CITY AND COUNTY OF SAN FRANCISCO

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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TO: Budget and Finance Committee

FROM: Budget and Legislative Analyst

SUBJECT: November 1, 2023 Budget and Finance Committee Meeting

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Items 1 & 2 **Files 23-0971 & 23-0972** *(Continued from 10/25/23 meeting)*	**Departments:** Controller (CON) Mayor's Office of Housing & Community Development (MOHCD)

EXECUTIVE SUMMARY

Legislative Objectives

File 23-0971: is an ordinance that would provide for a special election on March 5, 2024 to request voter approval for a $300 million of general obligation bond to fund three affordable housing programs: (1) $240 million for new rental housing, (2) $30 million to preserve rental housing, and (3) $30 million for rental housing for victims and survivors of homelessness and violence.

File 23-0972: is a resolution that would determine and declare that incurring the proposed debt is necessary and in the public interest.

Key Points

- The FY 2024-2033 Capital Plan includes a schedule of planned debt and other capital financing. The schedule shows a $340 million general obligation bond for affordable housing and shelters will be requested for voter approval in March 2024. The Capital Planning Committee has since voted to shift $40 million for shelters to the November 2024 election. Prior to issuing the proposed debt, the Board must find that such indebtedness is in the public interest and schedule an election to seek voter approval for the debt.
- The proposed funding allocations among the three affordable housing programs would provide an estimated 1,429 to 1,520 new or preserved affordable rental housing units.

Fiscal Impact

- According to the Office of Public Finance, the proposed bonds are projected to have an annual interest rate of 6.5 percent over approximately 20 years, with estimated total debt service payments of $544.5 million, including approximately $244.5 million in interest and $300 million in principal. The Office of Public Finance estimates average annual debt service payments of $24.8 million.

Recommendation

- Approval the proposed ordinance and resolution.

MANDATE STATEMENT

City Administrative Code Section 2.34 requires that a resolution determining the public interest and necessity for the acquisition, construction or completion of any municipal improvement funded by property taxes be adopted by the Board of Supervisors not less than 141 days before the election at which such proposal will be submitted to the voters. Approval of such resolutions requires a 2/3 vote by the Board of Supervisors.

According to Article 16, Section 18(a) of the State of California Constitution, no county, city, town, township, board of education, or school district, shall incur any indebtedness or liability for any purpose exceeding in any year the income and revenue provided for such year, without the approval of two-thirds of the voters of the public entity voting at an election to be held for that purpose.

BACKGROUND

The FY 2024-2033 Capital Plan includes a schedule of planned debt and other capital financing. The schedule shows a $340 million general obligation bond for affordable housing and shelters will be requested for voter approval in March 2024. The Capital Planning Committee has since voted to shift $40 million for shelters to the November 2024 election. According to the Office of Public Finance, a resolution will be introduced for the Board of Supervisors to amend the capital plan to reflect this change.

2019 Affordable Housing General Obligation Bond

Voters approved a $600 million general obligation bond in 2019, of which $425 million has been issued. Of the $425 million in bond proceeds, approximately $7 million was for issuance costs and $254 million has been spent or encumbered as of June 2023, leaving a remaining balance of $165 million in bond proceeds.[1]

The 2019 general obligation bond has approximately $175 million in authorized but unissued bonds, which is allocated among the following programs: $35 million in low-income housing, $13 million for preservation/downpayment assistance, $107.5 million for senior housing, and $20 million for educator housing.

DETAILS OF PROPOSED LEGISLATION

File 23-0971: is an ordinance that would provide for a special election on March 5, 2024 to request voter approval for a $300 million general obligation to fund three affordable housing

[1] The remaining $165 million balance of issued but unspent bond proceeds is allocated among the following programs: $95 million for public housing, $35 million for low-incoming housing, $29 million for preservation and downpayment assistance, and $5 million for senior housing.

programs: (1) $240 million for new rental housing, (2) $30 million to preserve rental housing, and (3) $30 million for rental housing for victims and survivors of homelessness and violence.

File 23-0972: is a resolution that would determine and declare that the public interest and necessity demand: (1) construction and rehabilitation of new affordable rental housing, (2) preservation of affordable rental housing, and (3) develop or rehabilitate housing for households that have survived homelessness, street violence, domestic violence and abuse, sexual abuse and assault, and/or human trafficking.

The proposed legislation would also:

- Find that the estimated cost of $300 million for such proposed projects will be too great to be paid out of the ordinary annual income and revenue of the City and will require expenditures greater than the amount allowed by the annual tax levy;
- Find that the bond proposal is not subject to review under the California Environmental Quality Act (CEQA);
- Find that the proposed bonds are in conformity with the General Plan, and the eight priority policies of Planning Code, Section 101.1(b);
- Waive the time requirements specified in Administrative Code, Section 2.34;
- Authorize landlords to pass-through 50 percent of the resulting property tax increase to residential tenants under Administrative Code, Chapter 37; and,
- Declare the City's intention to use bond proceeds to reimburse capital expenses incurred prior to the issuance of the proposed bonds.

At the October 25, 2023 Budget & Finance meeting, the Mayor's Office of Housing and Community Development agreed to table their original affordable housing general obligation bond proposal (Files 23-0969 and 23-0970) and verbally endorsed the proposed ordinance and resolution. The Budget & Finance Committee amended Files 23-0971 and 23-0972 to add findings and recitals related to labor, climate, and the need for victim and survivor housing and also to clarify that the tenant pass-through only applies if property taxes are actually increased as a result of the proposed bonds.

Proposed uses of the bond proceeds are shown in Exhibit 1 below, together with the expected number of units each program may generate and the income limits for each program, based on the ordinance scheduling a special election. The proposed funding allocations would provide an estimated 1,429 to 1,520 new or preserved affordable rental housing units.

Exhibit 1: Uses of Bond Funds

Affordable Rental Programs	Funding	Units	Household Area Median Income
New	$240,000,000	1,298	Up to 80% AMI
Preservation	30,000,000	60	30% - 120% AMI
Victims & Survivors*	30,000,000	71 - 162	Up to 80% AMI
Total	**$300,000,000**	**1,429 – 1,520**	

Source: File 23-0971, BLA analysis of MOHCD data

Notes: Victim and Survivor housing is defined in File 23-0972 as serving households that have survived homelessness, street violence, domestic violence and abuse, sexual abuse and assault, and/or human trafficking. Unit estimates are based on the following assumptions: $185,000 per unit local funding for new rental housing, $500,000 per unit local funding for preservation, $400,000 per unit for downpayment assistance, and $185,000 - $420,000 for victim and survivor housing, which may not be able to leverage the same funding sources as rental affordable housing for the general population.

Approval of the proposed $300 general obligation bond would require approval by at least two-thirds of San Francisco voters. All issuances of the bonds and appropriations of the bond fund proceeds would be subject to Board of Supervisors approval. At that time, CEQA review and approval of the specific projects may be required, and the project costs would be identified.

FISCAL IMPACT

Debt Service

According to Vishal Trivedi, Financial Analyst in the Office of Public Finance, the proposed bonds are projected to have an annual interest rate of 6.5 percent over approximately 20 years, with estimated total debt service payments of $544.5 million, including approximately $244.5 million in interest and $300 million in principal. The Office of Public Finance estimates average annual debt service payments of $24.8 million.

