

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

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July 3, 2013

**TO:** Budget and Finance Sub-Committee  
**FROM:** Budget and Legislative Analyst  
**SUBJECT:** July 10, 2013 Budget and Finance Sub-Committee Meeting

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**Item 1**  
**File 13-0497**

**Department(s):**  
Public Utilities Commission (PUC)

## **EXECUTIVE SUMMARY**

### **Legislative Objectives**

- The proposed resolution (File 13-0497) would approve the award of a sole-source contract to perform emergency repair work in accordance with Administrative Code Section 6.60 to replace unsound roofs on Digesters #4, #6, #7, #8, and #10 and two biosolids storage cake bins at the Southeast Water Pollution Control Plant (SEP), in an amount not to exceed \$9,000,000.

### **Key Points**

- On November 26, 2013, the President of the PUC authorized an emergency declaration to repair the roof of another digester (Digester #2) at the SEP, after engineers discovered large amounts of sludge had damaged the roof. These repairs were completed in March of 2013. The Monterey Mechanical Company was awarded a contract by the PUC on a sole-source basis to perform the emergency repairs.
- On March 11, 2013, the President of the PUC issued another emergency declaration, this time to repair Digesters #4, #6, #7, #8, and #10 at the SEP, as well as two biosolids (human waste) storage cake bins. Again, the Monterey Mechanical Company was awarded a contract by the PUC on a sole-source basis to perform the emergency repairs.

### **Fiscal Impact**

- The proposed resolution authorizes an award in an amount not exceed \$9,000,000, including an estimated \$8,250,000 to repair the five digesters and \$750,000 to repair the two biosolids storage cake bins at the SEP.
- The PUC has not submitted a separate emergency resolution to cover the \$1,335,427 cost of the emergency repairs to Digester #2 at the SEP.

### **Policy Considerations**

- The SEP requires at least eight digesters to fully handle the City's wastewater treatment needs. One digester was destroyed during a roof collapse in 1997, and has never been replaced. As a result, the PUC has maintained only nine digesters for the last 16 years. Lack of planning to repair the SEP digesters on an ongoing basis appears to have resulted in the multiple subject emergency declarations and resulted in sole source emergency contracts.

### **Recommendations**

- Amend the proposed resolution to authorize the PUC's Wastewater Enterprise to increase the authorized not-to-exceed emergency contract amount with the Monterey Mechanical Company by \$1,335,427 from a not-to-exceed \$9,000,000 to a not to exceed \$10,335,427 for the repairs of a total of six digesters and two storage cake bins.
- Approve the amended resolution, as amended.

## MANDATE STATEMENT AND BACKGROUND

### Mandate Statement

In accordance with Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors. Administrative Code provisions also authorize department heads responsible for such emergency work to award and proceed with emergency contracts, which are not subject to the City's regular competitive bidding procedures. The Administrative Code defines an emergency as a sudden, unforeseeable and unexpected occurrence or a discovery of a condition involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss or damage to, life, health, property or essential public services.

### Background

#### *Southeast Water Pollution Control Plant (SEP)*

The Southeast Water Pollution Control Plant (SEP), located at 750 Phelps Street in Bayview-Hunters Point, is a critical part of the Public Utilities Commission's (PUC) wastewater treatment system, as the SEP handles approximately two-thirds of the City's wastewater, before being released into the Bay.

According to the San Francisco Sewer System Master Plan issued by the PUC in 2010, the SEP was constructed in 1951, significantly upgraded in 1982, but has now outlived its operational usefulness and is in critical need of replacement. The entire plant is slated to be replaced under the PUC's proposed Biosolids Digester Facilities Projects (BDFP), which is anticipated to commence in 2018, at an estimated cost of \$1.186 billion. Just like the current SEP, the new BDFP will take wastewater and human waste and break it down into its least harmful components. Solid waste will be separated, with "grit" being disposed of in a landfill and organic waste converted into fertilizer for commercial use. The water separated from this waste will be treated and then released into the Bay. Gases that arise from breaking down the organic waste will be captured and used to power about one-half of the facility's energy needs.

#### *Emergency Repairs at Digester #2*

The SEP contains ten digesters, which are large storage tanks that are used to break down organic materials in the wastewater and then remove the bacteria that may pose a health risk to the public. According to PUC Senior Project Manager Jignesh Desai, Digester #5 was destroyed during a roof collapse in 1997, and has never been replaced. As a result, the PUC can only operate nine digesters at the SEP. According to Mr. Tommy Moala, Assistant General Manager of the PUC's Wastewater Enterprise, the SEP requires at least eight digesters for the plant to fully handle the City's wastewater treatment needs.

On November 26, 2012, engineers at the SEP noticed that the roof of one of the digesters (Digester #2) was corroded and that sludge<sup>1</sup> had accumulated on one side of the roof of the digester. The accumulation of sludge caused significant structural damage to the roof, causing it to warp and tilt to the side. Digester #2 was shut down and placed out-of-service in order to prevent the entire structure from collapsing. On November 27, 2012, the President of the PUC authorized an emergency declaration to repair the roof of Digester #2 at the SEP.

According to Mr. Moala, at the time Digester #2 was shutdown, there was one additional digester (Digester #3) at the SEP that had not been operational since August 14, 2012. At the time, the PUC was repairing Digester #3 under a previous work order contract with Southwest Construction Consultants. As a result, when Digester #2 was shut down, the SEP had only seven functioning digesters. According to Mr. Desai, seven digesters can only be used to temporarily handle the City's wastewater treatment needs. Mr. Desai advises that the repairs to Digester #3 were completed in June of 2013, returning eight digesters to full operation.

The repairs to Digester #2 were initially estimated to cost \$1,000,000. According to Mr. Carlos Jacobo, Budget Director for the PUC, the emergency repairs to Digester #2 began on November 28, 2012 and were completed by the Monterey Mechanical Company in March of 2013. The Monterey Mechanical Company was awarded a contract by the PUC on a sole-source basis to perform the emergency repairs because workers from this firm were already on-site at the SEP repairing corrosion damage at a neighboring dewatering facility<sup>2</sup>. While initially estimated to cost \$1,000,000, the repairs to Digester #2 ended up costing a total of \$1,335,427, which was \$335,427 or approximately 34% more than the initial estimate.

#### *Emergency Repairs at Five Digesters and Two Cake Bins*

On March 11, 2013, the President of the PUC issued another emergency declaration, this time to repair Digesters #4, #6, #7, #8, and #10 at the SEP, as well as two biosolids (human waste) storage cake bins, which are large structures that hold dry waste until the dry waste can be picked up and used for fertilizer and other commercial uses.

In a memorandum from Mr. Moala to Mr. Art Torres, President of the PUC, Mr. Moala stated that these digesters and storage bins are "on the verge of catastrophic failure" due to corrosion on the roofs of five digesters (similar to those at Digester #2) and "severe corrosion" at the two storage cake bins. In addition, the PUC believes that the SEP is at great risk of violating State and Federal health and environmental regulations as a result of these corruptions. Mr. Moala also notes in his memorandum that the PUC Wastewater Enterprise has already received two permit violation notices from the Bay Area Air Quality Management District (BAAQMD) due to odors emanating from leaks in the storage cake bins and reaching residents in surrounding neighborhoods.

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<sup>1</sup> Sludge refers to the semi-solid waste that must be treated and decontaminated before leaving the plant. Digesters act as a settling tank where sludge is exposed to bacteria and slowly broken down into less harmful parts, which are either landfilled or converted into fertilizer.

<sup>2</sup> A dewatering facility helps thicken sludge to reduce the amount that needs to be disposed. The water that remains is then treated and released into the Bay.

According to Mr. Jacobo, the Monterey Mechanical Company was again awarded a contract on a sole-source basis by the PUC to complete this SEP emergency work on Digesters #4, #6, #7, #8 and #10 and at the two storage cake bins, because (a) of the company's familiarity with the digesters and cake bins at the SEP, and (b) that the Company had recently completed successful repairs to Digester #2. On April 9, 2013, the Monterey Mechanical Company began making such emergency repairs on the remaining five digesters and two storage cake bins (beginning with Digester #8) under a contract not-to-exceed \$9,000,000.

According to Mr. Jignesh Desai, Senior Project Manager at the PUC, as of July 1, 2013, the Monterey Mechanical Company had completed removing 1.5 million gallons of undigested sludge and welded new metal plates onto the corroded area of the roof. According to Mr. Jacobo, the repairs to these five digesters and two storage cake bins are estimated to be completed in September, 2015. According to Mr. Moala, only one or two digesters can be repaired at a time, given the demand to keep multiple digesters operational to handle the City's wastewater treatment needs.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the award of a sole-source contract to perform emergency repair work in accordance with Administrative Code Section 6.60 to replace the unsound roofs on five digesters, Digesters #4, #6, #7, #8, and #10 (not including the repairs at Digester #2) and the two biosolids storage cake bins at the Southeast Water Pollution Control Plant (SEP), in an amount not to exceed \$9,000,000.

## FISCAL IMPACTS

Table 1 below contains an estimated expenditure schedule for completion of the requested emergency work to replace the roofs on the five digesters and two biosolids storage cake bins at a not to exceed cost of \$9,000,000.

**Table 1: Estimated Expenditure Schedule for Digester and Cake Bin Repairs at the Southeast Water Pollution Control Plan**

	April 2013 - Sept 2013	Oct 2013 - Mar 2014	April 2013 - Sept 2014	Oct 2014 - Mar 2015	April 2013 - Sept 2015	Total
Digester 8	\$1,050,000					\$1,050,000
Digester 4		\$1,800,000				\$1,800,000
Digester 6			\$1,800,000			\$1,800,000
Digester 7				\$1,800,000		\$1,800,000
Digester 10					\$1,800,000	\$1,800,000
Subtotal						<b>\$8,250,000</b>
Cake Bins 3 & 4		\$750,000				<b>\$750,000</b>
<b>Total</b>	<b>\$1,050,000</b>	<b>\$2,550,000</b>	<b>\$1,800,000</b>	<b>\$1,800,000</b>	<b>\$1,800,000</b>	<b>\$9,000,000</b>

As shown in Table 1 above, the PUC estimates the cost to repair the five digesters will be \$8,250,000 and the two biosolids storage cake bins will be \$750,000, or a total estimated cost of \$9,000,000. The proposed resolution would approve the subject emergency contract in

accordance with Administrative Code Section 6.60 for the needed emergency repair work to replace the five digesters and two biosolids cake bins at the SEP for a not to exceed amount of \$9,000,000.

## **POLICY CONSIDERATIONS**

### **Poor Planning by the PUC Leading up to the Emergency Work Order**

As noted above, Digester #5 was destroyed during a roof collapse in 1997. The PUC stated that Digester #5 was never replaced because of (a) budgetary pressures from the voter-approved water and sewer rate freeze passed in 1998, and (b) the PUC was optimistic that the SEP would be entirely replaced shortly after Digester #5 collapsed in 1997. The PUC is only now planning the replacement of the SEP, called the Biosolids Digester Facilities Project (BDFP) at an estimated cost of \$1.186 billion, which is not anticipated to be fully operational until August of 2023. There is a proposed resolution (File 13-0589) on the July 10, 2013 Budget and Finance Committee calendar authorizing the General Manager of the PUC to enter into a not-to-exceed \$80,000,000 agreement for ten years, from July 29, 2013 through July 28, 2023 with Brown and Caldwell, Inc. for planning and engineering services related to the construction of the BDFP for replacement of the Southeast Water Pollution Control Plant (SEP). As a result, the PUC has maintained only nine digesters at the SEP since 1997, or for the last 16 years. With only nine available digesters and a requirement that eight always be operational, since 1997 the PUC has been operating within a very thin margin of error in terms of wastewater safety at the SEP. In addition, as noted above, at the time Digester #2 was shut down on November 26, 2012, there was one additional digester (Digester #3) at the SEP that had not been operational since August 14, 2012. Such lack of planning to repair the SEP digesters on an ongoing basis appears to have resulted in the multiple subject emergency declarations and resulted in sole source emergency contracts.

### **Proposed Resolution Does Not Cover the Total Cost of Executed Contracts**

The proposed resolution does not include the emergency repairs to the SEP's Digester #2, which as discussed above, were also completed under a sole-source emergency contract with the Monterey Mechanical Company in March of 2013 at a cost of \$1,335,427. According to Mr. Jacobo, a separate emergency resolution has not been submitted to the Board of Supervisors for approval for the emergency repairs to Digester #2.

In accordance with the City's Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors.

Therefore, the proposed resolution should be amended to repair six digesters instead of five at the Southeast Water Pollution Control Plant and to increase the not-to-exceed amount of \$9,000,000 to repair six digesters and two biosolids cake bins by \$1,335,427 to a not-to-exceed

amount of \$10,335,427, in order to account for the \$1,335,427 previously expended to repair Digester #2.

## RECOMMENDATIONS

1. Amend the proposed resolution to authorize the PUC's Wastewater Enterprise to increase the authorized not-to-exceed emergency contract amount with the Monterey Mechanical Company by \$1,335,427 from a not-to-exceed \$9,000,000 to a not to exceed \$10,335,427 for the repairs of a total of six digesters (instead of five digesters) and two storage cake bins.
2. Approve the proposed resolution, as amended.

<b>Item 2</b> <b>File 13-0589</b>	<b>Department(s):</b> Public Utilities Commission (PUC)
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution (File 13-0589) would authorize the General Manager of the PUC to enter into a not-to exceed \$80,000,000 agreement with Brown and Caldwell, Inc. for planning and engineering services related to the construction of the Biosolids Digester Facilities Project (BDFP) to be located at the Southeast Water Pollution Control Plant (SEP). The agreement would extend for ten years from July 29, 2013 through July 28, 2023.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• The new Biosolids Digester Facilities Project (BDFP) would fully replace the existing Southeast Water Pollution Control Plant (SEP) located at 750 Phelps Street in Bayview-Hunters Point, which is estimated to cost \$1.186 billion.</li> <li>• On April 1, 2013, the PUC issued a Request for Proposal (RFP) for planning and design of the BDFP and received only one bid from Brown and Caldwell, Inc. According to a PUC Agenda Item from its meeting of May 28, 2013, the lack of competitive bids was anticipated, as there are few firms with the background, experience, or technical expertise to design such a large wastewater treatment plant.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The not-to-exceed \$80,000,000 authorization for the subject Brown and Caldwell, Inc. agreement for planning and engineering services would be funded with revenue from Wastewater Enterprise bonds issued by the PUC, with commercial paper potentially being issued to meet short-term spending needs.</li> <li>• Over 10 years, the cost of financing the proposed \$80,000,000 Brown and Caldwell, Inc. contract will total approximately \$137,000,000.</li> <li>• The average household can expect an increase of \$27.40 over the ten-year term of the subject \$80,000,000 contract, or an average increase of \$2.74 per year.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

## MANDATE STATEMENT AND BACKGROUND

### Mandate Statement

In accordance with City Charter Section 9.118(b), (a) any contract or agreement that exceeds \$10,000,000 in anticipated expenditures, and (b) any contract amendment that exceeds \$500,000 is subject to Board of Supervisors approval.

