CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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September 7, 2018

TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: September 13, 2018 Budget and Finance Committee Meeting

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Item 1 **File 18-0809**	**Department:** Port

EXECUTIVE SUMMARY

Legislative Objective

The proposed resolution would: (1) Approve a General Agreement between the Port and the National Park Service (NPS) for a 30-year term with two 10-year options allowing ferry concessioners to use Port Piers 31 and 33 on The Embarcadero at Bay Street under lease from the Port as the embarkation to Alcatraz Island and other Golden Gate National Recreation Area sites; (2) Approve a Lease Agreement between the Port and the Golden Gate National Parks Conservancy (Conservancy) to develop and operate visitor amenities at the site for a 30-year term with two 10-year options; (3) Affirm the Port Commission's Public Trust findings; and (4) Make findings under the California Environmental Quality Act, and adopt the Mitigation Monitoring and Reporting Program for the Alcatraz Ferry Embarkation Project.

Key Points

- NPS has managed ferry services from the Port to Alcatraz Island since 1972. In 2008, in order to develop a permanent ferry site at the Port, NPS requested a long term agreement with the Port.
- In 2016, Port and NPS staff negotiated, on a sole source basis, a term sheet for negotiating a General Agreement for working to establish Pier 31½ as the permanent Alcatraz embarkation site, as well as the terms for a lease to be executed by the Port and the NPS-selected ferry concessioner and a lease with the Conservancy. The Board of Supervisors endorsed the term sheet in November 2016.

Fiscal Impact

- The Port will make substructure improvements to Pier 31 at a cost of $7,516,768. The ferry concessioner and the Conservancy will make improvements with an estimated value of approximately $33 million, and receive rent credits totaling $3,074,000.
- Each of the leases pays rent equal to the greater of base rent or percentage rent. Base rent in the first year of the lease with the ferry concessioner is $772,140 and with the Conservancy is $457,752.
- The net present value of the base rents, less the rent credits, over the first ten years of the two leases is approximately $6,994,000.

Recommendations

- Amend the proposed resolution to request the Port Executive Director to revise the General Agreement to (a) specify that the term of the initial ferry concessioner lease will be 10 years or less, unless the Director of NPS determines that a longer term is warranted, in accordance with U.S. Government Code 36 Section 51.73; (b) make the terms consistent with the proposed lease between the Port and the ferry concessioner; and (c) make the terms consistent with the proposed Lease Agreement between the Port and the Conservancy.
- Approve the proposed resolution, as amended.

MANDATE STATEMENT

City Charter Section 9.118(c) states that any lease of real property for a period of ten years or more or that has revenue to the City of $1 million or more is subject to Board of Supervisors approval.

BACKGROUND

Since 1972, the Port of San Francisco has served as the embarkation point for visitors to Alcatraz Island, which is part of the Golden Gate National Recreation Area managed by the National Park Service (NPS). NPS selects a ferry concessioner through a competitive process and the Port negotiates a lease with the ferry concessioner for locations for embarkation to Alcatraz Island. Ferry services were provided from Pier 41 from 1972 to 2006 and have been provided from Pier 31½ since 2006.

In 2008, the Port and NPS began discussions for (1) selecting a permanent embarkation point at the Port and (2) entering into an agreement that would govern the terms by which the embarkation point would be leased to NPS's concessioners. The Port, based on site criteria developed in conjunction with NPS, identified five potential Port properties: Pier 19½, Pier 29½, Pier 31½, Pier 41, and Pier 45 Shed A. Following federal environmental review, Port and NPS staff identified Pier 31½ as the preferred embarkation site.

In 2016, Port and NPS staff negotiated, on a sole source basis, a term sheet, which set forth the terms upon which the Port and NPS would negotiate in good faith to reach a General Agreement for working to establish Pier 31½ as the permanent Alcatraz embarkation site. The term sheet also included the terms for a lease to be executed by the Port and the NPS-selected ferry concessioner and a lease with the Golden Gate National Parks Conservancy (Conservancy)[1], for a visitor contact station, retail, and food and beverage uses at Piers 31 and 33. In November 2016, the Board of Supervisors endorsed the term sheet and exempted the project from the competitive bidding requirements set forth in Administrative Code Section 2.6-1 (Res. No. 497-16; File No. 16-1166).

Existing Leases at Piers 31 and 33

Hornblower Yachts, Inc. currently leases 42,952 square feet of open pier space at Pier 31½, 60,000 square feet of submerged land, and 7,035 square feet of shed space in Pier 33. The Hornblower lease expired on October 31, 2014, and has continued on a month-to-month holdover basis since then.

San Francisco Pier 33 LLC currently leases portions of the Pier 33 South Bulkhead building comprised of approximately 4,515 square feet on the ground floor and 9,030 square feet on the second and third floors. San Francisco Pier 33 LLC has several subtenants and the lease expires on July 31, 2019.

[1] The Conservancy is a local nonprofit that develops and operates visitor centers in the Golden Gate National Recreation Area.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

- Approve a General Agreement between the Port and NPS for a 30-year term with two 10-year options allowing ferry concessioners to use Port Piers 31 and 33 on The Embarcadero at Bay Street under lease from the Port as the embarkation to Alcatraz Island and other Golden Gate National Recreation Area sites;
- Approve a Lease Agreement between the Port and the Conservancy to develop and operate visitor amenities at the site for a 30-year term with two 10-year options;
- Affirm the Port Commission's Public Trust findings;
- Make findings under the California Environmental Quality Act, and adopt the Mitigation Monitoring and Reporting Program for the Alcatraz Ferry Embarkation Project.

The terms of the General Agreement with NPS and the Lease Agreement with the Conservancy are respectively summarized in Tables 1 and 2 below.

Table 1: Terms of the General Agreement between the National Park Service and the Port

Premises and Permitted Uses	Premises consist of 68,271 square feet of pier or building space and 60,000 square feet of submerged land on Pier 31, Pier 31½, and Pier 33 Pier 31½: ferry embarkation site for ferry excursions to Alcatraz Island and other sites Pier 31: food and beverage service, visitor restrooms, storage Pier 33: visitor center, ticket sales, exhibition space, administrative offices
Term of General Agreement	30 years with two 10-year options to renew the ferry operations at the discretion of NPS, totaling 50 years Agreement may be terminated by the Port or NPS due to sea level rise impacts or catastrophic events
Ferry Concessioner Lease Terms	Ferry concessioner will be solicited, selected, and awarded a contract by NPS Port will enter directly into a ferry concessioner lease with the same duration as the term of contract between the ferry concessioner and NPS Ferry concessioner responsible for waterside infrastructure including new ferry barges, docks and associated infrastructure, Pier 31½ marginal wharf deck surface, Pier 33 shed visitor restrooms, Pier 31 bulkhead restrooms, Pier 33 bulkhead improvements, and interior improvements to Pier 31 and 33 sheds Rent shall be the greater of: • Initial Phase I base rent of $43,600 per month; full premises base rent of $64,345 per month, or • Percentage rent of 7.5 percent of adjusted gross revenue on ferry service, 7.25 percent of adjusted gross revenue from ferry food and beverage, and 8 percent of adjusted gross ancillary revenue Annual base rent escalation will be 3 percent for office space and 2.5 percent for all other uses Ferry concessioner will be provided a maximum of $2,520,000 in rent credits Rent will be adjusted to fair market value for each extension term
Port Obligations	Pier 31½ marginal wharf improvements estimated to cost up to $7,516,768 Maintenance and repair of the Pier 31 marginal wharf substructure, Piers 31 and 33 bulkhead substructure and seawall, and exteriors of Piers 31 and 33 sheds

