

**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

May 5, 2023

**TO:** Budget and Finance Committee

**FROM:** Budget and Legislative Analyst



**SUBJECT:** May 10, 2023 Budget and Finance Committee Meeting

**TABLE OF CONTENTS**

| <b>Item</b> | <b>File</b>  | <b>Page</b> |
|-------------|--|-------------|
| 6           | 22-1027 Accept and Expend Grant - Retroactive - San Francisco Bay Area Rapid Transit District - Pit Stop Public Toilet Program - \$250,000 .....   | 1           |
| 7 & 8       | 23-0368 Appropriation - \$275,000,000 Total Including Appropriation of \$260,878,172 in Certificates of Participation Refunding Proceeds and Deappropriation and Reappropriation of \$14,121,828 in Series 2023-R1 Refunding - FY2022-2023 |             |
|             | 23-0369 Authorizing Refunding Certificates of Participation, Series 2023-R1 - Multiple Capital Improvement Projects.....   | 5           |
| 9           | 23-0370 Authorizing Tax-Exempt and/or Taxable Certificates of Participation - Multiple Affordable Housing and Community Facilities Projects - Not to Exceed \$146,800,000 .....  | 11          |

|   |  |
|---|--|
| <p><b>Item 6</b><br/><b>File 22-1027</b></p>  | <p><b>Department:</b><br/>Department of Public Works (DPW)</p> |
| <p><b>EXECUTIVE SUMMARY</b></p>   |  |
| <p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution would retroactively authorize the Department of Public Works (Public Works) to accept and expend a grant from the Bay Area Rapid Transit District (BART) for the Pit Stop public toilet program in an amount not to exceed \$250,000, with a required City match of \$265,000, for the period of July 2021 through June 2022.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• The City’s Pit Stop program provides public restroom, toilet, and handwashing facilities, as well as needle and dog waste receptacles at 31 locations throughout the City. The restrooms are a mix of semi-permanent JCDecaux public toilet facilities and portable toilets owned by Public Works. Public Works entered into grant agreements with the non-profits Hunters Point Family and CIVIC for the operation and monitoring of the Pit Stop locations. The total cost of the Pit Stop program in FY 2021-22 was approximately \$13.6 million.</li> <li>• Since February 2016, BART has provided annual grants to Public Works to operate Pit Stop locations at various BART stations. In July 2021, Public Works and BART executed the fifth amendment to their memorandum of understanding to jointly pay for the Pit Stop bathrooms at 16<sup>th</sup> and Mission, Powell, and the 24<sup>th</sup> and Mission BART Stations in FY 2021-22. The proposed resolution approving the grant funds was introduced to the Board of Supervisors in September 2022 but not scheduled until May 2023 because of administrative delays and staff turnover.</li> <li>• As of the writing of this report, Public Works has not provided Pit Stop usage data and performance and fiscal monitoring reports for Hunters Point Family, the operator of the three Pit Stops funded by the proposed grant. Because the Budget and Legislative Analyst is unable to review this information, approval of the proposed resolution is a policy matter for the Board of Supervisors.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The fifth memorandum agreement between Public Works and BART in effect for FY 2021-22 would provide Public Works with \$250,000 to operate three Pit Stop locations and require a match of \$265,000 in City funds. The total cost to operate the three sites is approximately \$596,817, leaving approximately \$346,817 to be paid by the City.</li> <li>• Public Works’ contribution for the Pit Stops is funded by the City’s General Fund.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approval of the proposed resolution is a policy matter for the Board of Supervisors.</li> </ul> |  |

**MANDATE STATEMENT**

City Administrative Code Section 10.170-1 states that accepting Federal, State or third-party grant funds in the amount of \$100,000 or more, including any City matching funds required by the grant, is subject to Board of Supervisors approval.

**BACKGROUND**

The City’s Pit Stop program, which began in July 2014 and is administered by the Department of Public Works (Public Works), provides public restroom and handwashing facilities, as well as needle and dog waste receptacles, at 31 locations throughout the City. The restrooms are a mix of semi-permanent JCDecaux public toilet facilities and portable toilets owned by Public Works.

Public Works entered into grant agreements with the non-profits Hunters Point Family and CIVIC for the operation and monitoring of the Pit Stop locations. CIVIC provides staffing for 15 locations and Hunters Point Family provides staffing for 16 locations. The Pit Stop location monitoring positions are provided as job training, employment, and workforce development opportunities for local residents, especially those who are facing barriers to employment. The total cost of the Pit Stop program in FY 2021-22 was approximately \$13.6 million.

Since February 2016, the Bay Area Rapid Transit District (BART) has provided annual grants to Public Works to operate Pit Stop locations at various BART stations. The grants have been for amounts ranging from \$50,000 to \$257,500, and each required the City to provide matching funds. In July 2021, Public Works and BART executed the fifth amendment to their memorandum of understanding to jointly pay for the Pit Stop bathrooms at 16<sup>th</sup> and Mission, Powell, and the 24<sup>th</sup> and Mission BART Stations in FY 2021-22, which was not signed by each agency’s attorneys until March 2022. The proposed resolution approving the grant funds was introduced to the Board of Supervisors in September 2022 but not scheduled until May 2023 because of unspecified “administrative delays and staff turnover.”

**DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would retroactively authorize Public Works to accept and expend a grant from BART for the Pit Stop program in an amount not to exceed \$250,000, with a required City match of \$265,000, for the period of July 2021 through June 2022.

