CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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September 23, 2022

TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: September 28, 2022 Budget and Finance Committee Meeting

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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution authorizes the Director of Property, on behalf of the Sheriff's Department, to amend the City's lease with 120 14th Street LLC. The amendment extends the term of the lease an additional five years to June 2027 and allows one additional five-year option to extend the lease through June 2032.

Key Points

- The Sheriff's Office plans to continue to use the building as the primary headquarters for the Sheriff's Department's Field Operations Division including use as the Sheriff's Office Emergency Operation Center (EOC) and training.
- The City, on behalf of the Sheriff's Department, has leased space at 1740 Folsom Street (also known as 120 14th Street) since 2002. According to the Director of Real Estate, the landlord did not want to include an option to purchase in the new lease. The Real Estate Division did not look for alternative properties to buy because no funds for a purchase and associated move costs have been identified either in the Capital Plan or by the Sheriff. The Sheriff's Office indicated it would be open to moving if a new space had sufficient parking available, given its use of the current site as a training and emergency operations facility.

Fiscal Impact

- The proposed starting base rent of $1,030,431 is $22,069 or 2.2 percent more than the current base rent of $1,008,456. Total base rent and operating expenses are projected to cost $5.8 million over the initial five-year term. Costs are paid by the General Fund. The proposed rent was confirmed by an appraisal.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

Administrative Code Section 23.27 states that the Board of Supervisors shall approve all leases on behalf of the City as tenant by resolution for which the term is longer than a year and costs over $15,000 per month.

BACKGROUND

Current Lease

The City, on behalf of the Sheriff's Department, has leased space at 1740 Folsom Street (also known as 120 14th Street) since 2002. The original 10-year lease was approved by the Board of Supervisors in 2002 and included two five-year extension options, which were exercised in 2012 (File 12-0038) and 2017 (File 17-0064). The existing lease expired on June 30, 2022 and is currently on holdover status. The Sheriff's Office now desires to extend the lease for an additional five years through June 2027.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution authorizes the Director of Property, on behalf of the Sheriff's Office, to amend the City's lease with 120 14th Street LLC. The amendment extends the term of the lease an additional five years to June 2027 and allows one additional five-year option to extend the lease through June 2032, with an adjusted base rent starting at 95 percent of the prevailing rent for similar properties.

Provisions of the Lease

Exhibit 1 below provides an overview of the terms of the proposed lease agreement.

Exhibit 1: Proposed Lease Terms

Premises	Entire property of 1740 Folsom Street and the contiguous parking lot known as 120 14th Street
Rental area	18,862 square feet
Base rent	$54.63 per square foot per year ($1,030,431 annually); reset to 95% of market rate if option to extend is exercised
Base rent adjustments	Three percent annually
Term	July 1, 2022 - June 30, 2027
Options to Extend	One five-year extension
Utility costs	Paid by City
Janitorial Services	Paid by landlord

Source: Proposed Lease Amendment

Services Provided by Landlord

Landlord would provide building maintenance, repair, and janitorial services. Any additional services requested and approved by the City may be provided by the Landlord for an additional charge plus a three percent administrative fee.

Site Appraisal

The Real Estate Division obtained an appraisal from Colliers International Valuation & Advisory Services which determined that the proposed rent of $54.63 per square foot per year was consistent with fair market rent as of December 16, 2021. The appraisal is based on a market-rent survey.

Site Use

The Sheriff's Office plans to continue to use the building as the primary headquarters for: (i) the Sheriff's Department's Field Operations Division including use as the Sheriff's Office Emergency Operation Center (EOC), (ii) training classrooms for State-mandated annual training to members of the Sheriff's Department, (iii) office space for the Sheriff's Office Background Unit, Warrant Service Unit, and Emergency Services Unit, & Projects and Planning Division, and (iv) the Survivor Restoration Project, which provides services to victims and families of victims of domestic violence. The premises includes cubicles and offices, conference rooms, a kitchen, 29 parking spaces, and locker rooms.

The Field Operations Division conducts all administrative functions related to the daily operation of field units including operations for building security of the Superior Court, City Hall, Adult Probation, and others City buildings. The Division also includes the Homeland Security Unit, the Transportation Unit, and the Warrant Service Unit. The Warrant Service unit is charged with fugitive recovery and apprehension for persons with active warrants. The Projects and Planning Division is responsible for coordinating all services for the Sheriff's operations including Information and Technology Services, Communications, Facility Maintenance and Capital Planning, Professional Standards audits, and state mandated reporting. The Background Unit conducts investigations for prospective staff including all sworn and civilian staff, jail clearances and fingerprinting of staff and volunteers conducting services at all County jail facilities.

The Sheriff's Office has 40 staff permanently assigned to this site. According to information provided by the Sheriff's Office, on average, 40-75 staff may be present at the site due to various events and trainings. Our office evaluated the layout and site uses and believe the space use is reasonable.

Long Term Lease

As noted above, the City has leased this site since 2002. According to the Director of Real Estate, the landlord did not want to include an option to purchase in the new lease. The Real Estate Division did not look for alternative properties to buy because no funds for a purchase and associated move costs have been identified either in the Capital Plan or by the Sheriff. The Sheriff's Office indicated it would be open to moving if a new space had sufficient parking available, given its use of the current site as a training and emergency operations facility.

FISCAL IMPACT

The proposed resolution authorizes the lease of 1740 Folsom Street for a base rent of $1,030,431 annually, or $54.63 per square foot per year. Exhibit 2 below shows a breakdown of the rent and associated costs with the lease.

