

**CITY AND COUNTY OF SAN FRANCISCO**  
**BOARD OF SUPERVISORS**  
**BUDGET AND LEGISLATIVE ANALYST**

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September 5, 2014

**TO:** Budget and Finance Committee  
**FROM:** Budget and Legislative Analyst  
**SUBJECT:** September 10, 2014 Budget and Finance Committee Meeting

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<b>Item 1</b> <b>File 14-0754</b>	<b>Department:</b> Treasure Island Development Authority (TIDA)
<b>EXECUTIVE SUMMARY</b>	
<p><b>Legislative Objective</b></p> <ul style="list-style-type: none"> <li>• Resolution approving a Sublease and Management Agreement for Treasure and Yerba Buena Islands market rate rental housing between Treasure Island Development Authority (TIDA) and the John Stewart Company, with a yearly base rent of \$632,806 for a seven-year term, with a three-year option to extend.</li> </ul> <p><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• In 1999, based on a Request for Qualifications (RFQ) process which resulted in eight responses, the Board of Supervisors approved a seven-year sublease and property management agreement between TIDA and the John Stewart Company for market rate rental housing units on Treasure and Yerba Buena Islands, which was extended on a month-to-month holdover basis. Under the existing Agreement, the John Stewart Company currently (a) receives 3% of gross rental revenues, up to a maximum of \$400,000 per year, adjusted annually for inflation, (b) pays an annual base rent, \$623,344 in FY 2013-14 to TIDA, adjusted annually for inflation, and (c) shares in net revenues, with TIDA receiving 95% of the net revenues and John Stewart Company receiving 5% of the net revenues.</li> <li>• On March 7, 2014, TIDA issued a Request for Proposals (RFP) for continued sublease and property management services for market rate rental housing on Treasure and Yerba Buena Island and received only one response, from the John Stewart Company.</li> </ul> <p><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The John Stewart Company collects all rental revenues and pays (a) TIDA \$632,806 annual base rent (presently the base rent is \$623,344), which is adjusted annually, (b) all operating expenses, (c) funds the required maintenance reserve account, and (d) receives a 3% management fee. Any remaining revenues are considered net revenues, with TIDA receiving 95% of the net revenues and John Stewart Company receiving 5% of the net revenues. All of these provisions are the same as the current provisions.</li> <li>• TIDA received base rent of \$7,687,522 and percentage rent of \$80,292,575 or a total of \$87,982,097 over the past 15 years under the existing Agreement with the John Stewart Company. During that same period, the John Stewart Company received \$5,463,993 in management fees and \$4,860,337 in percentage rent, or a total of \$10,324,330.</li> <li>• TIDA is estimated to receive \$4,704,459 in base rent and \$21,590,892 in percentage rent, or a total of \$26,295,351 over the initial seven-year term. At the same time, the John Stewart Company is estimated to receive \$2,547,824 in management fees and \$1,136,360 in percentage rent, or a total of \$3,684,184.</li> <li>• TIDA revenues under the existing and proposed Agreements are used for TIDA operations.</li> </ul> <p><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

**MANDATE STATEMENT & BACKGROUND****Mandate Statement**

In accordance with Charter Section 9.118(a), any contract or agreement entered into by a City department or board with anticipated revenue of \$1,000,000 or more is subject to Board of Supervisors approval by resolution.

**Background**

The US Navy currently owns Treasure and Yerba Buena Islands. The US Navy has entered into various long-term Master Leases with the Treasure Island Development Authority (TIDA) to lease these Navy properties, with TIDA responsible for the ongoing operations and maintenance of these properties. One of the Master Leases between the Navy and TIDA specifically addresses market rate housing units; this lease expired in March 2014, and has continued on a month-to-month holdover basis.

According to Ms. Mirian Saez, TIDA Director of Operations, the existing Master Lease with the Navy for affordable housing units on Treasure and Yerba Buena Islands expires in the fall of 2014. In the late fall of 2014, TIDA then anticipates entering into one new Master Lease with the Navy, to address both market rate and affordable housing units on Treasure and Yerba Buena Islands, which would be subject to Board of Supervisors approval.

**Existing Sublease and Property Management Agreement**

On February 22, 1999, based on a Request for Qualifications (RFQ) process which resulted in eight responses<sup>1</sup>, the Board of Supervisors approved a seven-year Sublease, Development, Marketing and Property Management Agreement between the Treasure Island Development Authority (TIDA) and the John Stewart Company for the market rate rental housing on Treasure and Yerba Buena Islands (Resolution No. 146-99). This initial Agreement was from March 17, 1999 through March 16, 2006 for up to 766 units of market rate rental housing. Between August 2000 and October 2009, the Board of Supervisors approved five subsequent amendments to this Agreement which, among other provisions, extended the term on a month-to-month holdover basis.

