

**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:** December 7, 2011 Budget and Finance Committee Meeting

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<b>Item 2</b> <b>File 11- 1282</b>	<b>Department:</b> Adult Probation
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objective</b></p> <ul style="list-style-type: none"> <li>• The proposed ordinance would (1) authorize the Adult Probation Department to retroactively accept and expend a \$747,818 United States Department of Justice (DOJ) grant to implement the Reentry SF program; and (2) create a new 0.5 FTE 1823 Senior Administrative Analyst position. The one-year grant award is effective from October 1, 2011 through September 30, 2012.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• Reentry SF is a job training and placement program, serving 195 (a) offenders transferred from the State to the County jail, (b) offenders on post-release community supervision, and (c) violators of State parole.</li> <li>• Services are provided by two non-profit organizations, Goodwill Industries and Walden House, selected as sole source providers. According to Ms. Diane Lim, Adult Probation Department Chief Financial Officer, the Department selected Goodwill Industries and Walden House as sole source providers without utilizing the City's competitive selection process because Goodwill Industries and Walden House were involved in the planning and design of Reentry SF. According to Ms. Lim, Goodwill Industries has experience with other City agencies in developing reentry programs for ex-offenders; and Walden House currently provides services to individuals in custody in the County jails.</li> </ul> <p style="text-align: center;"><b>Fiscal Impacts</b></p> <ul style="list-style-type: none"> <li>• The one-year Reentry SF program has a total budget of \$1,536,423, including \$747,818 in DOJ grant funds and \$788,605 in General Fund monies and other grant matching funds. The Board of Supervisors appropriated the \$788,605 in the Adult Probation Department's FY 2011-12 budget.</li> <li>• The proposed ordinance would create a new 0.5 FTE 1823 Senior Administrative Analyst position, with responsibility for coordinating and conducting all pre-release planning for individuals being released from (a) State prisons into post-release community supervision and (b) County jail into mandatory supervision. Because the 1823 Senior Administrative Analyst position is coded as "grant-funded", the position will terminate at the expiration of the grant unless the Board of Supervisors appropriates funding to continue the position.</li> </ul> <p style="text-align: center;"><b>Policy Considerations</b></p> <ul style="list-style-type: none"> <li>• According to Ms. Lim, the Adult Probation Department can apply for two subsequent one-year DOJ grants for the Reentry SF program, for a total of three years of grant funding. Ms. Lim states that the Adult Probation Department aims to continue this program at the termination of the three one-year DOJ grants. If the Board of Supervisors approves continuation of Reentry SF at the termination of the DOJ grant, the City could incur General Fund costs for the program's continuation unless the Adult Probation Department identifies other sources of funds.</li> </ul> <p style="text-align: center;"><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed ordinance.</li> </ul>	

## MANDATE STATEMENT / BACKGROUND

### Background

Assembly Bill 109 (AB) transferred responsibility for non-serious, non-violent offenders from the State to the counties, as part of the State's public safety realignment in FY 2011-12. Senate Bill (SB) 678 created San Francisco's Community Corrections Partnership, consisting of the Sheriff's Department, Adult Probation Department, District Attorney's Office, Public Defender's Office, and other County agencies, and required the Community Corrections Partnership to recommend the Public Safety Realignment Plan for San Francisco. The Board of Supervisors approved the Public Safety Realignment Plan in September 2011 (File 11-0902).

The Public Safety Realignment Plan created the Reentry Division in the Adult Probation Department, which had previously been the responsibility of the Public Defender's Office. The Reentry Division coordinates programs and services for offenders transferred from the State to the County, including (a) offenders transferred from State prison to the County jail, (b) offenders released from prison under post-release community supervision, and (c) violators of State parole. The Reentry Division (1) provides staff support to the Reentry Council<sup>1</sup>, (2) oversees the Community Assessment and Service Center, which provides case management and other services to offenders under post-release community supervision, (3) collects and evaluates data on program effectiveness, and (4) other related services.

## DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would (1) authorize the Adult Probation Department to retroactively accept and expend a \$747,818 United States Department of Justice (DOJ) grant to implement the Reentry SF program; and (2) create a new 0.5 FTE 1823 Senior Administrative Analyst position. The grant award is for one year, retroactive from October 1, 2011 through September 30, 2012.

### Reentry SF

Reentry SF is a job training and placement program for (a) offenders transferred from the State to the County jail, (b) offenders on post-release community supervision, and (c) violators of State parole. Reentry SF is a three-phase program, consisting of services provided to offenders, as follows:

- Phase one provides pre-release services to offenders in the County jails or State prisons up to three months prior to release. These services include a risk and needs assessment, orientation to the program, and development of individual reentry plans. The individual reentry plans identify the need for housing, health or mental health services, income support, and other services.

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<sup>1</sup> The Reentry Council is a 23-member council, made up of 16 City department representatives, 3 representatives appointed by the Mayor and 4 representatives appointed by the Board of Supervisors.

- Phase two includes vocational and education assessment, job readiness training, work-based evaluation, educational interventions, and classes in financial literacy and parenting skills.
- Phase three includes job training and placement. Program participants will receive individual career development plans, vocational skills training, job placement services, and job retention and follow up services.

### Sole Source Providers

The Adult Probation Department has selected two community based organizations, Walden House and Goodwill Industries, as sole source providers for the program without utilizing the City's competitive selection process. Walden House will provide program participants with pre-release services. Goodwill Industries will coordinate post-release services that include job readiness training, job training, and placement services.

According to Ms. Diane Lim, Adult Probation Department Chief Financial Officer, the Department selected Goodwill Industries and Walden House as sole source providers to implement Reentry SF job readiness, and job training and placement services, because Goodwill Industries and Walden House were involved in the planning and design of Reentry SF. According to Ms. Lim, Goodwill Industries has experience with other City agencies in developing reentry programs for ex-offenders; and Walden House has extensive experience providing specialized programs for the criminal justice population and currently provides services to individuals in custody in the County jails.

### Program Performance Evaluation

The Adult Probation Department implemented the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) assessment tool and case management system in June 2011. This system accesses data from the California Department of Corrections and Rehabilitation and from other sources, allowing the Reentry SF program to identify the specific reentry needs of each offender and their risk of re-offending. Adult Probation Department, Walden House, Goodwill Industries, and other City department staff will have access to program participants' data and results.

