CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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December 11, 2020

TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: December 16, 2020 Budget and Finance Committee Meeting

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Item 1 **File 20-1361**	**Department:** Human Services Agency

EXECUTIVE SUMMARY

Legislative Objectives

- File 20-1361 is hearing to consider releasing $42,000,000 from Budget & Finance Committee Reserve for the Office of Early Care and Education (OECE) FY 2020-21 budget.

Key Points

- Proposition C (June 2018), the Commercial Rent Tax for Childcare and Early Education, imposed taxes on commercial rents to fund childcare and early education programs. The validity of the tax has been litigated, however the First District Court of Appeals ruled in favor of the City, though that decision could be appealed to the California Supreme Court. Businesses have been required to pay the tax pending the outcome of litigation.
- Proposition F (November 2020) created a new general tax, equal to the one imposed by Proposition C (June 2018), which would go into effect if Proposition C (June 2018) were to be overturned by the California Supreme Court. Revenues from the new general tax would be used to pay back businesses that had paid the Commercial Rent Tax for Childcare and Early Education and provide a revenue stream going forward.

Fiscal Impact

- OECE's spending plan for the requested $42 million includes Economy Recovery Grants/Loans ($25 million), Short-Term Childcare Subsidies ($10 million), Early Care & Education Workforce Stipends ($1.3 million), Family Resource Center support ($3.0 million), New OECE staff ($0.5 million), offset to reduce General Fund support ($0.9 million), and a contingency amount ($1.3 million) to support the programs above.
- Proposition C (June 2018) funds on Budget & Finance Committee Reserve total $273 million in FY 2020-21. If the proposed release of reserves is approved, $241 million would remain on Budget & Finance Committee Reserve in FY 2020-21 and available for future appropriation for authorized uses.
- Going forward, the Controller projects that Proposition C (June 2018) collections will be $196.8 million in FY 2020-21 and $188.4 million in FY 2021-22 and FY 2022-23.

Recommendation

- Approve the release of reserve request.

MANDATE STATEMENT

City Administrative Code Section 3.3(j) states that the Budget and Finance Committee of the Board of Supervisors has jurisdiction over the City's budget and may reserve proposed expenditures to be released at a later date subject to Budget and Finance Committee approval. The practice of the Board of Supervisors is for the Budget and Finance Committee to approve release of funds placed on reserve by the Committee, without further Board of Supervisors approval.

BACKGROUND

Proposition C (June 2018)

The California Constitution requires two-third voter approval for taxes imposed by a local jurisdiction for special purposes. The California Supreme Court in 2017 (California Cannabis Coalition v. City of Upland) ruled that the Constitution provision did not apply to citizen initiatives for the holding of special elections but did not specifically address voter approval requirements.

Proposition C, the Commercial Rent Tax for Childcare and Early Education, was a citizen initiative imposing taxes on commercial rents for the purpose of funding childcare and early education programs. The proposition was approved by 50.87 percent of the votes in the June 2018 election.

In June 2019, the San Francisco Superior Court ruled that Proposition C (June 2018) was correctly certified by City officials with 50 percent rather than two-third voter approval.[1] This decision was upheld by the California First District Court of Appeals, which could be appealed to the California Supreme Court.

Businesses have been required to pay the tax pending the outcome of litigation, but tax revenues have been placed on Controller's Reserve. The Budget & Finance Committee placed its own reserve on these funds as well, pending outcome of the litigation and a spending plan from the Office of Early Care and Education regarding the use of the reserved funds.

Proposition F (November 2020)

San Francisco voters approved Proposition F, revising the gross receipts tax structure, in November 2020 with 67.48 percent of the vote. Proposition F also created a new general tax, equal to the Commercial Rent Tax for Childcare and Early Education approved by Proposition C in June 2018, which would go into effect if the original Proposition C were to be overturned on appeal to the California Supreme Court. Revenues from the new general tax would be used to

[1] The 2019 San Francisco Superior Court ruling also applied to the November 2018 Proposition C, which imposed a gross receipts tax for homeless services. Proposition C was approved with 61.34 percent of the vote. The California First District Court of Appeals upheld the Superior Court ruling in June 2020, and the California Supreme Court subsequently declined to hear the appeal on the November 2018 Proposition C.

pay back businesses that had paid the Commercial Rent Tax for Childcare and Early Education and provide a revenue stream going forward.

Judgment Obligation Bonds

File 20-1333 is a resolution pending before the Board the Supervisors that would authorize the issuance of up to $955,000,000 in Judgment Obligation Bonds that would pay the costs of a potential adverse judgment associated with litigation the Proposition C (June 2018), such as an adverse ruling from the California Supreme Court. The bond proceeds could be used to reimburse businesses who have paid the tax imposed by Proposition C (June 2018) as well as bond issuance and reserve costs.

Office of Early Care and Education Spending Plan

In December 2020, the Board of Supervisors approved the Early Care and Education for All Initiative's Five-Year Spending Plan, as required by Administrative Code Section 20.17. That plan recommended three priorities if Proposition C (June 2018) funding became available: (1) increasing workforce compensation (2) expanding access to services for low- and moderate-income families and (3) expand services to support the well-being of children under six years old.