Table 2: Terms of the Lease Agreement between the Conservancy and the Port

Premises and Permitted Uses	Lease premises consist of approximately 9,222 square feet on Piers 31 and 33 Phase I Premises Pier 31 Bulkhead and Shed: restaurant and storage Phase II Premises Pier 33 South Bulkhead Building and Shed: visitor contact station, administrative office space or related interpretive exhibition space
Estimated Lease Commencement Dates	Phase I Premises: October 1, 2018 Phase II Premises: December 1, 2020
Term of Lease Agreement	30-year lease with two 10-year options
Base Rent	Phase I Premises: $15,300 per month, or $183,600 per year Phase II Premises: $20,986 per month, or $251,832 per year On each anniversary date, Base Rent shall increase by 2.5 percent
Base Rent Phase-in	70 percent of Base Rent due in Year 1 after Phase I and II Commencement Dates 85 percent of Base Rent due in Year 2 after Phase I and II Commencement Dates
Percentage Rent	7.5 percent of gross revenue on food, beverage, and retail operations In any calendar month in which 7.5 percent of total monthly gross revenue (Percentage Rent) exceeds the monthly Base Rent, the Tenant shall pay Percentage Rent During phase-in periods, the reduced Base Rent will be used for the basis of calculating Percentage Rent
Rent Abatement during Alcatraz Island Closure	Base Rent shall be suspended for the entire premises during periods when Alcatraz Island closes to visitors for more than one day for reasons outside NPS's or Tenant's control, such as weather, earthquake damage or a government shutdown. Percentage Rent will continue to be due.
Security Deposit	$76,292
Tenant Improvements	Tenant shall pay for improvements estimated to cost approximately $3,692,000
Rent Credits for Tenant Improvements	Tenant shall be entitled to a rent credit in the maximum amount of $554,000 amortized over a 48-month period taken
Utilities, Maintenance and Repair	Port responsible for substructure of the Pier 31 marginal wharf, substructure and exterior (including roof but excluding doors and windows) of the Pier 31 and 33 bulkhead buildings and Sheds 31 and 33, and the seawall Tenant responsible for utilities, interior improvements, exterior windows and doors Port shall have no responsibility to address the effects of flooding or sea level rise

Changes since Endorsement of Term Sheet

Term of Ferry Concessioner Lease

The term sheet specified that the term of the lease between the Port and the ferry concessioner would conform to U.S. Government Code 36 Section 51.73, which pertains to National Park Service concession contracts, and specifies that contracts must have a term of 10 years or less unless the Director of the National Park Service determines that contract terms, including required capital improvements, warrant a longer term.[2] The General Agreement states that the term of the lease agreement with the ferry concessioner will match the duration of the contract between NPS and the ferry concessioner, but does not specify that the term will be 10 years or less.

Base Rent for Ferry Concessioner Lease

The term sheet and proposed General Agreement list the base rent for the ferry concessioner lease at $696,000 per year, or $58,000 per month, plus initial rent for the Pier 33 office space of $166,032 per year, or $13,836 per month, for total first year rent of $862,032. Under the proposed lease with the ferry concessioner, the full premises base rent will be $772,140 per year, or $89,892 less than presented in the term sheet and proposed General Agreement.

According to Ms. Benassini, the General Agreement language reflects estimates developed prior to when the premises and measurements were understood in detail. The proposed lease is the relationship the Port will have with the ferry concessioner and the ferry concessioner is not a party to the General Agreement. According to Ms. Benassini, the base rent to be paid by the ferry concessioner is $89,892 less than the rent in the proposed General Agreement because the term sheet contained about 2,700 more square feet of space than the ultimate configuration of the premises to be leased. All of the rental rates per square foot are the same as those reported in the term sheet.

Term of Conservancy Lease

Under the term sheet endorsed by the Board of Supervisors in 2016, the lease to the Conservancy was to be for 30 years. The proposed lease agreement is for 30 years with two 10-year options to extend, matching the term of the General Agreement. The Conservancy may only activate the first 10-year option if a number of conditions are met, including that (1) NPS has activated the first 10-year option of the General Agreement, (2) the Conservancy has no events of default outstanding, and (3) the rent is subject to a market-based adjustment based on appraisal.

[2] According to the Port, the National Park Service solicitation for ferry services is for 15 years, which will be the term of the lease between the Port and the ferry concession.

Base Rent for the Conservancy

The term sheet and proposed General Agreement state that the base rent for the Conservancy will be $330,000 per year, or $27,500 per month. The proposed Lease Agreement with the Conservancy states that the base rent will be $183,600 for Phase I parcels and $251,832 for Phase II parcels for a total of $435,432 per year[3]. According to Ms. Benassini, the figures in the term sheet and General Agreement refer to an estimate developed when the amount of space needed by the Conservancy for their operations was not yet final, and the terms of the Lease Agreement supersede the term sheet and General Agreement. According to Ms. Benassini, the base rent to be paid by the Conservancy is more than the rent in the proposed General Agreement because about 3,000 more square feet has been allocated to the Conservancy than previously anticipated due to operational needs.

FISCAL IMPACT

Capital Repairs and Maintenance

The proposed General and Lease Agreements identify the respective responsibilities of the Port, ferry concessioner, and Conservancy for repairs and maintenance of the site.

Port Responsibilities

In March 2018, the Port Commission authorized award of a construction contract in the amount of $7,516,768 for Pier 31 and 31½ marginal wharf substructure repairs and upgrades (Port Resolution No. 18-21). These substructure repairs and upgrades consist of below deck concrete repairs and pile and cap repairs. According to Ms. Benassini, funds to make these substructure repairs and upgrades were included in the Port's FY 2017-18 capital budget, previously approved by the Board of Supervisors.

The Port will also be responsible to maintain and repair the Pier 31 marginal wharf substructure, Piers 31 and 33 bulkhead substructure and seawall, and the exteriors of Piers 31 and 33 sheds. Ms. Benassini states that the Port is responsible for these maintenance and repair costs because Piers 31 and 33 are multi-tenant sites, of which the ferry concessioner and the Conservancy are two of several Port tenants.

Ferry Concessioner Responsibilities

The ferry concessioner selected by NPS will be responsible for the construction, maintenance and repair to new ferry barges, docks and associated waterside infrastructure, Pier 31½ marginal wharf deck surface, Pier 31 and 33 visitor restrooms, Pier 33 bulkhead improvements, and interior improvements to Pier 31 and 33 sheds. NPS estimates the costs of the embarkation site improvements to be approximately $30 million for the ferry concessioner. The ferry concessioner will be provided a maximum of $2,520,000 in rent credits for these costs by the Port.

Conservancy Responsibilities

[3] As noted in Table 2 above, the estimated start date for Phase I leases is October 2018 and the estimated start date for Phase II leases is December 2020.

The Conservancy will pay for interior facility improvements estimated to cost up to $3,692,000. The Conservancy will be responsible for maintaining the interior improvements and exterior doors and windows. The Conservancy will be provided a maximum of $554,000 in rent credits for tenant improvement costs over the initial four years of the lease.

Base Rent to the Port

Lease between the Port and the Ferry Concessioner

The ferry concessioner will pay rent to the Port equal to the greater of (a) base rent of approximately $772,140 per year in the first year, increasing by 3 percent per year for office space and 2.5 percent per year for all other uses, or (b) percentage rent. Percentage rent is equal to 7.5 percent of adjusted gross revenues for ferry service, 7.25 percent of adjusted gross revenues for food and beverages[4], and 8.0 percent of other concession revenue. According to Ms. Benassini, base rent is based on the Port's parameter rent schedule approved by the Port Commission at the time the term sheet was endorsed. Percentage rent is based on rent paid by other ferry excursion operators at the Port.

