CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: March 16, 2022 Budget and Finance Committee Meeting

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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution authorizes the San Francisco Public Utilities Commission (SFPUC) to purchase long duration energy storage from Tumbleweed Energy Storage LLC (Tumbleweed) through California Community Power (CC Power). This authorization covers three agreements between CC Power, CleanPowerSF, and participating community choice aggregators, including the (1) Buyer Liability Pass Through Agreement, (2) Energy Storage Project Participation Share Agreement, and (3) Coordinated Operations Agreement. The three agreements are for a not-to-exceed amount of $65 million over 15 years.

Key Points

- CleanPowerSF joined CC Power in April 2021. CC Power selected Tumbleweed to provide long duration energy storage to participating members following a Request for Offers and to comply with a California Public Utilities Commission (CPUC) order to procure such energy storage capacity by June 2026. Long duration energy storage is a storage system that can discharge its stored electricity at its rated capacity to support system reliability.
- The CPUC requirement for long duration energy storage for the participating CC Power members is 95.6 megawatts (MW) of which the Tumbleweed Project meets approximately 69 MW. CC Power will need to enter into additional long duration energy storage agreements to support participating members compliance with CPUC requirements.
- The Energy Storage Service Agreement is between CC Power and Tumbleweed for long duration energy storage for 15 years from the date of completion of the project in approximately June 2026 to approximately May 2041. The Project Participation Share Agreement is between CC Power and participating members and is for the term of the Energy Storage Service Agreement; this agreement authorizes CC Power to purchase storage capacity and electricity from Tumbleweed on behalf of the participating members. The Buyer Liability Pass-Through Agreement is between Tumbleweed as the energy seller, CC Power as the energy buyer, and CleanPowerSF as the participant; and defines CleanPowerSF's obligation to make its share of the monthly payment owed to Tumbleweed.

Fiscal Impact

- According to SFPUC staff, CleanPowerSF payments for the Tumbleweed long duration energy storage project will begin prior to project completion in approximately June 2026. CleanPowerSF will make quarterly payments to CC Power, who is responsible for payments to Tumbleweed on behalf of its participating members. CleanPowerSF's approximate share of the annual payments are $4.3 million and total payments over 15 years are not to exceed $65 million. CleanPowerSF's payments to CC Power for long duration energy storage have been accounted for in CleanPowerSF's 10-year financial plan and will be incorporated into CleanPowerSF's rates in future years.

Recommendation

- Approve the proposed resolution**.**

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract 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

CleanPowerSF, operated by the San Francisco Public Utilities Commission Power Enterprise, provides electricity generated from renewable sources to approximately 380,000 San Francisco customers. CleanPowerSF began serving customers in 2016 following enactment of California Public Utilities Code Section 331.1(c) and 366.2 in 2002 authorizing local governments to create community choice aggregators to provide electricity to participating customers using the existing investor-owned utility's billing, transmission, and distribution infrastructure. The Board of Supervisors approved a series of legislation between 2004 and 2015 supporting implementation of CleanPowerSF as the City's community choice aggregator.[1]

In February 2021, the Board of Supervisors authorized CleanPowerSF to join a nine-member Joint Powers Agreement (JPA) with other community choice aggregators in Northern California (Ordinance 25-21).[2] The JPA, called California Community Power or "CC Power," was formed in April 2021.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution authorizes the San Francisco Public Utilities Commission (SFPUC) to purchase long duration energy storage from Tumbleweed Energy Storage LLC (Tumbleweed) as a member of CC Power. This authorization covers three agreements between CC Power, CleanPowerSF, and six other members of CC Power, including the (1) Buyer Liability Pass Through Agreement, (2) Tumbleweed Energy Storage Project Participation Share Agreement, and (3) Tumbleweed Coordinated Operations Agreement. The three agreements are for a not-to-exceed amount of $65 million over 15 years.

The agreements allow CC Power to secure long duration energy storage from Tumbleweed for the participating community choice aggregators. Construction of the Tumbleweed project is

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[1] See Ordinance Nos. 86-04, 147-07, 232-09, 45-10, 200-12, and 78-14; and Resolution Nos. 348-12, 331-13, and 75-15.

[2] According to the Budget and Legislative Analyst's report to the January 27, 2021 Budget and Finance Committee, the JPA was to be made up of Clean Power SF; Central Coast Community Power (serving parts of Monterey, San Benito, Santa Cruz, San Luis Obispo and Santa Barbara counties); East Bay Community Energy Authority (Alameda County); Marin Clean Energy Authority (serving Contra Costa, Marin, Napa and Solano counties as well as towns and cities within those counties); San Jose Clean Energy (City of San Jose); Redwood Coast Energy Authority (Humboldt County); Peninsula Clean Energy (San Mateo County and incorporated cities); Silicon Valley Clean Energy Authority (parts of Santa Clara County); and Sonoma Clean Power Authority (Sonoma and Mendocino Counties).

scheduled to be completed and operational in approximately June 2026 and the 15-year capacity and electricity delivery period begins in approximately June 2026 and extends through approximately May 2041.

Long Duration Energy Storage

In June 2021, the California Public Utilities Commission (CPUC) issued a new rule to increase electricity system reliability by requiring electricity retailers to procure an additional 11,500 megawatts of electricity generated from renewable sources; the additional electricity is to become available between 2023 and 2026. Of the 11,500 megawatts, 1,000 megawatts are long duration energy storage to be procured by 2026. Long duration energy storage is a storage system that can provide a number of hours of stored electricity. According to a 2021 report by the National Renewable Energy Laboratory, funded by the U.S. Department of Energy, long duration energy storage is intended to provide resource adequacy (ability to meet peak electricity demand at all times by end-use customers) and to reduce use of carbon emitting fuels. According to the report, "energy storage duration is typically expressed in terms of the number of hours a storage device can provide continuous output at its rated capacity"; the number of hours of output capacity is not standard but is often considered to be 10 hours.[3] The California Public Utilities Commission rule requires at least eight hours of output capacity.

Long Duration Energy Storage Request for Offers

In October 2020, eight community choice aggregators issued a Request for Offers (RFO) for the sale of long duration energy storage capacity and energy. The eight community choice aggregators included CleanPowerSF, Central Coast Community Energy, Marin Clean Energy, Peninsula Clean Energy, Redwood Coast Energy Authority, San Jose Clean Energy, Silicon Valley Clean Energy, and Sonoma Clean Power. The RFO stated that the selected project(s) must (1) provide eight hours of discharge duration (or "continuous output" defined in the National Renewable Energy Laboratory report); (2) meet CPUC and CAISO (California Independent System Operator)[4] requirements for participation in the Resource Adequacy program; (3) interconnect with the transmission or distribution system and be able to participate in CAISO electricity markets; and (4) if not interconnected to the transmission or distribution system, be able to provide Resource Adequacy as a dynamic transfer. The RFO required that the project be in operation by June 2026 and have a minimum delivery term of 10 years. The minimum project capacity was 50 megawatts.