Under this Agreement, the John Stewart Company is currently responsible for 472 units on Treasure Island and 84 units on Yerba Buena Island, or a total of 556 market rate rental housing units to provide (a) property management, (b) maintenance and repair, (c) hiring any 3<sup>rd</sup> party contractors, (d) managing tenant applications and tenant relocations, (e) working with community groups, and (f) managing all rental revenues. Under the existing Agreement, the John Stewart Company currently (a) receives 3% of gross rental revenues, up to a maximum of \$400,000 per year, adjusted annually for inflation, (b) pays an annual base rent, \$623,344 for FY

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<sup>1</sup> TIDA received eight responses from the following: (1) Clipper Cover Partners, (2) John Stewart Company, (3) KTB Realty Partners, (4) LaSalle Partners/ConAm Management, (5) Madison/Heritage LLC, (6) Mid Peninsula Housing Coalition, (7) Total, and (8) Urbatec.

2013-14 to TIDA, adjusted annually for inflation, and (c) shares in net revenues, with TIDA receiving 95% of the net revenues and John Stewart Company receiving 5% of the net revenues.

#### New Request For Proposal

In March of 2013, the TIDA Board directed staff to issue a new Request for Proposals (RFP) for subleasing and managing the market rate rental housing on Treasure and Yerba Buena Islands. On March 7, 2014, TIDA issued a RFP for continued sublease and property management services for market rate rental housing for four years, with options to extend the term. The RFP specified that the contractor would be paid a management fee equal to the greater of (a) 3% of gross revenues, up to a maximum of \$400,000 per year, to be adjusted for inflation, or (b) \$60 per rental unit per month not to exceed \$333,000 per year. In addition, the RFP specified percentage-based disbursements of net revenues between TIDA and the successful contractor from leasing of these market rate rental units.

Ms. Saez advises that TIDA posted the RFP on the City's Office of Contract Administration (OCA) website, TIDA's website, and on TIDA's Twitter account and sent notices by email to 12 specific organizations<sup>2</sup>. On April 18, 2014, TIDA received one response, from the John Stewart Company, the existing contractor, to provide continued sublease and property management services on Treasure and Yerba Buena Islands.

On June 11, 2014, the TIDA Board of Directors approved a resolution (Resolution No. 14-22-06/14) approving a proposed new Agreement with the John Stewart Company.

### **DETAILS OF PROPOSED LEGISLATION**

The proposed resolution will approve a new Sublease and Property Management Agreement for Treasure and Yerba Buena Islands market rate rental housing between Treasure Island Development Authority (TIDA) and the John Stewart Company, with a yearly base rent of \$632,806 payable by the John Stewart Company to TIDA for an approximate seven-year term, with one three-year option to extend.

As discussed above, the John Stewart Company is currently providing the same property management and subleasing services for TIDA under a month-to-month extension of the original Agreement. The effective date of the proposed new Agreement would be upon final approval by the Board of Supervisors. The new Agreement would then extend through June 30, 2021. If the one three-year extension option is approved, the term would extend through June 30, 2024.

As noted above, the Agreement currently covers 472 units on Treasure Island and 84 units on Yerba Buena Island, or a total of 556 market rate rental housing units, including backyards,

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<sup>2</sup> Ms. Saez advises that emails regarding the Notice of Availability of the RFP were sent to the: San Francisco Apartment Association, Building Owners and Managers Association, City's Office of Economic and Workforce Development, City's Office of Small Business, City's Office of the City Administrator, Supervisor Jane Kim, and the existing Treasure Island Residential Property Managers, including John Stewart Company, Swords to Plowshares, Catholic Charities, Community Housing Partnerships, Healthright 360, and Rubicon Programs.

common areas and off-street residential areas. Under the proposed Agreement, TIDA would have the right to reduce the number of rental housing units managed by the John Stewart Company at any time, as may be required to accommodate the U.S. Navy's ongoing environmental remediation program or for other purposes.

Under the proposed Agreement, the John Stewart Company would (a) receive 3% of gross revenues, up to a maximum of \$400,000 per year, to be adjusted annually for inflation, (b) pay an annual base rent of \$632,806 to TIDA, to be adjusted annually for inflation, and (c) share percentage rent from net revenues, with TIDA receiving 95% of the net revenues and John Stewart Company receiving 5% of the net revenues.

As noted above, TIDA anticipates entering into one new Master Lease with the Navy, to address both market rate and affordable housing units on Treasure and Yerba Buena Islands, in late 2014. The proposed Agreement with the John Stewart Company therefore states that if the upcoming Master Lease with the Navy has any material or substantive impacts that negatively impact the John Stewart Company, TIDA will meet and confer, attempt to resolve such impacts, initiate nonbinding mediation, or ultimately terminate the Agreement with the John Stewart Company with 180 day notice.

## FISCAL IMPACTS

As specified in the RFP, TIDA will pay the John Stewart Company a management fee that is equivalent to 3% of gross revenues derived from the monthly leasing revenues collected by the John Stewart Company, not to exceed \$400,000 annually, with an allowable annual CPI increase in this management fee. The John Stewart Company currently receives the same management fee rate under the existing agreement. However, if the number of rental units is reduced by TIDA below 210 units, TIDA and John Stewart Company staff may establish a new management fee, that maintains the benefits, or initiate nonbinding mediation, or ultimately terminate the Agreement with 180 day notice.

