	Mission
1500 Cortland Ave	4	792,000	Bernal Heights
568 Natoma St	5	1,049,000	South of Market
380 San Jose Ave	4	850,000	Mission
644 Guerrero St	4	709,000	Mission
3225 24th St	6	1,542,000	Mission
Through Line Apartments	88	8,508,000	Chinatown
3198 24th St	8	4,255,000	Mission
Tenderloin2 - TBD	62	3,976,000	Tenderloin
Bernal - TBD	26	5,651,000	Bernal Heights
3329 20th St	10	1,192,000	Mission
269 Richland Ave	6	913,000	Bernal Heights
4042 Fulton St	5	1,318,000	Outer Richmond
63 Lapidge St	6	1,615,000	Mission
Scattered - TBD	70	28,028,000	*
1015 Shotwell St	10	3,395,000	Mission
3353 26th St	10	1,198,000	Mission
Total	**498**	**101,228,000**	

Source: MOHCD October 6, 2020 Presentation to the Budget & Finance Committee

* Neighborhood not specified

RECOMMENDATION

Approve the proposed ordinance.

Item 5 **File 20-1192**	**Department:** **Department of Public Health (DPH)**

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the Third Amendment to the City's agreement with Color Genomics, increasing the amount by $74,482,043, from $9,900,000 to $84,382,042. According to the proposed resolution, the end date is the earlier of (i) the award of a new agreement through a competitive Request for Proposal, or (ii) April 5, 2021.

Key Points

- The Department of Public Health (DPH) entered into the original agreement with Color Genomics in April 2020 to provide COVID-19 testing. Color Genomics opened two testing sites in the first month of the agreement in April 2020 at the Embarcadero and South of Market. Between April 2020 and October 2020, Color added three mobile testing sites and laboratory testing in support of the universal testing program at Laguna Honda Hospital.
- DPH entered into the original agreement with Color Genomics on an emergency basis under the authority of Administrative Code Section 21.15, which allows departments to enter into agreements to address a public health emergency "in the most expeditious manner." DPH has subsequently entered into agreement amendments for an amount of $9,900,000 through July 2020.
- The proposed Third Amendment, increasing the agreement amount to $84,382,042 and extending the agreement through March 2021, would provide for approximately 22,725 COVID tests per week at cost of $75 per test, which according to DPH, is less than the federal benchmark of $100 per test. The total agreement amount covers expenses invoiced by Color Genomics since July 2020 but not yet paid.

Fiscal Impact

- Of the $74.5 million increase in the agreement, DPH expects the Federal Emergency Management Agency to pay for approximately $49.1 million, health insurance to reimburse $6.6 million, and the remaining $15.8 million of contract costs to be General Fund.

Policy Consideration

- The Board of Supervisors is being asked to approve an $84.4 million agreement, which was awarded as a sole source contract in response to an emergency. According to DPH, the Controller's Office is drafting a Request for Proposals (RFP) to solicit a new COVID testing vendor through a competitive process.

Recommendations

- The Board of Supervisors should request the Controller for an update on the RFP process to ensure that a new vendor selected through a competitive process will be in place by the end date of the proposed Third Amendment in April 2021.
- Amend the proposed resolution to provide for an end date of April 5, 2021, rather than March 31, 2021, as stated in the resolution.
- 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

On April 6, 2020, the Department of Public Health entered into an agreement with Color Genomics, Inc. to provide COVID-19 testing. Currently, approximately 60 percent of City-funded COVID-19 tests are completed by Color Genomics. The remaining 40 percent of City-funded testing is conducted through the ZSFG Clinical Laboratory and the City's Public Health Lab.

The Department has entered into two prior agreement amendments in April and May 2020. Table 1 below summarizes the terms of the original agreement with Color Genomics and subsequent amendments.

