

**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

November 4, 2022

**TO:** Budget and Finance Committee

**FROM:** Budget and Legislative Analyst



**SUBJECT:** November 9, 2022 Budget and Finance Committee Meeting

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<p><b>Item 1</b> <b>File 22-1070</b></p>	<p><b>Department:</b> Treasurer-Tax Collector</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance amends Section 3003 of the Business and Tax Regulations Code to further suspend the imposition of the Cannabis tax until January 2026. The first fiscal year Cannabis Business Tax would be recognized would be FY 2026-27.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• In November 2018, approximately 66 percent of San Francisco voters approved Proposition D, the Cannabis Business Tax effective January 1, 2021. The proposition levies a gross receipts tax of 1 percent to 5 percent on recreational cannabis businesses. Since then, the Board of Supervisors has delayed imposition of the tax through December 2022 (Files 20-1009 &amp; 21-1150). Because the tax year is a calendar year, the first fiscal year that the tax revenues are scheduled to be recognized is FY 2023-24.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• According to the Controller’s Office, Cannabis tax revenue is budgeted at \$0 in FY 2022-23 and \$10.25 million in FY 2023-24 and is projected at that level in FY 2024-25 and FY 2025-26. Therefore, the total foregone revenue through FY 2025-26 would be \$30.75 million.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approval of the proposed ordinance is a policy matter for the Board of Supervisors because it would reduce General Fund revenues.</li> </ul>	

**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.

**BACKGROUND**

In November 2018, approximately 66 percent of San Francisco voters approved Proposition D, the Cannabis Business Tax effective January 1, 2021. The proposition levies a gross receipts tax of 1 percent to 5 percent on recreational cannabis businesses. Since then, the Board of Supervisors has delayed imposition of the tax through December 2022 (Files 20-1009 & 21-1150). Because the tax year is a calendar year, the first fiscal year that the tax revenues are scheduled to be recognized is FY 2023-24.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance amends Section 3003 of the Business and Tax Regulations Code to suspend the imposition of the Cannabis Business Tax through the 2025 tax year. The first fiscal year Cannabis Business Tax would be recognized would be FY 2026-27.

**FISCAL IMPACT**

According to the Controller's FY 2022-23 & FY 2023-24 Revenue Letter, Cannabis Business Tax revenue is budgeted at \$0 in FY 2022-23 and \$10.25 million in FY 2023-24. According to the March 2022 Joint Report Update, Cannabis tax revenues are projected to be \$10.25 million per year in FY 2024-25 and FY 2025-26. Therefore, the total foregone revenues through FY 2025-26 are projected to be \$30.75 million.

We consider approval of the proposed ordinance to be a policy matter for the Board of Supervisors because it would reduce General Fund revenues.

**RECOMMENDATION**

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

<p><b>Item 2</b> <b>File 22-1084</b></p>	<p><b>Department:</b> Homelessness and Supportive Housing (HSH)</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution approves a lease and property management agreement between HSH with the Tides Center/Delivering Innovation in Supportive Housing for the City-owned property at 1321 Mission Street, a 160-unit permanent supportive housing site.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• The \$86.5 million purchase of 1321 Mission Street was approved by the Board of Supervisors in October 2021. In March 2022, the Board approved the acceptance of a \$54.8 million Homekey Grant to offset the cost of the purchase and provide a partial operating subsidy for five years.</li> <li>• Under the proposed agreement, Tides serves as the fiscal sponsor for Delivering Innovation in Supportive Housing (DISH). DISH would lease, operate, and maintain the City-owned property at 1321 Mission Street to provide permanent supportive housing. The agreement has a five-year term with an option to extend for up to an additional five years and base rent of \$1.00 per year with no annual rent increases.</li> <li>• Through a Solicitation of Interest (SOI) process, HSH entered an agreement with Tides/DISH to provide property management services at 1321 Mission Street from March 15, 2022 through February 28, 2023. The interim property agreement will sunset earlier if the proposed master lease is approved.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The City is to pay the net property management and operating costs in a total five-year amount not to exceed \$19,500,000.</li> <li>• Total operating expenditures of \$15.4 million will be funded through \$6.9 million in Project Homekey grant funds and \$7.1 million in Proposition C funds. The cost to the City is offset by an anticipated \$1.4 million of tenant income. There is an additional \$2.2 million of reserves funded through Proposition C and \$3.3 million in contingency at a rate of 20 percent.</li> </ul> <p style="text-align: center;"><b>Policy Consideration</b></p> <ul style="list-style-type: none"> <li>• The contract for property management and supportive services at 1321 Mission Street will cost approximately \$26,000 per unit per year, or \$6,200 more than the previous estimate made during the acquisition of the property and approximately \$1,725 more than the Tides/DISH property management agreement approved by the Board of Supervisors in May 2022. According to HSH, new requirements to manage a City-owned asset and updates to the supportive services model increased per unit costs.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

## 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.

Administrative Code Section 23.30 allows for leasing of City-owned property at less than market rate if doing so will serve a public purpose, subject to approval of the Board of Supervisors.

## BACKGROUND

In November 2018, San Francisco voters approved Proposition C, a gross receipts tax to fund homeless services and housing. In July 2020, Mayor London Breed announced her Homelessness Recovery Plan, with the goal of acquiring and operating 1,500 new units of permanent supportive housing over the next two years. According to the proposed resolution, as of June 30, 2022, the City had acquired 2,918 new units of site-based and scattered site Permanent Supportive Housing (PSH) that were active or under contract with a non-profit provider. Also in July 2020, the California Department of Housing and Community Development (HCD) announced the Homekey program, providing grants to sustain and expand housing for homeless people impacted by COVID-19. In September 2021, HCD announced a second round of Homekey grant funding.

### **1321 Mission Street**

The Board of Supervisors approved the purchase of 1321 Mission Street at a total acquisition cost of \$86.5 million (File 21-0967) in October 2021 and, in March 2022, approved the acceptance of a \$54.8 million Homekey Grant to offset the cost of the purchase and provide a partial operating subsidy for five years (File 22-0133). The Homekey grant agreement requires that the property be 90 percent occupied by March 2023.

On March 25, 2022, the City acquired 1321 Mission Street to provide Permanent Supportive Housing (PSH). 1321 Mission is approximately 9,000 square feet of land with 160 apartments, a ground-floor commercial space, a central lobby, public lounges, commons areas, and a rooftop garden. The property is in the South of Market District at the corner of Mission Street and 9<sup>th</sup> Street. According to HSH staff, 95 units are filled, a 60% occupancy rate. Of the tenant units, 31 are occupied by adults aged 60 or older; 42 are occupied by other adults; 18 are occupied by families; and 4 are occupied by market-rate tenants who lived in the units at the time of acquisition and continue to reside there. The selected non-profit provider continues to process referrals to fill vacant units.

### **Procurement of Tides/DISH Property Management Services for 1321 Mission Street**

In October 2021, HSH issued a Solicitation of Information (SOI) to select an operator for three newly acquired PSH buildings, including 1321 Mission. Four proposals were received for this SOI, including a proposal from Tides/DISH. Three evaluation panelists scored the proposals divided amongst three categories: Plan, Organizational Experience & Capacity, and Budget. The

Tides/DISH proposal received an average score of 98.8 out of 100 possible points and was awarded the contract.

### **Interim Property Management Agreement**

In March 2022, HSH entered an interim agreement with Tides/DISH to provide property management services at 1321 Mission Street from March 15, 2022 through February 28, 2023. If the proposed master lease is approved, this interim property agreement will sunset earlier. The budget has a not to exceed amount of \$3,060,085 with a term budget of \$2,448,068 and \$612,017 in contingency at a 25% rate, funded primarily by Homeless Gross Receipt Tax (Proposition C) revenues and approximately \$300,000 in tenant income. The contract funds 10.90 full-time equivalent (FTE) positions.

## **DETAILS OF PROPOSED LEGISLATION**

The proposed resolution approves a lease and property management agreement with the Tides Center, as the fiscal sponsor for Delivering Innovation in Supportive Housing (DISH). The Tides Center would authorize DISH to lease, operate, and maintain the City-owned property at 1321 Mission Street. The agreement includes:

- A five-year term with an option to extend for up to an additional five years and base rent of \$1.00 per year with no annual rent increases.
- A not to exceed amount of \$19,500,000 for the City to pay the net property management and operating costs.

