CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

1390 Market Street, Suite 1150, San Francisco, CA 94102 (415) 552-9292
FAX (415) 252-0461

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TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: March 2, 2022 Budget and Finance Committee Meeting

TABLE OF CONTENTS

Item 1 **File 21-1295** *(Continued from 2/16/22 meeting)*	**Department:** Recreation & Parks

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would amend the Park Code to waive admission fees for San Francisco residents to the Japanese Tea Garden and the Conservatory of Flowers and reauthorize the Recreation and Parks Department to set admission fees for non-resident adults at the Japanese Tea Garden, the Conservatory of Flowers, and the Botanical Garden through flexible pricing. Fees for non-resident veterans would also be waived.

Key Points

- On February 2, 2022, the Budget & Finance Committee forwarded a resolution (File 21-1305) to the Board of Supervisors that would approve an amendment to the Recreation & Parks Department's lease and management agreement with the Botanical Garden Society to allow the Botanical Garden Society, which operates the Botanical Garden, to operate the Japanese Tea Garden, typically operated by City staff, and the Conservatory of Flowers, currently operated by the San Francisco Parks Alliance. Under the amended agreement, revenues from the Conservatory of Flowers, which previously went to the San Francisco Parks Alliance, together with revenues from the Japanese Tea Garden and Botanical Garden, will pay for Botanical Garden Society admission and community education activities as well as City gardening and maintenance costs. Net revenues will be sent to a Recreation and Parks Department account and dedicated to garden improvements.

Fiscal Impact

- We estimate the annual revenue loss from the elimination of residential admission fees ($271,385) and non-resident veteran admission fees ($300,000) could be offset by an increase of $1.00 in non-resident admission fees.
- Without flexible pricing, the amended lease and management agreement would result in an estimated annual deposit of $514,105 to the Gardens of Golden Gate Park Improvement Fund. Each additional $1 of non-resident adult fees would generate approximately $528,000 in annual fee revenue.
- The amended Botanical Garden Society agreement requires the development of a master plan within three years to improve all three gardens and for the Botanical Garden Society to fundraise to supplement City funding for that purpose. Any private funds exceeding $10,000 and all appropriations of public funds would require Board of Supervisors' approval.

Recommendation

- Approval of File 21-1295 is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

BACKGROUND

Gardens of Golden Gate Park

On February 2, 2022, the Budget & Finance Committee forwarded a resolution (File 21-1305) to the Board of Supervisors that would approve an amendment to the Recreation & Parks Department's lease and management agreement with the Botanical Garden Society to allow the Botanical Garden Society, which operates the Botanical Garden, to operate the Japanese Tea Garden, typically operated by City staff, and the Conservatory of Flowers, currently operated by the San Francisco Parks Alliance. Under the amended agreement, revenues from the Conservatory of Flowers, which previously went to the San Francisco Parks Alliance, together with revenues from the Japanese Tea Garden and Botanical Garden, will pay for Botanical Garden Society admission and community education activities as well as City gardening and maintenance costs. Net revenues will be sent to a Recreation and Parks Department account and dedicated to garden improvements.

Admission Fees

The Park Code establishes admission fees for the San Francisco Botanical Garden, the Japanese Tea Garden, and the Conservatory of Flowers. There are different rates for children, adults, and seniors. Currently, San Francisco residents do not pay any fees at the Botanical Garden and receive discounts at the Japanese Tea Garden and Conservatory of Flowers. The fees in the Park Code are escalated by the regional Consumer Price Index.

In 2019, the Board of Supervisors authorized the Recreation and Parks Department to set non-resident adult admission fees for the three gardens through "flexible pricing" (File 19-0629). This allowed the Department to temporarily increase or decrease the fees based on factors such as public demand, facility conditions, and rates at comparable facilities. The Department could only increase prices once per year by up to 50% and was only permitted to increase prices during certain times of the year depending on the facility. The existing law permits price increases for non-resident adults as follows:

- **Botanical Garden**: Increases only on Saturdays and Sundays
- **Conservatory of Flowers**: Increases only on Fridays, Saturdays, and Sundays
- **Japanese Tea Garden**: Increases only March through October

The flexible pricing system was scheduled to sunset on June 30, 2021, but the Board of Supervisors authorized the extension of flexible pricing at the gardens until December 7, 2021 (File 21-0653). The 2019 flexible pricing legislation also allowed the General Manager to adjust non-resident admission fees for Coit Tower, however that authority was never implemented and expired in June 2021.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Park Code to:

- Waive admission fees for San Francisco residents to the Japanese Tea Garden and the Conservatory of Flowers;
- Waive admission fees for non-resident veterans for all three gardens[1]
- Authorize the Recreation and Park Department to waive or discount other admission fees at the Japanese Tea Garden, the Conservatory of Flowers, and the Botanical Garden;
- Re-authorize the Recreation and Park Department to set admission fees for non-resident adults at the three gardens through flexible pricing; and
- Affirm the Planning Department's determination that all associated actions comply with the California Environmental Quality Act.

Admission Fee Changes

As noted above, the proposed ordinance would waive admission fees for residents and non-resident veterans and re-authorize and standardize flexible pricing for adult non-residents. The proposed ordinance would allow the Department to increase fees for non-resident adults only by up to $7 above the Park Code set fee upon 30 days' notice to the public rather than just once per year and does not constrain price increases to certain months or days unlike the existing law.

The Department could also decrease fees at any time. In addition, the proposed ordinance would remove the sunset date for flexible pricing, allowing the Recreation and Park Department to continue using flexible pricing at the three gardens indefinitely. Fee changes must be due to changes in demand at particular days and times, adverse weather, facility conditions, operating costs, or tickets covering multiple gardens.

Flexible Pricing Use at the Gardens

The Recreation and Parks Department provided an update on flexible pricing at the three gardens to the Board of Supervisors in May 2021. The regular non-resident adult admission fee was $9 at all three gardens until FY 2020-21 when it was increased to $10 at the Japanese Tea Garden and the Conservatory of Flowers and in FY 2021-22 when it increased to $10 at the Botanical Garden due to allowable CPI increases. According to that report, flexible pricing for non-resident adults was applied as follows:

- Botanical Garden: Applied on the weekends starting in November 2019 with a $3 increase.
- Conservatory of Flowers: Applied on the weekends starting in October 2019 with a $2 increase.

[1] File 21-1095, approved in December 2021, waived admission fees to certain Recreation & Park facilities, including the Japanese Tea Garden and Conservatory of Flowers, for resident veterans. Under that ordinance, fees for non-resident veterans would be automatically waived if the Controller certifies that sufficient funding has been appropriated for one-year.