The Adult Probation Department will use COMPAS to track and evaluate individual and aggregate data on offenders participating in the Reentry SF program, and report on aggregate data on the offenders' access and completion of job readiness, job training, job placement, and other Reentry SF services. The Adult Probation Department will track the percentage of offenders who successfully complete the pre-release, vocational and educational assessment, and job readiness phases of the program, the percentage of offenders who successfully enter training programs or jobs, and the termination rate of offenders in training programs or jobs. Performance measures include the percentage of offenders who complete the successive phases of the program, retain jobs 90 days after placement, and do not re-offend within one year of exiting the program.

## FISCAL IMPACT

The one-year Reentry SF program has a total budget of \$1,536,423, including \$747,818 in DOJ grant funds and \$788,605 in General Fund monies and other grant matching funds. The Board of Supervisors previously appropriated the \$788,605 matching funds in the Adult Probation Department's FY 2011-12 budget. Table 1 below gives budget details.

**Table 1**  
**Reentry SF Program Budget**  
**October 1, 2011 through September 30, 2011**

	DOJ Grant for Reentry SF	Matching Funds			Total Reentry SF
		General Fund	Other DOJ Grant Funds	Total Match	
<b>Adult Probation Department</b>					
Salaries and Benefits <sup>1</sup>	\$66,797	\$222,171	\$0	\$222,171	\$288,968
Travel	12,560	0	0	0	12,560
COMPAS Case Management System	25,000	277,500	157,500	435,000	460,000
Administrative Overhead	20,871	131,434	0	131,434	152,306
<b>Subtotal, Department Costs</b>	<b>125,228</b>	<b>631,105</b>	<b>157,500</b>	<b>788,605</b>	<b>913,833</b>
<b>Non-Profit Organizations</b>					
Goodwill Industries	395,445	0	0	0	395,445
Walden House	197,145	0	0	0	197,145
Youth Justice Institute <sup>2</sup>	15,000	0	0	0	15,000
Bayview Hunters Point Multipurpose Senior Services <sup>2</sup>	15,000	0	0	0	15,000
<b>Subtotal, Non-Profit Organizations</b>	<b>622,590</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>622,590</b>
<b>Total Costs</b>	<b>\$747,818</b>	<b>\$631,105</b>	<b>\$157,500</b>	<b>\$788,605</b>	<b>\$1,536,423</b>

<sup>1</sup> Adult Probation Department salaries and benefits include (a) new 0.5 FTE 1823 Senior Administrative Analyst (\$66,797); and (b) an existing 1.0 FTE 8444 Deputy Probation Officer (\$119,072) and an existing 0.5 FTE 8438 Chief Deputy Probation Officer (\$103,099).

<sup>2</sup> Technical assistance to Goodwill Industries for mentor program development.

Reentry SF will serve 195 (a) offenders transferred from State prison to the County jail, (b) offenders released from prison under post-release community supervision, and (c) violators of State parole.

### 1823 Senior Administrative Analyst Position

The proposed ordinance would create a new 0.5 FTE 1823 Senior Administrative Analyst position as a grant-funded position. This is a half-time position with responsibility for the coordination of Reentry SF job readiness, job training, job placement and other related services. The 1823 Senior Administrative Analyst will be responsible for coordinating and conducting all pre-release planning for offenders being released from State prisons into post-release community supervision and from County jail into mandatory supervision, including in-custody face-to-face planning at the County jail and nearby State prisons.

According to Ms. Lim, the Adult Probation Department will aim to sustain this position through State and/or private funding sources following the expiration of this grant. Because the 1823 Senior Administrative Analyst position is coded as “G” or “grant-funded”, the position will terminate at the expiration of the grant unless the Board of Supervisors appropriates other funding to continue the position.

## **POLICY CONSIDERATIONS**

**Upon expiration of the DOJ grant, Reentry SF could become a General Fund expenditure if the Board of Supervisors approves continuation of the Reentry SF job training and placement program**

According to Ms. Lim, the Adult Probation Department can apply for two subsequent one-year DOJ grants for the Reentry SF program, for a total of three years of grant funding. Ms. Lim states that the Adult Probation Department aims to continue this program at the termination of the three one-year DOJ grants. If the Board of Supervisors approves continuation of Reentry SF at the termination of the DOJ grant, the City could incur General Fund costs for the program’s continuation unless the Adult Probation Department identifies other sources of funds.

## **RECOMMENDATIONS**

Approve the proposed ordinance.

**Item 4**  
**File 11-1182**

**Department:**  
Civil Service Commission (CSC);  
Department of Human Resources (DHR)

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed resolution would fix prevailing wage rates for employees of businesses having City contracts that (1) perform public works and improvement projects, (2) perform janitorial services, (3) work in public off-street parking lots, garages, or storage facilities for vehicles on property owned or leased by the City, (4) engage in theatrical or technical services related to the presentation of shows on property owned or leased by the City, (5) haul solid waste, and (6) perform moving services at facilities owned or leased by the City.

### Key Points

- Each year, the Board of Supervisors is required to determine and establish the prevailing wage rates that specified businesses, having City contracts, are required to pay their employees. The Civil Service Commission assists the Board of Supervisors by furnishing relevant prevailing wage data; however, the Board of Supervisors is not bound to consider only the Civil Service Commission's data.
- The proposed resolution would establish the following prevailing wage rates: (1) construction employees would receive wage decreases or increases that vary by classification, ranging from wage decreases of up to \$2.12 per hour for service mechanics, to wage increases up to \$2.50 per hour for plumbers; (2) janitorial employees and window cleaners would receive a \$0.40 per hour increase; (3) garage and parking lot employees with 18 months of service or less would receive a \$0.50 per hour increase, while garage and parking lot employees with more than 18 months of service would receive an increase of \$0.72 per; (4) theatrical employees would receive an increase of \$0.97 to \$1.38 per hour, depending on the classification; (5) employees hauling solid waste would receive a \$1.50 per hour increase; and (6) employees performing moving services would receive no increase.

### Fiscal Impacts

- The proposed increases in the prevailing wage could result in increased costs to the City of future City contracts for the subject services. However, such costs are dependent on future City contractor bids and the extent to which City contractors increase the bids submitted to the City to pay for the costs of the higher prevailing wages. Therefore, such potential increased costs to the City cannot be estimated at this time.

### Recommendation

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

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

Charter Section A7.204 requires contractors that have public works or construction contracts with the City to pay employees the highest general prevailing rate of wages for similar work in private employment. The Charter allows the Board of Supervisors to exempt payment of the prevailing wage for wages paid under public works or construction contracts between the City and non-profit organizations that provide workforce development services.

