

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

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TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: June 2, 2016 Government Audit and Oversight Committee Meeting

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Item 1 File 16-0487	Department: San Francisco Municipal Transportation Agency (SFMTA)
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EXECUTIVE SUMMARY**Legislative Objective**

- The proposed resolution would approve the Paratransit Broker and Operating Agreement between SFMTA and Transdev Services, Inc., to provide paratransit brokerage and transportation services, in an amount not to exceed \$142,902,104 for a five-year term beginning July 1, 2016 and ending June 30, 2021, with an option to extend five years through June 30, 2026 for a total of 10 years.

Key Points

- SFMTA administers San Francisco Paratransit, which is a van and taxi program for people unable to independently use or access public transit because of a disability or disabling health condition. There are three types of paratransit services in the program: (1) SF Access van service, (2) taxi service, and (3) group van service.
- Transdev currently provides paratransit brokerage and transportation services under an existing agreement with SFMTA from April 1, 2010, which has been extended through June 30, 2016, for a total of \$125,443,773.
- SFMTA issued a Request for Proposals (RFP) in November 2015 in order to award a new agreement for paratransit brokerage and transportation services instead of exercising the five-year option to extend the current agreement. Transdev, the existing contractor, was the only firm to respond to the RFP.
- The Board of Supervisors approved an ordinance in December 2015 requiring SFMTA to include prevailing wage and worker retention provisions in the new agreement.

Fiscal Impact

- The \$142,902,104 agreement is funded by Proposition K sales taxes, BART, Muni operating funds, and other state and federal sources.
- The FY 2016-17 budget under the proposed agreement would be \$25,765,668, which is \$2,041,819 or 8.6 percent higher than the FY 2015-16 budget of \$23,723,849. The primary reason for the cost increase for the proposed new agreement is related to higher salaries associated with the prevailing wage provision included in the new agreement.

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

SFMTA administers San Francisco Paratransit, which is a van and taxi program for people unable to independently use or access public transit because of a disability or disabling health condition. There are three types of paratransit services in the program: (1) SF Access van service, (2) taxi service, and (3) group van service. SF Access is a shared-ride service that provides pre-scheduled, door-to-door accessible van rides for ambulatory persons and for persons who use wheelchairs.

Existing Paratransit Broker and Operating Agreement

In February 2010, the Board of Supervisors approved a five-year agreement between SFMTA and Veolia Transportation Services, Inc. (Contractor) to provide paratransit brokerage services, based on a competitive solicitation, for a not-to-exceed amount of \$118,599,710 (File No. 09-1439; Resolution No. 32-10). The five-year term of the agreement extended from April 1, 2010 to March 30, 2015, with an option to extend the agreement through March 30, 2020.

To date, the agreement has been amended six times to provide for the City to (a) lease additional accessible vans to the Contractor, (b) expand the Contractor's scope of work to include direct paratransit and vehicle maintenance services previously performed by a subcontractor, MV Transportation, that requested to be released from its obligations under the subcontract, (c) extend the term of the agreement to June 30, 2016, and (d) increase the not-to-exceed amount to \$125,443,773. In August 2014, the Contractor changed its name from Veolia Transportation Services, Inc. to Transdev Services, Inc.

Under the current agreement, the Contractor is responsible for managing transportation service delivery and financial- and customer service-related activities. The current paratransit model, which has been in place since September 2014, involves the Contractor providing brokerage administrative functions, including eligibility and customer service, and transportation services.

New Competitive Solicitation

SFMTA issued a Request for Proposals (RFP) in November 2015 in order to award a new agreement for paratransit brokerage and transportation services to replace the existing agreement with Transdev Services, Inc. that will expire on June 30, 2016. The paratransit broker operates the SF Access program, which provides door-to-door, shared-ride van services for people who are unable to use Muni's accessible buses, trains, and streetcars because of a disability. The Contractor subcontracts for taxi services and some of the group van service.

SFMTA opted not to exercise the five-year option to extend the current agreement with Transdev Services, Inc. due to the contract amendments noted above that expanded the scope of services performed by the prime contractor. SFMTA issued a new RFP to provide an opportunity for all potential contractors to bid on the new service model with expanded scope of work.