Lease between the Port and the Conservancy

According to the proposed Lease Agreement, the Conservancy will pay the Port the greater of (a) base rent of approximately $457,752 per year[5], increasing by 2.5 percent per year, or (b) percentage rent equal to 7.5 percent of gross revenues. According to Ms. Benassini, the proposed base and percentage rent to be paid by the Conservancy to the Port was negotiated, based on rents paid by comparable properties adjacent to the Port for the retail portion of the premises. The remainder of the premises base rent was set per the Port's parameter rent schedule approved by the Port Commission.

Estimated Lease Revenues to the Port

The net present value of the base rents, less the rent credits and phase in discounts, to be paid by the ferry concessioner and the Conservancy to the Port over the first ten years of the two leases would be at least $6,994,000. If percentage rent exceeds base rent in any given month of the lease terms, rent proceeds to the Port would be higher.

RECOMMENDATIONS

1. Amend the proposed resolution to request the Port Executive Director to revise the General Agreement to (a) specify that the term of the initial ferry concessioner lease will be 10 years or less, unless the Director of NPS determines that a longer term is warranted, in accordance with U.S. Government Code 36 Section 51.73; (b) make the terms consistent with the proposed lease between the Port and the ferry concessioner; and (c) make the terms consistent with the proposed Lease Agreement between the Port and the Conservancy.
2. Approve the proposed resolution, as amended.

[4] Adjusted gross revenue equals total revenues, less franchise and other pass-through fees.
[5] At the completion of improvements and full rent phase in.

Item 2 File 18-0708	Department: Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objectives

The proposed ordinance (1) delegates authority to the SFPUC General Manager to enter into agreements requiring binding arbitration for purchase of electricity and related products; and (2) retroactively authorizes three agreements for CleanPowerSF with Pacific Gas & Electric Company (PG&E) requiring binding arbitration, with a combined term of two years and five months from August 2018 through December 2020 and total costs of $13,762,490 for purchase of electricity-related products.

Key Points

- State regulators are requiring CleanPowerSF to obtain additional resource capacity between 2018 and 2020 to demonstrate that sufficient electric generation resources are available to meet peak levels of customer demand. CleanPowerSF conducted solicitations for additional supplies for 2018 to 2020, but was not able to obtain sufficient supplies from the pool of respondents. Instead, CleanPowerSF submitted bids to purchase supplies from PG&E covering August 2018 through December 2020. The proposed agreements between SFPUC and PG&E for the additional supplies for CleanPowerSF require binding arbitration.

Fiscal Impact

- The three agreements with PG&E to purchase electricity products, with a total cost of $13,762,490, use the Edison Electric Institute form agreement previously authorized by the Board of Supervisors. The agreements will be funded by CleanPowerSF revenues.

Policy Consideration

- The Board of Supervisors has authority over settlements, including approval before any dispute is submitted to binding dispute resolution or before entering into an agreement that requires binding dispute resolution such as arbitration. The proposed ordinance approves binding arbitration in the three proposed agreements between SFPUC and PG&E, and delegates authority to enter future agreements between SFPUC and other power providers, including PG&E, that require binding arbitration. Such future agreements could be for CleanPowerSF or Hetch Hetchy Power Enterprise, and would need to meet specific conditions, including if the purchase is necessary to meet a legal requirement, other purchase options that would meet the legal requirement and do not require binding arbitration are not available, and the agreement would not otherwise require Board of Supervisors approval.
- Because the proposed ordinance delegates the Board of Supervisors' authority to approve binding arbitration in future agreements with power providers, including PG&E, that meet specific conditions, approval of the proposed ordinance is a policy matter for the Board of Supervisors.

Recommendation

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

MANDATE STATEMENT

Section 6.102 of the City's Charter states that legal proceedings shall be settled or dismissed by ordinance by the Board of Supervisors upon recommendation of the City Attorney.

BACKGROUND

Community Choice Aggregation

State law allows cities and counties to develop Community Choice Aggregation (CCA) programs, through which local governments supply electricity to serve the needs of participating customers within their jurisdictions while the existing private utility (PG&E in San Francisco) continues to provide various services including billing, transmission, and distribution. San Francisco's CCA program ("CleanPowerSF") is in the process of phasing in service to residential customers citywide.

CleanPowerSF offers two levels of supply service: (1) Green, the default service which contains 40 percent renewable energy; and (2) SuperGreen, a premium option which offers 100 percent renewable energy. Customers are automatically phased into the CleanPowerSF program based on their location and are given opportunities to opt-out of participating in the program.

Approximately 108,000 customer accounts with average electricity demand of about 250 megawatts (MW) are currently enrolled in CleanPowerSF. Full-scale citywide enrollment is planned to occur by July 2019 and would involve approximately 260,000 additional customers, for a total of approximately 368,000 customer accounts with average electricity demand of approximately 400 MW.

Previous CleanPowerSF Legislation

In May 2015, the Board of Supervisors authorized the San Francisco Public Utilities Commission (SFPUC) General Manager to use pro forma agreements to purchase and sell electricity to operate the CleanPowerSF program without further Board of Supervisors approval (File No. 15-0408; Ordinance No. 75-15).

In December 2015, the Board of Supervisors authorized the SFPUC General Manager to enter into agreements requiring expenditures of $10 million or more for power and related products and services to launch the initial phases of CleanPowerSF (File No. 15-1123; Ordinance No. 223-15).

In January 2018, the Board of Supervisors authorized the SFPUC General Manager to enter into agreements with terms in excess of ten years or requiring expenditures of $10 million or more for power and related products and services for citywide expansion of CleanPowerSF; and authorized deviations from contract requirements in the Administrative Code and the Environment Code (File No. 17-1172; Ordinance No. 8-18).

Resource Adequacy Supplies for 2018 to 2020

"Resource adequacy" is a State requirement applicable to all entities that provide electric service to customers, including CleanPowerSF. The requirement is intended ensure service reliability by demonstrating that sufficient electric generation resources are available to meet peak levels of customer demand.

Due to the expansion of CleanPowerSF, the State assigned additional resource adequacy capacity requirements for CleanPowerSF to meet between 2018 and 2020. According to Mr. Michael Hyams, Director of CleanPowerSF, CleanPowerSF conducted solicitations for resource adequacy supplies for 2018 to 2020, but was not able to obtain sufficient supplies from the pool of respondents. CleanPowerSF submitted bids to purchase resource adequacy supply from PG&E on March 15, and April 23, 2018. The March 15 bid was accepted and is reflected in the proposed agreement with PG&E for supply in 2019 to 2020. A portion of the April 23 bid was accepted and is reflected in the proposed agreement with PG&E for supply from September through December 2018.

On May 7, 2018, CleanPowerSF issued a Request for Offers for resource adequacy supplies for deliveries for July through December 2018. CleanPowerSF received six bids including a bid from PG&E for resource adequacy supplies covering August through December 2018. That PG&E bid is reflected in the proposed agreement for supply from August through December 2018.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance (1) delegates authority to the SFPUC General Manager to enter into agreements requiring binding arbitration for purchase of electricity and related products for both CleanPowerSF and Hetch Hetchy Water and Power; and (2) retroactively authorizes three agreements for CleanPowerSF with Pacific Gas & Electric Company (PG&E) requiring binding arbitration, with a combined term of two years and five months from August 2018 through December 2020 and total costs of $13,762,490 for purchase of electricity-related products. The SFPUC Commission approved the three proposed agreements between SFPUC and PG&E in June 2018. SFPUC submitted the proposed ordinance to the Board of Supervisors for approval on July 10, 2018.

