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: April 5, 2023 Budget and Finance Committee Meeting

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Item 1 File 23-0217	Department: Department of Public Health (DPH)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would authorize the Department of Public Health (DPH) to bypass the competitive solicitation requirements of City Administrative Code Chapter 21G for the purpose of providing a one-time grant to Planned Parenthood Northern California.

Key Points

- The grant would provide funding in an amount not to exceed $400,000 for up to a two-year term from April 1, 2023 through March 31, 2025, for two to three security personnel to be present at Planned Parenthood located at 1522 Bush Street six days a week, for 8-12 hours per day, depending on the day.
- In the past several years, there has been a national uptick in activities aimed at disrupting Planned Parenthood services. In this context, the Board of Supervisors provided HSA a one-time $400,000 addback for FY 2022-23.
- Planned Parenthood would use the grant funds to contract directly with their own security services, S2 Security, rather than continuing to use HSA-contracted security services beyond June 30, 2023.

Fiscal Impact

- The proposed grant amount of $400,000 is funded entirely by a one-time FY 2022-23 Board of Supervisors "addback" to HSA that occurred during the deliberations surrounding finalizing the FY 2022-24 Budget. HSA would provide funding to DPH via a work order.
- The proposed grant does not provide budget detail for the $400,000 total or the estimated hourly rate for security personnel. However, the implied hourly rate for two security personnel working 8-hour shifts, six days a week based on the total contract amount of $400,000 is approximately $40 per hour.

Policy Consideration

- The proposed contract provides minimal performance monitoring consisting of an annual report from Planned Parenthood to DPH on which provider was selected and notification of any changes to the provider.

Recommendations

- Amend the proposed ordinance to request that the Department of Public Health include a provision in the grant agreement with Planned Parenthood requiring the grantee to provide incident reports to DPH on a regular basis (i.e., not less than quarterly).
- Approve the proposed ordinance as amended.

MANDATE STATEMENT

City Administrative Code Chapter 21 G states that competitive solicitation requirements may be waived when a public purpose may reasonably be accomplished by one particular grantee.

BACKGROUND

The Planned Parenthood Federation of America, Inc. is a non-profit organization with chapters throughout the United States. Planned Parenthood Northern California (Planned Parenthood) is located at 1522 Bush Street in San Francisco. Planned Parenthood provides comprehensive sexual and reproductive health care, including birth control, cancer screenings, pregnancy testing and counseling, sexually transmitted infection testing and treatment, post-exposure and pre-exposure prophylaxis medications to prevent HIV infection, HPV vaccines, vasectomies, infertility services, and abortions.

Security Threats

In the past several years, there has been a national uptick in activities aimed at disrupting Planned Parenthood services, including access to abortion care, at locations throughout the country. Patients seeking care at Planned Parenthood may be deterred by threats, harassment, intimidation, or violence by protesters outside a clinic. Onsite security personnel are intended to protect patients seeking care.

Existing Security Services

In May 2018, the Board of Supervisors approved a contract between the San Francisco Human Services Agency (HSA) and Allied Universal Security (Allied) for the provision of security services at 15 locations throughout San Francisco, including Planned Parenthood, for the three-year period from July 1, 2018, through June 30, 2021, in the total contract amount of $13,974,576 (File 18-0418). In June 2021, the Board of Supervisors approved the first amendment to the contract, which (i) increased the amount of the contract by $8,011,159 from $13,974,576 for a total amount not to exceed $21,985,735; and (ii) exercised the option to extend the contract term by two years from the period of July 1, 2021, for a total five-year term of July 1, 2018 through June 30, 2023 (File 21-0529). HSA subsequently extended the term by one year through June 30, 2024 with no change to the not to exceed amount effective April 1, 2023 according to the revised Appendix B-2 Cost Schedule. Allied was selected through a competitive solicitation process.

According to the revised cost schedule, Allied will provide 3,300 hours of unarmed security guard services in FY 2022-23 at Planned Parenthood. The Allied contract budget includes 4,560 hours for Planned Parenthood security guard services in FY 2023-24. The services were requested at the behest of the Board of Supervisors and funded by a Board addback in the HSA budget. The funding was provided to ensure protestors do not harm patients, and that safety and security is maintained on the premises. HSA will continue to provide the funding to DPH via a work order agreement.

In addition, Planned Parenthood contracts directly with S2 Security to provide security services.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would authorize the Department of Public Health (DPH) to bypass the competitive solicitation requirements of City Administrative Code Chapter 21G for the purpose of providing a one-time grant to Planned Parenthood Northern California (Planned Parenthood). The grant would provide funding in an amount not to exceed $400,000 for up to a two-year term from April 1, 2023 through March 31, 2025, for on-site unarmed security personnel at the Planned Parenthood located at 1522 Bush Street in San Francisco.

City Administrative Code Chapter 21G states that competitive solicitation requirements may be waived when a public purpose may reasonably be accomplished by one particular grantee. In this case, the public purpose that security personnel at Planned Parenthood provide, is ensuring the safety of people accessing family planning and other sexual and reproductive healthcare services.

Scope of Services

The proposed grant would fund a security services contract for two to three security personnel to be present at Planned Parenthood six days a week, for 8-12 hours per day, depending on the day. Planned Parenthood would invoice the City on a monthly basis for reimbursement of costs incurred.

According to DPH staff, the proposed grant would support transitioning security services to be exclusively provided by S2 Security; Planned Parenthood's preferred vendor due to their tactical training, situational awareness, and de-escalation specialty. According to DPH staff, if the proposed grant is approved, Allied will no longer provide security services to Planned Parenthood after June 30, 2023.

Reporting Requirements

Under the proposed contract, Planned Parenthood would report to DPH at least once every year on which provider was selected to provide security services and would notify DPH if there were any changes to the provider.

Selection of Security Provider

According to DPH staff, Planned Parenthood plans to use their current security provider S2 Security, and will contract directly with the business. DPH staff state that S2 Security is familiar with the staff and safety logistics for the San Francisco site. They also have tactical training, de-escalation specialty, and are familiar with situational awareness surrounding the specific safety needs for patients and staff.

FISCAL IMPACT

The proposed grant amount of $400,000 is funded entirely by a one-time FY 2022-23 General Fund Board of Supervisors addback to HSA that occurred during the final deliberations surrounding the FY 2022-24 Budget. No contingency amount is provided.

According to DPH staff, the grant amount of $400,000 was determined based on $162,000 in funding committed to Planned Parenthood through the HSA-Allied contract through June 30, 2023, plus an additional uncommitted budget of $238,000. The proposed grant funding will be provided to Planned Parenthood for up to 24 months of security services.

As mentioned above, the proposed grant would fund two to three security personnel to be present at Planned Parenthood six days a week, for 8-12 hours per day, depending on the day. The proposed grant does not provide budget detail for the $400,000 total or the estimated hourly rate for security personnel. However, the implied hourly rate for two security personnel working 8-hour shifts, six days a week based on the total contract amount of $400,000 is approximately $40 per hour.

POLICY CONSIDERATION

The proposed contract provides minimal performance monitoring. The Budget and Legislative Analyst recommends that the Board of Supervisors request that DPH include in the contract reporting requirements that Planned Parenthood provide incident reports to DPH on a regular basis, such as quarterly.

RECOMMENDATIONS

1. Amend the proposed ordinance to request that the Department of Public Health include a provision in the grant agreement with Planned Parenthood requiring the grantee to provide incident reports to DPH on a regular basis (i.e., not less than quarterly).
2. Approve the proposed ordinance as amended.

Item 2 **File 23-0206**	**Department:** Department of Early Childhood (DEC)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve a grant agreement between the Department of Early Childhood and Children's Council to provide workforce compensation administrative services for the Early Care and Education Workforce Development and Compensation Initiatives for the period of October 1, 2022, through June 30, 2025, in an amount not to exceed $164,346,004.

