

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: October 5, 2022 Budget and Finance Committee Meeting

TABLE OF CONTENTS

| Item | File | Page |
|-------------|---|-------------|
| 1 | 22-0930 Grant Agreement - Retroactive - Low Income Investment Fund - San Francisco Child Care Facilities Fund and Technical Assistance - Not to Exceed \$91,466,252 | 1 |
| 5 | 22-0701 Home Detention and Electronic Monitoring Program for Home Detention - Program Administrator's Evidence of Financial Responsibility - FY2022-2023 | 6 |

| | |
|---|---|
| <p>Item 1 File 22-0930</p> | <p>Department: Department of Early Childhood (DEC)</p> |
| <p>EXECUTIVE SUMMARY</p> | |
| <p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> The proposed resolution would retroactively approve a grant agreement between the Department of Early Childhood (DEC) and the Low Income Investment Fund (LIIF) to administer the San Francisco Child Care Facilities Fund and provide technical assistance, for the period of July 2022 through June 2024, in an amount not to exceed \$91,466,252. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> In February 2022, DEC conducted a Request for Proposals (RFP) to administer the Child Care Facilities Fund and provide technical assistance. In April 2022, LIIF, which has provided similar services since the creation of the Child Care Facilities Fund in 1998, submitted the only responsive and responsible proposal that met the minimum requirements and was awarded a grant. In July 2022, the HSA Commission approved the grant agreement. Under the proposed grant agreement, LIIF would administer the San Francisco Child Care Facilities Fund to provide grants and loans to childcare providers for capital projects. Projects may either be new childcare facilities or expansions of existing facilities. The program provides funding to both family home-based facilities and early education centers. LIIF would provide technical assistance to childcare providers through trainings and resources about the development process, project management, assistance with financing and grant-leveraging, consultation regarding fiscal and operating issues to licensed centers, guidance on facility and environmental design, individualized business technical assistance, and coordination with DEC for City-sponsored trainings. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> The proposed grant agreement would have an amount not to exceed \$91,466,252 over the two-year term. Approximately 91 percent of projected expenditures would be used for capital project grants and loans and approximately nine percent would be used for LIIF's internal costs. Based on projected expenditures and to allow for a 10 percent contingency, the Budget and Legislative Analyst recommends reducing the not-to-exceed amount of the grant agreement by \$5,741,052, for a total not to exceed \$85,625,200. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> Amend the proposed resolution to reduce the not-to-exceed amount to \$85,625,200. 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 1998, the City, in partnership with private donors, launched the Child Care Facilities Fund to expand licensed childcare capacity in San Francisco. The Child Care Facilities Fund was previously administered by the Office of Early Care and Education in the Human Services Agency (HSA) and is now administered by the Department of Early Childhood (DEC). As of February 2022, there were over 1,000 licensed early childcare and education facilities in San Francisco, including 400 center-based facilities and 600 family home-based facilities.

The existing grant agreement between HSA and the Low Income Investment Fund (LIIF), which has administered the Child Care Facilities Fund since 1998, expired in June 2022. The existing agreement was for a five-year term and a not-to-exceed amount of \$61,034,611.

Selection Process

In February 2022, DEC conducted a Request for Proposals (RFP) to administer the Child Care Facilities Fund and provide technical assistance to childcare providers. In April 2022, DEC received two proposals, but one proposer was determined to not meet the minimum requirements. LIIF submitted a responsive and responsible proposal that received a score of 89.3 out of 100 from a three-member evaluation panel and was awarded a grant. In July 2022, the HSA Commission approved the grant agreement with LIIF.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a grant agreement between DEC and LIIF to administer the San Francisco Child Care Facilities Fund and provide technical assistance, for the period of July 2022 through June 2024, in an amount not to exceed \$91,466,252. According to Michael De Leon, DEC Senior Contracts Analyst, approval is retroactive because of delays in negotiating the agreement with LIIF and the legislation to establish DEC as an independent department, which was approved in September 2022 (File 22-0808).

Under the proposed grant agreement, LIIF would administer the San Francisco Child Care Facilities Fund to provide grants and loans to childcare providers for capital projects.¹ Projects may either be new childcare facilities or expansions of existing facilities. LIIF may also administer interest-free loans up to \$50,000, which according to DEC Senior Contract Analyst De Leon, are typically distributed through the Revolving Loan Fund using funding that was not spent on grants. DEC and LIIF prioritize providing grants over loans.

¹ Childcare providers include licensed providers who offer care in their home as well as licensed early childcare centers.

Technical Assistance

LIIF would also provide technical assistance to childcare providers through trainings and resources about the development process, project management, assistance with financing and grant-leveraging, consultation regarding fiscal and operating issues to licensed centers, guidance on facility and environmental design, individualized business technical assistance, and coordination with DEC for City-sponsored trainings. In addition, LIIF would conduct a San Francisco Early Care and Education Facility Needs Assessment within the two-year grant period with a detailed analysis of the citywide supply and demand by neighborhood, with bi-annual updates.