Future Agreements Requiring Binding Arbitration

The proposed ordinance would allow the SFPUC General Manager to enter into future agreements with energy suppliers that require binding arbitration. The SFPUC General Manager could enter into these agreements for CleanPowerSF and Hetch Hetchy Power Enterprise without further Board of Supervisors approval if the agreement meets all of the following conditions:

1. The agreement is to purchase electricity or an electricity-related product such as, by way of illustration but not limitation, Resource Adequacy;
2. The purchase is necessary to meet a legal requirement;
3. No other purchase that would meet the legal requirement and does not require binding arbitration is available; and
4. The agreement would not otherwise require Board of Supervisors approval.

Proposed Agreements between SFPUC and PG&E

The terms and not-to-exceed amount for the three resource adequacy agreements requiring binding arbitration between CleanPowerSF and PG&E are shown below.

Term	Amount
Calendar years 2019 and 2020	$9,846,750
September to December 2018	504,000
August to December 2018	3,411,740
Total	**$13,762,490**

The PG&E agreements use the Edison Electric Institute form agreement previously authorized by the Board of Supervisors (File No. 15-0408; Ordinance No. 75-15). PG&E requires a three-step dispute resolution process that includes negotiation, mediation, and binding arbitration in accordance with the JAMS (Judicial Arbitration and Mediation Services) Commercial Arbitration Rules.

FISCAL IMPACT

The three agreements with a combined term from August 2018 through December 2020 and total costs of $13,762,490 will be funded by CleanPowerSF revenues. CleanPowerSF revenues are projected to increase from $38.0 million in FY 2017-18 to $208.4 million in FY 2019-20.

Future agreements to purchase electricity or an electricity-related product that meet the conditions of the proposed ordinance would be funded by either CleanPowerSF or Hetch Hetchy Power revenues, depending on the entity entering the agreement.

POLICY CONSIDERATION

Delegating Authority over Settlements

Under the City Charter, the Board of Supervisors retains authority over settlements that have not been specifically delegated to other entities. According to the legislative digest for the proposed ordinance, in accordance with the City Charter, Board of Supervisors approval is also required before any dispute is submitted to a binding dispute resolution process, including entering into an agreement that requires a binding dispute resolution process such as arbitration. Under this ordinance the Board of Supervisors would delegate its Charter authority to the SFPUC General Manager to enter into agreements for the purchase of electricity that require binding arbitration.[1]

The delegated authority applies to future agreements between SFPUC and other providers to purchase power products for CleanPowerSF or Hetch Hetchy Power Enterprise. As noted above, any future agreements would need to meet several conditions, including if the purchase is necessary to meet a legal requirement, other purchase options that would meet the legal requirement and do not require binding arbitration are not available, and the agreement would not otherwise require Board of Supervisors approval.

[1] As noted above, the proposed ordinance lists four conditions which such agreements must meet.

Risks of Binding Arbitration under the Proposed Agreements between PG&E and SFPUC

If a dispute arises in the three proposed agreements between PG&E and SFPUC, the dispute would be resolved privately by an arbitrator chosen by the two parties instead of by a judge in a public court proceeding with public records and opportunities for appeal. Arbitration does not allow for appeal of the arbitrator's decision.

The proposed agreements with PG&E are short term, fixed price contracts, and include provisions requiring PG&E to either pay damages for failure to deliver the resources or to provide replacement resources. According to SFPUC, PG&E requires binding arbitration for all resource adequacy contracts that it enters into with other CCA programs.

Approval of the proposed ordinance is a policy matter for the Board of Supervisors because, should a dispute arise, the proposed ordinance delegates the Board of Supervisors' authority over settlements in the proposed three agreements between SFPUC and PG&E as well as in future agreements with power providers, including PG&#, that meet specific conditions.

RECOMMENDATION

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

Item 7 **File 18-0494**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve the emergency contract between the San Francisco International Airport and Covenant Aviation Security, LLC, to provide security services for an amount not to exceed $1,700,000 over a six-month term from April 6, 2018 through October 5, 2018.

Key Points

- In November 2016, the San Francisco International Airport Commission approved the issuance of the request for proposals for General Airport Security Services. HSS Inc. earned the highest score and was awarded an initial contract for a period of three years from July 1, 2017 through June 30, 2020 in an amount not to exceed $6.5 million. The contract was approved by the Airport Commission on May 2, 2017.
- Under the initial contract, HSS Inc. provided trained security staff to provide security guard and inspection services at the San Francisco International Airport at specified locations throughout the terminals and exits. However, HSS Inc. failed to provide adequate staffing. The Airport determined that HSS Inc. had defaulted on its contract and issued a notice of termination of the contract effective Monday, April 9, 2018.
- The Airport contacted Covenant Aviation Security, LLC, to take over the service immediately upon departure of the defaulting contractor. The Airport Commission approved the emergency contract on April 24th, and the final contract terms were reached on May 2, 2018.

Fiscal Impact

- The contract not to exceed amount of $1,700,000 over a six-month term from April 6, 2018 through October 5, 2018. As of July 2018, the Airport has paid $427,589 to Covenant Aviation Security for the emergency contract.
- The Airport has issued a new request for proposals for a contract with an initial term of approximately 20 months. Proposals for this contract were due by June 29th. The Airport is scheduled to award this new contract to the highest-ranking proposer prior to the expiration of the six-month Emergency Contract with Covenant on October 5th, 2018.

Recommendation

- Approve the proposed resolution

MANDATE STATEMENT

Administrative Code Section 6.60 provides that City contracts entered into for emergency work may be executed in the most expeditious manner. However, declarations of emergencies where the repair work is anticipated to be $250,000 or more are subject to Board of Supervisors approval. Section 6.60(d) also states that if the emergency does not permit Board of Supervisors approval of the emergency before work is commenced or the contract(s) entered into, such approvals from the Board of Supervisors shall be obtained as soon as possible, with the proposed resolution approving the emergency determination submitted to the Board of Supervisors within 60 days of the department head's emergency declaration.

BACKGROUND

The federal Transportation Security Administration (TSA) requires that all commercial service Airports have a TSA approved Airport Security Program. In November 2016, the San Francisco International Airport Commission approved the issuance of the request for proposals for General Airport Security Services. Eight proposals were submitted, but three were deemed non-responsive. A panel composed of a three security related staff and an Airport duty manager rated the proposals on (a) experience of the firm, (b) assigned project team, (c) approach, and (d) average yearly hourly rate. The top three scoring firms, HSS Inc., Allied Universal and Covenant Aviation Security, LLC, were interviewed by the selection panel. The results of the interviews and scoring process are shown in Table 1 below.

Table 1: Proposals Respondents and Final Scores

Proposer	HSS Inc.	Allied Universal	Covenant Aviation Security, LLC
Experience of Firm	28.25	25.5	28.75
Assigned Project Team	18.5	16	18
Approach	31.75	27.25	33
Average Hourly Rate (Score)	$40.20 (42.83)	$40.02 (43.02)	$37.64 (45.74)
Oral Interview	41.5	32.25	33
Final Score	**162.83**	**144.02**	**158.49**

HSS Inc. earned the highest score and was awarded an initial contract for a period of three years from July 1, 2017 through June 30, 2020, with one (1) two-year extension option, in an amount not to exceed $6.5 million. The contract was approved by the Airport Commission on May 2, 2017. To date, the Airport has paid HSS Inc. $1,040,327 for the six month period from October 1, 2017 through March 31, 2018.

Under the initial contract, HSS Inc. provided trained security staff to provide security guard and inspection services at the San Francisco International Airport at specified locations throughout the terminals and exits. However, according to Mr. Rob Forester, Senior Manager Safety and Security Services, HSS Inc. failed to provide adequate staffing on at least 19 separate occasions.

The Airport determined that HSS Inc. had defaulted on its contract and issued a notice of termination of the contract effective Monday, April 9, 2018.