Key Points

- In September 2018, the Board of Supervisors approved an ordinance amending the Administrative Code to establish the Early Care and Education for All Initiative, to be funded by Baby Prop C revenues, including procedures concerning a spending plan and reporting requirements (File 18-0807).
- In April 2022, the Human Services Agency (HSA), Office of Early Care and Education and First 5 San Francisco (now Department of Early Childhood) announced the: (a) Early Care and Education Workforce Compensation Initiative Request for Applications from City-supported Early Learning San Francisco (ELS) centers and Family Child Care (FCC) homes; and (b) Request for Proposals (RFP) from organizations to provide administrative services for the Initiative. The Childrens Council was selected from the competitive solicitation.
- The target population of the proposed grant agreement are "Green Tier" early care and education programs and agencies that have been qualified and awarded funding through the Early Educator Salary Support Grant. "Green Tier" programs serve 50 percent or more income eligible children (below 85% of State Median Income) in their agency/program.

Fiscal Impact

- Approximately 99.1 percent of projected expenditures are funded by City funds (Baby Proposition C), and approximately 0.9 percent are funded by state funds. A 10 percent contingency, if needed, would be funded depending on funding sources available.

Recommendations

- Amend the proposed resolution to request that the Department of Early Childhood Executive Director provide a presentation on total disbursements under the CARES 3.0 program and Early Educator Salary Support Grants program, including the total amounts and number of educators receiving increased wages or stipends, as well as the status of the reconciliation to ensure that early educators do not improperly receive wage supplements under both programs during the Department's budget presentation in June 2023.
- Approve the proposed 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

Proposition C ("Baby Prop C") and the Early Care and Education for All Initiative

On June 5, 2018, San Francisco voters passed Proposition C (colloquially known as "Baby Prop C"), a Commercial Rent Tax for Child Care and Early Education by authorizing an additional tax on commercial property/leases with annual gross receipts over $1 million that would provide additional City funding to support early care and education services for children aged zero to five years old. In September 2018, the Board of Supervisors approved an ordinance amending the Administrative Code to establish the Early Care and Education for All Initiative, to be funded by Baby Prop C revenues, including procedures concerning a spending plan and reporting requirements (File 18-0807). In order to reflect the language in the original ballot measure, the ordinance stated that the spending plan be designed to "provide financial support for measures to increase the compensation of early care and education professionals and staff by not less than 10 percent with an ultimate goal of achieving parity in compensation with K-12 educators who have commensurate experience, in a manner designed to improve the quality and availability of early care and education."

Workforce Compensation Initiative and Competitive Process

To address this goal, in April 2022, the Human Services Agency (HSA), Office of Early Care and Education and First 5 San Francisco (now Department of Early Childhood[1]) announced the: (a) Early Care and Education Workforce Compensation Initiative Request for Applications from City-supported Early Learning San Francisco (ELS) centers and Family Child Care (FCC) homes; and (b) Request for Proposals (RFP) from organizations to provide administrative services for the Initiative. The initiatives were planned in the following phased approach, with a goal to improve outcomes for San Francisco children through the support of the Early Care and Education workforce:

- <u>Phase One Workforce Compensation for Early Educators</u>: Administration and distribution of funds to early educators and qualified programs that support increased wages.
- <u>Phase Two Workforce Benefits and Compensation for Other Early Childcare Education Staff</u>: Administration and distribution of funds to qualified programs and early educators

[1] Effective July 1, 2022, the Office of Early Care and Education and First 5 San Francisco Children and Families Commission unified under a new Department of Early Childhood (DEC).

that support compensation including support for retirement benefits.[2] This also includes funding for other early care and education staff working less directly with children, families, and teachers but are providing essential supports and contributions towards children's development (e.g., Program Director, Site Supervisor, Family Advocates, Enrollment Specialists, Curriculum Development Specialist, etc.). This does not include purely administrative roles.

- Phase Three Working Conditions: Addressing working conditions of early educators in qualified programs (e.g., time outside of the classroom for observations, curriculum planning time, team meetings, mental health consultation, etc.).
- Phase Four Workforce Educational Pathways: Supporting early educators towards higher education degrees, increasing skills, and Commission on Teacher Credentialing (CTC) permit attainment.

The Children's Council of San Francisco (Children's Council) and Public Consulting Group were the two respondents to the RFP. A three-member selection panel reviewed the proposals and scored them, as shown in Exhibit 1 below.[3]

Exhibit 1: Proposers and Scores from RFP

Proposer	Average Score (out of 130)
Children's Council	113
Public Consulting Group	112

Source: DEC

According to Department of Early Childhood staff, because the initial scores of the two respondents were within two points (87.3 out of 100 points for Children's Council and 86.0 for Public Consulting Group), it is the practice of HSA's Contracts Division to require applicants answer three additional questions. These supplemental questions were worth 10 points per question and were used to determine the most qualified grantee. Consequently, the total possible points were 130. The Human Services Agency, Office of Early Care and Education, and First 5 San Francisco notified Children's Council on August 29, 2022 that their organization was selected for a tentative award of a contract, pending successful negotiations and approval.

Existing Children's Council Grant Agreement

Starting in October 2022, early educators working in City-supported Early Learning San Francisco (ELS) centers and Family Child Care (FCC) homes received Phase One compensation funds through either: (a) a direct stipend through the Compensation and Retention of Early Care Educator Stipends (CARES 3.0) program if they work at a FCC home or center serving less than 50 percent income-eligible children; or (b) through their ongoing salaries through an Early Educator

[2] This includes employer matching contributions towards retirement or for new or enhanced benefits that meet the needs of the agency/program.

[3] The panel consisted of a Senior Administrative Analyst from the Juvenile Probation Department, the Chief Finance Officer from a San Francisco economic development nonprofit, and an Administrative Analyst from First 5 San Francisco.

Salary Support Grant to their program or agency if they work in centers serving 50 percent or more income eligible children.

Children's Council currently provides childcare subsidy administration and other related activities, including the CARES 3.0 direct stipends under a previously approved grant agreement[4] and under this proposed grant agreement would also provide funding through the Early Educator Salary Support Grants to eligible programs/agencies and associated cost to administer the initiatives.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve a grant agreement between the Department of Early Childhood and Children's Council to provide workforce compensation administrative services for the Early Care and Education Workforce Development and Compensation Initiatives for the period of October 1, 2022, through June 30, 2025, in an amount not to exceed $164,346,004. Under the terms of the RFP, the grant agreement could be extended for up to two additional years, depending on funding availability and need.

According to DEC staff, the grant is retroactive because of the urgency to implement increased workforce compensation, which was announced in April 2022. However, delays were caused by the competitive selection process and the need for supplemental questions and scoring (as previously mentioned); other delays[5] included developing the scope of work, implementing the agreement, and the formation of the new Department of Early Childhood.

Services

Under the proposed grant agreement, Children's Council will provide workforce compensation administrative services for the four Early Care and Education Workforce Compensation Initiatives listed above. According to DEC staff, Phases One (compensation) and Two (benefits) were implemented in October 2022, Phase Three (working conditions) was estimated to be implemented in March 2023, but is currently in planning and development phase, and Phase Four

[4] In September 2022, the Board of Supervisors retroactively approved a grant agreement between the City and Children's Council for the provision of Early Care and Education Integrated Services to support the City's implementation of the San Francisco Citywide Plan for Early Care and Education for the period of July 1, 2022, through June 30, 2024, in an amount not to exceed $364,091,448 (File 22-0801). The teacher stipends provided as part of the existing Children's Council grant approved in September 2022 are annual stipends to teachers at city-funded childcare sites serving 0-49 percent subsidy-eligible children. In contrast to the proposed grant agreement, these stipends did not raise the ongoing salaries of the teachers but instead provided one-time annual support to qualifying educators through lump sum payments.