In addition, TIDA will be paid an annual base rent of \$632,806 from the John Stewart Company, adjusted annually by a cost of living factor. After the John Stewart Company pays (a) TIDA the \$632,806 annual base rent (presently the base rent is \$623,344), (b) all operating expenses, (c) funds the required Replacement Reserve Account<sup>3</sup>, and (d) receives the management fee, the remaining available revenues realized from the collection of rents are considered to be net revenue. Such net revenues are then distributed between TIDA and the John Stewart Company, with TIDA receiving 95% of the net revenues and John Stewart Company receiving 5% of the net revenues. All of these provisions are the same as the current provisions.

Consistent with the existing Agreement, the proposed Agreement requires the John Stewart Company to pay all operating expenses from gross revenues received from the rents. However, the proposed Agreement adds a new provision that the John Stewart Company will not have to incur costs greater than \$500,000 from its own funds, such that TIDA and the John Stewart

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<sup>3</sup> As specified in Section 11.3 of the proposed Agreement, the John Stewart Company shall make disbursements from the required Replacement Reserve Account to perform repairs and maintenance to the rental units and to perform any emergency repairs.

Company would make adjustments to expenditures to ensure that expenses do not exceed revenues, or receive credit against the base rent to ensure full reimbursement. The proposed Agreement also requires that the John Stewart Company pay prevailing wages for any staff or subcontractors performing any repairs, improvements or alterations to the residential units.

All of the revenues received by TIDA under the existing and proposed Agreements are budgeted for overall TIDA operations.

Table 1 below summarizes the actual revenues that have been paid to TIDA and earned by the John Stewart Company under the existing agreement. Overall, TIDA received base rent of \$7,687,522 and percentage rent of \$80,292,575 or a total of \$87,982,097 over the past 15 years under the existing Agreement with the John Stewart Company. During that same period, the John Stewart Company received \$5,463,993 in management fees and \$4,860,337 in percentage rent, or a total of \$10,324,330.

**Table 1: Actual TIDA and John Stewart Company Revenues Under the Existing Agreement**

Fiscal Year	TIDA Revenues		John Stewart Revenues	
	Base Rent	% Rent	Management Fee	% Rent
1999-2000	\$250,004		\$180,532	
2000-2001	439,703	\$3,468,703	416,232	\$261,085
2001-2002	431,610	6,489,108	436,416	488,427
2002-2003	462,500	8,097,056	399,577	609,456
2003-2004	500,258	7,619,526	398,352	560,304
2004-2005	503,098	6,897,878	397,326	423,013
2005-2006	512,649	6,523,633	403,958	377,432
2006-2007	526,783	6,788,504	389,292	323,231
2007-2008	542,928	6,103,399	385,656	321,225
2008-2009	555,975	6,207,818	400,953	333,061
2009-2010	563,016	5,429,311	367,098	285,753
2010-2011	576,140	5,147,124	321,140	270,901
2011-2012	590,193	3,841,665	292,831	202,194
2012-2013	609,323	3,588,084	329,487	188,845
2013-2014	623,344	4,092,766	345,143	215,409
<b>Total</b>	<b>\$7,687,522</b>	<b>\$80,294,575</b>	<b>\$5,463,993</b>	<b>\$4,860,337</b>

Table 2 below summarizes the estimated revenues that are anticipated to be paid to TIDA and earned by the John Stewart Company under the proposed initial seven-year agreement. As shown in Table 2 below, the percentage revenues are estimated to decline in FY 2015-16 because of the loss of 44 market rate housing units currently occupied on Yerba Buena Island. While the number of housing units may further decline over the term of the proposed Agreement due to the Navy's environmental remediation program or other purposes, the estimated revenues shown in Table 2 below assume no further losses of housing units over the initial seven year term of the Agreement, with relatively stable and allowable 1% annual rent increases. Overall, TIDA is estimated to receive \$4,704,459 in base rent and \$21,590,892 in percentage rent, or a total of \$26,295,351 over the initial seven-year term. At the same time,

the John Stewart Company is estimated to receive \$2,547,824 in management fees and \$1,136,360 in percentage rent, or a total of \$3,684,184.

**Table 2: Estimated TIDA and John Stewart Company Revenues during the Initial Seven-Year Term of the Proposed Agreement**

Fiscal Year	TIDA Revenues		John Stewart Revenues	
	Base Rent*	% Rent	Management Fee	% Rent
2014-2015	\$632,806	\$3,239,364	\$382,260	\$170,493
2015-2016	645,462	2,983,012	352,009	157,000
2016-2017	658,371	3,012,841	355,529	158,570
2017-2018	671,539	3,042,969	359,084	160,156
2018-2019	684,970	3,073,399	362,675	161,757
2019-2020	698,669	3,104,133	366,302	163,375
2020-2021	712,642	3,135,174	369,965	165,009
<b>Total</b>	<b>\$4,704,459</b>	<b>\$21,590,892</b>	<b>\$2,547,824</b>	<b>\$1,136,360</b>

\*In accordance with the proposed agreement, base rent will be adjusted annually based on the Consumer Price Index. Table 2 assumes a 2% annual adjustment in the Base Rent.