Table 1: History of Agreement with Color Genomics

Agreement	Effective Date	End Date	Not to Exceed	Scope
Original Agreement	April 6, 2020	Duration of the emergency plus 60 days	$7,999,702	1 testing site for City essential workers
Amendment 1	April 20, 2020		$8,254,661	2 testing sites, available to essential workers who met DPH eligibility criteria
Amendment 2	May 4, 2020		$9,990,000	Added a mobile unit

Source: Agreement with Color Genomics, Inc. and Amendments 1 & 2

Vendor Selection

According to Michelle Ruggels, Director of the Department of Public Health (DPH) Business Office, the original agreement with Color Genomics was entered into on an emergency basis under the authority of Administrative Code Section 21.15, which allows Departments to enter into agreements to address a public health emergency "in the most expeditious manner." DPH selected the vendor based on an internal review of the its qualifications and capacity for testing services. Administrative Code Section 21.15 requires Departments attempt to obtain at least three bids and to seek Board of Supervisors' approval for emergency contracts above $100,000. According to Ms. Ruggels, DPH did not obtain three bids because of the immediate need for COVID testing services. Subsequent to entering into the original agreement with Color Genomics, on May 11, 2020 the Mayor issued the Thirteenth Supplement to her Proclamation of a Local Emergency, which waived Administrative Code requirements for solicitation and procurement for COVID-19 related agreements.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Third Amendment to the City's agreement with Color Genomics, which would increase the agreement amount by $74,482,043, from $9,900,000 to not-to-exceed $84,382,042. According to the proposed resolution, the end date is the earlier of (i) the award of a new agreement through a competitive Request for Proposal, or (ii) April 5, 2021.

Services Provided

The existing agreement with Color Genomics includes COVID-19 testing, including obtaining and testing samples, site planning and rentals, and providing a scheduling platform.

Table 2: Third Amendment Provisions

Term	April 6, 2020 to March 31, 2021
Amount	$84,382,042
Services	Collection kits (swab kits), collection paperwork, transportation of kits to Color's lab, testing results and reporting to patients and other reporting requirements established by the Health Officer, support for contact tracing, site planning, language translation (telephone), scheduling and results platform

Source: Proposed Third Amendment to Agreement with Color Genomics

Color Genomics opened two testing sites in the first month of the agreement in April 2020 at the Embarcadero and South of Market. Between April 2020 and October 2020, the agreement provided for two stationary testing sites at the Embarcadero, and South of Market, and three mobile testing sites, and laboratory testing in support of the universal testing program at Laguna Honda Hospital. DPH intends to close the SoMa testing site at 6th Street and Mission Street on November 10, 2020 and may open a new testing site near the Alemany Farmer's Market, which would start on November 17, 2020.

The total number of tests under the proposed third amendment between August 2020 and March 2021 is 772,650, shown in Table 3 below, with an average of approximately 22,725 tests per week.

Table 3: Testing Capacity for Proposed Third Amendment, Aug. 1, 2020 to March 31, 2021

Site	Tests
Embarcadero	452,200
SoMa/Alemany Farmer's Market	90,950
Mobile Testing 1	59,500
Mobile Testing 1	59,500
Mobile Testing 3	59,500
Laguna Honda (laboratory services)	51,000
Subtotal	**681,700**
Total	**772,650**

Source: Draft Third Amendment

According to Drew Murrell, Deputy Finance Officer for the DPH, the City's COVID Command Center, the interdepartmental task force directing the City's COVID response, determines the location of the mobile testing sites and may also change the location of testing sites based on identification of the neighborhoods in the City where testing can make the most difference. DPH reports it has determined a neighborhood-based strategy that targets geographic areas with the highest burden of disease, will improve the ability to decrease active infections within the city. Dr. Naveena Bobba, Deputy Director of DPH, advises that a new testing public webpage is under development that will provide regular updates related to positivity rates and test rates by neighborhood (though not by testing source).

According to Mr. Murrell, the turnaround time between when a patient gets tested by Color Genomics and receives their results averages less than 48 hours.

FISCAL IMPACT

The total budget for the contract is $84,382,043.

Table 4: Agreement Budget

	April 2020 – July 2020	Proposed 3rd Amendment Aug 2020 – Mar 2021	Total
COVID-19 Testing	$5,800,000	$57,948,750	$63,748,750
Static and Mobile Site Clinical Management (Subcontractor)	297,600	6,081,410	6,379,010
Static and Mobile Site Logistics Management (Subcontractor)	280,448	2,118,200	2,398,648
Language Capacity		13,464	13,464
Registration and Test Result Platform	90,000	340,000	430,000
Start Up and IT Costs (one time)	324,795		324,795
Mobile Platform Testing (one time)	1,667,388		1,667,388
Taxes	379,950		379,950
Contingency (12% of total)	1,059,819	7,980,219	9,040,038
Total	**$9,900,000**	**$74,482,043**	**$84,382,043**

Source: Original and Amended Agreements

The COVID-19 testing amount of $57,948,750 under the proposed Third Amendment is for 772,650 tests at $75 per test. According to DPH, the $75 cost per test included in the proposed agreement compares favorably with the national benchmark of $100 cost per test reported by U.S. Centers for Medicare & Medicaid Services.