<u>Project Selection</u>

CC Power assumed the management of the long duration energy storage RFO. Projects responding to the RFO were scored based on the projects' economic value, development status,

[3] *Storage Futures Study: The Challenge of Defining Long-Duration Energy Storage,* National Renewable Energy Laboratory, Paul Denholm, Wesley Cole, A. Will Frazier, Kara Podkaminer, and Nate Blair; 2021.

[4] CAISO is responsible for statewide management of the flow of electricity on high-voltage power lines, operation of the wholesale energy market, and oversight of electricity infrastructure planning.

project viability, ability to meet state regulatory requirements, technology viability, project team experience, compliance with workforce.

An ad hoc project oversight committee consisting of representatives of each of the eight participants in the RFO was formed to review and recommend project offers to the CC Power Board of Directors. Of the 51 projects that submitted offers, 15 were selected for a second round of evaluation. The project oversight committee then selected and entered into negotiations with a short list of project developers. In October 2021, the CC Power Board of Directors issued notice of its intent to consider a contract with the Tumbleweed Long Duration Energy Storage (LDS) Project, and on January 19, 2022 the Board approved the three project agreements – Energy Storage Service Agreement, Project Participation Share Agreement, and Buyer's Liability Pass Through Agreement.

Long Duration Energy Storage Project Agreements

Participation in the project is voluntary for CC Power members; participating members include CleanPowerSF, Peninsula Clean Energy, Redwood Coast Energy Authority, San Jose Clean Energy, Silicon Valley Clean Energy, Sonoma Clean Power, and Valley Clean Energy (covering the cities of Davis and Woodland and unincorporated areas of Yolo County). The Tumbleweed LDS Project capacity of 69 megawatts covers approximately 72 percent of CPUC capacity requirement of 96.5 megawatts, as shown in Exhibit 1 below.[5]

Exhibit 1: CPUC Long Duration Energy Storage Requirements and Tumbleweed Capacity

	CPUC Requirement (MW)	Tumbleweed Capacity (MW)	Percent of Requirement
Clean Power SF	15.5	11.1	71%
Peninsula Clean Energy	19.0	13.6	72%
Redwood Coast Energy Authority	3.5	2.5	71%
San Jose Clean Energy	21.5	15.4	71%
Silicon Valley Clean Energy	20.5	14.7	72%
Sonoma Clean Power	12.5	8.9	72%
Valley Clean Energy	4.0	2.8	72%
Total	**96.5**	**69.0**	**72%**

[5] While Tumbleweed LDS Project total capacity meets 72 percent of CPUC requirements, CC Power staff estimated that actual storage capacity requirements may be higher than CPUC requirements because variations in generation of electricity compared to when an electricity shortfall may occur impact the reliability of the electricity grid (an increase in electricity demand may occur at time when renewable electricity is not at peak generation). The Effective Load Carrying Capability (ELCC) is an estimate of electricity grid reliability that considers this variation and is calculated as a percentage of an electricity plant's capability. For example, a solar plant with 100-megawatt capability may only generate at 70 megawatt or 70 percent capability. According to the CC Power staff presentation, the CPUC requirement of 96.5 megawatts of storage capacity is only 78 percent of ELCC requirements, estimated by CC Power staff to be 123.4 megawatts, and therefore the Tumbleweed LDS Project of 69 megawatts is only 55 percent of the actual storage capacity requirements of 123.4 megawatts when adjusted for ELCC.

Source: CC Power Board of Directors January 19, 2022 Meeting Presentation

The Tumbleweed LDS Project, located in Kern County, consists of lithium-ion battery storage and 8 hours of discharge capacity. Project development is expected to be completed and operational by June 2026, which complies with CPUC requirements. The project connects to the electricity grid at the Whirlwind Substation and the California Independent System Operator managed grid.

Energy Storage Service Agreement

The Energy Storage Service Agreement is between CC Power and Tumbleweed Energy Storage, LLC ("Tumbleweed"), and is for 15 years from the date of completion and commercial operation of the Project in approximately June 2026. The agreement:

- provides for guaranteed 69 megawatts installed capacity at eight hours of continuous discharge and dedicated interconnection capacity of 69 megawatts;
- is for a fixed price per kilowatt per month and no escalation over the agreement term;
- gives CC Power exclusive rights to purchase Tumbleweed LDS Project capacity and to resell the purchased capacity; and
- sets performance standards, progress reporting requirements, and requirements for project completion and electricity availability.

CC Power, as the buyer, makes a monthly payment to Tumbleweed based on a formula defined in Exhibit C of the agreement.

Project Participation Share Agreement

The Project Participation Share Agreement is between CC Power and the seven participating members shown in Exhibit 1 above and is for the term of the Energy Storage Service Agreement. This agreement authorizes CC Power to purchase storage capacity and electricity from Tumbleweed on behalf of the participating members. Under the Project Participation Share Agreement, each participating member is entitled to the following share of project capacity:

Exhibit 2: Entitlement Share of Total Project Capacity

	Entitlement Share	Capacity Share (MW)
Clean Power SF	16.1%	11.08
Peninsula Clean Energy	19.7%	13.59
Redwood Coast Energy Authority	3.6%	2.50
San Jose Clean Energy	22.3%	15.37
Silicon Valley Clean Energy	21.3%	14.66
Sonoma Clean Power	13.0%	8.94
Valley Clean Energy	4.2%	2.86
Total	**100.0%**	**69.00**

Source: Project Participation Share Agreement

Under the Project Participation Share Agreement, CC Power prepares the annual budget for the Tumbleweed Project, maintains financial records, and provides annual financial reports. CC Power is also responsible for scheduling of energy on the electricity grid, and resale of electricity on behalf of a participating member. The CC Power Board of Directors has oversight of the Energy Storage Service Agreement with Tumbleweed, and has authority to review, modify, and approve, as appropriate, all amendments, modifications, and supplements to the Energy Storage Service Agreement. The Project Participation Share Agreement provides for a project committee, made up of representatives from the participating members, to coordinate information and make recommendations to the CC Power Board of Directors on the Energy Storage Service Agreement.

The Project Participation Share Agreement defines the terms by which each participating member makes their monthly share of payments to the project. The agreement specifically states that San Francisco payment obligations are limited to CleanPowerSF and are not obligations of SFPUC or the City. Payments require that the Controller certifies the availability of funds and are limited to those payments agreed upon in the project scope.

Participating members can be required to make a "step-up" payment that fully covers monthly payments in the event of a default by another participating member. The step-up payment is capped at 25 percent of the participating member's share; CleanPowerSF step-up payment obligation, therefore, would not exceed 125 percent of CleanPowerSF's total share of the Tumbleweed Project monthly payment.

Coordinated Operations Agreement

The Project Participation Share Agreement provides for a Coordinated Operations Agreement between CC Power and the seven participating members for operating the Project. The Coordinated Operations Agreement sets the terms by which CC Power will (i) provide for delivery of Project electricity to each participant, including allocating any revenues, credits, or other account requirements associated with the electricity; and (ii) coordinate scheduling of electricity on the power grid. The CC Power Board of Directors is to establish an Operations Committee for oversight of Project operations.