Property Taxes

Repayment of such annual debt service would be recovered through property tax revenues. According to the Office of Public Finance, the average property tax rate for the proposed bonds would be $5.70 per $100,000 of assessed valuation, half of which could be passed through to tenants.

Debt Limit

According to the FY 2024-2033 Capital Plan, the proposed bonds are consistent with the City's current debt management policy to maintain the property tax rate for City general obligation bonds below the FY 2005-06 rate of $0.12 per $100 of assessed value.

RECOMMENDATION

Approve the proposed ordinance and resolution.

Item 4 **File 23-0962**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would waive competitive bidding requirements in the Administrative Code, as well as all other requirements in the Administrative, Environment, and Municipal Codes as applied to a commodities purchase, to authorize the San Francisco International Airport (Airport) to purchase 14 used buses from Phoenix Sky Harbor Airport (PHX) for an amount not to exceed $350,000 and authorize the Airport Director to negotiate terms of the purchase and sale agreement.

Key Points

- The Airport provides the GoSFO Shuttle service for employees to the Hayward and Castro Valley BART stations. Airport staff is considering other employee shuttle routes, including service to Vallejo and overnight BART replacement service when it does not run.
- Airport staff contacted Phoenix airport staff to inquire if PHX had used buses that it no longer needed due to expansion of its Sky Train system. PHX reported that it had 14 used compressed natural gas (CNG) buses that are similar to those used by the Airport. In April 2023, Airport staff visited PHX and inspected the buses and determined that they were in good condition despite their age, although some would need significant repairs to become operational. Airport and PHX staff negotiated a purchase price of $25,000 per bus, which is likely above market value, but the privately negotiated sale guarantees that the Airport would receive the buses and in a faster timeframe than if sold at auction.
- The Airport is requesting a waiver of competitive bidding requirements due to the favorable pricing, availability, and condition of the PHX buses. The proposed ordinance would waive other Administrative, Environment, and Municipal Code provisions that are not shared by the City of Phoenix.

Fiscal Impact

- The proposed purchase of 14 buses from PHX would have a cost of $350,000. The Airport estimates that maximum costs for replacement parts total approximately $73,368 per vehicle, and towing costs are approximately $11,700 per vehicle. The total cost would be up to approximately $110,068 per bus, or $1,540,952 for 14 buses. Using conservative estimates, the Budget and Legislative Analyst finds that this proposal provides favorable pricing to the Airport over purchasing new electric buses.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT

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

BACKGROUND

In September 2022, the San Francisco International Airport (Airport) began the GoSFO Shuttle service from the Hayward and Castro Valley BART stations for employees. Service was originally offered free of charge, but the Airport began charging passengers a nominal fee in July 2023. According to Airport Management, GoSFO Shuttle serves approximately 500-650 rides per day, and approximately 91.6 percent of riders report that the service allows them to remain employed at the Airport instead of seeking jobs elsewhere. Airport staff is considering other employee shuttle routes, including service to Vallejo and overnight BART replacement service when it does not run. Employee shuttles are operated by SFO Hotel Shuttle under a contract approved by the Board of Supervisors in November 2022 (File 22-0989).

In December 2022, Phoenix Sky Harbor International Airport (PHX) opened an expansion of its Sky Train system to the Rental Car Center. According to Seth Morgan, Airport Senior Transportation Planner, Airport staff contacted PHX staff to inquire if PHX had used buses that it no longer needed due to expansion of the Sky Train system. PHX reported that it had 14 used compressed natural gas (CNG) buses that are similar to those used by the Airport. In April 2023, Airport staff visited PHX and inspected the buses and determined that they were in good condition despite their age, although some would need significant repairs to become operational. Airport and PHX staff negotiated a purchase price of $25,000 per bus, which according to Senior Transportation Planner Morgan, is a more cost-effective option than purchasing new buses.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would waive competitive bidding requirements in the Administrative Code, as well as all other requirements in the Administrative, Environment, and Municipal Codes as applied to a commodities purchase, to authorize the Airport to purchase 14 used buses from PHX for an amount not to exceed $350,000 and authorize the Airport Director to negotiate terms of the purchase and sale agreement.

According to Senior Transportation Planner Morgan, the 14 buses are 2009 El Dorado models, or approximately 14 years old, ranging from approximately 318,000 to 453,000 miles. The Federal Transit Administration designates the useful life of large buses at 12 years. Senior Transportation Planner Morgan reports that based on the Airport’s experience, this is an underestimate, and the 14 PHX buses would have a useful life of approximately three to five additional years.

Based on recent bids, Senior Transportation Planer Morgan estimates that purchasing new buses would cost approximately $900,000 per bus.[1] The Airport is requesting a waiver of competitive

[1] A September 2022 bid from Proterra for two electric buses had a base cost of $819,000 per bus, but a total cost of $1,134,945 per bus after upgrades and configurations. Due to state law mandating zero-emission bus fleets by 2035, the Airport would not consider purchasing new CNG buses.

bidding requirements due to the favorable pricing, availability, and condition of the PHX buses. According to Senior Transportation Planner Morgan, the $25,000 cost per bus is likely above market value, but the privately negotiated sale guarantees that the Airport would receive the buses and in a faster timeframe than if sold at auction. Upon approval of the proposed ordinance, approval would also be required from the Phoenix City Council, and part of the bus cost is intended to compensate PHX for staff time in obtaining approvals. The proposed ordinance would waive other Administrative, Environment, and Municipal Code provisions that are not shared by the City of Phoenix.

According to Senior Transportation Planner Morgan, the Airport anticipates using the expanded fleet to add approximately five buses to provide service to Vallejo, approximately four to five buses for overnight BART replacement service, and approximately four to five buses as spares. Several of the buses require significant repairs to enter service, which would require them to be towed rather than driven from Phoenix. Senior Transportation Planner Morgan anticipates that if approved, the buses would enter service in approximately Spring 2024.

FISCAL IMPACT

The proposed purchase of 14 buses from PHX would have a cost of $350,000 or $25,000 per bus. Additionally, the Airport would incur costs in transporting and repairing the buses. Senior Transportation Planner Morgan estimates that maximum costs for replacement parts total approximately $73,368 per vehicle,[2] and towing costs are approximately $11,700 per vehicle.[3] The total cost would be up to approximately $110,068 per bus, or $1,540,952 for 14 buses. Using conservative estimates (which exclude maintenance for new buses), the Budget and Legislative Analyst finds that this proposal provides favorable pricing to the Airport over purchasing new electric buses, as shown in Exhibit 1 below.