Exhibit 2: Annual Base Rent and Operating Costs

Item	Cost
Base Rent	$1,030,431
Utilities	$37,704
Backup Generator	$15,600
Security System	$7,200
Total	**$1,090,935**

Source: Sheriff's Office

The proposed starting base rent of $1,030,431 is $22,069 or 2.2 percent more than the current base rent of $1,008,456. Total base rent and operating expenses are projected to cost $5.8 million over the initial five-year term. Costs are paid by the General Fund.

RECOMMENDATION

Approve the proposed resolution.

Item 2 **File 22-0919** *(Continued from 9/21/22)*	**Department:** Department of Public Health (DPH)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a new contract between Toyon Associates, Inc. and the Department of Public Health (DPH) in an amount not to exceed $8,492,339 for a total term of October 1, 2022 through September 30, 2027.

Key Points

- Under the competitively procured contract, Toyon provides financial reimbursement, regulatory reporting, and revenue optimization consulting services for Zuckerberg San Francisco General Hospital/Community Primary Care (ZSFGH/CPC), Laguna Honda Hospital (LHH), and Health at Home Agency (HAH). Costs are based on either hourly rates or a percentage of realized revenue, depending on the service.

Fiscal Impact

- The maximum amount DPH will pay to Toyon is $8,492,339. The total maximum amount to be paid by DPH to Toyon for the fee for service revenue reimbursements over the five years of the contract is $3,831,100 for ZSFGH/CPC, $1,222,720 for LHH, and $153,625 for HAH.
- The total maximum amount to be paid by DPH to Toyon for appealing cost audits on a contingency basis over the five years of the contract is $1,875,000 for ZSFGH/CPC and $500,000 for LHH. This is paid to Toyon contingent on the outcome of the appeals pertaining to Medicare and Medi-Cal report audits for ZSFGH/CPC and LHH. The contract also provides for a 12 percent contingency to allow for contingent fees exceeding the above amounts if Toyon collects additional Medi-Cal or Medicare revenue.
- The total contract budget will increase by 14.4 percent from $1.4 million in FY 2021-22 to $1.6 million in FY 2022-23 due largely to an increase of approximately 41 percent for “Fee for Service” services offset by a reduction in the Contingent Fee.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

On January 11, 2022, the Department of Public Health (DPH) issued a new Request for Proposals (RFP) for a contract to provide regulatory reporting, financial reimbursement and revenue optimization consulting services for Medi-Cal and Medicare programs. Toyon Associates Inc. (Toyon) was the only vendor who submitted a proposal. In February 2022, a DPH selection panel[1] evaluated the proposal based on relevant health care professional experience, qualifications, proposed scope of work, and proposed budget. Toyon, the existing vendor to DPH, received a score of 94 out of 100. On February 28, 2022, DPH determined that Toyon met solicitation requirements and was awarded the contract for a maximum term of up to five years.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a new contract between Toyon Associates, Inc. and DPH in an amount not to exceed $8,492,339 for a total term of October 1, 2022 through September 30, 2027. The proposed resolution would also allow DPH to enter into any contract amendments or modifications prior to its final execution between the Department and the vendor that do not increase the obligations or liabilities to the City.

The proposed resolution was amended at the September 21, 2022 Budget & Finance Committee meeting to increase the not to exceed amount from $6,714,115 to $8,492,339 to account for the fifth year of the contract.

Services Provided

Under the proposed contract, Toyon provides financial reimbursement, regulatory reporting, and revenue optimization consulting services for Zuckerberg San Francisco General

[1] Selection panelists include the following DPH staff: Cash Management Manager, Patient Accounting Director, Director of Managed Care, Acting Reimbursement Manager and Zuckerberg San Francisco General Hospital Budget Director.

Hospital/Community Primary Care[2] (ZSFGH/CPC), Laguna Honda Hospital (LHH), and Health at Home Agency (HAH)[3] through the following payment mechanisms:

1. **Fee for Service[4]**: This includes Toyon's review and filing of required regulatory reports with federal and state agencies to maximize revenue reimbursements to the City from Medicare and Medi-Cal programs with ZSFGH/CPC, LHH, and HAH on a fee for service basis. This also includes the preparation and filing of Medicare and Medi-Cal cost report appeals[5] for ZSFGH/CPC and LHH to be paid on a fee for service basis.
2. **Contingent Fee[6]**: This includes Toyon filing appeals pertaining to Medicare and Medi-Cal report audits for ZSFGH/CPC and LHH on behalf of DPH, paid to Toyon contingent on the outcome of the appeal. Toyon receives 15 percent of Medicare or Medi-Cal revenues generated from successful appeals if services were delivered by DPH on or after April 1, 2014, or 20 percent if services were delivered prior to April 1, 2014, with DPH receiving 80 to 85 percent of recovered revenues (depending on the service delivery date).

Performance Monitoring

According to Appendix A of the proposed contract, two performance measures will be tracked and monitored annually: (1) file federal and state financial reports on time, and (2) resolve federal and state audits with no significant findings. Metrics collected for these measures include the number of reports filed on time and total number of reports, as well as the number of audits without significant findings and the total number of audits.

FISCAL IMPACT

As shown in Exhibit 1 below, the maximum contact amount paid by DPH to Toyon from October 1, 2022 through September 30, 2027 is $8,492,339. The total maximum amount to be paid by DPH to Toyon for the fee for service revenue reimbursements over the five years of the contract is $3,831,100 for ZSFGH/CPC, $1,222,720 for LHH, and $153,625 for HAH.

The total maximum amount to be paid by DPH to Toyon for appealing cost audits on a contingency basis over the five years of the contract is $1,875,000 for ZSFGH/CPC and $500,000 for LHH. As previously mentioned, this is paid to Toyon contingent on the outcome of the appeals pertaining to Medicare and Medi-Cal report audits for ZSFGH/CPC and LHH. Also, as noted below,

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[2] Community Primary Care (CPC) is the clinical service of the San Francisco Health Network comprised of community-based primary care health centers.