Buyer Liability Pass-Through Agreement

The Buyer Liability Pass-Through Agreement is between Tumbleweed as the energy seller, CC Power as the energy buyer, and CleanPowerSF as the participant. Each participant in the Tumbleweed Project is required to enter into a Buyer Liability Pass-Through Agreement. The agreement defines CleanPowerSF's obligation to make its share of the monthly payment to Tumbleweed and incorporates the City's standard Administrative Code contracting requirements.

FISCAL IMPACT

According to SFPUC staff, CleanPowerSF payments for the Tumbleweed long duration energy storage project will begin prior to project completion and operation in approximately June 2026. CleanPowerSF will make quarterly payments to CC Power, who is responsible to payments to

Tumbleweed on behalf of the community choice aggregators. Annual payments are approximately $4.3 million and total payments over 15 years are not to exceed $65 million.

CleanPowerSF's 10-year financial plan for FY 2022-23 through FY 2031-32 projects an annual fund balance ranging from 37 percent of operating expenses in FY 2022-23 to 38 percent of operating expenses in FY 2031-32, which is compliant with SFPUC's minimum fund balance requirement of 25 percent. Historically, CleanPowerSF's rates have been pegged to Pacific Gas and Electric (PG&E) rates. SFPUC is conducting a CleanPowerSF rate study that will set CleanPowerSF rates based on operating and capital requirements rather than PG&E rates. The new rates will be implemented on July 1, 2022. CleanPowerSF's payments to CC Power for long duration energy storage will be incorporated into CleanPowerSF's rates in future years.

RECOMMENDATION

Approve the proposed resolution.

Item 5 **File 22-0094**	**Department:** Mayor's Office of Housing and Community Development

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a loan amount not to exceed $26,286,000 for the acquisition and rehabilitation of three existing affordable multi-family buildings, known as the "Throughline Apartments," with 88 residential and four commercial units, located at 777 Broadway (Bayside), 1204 Mason Street (Consorcia) and 1525-1529 Grant Avenue (Tower).

Key Points

- Two of the three properties—Consorcia and Tower—were placed in Tier 4 of the Mandatory Soft Story Retrofit Program (MSSP) in 2013 by the Department of Building Inspection. The deadline to complete the mandatory seismic retrofitting of these buildings has been extended to October and November 2023, respectively. Chinatown Community Development Center (CCDC) sponsored an application to the Mayor's Office of Housing and Community Development (MOHCD) to finance the acquisition and rehabilitation of these properties as a single project in order to achieve savings in legal and financing costs.
- At the recommendation of the Budget & Legislative Analyst, the Department is expected to request an amendment to the proposed resolution that memorializes the Department's intention to include an option and right of first refusal to acquire the Throughline properties upon transfer of sale.

Fiscal Impact

- The cost of the rehabilitation project for the three project sites is $31,223,750, or $354,815 per unit. The proposed $26,286,000 loan agreement's primary sources of funds are the Community Development Block Grant and Preservation and Seismic Safety Program bond funds.

Policy Consideration

- The current project proforma makes two assumptions about the ability to generate increased rent revenue: (1) that newly vacant units can be rented at the maximum allowable income level; and (2) that HUD will approve a Rent Comparison Study, which will restore the recently reduced Section 8 subsidies associated with the Bayside units. In addition, current contingencies for both soft and hard development costs for the project are below MOHCD standards. Given that actual tenant rents may be less than assumed in the project proforma included in the proposed loan package, outside or additional City funding may need to be identified for ongoing operating costs for the three projects.

Recommendation

Approve the proposed resolution, as amended by the Department.

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

Mandatory Soft Story Retrofit Program

In 2013, the Board of Supervisors passed an ordinance amending the Building Code to establish a Mandatory Soft Story Retrofit Program (MSSP) to ensure the safety of San Francisco's housing stock through the retrofit of older, wood-framed multi-family buildings that include housing over a non-housing ground floor space that has less stability for lateral load resistance, creating a soft-story condition. The Department of Building Inspection (DBI) enforces compliance for the 2,800 buildings that were determined to have a soft-story vulnerability, and established a tiered system to create timelines for submitting permit applications and completing work. DBI placed 1204 Mason (Consorcia) and 1525-29 Grant Avenue (Tower) in Tier 4, which requires permit applications for the seismic retrofit work by September 15, 2018, with work completed by September 16, 2020. The deadline for completion of work has been extended to October and November 2023 for Consorcia and Tower, respectively.

Preservation and Seismic Safety Program

The Preservation and Seismic Safety Program (PASS) provides low-cost and long-term financing to fund seismic retrofits, as well as the acquisition, rehabilitation, and preservation of affordable multi-family housing. PASS was created to complement the City's anti-displacement and preservation strategy. PASS is funded by repurposing $260.7 million in underutilized bond authority from the 1992 Seismic Safety Loan Program, as approved by the voters in 2016. PASS loans may include market interest rate, below market interest rates, and deferred interest payments.

Chinatown Community Development Center (CCDC)

Chinatown Community Development Center (CCDC) has built and rehabilitated 36 properties in San Francisco, including 874 units for seniors and 314 supportive housing units. According to the loan evaluation for the proposed loan, starting in 2015, CCDC assumed ownership of all 526 public housing units in Chinatown through HUD's Rental Assistance Demonstration Program and completed $150 million in renovations. In 2017, CCDC launched its Small Sites and Single Room Occupancy (SRO) Programs to acquire and renovate Chinatown buildings housing vulnerable residents.

Throughline Apartments Project

According to the Project's Affordable Housing Loan Committee Evaluation Report, in March 2018, CCDC proposed to MOHCD the syndication[1] of three properties in its portfolio (Bayside, Consorcia, and Tower) as a single scattered site development project called the Throughline Apartments, to: (1) achieve some economies of scale by bundling three project rehabilitations into one project – saving in administrative, financing and legal costs, (2) leverage Bayside's Section 8 contracts to support two relatively lower rental income properties, and (3) efficiently use CDBG to put funds back into the project for acquisition.

CCDC planned to finance the project using Low Income Housing Tax Credits, but the project's application was denied due to the competitive nature of the CDLAC/TCAC program, where only one rehab project in the City and County of San Francisco was awarded funds in the 3rd round of the 2020 Notice of Funding Availability (NOFA).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve an amendment and restated loan agreement not to exceed $26,286,000 for the acquisition and rehabilitation of three existing affordable multi-family buildings, known as the "Throughline Apartments," with 88 residential and four commercial units, located at 777 Broadway (Bayside), 1204 Mason Street (Consorcia) and 1525-1529 Grant Avenue (Tower) and (2) affirm the Planning Department's determination that this project is consistent with the General Plan and the priority policies of Planning Code Section 101.1. The proposed loan agreement adds $25,486,000 to an existing City loan of $800,000 made in 2020.