Exhibit 1: Bus Cost Comparison, Used PHX Buses vs. New Electric Buses

	PHX CNG Buses (High-End Estimate)	New Electric Buses (Low-End Estimate)
Bus Purchase Cost	$25,000	$900,000
Replacement Parts	73,368	-
Towing	11,700	-
Total Cost	**$110,068**	**$900,000**
Useful Life	3 Years (Minimum)	20 Years (Maximum)
Cost per Year of Useful Life	**$36,689**	**$45,000**

Source: BLA calculations using Airport estimates

The cost estimates in Exhibit 1 for new electric buses are likely underestimates, as the purchase cost of $900,000 per bus is lower than the Airport's bids of over $1.1 million per bus. Additionally,

[2] Replacement parts include new engines, transmissions, radius rods, engine control modules, fuel regulators, and booster pumps. Prices for these parts, with the exception of engines, were provided by New Flyer. Senior Transportation Planner Morgan anticipates that El Dorado would provide comparable pricing. Not all parts would be required for each bus.

[3] Senior Transportation Planner Morgan further reports that the Airport's in-house sign shop would likely be able to wrap the buses with Airport branding, but the cost to do was not available as of this writing.

new electric buses that are kept in service for 15 to 20 years would likely require replacement of major components, such as batteries.

RECOMMENDATION

Approve the proposed ordinance.

Item 5 **File 23-1078**	**Departments:** Arts Commission Children, Youth, & Families Emergency Management Public Works Economic & Workforce Development Recreation & Parks Police Municipal Transportation Agency

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed ordinance would de-appropriate $377,000 from District 7 General City Responsibility and $150,000 from the Municipal Transportation Agency and re-appropriate the funds to the following Departments: Arts Commission, Children Youth and Families, Emergency Management, Public Works, Economic & Workforce Development, Recreation & Parks, Police, and Municipal Transportation Agency.

Key Points

- The proposed ordinance appropriates funding for projects identified in District 7 participatory budget process. For FY 2023-24, District 7 residents were invited to submit project proposals prior to April 14, 2023. A Community Review Committee evaluated the proposals.

Fiscal Impact

- The proposed ordinance re-appropriates funding set-aside for District 7 projects.

Recommendation

- Approve the proposed ordinance.

MANDATE STATEMENT

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

BACKGROUND

Participatory budgeting is a process that gives community members an opportunity to provide input on how to spend public funds. For FY 2023-24, District 7 residents were invited to submit project proposals prior to April 14, 2023. A Community Review Committee evaluated the proposals.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would de-appropriate $377,000 from District 7 General City Responsibility and $150,000 from SFMTA and re-appropriate the funds to the Departments and projects shown below in Exhibit 1.

Exhibit 1: Summary of Appropriation Changes

Sources		Projects
General City Responsibility	($377,000)	District 7 Projects
Municipal Transportation Agency	($150,000)	District 7 Projects
Total, De-appropriation	**($527,000)**	
Uses		
Arts Commission	$100,000	Murals
Children, Youth, & Families	$98,000	Playground upgrades, Youth nutrition
Emergency Management	$25,000	Emergency preparedness training
Public Works	$49,000	Irrigation, seating area, trees
Economic & Workforce Development	$50,000	Rainy day fund for small businesses
Recreation & Parks	$25,000	Mt. Sutro storm damage
Police	$30,000	Cameras
Municipal Transportation Agency	$150,000	West Portal Station community space; traffic safety
Total, Uses	**$527,000**	

Source: Proposed Ordinance

FISCAL IMPACT

The proposed ordinance would de-appropriate $377,000 from District 7 General City Responsibility and $150,000 from SFMTA and re-appropriate the funds to the following Departments: Arts Commission, Children Youth and Families, Emergency Management, Public Works, Economic & Workforce Development, Recreation & Parks, Police, and Municipal Transportation Agency.

RECOMMENDATION

Approve the proposed ordinance.

Items 7 & 8 **Files 23-1024 and 23-1025**	**Department:** Recreation and Parks Department (REC)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolutions would approve the following emergency declarations of the Recreation and Park Department (REC) General Manager: (1) repairs to the Trocadero Clubhouse, with an estimated amount not to exceed $1,850,000 (File 23-1024); and (2) winter storm clean-up at Stern Grove and other park facilities, for an estimated amount not to exceed $3,000,000 (File 23-1025).

Key Points

- In March 2023, a series of storms brought heavy rainfall and wind to San Francisco, which caused significant tree failures at various park facilities, including Stern Grove. On March 11, 2023, an 85-foot eucalyptus tree fell on the Trocadero Clubhouse in Stern Grove, damaging the second story and causing water damage to other parts of the building. REC General Manager Philip Ginsburg declared emergencies to respond to the storm damage.
- In March 2023, REC awarded a contract to The Professional Tree Care Company for the work at Stern Grove and other park facilities. The contract has undergone five change orders for a total amount not to exceed $1,622,150. The work will be completed by mid-November 2023. REC is working with Architectural Resources Group Conservation Services (ARG) on preparing a bid for the Trocadero Clubhouse work and intends to award a contract in November 2023. Work would be completed by October 3, 2024.

Fiscal Impact

- REC anticipates that total costs associated with the Stern Grove emergency declaration likely will not exceed $2,000,000. The estimated cost of the Trocadero Clubhouse work is $1,850,000. REC will seek FEMA reimbursement for all the costs, with the exception of $117,300 for Stern Grove. The General Fund would fund any costs not reimbursed.

Policy Consideration

- REC did not comply with the Administrative Code requirement to submit notifications and/or resolutions to the Board within 60 days of its emergency declarations.

Recommendations

- (1) Amend the proposed resolution in File 23-1025 to clarify that the total emergency work is estimated not to exceed $2,100,000. (2) Request REC establish a written procedure for emergency declarations and contracting within thirty days and provide a copy of the procedure to the Board of Supervisors. (3) Because the Department did not comply with the notification timelines in Administrative Code Chapter 6.60 approval of the proposed resolutions is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

Administrative Code Section 6.60(d) states that emergency work that costs more than $250,000 is subject to Board of Supervisors approval. Prior to the commencement of emergency work above the $250,000 threshold, the Department must also secure approval in writing from the Mayor, the President of the Board, or the Commission. If the emergency does not permit approval of the emergency determination by the Board of Supervisors before work begins, the Department head must submit a resolution approving the emergency determination to the Board of Supervisors within 60 days.

BACKGROUND

The State of California experienced above normal precipitation from November 2022 through March 2023, resulting in one of the wettest years on record. In March 2023, a series of storms brought heavy rainfall and wind to San Francisco, which caused significant tree failures at various park facilities, including Stern Grove. On March 11, 2023, an 85-foot eucalyptus tree fell on the Trocadero Clubhouse in Stern Grove, damaging the second story and causing water damage to other parts of the building.

Emergency Declarations

On March 22, 2023, Recreation and Park Department (REC) General Manager Philip Ginsburg declared an emergency for the tree failures at Stern Grove and other park facilities, for an estimated amount not to exceed $850,000. This emergency declaration did not include the damage to the Trocadero Clubhouse. According to Antonio Guerra, REC Director of Administration and Finance, REC did not submit a resolution of this emergency declaration to the Board of Supervisors for approval within 60 days, as required by Administrative Code Section 6.60(d), due to internal coordination errors. On July 14, 2023, General Manager Ginsberg submitted a revised emergency declaration to the Mayor and Board of Supervisors, increasing the estimated not to exceed amount to $3,000,000. The emergency declaration was approved by then-Recreation and Park Commission President Mark Buell, but REC again did not submit a resolution to the Board of Supervisors within the 60-day required timeline.