The Administrative Code requires the Board of Supervisors to annually set prevailing wage rates for employees of businesses having City contracts. Table 1 below identifies the (a) specific Administrative Code Sections, (b) the dates each Administrative Code Section was last amended by the Board of Supervisors, and (c) the types of City contracts, leases, and/or operating agreements where the businesses are required to pay prevailing wages.

**Table 1: List of Contractors Required to pay the Annual Prevailing Wage**

Administrative Code	Date of Most Recent Amendment	Type of Contract
Section 6.22 (E)	May 19, 2011	Public works or construction
Section 21C.1	January 7, 2011	Motor bus service*
Section 21C.2	January 7, 2011	Janitorial and window cleaning services
Section 21C.3	January 7, 2011	Public off-street parking lots, garages and vehicle storage facilities
Section 21C.4	January 7, 2011	Theatrical performances
Section 21C.5	January 7, 2011	Solid waste hauling services
Section 21C.6	January 7, 2011	Moving services

\*See Details of Proposed Legislation section of the report

### Background

Each year, the Board of Supervisors is required to establish the prevailing wage rates that businesses, having contracts with the City, are required to pay their construction, motor bus service, janitorial and window cleaning, parking, theatrical, moving, and solid waste hauling service employees.

To assist the Board of Supervisors in determining the prevailing wage rates, the Civil Service Commission is required to furnish the Board of Supervisors, on or before the first Monday of November of each year, relevant prevailing wage rate data. Administrative Code Section 6.22(E) states that the Board of Supervisors is not limited to the data submitted by the Civil Service Commission to determine the prevailing wage rates, but may consider other information on the subject, as the Board of Supervisors deems appropriate. If the Board of Supervisors does not adopt the prevailing wage, the rates established by the California Department of Industrial Relations for the year will be adopted.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would fix prevailing wage rates for employees of businesses having City contracts, leases, or operating agreements that (1) perform public works and improvement projects, (2) perform janitorial and window services, (3) work in public off-street parking lots, garages, or storage facilities for vehicles on property owned or leased by the City, (4) engage in theatrical or technical services related to the presentation of shows on property owned or leased



by the City, (5) haul solid waste, and (6) perform moving services at facilities owned or leased by the City.

According to Ms. Linda Ross of the City Attorney's Office, the proposed ordinance does not fix prevailing wage rates for employees of businesses having City contracts, leases, or operating agreements that provide motor bus services because the Administrative Code only requires payment of prevailing wage if the specific contract between the City and the motor bus service contractor requires the prevailing wage. Because the City does not have an existing motor bus services contract that requires prevailing wage, the proposed ordinance does not set the prevailing wage for these classifications.

As discussed above, in order to assist the Board of Supervisors in determining and establishing prevailing wage rates, the Civil Service Commission is required to submit relevant prevailing wage rate data to the Board of Supervisors, on or before the first Monday of November of each year. On September 19, 2011, the Civil Service Commission reviewed and certified the prevailing wage rate data compiled by the Department of Human Resources and forwarded the following data to the Board of Supervisors on November 4, 2011:

- Prevailing wage rates for various crafts and labor classifications under public works and construction contracts are established by the California Department of Industrial Relations based on various collective bargaining agreements between San Francisco employers and the respective labor unions and other adjustments.
- Prevailing wage rates for contracts, leases, and/or operating agreements for other services and classifications covered by the Administrative Code, as recommended by the Civil Service Commission, are based on the collective bargaining agreements between San Francisco employers and the respective labor unions.

The Attachment to this report, prepared by the Budget and Legislative Analyst, summarizes (a) the types of contracts, leases, or operating agreements required to pay prevailing wage, (b) the respective collective bargaining agreements and labor unions, (c) the amount of wage increase in 2012 as compared to 2011, and (d) the impact on wages. The specified hourly rates exclude fringe benefits, pension, vacation and holiday pay, which are separately calculated and provided in the data forwarded by the Civil Service Commission to the Board of Supervisors.

## **FISCAL IMPACT**

### **Potential impact on the costs of future contractor bids**

Under the proposed resolution, private businesses that have contracts with the City, and perform construction, janitorial and window cleaning, parking, theatrical, moving, and solid waste hauling services work in San Francisco, would be required to pay their employees at least the prevailing wage rates as noted above. Increases in the prevailing wage rates could result in increased costs of future City contracts. However, any increased contract costs to the City as a result of the proposed resolution are dependent on future City contractor bids, and the extent to which increased prevailing wage rates result in higher bids submitted by City contractors. Therefore, such potential increased costs cannot be estimated at this time.

**RECOMMENDATION**

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

Type of Contract, Lease, or Operating Agreement	Collective Bargaining Agreement and/or Labor Union	Wage Increase in 2012 compared to 2011	Average Impact on Wages
Public Works and Construction	California Department of Industrial Relations	Varies by classification, ranging from a decrease of \$2.12 per hour for service mechanics to an increase of \$2.50 per hour for plumbers	Varies by classification. The low rate of \$10.38 per hour and the high rate of \$59.68 per hour in 2012 are unchanged from 2011.
Janitorial and Window Services Contract	Collective bargaining agreement between the San Francisco Maintenance Contractors Association and the Service Employees International Union, Local 1877, Division 87.	\$0.40 per hour increase	<ul style="list-style-type: none"> <li>• Janitorial Workers with more than 4,850 hours of service would increase from \$18.25 to \$18.65 per hour</li> <li>• Window Cleaners would increase from \$20.98 to \$21.38 per hour</li> </ul>
Public Off-Street Garage Attendants	Agreement between the Jurisdictional Operators of Parking Facilities and Teamsters Automotive and Allied Workers, Local 665.	Varies by classification from \$0.50 to \$0.72 per hour increase	<ul style="list-style-type: none"> <li>• Workers with 18 months of service or less would increase from \$15.00 to \$15.50 per hour on average</li> <li>• Workers with more than 18 months of service would increase from \$20.74 to \$21.46 per hour</li> </ul>
Theatrical Services	2011 Project Agreement - International Alliance of Theatrical Stage Employees, Local 16, and Moving Picture Technicians, Artists and Allied Crafts.	Varies by classification from \$.97 to \$1.38 per hour increase	<p>Varies by classification:</p> <ul style="list-style-type: none"> <li>• The low wage increases from \$32.30 to \$33.27 per hour</li> <li>• The high wage increases from \$47.98 to \$49.36 per hour</li> </ul>
Solid Waste Hauling	Collective Bargaining Agreement between Sanitary Truck Drivers and Helpers Union Local 350, International Brotherhood of Teamsters, and NorCal Waste Systems, Inc., Golden Gate Disposal & Recycling Company, and Sunset Scavenger Company.	\$1.50 per hour increase	<p>Varies by classification:</p> <ul style="list-style-type: none"> <li>• The low wage increases from \$34.88 to \$36.38 per hour</li> <li>• The high wage increases from \$40.78 to \$42.28 per hour</li> </ul>
Moving Services	Agreement, between the Northern California Regional Council of Carpenters and the Carpenters 46 Northern California Counties Conference Board.	No change	No change