[5] In addition, the RFP was originally issued through the HSA Contracts division, prior to formation of the new Department of Early Childhood (DEC) effective July 1, 2022. However, DEC staff states that the ordinance establishing the department (File 22-0808) was not implemented until October 2022, which caused challenges in executing contracts and developing and establishing budgets in the City's financial and procurement system. DEC staff also state that because the proposed grant addresses a new initiative, negotiations took longer than expected to determine the proper staffing levels necessary to complete the required scope of work and timeline of deliverables. Further, at the request of the Green Tier eligible programs DEC was asked to delay the implementation until October 1, 2022 to provide additional planning time to provide input to DEC and prepare for implementation of newly developed wage scales, policies, and procedures

(educational pathways) will begin implementation this Spring via a stipend program for course completion towards higher education according to DEC staff.

The target population of the proposed grant agreement are “Green Tier” early care and education programs and agencies that have been qualified and awarded funding through the Early Educator Salary Support Grant. “Green Tier” programs serve 50 percent or more income eligible children (below 85% of State Median Income (SMI)) in their agency/program. DEC determined eligibility of programs and agencies based on their responses to the Request for Applications.

Children’s Council will provide services in the following areas:

- Administer grants, disburse funding, and issue and track payments to eligible early care and education programs and agencies on behalf of the DEC, which includes maintaining internal fiscal controls for all expenditures and payments requests; with an estimated annual disbursement starting at $40 million and increasing to $60 million as new initiatives are implemented;
- Administer and monitor ongoing eligibility, grant determination and fund distribution to early care and education programs and agencies, which includes reviewing and monitoring programs’ financial information related to wages and compensation, monitoring for changes in programs’ qualifications and eligibility criteria and adjusting grant awards as necessary, communicating with programs about payments and reporting requirements, and tracking and reporting on payments and tax information;
- Provide data collection, monitoring and reporting as part of an established plan that includes verifying that program staff rosters match the staff report in the Workforce Registry, regular reviews of wage records from program payroll reports to confirm appropriate wages, and verifying offered benefits including review of vendor invoices and employer check stub documentation, collecting and tracking staff data such as education/permit levels, hourly wages, and staff retention and working with DEC staff to assess program measures including funding uptake and outcomes on the early care and education workforce; and
- Provide technical assistance and communication (such as trainings, webinars, and one-on-one technical assistance) to early care and education programs and agencies receiving funding, which will include supporting their understanding of program requirements on compensation goals and reporting requirements, and utilization of tools to collect and track data for reporting requirements. Services will be provided in English, Spanish, and Cantonese.

Funding Awards

Under the proposed grant, Children’s Council disburses funding for grants directly to eligible programs and/or agencies to increase teacher wages, and compensation increases depend on job positions/title, permit level, whether full-time or part-time, education (degree and early childcare education units), among other factors. Funding awards are determined by Children’s

Council on a quarterly basis, based on the following DEC established funding formulas for Phases One and Two. Phases Three and Four formulas are still under development.

- Phase One (Workforce Compensation for Early Educators), grant amounts include the following components: (a) a base award calculated as the difference between each teacher's wages prior to the initiative and each teacher's required minimum compensation wage[6], based on education/permit level and role; (b) additional flexible funding[7] equal to $4.20 per hour (15 percent of the minimum hourly wage ($28)) to allow for changes to wages beyond the minimum compensation requirements; and (c) an additional 15 percent to account for payroll taxes.
- Phase Two (Workforce Benefits and Compensation for Other Early Childcare Education Staff) grant amounts are fixed amounts based on the number of qualifying staff, ranging from $10,000 to $25,000 annually per qualifying staff.[8]

Fund distribution is based on detailed staffing worksheets and payroll forms submitted by the eligible programs (Green Tier sites) in advance and requires verification of target student population, staff employment, education, and pre-grant wages.

Performance Monitoring

Under the proposed grant agreement, Children's Council will submit an annual performance report detailing the progress on all service and outcome objectives by July 31st each year, with the first report due July 31, 2023. According to DEC staff, the grantee has met the following deliverables to date: (1) distribution of funding to qualified programs to begin implementation of the initiative by October 1, 2022, (2) development and submission of a revised staffing plan by December 15, 2022, and (3) development of templates and reporting procedures by December 1, 2022.

The proposed grant agreement does not define specific performance measures but requires that the grantee develop evaluation tools to analyze service trends and data to measure the success of the initiatives in these areas: (1) increased compensation, (2) early educator job satisfaction (via surveys), (3) paid planning time offered, (4) educational attainment measures such as attaining postsecondary degrees, (5) educator recruitment, (6) educator retention, (7) health care access, (8) fringe benefits, (9) racial equity, (10) workforce registry participation, and (11) workforce registry data quality.

[6] The required minimum compensation wages are $28 per hour for assistant teachers and between $28 and $39.27 per hour for lead teachers depending educational attainment and permit levels. Minimum hourly wages for lead teachers were established to provide a pathway to hourly wages comparable to preschool teachers and Transitional Kindergarten teachers at SFUSD for Lead Teachers with equivalent educational qualifications.

[7] The flexible funding (referred to as a compression grant) is not tied to an individual staff but funds are pooled to allow agencies to create internal wage scales above the minimum requirement and may also be used for increased costs to agencies related to retirement contributions.

[8] Green Tier centers with three or fewer eligible staff for Phase Two grants receive $25,000 per position annually. Green Tier centers with 4-10 eligible staff, receive $15,000 per position annually, and Green Tier centers with 11 staff or more, receive $10,000 per position annually.

A summary of service and outcome objectives from the proposed grant agreement include the following:

- Develop a regular schedule of monthly trainings of required systems in English, Spanish and Cantonese;
- Provide tailored trainings related to grant administration to all eligible recipients, including reporting requirements, submission timelines, allowable expenses, and restricted versus unrestricted funds;
- Provide ongoing technical assistance via chat, email, phone or in-person at traditional and non-traditional (as needed) hours to programs or educators addressing and resolving technical issues;
- Reach out to providers via email, phone, or in person regarding eligible staff who have not updated their profile within the prior three months to confirm accuracy of all data in the Workforce Registry;
- Issue approved payments to eligible programs or educators in a timely and accurate manner;
- Maintain an accounting of payments by grant type, program/educator, or other methods and maintain accurate ledgers;
- Issue 1099s to eligible recipients in a timely and accurate manner as required by law and provide replacements as requested or needed (if applicable); and
- Perform monitoring activities for eligible educators and programs at specified intervals.

Fiscal and Compliance Monitoring

DEC would also complete annual monitoring reports to assess program performance as well as fiscal and compliance status. The most recent fiscal and compliance monitoring report (FY 2021-22) for Children's Council had no findings identified and reported that the agency was in conformance with all governance best practices.

FISCAL IMPACT

The proposed grant agreement would have an amount not to exceed $164,346,004 for Children's Council for the period of October 1, 2022 through June 30, 2025. Exhibit 2 below shows projected sources and expenditures for the proposed grant agreement.