On June 7, 2011, the Board of Supervisors approved a Disposition and Development Agreement (DDA) between TIDA and the Treasure Island Community Development LLC for the future long-term development of Treasure and Yerba Buena Islands, which includes market rate and affordable housing, commercial development, parks and open space and a ferry terminal. According to Ms. Saez, the Navy parcels that contain most of the market rate housing that are covered by the proposed Agreement with the John Stewart Company are not anticipated to be conveyed to the City for at least ten years, or approximately 2024. As noted above, the proposed Agreement with the John Stewart Company includes a three-year option to extend, or up to a total of ten years.

**RECOMMENDATION**

Approve the proposed resolution.

<b>Item 2</b> <b>File 14-0918</b>	<b>Department:</b> Mayor's Office of Housing and Community Development
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objective</b></p> <ul style="list-style-type: none"> <li>• Ordinance appropriating \$2,400,000 from the City's General Fund Reserve for legal services for unaccompanied juveniles and family units on the San Francisco's Immigration Court's expedited removal docket.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• The juvenile caseload in San Francisco's Immigration Court has increased by 183% or 541 cases, from 296 cases in FY 2010-11 to 837 cases in FY 2012-13. The increase in juvenile cases in the San Francisco Immigration Court reflects the nationwide increase in unaccompanied juveniles apprehended by U.S. Custom and Border Protection.</li> <li>• Unaccompanied juveniles or family units appearing in immigration court do not have a legal right to representation, although a number of legal service providers in San Francisco offer their services for these juveniles or family units at no or reduced costs. According to Syracuse University's TRAC Immigration Project, unrepresented immigrant juveniles were ordered deported in nine out of ten cases nationally. In contrast, the court allowed the juvenile to remain in the United States in almost half of the cases receiving legal representation.</li> <li>• U.S. Customs and Border Protection estimates that 90,000 unaccompanied juveniles and 75,427 family units, totaling 165,427, will be apprehended nationwide in federal FY 2013-14 (October 1, 2013 through September 30, 2014). The Budget and Legislative Analyst estimates that 2,531 of these unaccompanied juveniles and family units will be referred to expedited removal proceedings in San Francisco Immigration Court.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance would appropriate \$1,200,000 in FY 2014-15 and \$1,200,000 in FY 2015-16 from the City's General Fund Reserve, totaling \$2,400,000, to pay for legal services for unaccompanied juveniles and family units. Appropriation of \$2,400,000 would reduce the City's General Fund Reserve balance from \$58,020,643 to \$55,620,643.</li> <li>• The estimated annual costs to provide legal services (both attorney and support staff costs) for the 20% of unaccompanied juveniles and family units who are referred to San Francisco Immigration Court and reside in San Francisco are \$1,250,000. If only attorney costs are included, then the estimated costs to provide these legal services are reduced by \$136,200 to \$1,063,800 per year. As an alternative to the requested appropriation of \$2,400,000, the Board of Supervisors could consider appropriating funds of \$1,063,800 per year to pay only for attorney costs.</li> </ul> <p style="text-align: center;"><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• The Board of Supervisors could consider appropriating funds of \$1,063,800 per year to pay only for attorney costs. This would reduce the requested appropriation by \$272,400, from \$2,400,000 to \$2,127,600.</li> <li>• Approval of the proposed ordinance is a policy matter for the Board of Supervisors.</li> </ul>	

## MANDATE STATEMENT & BACKGROUND

### Mandate Statement

According to Charter Section 9.105, amendments to the appropriation ordinance, as finally adopted by the Board of Supervisors, may be initiated by a member of the Board of Supervisors and adopted in the same manner as other ordinances.

### Background

The juvenile caseload in San Francisco's Immigration Court<sup>1</sup> has increased substantially over the last three years. From federal Fiscal Year (FY) 2005-6 through FY 2010-11,<sup>2</sup> the number of juvenile cases filed in San Francisco's Immigration Court ranged from 251 to 313 cases per year, with an average of 286 cases per year. The number of cases began to increase in FY 2010-11, resulting in a 183% increase in FY 2012-13 compared to FY 2010-11, as shown in Table 1 below.

**Table 1: Juvenile Caseload in the San Francisco Immigration Court**

<b>Federal Fiscal Year:</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>	<b>Percent Increase</b>	<b>FY 2013-14 (nine months)</b>
Total Juvenile Cases *	296	477	837	183%	865

Source: Syracuse University TRAC (Transactional Records Access Clearinghouse) Immigration Project

\* Includes unaccompanied and other juvenile cases but not family unit cases

The increase in juvenile cases in the San Francisco Immigration Court reflects the nationwide increase in unaccompanied juveniles apprehended by U.S. Customs and Border Protection, which increased by 22,810 from 15,949 in federal FY 2010-11 to 38,759 in federal FY 2012-13, an increase of 143%. U.S. Customs and Boarder Protection reported 62,998 unaccompanied juveniles during the first 10 months of federal FY 2013-14 (through July 31).