The Airport contacted Covenant Aviation Security, LLC, to take over the service immediately upon departure of the defaulting contractor. According to Mr. Forester, the Airport contacted Covenant Aviation because they were the second ranked respondent in the original request for proposals. Negotiations with Covenant began on April 5th. The Airport Commission declared an emergency on April 6, 2018, and an agreement was reached on Monday, April 9th. The Airport Commission approved the emergency contract on April 24th, and the final contract terms were reached on May 2, 2018.

The Airport Commission submitted the proposed resolution to the Board of Supervisors on May 22, 2018, within the 60 days required by Administrative Code Section 6.60(d).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve the emergency contract between the San Francisco International Airport and Covenant Aviation Security, LLC, to provide security services for an amount not to exceed $1,700,000 over a six-month term from April 6, 2018 through October 5, 2018.

Covenant Aviation Security, LLC has been providing General Airport Security Services to ensure compliance with Airport Rules and Regulations, as well as TSA regulations and security directives. These services include, but are not limited to, conducting required inspections of all goods, employee ID badge verifications, and guarding of the security screening checkpoints, lanes, airfield operations access gates, and buildings.

FISCAL IMPACT

The contract not to exceed amount of $1,700,000, including start-up costs, is shown in Table 2 below. According to Mr. Forester, the contract not-to-exceed amount of $1,700,000 was based on the hourly rates of approximately 36 uniformed guards and 4 uniformed supervisors, the average hours billed in the previous contract, and an estimate allowance for start-up costs.

Table 2: Breakdown of Emergency Contract Cost Estimate

	Estimated Hours	All Inclusive Average Cost per Hour	Estimated Security Costs
Enumerated Posts	31,636	$40.19	$1,271,451
Supervisors	4,368	52.87	230,936
Transportation Security Officer Overtime Guard	203	44.13	8,958
Guard Training, Remote Operations, and as needed support	500	40.19	20,095
Subtotal			*1,531,440*
Start-up Costs			12,019
Contingency (11 percent)			156,541
Total			**$1,700,000**

As of July 2018, the Airport has paid $427,589 to Covenant Aviation Security for the emergency contract. The Airport is currently paying Covenant Aviation Security using direct voucher requests through the Airport Commission pending certification of the contract. After certification, the funding will be provided through Airport operating funds.

The Airport has issued a new request for proposals for a contract with an initial term of approximately 20 months, and the option for two (2) two-year extensions at the sole discretion of the Airport. Proposals for this contract were due by June 29th. The Airport is scheduled to award this new contract to the highest-ranking proposer prior to the expiration of the six-month Emergency Contract with Covenant on October 5th, 2018.

RECOMMENDATION

Approve the proposed resolution

Item 8 **File 18-0640**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve Modification No. 8 to the contract between the San Francisco International Airport and ACJV, a joint venture of AECOM and Cooper Pugeda Management, Inc., to provide construction management services for the Airport's Terminal 1 Center Renovation Project, extending the term by seven months for a total term from January 20, 2015 through April 30, 2019, and increasing the contract amount by $5,250,000, from $23,000,000 to a total amount not to exceed $28,250,000.
- The proposed resolution would also authorize future modifications to the contract without further Board of Supervisors approval to extend the contract through December 31, 2023, and increase the contract amount by $33,075,000 to $61,325,000.

Key Points

- The Airport anticipates reaching the original not-to-exceed amount of $23,000,000 in approximately 3.5 years rather than the anticipated 5 years that was previously approved by the Board of Supervisors. The scope and duration of the project has increased, requiring additional ACJV staffing to oversee and support the project.

Fiscal Impact

- Modification No. 8 to the contract would increase the contract amount by $5,250,000, from $23,000,000 to a total amount not to exceed $28,250,000. The proposed resolution would also authorize future modifications to the contract and further increase the total not-to-exceed amount by $33,075,000 to $61,325,000.

Policy Consideration

- The Airport's practice for Capital Program professional service contracts is to set contract not-to-exceed amounts for one year, requiring annual modification of the contract to increase the contract amount and contract term. However, the Airport does not have a consistent practice to ensure that these contracts conform to Charter Section 9.118(b).

Recommendations

- Approve the proposed Modification No. 8. Approval of future contract modifications without further Board of Supervisors approval is a policy matter for the Board of Supervisors.
- The Board of Supervisors should request that the Airport Director consult with the City Attorney's Office on consistent practices to obtain Board of Supervisors approval for Capital Program professional services contracts that are modified annually to ensure conformance to Charter Section 9.118.

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

Terminal 1 Center Renovation Project

In March 2015 following a competitive process the Board of Supervisors approved the contract between the San Francisco International Airport and ACJV, a joint venture of AECOM and Cooper Pugeda Management, Inc., to provide construction management services for the Airport's Terminal 1 Center Renovation Project (File 15-0151). The initial term of the contract was for one year for an amount not to exceed $3,500,000, with options to extend the contract each year for a total duration of six years. File 15-0151 approved the contract for a term of up to five years and a total amount not to exceed $23,000,000 over the five-year term.

The Terminal 1 Center Renovation Project is part of the Terminal 1 Redevelopment Program at the Airport, which is an ongoing program to design and construct a new facility at the Airport of approximately 1.1 million square feet while allowing for uninterrupted Airport services during the project period. The Terminal 1 Center Renovation Project will create a new consolidated passenger screening checkpoint, pre-security ticket counters, and concessions in Terminal 1, as well as upgraded standards for post-security passenger amenities to match those in Airport Terminal 2 and Terminal 3 Boarding Area E. The project will also construct a new baggage handling system and a checked baggage screening system.

The project is funded by Airport revenue bonds. The initial budget for the Terminal 1 Center Renovation Project was $428,380,000 in March 2015 when the Board of Supervisors approved the initial contract with ACJV.

Contract Modifications

The Airport has modified the contract seven times to (a) increase the not-to-exceed amount and extend the contract term, and (b) administratively modify the contract to include new subcontractor and labor rates, with no changes to the contract term or amount. The contract modifications that increased the not-to-exceed amount and extended the contract term are summarized in Exhibit 1 below.

Exhibit 1. Initial Contract Terms and Modifications

	Date	Not-to-exceed amount	Extended Term Through
Initial contract terms	1/20/2015	$3,500,000	April 30, 2016
Modification No. 2	3/15/2016	10,550,000	April 30, 2017
Modification No. 4	3/21/2017	18,650,000	April 30, 2018
Modification No. 7	2/20/2018	22,998,000	September 30, 2018

Note: Modification Nos. 1, 3, 5, and 6 were administrative in nature and did not increase the contract not-to-exceed amount or term.

As shown in Exhibit 1 above, Modification No. 7 extended the contract term for only five months, through September 30, 2018, rather than an additional year so as not to exceed the total not-to-exceed amount of $23,000,000 approved by the Board of Supervisors in File 15-0151. According to Ms. Geri Rayca, Manager of the Airport's Contract Management Unit, as of May 31, 2018, $19,933,209 has been expended under the contract.

Increases in the Size and Scope of the Terminal 1 Center Renovation Project

As shown in Exhibit 1 above, the Airport anticipates reaching the original not-to-exceed amount of $23,000,000 in approximately 3.5 years rather than the anticipated 5 years that was approved by the Board of Supervisors in File 15-0151. According to Ms. Rayca, while the scope of services provided by ACJV has not changed since the original contract was awarded, the scope and duration of the Terminal 1 Center Renovation Project has increased, requiring additional ACJV staffing to oversee and support the project.

A November 2017 memorandum from the Airport Director to the Airport Commission states that the original Terminal 1 Redevelopment Program budget and phased approach, including the Terminal 1 Center Renovation Project, was developed in 2013 alongside the Airport's most recent long-term activity forecast. Since 2013, growth in activity has increased faster than originally forecast due to additional flights and larger aircraft coming into the Airport. The unanticipated growth has resulted in an earlier need for the facilities than was anticipated under the original program budget.