On October 2, 2023, General Manager Ginsburg declared an emergency for the damage to Trocadero Clubhouse that occurred in March 2023, which was approved by Commission President Kat Anderson. Administrative Code Section 6.60(b) states that departmental emergency declarations must provide “immediate” notice to the Board of Supervisors, Mayor, and Controller.

DETAILS OF PROPOSED LEGISLATION

The proposed resolutions would approve the following emergency declarations of the REC General Manager: (1) repairs to the Trocadero Clubhouse, with an estimated amount not to exceed $1,850,000 (File 23-1024); and (2) winter storm clean-up at Stern Grove and other park facilities, estimated to cost more than $250,00 (File 23-1025).

Any contracts entered into under the emergency authority are exempt from Administrative Code Chapters 6 (public works contracting policies and procedures), 12A (Human Rights Commission), 12B (non-discrimination in contracts), 12C (non-discrimination in property contracts), and 14B (Local Business Enterprise utilization).

Stern Grove and Other Facilities (File 23-1025)

In March 2023, REC awarded a contract to The Professional Tree Care Company for an amount not to exceed $574,000 for the work at Stern Grove and other park facilities. The contract has undergone five change orders to remove trees and logs that were not included in the original contract scope, as shown in Exhibit 1 below.

Exhibit 1: Professional Tree Care Company Contract Change Orders

Change Order	Location	Amount
Original Contract	Stern Grove Meadow	$574,000
Change Order 1	Stern Grove Meadow	1,200
Change Order 2	Stern Grove East	390,000
Change Order 3	Pine Lake	256,500
Change Order 4	Stern Grove Follow Up Work	283,150
Change Order 5	Stern Grove Playground	117,300
Total		**$1,622,150**

Source: Contract documents

According to Director Guerra, the contract was awarded based on availability, previous history of the contractor, and reasonableness of cost. REC did not award the contract through a competitive bidding process because of the urgency to clean up the site and timelines for requesting Federal Emergency Management Agency (FEMA) reimbursement. According to Director Guerra, the total cost of the emergency likely will not exceed $2,000,000 and the work will be completed by mid-November 2023.

Trocadero Clubhouse (File 23-1024)

According to Director Guerra, REC is working with Architectural Resources Group Conservation Services (ARG) on preparing a bid for the Trocadero Clubhouse work and intends to award a contract in November 2023. REC did not award the contract through a competitive bidding process because of the timelines required for FEMA reimbursement. According to Director Guerra, ARG has completed design drawings that are required to meet U.S. Department of the Interior standards for historic buildings. REC has also received approvals from the Historic Preservation Division of the Planning Department and building permits from the Department of Building Inspection. The project must be completed by October 3, 2024, to meet FEMA reimbursement deadlines. To date, REC has incurred $20,043 in costs for ARG design work, which are not included within the $1,850,000 estimate and are not eligible for FEMA reimbursement.

FISCAL IMPACT

Stern Grove and Other Facilities (23-1025)

As mentioned above, Director Guerra anticipates that total costs associated with the Stern Grove emergency declaration likely will not exceed $2,000,000, which is less than the $3,000,000 estimated amount cited in the emergency declaration. The resolution in File 23-1025 states that the cost of the emergency work is "in excess of $250,000" but does not specify a not-to-exceed amount. Based on REC's revised estimate, and to allow for an additional $100,000 contingency, the Budget and Legislative Analyst recommends amending the proposed resolution in File 23-1025 to clarify that the total amount of emergency work authorized by the resolution is not to exceed $2,100,000.

According to Director Guerra, REC plans to seek FEMA reimbursement for the base contract costs and Change Orders 1-4, for a maximum reimbursable amount of $1,504,850. Change Order 5 is ineligible for reimbursement and is funded by the City's General Fund. The Department would seek full FEMA reimbursement for any additional costs tied to the contract.

Trocadero Clubhouse (File 23-1024)

The estimated costs for Trocadero Clubhouse work (File 23-1024) are shown in Exhibit 2 below.

Exhibit 2: Estimated Trocadero Clubhouse Project Costs

Task	Amount
General Contractor/Mobilization, Scaffolding, Demolition	$670,110
Roofing, Waterproofing	196,000
Rough/Finish Carpentry	435,000
Utilities: Fire Sprinkler, Electrical	80,200
Finishes: Plaster, Painting, Carpet, Guardrails	300,500
Subtotal	*$1,681,810*
Contingency (10%)	168,190
Total	**$1,850,000**

Source: REC

According to Director Guerra, REC will seek FEMA reimbursement for the full $1,850,000 in costs for Trocadero Clubhouse work. The City's General Fund would fund any costs not reimbursed by FEMA.

POLICY CONSIDERATION

REC Emergency Contracting Procedures

As noted above, the Recreation and Parks Department did not comply with the Administrative Code 6.60(d) requirement to submit notifications and/or resolutions to the Board of Supervisors within sixty days of its emergency declarations. As the Public Works Department did in May 2023, we recommend that the Recreation and Parks Department establish a written procedure for emergency declarations that include the following elements: (a) establish a project manager to oversee each emergency project, (b) obtain an independent project cost estimate by a qualified technical expert, (c) attempt to solicit quotes from at least three qualified bidders, (d) work with the Contract Monitoring Division to ensure that Local Business Enterprises are aware of opportunities, (e) post resulting emergency declarations and selected contractors on the Recreation and Parks website, (f) adhere to the notification and approval timelines from the appropriate oversight bodies within the timelines established in Administrative Code Section 6.60, and (g) include emergency work cost estimates in its resolutions seeking Board of Supervisors approval of emergencies. The Recreation and Parks Department should establish this procedure within thirty days and provide a copy of the procedure to the Board of Supervisors.

Not-to-Exceed Amounts in Resolutions Approving Section 6.60 Emergency Declarations

In the past, our office, in conversation with City Departments, has always understood that the cost estimates of emergency work included in resolutions approving emergencies limit the amount of emergency contracting authority. This is to avoid, for example, a Department obtaining Board approval for $1 million of emergency contracting authority but then spending $5 million on such work. Recent Board actions suggest this is a widely shared interpretation. In 2021, the Public Utilities Commission obtained Board approval of a resolution declaring an emergency at Stern Grove, which included a $4 million cost estimate (File 21-1082) but then in 2022 sought Board approval to increase the emergency authority to $20 million (File 22-0245) after an updated damage assessment. Similarly, in September 2023, the Board, Public Works, and Public Health agreed to add a not-to-exceed amount and list of projects on Public Works' emergency declaration related to Laguna Honda (File 23-0811), which we recommended as a way to limit the emergency contract authority of that request. In this case, REC General Manager Ginsburg's emergency declaration for Stern Grove repairs was revised to increase the estimated amount from $850,000 to $3,000,000.

The City Attorney's Office recently communicated to our office a different interpretation of the scope of the Board of Supervisors' approval of emergency declarations pursuant to Administrative Code Section 6.60, which is that the cost estimates of such emergency declarations are not binding. We do not believe this is good public policy and a significant departure from past practice that reduces the Board of Supervisors' historical oversight authority. We recommend that the Board of Supervisors amend Administrative Code Section 6.60 to clarify that the Board's approval of emergency declarations may limit the scope of the emergency contracting authority.