The RFP allowed proposers to submit a proposal for a decentralized brokerage model and/or a proposal to provide both brokerage and transportation services (the existing model). Transdev, the existing contractor, was the only firm to respond to the RFP, and submitted both types of the proposals on December 4, 2015. Transdev's proposal for brokerage and transportation services was rated higher than their decentralized brokerage proposal.

Prevailing Wage Provisions for the Next Agreement

The Board of Supervisors approved an ordinance in December 2015 requiring SFMTA to include prevailing wage and worker retention provisions in the next agreement for SF Access brokerage services (File No. 15-1003, Ordinance No. 213-15). The legislation requires the new contractor (1) to pay prevailing wages to workers providing SF Access services; and (2) provide transitional employment and retention to the prior contractor's employees providing SF Access services. As noted above, Transdev – the existing contractor – was the only firm to respond to the RFP for the new agreement for paratransit services.

DETAILS OF PROPOSED LEGISLATION

Based on the competitive RFP process noted above, the proposed resolution would approve a new Paratransit Broker and Operating Agreement between SFMTA and Transdev Services, Inc., to provide paratransit brokerage and transportation services, in an amount not to exceed \$142,902,104 for a five-year term beginning July 1, 2016 and ending June 30, 2021, with an option to extend for five years through June 30, 2026 for a potential total of 10 years.

Work to be performed by Transdev under the proposed contract includes (1) determining clients' eligibility for transportation services, (2) outreach and customer service to paratransit clients, (3) maintaining the customer database, debit card system, website, and other information technology services, (4) manage paratransit vehicles, (5) manage the paratransit program staff and budget, (5) subcontract with group van and taxi providers and manage subcontracted services, and (6) directly manage door-to-door, shared ride, wheelchair accessible, and other transportation services on a 24-hour per day, 7-day per week schedule.

FISCAL IMPACT

The \$142,902,103 budget from July 1, 2016 through June 30, 2021, including funding sources, for the proposed new Paratransit Broker and Operating Agreement over its five-year term are shown in Table 1 below.

Table 1: Paratransit Broker and Operating Agreement Sources and Uses of Funds

	FY 16/17	FY17/18	FY18/19	FY19/20	FY20/21	5 Year Total
Funding Sources						
Prop K ¹	\$10,193,010	\$10,193,010	\$10,193,010	\$10,193,010	\$10,193,010	\$50,965,050
Federal Section 5307	3,800,000	3,914,000	4,031,420	4,152,363	4,276,933	20,174,716
State Transit Assistance	745,322	767,682	790,712	814,433	838,866	3,957,016
Department on Aging - Recovery	723,824	745,539	767,905	790,942	814,670	3,842,880
BART	1,756,465	1,840,993	1,953,789	2,051,133	2,139,364	9,741,744
Muni Operating Funds	8,547,047	9,544,391	10,923,380	12,086,287	13,119,591	54,220,697
Total Funding Sources	\$25,765,668	\$27,005,615	\$28,660,216	\$30,088,168	\$31,382,436	\$142,902,103
Uses of Funds						
Broker Services ²	\$3,809,156	\$3,922,005	\$3,928,957	\$4,017,843	\$4,173,712	\$19,851,673
Transportation Subcontractor ³	7,491,264	7,543,272	7,765,760	7,994,923	8,230,961	39,026,180
Transit Division ⁴	14,465,248	15,201,078	16,243,653	16,942,120	17,412,013	80,264,112
Subtotal	25,765,668	26,666,355	27,938,370	28,954,886	29,816,686	139,141,965
Demand Increase		339,260	721,846	1,133,282	1,565,750	3,760,138
Total	\$25,765,668	\$27,005,615	\$28,660,216	\$30,088,168	\$31,382,436	\$142,902,103

Source: Contract between SFMTA and Transdev

¹ Half-cent local sales tax for transportation

² Transdev staff costs, office and other direct administrative costs, and a management fee equal to 5 percent of broker services

³ Transdev costs for group van, taxi and other subcontractors

⁴ Transdev staff and direct costs for maintaining and operating vehicles and providing transportation services

SFMTA's FY 2015-16 budget for the Paratransit Program under the existing agreement is \$23,723,849. As shown in Table 1 above, the FY 2016-17 budget under the proposed agreement would be \$25,765,668, which is \$2,041,819 or 8.6 percent more than the FY 2015-16 budget. Ms. Williams states that the primary reason for the cost increase for the proposed new agreement is related to higher salaries associated with the prevailing wage provision included in the new agreement.