According to DPH, Color Genomics has invoiced approximately $22 million through September, or approximately $12.1 million more than the agreement amount of $9.9 million. The proposed Third Amendment would cover expenses incurred since July 2020 through March 2021. The proposed Third Amendment contains a twelve percent contingency for an optional third site, which, as noted above, is tentatively planned to be situated near Alemany Farmer's Market.

Sources of Funding

Of the $74.5 million increase in the Color Genomics contract, DPH expects the Federal Emergency Management Agency to pay for approximately $49.1 million, health insurance to reimburse $6.6 million, and the remaining $15.8 million of contract costs to be sourced from the General Fund. Health insurance reimbursement depends on the coverage of testing patients.

POLICY CONSIDERATION

The Board of Supervisors is being asked to approve an $84.4 million agreement, which was awarded as a sole source contract in response to an emergency. According to DPH, the Controller's Office is drafting a Request for Proposals (RFP) to solicit a new COVID testing vendor through a competitive process. The Board of Supervisors should request the Controller for an update on the RFP process to ensure that a new vendor selected through a competitive process will be in place by the end date of the proposed third amendment in April 2021.

RECOMMENDATIONS

- Amend the proposed resolution to provide for an end date of April 5, 2021, rather than March 31, 2021, as stated in the resolution.
- The Board of Supervisors should request the Controller for an update on the RFP process to ensure that a new vendor selected through a competitive process will be in place by the end date of the proposed third amendment in April 2021.
- Approve the proposed resolution, as amended.

Item 6 File 20-1193	Department: Homelessness and Supportive Housing (HSH)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize the Department of Homelessness and Supportive Housing (HSH) to execute a Standard Agreement and Homekey Documents for up to $30,000,000 of Homekey grant funds from the California Department of Housing for the acquisition of a 130-room hotel at 440 Geary Street for use as permanent supportive housing, approve and authorize HSH to commit approximately $27,473,340 in City funds to satisfy local match and operational subsidy requirements, and affirm the Planning Department's determination that the project is exempt from review under the California Environmental Quality Act (CEQA).

Key Points

- In July 2016, HCD announced the availability of approximately $600 million of Homekey Program grant funding through a Notice of Funding Availability (NOFA). The focus of the Homekey Program is to sustain and expand housing for people experiencing homelessness and impacted by COVID-19.
- HSH, along with co-applicant ECS, was awarded a $29,120,000 Homekey grant to purchase and renovate the 130-room Hotel Diva for use as permanent supportive housing, including two years of operating costs. The hotel has been in use as a Shelter-in-Place temporary housing site since April 2020 for up to 130 homeless individuals vulnerable to COVID-19, with ECS operating the facility.

Fiscal Impact

- The total cost for acquisition and renovation of the facility is approximately $53,473,300, which includes $26,000,000 funded by the Homekey Program grant funds and $27,473,340 provided through a bridge loan. A permanent source of City funds to repay the bridge loan is subject to future Board of Supervisors approval.
- The proposed Standard Agreement requires the City to provide operating subsidies for at least five years, which will cost approximately $13.3 million. The Homekey grant will cover $3,120,000 of operating costs, leaving a City cost of approximately $10.2 million, which HSH plans to fund with the City's General Fund or other local funding. HSH intends to continue funding permanent supportive housing at the site beyond five years.

Recommendation

- 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 Homekey Program

In July 2016, the California Department of Housing and Community Development (HCD) announced the availability of approximately $600 million of Homekey Program grant funding through a Notice of Funding Availability (NOFA). The focus of the Homekey Program is to sustain and expand housing for people experiencing homelessness and impacted by COVID-19. Homekey also encourages eligible applicants to utilize funding to ameliorate the disproportionate racial impacts of homelessness and COVID-19. In August 2020, the Board of Supervisors approved the Department of Homelessness and Supportive Housing's (HSH) application for Homekey grant funding (File 20-0817).[1] HCD notified the City of an award of $29,120,000 in Homekey funds on October 23, 2020, three days after the proposed resolution was submitted to the Board of Supervisors. The grant will provide funding to enable the applicant, Episcopal Community Services (ECS), to purchase and renovate the 130-room Hotel Diva at 440 Geary Street for use as permanent supportive housing for adults experiencing chronic homelessness.