- Japanese Tea Garden: Applied starting in March 2020 through September 2020 with a $2 increase. In October 2020, the price was adjusted back to $10, and the $2 increase was restored starting in March 2021.

Other City Departments Use of Flexible Pricing

At the request of a Supervisor, we completed a short survey of City entities that charge for use of City property.

Our survey found that the Recreation and Parks Department uses a flexible pricing structure for golf fees, which allows the General Manager to adjust resident and tournament rates based on demand, prices at other golf courses, and course conditions.[2] The Academy of Sciences uses dynamic admissions pricing, which varies by day and time. However, the Fine Arts Museums, which include the De Young and Legion of Honor Museums, does not use dynamic pricing for admissions, though the museums charge higher fees for special exhibits.

Additionally, we found that the San Francisco Municipal Transportation Agency (SFMTA) uses dynamic pricing (referred to as transportation demand management) for garage and parking meter fees, both of which are generally based on demand. According to SFMTA staff, since the implementation of dynamic pricing in 2011, garage fees have generally increased and parking meter fees have fluctuated between $0.50 and $10 per hour based on demand for curb space. Garage and parking meter fees are adjusted by SFMTA staff.

FISCAL IMPACT

Admission Fee Changes

Exhibit 1 below shows the number of visitors and total admissions revenue for the three gardens for FY 2018-19. Admissions were lower in subsequent years due to the impacts of COVID-19. In FY 2018-19 non-resident adult admission fee collections across the three gardens accounted for approximately three-quarters of total admissions revenue.

[2] Park Code Section 12.12(d), which relates to municipal golf courses, states that the General Manager may discount resident rates by 50% and increase them by 25%; tournament rates may be increased by 50%.

Exhibit 1: Total Visitors and Admissions Revenue, FY 2018-19

Facility	Resident	Non-Resident Adult	Non-Resident Other [a]	Other Free [b]	Total Visitors
Botanical Garden	211,719	107,056	54,339	63,618	436,732
Conservatory of Flowers	20,338	74,383	49,064	25,042	168,827
Japanese Tea Garden	29,400	380,145	100,364	246,270	756,179
Total Visitors	**261,457**	**561,584**	**203,767**	**334,930**	**1,361,738**
Admissions Revenue	**$271,385**	**$5,054,301**	**$1,221,695**	**$0**	**$6,547,381**
Percent of Total Revenue	4.1%	77.2%	18.7%	0.0%	100.0%

Source: Recreation and Parks Department

[a] Non-Resident other includes discounted admissions for children and senior non-residents.

[b] Other Free includes free admissions for low-income residents and non-residents, free admissions hours at the gardens, and other free admissions.

Note: FY 2018-19 revenues for the Botanical Garden was $1.2 million, $1.0 million for the Conservatory of Flowers, and $4.3 million for the Japanese Tea Garden.

As noted above, under the proposed ordinance, fees for resident admissions and non-resident veterans would be waived at the Conservatory of Flowers and the Japanese Tea Garden to align with current practices at the Botanical Garden, and the Department could raise fees for non-residents by a maximum of $7, up to a total of $17 for all three gardens. Recreation and Parks Department staff estimate that waiving resident fees at the Conservatory of Flowers and the Japanese Tea Garden would result in $271,385 in annual lost revenue based on admission fee collections for residents in FY 2018-19, as shown above. Based on a Department of Defense data, approximately 6% of the statewide population are veterans or actively serving in the armed forces. Therefore, waiving non-resident veteran admissions fees may cost approximately $300,000 (6% of $5 million non-resident adult admission fees). We estimate the annual revenue loss from the elimination of residential admission fees ($271,385) and non-resident veteran admission fees ($300,000) could be offset by an increase of $1.00 in non-resident admission fees.[3] Each additional $1 of non-resident adult fees would generate approximately $528,000 in annual fee revenue.[4] According to the Recreation and Parks Department, the elimination of residential fees was accounted for in the FY 2021-22 – FY 2022-23 budget.

Garden Improvement Fund

As detailed in our report on File 21-1305, the resolution approving the Botanical Garden Society agreement amendment, without flexible pricing, the amended lease and management

[3] In FY 2018-19, the three gardens had 561,584 visitors. Therefore, a $1.00 increase in admissions fees with the same number of visitors would provide $561,584, or roughly equivalent to the combined $571,385 revenue loss from the elimination of residential admission fees ($271,385) and non-resident veteran admission fees ($300,000).

[4] In FY 2018-19, the three gardens had 561,584 non-resident adult visitors. Excluding the estimated 6% of non-resident veterans, the fee-paying non-resident adult visitors is reduced to 527,889.

agreement would result in an estimated annual deposit of $514,105 to the Gardens of Golden Gate Park Improvement Fund for expenses associated with maintenance, renovation, and improvement of the gardens. This figure does not account for the $571,385 revenue loss from waiving resident fees and waiving non-resident veteran fees that is included in the proposed ordinance.

The Recreation and Parks Department provided information on the maintenance needs of all three gardens, shown below in Exhibit 2. The costs are based on a lifecycle assessment of existing assets in the gardens, prioritized by condition.

Exhibit 2: Ten Year Garden Maintenance Needs

	Priority 1 (Years 1-3)	Priority 2 (Years 4-6)	Priority 3 (Years 7-10)	Total
Botanical Garden	$13,554,742	$8,214,166	$4,399,069	$26,167,977
Japanese Tea Garden	3,680,981	263,146	101,007	4,045,134
Conservatory of Flowers	6,055,851	932,476	1,438,159	8,426,486
Total	**$23,291,574**	**$9,409,788**	**$5,938,235**	**$38,639,597**

Source: Recreation & Parks Department

As shown above, total maintenance needs are estimated to cost $38.6 million over the next 10 years.

The amended Botanical Garden Society agreement requires the development of a master plan within three years to improve all three gardens and for the Botanical Garden Society to fundraise to supplement City funding for that purpose. Any private fundraising exceeding $10,000 and all appropriations of public funds would require Board of Supervisors' approval. According to Recreation and Parks Department staff, the FY 2021-22 budget includes $500,000 for a plant nursery project and $600,000 for restoration of a pagoda in the Japanese Tea Garden.

RECOMMENDATION

Approval of File 21-1295 is a policy matter for the Board of Supervisors.