The revised phased approach outlined in the November 2017 memorandum keeps the original scope of the Terminal 1 Center Renovation Project and adds additional scope as follows:

- Terminal 1 South: a reconstruction of the southern portion of Terminal 1, originally included in phase 2 of the Terminal 1 Redevelopment Program
- Terminal 1 North: a reconstruction of the northern portion of Terminal 1, originally included in phase 2 of the Terminal 1 Redevelopment Program
- International Terminal Building Connector: construction of new connectors to the International Terminal Building, originally included in phase 2 of the Terminal 1 Redevelopment Program
- Additional scope: infrastructure to support an additional four aircraft parking positions; expanded square footage for additional concessions; baggage-handling system; curbside roadway improvements; and additional amenities.

As a result of the revised project scope, the Terminal 1 Center Renovation Project budget increased three-fold from the original budget of $428,380,000 in March 2015 to the revised budget of $1,387,380,000 in July 2018, as shown in Exhibit 2 below. The ACJV contract budget increased from $23,000,000, or 5.4 percent of the total project budget, to $61,325,000, or 4.4 percent of the total project budget, to account for the increase in scope and duration of the Terminal 1 Center Renovation Project.

Exhibit 2. Original and Revised Budget Summary for Terminal 1 Center Renovation Project

	Original March 2015	Revised July 2018
Design-builder hard costs: direct construction	$216,000,000	$796,166,328
Design-builder management soft costs [a]	45,280,000	180,367,872
Baggage handling system [b]	140,000,000	211,994,285
Internal soft costs: project management [c]	4,100,000	15,930,412
Internal soft costs: other [d]	0	48,014,836
Airport construction contingency	0	73,581,267
Project and construction management ACJV contract	23,000,000 *(5.4% of total)*	61,325,000 *(4.4% of total)*
Total	**$428,380,000**	**$1,387,380,000**

Source: Airport staff.

a. Design-builder management soft costs are charged by the design-builder for the planning and design of the project.

b. The baggage handling system was originally a separate design-build contract before it was transferred to the Terminal 1 Center Renovation Project, and is budgeted separately as a result.

c. Internal project management soft costs are the Airport's costs of internal project managers and other associated Airport staff related to the internal management of the project.

d. Other internal soft costs are related to the Airport's project inspection and project coordination with other City departments.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 8 to the contract, extending the term by seven months for a total term from January 20, 2015 through April 30, 2019, and increasing the contract amount by $5,250,000, from $23,000,000 to a total amount not to exceed $28,250,000.

The proposed resolution would also authorize future modifications to the contract without further Board of Supervisors approval to extend the contract by approximately four years and eight months through December 31, 2023, and increase the contract amount by $33,075,000 to $61,325,000.

FISCAL IMPACT

Exhibit 3 below summarizes the initial five-year contract budget of $22,998,608, the actual amounts expended under the contract to date of $19,933,209, and the total amount authorized under the proposed resolution of $61,325,000.

Exhibit 3. Initial Five-Year Contract Budget, Actuals, and Proposed Budget

	Initial 5-year budget	Actuals expended (5/31/18)	Authorized under proposed resolution	Increase/ (decrease) in proposed budget compared to initial budget
Project management	$8,325,422	$10,368,965	$24,861,653	$16,536,231
Design	3,534,102	950,038	2,369,874	(1,164,228)
Stakeholder engagement	532,251	455,946	455,946	(76,305)
Construction management	4,446,837	4,970,483	20,455,445	16,008,608
Baggage handling system execution	2,578,433	1,336,851	1,367,284	(1,211,149)
Security	669,076	991,762	3,940,468	3,271,392
Subtotal	*$20,086,121*	*$19,074,045*	*$53,450,671*	$33,364,549
Owner's contingency (up to 10%)	2,008,612	0	4,954,091	2,945,479
Subtotal	*$22,094,733*	*$19,074,045*	*$58,404,762*	$36,310,028
Other allowable direct costs (approx. 5%)	903,875	859,164	2,920,238	2,016,363
Total	**$22,998,608**	**$19,933,209**	**$61,325,000**	**$38,326,391**

Source: Airport staff.

The Terminal 1 Center Renovation Project, including the contract with ACJV, is funded by Airport revenue bonds.

POLICY CONSIDERATION

Airport Procedures for Capital Program Professional Services

The Airport's practice for Capital Program professional service contracts is to set contract not-to-exceed amounts for one year, requiring annual modification of the contract to increase the contract amount and contract term. According to Ms. Rayca, this practice allows the Airport to monitor contract performance on an annual basis.

However, the Airport does not have a consistent practice to ensure that these contracts conform to Charter Section 9.118(b), which requires Board of Supervisors approval for (a) contracts exceeding 10 years, or having expenditures of $10 million or more; or (b) modifications to such contracts of $500,000 or more.

The original contract between the Airport and ACJV for the Terminal 1 Center Renovation Project was for one year, with five one-year options to extend for a total contract term of six years to April 2021. The contract not-to-exceed amount for the first year was $3,500,000. However, File 15-0151, approved by the Board of Supervisors, provided for a contract term of five years through spring 2020 and a total contract not-to-exceed amount of $23,000,000.

The proposed resolution would approve Modification No. 8 to the contract between the Airport and ACJV to extend the term to April 2019,[1] and increase the contract not-to-exceed amount by $5,250,000 to $28,250,000. The proposed resolution would also approve future modification to

[1] The Board of Supervisors previously approved the term of the contract between the Airport and ACJV for five years through spring 2020, as noted above (File 15-0151).

the contract without further Board of Supervisors approval to increase the contract not-to-exceed amount to $61,325,000 (or 167 percent more than the original contract), and to extend the term to December 2023. The Budget and Legislative Analyst recommends approval of Modification No. 8 to the contract, extending the term to April 30, 2019 and increasing the contract not-to-exceed amount to $28,250,000.

Approval of further modifications to the contract for up to $61,325,000 without further Board of Supervisors approval is a policy matter for the Board of Supervisors.

The Board of Supervisors should request that the Airport Director consult with the City Attorney's Office on consistent practices to obtain Board of Supervisors approval for Capital Program professional services contracts that are modified annually to ensure conformance to Charter Section 9.118.

RECOMMENDATIONS

1. Approve the proposed Modification No. 8.
2. Approval of future contract modifications without further Board of Supervisors approval is a policy matter for the Board of Supervisors.
3. The Board of Supervisors should request that Airport Director consult with the City Attorney's Office on consistent practices to obtain Board of Supervisors approval for Capital Program professional services contracts that are modified annually to ensure conformance to Charter Section 9.118.

Item 9 **File 18-0641**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize the San Francisco International Airport to enter into future modifications to the contract between the Airport and T1 Cubed, a joint venture of WSP USA, Inc. and AGS, Inc., for project management services for the Airport's New Boarding Area B Project. The modifications would be made upon Airport Commission approval and without Board of Supervisors approval to (a) increase the contract not-to-exceed amount by $9,500,000 from $29,000,000 to $38,500,000, and (b) extend the contract end date by one year to May 2022.

Key Points

- The initial budget for the New Boarding Area B Project was $575,500,000 in March 2015 when the Board of Supervisors approved the initial contract with T1 Cubed. The Airport anticipates exceeding the not-to-exceed amount with the next annual renewal on May 4, 2019 due to an increase in the scope and duration of the project.
- Because this item is a companion item to File 18-0640 related to project management support services for the Terminal 1 Center Renovation Project, which will exceed its approved not-to-exceed amount by September 30, 2018, the Airport Commission directed that these items be presented to the Board of Supervisors at the same time.