Overview of Properties

Chinatown Community Development Corporation currently owns the land at Consorcia and Tower. Bayside Elderly Housing Corporation, a subsidiary company of CCDC, holds an air rights lease with the San Francisco Housing Authority (SFHA) for an annual rent equal to 1.4 percent of the gross income from Bayside, as well as a non-exclusive easement agreement which allows CCDC to access the structural supports for long-term maintenance of Bayside improvements.

CCDC created the entity CCDC Throughline LLC for ownership of the "Throughline Apartments," which include Consorcia, Tower, and Bayside.

The Consorcia Apartments, built in 1909, consists of 24 units (studios and 1 bedrooms). The last major rehabilitation of this property was completed in 1982. In addition to the seismic retrofit required by the Mandatory Soft Story Retrofit Program, the building needs include accessibility improvements and fire and life safety code upgrades, estimated to cost $8.7 million.

Tower Hotel, built in 1911, is a Single Room Occupancy building with 33 units. The last major rehabilitation of this property was completed in 1985. In addition to the seismic retrofit required

[1] Syndication refers to selling tax credit to investors to fund development and rehabilitation costs.

by the Mandatory Soft Story Retrofit Program, the building needs include accessibility improvements and fire and life safety code upgrades, estimated to cost $6.6 million.

Bayside Elderly Housing, built in 1990, includes 31 studio units built on the air rights above the parking lot for Ping Yuen, a former SFHA public housing building now owned by CCDC. The renovation needs in these units include accessibility improvements, seismic retrofitting, and energy efficiency upgrades, estimated to cost $7 million.

Prior City Financing

Since 1981, the City has made investments in these properties through loans and grants, as shown in Table 1 below.

Table 1: Existing Debt on Properties from Previous City Loans, estimated at closing 3/15/22

Property	Loan Year	Original Loan Amount	Outstanding Principal	Accrued Interest	Total Outstanding Debt
Consorcia	1981	$330,898	$330,898	$402,979	$733,877
Tower	1983	645,286	645,286	392,872	1,038,158
Bayside	1989	829,387	829,387	2,732,139	3,561,526
Consorcia	2004	101,423	10,625	713	11,338
Total		**$1,906,994**	**$1,816,196**	**$3,528,702**	**$5,344,898**

Note that as part of the proposed project financing, MOHCD will forgive $2,398,821.31 on the 1989 Bayside loan in order to reduce the sales price. This forgiveness will bring the total remaining debt on this project to $2,946,077 at the estimated date of closing (March 15, 2022). The final amount of the forgiven date may change, depending on the actual final closing date.

In addition, MOHCD provided a loan of $800,000 in Housing Trust Funds to Throughline LLC as a predevelopment loan, at a 3 percent interest rate for a 57-year term. The principal and accrued interest on this loan will be rolled into MOHCD's loan to the project.

Tenant Relocation

CCDC estimates a 17-month construction schedule, with three phases of relocation, during which current residents will be required to relocate off-site for approximately six months. The project budget includes $1.9 million for relocation: $1.3 million for residential relocation, $457,000 for commercial relocation, and $195,000 for relocation consultant fees.

The planned sequence of renovations is:

Consorcia	April 2022 to September 2022
Tower	October 2022 to February 2023
Bayside	March 2023 to July 2023

CCDC will make 24 market-rate units at Hamlin House available to relocate residents from all three buildings.

FISCAL IMPACT

Sources and Uses

The proposed $26,286,000 loan agreement's primary sources of funds are $14,840,000 provided by a Community Development Block Grant, $8,499,000 PASS funds, and $2,947,077 in loan forgiveness funded by Community Development Block Grant funds. Additional resources include community project funding (made available through Congresswoman Pelosi's Office), Bayside's existing project reserves, and refinanced loans previously made on the properties, as shown in Table 2 below.

Table 2: Sources of Funds for Throughline Project

Sources	**Amount**
New City Funding	
CDBG/Housing Trust Fund	$13,519,791
PASS - Market Rate Loan	5,175,891
PASS - Below Market Rate Loan	2,855,664
PASS - Deferred	467,445
Subtotal, New City Funding	*$22,018,791*
City Loan Forgiveness	
Consorcia 1981 CDBG Debt	$733,877
Tower 1983 CDBG Debt	1,038,158
Bayside 1989 CDBG Debt	1,162,698
Consorcia 2004 CDBG Debt	11,344
Subtotal, City Loan Forgiveness	*$2,946,077*
Subtotal, City Loan	$24,964,868
Community Project Fund	$2,500,000
CCDC Sponsor Loan	309,523
GP Project Reserves	2,723,968
GP Project Reserves (Hamlin)	600,000
Predevelopment Expenses pre 12/31/19	125,391
Total Sources	**$31,223,750**

Source: MOHCD

Notes: CDBG refers to Community Development Block Grant, a federal source. Community Project Fund is also a federal source.

The uses of funds for the proposed loan agreement are shown in Table 3 below.

Table 3: Uses of Funds for Throughline Project

Uses	Amount
Acquisition	$0
Construction	20,429,668
Hard Cost Contingency	2,323,792
Architecture & Design	895,000
Engineering	105,000
Financing	242,988
Legal	40,000
Other Development	6,010,397
Soft Cost Contingency	163,565
Reserves	513,341
Developer Costs	500,000
Total Uses	$31,223,750

Source: MOHCD

Loan Terms

The details of the loan terms included in the proposed gap loan for this project are detailed in Table 4 below.

Table 4: Repayment Terms

Loan Fund	Amount	Term Years	Interest Rate
CDBG/HTF	14,840,000	55	3%
PASS - Market	5,175,891	40	3.87%
PASS - Below Market	2,855,664	40	0.96%
PASS - Deferred	467,445	40	0.96%
Total	**$23,339,000**		

Source: MOHCD and Proposed Promissory Notes

As shown in Table 4 above, total new funding is $23,339,000. The remaining $2,946,000 of the proposed $26,286,000 loan is $2,946,000 in forgiveness of previously loaned City funds, noted above. The CDBG/Housing Trust Fund (HTF) loan amount of $14,840,000 includes the $13,519,791 in new funding noted above in Table 2 as well as a mortgage payment of $987,209 and a transfer tax payment of $333,000.

Rehabilitation Cost per Unit

The cost per unit for the proposed rehabilitation is estimated at $354,815, with the estimated cost per residential square foot estimated at $626, as shown in Table 5 below.

Table 5: Rehabilitation Costs per Unit and Square Foot

Residential Units	88
Residential Square Footage (SF)	49,870
Total Cost	$31,223,750
Cost per Residential Unit	$354,815
Cost per Residential SF	$626

Source: BLA Analysis

POLICY CONSIDERATION

Hard and Soft Cost Contingencies

The hard and soft cost contingencies currently estimated in the project costs as detailed in the Loan Committee Evaluation Report and the Proforma do not meet MOHCD standards. Although the MOHCD hard cost contingency is 15 percent; the project's hard cost contingency is only 11.4 percent of hard costs.

