

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

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May 11, 2012

TO: Budget and Finance Sub-Committee
FROM: Budget and Legislative Analyst
SUBJECT: May 16, 2012 Budget and Finance Sub-Committee Meeting

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Item 2 File 12-0069	Department: Real Estate Division, Fire Department
EXECUTIVE SUMMARY	
Legislative Objectives	
<ul style="list-style-type: none"> The proposed resolution would authorize a new five-year lease, with three additional five-year options, between the Fire Department and T-Mobile West Corporation (T-Mobile) for 160 square feet of ground space at the rear and on the roof at 720 Moscow Street, otherwise known as Fire Station 43, for specified mobile/wireless telecommunication equipment. 	
Key Points	
<ul style="list-style-type: none"> After receiving the required Planning Department and Department of Building Inspection approvals, Cingular Wireless (Cingular) installed antennas and related telecommunications equipment at Fire Station 43, located at 720 Moscow Street on September 1, 2003. As a condition of Cingular's merger with AT&T, Cingular transferred various telecommunications equipment sites, including 720 Moscow Street, to T-Mobile in January 2005. However, the City never entered into a lease with Cingular or T-Mobile, to use the subject City-owned Fire Department property at 720 Moscow Street, for locating and operating such telecommunications equipment. 	
Fiscal Impacts	
<ul style="list-style-type: none"> Prior to commencement of the proposed lease, T-Mobile will be required to make a one-time back rent payment of \$318,989 to the Fire Department, which includes (a) \$303,762 to cover the rent, including annual Consumer Price Index (CPI) adjustments, and utility expenses between September 1, 2003 and January 31, 2012, and (b) \$15,227, based on a rental rate of \$125.84 per day times approximately 121 days, for the period from February 1, 2012 through the actual commencement date of the proposed lease, which is estimated to be June 1, 2012. The proposed lease would have an initial rental rate of \$3,500 per month. As shown in Table 2 below, based on a three to six percent increase in the monthly rent on February 1 each year, over the five-year initial term from June 1, 2012 through May 31, 2017, the proposed lease is estimated to generate a total of \$225,200 to \$241,508 for the Fire Department. 	
Policy Issues	
<ul style="list-style-type: none"> The proposed lease with T-Mobile was not awarded based on a competitive bid procedure because (a) Federal law currently requires co-locating cellular companies' equipment to encourage multiple uses on the same sites, and (b) each cellular company determines their own antennas and related equipment needs based on their own cellular companies' network. Regarding the fact that the subject property was inadvertently never under a City lease, the Director of Property is dependent on receiving accurate and timely reports about individual City properties from each department. Currently, the Director of Property has no authority over individual City departments to ensure receipt of such information. 	
Recommendations	
<ul style="list-style-type: none"> Amend the proposed resolution on page 2, line 20 to add: FURTHER RESOLVED, that the Board of Supervisors finds that competitive bidding procedures for award of the subject lease were impractical or impossible due to Federal law and individual cellular company network needs. 	

- Approve the proposed resolution, as amended.
- Request that the Director of Property provide input on possible amendments to the City's Administrative Code or other changes to improve centralized reporting and oversight of City properties, including identifying potential unauthorized uses of City properties, wherein the required City leases were never executed.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with Administrative Code Article IV, Section 23.30, the Board of Supervisors, by resolution, may authorize the lease of City property. Section 23.30 also provides that the Director of Property shall arrange for leases of City property to the highest responsible bidder in accordance with competitive bidding procedures, unless the Board of Supervisors, by resolution, finds that such competitive bidding procedures are impractical or impossible or authorizes the award of such lease to further a specific public purpose.

Background

On September 5, 2002, Cingular Wireless (Cingular), applied to the City's Planning Department for a Conditional Use to allow six antennas to be mounted in a faux fiberglass chimney on the roof and related communication equipment to be installed at the rear of the City-owned property at 720 Moscow Street, as part of a wireless telecommunication network which would transmit and receive radio signals for cellular telephones operated by Cingular. The proposed site at 720 Moscow Street, cross-street of France Avenue, adjacent to Crocker Amazon Playground, is the location of the City-owned Fire Department Station 43. According to Ms. Marta Bayol, the District General Manager of the Real Estate Division, telecommunications companies typically select equipment location sites based on their customers' needs and telecommunications' signal strength.

The Planning Department staff determined that the proposed Conditional Use application was categorically exempt from environmental review and on March 20, 2003, the Planning Commission approved Cingular's Conditional Use application for the specified communication equipment at 720 Moscow Street (Motion No. 16547). In July, 2003, Cingular received a building permit from the Department of Building Inspection (DBI) to construct the necessary antennas on the roof and install the related telecommunications equipment on the ground at the rear of 720 Moscow Street. On September 1, 2003, Cingular installed such antennas and related telecommunications equipment at Fire Station 43 located at 720 Moscow Street.

According to Mr. John Updike, the Director of the Real Estate Division, although Cingular received the appropriate Planning Department and DBI permits, and constructed the necessary antennas and installed the related equipment at Fire Station 43 located at 720 Moscow Street on September 1, 2003, the City never entered into a lease for Cingular to use the subject City Fire Department property. As a result, to date, the City has not received any revenues from leasing the subject approximately 160 square feet of space at 720 Moscow Street for Cingular's/T-

Mobile's¹ telecommunications equipment since September 1, 2003, or for more than eight years and eight months. Mr. Updike advises that the City inadvertently did not enter into a lease agreement with Cingular or T-Mobile, likely due to poor communications between the various City departments and related City staff changes that occurred².

According to Ms. Bayol, in 2009, a representative of T-Mobile approached Fire Department representatives, wanting to enter into a lease agreement and pay their back rent owed to the City for occupying City-owned property consisting of 160 square feet of space at 720 Moscow Street. Mr. Updike advises that lease negotiations commenced between T-Mobile and the Real Estate Division in 2009, and were only recently concluded due to (a) drafting of lease agreement parameters, (b) need to address the back rent owed to the City since September 1, 2003, and (c) T-Mobile's various levels of review and approvals.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize a new lease between the City, on behalf of the Fire Department and T-Mobile West Corporation (T-Mobile) for approximately 160 square feet of ground space at the rear and on the roof at 720 Moscow Street, otherwise known as Fire Station 43, for specified mobile/wireless communication equipment, including equipment cabinets, five antennas, power amplifier, location messaging unit, utility panels and related coaxial cables and conduits. Under the proposed lease, the monthly rent would be set at \$3,500 per month, or \$21.88 per square foot per month for approximately 160 square feet of space. Under the proposed lease, with 24-hour notice to the Fire Department, T-Mobile personnel would have a non-exclusive license to physically access such communication equipment in order to operate, construct, maintain, restore, or replace the equipment. In accordance with the proposed lease, T-Mobile has installed a sub-meter on the building's electrical power, such that T-Mobile will pay the Fire Department for T-Mobile's actual electrical costs.

The proposed lease would extend for five years from approximately June 1, 2012 through May 31, 2017, and provide three additional five-year options to extend, or a total potential lease term of 20 years, or through May 31, 2032. Under the proposed lease, the initial monthly rent of \$3,500 would be annually adjusted on February 1 of each year, by no less than three percent or more than six percent, based on the Bay Area Consumer Price Index (CPI). Prior to exercising each option to extend the subject lease, the base rent would be adjusted to the prevailing market rate for telecommunications space of comparable size and location, as specified in the lease.

In accordance with the proposed lease, prior to commencement of the subject lease, T-Mobile would be required pay the City back rent of (a) \$303,762 to cover the rent, including annual Consumer Price Index (CPI) adjustments, and utility expenses between September 1, 2003 and January 31, 2012, and (b) \$125.84 per day multiplied by the number of days between February 1, 2012 and the commencement of the proposed lease, or approximately June 1, 2012.

¹ Ms. Bayol advises that, to avoid antitrust issues, a condition of Cingular's merger with AT&T in 2005 was that Cingular was required to transfer a number of Cingular's existing telecommunications equipment sites, including 720 Moscow Street, to T-Mobile. Therefore, in January, 2005, the ownership and responsibility for the existing telecommunications equipment at Fire Station 43 located at 720 Moscow Street, was transferred from Cingular to T-Mobile.