[3] Health at Home is an agency that provides care and support to individuals in San Francisco who are homebound and require skilled medical and rehabilitative care. Home Health services include physical therapy, occupational therapy, home health aide, etc.

[4] "Fee for service" entails services being performed at an hourly rate by level of staff, specific tasks, and number of hours.

[5] This entails developing and researching issues and developing documentation on viable Medicare and Medi-Cal appeals related to open cost report settlements to recover entitled reimbursement funds through the appeal process.

[6] In contrast to an hourly fee, a "contingent fee" is a form of payment in which the vendor will receive a percentage of the Medicare or Medi-Cal revenues received by DPH when they win and/or settle Medicare and Medi-Cal appeals.

the contract provides for a 12 percent contingency to allow for contingent fees exceeding the above amounts if Toyon collects additional Medi-Cal or Medicare revenue.

Exhibit 1. Maximum DPH Payment to Toyon from October 1, 2022 to September 30, 2027

	10/1/22 – 9/30/23	10/1/23 – 9/30/24	10/1/24 – 9/30/25	10/1/25 – 9/30/26	10/1/26 – 9/30/27	Total ($)
Zuckerberg San Francisco General Hospital/Community Primary Care						
Fee for Service	$716,050	$740,775	$766,100	$791,425	$816,750	$3,831,100
Contingent Fee	375,000	375,000	375,000	375,000	375,000	1,875,000
12% Contingency	130,926	133,893	136,932	139,971	143,010	684,732
Subtotal	*$1,221,976*	*$1,249,668*	*$1,278,032*	*$1,306,396*	*$1,334,760*	*$6,390,832*
Laguna Honda Hospital						
Fee for Service	$227,350	$235,410	$243,640	$253,320	$263,000	$1,222,720
Contingent Fee	100,000	100,000	100,000	100,000	100,000	500,000
12% Contingency	39,282	40,249	41,237	42,398	43,560	206,726
Subtotal	*$366,632*	*$375,659*	*$384,877*	*$395,718*	*$406,560*	*$1,929,446*
Health at Home Agency						
Fee for Service	$28,515	$29,605	$30,720	$31,835	$32,950	$153,625
Contingent Fee	0	0	0	0	0	0
12% Contingency	3,422	3,553	3,686	3,820	3,954	18,435
Subtotal	*$31,937*	*$33,158*	*$34,406*	*$35,655*	*$36,904*	*$172,060*
Total Maximum Payments						
Fee for Service	$971,915	$1,005,790	$1,040,460	$1,076,580	$1,112,700	$5,207,445
Contingent Fee	475,000	475,000	475,000	475,000	475,000	2,375,000
12% Contingency	173,630	177,695	181,855	186,190	190,524	909,894
Total	**$1,620,545**	**$1,658,485**	**$1,697,315**	**$1,737,770**	**$1,778,224**	**$8,492,339**

Source: Appendix B of Proposed Contract

According to DPH Reimbursement Director Matthew Sur, the "Fee for Service" expenditures were determined by increasing the hourly rates by an average of approximately four to five percent annually from the existing contract with Toyon. The number of hours for staff were estimated based on historical data, along with expected workload projections. The "Fee for Service" expenditures also include $90,000 in annual expenses for ZSFGH/CPC, $5,000 in annual expenses for LHH, and $1,000 in annual expenses for HAH. These expenses include travel, postage, ordered reports, cost report/Office of Statewide Health Planning and Development (OSHPD) related software, and eligibility lookup fees and procurement of cyber insurance for all facilities.[7]

[7] According to Appendix B of the proposed contract, the City shall contribute 50 percent of the additional five million in excess cyber insurance coverage above $10 million (total $15 million coverage). Total cost shall not exceed $50,000 annually.

According to DPH Reimbursement Director Sur, a 12 percent contingency is also included per DPH's policy for contracts and represents a portion of the approved spending authority in case the Department must procure additional services allowable under the Request for Proposal or pay an additional amount based on contingent fee if the vendor collects additional revenue above the maximum contractually allowable amount. The funding source for the proposed contract and 12 percent contingency amount is the General Fund.

Change in Contract Costs

The total contract budget will increase by 14.4 percent from $1.4 million in FY 2021-22 to $1.6 million in FY 2022-23, as shown in Exhibit 2 below, due largely to an increase of approximately 41 percent for "Fee for Service" services offset by a reduction in the Contingent Fee. The proposed contract shows cost increases of approximately 23 percent for ZSFGH and 37 percent for LHH, and a decrease of 79 percent for HAH, summarized below in Exhibit 2 below.

Exhibit 2. Current and Proposed Contract Costs

	Current Budget (10/1/21 – 9/30/22)	**Proposed Year 1 Budget (10/1/22 – 9/30/23)**	**$ Change**	**% Change**
Zuckerberg San Francisco General Hospital/Community Primary Care				
Fee for Service	$512,830	$716,050	$203,220	39.63%
Contingent Fee	375,000	375,000	0	0.00%
12% Contingency	106,540	130,926	24,386	22.89%
Subtotal	*$994,370*	*$1,221,976*	*$227,606*	*22.89%*
Laguna Honda Hospital				
Fee for Service	$138,170	$227,350	$89,180	64.54%
Contingent Fee	100,000	100,000	0	0.00%
12% Contingency	28,580	39,282	10,702	37.44%
Subtotal	*$266,750*	*$366,632*	*$99,882*	*37.44%*
Health at Home Agency				
Fee for Service	$38,710	$28,515	$(10,195)	-26.34%
Contingent Fee	100,000	0	*$(100,000)*	-100.00%
12% Contingency	16,645	3,422	(13,223)	-79.44%
Subtotal	*$155,355*	*$31,937*	*$(123,418)*	*-79.44%*
Total Maximum Payments				
Fee for Service	$689,710	$971,915	$282,205	40.92%
Contingent Fee	575,000	475,000	(100,000)	-17.39%
12% Contingency	151,765	173,630	21,865	14.41%
Total	**$1,416,475**	**$1,620,545**	**$204,070**	**14.41%**