DETAILS OF PROPOSED LEGISLATION

File 20-1361 is hearing to consider releasing $42,000,000 from Budget & Finance Committee Reserve for the Office of Early Care and Education (OECE) FY 2020-21 budget. The programs to be funded are summarized below.

Economy Recovery Grants/Loans ($25 million): to be allocated for the OECE Economic Recovery Program, which would fund $5,000 - $50,000 grants (based on facility size) for up to 503 child care sites serving 10,060 children. According to OECE, funding will be provided citywide but prioritized to the Mission, Bayview, Visitacion Valley, the Excelsior, and Oceanview-Merced-Ingleside neighborhoods.

Related legislation, File 20-1327, is an ordinance passed on first reading by the Board of Supervisors on December 8, 2020 that would amend Section 20.17 of the Administrative Code to require OECE establish a grant and loan program to provide child care facilities, day care centers, and licensed child care providers with grants or zero-interest loans to pay for services and operational costs related to COVID-19.

Short-Term Subsidies ($10 million): to be allocated to subsidize childcare for 700 children for eight months (November 2020—June 2021) at existing and new sites, which includes administration costs for the subsidies.

Early Care & Education Workforce ($1.3 million): to be allocated to expand stipends, in the amount of $6,000 annually, for an additional 220 teachers at child care centers and family child care homes to reach over 2,500 educators.

Family Resource Center ($3.0 million): to be allocated to Family Resource Centers to support operations. As of this writing, the number and locations of the Family Resources to be funded have yet to be determined.

New Staff ($0.5 million): to be allocated to fill existing vacancies and hire temporary staff pending the authorization of new positions, which may include four 1823 Senior Administrative Analysts, one 1824 Principal Administrative Analyst, and one 0923 Manager II. According to OECE, the office currently has three vacancies, one in each of these classifications: 1842, 1822, and 2917. OECE staff are working with HSA Human Resources to finalize appropriate classifications and determine next steps.

Reduce General Fund Support ($0.9 million): to be allocated to back-fill a $900,000 General Fund add-back authorized by the Board of Supervisors. Part of OECE's budget rebalancing plan, the General Fund monies will be deleted from the OECE budget to reduce General Fund support of that budget.

Contingency ($1.3 million): OECE requests release of $1.3 million, or approximately 3.1 percent of the total $42 million release of reserve request to allow for flexibility as stakeholder needs are further identified through community outreach. According to OECE, possible spending could include additional funding for Family Resource Centers, additional subsidy costs, provide grants for the purchase of personal protective equipment, and/or additional Economic Recovery Loans for early care and education sites.

FISCAL IMPACT

Table 1 below shows the budgets for the existing programs at OECE and the proposed augmentation amounts. All spending is planned to occur in FY 2020-21.

Table 1: Proposed Allocations

Program	FY 2020-21 Spending Plan	Requested Increase
Economic Recovery Grant/Loan	New Program	$25,000,000
Short-Term Subsidies (via Voucher Program)	$30,674,091	10,000,000
ECE Workforce Compensation	15,000,000	1,300,000
Support for Family Resource Centers	450,000	3,000,000
New Permanent Staff	n/a	500,000
Reduce General Fund Support	n/a	900,000
Contingency	n/a	1,300,000
Total	**$46,124,091**	**$42,000,000**

Source: OECE

As shown above, the release of reserve request totals $42 million. According to the FY 2020-21 and FY 2021-22 Annual Appropriation Ordinance, Proposition C (June 2018) funds on Budget & Finance Committee Reserve total $273 million in FY 2020-21 and $160.1 million in FY 2021-22. If the proposed release of reserves is approved, $241 million would remain on Budget & Finance

Committee Reserve in FY 2020-21 and available for future appropriation for authorized uses. The Controller projects that Proposition C (June 2018) collections will be $196.8 million in FY 2020-21 and $188.4 million in FY 2021-22 and FY 2022-23.

RECOMMENDATION

Approve the release of reserve request.

Item 3 **File 20-0933**	**Department:** Department of Public Health

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves the second amendment to the agreement between the Department of Public Health (DPH) and Cross Country Staffing, Inc. for temporary nursing staff. The second amendment enacts the remaining contract options, extending the contract through June 30, 2024, and increases the not-to-exceed amount by $31,360,000 from $9,840,000 to $41,200,000.

Key Points

- Cross Country was awarded the contract following a competitive Request for Proposals (RFP) process in Spring 2019 to meet the need for nursing registry personnel. Cross Country provides temporary Traveling Nursing Personnel to the San Francisco Health Network, San Francisco General Hospital & Trauma Center, Laguna Honda Hospital, and other facilities within the network as needed, which is typically to help cover vacancies and leave of absences in clinical areas.
- Both San Francisco General Hospital and Laguna Honda have utilized surge staffing related to the COVID-19 pandemic, as civil service nurses have been reassigned to emergency work and preventing the spread of COVID has resulted in higher levels of nursing care and staffing.