Item 2 **File 22-0076**	**Department:** Airport

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves Modification No. 6 to the agreement between the Airport and The Bank of New York Mellon Trust Company, N.A. for bond trustee services, increasing the agreement amount by $1,050,000 from $2,750,000 to $3,800,000. The proposed resolution also retroactively approves the original agreement and prior five modifications.

Key Points

- The Airport Commission approved the Master Bond Resolution in 1991, defining the terms by which the Airport could issue revenue bonds and providing for the Airport to enter into an agreement with a financial institution to serve as third-party trustee to administer payment of principal and interest on the bonds. The trustee agreement is in effect as long as the 1991 Master Bond Resolution is in effect.
- The Airport entered into a trustee agreement with First Interstate Bank in 1992 following a competitive solicitation. The agreement has been modified five times to increase the agreement amount and provide for changes in the trustee, which according to Airport staff, has transitioned from First Interstate Bank to The Bank of New York Mellon Trust Company, N.A. through a series of acquisitions and restructuring.

Fiscal Impact

- Under the existing agreement, fees charged by the trustee are approximately $146,000 per year, payable from Airport revenue and bond proceeds. Total fees paid to the trustee under the agreement through December 2021 are approximately $2.7 million.

Policy Consideration

- The Board of Supervisors has previously approved issuance of Airport revenue bonds in accordance with the City Charter and Airport Commission's 1991 Master Bond Resolution, which according to Airport staff, "contemplated that a Bond Trustee would be necessary to administer Airport debt." However, the agreement between the Airport and The Bank of New York Mellon Trust Company for trustee services was not submitted to the Board of Supervisors for approval even though the indeterminate term exceeded the 10-year term requiring Board approval under Charter Section 9.118. According to Airport staff, the City Attorney's Office advised that to resolve any uncertainty about compliance with Charter Section 9.118, the Airport should seek Board of Supervisors approval for Modification No. 6 and for the original agreement and prior modifications.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract by a department, board or commission that has a term of more than ten years is subject to Board of Supervisors approval.

BACKGROUND

City Charter Section 4.115 provides that the Airport Commission has exclusive authority to plan and issue revenue bonds for airport-related purposes, subject to the approval, amendment or rejection of the Board of Supervisors of each issue. City Charter Section 9.107(4) provides that such bonds do not require voter approval if secured solely by Airport revenues. The Airport Commission adopted the Master Bond Resolution in 1991, which sets the terms for the Airport to issue revenue bonds, including requiring Airport Commission approval of supplemental resolutions detailing the terms of each bond issuance. The 1991 Master Bond Resolution provided for the Airport to enter into an agreement with a financial institution to serve as third-party trustee to administer payment of principal and interest on the bonds. The trustee agreement is in effect as long as the 1991 Master Bond Resolution is in effect.

The Airport entered into a trustee agreement with First Interstate Bank in 1992 following a competitive solicitation. The agreement has been modified five times to increase the agreement amount and reflect changes in the trustee, which according to Airport staff, has transitioned from First Interstate Bank to The Bank of New York Mellon Trust Company, N.A. through a series of acquisitions and restructuring.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves Modification No. 6 to the agreement between the Airport and The Bank of New York Mellon Trust Company, N.A. for bond trustee services, increasing the agreement amount by $1,050,000 from $2,750,000 to $3,800,000. The proposed resolution also retroactively approves the original agreement and prior modifications as follows:

- Original agreement (1992) between the Airport and First Interstate Bank in the amount of $260,000;
- Modification No. 1 (2001), increasing the agreement amount by $600,000 to $860,000;
- Modification No. 2 (2006), increasing the agreement amount by $900,000 to $1,760,000;
- Modification No. 3 (2012), increasing the agreement amount by $800,000 to $2,560,000;
- Modification No. 4 (2017), increasing the agreement amount by $190,000 to $2,750,000; and
- Modification No. 5 (2018), updating the Trustee fee payment schedule with no changes to the contract amount.

Original Agreement and Modifications

The Airport entered into the original agreement with First Interstate Bank in March 1992 following a competitive solicitation to serve as third-party trustee for Airport revenue bonds issued in accordance with the 1991 Master Bond Resolution. The term of the agreement was indeterminate and corresponded with the term of the Master Bond Resolution, which is in effect until the Airport Commission adopts a successor resolution. The Master Bond Resolution provides for removal or resignation of the trustee upon appointment of a successor trustee.

The amount of the agreement was $52,000 per year, or $260,000 over five years. Appendix B of the agreement set the fees to be charged by the trustee for services. Agreement services consist of paying principal and interest to bondholders, providing notices to bondholders, maintaining books, transferring and exchanging bonds, and other services defined in the 1991 Master Bond Resolution.

The Airport Commission approved the following modifications to the agreement:

- Modification No. 1 (December 2001) between the Airport and BNY Western Trust Company of California (a subsidiary of the Bank of New York Company, Inc.) amended the original agreement to increase the amount by $600,000 to $860,000 and update the fees charged by the trustee.
- Modification No. 2 (February 2006) between the Airport and Bank of New York Trust Company, N.A. amended the agreement to increase the amount by $900,000 to $1,760,000, update the fees charged by the trustee, and add City administrative requirements, such as compliance with the Health Care Accountability Ordinance.
- Modification No. 3 (April 2012) between the Airport and The Bank of New York Mellon Trust Company, N.A. amended the agreement to increase the amount by $800,000 to $2,560,000, update the fees charged by the trustee, and add or revise City administrative requirements.
- Modification No. 4 (April 2017) between the Airport and The Bank of New York Mellon Trust Company, N.A. amended the agreement to increase the amount by $190,000 to $2,750,000, update the fees charged by the trustee, and add or revise City administrative requirements.
- Modification No. 5 (June 2018) between the Airport and The Bank of New York Mellon Trust Company, N.A. amended the agreement to update the fees charged by the trustee with no increase in the agreement amount.

Modification No. 6

The Airport approved the sixth modification to the agreement in December 2021. Modification No. 6 increases the agreement amount by $1,050,000 to $3,800,000 but does not change the fees included in Modification No. 5. The term of the agreement is indeterminate and extends as long as the 1991 Master Bond Resolution is in effect.

Modification No. 6 also adds provisions regarding confidential information, digital signatures, and revises provisions to comply with City administrative requirements, such as new requirements set by the City's Campaign and Governmental Conduct Code.

FISCAL IMPACT

Under the existing agreement, fees charged by the trustee are approximately $146,000 per year, payable from Airport revenue and bond proceeds. Total fees paid to the trustee under the agreement through December 2021 are approximately $2.7 million.