### Background

#### *The Sewer System Improvement Program*

On March 29, 2011, the Board of Supervisors approved the City's Ten Year Capital Expenditure Plan for FY 2012-2021 (File 11-0284; Resolution 151-11). This Plan includes the Public Utilities Commission (PUC) capital project to upgrade and replace the City's wastewater system, called the Sewer System Improvement Program (SSIP). The SSIP is anticipated to be completed in two phases over a period of 20 years, at an estimated cost of \$6.9 billion to be funded from increases in rates to PUC wastewater customers. Phase I includes planning and construction of sewer treatment facilities, at a total estimated cost of \$2.7 billion.

#### *The Biosolids Digester Facilities Project (BDFP)*

The largest project under Phase I of the SSIP is the new Biosolids Digester Facilities Project (BDFP), which would fully replace the existing Southeast Water Pollution Control Plant (SEP) located at 750 Phelps Street in Bayview-Hunters Point. According to Mr. Carlos Jacobo, Budget Manager at the PUC, the BDFP is estimated to cost \$1.186 billion.

Just like the current facility at the SEP, the new BDFP is designed to take wastewater and break it down into its least harmful components. Solid waste is separated, with "grit" being disposed of in a landfill and organic waste being converted into fertilizer for commercial use. The water separated from this waste is treated and then released into the Bay. Gases that arise from breaking down the organic waste are captured and used to power about half of the facility's energy needs.

The SEP is one of the most crucial parts of San Francisco's wastewater system, with approximately two-thirds of the City's wastewater receiving its secondary (and final) treatment before being released into the Bay. According to the 2010 San Francisco Sewer System Master Plan issued by the PUC, the SEP was constructed in 1951, significantly upgraded in 1982, but has now outlived its operational usefulness and is in critical need of replacement because:

- The SEP is at risk of failing, and as a result, inadequately treating wastewater in violation of State and Federal health and environmental regulations;
- The plant is not up to current code in terms of seismic safety; and
- Community residents often complain of odors emitted from the SEP.

In addition, on March 11, 2013, the President of the PUC issued an emergency declaration to repair multiple corroded digesters as well as two storage cake bins in the Southeast Water

Pollution Control Plant. Digesters are large storage tanks that help break down organic materials and kill off bacteria that may pose a health risk, while storage cake bins are large structures that hold dry waste until it can be picked up and used for commercial uses. Only one digester can be repaired at a time, given the demand to keep multiple digesters operational to handle the City's wastewater treatment needs. A proposed resolution is currently pending before the Budget and Finance Committee on July 10, 2013 (File 13-0497) to approve the award of a sole-source contract to perform emergency repair work to repair six digesters and two storage cake bins at the Southeast Water Pollution Control Plant, in an amount not to exceed \$9,000,000. These emergency repairs will be performed on a staggered basis and are expected to be completed by September, 2015.

*The Contract for Planning, Design, and Engineering Services*

According to data provided by Mr. Jeet Bajwa, SSIP Deputy Director at the PUC, and summarized in Table 1 below, the entire BDFP project is estimated to cost \$1,186,310,000, including \$781,580,000 for construction of the BDFP.

**Table 1 – BDFP Project Phases, Estimated Schedule and Costs**

Project Phase	Schedule <sup>a</sup>	Estimated Cost
Project Management and other project-related costs	January 2013 – August 2023	141,830,000
Pre-Planning (PMC Support <sup>b</sup> )	January 2013 – November 2013	4,500,000
Planning	August 2013 – September 2015	46,550,000
Environmental Review (EIR)	July 2015 – June 2017	25,000,000
Right-of-Way / Land needs	July 2015 – June 2017	1,690,000
Design	September 2015 – September 2017	78,250,000
Bid and Award	July 2017 – May 2018	8,000,000
Construction Management	January 2018 – June 2022	94,910,000
<b>Construction</b>	<b>January 2018 – June 2022</b>	<b>781,580,000</b>
Facility Start-up and Project Close out	July 2022 – August 2023	4,000,000
<b>Total Project Cost</b>	<b>January 2013 – August 2023</b>	<b>\$ 1,186,310,000</b>

<sup>a</sup> Schedule assumes an “accelerated project delivery approach” in which the construction contractor is hired during the design phase. According to Mr. Bajwa, this approach allows for a reduction in project length of six months instead of waiting until the construction phase to hire the construction contractor.

<sup>b</sup> PMC - SSIP Program Management Consultant (AECOM Parsons)

Table 2 below provides detailed construction cost data.

**Table 2 – BDFP Construction Breakdown**

Construction Scope of Work	Estimated Cost <sup>a</sup>
Permanent Contractor Mobilization & Laydown Area	\$27,650,000
Biosolids Handling - Digesters and Control Building	451,910,000
Biosolids Handling – Combined Heat and Power & Gas Handling	115,440,000
Biosolids Handling - Thickening & Dewatering	148,290,000
Biosolids Handling - Odor Control	7,600,000
Chemical Storage Facilities	4,680,000
Architectural Improvements & Visual Enhancements	17,910,000
Rankin & Evans Interchange Improvement	320,000
Food Waste and FOG (Fats, Oils, Grease) Facility	7,780,000
<b>Total Construction Cost</b>	<b>\$781,580,000</b>
<b>Construction Duration January 2018 – June 2022</b>	

<sup>a</sup> Estimated construction costs were determined by the SSIP Program Management Team of AECOM Parsons in July 2012.

Following the adoption of the SSIP, the PUC identified its need for “demonstrated expertise and experience” in the following areas:

- Biosolids treatment, land application, and advanced biosolids products and markets;
- Energy recovery and combined heat and power systems;
- Odor control;
- Architecture/ Land Use;
- Instrumentation and Control and;
- Lead Engineering Disciplines for Electrical, Mechanical, Structural and Civil;

As a result, the PUC worked with the Department of Public Works (DPW) to develop a Request for Proposal (RFP) for design, planning, and engineering support for the BDFP, including oversight of the actual construction phase to make sure plans are being implemented properly. On April 1, 2013, the PUC issued the RFP and received only one bid from Brown and Caldwell, Inc. According to a PUC Agenda Item from its meeting of May 28, 2013, the lack of competitive bids was anticipated, as there are few firms with the background, experience, or technical expertise to design such a large wastewater treatment plant.

## DETAILS OF PROPOSED LEGISLATION

Based on a competitive RFP process, the proposed resolution would authorize the General Manager of the PUC to enter into a not-to exceed \$80,000,000 agreement with Brown and Caldwell, Inc. for planning and engineering services related to the construction of the Biosolids Digester Facilities Project (BDFP) to be located at the existing site of the Southeast Water Pollution Control Plant (SEP). The agreement would extend for ten years from July 29, 2013 through July 28, 2023.

## FISCAL IMPACTS

Table 3 below, provided by the PUC, identifies the specific planning and design services, anticipated delivery dates and a breakdown of the \$80,000,000 in estimated costs under the

subject agreement, divided into two phases: (a) Planning and Preliminary Engineering Phase, and (b) Detailed Design and Construction Support Phase.

**Table 3 -- Brown and Caldwell, Inc. Services to be Performed**

<b>Task</b>	<b>Services</b>	<b>Anticipated Delivery Dates</b>	<b>Cost</b>
<b>Planning and Preliminary Engineering Phase</b>			
1,2	Project Management and Quality Assurance/Control	Continuous	\$7,736,519
3-8	Technical Memos, Land Needs, Property Acquisition, Surveying, Utility Information, Testing, and Planning	Dec. 2013 – Nov. 2014	\$3,645,538
9	Alternative Analysis Report	Nov. 2014	\$12,300,320
10	Construction Packaging and Project Delivery Methods	Mar. 2015	\$602,362
11	Conceptual Engineering Report	Aug. 2015	\$7,504,263
12	Design Criteria	Aug. 2015	\$358,831
17	Training and Technology Transfer	Continuous	\$484,930
18	Communication and Public Outreach	Continuous	\$950,624
NA	Other Direct Costs and Subconsultant Markups	Continuous	\$3,027,780
		<b>Planning Phase Sub-Total</b>	<b>\$36,611,167</b>
<b>Detailed Design and Construction Support Phase*</b>			
1	Project Management and Coordination of Proposer's Service	Continuous	\$5,000,000
2	Quality Assurance/Quality Control	Continuous	\$1,000,000
TBD	Detailed Design	Sep. 2017	\$13,000,000
13	Procurement Packages for Alternative Project Delivery	Nov. 2016	\$5,000,000
14	Engineering Support During Bid and Award	June 2018	\$1,000,000
15	Engineering Support During Construction and Closeout	Aug. 2013	\$8,000,000
16	Engineering Support As Owner's Representative	Aug. 2013	\$8,000,000
17	Training and Technology Transfer	Continuous	\$15,000
18	Communication and Public Outreach	Continuous	\$1,050,000
NA	Other Direct Costs and Subconsultant Markups	Continuous	\$1,323,833
		<b>Estimated Design and Construction Phase Sub-Total</b>	<b>\$43,388,833</b>
	<b>Total Contract Cost</b>		<b>\$80,000,000</b>

- \* Key deliverables and costs for the Detailed Design and Construction Support Phase are estimated. Actual deliverables and costs will be developed during Phase 2.

According to Mr. Bajwa, the average hourly rate to be paid under this contract is \$180 per hour for an estimated 420,000 hours over ten years, for a total of estimated cost of \$75,600,000. As the total requested contract is for a not to exceed \$80,000,00, Mr. Bajwa advises that the remaining \$4,400,000 reflects a rounding up of \$4,351,613 for other direct costs and subconsultant markups as shown in Table 3 above, including \$3,027,780 to be expended in the planning phase and \$1,323,833 to be expended in the design and construction phase. According to Mr. Bajwa, approximately 80% of the total hours will be used during the planning phase, which extends from August of 2013 through September 2015, and the design phase, which extends from September 2015 through September 2017, a total of approximately four years, as shown in Table 4 below.

During the initial four year planning and design phases, the PUC expects to bill an estimated 84,000 hours per year or a total of 336,000 over four years. About 14,000 hours per year are expected to be billed in the remaining six years of the agreement or a total of 84,000 hours, which would consist of oversight services to ensure the engineering and construction firms are properly implementing the plans that Brown and Caldwell, Inc. helped to develop. The subject agreement would extend for a total of ten years, from July 29, 2013 to July 28, 2023. Table 4 below identifies the preliminary schedule for completion of the BDFP. The BDFP facility is anticipated to be fully operational by August of 2023.

**Table 4: Schedule for Completion of the BDFP**

Project Phase	Schedule <sup>a</sup>	Duration
Pre-Planning	January 2013 – November 2013	11 months
Planning	August 2013 – September 2015	26 months
Environmental Review (EIR)	July 2015 – June 2017	24 months
Design	August 2015 – September 2017	26 months
Construction	January 2018 – June 2022	54 months
Facility Start-up and Project Close out	July 2022 – August 2023	14 months
Total Project Duration	January 2013 – August 2023	129 months

<sup>a</sup> Schedule assumes an “accelerated project delivery approach” in which the construction contractor is hired during the design phase. According to Mr. Bajwa, this approach allows for a reduction in project length of six months instead of waiting until the construction phase to hire the construction contractor.

### **Estimated Cost to Ratepayers under Bond Financing**

The \$80,000,000 cost of the subject Brown and Caldwell, Inc. agreement for planning and engineering services would be funded with revenue from Wastewater Enterprise bonds issued by the PUC, with commercial paper potentially being issued to meet short-term spending needs. According to Mr. Richard Morales, Debt Manager at the PUC, while future interest rates are unpredictable, commercial paper issued by the PUC currently has an annual interest rate of .2%, while PUC revenue bonds currently average approximately 4-5%. According to Mr. Morales, at a 5% annual interest rate, the PUC would require \$5.2 million a year to service a total debt of \$80,000,000<sup>1</sup>. Under these assumptions, over 10 years, the cost of financing the proposed

<sup>1</sup> This assumes an additional \$5,000,000 for transaction costs associated with issuing the debt.

\$80,000,000 Brown and Caldwell, Inc. contract will total approximately \$137,000,000 (assuming an additional \$5,000,000 in transaction costs).

The PUC estimates that for every \$1,000,000 the PUC expends on capital improvements, ratepayers will incur an average annual increase of \$0.20 per household<sup>2</sup>. Therefore, given that the total contract costs including financing would be approximately \$137,000,000, the average household can expect an increase of \$27.40 ( $\$137,000,000 \times \$0.20$ ) over the ten-year term of the subject \$80,000,000 contract, or an average increase of \$2.74 per year.

## RECOMMENDATION

Approve the proposed resolution.

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<sup>2</sup> According to Mr. Crispin Hollins, Debt Manager at the PUC, the PUC projects 26,997,921 units of sanitary flow annually each year under the PUC's 10-year financial plan. One unit is 748 gallons. The current and projected water consumption for an average single family household is 6 units of water each month. The PUC assume a 90% "flow factor", which translates into 5.4 units of sanitary flow for which the household is billed. Using these projections, the PUC uses the following equation to determine the incremental bill impact of \$1 million:  $(\$1,000,000 / 26,997,921 \text{ units}) \times (5.4 \text{ units} / \text{household}) = \$0.20 \text{ per household}$ .

<b>Item 3 File 13-0517</b>	<b>Department: Public Utilities Commission (PUC)</b>
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<ul style="list-style-type: none"> <li>The proposed resolution would approve an emergency contract under Administrative Code Section 6.60 to Shimmick Construction Company, Inc. to perform necessary repairs and rehabilitation of the existing North Shore Force Main in an amount not-to-exceed \$7,000,000.</li> </ul>	
<b>Key Points</b>	
<ul style="list-style-type: none"> <li>On March 20, 2012, corrosion and joint separation in the North Shore Force Main caused sewage overflow onto the roadway near The Embarcadero and Mission Street intersection. On March 22, 2012, the Public Utilities Commission (PUC) declared an emergency for this immediate repair and retained Cal State Constructors, Inc., with whom PUC had an existing contract. Cal State Constructors, Inc. completed this work on April 23, 2012, for a total cost of \$575,529.</li> <li>On June 12, 2012, the PUC issued a second emergency declaration for the immediate repair of additional leaks detected in segments of the North Shore Force Main under The Embarcadero between Jackson and Howard Streets.</li> <li>On June 18, 2012, Shimmick Construction Company, Inc. submitted a bid for \$4,140,500; and the PUC approved a not to exceed contract for \$4,200,000 on July 23, 2012. As of July 2, 2013, all repairs have been completed, except for minor sidewalk restoration work on The Embarcadero.</li> </ul>	
<b>Fiscal Impacts</b>	
<ul style="list-style-type: none"> <li>The total project costs of not-to-exceed \$7,000,000 are \$2,800,000 or 67% more than the original not-to-exceed \$4,200,000 contract with Shimmick Construction Company, Inc. To date, Shimmick Construction Company, Inc. has incurred expenditures totaling \$4,480,128 and the PUC estimates additional expenditures of \$2,519,872, for a total of \$7,000,000.</li> <li>All expenses will be funded from PUC's capital budget, funded through the wastewater ratepayers.</li> </ul>	
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>Amend Line 9 on Page 1 to reflect the actual cost for the original emergency work from \$600,000 to \$575,529.</li> <li>Amend the proposed resolution to increase the requested emergency authorization by \$575,529 from \$7,000,000 to \$7,575,529, in order to include the initial emergency North Shore Force Main repairs that have already been incurred near The Embarcadero and Mission Street intersection.</li> <li>Approve the proposed resolution, as amended.</li> </ul>	

## MANDATE STATEMENT/BACKGROUND

### Mandate Statement

In accordance with Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors. Administrative Code provisions also authorize department heads responsible for such emergency work to award and proceed with emergency contracts, which are not subject to the City's regular competitive bidding procedures. The Administrative Code defines an emergency as a sudden, unforeseeable and unexpected occurrence or a discovery of a condition involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss or damage to, life, health, property or essential public services.