Fiscal Impact

- The contract amount of $41,200,000 includes the initial amount of $9,840,000, $28,000,000 for the 3.5-year extension through June 2024 (average annual spending of $8,000,000), and a 12 percent contingency of $3,360,000.
- Actual contract expenditures through December 2020 were $11,150,000, or $1,310,000 more than the contract amount of $9,840,000. According to DPH, this excess spending is driven by higher spending at Laguna Honda Hospital primarily due to increased need resulting from COVID-19 response, both directly through creating new staffing ratios and units and indirectly through enforcing quarantine for affected units and staff calling in sick. This $1,310,000 overspending on this contract during the first 18 months has not yet been paid to the contractor and will be allocated from the $3,360,000 in contingency funds under the proposed amendment.
- The entirety of the $41,200,000 contract is supported through General Fund, subject to reimbursement from Medi-Cal, Medicare, and other third party payers.

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 Department of Public Health (DPH) entered into a new agreement with Cross Country Staffing Inc. (Cross Country) in 2019 following a competitive Request for Proposal (RFP) to provide temporary traveling nursing staff for DPH at San Francisco General Hospital, Laguna Honda Hospital, and other facilities as needed to maintain mandated staffing levels and deliver a high quality of patient care. The initial term of the agreement was for July 1, 2019 through June 30, 2020 for an amount not to exceed $9,840,000 with four options to extend the agreement for one year through June 30, 2024.

The agreement did not require Board of Supervisors approval because it was for less than 10 years and $10 million. The agreement was amended on June 24, 2020 (Amendment No. 1) to exercise the first six months of Option 1 to extend the term through December 31, 2020 without increasing the agreement amount.

Competitive Selection

As noted above, the agreement with Cross Country was awarded following an RFP process in Spring 2019 to meet the need for nursing staff. The RFP authorized contracts to be established for up to five years with the intent to award three contracts to the three highest ranking proposers. This allows DPH to request staffing in a ranked order, first from the Primary Contractor then next to Back-up Contractor 1 and then Back-up Contractor 2. The RFP also allows DPH to monitor contract performance to promote or demote contractors' designation as Primary or Back-up if needed.

A panel consisting of representatives from San Francisco General Hospital reviewed proposals from respondents and awarded scores out of 100 points based on their qualifications statement, recent relevant experience, agency and professional background, and budget. Cross Country Staffing was selected as the Primary Contractor with 94.75 points and Aya Healthcare and TaleMed were selected as the two back-up contractors receiving 90.00 and 87.50 points, respectively. These back-up contracts can be potentially used when Cross Country does not have capacity. Both back-up contracting agencies have been utilized.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves the second amendment to the original agreement with Cross Country Staffing, Inc. and approves the remaining contract options, extending the contract through June 30, 2024 and increasing the not-to-exceed amount by $31,360,000 for a new not-to-exceed amount of $41,200,000.

Services Provided

The scope of services for the contract remains unchanged from the original agreement. Cross Country will provide temporary nursing staff to the San Francisco Health Network, San Francisco General Hospital & Trauma Center, Laguna Honda Hospital, and other facilities within the network as needed, which is typically to help cover increased patient census, vacancies, and leave of absences in clinical areas. San Francisco General and Laguna Honda Hospitals are the primary users of this contract.

Both San Francisco General Hospital and Laguna Honda have utilized surge staffing related to the COVID-19 pandemic, as civil service nurses have been reassigned to emergency work and preventing the spread of COVID-19 has resulted in higher levels of nursing care and staffing.[1] San Francisco General has also utilized more nurses in recent years to help with the transitioning to the new hospital building and the transition to Epic Electronic Health Record system. Table 1 shows the utilization of services for FY 2020-21.

Table 1. Cross Country Staffing Registry Utilization (Hours) FY 2020-21 at San Francisco General and Laguna Honda Hospitals

Staffing Category		SFGH (as of 11-7-20)	LHH (as of 9-14-20)	Total
Registered Nurses (RNs)		21,885	12,295	34,180
Licensed Vocational Nurses (LVNs)			994	994
Patient Care Assistants (PCAs)		7,521	6,642	14,163
Medical Evaluations Assistant (MEAs)		2,333	1,791	4,124
Licensed Psychiatric Technicians (LPTs)		1,911		1,911
	Total	33,650	21,722	55,372

Source: Department of Public Health

Performance Monitoring

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

[1]According to DPH, to prevent the spread of COVID-19, staff no longer are assigned to multiple units, which decreases risks of transmitting the virus but requires a more rigid staffing model for COVID and non-COVID-related units. In addition, Cross Country staff are used to backfill other staff who are isolating, quarantining, or recovering from COVID-19. In addition, Laguna Honda Hospital has a dedicated COVID-19 admitting unit, which requires additional staffing.

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

Ms. Gillian Otway, Director of Nursing Administration, advised that all performance metrics stated in the contract were met.

FISCAL IMPACT

DPH is requesting the not-to-exceed contract amount to increase to $41,200,000. Table 3 below summarizes the projected spending on the contract.