Project and Vendor Selection

ECS, a supportive housing service provider, was selected by HSH to serve as the co-applicant with the City for State funding. According to Ms. Gigi Whitley, HSH's Deputy Director for Administration and Finance, a nonprofit co-applicant was included in the City's application to make it more competitive and meet the Homekey program's aggressive timeline for spending the funds. Prior to the release of the Homekey Program NOFA, the City issued a Request for Qualifications (RFQ) in June 2020 to solicit bids to provide services at Shelter-in-Place sites. The RFQ established that in the event the City has the opportunity to convert these sites into more permanent settings or secure additional permanent sites, applicants may have the opportunity to qualify to provide ongoing services such as property management or support services. ECS was selected as one of the providers under this initial RFQ to run a Shelter-in-Place site. Upon release of the Homekey Program NOFA, HSH issued a Request for Information (RFI) to identify properties that are available for acquisition and could be used as a permanent supportive housing site. ECS, in partnership with the Hotel Diva, was determined to be the only qualified RFI respondent with running a Shelter-in-Place site and experience with affordable housing acquisition and development.

[1] File 20-0817 authorized HSH to apply for Homekey grant funds not to exceed $45,000,000, which was approved and used to fund ECS's acquisition of The Granada (File 20-1063). According to Ms. Dylan Schneider, HSH Acting Director of Strategy and External Affairs, HSH submitted an additional application with HCD for Homekey grant funds to acquire the Hotel Diva, which did not require further Board of Supervisors approval.

440 Geary Street Property

The property is located at 440 Geary Street and includes a 130-room tourist hotel and approximately 4,949 square feet of ground floor retail spaces, which are occupied by a café and restaurant uses. The hotel has been used by the City since April 2020 as a Shelter-in-Place temporary housing site for up to 130 individuals vulnerable to COVID-19, with ECS operating the facility. The City selected the location as permanent supportive housing site because it is centrally located, close to public services, transportation, and other amenities beneficial to very low-income residents who may rely on public transportation. It is also located outside of neighborhoods that have a higher concentration of permanent supportive housing.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would (1) authorize HSH to execute a Standard Agreement with HCD for up to $30,000,000 of Homekey grant funds for the acquisition of a 130-room hotel at 440 Geary Street for permanent supportive housing, and (2) approve and authorize HSH to commit approximately $27,473,340 in City funds to satisfy local match and operational subsidy requirements. The proposed resolution would also affirm the Planning Department's determination that the project is exempt from environmental review under the California Environmental Quality Act (CEQA).

The award of funds requires the Board of Supervisors to approve the Standard Agreement, which commits the City to identify funds for the remaining portion of the acquisition cost and to provide at least five years of operating subsidies for the project.

According to Mr. Josh Keene, Special Projects Manager at the Real Estate Division, an appraisal of the property is currently being conducted, but not yet complete. Mr. Keene expects the appraisal will be finalized before ECS acquires the property. According to a discussion with Real Estate Division staff, the Real Estate Division finds this proposed transaction to be below the expected net acquisition cost the City would expect to incur for units of comparable nature.

Standard Agreement

The proposed Standard Agreement has a five-year term and requires funds to be spent on interim or permanent supportive housing consistent with the application for Homekey grant funds.

Expedited Timeline

Because the State's Homekey Program is supported by the Federal Coronavirus Relief Act (for acquisition costs) and the State General Fund (for operating subsidy costs), the Standard Agreement requires that Coronavirus Relief Act funds must be spent by December 30, 2020, otherwise the U.S. Department of Treasury would recoup the funds that have not been used. The deadline for expending State General Funds is June 30, 2022.

According to the proposed resolution, ECS will close the acquisition of the property by December 2, 2020. ECS has 90 days after closing to reach 50 percent occupancy of the building. According to Ms. Whitley, most of the renovations needed for the building are related to increasing office space for support services staff. The City and ECS expect renovations to be completed within the first few months of operations, allowing ECS to meet the occupancy requirements.

Ensuring Affordability

The proposed Standard Agreement requires ongoing affordability of the project for at least 55 years. A permanent gap loan from the Mayor's Office of Housing and Community Development (MOHCD) to fund acquisition costs will require a Declaration of Restrictions that limits tenant incomes, rents, and rent increases as well as a Deed of Trust to secure the property in favor of the City. The proposed resolution states that the City and ECS have agreed to a purchase option agreement, providing the City with an option and right of first refusal to acquire the property upon any proposed transfer.