Source: Appendix B of Current and Proposed Contracts

According to DPH Reimbursement Director Sur, the increase in "Fee for Service" expenditures for ZSFGH/CPC and LHH reflect the actual utilization of services in 2021, as well as hourly rate increases by an average of approximately four to five percent annually. In addition, according to DPH Reimbursement Director Sur, in 2016, the Centers for Medicare and Medicaid Services changed policy on how to calculate payments for Medicare Disproportionate Share Hospitals (DSH).[8] Calendar Year 2018 was the first year when hospitals were required to identify the specific services provided to low-income individuals. Because of this change, DPH Reimbursement Director Sur stated that the number of hours the vendor spent on both cost report filing and audits increased. DPH Reimbursement Director Sur noted that the increase in "Fee for Service" proposed expenditures for LHH is also because of the transition in August 2019 to a new electronic medical records system, which impacted the amount of time needed for the vendor to complete quarterly contractual allowance reviews.[9]

Actual Expenditures and Revenues of Current Contract

From April 2014 through July 2022 of the current contract,[10] DPH paid Toyon a total of $5,239,926 for financial reimbursement, regulatory reporting, and revenue optimization consulting services on a fee for service and contingent fee basis for ZSFGH/CPC, LHH, and HAH. According to DPH Reimbursement Director Sur, from FY 2015-16 through FY 2021-22, Toyon's work on appealing cost audits generated a total of approximately $20,893,907 in recovered reimbursement funds from ZSFGH and LHH, as shown in the Appendix below.

RECOMMENDATION

Approve the proposed resolution.

[8] Disproportionate Share Hospitals are defined to be hospitals that serve a significantly disproportionate number of low-income patients and receive payments from the Centers for Medicaid and Medicare Services to cover the costs of providing care to uninsured patients.
[9] These reviews involve assessment of the adequacy of contractual allowance reserves and cost report settlements recorded on the general ledger for financial reporting purposes
[10] File 18-1073 with a contract term of April 1, 2014 through March 31, 2022. A third amendment was approved March 8, 2022 for a no-cost extension from April 1, 2022 to September 30, 2022.

Appendix: Actual Revenues Generated by Toyon Contract from FY 2015 – 22[11]

Fiscal Year	End Date of Fiscal Year Audited[12]	MediCare NPR) Date[13]	Facility	Audit on Fee for Service Basis[14]	Revenues Generated from Appeals Paid on Fee for Service Basis[15]	Revenues Generated from Appeals Paid on Contingency Basis[16]	Total Revenue Generated
FY15-16	6/30/2003	2/6/2015	ZSFGH	$0	$3,034,550	$0	$3,034,550
Y15-16	6/30/2002	9/1/2015	ZSFGH	0	314,789	0	314,789
		Subtotal		*$0*	*$3,349,339*	*$0*	*$3,349,339*
FY16-17	6/30/2007	2/24/2016	ZSFGH	$3,141,860	$0	$0	$3,141,860
FY16-17	6/30/2006	6/20/2016	ZSFGH	1,907,704	0	0	1,907,704
FY16-17	6/30/2006	7/27/2016	ZSFGH	0	197,111	0	197,111
FY16-17	6/30/2008	12/22/2016	ZSFGH	3,076,612	0	0	3,076,612
FY16-17	6/30/2001	2/15/2017	ZSFGH	0	0	4,340	4,340
FY16-17	6/30/1999	4/27/2017	ZSFGH	0	0	4,440	4,440
		Subtotal		*$8,126,176*	*$197,111*	*$8,780*	*$8,332,067*
FY17-18	6/30/2009	12/6/2017	ZSFGH	$715,208	$0	$0	$715,208
FY17-18	6/30/2007	6/8/2018	ZSFGH	0	32,196	0	32,196
FY17-18	6/30/2010	6/11/2018	ZSFGH	852,961	0	0	852,961
FY17-18	1999-2011	10/14/2015	LHH	0	0	31,009	31,009
		Subtotal		*$1,568,169*	*$32,196*	*$31,009*	*$1,631,374*
FY18-19	6/30/2011	7/24/2018	ZSFGH	$2,217,416	$0	$0	$2,217,416
FY18-19	6/30/2008	3/12/2019	ZSFGH	0	79,529	0	79,529
FY18-19	6/30/2012	3/21/2019	ZSFGH	3,646,443	0	0	3,646,443
		Subtotal		*$5,863,859*	*$79,529*	*$0*	*$5,943,388*
FY19-20	6/30/2010	3/16/2020	ZSFGH	$0	$516,760	$0	$516,760
FY19-20	6/30/2011	3/16/2020	ZSFGH	0	438,146	0	438,146
		Subtotal		*$0*	*$954,906*	*$0*	*$954,906*
FY20-21	6/30/2012	4/20/2021	ZSFGH	$0	$25,386	$0	$25,386
		Subtotal		*$0*	*$25,386*	*$0*	*$25,386*
FY21-22	6/30/2008	9/30/2021	ZSFGH	$0	$16,250	$0	$16,250
FY21-22	6/30/2015	5/31/2022	ZSFGH	641,197			641,197
		Grand Total		**$16,199,401**	**$4,654,717**	**$39,789**	**$20,893,907**

Source: DPH

[11] There were no settlements in FY 2014-15.
[12] This is the Fiscal Year in which the revenues realized were generated.
[13] The Medicare Notice of Payment Reimbursement (NPR) is the date that DPH was notified by Centers for Medicare & Medicaid Services that they would be reimbursed the amount shown.
[14] Medicare and Medi-Cal revenues received by DPH because of Toyon's audit work and paid to Toyon on a fee-for-service basis.
[15] Medicare and Medi-Cal revenues received by DPH because of Toyon's work in preparing and filing appeals and paid to Toyon on a fee-for-service basis.
[16] This is the Medicare and Medi-Cal revenues received by DPH because of Toyon's work in preparing and filing appeals, paid to Toyon on contingency basis as a percentage of revenues realized (percentage is either 15 percent if services were delivered by DPH on or after April 1, 2014 or 20 percent if services were delivered prior to April 1, 2014).