POLICY CONSIDERATION

The Board of Supervisors has previously approved issuance of Airport revenue bonds in accordance with the City Charter and Airport Commission's 1991 Master Bond Resolution, which according to Airport staff, "contemplated that a Bond Trustee would be necessary to administer Airport debt." However, the agreement between the Airport and The Bank of New York Mellon Trust Company for trustee services was not submitted to the Board of Supervisors for approval even though the indeterminate term exceeded the 10-year term requiring Board approval under Charter Section 9.118. According to Airport staff, the City Attorney's Office advised that to resolve any uncertainty about compliance with Charter Section 9.118, the Airport should seek Board of Supervisors approval for Modification No. 6 and for the original agreement and prior modifications. According to Airport staff, any future modifications to the agreement will be submitted to the Board of Supervisors for approval.

RECOMMENDATION

Approve the proposed resolution.

Item 4 File 22-0074	Department: Public Utilities Commission (PUC)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a power scheduling coordinator agreement between the San Francisco Public Utilities Commission (SFPUC) and APX, Inc. for a term of five years from April 2022 through March 2027, and an amount not to exceed $136,500,000.

Key Points

- The SFPUC's Power Enterprise is responsible for the generation, procurement, and delivery of power to its electric customers. The California Independent System Operator (CAISO) controls and operates the transporting of electric power over the state electric grid. SFPUC does not meet the CAISO requirements for a "scheduling coordinator," an entity that is allowed to complete power transactions on the CAISO network and is able to make payments to CAISO for power transactions, so SFPUC has contracted for these services. In July 2021, SFPUC issued a Request for Proposals (RFP) to award a scheduling coordinator contract. APX, which is SFPUC's existing scheduling coordinator, was the only proposer and met the minimum qualifications.
- The scope of work under the agreement includes: (1) submitting day-ahead and real-time interchange schedules and bids to CAISO; (2) managing communications between CAISO and SFPUC schedulers and operators; (3) managing CAISO settlements and processing payments of CAISO charges; (4) managing CAISO and California Public Utilities Commission (CPUC) Resource Adequacy requirements; (5) managing access to CAISO systems for meter, outage, settlement, scheduling, and bid/award data; and (6) submitting Settlement Quality Meter Data (SQMD) to CAISO on behalf of SFPUC. Optional services, to be provided at the request of SFPUC, include market analyses, energy trading, development of revenue strategies, and training of SFPUC staff.

Fiscal Impact

- The proposed agreement would have a total amount not to exceed $136,500,000. Of this total amount, approximately $130,500,000 are estimated pass-through payments to CAISO, and approximately $6,000,000 are payments to APX for services provided. To account for budgeted scheduling coordinator costs and allow a $1 million buffer for APX services, the Budget and Legislative Analyst recommends reducing the agreement amount by $1,757,200, for a total not to exceed $134,742,800.

Recommendations

- Amend the proposed resolution to reduce the not-to-exceed amount of the agreement by $1,757,200, for a total not to exceed $134,742,800.
- Approve the resolution as amended.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

BACKGROUND

The San Francisco Public Utilities Commission's (SFPUC) Power Enterprise is responsible for the generation, procurement, and delivery of power to electric customers of the City, including CleanPowerSF customers, City departments and other public entities, entities providing service on behalf of or in coordination with tenants on City property (i.e. at the Port and Airport), and the Hunters Point Shipyard and other redevelopment projects.

The California Independent System Operator (CAISO)[1] controls and operates the transporting of electric power over California's electric transmission system. State and Federal regulations govern payments made to CAISO. The SFPUC does not meet the CAISO requirements for a "scheduling coordinator," an entity that is allowed to complete power transactions on the CAISO network and is able to make payments to CAISO for power transactions, so SFPUC has contracted for these services.[2]

In July 2021, SFPUC issued a Request for Proposals (RFP) to award a scheduling coordinator contract. APX, Inc., which is SFPUC's existing scheduling coordinator, was the only proposer and met the minimum qualifications specified in the RFP. In January 2022, the SFPUC Commission approved a new agreement with APX.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a power scheduling coordination services agreement between the SFPUC and APX, for a term of five years from April 2022 through March 2027, for an amount not to exceed $136,500,000.

The scope of work under the agreement includes: (1) submitting day-ahead and real-time interchange schedules and bids to CAISO; (2) managing communications between CAISO and

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[1] CASIO is a nonprofit public benefit corporation that is regulated by the Federal Energy Regulatory Commission (FERC) to manage the flow of electricity across the high-voltage long-distance power lines that make up 80% of California's power grid. CAISO is responsible for ensuring that there is sufficient, safe, reliable, and equal access to power transmission lines and facilitating competitive wholesale power markets to diversify resources and lower prices.

[2] According to Section 4.5.3 of the January 2022 CAISO Tariff, the duties of a scheduling coordinator include paying fees to CAISO, submitting qualified bids and interchange schedules for power, coordinating and modifying demand for power at the direction of CAISO, tracking and settling trades, and assuming financial responsibility for all requested transactions. According to Jeremy Spitz, SFPUC Local and Regional Policy and Government Affairs Manager, the primary obstacles to SFPUC achieving scheduling coordinator status are the lack of a real-time operations desk for SFPUC's energy portfolios and the inability to consistently make timely payments under CAISO's challenging deadlines.

SFPUC schedulers and operators; (3) managing CAISO settlements[3] and processing payments of CAISO charges; (4) managing CAISO and California Public Utilities Commission (CPUC) Resource Adequacy[4] requirements; (5) managing access to CAISO systems for meter, outage, settlement, scheduling, and bid/award data; and (6) submitting Settlement Quality Meter Data (SQMD) to CAISO on behalf of SFPUC. Optional services, to be provided at the request of SFPUC, include market analyses, energy trading, development of revenue strategies, and training of SFPUC staff.

The agreement may be extended beyond the initial five-year term. The RFP used to award the agreement states that the total term length may be up to eight years. According to Ivy Fine, SFPUC Contracts Administration Bureau Director, SFPUC may extend the term by three years pursuant to the RFP.

Social Impact Partnership Program

The current agreement with APX requires APX to provide 123 volunteer hours to two community partners, the Center for Resource Solutions and the National Park Service, valued at $24,600. According to the SFPUC, APX has provided 126 volunteer hours to date; 54 hours valued at $200/hour, and 72 hours valued at $150/hour, with a total value of $21,600. The SFPUC standardized the value of volunteer hours in 2016 at $150/hour, which explains the difference in hourly rates, and this policy change was communicated to and agreed upon by firms. APX has 20 remaining volunteer hours to complete for their Social Impact Commitments.