FISCAL IMPACT

Homekey Grant Program

The total Homekey grant award is $29,120,000, which includes $26,000,000 allocated to acquire the property at 440 Geary Street, and $3,120,000 for two years of operating subsidy. According to Ms. Whitley, Homekey grant funds are limited to $200,000 per unit for acquisition and $1,000 per unit per month for two years for operating subsidy.

Acquisition and Renovation

The proposed acquisition cost of the hotel is $48,000,000, funded by Homekey Program and City funds, as shown in Table 1 below. The bridge loan will cover the City's share of the acquisition and rehabilitation cost in order to close in early December 2020. The total budget to acquire and renovate the property is approximately $53,473,340. However, the City is conducting a seismic evaluation of the building, so there may be additional capital costs for renovation related to structural improvements and physical needs, which would be at the City's expense. In addition, the total cost of the acquisition may increase if ECS purchases

Table 1: Acquisition and Renovation Budget

Sources	Amount
City Funds	$27,473,340
HCD Homekey Grant	26,000,000
Total Sources	**$53,473,340**
Uses	
Acquisition	$48,000,000
Rehabilitation	520,000
Architecture/Engineering	26,000
Contingency	169,740
Financing Expenses	1,098,000
Legal Fees	85,000
Other Soft Costs	784,600
Capitalized Reserves	1,790,000
Developer Fee	1,000,000
Total Uses	**$53,473,340**

Source: HSH. Costs do not include possible seismic work.

According to Ms. Whitley, the San Francisco Housing Accelerator Fund will provide a bridge loan for acquisition of hotel. HSH is working with MOHCD to allocate City funds as a permanent financing source to repay the bridge loan and will submit the permanent loan to the Board of Supervisors for approval in 2021.

According to Mr. Joshua Keene, Real Estate Division, the $48,000,000 purchase price does not include all of the commercial components on the ground floor. Any commercial property not included would likely be removed from the sale of the property through an air parcel subdivision. ECS's acquisition, with the City's concurrence, may include all of the commercial property, understanding such inclusion might result in a proportionately increased purchase price so ECS can eventually use all the ground floor spaces for future supportive functions upon expirations of any leases. Revenues from any commercial spaces assumed by ECS would be used to offset the City's operating subsidy to ECS.

Operating Subsidy

According to Ms. Whitley, the estimated operating and services costs of the project is approximately $2.5 million annually, with three percent annual escalation. The Homekey grant includes $3.12 million which would cover a majority of the operating subsidy over the first two years of the project.

In addition, the Standard Agreement requires the City to provide operating subsidies for at least five years. According to Ms. Whitley, the estimated five-year operating and services subsidy is approximately $13.3 million. After accounting for the Homekey grant, the City's share is approximately $10.2 million, which HSH intends to fund with the City's General Fund or other local funds. According to Ms. Whitley, in order to maintain permanent supportive housing at the site, the City will need to subsidize housing operations and services over the long-term. HSH intends to use 2018 Proposition C funds for future operating costs.

RECOMMENDATION

Approve the proposed resolution.

Item 8 **File 20-1082**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a twelve-year concession lease between the Airport and Minute Suites Travelers Retreat SFO, LLC, in Harvey Milk Terminal 1, for a Minimum Annual Guaranteed (MAG) rent starting at $150,000.

Key Points

- After a competitive solicitation, in March 2020 the Airport Commission awarded Minutes Suites Travelers Retreat SFO, LLC a concession lease to operate a traveler retreat facility, which includes respite and working spaces, sale of over the counter medications and toiletries, showers, and spa services.

Fiscal Impact

- Under the proposed lease terms, Minute Suites Travelers Retreat SFO, LLC is required to pay the Airport the greater of the Minimum Annual Guaranteed (MAG) rent of $150,000 (adjusted annually according to the CPI) or percentage rent equal to the sum of 12 percent of gross revenues for service and 14 percent of gross revenues for retail merchandise.
- Section 4.16 of the proposed lease provides for the MAG rent to be suspended if Airport total number of passengers boarding airline carriers (i.e. enplanements) in the Relevant Boarding Area, Boarding Area B in this case, drops below 80 percent of the levels in the corresponding month of 2017, for three consecutive months. . If the MAG is suspended, Minute Suites Travelers Retreat SFO, LLC would still pay percentage rent on gross revenues.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118 (c) states that any lease with anticipated revenue to the City of $1 million or more requires Board of Supervisors' approval.