In FY 2021-22, Public Works and Hunters Point Family operated the following Pit Stop locations, which are funded by the proposed grant:

- 1. Powell BART Station, operated daily, 12 hours per day, from July 2021 through June 2022;
- 2. 24<sup>th</sup> Street and Mission Station, operated daily, 12 hours per day, from July 2021 through June 2022; and
- 3. 16<sup>th</sup> Street and Mission Station, operated Monday through Friday, eight hours per day, from July 2021 through June 2022.

The Pit Stop at the 16<sup>th</sup> Street and Mission Station was the first to be funded by BART in 2016, and the additional Pit Stops were added in FY 2018-19. Each Pit Stop is located on City property at the street level. Under the grant, BART reimburses Public Works for a share of the cost of operating the Pit Stops. As of this writing, the Powell Street and 24<sup>th</sup> Street Pit Stops continue to run 12 hours per day, but the 16<sup>th</sup> Street and Mission Pit Stop is open 24 hours per day.

### Program Performance

The Budget and Legislative Analyst has requested Pit Stop usage data and performance and fiscal monitoring reports for Hunters Point Family, the operator of the three Pit Stops funded by the proposed grant. As of the writing of this report, Public Works staff have not provided this information. Because the Budget and Legislative Analyst is unable to review this information, approval of the proposed resolution is a policy matter for the Board of Supervisors.

### FISCAL IMPACT

The fifth memorandum agreement between Public Works and BART in effect for FY 2021-22 would provide Public Works with \$250,000 to operate three Pit Stop locations. It would also require a match of at least \$265,000 in City funds. The total cost to operate the three sites is approximately \$596,817, as shown in Exhibit 1 below.

#### Exhibit 1: Pit Stop Grant Budget for FY 2021-22

| Location                          | Public Works Contribution | BART Contribution | Total Cost       |
|-----------------------------------|---------------------------|-------------------|------------------|
| Powell Station                    | \$132,477                 | \$86,957          | \$219,433        |
| 24 <sup>th</sup> Street & Mission | 145,986                   | 86,957            | 232,943          |
| 16 <sup>th</sup> Street & Mission | 23,118                    | 43,478            | 66,596           |
| Subtotal                          | \$301,580                 | \$217,391         | \$518,972        |
| Indirect Costs (15%)              | 45,237                    | 32,609            | 77,846           |
| <b>Total</b>                      | <b>\$346,817</b>          | <b>\$250,000</b>  | <b>\$596,817</b> |

Source: Proposed Grant Budget

The total cost to operate the three locations has decreased from \$834,281 in FY 2020-21 to \$596,817 in FY 2021-22 due to a reduction in service hours at the Powell and 24<sup>th</sup> Street and Mission Stations. According to Darlene Frohm, Public Works Assistant Deputy Director for Operations, 24-hour service was eliminated due to budgetary constraints.

The fifth memorandum agreement between DPW and BART, which provides for the grant funds, assumed \$515,000 in total costs to operate the three Pit Stop sites, with the City providing 51.46 percent of the funding and BART providing 48.54 percent of the funding. Actual costs were \$596,817, or \$81,817 higher because of employee compensation and cost of doing business increases. The proposed \$250,000 from BART accounts for 41.89 percent of actual costs in FY 2021-22, less than the share set forth in its agreement with DPW because BART's \$250,000 grant amount is fixed, according to Bruce Robertson, Public Works Deputy Director for Finance and Administration.

Public Works' contribution for the Pit Stops is funded by the City's General Fund.

**RECOMMENDATION**

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

|   |  |
|---|--|
| <b>Items 7 &amp; 8</b><br><b>File 23-0368 &amp; 23-0369</b> | <b>Department:</b><br>Controller, Office of Public Finance |
|---|--|

**EXECUTIVE SUMMARY**

**Legislative Objectives**

- **File 23-0368** is an ordinance appropriating \$275 million, including: (1) appropriation of \$260,878,172 of one or more series of Refunding Certificates of Participation (COPs) Series 2023-R1 proceeds, (2) de-appropriation of \$14,121,828 of COP prior reserve funds for Series 2012A, 2015-R1, and 2015A, and (3) re-appropriation of the same amount to Refunding certificates of Participation Series 2023-R1.
- **File 23-0369** is an ordinance that would: (1) authorize the execution and delivery of Certificates of Participation, in one or more series from time to time to prepay certain series of COPs; (2) approve the forms of related documents; and (3) grant general authority to City officials to take necessary actions and amend the documents to complete the debt issuance.

**Key Points**

- The City issues Certificates of Participation to partially fund the Capital Plan. Individual issuances of COPs normally include an optional call date provision that allows the City to refinance the outstanding principal amount after a specified date if interest rates are more favorable and produce savings for the City. The City has four outstanding series of COPs with optional call dates that can be utilized in 2023, including Series 2012A, 2014-R2, 2015-R1, and 2015A.
- According to the City’s Debt Policy, refunding COPs may only be issued if the transaction produces debt service savings of at least three percent of the par value of the refunded bonds on a net present value basis. Therefore, one or more series may be dropped from the transaction to achieve a higher level of savings as interest rates change. The Ordinance authorizes the refunding of any outstanding series not refunded by the 2023 Refunding COPs at a later date.