Further, the MOHCD soft cost contingency typically ranges between five and 10 percent of total soft costs related to the project (including legal, financing and developer costs). This project's soft cost contingency equals 2.2 percent of soft costs.

As shown in Table 6 below, total project costs would increase $0.9 million to bring the contingencies up to MOHCD standards for contingencies, at the lowest end of the range for soft cost contingencies.

Table 6: Hard and Soft Cost Contingencies

Hard Costs	$20,429,668
Current Hard Cost Contingency (11.4%)	$2,323,792
15% Hard Cost Contingency	$3,064,450
Difference in Current vs. Standard Hard Cost Contingency	$740,658
Soft Costs	$7,293,385
Current Soft Cost Contingency (2.2%)	$163,565
5% Soft Cost Contingency	$364,669
Difference in Current vs. Standard Soft Cost Contingency	$201,105
Total Cost of Increasing Contingency Costs	$941,763

Source: MOHCD

Current versus Allowable Rent Levels

According to the Affordable Housing Loan Evaluation Report, CCDC acknowledged in its 2018 Annual Monitoring Report a "large discrepancy between current rents and maximum allowed rents" at both Consorcia and Tower. The average rent currently collected at Consorcia is 23 percent of Area Median Income (AMI), and the average rent currently collected at Tower is 13 percent of AMI. According to the Affordable Housing Loan Evaluation Report, CCDC "plans to increase revenue at the Consorcia by charging the maximum allowed rents to incoming tenants.

However, there is very little turnover at the Consorcia. The last time a unit was vacated was in 2015 and currently, there are no vacancies." The discrepancy between current and maximum allowed rents impact the ability of these buildings to sustain sufficient reserves to cover future maintenance costs.

Bayside Section 8 Subsidy

The units at Bayside are subsidized through HUD's Section 8 subsidy program. In November 2020, a Rent Comparability Study was conducted that reduced the Section 8 subsidy for these units by $500 per month from $2,731 to $2,231. CCDC has appealed this evaluation and has requested a new Rent Comparability Study; according to MOHCD, HUD has not yet approved this request. The current proforma assumes that the subsidy will be increased from $2,231 to $2,400 per month.

Given that actual tenant rents may be less than assumed in the project proforma included in the proposed loan package, outside or additional City funding may need to be identified for ongoing operating costs for the three projects.

Ensuring Affordability

At the recommendation of the Budget & Legislative Analyst, the Department is expected to request an amendment to the proposed resolution that memorializes the Department's intention to include an option and right of first refusal to acquire the Throughline properties upon transfer of sale.

RECOMMENDATION

Approve the proposed resolution, as amended by the Department.

Item 6 **File 22-0144**	**Department:** Department of Environment (ENV)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve a contract between the Department of the Environment (ENV) and Rebuilding Together San Francisco for the Fix Lead SF Program to reduce childhood lead poisoning, for a five-year term from March 2022 through February 2027, with an amount not to exceed $14,300,000, and three one-year options to extend.

Key Points

- In July 2019, 10 California cities and counties, including San Francisco, reached a $305 million settlement with three companies to address lead-paint related hazards. The City will receive approximately $21 million from the settlement and has started the Fix Lead SF program as a collaboration between ENV, Department of Public Health (DPH), and Office of Economic and Workforce Development (OEWD) with the mission of reducing the amount of lead risks in residential buildings.
- Under the contract, Rebuilding Together would work with licensed lead professionals to identify and remove lead paint from residential buildings. The scope of services for the contract includes: (1) providing initial payment to inspectors, remediation supervisors, relocation providers, and tenants, with payments to be reimbursed by the City; (2) tenant relocation when deemed necessary by the City's Project Monitor or the remediation supervisor; (3) contracting and management of lead professionals and relocation service providers; (4) documenting individual project progress, sending notifications to involved parties, maintaining project files, and monitoring project timelines through the City's database. DPH anticipates performing approximately 358 lead abatement projects over five years.

Fiscal Impact

- The proposed contract would have a total not to exceed amount of $14,300,000 over five years, funded entirely by settlement funds.
- Approximately 93 percent of projected expenditures are for pass-through payments to service providers and approximately seven percent of projected expenditures are for tasks performed by Rebuilding Together.
- The proposed contract would be entirely funded by the settlement funds. After accounting for the contract, Fix Lead SF will have approximately $6.7 million in remaining available settlement funds, which will largely be spent on DPH and ENV staff to evaluate applications, and to monitor and certify projects.

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

In July 2019, 10 California cities and counties, including San Francisco, reached a $305 million settlement with The Sherwin-Williams Company, ConAgra Grocery Products Company, and NL Industries, Inc. to address lead paint-related hazards. The City will receive approximately $21 million from the settlement and has started the Fix Lead SF program as a collaboration between the Department of the Environment (ENV), Department of Public Health (DPH), and Office of Economic and Workforce Development (OEWD) with the mission to reduce the amount of lead risks in as many San Francisco residential units as possible. Fix Lead SF, under the lead of DPH, has decided to spend approximately 75 percent of funding on identifying and removing lead risks in residential buildings in San Francisco. ENV estimates that approximately 81 percent of San Francisco housing was built before 1978, when lead-based paint was banned in the United States.[1]

In September 2021, ENV issued a Request for Proposals (RFP) to select a vendor to help administer the Fix Lead SF program. Rebuilding Together San Francisco (Rebuilding Together) submitted the only proposal and was deemed to meet the minimum requirements of the RFP.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a contract between ENV and Rebuilding Together for the Fix Lead SF Program, for a five-year term from March 2022 through February 2027, with an amount not to exceed $14,300,000, and three one-year options to extend through February 2030. As the contract term started March 1, 2022, approval of the proposed resolution should be considered retroactive.

Under the contract, Rebuilding Together would work with licensed lead professionals to identify and remove lead paint from residential buildings. The scope of services for the contract includes: (1) providing initial payment to inspectors, remediation supervisors, relocation providers, and tenants, with payments to be reimbursed by the City; (2) tenant relocation when deemed necessary by the City's Project Monitor or the remediation supervisor; (3) contracting and management of lead professionals and relocation service providers; (4) documenting individual project progress, sending notifications to involved parties, maintaining project files, and monitoring project timelines through the City's database; and (5) other tasks as requested, such

[1] According to a Santa Clara County Counsel webpage detailing the settlement terms, 318,535 residential units in San Francisco were built before 1980.

as participating in program evaluation and providing access to additional networking opportunities for Fix Lead SF outreach.

According to David Kashani, ENV Contracts and Grants Coordinator, the program would be eligible for property owners of San Francisco residential buildings built before 1950 with nine units or less and must have either at least one child living in the building less than six years old, or at least one child under six years old who visits often, or families expecting children soon.