Under federal law, unaccompanied juveniles, who have entered the United States illegally and are apprehended by U.S. Customs and Border Protection, are given the option of voluntarily returning to their home country if they are from Mexico or Canada.<sup>3</sup> For unaccompanied juveniles from other countries and those from Mexico or Canada that do not choose to voluntarily return to their country, the U.S. Department of Homeland Security initiates removal proceedings against them by filing a case with the U.S. Executive Office for Immigration Review, a branch of the U.S. Department of Justice.

<sup>1</sup> The San Francisco Immigration Court falls under the jurisdiction of the Office of the Chief Immigration Judge, which is a component of the Executive Office for Immigration Review under the U.S. Department of Justice. The Executive Office for Immigration Review is a separate organization from U.S. Citizenship and Immigration Services, which is under the jurisdiction of the U.S. Department of Homeland Security.

<sup>2</sup> The federal fiscal year is from October 1 through September 30.

<sup>3</sup> William Wilberforce Trafficking Victims Reauthorization Act of 2008

### Legal Representation to Unaccompanied Minors

Unaccompanied juveniles or family units appearing in immigration court do not have a legal right to representation, although a number of legal service providers in San Francisco offer their services for these juveniles or family units at no or reduced cost. In prior years, when the number of unaccompanied juveniles appearing in immigration court was less, an average of 65% of these cases in San Francisco Immigration Court received legal representation. The percentage of these cases receiving legal representation decreased to 35% in federal FY 2012-13, as shown in Table 2 below.

**Table 2: Number of Unaccompanied Juvenile Cases Receiving Legal Representation in San Francisco Immigration Court**

	Represented	Not Represented	Total	Percent Represented
FY 2012-13	294	543	837	35%
<b>Average</b>				
<b>FY 2005-06 to FY 2011-12</b>	<b>204</b>	<b>109</b>	<b>313</b>	<b>65%</b>
FY 2011-12	313	164	477	66%
FY 2010-11	210	86	296	71%
FY 2009-10	209	104	313	67%
FY 2008-09	155	96	251	62%
FY 2007-08	147	110	257	57%
FY 2006-07	192	97	289	66%
FY 2005-06	204	107	311	66%

Source: Syracuse University TRAC Immigration Project

The outcomes for juveniles in immigration court proceedings vary significantly based on whether they have legal representation or not. According to Syracuse University's TRAC Immigration Project data, unrepresented immigrant juveniles were ordered deported in nine out of ten cases nationally. In contrast, the court allowed the juvenile to remain in the United States in almost half of the cases receiving legal representation.<sup>4</sup>

### DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would appropriate \$2,400,000 from the City's General Fund Reserve to the Mayor's Office of Housing and Community Development (MOHCD) to pay for legal services of unaccompanied juveniles and family units on the San Francisco Immigration Court's expedited removal docket.<sup>5</sup>

<sup>4</sup> New Data on Unaccompanied Children in Immigration Court, Syracuse University, Transactional Records Access Clearinghouse, July 15, 2014

<sup>5</sup> In July 2014, the Department of Justice directed immigration courts nationally to expedite the processing of the surge of juvenile cases ("expedited removal docket").

### Estimates of the Number of Unaccompanied Juveniles and Families in San Francisco

The proposed ordinance would appropriate \$1,200,000 in FY 2014-15 and \$1,200,000 in FY 2015-16, totaling \$2,400,000 to pay for legal representation for unaccompanied juveniles and family units on the San Francisco Immigration Court's expedited removal docket.

According to the Budget and Legislative Analyst's September 2, 2014 report on the *Estimated Cost of Providing Legal Representation to Unaccompanied Juveniles and Families in San Francisco Immigration Court*, estimated annual costs to provide legal services for unaccompanied juveniles and family units residing in San Francisco in FY 2014-15 are approximately \$1,250,000. Table 3 below shows the estimated number of removal proceedings for unaccompanied juveniles and family units in San Francisco Immigration Court in federal FY 2013-14. Table 4 below shows the estimated costs, totaling \$1,250,000 per year, to provide legal services to these unaccompanied juveniles and family units.

**Table 3: Estimated Number of Unaccompanied Juveniles and Family Units in San Francisco in FY 2013-14**

<b>Federal FY 2013-14</b>	<b>Number of Unaccompanied Juveniles</b>	<b>Number of Family Units</b>	<b>Total</b>
Total Apprehended Nationwide <sup>1,2</sup>	90,000	75,427	165,427
Percent Referred to Immigration Court Nationwide <sup>3</sup>	<u>x 34.8%</u>	<u>x 34.8%</u>	<u>x 34.8%</u>
Immigration Court Removal Proceedings	31,308	26,239	57,547
Percent Referred to San Francisco Immigration Court <sup>4</sup>	<u>x 4.4%</u>	<u>x 4.4%</u>	<u>x 4.4%</u>
SF Immigration Court Removal Proceedings	1,377	1,154	2,531
Previously Receiving Legal Services <sup>5,6</sup>	(304)	(99)	(403)
<b>Number Needing Representation</b>	<b>1,073</b>	<b>1,055</b>	<b>2,128</b>

Source: Budget and Legislative Analyst's September 2, 2014 report on the *Estimated Cost of Providing Legal Representation to Unaccompanied Juveniles and Families in San Francisco Immigration Court*

<sup>1</sup> Estimate of unaccompanied juveniles is based on U.S. Customs and Border Protection estimates.