The proposed legislation would also make the following findings and actions:

- The below market rent payable under the agreement will provide Permanent Supportive Housing for low-income households in need, in accordance with Section 23.33 of the Administrative Code.
- Adopt findings declaring that the property is “exempt surplus land” under the California Surplus Lands Act.
- Affirm the Planning Department’s determination under the California Environmental Quality Act.
- Adopt the Planning Department's findings of consistency with the General Plan and Planning Code Section 101.1.
- Authorize the Director of Property and the Executive Director of HSH to execute the agreement, make certain modifications, and take certain actions in furtherance of the agreement and resolution.

### **Lease and Property Management Agreement Services**

Tides/DISH would be responsible for providing property management services at 1321 Mission for 160 units comprised of 120 adult units, 39 family units, and 1 programmatic office space. Residents would be referred by HSH’s Coordinated Entry program. Supportive services are provided by a partnership between University of California San Francisco and Compass Family Services, funded by HSH.

Tides/DISH property management services include: (1) performing application reviews and executing lease agreements; (2) collecting rent and other housing-related payments from residents; (3) enforcing leases, which includes providing written notices and working to prevent evictions; (4) communicating with federal, state, and local agencies to process rental subsidies; (5) setting up and managing building utilities; (6) assuming responsibility for condition, operation, repair, and maintenance of the premises including janitorial services, garbage removal, pest control, facility maintenance and repair, building security, and preparing units for move-in and move-out; (7) conducting wellness checks and/or emergency safety checks; (8) providing means for residents to provide input through a complaint process and a written annual survey; (9) ensuring translation and interpreter services are available, (10) integrating harm reduction principles; (11) establishing and maintaining a written grievance procedure; (12) obtaining tenant income certifications and conducting re-certifications; (13) monthly inspections of interiors of residential units; (14) developing and maintaining a Disaster and Emergency Response Plan; (15) maintaining various insurance policies; and (16) front desk coverage 24 hours a day, seven days a week.

Under the agreement, Tides/DISH will submit an annual operating budget, an annual property management plan, and an annual preventative maintenance plan and schedule for City approval. Tides/DISH would be able to adjust budget line items by no more than 20%, unless first receiving HSH pre-approval. No later than July 10-15 of each Operating Year, HSH would deposit 25% of the Annual Operating Subsidy for Tides/DISH to pay for initial project expenses. Tides/DISH should submit monthly invoices and any related documentation to HSH within 30 days after the month the expenditures occurred.

### **Project Reserves**

The Project Reserves are detailed in Exhibit E of the annual operating budget. The City would hold any required project reserves and Tides/DISH must receive written approval from the City before incurring any costs against reserves listed. The City would approve uses of the reserves in two general categories: (1) operating reserve and (2) replacement reserve. The operating reserve may be used to alleviate cash shortages from unbudgeted maintenance expenses, increases to utility costs, abnormally high vacancies, inability to collect rent, final quotes for property insurance and elevator contracts, and other project expenses. The replacement reserve may be used for unusual replacement and repairs, relocation costs due to an unanticipated emergency, or the replacement of furniture, fixtures, or equipment required. The replacement reserve is sized to allow for 5% of the units to be turned over and re-released per year plus \$20,000 for unexpected building systems emergency repairs. According to Exhibit E, the reserve amounts total \$2,245,600 and is prorated annually over the 5-year term. According to HSH staff, the reserve amount is based on review of the budget in comparison to other similar sized buildings.

**Service and Outcome Objectives**

The proposed lease and property management agreement include the following service and outcome objectives. The service objectives state that Tides/DISH shall:

- Ensure that each unit is cleaned and/or repaired within 21 days of a request for service
- Collect at least 90% of resident's monthly rent
- Maintain a residential occupancy rate of at least 97%
- Submit an Annual Operating Budget and provide a property management plan and a preventative maintenance plan and schedule to HSH for review and approval
- Submit all required asset management and program reports to HSH and other funders

The outcome objectives state that:

- 90% of residents will maintain their housing for a minimum of 12 months, move to other PSH, or be provided with more appropriate placements
- 85% of lease violations will be resolved without loss of housing to resident
- At least 75% of residents will complete an annual survey and 80% indicated that they are satisfied or very satisfied with property management services

Fiscal and performance monitoring will occur annually. In addition, Tides/DISH is required to submit monthly, quarterly, annual, and ad-hoc reports to HSH.

**FISCAL IMPACT**

The proposed resolution would approve a total not to exceed amount of \$19,500,000. As Exhibit 1 shows below, the term budget totals \$14,002,719. The budget also includes \$2,245,600 of Homeless Gross Receipts Tax (Proposition C) Reserve funds. The not-to-exceed amount includes \$3,251,682 in contingency funding at a rate of approximately 20 percent.

Excluding reserves, the total operating expenditure for this contract is \$15,418,295, and the total HSH funding is \$14,002,719. Operating costs are offset by \$1,415,576 in estimated tenant rental income.

Exhibit 1 below shows the proposed budget of this resolution for the five-year period.



**Exhibit 1: Fiscal Impact of Proposed Resolution**

	Year 1 (12/1/2022- 6/30/2023)	Year 2 (7/1/2023- 6/30/2024)	Year 3 (7/1/2024- 6/30/2025)	Year 4 (7/1/2025- 6/30/2026)	Year 5 (7/1/2026- 6/30/2027)	All Years (12/1/2022- 6/30/2027)
<b>Expenditures</b>						
Salaries & Benefits	\$603,970	\$1,066,439	\$1,098,433	\$1,131,385	\$1,165,327	\$5,065,555
Operating Expenses	1,211,329	1,372,856	1,413,292	1,454,941	1,497,839	6,950,256
Indirect Cost	272,295	365,894	376,759	387,949	399,475	1,802,372
Other Expenses	454,085	224,464	205,139	211,293	217,632	1,312,612
Capital Expenditure	-	287,500 <sup>1</sup>	-	-	-	287,500
<b>Total Expenditures</b>	<b>\$2,541,679</b>	<b>\$3,317,154</b>	<b>\$3,093,622</b>	<b>\$3,185,568</b>	<b>\$3,280,272</b>	<b>\$15,418,295</b>
<b>Reserves</b>						
Operating Reserve	218,750	386,250	397,838	409,773	422,066	1,834,676
Replacement Reserve	48,956	86,520	89,116	91,789	94,543	410,924
<b>Total Reserves</b>	<b>\$267,706</b>	<b>\$472,770</b>	<b>\$486,953</b>	<b>\$501,562</b>	<b>\$516,609</b>	<b>\$2,245,600</b>
<b>Total Expenditures + Reserves</b>	<b>\$2,809,385</b>	<b>\$3,789,924</b>	<b>\$3,580,575</b>	<b>\$3,687,130</b>	<b>\$3,796,881</b>	<b>\$17,663,895</b>
<b>Revenues</b>						
State Project Homekey	2,048,603	2,682,379	2,167,018	-	-	6,898,000
Prop C	365,400	312,800	604,629	2,863,593	2,958,297	7,104,719
<b>Subtotal</b>	<b>\$2,414,003</b>	<b>\$2,995,179</b>	<b>\$2,771,647</b>	<b>\$2,863,593</b>	<b>\$2,958,297</b>	<b>\$14,002,719</b>
Prop-C Reserves	267,706	472,770	486,953	501,562	516,609	2,245,600
<b>Total HSH Revenues</b>	<b>\$2,681,709</b>	<b>\$3,467,949</b>	<b>\$3,258,600</b>	<b>\$3,365,155</b>	<b>\$3,474,906</b>	<b>\$16,248,319</b>
Tenant Income	127,676	321,975	321,975	321,975	321,975	1,415,576
<b>Total HSH + Other Revenues</b>	<b>\$2,809,385</b>	<b>\$3,789,924</b>	<b>\$3,580,575</b>	<b>\$3,687,130</b>	<b>\$3,796,881</b>	<b>\$17,663,895</b>
<b>Not-to-Exceed Contract Amount</b>						
Agreement Funding Sources						\$16,248,319
Contingency (20%)						\$3,251,681
<b>Total Not-to-Exceed Amount</b>						<b>\$19,500,000</b>

<sup>1</sup> Allocated towards a guardrail revision to prevent tenant injury. \$37.5k contingency.

Source: Appendix E of Proposed Lease Agreement

**Sources of Funding**

Operating costs are funded by the previously approved Homekey grant (\$6.9 million), Homelessness Gross Receipt Tax revenues (\$7.1 million), and tenant income (\$1.4 million). A \$2.2 million reserve is funded by Homeless Gross Receipt Tax revenues.