**EXECUTIVE SUMMARY**

**Legislative Objective**

- The proposed ordinance would amend the San Francisco Administrative Code to standardize prevailing wage requirements for all City contracts covered by prevailing wages, consolidate specific provisions into a new Administrative Code Section 21C.7, and amend the San Francisco Police Code Section 3300C.1 to make corresponding changes. The proposed ordinance would not revise existing Administrative Code provisions for public works and construction contracts' prevailing wage requirements.

**Key Points**

- Currently, the City's Administrative Code requires specified businesses, having City contracts, to pay a "prevailing wage" rate to their employees. This includes City contracts for (a) public works and construction, (b) motor bus service, (c) janitorial and window cleaning services, (d) public off-street parking lots, garages, and vehicle storage facilities, (e) theatrical performances, (e) solid waste hauling services, and (f) moving services. Each of these types of contracts has separate Administrative Code sections with different definitions, provisions, and exclusions.
- The proposed ordinance would revise the Administrative Code as follows:
  - a. Currently, with respect to City contracts for janitorial and window cleaning services, public off-street parking lots, garages, and vehicle storage facilities, theatrical performances, solid waste hauling services, and moving services that are covered by collective bargaining agreements, specified businesses may pay their employees less than prevailing wages if the collective bargaining agreement provides for lower wages. Under the proposed ordinance, all City contracts covered by the prevailing wage ordinance would be required to pay prevailing wages, even if the City contracts are covered by collective bargaining agreements.
  - b. Currently, City contracts for public off-street parking lots, garages, and vehicle storage facilities, and solid waste hauling services require new City contractors for these services to offer employment to the employees of the previous contractors for up to 90 days. Under the proposed ordinance, businesses having new City contracts which require the payment of prevailing wages, except for public works and construction contracts, would be required to offer employment to the employees of the previous contractors for up to six months instead of up to 90 days.
  - c. Currently, City contracts for janitorial and window cleaning services and moving services do not require non-profit contractors to pay prevailing wages. Contracts for janitorial and window cleaning services do not require small businesses, defined as businesses with less than 10 employees, to pay their employees prevailing wages. Under the proposed ordinance, businesses having City contracts which require the payment of prevailing wages, including City contracts for janitorial and window cleaning services, would be required to pay prevailing wages to their employees. However, City contracts for moving services would not require the payment of prevailing wages if such services are provided by non-profit contractors.
  - d. Currently, City contracts have different penalties for violating prevailing wage requirements. Under the proposed ordinance, all City contractors, which are required to pay prevailing wages, would be subject to the same penalties for willful violations of prevailing wage requirements. Such penalties would be up to 10 percent of the contracted dollar amount.

- e. Currently, the Administrative Code does not require City contractors, covered by prevailing wage requirements, to hire employees in an employer-employee relationship, as defined by California law. Currently, independent contractors retained by the City contractor, perform such work under the City contracts. Under the proposed ordinance, all City contractors covered by prevailing wages would be required to hire permanent employees rather than retain independent contractors to perform work on the City contracts.
- f. Currently, Administrative Code 21C.5 establishes the permit process for solid waste hauling services. Under the proposed ordinance, Administrative Code Section 21C.5 would be amended to contain a policy statement that any future changes to the Administrative Code permit process for residential solid waste hauling services, including creating a franchise process, would require solid waste hauling companies to pay prevailing wages.

**Fiscal Impact**

- The fiscal impact of the proposed ordinance, pertaining to any potential increased cost to the City, is unknown. According to Ms. Donna Levitt, Manager of the City’s Office of Labor Standards Enforcement (OLSE), while City contractors may pass through to the City any potential costs as a result of the proposed Administrative Code amendments, OLSE and other City departments do not have sufficient data to quantify the potential cost to the City.

**Recommendations**

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

**MANDATE STATEMENT / BACKGROUND**

**Mandate Statement**

In accordance with Section 2.105 of the City’s Charter, any amendments to the Administrative Code must be approved by ordinance of the Board of Supervisors.

**Background**

The City and County of San Francisco currently has prevailing wage requirements in the Administrative Code for the following types of contracts: (a) public works and construction, (b) motor bus service, (c) janitorial and window cleaning services, (d) public off-street parking lots, garages, and vehicle storage facilities, (e) theatrical performances, (e) solid waste hauling services, and (f) moving services. Currently, each type of contract is subject to different provisions under the respective sections of the Administrative Code. These Administrative Code provisions include certain requirements or conditions for City contracts covered by prevailing wages.

**DETAILS OF PROPOSED LEGISLATION**

The proposed ordinance would revise the Administrative Code to clarify existing language and modify provisions pertaining to specified City contracts, wherein the businesses holding the City contracts are required to pay prevailing wages to their employees related to contracts for (a)

motor bus services (Administrative Code Section 21C.1), (c) janitorial and window cleaning services (Administrative Code Section 21C.2), (d) public off-street parking lots, garages, and vehicle storage facilities (Administrative Code Section 21C.3), (e) theatrical performances (Administrative Code Section 21C.4), (e) solid waste hauling services (Administrative Code Section 21C.5), and (f) moving services (Administrative Code Section 21C.6). The proposed ordinance would not revise Administrative Code Section 6.22(E) covering public works and construction contracts.

Currently, Administrative Code provisions, defining terms and setting certain prevailing wage requirements, are contained in separate sections of the Administrative Code pertaining to specific City contracts. These requirements include the method for setting prevailing wage rates, reporting and compliance, enforcement and penalties, and other related requirements. The proposed ordinance would standardize definitions and prevailing wage requirements, and consolidate such provisions into a new Administrative Code Section 21C.7. San Francisco Police Code Section 3300C.1 would also be amended to reflect the fact that the proposed new Administrative Code Section, 21C.7, would set the prevailing wage requirements for janitors who are covered under the Police Code.