² Real Estate's records indicate there are currently 18 different leases with cellular companies (AT&T, Sprint, T-Mobile, Metro PCS) to use City properties, including seven Fire Department leases.

FISCAL IMPACTS

As noted above, prior to commencement of the proposed lease, T-Mobile would be required to make a one-time \$303,762 payment to the City to cover the rent, including annual Consumer Price Index (CPI) adjustments, and utility expenses between September 1, 2003 and January 31, 2012, as summarized in Table 1 below.

Table 1: Projected Rent, with Cost of Living Adjustments, and Utility Expenses Owed by T-Mobile to the City, from September 1, 2003 through January 31, 2012

Fiscal Year	Monthly Rental Rate	Monthly Rent Per Square Foot Based on 160 Square Feet	Annual CPI Adjustment	Annual Rent
FY 2003-04*	\$2,500	\$15.63	1.4%	\$25,000
FY 2004-05	2,535	15.84	1.1%	30,420
FY 2005-06	2,563	16.02	3.9%	30,755
FY 2006-07	2,663	16.64	3.4%	31,954
FY 2007-08	2,753	17.21	4.2%	33,040
FY 2008-09	2,869	17.93	0.2%	34,428
FY 2009-10	2,875	17.97	1.1%	34,497
FY 2010-11	2,906	18.16	3.3%	34,877
FY 2011-12**	3,002	18.76	n/a	21,016
Subtotal				\$275,987
Utilities***				27,775
Total				\$303,762

*Based on ten months from September 1, 2003 through June 30, 2004.

**Based on seven months from July 1, 2011 through January 31, 2012.

*** Based on average rate of \$275 per month for the 101 months from September 1, 2003 through January 31, 2012.

Ms. Bayol advises that the original monthly rental rate, for the 160 square feet of space, of \$2,500 for FY 2003-04, as shown in Table 1 above, was based on the then fair market value of comparable leases, based on location. The original monthly rental rate of \$2,500 for FY 2003-2004 reflects an average rate of \$15.63 per square foot per month for the 160 square feet of space. The FY 2011-12 monthly rental rate of \$3,002 through January 31, 2012, as shown in Table 1 above, reflects an average rate of \$18.76 per square foot per month. In addition, as noted above, prior to commencement of the proposed lease, T-Mobile would be required to pay the

Fire Department a rental rate of \$125.84 per day³ times approximately 121 days, or a total of approximately \$15,227, for the period from February 1, 2012 through the actual commencement date of the proposed lease, which is estimated to be June 1, 2012. Therefore, prior to commencement of the subject lease, T-Mobile would be required to pay the Fire Department a total of approximately \$318,989 in back rent (\$303,762 as shown in Table 1 above plus \$15,227).

In addition, as shown in Table 2 below, the proposed lease would have an initial rental rate of \$3,500 per month, or \$21.88 per square foot per month. Based on an estimated three to six percent increase in the base monthly rent on February 1 of each year, over the five-year initial term from June 1, 2012 through May 31, 2017, the proposed lease is estimated to generate a total of \$225,200 to \$241,508 for the Fire Department, as shown in Table 2 below.

Table 2: Anticipated Revenues for Initial Five Year Term of Lease

Time Period	Monthly Rental Rate	Minimum Monthly CPI Adjustment (3%)	Maximum Monthly CPI Adjustment (6%)	Total Rent
June 1, 2012 – January 31, 2013*	\$3,500			\$28,000
February 1, 2013 - January 31, 2014	\$3,605 - 3,710	\$105	\$210	\$43,260 - \$44,520
February 1, 2014 – January 31, 2015	\$3,713 – 3,933	108	223	\$44,556 – \$47,196
February 1, 2015 – January 31, 2016	\$3,824 - 4,169	111	236	\$45,888 - \$50,028
February 1, 2016 – January 31, 2017	\$3,939 – 4,419	115	250	\$47,268 - \$53,028
February 1, 2017 – May 31, 2017**	\$4,057 – 4,684	118	265	\$16,228 - \$18,736
Total				\$225,200 - \$241,508

*Eight months until first CPI adjustment on February 1, 2013.

** Four months until end of initial lease term on May 31, 2017.

³ Daily rental rate of \$125.84 is based on the proposed monthly rental rate of \$3,500 per month plus \$275 per month for utilities divided by 30 days.

Based on an electrical sub-meter installed, T-Mobile will pay the Fire Department for actual monthly electrical utilities incurred.

All of the subject lease revenues will accrue to the Fire Department. According to Mr. Mark Corso, of the Fire Department, the Fire Department's budget assumed recovering \$315,000 of revenues from the subject lease in FY 2011-12. If the proposed resolution is approved, the Fire Department would receive a total of approximately \$322,489 in FY 2011-12, including \$318,989 of back rent owed plus \$3,500 for rent for June 2011.

POLICY ISSUES

Competitive Bidding of Lease Required Unless Impractical or Impossible

As noted above, Section 23.30 of the Administrative Code provides that the Director of Property shall arrange for leases of City property to the highest responsible bidder in accordance with competitive bidding procedures, unless the Board of Supervisors, by resolution, finds that such competitive bidding procedures are impractical or impossible or authorizes the award of such lease to further a specific public purpose. The proposed lease with T-Mobile was not awarded based on a competitive bid procedure. According to Mr. Updike, it is neither practical nor possible to award cellular company leases on a competitive basis because (a) Federal law currently requires the co-location of cellular companies' equipment at the same location in order to encourage multiple uses on the same sites, such that competitive bidding between companies at the same location to this Federal mandate, and (b) each cellular company conducts their own surveys to determine where each company wants to locate their own antennas and related equipment, such that the location is solely determined by the needs of each cellular companies' network. Therefore, the proposed resolution should be amended on page 2, line 20 to add: FURTHER RESOLVED, that the Board of Supervisors finds that competitive bidding procedures for award of the subject lease were impractical or impossible due to Federal law and individual cellular company network needs.

Unauthorized Uses of City Property Without Entering A Lease Agreement

As discussed above, although Cingular/T-Mobile installed and operated telecommunications equipment at Fire Station 43, located at 720 Moscow Street since September 1, 2003, the City inadvertently never entered into a lease agreement for use of this City-owned property, likely due to poor communications between the various City departments. On March 23, 2012, the Budget and Legislative Analyst's Office issued a report to Supervisor Farrell regarding an evaluation of potential surplus City property. This report found that the Director of Property is dependent on receiving accurate and timely reports about individual City properties from each department, but has no authority over the departments to ensure receipt of such information. As a result, this report documented that the City lacks centralized oversight and controls over its properties.

Therefore, the Budget and Legislative Analyst recommended that the Board of Supervisors request that the Director of Property provide input on possible amendments to the City's Administrative Code or other changes to improve centralized reporting and oversight of the City's properties, including identifying surplus and underutilized properties for possible disposal and ensuring that an accurate inventory of properties is maintained. In addition, the Budget and

Legislative Analyst now further recommends that these possible Administrative Code amendments should include identifying potential unauthorized uses of City properties, wherein the required City leases were never executed.

RECOMMENDATIONS

1. Amend the proposed resolution on page 2, line 20 to add: FURTHER RESOLVED, that the Board of Supervisors finds that competitive bidding procedures for award of the subject lease were impractical or impossible due to Federal law and individual cellular company network needs.
2. Approve the proposed resolution, as amended.
3. Request that the Director of Property provide input on possible amendments to the City's Administrative Code or other changes to improve centralized reporting and oversight of City properties, including identifying potential unauthorized uses of City properties, wherein the required City leases were never executed.