Fiscal Impact

- The proposed resolution would authorize modifications to the contract to (a) increase the contract not-to-exceed amount by $9,500,000, from $29,000,000 to $38,500,000, and (b) extend the contract end date by one year to May 2022.

Policy Consideration

- The Airport's practice for Capital Program professional service contracts is to set contract not-to-exceed amounts for one year, requiring annual modification of the contract to increase the contract amount and contract term. However, the Airport does not have a consistent practice to ensure that these contracts conform to Charter Section 9.118(b).

Recommendations

- Approval of future contract modifications without further Board of Supervisors approval is a policy matter for the Board of Supervisors.
- The Board of Supervisors should request that the Airport Director consult with the City Attorney's Office on consistent practices to obtain Board of Supervisors approval for Capital Program professional services contracts that are modified annually to ensure conformance to Charter Section 9.118.

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

New Boarding Area B Project

In March 2015 following a competitive process the Board of Supervisors approved the contract between the San Francisco International Airport and T1 Cubed, a joint venture of WSP USA, Inc. and AGS, Inc., to provide project management services for the Airport's New Boarding Area B Project (File 15-0107). The initial term of the contract was for one year for an amount not to exceed $4,300,000, with options to extend the contract each year for a total duration of six years. File 15-0107 approved the contract for a term of up to six years to May 2021 and a total amount not to exceed $29,000,000.

The New Boarding Area B Project is part of the Terminal 1 Redevelopment Program at the Airport, which is an ongoing program to design and construct a new facility at the Airport of approximately 1.1 million square feet while allowing for uninterrupted Airport services during the project period. The New Boarding Area B Project involves reconstruction of Boarding Area B to replace the existing 40-year old facility and include international arrival swing gates to accommodate up to a 24-gate configuration.

The project is funded by Airport revenue bonds. The initial budget for the New Boarding Area B Project was $575,500,000 in March 2015 when the Board of Supervisors approved the initial contract with T1 Cubed.

Contract Modifications

The Airport has modified the contract with T1 Cubed six times to (a) increase the not-to-exceed amount and extend the contract term, and (b) administratively modify the contract to include new subcontractor and labor rates, with no changes to the contract term or amount. The contract modifications that increased the not-to-exceed amount and extended the contract term are summarized in Exhibit 1 below.

Exhibit 1. Initial Contract Terms and Modifications

	Date	Not-to-exceed amount	Extended term through
Initial contract terms	1/20/2015	$4,300,000	May 4, 2016
Modification No. 2	3/15/2016	$11,800,000	May 4, 2017
Modification No. 4	3/21/2017	$16,900,000	May 4, 2018
Modification No. 6	2/20/2018	$25,350,000	May 4, 2019

Note: Modification Nos. 1, 3, and 5 were administrative in nature and did not increase the contract not-to-exceed amount or term.

As shown in Exhibit 1 above, as of Modification No. 6 the contract is still $3,650,000 less than the not-to-exceed amount of $29,000,000 and within the contract term of six years approved by the Board of Supervisors. However, the Airport anticipates exceeding the not-to-exceed amount with the next annual renewal on May 4, 2019. Because this item is a companion item to File 18-0640 related to project management support services for the Terminal 1 Center Renovation Project, which will exceed its approved not-to-exceed amount by September 30, 2018, the Airport Commission directed that these items be presented to the Board at the same time.

Increases in the Size and Scope of the New Boarding Area B Project

A November 2017 memorandum from the Airport Director to the Airport Commission states that the original Terminal 1 Redevelopment Program budget and phased approach, including the New Boarding Area B Project, was developed in 2013 alongside the Airport's most recent long-term activity forecast. Since 2013, growth in activity has increased faster than originally forecast due to additional flights and larger aircraft coming into the Airport. The unanticipated growth has resulted in an expanded program scope to add additional construction than was not anticipated under the original program budget.

The revised approach outlined in the November 2017 memorandum adds additional scope to the New Boarding Area B Project to include:

- infrastructure to support an additional four aircraft parking positions;
- expanded concourse width to support for additional concessions;
- expanded mezzanine level to support an additional airport lounge space and extension of a sterile corridor to support additional international flights; and
- other amenities including high-density Wi-Fi and an enhanced wayfinding program.

As a result of the revised project scope, the New Boarding Area B budget increased by 46 percent from the original budget of $575,500,000 to the revised budget of $839,022,000, as shown in Exhibit 2 below. The T1 Cubed contract budget increased from $29,000,000, or 5.0 percent of the total project budget, to $38,500,000, or 4.6 percent of the total project budget, to account for the increase in scope of the New Boarding Area B Project.

Exhibit 2. Original and Revised Budget Summary for New Boarding Area B Project

	Original budget	Revised budget
Design-builder hard costs: direct construction	$477,000,000	$600,606,010
Design-builder management soft costs [a]	64,000,000	128,462,318
Internal soft costs: project management [b]	5,500,000	5,553,085
Internal soft costs: other [c]		24,960,768
Airport contingency		40,939,819
Project and construction management T1 Cubed contract	29,000,000 *(5.0% of total)*	38,500,000 *(4.6% of total)*
Total	**$575,500,000**	**$839,022,000**

Source: Airport staff.

a. Design-builder management soft costs are charged by the design-builder for the planning and design of the project.

b. Internal project management soft costs are the Airport's costs of internal project managers and other associated Airport staff related to the internal management of the project.

c. Other internal soft costs are related to the Airport's project inspection and project coordination with other City departments

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Airport to enter into future modifications to the contract between the Airport and T1 Cubed, upon Airport Commission approval and without Board of Supervisors approval, to (a) increase the contract not-to-exceed amount by $9,500,000 from $29,000,000 to $38,500,000, and (b) extend the contract end date by one year to May 2022.

FISCAL IMPACT

Exhibit 3 below summarizes the initial six-year contract budget of $29,057,497,[1] the actual amounts expended under the contract as of July 2018 of $19,945,751, and the total amount authorized under the proposed resolution of $38,500,000.

[1] The contract budget of $29,057,497 exceeds the contract amount approved by the Board of Supervisors of $29,000,000.

Exhibit 3. Initial Contract Budget, Actuals, and Amount Authorized under Proposed Resolution

	Initial 6-year budget	Actuals expended, July 2018)	Authorized under proposed resolution	Increase/ (decrease) in proposed budget compared to initial budget
Construction management services [a]	$5,581,099	$3,979,177	$7,680,750	$2,099,651
Project controls [b]	4,603,775	3,410,723	6,583,500	1,979,725
Project management	4,076,230	3,031,754	5,852,000	1,775,770
Design management & stakeholder engagement	4,080,928	3,031,754	5,852,000	1,771,072
Contract administration	4,254,174	3,221,239	4,908,750	654,576
Inspection	2,961,292	2,273,816	4,389,000	1,427,708
Subtotal	*25,557,497*	*18,948,463*	*35,266,000*	*9,708,502*
Owner's contingency (up to 10%)	2,500,000	0	2,500,000	0
Subtotal	*28,057,497*	*18,948,463*	*37,766,000*	*9,708,502*
Other allowable direct costs (up to 5%)	1,000,000	997,288	734,000	(266,000)
Total	**$29,057,497**	**$19,945,751**	**$38,500,000**	**$9,442,502**

a. Construction management services encompass the oversight of adherence to safety measures and compliance to quality assurance standards.
b. Project controls refers to estimating ongoing costs, scheduling tasks, and managing project changes

The New Boarding Area B Project, including the contract with T1 Cubed, is funded by Airport revenue bonds.