The proposed ordinance would amend Administrative Code Sections 21C.2 through 21C.6 and add a new Administrative Code Section, 21C.7, as follows:

### **Collective Bargaining Agreements**

Currently, Administrative Code Sections 21C.2, 21C.3, 21C.4, 21C.5, and 21C.6 allow businesses having City contracts for janitorial and window cleaning services, public off-street parking lots, garages, and vehicle storage facilities, theatrical performances, solid waste hauling services, and moving services, to pay their employees less than the prevailing wage if the City contracts are covered by collective bargaining agreements with wage rates lower than prevailing wage rates.

Under the proposed ordinance, the new section of the Administrative Code, Section 21C.7, would require all businesses having City contracts covered by prevailing wage requirements to pay prevailing wages to their employees, regardless of whether or not the City contract is covered by a collective bargaining agreement.

### **Transitional Employment**

Currently, Administrative Code Sections 21C.3 and 21C.5, require businesses having new City contracts for public off-street parking lots, garages, and vehicle storage facilities, and solid waste hauling services to offer employment to the employees of the previous City contractor for up to 90 days.

Under the proposed ordinance, the new Administrative Code Section 21C.7 would require all businesses having new City contracts covered by prevailing wage requirements, except for public works and construction contracts, to offer employment to the employees of the previous City contracts for up to six months instead of up to 90 days.

## **Non Profit Exclusion and Small Business Exclusion**

Currently, Administrative Code Sections 21C.2 and 21C.6 allow City contracts for janitorial and window cleaning services and moving services to be excluded from the prevailing wage rates if performed by a non-profit organization. Administrative Code 21C.2 also allows City contracts for janitorial and window cleaning services to be excluded from the prevailing wage rates if performed by a small business defined as having less than 10 employees.

Under the proposed ordinance, the new Administrative Code Section 21C.7 would require businesses having City contracts covered by prevailing wage requirements to pay prevailing wages, including contracts with non-profit organizations and small businesses, except that City contracts for moving services with non-profit organizations would continue to be excluded from prevailing wage requirements.

## **Penalties**

Currently, penalties, imposed on businesses having City contracts for willful violation of not paying prevailing wages to their employees, are either \$50 per employee per day for public off-street parking lots, garages, and vehicle storage facilities, and moving services; or up to 10 percent of the contracted amount in dollars for janitorial and window cleaning services, theatrical performances, and solid waste hauling services. Administrative Code Section 21C.1 for motor bus services currently does not include specified penalties for such willful violation.

Under the proposed ordinance, the new Administrative Code Section 21C.7 would subject all businesses having City contracts covered by prevailing wage requirements, to the same penalties as a result of willful violations of not paying employees the prevailing wage rates. Such penalties would be up to 10 percent of the contracted dollar amount.

## **Independent Contractors**

Currently, there are no provisions in the Administrative Code that require work performed under City contracts, covered by prevailing wages, to be performed by employees of the business that was awarded the City contract. Therefore such work can be performed by independent contractors retained by the business which has a City contract.

Under the proposed ordinance, the new Administrative Code Section 21C.7 would require businesses having City contracts covered by prevailing wages to hire employees to perform the work under the contract in an employer-employee relationship as defined by California law, rather than permit the City contractors to retain independent contractors to perform such work under the contract. Under the proposed ordinance, if the City contractor uses an independent contractor for three or more days, the City may terminate the contract and/or impose penalties of up to 10 percent of the contracted dollar amount for willful violation.

Currently, Administrative Code 21C.5 establishes the permit process for solid waste hauling services. Under the proposed ordinance, Administrative Code Section 21C.5 would be amended to contain a policy statement that any future changes to the Administrative Code permit process

for residential solid waste hauling services, including creating a franchise process, would require solid waste hauling companies to pay prevailing wages.

## **FISCAL IMPACT**

The fiscal impact of the proposed ordinance, pertaining to any potential increased cost to the City, is unknown. According to Ms. Donna Levitt, Manager of the City's Office of Labor Standards Enforcement (OLSE), while City contractors may pass through to the City any potential costs as a result of the proposed Administrative Code amendments, OLSE and other City departments do not have sufficient data to quantify the potential cost to the City.

## **RECOMMENDATIONS**

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



<p><b>Item 7</b> <b>File 11-1201</b></p>	<p><b>Departments:</b> Department of the Environment (DOE) Office of Contract Administration (OCA)</p>
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**EXECUTIVE SUMMARY**

**Legislative Objectives**

- The proposed resolution would approve the Second Amendment to the Refuse Collection Agreement between the City and Recology San Francisco, Recology Golden Gate and Recology Sunset Scavenger to increase the total not-to-exceed amount of the Agreement by \$5,800,000 from \$23,537,527 to \$29,337,527 for the period from April 1, 2007 through June 30, 2012.

**Key Points**

- On March 21, 2007, the Board of Supervisors waived a competitive solicitation process, and approved a sole source not-to-exceed \$23,037,527 Memorandum of Understanding (MOU) between the City and Recology to provide refuse collection and recycling services for City departments (Resolution No. 147-07) for the period from April 1, 2007 through June 30, 2011, which included two additional one-year options to extend, or through June 30, 2013, at the sole discretion of the Purchaser, after notification to the Board of Supervisors.
- Under the proposed amended agreement, Recology would waive their right to a cost of living increase during this first option year from July 1, 2011 through June 30, 2012.
- As of the writing of this report, the Budget and Legislative Analyst had not received complete responses regarding the (a) actual rates paid by individual City departments, including the associated discounts, and (b) rationale for requesting the entire \$29,337,527.

**Recommendation**

- Continue the proposed resolution pending receipt of additional information submitted to the Budget and Legislative Analyst’s Office.

## MANDATE STATEMENT AND BACKGROUND

### Mandate Statement

In accordance with City Charter Section 9.118(b), any contract or agreement (in this case a MOU) that has a term in excess of ten years, or exceeds \$10,000,000 in anticipated expenditures, or the modification of such agreement exceeds \$500,000, is subject to Board of Supervisors approval.

### Background

On March 21, 2007, the Board of Supervisors waived a competitive solicitation process, and approved a sole source not-to-exceed \$23,037,527 Memorandum of Understanding (MOU) between the City and County of San Francisco, through the Office of Contract Administration, and Sunset Scavenger Company, Golden Gate Disposal & Recycling Company and SF Recycling & Disposal Company, Inc., now known as Recology,<sup>1</sup> to provide refuse collection and recycling services for departments of the City and County of San Francisco (City) (Resolution No. 147-07)<sup>2</sup>. Under the existing MOU, Recology is required to consolidate, collect, and transport all refuse generated by City departments on a specified schedule.