Item 6 File 12-0408	Department: Public Health
EXECUTIVE SUMMARY	
Legislative Objective	
<ul style="list-style-type: none"> The Department of Public Health (DPH) has an existing agreement with Addiction, Research & Treatment, Incorporated (known as BAART), a non-profit organization, for a not-to-exceed amount of \$9,990,000 and a 5-year term from July 1, 2010 through June 30, 2015. The proposed resolution would approve the second amendment to the existing agreement between DPH and BAART to (1) increase the not-to-exceed amount by \$17,219,317, from \$9,990,000 to \$27,209,317; and (2) add three one-year options to extend the agreement from July 1, 2015 through June 30, 2018. 	
Key Points	
<ul style="list-style-type: none"> DPH entered into an agreement with BAART, based on a competitive Request for Proposals (RFP) in July 2010. Under the agreement, BAART provides methadone maintenance and support services to clients. DPH reimburses BAART for these services based on BAART's costs of providing the services. The RFP provided for an agreement term of up to 10 years. The original agreement term was for 18 months, from July 1, 2010 through December 31, 2011. DPH entered into the first amendment to the agreement in July 2011, which extended the term by 3 years and 6 months, from December 31, 2011 through June 30, 2015 for a total agreement term of 5 years. The proposed second amendment does not extend the existing agreement term but adds three one-year options to extend the agreement from (1) July 1, 2015 through June 30, 2016; (2) July 1, 2016 through June 30, 2017; and (3) July 1, 2017 through June 30, 2018. Each of the future three one-year options to extend the agreement would be subject to Board of Supervisors approval if the not-to-exceed amount of the agreement for each option increases by \$500,000 or more. The original agreement not-to-exceed amount for the 18-month term from July 1, 2010 through December 31, 2011 was \$8,202,621. Under the first amendment, the not-to-exceed amount increased to \$9,990,000. 	
Fiscal Impact	
<ul style="list-style-type: none"> The not-to-exceed amount of \$27,209,317 under the proposed second amendment includes \$24,294,033 for services plus a 12% contingency of \$2,915,284 for the entire 5-year term of the agreement from July 1, 2010 through June 30, 2015. The 12% contingency should be calculated, based only on the expenditures in the remaining term of the agreement from July 1, 2012 through June 30, 2015, and should not be based on the agreement's total not-to-exceed amount, which includes prior years' expenditures in addition to prospective expenditures. Calculating the 12% contingency on the remaining term of the agreement from July 1, 2012 through June 30, 2015 would reduce the contingency by \$1,166,252, from \$2,915,284 under the proposed second amendment to \$1,749,032; and reduce the total not-to-exceed amount by \$1,166,252, from \$27,209,317 under the proposed second amendment to \$26,043,065. 	

Policy Consideration

- DPH established a policy in 2005 to include contingencies of 12% in their professional services contracts, in response to the 2002 Citywide Nonprofit Contracting Task Force recommendation that City departments should streamline their internal contracting processes to reduce delays in contract payments to nonprofit agencies. The DPH contingency policy was primarily implemented to allow flexibility in modifying professional services agreements with nonprofit agencies (a) due to changes in available funding from various funding sources; and (b) if a service provider is unable to meet service levels, resulting in the need to transfer services to another provider. The Budget and Legislative Analyst will evaluate DPH's policy for including contingencies in professional services contracts as part of our current audit of DPH's professional services contracting policies.

Recommendations

- Amend the proposed resolution to reduce the total agreement not to-exceed amount by \$1,166,252, from \$27,209,317 to \$26,043,065, in order to adjust for the correct contingency amount.
- Approve the proposed resolution as amended.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118, agreements exceeding ten years and/or having anticipated expenditures of \$10,000,000 or more, or amendments to such agreements exceeding \$500,000, are subject to approval by the Board of Supervisors.

Background

The Department of Public Health (DPH) entered into an agreement with Addiction, Research & Treatment, Incorporated (known as BAART), a non-profit organization, based on a competitive Request for Proposals (RFP) in July 2010. Under the agreement, BAART provides methadone maintenance and support services to clients. DPH reimburses BAART for these services based on BAART's costs of providing the services.

The original agreement was for the 18 month period from July 1, 2010 through December 31, 2011, for a not-to-exceed amount of \$8,202,621. DPH entered into the first amendment to the agreement, extending the term of the agreement by 3 years and 6 months from December 31, 2011 through June 30, 2015. Therefore, the total agreement term is five years, from July 1, 2010 through June 30, 2015. Under the first amendment, the not-to-exceed amount was increased to \$9,990,000, or \$10,000 less than the amount of \$10,000,000 that requires Board of Supervisors approval.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the second amendment to the agreement to:

- (1) Increase the not-to-exceed amount by \$17,219,317, from \$9,990,000 to \$27,209,317; and
- (2) Add three one-year options to extend the agreement from July 1, 2015 through June 30, 2018.

BAART provides three methadone maintenance programs.

ART Turk Services are provided at 433 Turk Street for adults addicted to heroin and other opioids. These services include methadone maintenance, medical examinations, individual and group counseling, screening for HIV and other infectious diseases, and other support services.

ART Facet Services are provided at 433 Turk Street for adult women who are pregnant or are parenting children up to two years of age and addicted to heroin and other opioids. Services include methadone maintenance, medical examinations, parenting classes, nutritional education and supplements, individual and group counseling, screening for HIV and other infectious diseases, and other support services.

ART Market Clinic Services are provided at 1111 Market Street for adults receiving cash aid and other social services, including General Assistance, and CalWorks clients through a work order between DPH and the Human Services Agency (HSA).¹

Agreement Term

The RFP for the methadone maintenance programs provided for an agreement term of up to 10 years. The existing agreement term is for five years, from July 1, 2010 through June 30, 2015.

The proposed second amendment does not extend the existing agreement term but adds three one-year options to extend the agreement from (1) July 1, 2015 through June 30, 2016; (2) July 1, 2016 through June 30, 2017; and (3) July 1, 2017 through June 30, 2018. Each of the future three one-year options to extend the agreement would be subject to Board of Supervisors approval if the not-to-exceed amount of the agreement for each option increases by \$500,000 or more.

Agreement Expenditures

The existing agreement specifies the units of services to be provided by BAART to clients for each of the three programs and BAART's operating costs to provide these services. As shown in Table 1 below, the actual projected units of service provided by BAART are less than the units of service specified in the existing agreement in FY 2010-11 and FY 2011-12.

¹ Previously, BAART served individuals in the HSA's PAES (Personal Assisted Employment Services) program, but the work order between DPH and HSA for these services terminated in February 2011.

Table 1
Budgeted and Actual Units of Service Provided by BAART
FY 2010-11 and FY 2011-12 (Projected)

	FY 2010-11	FY 2011-12 (Projected)	Total
Budgeted Units of Service	475,104	420,969	896,073
Actual Units of Service	390,193	391,073	781,266
Budget Less Actual	84,911	29,896	114,807

Source: DPH

Because actual units of service provided by BAART are less than the units of service specified in the agreement, actual projected DPH payments to BAART from July 1, 2010 through June 30, 2012 of \$9,288,464 are \$701,536 less than the amount budgeted in the agreement of \$9,990,000, as shown in Table 2 below.

Table 2
Budgeted and Actual DPH Payments to BAART
FY 2010-11 and FY 2011-12 (Projected)

	FY 2010-11	FY 2011-12 (Projected)	Total
Budget for Services	\$4,860,345	\$4,858,422	\$9,718,767
Contingency (2.8%)	<u>135,643</u>	<u>135,590</u>	<u>271,233</u>
Total Budget	4,995,988	4,994,012	9,990,000
Actual	4,643,464	4,645,000	9,288,464
Budget Less Actual	\$352,524	\$349,012	\$701,536

Source: DPH

Contract Funding

According to Ms. Michelle Ruggels, DPH Director of Operations, the FY 2011-12 agreement budget of \$4,858,422 consists of \$4,670,942, or 96.1%, funded from State and Federal MediCal funds and \$187,480, or 3.9%, funded from the City's General Fund.

FISCAL IMPACT

As shown in Table 3 below, the proposed second amendment would increase the total agreement not-to-exceed amount by \$17,219,317, from \$9,990,000 under the first amendment to \$27,209,317, for the period from July 1, 2010 through June 30, 2015.

Table 3
Total Not-to-Exceed Amount in the Proposed Second Amendment

Not to Exceed Amount	First Amendment	Proposed 2nd Amendment	Increase
<u>Services</u>			
July 1, 2010 - June 30, 2012	\$9,718,767	\$9,718,767	\$0
July 1, 2012 - June 30, 2015	n/a	<u>14,575,266</u>	<u>14,575,266</u>
Subtotal, Services	9,718,767	24,294,033	14,575,266
Contingency	<u>271,233</u>	<u>2,915,284</u>	<u>2,644,051</u>
Total	\$9,990,000	\$27,209,317	\$17,219,317
Contingency Percent	2.8%	12.0%	

Under the proposed second amendment, DPH has calculated a 12% contingency based on the total not-to-exceed amount of \$24,294,033 over the 5-year term of the agreement, including the past period from July 1, 2010 through June 30, 2012. The 12% contingency should be calculated, based only on the expenditures in the remaining term of the agreement from July 1, 2012 through June 30, 2015, and should not be based on the agreement's total not-to-exceed amount, which includes prior years' expenditures in addition to prospective expenditures.