### Background

San Francisco has three major force mains:<sup>1</sup> North Shore, Channel, and Westside. The North Shore Force Main is a 36-inch diameter sewer pipe that carries approximately 20% of the City's sewer flow from the North Shore Drainage Basin in the northeast portion of San Francisco to the Southeast Water Pollution Control Plant for wastewater treatment. The North Shore Force Main ends at the intersection of Stuart and Howard Streets and is 7,700 feet long. None of the three major force mains currently have redundancies.<sup>2</sup> Thus, if any force main is taken out of service for an extended period of time, untreated sewage could overflow into the San Francisco Bay.

On March 20, 2012, the North Shore Force Main failed due to corrosion and joint separation,<sup>3</sup> causing sewage to flow onto the roadway surface near The Embarcadero and Mission Street intersection and requiring the North Shore Force Main to be operated at a substantially reduced capacity.

On March 22, 2012, the PUC declared an emergency for the immediate repair of the North Shore Force Main leak and, in accordance with Administrative Code Section 6.60, awarded a sole-source contract to Cal State Constructors, Inc., with whom PUC had an existing contract for repairs. According to Ms. Bessie Tam, PUC Project Manager, Cal State Constructors, Inc. provided an estimate of \$463,825 prior to beginning their work based on the assumption that only one leak near Mission Street existed. According to Ms. Tam, PUC did not request approval from the Board of Supervisors for this initial emergency contract work.

On April 6, 2012, Cal State Constructors, Inc. began repairs on the North Shore Force Main near The Embarcadero and Mission Street intersection. Work was completed on weekends and

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<sup>1</sup> A Force Main is a pressurized main pipe that can carry water, sewage, and other materials.

<sup>2</sup> Prior to the subject emergency, PUC initiated a new capital project to provide redundancy to the North Shore Force Main. On April 24, 2012, the PUC approved the award of a \$15,488,000 contract to KJ Woods Construction, Inc. to build a redundant force main to the North Shore Force Main, which is expected to be completed at the end of 2013 or early 2014. After the redundant force main is completed, flow can be diverted to the new force main and the existing force main can be taken out of service for complete inspections and repairs.

<sup>3</sup> Pipes are installed in sections and joined together. For example, a pipeline that is 1,000-feet long is made up of 50-foot pieces. Each 50-foot piece is joined together at "joint" locations. Joint separations are separations at the joints between each section of pipe, which would allow the material inside the pipe to leak out.

in the evenings, such that the North Shore Force Main was taken out of service for 24-hours at a time during actual repairs. When not being repaired, the North Shore Force Main was operating at a reduced capacity. This emergency repair work was completed on April 23, 2012. On June 25, 2012, the PUC received an invoice from Cal State Constructors, Inc. for \$575,529. According to Ms. Tam, the discrepancy between Cal State Constructors, Inc.'s initial estimate of \$463,825 and the actual expenditures of \$575,529 that has now been paid to Cal State Constructors, Inc. was due to additional costs required to install seals at multiple leaks found by Cal State Constructors, Inc. inside the North Shore Force Main.

The proposed resolution states on Page 1, line 9 that this emergency contract with Cal State Constructors, Inc. cost a total of \$600,000. Therefore, the proposed resolution should be amended to reflect the actual total cost of \$575,529.

On April 23, 2012, the PUC began to conduct additional dye tests to determine the sources of the various leaks in the North Shore Force Main. According to Ms. Tam, it took approximately six weeks to schedule the leak tests, await the laboratory results, then analyze and evaluate the results to conclude that additional leaks existed along the entire length of the pipe.

On June 4, 2012, PUC's Wastewater Enterprise determined a need for a second emergency declaration for the immediate repair of additional leaks detected in segments of the North Shore Force Main under The Embarcadero between Jackson Street and Howard Street. Ms. Tam advises that the remaining repairs of the North Shore Force Main, estimated to cost \$7,000,000, were based on PUC's preliminary estimates, together with the Department of Public Works (DPW) estimates. On June 12, 2012, the PUC officially declared this second emergency.

PUC requested proposals from two contractors for design and construction of a new pipe inside the existing pipe (a method called "lining") for approximately 3,000-feet of the North Shore Force Main. Ms. Tam stated that although emergency contracts are exempt from the City's regular bidding process, the PUC nonetheless requested qualifications and construction estimates from two qualified contractors who had performed similar types of work for the PUC.

On June 18, 2012, (a) Shimmick Construction Company, Inc. submitted a bid for \$4,140,500 and (b) NTK Construction, Inc. submitted a bid for \$4,000,000. According to Ms. Tam, Shimmick Construction Company, Inc. was selected because of their prior experience in addressing emergency construction contracts and because of their having more qualified staff resources available to perform the needed repair work.

On July 23, 2012, the PUC issued a notice to proceed to Shimmick Construction Company, Inc. for a not to exceed \$4,200,000. According to Ms. Tam, Shimmick Construction Company, Inc. immediately identified substantial differences between the assumed and actual site conditions, including finding an abandoned underground storage tank, unidentified utilities, and old wharfs under The Embarcadero, which required additional work from the contractor to remove or support these items prior to construction. This resulted in an additional cost of \$2,800,000, over the \$4,200,000 not previously anticipated, for a total cost of \$7,000,000.

According to Ms. Tam, all of the repairs were anticipated to be completed by July 1, 2013. However, as of July 2, 2013, some minor sidewalk restoration work on The Embarcadero still requires completion pending material delivery.

## DETAILS OF PROPOSED LEGISLATION

Based on a declaration of emergency by the PUC on June 12, 2012, the proposed resolution would approve an emergency contract awarded by the PUC to Shimmick Construction Company, Inc. to perform the necessary repairs and rehabilitation of the North Shore Force Main for a total contract amount not to exceed \$7,000,000.

Previously, on March 22, 2012, the PUC declared a separate emergency to allow immediate repair of a leak in the North Shore Force Main detected at the intersection of The Embarcadero and Mission Street. The emergency work was successfully performed by Cal State Constructors, Inc. at a total cost of \$575,529.

Subsequent dye-testing work on the North Shore Force Main showed that additional leaks were occurring along the entire length of the North Shore Force Main on The Embarcadero between Jackson Street and Howard Street. Therefore, on June 12, 2012, the PUC declared a second emergency for the construction of a new pipe in the North Shore Force Main along The Embarcadero. The PUC subsequently selected Shimmick Construction Company, Inc. to perform the emergency work with an initial contract award of \$4,200,000. Under Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors. As previously noted, the current contract costs are estimated to total \$7,000,000.

## FISCAL IMPACTS

According to Ms. Tam, as of January 25, 2013, Shimmick Construction Company, Inc. had submitted invoices to SFPUC totaling \$4,480,128, which have now been fully paid.

In addition, Ms. Tam advises that Shimmick Construction Company, Inc. presently estimates additional expenditures of \$2,519,872 (\$1,500,000 for labor and \$1,019,872 for equipment and materials) to complete the emergency work, for a total estimated cost of \$7,000,000, as shown in the Table below.

### Actual Expenditures to Date and Estimated Future Expenditures

Item	Actual invoices to date	Estimated additional Expenditures to be incurred	Total Estimated Expenditures
<b>Total</b>	\$4,480,128	\$2,519,872	\$7,000,000

The total estimated project costs of not-to-exceed \$7,000,000 are \$2,800,000 or 67% more than the original not-to-exceed \$4,200,000 contract with Shimmick Construction Company, Inc. However, Ms. Tam explains that this cost increase is justified because Shimmick Construction Company, Inc. encountered additional costs due to unanticipated site conditions, traffic and

operational restrictions, weather impacts, and time delays. Ms. Tam also advises that the actual cost to be incurred by Shimmick Construction Company, Inc. is closer to the original preliminary \$7,000,000 estimate by DPW engineers and PUC management at the time of the emergency declaration.

Ms. Tam advises that all of these emergency repair costs have been and will be paid from the 2013 Wastewater Revenue Bonds, which were issued for the costs of planning, design, construction, and improvements of various capital improvement projects and is funded through the wastewater ratepayers.

The proposed resolution does not include a request for approval of the original emergency repairs to the North Shore Force Main near The Embarcadero and Mission Street Intersection, which as discussed above, were completed under a sole-source emergency contract with Cal State Constructors, Inc., on April 23, 2012, at a cost of \$575,529. According to Ms. Tam, a separate emergency resolution has not been submitted to the Board of Supervisors for approval of such emergency repairs. In accordance with the City's Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors. Therefore, the proposed resolution should be amended from a not-to-exceed amount of \$7,000,000 which reflects the total costs to be incurred under the PUC's second emergency declaration to a not-to-exceed of \$7,575,529 in order to reflect the \$575,529 costs of the original emergency repairs of the North Shore Force Main.

## RECOMMENDATIONS

1. Amend Line 9 on Page 1 to reflect the actual cost for the original emergency work from \$600,000 to \$575,529.
2. Amend the proposed resolution to increase the requested emergency authorization by \$575,529 from \$7,000,000 to \$7,575,529, in order to include the initial emergency North Shore Force Main repairs that have already been incurred near The Embarcadero and Mission Street intersection.
3. Approve the proposed resolution, as amended.

<b>Item 4</b> <b>File 13-0516</b>	<b>Departments:</b> <b>Public Utilities Commission (PUC)</b>
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<ul style="list-style-type: none"> <li>• The proposed resolution would approve an emergency public work contract for the San Francisco Public Utilities Commission (PUC) in accordance with Administrative Code Section 6.60 to replace the insulation in the Phases A and C transformers of Hetch Hetchy Power Holm Powerhouse Unit 1 (HPH1), which was completed on January 17, 2013, for a not to exceed amount of \$521,465.</li> </ul>	
<b>Key Points</b>	
<ul style="list-style-type: none"> <li>• On July 31, 2012, HPH1 automatically shutdown to protect the transformer from further damage due to a sudden pressure change in the transformer. On August 23, 2012, the PUC retained Systems 3 to remove and monitor the oil from the transformers for Delta Star, Inc. (Delta Star) to determine the cause of problem. Delta Star determined that the increase of combustible gasses was due to the deterioration of the transformer insulation in the Phase A and Phase C transformers.</li> <li>• On September 6, 2012, the PUC General Manager declared an emergency to repair the Phases A and C transformers of the HPH1. PUC decided to also rehabilitate the Phase B transformer because all three phases were manufactured at the same time 15 years ago and given that all three phases showed deterioration now.</li> <li>• On February 12, 2013, the repairs to the Phases A, B, and C transformers of the HPH1 was completed by Delta Star.</li> </ul>	
<b>Fiscal Impacts</b>	
<ul style="list-style-type: none"> <li>• Delta Star provided an original estimate of \$732,517 which included rewinding the transformer, which entails replacing the main components of the transformer. The total project cost was \$521,465, because rewinding was not required. To date, the PUC has paid Delta Star \$250,000.</li> <li>• The funding for the project is PUC's FY 2012-13 capital budget, which is funded by power revenues.</li> </ul>	
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>• Amend the proposed resolution on Page 2, lines 9 and 10 to reflect (a) the correct completion date of February 12, 2013, instead of January 17, 2013, and (b) that the repairs included work on all three transformer Phases A, B, and C, instead of only the Phases A and C transformers.</li> <li>• Approve the proposed resolution as amended.</li> </ul>	

## MANDATE STATEMENT/BACKGROUND

### Mandate Statement

In accordance with Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors. Administrative Code provisions also authorize department heads responsible for such emergency work to award and proceed with emergency contracts, which are not subject to the City's regular competitive bidding procedures. The Administrative Code defines an emergency as a sudden, unforeseeable and unexpected occurrence or a discovery of a condition involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss or damage to, life, health, property or essential public services.

### Background

The San Francisco Public Utilities Commission's (PUC) Hetch Hetchy Water and Power Project (HHWP) is a hydro power generating system located in Tuolumne County, California, which consists of two hydro-generators, the Hetch Hetchy Power Holm Powerhouse Unit 1 (HPH1) and the Hetch Hetchy Power Holm Powerhouse Unit 2 (HPH2). The HPH1 transformer bank<sup>1</sup> consists of three transformers, Phase A, B, and C, all of which must be in service to produce generation from HPH1. HPH1 produces about 360,000,000 kilowatt hours per year of the total 1,700,000,000 kilowatt hours per year, or approximately 21% of the clean hydro-generation that HHWP produces.

On July 31, 2012, the HPH1 tripped offline, or automatically shut off to protect the transformer from further damage, due to a sudden pressure change on the transformer bank. On August 1, 2012, HHWP crews performed oil tests on the transformer bank and detected combustible gasses trapped in the oil insulation on the Phases A and C transformers. According to Mr. Ed Harrington, then General Manager at the PUC, the Institute of Electrical and Electronics Engineers (IEEE) standards recommend combustible gasses less than 720 parts per million (ppm) for continued use. On August 1, 2012, HHWP crews found that the combustible gasses had increased from 88 ppm on April 20, 2012, to 9,197 ppm in the Phase A transformer and to 1,061 ppm in the Phase C transformer. According to Ms. Margaret Hannaford, Division Manager of HHWP, because the Phase A and Phase C transformers were not in compliance with the IEEE standards, the HPH1 remained out of service.<sup>2</sup>

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<sup>1</sup> A transformer is essential for the transmission, distribution, and utilization of electrical energy and is a device used to change the voltage of an alternating current in one circuit to a different voltage in a second circuit. The HPH1 generates energy at 13.8 kilovolts, and the HPH1 transformer bank transforms the energy to 230 kilovolts to transmit the energy to and interconnect with the California electrical grid.

<sup>2</sup> The shutdown of HPH1 did not affect the PUC's ability to generate electricity from HPH2 and the three other PUC powerhouses. During the outage between July 1, 2012 and February 12, 2013, the PUC provided electricity from the remaining HHWP hydro-generating units and the City and County of San Francisco (CCSF) deferred energy account available to HHWP through their CCSF-Pacific Gas & Electric Interconnection Agreement.

On August 2, 2012, PUC contacted Delta Star, Inc. (Delta Star), the original manufacturer of the transformer to support HHWP staff in their investigation of the cause of the problem. Based on these initial investigations, on August 23, 2012, the PUC then retained another contractor, Systems 3, with whom PUC had an existing contract for HHWP repairs to remove and monitor the oil from the transformers for Delta Star to determine the cause of problem. Delta Star determined that the increase of combustible gasses was due to the deterioration of the transformer insulation in the Phase A and Phase C transformers.<sup>3</sup> According to Ms. Hannaford, insulation deterioration is a common failure of older transformers, which were 15 years old at the time of failure.

On September 6, 2012, Delta Star inspected the transformers and informed PUC that remedies to the insulation deterioration included (a) replacing the transformer entirely or (b) rewinding the transformer, which entails replacing the main components of the transformer. As a result, on September 6, 2012, the PUC General Manager declared an emergency to repair the Phase A and Phase C transformers of the HPH1 and awarded an emergency contract to Delta Star in an amount not-to-exceed \$732,517.