According to HSH staff, the final amount of Homekey and Homeless Gross Receipt Tax funds will be different than in the draft agreement, which is shown above in Exhibit 1. HSH staff estimate that \$679,885 of the \$6,898,000 Homekey operating award will be expended in the interim property management contract through November 2022, reducing the total amount of Project Homekey funds for this agreement in Year 3, which will be backfilled by Homeless Gross Receipt Tax funding.

**Staffing**

The proposed grant agreement funds 11.90 full-time equivalent positions for property management. In addition, the agreement provides funding for janitorial, legal, and security services. This agreement has an increase of 1.00 FTE compared to the interim agreement. The additional 1.00 FTE is a financial analyst responsible for monthly reporting, including occupancy and assessment information, oversight of accounting, and invoicing procedures required to comply with the City's reporting requirements.

The agreement also includes approximately \$9,000 per year of unallocated salary for property management pay equity increases for positions funded by the contract.

**POLICY CONSIDERATION**

The proposed lease agreement’s budget includes funding for services the Department believes are necessary due to experience with its current PSH portfolio and because the property is City-owned. When the Board of Supervisors considered the purchase of 1321 Mission, HSH estimated that the cost of operating the site would be \$19,800 per unit per year for property management and supportive services. This estimate that was based on existing non-profit leased sites, in which a private owner is responsible for major repairs and upkeep, rather than the cost to operate this particular building and FY 2021-22 service models.

The contract for property management and supportive services at 1321 Mission Street will cost approximately \$26,000 per unit per year, or \$6,200 more than the original estimate. According to HSH, this is due to two main reasons: first, the supportive services amount reflects a staffing model for 38 family units at the site. Second, the property management costs are higher than at sites leased by a non-profit from a private owner. For example, per unit costs in the proposed agreement are approximately \$1,725 more than the Tides/DISH property management agreement approved by the Board of Supervisors in May 2022 (File 22-0452). According to HSH, this is due to new requirements to manage a City-owned asset, including: additional insurance coverage required by the City, legal costs, security, and financial costs associated with meeting the City’s financial reporting requirements. In addition, as noted above, the proposed agreement includes \$2.2 million in project reserves (or approximately \$500,000 annually), similar to a MOHCD affordable housing project, to pay for unexcepted building costs.

**RECOMMENDATION**

Approve the proposed resolution.

<p><b>Item 4</b> <b>File 22-1055</b></p>	<p><b>Departments:</b> Office of Contract Administration (OCA)</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p>	
<ul style="list-style-type: none"> <li>• The proposed resolution authorizes the seventh modification to OCA’s contract with MSC Industrial Supply Company Inc. for the purchase of industrial supplies. The resolution increases the contract amount by \$900,000 for a total not to exceed amount of \$15,177,623. There is no change to the contract term, which is from May 1, 2017 through June 30, 2023.</li> </ul>	
<p style="text-align: center;"><b>Key Points</b></p>	
<ul style="list-style-type: none"> <li>• In November 2021, the Board of Supervisors approved the sixth modification to the contract between the Office of Contract Administration (OCA) and MSC Industrial Supply Company Inc. (MSC) for the purchase of industrial supplies for City departments, increasing the contract amount by \$4,377,623 for a total contract amount not to exceed \$14,277,623 and extending the term by one year and two months for a total term of May 1, 2017 through June 30, 2023 (File 21-1003).</li> <li>• The contract allows for all City departments to purchase industrial supplies and provides discounts that range from five percent to 45 percent from catalog prices, depending on the product. OCA states that expenditures increased during FY 2021-22 because of inflation resulting in overall higher pricing of products.</li> <li>• Ordering departments will notify OCA if the vendor does not meet delivery requirements or other required contract specifications. OCA states that they have not received any complaints from departments to date on the contract, and therefore, deems the vendor to be meeting its contractual obligations.</li> <li>• The departments that have the highest expenditures are the Public Utilities Commission (39.6 percent, or approximately \$4.8 million) and the Airport (30.2 percent, or approximately \$3.6 million). OCA states that items mostly purchased under this contract include hand tools, hoses, tubes, plumbing equipment and supplies, valves, fleet services industrial supplies, custodial industrial supplies, and mechanical maintenance supplies.</li> </ul>	
<p style="text-align: center;"><b>Fiscal Impact</b></p>	
<ul style="list-style-type: none"> <li>• The proposed seventh amendment increases the not to exceed amount of the contract with MSC Industrial Supply Company Inc. by \$900,000 to a total of \$15,177,623. Although the current contract term ends on June 30, 2023, OCA projects that the \$14,277,623 contract amount will be fully spent by April 15, 2023. The requested \$900,000 increase is therefore intended to provide contract spending authority from April 15, 2023, to June 30, 2023. Costs are funded by the purchasing departments.</li> </ul>	
<p style="text-align: center;"><b>Recommendation</b></p>	
<ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

**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**

In November 2021, the Board of Supervisors approved the sixth modification to the contract between the Office of Contract Administration (OCA) and MSC Industrial Supply Company Inc. (MSC) for the purchase of industrial supplies for City departments, increasing the contract amount by \$4,377,623 for a total contract amount not to exceed \$14,277,623 and extending the term by one year and two months for a total term of May 1, 2017, through June 30, 2023 (File 21-1003). The original contract and subsequent amendments did not require Board of Supervisors approval because the term did not exceed 10 years and the total not to exceed amount was less than \$10 million.

**Selection Process**

OCA issued a request for proposals (RFP) in March 2017 for industrial supplies for a three-year contract period, with the possibility of extension for up to four years. The RFP requested bids for 19 industrial supplies, such as heating, ventilation and air conditioning (HVAC) equipment and supplies, specialized industrial cleaning equipment and supplies, and personal protective equipment, among other industrial supplies. OCA determined that MSC Industrial Supply Company Inc. provided the lowest cost bid and was awarded a \$4,000,000 contract with a three-year term from May 1, 2017 to April 30, 2020.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution authorizes the Office of Contract Administration (OCA) to enter into a seventh contract modification with MSC Industrial Supply Company Inc. for the purchase of industrial supplies for City departments. The resolution increases the contract amount by \$900,000 for a total not to exceed amount of \$15,177,623. There is no change to the contract term, which is from May 1, 2017 through June 30, 2023.

Under the contract, specific products provided include HVAC equipment and supplies, air filters, specialized industrial cleaning supplies, motors, power transmission, accessories and supplies, hand tools, power tools and accessories, safety and security supplies, personal protective equipment, electrical equipment and supplies, hardware and fasteners, pumps and plumbing supplies, welding and soldering supplies, outdoor garden equipment and supplies, paint, lubricants, sealants, accessories and supplies, metal working and machine cutting tools, equipment and supplies, and absorbents. The contract allows for all City departments to purchase industrial supplies. The contract provides discounts that range from five percent to 45 percent from catalog prices, depending on the product. According to OCA, expenditures increased during FY 2021-22 because of inflation resulting in overall higher pricing of products.

### Performance Monitoring

While the contract does not include specific performance measures, it includes several contract terms and conditions to hold the vendor accountable for product availability, delivery timeframes, environmental specifications, the condition of products, and the inspection of products, as listed below.

- **Delivery Timeframe.** The vendor must deliver stocked non-priority, in-stock standard contract items within one to five working days after the purchase order is received; and in priority cases, the ordering department may request delivery within 24-hours once the purchase order is received. If the vendor is unable to meet the 24-hour delivery timeframe, the vendor is required to inform the ordering department when the ordered product(s) will be available for delivery.
- **Condition of Products.** Contract items offered and furnished must be new and previously unused and the latest model offered by the manufacturer, unless otherwise specified.
- **Inspection of Products.** All contract items will be subject to inspection by OCA or any ordering department.
- **Substitute Items.** If a contract item is discontinued or temporarily unavailable, it is the vendor's responsibility to find an acceptable equal substitute in time for the required delivery and at the contracted price.
- **Environmental Specifications.** Products must meet environmental specifications detailed in Chapter 2 and Chapter 5 of the City's Environment Code, such as maximizing purchasing of recycled products and avoiding products that contain polyvinyl chloride (PVC, vinyl).

According to OCA, ordering departments will notify OCA if the vendor does not meet delivery requirements or other required contract specifications. OCA staff stated that they have not received any complaints from departments to date on the contract, and therefore, deem the vendor to be meeting its contractual obligations.

### Actual Spending

OCA reports spending \$12,032,378 of the total current contract amount of \$14,277,623, as displayed in Exhibit 1 below.