Exhibit 2: Projected Sources and Expenditures for Proposed Grant

	FY 2022-23 (prorated from 10/1/22)	FY 2023-24	FY 2024-25	Total
Sources				
Prop C Program Administration	$1,251,320	$1,746,626	$1,793,717	$4,791,662
Prop C Workforce Compensation Payments to Clients	44,748,680	49,253,374	49,206,283	143,208,338
QCC Workforce Pathways Grant Payments to Clients[9]	468,486	468,486	468,486	1,405,458
Total Sources	**$46,468,486**	**$51,468,486**	**$51,468,486**	**$149,405,458**
Expenditures				
Salaries & Benefits	$582,665	$1,017,434	$1,070,593[10]	$2,670,692
Operating Expenses	505,439	501,371	489,161	1,495,971
Indirect Costs (15%)	163,216	227,821	233,963	624,999
Subtotal w/o Direct Client Payments	*$1,251,320*	*$1,746,626*	*$1,793,717*	*$4,791,662*
Direct Client Payments	45,217,166	49,721,860	49,674,769	144,613,796
Phase I – Compensation	*26,000,596*	*30,851,110*	*33,180,772*	*90,032,428*
Phase II – Benefits	*3,913,174*	*4,042,309*	*4,155,494*	*12,110,977*
Phase I/II Expansion	*3,834,910*	*3,359,955*	*870,067*	*8,064,931*
Phase III – Working Conditions	*11,000,000*	*11,000,000*	*11,000,000*	*33,000,000*
Phase IV – Education Pathways	*468,486*	*468,486*	*468,486*	*1,405,458*
Total Expenditures	**$46,468,486**	**$51,468,486**	**$51,468,486**	**$149,405,458**
Contingency (10%)	4,646,849	5,146,849	5,146,849	14,940,546
Total Not to Exceed Amount	**$51,115,335**	**$56,615,335**	**$56,615,335**	**$164,346,004**

Source: Proposed Grant Agreement

As shown above, approximately 96.8 percent of total grant funds (excluding the contingency) are direct client payments. Approximately $2.7 million (1.8 percent) of the budget for the proposed grant will be used to fund 9.65 full time equivalent (FTE) employees,[11] approximately $1.5 million (1.0 percent) will be used towards operating expenses, including rent, office supplies and postage, staff training, consulting and temporary staffing,[12] software and licensing, and $624,999

[9] According to DEC staff, annual grant funding is received by the department from the California Department of Education (CDE)/California Department of Social Services (CDSS) to support the educational attainment of early educators of San Francisco through stipends and reimbursement.

[10] DEC staff states that the increased cost in FY 2024-25 for salaries & benefits is because of annual Cost of Living (COLA) increases that were negotiated as part of a Children's Council's union bargaining agreement, year one of the contract is also prorated to 9 months.

[11] Department staff state that staff and operating requirements to implement the grant were proposed in response to the competitive RFP. The proposed expenses were then reviewed and revised on a line-by-line/staff-by-staff basis to ensure each expense was justified and necessary. Staffing requirements were ultimately adjusted down after review.

[12] According to DEC staff, because this is a new initiative, the Children's Council required the use of temporary staffing and consultants until properly staffed to execute work, and to develop processes and systems necessary to successfully administer the initiatives. DEC staff are anticipating that the expenses for consultants and temporary staffing will reduce over the term of the grant as more staff are hired.

is for indirect costs. A 10 percent contingency is included to account for uncertainty in growth in future years of the initiative according to DEC staff.

Funding Sources

Approximately 99.1 percent of projected expenditures are funded by City funds (Baby Proposition C), and approximately 0.9 percent are funded by state funds. The contingency, if needed, would be funded depending on funding sources available.

POLICY CONSIDERATION

According to Ingrid Mezquita, Executive Director of the Department of Early Childhood, Children's Council has incurred expenses for program planning, but these expenses have not yet been paid pending contract approval. Due to the delays in implementing the proposed program, DEC has permitted early educators working in Green Tier centers, who will be eligible for increased compensation under the proposed program, to receive direct stipends through the Compensation and Retention of Early Care Educator Stipends (CARES 3.0) program in the meantime. As mentioned previously, the CARES 3.0 program provides stipends to early educators who do not work in Green Tier centers (i.e., educators working at a FCC home or center serving less than 50 percent income-eligible children), and Children's Council separately administers the CARES 3.0 program under an approved contract. Executive Director Mezquita reports that Children's Council will conduct a reconciliation to ensure that early educators do not improperly receive wage supplements under both programs likely starting in June 2023. We recommend that the Board of Supervisors request that the Executive Director report during the Department's budget presentation on total disbursements under both programs (CARES 3.0 and Early Educator Salary Support Grants), including the total amounts and number of educators receiving increased wages or stipends, and the status of the reconciliation.

RECOMMENDATIONS

1. Amend the proposed resolution to request that the Department of Early Childhood Executive Director provide a presentation on total disbursements under the CARES 3.0 program and Early Educator Salary Support Grants program, including the total amounts and number of educators receiving increased wages or stipends, as well as the status of the reconciliation to ensure that early educators do not improperly receive wage supplements under both programs during the Department's budget presentation in June 2023.
2. Approve the proposed resolution, as amended.

Item 5 File 23-0211	Department: Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would appropriate $4,579,056 in California Public Utilities Commission (CPUC) revenue in the San Francisco Public Utilities Commissions' (SFPUC) budget for CleanPowerSF Capital Improvements to implement the Community Food Service Energy Efficiency Program and place $3,052,704 of this amount on Controller's reserve in FY 2022-23.

Key Points

- State law allows Community Choice Aggregators (CCAs) to apply to the CPUC to implement energy efficiency programs using Public Purpose Program charges collected from ratepayers. In July 2021, the SFPUC Commission authorized an application for CleanPowerSF to administer a Community Food Service Energy Efficiency Program. CleanPowerSF targeted food service businesses for this program because they were heavily impacted by the COVID-19 pandemic, and energy efficiency investments could strengthen their economic viability and service capacity moving forward. In January 2022, the CPUC Commission approved CleanPowerSF's application and directed PG&E to transfer $4,579,056, an amount determined by funding formula, to CleanPowerSF.
- The Community Food Service Energy Efficiency Program would assist food service businesses and nonprofits, such as grocery stores, corner stores, restaurants, food banks, homeless shelters, and meal delivery services, with energy efficiency assessments and improvements for a period of three years. Under the program, CleanPowerSF would partner with an Energy Service Company (ESCO) to work with businesses by providing no-cost energy assessments and financial incentives for energy efficiency improvements. The incentives would help offset the cost of retrofits and replacement of natural gas with all-electric appliances, including refrigeration, lighting, food service preparation equipment, and air conditioning and heating units. CleanPowerSF is currently developing a Request for Proposals (RFP) to select the ESCO, with a goal of beginning the program in Summer 2023.

Fiscal Impact

- The proposed ordinance would appropriate $4,579,056 in CPUC revenue in the SFPUC budget for CleanPowerSF Capital Improvements to implement the Community Food Service Energy Efficiency Program. Of this amount, $3,052,704 would be placed on Controller's reserve to fund the final two years of the program. The program is paid by ratepayer revenue collected by PG&E.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

BACKGROUND

State law allows Community Choice Aggregators (CCAs)[1] to apply to the California Public Utilities Commission (CPUC) to implement energy efficiency programs using Public Purpose Program charges[2] collected from ratepayers. In July 2021, the San Francisco Public Utilities Commission (SFPUC) authorized an application for CleanPowerSF, San Francisco's CCA, to administer a Community Food Service Energy Efficiency Program. CleanPowerSF targeted food service businesses for this program because they were heavily impacted by the COVID-19 pandemic, and energy efficiency investments could strengthen their economic viability and service capacity moving forward. In addition, many food service businesses that would be eligible for the proposed program are underserved by existing energy efficiency options available through the Bay Area Regional Energy Network (BayREN) and Pacific Gas & Electric Company (PG&E) according to a November 8, 2022 SFPUC staff memo to the San Francisco Public Utilities Commission. In particular, small grocery stores and community food service organizations are underserved because they are challenging to reach and less cost-effective to serve because of smaller energy demands per site.

In January 2022, the CPUC Commission approved CleanPowerSF's application and directed PG&E to transfer $4,579,056, an amount determined by a funding formula, to CleanPowerSF. In November 2022, the SFPUC Commission authorized the General Manger to request Board of Supervisors approval of a supplemental appropriation of $4,579,056 to implement and administer the Community Food Service Energy Efficiency program for three years.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would appropriate $4,579,056 in CPUC revenue in the SFPUC budget for CleanPowerSF Capital Improvements to implement the Community Food Service Energy Efficiency Program and place $3,052,704 of that amount on Controller's reserve in FY 2022-23.