<sup>2</sup> Estimate of families is based on average monthly apprehensions of families from October 1, 2013 through July 31, 2014.

<sup>3</sup> Based on 34.8% of unaccompanied juveniles apprehended by U.S. Customs and Border Protection and referred to removal proceedings in immigration court nationwide from October 1, 2013 through June 30, 2014

<sup>4</sup> Estimate of the number of cases referred to removal proceedings in San Francisco Immigration Court is based on actual referral 4.4% from October 1, 2013 through June 30, 2014.

<sup>5</sup> Estimate of number of unaccompanied juveniles in San Francisco Immigration Court receiving legal representation is based on the average number of actual cases with legal representation in federal FY 2011-12 and FY 2012-13, reported by Syracuse University TRAC Immigration Project.

<sup>6</sup> Estimate of number of families in San Francisco Immigration Court receiving legal representation is based on an average of 59% of cases in immigration courts nationwide in FY 2012-13 receiving legal representation, times an estimated 168 family cases in San Francisco Immigration Court in FY 2012-13.

**Table 4: Estimated Annual Costs of Providing Legal Services to Unaccompanied Juveniles and Family Units in San Francisco Immigration Court**

<b>Estimated Costs</b>		<b>Total Cost</b>
Estimated Cases Needing Representation (Table 3)	2,128	
Caseload per Attorney *	<u>40</u>	
Total Number of Attorneys Needed (number of cases divided by caseload per attorney)	53.19	
Cost per Attorney *	<u>x \$100,000</u>	
Total Attorney Costs		\$5,319,000
Estimated Support Staff *	13.3	
Cost per Support Staff	<u>x \$70,000</u>	
Total Support Staff Costs		<u>\$931,000</u>
Total Attorney and Support Staff Costs		\$6,250,000
Percent Appearing in San Francisco Immigration Court and Residing in San Francisco *	<u>X 20%</u>	
<b>Total Estimated Annual Costs for Unaccompanied Juveniles and Family Units Residing in San Francisco</b>		<b>\$1,250,000</b>

Source: Budget and Legislative Analyst's September 2, 2014 report on the *Estimated Cost of Providing Legal Representation to Unaccompanied Juveniles and Families in San Francisco Immigration Court*

\* Average caseload and cost per attorney and support staff, and percentage of unaccompanied juveniles and family units appearing in San Francisco Immigration Court and residing in San Francisco, are based on Budget and Legislative Analyst survey of legal services providers in the Bay Area.

### Selection of Legal Services Providers

According to Mr. Brian Cheu, Director of Community Development, MOHCD will select legal services providers through a competitive process. The Notice of Funding Availability (NOFA) will be posted in the MOHCD website, distributed to MOHCD and City funded nonprofit organizations, and posted through San Francisco Public Library and City Hall resources. Depending on the date by which the Board of Supervisors approves the proposed supplemental appropriation, MOHCD expects to complete the selection process and award funds by the week of October 20, 2014.

### FISCAL IMPACT

According to the Controller's Office, the City's General Fund Reserve balance is \$58,020,643. Approval of the proposed appropriation of \$2,400,000 would reduce the General Fund Reserve balance to \$55,620,643. According to the proposed ordinance, \$1,200,000 of the \$2,400,000 would be placed on Controller's Reserve until FY 2015-16.

As noted in Table 4 above, the Budget and Legislative Analyst's estimated costs of \$1,250,000 per year to provide legal services to unaccompanied juveniles and family units appearing in San Francisco Immigration Court and residing in San Francisco include both attorney and support staff costs. If only attorney costs are included, then the estimated costs to provide these legal services are reduced by \$136,200 to \$1,063,800 per year.<sup>6</sup>

As an alternative to the requested appropriation of \$2,400,000, the Board of Supervisors could consider appropriating funds of \$1,063,800 per year to pay only for attorney costs. Appropriating funds to pay only attorney costs would reduce the requested two-year appropriation by \$272,400, from \$2,400,000 to \$2,127,600.

## RECOMMENDATIONS

1. The Board of Supervisors could consider appropriating funds of \$1,063,800 per year to pay only for attorney costs. This would reduce the requested appropriation by \$272,400, from \$2,400,000 to \$2,127,600.
2. Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

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<sup>6</sup> Equal to 20% of \$5,319,000 (see Table 4)

<b>Item 3</b> <b>File 14-0871</b>	<b>Department:</b> San Francisco Municipal Transportation Agency (SFMTA)
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**EXECUTIVE SUMMARY****Legislative Objective**

- Resolution approving a new three-year contract between the San Francisco Municipal Transportation Agency (SFMTA) and Andrews International for armed and unarmed security services from September 15, 2014 through August 31, 2017, with an option to extend up to three additional years at SFMTA's discretion, for an amount not-to-exceed \$29,226,587.