Capital Funding Grants & Facility Selection

The proposed grant includes \$70.8 million in capital funding grants for early childcare providers, for start-up, pre-development, expansion, and renovation costs. According to Graham Dobson, DEC Senior Policy Analyst, childcare providers apply to LIIF for grants, which are then evaluated by Child Care Facilities Interagency Committee² and approved by DEC. Childcare providers may receive grants for up to \$2,000,000 for non-profit providers and \$500,000 for for-profit providers for capital projects, up to \$100,000 for non-profit providers and \$25,000 for for-profit providers for pre-development work, up to \$3,500 per new childcare space for start-up costs, and up to \$300,000 for non-profit providers and \$100,000 for for-profit providers for renovations and repairs. Unlimited grants may be provided to non-profit providers located within 100 percent affordable housing developments. Eligible providers must have been approved by DEC for the Early-Learning SF (ELS) City-funded network. Priority consideration is given to facilities located within housing developments (such as HOPE SF), facilities that serve children 0-3 years old, and facilities that serve low- to moderate-income families.

Revolving Loans

As part of the agreement, LIIF also administers the Revolving Loan Fund, which was established during the COVID-19 pandemic with \$6 million in funding from Proposition C³ to provide zero-interest loans to childcare facilities to prevent closures. The loans are repaid over a five-year period and any existing funds may be redistributed through future loans to support childcare facilities as needed. Loans would be used to fund expenditures that cannot be funded by the grant program that will be developed by LIIF.

Contractor Performance

Under the grant agreement, LIIF would be required to submit quarterly and annual reports showing progress towards achieving various service and outcome objectives for the program,

² The Child Care Facilities Interagency Committee includes Mayor's Office of Housing & Community Development, Office of Early Care and Education, Office of Community Investment & Infrastructure, the Planning Department, and staffed by LIIF.

³ Proposition C, also known as "Baby Prop C," is a commercial rent tax passed by San Francisco voters in June 2018 that allocated 85 percent of revenues to early childhood education and childcare programs and 15 percent of revenues to the City's General Fund. Proposition C revenues were withheld until April 2021 due to litigation challenging the validity of the tax.

including providing grants to increase or retain 400 spaces in childcare centers and 200 spaces in home-based providers each year.

The most recent program monitoring report, issued in April 2022, showed that LIIF had met or was on track to meet all target objectives.

FISCAL IMPACT

The proposed grant agreement would have an amount not to exceed \$91,466,252 over the two-year term. DEC anticipates that approximately 73 percent of expenditures would be within the Early Education Centers Program and approximately 27 percent of expenditures would be within the Family Child Care program. As discussed below, we recommend amending the proposed resolution to reduce the not-to-exceed amount to \$85,625,200 to be consistent with the grant budget, as shown in Exhibit 1 below.

Exhibit 1: Estimated Sources and Uses of Funds

| Sources | Year 1 (FY 2022-23) | Year 2 (FY 2023-24) | Total |
|----------------------------|---------------------|---------------------|---------------------|
| General Fund | \$369,394 | \$369,394 | \$738,788 |
| CalWorks | 692,325 | 692,325 | 1,384,650 |
| Child Care Capital Fund | 7,714,301 | 5,000,000 | 12,714,301 |
| Development Impact Fees | 1,252,530 | 1,750,822 | 3,003,352 |
| Proposition C ⁴ | 30,000,000 | 30,000,000 | 64,357,114 |
| Total Sources | \$40,028,550 | \$37,812,541 | \$77,841,091 |

| Uses | Year 1 (FY 2022-23) | Year 2 (FY 2023-24) | Total |
|----------------------------------|---------------------|---------------------|---------------------|
| Salaries & Benefits | \$1,665,256 | \$1,715,214 | \$3,380,470 |
| Operating Expenses ⁵ | 1,386,473 | 1,359,921 | 2,746,394 |
| <i>Subtotal</i> | <i>\$3,051,729</i> | <i>\$3,075,135</i> | <i>\$6,126,864</i> |
| Indirect Cost (15%) ⁶ | 457,759 | 461,270 | 919,030 |
| Capital Expenditures | 36,519,061 | 34,276,135 | 70,795,196 |
| Total Uses | \$40,028,550 | \$37,812,541 | \$77,841,091 |
| Contingency (10%) | 4,002,855 | 3,781,254 | 7,784,109 |
| Total Not to Exceed | \$44,031,405 | \$41,593,795 | \$85,625,200 |

Source: DEC. Totals may not add due to rounding.