**Fiscal Impact**

- The Office of Public Finance estimates that the COPs would have average annual principal and interest payments of \$15,844,968 and an estimated annual interest rate of 3.62 percent. Total debt service over the anticipated 21-year term is \$348,589,297.
- The issuance complies with the City's Debt Policy to limit General Fund debt service at or below 3.25 percent of discretionary General Fund revenues. The refunding COPs will only be issued if the transaction produces debt service savings of at least three percent of the par value of the refunded COPs. The net present value of the debt service savings of the proposed refunding bonds is estimated to be approximately \$7,903,287, which is just equal to the three percent minimum savings threshold of the \$261,185,000 outstanding par value of the COPs to be refunded.

**Recommendation**

- Approve the proposed ordinances.

**MANDATE STATEMENT**

City Administrative Code Section 10.62(b) states that the Board of Supervisors may authorize the issuance of Certificates of Participation (COPs) and other lease financing debt to fund capital projects provided the annual debt service cost of such outstanding indebtedness does not exceed 3.25% of discretionary revenue as determined by the Controller and Director of Public Finance. Administrative Code Section 10.62(c) states that the Director of Public Finance may issue tax-exempt and taxable commercial paper notes to provide interim funds to finance the acquisition, construction and rehabilitation of capital improvements and capital equipment, subject to the project's and financing plan's approval by the Board of Supervisors and Mayor.

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**

The City issues Certificates of Participation (COPs) to partially fund the Capital Plan. Individual issuances of COPs normally include an optional call date provision that allows the City to refinance the outstanding principal amount after a specified date if interest rates are more favorable and produce savings for the City. The City has four outstanding series of COPs with optional call dates that can be utilized in 2023, including:

1. Series 2012A (Multiple Capital Improvement Project) COPs (2012A COPs)
2. Refunding Series 2014-R2 (Juvenile Hall Project) COPs (2014-R2 COPs)
3. Series 2015A (War Memorial Veterans Building) COPs (2015A COPs)
4. Refunding Series 2015-R1 (City Office Buildings – Multiple Properties) COPs (2015-R1 COPs)

Exhibit 1 below summarizes the four outstanding series of COPs that could be refinanced for savings.

**Exhibit 1: Outstanding COPs Eligible for Refinancing**

| <b>COPs Series</b>                                    | <b>Par Amount Outstanding</b> | <b>Average Interest Rate</b> | <b>First Optional Call Date</b> | <b>Final Maturity</b> | <b>Average Annual Debt Service</b> |
|---|-------------------------------|------------------------------|---------------------------------|-----------------------|------------------------------------|
| 2012A (Multiple Capital Improvement Project)          | \$27,815,000                  | 4.10%                        | 4/1/2022                        | 4/1/2036              | \$2,800,000                        |
| 2014-R2 (Juvenile Hall Project)                       | 21,395,000                    | 3.66%                        | 4/1/2022                        | 4/1/2034              | 2,390,000                          |
| 2015A (War Memorial Veterans Building)                | 110,250,000                   | 4.07%                        | 4/1/2023                        | 4/1/2045              | 7,780,000                          |
| 2015-R1 (City Office Buildings - Multiple Properties) | 101,725,000                   | 4.07%                        | 9/1/2023                        | 9/1/2040              | 7,980,000                          |
| <b>Total</b>  | <b>\$261,185,000</b>          | <b>4.05%</b>                 |                                 | <b>4/1/2045</b>       |                                    |

Source: Office of Public Finance

**DETAILS OF PROPOSED LEGISLATION**

**File 23-0368** is an ordinance appropriating \$275 million, including: (1) appropriation of \$260,878,172 of one or more series of Refunding Certificates of Participation Series 2023-R1 proceeds, (2) de-appropriation of \$14,121,828 of COP prior reserve funds for Series 2012A, 2015-R1, and 2015A, and (3) re-appropriation of the same amount to Refunding certificates of Participation Series 2023-R1; and placing these funds on Controller’s Reserve pending sale of the COPs.

**File 23-0369** is an ordinance that would: (1) authorize the execution and delivery of Certificates of Participation, in one or more series from time to time to prepay certain series of COPs; (2) approve the forms of related documents, including a Supplement to Trust Agreement, a Supplement to Property Lease, a Supplement to Project Lease, an Escrow Agreement,<sup>1</sup> Official Notice of Sale and a Notice of Intention to Sell the Certificates, an Official Statement, a Purchase Contract, and a Continuing Disclosure Certificate ; and (3) grant general authority to City officials to take necessary actions, approve modifications to documents, and ratify previous related actions.

**Certificates of Participation**

Under the proposed ordinance, the 2023 Refunding COPs may be issued any time on or after the respective call dates for each series. Based on the tax-status and project uses of the COPs to be refunded, the 2023 Refunding COPs would be tax-exempt. The Controller’s Office of Public

<sup>1</sup> The proposed Escrow Agreement between the City and U.S. Bank Trust Company, National Association, as escrow agent, provides for the creation of escrow funds to pay the principal and interest due on the COPs to be refunded. The escrow agent will hold any escrow obligations in an irrevocable trust fund account for the benefit of the owners of the COPs to be refunded.

Finance estimates that the COPs would be paid over 21 years with an estimated annual interest rate of 3.62 percent. However, Office of Public Finance staff state that interest rates and capital markets are currently volatile.

According to the City's Debt Policy, refunding COPs may only be issued if the transaction produces debt service savings of at least three percent of the par value of the refunded bonds on a net present value basis. Therefore, one or more series may be dropped from the transaction to achieve a higher level of savings as interest rates change. The Ordinance authorizes the refunding of any outstanding series not refunded by the 2023 Refunding COPs at a later date. The Office of Public Finance anticipates the pricing and closing of the transaction in July and August 2023.