BACKGROUND

In September 2019, the San Francisco International Airport (Airport) issued a Request for Proposals (RFP) for a traveler's retreat in Harvey Milk Terminal 1. The RFP called for spa services, sleeping rooms, holistic health care services, a gym or any combination thereof. The lease would have a base term of twelve years and a period of up to 120 days for construction of tenant improvements.

In January 2020, the Airport received two proposals, one from each of the two main airport spa operators in the U.S., according to Ms. Veronica Zamani, Airport Principal Property Manager; Minute Suites Travelers Retreat SFO, LLC, an entity which includes 11.4% ownership by an Airport Concession Disadvantaged Business Enterprise (ACDBE), and XpresSpa S.F. International LLC.

Minute Suites Travelers Retreat SFO, LLC and XpresSpa S.F. International LLC were determined to be responsive and responsible proposers. An evaluation panel[1] reviewed and scored the proposals, determining that the highest scoring proposal met the RFP's minimum qualifications and requirements. Minute Suites Travelers Retreat SFO, LLC scored 85.05 and XpresSpa S.F. International LLC scored an 82, out of a total of 100 points. In March 2020, the Airport Commission approved the Terminal 1 traveler's retreat lease with the top scorer, Minute Suites Travelers Retreat SFO, LLC.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a twelve-year lease between the Airport and Minute Suites Travelers Retreat SFO, LLC, in Harvey Milk Terminal 1, for a Minimum Annual Guaranteed (MAG) rent of $150,000 for the first year of the lease. Table 1 below summarizes the lease provisions.

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

Table 1: Summary of Lease Provisions

Term	12 years
Options to Extend	None
Square Footage	3,054
Permitted Uses	Spa services and respite spaces
Rent	Greater of MAG or Percentage Rent
Initial MAG Rent	$150,000
MAG Adjustment	Adjustment to occur every January 1st according to Consumer Price Index (CPI)
Percentage Rent of Gross Revenues	Sum of 12 percent of gross revenues for service and 14 percent of gross revenues for retail merchandise.
Promotional Fee	$1 per square foot per year, which equals $3,054 annually
Interim Rent During Construction	16 percent of gross revenues[2]
Deposit Amount	One-half of the initial MAG. The deposit amount can be adjusted and increased during the lease term as the MAG escalates.
Minimum Investment Amount to Improve Premises	$700 per square foot, totaling $2,137,800, paid by the tenant, and subject to Airport approval.

Source: Proposed Lease with Minute Suites Travelers Retreat SFO, LLC

According to Ms. Zamani, the commencement date for the proposed lease is unknown at this time.

The RFP called for a minimum MAG of $135,000 however the awardee proposed a MAG of $150,000. Ms. Zamani reports that the Airport decided to structure the rent without tiered percentages for increasing levels of gross revenues that is typical for Airport concession leases because the traveler’s retreat would sell services, which have a lower net income than other retail business.

[2] Only applicable if the tenant operates a temporary business outside of the barricade of the unit during construction. Otherwise, the tenant does not pay rent during construction.

FISCAL IMPACT

Under the proposed lease terms, Minute Suites Travelers Retreat SFO, LLC is required to pay the Airport the greater of the Minimum Annual Guaranteed (MAG) rent of $150,000 (adjusted annually according to the CPI) or percentage rent equal to the sum of 12 percent of gross revenues for service and 14 percent of gross revenues for retail merchandise.

The Airport would receive at least $1,800,000 in MAG rent over the proposed twelve-year lease term, before adjusting for inflation.

MAG Suspension

Section 4.16 of the proposed lease provides for the MAG rent to be suspended if Airport total number of passengers boarding airline carriers (i.e. enplanements) in the Relevant Boarding Area, Boarding Area B in this case, drops below 80 percent of the levels in the corresponding month of 2017, for three consecutive months. The MAG is then reinstated if enplanements increase back to at least 80 percent of 2017 levels for two consecutive months. If the MAG is suspended, Minute Suites Travelers Retreat SFO, LLC would still pay percentage rent on gross revenues. As noted above, the Airport and Minute Suites have not yet finalized a start date for the lease, however, as of now, MAG rent is suspended for most concessionaires due to the COVID-related decrease in air travel.

RECOMMENDATION

Approve the proposed resolution.