Although the RFP allowed for voluntary Social Impact Partnership (SIP) proposals, the proposed agreement does not require SIP benefits because the contractor's proposal did not include a SIP plan.

FISCAL IMPACT

The proposed agreement would have a total not to exceed amount of $136,500,000. Of this total amount, approximately $130,500,000 are estimated pass-through payments to CAISO, and approximately $6,000,000 are payments to APX for services provided. According to Sunita Jones, SFPUC Energy Scheduling and Settlements Manager, the estimated annual CAISO payment amount of $26.1 million is based on actual expenditures for the period of October 2019 through September 2020. Energy Scheduling and Settlements Manager Jones reports that CAISO charges are volatile, and SFPUC may need to increase the not-to-exceed amount of the agreement if charges increase, subject to future Board of Supervisors approval if the contract's not to exceed amount is increased more than $500,000. The estimated costs of APX services are shown in Exhibit 1 below.

[3] According to Energy Scheduling and Settlements Manager Sunita Jones, the settlement process includes calculating the amount owed to CAISO, billing, and invoicing processes.

[4] State law requires all electric service providers, including CleanPowerSF, to maintain certain quantities of Resource Adequacy (RA) capacity to ensure sufficient electric generation resources are available on the grid to meet unusually high levels of customer demand.

Exhibit 1: Estimated Payments to APX for Services

Task	Estimated Hours	Hourly Billing Rate	Projected Cost
Submitting day-ahead and real-time interchange schedules and bids to CAISO	5,000	$220	$1,100,000
Managing communication between CAISO and SFPUC schedulers and operators, including 24/7 dispatch of the plants	5,000	220	1,100,000
Managing CAISO settlements and payments	4,200	220	924,000
Managing CAISO and CPUC Resource Adequacy requirements	180	220	39,600
Managing access to CAISO systems for meter, outage, settlement, scheduling, and bid/award data	90	220	19,800
Submit Settlement Quality Meter Data (SMQD) to CAISO on behalf of SFPUC	270	220	59,400
Total	**14,740**	**220**	**$3,242,800**

Source: Proposed Agreement

As shown above, the proposed agreement includes a budget of $3,242,800 million for APX service charges, based an hourly billing rate of $220 per hour. This is 10% more than the $200 billing rate in the current agreement with APX, which began in 2016.

The $6,000,000 not-to-exceed amount in the proposed agreement for APX services, which was specified in the RFP, is larger than projected expenditures of $3,242,800. To allow a $1 million buffer in case actual hours for each task exceed what is anticipated, or if optional services are provided, the Budget and Legislative Analyst recommends reducing the agreement amount by $1,757,200, for a total not to exceed of $134,742,800.

The agreement would be funded by SFPUC Power Enterprise revenues.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the not-to-exceed amount of the agreement by $1,757,200, for a total not to exceed $134,742,800.
2. Approve the resolution as amended.

Item 7 File 22-0133	Department: Department of Homelessness and Supportive Housing (HSH)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would: (a) authorize the Department of Homelessness and Supportive Housing (HSH) to execute a Standard Agreement with the California Department of Housing and Community Development (HCD) to receive $54,778,000 of Project Homekey grant funds for acquisition and initial operations of the property located at 1321 Mission Street for use as permanent supportive housing, (b) approve and authorize HSH to commit approximately $16,000,000 in required matching funds and five years of operating costs, (c) affirm the Planning Department's determination under the California Environmental Quality Act, and (d) adopt the Planning Department's findings of consistency with the General Plan and Planning Code.

Key Points

- In October 2021, the Board of Supervisors approved the purchase of 1321 Mission Street for $86,500,000 as a permanent supportive housing site and authorized HSH to apply for a Project Homekey grant to help fund the acquisition and operations. In December 2021, HCD notified HSH of a Homekey grant award of $54,778,000.
- 1321 Mission Street contains 160 units, of which 120 are micro studios (less than 275 square feet) and 40 are three-bedroom units. The building is in good condition and HSH does not anticipate significant improvements to convert its usage into permanent supportive housing. HSH has identified a potential operator and services provider and is negotiating an agreement.

Fiscal Impact

- The proposed resolution would approve the acceptance and expenditure of a total amount not to exceed $54,778,000 in Homekey grant funds. Of this amount, $48,190,000 would assist with the building purchase, and $6,588,000 would subsidize operations for the first five years. HSH estimates operating costs to be $3,168,000 annually for the 160-unit building, comprised of a maximum of $19,800 per unit per year.
- The estimated Proposition C funds needed for the purchase of the building and five years of operations are approximately $47,735,000.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of $10 million or more, or (3) requires a modification of more than $500,000 is subject to Board of Supervisors approval.

BACKGROUND

In November 2018, San Francisco voters approved Proposition C, a gross receipts tax to fund homeless services and housing. In July 2020, Mayor London Breed announced her Homelessness Recovery Plan, with the goal of acquiring and operating 1,500 new units of permanent supportive housing over the next two years. According to the proposed resolution, as of December 2021, the City has acquired or contracted for over 950 new units of permanent supportive housing.

In July 2020, the California Department of Housing and Community Development (HCD) announced the Homekey program, providing grants to sustain and expand housing for homeless people impacted by COVID-19. In September 2021, HCD announced a second round of Homekey grant funding.

1321 Mission Street

In January 2021, the Department of Homelessness and Supportive Housing (HSH) issued a Request for Information (RFI) to identify properties for possible acquisition as permanent supportive housing sites and received a total of 100 eligible responses, including the property located at 1321 Mission Street. The property contains 160 units, of which 120 are micro studios (less than 275 square feet) and 40 are three-bedroom units. The majority of the units were most recently master leased by the California College of the Arts and University of the Pacific for student housing. As of this writing, six units remain leased and expire between June and September 2022, although tenants may renew their leases. In addition, there are 50 units leased to formerly homeless households placed by Brilliant Corners under the City's Flexible Housing Subsidy Pool program, which provides supportive services to support people remaining stably housed. Once the student housing leases expire, the property would provide a net increase of 110 units of permanent supportive housing. In October 2021, the Board of Supervisors approved the City's acquisition of 1321 Mission Street for $86,500,000, plus an estimated $173,000 for closing costs, and authorized HSH to apply for a Homekey grant to help fund the acquisition (File 21-0967). In December 2021, HCD notified HSH of a Homekey grant award of $54,778,000.[1]

[1] The grant award is based on a maximum amount of $300,000 per unit for acquisition (if the application provides at least $100,000 per unit in matching funds) and $1,400 per unit per month for three years for operations (if the applicant commits to at least four years of operating funding).