According to Ms. Hannaford, Delta Star provided an original estimate of \$732,517 which included the price for rewinding the transformers. However, during the week of October 30, 2012, Delta Star determined that Phase A transformer only required rehabilitation of the core, one component of the transformer, and not rewinding of the transformer. During the week of November 26, 2012, the Phase A transformer was returned and the Phase C transformer was removed for rehabilitation. Delta Star determined the Phase C transformer only required rehabilitation of the core and not rewinding of the transformer. During the week of December 24, 2012, the Phase C transformer was returned and the Phase B transformer was removed for rehabilitation. According to Ms. Hannaford, the PUC decided to rehabilitate the Phase B transformer at this time because all three phases had been manufactured at the same time 15 years ago and given that all three phases showed deterioration now. During the week of January 21, 2013, the Phase B transformer was returned. According to Ms. Hannaford, all of the HPH1 repairs on the Phases A, B, and C transformers were completed on February 12, 2013, for a total cost of \$521,465.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve an emergency public work contract awarded by the PUC to Delta Star in accordance with Administrative Code Section 6.60, to replace the insulation in the Phases A and C transformers of the Hetch Hetchy Power Holm Powerhouse Unit 1 (HPH1), which was completed on January 17, 2013, in the amount of \$521,465.

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<sup>3</sup> If the core of a transformer is poorly insulated, a type of current called an eddy current is created which leads to localized overheating. This overheating generates combustible gasses in the transformer insulating oil, and the presence of these gasses caused the sudden pressure change on the transformer bank leading HPH1 to automatically shut down.

However, as noted above, the HPH1 repairs, which also included work on the Phase B transformer, were finally completed on February 12, 2013. Therefore, the proposed resolution should be amended on Page 2, lines 9 and 10 to specify the work to all three transformer Phases A, B, and C and to specify the February 12, 2013 completion date.

## FISCAL IMPACTS

As shown in the Table below, to date, Delta Star has submitted invoices to PUC totaling \$521,465. According to Ms. Hannaford, all of the repairs to the HPH1 were completed on February 12, 2013, such that no additional expenditures will be incurred.

### Total Actual Expenditures to Date

Item	Total Expenditures
Labor	\$156,811
Equipment	320,408
Materials	11,300
Tax	32,946
<b>Total</b>	<b>\$521,465</b>

As noted above, the original estimate provided by Delta Star was \$732,517, but rewinding the Phase A and C transformers was later determined to be unnecessary, such that the total cost was \$521,465, which is \$211,052 less than originally estimated. To date, PUC has paid Delta Star \$250,000. Ms. Hannaford advises that if the proposed resolution is approved, the PUC will pay Delta Star the balance owed of \$271,465 (\$521,465 total less \$250,000 already paid).

According to Ms. Cheryl Sperry, Principal Administrative Analyst with PUC, the funding for this emergency work was PUC's FY 2012-13 capital budget, as previously appropriated by the Board of Supervisors.

## RECOMMENDATIONS

1. Amend the proposed resolution on Page 2, lines 9 and 10 to reflect (a) the correct completion date of February 12, 2013, instead of January 17, 2013, and (b) that the repairs included work on all three transformer Phases A, B, and C, instead of only the Phases A and C transformers.
2. Approve the proposed resolution as amended.

**Item 5**  
**File 13-0569**

**Departments:**  
San Francisco Public Utilities Commission (SFPUC)

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed resolution would authorize the SFPUC to enter into an amendment to an existing quarry lease with Oliver de Silva, Inc. as tenant, to (a) add approximately 58 acres to the existing 308.5 acre leased premises, for a total of 366.5 acres in the Sunol Valley, unincorporated Alameda County, (b) increase the depth of excavation from 140 feet to between 225 and 400 feet below ground, (c) extend the lease term by approximately 21 years from June 1, 2021 through July 16, 2042, or completion of reclamation, (d) add ancillary uses, including the installation and operation of asphalt and concrete plants, (e) take certain actions in furtherance of this proposed resolution, and (f) adopt findings pursuant to the California Environmental Quality Act (CEQA).

### Key Points

- The Board of Supervisors approved the existing lease (File 09-0832) with Oliver de Silva, Inc., as tenant, to operate 308.5 acres of the Sunol Valley Aggregate Quarry for an initial term of approximately 10.5 years from December 15, 2010 through June 1, 2021. The existing lease includes (a) two conditional extensions of the term for additional mining, stockpiling, processing, and selling of gravel, asphalt, and concrete for: (1) an approximately 21-year extension related to a first SMP 30 revision (subject resolution) through July 16, 2042, and (2) an approximately 22.5-year extension related to a second expected SMP 30 revision through December 31, 2064; and (b) a separate two-year reclamation period, that would include reclamation and restoration activities following the termination of mining and processing activities to create a SFPUC water storage lake at the subject quarry site beginning no later than December 31, 2066.

### Fiscal Impacts

- Under the existing and proposed amended lease, Oliver de Silva, Inc. pays the SFPUC the greater of either the (a) base rent or (b) royalty rent, based on percent of gross revenues. Oliver de Silva, Inc. paid the SFPUC \$1,870,651 in both base and royalty rents for the approximately 2.5 years of the existing lease from December 15, 2010 through June 30, 2013.
- Annual royalty rental payments are projected to exceed annual base rent payments to the SFPUC throughout the 31.5 years duration of the subject amended lease. Total lease rent payments of \$153,960,633 are estimated to be paid by Oliver de Silva to the SFPUC from December 15, 2010 through June 16, 2042.
- If the proposed amended lease is approved by the Board of Supervisors, Oliver de Silva, Inc. will also be required to implement specified environmental mitigation measures, estimated to cost \$6,310,000. However, if the proposed amended lease is not approved by the Board of Supervisors, SFPUC would be required to pay for these environmental mitigation measures.

### Recommendation

- Approve the proposed resolution.

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

In accordance with City Charter Section 9.118(c), any lease of real property for a period of ten or more years, including options to renew, or having anticipated revenues to the City in excess of \$1,000,000, is subject to Board of Supervisors approval.

### Background

The Sunol Valley Aggregate Quarry site is located within the San Francisco Public Utilities Commission's (SFPUC) Alameda Watershed lands, in an unincorporated area located in Alameda County, within the 47,000 acre watershed that is tributary to the San Antonio and Calaveras Reservoirs.

Since the 1960s, the SFPUC-owned Sunol Valley Aggregate Quarry site has been leased by the SFPUC to private quarry operators and used for sand and gravel extraction. The active sand and gravel mining operation is comprised of active excavation areas, maintenance and operations buildings, silt/holding basins, processing facilities and other outdoor equipment and materials storage areas. The existing plant at the quarry site is actively sorting and producing various aggregate materials, and the material product is being hauled to various locations throughout the Bay Area.

Since 1992, private operations at the Sunol Valley Aggregate Quarry have obtained a California Surface Mining Permit 30 (SMP 30)<sup>1</sup> from the Alameda County Planning Commission which (a) authorizes the mining of sand and gravel on 323 acres at the SMP 30 site to a depth of up to 140 feet and (b) allows quarrying operations through June 1, 2021 or upon completion of reclamation, whichever occurs first.

In December of 2005, the SFPUC issued a Request for Proposals (RFP) for (a) an 11.5-year lease (expected to begin in early 2010) and operation of the SMP 30 quarry and (b) the exclusive right to negotiate for future mining expansion at the SMP 30 site through June 1, 2021 with a conditional extension<sup>2</sup> of the term for up to 32 additional years, for a total potential lease term of 43.5 years. Oliver de Silva, Inc., a private company that mines, processes, and sells quarry products, was selected as the potential tenant following a competitive bid process.<sup>3</sup>

On November 24, 2009, the Board of Supervisors approved the existing lease (File 09-0832) with Oliver de Silva, Inc., as tenant, to operate the Sunol Valley Aggregate Quarry, for 308.5 acres (of the 323 acres permitted to be mined under SMP 30) for an initial term of approximately

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<sup>1</sup> The original SMP 30 was secured by the Santa Clara Sand and Gravel Company, which operated the quarry at the time, under a lease agreement with the SFPUC.

<sup>2</sup> These conditional extensions require the tenant, Oliver de Silva, Inc., to pursue regulatory and environmental review to extend the terms and expand mining activity at the quarry site. The tenant does not have the option to not pursue these extensions. However, the SFPUC and the City, have the right to not approve these extensions.

<sup>3</sup> Four years elapsed between the RFP issuance and the Board of Supervisors approval of the new quarry lease because (a) over a year elapsed between the PUC's issuance of the RFP and the PUC's selection committee's scoring of the proposals; and (b) negotiations took approximately 21 months to complete due to the complex nature of the lease and quarry development.

11.5 years through June 1, 2021. The existing lease, which did not commence until December 15, 2010, allowing for an initial term of approximately 10.5 years, includes (a) two conditional extensions of the term of the lease for additional mining, stockpiling, processing, and selling of gravel, asphalt, and concrete for: (1) an approximately 21-year extension related to a first SMP 30 revision (subject resolution) through July 16, 2042, and (2) an approximately 22.5-year extension related to a second expected SMP 30 revision through December 31, 2064; and (b) a separate two-year reclamation period, that would include reclamation and restoration activities following the termination of mining and processing activities to create a storage lake so that the SFPUC can use the subject quarry site for water storage beginning no later than December 31, 2066. Under the resolution previously approved by the Board of Supervisors, the existing lease was expected to commence in early 2010 allowing for a total possible lease term of approximately 57 years, however the lease did not commence until December 15, 2010, allowing for a total possible lease term of up to 56 years.

Following the Board of Supervisors approval of the existing lease, which does not expire until June 1, 2021, in October 2011, Oliver de Silva, Inc. applied to the Alameda County Planning Commission for a Revised SMP 30 mining permit. Alameda County Planning Commission is the lead agency for the environmental review under the California Environmental Quality Act (CEQA). The revised SMP 30 would allow for extension of the quarry operations beyond June 1, 2021, increased mining of a greater amount of land, and additional related quarry operations such as mining, stockpiling, processing, and selling of gravel, asphalt, and concrete.

On July 16, 2012, the Alameda County Planning Commission (a) certified the Final Environmental Impact Report (FEIR) for the Revised SMP 30 permit, (b) adopted CEQA findings and a Mitigation Monitoring and Reporting Program (MMRP), and (c) approved the mining and reclamation plan as proposed in the Oliver de Silva, Inc. application for Revised SMP 30.<sup>4</sup> The certified FEIR concluded that with mitigation, no significant and unavoidable impacts would result from the Revised SMP 30.

The Alameda County Planning Commission approval of the Revised SMP 30 is subject to concurrence by the SFPUC and Board of Supervisors' which is the subject of the proposed resolution. On May 28, 2013, the SFPUC formally adopted Alameda County's CEQA findings and approved the subject lease amendment.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the General Manager of the SFPUC to enter into an amendment to an existing quarry lease with Oliver de Silva, Inc. as tenant, to (a) add approximately 58 acres to the existing 308.5 acre leased premises, for a total of 366.5 acres located in the Sunol Valley, unincorporated Alameda County, (b) increase the depth of excavation from 140 feet to between 225 feet and 400 feet below ground, (c) extend the lease term by approximately 21 years from June 1, 2021 through July 16, 2042, or completion of reclamation, (d) add ancillary uses, including the installation and operation of asphalt and concrete plants, (e) execute documents, make certain modifications, and take certain actions in

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<sup>4</sup> The Alameda County Planning Commission approved and adopted the mitigation measures to reduce both the permanent and temporary environmental impacts of the Revised SMP 30 Project to less-than-significant levels that were identified in the Final Environmental Impact Report (FEIR) for Revised SMP 30.

furtherance of this proposed resolution, and (f) adopt findings pursuant to the California Environmental Quality Act (CEQA).

As noted above, the existing lease includes (a) two conditional extensions to the term of the lease for additional mining, stockpiling, processing, and selling of gravel, asphalt, and concrete for: (1) an approximately 21-year extension related to a first SMP 30 revision (subject resolution) through July 16, 2042, and (2) an approximately 22.5-year extension related to a second expected SMP 30 revision through December 31, 2064; and (b) a separate two-year reclamation period, that would include reclamation and restoration activities following the termination of mining and processing activities to create a storage lake so that the SFPUC can use the subject quarry site for water storage beginning no later than December 31, 2066.

The proposed resolution would approved the first of two extensions to the term of the lease with Oliver de Silva, Inc. from June 1, 2021 through July 16, 2042, or for approximately 21 years, for Oliver de Silva, Inc. to conduct additional mining, stockpiling, processing, and selling of gravel, asphalt, and concrete. The base rent and royalty revenue provisions included in the existing lease, as previously approved by the Board of Supervisors, would remain the same in the proposed lease amendment.

#### First Permit Revision

Under the proposed resolution, the Board of Supervisors adoption of findings pursuant to CEQA provides the necessary review and approval of the FEIR. With the Board of Supervisor's approval of the FEIR, the Alameda County Planning Commission approval of the Revised SMP 30 becomes effective and includes the following actions<sup>5</sup>:

- Expand the overall production potential of the quarry by (a) increasing the area under permit by approximately 58 acres along the southeast boundary of the current quarry, from 308.5 acres to a total of 366.5 acres, and (b) deepening the depth of excavation from 140 feet to between 225 feet and 400 feet below ground surface (see Attachment I);
- Extend the expiration date of the mining permit through July 16, 2042 ; and
- Add additional ancillary uses at the site including the installation and operation of an asphalt batch plant and a concrete plant.

According to Mr. Anthony Bardo, Senior Real Estate Analyst for the SFPUC, currently a portion of the 58 acre parcel that would be added under the proposed lease amendment is being used for temporary construction staging for the New Irvington Tunnel project as part of the SFPUC's Water System Improvement Plan (WSIP). Mr. Bardo reports that delivery of the 58 acre parcel is to occur in three increments, as shown in Attachment I: (1) the northern most portion of the 58 acre parcel will be delivered immediately to the tenant for the tenant's use upon approval of the lease amendment; (2) the next increment is planned to be delivered by July, 2014; and (3) the remaining increment will be delivered by August, 2015, or possibly sooner if certain conditions are met.

The installation of the proposed asphalt batch plant and concrete plant would mix quarry materials mined from the SMP 30 site (Sunol Valley Aggregate Quarry) with other materials which would be transported to the SMP 30 site by Oliver de Silva, Inc. Mining, processing,

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<sup>5</sup> The Revised SMP 30 would become effective 30 days after Board of Supervisors approval.

stockpiling, and sales of gravel would continue under the Revised SMP 30. Additionally, if the revised permit is approved, processing and sales of asphalt and concrete would commence.

If the proposed amended lease is approved by the Board of Supervisors, Oliver de Silva, Inc. would: (a) be required to perform specified improvements to the quarry at the sole expense of Oliver de Silva, Inc., which include the (1) construction of a slurry cutoff wall to reduce water flow from Alameda Creek into the mining pit, (2) perimeter plantings, and (3) creek bank restoration; and (b) not be permitted to begin mining the SMP 17<sup>6</sup> site until the later of January 1, 2030, or the date upon which Oliver de Silva, Inc. completes mining of the SMP 30 site. However, if the proposed amended lease is not approved by the Board of Supervisors, Oliver de Silva, Inc. would be required to (a) promptly submit an application to Alameda County to revise the Mining and Reclamation Plan, that was approved as part of the Revised SMP 30 to provide for expanded mining operations and the larger water storage capacity, and (b) seek approval from Alameda County to construct certain minimum improvements, the cost of which the SFPUC would reimburse to Oliver de Silva, Inc. through royalty credits included in the existing lease.<sup>7</sup>

## FISCAL IMPACTS

Under the terms of the existing and the proposed amended lease, each year's required rental payment to be made by Oliver de Silva, Inc. to the SFPUC is the greater of (a) the base rent or (b) the royalty rent, based on a percent of gross sales.