As shown in Exhibit 1 above, approximately 91 percent of projected expenditures would be used for direct capital projects and approximately nine percent would be used for LIIF's internal costs, including salaries and benefits for 12.55 full-time equivalent positions, operating expenses, and indirect costs. The budget also includes a 10 percent contingency to account for unanticipated expenditures, which would be funded by available sources at the time, if needed.

⁴ Proposition C, also known as "Baby Prop C," is a commercial rent tax passed by San Francisco voters in June 2018 that allocated 85 percent of revenues to early childhood education and childcare programs and 15 percent of revenues to the City's General Fund. Proposition C revenues were withheld until April 2021 due to litigation challenging the validity of the tax.

⁵ Operating expenses include rent, office costs, human resources, information technology, management, training, travel, and consultant services.

⁶ Indirect costs include back-office support and overhead costs.

Budget Increase

The proposed budget of \$40.0 million for FY 2022-23 is approximately \$28.4 million greater than the FY 2021-22 budget of \$11.6 million under the prior agreement, largely due to increases in capital expenditures as well as increases in salaries and benefits and operating expenses. According to DEC, increases are due to Proposition C funding that is now available, as well as increased labor and operating costs.

Revolving Loan Funds

According to Senior Contracts Analyst De Leon, the grant agreement budget originally included revolving loan funds that should not have been included within the resolution's not-to-exceed amount. As noted above, loans will be funded from unspent monies of the capital budget of the grant agreement. Therefore, the Budget and Legislative Analyst recommends amending the proposed resolution to reduce the not-to-exceed amount of the grant agreement by \$5,841,053, for a total not to exceed \$85,625,200.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the not-to-exceed amount of the grant agreement to \$85,625,200.
2. Approve the resolution, as amended.

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|---|---------------------------------------|
| <p>Item 5 File 22-0701</p> | <p>Department: Sheriff</p> |
| <p>EXECUTIVE SUMMARY</p> | |
| <p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve the FY 2022-23 rules and regulations for the Sheriff’s home detention and electronic monitoring program for post-sentence participants as well as evidence of Sentinel Offender Services, LLC’s financial responsibility. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The Sheriff operates a home detention and electronic monitoring program for pre- and post-sentenced inmates, whose participation is ordered by state courts. The Penal Code allows the Board of Supervisors to establish and annually review rules for the Sheriff to operate home detention and electronic monitoring programs and approve the contracts with private entities to carry out such programming. The Board of Supervisors has established a home detention and electronic monitoring program for sentenced inmates (under Administrative Code Section 13.63) but has not done so for pre-sentence inmates. • In October 2019, the Board approved a \$3.4 million agreement with Sentinel Offender Services, LLC to install equipment and monitor pre- and post-sentence participants (File 19-0921) and last approved the rules for the post-sentence program in 2019 (File 19-0673). The Sheriff amended the contract in August 2022 to increase the not to exceed amount to \$4.7 million, which the City Attorney determined did not require Board approval. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • Average spending on the Sentinel contract is \$820,000 per year. According to the Sheriff’s Office, all spending is related to pre-sentence participants. As of this writing, there are no post-sentence home detention and electronic monitoring program participants. <p style="text-align: center;">Policy Consideration</p> <ul style="list-style-type: none"> • The proposed resolution refers to Appendix A of the August 2019 agreement with Sentinel (not the August 2022 contract), which is a scope of work for the contractor, as the home detention rules and regulations that are subject to Board of Supervisors’ review. Although the proposed resolution provides the annual review for the Board-approved home detention program rules for post-sentenced participants, the referenced scope of work states pertains to “pre-sentence, post-sentence, and in custody” program participants. The Board of Supervisors could request the Sheriff provide for Board consideration separate rules and regulations for pre- and post-sentenced program participants to (1) properly align with the scope of the proposed resolution and (2) clarify and allow for differences in programming for pre- and post-sentenced program participants. • The Board of Supervisors could also consider establishing a home detention and electronic monitoring program for pre-sentenced individuals, which would provide the Board annual input into the program’s rules and regulations, or pass an ordinance regulating aspects of both programs. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed resolution is a policy matter for the Board of Supervisors. | |

MANDATE STATEMENT

California Penal Code Section 1203.016 authorizes the Sheriff, with the approval of the Board of Supervisors, to administer a home detention program with electronic monitoring for sentenced individuals in lieu of confinement pursuant to a written contract with a private entity. The program rules and evidence of contractor's financial responsibility are subject to Board of Supervisors' approval.

BACKGROUND

The Sheriff operates a home detention and electronic monitoring program for pre- and post-sentenced inmates, whose participation is ordered by state courts. Although they are not required to do so, the California Penal Code allows the Board of Supervisors to establish and provide rules for the Sheriff to operate home detention and electronic monitoring programs and approve the contracts with private entities to carry out such programming (Penal Code Section 1203.016 – 1203.018). Exhibit 1 below summarizes the Sheriff's programs.