RECOMMENDATIONS

1. Amend the proposed resolution in File 23-1025 to clarify that the total estimated cost of the emergency work is not to exceed $2,100,000.
2. Request Recreation and Parks establish a written procedure for emergency declarations and contracting within thirty days and provide a copy of the procedure to the Board of Supervisors.
3. Because the Board notification of the emergency regarding the Trocadero Clubhouse and the resolution approving the emergency at Stern Grove did not comply with the timelines in

Administrative Code Chapter 6, approval of the proposed resolutions is a policy matter for the Board of Supervisors.

Item 10 **File 23-1037**	**Department:** City Administrator (ADM)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve Modification No. 5 to the contract between the City and Western States Oil, increasing the not to exceed from $32,500,000 to $35,450,000 and extending the term by 19 days, from October 31, 2023 to November 19, 2023

Key Points

- In 2018, the Board approved a five-year agreement with Western States Oil to deliver unleaded regular and premium gasoline and propane to Central Shops fueling stations and other Departments. The City is not obligated to purchase any specific quantity of gasoline. The price the City pays for gasoline is based on a fixed markup or markdown (depending on the quantity delivered) from the daily price per gallon of gasoline.
- Without the proposed contract modification, the prior contract term would have ended on October 31, 2023, and OCA projected, based on purchase orders submitted, that the current contract not-to-exceed amount of $32,500,000 would be surpassed before then. In order to maintain fuel deliveries, the Office of Contract Administration amended the agreement to increase the not-to-exceed amount and extend the term and is now seeking retroactive approval for that contract modification from the Board of Supervisors. According to Sailaja Kurella, Director of the Office of Contract Administration, the City intended to have a new fuel contract in place prior to the October 31, 2023 expiration of this contract but negotiations took longer than expected.

Fiscal Impact

- Fuel purchases are paid from each department's budget. General Fund Departments account for 81 percent of the spending to date on the agreement and the remaining 19 percent is paid from enterprise revenues.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

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

BACKGROUND

In April 2018, the City's Office of Contract Administration (OCA) solicited competitive bids for gasoline for all City departments and received responses from four suppliers. OCA awarded the primary contract (Contract ID 1000012394) to the lowest bidder, Western States Oil, for an initial not to exceed (NTE) amount of $32,000,000 and a term of three years, from November 1, 2018 through October 31, 2021 (File 18-0770). The original agreement had a maximum term of five years. The contract has been amended five times, including extension of the term through November 19, 2023 and an increase of the not to exceed amount to $35,450,000, as summarized below in Exhibit 1.

Exhibit 1. Modification History to City Gasoline Contract (Contract ID No. 1000012394)

Modification	Start Date	End Date	NTE Amount	Changes
Original Contract	11/1/18	10/31/21	$32,000,000	
No. 1		No Change	$32,000,000	Added Info to Cover SF Emergency*
No. 2		10/31/22	$32,000,000	Extend Term
No. 3		10/31/23	$32,000,000	Extend Term
No. 4		No Change	$32,500,000	Increase NTE Amount
No. 5 (proposed)		*11/19/23*	*$35,450,000*	*Extend Term, Increase NTE Amount*

Source: OCA

Note: Modification No.1 added a clause specifying fuel prices and acceptable delivery delays in the event of an emergency.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would retroactively approve Modification No. 5 to the contract between the City and Western States Oil (Contract No. 1000012394), increasing the not to exceed amount by $2,950,000, from $32,500,000 to $35,450,000, and extending the term by 19 days, from October 31, 2023 to November 19, 2023 for a total contract term of five years and 19 days, from November 1, 2018 through November 19, 2023.

The contract is being retroactively approved because the Office of Contract Administration already executed Modification No. 5 prior to Board of Supervisors' approval. According to Sailaja Kurella, Director of the Office of Contract Administration, the City intended to have a new fuel contract in place prior to the October 31, 2023 expiration of this contract but negotiations took longer than expected. The contract is anticipated to begin in November 2023. According to OCA staff, the 19-day term extension will serve as a nearly three-week cushion to transition to the new fuel vendor. In addition, the prior not-to-exceed amount of $32.5 million was not sufficient to cover the actual fuel expenses through the contract term end date of October 31, 2023 according to OCA staff.

Services

Under the 19-day contract extension, Western States Oil would continue delivering unleaded regular and premium gasoline and propane to Central Shops fueling stations, the San Francisco Municipal Transportation Agency (SFMTA), San Francisco Fire Department (SFFD), the San Francisco Public Utilities Commission (PUC), San Francisco International Airport (SFO), the Recreation and Park Department (RPD) and will be used by departments throughout the City. The City is not obligated to purchase any specific quantity of gasoline. The price the City pays for gasoline is based on a fixed markup or markdown (depending on the quantity delivered) from the daily price per gallon of gasoline, as published by the industry group known as the Oil Price Information Services (OPIS). While the markup or markdown price remains fixed, the OPIS price per gallon fluctuates daily.

The City has ongoing contracts with other fuel providers for diesel, compressed natural gas, and other location-specific needs. Golden Gate Petroleum, another gasoline provider, delivers fuel to PUC Sierra locations and serves as a secondary contractor for City locations (Contract ID 1000012395) when Western States Oil is unable to make deliveries.

Performance

The contract requires Western States Oil to pre-schedule all deliveries to City sites, provide emergency deliveries at no additional cost, and include ordering information on packing slips for each delivery. OCA does not actively monitor contractor performance but made inquiries to departments during this reporting process, which did not report any deficiencies with Western States Oil deliveries.

Contract Expenditures

As of October 19, 2023, the City had spent $31,377,155 on this contract, a figure which includes expenditures through August 2023.[1] There remains $1,122,885 in the contract spending authority (excluding encumbrances), with two months (September and October) remaining in the prior contract term. In 2022, expenditures in September and October were $1.6 million. Without Modification No. 5, the prior contract term would have ended on October 31, 2023, and OCA projected, based on purchase orders submitted, that the current contract not-to-exceed amount of $32,500,000 would be surpassed before then.

Exhibit 2 below summarizes the total expenditures on the City's contract with Western States Oil.

[1] OCA expects that many City Departments have not yet submitted their fuel invoices, and the actual expenditures may be higher although July and August 2023 expenditures are in line with expenditures in the same months last year.