**Exhibit 1: Expenditures to Date for Industrial Supplies Contract**

Department	FY 2016-17*	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23*	Total
PUC	\$5,8016	\$928,716	\$740,403	\$1,092,984	\$752,280	\$904,232	\$281,956	\$4,758,588
AIR	3,135	284,208	671,429	897,318	612,517	858,599	305,250	3,632,456
MTA	57,391	485,461	438,085	314,016	154,222	281,466	163,024	1,893,665
PRT		6,347	50,493	167,485	75,999	25,813	1,163	327,301
ADM		10,000		36,779	32,750	89,238	24,499	193,266
FIR		48,316		25,500	12,024	7,621	7,500	100,961
LIB		16,363	20,189	6,224	4,462	9,206		56,444
DPW		16,750	18,000	14,933	808	724,546	261,993	1,037,030
DPH			19,770	1,104	1,930			22,804
DAT					7,000			7,000
JUV				1,641	1,042	182		2,865
<b>Total Amount</b>	<b>\$118,542</b>	<b>\$1,796,161</b>	<b>\$1,958,369</b>	<b>\$2,557,984</b>	<b>\$1,655,035</b>	<b>\$2,900,903</b>	<b>\$1,045,384</b>	<b>\$12,032,378</b>

Source: OCA

Notes: FY 2016-17 spending includes less than two months of spending. FY 2022-23 shows spending and purchase orders open as of August 31, 2022.

The departments that have the highest expenditures are the Public Utilities Commission (39.6 percent, or approximately \$4.8 million) and the Airport (30.2 percent, or approximately \$3.6 million). According to OCA staff, items mostly purchased under this contract include hand tools, hoses, tubes, plumbing equipment and supplies, valves, fleet services industrial supplies, custodial industrial supplies, and mechanical maintenance supplies.

### FISCAL IMPACT

The proposed seventh amendment increases the not to exceed amount of the contract with MSC Industrial Supply Company Inc. by \$900,000 to a total of \$15,177,623. Although the current contract term ends on June 30, 2023, OCA projects that the \$14,277,623 contract amount will be fully spent by April 15, 2023. The requested \$900,000 increase is therefore intended to provide contract spending authority from April 15, 2023, to June 30, 2023, or approximately 2.5 months at \$281,878<sup>1</sup> in projected spending per month. Consequently, including a 15 percent contingency, we project total new spending will be \$810,398. Per OCA's practice,<sup>2</sup> the total not to exceed amount of the increase is rounded to \$900,000. Actual and projected expenditures are shown in Exhibit 2 below.

<sup>1</sup> OCA's projected expenditures is based on actual spend of \$281,878 per month from 7/1/21 to 8/31/22

<sup>2</sup> According to OCA, contract not to exceed amounts are rounded to reduce the chance for errors in amendment documents and all related approvals, as well as in required data entry within multiple systems (PeopleSoft, ServiceNow, etc.), ensuring OCA does not accidentally exceed the approved amounts.

**Exhibit 2: Projected Spending**

Current Not To Exceed	\$14,277,623
Projected Exhaustion of Existing Spending Authority	4/15/23
End Date of Contract	6/30/23
Months of Spending that Need to be Funded	2.5
Actual Expenditures per Month (7/1/21 – 8/31/22)	281,878
Projected Spending	704,694
Contingency (15%)	105,704
Projected Spending	810,398
<b>Increase in Not-to-Exceed (Rounded)</b>	<b>\$900,000</b>
<b>Proposed Not to Exceed</b>	<b>\$15,177,623</b>

Source: OCA

According to OCA staff, individual departments utilize the contract by issuing purchase orders based on their needs at any given time. The funding for these payments is appropriated in departmental operating budgets. The contract's not-to-exceed amount serves as a maximum, not the total that the City is obligated to spend.

**RECOMMENDATION**

Approve the proposed resolution.

<b>Item 5</b> <b>File 22-1056</b>	<b>Department:</b> Office of Contract Administration (OCA)
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**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed resolution authorizes the fourth modification to the Office of Contract Administration (OCA’s) contract with W. W. Grainger, Inc. for the purchase of industrial supplies. The resolution increases the contract amount by \$9,500,000 for a total not to exceed amount of \$21,600,000. The proposed resolution also exercises the option to extend the contract term by one year through December 31, 2023. The contract has one remaining one-year option to extend through December 31, 2024.

**Key Points**

- OCA has requested to extend the contract so that departments can continue to use the discounts. Contract item products are offered at a discount ranging from five to 43 percent off the list price, varying by category. The contract allows for all City departments to purchase industrial supplies. OCA staff have stated that expenditures increased during FY 2021-22 because of inflation resulting in overall higher pricing of products.
- Ordering departments will notify OCA if the vendor does not meet delivery requirements or other required contract specifications. OCA staff have stated that they have not received any complaints from departments to date on the contact, and therefore, deem the vendor to be meeting its contractual obligations.

**Fiscal Impact**

- Although the current contract term ends on December 31, 2022, OCA projects that the \$12,100,000 contract amount will be fully spent by November 30, 2022. The requested \$9,500,000 increase is therefore intended to provide contract spending authority from November 30, 2022, to December 31, 2023. Costs are funded by purchasing departments.
- OCA increased the contingency from 10 to 30 percent because of an approximately 70 percent increase in contract usage from FY 2020-21 and FY 2021-22. However, we recommend the contingency should be reduced from 30 to 20 percent, consistent with the maximum contingency amounts for contracts that typically are considered by the Board of Supervisors. Consequently, including a 20 percent contingency, we project total new spending will be \$8,740,290, or approximately \$700,000 less than the amount in the proposed resolution.

**Recommendations**

1. Amend the resolution to reduce the not to exceed amount from \$21,600,000 to \$20,900,000.
2. 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.

Administrative Code Section 21.16(b) allows City departments to utilize the competitive procurement process of any other public agency or non-profit made up of multiple public agencies to make purchases of commodities or services for the use of the City under the terms established in that agency’s competitive procurement process and as agreed upon by the City and the procuring agency, upon making a determination that (i) the other agency’s procurement process was competitive or the result of a sole-source award, and (ii) the use of the other agency’s procurement would be in the City’s best interests.

**BACKGROUND**

In May 2022, the Board of Supervisors approved the third modification to the contract between the Office of Contract Administration (OCA) and W.W. Grainger, Inc. (Grainger) for the purchase of industrial supplies for City departments, increasing the contract amount by \$2,200,000 for a total not to exceed amount of \$12,100,000 with no change to the total term of July 15, 2020 through December 31, 2022 (File 22-0174). As detailed in our report on the third modification, the procurement relied on a competitive solicitation managed by the City of Tucson, Arizona and OMNIA, a purchasing consortium, as allowed under Administrative Code Section 21.16(b).

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution authorizes the Office of Contract Administration to enter a fourth modification with W.W. Grainger, Inc. for the purchase of industrial supplies for City departments. The resolution increases the contract amount by \$9,500,000 for a total not to exceed amount of \$21,600,000. The proposed resolution also exercises the option to extend the contract term by one year for a total contract term of July 15, 2020 through December 31, 2023. The contract has one remaining one-year option to extend through December 31, 2024.

OCA requests to extend the contract so that departments can continue to use the discounts. At the time of the solicitation in 2019, the national cooperative organization, OMNIA Partners, leveraged the collective buying power of more than 60,000 public/governmental entities and \$100 million in estimated annual purchasing volume, allowing Grainger to offer a greater percentage discount off catalog pricing. Prior to entering into the national cooperative agreement, a price comparison was conducted between the previous City contract and other national cooperative agreements available at the time. OCA states that under the City of Tucson/OMNIA Partners contract, the City would realize an annual costs savings of over \$200,000. Additionally, the extension would give OCA the time to prepare a bid and bid out their own solicitation if needed.

Under the contract, the vendor provides a range of industrial supplies. Specific supply categories include abrasives, adhesives, sealants, tape, cleaning supplies, electrical supplies, electronics, appliances, batteries, fasteners, fleet and vehicle maintenance supplies, hospitality and food service supplies, hand tools, hardware, HVAC and refrigeration, lab supplies, lighting, lubrication, machining supplies, material handling, motors, outdoor equipment, paint supplies, plumbing supplies, pneumatics, power tools, power transmission, pumps, safety supplies, security, test instruments, HVAC filters, and emergency preparedness supplies. Contract item products are offered at a discount ranging from five to 43 percent off the list price, varying by category. The contract allows for all City departments to purchase industrial supplies. According to OCA, expenditures increased during FY 2021-22 because of inflation resulting in overall higher pricing of products.