All lead remediation subcontractors must be certified by the California Department of Public Health (CDPH), which publishes a list of certified professionals. Rebuilding Together would notify qualified contractors who have expressed interest in the program of bid walks for each project. Contractors would then competitively bid on each project, with selection based on various criteria. If tenants need to be relocated, they would either be relocated with family or friends, in an available unit within the same building, or in a lead-safe hotel nearby. ENV anticipates that tenants would not have to be relocated for more than 20 days.

According to Contracts and Grants Coordinator Kashani, contract performance would be monitored on an ongoing basis, as ENV's Project Monitor would be interacting with Rebuilding Together almost daily. The Fix Lead SF program will have regular meetings (at least monthly) to discuss progress and resolve any barriers to successful completion of projects. ENV will track timeliness of accomplishing tasks through a database. Tenants who require relocation will be surveyed regarding their satisfaction with Rebuilding Together managing their relocation. The performance benchmarks for Rebuilding Together will be paying lead professionals' invoices in 10 days or less and ensuring that contractors complete lead abatement within 10 days and inspectors submit reports within five business days for tenants to start re-occupancy within 20 days.

FISCAL IMPACT

The proposed contract would have a total not to exceed amount of $14,300,000 over five years. Projected expenditures by task are shown in Exhibit 1 below.

Exhibit 1: Projected Contract Expenditures by Task

Task	Hours	Average Billing Rate[2]	Total
Provide Payment to Service Providers	500	$88.52	$44,260
Coordinate Tenant Relocation	2,486	93.91	233,450
Manage Lead Professional Service Providers	6,600	97.01	630,252
Provide Administrative/Recordkeeping Assistance	500	88.52	44,260
Subtotal	*10,086*	*95.40*	*$962,222*
Pass-Through Payments to Service Providers			13,337,778
Total			**$14,300,000**

Source: Proposed contract.

[2] The proposed contract specifies hourly billing rates of $118.93 for the Project Manager, $100.52 for the Executive Director, and $52.11 for the Program Assistant. The average billing rates shown are the weighted average for each task based on the estimated hours needed by each position to complete the task.

As shown above, approximately 93 percent of projected expenditures are for pass-through payments to service providers and approximately seven percent of projected expenditures are for tasks performed by Rebuilding Together.

ENV anticipates performing approximately 70 lead abatement projects per year, as well as eight pilot projects to get the program started, for a total of 358 over the five-year term of the contract. The estimated cost per project is approximately $40,000. According to Contracts and Grants Coordinator Kashani, this amount was based on a similar project conducted by the Mayor's Office of Housing and Community Development (MOHCD), which had an average cost of $35,000 per contract. ENV anticipates that costs will be slightly higher because these projects involve lead abatement as opposed to lead stabilization.

The proposed contract would be entirely funded by the settlement funds. After accounting for the contract, Fix Lead SF will have approximately $6.7 million in remaining available settlement funds. According to Contracts and Grants Coordinator Kashani, the remaining funds will be used for ENV and DPH staff salaries, the building of a program database, and outreach professional services and materials over the past two years and next five years of project implementation. Approximately $1,056,993 funded City staff in FY 2020-22, $3,205,537 will fund 2.75 City FTE from FY 2022-23 through FY 2026-27, $350,000 will fund program outreach, $100,000 will fund miscellaneous expenses, such as database development, and $2,000,000 will be available as a contingency for additional staff salaries if the contract is extended. City staff at DPH and ENV will evaluate applications as well as monitor and certify projects.

RECOMMENDATION

Approve the proposed resolution.

Item 8 File 22-0173	Department: Office of Contract Administration (OCA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve Modification No. 2 to the Renewable diesel purchasing contract between the Office of Contract Administration (OCA) and Golden Gate Petroleum, extending the contract term by two years and two months through May 2024, and increasing the not-to-exceed amount by $26,000,000, for a total not to exceed amount of $71,000,000.

Key Points

- In 2019, OCA issued a competitive solicitation for a new renewable diesel purchasing contract. Cost proposals were based on mark-ups or mark-downs of diesel fuel prices published daily by the Oil Price Information Service (OPIS); a price benchmark widely used by government agencies for fuel purchases. Golden Gate Petroleum was deemed the lowest cost proposer and was awarded a contract. In April 2019, the Board of Supervisors approved a contract with Golden Gate Petroleum for a term of two years and 10 months, from June 2019 through March 2022, with an amount not to exceed $45,000,000, and two one-year options to extend through March 2024.
- Fuels purchased through the contract are available to all departments, but it is most frequently used by the San Francisco Municipal Transportation Agency (SFMTA), the City Administrator's Fleet Division, the San Francisco Fire Department (SFFD), San Francisco Public Utilities Commission (SFPUC), and the Airport.

Fiscal Impact

- The proposed Modification No. 2 would increase the not-to-exceed amount of the contract by $26,000,000 for a total not to exceed amount of $71,000,000.
- Based on actual and projected expenditures, and to allow for a 20 percent contingency and an additional buffer, the Budget and Legislative Analyst recommends amending the proposed resolution to reduce the not-to-exceed amount by $3,000,000, for a total not to exceed amount of $68,000,000.

Recommendations

- Amend the proposed resolution to reduce the not-to-exceed amount by $3,000,000, for a total not to exceed amount of $68,000,000
- Approve the resolution as amended.

MANDATE STATEMENT

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

BACKGROUND

In January 2019, the Office of Contract Administration (OCA) issued a competitive solicitation for a new renewable diesel purchasing contract. Cost proposals were based on mark-ups or mark-downs of diesel fuel prices published daily by the Oil Price Information Service (OPIS); a price benchmark widely used by government agencies for fuel purchases. Proposed prices vary by fuel type (renewable diesel and red dye diesel), delivery quantity, and user department and location.[1] Golden Gate Petroleum, with a proposed average markup of $0.12 over the OPIS daily average rack price, was deemed the lowest cost proposer and was awarded a contract. In April 2019, the Board of Supervisors approved a contract with Golden Gate Petroleum for a term of two years and 10 months, from June 2019 through March 2022, with an amount not to exceed $45,000,000, and two one-year options to extend through March 2024 (File 19-0334).[2] In March 2020, OCA executed Modification No. 1 to the contract, adding conditions during emergencies but with no change to the contract term or not-to-exceed amount.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 2 to OCA's contract with Golden Gate Petroleum, extending the contract term by two years and two months through May 2024 and increasing the not-to-exceed amount by $26,000,000, for a total not to exceed amount of $71,000,000. Other contract terms would not change.

Fuels purchased through the contract are available to all departments, but it is most frequently used by the San Francisco Municipal Transportation Agency (SFMTA), the City Administrator's Fleet Division, the San Francisco Fire Department (SFFD), San Francisco Public Utilities Commission (SFPUC), and the Airport.

FISCAL IMPACT

The proposed Modification No. 2 would increase the not-to-exceed amount of the contract by $26,000,000 for a total not to exceed amount of $71,000,000. According to OCA, actual contract

[1] Renewable diesel is produced by hydro-treating fuels (treated at a high temperature) derived from used cooking oil and other vegetable or animal fats; renewable diesel is blended with petroleum diesel but in a higher concentration than traditional biodiesel. Red dye diesel is petroleum-based diesel that is intended for use in off-road vehicles.