As shown in Table 4 below, calculating the 12% contingency on the remaining term of the agreement from July 1, 2012 through June 30, 2015 would reduce the contingency by \$1,166,252, from \$2,915,284 under the proposed second amendment to \$1,749,032; and reduce the total not-to-exceed amount by \$1,166,252, from \$27,209,317 under the proposed second amendment to \$26,043,065.

Table 4
Proposed Reduction

Not to Exceed Amount	Contingency Calculated on Total Not to Exceed Amount From:		Proposed Reduction
	July 1, 2010 through June 30, 2015	July 1, 2012 through June 30, 2015	
<u>Services</u>			
July 1, 2010 - June 30, 2012	\$9,718,767	\$9,718,767	\$0
July 1, 2012 - June 30, 2015	<u>14,575,266</u>	<u>14,575,266</u>	<u>0</u>
Subtotal, Services	24,294,033	24,294,033	0
Contingency (12%)	<u>2,915,284</u>	<u>1,749,032</u>	<u>(1,166,252)</u>
Total	\$27,209,317	\$26,043,065	(\$1,166,252)

Therefore, the Budget and Legislative Analyst recommends a reduction of \$1,166,252 in the agreement not-to-exceed amount, from \$27,209,317 to \$26,043,065 as shown in Table 4 above.

POLICY CONSIDERATION

DPH established a policy in 2005 to include contingencies of 12% in their professional services contracts, in response to the 2002 Citywide Nonprofit Contracting Task Force recommendation that City departments should streamline their internal contracting processes to reduce delays in contract payments to nonprofit agencies. The DPH contingency policy was primarily implemented to allow flexibility in modifying professional services agreements with nonprofit agencies (a) due to changes in available funding from various funding sources; and (b) if a service provider is unable to meet service levels, resulting in the need to transfer services to another provider. The Budget and Legislative Analyst will evaluate DPH's policy for including contingencies in professional services contracts as part of our current audit of DPH's professional services contracting policies.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the total agreement not to-exceed amount by \$1,166,252, from \$27,209,317 to \$26,043,065, in order to adjust for the correct contingency amount.
2. Approve the proposed resolution as amended.

Item 7 File 12-0410	Department: Public Health
EXECUTIVE SUMMARY	
Legislative Objective	
<ul style="list-style-type: none"> The proposed resolution would approve the second amendment to the agreement between the Department of Public Health (DPH) and Asian American Recovery Services for fiscal intermediary services to (1) extend the term of the agreement by 3 years and 9 months, from September 30, 2012 through June 30, 2016, for a total term of seven years, from July 1, 2009 through June 30, 2016; and (2) increase the not-to-exceed amount by \$66,510,845, from \$52,738,076 to \$119,248,921. 	
Key Points	
<ul style="list-style-type: none"> DPH has an agreement with Asian American Recovery Services, selected through a competitive process, to provide fiscal intermediary services for DPH service providers that are not able to directly receive payment for services from third party payers, such as MediCal, Medicare and private insurers. Asian American Recovery Services provides fiscal intermediary services to (1) the Private Provider Network, a network of individual therapists and clinicians who provide specialty mental health services to San Francisco Medi-Cal beneficiaries and eligible San Francisco Mental Health Plan (SFMHP) members; (2) the Residential Care Facilities, a network of licensed mental health facilities that provide 24-hour services to eligible mental health clients; (3) mental health wrap around services for mental health clients, including emergency housing and food, transportation, clothing, and vocational training; and (4) emergency stabilization housing services for homeless clients with special medical and behavioral needs. Under the existing agreement, Asian American Recovery Services maintains a bank account to receive payments for services provided to DPH clients, and to write checks to the health providers. The agreement amount of not-to-exceed \$52,738,067 includes payments to health providers plus a \$19 per check fee to Asian American Recovery Services. 	
Fiscal Impacts	
<ul style="list-style-type: none"> The original agreement between DPH and Asian American Recovery Services included payment for services of \$47,087,568 and a 12% contingency of \$5,650,508, for a total not-to-exceed amount of \$52,738,076 for the three-year period from FY 2009-10 through FY 2011-12. Under the proposed second amendment, DPH has calculated an 11.4% contingency based on the total not-to-exceed amount of \$107,019,827 over the 7-year term of the agreement, including the past period from July 1, 2009 through June 30, 2012. The 11.4% contingency should be calculated, based only on the expenditures in the remaining term of the agreement from July 1, 2012 through June 30, 2016, and should not be based on the agreement's total not-to-exceed amount, which includes prior years' expenditures in addition to prospective expenditures. Calculating the 11.4% contingency on the remaining term of the agreement from July 1, 2012 through June 30, 2016 would reduce the contingency by \$5,388,999, from \$12,229,094 under the proposed second amendment to \$6,840,095; and reduce the total not-to-exceed amount by \$5,388,999, from \$119,248,921 under the proposed second amendment to \$113,859,922. 	

Policy Consideration

- DPH established a policy in 2005 to include contingencies of 12% in their professional services contracts, in response to the 2002 Citywide Nonprofit Contracting Task Force recommendation that City departments should streamline their internal contracting processes to reduce delays in contract payments to nonprofit agencies. The DPH contingency policy was primarily implemented to allow flexibility in modifying professional services agreements with nonprofit agencies (a) due to changes in available funding from various funding sources; and (b) if a service provider is unable to meet service levels, resulting in the need to transfer services to another provider. The Budget and Legislative Analyst will evaluate DPH's policy for including contingencies in professional services contracts as part of our current audit of DPH's professional services contracting policies.

Recommendations

- Amend the proposed resolution to reduce the total agreement not to-exceed amount by \$5,388,999, from \$119,248,921 to \$113,859,922 in order to adjust for the correct contingency amount.
- Approve the proposed resolution as amended.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118, agreements exceeding ten years and/or having anticipated expenditures of \$10,000,000 or more, or amendments to such agreements exceeding \$500,000, are subject to approval by the Board of Supervisors.

Background

The Department of Public Health (DPH) has an agreement with Asian American Recovery Services, a nonprofit agency selected through a competitive process, to provide fiscal intermediary services for DPH health service providers that are not able to directly receive payments for services from third party payers, such as MediCal, Medicare, and private insurance companies. Asian American Recovery Services serves as a fiscal intermediary for the:

- Private Provider Network, a network of individual therapists and clinicians who provide specialty mental health services to San Francisco Medi-Cal beneficiaries and eligible San Francisco Mental Health Plan (SFMHP) members;
- Residential Care Facilities, a network of licensed mental health facilities that provide 24-hour services to eligible mental health clients;
- Mental health wrap around services for mental health clients, including emergency housing and food, transportation, clothing, and vocational training; and

- Emergency stabilization housing services for homeless clients with special medical and behavioral needs.

The original agreement between DPH and Asian American Recovery Services, previously approved by the Board of Supervisors, was for:

- A term of three years, from July 1, 2009 through June 30, 2012 with seven one-year options to extend through June 30, 2019, totaling ten-years; and
- An amount not-to-exceed \$52,738,076 for the first three years.

Under the existing agreement, Asian American Recovery Services maintains a bank account to receive payments for services provided to DPH clients, and to write checks to the health providers. The agreement amount of not-to-exceed \$52,738,067 includes payments to health providers plus a \$19 per check fee to Asian American Recovery Services.

DPH entered into a first amendment with Asian American Recovery Services in January 2012, extending the term of the agreement by three months, from July 1, 2012 through September 30, 2012. The first amendment did not require Board of Supervisors approval because it did not increase the not-to-exceed amount.

DETAILS OF PROPOSED LEGISLATION

The proposed second amendment to the agreement would:

- Extend the term of the agreement by 3 years and 9 months, from October 1, 2012 through June 30, 2016. Therefore, the total agreement term would be for seven years, from July 1, 2009 through June 30, 2016.
- Increase the not-to-exceed amount by \$66,510,845, from \$52,738,076 to \$119,248,921, as shown in Table 1 below.