### **Performance Monitoring**

While the contract does not include specific performance measures, it includes several contract terms and conditions to hold the vendor accountable for product availability, delivery timeframes, environmental specifications, the condition of products, and the inspection of products, as listed below.

- **Failure to Deliver.** If the vendor fails to deliver products within the timeframe agreed under the contract, the ordering department may source from another vendor. The City has a right to receive the difference if the new purchase price is higher than the contract price.
- **Condition of Products.** Contract items offered and furnished must be new and previously unused and the latest model offered by the manufacturer, unless otherwise specified.
- **Inspection of Products.** All contract items will be subject to inspection by OCA or any ordering department.
- **Substitute Items.** If a contract item is discontinued or temporarily unavailable, it is the vendor's responsibility to find an acceptable equal substitute in time for the required delivery and at the contracted price.
- **Environmental Specifications.** Products must meet environmental specifications detailed in Chapter 2 and Chapter 5 of the City's Environment Code, such as maximizing purchasing of recycled products and avoiding products that contain polyvinyl chloride (PVC, vinyl).

According to OCA staff, ordering departments will notify OCA if the vendor does not meet delivery requirements or other required contract specifications. OCA staff have stated that they have not received any complaints from departments to date on the contract, and therefore, deem the vendor to be meeting its contractual obligations.

### **Actual Spending**

OCA reports spending \$10,945,056 of the total current contract amount of \$12,100,000, as shown in Exhibit 2 below.

**Exhibit 2: Expenditures to Date for Industrial Supplies Contract**

Department	FY 2020-21	FY 2021-22	FY 2022-23* (as of 8/15/22)	Total
ADM	\$241,710	\$433,586	\$379,338	\$1,054,633
ADP	1,464	1,896	10	3,371
AIR	867,937	1,045,486	259,926	2,173,349
ART	784			784
CHF	2,298	4,510		6,808
CON		720	355	1,075
DAT	2,547	848		3,395
DBI	2,726	2,690	1,399	6,815
DEM	63,436	403,063	20,000	486,499
DPH	126,999	211,096	150,000	488,095
DPW	48,808	123,835	37,592	210,236
TIS		20,017	613	20,630
FIR	222,761	197,840	170,608	591,209
HOM	54,290	67,500	6,375	128,165
HSA	74,122	97,821	36,824	208,767
JUV	20,882	63,753	4,291	88,925
LIB	138,140	210,442	89,951	438,532
MTA	63,022	341,614	102,114	506,750
POL	115,486	177,422	92,060	384,967
PRT	54,799	131,371	17,033	203,203
PUC	1,095,906	1,516,511	275,465	2,887,882
REC	146,295	154,030	4,482	304,807
REG	26,843	472,862	100,000	599,705
RET		21,781		21,781
SHF			1,674	1,674
TTX		282		282
WAR	10,094	51,459	59,782	121,335
WOM		1,380		1,380
<b>Total Amount</b>	<b>\$3,381,348</b>	<b>\$5,753,815</b>	<b>\$1,809,892</b>	<b>\$10,945,056</b>

Source: OCA

\*FY 2022-23 shows spending and purchase orders open as of August 15, 2022.

The departments that have the highest expenditures are the Public Utilities Commission (26.4 percent, or approximately \$2.9 million) and the Airport (19.9 percent, or approximately \$2.2 million). According to OCA, items mostly purchased under this contract include mobile lighting, air compressors, portable air cleaners, boilers, airport custodian industrial supplies, fleet services industrial supplies and mechanical maintenance supplies.

**FISCAL IMPACT**

The proposed fourth amendment increases the not to exceed amount of the contract with the vendor by \$9,500,000 to a total of \$21,600,000. Although the current contract term ends on December 31, 2022, OCA projects that the \$12,100,000 contract amount will be fully spent by November 30, 2022. The requested \$9,500,000 increase is therefore intended to provide contract spending authority from November 30, 2022 to December 31, 2023, or approximately 13 months at \$560,275<sup>1</sup> in spending per month.

OCA increased the contingency from 10 to 30 percent because of an approximately 70 percent increase in contract usage from FY 2020-21 and FY 2021-22 and the confirmation that the use of federal funds is now allowed for the contract. OCA staff have stated that federal funds were not previously allowed; however, they have confirmed that the RFP did not conflict with federal solicitation rules, and therefore, anticipate that the additional source of funding will increase contract expenditures. In addition, OCA staff have stated that the integration of the City’s PeopleSoft system with Grainger’s ecommerce website may further encourage employees to utilize the contract because of its convenience, and thereby increase expenditures. However, we recommend the contingency should be reduced from 30 to 20 percent, consistent with the maximum contingency amounts for contracts that typically are considered by the Board of Supervisors. Consequently, including a 20 percent contingency, we project total new spending will be \$8,740,290, and therefore, the total not to exceed amount should be reduced from \$21,600,000 to \$20,900,000, as shown below in Exhibit 3.

**Exhibit 3: Projected Spending**

Current Not to Exceed Amount	12,100,000
Projected Exhaustion of Existing Spending Authority	11/30/22
End Date of Contract	12/31/23
Months of Spending that Need to be Funded	13
Actual Expenditures per Month (7/1/21 – 8/31/22)	560,275
Projected Spending	7,283,575
Contingency (20%)	1,456,715
Increase in Not to Exceed Amount	8,740,290
BLA Recommended Not To Exceed (Rounded)	20,900,000
Requested Not To Exceed	21,600,000
Difference	(700,000)

Source: BLA Analysis

According to OCA staff, individual departments utilize the contract by issuing purchase orders based on their needs at any given time. The funding for these payments is appropriated in departmental operating budgets. The contract’s not-to-exceed amount serves as a maximum, not the total that the City is obligated to spend.

<sup>1</sup> OCA’s projected expenditures is based on actual spend of \$560,275 per month from 7/1/21 to 8/15/22.

## RECOMMENDATIONS

1. Amend the resolution to reduce the not to exceed amount from \$21,600,000 to \$20,900,000.
2. Approve the proposed resolution, as amended.

<p><b>Item 6</b> <b>File 22-1057</b></p>	<p><b>Departments:</b> Office of Contract Administration (OCA)</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p>	
<ul style="list-style-type: none"> <li>• The proposed resolution authorizes the sixth contract modification to the Office of Contract Administration (OCA’s) contract with Buckles-Smith Electric Co. The resolution increases the contract amount by \$3,000,000 for a total not to exceed amount of \$16,946,868. There is no change to the contract term, which is approximately six years from July 5, 2017 through June 30, 2023.</li> </ul>	
<p style="text-align: center;"><b>Key Points</b></p>	
<ul style="list-style-type: none"> <li>• In November 2021, the Board of Supervisors approved the fifth modification to the contract between the Office of Contract Administration (OCA) and Buckles-Smith Electric Co. for the purchase of electrical supplies and fixtures for City departments, increasing the contract amount by \$4,046,868 for a total not to exceed amount of \$13,946,868 and extending the term by one year for a total contract duration of six years from July 5, 2017 to June 30, 2023 (File 21-1004).</li> <li>• The contract allows for all City departments to purchase electrical supplies and fixtures. The contract provides discounts that range from 15 percent to more than 90 percent from catalog prices, depending on the product. OCA states that expenditures increased during FY 2021-22 because of inflation resulting in overall higher pricing of products.</li> <li>• Ordering departments will notify OCA if the vendor does not meet delivery requirements or other required contract specifications. OCA staff have stated that they have not received any complaints from departments to date on the contract, and therefore, deem the vendor to be meeting its contractual obligations.</li> <li>• The majority of total contract spending to date—62.4 percent, or approximately \$8.2 million—has been made by the Public Utilities Commission. OCA states that items most frequently purchased under this contract include LED high bay lights, circuit breaker racking systems, high intensity LED lighting, and control boards.</li> </ul>	
<p style="text-align: center;"><b>Fiscal Impact</b></p>	
<ul style="list-style-type: none"> <li>• The proposed sixth amendment increases the not to exceed amount of the contract with the vendor by \$3,000,000 to a total of \$16,946,868. Although the current contract term ends on June 30, 2023, OCA projects that the \$13,946,868 contract amount will be fully spent by November 15, 2022. The requested \$3,000,000 increase is therefore intended to provide contract spending authority from November 15, 2022, to June 30, 2023, or approximately 7.5 months at \$341,202 in spending per month. Consequently, including a 15 percent contingency, we project total new spending will be \$2,942,867. Per OCA’s practice, the total not to exceed amount of the increase is rounded to \$3,000,000.</li> </ul>	
<p style="text-align: center;"><b>Recommendation</b></p>	
<ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

**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**

In November 2021, the Board of Supervisors approved the fifth modification to the contract between the Office of Contract Administration (OCA) and Buckles-Smith Electric Co. for the purchase of electrical supplies and fixtures for City departments, increasing the contract amount by \$4,046,868 for a total not to exceed amount of \$13,946,868 and extending the term by one year for a total contract duration of six years from July 5, 2017 to June 30, 2023 (File 21-1004). The original contract and subsequent modifications did not require Board of Supervisors approval because the term did not exceed 10 years and the total not to exceed amount was less than \$10 million.