The proposed resolution would approve the first 21-year extension to the term of the lease for additional mining, stockpiling, processing, and selling of gravel, asphalt, and concrete. The base rent and royalty revenue provisions included in the existing lease are the same as in the proposed lease amendment.

### Base Rent

Under the existing lease, as previously approved by the Board of Supervisors, base rent paid by Oliver de Silva, Inc. to the SFPUC is based on a negotiated fixed schedule for the first 11 years of the lease. The base rent schedule includes \$500,000 per year for the first three years of the lease, commencing on December 15, 2010. Beginning in the fourth year of the existing lease, and unchanged in the proposed lease amendment, the base rent would escalate annually for the next eight years, as shown in Table 1 below. According to Mr. Bardo, the base rent increases are lower during the first five years of the lease in acknowledgement of the significant initial capital and permitting expenses incurred by Oliver de Silva, Inc.

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<sup>6</sup> California Surface Mining Permit 17 (SMP 17), the Apperson Ridge Site, contains approximately 680 acres of privately owned unmined ranch land, owned by William H. Apperson and leased to Oliver de Silva, Inc., within the San Antonio Reservoir watershed in Alameda County, which is adjacent to the PUC-owned SMP 30 site. The subject amended lease does not include lands on the SMP 17 site; however, under the proposed lease amendment, materials mined on the SMP 17 site could be processed and sold on the subject SMP 30 site.

<sup>7</sup> According to Mr. Bardo, SFPUC uses rental credits or royalty credits in PUC leases to pay for improvements, which allows for the improvements to be self-funded and does not require special funding arrangements outside of the lease agreement.

<b>Table 1. Base Rent for Lease Years 1-11</b>		
<b>Calendar Year</b>	<b>Lease Years</b>	<b>Base Rent Amount</b>
2011	1	\$500,000
2012	2	\$500,000
2013	3	\$500,000
2014	4	\$515,000
2015	5	\$530,450
2016	6	\$1,000,000
2017	7	\$1,175,509
2018	8	\$1,259,274
2019	9	\$1,344,052
2020	10	\$1,479,874
2021	11	\$1,616,770

Under the existing lease, and unchanged in the proposed lease amendment, beginning in the 12<sup>th</sup> lease year, or 2022 and for the remaining 20 years of the proposed amended lease, which is through July 16, 2042, the base rent paid by Oliver de Silva, Inc. to the SFPUC would be the greater of (a) a 3 percent increase of the prior year's base rent or (b) beginning in the seventh lease year, or 2017, and every three years thereafter to increase the base rent by the average total royalty amounts paid over the preceding three lease years.

Under the proposed lease amendment, the total base rent to be paid by Oliver de Silva, Inc. to SFPUC from December 15, 2010 through July 16, 2042, for a term of 31.5 years, is estimated to range between \$56,671,275 (based on a 3 percent increase of the prior year's base rent) and \$134,921,251 (based on average total royalty payments).

Additionally, the proposed lease includes a provision that allows for a temporary reduction in base rent in acknowledgement of the cyclical nature of the quarry business. Beginning in the sixth lease year, or 2016, if the mining and processing royalties do not exceed the base rent payable in two consecutive lease years, the base rent is reduced to \$1,000,000. If such a reduction is triggered, the scheduled base rent payments are restored once the royalties again exceed the base rents that would have been payable for two consecutive lease years

Under the existing lease, and unchanged in the proposed lease amendment, for the not-to-exceed two year restoration period when quarry mining activities would cease and Oliver de Silva, Inc. would perform reclamation and restoration operations, the base rent payable by Oliver de Silva, Inc. to the SFPUC would decline to \$250,000 per year. However, Oliver de Silva, Inc. may continue selling stockpiled materials during this time provided that the required royalty payments, are remitted to the SFPUC.

### Royalty Rates

The existing and proposed lease royalty rates, payable by Oliver de Silva, Inc. to the SFPUC are (a) 15 percent of gross sales revenue for quarry products derived from the SMP 30 site, and (b) 10.5 percent of gross sales revenues for quarry products derived from the SMP 17 site. Attachment II lists the projected royalty revenue expected to be generated by the above-listed royalty rates.

Under the proposed lease amendment, estimated royalty revenues to be paid by Oliver de Silva, Inc. to the SFPUC from December 15, 2010 through June 16, 2042, or over approximately 31.5 years, is estimated to total \$153,460,633, or an average of \$4,871,766 per year. According to Mr. Bardo, annual royalty rental payments are projected to exceed annual base rent payments to the SFPUC throughout the duration of the subject amended lease. Such lease revenues would be deposited into the SFPUC's Water Enterprise Revenue Fund, which is used to defray capital and operating expenses of the SFPUC's Water Enterprise, subject to appropriation approval by the Board of Supervisors.

### Actual SFPUC Revenue through June 30, 2013

As stated above, each year's lease payment by Oliver de Silva, Inc. to the SFPUC would be the greater of either the (a) base rent or (b) royalty rent. As shown in Table 2 below, Oliver de Silva, Inc. paid the SFPUC \$1,870,651 in base rent and royalty revenue for the approximately 2.5 years of the existing lease from December 15, 2010 through June 30, 2013. SFPUC received base rent of \$500,000 from Oliver de Silva, Inc. in 2012 due to the quarry ceasing operations for 13 months from January 2012 through February 2013 to allow for modernization upgrades to the processing plant. Mr. Bardo reports that the poor condition of the plant necessitated a complete rebuild at a cost of \$30 million to Oliver de Silva, Inc. According to Mr. Bardo, annual royalty rental payments are projected to exceed annual base rent payments to the SFPUC throughout the 31.5 years duration of the subject amended lease.

Calendar Year	Lease Years	Amount Paid to SFPUC		
		Base Rent	Royalty Revenue	Total Revenue
2011	1	\$0	\$797,318	\$797,318
2012	2	\$500,000	\$0	\$500,000
2013 <sup>1</sup>	3	\$0	\$573,333	\$573,333
<b>Total</b>				<b>\$1,870,651</b>

The revenue for 2013 is through June 30, 2013 and is not a full year and the revenue for the month of June 2013 is estimated. As seen in Attachment II, revenue for 2013 is projected to total \$994,719.

### Total Projected Revenue through June 2042

In summary, \$153,960,633 in total rent and royalty revenue is estimated to be paid by Oliver de Silva to the SFPUC from December 15, 2010 through June 16, 2042. The \$153,960,633 total revenue includes \$500,000 in base rent paid in 2012 when the quarry was closed and

\$153,460,633 in estimated royalty revenues that are expected to be paid by Oliver de Silva, Inc. to the SFPUC because annual royalty rental payments are projected to exceed annual base rent payments to the SFPUC throughout the 31.5 years duration of the subject amended lease.

#### Required Minimum Improvements

As discussed above, if the proposed amended lease is approved by the Board of Supervisors, Oliver de Silva, Inc. would be required to perform specified improvements for environmental mitigation measures, that Oliver de Silva, Inc. estimated to cost \$6,310,000. However, if the proposed amended lease is not approved by the Board of Supervisors, Oliver de Silva, Inc. would be required to promptly submit an application to Alameda County to revise the Mining and Reclamation Plan, and seek approval from Alameda County to construct certain minimum improvements for environmental mitigation measures. The cost to construct such minimum improvements for environmental mitigation is estimated at \$6,310,000, which would be reimbursed by the SFPUC to Oliver de Silva, Inc. through royalty credits. According to Mr. Bardo, the existing and proposed amended lease includes the provision that SFPUC will pay for these required minimum improvements if the Revised SMP 30 is not approved because without approval of Revised SMP 30, Oliver de Silva, Inc. would not have the available funds for the extensive habitat restoration projects required for the environmental mitigation measures at the site. Mr. Bardo states that it is the prospect of earning revenues from the expanded mining permitted by Revised SMP 30 that provides incentive for Oliver de Silva, Inc. to complete the extensive habitat restoration projects.

## **POLICY CONSIDERATIONS**

### **Second Permit Revision – Extension of the Lease through December 31, 2064**

As discussed above, the existing lease includes (a) two conditional extensions to the term of the lease for additional mining, stockpiling, processing, and selling of gravel, asphalt, and concrete for: (1) an approximately 21-year extension related to a first SMP 30 revision (subject resolution) through July 16, 2042, and (2) an approximately 22.5-year extension related to a second expected SMP 30 revision through December 31, 2064; and (b) a separate two-year reclamation period, that would include reclamation and restoration activities following the termination of mining and processing activities to create a storage lake so that the SFPUC can use the subject quarry site for water storage.

According to Mr. Bardo, Oliver de Silva, Inc. must apply to the Alameda County Planning Department for a second permit revision, including environmental and regulatory review, one year after the subject Revised SMP 30 becomes effective. Any subsequent revisions to the SMP 30 would also be subject to review and approval by Alameda County, the SFPUC, and the Board of Supervisors.

The second permit revision would authorize Oliver de Silva, Inc. to pursue permits and environmental clearance from the Alameda County Planning Department to (a) continue mining, stockpiling, processing, and selling gravel, asphalt, and concrete from the SMP 30 site through July 16, 2042, (b) construct a conveyor system to transport quarry materials from the

SMP 17 site to the SMP 30 site, and (c) begin processing and selling gravel extracted from the SMP 17 site at the SMP 30 site.

This second permit revision, which would be subject to separate future approval by the Board of Supervisors, would extend the permit through December 31, 2064 for the stockpiling, processing and sale of materials extracted from the SMP 17 site.

On December 31, 2064, when the second permit revision expires, or when mining and processing activity are terminated, Oliver de Silva, Inc. would be granted up to two additional years, ending no later than December 31, 2066, to (a) complete all aspects of the reclamation plan and (b) remove all property and leave the remainder of the site in good condition. Reclamation and restoration activities would include construction of engineered levees to create a storage lake so that the PUC could use the subject quarry site for water storage. During the reclamation period, further extraction of mining products would be prohibited but sales of stockpiled materials would be authorized and subject to the applicable royalty rate. The existing lease therefore includes possible extensions through December 31, 2066, or a total period of up to 56 years.

As mentioned above, according to Mr. Bardo, annual royalty rental payments are projected to exceed annual base rent payments to the SFPUC throughout the duration of the subject lease, including all options to extend. If all phases and lease extensions are approved as described above, as shown in Attachment II, rental payments (based on royalty revenues) to the SFPUC from December 15, 2010 through December 31, 2064, or over approximately 54 years is estimated to total \$339,849,810, or an average of approximately \$6,293,515 per year. Including the one year of \$500,000 base rent paid in 2012 when the quarry was closed, the total expected revenue to be paid by Oliver de Silva Inc. to the SFPUC is \$340,349,810. Mr. Bardo reports that such revenues would be deposited into the SFPUC's Water Enterprise Revenue Fund, which is used to defray capital and operating expenses of the SFPUC's Water Enterprise, subject to appropriation approval by the Board of Supervisors.

### **Environmental Impact**

In the issuance of the original SMP 30 in 1992, the Alameda County Planning Commission determined that although the proposed mining activities to be performed under the original permit could have a significant effect on the environment, the project sponsor, Santa Clara Sand and Gravel Company, which operated the quarry at the time under a lease agreement with the SFPUC, agreed to mitigation measures that were incorporated into the permit to reduce the environmental impacts to a less than significant level. The Alameda County Planning Commission is the lead agency for the environmental review under the California Environmental Quality Act (CEQA).

The proposed certified FEIR for the Revised SMP 30 concluded that with mitigation, no significant and unavoidable impacts would result from the revised permit. The mitigation measures include the following specified minimum required improvements: (1) construction of a slurry cutoff wall to reduce water flow from Alameda Creek into the mining pit, (2) perimeter plantings, and (3) creek bank restoration. These improvements, discussed above, are estimated to cost \$6,310,000 that would be reimbursed by the SFPUC to Oliver de Silva, Inc. through royalty credits if the proposed lease is not approved.

The proposed certified FEIR for the Revised SMP 30 also identified additional mitigation measures as part of the two conservation plans that Oliver de Silva, Inc. entered into as a

companion measure to the exiting lease with the nonprofit Alameda Creek Alliance and the Center for Biological Diversity relating to the environmental impacts of the quarry activities proposed under the lease. The plans include: (1) funding for projects to help restore steelhead trout to Alameda Creek, including up to \$2,000,000 for fish passage projects and up to \$1,000,000 for retrofitting the Pacific Gas & Electric (PG&E) pipeline crossing in the Sunol Valley; (2) funding for re-vegetation of stream banks and restoration of more natural stream function to enhance habitat quality along Alameda and San Antonio Creeks adjacent to the SMP 30 quarry; and (3) financial support for a SFPUC Sunol Valley Restoration Plan to stabilize and restore the Sunol Valley reach of Alameda Creek. According to Mr. Bardo, if the subject lease and Revised SMP 30 are not approved by the Board of Supervisors, these additional mitigation measures will not be implemented.

In addition, if the second permit revisions are approved and processing of SMP 17 materials is permitted at SMP 30, Oliver de Silva, Inc. agrees to not open the SMP 17 quarry site until the later of January 1, 2030, or the date upon which Oliver de Silva Inc. completes mining of the SMP 30 site. The second revised permit application will also include a conveyor system transport approach instead of the previously authorized truck haul road, which will greatly reduce the impact from the transport of materials. By potentially postponing the commencement of operations at SMP 17 to at least 2030 and limiting the truck traffic through the San Antonio watershed lands through the use of a conveyor system, the PUC advises that the CEQA findings in the approved FEIR identifies that the proposed lease represents an opportunity to greatly reduce the environmental impact from Oliver de Silva, Inc.'s rights to access and operate SMP 17.