#### *City Property Securing COPs*

COPs are structured as a lease-lease back, in which the City-owned Laguna Honda Hospital campus at 375 Laguna Honda Boulevard and the San Bruno Jail Complex located at 1 Moreland Drive serve as the leased properties to secure the City's outstanding COPs under a Master Lease.<sup>2</sup> New COPs series are added to the structure through subsequent supplemental agreements between the City and a third-party trustee (currently U.S. Bank Trust Company, National Association).

#### *Supplements to Property Lease, Project Lease, and Trust Agreement*

The City leases the City-owned property to the Trustee (under the Original Property Lease) and leases back the property (under the Original Project Lease).<sup>3</sup> The City makes annual base rental payments to the Trustee in an amount required to repay the COPs. When the COPs are fully paid, the property lease is terminated. Annual base rental payments (in effect, debt service) are paid from the City's General Fund.

Under the Original Trust Agreement, the Trustee disburses payments for the Master Lease COPs and enforces remedies in the event the City defaults on payments.

The proposed Supplement to the Property Lease and Supplement to the Property Lease require the City to make base rental payments to the Trustee annually on September 25 and March 25 over the term of the leases. The proposed Supplement to the Original Trust Agreement requires the City to deposit base rental payments to a fund maintained by the trustee. The Trustee will make debt service payments for the Master Lease COPs annually on October 1 and April 1.

---

<sup>2</sup> The Master Lease currently supports the City's outstanding Series 2012A COPs, Series 2019-R1 COPs, Series 2020-R1 COPs, and Series 2021A COPs, and would also support the proposed 2023 Housing and Community Development COPs (File 23-0370).

<sup>3</sup> The City entered into the Original Trust Agreement, Original Project Lease, and Original Property Lease in 2009, and entered into five supplemental agreements/leases to the Original Trust Agreement, Original Project Lease, and Original Property Lease for subsequent series of COPs issued in 2009, 2012, 2019, 2020, and 2021. The City also intends to enter into a supplemental agreement/lease in 2023 for the 2023 Housing and Community Development COPs.

**Competitive or Negotiated Sale**

The proposed ordinance permits the COPs to be sold through a negotiated or a competitive sale. The Office of Public Finance will determine if a negotiated or competitive sale will be more advantageous based on market conditions closer to the sale of the COPS in consultation with its Municipal Advisor. If the COPs are sold via negotiated sale with an underwriter (or underwriters), terms, covenants, and conditions for the sale of the COPs will be detailed in the Purchase Contract. In line with City policies, for a negotiated sale the City would either select the top-ranked underwriter from its pre-qualified Underwriter Pool or issue a Request for Proposals to that same established Underwriter Pool.

**FISCAL IMPACT**

The \$275 million appropriation includes \$260,878,172 in Refunding COPs proceeds and \$14,121,828 of COP prior reserve funds for three of the four COP series that would be refunded. Proposed uses of the \$275 million appropriation include \$266,059,432 to refund the selected COPs series, \$1,789,493 in financing costs (including issuance costs and the underwriter's discount), and \$7,151,075 for market uncertainty pending the sale of the COPs.

Exhibit 1 below identifies the sources and uses for the proceeds from the sale of the COPs.

**Exhibit 1: Sources and Uses for Refunding COPs**

| Sources and Uses               | Amount               |
|--------------------------------|----------------------|
| <u>Sources</u>                 |                      |
| Refunding COP Proceeds         | \$260,878,172        |
| Prior Reserve Funds            | 14,121,828           |
| <b>Total Sources</b>           | <b>\$275,000,000</b> |
| <u>Uses*</u>                   |                      |
| Refunding Escrow               | \$266,059,432        |
| Cost of Issuance**             | 650,043              |
| Underwriter's Discount         | 1,139,450            |
| Reserve for Market Uncertainty | 7,151,075            |
| <b>Total Uses</b>              | <b>\$275,000,000</b> |

Source: Proposed Appropriation Ordinance  
\*Appropriation amounts for cost of issuance, underwriter's discount, and reserve for market uncertainty vary from more recent Good Faith Estimates from the Office of Public Finance's Municipal Advisor.  
\*\*Includes financial advisory fees, rating agency fees, co-disclosure counsel fees, co-bond counsel fees, trustee fees, and other payments to third parties

**Debt Service**

The Office of Public Finance estimates that the COPs would have average annual principal and interest payments of \$15,844,968 and an estimated annual interest rate of 3.62 percent. Total debt service over the anticipated 21-year term is \$348,589,297.

Based on current market conditions and an estimated interest rate of 3.62 percent, the Office of Public Finance estimates that the 2023 Refunding COPs will result in \$13.5 million in total debt service savings.

### **City's Debt Policy**

According to the City's Debt Policy, refunding COPs may only be issued if the transaction produces debt service savings of at least three percent of the par value of the refunded COPs. The net present value of the debt service savings of the proposed refunding bonds is estimated to be approximately \$7,903,287, which is just equal to the three percent minimum savings threshold of the \$261,185,000 outstanding par value of the COPs to be refunded. As mentioned above, one or more series may be dropped from the transaction to achieve a higher level of savings as interest rates change, and the Ordinance authorizes the refunding of any outstanding series not refunded by the 2023 Refunding COPs at a later date.