**Selection Process**

OCA issued a request for proposal (RFP) in May 2017 for electrical supplies and fixtures for City departments for a contract period of three years, with the possibility of extension for a period or periods of one-year up to a maximum contract duration of six years. OCA determined that Buckles-Smith Electric Co. provided the lowest cost bid and was awarded a \$5 million contract with a three-year term from July 5, 2017 through June 30, 2020.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution authorizes OCA to enter into a sixth contract modification with Buckles-Smith Electric Co. for the purchase of electrical materials, supplies and fixtures for City departments. The resolution increases the contract amount by \$3,000,000 for a total not to exceed amount of \$16,946,868. There is no change to the contract term, which is approximately six years from July 5, 2017 through June 30, 2023.

Under the contract, specific products provided include electrical market abrasive belts and systems, electrical bonding, cables, and wires, electrical corrosion and fire protection, electrical industrial products, safety products, lighting, conduits, and other electrical products. The contract allows for all City departments to purchase electrical supplies and fixtures. The contract provides discounts that range from 15 percent to more than 90 percent from catalog prices, depending on the product. According to OCA staff, expenditures increased during FY 2021-22 because of inflation resulting in overall higher pricing of products.

**Performance Monitoring**

While the contract does not include specific performance measures, it includes several contract terms and conditions to hold the vendor accountable for product availability, delivery

timeframes, environmental specifications, the condition of products, and the inspection of products, as listed below.

- **Delivery Timeframe.** The vendor must deliver stocked non-priority, in-stock standard contract items within three working days after the purchase order is received; and in priority cases, the ordering department may request delivery within 24-hours once the purchase order is received. If the vendor is unable to meet the 24-hour delivery timeframe, the vendor is required to inform the ordering department when the ordered product(s) will be available for delivery.
- **Condition of Products.** Contract items offered and furnished must be new and previously unused and the latest model offered by the manufacturer, unless otherwise specified.
- **Inspection of Products.** All contract items will be subject to inspection by OCA or any ordering department.
- **Substitute Items.** If a contract item is discontinued or temporarily unavailable, it is the vendor's responsibility to find an acceptable equal substitute in time for the required delivery and at the contracted price.
- **Environmental Specifications.** Products must meet environmental specifications detailed in Chapter 2 and Chapter 5 of the City's Environment Code, such as maximizing purchasing of recycled products and avoiding products that contain polyvinyl chloride (PVC, vinyl).

According to OCA staff, ordering departments will notify OCA if the vendor does not meet delivery requirements or other required contract specifications. OCA staff have stated that they have not received any complaints from departments to date on the contract, and therefore, deem the vendor to be meeting its contractual obligations.

### Actual Spending

OCA staff report spending \$13,162,053 of the total current contract amount of \$13,946,868, as shown in Exhibit 1 below.

#### Exhibit 1: Expenditures to Date for Electrical Supplies and Fixtures Contract

Department	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22	FY 2022-23*	Total
PUC	\$1,061,613	\$1,262,157	\$1,137,557	\$1,691,733	\$2,565,844	\$493,848	\$8,212,751
AIR	84,109	211,588	263,695	176,951	619,548	234,158	1,590,049
DPW	220,592	283,275	135,581	128,791	132,815	51,044	952,098
MTA	34,437	201,900	121,761	68,329	162,353	31,581	620,360
TIS		95,517	69,017	82,193	107,384	159,910	514,021
LIB	65,146	105,690	47,927	29,569	23,454	36,824	308,610
ENV	270,600						270,600
REC	38,677	86,132	7,045	54,695	20,641		207,190
DPH	36,162	28,409	42,650	35,000	41,966	60,141	244,328
PRT		34,359	69,297	7,152	13,989		124,797
ADM	33,579	28,218	25,211	8,458	5,037	13,189	113,692
JUV				452	3,104		3,556
<b>Total Amount</b>	<b>\$1,844,916</b>	<b>\$2,337,245</b>	<b>\$1,919,741</b>	<b>\$2,283,323</b>	<b>\$3,696,135</b>	<b>\$1,080,693</b>	<b>\$13,162,053</b>

Source: OCA

\*FY 2022-23 shows spending and purchase orders open as of August 31, 2022.



The majority of total contract spending to date—62.4 percent, or approximately \$8.2 million—has been made by the Public Utilities Commission, as shown above. According to OCA, items most frequently purchased under this contract include LED high bay lights,<sup>1</sup> circuit breaker racking systems, high intensity LED lighting, and control boards.

**FISCAL IMPACT**

The proposed sixth amendment increases the not to exceed amount of the contract with the vendor by \$3,000,000 to a total of \$16,946,868. Although the current contract term ends on June 30, 2023, OCA projects that the \$13,946,868 contract amount will be fully spent by November 15, 2022. The requested \$3,000,000 increase is therefore intended to provide contract spending authority from November 15, 2022 to June 30, 2023, or approximately 7.5 months at \$341,202<sup>2</sup> in projected spending per month. Consequently, including a 15 percent contingency, we project total new spending will be \$2,942,867. Per OCA’s practice,<sup>3</sup> the total not to exceed amount of the increase is rounded to \$3,000,000. Actual and projected expenditures are shown in Exhibit 2 below.

**Exhibit 2: Projected Spending**

Current Not To Exceed	\$13,946,868
Projected Exhaustion of Existing Spending Authority	11/15/22
End Date of Contract	6/30/23
Months of Spending that Need to be Funded	7.5
Actual Expenditures per Month (7/1/21 – 8/31/22)	341,202
Projected Spending	2,559,015
Contingency (15%)	383,852
Projected Spending	2,942,867
<b>Increase in Not-to-Exceed (Rounded)</b>	<b>\$3,000,000</b>
<b>Proposed Not to Exceed</b>	<b>\$16,946,868</b>

Source: OCA

According to OCA staff, individual departments utilize the contract by issuing purchase orders based on their needs at any given time. The funding for these payments is appropriated in departmental operating budgets. The contract’s not-to-exceed amount serves as a maximum, not the total that the City is obligated to spend.

**RECOMMENDATION**

Approve the proposed resolution.

<sup>1</sup> LED high bay lights are specialized industrial shop lights designed to illuminate large areas with high ceilings

<sup>2</sup> OCA’s projected expenditures are based on actual spend of \$341,202 per month from 7/1/21 to 8/31/22

<sup>3</sup> According to OCA, contract not to exceed amounts are rounded to reduce the chance for errors in amendment documents and all related approvals, as well as in required data entry within multiple systems (PeopleSoft, ServiceNow, etc.), ensuring OCA does not accidentally exceed the approved amounts.

<p><b>Item 7</b> <b>File 22-1077</b></p>	<p><b>Department:</b> Recreation and Parks Department (REC)</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution would retroactively authorize the Recreation and Park Department (REC) to accept and expend a grant from the California Department of Parks and Recreation (CDPR) Habitat Conservation Fund in the amount of \$350,000 for the Twin Peaks Trails Improvement Project for the term of July 2022 through June 2027 and requiring REC to maintain the trail for the duration of the contract performance period of July 2022 through June 2042.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• REC has proposed the Twin Peaks Trails Improvement Project to control erosion, improve walking and running experience, and restore native habitats in Twin Peaks. In 2022, the Board of Supervisors approved the acceptance and expenditure of two State grant awards for the project, totaling \$2,400,000. REC has also applied for a grant from the CDPR Habitat Conservation Fund. The grant has not been awarded yet, but CDPR has informed REC that due to limited applications, the grant will likely be awarded. REC anticipates that the grant awards will be announced in Fall 2022. The grant requires a 1:1 match, which will be met by a previously awarded grant. The proposed grant agreement has a 20-year performance period and requires the City to maintain improvements funded by the grant.</li> <li>• The Twin Peaks Trails Improvement Project will improve three existing trail segments and the Twin Peaks Promenade, which is a section of Twin Peaks Boulevard that is now closed to vehicular traffic and will become a multi-use linear park. Trail improvements include replacing deteriorating wood steps with longer-lasting box steps, eliminating informal trails, providing erosion control measures, re-grading and realigning the switchback segment, restoring native plants, and providing wayfinding signage. REC staff plan to solicit bids and award a construction contract in Spring 2023 and expect construction to last from Fall 2023 through Summer 2024.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The proposed grant would provide \$350,000 in funding from the CDPR Habitat Conservation Fund for the Twin Peaks Trails Improvement Project. REC estimates that total project costs are approximately \$3.5 million. Approximately \$2,750,000 would be funded by State grant funds, and approximately \$750,000 would be funded by City bond funds.</li> <li>• REC estimates the annual maintenance costs to be \$144,866, not including escalation.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• We consider approval of the proposed resolution to be a policy matter for the Board of Supervisors because the proposed grant has not yet been awarded.</li> </ul>	

**MANDATE STATEMENT**

City Administrative Code Section 10.170-1 states that accepting Federal, State or third-party grant funds in the amount of \$100,000 or more, including any City matching funds required by the grant, is subject to Board of Supervisors approval.