The other terms of the agreement remain unchanged.

FISCAL IMPACT

As shown in Table 1 below, the requested increase in the proposed second amendment is \$66,510,845 for the four year period from July 1, 2012 through June 30, 2016.

Table 1
Proposed Second Amendment

	Original Agreement	Proposed 2nd Amendment	Increase
<u>Services</u>			
July 1, 2009 through June 30, 2012 (3 years)	\$47,087,568	\$47,160,463	\$72,895
July 1, 2012 through June 30, 2016 (4 years)	n/a	<u>59,859,364</u>	<u>59,859,364</u>
Total Services	47,087,568	107,019,827	59,932,259
Contingency	<u>5,650,508</u>	<u>12,229,094</u>	<u>6,578,586</u>
Total	\$52,738,076	\$119,248,921	\$66,510,845
Contingency Percent	12.0%	11.4%	

Under the proposed second amendment, DPH has calculated an 11.4% contingency based on the total not-to-exceed amount of \$107,019,827 over the 7-year term of the agreement, including the past period from July 1, 2009 through June 30, 2012. The 11.4% contingency should be calculated, based only on the expenditures in the remaining term of the agreement from July 1, 2012 through June 30, 2016, and should not be based on the agreement's total not-to-exceed amount, which includes prior years' expenditures in addition to prospective expenditures.

As shown in Table 2 below, calculating the 11.4% contingency on the remaining term of the agreement from July 1, 2012 through June 30, 2016 would reduce the contingency by \$5,388,999, from \$12,229,094 under the proposed second amendment to \$6,840,095; and reduce the total not-to-exceed amount by \$5,388,999, from \$119,248,921 under the proposed second amendment to \$113,859,922.

Table 2
Proposed Reduction

Not to Exceed Amount	Contingency Calculated on Total Not to Exceed Amount From:		Proposed Reduction
	July 1 ,2009 through June 30, 2016	July 1, 2012 through June 30 2016	
<u>Services</u>			
July 1, 2009 through June 30, 2012 (3 years)	\$47,160,463	\$47,160,463	\$0
July 1, 2012 through June 30, 2016 (4 years)	<u>59,859,364</u>	<u>59,859,364</u>	<u>0</u>
Total Services	107,019,827	107,019,827	0
Contingency (11.4%)	<u>12,229,094</u>	<u>6,840,095</u>	<u>(5,388,999)</u>
Total	\$119,248,921	\$113,859,922	(\$5,388,999)

Therefore, the Budget and Legislative Analyst recommends a reduction of \$5,388,999 in the agreement not-to-exceed amount, from \$119,248,921 to \$113,859,922, as shown in Table 2 above.

POLICY CONSIDERATION

DPH established a policy in 2005 to include contingencies of 12% in their professional services contracts, in response to the 2002 Citywide Nonprofit Contracting Task Force recommendation that City departments should streamline their internal contracting processes to reduce delays in contract payments to nonprofit agencies. The DPH contingency policy was primarily implemented to allow flexibility in modifying professional services agreements with nonprofit agencies (a) due to changes in available funding from various funding sources; and (b) if a service provider is unable to meet service levels, resulting in the need to transfer services to another provider. The Budget and Legislative Analyst will evaluate DPH's policy for including contingencies in professional services contracts as part of our current audit of DPH's professional services contracting policies.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the total agreement not to-exceed amount by \$5,388,999, from \$119,248,921 to \$113,859,922 in order to adjust for the correct contingency amount.
2. Approve the proposed resolution as amended.

Items 8 and 9 Files 12-0409 and 12-0411	Department: Public Health
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EXECUTIVE SUMMARY**Legislative Objective**

- File 12-0409 would approve the second amendment to the existing agreement between the Department of Public Health (DPH) and Apollo Health Street, Inc. (Apollo) to (1) extend the agreement by four years, from July 1, 2012 through June 30, 2016, and (2) increase the not-to-exceed amount by \$1,450,000, from \$2,225,000 to \$3,675,000.
- File 12-0411 would approve the second amendment to the existing agreement between DPH and Triage Consulting Group (Triage) to (1) extend the agreement by four years from July 1, 2012 through June 30, 2016, and (2) increase the not-to-exceed amount by \$478,761, from \$1,345,000 to \$1,823,761.

Key Points

- DPH issued a Request for Proposals (RFP) in 2008 to select vendors to collect patient accounts that DPH was unable to collect. DPH selected Accordis, Inc. to collect aged patient accounts and Triage to retroactively collect on closed patient accounts that were underpaid. The Board of Supervisors previously approved the original agreements between DPH and Accordis, Inc. (File 08-1141) and between DPH and Triage (File 08-1142). Subsequently, the agreement between DPH and Accordis, Inc. was assigned to Apollo.

Fiscal Impacts

- According to Ms. Diana Guevara, Community Health Network (CHN) Patient Financial Services Director, DPH is proposing increases in the not-to-exceed amounts of the agreements between DPH and Apollo and between DPH and Triage, as noted above, to allow for sufficient authorization to pay fees to Apollo and to Triage from July 1, 2012 through June 30, 2016.
- Apollo is paid up to 25% of revenue collected from aged DPH patient accounts, depending on the type of account. From FY 2008-09 through FY 2010-11, Apollo has collected \$8,721,955 in aged patient accounts, of which \$1,074,876, or 12.3%, were fees paid to Apollo, and \$7,647,079, or 87.7%, were net revenue to DPH.
- Triage is paid 25% of revenue collected from retroactively claiming closed DPH patient accounts that have been underpaid. From FY 2008-09 through FY 2010-11, Triage collected \$963,958 in closed patient accounts that were underpaid, of which \$240,990, or 25%, were fees paid to Triage, and \$722,968, or 75%, were net revenues to DPH. According to Ms. Guevara, revenue from underpaid closed accounts collected by Triage has decreased from FY 2008-09 through FY 2010-11 because (1) San Francisco General Hospital has terminated all third party payer contracts except for MediCal and Medicare; and (2) San Francisco General Hospital has closed its Occupational Health Clinic, thus terminating Workers Compensation accounts which were previously a large source of underpaid closed accounts. According to Ms. Guevara, DPH has implemented billing and collection procedures, based on recommendations made by Triage, which have also reduced the number of closed accounts that are underpaid.

Recommendation

- Approve the proposed resolutions.

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with City Charter Section 9.118, any agreement having anticipated revenue to the City of \$1 million or more, or the modification of such an agreement, is subject to approval by the Board of Supervisors.

Background

Apollo Health Street, Inc. (File 12-0409)

The Board of Supervisors previously approved an agreement between the Department of Public Health (DPH) and Accordis, Inc. (Accordis) for four years, from July 1, 2008 through June 30, 2012 (File 08-1141). Accordis was selected, based on a competitive Request for Proposals (RFP), to pursue aged patient accounts from third party payers.

In February 2011, DPH agreed to the assignment of the existing agreement with Accordis to Apollo Health Street, Inc. (Apollo). Under the existing agreement, Apollo identifies DPH aged patient accounts; determines patient eligibility for MediCal, Medicare, or other third party coverage; and pursues billing and collection from third party payers.

Triage Consulting Group (File 12-0411)

The Board of Supervisors approved the existing agreement between DPH and the Triage Consulting Group (Triage) for four years, from July 1, 2008 through June 30, 2012 (File 08-1142). Triage was selected, based on a competitive RFP, to provide retroactive claiming of closed paid patient accounts. Triage pursues collections with third party payers, such as MediCal and Medicare, for closed patient accounts that have been underpaid.

DETAILS OF PROPOSED LEGISLATION

File 12-0409 is a resolution approving the second amendment to the existing agreement between DPH and Apollo, which increases the term of the agreement by four years, and increases the not-to-exceed amount of the agreement by \$1,450,000, from \$2,225,000 to \$3,675,000, as shown in Table 1 below.