Exhibit 2: Western States Oil Fuel Contract Total Expenditures by Department, FY 2018-19-FY 2023-24*

Dept	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	Total	%
Airport	160,697	345,591	359,106	476,170	410,119	77,348	1,829,031	5.8%
MTA	41,364	141,558	153,150	328,792	391,074	87,577	1,143,515	3.6%
PUC	393,637	558,847	546,298	847,492	531,867	153,094	3,031,235	9.7%
Enterprise Subtotal	**595,698**	**1,045,996**	**1,058,555**	**1,652,454**	**1,333,060**	**318,019**	**6,003,782**	**19.1%**
City Administrator	2,602,431	3,931,267	3,724,018	5,334,198	5,119,561	836,712	21,548,187	68.7%
Public Health	0	24,270	21,094	13,521	36,408	0	95,293	0.3%
Fire	350,934	522,583	558,572	884,592	975,729	114,884	3,407,294	10.9%
Recreation & Parks	0	27,980	26,896	3,365	23,627	4,028	85,897	0.3%
Sheriff	0	35,030	40,880	73,871	77,926	8,956	236,661	0.8%
General Fund Subtotal	**2,953,364**	**4,541,129**	**4,371,460**	**6,309,548**	**6,233,252**	**964,580**	**25,373,333**	**80.9%**
Total	**3,549,062**	**5,587,125**	**5,430,015**	**7,962,001**	**7,566,312**	**1,282,600**	**31,377,115**	**100.0%**
Avg./Month	443,633	465,594	452,501	663,500	630,526	641,300		

Source: OCA

Notes: Expenditure data is from November 1, 2018 to August 31, 2023 (as of October 19, 2023). This is not representative of all the City's fuel spending, which is spread among multiple contracts.

The City Administrator's Fleet Management Division (FMD) accounts for a majority ($21,548,187, or 68.7 percent) of contract expenditures. FMD purchases gasoline and diesel from the citywide contracts to supply three City-owned and operated gas stations and one emergency tanker truck that resides at Central Shops and is used to fuel diesel trucks (such as fire trucks) during an emergency. City employees using City vehicles for work are provided with "fuel keys," which allow them to access these gas stations and fuel their City vehicles. The fuel keys also track the amount of fuel, time, and date, so that FMD can properly bill each department for their fuel consumption.

According to FMD, of the 8,260 vehicles and equipment that the City owns and operates, the FMD gas stations fuel 4,290 vehicles and equipment, or 52 percent of the assets. The remaining 48 percent of the assets are electric or hydrogen-fueled, do not require fuel (e.g., trailers), are fueled at department-operated gas stations, or are fueled outside of the City at private gas stations due to work transit needs. The Fleet Management Division, which accounts for a majority but not all General Fund expenditures on fuel, has a fuel budget of approximately $7.6 million in FY 2023-24 for gasoline, diesel, and propane.

The Recreation and Park Department (RPD) utilizes the City's fuel contract with Western States Oil to buy gasoline to power vehicles and equipment, including sedans, mowers, pickup trucks, forklifts, load-hauling trailers, and backhoes. The Fire Department has ten fuel tanks at Fire Department locations throughout the City that store thousands of gallons of fuel for staff to use to refill its gasoline-powered vehicle fleet, which includes ambulances, command vehicles, and sedans. Fire engines and trucks use diesel fuel. The Department of Public Health uses fuel for an underground gas tank located in the Laguna Honda Hospital 5th floor parking lot. The Sherriff Department spends fuel on department vehicles.

FISCAL IMPACT

We estimate total projected spending through the proposed extension is approximately $34.2 million, similar to the Office of Contract Administration's projected spending of $35.4 million. Our projected spending is shown below in Exhibit 3.

Exhibit 3: Projected Spending

Actual Spending	$31,377,115
Projected Spending	$2,370,000
Contingency (20%)	$474,000
Total Projected Spending	**$34,221,115**

Source: BLA analysis of actual spending data.

Notes: Projected spending assumes monthly spending of $900,000, based on the highest monthly spending over the past two fiscal years (June 2022). A contingency of 20% is reasonable given the volatility of gasoline prices.

The Office of Contract Administration notes that actual spending may be closer to the proposed $35.2 million not-to-exceed amount due to the Asian Pacific Economic Cooperation Conference on November 11 – 17, 2023, during which the City will fuel mutual aid vehicles.

Funding Sources

Funding for the proposed amendment was included in the FY 2023-24 adopted budgets of the City departments that use gasoline, as previously appropriated by the Board of Supervisors. As shown above, General Fund departments' contract expenditures over the past approximately five years (from November 1, 2018 through August 31, 2023) account for $25.4 million out of the total spend amount of $31,377,115, or 81 percent.

Three enterprise departments utilize the fuel from the City's contract with Western States Oil: San Francisco Public Utilities Commission (PUC), San Francisco International Airport (AIR), and the San Francisco Municipal Transportation Agency (MTA). Enterprise revenues pay for these departments' contract expenditures of $6,003,782.

RECOMMENDATION

Approve the proposed resolution.

Item 11 **File 23-0967**	**Department:** Department of Public Health (DPH), Real Estate Division (RED)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize and approve a lease between the City as landlord and San Francisco General Hospital Foundation (the Foundation) as tenant for approximately 4,943 square feet of office space at 2789 25th Street, for an initial term of 20 years, with two 10-year options to extend, and annual base rent of $0.

Key Points

- The Foundation was formed in 1993 to support SFGH and has raised over $245 million in 30 years for SFGH through donations. The Foundation had previously occupied office space on the 2nd floor of 2789 25th Street under an informal arrangement with the Department of Public Health (DPH) since 1995. In 2018, the City entered into a lease with the Foundation with an initial base rent of $73,394 and term of 10 months, from April 2018 through January 2019, which has since been in holdover status. Following our inquiries, it was discovered that the Foundation owed the City $45,940 in unpaid rent, late fees, and interest, for which it has issued a check.
- RED has negotiated a new lease with the Foundation that would expand the premises into new space where the Foundation has funded tenant improvements under the existing lease. RED reviewed seven comparable leases and determined that annual fair market rent of the premises is approximately $34.00 per square foot, or $168,062. The City would also pay utility costs, which are approximately $2.55 per square foot annually, or $12,605. DPH has a 10-year Memorandum of Understanding (MOU) with the Foundation, which if terminated, would terminate the proposed lease within 30 days.

Fiscal Impact

- Under the proposed lease, the City would not receive rent. Assuming three percent annual escalation, over the initial 20-year term of the lease, the City would waive approximately $4,515,889 in rent and pay $338,692 for utilities, for a total cost of approximately $4,854,581. If the two 10-year options to extend are exercised, the City would waive approximately $12,672,087 in rent and pay $950,406 for utilities, for a total cost of approximately $13,622,493 over 40 years.

Policy Consideration

- The proposed 20-year lease term was driven by discussions between DPH and the Foundation. RED provided our office with a list of $0 and $1 leases in which the City is the landlord and none of them included “friends of” organizations or entities that raised money for City programs. Because of the rent waiver and long term of the lease, the Budget and Legislative Analyst considers approval of the proposed resolution to be a policy matter for the Board of Supervisors.

Recommendation

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

MANDATE STATEMENT

City Charter Section 9.118(c) states that (1) any lease of real property for ten or more years, including options to renew, or having anticipated revenues to the City of $1,000,000, or (2) the modification, amendment, or termination of these leases is subject to Board of Supervisors approval.

City Administrative Code Section 23.30 states that leases of City-owned property can be for less than market rent if the lease is for a proper public purpose with Board of Supervisors' approval.