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

1. Authorize HSH to execute a Standard Agreement with HCD for a total not-to-exceed amount of $54,778,000 in Project Homekey grant funds;
2. Accept and expend those funds for the acquisition of the property at 1321 Mission Street for permanent supportive housing and to support its operations upon execution of the Standard Agreement through June 2026;
3. Approve and authorize HSH to commit approximately $16,000,000 in required matching funds for acquisition of the property, and a minimum of five years of operating costs;
4. Affirm the Planning Department's determination under the California Environmental Quality Act (CEQA); and
5. Adopt the Planning Department's findings of consistency with the General Plan and eight priority policies of Planning Code Section 101.1.

1321 Mission Street was built in 2015 and remains in good condition, according to an inspection conducted in August 2021. HSH does not anticipate significant improvements to convert its usage into permanent supportive housing. The building also contains 3,359 square feet of ground floor commercial space, of which 1,405 square feet are vacant and 1,954 square feet are leased to a coffee shop/wine bar.[2] HSH plans to use the vacant spaces to support programming, such as offices, counseling rooms, and community spaces.

In October 2021, HSH issued a Solicitation of Information (SOI) to select operators for three permanent supportive housing sites, including 1321 Mission Street. Through the SOI process, HSH has identified a potential operator and services provider and is negotiating an agreement, which would be subject to Board of Supervisors approval if it exceeds 10 years or $10 million. Services to be provided include case management, assessment of health, mental health, and substance use treatment needs, assessment of employment and educational skills, coordination of referral and linkages to offsite services, and connection to food security resources.

FISCAL IMPACT

The proposed resolution would approve the acceptance and expenditure of a total amount not to exceed $54,778,000 in Homekey grant funds. Of this amount, $48,190,000 would assist with the building purchase, and $6,588,000 would subsidize operations for the first five years. The total grant amount includes a bonus award of $1,590,000 if the building achieves full occupancy within eight months of the award date, which HSH anticipates meeting. HSH allocated funds in the FY 2021-22 budget to cover operating costs and estimated those cost to be $3,168,000 annually for the 160-unit building, comprised of a maximum of $19,800 per unit per year, or $1,650 per unit per month for operations and services. As part of this estimated total City subsidy,

[2] The coffee shop/wine bar has been closed and has not paid rent since the initiation of the COVID-19 pandemic. The base rent for the property is $6,855 per month with a 2.5% annual escalation. After acquisition, the City will verify whether the shop owner is interested/able to resume operations.

the supportive housing services component is budgeted at $550 per unit per month or $6,600 per unit per year. Final budgeted levels are subject to final contract negotiations with the selected providers based on the unique characteristics of the building and its tenant population. Proposition C funds would be used to fund remaining expenditures once the grant amount is exhausted. The sources and uses of funds over the first five years are shown in Exhibit 1 below.

Exhibit 1: Sources and Uses of Funds over Five Years

Sources	Amount
Homekey Grant	$54,778,000
Proposition C Funds	47,735,000
Total	**$102,513,000**

Uses	Amount
Building Purchase	$86,500,000
Closing Costs	173,000
Estimated Operating Costs (5 Years)	15,840,000
Total	**$102,513,000**

The estimated Proposition C funds needed for the purchase of the building and five years of operations are approximately $47,735,000. Proposition C general housing funds to cover the City's share of the site acquisition and two years of operating expenditures are included as part of the adopted FY 2021-23 budget.

RECOMMENDATION

Approve the proposed resolution.

Item 8 **File 22-0129**	**Department:** San Francisco Municipal Transportation Agency (SFMTA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance appropriates $700,000 from the General Reserve to the SFMTA to support free parking in the Portsmouth Square Garage in February of FY 2021-22.

Key Points

- The SFMTA Board of Directors approved two hours of free parking at Portsmouth Square Parking Garage from February 5, 2022 through February 28, 2022 in commemoration of Chinese New Year. According to SFMTA, the estimated reduction in revenues due to the provision of two hours of free parking at Portsmouth Square Parking Garage is $175,000. Therefore, we recommend reducing the appropriation from $700,000 to $200,000, which would provide a buffer to cover any additional revenue reduction.

Fiscal Impact

- If the Board of Supervisors approves the $0.2 million appropriation from the General Reserve to offset the revenue loss at Portsmouth Square Garage, the General Reserve balance would be reduced from $72.1 million to $71.9 million. In addition, pending before the Board of Supervisors is an appropriation from the General Reserve of $22.4 million to fund overtime in the Fire Department and Police Department (File 22-0079), which if approved would further reduce the General Reserve balance to $49.5 million. Draws on the General Reserve in the current year require the General Reserve to be replenished by a like amount in the budget year.

Recommendations

- Amend the proposed ordinance to reduce the appropriation amount from $700,000 to $200,000.
- Approval of the proposed ordinance 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.

BACKGROUND

Portsmouth Square Parking Garage is a public parking garage located at 733 Kearney Street in Chinatown and owned by the San Francisco Municipal Transportation Agency (SFMTA). The garage is operated under an agreement between SFMTA and IMCO Parking, LLC. The parking garage has 456 vehicle parking spaces and is open daily from 5:00 am to midnight. Parking fees consist of an hourly rate of $4 prior to 5 pm and a maximum evening rate after 5 pm of $8. The parking garage also offers monthly rates and special event rates.

The SFMTA Board of Directors approved two hours of free parking at Portsmouth Square Parking Garage from February 5, 2022 through February 28, 2022 in commemoration of Chinese New Year.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance appropriates $700,000 from the General Reserve to the SFMTA to support free parking in the Portsmouth Square Garage in February of FY 2021-22.

FISCAL IMPACT

According to SFMTA, estimated reduction in revenues due to the provision of two hours of free parking at Portsmouth Square Parking Garage is $$175,000. Therefore, we recommend reducing the appropriation from $700,000 to $200,000, which would provide a buffer to cover any additional revenue reduction.