The City's policy is to limit General Fund debt service at or below 3.25 percent of discretionary General Fund revenues, as set forth and maintained in the City's Capital Plan. The anticipated debt service associated with the delivery and execution of the 2023 Refunding COPs will be less than the debt service associated with the COPs being refunded. Therefore, the issuance complies with the City's Debt Policy.

### **RECOMMENDATION**

Approve the proposed ordinances.

|   |  |
|---|--|
| <p><b>Item 9</b><br/><b>File 23-0370</b></p>  | <p><b>Department:</b><br/>Controller, Office of Public Finance<br/>Mayor’s Office of Housing and Community Development</p> |
| <p><b>EXECUTIVE SUMMARY</b></p>   |  |
| <p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>The proposed ordinance would: (1) authorize the issuance of one or more series of Certificates of Participation (COPs) with a total principal amount not to exceed \$146.8 million to finance and refinance affordable housing and community facilities development projects; (2) authorize related documents; and (3) authorize other related actions.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>As part of the FY 2022-24 budget process, the Board of Supervisors identified a \$146.8 million spending plan for affordable housing and community development projects. In July 2022, the Board of Supervisors approved the appropriation of \$146.8 million in certificates of participation proceeds to support the spending plan and placed the funds on Controller Reserve, pending the sale of Certificates of Participation. However, the Board of Supervisors has not yet authorized the new debt.</li> <li>The Mayor’s Office of Housing and Community Development (MOHCD) issued three solicitations to award \$72.0 million in funding from the proposed certificates of participation and is currently evaluating responses. MOHCD staff reports that three additional solicitations will be issued to award the remaining \$40 million in funding.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>The total not to exceed par amount of \$146.8 million includes \$112.0 million for project costs, issuance costs of \$26,825,000, and \$7,975,000 to be reserved for market uncertainty. Project costs would fund affordable housing development, acquisition of community facilities to stabilize non-profits, public housing or HUD co-op repairs, educator housing, and elevator repairs at single room occupancy sites.</li> <li>The proposed FY 2024-33 Ten Year Capital Plan, which incorporates the proposed COPs, is compliant with City policy to limit General Fund debt service at or below 3.25 percent of discretionary General Fund revenues through FY 2032-33.</li> <li>The Office of Public Finance estimates that the COPs would have average annual principal and interest payments of \$12,374,256 and an estimated annual interest rate of 6.30 percent. Total debt service over the anticipated 20-year term is \$243,327,750.</li> </ul> <p style="text-align: center;"><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>Request that the Director of MOHCD report back by November 1, 2023 on (a) the criteria, parameters, and project timelines of the remaining funding solicitations, including: (1) the second phase of non-profit site acquisition funding, (2) public housing/co-op repairs, and (3) SRO elevators; and (b) all projects funded by the proposed certificates of participation.</li> <li>Approve the proposed ordinance.</li> </ul> |  |

**MANDATE STATEMENT**

City Administrative Code Section 10.62(b) states that the Board of Supervisors may authorize the issuance of Certificates of Participation (COPs) and other lease financing debt to fund capital projects provided the annual debt service cost of such outstanding indebtedness does not exceed 3.25% of discretionary revenue as determined by the Controller and Director of Public Finance. Administrative Code Section 10.62(c) states that the Director of Public Finance may issue tax-exempt and taxable commercial paper notes to provide interim funds to finance the acquisition, construction and rehabilitation of capital improvements and capital equipment, subject to the project’s and financing plan’s approval by the Board of Supervisors and Mayor.

**BACKGROUND**

**Housing and Community Development Certificates of Participation**

As part of the FY 2022-24 budget process, the Board of Supervisors identified a \$146.8 million spending plan for Housing and Community Development as part of its appropriations (“add-backs”). The spending plan included \$34.8 million in financing costs and \$112 million for affordable housing and community development projects within the following categories:

- a) \$40 million for land acquisition for affordable housing, with priority for projects located in California Debt Limit Allocation Committee (CDLAC)-defined “high-resource” areas (which includes economic, environmental, and education factors associated with positive outcomes for low-income households, particularly children);
- b) \$30 million for site acquisition for non-profit (community facilities);
- c) \$20 million for public housing or HUD co-op repairs;
- d) \$12 million for educator affordable housing; and
- e) \$10 million for elevator repairs at single room occupancy sites.

In July 2022, the Board of Supervisors approved the appropriation of \$146.8 million in certificates of participation proceeds to support the spending plan above and placed the funds on Controller Reserve, pending the sale of Certificates of Participation (File 21-1194). However, the Board of Supervisors has not yet authorized the new debt. The Proposed Capital Plan for FY 2024-2033, which is pending approval by the Board of Supervisors, incorporates the proposed certificates of participation (File 23-0265).

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would: (1) authorize the issuance of one or more series of Certificates of Participation on a tax-exempt and/or taxable basis with a total principal amount not to exceed \$146.8 million to finance and refinance affordable housing and community facilities development projects for the Mayor’s Office of Housing and Community Development; (2) authorize related documents, including a Supplement to Trust Agreement, a Supplement to Property Lease, a Supplement to Project Lease, an Official Notice of Sale, a Notice of Intention to Sell the

Certificates, an Official Statement, the form of a purchase contract, and the form of a Continuing Disclosure Certificate; and (3) authorize other related actions.

### **Certificates of Participation**

The COPs could be structured for a term of up to 30 years depending on market conditions at an interest rate not to exceed 12 percent. According to the proposed ordinance, maximum annual debt service (or maximum annual base rent) is \$19.5 million. The Office of Public Finance assumes the COPs will be taxable based on projected uses of the proceeds and estimates that the COPs would be paid over 20 years with annual principal and interest payments of \$12,374,256 and an estimated annual interest rate of 6.30 percent.