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that has a term of more than ten years is subject to Board of Supervisors approval.

**BACKGROUND**

Twin Peaks is the second highest park in San Francisco (second to Mt. Davidson) comprised of 64 acres of public land owned by the City and operated by the Recreation and Park Department (REC). The mission blue butterfly is a federally listed endangered species that still survives on Twin Peaks. According to REC staff, Twin Peaks is a highly visited site and the main trails have deteriorated and lead to informal trails that threaten the native habitat. Twin Peaks trails are components of the Bay Area Ridge Trail.

REC has proposed the Twin Peaks Trails Improvement Project to control erosion, improve walking and running experience, and restore native habitats. In January 2022, the Board of Supervisors approved a resolution retroactively authorizing REC to accept and expend a \$500,000 grant from the State Coastal Conservancy Priority Conservation Area Grant Program for the project, requiring \$1,000,000 in matching funds (21-1178). The purpose of that grant was to restore two existing trails on Twin Peaks. In October 2022, the Board of Supervisors approved a resolution retroactively authorizing REC to accept and expend a \$1,900,000 grant from the California Department of Parks and Recreation (CDPR) for the project (File 22-1006). The purpose of this grant is to convert a portion of Twin Peaks Boulevard into public open space. REC has also applied for a grant from the CDPR Habitat Conservation Fund to restore a third trail on Twin Peaks, connecting the park a residential area and bus stop. According to Toni Moran, REC Senior Administrative Analyst, the Habitat Conservation Fund grant has not been awarded yet, but CDPR has informed REC that due to limited applications, the grant will likely be awarded. REC anticipates the grant awards will be announced in Fall 2022.

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would retroactively authorize REC to accept and expend a grant from the CDPR Habitat Conservation Fund for the Twin Peaks Trails Improvement Project in the amount of \$350,000 for the term of July 2022 through June 2027 and requiring REC to maintain the trail for the duration of the contract performance period of July 2022 through June 2042. According to Senior Administrative Analyst Moran, REC is requesting retroactive approval because the performance period begins July 1, 2022, although REC has not received any grant funds. REC is requesting Board of Supervisors approval before the grant award to avoid delays to the project.

The Twin Peaks Trails Improvement Project will improve three existing trail segments and the Twin Peaks Promenade, which is a section of Twin Peaks Boulevard that is now closed to vehicular

traffic and will become a multi-use linear park. Trail improvements include replacing deteriorating wood steps with longer-lasting box steps, eliminating informal trails, providing erosion control measures, re-grading and realigning the switchback segment, restoring native plants, and providing wayfinding signage. REC staff plan to solicit bids and award a construction contract in Spring 2023 and expect construction to last from Fall 2023 through Summer 2024. Work on the project started in June 2021. According to Senior Administrative Analyst Moran, total project spending to date is \$102,924 for trail design and project management.

### Grant Agreement

Although the grant has not been awarded as of this writing, REC provided a template grant agreement from the CDPR in the legislative file. The proposed grant agreement has a 20-year performance period and requires the City to maintain the improvements funded by the grant. The grant requires a 1:1 match, which will be met by the previously approved State Coastal Conservancy grant.

### FISCAL IMPACT

The proposed grant would provide \$350,000 in funding from the CDPR Habitat Conservation Fund for the Twin Peaks Trails Improvement Project. REC staff estimate that total project costs are approximately \$3.5 million. The estimated sources and uses of funds are shown in Exhibit 1 below.

#### Exhibit 1: Estimated Sources and Uses of Funds

Sources	Amount
CDPR Proposition 68 Regional Park Program Grant <sup>1</sup>	\$1,900,000
State Coastal Conservancy Priority Conservation Area Grant	500,000
2020 Health and Recovery Bond (Proposition A) <sup>2</sup>	750,000
CDPR Habitat Conservation Fund (This File 22-1077)	350,000
<b>Total Sources</b>	<b>\$3,500,000</b>

  

Uses	Amount
Construction	\$3,071,330
Soft Costs	428,670
<b>Total Uses</b>	<b>\$3,500,000</b>

Source: REC

According to Senior Administrative Analyst Moran, the project budget has increased from approximately \$1.5 million in January 2022 to \$3.5 million due to available funding from the CDPR Proposition 68 grant (File 22-1006). This funding allowed REC to add a third trail and the Twin Peaks Promenade to the project scope.

<sup>1</sup> Proposition 68, approved by California voters in June 2018, authorized \$4 billion in general obligation bonds for state and local parks, environmental protection and restoration projects, water infrastructure projects, and flood protection projects.

<sup>2</sup> Proposition A, approved by San Francisco voters in November 2020, authorized \$487.5 in general obligation bonds for mental health and homelessness facilities, parks, open space, and recreation facilities, and street improvements.

As noted above, REC would be required to maintain the improvements for 20 years. According to Senior Administrative Analyst Moran, REC estimates the annual maintenance costs to be \$144,866, not including escalation.

**RECOMMENDATION**

We consider approval of the proposed resolution to be a policy matter for the Board of Supervisors because the proposed grant has not yet been awarded.

### Appendix: Twin Peak Trails Improvement Project Design Maps

#### Map of New Trails



Notes: Trail segment 007e – 006 has been restored. Restoration of segment 004e – 003s would be funded by the proposed grant. Segments 005e – 005s and 009s to 009e are funded by the Priority Conservation Area grant and the Promenade will be funded by the Regional Park Program grant.

#### Map of Promenade



Source: Twin Peaks Trails and Promenade Update (Virtual Community Meeting), October 27, 2021

<p><b>Item 12</b>  <b>File 22-0920</b>  <i>(Continued from 11/2/2022)</i></p>	<p><b>Department:</b>                  Public Health</p>
<p><b>EXECUTIVE SUMMARY</b></p>	
<p><b>Legislative Objectives</b></p>	
<ul style="list-style-type: none"> <li>• The proposed resolution would retroactively approve an emergency contract between the Department of Public Health and Health Management Associates, Inc. (HMA) in an amount not to exceed \$6,240,969 from May 9, 2022, through June 30, 2023.</li> </ul>	
<p><b>Key Points</b></p>	
<ul style="list-style-type: none"> <li>• Laguna Honda Hospital (LHH) is seeking reinstatement of its Medicare and Medicaid program certification from the federal Centers for Medicare and Medicaid Services (CMS).</li> <li>• The proposed first amendment increases the billable hours from 8,727 to 14,540 and increases associated travel expenses for the vendor to support recertification through December 31, 2022. The original agreement was based on a September 2022 recertification timeline.</li> <li>• The scope of services includes five tasks: (1) Comprehensive Assessment, (2) CMS Re-application, Readiness Assessment and Mock Survey, (3) Comprehensive Education and Training Curriculum Approach, (4) Extension of HMA Resources for Revised Certification Timeline, and (5) Infection Control Consultation.</li> </ul>	
<p><b>Fiscal Impact</b></p>	
<ul style="list-style-type: none"> <li>• Total contract costs are \$6,240,969 and are based on staff time across all tasks, which totals 14,540 hours. Billing rates range between \$200 and \$450 per hour. Costs are paid by the General Fund and Laguna Honda operating fund.</li> </ul>	
<p><b>Recommendation</b></p>	
<ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

**MANDATE STATEMENT**

Administrative Code Section 21.15 states that emergency contacts to procure commodities or services that are more than \$100,000 are subject to Board of Supervisors approval. If the emergency permits, the Department must also secure written approval from the Mayor or Mayor's designee, or the president of the board or commission concerned. If the emergency does not permit approval of the emergency determination by the Board of Supervisors before work begins, the Department head must submit a resolution approving the emergency determination to the Board of Supervisors as soon as possible. The Department shall attempt to obtain at least three bids for emergency purchases.