Table 1
Proposed Second Amendment to Agreement between DPH and Apollo
For Collection of Aged Accounts

	Original	First Amendment	Proposed Second Amendment	Increase from First Amendment to Proposed Second Amendment
Term	July 1, 2008 to June 30, 2012 Four years	No change	July 1, 2012 to June 30, 2016 Extends term by four years for a total term of eight years	Four years
Not to Exceed Amount for Collection of Aged Accounts	\$1,175,000	\$2,175,000	\$3,625,000	\$1,450,000
Not to Exceed Amount for Other Professional Services	<u>50,000</u>	<u>50,000</u>	<u>50,000</u>	<u>0</u>
Total Not to Exceed Amount	\$1,225,000	\$2,225,000	\$3,675,000	\$1,450,000

File 12-0411 is a resolution approving the second amendment to the existing agreement between DPH and Triage, which increases the term by four years, and increases the not-to-exceed amount of the agreement by \$478,761, from \$1,345,000 to \$1,823,716, as shown in Table 2 below.

Table 2
Proposed Second Amendment to Agreement between DPH and Triage
For Collection of Underpaid Closed Accounts

	Original	First Amendment	Proposed Second Amendment	Increase from First Amendment to Proposed Second Amendment
Term	July 1, 2008 to June 30, 2012 Four years	No change	July 1, 2012 to June 30, 2016 Extends term by four years for a total term of eight years	Four years
Total Not to Exceed Amount	N/a	\$1,345,000	\$1,823,761	\$478,761

FISCAL IMPACT

According to Ms. Diana Guevara, Community Health Network (CHN) Patient Financial Services Director, DPH is proposing:

- (1) An increase in the not-to-exceed amount in the agreement between DPH and Apollo of \$1,450,000, from the existing not-to-exceed amount of \$2,225,000 under the first amendment to a proposed not-to-exceed amount of \$3,675,000 (see Table 1 above) to allow for sufficient authorization to pay Apollo's fees from July 1, 2012 through June 30, 2016; and
- (2) An increase in the not-to-exceed amount in the agreement between DPH and Triage of \$478,761, from the existing not-to-exceed amount of \$1,345,000 under the first amendment to a proposed not-to-exceed amount of \$1,823,761 (see Table 2 above) to allow for sufficient authorization to pay Triage's fees from July 1, 2012 through June 30, 2016.

Apollo's fees are based on the revenue that they collect from aged DPH patient accounts. Apollo is paid up to 25% of revenue collected, depending on the type of account¹. As shown in Table 3 below, Apollo collected \$8,721,955 in revenues from FY 2008-09 through FY 2010-11. Fees paid to Apollo were \$1,074,876 and net revenues to DPH were \$7,647,079 (\$8,721,955 less \$1,074,876).

Table 3
Collection of Aged Accounts by Apollo
FY 2008-09 through FY 2010-11

Fiscal Year	Revenue Collected	Fees Paid to Apollo	Net Revenues to DPH
FY 2008-09	\$2,846,563	\$313,935	\$2,532,627
FY 2009-10	2,962,817	386,426	2,576,392
FY 2010-11	2,912,575	374,515	2,538,059
Total	\$8,721,955	\$1,074,876	\$7,647,079

Source: DPH

Under the existing agreement, Triage is paid 25% of all revenue collected by Triage from third party payers for DPH closed accounts. As shown in Table 4 below, Triage collected \$963,958 in revenues from FY 2008-09 through FY 2010-11. Fees paid to Triage were \$240,990 and net revenues to DPH were \$722,968 (\$963,957 less \$240,990).

¹ Under the existing agreement, Apollo is paid from 15% to 25% of collected revenues depending on the type of account. The total fee may be less than 15% of collected revenues if Apollo collects more than the baseline amount for self-pay patient accounts.

Table 4
Collection of Underpaid Closed Accounts by Triage
FY 2008-09 through FY 2010-11

Fiscal Year	Revenue Collected	25% Fees to Triage	Net Revenues to DPH
FY 2008-09	\$671,557	\$167,889	\$503,667
FY 2009-10	212,401	53,100	159,301
FY 2010-11	80,000	20,000	60,000
Total	\$963,958	\$240,990	\$722,968

Source: DPH

As shown in Table 4 above, total revenue collected by Triage for underpaid closed accounts from FY 2008-09 through FY 2010-11 decreased. According to Ms. Guevara, revenue from underpaid closed accounts collected by Triage has decreased in part because (1) San Francisco General Hospital has terminated all third party payer contracts except for MediCal and Medicare; and (2) San Francisco General Hospital has closed its Occupational Health Clinic, thus terminating Workers Compensation accounts which were previously a large source of underpaid closed accounts. According to Ms. Guevara, DPH has implemented billing and collection procedures, based on recommendations made by Triage, which have also reduced the number of closed accounts that are underpaid.

RECOMMENDATION

- Approve the proposed resolutions.

Item 10 File 12-0401	Department(s): Police Department
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EXECUTIVE SUMMARY**Legislative Objective**

- Request to release \$7,212,750 of funds previously placed on Budget and Finance Committee reserve for the Police Department's Community Oriented Policing Services (COPS) Hiring Recovery Program.

Key Points

- On November 2, 2009, the Board of Supervisors (a) authorized the Police Department to retroactively accept and expend \$16,562,750 of Federal American Recovery and Reinvestment Act (ARRA) COPS Hiring Recovery Program grant funds, (b) amended the FY 2009-2010 Annual Salary Ordinance to create 50 new Q2 Police Officer¹ grant-funded positions, and (c) placed on Budget and Finance Committee reserve \$14,112,750 of the \$16,562,750 grant, pending a presentation to the Budget and Finance Committee regarding the Police Department's plans for community policing, as outlined in the COPS grant application (Ordinance No. 233-09; File 09-1169).
- The Board of Supervisors authorized the expenditure of \$2,450,000 without a reserve, (\$16,562,750 total grant less \$14,112,750 placed on reserve) of the grant funds because the Police Department had already commenced an Academy class of 42 Q2 Police Officers on October 19, 2009, to allow completion of the 26-week academy training.
- On March 10, 2010, the Budget and Finance Committee released \$900,000 on reserve to partially fund the COPS program, pending review of the Police Department's FY 2010 – 2011 budget by the Board of Supervisors based on the former Chief of Police's presentation to the Committee on community policing, changes in the Police Department's organizational structure, operational objectives, and the Community Policing Service Delivery Model. A balance of \$13,212,750 (\$14,112,750 less \$900,000) remained on reserve.
- On February 9, 2011, the Budget and Finance Committee released \$6,000,000 of the remaining \$13,212,750 on reserve to partially fund the COPS program on an as-needed basis to be determined by the Controller. The Committee continued to reserve the balance of \$7,212,750 (\$13,212,750 less \$6,000,000).

Fiscal Impact

- A total of \$9,350,000 of the COPS grant funds of \$16,562,750 has been previously released by the Budget and Finance Committee, leaving a balance of \$7,212,750 (\$16,562,750 less \$9,350,000 previously released).
- According to Ms. Dana Lang, Grants Unit Manager of the Police Department, of the \$7,212,750 remaining balance of the COPS grant funds requested to be released from reserve, \$2,903,293 would be used in FY 2011-12 to account for a projected budget shortfall, \$3,584,941 would be expended in FY 2012-2013, and the remainder of \$724,516 would be expended in FY 2013-2014.

Recommendation

- Approve the requested release of \$7,212,750 currently on reserve.

¹ The Q-2 Police Officer position is the entry-level position for the sworn ranks in the San Francisco Police Department.

MANDATE STATEMENT/ BACKGROUND

Mandate Statement

Section 3.3 of the City's Administrative Code provides that the committee of the Board of Supervisors that has jurisdiction over the budget (i.e., Budget and Finance Committee) may place requested expenditures on reserve which are then subject to release by the Budget and Finance Committee.

Background

The COPS Hiring Recovery Program is a national competitive Federal grant program which provides funding directly to State and local law enforcement agencies to hire and rehire police officers in an effort to create and preserve jobs, and increase community policing² capacity. COPS grant monies may be used to hire new police officer positions or rehire officers who have been laid off due to State or local budget reductions. The grant monies provide full funding for approved entry-level salaries and fringe benefits of full-time police officers for three years.