Item 6 **File 22-0790**	**Department:** Department of Technology

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves the first amendment to the contract between the Department of Technology (DT) and Cellco Partnerships (Verizon Wireless) for wireless telecommunications services, to extend the contract term from May 2023 to June 2027, with options to renew through June 2030, and to increase the not to exceed amount from $9.5 million to $30,626,500.

Key Points

- The CALNET Program is managed by the State of California and provides competitively bid IT and cellular communications services contracts that are available to local government entities. In 2020, the Department of Technology entered into a CALNET agreement with Cellco Partnerships (Verizon Wireless) for a not-to-exceed amount of $9.5 million from June 1, 2020 through May 22, 2023. The contract with Verizon is one of five similar contracts with other telecommunications providers in the City, including AT&T, T-Mobile, and Sprint. Total annual spending for the City's cell service in FY 2021-22 was $9.6 million.
- According to DT, the total number of employees across all departments (excluding Airport staff) using a City-issued cellular device from the portfolio of five carriers has increased from 13,643 in January 2020 to 18,353 in June 2022 due to the expansion of remote work. Current contract spending of approximately $4 million per year has exceeded initial projections of approximately $3.2 million per year. As of June 2022, $8.25 million of the existing $9.5 million Verizon contract has been expended. The Department projects total spending of $12.03 million under the existing contract through May 2023, which exceeds the current contract value of $9.5 million.

Fiscal Impact

- As of July 2022, monthly spending on this contract is approximately $343,200, and will eventually increase to an estimated $401,495 by FY 2026-27. Costs are funded by a mix of General Fund and other funds. The Department of Technology charges departments on a quarterly basis, based on their actual costs.

Policy Consideration

- In July 2020, the City Administrator issued a memo establishing new policies to terminate cellular phone accounts that have been inactive for 60 days and no established business need, and to update plans to maximize savings to the City. Separately from consideration of the proposed resolution, the Board may consider building on this policy to establish additional citywide cellular device usage policies that apply to all departments in order to control costs.

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

CALNET Program

The California Network and Telecommunications (CALNET) Program, managed by the State Department of Technology, provides competitively bid contracts with standardized service levels for information technology and communication services that may be used by State and local governments. The City has a CALNET landline telephone agreement with AT&T through June 2028 (File 21-1089). Contracting through the CALNET Program is permissible under Administrative Code Section 21.16(b), which allows the City to rely on the competitive procurement of other public agencies when purchasing commodities or services.

Citywide Cellular Service

In September 2019, the State of California announced the award of the CALNET Cellular Voice and Data Services Contract, to replace the previous cooperative contract for cellular services being used by the State, the National Association of State Procurement Officials (NASPO) Contract. At that time, the City was also participating in the NASPO Contract by way of the State's participation in the contract. During the State's transition from the existing NASPO contract to CALNET for cellular services, the City considered multiple options for cellular services, including:

- Continue receiving cellular services through the existing NASPO contract until expiration of the State's agreement with NASPO on December 31, 2020;
- Migrate with state agencies onto the CALNET contracts; or,
- Enter into a new NASPO contract led by the lead state of Utah.

Analysis conducted by the Department of Technology determined that the City would receive the most favorable rates and plan options through the CALNET contract, primarily due to lower per-line connection fees. The Department of Technology, on behalf of the City, became a participant in the CALNET cellular program in June 2020 by entering into a CALNET agreement with Cellco Partnerships (Verizon Wireless). The agreement allows the City to purchase cellular and data services from Verizon Wireless under reduced pricing provided by Verizon Wireless to state and local agencies through CALNET. The CALNET program secures competitively bid telecommunications contracts that can be used by both state and local agencies. CALNET contracts are available to local government entities, school districts, and State agencies. Benefits of participation in the state's CALNET program includes no service termination fees, no required minimum spending or minimum purchase amount, and substantially lower rates than similarly situated public customers.

In June 2020, the Department of Technology entered into an initial contract with Verizon Wireless for a not-to-exceed amount of $9,500,000 from June 1, 2020 through May 22, 2023, for the purchase of cellular voice and data services.

A Portfolio of Cellular Service Contracts

The master contract with Verizon Wireless is one of five similar contracts with other telecommunications services providers and allows the City to benefit from reduced rates and favorable terms via participation in the State of California's Integrated Telecommunications Network Program (CALNET) for Cellular Voice and Data Services. In addition to the proposed amended agreement with Verizon Wireless, the City has agreements with the following providers for cellular services:

- AT&T First Net (for first responders) for $9 million, from June 2020 to October 2025,
- AT&T (for commercial cellular services) for $9.5 million from June 2020 to May 2023,
- T-Mobile for $5 million from June 2021 to June 2023
- Sprint for $5 million from June 2021 to June 2023

Including service and equipment costs, the total annual spend for the City's cell service from the five vendors in FY 2021-22 was $9.6 million. According to DT staff, the City has cellular services agreements with multiple providers in order to benefit from increased competition among vendors and to keep prices as low as possible. Each department chooses their own vendors and plans according to need. According to DT staff, some departments have staff with higher needs for a specific service (such as data or texting) or may need a specific carrier that has better coverage in a certain area.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves the first amendment to the contract between the Department of Technology and Cellco Partnership (doing business as Verizon Wireless) for the purchase of wireless telecommunication services, to extend the contract term from May 2023 to June 2027, with options to renew through June 2030, and to increase the amount from $9,500,000 to $30,626,500.