BACKGROUND

The San Francisco General Hospital Foundation (the Foundation) was formed in 1993 to support San Francisco General Hospital (SFGH). According to the proposed resolution, the Foundation has raised over $245 million in 30 years for SFGH through donations, which have been used for initiatives such as funding furniture, fixtures, and equipment for the new SFGH hospital building, grant programs, and COVID-19 response programs. The Foundation's Memorandum of Understanding (MOU) with DPH includes a five-year goal to raise an additional $200 million for capital improvements to the main hospital building. The FY 2023-24 budget includes $4.4 million in operations grants and $18.3 million in capital grants from the Foundation.

The Foundation had previously occupied office space on the 2nd floor of 2789 25th Street under an informal arrangement with the Department of Public Health (DPH) since 1995. In 2018, the City entered into a lease with the Foundation for approximately 2,308 square feet of office space with an initial term of 10 months, from April 2018 through January 2019, and annual base rent of $73,394 ($31.80 per square foot), which included the cost of utilities and janitorial services. Nine months of rent waivers and rent credits of $5,500 per month were provided in exchange for the Foundation making tenant improvements to the premises. However, according to Jeff Suess, Real Estate Division (RED) Transaction Team Manager, the Foundation has not paid any rent, but in light of this report is forwarding RED a check for $45,940 in unpaid rent, late fees, and interest. The lease has remained in holdover status since February 2019 due to staff changes within the Foundation and at the Real Estate Division. RED has negotiated a new lease with the Foundation that would expand the premises into new space where the Foundation has funded tenant improvements to accommodate its growth.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a lease between the City as landlord and the Foundation as tenant for approximately 4,943 square feet at 2789 25th Street, for an initial term of 20 years, with two 10-year options to extend, and annual base rent of $0. The proposed resolution also finds that the lease is in conformance with the General Plan and eight priority policies of Planning Code Section 101.1, adopts California Environmental Quality Act (CEQA) findings, and authorizes the Director of Property to enter into further immaterial amendments to the lease.

Fair Market Rent

According to Andrico Penick, Director of Property, RED reviewed seven comparable leases and determined that annual fair market rent of the premises is approximately $34.00 per square foot, or $168,062. The City would also pay utility costs, which are approximately $2.55 per square foot annually, or $12,605. According to Director Penick, RED and DPH have proposed waiving rent due to the value that the Foundation provides to SFGH. Any rent or utility payments made by the Foundation would benefit the City's General Fund but directly reduce contributions to SFGH.

City Administrative Code Section 23.30 states that leases of City-owned property can be for less than market rent if the lease is for a proper public purpose with Board of Supervisors' approval. In this case the public purpose is to raise funds for SFGH.

Foundation and DPH MOU

In July 2023, the Board of Supervisors approved a Memorandum of Understanding (MOU) between DPH and the Foundation (File 23-0674). The MOU has a term of 10 years, but either party at its sole discretion may terminate the MOU with 90 days' notice (for example, if DPH determines that the Foundation no longer provides sufficient value to SFGH). If the MOU is terminated, the proposed lease would terminate within 30 days.

The MOU establishes that the Foundation provides operational and capital funding for San Francisco General Hospital, allows the Foundation to retain 20 to 25 percent of all gift and grant funds raised, allows the Foundation to use DPH property for fundraising activities, and includes donor disclosure requirements.

Lease Terms

According to Director Penick, the up to 40-year term of the proposed lease was driven by discussions between DPH and the Foundation, as a long-term lease would be a mortgageable asset for the Foundation.

The key terms of the proposed lease are shown in Exhibit 1 below.

Exhibit 1: Key Terms of Proposed Lease

Premises	4,943 square feet at 2789 25th Street, Suite 2028
Term	20 years
Options to Extend	Two 10-year options to extend
Annual Base Rent	$0
Early Termination	Lease terminated 30 days after termination of MOU
Utilities	Paid by City
Security Deposit	None

Source: Proposed lease

According to Director Penick, the anticipated lease commencement date is December 1, 2023.

Fiscal Monitoring

The Foundation has not been subject to the Citywide Fiscal and Compliance Monitoring Program. However, FY 2021-22 audited financial statements indicate that financial assets are available for approximately one year of general expenditures (excluding grants to DPH), as of June 30, 2022.

FISCAL IMPACT

Under the proposed lease, the City would not receive rent. As stated above, RED estimates that annual fair market rent is approximately $34.00 per square foot, or $168,062, and estimated annual utility costs are approximately $2.55 per square foot, or $12,605. The initial annual cost to the City between rent waived and utility costs is approximately $180,667. Assuming three percent annual escalation, over the initial 20-year term of the lease, the City would waive approximately $4,515,889 in rent and pay $338,692 for utilities, for a total cost of approximately $4,854,581. If the two 10-year options to extend are exercised, the City would waive approximately $12,672,087 in rent and pay $950,406 for utilities, for a total cost of approximately $13,622,493 over 40 years. The estimated fiscal impact is shown in Exhibit 2 below.

Exhibit 2: Estimated Fiscal Impact to City of Proposed Lease

	Fair Market Rent Waived	Utility Costs	Total Fiscal Impact
Initial Term (20 Years)	$4,515,889	$338,692	$4,854,581
Option Terms (20 Years)	8,156,198	611,715	8,767,912
Total (40 Years)	**$12,672,087**	**$950,406**	**$13,622,493**

Source: BLA calculations using RED estimates, assuming 3% annual escalation.

POLICY CONSIDERATION

Lease Term and Rent Waiver

As mentioned above, the proposed 20-year lease term was driven by discussions between DPH and the Foundation. Director Penick notes that the proposed rent waiver is due to contributions that the Foundation has provided to DPH, and that any required rent payments would reduce the Foundation's contributions to SFGH by a like amount. However, there are no guarantees that savings from rent waivers would directly benefit the hospital and not be used for other overhead expenses, such as executive salaries. DPH's relationship with the Foundation is governed by an MOU which requires the Foundation to disclose administrative fees to donors, provide an annual report to DPH with audited financial statements, and make all financial records available to the City. The MOU would require Board of Supervisors approval if extended beyond 10 years.

Director Penick notes that while the proposed lease term is long, it is not unprecedented. For example, in 2015, the Board of Supervisors approved a 66-year lease with the Mexican Museum for approximately 48,000 square feet, with a 33-year option to extend, for total rent of $1 (File 15-0159). RED provided our office with a list of $0 and $1 leases in which the City is the landlord and none of them included "friends of" organizations or entities that raised money for City programs.

Assuming that waiving rent and utility costs directly benefits the Foundation's contributions to SFGH, it reduces General Fund revenues and incurs costs. This General Fund impact may be more difficult for the City to offset than any reductions to hospital capital improvements, the majority of Foundation funding for the hospital, and which potentially could be funded through the City's debt program.

Because of the rent waiver and long term of the lease, the Budget and Legislative Analyst considers approval of the proposed resolution to be a policy matter for the Board of Supervisors.

RECOMMENDATION

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

Item 12 **File 23-0998**	**Department:** Department of Public Health (DPH), Real Estate Division (RED)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution authorizes the Director of Property, on behalf of the Department of Public Health, to execute a Lease Agreement for a term of five years, with two five-year options to extend, between Bayview Plaza, LLC, as landlord, and the City as tenant, for 14,825 square feet within Suite 400 at 3801 Third Street and a total annual base rent of $554,347 ($37.39 per square foot).