Proposed Community Food Service Energy Efficiency Program

The Community Food Service Energy Efficiency Program would assist food service businesses and nonprofits, such as grocery stores, corner stores, restaurants, food banks, homeless shelters, and meal delivery services, with energy efficiency assessments and improvements. Under the program, CleanPowerSF would partner with an Energy Service Company (ESCO) to work with businesses by providing no-cost energy assessments and financial incentives for energy efficiency

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[1] Community Choice Aggregation (CCA) programs enable local governments to purchase and/or develop power on behalf of the local community.

[2] Public Purpose Program charges are assessed to utility ratepayer bills to fund various energy efficiency and low-income subsidy programs.

improvements. The incentives would help offset the cost of retrofits and replacement of natural gas with all-electric appliances, including refrigeration, lighting, food service preparation equipment, and air conditioning and heating units. Energy efficient equipment would be provided to participating customers at no upfront cost, and businesses would make payments equal to the savings on their energy bills for two years following installation. The proposed program's implementation structure is modeled from the Bay Area Regional Energy Network Business's existing commercial program to reduce administration costs.

CleanPowerSF estimates that over the lifetime of the three-year program, the measures taken would save approximately 5,351 megawatt-hours of energy, which is equal to approximately 2.7 percent of annual electricity hours for customers eligible for the program. According to Andrew Bevington, CleanPowerSF Utility Specialist, CleanPowerSF is currently developing a Request for Proposals (RFP) to select the ESCO, with a goal of beginning the program in Summer 2023.

According to Utility Specialist Bevington, there is no defined maximum incentive that can be provided to each business, but SFPUC would work with the ESCO to balance participation across both large and small businesses. CleanPowerSF would market the program in partnership with the Department of the Environment and the ESCO. Promotional activities may include direct outreach to neighborhood business and restaurant associations or leveraging existing business partners with the Department of the Environment's Green Business program.

Program Evaluation and ESCO Payments

CleanPowerSF would contract with a third-party provider to evaluate the program for energy savings, service of underserved communities, cost-effectiveness, customer non-energy benefits, referral of projects to other energy efficiency programs, number of customers that did not fit other program offerings, percentage of audited customers who install at least one program measure, percentage of recommended measures installed by customers, and program design. According to Utility Specialist Bevington, the ESCO's payments would be linked to business enrollment in the program and actual measured energy savings.

FISCAL IMPACT

The proposed ordinance would appropriate $4,579,056 in CPUC revenue in the SFPUC budget for CleanPowerSF Capital Improvements to implement the Community Food Service Energy Efficiency Program. Of this amount, $3,052,704 would be placed on Controller's reserve to fund the final two years of the program. The program budget is shown in Exhibit 1 below.

Exhibit 1: Community Food Service Energy Efficiency Program Budget

Projected Expenditures	Year 1	Year 2	Year 3	Total
Administration	$152,635	$152,635	$152,635	$457,905
Marketing, Education, & Outreach	91,581	91,581	91,581	274,743
Energy Management Planning	501,471	501,471	501,471	1,504,413
Direct Implement Incentives	763,176	763,176	763,176	2,289,528
Evaluation, Measurement, & Verification	17,489	17,489	17,489	52,467
Total	**$1,526,352**	**$1,526,352**	**$1,526,352**	**$4,579,056**

Source: SFPUC

Approximately half of the total program budget is for direct implementation incentives, such as energy efficiency improvement projects,[3] and one-third is for energy management planning, which includes energy modeling and needs assessments.

Funding Source

The program is paid by ratepayer revenue collected by PG&E. Once Year 1 funding of $1,526,352 is expended, CleanPowerSF would request the Controller's Office to release remaining funds from reserve.

RECOMMENDATION

Approve the proposed resolution.

[3] According to Utility Specialist Bevington, the amount paid to the ESCO for incentives is dependent on the project's energy savings, not the cost of any of the equipment that is installed. The ESCO implementing the program is taking on the risk of purchasing the equipment, but incentives are linked to whether the equipment successfully saves energy. This helps to protect the City from the risk of paying for equipment that doesn't perform.

Item 6 **File 23-0204**	**Department:** Airport

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve the 2023 Lease and Use agreement between the City and 29 airlines to conduct flight operations at the Airport for a 10-year term from July 1, 2023 through June 30, 2033. The proposed resolution would also affirm the Planning Department's determination under the California Environmental Quality Act and authorize the Airport Director to enter into immaterial modifications to the lease.

Key Points

- According to Airport staff, there are currently 60 airlines operating at the Airport. Of the 60 airlines, 40 signatory airlines are under the Airport's 2011 Lease and Use Agreement and 20 are "non-signatory airlines" operating under month-to-month Airline Operating Permits and Terminal Space and Use Permits. Non-signatory airlines pay a 25 percent premium on landing fees and a higher security deposit compared to signatory airlines.
- The original term of the 2011 Lease was July 1, 2011 through June 30, 2021. Airport staff and signatory airlines suspended negotiations of a new lease due to the impact of the COVID-19 pandemic on airport operations, and the Board of Supervisors approved a two-year extension of the term for the 2011 Lease to a new expiration date of June 30, 2023.
- Rental rates, landing fees, and related fees are adjusted annually according to the Airport's "residual rate setting methodology (breakeven policy)" such that the total amount of airline revenues received by the Airport together with non-airline revenues received by the Airport, including concession and parking revenues, is equal to total Airport costs, including debt service and operating costs.
- The proposed lease creates a new Operating Revenue and Capital Improvement Fund (ORCIF) totaling $800 million over the 10-year term and increases annually to account for inflation, among other changes. According to the proposed lease, ORCIF funds "may be used for any lawful purpose for which Airport Revenues may be used."

Fiscal Impact

- The proposed new lease and use agreement with the 29 signatory airlines are estimated by Airport staff to provide approximately $5.1 billion in revenues to the Airport, over the 10-year lease term, including $2.8 billion in airline rents and $2.3 billion in landing fees.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

Section 2A.173 of the City's Administrative Code authorizes the Airport to negotiate and execute leases of Airport lands and space in Airport buildings without undergoing a competitive bid process, as long as the original term of the lease does not exceed 50 years.

City Charter Section 9.118(a) states that contracts entered into by a department, board, or commission that (i) have anticipated revenues of $1 million or more, or (ii) have anticipated revenues of $1 million or more and require modifications, are subject to Board of Supervisors approval.

BACKGROUND

2011 Airport Lease & Use Agreement

According to Airport staff, there are currently 60 airlines operating at the Airport. Of the 60 airlines, 40 signatory airlines are under the Airport's 2011 Lease and Use Agreement and 20 are "non-signatory airlines" operating under month-to-month Airline Operating Permits and Terminal Space and Use Permits. The airline lease and use agreement set the rate making methodology, legal and business terms for the operation of airlines at the airport, and gate allocation and operating procedures. Non-signatory airlines pay a 25 percent premium on landing fees and a higher security deposit compared to signatory airlines.

The original term of the 2011 Lease was July 1, 2011 through June 30, 2021. According to a February 7, 2023 memorandum from the Airport Director to the Airport Commission on the award of the 2023 Lease and Use Agreement (2023 Airport Lease Award Memo), airport staff and signatory airlines suspended negotiations of a new lease due to the impact of the COVID-19 pandemic on airport operations, and the Airport Commission approved a two-year extension of the term for the 2011 Lease for a new expiration date of June 30, 2023, which was approved by the Board of Supervisors in May 2021 (File 21-0335). The Airport and signatory airlines later resumed negotiations of a new lease and have agreed to the terms of the 2023 proposed lease.

Residual Rate Setting Methodology

The rent and landing fees, which are charged by the Airport to the airlines, are determined by the Airport's "residual rate setting methodology (breakeven policy)" set forth in the 2011 Lease. Under such methodology, the rental rates, landing fees, and related fees are adjusted annually such that the total amount of airline revenues received by the Airport together with non-airline revenues received by the Airport, including concession and parking revenues, is equal to total Airport costs, including debt service and operating costs.