**BACKGROUND**

Laguna Honda Hospital (LHH) is seeking reinstatement of its Medicare and Medicaid program certification from the federal Centers for Medicare and Medicaid Services (CMS). The deadline to do so is Fall 2023. To prepare for the recertification process, the Department of Public Health (DPH) entered into three emergency contracts with health care consulting firms. The Board of Supervisors approved two emergency contracts with the following vendors: (1) Tryfacta, Inc. to provide temporary staffing services for an amount not to exceed \$1,000,000 from June 2022 to December 2022 (File 22-0921); and (2) Health Services Advisory Group, Inc. (HSAG) to provide in-depth evaluation and staff training to prepare for the CMS recertification audit. The HSAG contract has a not to exceed amount of \$6,989,564 and a term May 2022 to December 2022 (File 22-0922).

In May 2022, DPH also entered into a third emergency agreement with Health Management Associates, Inc. (HMA) to conduct an operational, clinical, and organizational assessment of LHH; as well as perform recertification survey readiness assessments and mock CMS audit surveys of LHH, for an amount not to exceed \$3,782,365 from May 9, 2022 to June 30, 2023 (This File 22-0920).

**Vendor Selection Process**

According to DPH staff, the proposed contract was procured under Administrative Code 21.15, which waives the competitive solicitation process and authorizes contracts to be entered in the "expeditious manner necessary in order to respond to the emergency." Administrative Code 21.15 was used to authorize vendors to immediately assist with the LHH recertification efforts, which was declared an emergency by the Director of Health and the Health Commission.

In April 2022, under Administrative Code Section 21.15, DPH issued an emergency solicitation for three tasks related to the LHH recertification efforts: (1) assessment; (2) re-application, readiness assessment and mock survey; and (3) as-needed staffing. According to DPH staff, the Department sent interview questions to interested vendors, reviewed their responses, and sent out final supplemental questions to select the final vendor for the proposed contract.



Administrative Code 21.15 requires departments to attempt to obtain at least three bids for purchases. According to DPH, the following five vendors bid on the contract: (1) FTI Consulting, (2) The Long Hill Company, (3) Moss Adams LLP, (4) Health Management Associates, Inc., and (5) David Hoffman & Associates, PC. Health Management Associates, Inc. received the highest bid score, and therefore was selected as the final vendor for the contract.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve an emergency contract and its first amendment between the DPH and Health Management Associates, Inc. (HMA) in an amount not to exceed \$6,240,969 and a term from May 9, 2022, through June 30, 2023. The proposed contract allows the City to terminate the contract agreement without cause.

### First Amendment

The proposed first amendment increases the billable hours from 8,727 to 14,540 and increases associated travel expenses for the vendor to support recertification through December 31, 2022. The original agreement was based on a September 2022 recertification timeline. According to DPH staff, the additional hours will address recent updates in Phase 3<sup>1</sup> CMS regulations, which go live on October 24, 2022. DPH staff states that CMS surveyors will be assessing facilities nationwide using the new Phase 3 regulations beginning in October 2022.

### Retroactive Approval

Administrative Code 21.15 requires Board of Supervisors' approval for emergency contracts that exceed \$100,000, and approvals must be obtained prior to executing the contract or "as soon thereafter as it is possible to do so." According to DPH staff, the Department did not bring this contract to the Board of Supervisors in May 2022 because staff needed to have vendors immediately begin services to address the emergency Laguna Honda recertification process.

### Scope of Services

According to Appendix A of the proposed contract, HMA will provide the following consulting services from May 9, 2022, through June 30, 2023:

**Task 1 – Comprehensive Assessment:** This includes an operational, clinical and organizational assessment of LHH to determine performance gaps in areas such as regulatory standards compliance, effectiveness of operations, provision of care and the quality of health outcomes.<sup>2</sup>

**Task 2 – CMS Re-application, Readiness Assessment and Mock Survey:** This includes supporting LHH's efforts to prepare for CMS recertification by conducting recertification survey readiness

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<sup>1</sup> The phases are updates to guidance pertaining to CMS Requirements of Participation. Phase 1 and Phase 2 were rolled out in November 2016 and 2017 respectively.

<sup>2</sup> According to Appendix A, "focus areas will include, but not be limited to: Executive Leadership, Organizational Structure, Medical Staff, Nursing Operations, Hospital Governing Body, Management, Administrative Operations, Care Models, Organizational Change Management and Financial Analysis of Care Models."

assessments, mock CMS audit surveys of LHH, and completing relevant California Department of Public Health Center (CDPH) and CMS licensing and certification forms.

**Task 3 – Comprehensive Education and Training Curriculum Approach:** This includes developing a training plan for all LHH employees around the areas of deficiencies to remediate knowledge, skills and competency gaps identified in the mock survey.

**Task 4 – Extension of HMA Resources for Revised Certification Timeline:** According to DPH, this entails the extension of on-site resources and travel to extend through December 2022 (instead of September 2022 as initially budgeted in the original agreement).

**Task 5 – Infection Control Consultation:** This entails providing on-site support to the LHH Infection Control Program to provide additional subject matter expertise to support Infection Prevention program assessment and improvement efforts. According to DPH staff, compliance with infection control regulations was identified as a barrier to recertification based on previous California Department of Public Health surveys, initial mock survey results, and consultant assessments

### **Performance Monitoring**

According to Appendix A of the proposed contract, one performance measure will be tracked and monitored annually: (1) contracted tasks listed in Appendix A (as described above) as mutually agreed to by the vendor and DPH. The metric collected for this measure details that 100 percent of tasks mutually agreed to by the vendor and DPH will be completed.

### **FISCAL IMPACT**

Exhibit 1 below shows the budget for the proposed contract, including the first amendment.

**Exhibit 1: Health Management Associates, Inc. (HMA) Proposed Contract Budget from May 9, 2022 through June 30, 2023**

<b>Tasks</b>	<b>Hours</b>	<b>Budget</b>
Task 1: Comprehensive Assessment	1,788	\$611,316
Task 2: CMS Re-Application Preparation	5,282	\$1,829,286
Task 3: Education	3,085	\$1,032,325
Task 4: Resource Extension	1,840	\$667,025
Task 5: Infection Control	360	\$72,000
Communications	310	\$116,366
Change Management	1,036	\$332,276
Project Management	839	\$305,725
Travel Expenses	n/a	\$798,000
Contingency (8%)		\$476,650
<b>Total Amount</b>	<b>14,540</b>	<b>\$6,240,969</b>

Source: Appendix B of First Amendment

As shown above, proposed contract costs are based on staff time across all tasks, which totals approximately 14,540 hours. Billing rates range between \$200 and \$450 per hour.<sup>3</sup> According to DPH staff, the proposed expenditures were determined by the competitive industry rate for such services. Also, this is based on the number of staff on site weekly providing hands-on guidance and assistance for the scope of work. There are also administrative tasks performed off site such as policy and procedure review, coaching, and committee meetings with virtual attendance as appropriate. In addition, the proposed contract budget includes \$798,000 for travel expenses.<sup>4</sup>

**Actual Spending**

According to DPH staff, from May 9 through September 21, 2022, HMA has invoiced DPH for a total of 2,400 project hours, or \$1,209,672 (including travel expenses). Consequently, 12,140 hours or \$5,070,397 remain for the proposed contract.

**Funding Source**

According to DPH staff, the contract is funded by the Laguna Honda Hospital Operating Fund and the General Fund.

<sup>3</sup> Billing rates for the proposed contract are as follows: \$200 for the infection control subcontractor, \$248 for the actuarial analyst subcontractor/Edrington, \$288 for the subcontractor/Steven Hirsch and Associates, \$315 for the Senior Consultant, \$385 for the Principal, \$392 for the Managing Director, subcontractor/Edrington, \$395 for the Managing Principal, and \$450 for the Principal – Physician.

<sup>4</sup> According to DPH staff, the estimated travel expenses budget includes the following: \$472,000 for travel labor (50% billable rates for travel time), \$131,000 for airfare, \$145,000 for hotel, \$11,000 for ground transportation, and \$39,000 for per diem (meals).

**RECOMMENDATION**

Approve the proposed resolution.