Key Points

- The Department of Public Health (DPH) would continue to use Suite 400 in 3801 Third Street for the Foster Care Mental Health Program and Comprehensive Crisis Services. DPH has leased Suite 400 since 1998. According to DPH, as of October 2023, there are 64 staff on the premises across both programs (and 89 budgeted staff for the site, including vacant positions).
- The lease has been on holdover status since June 30, 2022. Preparation of the new lease was delayed due to negotiations of lease terms and the City Real Estate Division (RED) staff turnover.
- Under the proposed lease, the landlord will provide utilities, janitorial, and security services at no additional costs.

Fiscal Impact

- Over the initial five-year term of the proposed lease, total rent to be paid by the DPH is $2,943,104. This figure includes an annual base rent increase of 3 percent, per contract terms. The cost would be paid from the City's General Fund.

Policy Consideration

- The Real Estate Division determined that the proposed base rent rate is at or below the market rate based on a review of properties in June 2022. However, commercial real estate rental rates declined between 5 and 11 percent between June 2022 and June 2023. The proposed rent is 2.3 percent less than the current rent. According to Andrico Penick, Director of the Real Estate Division, the proposed rent remains at or below fair market value considering its location outside the downtown core and landlord services.
- The City is currently seeking to purchase a site in or near the Bayview neighborhood to relocate Human Service Agency from 170 Otis Street. There is no plan to include space in that site for the Public Health programs that operate out of this leased space. Moving to City-owned space would provide long-term savings to the City but comes with upfront capital and financing costs of acquiring property.

Recommendations

- Amend the proposed resolution to correctly state that that base rent will be subject to annual adjustments of three percent, rather than three percent and cost of utilities.
- Approval of the proposed resolution is a policy matter for the Board of Supervisors.

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

Since 1998, the Department of Public Health (DPH) has leased 14,825 square feet of office space at 3801 Third Street, Suite 400. DPH currently uses the space to operate its Foster Care Mental Health Program and Comprehensive Crisis Response Team Program.

In September 2013, after expiration of the previous lease, the Board of Supervisors retroactively approved a new lease for the space, for a new term from July 1, 2013 through June 30, 2018, with one four-year option to extend the lease, and an annual base rent at $462,540, or $31.20 per square foot (File 13-0701). The lease provided for annual adjustments between two percent and five percent based on the Consumer Price Index (CPI).

In January 2018, the Director of Property (on behalf of the City) and Landlord agreed to exercise the one four-year option to extend the lease at a base annual rent of $519,090 ($35.01 per square foot), for an extended term from July 1, 2018 through June 30, 2022. According to the Real Estate Division staff, the lease has been on holdover status since June 30, 2022 due to staff turnover.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution authorizes the Director of Property, on behalf of the Department of Public Health, to execute a Lease Agreement for a term of five years, with two five-year options to extend, between Bayview Plaza, LLC, as landlord, and the City as tenant, for 14,825 square feet within Suite 400 at 3801 Third Street. According to Real Estate Division staff, the term would commence upon Board of Supervisors' approval. The initial monthly base rent will be $46,196 ($3.12 per square foot) for a total annual base rent of $554,347 ($37.39 per square foot). Exhibit 1 below summarizes the terms and conditions of the lease provisions.

Exhibit 1. Summary of Proposed Lease

	Proposed Lease
Premises	14,825 square feet at 3801 Third Street, Suite 400
Base Rent (annual)	$554,347 ($37.39 per square foot)
Services and Utilities	Landlord will provide utilities, janitorial services, and security services.
Term	Five years
Options to extend	Two options to extend for five years (with base rent at 95% of prevailing market rent)
Base Rent Adjustment Amount	3% annually
Tenant Improvements	None

Source: Lease Agreement

The proposed resolution should be amended to correctly state that base rent will be subject to annual adjustments of three percent, rather than three percent *and cost of utilities*, as the landlord is responsible for providing utilities and services at cost.

Full Service Lease

Under the agreement, the landlord will provide utilities and building system services at no additional cost, including electricity, water, ventilation, and elevator services. The landlord will also provide, under contract, janitorial services and security services. There is one security guard on the property from 12pm to 8pm, seven days a week, and the property is patrolled from 9pm to 6am seven days a week.

Parking

Under the proposed lease agreement, the City also has the right to park one vehicle in the parking lot during normal business hours, for more than the 2-hour posted limit. Four additional cars may park in the lot outside of business hours.

Building Usage

The Department of Public Health would continue to use Suite 400 in 3801 Third Street for the Foster Care Mental Health Program and Comprehensive Crisis Services. According to the Department of Public Health, as of October 2023, there are 64 staff on the premises across both programs (and 89 budgeted staff for the site, including vacant positions). The Department reports that Comprehensive Crisis Services serves over 1,000 clients annually. Foster Care Mental Health Program maintains a client load of 50 and will see 10 to 12 clients per month on-site but mostly conducts outreach. The premises include nine interview rooms, one family meeting room, four crisis team meeting rooms, and one large conference room that is shared by both programs.

FISCAL IMPACT

As shown in Exhibit 2 below, over the initial five-year term of the proposed lease, total rent to be paid by the Department of Public Health (DPH) is $2,943,104. This figure includes an annual base rent increase of 3 percent, per contract terms. The total cost would be paid from the City's

General Fund, subject to Board of Supervisors' appropriation approval in DPH's annual budget. The lease is currently on holdover status.

Exhibit 2. Total Costs by Year Under Proposed Lease

Lease Year	Monthly Rent	Annual Rent
Year 1	$46,196	$554,347
Year 2	47,581	570,977
Year 3	49,009	588,107
Year 4	50,479	605,750
Year 5	51,994	623,923
Total		**$2,943,104**

Source: Lease Agreement

Under the proposed five-year lease agreement, the annual base rent of $554,347, or $37.39 per square foot, is $13,298 or 2.3 percent less than the current annual base rent of $567,645, or $38.29 per square foot.

POLICY CONSIDERATION

Fair Market Rent Determination

Because the proposed rent is less than $45 per square foot, the lease does not require an appraisal under Administrative Code Chapter 23. The Real Estate Division determined that the proposed base rent rate is at or below the market rate based on a review of properties in June 2022. However, In September 2023, the Board rejected a lease at 1155 Market Street due, in part, to the fact the appraisal for that site was done in December 2022 and commercial real estate rental rates declined between 5 and 11 percent between June 2022 and June 2023.

As noted above, the proposed rent is 2.3 percent less than the current rent. According to Andrico Penick, Director of the Real Estate Division, the proposed rent remains at or below fair market value considering its location outside the downtown core and landlord services.

Moving to City Owned Property

The City is currently seeking to purchase a site in or near the Bayview neighborhood to relocate Human Service Agency from 170 Otis Street. There is no plan to include space in that site for the Public Health programs that operate out of this leased space. Moving to City-owned space would provide long-term savings to the City but comes with upfront capital and financing costs of acquiring property.

RECOMMENDATIONS

1. Amend the proposed resolution to correctly state that that base rent will be subject to annual adjustments of three percent, rather than three percent and cost of utilities.

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