COPs are structured as a lease-lease back, in which the City-owned Laguna Honda Hospital campus at 375 Laguna Honda Boulevard and the San Bruno Jail Complex located at 1 Moreland Drive serve as the leased properties to secure the City's outstanding COPs under a Master Lease. New COPs series are added to the structure through subsequent supplemental agreements between the City and a third-party trustee (currently U.S. Bank Trust Company, National Association).

#### *Supplements to Property Lease, Project Lease, and Trust Agreement*

The City leases the City-owned property to the Trustee (under the Original Property Lease) and leases back the property (under the Original Project Lease).<sup>1</sup> The City makes annual base rental payments to the Trustee in an amount required to repay the COPs. When the COPs are fully paid, the property lease is terminated. Annual base rental payments (in effect, debt service) are paid from the City's General Fund.

Under the Original Trust Agreement, the Trustee disburses payments for the Master Lease COPs and enforces remedies in the event the City defaults on payments.

The proposed Supplement to the Property Lease and Supplement to the Property Lease require the City to make base rental payments to the Trustee annually on September 25 and March 25 over the term of the leases. The proposed Supplement to the Original Trust Agreement requires the City to deposit base rental payments to a fund maintained by the trustee. The Trustee will make debt service payments for the Master Lease COPs annually on October 1 and April 1.

### **Competitive or Negotiated Sale**

The proposed ordinance permits the COPs to be sold through a negotiated or a competitive sale. The Office of Public Finance will determine if a negotiated or competitive sale will be more advantageous based on market conditions closer to the sale of the COPs in consultation with its Municipal Advisor. If the COPs are sold via negotiated sale with an underwriter (or underwriters),

---

<sup>1</sup> The City entered into the Original Trust Agreement, Original Project Lease, and Original Property Lease in 2009, and entered into five supplemental agreements/leases to the Original Trust Agreement, Original Project Lease, and Original Property Lease for subsequent series of COPs issued in 2009, 2012, 2019, 2020, and 2021. The City also intends to enter into a supplemental agreement/lease in 2023 for refunding of previously issued COPs.

terms, covenants, and conditions for the sale of the COPs will be detailed in the Purchase Contract. In line with City policies, for a negotiated sale the City would either select the top-ranked underwriter from its pre-qualified Underwriter Pool or issue a competitive Request for Proposals to that same established Underwriter Pool.

### **Use of Interim Debt**

The current plan of finance anticipates utilizing the City's commercial paper program to finance certain project costs (including planning, preliminary design, and permitting), pending issuance of the COPs. Of the City's total commercial paper program of \$250 million, \$33.25 million in commercial paper notes are currently outstanding as of May 4, 2023. According to the Controller's Office of Public Finance, the initial sale of the proposed COPS would close in July or August 2023.

### **MOHCD Implementation**

The Mayor's Office of Housing and Community Development (MOHCD) issued three solicitations to award \$72.0 million in funding from the proposed certificates of participation, including \$40 million for land acquisition and predevelopment for new affordable housing projects, \$20 million (of the \$30 million total) for site acquisition and capital improvements for community facilities and \$12 million for educator housing. MOHCD anticipates announcing selection of projects for the three solicitations by late May 2023, late May 2023, and late June 2023, respectively. According to MOHCD's presentation to the Capital Planning Committee on March 27, 2023, MOHCD staff anticipate issuing a solicitation for the remaining \$10 million for site acquisition and capital improvements for community facilities in August 2023.<sup>2</sup> The criteria, parameters, and dates of the remaining two solicitations (\$20 million for public housing renovations and \$10 million for elevator repairs) have not yet been determined. The Department of Homelessness and Supportive Housing is the lead agency for the elevator repairs solicitation.

We recommend that the Board of Supervisors request that the Director of MOHCD report back by November 1, 2023 on (a) the criteria, parameters, and timelines of the three remaining solicitations, including (1) the second phase of non-profit site acquisition funding, (2) public housing/co-op repairs, and (3) SRO elevators; and (b) all projects funded by the proposed certificates of participation.

Descriptions and criteria from the solicitations issued to date are provided below.

- a) **The Site Acquisition and Predevelopment Financing for New Affordable Rental Housing Notice of Funding Availability (NOFA)** is \$40 million for site acquisition and predevelopment for new development projects serving low-income households. According to the NOFA, MOHCD will select proposals that: (1) are best positioned<sup>3</sup> to

---

<sup>2</sup> According to MOHCD staff, the \$30.0 million in funding for site acquisition and capital improvements for community facilities was split into two solicitations in recognition that some organizations that may benefit from funding may require additional time to demonstrate project readiness as required under the RFP.