The initial four-year and three-month MOU was for the period from April 1, 2007 through June 30, 2011, and included two additional one-year options to extend, or through June 30, 2013, at the sole discretion of the Purchaser. Under the existing MOU, if the Purchaser exercises these options, the Purchaser is required to notify the Board of Supervisors of such extension of the MOU.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Second Amendment to the Refuse Collection Agreement between the City and Recology San Francisco, Recology Golden Gate and Recology Sunset Scavenger (Recology) to increase the total not-to-exceed amount of the Agreement by \$5,800,000 from \$23,537,527 to \$29,337,527 for the period from April 1, 2007 through June 30, 2012. Under the proposed amended agreement, Recology would waive their right to a cost of living increase during this first option year from July 1, 2011 through June 30, 2012.

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<sup>1</sup> When this initial MOU was approved in 2007, Sunset Scavenger Company, Golden Gate Disposal & Recycling Company and SF Recycling & Disposal Company, Inc. were subsidiaries of Norcal Solid Waste Systems. On April 27, 2009, Norcal Waste Systems formally changed its name to Recology Inc, such that Recology's three new subsidiaries under contract with the City, through the existing MOU are (a) Recology Sunset Scavenger, (b) Recology Golden Gate, and (c) Recology San Francisco.

<sup>2</sup> Prior to 2007, the City did not have a written MOU with any provider for refuse collection services for City departments. Rather, the City's Rate Board negotiated directly with Norcal for refuse collection services during the rate setting process for approving residential rates in the City and then the Purchaser entered into a series of annual purchase orders with Norcal to secure such services.

As of the writing of this report, the Budget and Legislative Analyst had not received complete responses regarding the (a) actual rates paid by individual City departments, including the associated discounts, and (b) rationale for requesting the entire \$29,337,527.

## **RECOMMENDATION**

Continue the proposed resolution pending receipt of additional information submitted to the Budget and Legislative Analyst's Office.

**Item 8**  
**File 11-1250**

**Department:**  
Real Estate Division  
Office of Economic Workforce Development (OEWD)

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed resolution would (a) authorize the sale of Parcel F on the northeast corner of Fulton Street and Gough Street to the Boys and Girls Club of San Francisco at the below market sales price of \$2,500,000, (b) adopt environmental findings and other findings that the actions are consistent with the City's General Plan and City Planning Code Section 101.1, and (c) authorize other actions.

### Fiscal Impacts

- On March 16, 2006 the subject Parcel F was appraised at \$9,900,000. On March 26, 2009, the Office of Economic and Workforce Development (OEWD) and the Real Estate Division revised the appraised value, based on updated economic conditions, to \$8,415,000, pending a public auction of the property.
- Under the proposed resolution, the City would sell Parcel F to the Boys and Girls Club at a below market rate sales price of \$2,500,000. The proposed sales price of \$2,500,000 is \$5,915,000, or 70.3 percent less than the estimated market rate sales price of \$8,415,000.
- The clubhouse to be developed by the Boys and Girls Club on Parcel F would have significant community service benefit and investment, which has not been quantified. In addition, although the proposed sales agreement provides that if the Boys and Girls Club develop residential units on Parcel F, the City shall receive 50 percent of the net sale or lease proceeds, the potential additional revenue that the City might receive from such residential sales or leases cannot be quantified.
- Both the \$2,500,000 sales proceeds and any proceeds the City might receive from the 50 percent sharing of residential sales or leases in the future would be expended, in accordance with the cooperative agreement between the City and Caltrans, for specified street, transportation and auxiliary projects.

### Policy Considerations

- The Real Estate Division is proposing to sell Parcel F at below market rate and without a competitive selection process and without selling the property through a competitive public auction to the highest bidder. The sales agreement does not require the Boys and Girls Club to obtain a certificate of occupancy for seven years and the City will not receive the below market sales price of \$2,500,000 until the earlier of either: (a) 30 days after the conditional use permit is approved, or (b) 24 months after the proposed resolution is approved. The sales agreement does not require the Boys and Girls Club to develop residential units.

### Recommendation

The Budget and Legislative Analyst cannot recommend approval of the proposed resolution because (1) the proposed sales price for Parcel F of \$2,500,000 is \$5,915,000 or 70.3 percent less than the estimated market rate sales price of \$8,415,000, (2) the Real Estate Division did not competitively solicit other non-profit agencies or for-profit developers to purchase the subject property or conduct a competitive auction to the highest bidder, as is the usual procedure when the City sells City-owned property (3) the Real Estate Division and OEWD did not conduct a formal or public planning process to determine the best use of Parcel F, (4) the sales agreement does not require the Boys and Girls Club to obtain a certificate of occupancy until 7 years after the date of sale, (5) the sales agreement does not require development of residential units, therefore the

City cannot be assured of any additional sale or lease proceeds, (6) if commercial or non-residential property is developed, the sales agreement does not require the Boys and Girls Club to make any participation payments to the City with respect to any sales or lease revenues from such commercial or non-residential property, and (7) after 30 years, if the property is sold, the Boys and Girls Club would retain all sale proceeds at full market value, with no proceeds required to be returned to the City.

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

In accordance with Section 9.118(c) of the City's Charter, any sale of real property owned by the City and County of San Francisco must first be approved by resolution of the Board of Supervisors.

### Background

In 1989, the Central Freeway sustained damage due to the Loma Prieta Earthquake. After discussions between the City and the California Department of Transportation (Caltrans), in 1999, the Central Freeway right-of-way, located along Octavia Boulevard, was transferred from the State to the City. As part of transferring this right-of-way, the State transferred 22 properties, including the subject Parcel F property, to the City at no cost but specified that the proceeds from the sale or lease of those properties were to be used to fund the Octavia Boulevard Project and ancillary transportation projects and related street improvements. Specifically, the City and Caltrans entered into a cooperation agreement, which specified that the proceeds from the sales or lease be used for the Octavia Boulevard replacement, repaving and rehabilitation of portions of Van Ness Avenue, specified street improvements, and related ancillary projects, including alley and traffic calming projects, lighting improvements, a new skate park, dogrun, and basketball courts in the adjacent areas.