Exhibit 1: Sheriff Home Detention and Electronic Monitoring Programs

| Population | BOS Approval | Sheriff Participants |
|---|--------------|----------------------|
| Sentenced to jail or probation (in lieu of confinement) | 2019 | 0 |
| Pre-sentence inmates | No | 325 |

Source: BLA review of Sheriff data

Note: Sentenced Participants are as of October 2021. At that time, Adult Probation Department had 49 clients under electronic monitoring.

The Board of Supervisors has established a home detention and electronic monitoring program for sentenced inmates (under Administrative Code Section 13.63) but has not done so for pre-sentence inmates.^{1,2} Although annual review of the program rules is required, the last time the Board approved the rules for the post-sentence program was in July 2019 (File 19-0673).³

In October 2019, the Board retroactively approved a \$3.4 million agreement with Sentinel Offender Services, LLC to install GPS tracking and alcohol monitoring equipment as well as

¹ To qualify for participation, pre-sentence inmates must either: (A) be held in custody for at least 30 calendar days from the date of arraignment pending disposition of only misdemeanor charges; (B) be held in custody pending disposition of charges for at least 60 calendar days from the date of arraignment, or (C) deemed appropriate for the program based on a determination by the correctional administrator that the inmate's participation would be consistent with the public safety interests of the community.

² The Board of Supervisors considered, but did not approve, an ordinance to establish a home detention and electronic monitoring program for pre-sentenced inmates in 2013-14 (File 13-0650).

³ A resolution approving the program's rules and regulations for FY 2020-21 was continued to the call of the chair in May 2021 (File 20-0876).

monitor and report on pre- and post-sentence participants (File 19-0921). The contract had a three-year initial term of August 2019 to July 2022 and two one-year options to extend the agreement through July 2024.

First Amendment

As noted above, the Board of Supervisors approved the post-sentence home detention and electronic monitoring program rules and regulations in July 2019 and the contract with Sentinel in October 2019. Although the Board of Supervisors approved the initial contract with Sentinel, the City Attorney's Office determined that an amendment to that contract to increase the not to exceed amount from \$3.4 million to \$4.7 million did not require Board of Supervisors approval because the services only pertained to the pre-sentence population. The first amendment to the Sentinel contract was executed in August 2022.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the FY 2022-23 rules and regulations for the Sheriff's home detention and electronic monitoring program for post-sentence participants as well as evidence of Sentinel Offender Services, LLC's financial responsibility.

Financial Responsibility

As evidence of financial responsibility, Sentinel has provided a certificate of insurance liability that shows it carries insurance for commercial general liability, automobile liability, and umbrella liability.

FISCAL IMPACT

According to the Sheriff's Office, spending on the Sentinel contract between FY 2019-20 and FY 2021-22 totals \$2.46 million or approximately \$820,000 per year. Based on that average rate, spending on the Sentinel contract will total \$4.1 million through the end of the contract term (July 2024). According to the Sheriff's Office, all spending is related to pre-sentence participants. As of this writing, there are no post-sentence home detention and electronic monitoring program participants.

POLICY CONSIDERATION

Rules and Regulations

The proposed resolution refers to Appendix A of the August 2019 agreement with Sentinel (not the current version of the contract, which was amended in August 2022), which is a scope of work for the contractor, as the home detention rules and regulations that are subject to Board of Supervisors' approval. Although the proposed resolution provides the annual review for the Board-approved home detention program rules for post-sentenced participants, the referenced scope of work states pertains to "pre-sentence, post-sentence, and in custody" program participants. The scope of work includes provisions related to the contents of participant case

files (Section D), client monitoring (Section E), and reporting to the Sheriff (Section E-8), as well as business and equipment standards (Sections F & G) for Sentinel.

The Board of Supervisors could request that the Sheriff provide for Board consideration separate rules and regulations for pre- and post-sentenced program participants to (1) properly align with the scope of the proposed resolution and (2) clarify and allow for differences in programming for pre- and post-sentenced program participants.

The Board of Supervisors could also consider establishing a home detention and electronic monitoring program for pre-sentenced individuals, which would provide the Board annual input into the program's rules and regulations.

Finally, the Board of Supervisors could consider passing an ordinance regulating the home detention and electronic monitoring programs, such as use and retention of participant data that is collected by the Sheriff.⁴

We recommend the Board of Supervisors work with the Sheriff, City Attorney, and other criminal justice stakeholders in pursuing the above policy options.

RECOMMENDATION

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

⁴ For example, File 22-0242 was an ordinance approved by the Board of Supervisors that amended the Administrative Code to prohibit the Police Department and other City departments from uploading or storing DNA profiles from crime victims.