RECOMMENDATION

Approve the proposed resolution.

<p>Item 3 File 16-0423</p>	<p>Departments: City Administrator (ADM) Office of Short Term Rental Administration and Enforcement</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would amend the City’s Administrative Code to revise the Residential Unit Conversion Ordinance to (a) require Hosting Platforms to verify that a Residential Unit is on the City Registry prior to listing; (b) require the Office of Short Term Rentals to monitor Hosting Platforms, issue non-compliance notices and for Hosting Platforms to respond expeditiously to such notices; (c) provide for civil, administrative and criminal penalties against Hosting Platforms for violations; (d) require quarterly and annual reports to the Board of Supervisors and (e) affirm the Planning Department’s determination under the California Environmental Quality Act. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • On October 21, 2014, the City’s Codes were amended to allow permanent residents to provide short-term residential rentals by (a) registering the unit with the City, (b) obtaining a business license and paying the City’s Transient Occupancy Taxes, and (d) complying with specified other City rules and regulations. • A new Office of Short Term Rental Administration and Enforcement (Office of Short Term Rentals) was created in 2015 to provide a centralized location for the City’s Registry and to coordinate complaints and enforcement of the City’s short-term rental regulations. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The Office of Short Term Rentals FY 2015-16 budget is currently \$475,000 and includes three FTE staff, as well as three Planning Department staff. The proposed legislation is estimated to result in additional one-time costs of \$119,685 and ongoing annual costs of \$452,345. Together with the existing FY 2015-16 budget, projected annual ongoing costs would be \$927,345, excluding one-time costs of \$119,685. • In FY 2015-16, fee and penalty revenues are projected to total \$253,000, which is used to support this program. The shortfall of \$222,000 is supported by the City’s General Fund. • Total projected revenues to be realized from the proposed ordinance cannot be estimated at this time. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • It may be easier for the City to monitor compliance and reduce the City’s cost if the proposed ordinance is amended to require Hosting Platforms (1) post the City’s registration number in a standardized location on their website or in a manner that is clearly distinct and consistently identifiable, and (2) provide additional data upfront that will facilitate the creation of the listing of compliant vs non-compliant listings for the City. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • The Board of Supervisors may want to consider the potential amendments identified in the Policy Consideration section above. • Approval of the proposed ordinance is a policy decision for the Board of Supervisors. 	

MANDATE STATEMENT

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

BACKGROUND

On October 21, 2014, the Board of Supervisors amended the City's Administrative Code and Planning Codes to allow some residential properties to provide short-term residential rentals (File 14-0381; Ordinance 218-14). A short-term residential rental is defined as a rental of all or a portion of a residential unit for periods of less than 30 nights. Under the existing Chapter 41A Administrative Code provisions, permanent residents who are permitted to offer short-term residential rentals are required to (a) register the unit with the City¹, including submitting documents to prove residency in the unit being registered, (b) obtain a business license and pay the City's Transient Occupancy Taxes², (c) agree to a 90-day limit on unhosted rentals, and (d) comply with specified other City rules and regulations.

Under the existing Code provisions, Hosting Platforms³ are required to (a) provide notice to their short term residential users regarding the rental laws in San Francisco⁴, (b) comply with the requirements of the City's Business and Tax Code, including collecting and remitting all required Transient Occupancy Taxes and (c) maintain records demonstrating that all taxes have been remitted to the City's Tax Collector. Violations of the noticing requirements can subject Hosting Platforms to administrative, civil and criminal penalties.

Chapter 41 of the Administrative Code was subsequently amended in July 2015 to establish a new Office of Short Term Rental Administration and Enforcement (Office of Short Term Rentals) in the City Administrator's Office to provide a centralized location for applicants for the City's registry and to coordinate complaints and enforcement of the City's short-term rental regulations. The Office of Short Term Rentals is currently located at 1650 Mission Street, in the City Planning Department. In FY 2015-16, the Office of Short Term Rentals budget is \$475,000, including three FTE staff. In addition, three Planning Department staff are assigned to the Office of Short Term Rentals.

According to Mr. Kevin Guy, Director of the Office of Short Term Rentals, compliance with these short term rental Code provisions is currently primarily the responsibility of the short term rental hosts. Currently, Hosting Platforms do not generally post specific addresses or owners' names or list City registration numbers in standardized formats on their websites to allow the City to easily determine compliance. Hosting Platforms also have not been fully responsive to

¹ Registration of short-term residential units was originally in the City's Planning Department, and subsequently moved to the new Office of Short Term Rentals.