Projected Exhaustion of Contract Spending Authority

As of June 2022, $8.25 million of the existing $9.5 million contract amount has been expended. The Department projects total spending of $12,025,200 under the existing contract term to May 2023, which exceeds the current contract value of $9,500,000. Current contract spending of approximately $4 million per year has exceeded initial projections of approximately $3.2 million per year due to higher usage by City employees of City-issued cellular devices than the Department initially anticipated.

Services & Usage

The scope of the Verizon contract covers voice, text, and data plans via cellular network, as well as purchase of equipment such as cell phones, wireless cards, vehicle modems, and cellular monitoring devices (such as water meter controllers).

According to data provided by DT, on average between November 2019 and January 2020, the Verizon cellular contract paid for 6,707 cellular devices at a cost of $34.96 per device per month. From November 2019 to January 2020, each device spent an average of 114 minutes of talk time, sent 48 text messages, and used 2.469 GB of data per month, on average. However, usage has likely increased as a result of the pandemic and expansion of remote work. As of June 2022, the Verizon cellular contract paid for 7,343 cellular devices at a cost of $38.66 per device per month. Each device spent an average of 145 minutes, sent 172 text messages, and used 2.935 GB of data per month.

According to the Department, the total number of employees using a City-issued cellular device from the portfolio of five carriers has increased from 13,643 in January 2020 to 18,353 in June 2022 (a total increase of 4,710, or 35 percent). This total count includes all departments except Airport. Of the total, the cellular device count ordered from Verizon increased from 6,653 in January 2020 to 7,343 in June 2022 (an increase of 690, or 10 percent).

Citywide policy addressing the purchase of cellular services and equipment for City employees is limited. In July 2020, the City Administrator instructed DT to deactivate phones that have been inactive for 60 days, however each department makes its own determinations regarding the issuance of cellular devices for staff. Exhibit 1 below shows the number of active City-issued cellular devices in use as of July 2022 by department (excluding the Airport):

Exhibit 1: Cellular Device Count by Department, as of July 2022

Department	Total
Police	3,668
Municipal Transportation Agency	2,654
Public Utilities Commission	2,214
Human Services Agency	2,067
Public Health	1,577
Public Works	1,339
Fire	907
Recreation & Parks	764
Elections	522
Remaining depts with <500 phones each (33 departments)	2,496
Total	**18,208**

Source: Department of Technology

Note: Figures do not include the Airport.

As shown above, the Police Department has the highest number of issued cellular devices, with 3,668 total, followed by the Municipal Transportation Agency (MTA) with 2,654 devices and the Public Utilities Commission (PUC) with 2,214 devices. The remaining 33 departments, including the Sheriff's Department with 331 total cellular devices, each have less than 500 cell phones issued to staff. Of the 18,208 total employees using City-issued cellular devices, 7,343 employees (40 percent) receive services through Verizon.

CALNET Expiration

The proposed amended contract with Verizon Wireless is contingent on CALNET extending its underlying contract with Verizon Wireless, which allows for the favorable pricing and terms currently included in the City's contract. If the CALNET contract expires or is terminated prior to expiration of the City's agreement with Verizon Wireless, then the proposed amended agreement would also be terminated. According to DT, the base CALNET contract term with Verizon expires on June 30, 2023, with two optional two-year extensions that can be exercised by the State. According to DT staff, the State of California may exercise the options with very little notice in the week prior to the expiration of the initial term, which leaves the City with very little time to exercise the contract option accordingly and present to the Board. As such, the Department proposes to include four optional years in the base term of the proposed agreement with Verizon to ensure that there is no chance the contract will lapse due to delay in State action when it is time to exercise the extension option.

FISCAL IMPACT

Exhibit 2 below shows the actual spending of the existing $9.5 million contract through May 2023 and projected spending for the proposed amended contract of $30.6 million through June 2027.

Exhibit 2: Actual and Projected Spending on Verizon Wireless Contract

Actual Spending thru June 2022	8,250,000
FY 2022-23	4,118,400
FY 2023-24	4,283,136
FY 2024-25	4,454,461
FY 2025-26	4,632,640
FY 2026-27	4,817,945
Contingency*	69,917
Total Not to Exceed	**30,626,500**

Source: Department of Technology

*The contingency amount of $69,917 represents a small (.2%) rounding figure made by the Department when developing projected spending estimates so that the not to exceed amount is rounded to the nearest hundred.

Department of Technology staff estimate that the monthly spend will increase by approximately four percent each year of the contract, allowing for any potential growth in any new cellular service orders and equipment purchase/upgrade by departments. Beginning in July 2022, the estimated monthly spend is approximately $343,000, and will eventually increase to an estimated $401,000 by the final year of the contract, FY 2026-27. The Department projects total spending of approximately $30,626,500 under the amended contract (June 2020 – June 2027).

Source of Funding

Costs are funded by a mix of General Fund and other funds. The Department of Technology charges departments on a quarterly basis, based on their actual costs.