On July 28, 2009, the United States Department of Justice Community Oriented Policing Services (COPS) Program awarded \$16,562,750 in Federal American Recovery and Reinvestment Act (ARRA) grant funds, to be expended by the Police Department over a three year period from July 1, 2009 through June 30, 2012 for salary and fringe benefits for 50 new sworn Q2 Police Officers. Subsequent to this award, the grant end date was extended 18 months to December 31, 2013.³ Under the terms of the COPS grant, the City is required to retain each of these 50 new Q2 Police Officer positions with General Fund monies for at least one year beyond the three year period of the COPS grant funding.

When the Budget and Finance Committee met to consider this grant on October 21, 2009, the Police Department had already commenced a Police Academy class of 42 Q2 Police Officers on October 19, 2009, to be funded with the requested grant funds, pending retroactive authorization from the Board of Supervisors (Ordinance No. 233-09; File 09-1169). The Board of Supervisors authorized the expenditure of \$2,450,000 without a reserve (\$16,562,750 total grant less \$14,112,750 placed on reserve) on the advice of the Controller in order to allow completion of a 26-week Police Academy training class that extended from October 19, 2009 through April 30, 2010.

On November 2, 2009, the Board of Supervisors (a) authorized the Police Department to retroactively accept and expend the \$16,562,750 of federal grant funds, (b) amended the FY 2009-2010 Annual Salary Ordinance to create 50 new Q2 Police Officer⁴ grant-funded positions, and (c) placed on Budget and Finance Committee reserve \$14,112,750 (\$16,562,750 less \$2,450,000), pending a presentation by the Police Department to the Budget and Finance Committee regarding the

² According to the U.S. Department of Justice, community policing is “a philosophy that promotes organizational strategies, which support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.”

³ According to Ms. Dana Lang, Grants Unit Manager of the Police Department, the COPS office will allow further extensions upon request, but no extension request can go beyond September 30, 2015.

⁴ The Q-2 Police Officer position is the entry-level position for the sworn ranks in the San Francisco Police Department.

Department's plans for community policing, as outlined in the grant application (Ordinance No. 233-09; File 09-1169).

On March 10, 2010, the former Chief of Police made a presentation to the Budget and Finance Committee regarding community policing, changes in the Police Department's organizational structure, operational objectives, and the Community Policing Service Delivery Model, such that the Board of Supervisors released \$900,000 of the \$14,112,750 placed on Budget and Finance Committee reserve to fund 50 Q2 Police Officers through July 31, 2010, pending review of the Police Department's FY 2010 – 2011 budget by the Board of Supervisors in June of 2010 (File 10-0170). A balance of \$13,212,750 (\$14,112,750 less \$900,000) remained on reserve.

On February 9, 2011, the Budget and Finance Committee released \$6,000,000 of the remaining \$13,212,750 on reserve to partially fund the COPS program on an as needed basis to be determined by the Controller. At that time \$7,212,750 (\$13,212,750 less \$6,000,000) was left on Budget and Finance Committee reserve. By June 30, 2012, the end of the current Fiscal Year, 2011-2012, the Police Department is projected to have expended \$12,253,293 of the total \$16,562,750 in grant funds including all of the previously released funds of \$9,350,000 thereby resulting in a projected negative balance of \$2,903,293 (\$12,253,293 spent less \$9,350,000 previously released from reserve).

DETAILS OF PROPOSED REQUEST

The Police Department is now requesting the release of the remaining balance of \$7,212,750 on reserve for the Police Department's Community Oriented Policing Services (COPS) Hiring Recovery Program.

FISCAL IMPACT

A total of \$9,350,000 of the COPS grant funds of \$16,562,750 has been previously released by the Budget and Finance Committee, leaving a balance of \$7,212,750 (\$16,562,750 less \$9,350,000 previously released).

According to Ms. Dana Lang, Grants Unit Manager of the Police Department, of the \$7,212,750 remaining balance of the COPS grant funds requested to be released from reserve, \$2,903,293 would be used in FY 2011-12 to account for a projected budget shortfall, \$3,584,941 would be expended in FY 2012-2013, and the remainder of \$724,516 would be expended in FY 2013-2014.

Ordinance No. 233-09 provided a total of \$16,562,750 in COPS grant funds for salary and fringe benefits for 50 new sworn Q2 Police Officers over three years, from July 1, 2009 through June 30, 2012, as summarized in Table 1 below.

Table 1: Estimated Salary and Benefits Costs for 50 New Q2 Police Officers (February 2011 Projection)					
	ARRA COPS Grant Funds			General Fund Monies	
	FY 2009-2010	FY 2010-2011	FY 2011-2012	Total Original Three-Year ARRA COPS Grant Period	FY 2012 - 2013
Total Salary and Benefits for 50 Officers (Projected in Feb 2011 by SFPD)	\$4,910,000	\$5,579,700	\$6,073,050	\$16,562,750	\$6,346,400

As noted above, pursuant to the terms of the grant, the City is required to retain all 50 new Q2 Police Officer grant-funded positions for at least one year after each position has been filled for three years using General Fund monies. The Federal ARRA COPS grant funding expiration has been extended from July 1, 2012 to December 31, 2013. The COPS office will allow further extensions upon request, but no extension requests can go beyond September 30, 2015. Ms. Lang advised that the Police Department intends to retain all of these newly hired Q2 Police Officers after December 31, 2013, when the requirements of the Federal grant funds expire.

According to Ms. Lang, there are currently 50 Q2 Police Officers who are part of the COPS program. 25 of those Police Officers went through San Francisco's Police Academy training and an additional 25 Police Officers were laterally hired from other Police departments and went through lateral training. The final Q2 Police Officers were hired in May 2011 to reach the 50 position threshold. Due to the timing of the hiring of the 50 Q2 Police Officers and the extension of the deadline to expend grant funds, the funds will be spent over five fiscal years instead of three. Additionally, General Fund monies needed to retain the 50 Q2 Police Officers for an additional year will be expended over a three year period instead of the one year period. Further, an additional \$48,010 of General Fund monies will be required to retain the 50 Q2 Police Officers for an additional year, as required by the grant, due to annual increases in base salary and benefits.

Table 2 below shows the updated expenditures and projected expenditures as provided by the Grants Unit of the Police Department.

	Table 2: Estimated Salary and Benefits Costs for 50 New Q2 Police Officers (May 2012 Projection)						
	ARRA COPS Grant Funds						General Fund Monies
	FY 2009-10	FY 2010-11	FY 2011-12 (Projected)	FY 2012-13 (Projected)	FY 2013-14 (Projected)	Total ARRA COPS Grant Period	FY 2012 – 13 to FY 2014-15 (Projected)
Total Salary and Benefits for 50 Officers	\$2,642,106	\$3,799,926	\$5,811,261	\$3,584,941	\$724,516	\$16,562,750	\$6,394,410

In addition to the \$6,394,410 in General Fund monies required by the grant shown in Table 2 above, an additional \$683,057 of General Fund expenditures will be expended by the City over five years (from FY 2009-2010 through FY 2013-2014) for salary and benefit costs above starting salary costs as the grant only pays for starting salary and benefit levels. These additional funds as needed in FY 2009-2010 and FY 2010-2011 and projected for FY 2011-2012 through FY 2013-2014 are shown in Table 3 below.

Table 3: Estimated General Fund Monies Needed for Salary and Benefits Costs Above Starting Salary Costs for 50 New Q2 Police Officers (May 2012 Projection)					
General Fund Monies					
FY 2009-10	FY 2010-11	FY 2011-12 (Projected)	FY 2012-13 (Projected)	FY 2013-14 (Projected)	Total (Projected)
\$0	\$70,991	\$225,834	\$239,096	\$147,136	\$683,057

Therefore, a total of \$7,077,467 in projected General Fund monies (\$6,394,410 in Table 2 above plus \$683,057 in Table 3 above) would be expended in connection with the COPS grant during FY 2009-2010 through FY 2014-2015.

RECOMMENDATION

Approve the requested release of \$7,212,750 in COPS grant funds on reserve.