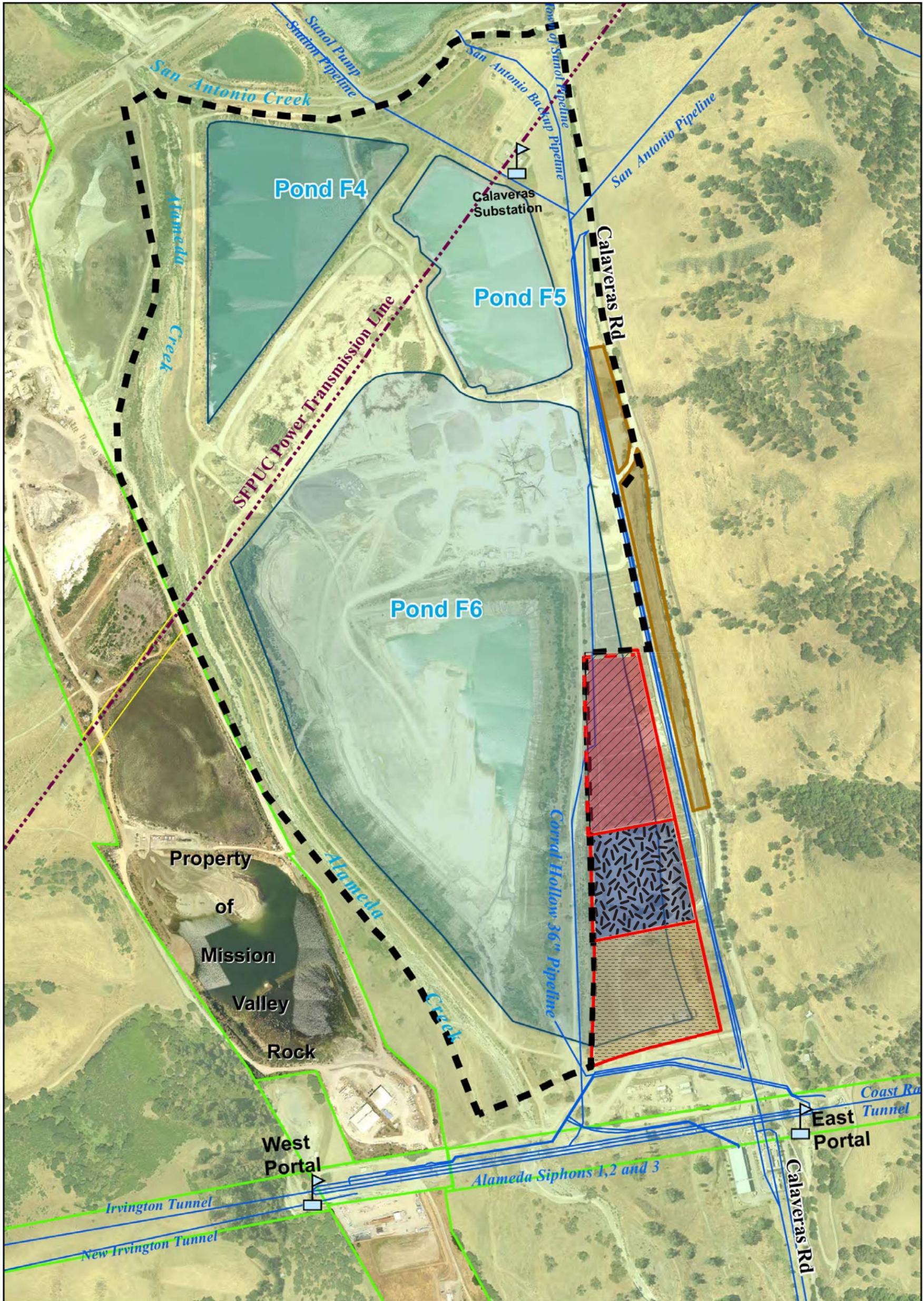
### **SFPUC's Water Storage Objectives**

According to Mr. Bardo, the proposed amended lease will provide for the expansion of mining activities that will have a positive impact toward meeting SFPUC's water storage objectives. In September 2000, the SFPUC adopted the Sunol Resources Management Element of the Alameda Watershed Management Plan. In this plan, the SFPUC weighed the competing land uses in the Sunol Valley area and selected, as a preferred alternative, the development of water storage assets (reservoirs) at the subject Sunol Valley Aggregate Quarry site because it is a strategically important juncture of the City's water system.

According to the PUC, the expansion to the adjacent 58-acre parcel provides the opportunity to increase aggregate water reserves and to expand the quarry basin, ultimately to be used for SFPUC water storage upon completion of mining and reclamation activities. Mr. Bardo reports that SFPUC expects the water storage to be 27,000 acre feet.

## **RECOMMENDATION**

Approve the proposed resolution.



 Initial Premises of Lease (L4074) to Oliver de Silva

 Initial Delivered Expansion Premises of Lease (L4074) to Oliver de Silva

 Short-Term Reserved Expansion Premises of Lease (L4074) to Oliver de Silva

 Long-Term Reserved Expansion Premises of Lease (L4074) to Oliver de Silva

 Potential Water Storage Ponds

 SFPUC Spoils Areas

 SFPUC Buildings

 SFPUC Pipelines (Existing and Proposed)

 SFPUC Parcels - Fee Owned

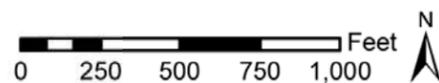
 SFPUC Parcels - Easement

Aerial Photo Date: 2011



Real Estate Services

Exhibit A-4 Revised



The City does not guarantee that the information is accurate or complete. The City provides this information on an "as is" basis and disclaims all warranties, express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose and non-infringement. The City is not responsible for any damages arising from the use of data. Users should verify the information before making project commitments.

Drawing No: B-4910

Date: 4/22/2013

Lease Revenue Projections				
SFPUC Sunol Quarry; EPS #17155				
Lease Year	Calendar Year	Variable Price and Production Rate		
		SMP 30	SMP 17	Total
1	2011	\$797,318	\$0	\$797,318
2	2012	\$0	\$0	\$0
3	2013	\$994,719	\$0	\$994,719
4	2014	\$3,594,695	\$0	\$3,594,695
5	2015	\$3,953,047	\$0	\$3,953,047
6	2016	\$3,614,326	\$0	\$3,614,326
7	2017	\$3,465,143	\$0	\$3,465,143
8	2018	\$3,182,757	\$0	\$3,182,757
9	2019	\$3,931,390	\$0	\$3,931,390
10	2020	\$4,443,025	\$0	\$4,443,025
11	2021	\$4,405,419	\$0	\$4,405,419
12	2022	\$4,398,256	\$0	\$4,398,256
13	2023	\$4,806,371	\$0	\$4,806,371
14	2024	\$5,274,379	\$0	\$5,274,379
15	2025	\$4,856,714	\$0	\$4,856,714
16	2026	\$4,762,227	\$0	\$4,762,227
17	2027	\$4,367,108	\$0	\$4,367,108
18	2028	\$5,137,692	\$0	\$5,137,692
19	2029	\$5,250,370	\$0	\$5,250,370
20	2030	\$5,293,312	\$0	\$5,293,312
21	2031	\$6,244,560	\$0	\$6,244,560
22	2032	\$6,676,154	\$0	\$6,676,154
23	2033	\$7,373,342	\$0	\$7,373,342
24	2034	\$6,770,254	\$0	\$6,770,254
25	2035	\$6,568,770	\$0	\$6,568,770
26	2036	\$4,673,902	\$0	\$4,673,902
27	2037	\$7,350,412	\$0	\$7,350,412
28	2038	\$7,744,871	\$0	\$7,744,871
29	2039	\$0	\$5,495,536	\$5,495,536
30	2040	\$0	\$5,702,864	\$5,702,864
31	2041	\$0	\$5,824,519	\$5,824,519
32	2042	\$0	\$6,507,184	\$6,507,184
33	2043	\$0	\$6,047,342	\$6,047,342
34	2044	\$0	\$5,927,689	\$5,927,689
35	2045	\$0	\$6,098,382	\$6,098,382
36	2046	\$0	\$6,713,434	\$6,713,434
37	2047	\$0	\$7,073,709	\$7,073,709
38	2048	\$0	\$7,170,428	\$7,170,428
39	2049	\$0	\$7,440,944	\$7,440,944
40	2050	\$0	\$7,599,677	\$7,599,677
41	2051	\$0	\$8,490,399	\$8,490,399
42	2052	\$0	\$7,890,410	\$7,890,410
43	2053	\$0	\$7,734,289	\$7,734,289
44	2054	\$0	\$7,957,006	\$7,957,006
45	2055	\$0	\$8,759,509	\$8,759,509
46	2056	\$0	\$9,229,585	\$9,229,585
47	2057	\$0	\$9,355,782	\$9,355,782
48	2058	\$0	\$9,708,744	\$9,708,744
49	2059	\$0	\$9,915,854	\$9,915,854
50	2060	\$0	\$11,078,045	\$11,078,045
51	2061	\$0	\$10,295,196	\$10,295,196
52	2062	\$0	\$10,091,493	\$10,091,493
53	2063	\$0	\$10,382,088	\$10,382,088
54	2064	\$0	\$11,429,172	\$11,429,172
<b>Total (Nominal Dollars)</b>		<b>\$129,930,529</b>	<b>\$209,919,281</b>	<b>\$339,849,810</b>

<b>Items 6 and 7 Files 13-0653 and 13-0654</b>	<b>Department Health Service System (HSS)</b>
<b>EXECUTIVE SUMMARY</b>	
<b>Legislative Objectives</b>	
<ul style="list-style-type: none"> <li>• The proposed ordinance (File 13-0653) would amend Administrative Code Section 16.703, establishing the Health Service System's 2014 health, vision, and dental plans and premiums.</li> <li>• The proposed resolution (File 13-0654) would approve the 2014 employers' contribution of \$559.65 per member per month to the Health Service System Trust Fund.</li> </ul>	
<b>Fiscal Impacts</b>	
<ul style="list-style-type: none"> <li>• In accordance with the City's Charter, the Health Service Board is required to conduct a survey of the ten most populous California counties each year to determine the average of the health premium contributions made by the ten counties. Based on this survey, the average 2014 contribution is \$559.65 per member per month, which is \$24.87 or 4.65 percent more than the ten-county average contribution of \$534.78 in 2013.</li> <li>• However, the City's monthly health premium contributions for employees is proposed to be (a) \$1,046.99 for the City's Health Plan, a 16.84% reduction, (b) \$562.30 for Kaiser, a 4.71% increase, and (c) \$612.56 for Blue Shield, a 5.3% reduction.</li> <li>• The total costs for the City, employees, retirees, and their dependents of \$595,803,151 in 2014 for health, vision, dental, long-term disability and life insurance, is \$4,054,015, or 0.7 percent more than the \$591,749,136 costs for these plans in 2013.</li> <li>• Of the total 2014 costs of \$595,803,151, the City's costs (excluding employee or retiree contributions) are \$523,163,928, or approximately 87.8 percent of the total costs.</li> <li>• Health premiums in 2014 will be increased by federal fees and taxes from legislation including the Patient Protection and Affordable Care Act.</li> <li>• Health premium contributions in 2014 will be affected by cost-sharing agreements that were negotiated between the City and various City unions in 2012.</li> </ul>	
<b>Recommendations</b>	
<ul style="list-style-type: none"> <li>• Approve the proposed ordinance (File 13-0653) to amend Administrative Code Section 16.703, establishing the Health Service System's 2014 health, vision, and dental plans and premium contribution rates.</li> <li>• Approve the proposed resolution (File 13-0654), setting the City's 2014 average contribution to the Health Service System Trust Fund under Charter Section A8.428 in the amount of \$559.65 per member per month.</li> </ul>	

## MANDATE STATEMENT/BACKGROUND

The Health Service Board oversees the Health Service System (HSS). The HSS administers non-pension benefits, including health, dental, vision, and other benefits that may be available to City employees, such as life and long term disability insurance.

The Health Service Board adopts the annual health, vision, and dental plans, and the respective plan premiums and premium equivalents paid by employers and members.

- HSS employers include the City and County of San Francisco (City), the San Francisco Unified School District (SFUSD), the San Francisco Community College District (SFCCD), and the San Francisco Superior Court (Superior Court).
- HSS members are active and retired employees of the above noted employers, their dependents, and members of eligible boards and commissions. Dependents include children, spouses, domestic partners, surviving spouses of deceased members, and other legal dependents.

Under City Charter Section A8.423, the Health Service Board is required to (a) conduct a survey of the ten most populous California counties each year, excluding San Francisco, and (b) determine and set the health plan premiums paid by the City, employees, and retirees. In accordance with Section A8.423 of the City's Charter, the City's contribution to the Health Service System Trust Fund is based on the average of the contributions made by each of the ten counties.

The 10-County "average contribution" in 2014 is \$559.65, which is \$24.87 or 4.65 percent more than the 10-County "average contribution" of \$534.78 in 2013.

## DETAILS OF PROPOSED LEGISLATION

File 13-0653: The proposed ordinance would amend Administrative Code Section 16.703 to approve the Health Service Systems' 2014 health, vision, and dental plans and premiums, and life insurance and long term disability insurance.

File 13-0654: The proposed resolution would approve the City's 2014 contribution to the Health Service System Trust Fund, under Charter Section A8.4289, at \$559.65 per member per month.

### Proposed Health Plans

On June 13, 2013, the Health Service Board approved the subject health, vision, and dental plans and monthly premiums for 2014 as follows:

City Plan Preferred Provider Organization (PPO)<sup>1</sup>

The City Plan is a self-funded plan administered by United HealthCare (UHC). The Health Service Board adopted no plan design changes to the City Plan in 2014.

Kaiser and Blue Shield Health Maintenance Organizations (HMO)<sup>2</sup>

Consistent with the 2013 plan year, two HMOs will be offered to HSS members for the 2014 plan year; Kaiser and Blue Shield of California. The Blue Shield HMO plan is a flex-funded product for active and early retiree members. The Health Service Board adopted no plan design changes to the Kaiser HMO or the Blue Shield HMO.

Vision Plans

Members enrolled in one of the three health plans receive vision benefits through Vision Service Plan (VSP), a third party insurer. The VSP plan is a fully-insured plan. The 2014 rates will increase 5.5% which includes 2% due to federal healthcare reform taxes. The cost of the vision plan is added to the cost of the medical plan for all monthly health plan premiums.

**Sources of Health Plan Premium Increases**

The following two major changes will affect health plan premiums and the payment of these premiums in 2014.

(1) The premiums covered by the employer for each health plan will vary according to union membership of the covered employee as per negotiated Memorandum of Understanding (MOU) agreements (please see section entitled, ‘Changes in Contribution Strategy’, below).

(2) Federal healthcare reform will add fees and taxes to the premium calculation (please see section entitled, ‘Impacts of Federal Legislation’, below).

According to Mr. Gregg Sass, Interim CFO at HSS, all other changes in premiums are a result of health plan premium increases and/or savings from under-utilization.

**Changes in Contribution Strategy**Changes in City and County (CCSF) Contribution Strategy

Historically, active CCSF employees have paid nothing for employee-only health and dental insurance coverage. Starting January 1, 2014, in accordance with some union MOU agreements<sup>3</sup>,

<sup>1</sup> Under a PPO, physicians, hospitals, and other providers contract with a third-party administrator or insurer to provide health care at reduced rates to members.

<sup>2</sup> An HMO offers care through a closed panel of providers, in which members select a primary care physician, who coordinates care to direct access to medical services.

<sup>3</sup> According to Mr. Sass, this negotiated change would impact approximately 7,800 employee-only members, which is approximately 70% of active employee-only members, by July 1, 2014. The Health Service Board approved two sets of rates to reflect this change in 2014. One set of rates is for members under this new ‘90/10 Contribution Model’, and the other set of rates is for members under the existing contribution model.

the employee contribution amount will increase to a maximum of 10 percent of the premium. This contribution calculation is called the ‘90/10 Contribution Model’.

Under the ‘90/10 Contribution Model’, the City will contribute the greater of the 10-County average amount (\$559.65) or 90 percent of the employee-only premium for active employees in the Kaiser and Blue Shield populations. For active employee-only members in the City Plan, the City will contribute 90 percent of the Blue Shield employee-only premium plus one-half of the difference between 90 percent of the Blue Shield employee-only premium and 100 percent of the City Plan employee-only premium. This change applies only to those employees that do not have dependent coverage.