**Key Points**

- Cypress Security currently provides armed and unarmed security services under an existing agreement with SFMTA, from September 1, 2008 through September 30, 2014, for a total not-to-exceed \$32,900,000, or an average of approximately \$5,408,220 annually.
- On July 16, 2014, the SFMTA received three competitive bids to provide future armed and unarmed security services from (a) Andrews International for \$29,226,587, (b) Cypress Security Services for \$30,537,266 and (c) ABC Security for \$39,989,510.

**Fiscal Impact**

- Cypress Security Services currently provides 192,614 annual hours of service, compared to Andrews proposed 227,290 hours of service, an increase of 34,676 hours, or 18%. Cypress Security Services existing hourly rates range from \$26.66 to \$40.95, while Andrews International hourly rates will be lower, ranging from \$20.32 to \$40.30.
- The total annual contract with Andrews International is estimated not-to-exceed \$4,871,098. In addition, the proposed contract with Andrews International does not include any increases in annual rates over the six-year term. Therefore, the total six-year contract (including the initial three years and the three year options to extend solely at the SFMTA's discretion), would total a not-to-exceed \$29,226,587 (\$4,871,098 x six years).
- The existing contract with Cypress Security has averaged approximately \$5,408,220 annually. The proposed new contract with Andrews International at a not-to-exceed \$4,871,098 annually, is approximately \$537,122 less than the average annual cost of the existing security services contract with Cypress Security. Overall, the existing approximately six-year contract with Cypress Security cost the SFMTA \$32,900,000. The proposed new six-year contract, including the one three year option, with Andrews International will cost the SFMTA a not-to-exceed \$29,226,587, which is a savings of \$3,673,413 or 11.2%.

**Recommendations**

- Amend the proposed resolution on page 2, lines 4 and 5, to indicate that the SFMTA Board of Directors adopted Resolution No. 14-138 on September 2, 2014, and not on August 19, 2014.
- Approve the resolution, as amended.

## MANDATE STATEMENT & BACKGROUND

### Mandate Statement

In accordance with Charter Section 9.118(b), any contracts or agreements entered into by a department having a term over ten years or requiring anticipated expenditures of \$10,000,000 is subject to Board of Supervisors approval.

### Background

On August 12, 2008, based on a competitive bidding process, the Board of Supervisors approved a new three-year contract between SFMTA and Cypress Security Services to provide armed and unarmed security services for a not-to-exceed \$15,800,000 (Resolution No. 372-08). The initial contract term was from September 1, 2008 through August 31, 2011 and included one three-year option to extend. On August 2, 2011, the Board of Supervisors authorized the SFMTA to exercise the option to extend the Cypress Security Services contract by an additional three years, or through August 31, 2014, for an additional \$17,100,000 or total contract not-to-exceed \$32,900,000 (Resolution No. 333-11). On July 21, 2014, the SFMTA approved an extension of one month until September 30, 2014 of the existing Cypress Security Services contract to provide sufficient time for a new security contractor to commence operations.

Under the existing contract, Cypress Security Services is responsible for (a) armed guard services for SFMTA Revenue Operations personnel collecting fare box revenues and (b) unarmed guard services for SFMTA shops, facilities, offices, and property. Cypress Security currently operates 24 hours a day, seven days a week, with a total of 97 staff.

On June 24, 2014, the SFMTA Board of Directors authorized the Director of Transportation to issue a new Invitation for Bids to provide armed and unarmed security services for three years for the SFMTA. As shown in Table 1 below, on July 16, 2014, the SFMTA received the following three bids to provide armed and unarmed security services for three years:

**Table 1: Competitive Bids for SFMTA Security Services**

Security Services Firms	Three-Year Bids
Andrews International	\$29,226,587
Cypress Security Services	30,537,266
ABC Security	39,989,510

On September 2, 2014, the SFMTA Board of Directors adopted a resolution (SFMTA Resolution No. 14-138) authorizing the Director of Transportation to execute a contract with Andrews International, the lowest bidder, to provide armed and unarmed security services, for a not-to-exceed \$29,226,587 for an initial three-year term with an option to extend the term for up to three additional years at SFMTA's sole discretion. The proposed resolution states on page 2, lines 4 and 5 that the SFMTA Board adopted this resolution on August 19, 2014 and does not

specify the resolution number. Therefore, the proposed resolution should be amended to reflect the correct date of September 2, 2014 when the SFMTA Board of Directors adopted this resolution and include the Resolution No. 14-138.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize SFMTA to enter into a new three-year contract with Andrews International to provide armed and unarmed security services from September 15, 2014 through August 31, 2017 with an option to extend this contract up to three additional years at SFMTA's sole discretion for a total amount not-to-exceed \$29,226,587 over six years.

The existing contract with Cypress Security extends through September 30, 2014 and the proposed new contract with Andrews International commences on September 15, 2014, which provides a two-week overlap of security services. According to Mr. Ashish Patel, SFMTA Manager of Contracts and Procurement, this two-week overlap of contract terms is intended to facilitate a smooth transition between security contractors and prevent any lapses in SFMTA's security guard coverage. Mr. Patel advises that Andrews International will provide continued 24 hours a day, seven days a week security services with approximately 105 staff, or approximately 8 more staff than the current 97 security staff provided by Cypress Security Services.