Item 11 File 12-0406	Department: Film Commission
EXECUTIVE SUMMARY	
Legislative Objective	
<ul style="list-style-type: none"> The proposed ordinance would authorize a two-year extension of the Film Rebate Program from July 1, 2012 through June 30, 2014. Under the proposed ordinance the City may pay up to \$2,000,000 in rebates to qualified film and television production companies, subject to Board of Supervisors appropriation approval. 	
Key Points	
<ul style="list-style-type: none"> In 2006, the Board of Supervisors established a three-year Film Rebate Program (File No. 06-0065) which allows the City to rebate Payroll Taxes and fees, previously paid to the City by qualified film and television production companies that meet certain criteria, in an effort to increase local film and television production, support local hiring, and provide economic benefits to the City. Under the Film Rebate Program, the City rebates, to qualified production companies, Payroll Taxes and fees, previously paid to the City. Under the original ordinance, the City could pay rebates to qualified production companies up to a total of \$1,800,000 over the three-year period from FY 2006-07 through FY 2008-09. In 2009, the Board of Supervisors extended the Film Rebate Program for an additional three years from FY 2009-10 through FY 2011-12, for a total of six years, but did not increase the total amount of the rebates that the City could pay to qualified production companies because of the low utilization of the rebates in the first three years of the program. Therefore, under the existing Film Rebate Program, the City can pay up to a total of \$1,800,000 in rebates to qualified production companies over the six-year period from FY 2006-07 through FY 2011-12. In the first three years of the program from FY 2006-07 through FY 2008-09, the City paid \$213,200 in rebates. In the second three years of the program from FY 2009-10 through FY 2011-12, the City paid \$1,326,621 in rebates. Therefore, a total of \$1,539,821 has been paid in rebates to production companies over a six year period. 	
Fiscal Impacts	
<ul style="list-style-type: none"> Under the proposed ordinance, the City may pay up to \$2,000,000 in rebates to qualified production companies over the two-year period from FY 2012-13 through FY 2013-14, subject to Board of Supervisors appropriation approval. According to Ms. Susannah Greason Robbins, Film Commission Executive Director, the Film Commission expects increased utilization of the film rebates in FY 2012-13 and FY 2013-14 due to the Film Commission's increased outreach, and the release of the HBO production, <i>Hemingway & Gellhorn</i>, which utilized the Film Rebate Program. According to Ms. Greason Robbins, two film production companies are expected to apply for and receive a rebate over the next two years, a Woody Allen film expected to begin shooting in August 2012 and an untitled stop motion animation production by Disney. 	
Recommendation	
<ul style="list-style-type: none"> Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT / BACKGROUND**Mandate Statement**

According to Charter Section 2.105, the Board of Supervisors shall act only by written ordinance or resolution, except that it may act by motion on matters over which the Board of Supervisors has exclusive jurisdiction.

Background

In 2006, the Board of Supervisors established a Film Rebate Program (File No. 06-0065) which allows the City to rebate permit fees and taxes, previously paid to the City by qualified film and television production companies that meet certain criteria, in an effort to increase local film and television production, support local hiring, and provide economic benefits to the City. The Film Rebate Program, administered by the San Francisco Film Commission, was originally approved for three years, from July 1, 2006 through June 30, 2009. In 2009 the Board of Supervisors approved an additional three-year extension of the program through June 30, 2012, for a total of six years (File No. 09-0024).

The Film Rebate Program offers a dollar-for-dollar rebate on all Payroll taxes and fees previously paid to the City by film and television production companies, up to a maximum amount of \$600,000 per production, for productions in which the majority of the company's principal photography takes place in San Francisco. To qualify for rebates, film productions with a total budget of less than \$3,000,000 must have at least 55 percent of their principal photography take place in San Francisco. For film productions with total budgets of \$3,000,000 or more, at least 65 percent of their photography must take place in San Francisco.

The City collects daily use (or permit) fees from production companies for the right to film in the City. Additional fees are intended to cover the City's costs for the production company's use of City property, equipment and employees, including police, fire and transit employees. The City collects Payroll Taxes, based on wages paid by film and television production companies for the time that such company employees are working in San Francisco. Under the Film Rebate Program, Payroll Taxes paid to the City's General Fund by film production companies and daily use and other permit fees, may be rebated by the City back to the film production companies.

The Board of Supervisors appropriated \$1,800,000 to fund the Film Rebate Program over the six year period, from July 1, 2006 through June 30, 2012

As shown in Table 1 below, out of the \$1,800,000 previously appropriated by the Board of Supervisors, the Film Commission has authorized \$1,539,821 in rebates to film production companies, leaving a balance of \$260,179 for additional rebates.

Table 1
Film Rebate Program Productions and Rebates

Fiscal Year	Production*	Rebate Amount
FY 2006-07	Harrison Montgomery	\$42,151
FY 2008-09	Mission Street Rhapsody	10,364
FY 2008-09	Milk	99,215
FY 2008-09	Trauma Pilot	61,470
<i>Subtotal for FY 2006-07 through FY 2008-09</i>		\$213,200
FY 2009-10	5 Trauma Episodes	535,212
FY 2010-11	1 Trauma Episode	164,277
FY 2011-12	Hemingway & Gellhorn	571,563
FY 2011-12	Knife Fight	45,523
FY 2011-12	Cherry	10,046
<i>Subtotal for FY 2009-10 through FY 2011-12</i>		\$1,326,621
Total Rebates		\$1,539,821
Total Board of Supervisors Appropriation FY 2006-07 through FY 2011-12		\$1,800,000
Unexpended Balance		\$260,179

Source: San Francisco Film Commission

* Total of seven production companies with the Trauma Pilot and Trauma Episodes included as one production company. Under Administrative Code, Section 57.8, each episode of a television series is considered a qualified low-budget film production, with each episode eligible for up to \$600,000 in rebates.

In accordance with Administrative Code Section 57.8, the Executive Director of the Film Commission must report annually to the Board of Supervisors on the implementation of the Film Rebate Program, including a list of each qualified film production, residency of employees, and the total of qualified productions costs submitted and paid to each film production. According to Ms. Susannah Greason Robbins, Executive Director of the Film Commission, an annual report for FY 2010-11 was submitted to the Board of Supervisors. According to Ms. Greason Robbins, reports on the Film Rebate Program submitted to the Board of Supervisors by previous Executive Directors could not be located.

According to the San Francisco Film Commission, 504 film and television productions have filmed in San Francisco since 2008, of which only seven productions, or 1.4 percent of the 504 film and television productions, have applied for the Film Rebate Program.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would:

- Authorize an extension of the Film Rebate Program for two additional years, from July 1, 2012 through June 30, 2014 (Fiscal Years 2012-13 and 2013-14);

- Provide for up to \$2,000,000 in film rebates to qualified production companies for the two-year period from July 1, 2012 through June 30, 2014, subject to appropriation approval by the Board of Supervisors.

Under the proposed ordinance, the Executive Director would continue to be required to report annually to the Board of Supervisors on the implementation of the Film Rebate Program. In addition, the Executive Director would be required to report to the Board of Supervisors by December 31, 2013 on the current results of the program.

FISCAL IMPACTS

Under the proposed ordinance, the City would make available up to \$2,000,000 in film rebates for the two year period from July 1, 2012 through June 30, 2014, subject to Board of Supervisors appropriation approval.

As noted in Table 1 above, there is an available balance for rebates of \$260,179. Therefore, a balance of \$2,260,179 would be available for additional rebates to qualified film and television production companies if the Board of Supervisors appropriates the additional \$2,000,000 specified in this proposed ordinance.

According to Ms. Greason Robbins, two film production companies are expected to apply for and receive a rebate over the next two years, a Woody Allen film expected to begin shooting in August 2012 and an untitled stop motion animation production by Disney. The production by Disney is anticipated to be completed in three years and, according to Ms. Greason Robbins, Disney will apply for rebate amounts every six months. The total amount of the rebates for the single Disney production will still have the existing cap at \$600,000. Ms. Greason Robbins further notes that more than 200 producers learned about the San Francisco Film Rebate Program in a brunch hosted by the California Film Commission on April 27, 2012. With the release of the HBO production, *Hemingway & Gellhorn* and its previous utilization of the Film Rebate Program, Ms. Greason Robbins anticipates an increase in applications for the rebate over the next two years.

RECOMMENDATION

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

MAY 16, 2012



Harvey M. Rose

cc: Supervisor Chu
Supervisor Avalos
Supervisor Kim
President Chiu
Supervisor Campos
Supervisor Cohen
Supervisor Elsbernd
Supervisor Farrell
Supervisor Mar
Supervisor Olague
Supervisor Wiener
Clerk of the Board
Cheryl Adams
Mayor Lee
Controller
Kate Howard