<sup>3</sup> Includes projects that fall into one of three priority funding categories: (1) project will produce 25 percent two-bedroom and 25 percent three-bedroom units, qualifying the project as high/highest resource family development;

secure funding from the California Debt Limit Allocation Committee (CDLAC); (2) maximize density and unit count that may be built “as of right”; (3) implement an interim use plan for the site; (4) are cost-effective through low-to-no land costs, use of efficient construction materials or techniques, or other cost-saving measures; (5) designate at least 25 percent of units for households experiencing homelessness; (6) align with City policies on anti-displacement, creating stable housing for populations that are vulnerable, and racially inclusive communities; (7) create opportunities for Emerging Developers; and (8) serve at least 30 percent extremely low income households. MOHCD plans to provide 25 to 50 percent of total funding to sites located in CDLAC-defined High/Highest Resource Neighborhoods and provide remaining funding to sites in Priority Equity Geographies<sup>4</sup> as defined in the Housing Element. Attachment 1 shows maps of priority funding areas. Additional funds to construct the projects will need to be identified in FY 2024-25. According to MOHCD staff, eight responses were received, including five qualified responses, which are being evaluated. Of the five qualified responses, three were for proposed projects located in Highest Resource Neighborhoods and two were for proposed projects in Moderate Resource Neighborhoods.

- b) The **Acquisition and Capital Improvements for the Organizations Serving Asian Pacific Islander Residents Request for Proposals (RFP)** provides up to \$20 million in grant funding for acquisition and capital improvement projects for non-housing community facilities, such as community centers. According to the RFP, applying organizations must: (1) serve low- and moderate-income Asian Pacific Islander residents through “meaningful and impactful programming”; (2) demonstrate project readiness; (3) have diverse, dependable funding streams for ongoing programming; (4) demonstrate organizational capacity to maintain the facility; and (5) show alignment with City needs and priorities. Applicants may apply for a maximum of 85 percent of the acquisition price or 85 percent of the total cost of proposed capital improvements, and the maximum award per proposal is \$5 million. According to MOHCD’s presentation to the Capital Planning Committee, MOHCD received 14 responses, which were being evaluated.
- c) The **New Affordable Educator Housing NOFA** provides \$32 million for predevelopment and construction for new development projects serving extremely low-, low-, and moderate-income education employees. The \$32 million total includes \$12 million in proposed COPs and \$20 million in 2019 General Obligation Bond<sup>5</sup> funds. GO Bond funding is restricted to rental housing opportunities, but COPS may fund homeownership

---

(2) project sets aside at least 45 percent of units for homeless households referred through Coordinated Entry; or (3) project will be developed by a team that qualifies for the CDLAC BIPOC funding pool.

<sup>4</sup> The Department of Public Health (DPH) defines Priority Equity Geographies as areas with a higher density of vulnerable populations, including but not limited to seniors, people of color, youth linguistically isolated households, people with disabilities, and people who are unemployed or living in poverty.

<sup>5</sup> In November 2019, San Francisco voters approved Proposition A, which provided for the issuance of up to \$600 million in general obligation funds to finance the acquisition, rehabilitation, and construction of affordable housing.

opportunities. MOHCD aims to fund development and construction of at least two Educator Housing Projects<sup>6</sup> with units affordable to households earning between 30 and 140 percent Area Median Income (AMI). Households with at least one qualified education employee will be given priority for occupancy. According to the NOFA, MOHCD will select proposals that: (1) maximize density and unit count that may be built “as of right”; (2) implement an interim use plan for the site; (3) are cost-effective through low-to-no land costs, use of efficient construction materials or techniques, or other cost-saving measures; (4) align with City policies on anti-displacement, creating stable housing for populations that are vulnerable, and racially inclusive communities; (5) create opportunities for Emerging Developers; and (6) maximize the number of target population placements in the project. In addition, rental housing projects must serve households between 30 and 140 percent AMI, and MOHCD will prioritize rental housing projects best positioned to secure CDLAC funding. Homeownership housing must serve households with incomes between 80 and 120 percent AMI with an overall average of 100 percent AMI, and MOHCD will prioritize applicants that have received an award from the California Department of Housing and Community Development (HCD) CalHome program. Because of the focus on educator housing, the NOFA does not require that any units be designated for households experiencing homelessness. According to MOHCD staff, MOHCD received seven responses, which are being evaluated.

## FISCAL IMPACT

The City would pay approximately \$112.0 million for the total project costs, as shown in Exhibit 1 below. In addition, the City’s estimated costs to issue the COPs are \$26,825,000, including the audit fee, debt service reserve fund, capitalized interest, cost of issuance, and underwriter’s discount, and an additional \$7,975,000 would be reserved for market uncertainty for a total not to exceed par amount of \$146.8 million. Exhibit 1 below identifies the sources and uses for the proceeds from the sale of the COPs.

---

<sup>6</sup> The Planning Code defines Educator Housing Projects as housing for education employees with household incomes of 30%-140% AMI and an average of 100% AMI across all units. In addition, up to 20% of units can be restricted up to 160% AMI.

**Exhibit 1: Sources and Uses for Housing and Community Development COPs**

| <b>Sources and Uses</b>  | <b>Amount</b>        |
|--|----------------------|
| <b>Sources</b>   |                      |
| COP Par Amount   | \$138,825,000        |
| <b>Uses</b>  |                      |
| Acquisition for Affordable Housing Development                           | 40,000,000           |
| Acquisition and Capital Improvements for Non-Profit Community Facilities | 30,000,000           |
| Public Housing/HUD Co-Op Repairs   | 20,000,000           |
| Affordable Housing for Educators   | 12,000,000           |
| Elevators in the SRO Portfolio   | 10,000,000           |
| <i>Subtotal, Estimated Project Costs</i>                                 | <i>\$112,000,000</i> |
| Audit Fee  | 224,000              |
| Capitalized Interest   | 12,676,101           |
| Debt Service Reserve Fund  | 12,376,758           |
| Cost of Issuance   | 854,016              |
| Underwriter's Discount   | 694,125              |
| <i>Subtotal, Financing Costs</i>   | <i>\$26,825,000</i>  |
| <b>Total Uses</b>  | <b>\$138,825,000</b> |
| Reserve for Market Uncertainty   | 7,975,000            |
| <b>Maximum Not-to-Exceed Par Amount</b>                                  | <b>\$146,800,000</b> |

Source: Office of Public Finance

**Debt Service**

The Office of Public Finance estimates that the COPs would have average annual principal and interest payments of \$12,374,256 and an estimated annual interest rate of 6.30 percent. Total debt service over the anticipated 20-year term is \$243,327,750.