According to Mr. John Updike, Director of the Real Estate Division, the City has sold 16 of the 22 properties to date for total sales proceeds of \$31,400,000, and two additional properties are currently in escrow to be sold for an additional approximately \$11,000,000, or a total potential sales proceeds of \$42,400,000 for the 18 properties sold or pending sale. Seven of these 18 properties were sold to the San Francisco Redevelopment Agency (SFRA) for affordable housing and other related housing developments. The remaining 11 of the 18 properties were sold at full market value for various residential and commercial developments. Of the original 22 properties, four properties (22 less 18 sold) including Parcel F, which is the subject of this resolution, remain unsold. Mr. Updike advises that, excluding Parcel F, the remaining three properties are anticipated to be sold at full market value.

Parcel F is located on the northeast corner of Fulton Street and Gough Street, and was originally part of a package of properties (Ordinance No. 104-09) that was previously approved by the Board of Supervisors to be sold at market rate price. Parcel F is a rectangular shaped parcel of 28,350 square feet currently being used as a parking lot, under a lease awarded by the City to the San Francisco Opera. The City currently receives \$7,750 per month, or a total of \$93,000

annually, with these revenues used for transportation and recreation projects, in accordance with the specified Caltrans and City cooperative agreement discussed above.

On March 16, 2006 Real Estate Appraiser Carneghi-Blum and Partners, retained by the Real Estate Division, appraised Parcel F at \$9,900,000. On March 26, 2009, the Office of Economic and Workforce Development (OEWD) and the Real Estate Division revised the appraised value, based on updated economic conditions, to \$8,415,000, pending a public auction of the property. According to Mr. Updike, the Real Estate Division did not submit Parcel F to a public auction, wherein City properties are sold to the highest bidder, or request proposals from other nonprofit agencies or from for-profit developers for the sale of Parcel F because the Boys and Girls Club approached the SFRA, OEWD and the Real Estate Division for assistance to purchase Parcel F to construct a new clubhouse to provide needed services to low-income youth in the immediate Western Addition and Hayes Valley neighborhoods.

The Boys and Girls Club of San Francisco (Boys and Girls Club), a nonprofit organization, currently operates nine clubhouses throughout the City, including two that serve adjacent areas, in (a) the Haight neighborhood at 1950 Page Street, near Stanyon Street, and (b) in the Tenderloin neighborhood at 115 Jones Street near Turk Street. Based on information provided by the SFRA, OEWD and the Real Estate Division, the Boys and Girls Club selected Parcel F as the site for the tenth clubhouse because Parcel F is both the right size and location to serve families in the Western Addition and Hayes Valley, which are the Boys and Girls Club's target population for their tenth clubhouse.

Mr. Updike states that the Real Estate Division negotiated with the Boys and Girls Club and determined that selling Parcel F at below market rate to the Boys and Girls Club was the best use of the property based on discussions between with OEWD and SFRA. According to Mr. Updike, the Real Estate Division entered into negotiations with the Boys and Girls Club for the sale of Parcel F to the Boys and Girls Club in the fall of 2010.

## **DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would (a) authorize the sale of Parcel F located on the northeast corner of Fulton Street and Gough Street, to the Boys and Girls Club of San Francisco at the below market rate sales price of \$2,500,000, without having the sale of this property undergo a competitive public auction process, (b) adopt environmental findings and other findings that the actions set forth in this resolution are consistent with the City's General Plan and Eight Priority Policies of City Planning Code Section 101.1, and (c) authorize other actions in furtherance of this resolution.

### **Sale of Parcel F**

According to Mr. Updike, the Boys and Girls Club intends to construct a clubhouse on Parcel F that includes a high school-size gymnasium, competition-size pool, learning center, arts room, and dedicated community center for teenagers. Mr. Updike advises that the total estimated costs to construct the clubhouse is \$16,000,000, of which the Boys and Girls Club has an unknown

amount of available capital. According to Mr. Updike, the Boys and Girls Club has a history of achieving its fundraising targets and, during informal discussions, the Boys and Girls Club indicated that they would likely undertake a major capital fundraising campaign and potentially sell the rights to develop residential units above the clubhouse on Parcel F.

The sale agreement between the City's Real Estate Division and the Boys and Girls Club contains the following provisions:

#### Project Covenants and Restrictions

Because the Boys and Girls Club is purchasing Parcel F from the City at less than fair market value, the sales agreement requires the Boys and Girls Club to use the property to provide services and programs for low-income San Francisco youth for 30 years. After 30 years, this requirement terminates, such that if the property is then sold, the Boys and Girls Club would retain all sale proceeds at full market value, with no proceeds required to be returned to the City.

#### Conditions to Closing

Under the proposed sales agreement, the effective date of sale of the proposed Parcel F property and the transfer of the \$2,500,000 from the Boys and Girls Club to the City will occur the earlier of either: (a) 30 days after the conditional use permit is approved, or (b) 24 months after the proposed resolution is approved.

#### Performance Benchmarks

Under the proposed sales agreement, the Boys and Girls Club must:

- Submit an application to the Planning Department for an environmental assessment within 9 months of the sales date.
- Submit an application to the Planning Department for a conditional use permit to develop the clubhouse within 18 months, including any applications for variances or discretionary approvals.
- Respond to any deficiencies identified by OEWD, who would review the Boys and Girls Club's conditional use application or other applications for use of Parcel F within a specified timeframe.

Failure to meet these performance benchmarks could cause the City's Real Estate Division to terminate the sales agreement. However, the performance benchmarks do not require the Boys and Girls Club to obtain financing or building permits for the development of the clubhouse within a specified period of time. Nor does the sales agreement provide penalties, including termination of the sales agreement, if the Boys and Girls Club fails to obtain sufficient financing to develop the clubhouse project as proposed.

According to the project covenants and restrictions, the Boys and Girls Club agrees to timely construction and operation of the clubhouse that includes a pool and gymnasium. Although the project covenants and restrictions contain a template, requiring the Boys and Girls Club to

obtain site permits and building permits within a specified timeframe after obtaining the conditional use permits, the exact timeframe has not yet been written into the sales agreement. However, the sales agreement does not require the Boys and Girls Club to obtain a temporary certificate of occupancy until seven years after the sale date.

#### City Participation in the Proceeds of the Sale of Residential Units

According to the proposed sales agreement, if the Boys and Girls Club obtain conditional use permits to develop residential units on Parcel F, the following provisions apply:

- The Boys and Girls Club must sell or lease the residential units at fair market or fair rental value, except for the sale or lease of affordable housing units.
- If the Boys and Girls Club sells or leases all or a portion of the residential development to a third party, the City shall receive 50 percent of the net sale or lease proceeds.