POLICY CONSIDERATION

As noted above, total spending on cell phones and other cellular devices in FY 2021-22 was $9.6 million and 18,208 City staff (approximately 61 percent of the City workforce) have cellular devices. These devices include cell phones and cellular connections for PCs, laptops, and personal devices. While the Department of Technology identifies cost effective providers and plans, administers and oversees all cellular service contracts (except for the Airport), cell phone equipment purchases, including usage and issuance decisions are made by individual departments.[1]

In July 2020, the City Administrator issued a memo establishing new policies to terminate cellular phone accounts that have been inactive for 60 days and no established business need, and to update plans to maximize savings to the City. Separately from consideration of the proposed resolution, the Board may consider building on this policy to establish additional citywide cellular device usage policies that apply to all departments in order to control costs, such as limiting City-issued cell phones to certain job class families, duties, or functions.

RECOMMENDATION

Approve the proposed resolution.

[1] DT provides monthly reports on device usage for all City departments, so that departments notified which of their devices are currently active or inactive. The report is intended to provide a clear picture of devices that may be on the wrong rate plan, as well as devices that are inactive but are still incurring monthly service fees. Although DT has a policy to deactivate phones that remain inactive for 60 days, DT staff have indicated that sometimes departments with inactive devices will request that they not be deactivated. According to the Department of Technology, DT staff also work with each department to help them reduce costs, which may include helping departments switch to less expensive plans.

Item 7 **File 22-0841**	**Department:** Office of the Treasurer and Tax Collector

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance authorizes the Treasurer and Tax Collector to refund overpayments of the Homelessness Gross Receipts Tax to businesses who reported $50 million or less in taxable gross receipts for the 2020 tax year, but mistakenly paid the tax to the City. The ordinance would extend the period within which the Tax Collector could authorize these refunds to these taxpayers through April 2023 without further review by the City Attorney or Board of Supervisors.

Key Points

- The economic impact of COVID-19 in the 2020 tax year resulted in reduced revenues for 59 businesses who previously earned over $50 million in taxable gross receipts and were required to pay the Homelessness Gross Receipts Tax. These taxpayers made payments to the Office of the Treasurer and Tax Collector in 2020 based on their 2019 tax liability.
- While the Tax Collector may process refunds if requests are filed within a one-year period after the due date for business tax returns, the one-year period has passed, and the Board of Supervisors and the City Attorney are required to approve each refund over $25,000. Rather than a separate legislative action to approve each refund, the proposed ordinance would allow the Tax Collector to issue refunds to these taxpayers through April 2023 without further review by the City Attorney or Board of Supervisors.
- Businesses are normally automatically refunded accidental tax overpayments after the filing period ends. However, issues with the online tax filing system, combined with delays in standard tax compliance activities that would have normally caught the mistake, resulted in 59 businesses who accidentally paid the tax and will need to be refunded.

Fiscal Impact

- $2.7 million (excluding estimated interest of $40,000) will need to be refunded to 59 businesses, which is an average total of $45,762 per business.
- Homeless Gross Receipt Tax revenues are projected to be $369.3 million in FY 2022-23. However, the revenue forecast supporting the FY 2022-23 budget did not account for the proposed refunds. Therefore, the budget may need to be reduced by the refunded total of approximately $2.7 million (from $365.6 million to $362.8 million). The Controller's Office will work with the Public Health and Homelessness & Supportive Housing departments to reduce expenditures to the extent that revenues are below budget.

Recommendation

- Approve the proposed resolution

MANDATE STATEMENT

The San Francisco Business and Tax Regulation Code 6.15-1 states that tax refund claims made more than a year after which tax are due and that exceed $25,000 require Board of Supervisors approval.

BACKGROUND

Proposition C

Proposition C passed by 61 percent of voters in November 2018. The proposition allowed for a Homelessness Gross Receipts Tax of 0.175 to 0.69 percent on businesses earning over $50 million in gross annual receipts. The measure also imposed a tax of 1.5 percent of payroll expenses for certain businesses earning over $1 billion in gross annual receipts and with administrative offices in San Francisco. The measure designated funding to be used towards homelessness services including permanent supportive housing, rental subsidies, homelessness prevention, and mental health programs.

Revenue Generated from the Homelessness Gross Receipts Tax

According to the Controller's Office, $394 million in Homelessness Gross Receipts Tax revenue was generated in FY 2019-20 and $217.9 million was generated in FY 2020-21, which is an approximate 45 percent decrease in revenue. The FY 2021-22 budget included $888.2 million in Homelessness Gross Receipts Tax spending. However, according to the Controller's FY 2021-22 Nine Month Budget Status Report, actual revenues for the Homelessness Gross Receipt Tax were projected to be $41.3 million less than budget, requiring a commensurate reduction in spending. Final FY 2021-22 revenue estimates will be available in December 2022.

Exhibit 1 below shows the number of San Francisco businesses paying the Homelessness Gross Receipts tax since FY 2019-10.

Exhibit 1: Number of Businesses Paying the Homelessness Gross Receipts Tax

Fiscal Year	Number of Businesses	Change from Prior FY
2019-20	518	N/A
2020-21	489	(29)
2021-22	465	(24)
2022-23	Due 2/29/2023	N/A
Total Change		*(53)*

Source: Received from Treasurer and Tax Collector

As shown in Exhibit 1, the number of businesses required to pay the tax has decreased from 518 to 465 since FY 2019-20, or by approximately 10 percent.

Tax Collection

Business taxes are due February of each tax year (the calendar year) and paid quarterly throughout the year. The quarterly payments are typically 25 percent of the prior year's tax payment with a true-up in the final quarter.

The COVID-19 pandemic in 2020 resulted in reduced revenues for 59 businesses who normally earn over $50 million in taxable gross receipts each year and would consequently be required to pay the Homelessness Gross Receipts Tax. These taxpayers continued to make estimated quarterly payments to the Office of the Treasurer and Tax Collector throughout 2020 based on their 2019 tax liability.