**City’s Debt Policy**

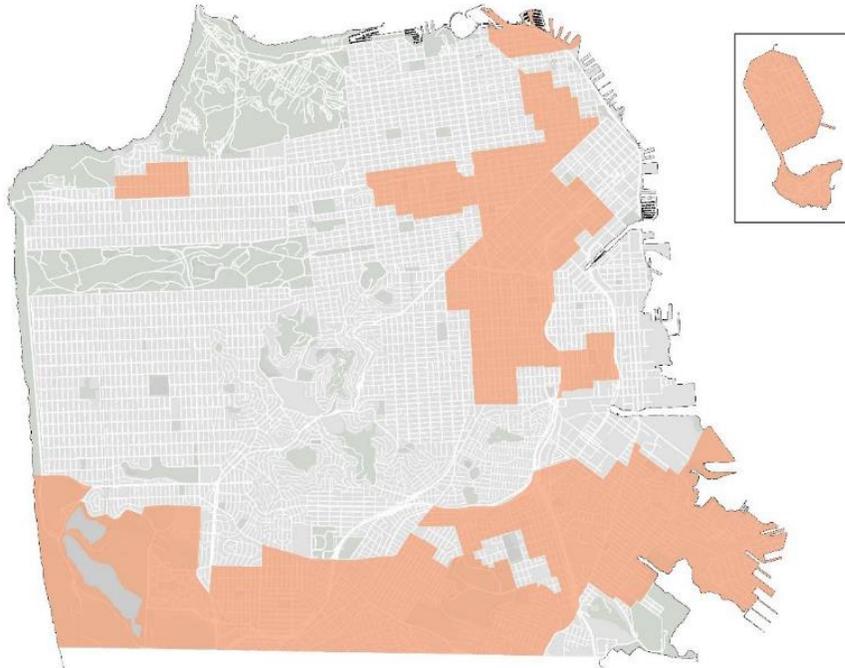
The Controller’s Office of Public Finance’s Debt Policy, which was approved by the Board of Supervisors in March 2020 (File 20-0089), states that it is the City’s policy is to limit General Fund debt service at or below 3.25 percent of discretionary General Fund revenues. According to the proposed FY 2024-33 Ten Year Capital Plan pending approval by the Board of the Supervisors, the City will remain compliant with that debt policy though FY 2032-33, including the proposed COPs and additional debt that would be subject to future Board of Supervisors’ approval.

**RECOMMENDATIONS**

1. Request that the Director of MOHCD report back by November 1, 2023 on (a) the criteria, parameters, and project timelines of the three remaining funding solicitations, including: (1) the second phase of non-profit site acquisition funding, (2) public housing/co-op repairs, and (3) SRO elevators; and (b) all projects funded by the proposed certificates of participation.
2. Approve the proposed ordinance.

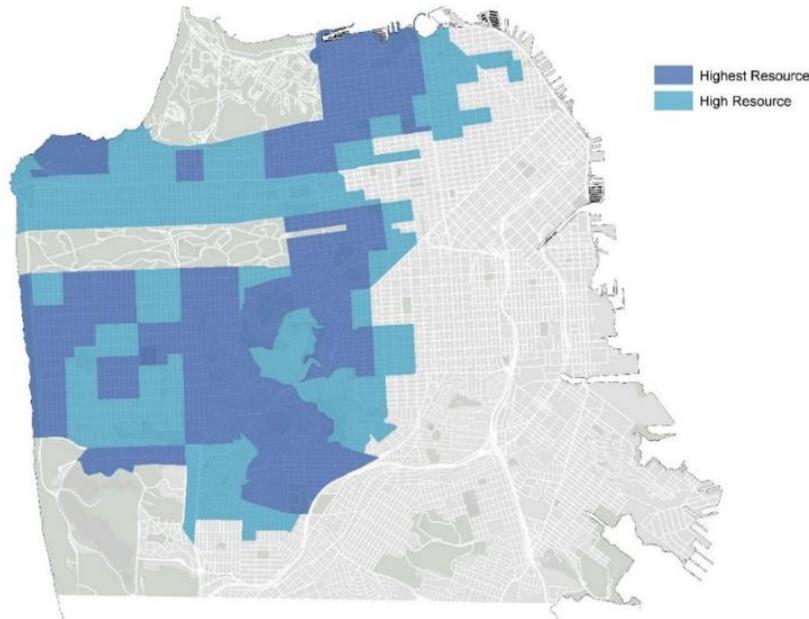
**Attachment 1: Maps of Priority Equity Geographies and High/Highest Resource Neighborhoods from the 2022 Update to the San Francisco Housing Element**

*Figure 19.* Map of Priority Equity Geographies



Source: San Francisco Department of Public Health's [Areas of Vulnerability map](#).

*Figure 20.* Map of Well-resourced Neighborhoods



Source: [2020 TCAC/HCD Opportunity Map](#).