Table 3. Projected Cross Country Contract Spending

Contract Term	Dates	Contract Budget	Projected Expenditures	Difference
Original Agreement and Amendment No.1				
Year 1 + 6 mos. Year 2	7/1/19-12/31/20	$9,840,000	$11,150,000	$1,310,000
Amendment No. 2, Under Consideration				
Year 2	1/1/21-6/30/21	4,000,000	4,000,000	0
Year 3	7/1/21-6/30/22	8,000,000	8,000,000	0
Year 4	7/1/22-6/30/23	8,000,000	8,000,000	0
Year 5	7/1/23-6/30/24	8,000,000	8,000,000	0
Contingency (12%)	1/1/21 - 6/30/24	3,360,000	2,050,000	(1,310,000)
	Subtotal Amendment No. 2	*$31,360,00*	*$30,050,000*	*($1,310,000)*
	Total	**$41,200,000**	**$41,200,000**	**$0**

Source: Department of Public Health

As shown above, the estimated amount to be spent July 1, 2019-December 31, 2020 was initially $9,840,000. However, according to Ms. Michelle Ruggels, Director of DPH Business Office, the amount expended during the first 18 months of the contract is projected to be $11,150,000, or $1,310,000 over the initial budgeted amount. This increase is driven by higher spending at Laguna Honda Hospital primarily due to increased need resulting from COVID-19 response, both directly through creating new staffing ratios and units and indirectly through enforcing quarantine for affected units and staff calling in sick.

This $1,310,000 overspending on this contract during the first 18 months has not yet been paid to the contractor and will be allocated from the $3,360,000 in contingency funds under the proposed amendment. According to Ms. Ruggels, if the proposed resolution is approved by the Board of Supervisors, the Department will amend the agreement with Cross Country prior to submission to the Office of Contract Administration to specify that $1,310,000 will be allocated retroactively to expenditures incurred prior to enactment of the second amendment.

The entirety of the $41,200,000 contract is supported through General Fund, subject to reimbursement from Medi-Cal, Medicare, and other third party payers.

RECOMMENDATIONS

Approve the proposed resolution.

Item 4 **File 20-1260**	**Department:** Treasurer/Tax Collector

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance will exempt qualifying business from payment of certain license fees, business registration fees, and payroll expense taxes for designated periods.

Key Points

- Under the proposed ordinance, restaurant and food service businesses with revenues of less than $750,000 and entertainment businesses with revenues of less than $20 million would have license fees, business registration fees, and payroll expense tax waived. Covered restaurants and food service businesses would receive a one-year waiver of license fees, business registration fees, and payroll expense tax. Entertainment businesses would receive a two-year waiver of license fees and business registration fees, and a one-year waiver of payroll expense tax.

Fiscal Impact

- The proposed ordinance would result in estimated one-time reduction in license fee, business registration fee, and payroll expense tax revenues to the City for covered businesses of $5,055,283, including $2,470,000 for restaurants and $2,585,283 for entertainment businesses.
- The estimated savings for covered restaurants and food service businesses would be approximately $1,754 per businesses, and for covered entertainment businesses would be $6,098.

Policy Consideration

- The Budget and Legislative Analyst recommends approval of the proposed ordinance because the benefits to covered businesses, which provides some financial relief to compensate for revenue loss, exceed the costs to the City. Of the $5.0 million in estimated revenue reductions, approximately $3.7 million (or 73 percent) would be for licensing fees, for which the costs to administer the associated permits would be spread across several departments and could likely be absorbed in the respective department budgets.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT

Charter Section 2.105 states that all legislative acts shall be by ordinance of the Board of Supervisors.

Business and Tax Regulations Code Section 76.1(b) of Article 2 states that it “shall be unlawful to do or perform … the business, trade, profession or calling for which City law requires the license without obtaining and maintaining the required license.” Similarly, Business and Tax Regulations Code Section 853(a) of Article 12 states that “no person may engage in business within the City unless the person has obtained a current registration certificate….”

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance will exempt qualifying business from payment of certain licensing fees, business registration fees, and payroll expense taxes for designated periods. For businesses that hold a place of entertainment permit as defined in San Francisco Police Code Section 1060, Article 15.1 and that have gross receipts not in excess of $20,000,000 for calendar year 2019, the proposed ordinance waives the requirement to pay annual license fees originally due on March 31, 2020 and March 31, 2021, business registration fees for FY 2020-21 and FY 2021-22, and payroll expense tax for the tax year beginning January 1, 2020. For business that has a restaurant license and gross receipts not exceeding $750,000 in calendar year 2019, the ordinance waives certain license fees originally due on March 31, 2020, business registration fees for FY 2020-21, and payroll expense tax for the tax year commencing on January 1, 2020.

<u>Qualifying Businesses</u>

As defined in the San Francisco Police Code, a “place of entertainment license” refers to:

> “(All) premises, including outdoor premises, to which patrons or members are admitted which serves food, beverages, or food and beverages, including but not limited to alcoholic beverages, for consumption on the premises and wherein Entertainment is furnished or occurs upon the premises.”