The Tax Collector may issue a refund if a request is filed within a one-year period following the due date for business tax returns. Since the one-year period has passed, the refunds would need to go through an approval process that would require the Board of Supervisors and the City Attorney to approve refunds over $25,000. Rather than a separate legislative action to approve each refund, the proposed ordinance would allow the Tax Collector to issue refunds to these taxpayers through April 2023 without further review by the City Attorney or Board of Supervisors.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance authorizes the Tax Collector to refund overpayments of the Homelessness Gross Receipts Tax to businesses who reported $50 million or less in total taxable gross receipts for the 2020 tax year, but mistakenly paid the Homelessness Gross Receipts Tax to the City. The ordinance would extend the period within which the Tax Collector could authorize these refunds to these taxpayers through April 30, 2023.

Reason for Need to Refund Homelessness Gross Receipts Tax Overpayments

Typically, if a business overpays their taxes, they are automatically refunded the overpayment after the filing period ends in February of the following year. The affected taxpayers made estimated quarterly payments towards the Homelessness Gross Receipts Tax for the 2020 year based on their 2019 tax liabilities, but they were not prompted to file the Homelessness Gross Receipts Tax for 2020 on the final payment deadline (February 28, 2021) in the online tax filing system. According to the Treasurer and Tax Collector staff, this issue occurred because the online tax filing system (the "SF Annual Business Tax Application") only shows the Homelessness Gross Receipts Tax filing option to taxpayers who report more than $50 million in taxable San Francisco gross receipts. According to the Treasurer and Tax Collector, this is done to avoid confusion for the majority of taxpayers who do not have to pay the Homelessness Gross Receipts Tax.

According to Treasurer and Tax Collector staff, in a typical year, the error would have been noticed earlier through regular compliance and collection processes. However, Treasurer and Tax Collector staff state that employees were activated as Disaster Service Workers, which delayed tax compliance activities that would have caught the mistake and identified taxpayers who were owed refunds. Overall, 59 businesses will be issued a refund due to overpayment.

FISCAL IMPACT

Total Amount of Homelessness Gross Receipts Tax to be Refunded

$2.7 million (excluding interest of an estimated $40,000) of Homelessness Gross Receipts Tax revenue collected in FY 2019-20 will need to be repaid to approximately 59 businesses, which is an average total of $45,762 per business.

Budget Impact of the Proposed Refunding

The refunding of the overpayments will occur in the current fiscal year, FY 2022-23. Homeless Gross Receipt Tax revenues are projected to be $369.3 million in FY 2022-23 and $365.6 million in FY 2023-24, according to the Controller's FY 2022-23 & FY 2023-24 Revenue Letter. However, the revenue forecast supporting the FY 2022-23 budget did not account for the proposed refunds. Therefore, the budget may need to be reduced by the refunded total of approximately $2.7 million (from $365.6 million to 362.8 million). According to the Controller, who oversees administration of Proposition C revenues, it is not yet known specifically how the budget will be impacted by the refunding process. Controller's Office staff have stated that they will work with the Public Health and Homelessness & Supportive Housing departments to reduce expenditures in accordance with Proposition C allocation requirements to the extent that revenues are below budget.[1]

RECOMMENDATION

Approve the proposed ordinance.

[1] Proposition C requires that revenues be expended in certain proportions: At least 50 percent to permanent housing through the Mayor's Office of Housing and Community Development (MOHCD), at least 25 percent to mental health services for homeless residents through the Department of Public Health (DPH), up to 15 percent to homelessness prevention through MOHCD or the Department of Homelessness and Supportive Housing (HSH), and up to 10 percent to short-term shelters through HSH.

Item 10 **File 22-0930**	**Department:** Human Services Agency (HSA)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve a grant agreement between the Human Services Agency (HSA) and the Low Income Investment Fund to administer the San Francisco Child Care Facilities Fund and for technical assistance, for the period of July 2022 through June 2024, in an amount not to exceed $91,466,252.

Key Points

- In February 2022, HSA conducted a Request for Proposals (RFP) to administer the child care facilities fund and provide technical assistance. In April 2022, Low Income Investment Fund submitted a responsive and responsible proposal and was awarded a grant. In July 2022, the HSA Commission approved the grant agreement.
- The grant is intended to provide a centralized resource for early care and education providers to access support for facilities, capital, or renovation projects.

Fiscal Impact

- The proposed grant agreement would have an amount not to exceed $91,366,252 over the two-year term.

Policy Consideration

- The Budget and Legislative Analyst is working with HSA to obtain more information about the grant agreement and budget, and recommends continuing this item to the October 5, 2022 Budget and Finance Committee meeting.

Recommendation

- Continue the proposed resolution to the October 5, 2022 Budget and Finance Committee meeting.

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 February 2022, the Human Services Agency (HSA) conducted a Request for Proposals (RFP) to provide child care facilities fund and technical assistance. In April 2022, Low Income Investment Fund submitted a responsive and responsible proposal and was awarded a grant. In July 2022, the HSA Commission approved the grant agreement.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a grant agreement between HAS and Low Income Investment Fund to administer the San Francisco Child Care Facilities Fund and technical assistance, for the period of July 2022 through June 2024, in an amount not to exceed $91,466,252. The grant is intended to provide a centralized resource for early care and education providers to access support for facilities, capital, or renovation projects.

FISCAL IMPACT

The proposed grant agreement would have an amount not to exceed $91,366,252 over the two-year term.

POLICY CONSIDERATION

The Budget and Legislative Analyst is working with HSA to obtain more information about the grant agreement and budget and recommends continuing this item to the October 5, 2022 Budget and Finance Committee meeting.

RECOMMENDATION

Continue the proposed resolution to the October 5, 2022 Budget and Finance Committee meeting.