[2] The resolution in File 19-0334 stated that the initial contract term would be three years from April 2019 through March 2022, but the contract as executed by OCA did not take effect until June 2019. The proposed Modification No. 2 would extend the contract for a total term of five years, as contemplated by the resolution in File 19-0334.

expenditures through December 2021 average $1,029,647 per month. Using this average to project ahead, actual and projected expenditures are shown in Exhibit 1 below.

Exhibit 1: Actual and Projected Contract Expenditures

	Average per Month	Months	Total Expenditures
Actual Expenditures (6/2019 – 12/2021)	$1,029,647	31	$31,919,064
Projected Expenditures (1/2022 – 5/2024)	1,029,647	29	29,859,770
Subtotal	*$1,029,647*	*60*	*$61,778,834*
Contingency (20% of Projected Expenditures)			5,971,954
Total Actual and Projected Expenditures			**$67,750,788**

According to Sailaja Kurella, City Purchaser and OCA Director, OCA requests a 20 percent contract contingency due to recent increases in global fuel prices, as biodiesel prices tend to fluctuate in line with other fuel prices. Based on actual and projected expenditures, and to allow a 20 percent contingency and an additional buffer, the Budget and Legislative Analyst recommends amending the proposed resolution to reduce the not-to-exceed amount by $3,000,000, for a total not to exceed amount of $68,000,000.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the not-to-exceed amount by $3,000,000, for a total not to exceed $68,000,000.
2. Approve the resolution as amended.

Item 9 File 22-0079	Department: Fire Department

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance appropriates $14,593,353 of General Fund General Reserve to the Fire Department for overtime in FY 2021-22. Approval of the proposed ordinance requires a two-thirds vote of all members of the Board of Supervisors pursuant to Charter Section 9.113(c).

Key Points

- As of March 2022, the Fire Department was projected to overspend its overall budget by between $24.9 million and $29.3 million largely due to projected overspending on overtime.
- The Fire Department's overtime deficit is primarily due to higher than budgeted costs associated with backfilling mandated minimum staffing levels for fire suppression and emergency medical services due to reduced staffing as well as increased leave associated with COVID-19.

Fiscal Impact

- Approval of the proposed ordinance would appropriate $14.6 million from the General Fund General Reserve to the Fire Department. This would reduce the General Reserve balance to $57.5 million. Draws on the General Reserve in the current year require the General Reserve to be replenished by a like amount in the budget year.
- The proposed ordinance would address a portion of the remaining budget shortfall in the Fire Department ($14.6 million of the $24.9 million to $29.3 million shortfall). Subsequent appropriations may be required to address the remaining deficit

Policy Consideration

- Failure to approve the proposed ordinance would negatively impact the policy goals reflected in the Fire Department's budget, which was previously approved by the Board of Supervisors, and may result in service reductions.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT

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

Charter Section 9.113(c) states that, in the event the Mayor or a member of the Board of Supervisors recommends a supplemental appropriation ordinance after the adoption of the budget and prior to the end to the budget year that contains any item rejected by the Mayor or the Board of Supervisors in the original budget appropriation, the supplemental appropriation can only be approved by a two-thirds vote of the Board of Supervisors.

BACKGROUND

Fire Department Staffing Shortage

The Fire Department has experienced staffing shortfalls due to reduced hiring efforts starting in early 2020 and increased separations during the COVID-19 pandemic. According to the Controller's FY 2021-22 Six-Month Budget Status Report (Six-Month Report), these shortfalls have been exacerbated by employee absences due to isolation and quarantine requirements during the Omicron surge, resulting in the costly use of overtime to backfill staffing as well as high levels of worker's compensation expenditures. As of February 2022, the Fire Department was projecting a budget shortfall for FY 2021-22 largely due to projected overspending on overtime as discussed below. In addition, since the publication of the Six-Month Report, the City extended the allowance of additional COVID-19 sick leave, which was set to expire on March 4, 2022, through September 30, 2022 to conform to timelines in California Assembly Bill 84. The cost of the extension for public safety departments is projected to be between $11.6 million and $18.6 million, including between $5.4 million and $9.8 million for overtime in the Fire Department according to Michelle Allersma, Director of Budget and Analysis at the Controller's Office.

To address projected budget shortfalls in the Fire Department and other City departments, the City has allocated $42.8 million from Federal Emergency Management Agency (FEMA) revenue to support public safety personnel costs and other City costs associated with COVID-19, including $16.4 million to the Fire Department.[1] In addition, the Controller's Office anticipates transferring $32.0 million to departments from the City's Salary and Benefits Reserve for adjustments to appropriations to employee salary and benefits stipulated in Board-adopted collective bargaining agreements, including $19.5 million to the Fire Department.[2] The proposed ordinance would

[1] FEMA funds of $42.8 million were authorized under Charter Section 3.100, which allows the Mayor to direct resources to meet an emergency.

[2] Section 10.4 of the administrative provisions of the annual appropriation ordinance authorizes the Controller to transfer funds from the Salary and Benefits Reserve to adjust appropriations for employee salaries and benefits stipulated in Board-adopted collective bargaining agreements.

address a portion of the remaining budget shortfall in the Fire Department ($14.6 million of the $24.9 million to $29.3 million shortfall). Exhibit 1 below summarizes the projected shortfall in the Fire Department and allocations to address the shortfall.

Exhibit 1: Fire Department Budget Shortfall and Allocations ($ millions), As of February 2022

	Amount
Department Shortfall as of Dec 2021	($56.7)
Overtime Shortfall	*(41.8)*
Allocations As of Feb 2022	
FEMA funding for COVID-19 costs	16.4
City Salary & Benefits Reserve (pending)	19.5
Subtotal	$35.9
Department Shortfall in Six-Month Report*	($19.5)
Additional Cost of COVID-19 Leave Extension	(5.4 to 9.8)
Department Shortfall as of Mar 2022	**($24.9 to $29.3)**
Proposed Ordinance	$14.6
Remaining Deficit	($10.3 to $14.7)

Sources: Fire Department and Six-Month Report

*Department shortfall as of December 2021 and Allocations as of February 2022 do not sum to Department shortfall in Six-Month Report due to rounding and changes in projections that occurred between December 2021 and February 2022

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance appropriates $14,593,353 of General Fund General Reserves to the Fire Department for overtime in FY 2021-22. Approval of the proposed ordinance requires a two-thirds vote of all members of the Board of Supervisors pursuant to Charter Section 9.113(c).

Two-Thirds Vote Required

The proposed ordinance requires approval of two-thirds of the Board of Supervisors per City Charter Section 9.113(c), which states that supplemental appropriations related to items that were rejected by the Mayor or the Board of Supervisors during the development of the annual appropriation ordinance requires approval of two-thirds of the Board of Supervisors. The Mayor's proposed FY 2021-22 – FY 2022-23 budget reduced the Fire Department's requested budget for overtime by $8.0 million. Therefore, increases to overtime in the Fire Department's budget require two-thirds approval by the Board of Supervisors.