² Transient Occupancy Taxes are considered Hotel Taxes and are assessed at the current rate of 14%.

³ Hosting Platforms are defined as entities that provide a means through which an owner may offer a residential unit for tourist or transient use, usually through an online website which allows an owner to also advertise the residential unit and arrange payments.

⁴ Administrative Code Chapter 37, the Residential Rent stabilization and Arbitration Ordinance and Chapter 41A, Residential Unit Conversion and Demolition Ordinance, regulate Short-Term Rental of Residential Units.

the City's requests for information regarding potentially non-compliant listings. The proposed ordinance would provide additional compliance requirements for the Hosting Platforms.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend Chapter 41A of the City's Administrative Code to:

- (a) Require Hosting Platforms to verify that a residential unit is on the City's Registry prior to listing the unit to be rented on the Hosting Platform.
- (b) Require the Office of Short Term Rentals to monitor Hosting Platforms and issue non-compliant notices and require Hosting Platforms to respond expeditiously.
- (c) Provide for civil, administrative and criminal penalties against Hosting Platforms for violations of the Residential Unit Conversion Ordinance and deposit any additional fees and penalties in the Housing Trust Fund for use by the Small Sites Program.
- (d) Require the Office of Short Term Rentals to provide quarterly and annual reports to the Board of Supervisors.
- (e) Affirm the Planning Department's determination under the California Environmental Quality Act (CEQA).

Verify Residential Unit is on City Registry

Currently, the Office of Short Term Rentals maintains the City's Short-Term Residential Rental Registry (City's Registry) which includes a unique registration number for each approved short-term residential rental unit. Under the proposed ordinance, Hosting Platforms would have the following three options for verifying that a residential unit is on the City's Registry and has a valid registration number prior to posting a listing to be rented on the Hosting Platform:

- (1) Provide the verified registration number on each web page listing that contains verified information for the specified residential unit, such as host response rates, host ratings and date of joining the platform;
- (2) Ensure that the host posting the listing for a residential unit includes a verified registration number within their listing and the registration number is visible to all users; or
- (3) Provide the verified registration number, residential unit street address, unit number and host name to the Office of Short Term Rentals by electronic mail before posting the listing on the Hosting Platform.

Monitoring Hosting Platforms, Non-Compliant Notices and Required Responses

The proposed ordinance would require the Office of Short Term Rentals to actively monitor Hosting Platform listings to ensure that Hosting Platforms are only listing residential units included on the City's Registry, by conducting an initial comprehensive review of active Hosting Platforms listings, with subsequent reviews conducted at least monthly. Based on these reviews, the Office of Short-Term Rentals would be required to identify and immediately notice the Hosting Platforms and the City Attorney by electronic mail of all non-compliant listings. Hosting Platforms would be required to respond to such notices within one business day or be

subject to specified administrative penalties and enforcement provisions, including civil penalties of up to \$1,000 per day.

Quarterly and Annual Reports to Board of Supervisors

The Office of Short Term Rentals would be required to provide quarterly reports to the Board of Supervisors summarizing the results of the Office's monitoring efforts, including the number of non-compliant units identified, number of notices issued, Hosting Platform responses received and penalties imposed. In addition, the Office of Short Term Rentals (not the Planning Department) would be required to provide annual reports to the Board of Supervisors regarding the administration and enforcement of the Short-Term Residential Rental program.

Provide Civil, Administrative and Criminal Penalties

Under the proposed ordinance, civil, administrative and criminal penalties would also apply to violations by a Hosting Platform for failure to (a) provide notices to hosts regarding Chapter 41A rules, (b) collect or pay taxes, (c) verify, display or disclose registration numbers and compliance information, and (d) respond to requests for information. Currently civil and administrative penalties only apply to Hosting Platforms that fail to (a) provide notices to hosts regarding Chapter 41A rules and (b) collect or pay taxes. In addition, any fees and penalties collected pursuant to Chapter 41A would now be deposited in the Housing Trust Fund for use by the Small Sites Program⁵ after reimbursement for all City costs incurred for the enforcement of Chapter 41A.