According to Exhibit O of the 2023 proposed lease, each airline's terminal area rentals are calculated by multiplying the terminal area rental rate by the airline's leased terminal space (in square feet). Terminal area rental rates are based on net terminal area expenses and gross terminal space and vary according to five categories of terminal space (i.e., the rental rates for check-in counters are different than the rental rates for baggage claim lobbies). Landing fees are calculated by multiplying net airfield area expenses by the airline's projected share of total landed weight (in thousands of pounds). In addition, each airline pays a surcharge (which is applied to both terminal area rentals and landing fees) to cover the expenses of public space in the terminal. The Pro Forma for FY 2023-24 from Exhibit O of the 2023 proposed lease showing the calculation of terminal area rentals, rental rate structure, and calculation of landing fees is provided in Attachment 1.

Airport Economic Recovery

According to traffic and non-airline revenue performance data presented to the Airport Commission on January 17, 2023, the number of enplaned passengers for both domestic and international air travel was 82 percent of 2019 levels in November 2022, and non-airline revenues were 104 percent of 2019 levels due to strong parking, ground transportation, and car rental revenues according to the meeting minutes. Although air traffic has not fully recovered, Airport staff report that airline revenues continue to be sufficient together with non-airline revenues to cover the Airport's costs due to the breakeven policy.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the 2023 Lease and Use agreement between the City and 29 airlines to conduct flight operations at the Airport for a 10-year term from July 1, 2023 through June 30, 2033. The proposed resolution would also affirm the Planning Department's determination under the California Environmental Quality Act and authorize the Airport Director to enter into immaterial modifications to the lease.

Signatory Airlines

All signatory airlines execute the same form of the lease with slight differences reflecting the specific airline's allocation of space. The Airport Commission awarded the proposed 2023 lease to the following 29 signatory airlines on February 7, 2023:

1. ABX Air, Inc.
2. Aerovias de Mexico S.A. de C.V. dba Aeromexico
3. Air China Limited
4. Air India Limited
5. Air New Zealand Limited
6. Air Transport International, Inc.
7. Alaska Airlines, Inc.
8. All Nippon Airways Co, Limited
9. Asiana Airlines Inc.
10. China Eastern Airlines Co. Ltd
11. Condor Flugdienst GMBH
12. Delta Air Lines, Inc.
13. Deutsche Lufthansa AG dba Lufthansa German Airlines
14. Emirates
15. EVA Airways Corporation
16. Federal Express Corporation
17. Japan Airlines Co., Ltd.
18. Kalitta Air LLC
19. Koninklijke Luchtvaart Maatschappij N. V. dba KLM Royal Dutch Airlines
20. Korean Air Lines Co., Ltd
21. Nippon Cargo Airlines, Inc.
22. Scandinavian Airlines of North America Inc dba Scandinavian Airlines SAS
23. Singapore Airlines Limited
24. Societe Air France dba Air France
25. Southwest Airlines Co.
26. Sun Country, Inc.
27. Turk Hava Yollaria A.O. dba Turkish Airlines
28. United Airlines, Inc.
29. Virgin Atlantic Airways Limited

According to the 2023 Airport Lease Award Memo, the proposed 2023 lease has been offered to all airlines operating at the Airport and will continue to be offered to all other airlines, including new entrants, through the remainder of its term.[1] According to Airport staff, the Airport Commission approved the award of the 2023 Lease and Use agreement to 11 additional airlines on March 21, 2023, and those leases will be forwarded to the Board of Supervisors for approval.

Key Lease Terms

Key lease terms are summarized in Exhibit 1 below, based on the 2023 Airport Lease Award Memo.

[1] According to Airport staff, there were fewer signatory airlines under the proposed lease (29) compared to the existing lease (40) because some airlines could not get the necessary corporate approval within the timeframe or may elect not to sign the 2023 lease.

Exhibit 1: Proposed 2023 Airport Lease and Use Agreement Terms

Term	July 1, 2023 through June 30, 2033 (10 years)
Rate-Making Methodology	Existing residual rate setting methodology (described above) is maintained. Signatory airlines pay terminal area rentals, landing fees, and other usage fees, which are adjusted annually by the Commission to ensure that total airline and non-airline revenues are equal to total airport costs, including debt service.
Annual Service Payment	Existing Airport Annual Service Payment to the City's General Fund is maintained at the greater of $5 million or 15% of Airport concession revenues.
Operating Reserve and Capital Improvement Fund	Establishes an operating reserve and capital improvement fund totaling $800 million over the 10-year term and adjusted annually for inflation.
Shared Use Equipment	Expands rights of the Airport Commission to install shared use equipment throughout the Airport, including in exclusive use spaces of airlines, to enhance operational efficiency.
Preferential Use Gate Allocation	Expands review period of airline seat capacity to allocate preferential use gates to encourage consistent use of preferential use gates throughout the year.
Gate Accommodations	Enhances rights of the City to accommodate flights at preferential use gates of signatory airlines to maximize the use of a gate and capacity and efficiency of the Airport.
Sustainable Aviation Fuel Working Group	Establishes a Sustainable Aviation Fuel Working Group of Airport staff and signatory airlines that would determine how the parties can cooperate to increase the uptake of sustainable aviation fuel at the Airport. The working group will be chaired by the Airport Director.
Ground Service Equipment Electrification	Establishes a mutual goal to achieve 100% electric-powered ground service equipment at the Airport.
Airline Relocation Costs	Clarifies financial liability for airline relocations. If an airline initiates its relocation within the Airport, that airline is financially responsible for the move and for any required secondary relocations of other airlines. If the Airport initiates relocation of an airline, the Airport is financially responsible, subject to rate recovery under the lease.
Digital Information Working Group	Establishes a Digital Information Working Group chaired by the Airport Director and consisting of Airport staff and signatory airlines that will identify data on airport infrastructure and airline operations that could be exchanged to enhance Airport operations and improve the experience of Airport guests.
Commercialization of Digital Assets	Acknowledgement that the Airport has the sole and exclusive right to control, manage, and utilize all Airport Proprietary Content.

Source: 2023 Airport Lease Award Memo

Operating Revenue and Capital Improvement Fund

As shown in Exhibit 1 above, the proposed lease creates a new Operating Revenue and Capital Improvement Fund (ORCIF) totaling $800 million over the 10-year term and increases annually to account for inflation. According to the proposed lease, ORCIF funds "may be used for any lawful purpose for which Airport Revenues may be used." Expenditures on capital improvements from the fund are subject to the lease's review process for capital improvements. The proposed lease establishes a minimum and a maximum annual ORCIF deposit for each year and states that no deposit shall be made to the fund in any year when the unencumbered and unallocated balance of the fund exceeds $650 million. Deposits to the fund will be funded by airline revenues.

FISCAL IMPACT

As shown in Exhibit 2 below, the proposed new lease and use agreement with the 29 signatory airlines are estimated by the Airport to provide approximately $5.1 billion in revenues to the Airport, over the 10-year lease term. In FY 2023-24, total airline rents are budgeted at $371.5 million, of which $232.5 million is provided by the Lease and Use Agreement for the 29 airlines, with the remaining $139.0 million in rental revenues coming from non-signatory airlines. Total landing fees are budgeted at $300.4 million in FY 2023-24, of which $186.2 is provided by the Lease and Use Agreement, with the remaining $114.2 million in landing fees coming from non-signatory airlines.

Exhibit 2: Estimated Total Annual Lease Revenues

Fiscal Year	Terminal Area Rental Revenue	Landing Fees	Total Lease Revenue	Annual Percent Change
FY 2023-24	$232,466,091	$186,161,952	$418,628,043	
FY 2024-25	244,632,720	197,480,598	442,113,318	6%
FY 2025-26	256,573,494	207,473,117	464,046,611	5%
FY 2026-27	269,009,296	215,855,031	484,864,327	4%
FY 2027-28	278,733,850	224,575,574	503,309,424	4%
FY 2028-29	287,137,525	231,357,756	518,495,281	3%
FY 2029-30	295,751,651	238,344,761	534,096,412	3%
FY 2030-31	304,624,200	245,542,772	550,166,972	3%
FY 2031-32	313,762,926	252,958,164	566,721,090	3%
FY 2032-33	323,175,814	260,597,501	583,773,315	3%
Total	**$2,805,867,567**	**$2,260,347,226**	**$5,066,214,793**	

Source: Airport

The estimated revenue is based on: (a) projected terminal use and landed weight of the 29 airlines through FY 2027-28; (b) proforma terminal area rental rates from the proposed lease, increased annually by three percent per year; and (c) proforma landing fee rates from the proposed lease, increased annually by two percent per year.