Mr. Patel reports that under the new security services contract, Andrews International will provide the following security services for the SFMTA:

- (1) Armed Security Services: ongoing at various fare collections and pass sales locations, including Hyde and Beach, Market and Powell, Presidio and Portsmouth sites and payroll check delivery, subway collections, ballpark detail and subway patrol;
- (2) Unarmed Security Services: ongoing mobile patrols, graffiti patrols, Muni Metro East (North and South Gates and video console), Security Operations Center, Revenue Control Center, Islais Creek, 1399 Marin, Flynn, Woods, Geneva, video surveillance units, Potrero, Presidio, Kirkland;
- (3) Additional four Americans with Disabilities Act (ADA) observers would be added to the existing two ADA Observers, for a total of six ADA Observers, at the request of SFMTA's Accessible Services;<sup>1</sup> and
- (4) A new two-person security guard patrol would be added to Muni Metro lines, operating 16 hours per day, seven days per week.<sup>2</sup>

In general, SFMTA advises that these private security guards work at SFMTA facilities throughout the City, including transit stations, vehicle storage yards and service centers. These

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<sup>1</sup> This Observer program was established as a result of a court decree to ensure SFMTA's adherence to the ADA requirements. The two additional Observers will be assigned to specific SFMTA operators where complaints about non-compliance with the ADA requirements have been reported.

<sup>2</sup> This additional service is being added to secure access gates and prevent individuals from getting into the SFMTA tunnels, which frequently results in the suspension or delays in service and safety hazards.

security guards are the first deterrent for inappropriate activity and guard against vandalism, by ensuring the safety of the public and SFMTA personnel and property.

## FISCAL IMPACTS

SFMTA's existing contract with Cypress Security Services is for a total not-to-exceed \$32,900,000 over an approximate six-year term or an average of approximately \$5,408,220 annually. Table 2 below shows the actual and projected expenditures to be paid by the SFMTA to Cypress Security through September 30, 2014.

**Table 2: Actual Expenditures Under Existing Cypress Security Contract**

Calendar Year	Actual Expenditures Paid
2008 (September 1-December 31)	\$1,333,639
2009	4,915,074
2010	4,879,976
2011	5,503,644
2012	6,292,977
2013	6,159,567
2014 (January 1- September 30 projected)	3,815,122
<b>Total</b>	<b>\$32,899,999</b>

Cypress Security Services currently provides 192,614 annual hours of service, compared to Andrews proposed 227,290 hours of service, an increase of 34,676 hours, or 18%. Mr. Patel advises that many of the miscellaneous hours under the existing Cypress Security contract will be reallocated to specific armed and unarmed assignments, as summarized in Table 3 below.

**Table 3: Comparison of Annual Hours and Hourly Rates of Contractor Security Services**

Contractor	Armed Hours	Unarmed Hours	Miscellaneous Hours	Total Security Hours
Cypress Security	33,354	105,024	54,236	192,614
Andrews International	55,066	157,144	15,080	227,290
<b>Proposed Increase (Decrease) in Hours</b>	<b>21,712</b>	<b>52,120</b>	<b>(39,156)</b>	<b>34,676</b>
Contractor	Armed Hourly Rate	Unarmed Hourly Rate	Miscellaneous Hourly Rate	
Cypress Security	\$30.34	\$26.66	\$28.13-\$40.95	
Andrews International	\$23.01	\$20.32	\$20.32-\$40.30	

As also shown in Table 3 above, the hourly rates for Andrews International are lower than Cypress Security current hourly rates. Cypress Security, the existing SFMTA security contractor, submitted a protest regarding the Andrews International bid to the SFMTA. On August 22, 2014, Andrews International signed a Memorandum of Understanding (MOU) with the Service Employees International Union (SEIU) and added language to the proposed agreement with SFMTA that Andrews International will pay its employees in accordance with SEIU's prevailing wages and benefits.

Mr. Patel advises that the total contract cost for a one-year period with Andrews International is estimated not to exceed \$4,871,098. In addition, the proposed contract with Andrews International does not include any increases in annual rates over the six-year term. Therefore, the six-year contract (including the initial three years and the three year option to extend solely at the SFMTA's discretion), would total a not-to-exceed \$29,226,587 (\$4,871,098 x six years).

As noted above, the existing contract with Cypress Security has averaged approximately \$5,408,220 annually. The proposed new contract with Andrews International at a not-to-exceed \$4,871,098 annually, is approximately \$537,122 less than the average annual cost of the existing security services contract with Cypress Security. Overall, the existing approximately six-year contract with Cypress Security cost the SFMTA \$32,900,000. The proposed new six-year contract, including the one three year option, with Andrews International will cost the SFMTA a not-to-exceed \$29,226,587, which is a savings of \$3,673,413 or 11.2%.

## RECOMMENDATIONS

1. Amend the proposed resolution on page 2, lines 4 and 5, to reflect that the SFMTA Board of Directors adopted Resolution No. 14-138 on September 2, 2014, and not on August 19, 2014.
2. Approve the resolution, as amended.