FISCAL IMPACT

General Reserve

Administrative Code Section 10.60 requires the City to budget a General Reserve of at least 3.0 percent of General Fund revenues to address revenue weakness, excess spending, or other needs not anticipated during the annual budget process. The balance requirement is reduced to 1.5 percent of General Fund revenues if the City withdraws from the Rainy Day Reserve and then increases 0.25 percent per year until the 3.0 percent balance requirement is fully restored. According to the Controller's FY 2021-22 Six-Month Budget Status Report, the projected ending balance for the FY 2021-22 General Reserve is $72.1 million, including a required $3.1 million deposit during the year and uses of $9.4 million for previously approved supplemental appropriations.[3]

If the Board of Supervisors approves the appropriation from the General Reserve to fund overtime in the Fire Department, the General Reserve balance would be reduced by $14.6 million to $57.5 million. In addition, pending before the Board of Supervisors is an appropriation from the General Reserve of $554,000 to fund free parking at Portsmouth Square Garage and transit fares in February 2022 (File 22-0129), which if approved would reduce the General Reserve balance further to $56.9 million. Draws on the General Reserve in the current year require the General Reserve to be replenished by a like amount in the budget year.

Fire Department Budget Shortfall

As of December 24, 2021, the Fire Department's projected General Fund operating deficit for FY 2021-22 was $56.7 million, largely due to projected deficits on overtime ($41.8 million) as well as MOU-related salary and benefits costs[4] and workers' compensation claims that exceed budgeted levels. To address this shortfall, $16.4 million was allocated from FEMA revenue to support COVID-19-related expenditures, and an additional $19.5 million will be transferred from the City's Salary and Benefits Reserve for MOU-related salary and benefits costs. As of March 2022, the Fire Department's projected deficit was between $24.9 million and $29.3 million, including a $0.4 million shortfall in ambulance billing revenue, expenditure deficits of $14.6 million in overtime and $4.5 million in workers' compensation, and between $5.4 million and $9.8 million in additional costs associated with the extension of COVID-19 leave according to the Six-Month Report and Controller's Office staff. The proposed ordinance would appropriate $14.6 million to the department for overtime expenditures, resulting in a remaining deficit of between $10.3 million and $14.7 million.

Subsequent appropriations may be required to address the Fire Department's remaining deficit. According to Ashley Groffenberger, the Mayor's Budget Director, the Mayor's Budget Office and Controller's Office are monitoring the projections for workers' compensation claims and

[3] The Board of Supervisors approved two supplemental appropriations using $9.4 million of the General Reserve for paramedic staffing and election expenses (Files 21-1173 and 21-1174).
[4] Costs associated with the City's Memorandum of Understanding (MOU) with the union, such as retiree cashouts.

assessing options to address the deficit in the Fire Department and other City departments, which may require a supplemental appropriation. If required, a supplemental appropriation ordinance would be introduced to the Board of Supervisors before the end of the fiscal year. Budget Director Groffenberger also reports that the Mayor's Budget Office will assess additional costs that have resulted from COVID-19-related activities and sick time and determine potential sources for addressing these costs after departments have submitted their Nine-Month budget reports to the Controller's Office at the end of March 2022. If the Mayor's COVID-19 Emergency Order is still in place at that time, the Mayor would likely allocate funds under that order similar to the previous allocation of FEMA revenue to address costs associated with COVID-19.

Overtime Expenditures

According to Mark Corso, Deputy Director of Finance and Planning at the Fire Department, the projected overtime deficit of $41.8 million is primarily due to higher than budgeted costs associated with backfilling mandated minimum staffing levels for fire suppression and emergency medical services due to reduced staffing and increased leave associated with COVID-19 and other City initiatives. Hiring for fire suppression has not kept pace with separations at the Fire Department. Between March 2020 and December 2021, the Fire Department had 200 separations (including retirements, releases, and deaths) among full-time uniform staff. Over the same period, the Fire Department added 63 new employees for fire suppression, including an academy of 24 that graduated in February 2021 and an academy of 39 that graduated in December 2021. The Department added fewer new employees than normal during this time due to reduced fiscal resources for academies as well as social distancing requirements that resulted in a smaller academy, according to Deputy Directory Corso.

In addition, the Fire Department's relief rate, or the rate of the time needed to backfill a regularly scheduled shift, has increased from between 20 percent and 22 percent on average per year pre-COVID-19 to fluctuating between 25 percent and 30 percent during the pandemic due to higher sick pay, disability, floating holiday, and other leave usage according to Deputy Director Corso. Due to reduced staffing and a higher relief rate, as well as mandated daily staffing levels, the Fire Department used mandatory overtime more than normal to meet daily minimum staffing requirements, resulting in higher overtime costs. Mandatory overtime must be paid at time and a half, whereas only a portion of voluntary overtime hours are paid at time and a half according to provisions in the collective bargaining agreement.

The Fire Department currently has 125 vacant uniform positions for fire suppression but anticipates additional hires from two academies in the current fiscal year according to Deputy Director Corso. One academy is in process, graduating in June, and another academy is scheduled to begin in May, graduating in the fall.

Proposed Supplemental Appropriation

The Fire Department's budget for overtime in FY 2021-22 is $31.3 million. The Fire Department's actual overtime expenditures to date are $36.8 million.[5] The requested appropriation of $14.6 million would increase the overtime budget from $31.3 million to $45.9 million an increase of approximately 47 percent. The total overtime budget (original budget and the requested appropriation) of $45.9 million is $1.4 million or three percent less than the Fire Department's total overtime expenditures of $47.3 million in FY 2020-21.

POLICY CONSIDERATION

According to the FY 2021-22 Six Month Budget Status Report, issued in February 2022, the Fire Department was projected to overspend its overall budget by $19.5 million. The Charter requires the Controller's Office to impose controls when overspending is projected to occur. According to a letter sent from City Controller Ben Rosenfeld to the Fire Department in January 2022, such controls may include the imposition of hiring freezes, cancellation of planned projects, reserves on unspent balances, or other options. However, salary spending, including overtime, will continue at the current level if the Department does not change current staff deployments because federal law requires employers to pay for services rendered. Failure to approve the proposed ordinance would negatively impact the policy goals reflected in the Department's budget, which was previously approved by the Board of Supervisors, and may result in service reductions. Therefore, we recommend the Board of Supervisors approve the proposed ordinance.

RECOMMENDATION

Approve the proposed ordinance.

[5] Administrative Code Section 3.17(b) requires the Fire Department and eight other City departments to obtain Board of Supervisors supplemental appropriation approval prior to the expenditure of additional overtime if their overtime expenditures are proposed to be greater than the amount of overtime previously appropriated by the Board of Supervisors in the department's budget. However, due to the Mayor's emergency declaration, the Fire Department did not require supplemental appropriation approval by the Board of Supervisors to exceed its budget for overtime in accordance with Charter Section 3.100.