Entertainment refers to any kind of play, act, theatrical, singing, dance, or musical performance, strip shows, fashion shows, and karaoke.

Qualifying Restaurant Businesses, as defined in the San Francisco Health Code, includes restaurants, fast food establishments, pushcarts, concession vendors, outdoor food carts, institutional food service establishments, food-servicing bars or taverns, and all demonstration and instructional food operations with gross receipts under $750,000.

FISCAL IMPACT

Businesses in San Francisco must pay an annual business registration fee defined in the City’s Business and Tax Regulations Code and posted on the Treasurer/Tax Collector’s website. Business registration fees were due on May 31, 2020, although the due date for 2019-2020 business registration fees was extended to March 1, 2021.

Article 12-A of the City's Business and Tax Regulation Code defines the payroll expense tax, which equals 0.38 percent of payroll for all businesses with payroll of more than $320,000.

Businesses in San Francisco, including restaurants, other food service businesses, and entertainment businesses, may require permits from City departments with regulatory authority. Businesses pay a "unified license fee" based on these permits, which is due annually on March 31, and collected by the Treasurer/Tax Collector on behalf of the Department of Public Health, Fire Department, Police Department, Entertainment Commission and the Office of Cannabis. Annual license fees for places of entertainment, as defined per Section 1060 of the Police Code, are $605. The license fees are due on March 31 of each year, although the date for license fees due on March 31, 2020 was extended to March 1, 2021.

The proposed ordinance would result in estimated one-time reduction in license fee, business registration fee, and payroll expense tax revenues to the City for covered businesses of $5,055,283, including $2,470,000 for restaurants and $2,585,283 for entertainment businesses.

According to the proposed ordinance, the intent of the waiver of license fees, business registration fees, and payroll expense taxes is to mitigate the economic harm inflicted on certain entertainment businesses in San Francisco due to the public health emergency. Exhibits 1 and 2 below show the estimated combined benefits that will be realized by the covered businesses as a result of the provisions of the proposed ordinance.

The Treasurer/Tax Collector estimates 1,473 small food service establishments stand to benefit if the ordinance is enacted. The major financial easement for these smaller food establishments is achieved through the one-year waiver of the license fee, which could return to the businesses up to $2,091,176 in fee revenue that would otherwise accrue to the City. Assuming that the total count of qualifying restaurant businesses (1,473) is the actual number of businesses that would receive financial benefits from the proposed fee waiver, the average savings would be approximately $1,754 per business. The actual number of beneficiaries may be smaller, given that some of the food service establishments that make up the total count may have already ceased operations by the time the ordinance would go into effect if passed.

Exhibit 1: Total Cost of Waivers and Exemption for Qualifying Restaurants

Restaurant less the $750,000 Gross Receipt. Count: 1473 businesses

Type	Originally due	Period Covered	Estimated Value
License Fees	April 30, 2020 (deferred until March 1, 2021)	April 2020 – March 2021	$2,091,176
Business Registration Fees	May 31, 2020 (deferred until March 1, 2021)	July 1, 2020 – June 30, 2021	$412,360
Payroll Expense Taxes	1-Mar-21	January 1, 2020 – Dec 31, 2021	$81,747
		TOTAL	**$2,585,283**

Source: Treasurer/Tax Collector's Office

The Treasurer/Tax Collector estimates of the savings realized by places of entertainment from the proposed two-year license fee and business registration fee waivers, and the one-year exemption for the payroll expense tax is $2,470,000, shown in Exhibit 2 below. Estimated average savings to covered businesses over two years is $6,098, which includes savings of $4,024 for waived license fees ($2,012 per year for two years), $839 for waived business registration fees (approximately $419 per year for two years), and $1,235 for waived payroll expense tax for one year. As in the case of restaurants, a fewer number of establishments may actually receive the benefit, as some of these businesses will have ceased operations during the period over which the waivers and tax easements will be operative.

Exhibit 2: Total Cost of Waivers and Exemption for Qualifying Places of Entertainment

Gross receipts less than $20,000,000. Count: 405 businesses

Type	Originally due	Period Covered	Estimated Value
License Fees	April 30, 2020 (deferred until March 1, 2021)	April 2020 – March 2021	$815,000
License Fees	30-Apr-21	April 2021 – March 2022	$815,000
Business Registration Fees	May 31, 2020 (deferred until March 1, 2021)	July 1, 2020 – June 30, 2021	$170,000
Business Registration Fees	31-May-21	July 1, 2021 – June 30, 2020	$170,000
Payroll Expense Taxes	1-Mar-21	January 1, 2020 – Dec 31, 2021	$500,000
Total			**$2,470,000**

Source: Treasurer/Tax Collector's Office

As noted above, the total revenue reduction to the City for the waivers and exemption granted in the proposed ordinance is estimated by the Treasurer/Tax Collector to be $5,055,283. Revenue reductions by fiscal year are shown in Exhibit 3. Of the $5,055,283 revenue reduction, $3,721,176 is for license fees, for which the permits are administered by several departments, including Public Health, Police, and Fire, and for which the reduction in revenues could likely be absorbed within the respective departments' budgets.