As discussed above, the revenues generated by the proposed leases are calculated by the Airport's residual rate setting methodology (breakeven policy), such that the proposed new leases would continue to result in the Airport's budget being fully balanced by the revenues paid by the airlines to the Airport after considering the Airport's budgeted expenditures and all non-airline revenues. Changes to Airport expenses, including debt service, and non-airline revenues will result in changes in airline revenues.

RECOMMENDATION

Approve the proposed resolution.

Attachment 1: FY 2023-24 Pro Forma for Terminal Rentals and Landing Fees from Exhibit O of Proposed ABX Air, Inc. Lease

Attachment 3

CALCULATION OF TERMINAL AREA RENTALS AND RENTAL SURCHARGE
(BASIC RENTAL ADJUSTMENT)
SAN FRANCISCO INTERNATIONAL AIRPORT
Fiscal Year 2023/24
(dollars in thousands, except for rates)

		Pro Forma 2024
Terminal Area Expenses		
Operation and Maintenance Expenses		$ 390,267
Debt Service		453,436
Small Capital Outlays		2,699
Equipment		1,185
Annual Service Payment		45,773
Annual ORCIF Deposit		196,844
Deferred Aviation Revenue		(196,844)
		$ 893,360
÷ 'Gross Terminal Space (square feet)		5,916
= Basic Rate		$151.02
x Airline Leased Space (square feet)		1,742
= Basic Rentals	[A]	$ 263,048
Rental Surcharge (Basic Rental Adjustment)		
Basic Rate		$151.02
x Public Space		4,174
= Cost of Public Space		$630,312
- Non-airline revenues		(175,077)
- PFCs Classified as Revenues		(150,000)
+ Net Expense - GT and Parking Area		-
Rental Surcharge		$ 305,236
Allocation of Rental Surcharge (Basic Rental Adjustment)		
Terminal Area Rental Surcharge	[B]	$ 152,618
Landing Fee Surcharge		152,618
		305,236
Terminal Area Rentals		
Basic Rentals	[A]	$ 263,048
Terminal Area Rental Surcharge	[B]	152,618
		$ 415,666
Effective Average Rental Rate		
Basic Rate		$151.02
Rental Surcharge Rate		87.62
		$238.63

Note: Amounts may not add due to rounding.

2023-2033 Lease and Use Agreement
ABX Air, Inc.
Exhibit O, Page 12

Attachment 4

DERIVATION OF REQUIRED AIRLINE RENTAL RATE STRUCTURE

SAN FRANCISCO INTERNATIONAL AIRPORT

Fiscal Year 2023/24

(dollars in thousands, except for rates)

		Pro Forma 2024
Airline Leased Space (square feet)		
Category I		321
Category II		552
Category III		195
Category IV		633
Category V		40
		1,742
Equivalent Category I (square feet)	Relative value	
Category I	1.00	321
Category II	0.75	414
Category III	0.50	98
Category IV	0.25	158
Category V	0.10	4
		995
Required Category I		
Terminal Area Rentals		$ 415,666
Divided by Equivalent Category I space (square feet)		995
Required Category I Rate (per square foot)		$417.58

Terminal Rental Rates	Relative value	
Category I	1.00	$417.58
Category II	0.75	313.19
Category III	0.50	208.79
Category IV	0.25	104.40
Category V	0.10	41.76

Note: Amounts may not add due to rounding.

2023-2033 Lease and Use Agreement
ABX Air, Inc.

Exhibit O, Page 13

Attachment 5

CALCULATION OF LANDING FEES AND LANDING FEE RATE

SAN FRANCISCO INTERNATIONAL AIRPORT

Fiscal Year 2023/24

(dollars in thousands, except for rates)

	Pro Forma 2024
BASIC LANDING FEES	
Operation and Maintenance Expenses	$105,388
Debt Service	43,403
Small Capital Outlays	460
Equipment	671
Annual ORCIF Deposit	53,156
	$203,077
Non-airline revenues	(4,616)
PFCs Classified as Revenues	(1,000)
Deferred Aviation Revenue deficit (surplus)	(53,156)
Net expense (revenue) - Other Leased Areas	3,115
Net expense (revenue) - West of Bayshore Area	2,471
Airfield Area Net Expense	$149,891
÷ Composite landed weight forecast (in 1,000 lbs units)	36,050
= Basic Rate (per 1,000 lbs.)	$4.16
LANDING FEE SURCHARGE	
Landing Fee Surcharge	$ 152,618
Net revenue - GT and Parking Area	(52,048)
	$ 100,570
÷ Composite landed weight forecast (in 1,000 lbs units)	36,050
= Landing Fee Surcharge Rate (per 1,000 lbs.)	$2.79

Landing Fees	
Basic Landing Fees	$ 149,891
Landing Fee Surcharge	100,570
	$ 250,461
Landing Fee Rate	
Basic Rate	$4.16
Surcharge Rate	2.79
	$6.95

Note: Amounts may not add due to rounding.

2023-2033 Lease and Use Agreement
ABX Air, Inc.

Exhibit O, Page 14

Items 7 & 8 **Files 23-0209 & 23-0055**	**Department:** Public Defender's Office (PDR)

EXECUTIVE SUMMARY

Legislative Objectives

- **File 23-0209**: is an ordinance that would appropriate $1,051,298 of settlement award funding to the Public Defender's Immigration Defense Unit.
- **File 23-0055**: is an ordinance that would amend the Annual Salary Ordinance for Fiscal Years 2022-23 and 2023-24 to add two positions to the Immigration Defense Unit at the Public Defender's Office, an attorney at 0.5 full-time equivalent (FTE) and a legal assistant (paralegal) at 0.5 FTE for a total of 1.0 FTE for FY 2022-23, increasing to 2.0 FTE for FY 2023-24.

Key Points

- The San Francisco Public Defender's (PDR) Immigration Defense Unit, launched in 2017, provides legal representation for immigrants facing deportation in San Francisco's federal immigration courts. Unlike criminal proceedings, immigrants in immigration court do not have a right to government-appointed counsel if they cannot afford one.
- The unit currently has eight attorneys working on 149 immigration cases. According to the Department, the proposed addition of one attorney and one legal assistant would allow it to increase its workload by 25 to 50 immigration cases.
- PDR participated in a class action lawsuit against U.S. Immigration and Customs Enforcement (ICE), which alleged that conditions at the Mesa Verde Detention Facility in Bakersfield, CA and at the Yuba County Jail violated immigrants' constitutional rights by making it impossible to avoid COVID exposure. A settlement agreement provided $1,051,298 in attorneys' fees and litigation costs to PDR.

Fiscal Impact

- Assuming a May 1, 2023 start date for the new positions, the settlement award is likely sufficient to fund the new position and associated non-personnel costs through FY 2024-25, after which the positions would likely require General Fund support.

Policy Consideration

- According to a non-profit advocacy organization, immigrants who have legal representation are more likely to pursue relief (such as asylum) and more likely to win their cases compared to those without attorneys. Because there is no requirement for the City to provide these services, approval of the proposed ordinances is a policy matter for the Board of Supervisors.

Recommendations

- Amend the proposed ordinance to reduce the 8177 Attorney from 0.5 FTE to 0.17 FTE and the 8173 Legal Assistant from 0.5 FTE to 0.17 FTE in FY 2022-23.
- Approval of the proposed ordinances, as amended, is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

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

Administrative Code Section 2.1-1 states that the Board of Supervisors shall determine the maximum number of each class of employment in each of the various departments and offices of the City and County, and shall fix rates and schedules of compensation.