POLICY CONSIDERATION

Airport Procedures for Capital Program Professional Services

The Airport's practice for Capital Program professional service contracts is to set contract not-to-exceed amounts for one year, requiring annual modification of the contract to increase the contract amount and contract term. According to Ms. Geri Rayca, Manager of the Airport's Contract Management Unit, this practice allows the Airport to monitor contract performance on an annual basis.

However, the Airport does not have a consistent practice to ensure that these contracts conform to Charter Section 9.118(b), which requires Board of Supervisors approval for (a) contracts exceeding 10 years, or having expenditures of $10 million or more; or (b) modifications to such contracts of $500,000 or more.

The original contract between the Airport and T1 Cubed for the New Boarding Area B Project was for one year, with five one-year options to extend for a total contract term of six years. The contract not-to-exceed amount for the first year was $4,300,000. However, File 15-0107, approved by the Board of Supervisors, provided for a total contract not-to-exceed amount of $29,000,000 over the contract term of six years through spring 2021.

The proposed resolution would approve future modification to the contract without further Board of Supervisors approval to increase the contract not-to-exceed amount to $38,500,000 (or 33 percent more than the original contract) and to extend the term to May 2022. Approval of further modifications to the contract for up to $38,500,000 without further Board of Supervisors approval is a policy matter for the Board of Supervisors.

The Board of Supervisors should request that the Airport Director consult with the City Attorney's Office on consistent practices to obtain Board of Supervisors approval for Capital Program professional services contracts that are modified annually to ensure conformance to Charter Section 9.118.

RECOMMENDATIONS

1. Approval of the proposed resolution is a policy matter for the Board of Supervisors.
2. Request that the Airport Director consult with the City Attorney's Office on consistent practices to obtain Board of Supervisors approval for Capital Program professional services contracts that are modified annually to ensure conformance to Charter Section 9.118.

Item 13 File 17-0297	Department: Office of Labor Standards Enforcement

This item was continued at the April 26, 2018 Budget and Finance Committee meeting to the call of the chair.

EXECUTIVE SUMMARY

Legislative Objectives

- **File 17-0297** is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, other than nonprofit corporations or public entities, at $16.86 per hour on July 1, 2018.

Key Points

- The City's Minimum Compensation Ordinance requires City contractors to pay their covered employees no less than the minimum hourly compensation rate and provide 12 days of paid time off each year. The proposed ordinances would set the hourly minimum compensation rate at $16.86 per hour as of July 1, 2018, which is a $1.86 more than the City's minimum wage for all employees of $15.00 per hour.
- Currently, employees of nonprofit organizations and public entities having contracts with the City are subject to the Minimum Compensation Ordinance if "sufficient funds" are available. File 17-0297 sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses.
- Although the proposed ordinance provides for minimum compensation to increase to $15.86 as of July 1, 2017, the proposed ordinance is not retroactive.

Fiscal Impact

- The increase in the minimum compensation to employees of City contractors and leaseholders could increase the costs of City contracts or reduce revenues from leases if these costs were passed through to the City when contracts and leases are amended or renewed. However, whether such costs would be passed through or the potential amount of the passed-through costs is not known.

Recommendations

- Amend the proposed ordinance to clarify that implementation of the minimum hourly compensation rate is not retroactive.
- Approval of the proposed ordinance as amended is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

Administrative Code Section 12P, known as the "Minimum Compensation Ordinance", requires City contractors to pay minimum compensation to employees.

BACKGROUND

The City currently has a Minimum Compensation Ordinance that requires City contractors to provide their covered employees with no less than the minimum hourly compensation rate. The Minimum Compensation Ordinance was adopted by the Board of Supervisors in August 2000 and covers City contracts with nonprofit corporations, public entities and for-profit companies. Covered contracts include: professional services, construction, grants, Airport leases (including concession leases), and subcontracts.

The Minimum Compensation Ordinance requires covered contractors to:

- Pay a minimum wage to all covered employees[1] who work at least 4 hours per week; and
- Provide 12 days of paid holidays and other leave per year if the employee works full time for one year.

The Minimum Compensation Ordinance set the original minimum wage at $9 per hour, increasing by 2.5 percent per year through 2005. The Board of Supervisors amended the Minimum Compensation Ordinance in 2007 to require annual Consumer Price Index (CPI) adjustments to the minimum wage on January 1 of each year. The minimum wage required by the Minimum Compensation Ordinance as of July 1, 2018 is $15.00 per hour, which is the same as the San Francisco minimum wage required of all employers located in San Francisco.[2]

While employees of nonprofit organizations and public entities are covered by the Minimum Compensation Ordinance, the Minimum Compensation Ordinance states that the City will fund wage increases to contracts with nonprofit organizations and public entities only if "sufficient funds" are available. According to the Minimum Compensation Ordinance, a finding of "sufficient funds" shall mean that the City will not be required to reduce services in order to pay the wage increase. The minimum wage for employees of nonprofit organizations and public entities having contracts with the City is currently $14 per hour, consistent with the minimum wage for all employees of San Francisco businesses.

[1] Exempted employees include summer interns and participants in after-school programs, trainees and disabled workers as defined by federal regulations, and volunteers

[2] The minimum wage required by the MCO applies only to employees of City contractors, as defined by Administrative Code Section 12P. In addition, San Francisco voters approved a minimum wage that applies to all San Francisco employers. In November 2014, the voters approved Proposition J, raising the San Francisco minimum wage to $15 per hour by 2018.

DETAILS OF PROPOSED LEGISLATION

The May 4, 2017 Budget and Finance Committee considered an ordinance setting the minimum compensation hourly rate at $15.86 per hour on July 1, 2017, and $16.86 per hour on July 1, 2018 (File 17-0297). File 17-0297 was duplicated and amended in committee. File 17-0297 and the duplicated file (File 17-0538) were continued to the call of the chair at the April 26, 2018 Budget and Finance Committee meeting.

File 17-0297 is an ordinance amending Administrative Code Section 12P to set the minimum hourly compensation rate for employees of City contractors, other than nonprofit corporations or public entities, at $16.86 per hour on July 1, 2018. The hourly compensation rate would be adjusted on July 1 of each following year by the CPI.

The proposed ordinance sets the minimum hourly compensation rate for employees of nonprofit corporations and public entities having contracts with the City at the minimum wage rate required for employees of all San Francisco businesses.[3]

Other Provisions

The proposed ordinance would remove the requirement that employees covered by the Minimum Compensation Ordinance work a minimum of 4 hours per week. All employees working on a City contract would be covered by the MCO regardless of the hours worked.[4]

The proposed ordinance provides for minimum compensation to increase to $15.86 per hour on July 1, 2017. However, the proposed ordinances are not retroactive; therefore, if the Board of Supervisors approves the proposed ordinance, the hourly minimum compensation of $16.86 would go into effect after Board of Supervisors approval.

FISCAL IMPACT

The increase in the minimum compensation to employees of City contractors and leaseholders could increase the costs of City contracts or reduce revenues from leases if these costs were passed through to the City when contracts and leases are amended or renewed. However, whether such costs would be passed through or the potential amount of the passed-through costs is not known.

RECOMMENDATIONS

1. Amend the proposed ordinances to clarify that implementation of the minimum hourly rate under the minimum compensation ordinance is not retroactive.
2. Approval of the proposed ordinance as amended is a policy matter for the Board of Supervisors.

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[3] The ordinance does not change the existing Administrative Code provisions for the Mayor to report to the Board of Supervisors on funding CPI increases in the proposed budget for City contracts with nonprofit corporations and entities.

[4] Currently, employees working on a City contract but located in the United States outside of City-owned property must work a minimum of 10 hours per week to be covered by the MCO. The proposed legislation removes this provision so that all employees working on a City contract, regardless of the number of hours worked, would be covered by the MCO.