California Environmental Quality Act Determination (CEQA)

On May 6, 2016, the Planning Department determined that the actions contemplated in this ordinance would not result in a physical change in the environment and therefore comply with CEQA.

FISCAL IMPACT

Existing and Projected Costs

As noted above, the Office of Short Term Rentals FY 2015-16 budget is currently \$475,000 and includes three FTE staff, with three additional staff provided by the Planning Department. If the proposed legislation is approved, Mr. Guy estimates requiring approximately three additional FTE 5291 Planner 3 staff positions to inspect and monitor the approximately 12,500 listings on various Hosting Platform websites on a monthly ongoing basis, using web scrapes as well as manual inspections of such listings. In addition, assuming this new staff identifies numerous non-compliant listings and these listings are then removed from the Hosting Platforms, a significant number of new applications to register short-term rental units are likely. This surge in applications may require the addition of a temporary 5275 Planner Technician and Department of Technology Programmer Analyst staff to develop an online registration application site.

⁵ The Housing Trust Fund for use by the Small Sites Program is primarily for the acquisition of new sites for affordable housing in the City.

Mr. Guy also notes that if the Office of Short Term Rentals needs to hire additional staff, it may require the Office to move and lease additional office space, as there is insufficient additional space in the Planning Department. An estimated \$19,200 of additional annual rent and an unknown cost to move is included in the projected costs. In addition, depending on the amount of non-compliance determined, costs for City Attorney services may increase, although the amount of such costs is currently unknown.

As shown in the Table below, the total additional one-time costs are estimated at \$119,685 and ongoing costs are estimated at \$452,345. Together with the existing FY 2015-16 budget, projected annual ongoing costs for the Office of Short Term Rentals would increase to \$927,345, excluding one-time additional expenses of \$119,685.

Table: Projected One-Time and Ongoing Costs

	Full-time Equivalent (FTE) Staff	One-Time Costs	Ongoing Costs
5291 Planner 3	3.33		388,145
5275 Planner Technician	0.67	\$61,628	
1062 IS Programmer Analyst	0.25	30,057	
Web scraping			45,000
Workstations (4 new staff)		28,000	
City Attorney			Unknown
Rent			19,200
Moving		Unknown	
Total Estimated New Costs	4.25	\$119,685	\$452,345
Current FY 2015-16 Budget	3.00		475,000
Total Projected Budget			\$927,345

Existing and Projected Revenues

The Office of Short Term Rentals is partially supported by \$50 registration fees and various civil, criminal and administrative penalties. In FY 2015-16, these fee and penalty revenues are estimated to total \$253,000. Such revenues are used to offset City costs to administer and enforce the short term rental program. In FY 2015-16, with annual costs of \$475,000 and annual revenues of \$253,000 (53% coverage), there is a projected shortfall of \$222,000. The shortfall for the Office of Short Term Rentals is supported by the City's General Fund.

If the proposed ordinance is approved, the Office of Short Term Rentals estimates receiving approximately \$75,000 of revenues from application fees. Mr. Guy reports that the amount of revenues to be realized from civil, criminal and administrative penalties will vary significantly depending on the level of compliance by the Hosting Platforms, which cannot be estimated at this time. Under the proposed ordinance, any revenues generated beyond the costs to

administer the short term rental program would be deposited in the Housing Trust Fund for Small Sites Program.

Given the additional functions and costs associated with the proposed legislation, approval of the proposed ordinance is a policy decision for the Board of Supervisors.

POLICY CONSIDERATION

The one-time and ongoing costs of the proposed ordinance shown in the Table above are based on the Office of Short Term Rentals current activities and projections. However, Mr. Guy notes that the actual fiscal impact could vary based on the level of compliance by the Hosting Platforms in response to the new legislation. In addition, Mr. Guy notes that it would be easier for the City to monitor compliance and the City's cost to implement the proposed ordinance could be reduced by an indeterminate amount, if the proposed ordinance was amended to require that the Hosting Platforms:

- (1) Post the City's registration number in a standardized location on their website or in a manner that is clearly distinct and consistently identifiable, and
- (2) Provide additional data upfront that will facilitate the creation of the listing of compliant vs non-compliant listings for the City.

RECOMMENDATIONS

1. The Board of Supervisors may want to consider the potential amendments identified in the Policy Consideration section above.
2. Approval of the proposed ordinance is a policy decision for the Board of Supervisors.