Exhibit 3: Estimated Revenue Reduction

	FY 2019-20*	FY 2020-21	FY 2021-22	Total (cumulative)
License fee waiver	$726,544	$2,383,382	$611,250	$3,721,176
Business Registration waiver		$582,360	$170,000	$752,360
Payroll Tax exemption	$290,874	$290,874		$581,747
Totals by FY	**$1,017,418**	**$3,256,616**	**$781,250**	**$5,055,283**

* Retroactive to FY 2019-20

POLICY CONSIDERATION

The proposed legislation is intended to provide some financial relief for local small business establishments that have incurred revenue loss due required business closures during the COVID-19 pandemic. On March 16, 2020, the Local Health Officer issued Order no. C19-07 which temporarily closed all non-essential business operations. Subsequent public health orders extended these closures, and although subsequent phased re-opening of restaurants and places of entertainment were allowed in the summer of 2020, some restrictions were maintained or reinstituted, which has contributed to ongoing revenue loss for these businesses. As noted above, the average estimated benefits to businesses covered by the proposed ordinance are $1,754 per restaurant and $6,098 per entertainment business.

The Budget and Legislative Analyst recommends approval of the proposed ordinance because the benefits to covered businesses, which provides some financial relief to compensate for revenue loss, exceed the costs to the City. As noted above, of the $5.0 million in estimated revenue reductions, approximately $3.7 million (or 73 percent) would be for licensing fees, for which the costs to administer the associated permits would be spread across several departments and could likely be absorbed in the respective department budgets.

RECOMMENDATION

Approve the proposed ordinance.

Items 5 & 6 Files 20-1363 & 20-1378	Department: Public Health and Homelessness & Supportive Housing

EXECUTIVE SUMMARY

Legislative Objectives

- File 20-1363: is a hearing to consider the release of $30.3 million for the Department of Public Health (DPH) on Budget & Finance Committee Reserve.
- File 20-1378: is a hearing to consider the release of $64.2 million for the Department of Homelessness & Supportive Housing (HSH) on Budget & Finance Committee Reserve.

Key Points

- Proposition C, the Additional Business Tax to Fund Homeless Services, passed by 61 percent of voters in November 2018. The validity of the tax was subject to litigation, however that has been resolved in favor of the City. The resolution of the litigation allows for these monies to be spent, which have been collected but retained on Budget & Finance Committee Reserve, pending a spending plan.
- Proposition C (November 2018) required the Board of Supervisors to establish the Our City, Our Home oversight committee to make recommendations to the Board and Mayor related to the use of these funds. The final recommendations for FY 2020-21 will be available on December 15, 2020.

Fiscal Impact

- The DPH $30.3 million spending plan for FY 2020-21 includes: Street Crisis Response & Urgent Care ($7.2 million), Intensive Case Management ($4.2 million), Behavioral Health Center & Pharmacy 24/7 Access ($9.8 million), Expanded Mental Health and Substance Use Treatment Beds ($4 million), and administrative support ($5.1 million).
- The HSH $64.2 million spending plan includes affordable housing subsidies, housing provider compensation, and additional HSH staffing ($32.9 million), congregate shelter, Safe Sleeping Villages, and shelter provider compensation ($25.9 million), and rental assistance and prevention provider compensation ($5.5 million).
- The DPH and HSH release of reserve requests total $94.4 million of the $393 million Proposition C (November 2018) funds on Budget & Finance Committee Reserve for FY 2020-21. If the proposed release of reserves is approved, $68.1 for the DPH and $231.1 million for HSH would remain on Budget & Finance Committee Reserve in FY 2020-21 and would be available for future appropriation for authorized purposes.
- Going forward, the Controller projects Proposition C (November 2018) will provide approximately $340 million annually starting in FY 2021-22.

Recommendation

- Approve both requests for release of funding from Budget & Finance Committee Reserve.

MANDATE STATEMENT

City Administrative Code Section 3.3(j) states that the Budget and Finance Committee of the Board of Supervisors has jurisdiction over the City's budget and may reserve proposed expenditures to be released at a later date subject to Budget and Finance Committee approval. The practice of the Board of Supervisors is for the Budget and Finance Committee to approve release of funds placed on reserve by the Committee, without further Board of Supervisors approval.

BACKGROUND

Proposition C (November 2018)

The California Constitution requires two-third voter approval for taxes imposed by a local jurisdiction for special purposes. The California Supreme Court in 2017 (California Cannabis Coalition v. City of Upland) ruled that the Constitution provision did not apply to citizen initiatives for the holding of special elections but did not specifically address voter approval requirements.

Proposition C, the Additional Business Tax to Fund Homeless Services, passed by 61 percent of voters in November 2018. The proposition levied a gross receipts tax of 0.175 to 0.69 percent on businesses earning over $50 million in gross annual receipts. The measure also imposed a tax of 1.5 percent of payroll expenses for certain businesses earning over $1 billion in gross annual receipts and with administrative offices in San Francisco. The measure designated at least 97 percent of the funding to be used towards homelessness services including permanent supportive housing, rental subsidies, homelessness prevention and other programs. The City may use up to 3 percent of the funds generated to administer the tax.