POLICY CONSIDERATION

General Reserve

Administrative Code Section 10.60 requires the City to budget a General Reserve of at least 3.0 percent of General Fund revenues to address revenue weakness, excess spending, or other needs not anticipated during the annual budget process. The balance requirement is reduced to 1.5 percent of General Fund revenues if the City withdraws from the Rainy Day Reserve and then increases 0.25 percent per year until the 3.0 percent balance requirement is full restored. According to the Controller's FY 2021-22 Six-Month Budget Status Report, the projected ending balance for the FY 2021-22 General Reserve is $72.1 million, including a required $3.1 million deposit during the year and uses of $9.4 million for previously approved supplemental appropriations.[1]

If the Board of Supervisors approves the $0.2 million appropriation from the General Reserve to offset the revenue loss at Portsmouth Square Garage, the General Reserve balance would be reduced to $71.9 million. In addition, pending before the Board of Supervisors is an appropriation from the General Reserve of $22.4 million to fund overtime in the Fire Department and Police Department (File 22-0079), which if approved would further reduce the General Reserve balance to $49.5 million. Draws on the General Reserve in the current year require the General Reserve to be replenished by a like amount in the budget year.

RECOMMENDATIONS

- Amend the proposed ordinance to reduce the appropriation amount from $700,000 to $200,000.
- Approval of the proposed ordinance as amended is a policy matter for the Board of Supervisors.

[1] The Board of Supervisors approved two supplemental appropriations using $9.4 million of the General Reserve for paramedic staffing and election expenses (Files 21-1173 and 21-1174).

Item 9 **File 21-1292**	**Department:** Public Works

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would: (a) amend the Public Works Code to regulate street vending, require permits for vending, and authorize permit fees and enforcement actions; (b) amend provisions of the Administrative, Business and Tax Regulations, Park, and Police Codes to conform with those amendments; (c) amend the Port Code to merge its permit program with the Public Works permit program; (d) repeal reporting provisions from the Health Code; and (e) adopt findings under the California Environmental Quality Act.

Key Points

- In 2018, the California Legislature adopted Senate Bill 946 (SB 946), which decriminalized and limited local regulation of sidewalk vending to promote entrepreneurship and support immigrant and low-income communities. SB 946 stipulates that restrictions on sidewalk vending must have a direct relationship to "objective health, safety, or welfare concerns." SB 946 also prohibits criminal penalties for violations of vending regulations and sets maximum amounts for administrative fines.
- Street and sidewalk vending is unregulated in most areas of the City. In 2021, the Port established a regulatory program for street vendors in areas under the Port's jurisdiction, but this program does not apply to other areas of the City.

Fiscal Impact

- Public Works staff estimates that they would require 13.8 new full-time equivalent (FTE) positions to implement the proposed street vending regulations, including issuing permits, conducting outreach, and conducting inspections and enforcement activities. Estimated salary and benefit costs are $2.15 million; the Department would incur additional costs for space, workstations, and other costs. The actual staff needs and costs are not yet known and would depend on the number of street vendor permits and associated workload to issue permits and enforce compliance. Actual program staffing and costs are subject to Board of Supervisors appropriation approval.
- Under the proposed ordinance, Public Works would establish permitting fees based on the reasonable regulatory costs for administrative enforcement and adjudication.

Policy Consideration

- The proposed ordinance would establish a civilian enforcement program to regulate street vendors in the City to maintain public health, safety, and welfare in public spaces. Enforcement efforts to keep unpermitted vendors clear may require a continued enforcement presence and significant staff resources.

Recommendation

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

MANDATE STATEMENT

City Charter Section 2.105 states that all legislative acts shall be by ordinance, approved by a majority of the members of the Board of Supervisors.

BACKGROUND

Under state law, a sidewalk vendor is someone who sells food or merchandise on a "public sidewalk or other pedestrian path" from a pushcart, stand, or "other nonmotorized conveyance."[1] In 2018, the California Legislature adopted Senate Bill 946 (SB 946), which decriminalized and limited local regulation of sidewalk vending to promote entrepreneurship and support immigrant and low-income communities. SB 946 established standards for local sidewalk vendor regulations, including but not limited to restrictions on hours of operations, certain location restrictions, and compliance with disability access standards. Further, SB 946 stipulates that restrictions on sidewalk vending must have a direct relationship to "objective health, safety, or welfare concerns" and prohibits criminal penalties for violations of vending regulations and sets maximum amounts for administrative fines. Local vending regulations must also allow violators to pay a lower fine if they can demonstrate a lack of ability to pay the maximum fines.

Existing Regulations for Street Vendors

Street and sidewalk vending is unregulated in most areas of the City. The Department of Public Works is responsible for regulating mobile food facilities but does not regulate stationary vendors or roaming vendors. In 2021, the Port established a regulatory program for street vendors in areas under the Port's jurisdiction (described below), but this program does not apply to other areas of the City.

Regulation of Street and Sidewalk Vending on Port Property

In July 2021, the Board of Supervisors approved Ordinance 118-21 which amended the Port Code to regulate street and sidewalk vending, require permits, and authorize permit fees and enforcement actions within the jurisdiction of the Port (File 21-0566). The Ordinance also repealed peddler regulations in the Police Code to comply with SB 946.

According to a January 2022 staff memo to the Port Commission, the Port's pilot sidewalk vending program began on October 14, 2021 in accordance with the Ordinance and administrative regulations adopted by the Port Commission. As of January 5, 2022, the Port had issued 37 vending permits and 8 notices of violations, all to unpermitted vendors. According to Mike Martin, Assistant Port Director, the Port does not have any full-time staff dedicated to the program but instead has a range of employees (e.g., property managers, wharfingers, security manager, maintenance staff) billing time to the program. As of February 23, 2022, the Port's expenditures to date for salaries and benefits and materials and supplies to support the program

[1] California Government Code Section 51036.

were approximately $52,000. This amount does not include work order costs with other agencies that have supported enforcement initiatives or the cost of a $50,000 contract with Mission Economic Development Agency to conduct education and outreach for the program and provide technical assistance to vendors applying for permits through December 2021.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would:

- amend the Public Works Code to regulate vending, require permits for vending, and authorize permit fees and enforcement actions;
- amend provisions of the Administrative, Business and Tax Regulations, Park, and Police Codes to conform with those amendments;
- amend the Port Code to merge its permit program with the Public Works permit program;
- repeal reporting provisions from the Health Code; and
- adopt findings under the California Environmental Quality Act.

Permit Requirements for Street Vendors

Under the proposed ordinance, street vendors are required to obtain either a Roaming Vendor permit or a Stationary Vendor permit from Public Works to sell food and/or merchandise on City property, including a public right-of-way or any other street, sidewalk, alley, walkway, or pedestrian path. Vendors using an energy source, such as propane, must obtain approval from the Fire Marshal, and vendors selling food must obtain a permit to operate a food facility from the Department of Public Health. Separate fees may apply and be payable to the Fire Marshal and the Department of Public Health.

In addition, applicants must attest that they procured the food or merchandize through legal means and that they will maintain proof of ownership or authorization to sell to be provided upon request.