The City Charter states, in Section A8.423, “the average contribution made with respect to each employee by said 10 counties toward the health care plans provided for their employees ... **shall be ‘the average contribution’.**” According to Mr. Jon Givner, Deputy City Attorney, the Charter provides the amount that must be contributed to the Health Service System Trust Fund by the City, but that amount is not a ceiling and the City could agree to pay additional amounts to fund employee health care under an MOU with a union representing City employees.

#### HSS Subsidy Option

On June 14<sup>th</sup>, 2013, the Health Service Board approved another set of rates for any union that approves an MOU agreement with the City by July 31, 2013 for a different (flat premium) employee contribution amount for 2015. This flat premium would reflect a trust-funded subsidy for the employee-only employee contribution amount under the ‘90/10 Contribution Model’. The subsidy would smooth member transition to the 2015 contribution model. Unlike the ‘90/10 Contribution Model’, which applies to employee-only members in Blue Shield and the City Plan only, the flat premium would apply to all members of all three plans, including Kaiser. Participation would be broader but the required contribution by individual members would be lower than under the ‘90/10 Contribution Model’. The San Francisco Department of Human Resources is currently involved in MOU negotiations to define the specific rates for this subsidy option.

#### City’s Monthly Premium Costs

As previously noted, the 10-County average determined that the City contribution to the Health Service System Trust Fund in 2014 would be \$559.65 per month. However, Table 1 below shows a “blended” rate for each of the three health plans for 2014 which is a weighted calculation of the City’s contribution payment for active employees based on the proportion of employees subject to the ‘90/10 Contribution Model’ versus the proportion of employees subject to the original rate schedule.

**Table 1**  
**Total Monthly Employer Rate for Active Employees in 2014**

	<b>2013</b>	<b>2014 Proposed</b>	<b>Increase</b>	<b>Percent Change</b>
City Health Plan	\$1,258.97	\$1,046.99	(\$211.98)	(16.84%)
Kaiser	\$537.02	\$562.30	\$25.28	4.71%
Blue Shield	\$647.16	\$612.56	(\$34.60)	(5.35%)

### **Proposed Health Plan Premiums**

#### City Health Plan Premiums

The City Health Plan is self-funded. Amounts to cover premiums are deposited into the Health Service System Trust Fund and used to pay claims. Monthly premium amounts are based on claims experience for each type of plan member: active employees, retirees with Medicare, and retirees without Medicare.

The blended monthly employer rate, or amount that the City will pay, for single employees will decrease by 16.84 percent in 2014, as shown above in Table 1. This decrease is because of utilization savings in prior years, which appears as a rate reduction in 2014.

Under the City Health Plan, employee premiums will decrease in 2014 by approximately 2.7 percent overall, mainly because of prior-year utilization savings and the '90/10 Contribution Model'.

#### Kaiser Premiums

The Kaiser Plan blended monthly employer rate for single employees will increase in 2014 by 4.71 percent, as shown in Table 1 above. Under the Kaiser plan, employee premiums will increase in 2014 by approximately 5.2 percent overall. These premium increases reflect new federal healthcare reform as well as administrative cost increases at Kaiser.

#### Blue Shield Premiums

The Blue Shield Plan blended monthly employer rate for single employees will decrease by 5.35 percent in 2014, as shown in Table 1 above. This is because of the '90/10 Contribution Model' and slightly lower average utilization than expected. Under the Blue Shield plan, employee premiums will stay flat in 2014 except for retiree premiums, which will increase by approximately 6 percent because of federal healthcare reform and health cost increases.

### **Proposed Dental Plans**

The Health Service System offers three dental plans, including one PPO, Delta Dental PPO, and two HMOs: Delta Care USA and Pacific Union Dental. There are no plan changes in the dental plans.

The City does not contribute to the monthly dental premium for retired employees. The City contributes the full monthly premium for active employees for the two HMOs and also

contributes part of the monthly premium for active employees for Delta Dental PPO. As shown in Table 2 below, the City's contribution to premiums will increase up to 4.2% in 2014 for all dental plans except for Pacific Union Dental, whose premiums remain unchanged from 2013.

**Table 2**  
**Total Monthly Dental Premiums**

	2014	2013	Increase/ Decrease	Percent
<b>Delta Care USA HMO</b>				
Single Employee	\$26.95	\$26.00	\$0.95	3.7%
Employee + One Dependent	\$44.46	\$42.90	\$1.56	3.6%
Employee + Two or More Dependents	\$65.76	\$63.45	\$2.31	3.6%
<b>Pacific Union Dental HMO</b>				
Single Employee	\$27.80	\$27.80	\$0.00	0.0%
Employee + One Dependent	\$45.90	\$45.90	\$0.00	0.0%
Employee + Two or More Dependents	\$67.86	\$67.86	\$0.00	0.0%
<b>Delta Dental PPO</b>				
Single Employee (Total Premium)	\$65.95	\$63.47	\$2.48	3.9%
Less Employee Contribution	<u>(\$5.00)</u>	<u>(\$5.00)</u>	\$0.00	0.0%
City's Contribution	\$60.95	\$58.47	\$2.48	4.2%
Employee + One Dependent (Total Premium)	<u>\$138.49</u>	\$133.29	\$5.20	3.9%
Less Employee Contribution	<u>(\$10.00)</u>	<u>(\$10.00)</u>	\$0.00	0.0%
City's Contribution	\$128.49	\$123.29	\$5.20	4.2%
Employee + Two or More Dependents (Total Premium)	\$197.84	\$190.42	\$7.42	3.9%
Less Employee Contribution	<u>(\$15.00)</u>	<u>(\$15.00)</u>	\$0.00	0.0%
City's Contribution	\$182.84	\$175.42	\$7.42	4.2%

#### *Contingency and Stabilization Amounts*

The HSS sets aside a portion of the Trust Fund balance<sup>4</sup> to provide contingencies for the self-funded dental plan, Delta Dental PPO, and to stabilize employees' dental plan premium increases. The member contributions for Delta Dental PPO plan for retirees, Delta Care USA dental plans for employees and retirees, and Pacific Union Dental plans for employees and retirees remain unchanged from the prior plan year. Pursuant to the Health Service's Self-Funded Plans' Funding Policy, no claims stabilization amount has been applied this year.

#### **Life and Long Term Disability Insurance**

The Health Service System will continue its contract with Aetna Life Insurance Company in 2014. In January 2013, Aetna Life Insurance Company was selected through a Request for Proposal (RFP) process to provide life and long term disability insurance to City employees eligible for coverage through their MOUs between the City and the respective unions.

<sup>4</sup> The Employee Benefit Trust Fund is funded via payroll deductions and employer contributions. Those amounts are paid into the Trust Fund and premiums are paid by the Trust Fund. The fund balance is what remains after accruing all liabilities for unpaid premiums and incurred but not reported expenses of self-insurance programs. As of June 30, 2012, the fund balance in the Trust Fund was \$53.2M, which is projected to increase to \$69.5M by June 30, 2013.

## Impacts of Federal Legislation

As of January 1, 2014, a provision of the Federal Patient Protection and Affordable Care Act (PPACA) will take effect, introducing the Federal PPACA Legislative Fees. Implementation of another provision previously scheduled to take effect in 2014, the Federal PPACA Full Time Employee requirements, has been deferred by the federal government until 2015. Both of these provisions are briefly summarized below. Implementation of an additional provision, Federal PPACA Automatic Enrollment, has also been deferred because the Department of Labor stated that it will not issue final guidance on Automatic Enrollment until 2014. In addition to Federal PPACA requirements, the 2009 American Recovery and Reinvestment Act established a temporary Early Retiree Reinsurance Program (ERRP), also summarized below.

### Federal PPACA Full Time Employee requirements

A current assessment by HSS indicates that no additional payments will be incurred under this federal legislation because both the City and the Superior Courts offer coverage to all full time employees. HSS is still working with the San Francisco Community College District (SFCCD) and the San Francisco Unified School District (SFUSD) and to assess their compliance with federal PPACA requirements. On July 2, 2013 this PPACA requirement was deferred until 2015.

### Federal PPACA Legislative Fees

As a result of the federal PPACA, there are two direct fees and one tax that have been factored into the calculation of medical premium rates and premium equivalents for the 2014 plan year. The three fees are the Health Insurer Tax (HIT), Patient Centered Outcomes Research Institute (PCORI) fee, and the Transitional Reinsurance fee. Table 3 (below) summarizes the estimated cost of each of these legislative fees for 2014 for the City and County of San Francisco.<sup>5</sup>

**Table 3  
Federal PPACA Legislative Fees and Taxes (\$ Millions) in 2014**

	HIT	PCORI	Transitional Reinsurance	Total
City Plan (UHC)	\$0.00	\$0.01	\$0.13	<b>\$0.14</b>
Kaiser	\$2.15	\$0.09	\$2.10	<b>\$4.33</b>
Blue Shield	\$6.27	\$0.07	\$1.91	<b>\$8.26</b>
Delta	\$0.00	N/A	N/A	<b>\$0.00</b>
VSP	\$0.07	N/A	N/A	<b>\$0.07</b>
<b>Total</b>	<b>\$8.49</b>	<b>\$0.18</b>	<b>\$4.13</b>	<b>\$12.80</b>

<sup>5</sup> The HSS Trust Fund serves four employers: The City and County of San Francisco, the Superior Courts, San Francisco Community College District and the San Francisco Unified School District (CCSF, CRT, SFCCD, and SFUSD). The costs shown in Table 3 reflect only those PPACA charges incurred by CCSF.

### Early Retiree Reinsurance Program Reimbursements

The 2009 American Recovery and Reinvestment Act established the temporary Early Retiree Reinsurance Program (ERRP) as an incentive for employers to continue early retiree health insurance coverage. This program provided federal reimbursement to eligible sponsors of employment-based plans for a portion of the costs of providing health coverage to early retirees, during the period beginning on the date the program was established, and ending on December 31, 2013. The total ERRP amount received by HSS from the federal government with interest is \$3,812,749. A plan sponsor may use these ERRP reimbursements to reduce the sponsor's health benefit premiums or costs, to reduce costs for plan participants, or to reduce any combination of these costs.

However, ERRP regulations stipulate a Maintenance of Contribution (MOC), requiring that the City continue to provide at least the same level of contribution to support each plan if any of the reimbursement funds are used to offset City costs, rather than exclusively used to offset employee contributions.

On January 10, 2013, the Health Service Board approved spending the ERRP reimbursement funds exclusively to reduce participant premium contributions in order to decrease both participant and employer premiums through stabilizing membership and premium rates, which will allow HSS to bypass the MOC calculation requirements. The Health Service Board also approved apportioning the ERRP reimbursement funds based on the amount of premiums paid into each plan in proportion to each set of rates paid in 2013.

## **FISCAL ANALYSIS**

The City's cost for health and other plans is funded by charges to each City Department for the cost of employee benefits.

As shown in Table 4 below, the total City, employee, and retiree costs for the health, vision, and dental plans, and long-term disability and life insurance will increase to \$595,803,151 in 2014, which is a \$4,054,015, or 0.7 percent increase from \$591,749,136 in FY 2013.

**Table 4**  
**Total Health and Other Plan Costs for the City, Employees, and Retirees in 2014**  
**Compared to 2013**

	2013	2014	Increase/ (Decrease)	Percent
<b>City Costs Only</b>				
Kaiser HMO	\$213,512,253	\$227,362,649	\$13,850,396	6.5%
Blue Shield HMO	220,221,904	218,316,125	(1,905,779)	-0.9%
City Plan	48,002,758	40,740,923	(7,261,834)	-15.1%
Subtotal Health and Vision Plan	481,736,914	486,419,697	4,682,783	1.0%
Dental	31,123,486	31,959,386	835,900	2.7%
Long Term Disability and Life Insurance	4,784,845	4,784,845	0	0.0%
<b>Total City Costs</b>	<b>\$517,645,245</b>	<b>\$523,163,928</b>	<b>\$5,518,683</b>	<b>1.1%</b>
<b>Employee and Retiree Costs Only</b>				
Kaiser HMO	\$21,223,163	\$23,124,625	\$1,901,462	9.0%
Blue Shield HMO	37,951,651	36,603,898	(1,347,753)	-3.6%
City Plan	12,285,682	10,267,304	(2,018,378)	-16.4%
Subtotal Health and Vision Plan	71,460,496	69,995,828	(1,464,668)	-2.0%
Dental	2,582,155	2,582,155	0	0.0%
Long Term Disability and Life Insurance	61,240	61,240	0	0.0%
<b>Total Employee and Retiree Costs</b>	<b>\$74,103,891</b>	<b>\$72,639,223</b>	<b>(\$1,464,668)</b>	<b>-2.0%</b>
<b>Total Costs</b>				
Kaiser HMO	\$234,735,416	\$250,487,274	\$15,751,859	6.7%
Blue Shield HMO	258,173,555	254,920,023	(3,253,532)	-1.3%
City Plan	60,288,439	51,008,228	(9,280,212)	-15.4%
Subtotal Health and Vision Plan	553,197,410	556,415,525	3,218,115	0.6%
Dental	33,705,642	34,541,541	835,900	2.5%
Long Term Disability and Life Insurance	4,846,084	4,846,084	0	0.0%
<b>Total Costs</b>	<b>\$591,749,136</b>	<b>\$595,803,151</b>	<b>\$4,054,015</b>	<b>0.7%</b>

Of the total 2014 costs of \$595,803,151 shown in Table 4 above, the City's total costs (excluding employee or retiree contributions) is \$523,163,928, or approximately 87.8 percent of the total costs. Overall, the City's total cost of \$523,163,928 in 2014 for the health, vision, and dental plans, and long-term disability and life insurance, is \$5,518,683, or 1.1 percent more than the costs for these plans in 2013 of \$517,645,245.

## RECOMMENDATIONS

- Approve the proposed ordinance (File 13-0653) to amend Administrative Code Section 16.703, establishing the Health Service System's 2014 health, vision, and dental plans and premiums.
- Approve the proposed resolution (File 13-0654), setting the City's 2014 contribution to the Health Service System Trust Fund, under the Charter, of \$559.65 per member per month.

**Item 9**  
**File 13-0626**

**Department(s):**  
Controller's Office of Public Finance  
San Francisco Municipal Transportation Agency (SFMTA)

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed resolution would authorize the execution and delivery (issuance) of commercial paper certificates, in an aggregate principal amount not to exceed \$100,000,000 to provide interim financing for San Francisco Municipal Transportation Agency's (SFMTA) capital improvements and other SFMTA-related uses and approve the forms of the (a) Issuing and Paying Agent Agreement (IPA), (b) Letter of Credit and Reimbursement Agreement, (c) Dealer Agreement, (d) Fee Letter, and (e) Commercial Paper Note Offering Memorandum. This would result in the creation of SFMTA's Commercial Paper Program, which is not currently in place.