In June 2019, the San Francisco Superior Court ruled that Proposition C (June 2018) was correctly certified by City officials with 50 percent rather than two-third voter approval, which also applied to Proposition C (November 2018). The California First District Court of Appeals upheld the Superior Court ruling in June 2020, and the California Supreme Court subsequently declined to hear the appeal regarding the validity of the tax imposed by Proposition C (November 2018). The resolution of litigation related to Proposition C (November 2018) allows for the spending of those monies, which have been collected but retained on Controller's Reserve, pending the resolution of the litigation, as well as on Budget & Finance Committee Reserve, pending a spending plan.

Required Spending Allocations

The ordinance requires spending of Proposition C (November 2018) to be allocated among certain program categories:

- At least 50 percent on permanent housing
- At least 25 percent on mental health services for homeless individuals
- Up to 15 percent homeless prevention
- Up to 10 percent on homeless shelters and hygiene

In addition, up to 3 percent of the fund can be spent on administering the Homelessness Gross Receipts Tax. Costs to administer these programs may be included in the programming allocations listed above.

Our City Our Home Committee

Proposition C (November 2018) required the Board of Supervisors to establish the Our City, Our Home oversight committee to make recommendations to the Board and Mayor related to the use of Proposition C (November 2018) funds. The final recommendations for FY 2020-21 will be available on December 15, 2020.

DETAILS OF PROPOSED LEGISLATION

File 20-1363: is a hearing to consider the release of $30.3 million for the Department of Public Health (DPH) on Budget & Finance Committee Reserve.

File 20-1378: is a hearing to consider the release of $64.2 million for the Department of Homelessness & Supportive Housing (HSH) on Budget & Finance Committee Reserve.

The purposes of the spending requests are summarized below.

Public Health

Department of Public Health spending is allocated to the following services for homeless individuals:

- Street Crisis Response & Urgent Care ($7.2 million): Establish six teams jointly with the Fire Department's Emergency Medical Services unit that provide 24/7 non-law enforcement response to behavioral health emergencies on the street and diverts individuals in crisis away from emergency rooms and criminal legal settings into behavioral health treatment. Establish telehealth program and implement and support fifteen additional urgent care beds.
- Intensive Case Management ($4.2 million): Establish Mental Health SF Office of Coordinated Care with public outreach for services. Provide up to 375 additional case management slots, depending on level of care and client to provider ratios. Training for clinical staff related to clients experiencing homelessness. Create bed inventory system.
- Provide 24/7 Access to Care ($9.8 million): Expand evening and weekend hours at the Behavioral Health Access Center and Behavioral Health Pharmacy, which provide assessment, triage, linkage services and benefits enrolment on a drop-in basis. The Behavioral Health Pharmacy services include access to low threshold buprenorphine and naloxone. In addition, $8.5 million in onetime capital Pharmacy and capital improvements to meet increased demand and optimize patient flow at both programs.
- Expand Mental Health and Substance Use Treatment Beds ($4 million): provide approximately 150 additional treatment beds in residential facilities, including psychiatric skilled nursing, locked subacute beds, adult residential treatment, and Drug Sobering, as recommended by the Departments' June 2020 Bed Optimization report.

- Administrative Support ($5.1 million): The Department assumes administrative implementation and operating support, including services for real estate for site acquisition, development and maintenance, contracts and finance, human resources, as well as data analysts and information technology support to create data systems and dashboards to make data-informed decisions. The Department assumes these services support will cost approximately 20 percent of total service costs (which total $25.2 million).

Homelessness & Supportive Housing

Department of Homelessness & Supportive Housing proposed spending is allocated among three programs: affordable housing, shelter and hygiene, and homelessness prevention. The adopted budget for HSH in FY 2020-21 includes $295.6 million of Proposition C (November 2018) funds on Budget & Finance Committee Reserve. According to information provided by the Department, $87.7 million of those reserved funds have defined uses in the adopted budget and the remaining $207.4 million were not defined in the adopted budget. The Department is requesting release of $64 million of the total appropriation of $295.6 million as follows:

Affordable Housing

- Homekey PSH Services Costs ($1.2 million): Fund services costs (estimated at $550/unit/month) for two new permanent Supportive Housing sites at 1000 Sutter Street and 440 Geary Street. The Department notes that FY 2020-21 operating costs are being funded through a State Homekey grant that expires at the end of FY 2021-22. The FY 2020-21 budget included $1,437,769 in Proposition C (November 2018) funds for operating and services costs for new permanent supportive housing funded to support the Homekey expansion.
- Adult Housing Subsidies ($10.5 million): Provide 500 24-month housing subsidies for homeless adults staying in Shelter-in Place hotels (prorated for 6 months of the fiscal year) Rental subsidies includes workforce development and case management support.
- Flex Pool Expansion ($12 million): Provide 600 two-year housing subsidies for seniors or persons who are vulnerable to complications related to COVID-19 (prorated for the fiscal year)
- Transition Age Youth (TAY) Rapid Rehousing ($2.2 million): Provide 100 36-month housing subsidies with workforce development and case management support for persons under thirty years old (annual prorated cost)
- Housing Providers Compensation ($6.5 million): Provide one-time compensation bonus for lower-wage frontline workers providing on-site services during COVID-19.
- HSH Operating Costs ($0.4 million): The Board's Adopted FY20-21 Budget included $1.4 million in temporary salaries to enable HSH to begin hiring for Proposition C (November 2018) expansion. HSH is requesting release of funds to bring on temporary staff (prorated for the remainder of the year) to help scale rehousing plan, including additional project and programmatic management (one 0931 Manager III and two 1824 Principal Analysts),

implement Proposition C (November 2018) as well as additional information technology staff (one 1054 IS Business Analyst and one 1070 IS Project Manager) to scale its ONE System, data warehouse and other data systems for reporting for rehousing tracking and public dashboards.

Shelter

- Emergency Shelter ($5.9 million): The FY 2020-21 adopted budget included $7.02 million in Proposition C (November 2018) funding for the Safe Sleeping program, a 200-bed emergency congregate shelter and an emergency Recreational Vehicle (RV) shelter-in-place site to respond to COVID-19. HSH is requesting $5.9 million of this $7.02 million appropriation to be released from reserve. The adopted budget included $4.565 million in Proposition C (November 2018) funding in FY20-21 for a 145-tent Safe Sleep program.
- Safe Sleeping Villages ($5 million): Extend Safe Sleeping Villages from April 2021 – June 2021. The Board's adopted budget assumed Safe Sleeping sites for 145 tents in FY 2020-21. HSH is requesting funds to enable the Covid Command Center to extend five sites until at least the end of June 2021, and open a sixth site at an expanded capacity of a total of 265 tents (120 additional tent capacity).
- Shelter in Place Hotels ($12.7 million): Funds $12.7 million of the $22.7 million estimated cost of HSH's revised SIP Rehousing proposal, which would continue the program through November 2021, rather than ending June 2021.
- Shelter Providers Compensation ($2.3 million): Provide one-time compensation bonus for lower-paid frontline workers providing onsite services during COVID-19

Prevention

- Problem Solving Plus with Rental Assistance ($4.1 million): Provide short-term rental assistance and problem-solving flexible grants, up to $15,000 per client for up to 250 clients staying temporarily in SIP hotels.
- Prevention Providers Compensation ($1.3 million): Provide one-time compensation bonus for lower-paid frontline workers providing on-site services during COVID-19.

FISCAL IMPACT

Table 1 below shows the DPH and HSH requests to release funds from Budget & Finance Committee reserve in FY 2020-21. All spending is planned to occur in FY 2020-21.

Table 1: Requested Release of Reserve Amounts, FY 2020-21

Program	Amount
Public Health	
Street Crisis Response & Urgent Care	7,200,000
Intensive Case Management	4,200,000
Provide 24/7 Access to Care	9,800,000
Expand Mental Health and Substance Use Treatment Beds	4,000,000
Administrative Support	5,100,000
Subtotal, Public Health	**30,300,000**
Homelessness & Supportive Housing	
Affordable Housing	
Homekey PSH Services	1,245,000
Adult Housing Subsidies	10,500,000
Flex Pool Expansion (Seniors)	12,000,000
TAY Rapid Rehousing	2,200,000
Housing Providers Compensation	6,500,000
HSH Operating Costs	400,000
Subtotal, Affordable Housing	32,845,000
Shelter	
Emergency Shelter	5,900,000
Safe Sleeping Villages	5,000,000
Shelter in Place Hotels	12,700,000
Shelter Providers Compensation	2,300,000
Subtotal, Shelter	25,900,000
Prevention	
Problem Solving with Rental Assistance	4,125,000
Prevention Providers Compensation	1,330,000
Subtotal, Prevention	5,455,000
Subtotal, Homelessness & Supportive Housing	**64,200,000**
Total Release of Reserve Request	**94,500,000**

Source: DPH & HSH

As shown above, the DPH and HSH release of reserve requests total $94.5 million. According to the FY 2020-21 and FY 2021-22 Annual Appropriation Ordinance, Proposition C (November 2018) funds on Budget & Finance Committee Reserve total $393 million in FY 2020-21 and $160.1 million in FY 2021-22. If the proposed release of reserves is approved, $68.1 for the Department of Public Health and $231.1 million for Department of Homelessness & Supportive Housing would remain on Budget & Finance Committee Reserve in FY 2020-21 and would be available for future appropriation for authorized purposes.

Proposition C (November 2018) collections total $591 million, which includes $394 million in FY 2020-21 and $197 million in FY 2019-20. Going forward, the Controller projects Proposition C (November 2018) will provide approximately $340 million annually starting in FY 2021-22.

RECOMMENDATION

Approve both requests for release funding from Budget & Finance Committee Reserve.