The proposed ordinance also establishes an annual permit renewal process and appeals process for applicants that have had their application denied

Permit Fees

The proposed ordinance stipulates that Public Works shall establish permitting fees based on the reasonable regulatory costs for administrative enforcement and adjudication. The ordinance also authorizes Public Works to establish permit fee waivers for vendors experiencing economic hardship and vendors that are nonprofit corporations exempt from federal taxation.

Exemptions

The following vending activities are exempt from the ordinance:

- Food products sold as part of a fundraiser by a non-profit entity;
- The operation of or sales within a Certified Farmers' Market or permitted Swap Meet
- Operation of mobile food facilities, which are separately permitted and regulated by Public Works;

- The sale of an art or craft regulated under Article 24 (Regulating Street Artists) of the Police Code;
- Vending on City property regulated by Article 7 of the Park Code except United Nations Plaza and Hallidie Plaza;
- Vending within areas permitted under Article 6 (Interdepartmental Staff Committee on Traffic and Transportation) of the Transportation Code

Vending Restrictions

The proposed ordinance prohibits vending within the immediate vicinity of a permitted Certified Farmers' Market, a permitted Swap Meet, or a temporary special permit[2] without written approval from the Public Works Director. The proposed ordinance also prohibits vending at United Nations Plaza except for approved sellers associated with a permitted Certified Farmers' Market, or Hallidie Plaza unless the Public Works Director, in consultation with the General Manager of the Recreation and Park Department or their designee finds that issuance of such a permit would not undermine public health, safety, or welfare.

Authorization of Rules and Regulations

The proposed ordinance authorizes Public Works to adopt rules and regulations related to the administration and enforcement of the permitting program. Rules and Regulations adopted before August 31, 2022 are subject to disapproval of the Board of Supervisors. Rules and Regulations adopted on or after September 1, 2022 are subject to approval by the Public Works Commission.

Good Neighbor Policies

The proposed ordinance requires vendors to adhere to good neighbor policies, such as requirements to maintain the cleanliness of the area and to contain noise and odors.

Outreach and Education

The ordinance requires Public Works to conduct outreach and education on the permitting program that is accessible to all vendors, including vendors with limited business experience and limited English proficiency in advance of any enforcement efforts.

Enforcement

The proposed ordinance outlines enforcement methods for non-compliance including administrative fines and impoundment of vending equipment. Violators that meet ability-to-pay criteria would receive reduced fines consistent with SB 946. A violation by a vendor who holds a valid permit will be punishable by an administrative citation in the following amounts:

- $100 for a first violation
- $200 for a second violation

[2] Permits issued by the City that authorize the temporary use of public areas, such as a special event permit.

- $500 for each additional violation, and permit revocation for a fourth violation, within a year of the first violation

A person who is vending without a valid permit is punishable by an administrative citation in the following amounts:

- $250 for a first violation
- $500 for a second violation
- $1,000 for each additional violation within a year of the first violation

Ultimately, an enforcement official may order a vendor to stop vending and remove and impound vending equipment if the vendor constitutes a safety hazard or if the vendor is unpermitted and fails to comply with prior enforcement efforts.

Reporting Requirements

Public Works would be required to report to the Board of Supervisors on implementation of the permitting program, including permitting, enforcement, and outreach activities and outcomes, annually for the first three years and every three years thereafter.

Sunset of Port Program

The proposed ordinance amends the Port Code to sunset the Port's permitting program for street vendors once the Public Works program is operational and permits previously issued by the Port have expired.

FISCAL IMPACT

The Public Works Department would require additional staff resources to implement the proposed street vending regulations, including staff to issue permits, conduct outreach, and conduct inspections and enforcement activities. Public Works staff estimates that they would require 13.8 new full-time equivalent (FTE) positions. These 13.8 FTE positions have estimated salary and benefit costs of $2.15 million based on FY 2021-22 salaries and benefits, as shown in Exhibit 1 below. The Department would incur additional costs for space, workstations, and other costs for 13.8 new positions. The actual staff needs are not yet known and would depend on the number of street vendor permits and associated workload to issue permits and enforce compliance.

Exhibit 1: Public Works Staffing Estimates for Proposed Program

Position Classification	FTE	Salaries & Benefits [a]
Permits		
1823 Senior Administrative Analyst	1.0	$185,450
1822 Administrative Analyst	2.0	322,256
1820 Junior Administrative Analyst	2.0	253,139
1314 Public Relations Officer	1.0	187,576
Subtotal Permits	*6.0*	*$948,421*
Inspections		
1822 Administrative Analyst	1.5	$241,692
6232 Street Inspection Supervisor	0.3	48,294
6231 Senior Street Inspector	1.0	169,831
6230 Street Inspector	5.0	745,794
Subtotal Inspections	*7.8*	*$1,205,611*
Total	**13.8**	**$2,154,032**

Source: Public Works and FY 2021-22 Annual Salary Ordinance

[a] Based on FY 2021-22 salaries and benefits

The estimates assume Public Works staff would conduct proactive enforcement activities, rather than complaint driven enforcement consistent with the proposed ordinance. Public Works did not provide estimates of workload, including the number permits and inspections and the time to conduct those activities, so we could not evaluate the reasonableness of these estimated staffing needs. Actual program staffing and costs are subject to Board of Supervisors appropriation approval. We will review staffing for the proposed program during our review of the Mayor’s proposed budget for FY 2022-23 and FY 2023-24.

Under the proposed ordinance, Public Works would establish permitting fees based on the reasonable regulatory costs for administrative enforcement and adjudication, as noted above. The challenge in setting permit fees is the uncertainty around how many vendors will apply for and be granted permits. Permit fees that are too low may not cover the City’s regulatory costs and fees that are too high may create barriers for vendors who may otherwise wish to comply with City regulations.

POLICY CONSIDERATION

The proposed ordinance would establish a civilian enforcement program to regulate street vendors in the City to maintain public health, safety, and welfare in public spaces. In particular, the proposed ordinance states that unregulated vending at United Nations Plaza contributes to criminal activity and congestion at United Nations Plaza. However, the impact of street vendor regulations on deterring criminal activity is not known. Further, enforcement efforts to keep unpermitted vendors clear may require a continued enforcement presence and significant staff resources. According to a January 2022 staff memo to the Port Commission, Port staff found that enforcement efforts related to the Port's sidewalk vending program were staff intensive and most effective when coordinated with law enforcement. Port staff also found that unpermitted vendors often returned to a location after enforcement efforts ended.

RECOMMENDATION

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