However, the proposed sales agreement does not require the Boys and Girls Club to develop any residential units on Parcel F. Furthermore, if the Boys and Girls Club develop any non-residential uses on Parcel F, there are no provisions for sharing in any sale or lease proceeds with the City.

#### Economic Justice Covenants

When the Board of Supervisors authorized the sale of Parcel F and the other Central Freeway parcels (Ordinance No. 104-09), the Board of Supervisors required developers to use good faith efforts to hire local residents to perform the construction work for developments greater than 60 units. The proposed sales agreement requires the construction contractors to pay not less than the City's prevailing wages to their employees and to adhere to the City's first source local hiring requirements, which requires the developer to use their best efforts to hire San Francisco residents.

#### **Environmental Determination**

The City's Planning Department has determined that the sale of the subject Parcel F property (a) conforms to the City's General Plan, (b) is categorically exempt from the California Environmental Quality Act (CEQA), and (c) is consistent with the City's General Plan and City Planning Code Section 101.1(b).

#### **Other Actions**

The proposed resolution states that the Director of Real Estate can execute the agreement and related documents, such as deeds of trust, property title, and other real estate documents. The Director of Real Estate can also make modifications or amendments that do not materially increase the obligations of the City, which according to Mr. Updike, is standard in every real estate transaction authorization.



## FISCAL IMPACT

Under the proposed resolution, the City would sell Parcel F to the Boys and Girls Club at a below market rate sales price of \$2,500,000. The proposed sales price of \$2,500,000 is \$5,915,000, or 70.3 percent less than the estimated market rate sales price of \$8,415,000.

According to Mr. Updike, the clubhouse to be developed by the Boys and Girls Club on Parcel F has significant community service benefit and investment. However, the Real Estate Division has provided no documentation to the Budget and Legislative Analyst with respect to quantifying such benefit and investment.

In addition, although the proposed sales agreement provides that, if the Boys and Girls Club develops residential units on Parcel F, the City shall receive 50 percent of the net sale or lease proceeds, Mr. Updike could not quantify the potential additional revenue that the City might receive from such residential sales or leases. Both the \$2,500,000 sales proceeds and any proceeds the City might receive from the 50 percent sharing of residential sales or leases in the future would be expended, in accordance with the cooperative agreement between the City and Caltrans, for specified street, transportation and auxiliary projects, such as recreation projects, as discussed above.

## POLICY CONSIDERATIONS

### **The Real Estate Division is proposing to sell Parcel F at below market rate and without a competitive selection process through sale by public auction**

Because the Real Estate Division did not competitively solicit other non-profit agencies or for-profit developers to purchase Parcel F and because the City is not selling the subject property through a competitive public auction, the City cannot be assured that the proposed sales agreement is the highest and best use of the property.

Although the Real Estate Division considers development of the clubhouse to provide significant community benefit to low-income youth in the Western Addition, the Real Estate Division has provided no documentation to the Budget and Legislative Analyst with respect to quantifying the community benefits.

The Real Estate Division and OEWD did not undergo formal or public planning processes to determine the best use of Parcel F. This resolution sets a precedent for other non-profit agencies to request to purchase the three remaining Central Freeway parcels, or other City properties, at below market rates without conforming to formal policies or plans as adopted by the Board of Supervisors.

### **The sales agreement does not require the Boys and Girls Club to obtain a certificate of occupancy for seven years**

While the sales agreement requires the Boys and Girls Club to obtain conditional use, site, or building permits within a specified period of time, the actual date for obtaining the certificate of occupancy is not until seven years after the sale date, or approximately 2018 or 2019. In

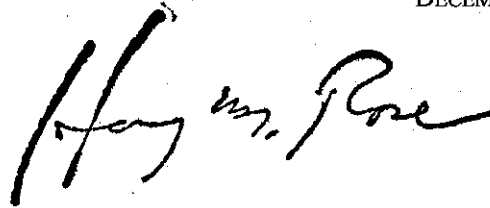
addition, the City would not receive the \$2,500,000 sale proceeds until the earlier of either: (a) 30 days after the conditional use permit is approved, or (b) 24 months after the proposed resolution is approved. Further, the Boys and Girls Club has not yet fully identified the sources of funding for the total estimated cost of \$16,000,000 in order to complete construction of the new clubhouse.

**While the sales agreement provides for the City to receive 50 percent of net sales or lease proceeds from the development of residential units, the sales agreement does not require the Boys and Girls Club to develop such residential units**

The City could realize additional proceeds from Parcel F if the Boys and Girls Club ultimately develops residential units on the site. Specifically, the City would receive 50 percent of the net sales or lease proceeds from the development by the Boys and Girls Club of such residential units. However, the sales agreement does not require the Boys and Girls Club to develop the residential units, and the City would not receive any participation payments if non-residential uses are developed. Also, the City would only receive net sale or lease proceeds if the Boys or Girls Club were to sell or lease the residential development to a third party.

## RECOMMENDATION

The Budget and Legislative Analyst cannot recommend approval of the proposed resolution because (1) the proposed sales price for Parcel F of \$2,500,000 is \$5,915,000 or 70.3 percent less than the estimated market rate sales price of \$8,415,000, (2) the Real Estate Division did not competitively solicit other non-profit agencies or for-profit developers to purchase the subject property or conduct a competitive auction to the highest bidder, as is the usual procedure when the City sells City-owned property (3) the Real Estate Division and OEWD did not conduct a formal or public planning process to determine the best use of Parcel F, (4) the sales agreement does not require the Boys and Girls Club to obtain a certificate of occupancy until 7 years after the date of sale, (5) the sales agreement does not require development of residential units, therefore the City cannot be assured of any additional sale or lease proceeds, (6) if commercial or non-residential property is developed, the sales agreement does not require the Boys and Girls Club to make any participation payments to the City with respect to any sales or lease revenues from such commercial or non-residential property, and (7) after 30 years, if the property is sold, the Boys and Girls Club would retain all sale proceeds at full market value, with no proceeds required to be returned to the City.

A handwritten signature in black ink, appearing to read "Harvey M. Rose". The signature is written in a cursive, flowing style.

Harvey M. Rose

cc: Supervisor Chu  
Supervisor Mirkarimi  
Supervisor Kim  
President Chiu  
Supervisor Avalos  
Supervisor Campos  
Supervisor Cohen  
Supervisor Elsbernd  
Supervisor Farrell  
Supervisor Mar  
Supervisor Wiener  
Clerk of the Board  
Cheryl Adams  
Controller  
Rick Wilson