BACKGROUND

Immigration Defense Unit

The San Francisco Public Defender's (PDR) Immigration Defense Unit, launched in 2017, provides legal representation for immigrants facing deportation in San Francisco's federal immigration courts. The Unit has represented over 1,000 people in immigration detention since its launch and is one of three public defender programs providing legal representation to immigrants in the country according to the Public Defender's Office. The other two programs are provided by Alameda County and New York City.

Settlement Agreement

The Public Defender's Office participated in a class action lawsuit (*Zepeda Rivas vs Jennings*), which alleged that conditions at the Mesa Verde Detention Facility in Bakersfield, CA and at the Yuba County Jail violated immigrants' constitutional rights by making it impossible to avoid COVID exposure. A settlement agreement approved by a federal court in December 2021 required the U.S. Immigration and Customs Enforcement (ICE) undertake COVID mitigation measures, including releasing immigrants from detention. The settlement agreement also required ICE to pay $4,000,000 in attorneys' fees, of which $1,036,084 was provided to the San Francisco Public Defender's Office and $56,033 in litigation costs, of which $15,214 was provided to PDR.

DETAILS OF PROPOSED LEGISLATION

File 23-0209: is an ordinance that would appropriate $1,051,298 of settlement award funding to the Public Defender's Immigration Defense Unit.

File 23-0055: is an ordinance that would amend the Annual Salary Ordinance for Fiscal Years 2022-23 and 2023-24 to add two positions to the Immigration Defense Unit at the Public Defender's Office, an attorney at 0.5 full-time equivalent (FTE) and a legal assistant (paralegal) at 0.5 FTE for a total of 1.0 FTE for FY 2022-23, increasing to 2.0 FTE for FY 2023-24.

Immigration Defense Unit Caseload and Staffing

According to the Public Defender's Office, the Immigration Defense Unit's litigation work includes removal defense, appeals, and Padilla motions. All immigration cases go to trial and many are appealed, which is different from criminal proceedings where a client may have the option to take a plea instead of having their case go to trial. Currently, the San Francisco Immigration Defense Unit handles 149 removal cases, including 108 that are pending in immigration court and 41 on appeal, or approximately 18 cases per attorney.

The Immigration Defense Unit is comprised of eight attorneys and five support staff. The eight attorneys include one managing attorney, five removal defense attorneys, an appellate specialist, and a "crimmigration" specialist, who has expertise in criminal and immigration law. The five support staff include two social workers (or Court Alternative Specialists), one paralegal (or legal assistant), one investigator, and one clerk. Under the proposed ordinance, the number of positions in the Immigration Defense Unit would increase from 13 to 15. Existing and proposed staffing are shown in Exhibit 1 below.

Exhibit 1: Immigration Defense Unit Existing and Proposed Positions

Job Classification	Existing	Proposed Increase	Total Proposed
8177 Managing Attorney	1		1
8177 Attorney	7	1	8
8142 Investigator	1		1
8173 Legal Assistant	1	1	2
8446 Court Alternative Specialist I	2		2
8106 Clerk	1		1
Total	**13**	**2**	**15**

Source: Public Defender's Office, Proposed Ordinance

Proposed Increase to Staffing

According to Public Defender's Office staff, the additional attorney and paralegal would allow the Unit to handle an additional 25 to 50 removal cases, increasing the total caseload to between 175 and 200.

The additional attorney would focus solely on appellate work, increasing the number of appellate cases the Immigration Defense Unit can handle and allowing removal defense attorneys to handle additional removal cases as removal defense attorneys currently spend a significant amount of time conducting appellate work according to Public Defender's Office staff.

The additional paralegal would support the attorneys by drafting motions, creating trial binders and exhibits, taking notes during trials, and conducting follow-up on client meetings. The unit currently has one paralegal assigned to eight attorneys. With the proposed additional staffing, the Unit will have two paralegals assigned to nine attorneys which is closer to the ratio of one paralegal for every four attorneys recommended by the National Association for Public Defense, an association of more than 21,000 public defense practitioners.

Vacant Positions

According to Public Defender's Office staff, the office is in the process of interviewing for three currently vacant positions in the same job classifications, one attorney and two paralegals, all of which will be assigned to criminal defense, not immigration defense.

FISCAL IMPACT

The cost of the two new positions and associated non-personnel costs is shown below in Exhibit 2 below. Costs in FY 2022-23 assume a May 1, 2023 start date for both new positions. Position costs include salary and benefits and are assumed to start at the top step. Non-personnel costs include travel to hearings across the Bay area and a specialized immigration database.

Exhibit 2: Proposed Spending

	FY 2022-23	FY 2023-24	FY 2024-25	Total
8173 Legal Assistant	$28,592	$169,335	$176,108	$374,035
8177 Attorney	54,691	322,886	335,801	713,378
Non-Personnel Costs	4,102	17,124	17,124	38,350
Total	**$87,384**	**$509,345**	**$529,034**	**$1,125,763**

Source: BLA Analysis

Note: fiscal impact for FY 2022-23 is based on a May 1, 2023 start date. Position costs for FY 2024-25 are assumed to increase by 4 percent, though actual costs may be different depending on the new labor agreements with the Municipal Attorneys Association and the International Federation of Professional and Technical Engineers, Local 21, the current versions of which expires June 2024. All position costs are budgeted at the top step of compensation.

The source of funding for the positions and associated non-personnel costs is the proposed appropriation of settlement award funding from the class action lawsuit against ICE, which totals $1,051,298 or $74,465 less than the total costs presented in Exhibit 2. However, actual position costs will likely be lower than presented due to delays in hiring and new hires starting at less than the top step of compensation. Costs not funded by the settlement award would likely require General Fund support.

Recommended Reduction of FTE in FY 2022-23

The two positions are each being added at 0.5 FTE for FY 2022-23, which assumes a start date of January 1, 2023. The Budget and Legislative Analyst recommends amending the proposed ordinance to reduce the two positions to 0.17 FTE based on the expected start date of May 1, 2023.

POLICY CONSIDERATION

Unlike criminal proceedings, immigrants in immigration court do not have a right to government-appointed counsel if they cannot afford one. Immigrants must find their own counsel or an authorized representative to represent them before an immigration judge and the Board of Immigration Appeals. Immigrants who have legal representation are more likely to pursue relief (such as asylum) and more likely to win their cases compared to those without attorneys.[1] Detained immigrants may face detention for months and up to years, straining the detainee's and their family's economic, emotional, and physical wellbeing.

According to Department of Justice statistics, San Francisco had 5,467 cases in its docket as of September 30, 2022. Of these, 3,059 (56%) were represented and 2,408 (44%) not represented. Currently, the San Francisco Immigration Defense Unit handles 149 removal cases that are pending in immigration court or on appeal. Increasing staffing for the Immigration Defense Unit would allow the Unit to take on 25 to 50 more cases and improve outcomes for additional immigrants facing deportation. Because there is no requirement for the City to provide these services, approval of the proposed ordinances is a policy matter for the Board of Supervisors.

RECOMMENDATIONS

1. Amend the proposed ordinance to reduce the 8177 Attorney from 0.5 FTE to 0.17 FTE and the 8173 Legal Assistant from 0.5 FTE to 0.17 FTE in FY 2022-23.
2. Approval of the proposed ordinances, as amended, is a policy matter for the Board of Supervisors.

[1] According to a 2016 report by American Immigration Council, a nonprofit, non-partisan advocacy group, of immigrants with deportation cases decided between 2007 and 2012: immigrants who were detained and had attorney representation were 11 times more likely to pursue relief (such as asylum) and twice as likely to obtain relief compared to those without attorneys; and immigrants who were never detained and had attorney representation were five times more likely to seek relief and five times more likely to obtain relief compared to those without attorneys.