### Key Points

- The IPA agreement with the paying agent, US Bank, provides SFMTA-authorization of the issuance of commercial paper in an amount not to exceed \$100,000,000 and stipulates (a) SFMTA-generated revenues would be used as security for the issuance of commercial paper, (b) proceeds of commercial paper may be used to pay principal and interest due, (c) commercial paper cannot be redeemed prior to the maturity date, and (d) the principal of and interest on the commercial paper are not payable from the City's General Fund transfers to SFMTA or directly from the City's General Fund.
- The reimbursement agreement (a) provides for an irrevocable letter of credit cover the principal on the not-to-exceed \$100,000,000 in commercial paper as well as the interest on the commercial paper accrued on the 270 days prior to the maturity date, (b) requires SFMTA to repay the bank on amounts drawn under the letter of credit, (c) sets a five-year term for the letter of credit; and (d) requires that the interest rate not exceed 12 percent annually.
- The dealer agreement includes a term not less than one year with a cost not to exceed 0.05 percent annually of the weighted average of the principal amount of commercial paper remaining outstanding each quarter to be paid by SFMTA on a quarterly basis and a stipulation that the commercial paper will reach maturity in 270 days;

### Fiscal Impact

- The letter of credit is estimated to be for a total of \$108,876,712, to account for the maximum amount of possible interest (12 percent) equal to \$8,876,712 on the \$100,000,000 when the commercial paper matures after 270 days.
- Based on a letter of credit of \$108,876,712, annual fees for the \$100,000,000 commercial paper issuance are estimated to equal \$657,990 and the one-time estimated cost of authorizing the execution and delivery of the \$100,000,000 in commercial paper is \$362,000, resulting in a total cost of \$1,019,990 in the first year and \$657,990 in subsequent years.

### Recommendation

- Approve the proposed resolution.

## MANDATE STATEMENT/BACKGROUND

### Mandate Statement

City Charter Section 8A.102(b)13 gives San Francisco Municipal Transportation Agency (SFMTA) the authority, without voter approval, to incur debt for SFMTA-purposes and to issue or cause to be issued bonds, notes, certificates of indebtedness, commercial paper, financing leases, certificates of participation or any other debt instruments, subject to Board of Supervisors approval.

### Background

Commercial paper is an alternative form of short-term interim financing for capital projects that permits the City to pay project costs on an ongoing basis. Commercial paper notes are issued and short-term debt is incurred only when needed to pay project costs as they are incurred, supported by a letter of credit issued by a bank. Commercial paper has a fixed maturity date from one to 270 days (approximately nine months), compared with a final maturity of 20 to 30 years for long-term debt, such as revenue bonds. On the maturity date, the commercial paper may be refinanced with subsequent issuances of commercial paper notes or retired through the issuance of long-term revenue bonds or other available repayment sources, such as grants.

The use of commercial paper can reduce overall borrowing costs associated with the issuance of long term debt because commercial paper interest rates are typically lower than long term interest rates.

Based on the SFMTA Board of Directors' approval of a \$3.06 billion FY 2013-17 capital improvement program and a capital budget of \$477,800,000 for FY 2013-14, Ms. Sonali Bose, Chief Financial Officer for SFMTA, advises that SFMTA wishes to begin utilizing commercial paper to finance various capital projects, such as the Central Subway project and pedestrian safety/traffic signal improvements. Specific capital projects to be funded with commercial paper would be identified on an ongoing basis.

The City's Charter<sup>1</sup> gives SFMTA the authority to issue various types of debt, including commercial paper, subject to Board of Supervisors approval. Prior to Board of Supervisors approval, the Controller must first certify that sufficient encumbered balances are anticipated to be available to meet debt payment obligations and any SFMTA-incurred debt must be secured by revenues or assets under SFMTA's jurisdiction.

According to Ms. Bose, SFMTA has worked closely with the Controller's Office of Public Finance in the establishment of SFMTA's commercial paper program and the Office of Public Finance is expected to administer the commercial paper program in partnership with SFMTA. The Office of Public Finance would be responsible for initiating the issuance of commercial paper with the commercial paper dealers<sup>2</sup> and reporting on the Commercial Paper Program.

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<sup>1</sup> City Charter 8A.102(b)13

<sup>2</sup> Commercial paper dealers purchase commercial paper directly from issuers, which are immediately resold to investors.

SFMTA would be responsible for requesting drawdowns of funds from the bank issuing the letter of credit based on the cash flow needs of specific SFMTA projects and the related encumbrance and expenditure schedules.

SFMTA and the Controller's Office of Public Finance jointly issued a Request for Proposal (RFP) on March 13, 2013 for letters of credit to issue commercial paper for the SFMTA and the City (not part of this resolution). SFMTA received seven responses, which were evaluated based on strength of the bank, debt coverage requirements, credit rating requirements, term, default provisions, and proposed fees by a review panel consisting of staff from SFMTA, the Office of Public Finance, the City Attorney's Office, as well as external legal counsel and financial advisors. State Street Bank was selected to be the bank issuing the letter of credit as a result of this competitive process.

The commercial paper dealers were selected through a RFP issued on April 10, 2013, which was limited to underwriters in the existing City pool. SFMTA received nine bids and the review panel selected Loop Capital and Morgan Stanley. The paying agent<sup>3</sup> was selected through a RFP issued on April 29, 2013. SFMTA received two bids and the review panel selected US Bank.

On June 4, 2013, the SFMTA Board of Directors authorized the execution and delivery of commercial paper certificates, in an aggregate principal amount not to exceed \$100,000,000 as well as the forms of the (a) Issuing and Paying Agent Agreement, (b) Letter of Credit and Reimbursement Agreement, (c) Dealer Agreement, (d) Fee Letter, and (e) Commercial Paper Note Offering Memorandum (SFMTA Resolution No. 13-071).

On July 1, 2013 the Controller certified that (a) SFMTA is anticipated to have sufficient encumbered balances to be available to meet the subject debt payment obligations, (b) the commercial paper notes are secured by revenues or assets under the jurisdiction of SFMTA, and (c) no City General Fund moneys have been pledged to make payment of the commercial paper.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the execution and delivery (issuance) of commercial paper certificates, in an aggregate principal amount not to exceed \$100,000,000 to provide interim financing for SFMTA's capital improvements and other SFMTA-related uses and approve the forms of the (a) Issuing and Paying Agent Agreement (IPA), (b) Letter of Credit and Reimbursement Agreement, (c) Dealer Agreement, (d) Fee Letter, and (e) Commercial Paper Note Offering Memorandum. This would result in the creation of SFMTA's Commercial Paper Program, which is not currently in place.

### *IPA Agreement<sup>4</sup>*

The IPA agreement with the paying agent, US Bank, provides SFMTA-authorization of the issuance of commercial paper in an amount not to exceed \$100,000,000 and stipulates:

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<sup>3</sup> The paying agent is responsible for the coordination and issuance of the commercial paper.

<sup>4</sup> An issuing and paying agent agreement is an agreement between the debt issuer (SFMTA) and a paying agent that coordinates the issuance of commercial paper.

- SFMTA-generated revenues would be used as security for the issuance of commercial paper;
- Proceeds of commercial paper may be used to pay principal and interest due;
- Commercial paper cannot be redeemed prior to the maturity date; and
- The principal of and interest on the commercial paper are not payable from the City's General Fund transfers to SFMTA or directly from the City's General Fund.

### ***Letter of Credit and Reimbursement Agreement***<sup>5</sup>

The reimbursement agreement:

- Provides for an irrevocable letter of credit that would cover the principal on the not-to-exceed \$100,000,000 in commercial paper as well as the interest on the commercial paper accrued on the 270 days prior to the maturity date;
- Requires SFMTA to repay the bank on amounts drawn under the letter of credit;
- Sets a five-year term for the letter of credit; and
- Requires that the interest rate not exceed 12 percent annually.

According to Ms. Bose, SFMTA currently expects to enter into a reimbursement agreement with State Street Bank resulting in annual letter of credit fees of approximately 0.535 percent<sup>6</sup> and an interest rate of 0.25 percent.

### ***Dealer Agreement***<sup>7</sup>

The dealer agreement includes:

- A term not less than one year with a cost not to exceed 0.05 percent annually of the weighted average of the principal amount of commercial paper remaining outstanding each quarter to be paid by SFMTA on a quarterly basis;
- Stipulation that the commercial paper will reach maturity in 270 days;

As noted above, SFMTA has selected Loop Capital and Morgan Stanley as commercial paper dealers.

### ***Fee Letter/Agreement***<sup>8</sup>

The fee letter/agreement summarizes SFMTA's agreement to pay:

- A non-refundable letter of credit fee quarterly of 0.535 percent;

<sup>5</sup> A reimbursement agreement is an agreement between SFMTA and a bank which (a) provides a letter of credit supporting the SFMTA's commercial paper, which is necessary to sell SFMTA's commercial paper, such that if SFMTA is unable to make required payments to Commercial Paper investors, the bank shall make such payments on behalf of SFMTA, and (b) sets forth the terms under which the SFMTA reimburses the bank for those payments made by the bank to the SFMTA's commercial paper investors on behalf of SFMTA.

<sup>6</sup> The current fee structure assumes that the SFMTA's senior lien revenue bonds credit rating remains at its current rating level from S&P of "A" and that the Moody's rating does not decline below "A2" (it is currently "Aa3"). The commitment fee may be increased in increments of 0.10 percent for every notch rating downgrade below the ratings of "A3" or "A-". Should the SFMTA's senior lien revenue bonds credit rating fall below "Baa1" and "BBB+" this would trigger a default.

<sup>7</sup> A dealer agreement sets forth the terms for the commercial paper dealer, who is responsible for the marketing and selling of the commercial paper on behalf of SFMTA.

<sup>8</sup> A fee letter/agreement confirms the fees associated with the letter of credit and other fees payable by SFMTA to State Street Bank.

- A drawing fee of \$250 for each drawing of funds under the letter of credit;
- A transfer fee of \$5,000 for each transfer of the letter of credit;
- An amendment fee of \$5,000 for any change in the terms of pledged security, collateral, covenants, or provisions in the letter of credit, the reimbursement agreement, or related documents;
- A termination fee for termination or replacement of the letter of credit prior to the one year anniversary of the closing date<sup>9</sup>;
- A reduction fee for permanently reducing the amount of the letter of credit prior to the one year anniversary of the closing date<sup>10</sup>; and
- All reasonable out-of-pocket administrative expenses and other out-of-pocket expenses with respect to the reimbursement agreement, the letter of credit, and other related documents.

### *Commercial Paper Note Offering Memorandum (CP Memo)*<sup>11</sup>

The CP memo is a summary of the terms of the SFMTA's issuance of commercial paper included in the letter of credit, including interest and other terms, as described above in the other documents subject to approval of the proposed resolution as well as a description of State Street Bank, who is a party to the reimbursement agreement.

## **FISCAL IMPACT**

Ms. Bose advises that the letter of credit is estimated to be for a total of \$108,876,712, to account for the maximum amount of possible interest (12 percent) equal to \$8,876,712 on the \$100,000,000 when the commercial paper matures after 270 days.

As shown in Table 1 below, based on a letter of credit of \$108,876,712, annual fees for the \$100,000,000 commercial paper issuance are estimated to equal \$657,990. SFMTA has budgeted \$700,000 annually for these costs in both the FY 2013-14 and FY 2014-15 budgets, funded from SFMTA's operating revenues.

<sup>9</sup> The termination fee is equal to the product of (a) the letter of credit fee rate in effect on the date of termination or replacement, (b) the amount available under the letter of credit as of the date of termination, and (c) a fraction of which the numerator is the number of days from the date of termination to the one year anniversary of the closing date with the denominator equal to 360.

<sup>10</sup> The reduction fee is equal to the product of (a) the letter of credit fee rate in effect on the date of the reduction, (b) the difference between the amount prior to the reduction and the amount after the reduction, and (c) a fraction of which the numerator is the number of days from the date of the reduction to the one year anniversary of the closing date with the denominator equal to 360.

<sup>11</sup> A CP memo describes the term and security for the commercial paper, including a description of the bank and the letter of credit. The CP memo is utilized by the commercial paper dealer(s) as the disclosure document in the sale of the commercial paper and contains no financial information.

**Table 1: Summary of Estimated Annual Fees for SFMTA's Commercial Paper Issuance**

Letter of Credit Fee (0.535%)	\$582,490
Dealer Fee (0.05%)	50,000
Credit Surveillance Fee <sup>12</sup>	23,500
IPA Fee <sup>13</sup>	2,000
<b>Total</b>	<b>\$657,990</b>

In addition, as shown in Table 2 below, the one-time estimated cost of authorizing the execution and delivery of the \$100,000,000 in commercial paper is \$362,000, resulting in a total cost of \$1,019,990 (\$657,990 plus \$362,000) in the first year and \$657,990 in subsequent years. The one-time costs are primarily for preparation of required documents for the commercial paper issuance. Ms. Bose advises that the cost of issuance would be paid from SFMTA's operating revenues and have been budgeted in SFMTA's FY 2013-14 budget.

**Table 2: Estimated Cost of Authorizing the \$100,000,000 in Commercial Paper**

Rating Agencies	\$40,000
Letter of Credit Counsel	60,000
Bond Counsel	125,000
Printer	5,000
IPA Fees	2,000
Financial Advisors	125,000
Miscellaneous Closing Costs	5,000
<b>Total</b>	<b>\$362,000</b>

Ms. Bose advises that the commercial paper may be refinanced with the subsequent issuance of commercial paper notes once the original commercial paper issuance reaches maturity for up to 5 years, which is the term of the reimbursement agreement. SFMTA currently plans to repay the commercial paper through pending revenue sources, such as grants which have been previously approved but whose funds have yet to be received by SFMTA. Alternatively, the commercial paper could be repaid through revenue bonds issued by SFMTA after 2013 if other sources of revenue are not sufficient to repay the commercial paper.

According to Ms. Nadia Sesay, Director of the Office of Public Finance, savings on the SFMTA's use of commercial paper as interim financing cannot be calculated because SFMTA is in the early stages of developing a debt program. While SFMTA's Commercial Paper Program would provide cost-effective borrowing to meet cash flow needs for the Central Subway project and delivery of ongoing capital project as the SFMTA's debt program is developed and expands over time, a cost savings analysis is not available at this time.

## RECOMMENDATION

Approve the proposed resolution.

<sup>12</sup> The credit surveillance fee is the fee charged for two credit rating agencies to monitor SFMTA's credit rating, as required by most investors purchasing short-term securities, such as commercial paper.

<sup>13</sup> The IPA fee is for the coordination and issuance of the commercial paper by the IPA.

<b>Item 10</b> <b>File 13-0627</b>	<b>Department(s):</b> Controller's Office of Public Finance
<b>EXECUTIVE SUMMARY</b>	
<p style="text-align: center;"><b>Legislative Objective</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution would authorize the execution and delivery (issuance) of commercial paper certificates, in an aggregate principal amount not to exceed \$100,000,000 to provide interim financing for Board of Supervisors-approved City capital projects and approve and authorize execution of the form of the site lease, site sublease, reimbursement agreement, fee agreement, and offering memorandum. In addition, the proposed resolution would authorize the Controller and the Director of the Office of Public Finance to negotiate a dealer agreement for the \$100,000,000 in commercial paper.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• Increasing the Commercial Paper Program by \$100,000,000 allows the Office of Public Finance to yield the lowest overall borrowing cost to the City by delaying issuances of long-term financing in favor of commercial paper, which typically has lower interest rates and is therefore less costly to the City.</li> <li>• The reimbursement agreement and associated letter of credit have requirements consistent with the original approval of the City's Commercial Paper Program: the term may not be for less than one year, the interest on any unreimbursed borrowed amounts may not exceed 12 percent annually, and the fees paid for the letter of credit may not exceed 2.0 percent annually. The Office of Public Finance selected State Street Bank and Trust Company (State Street Bank) to provide a not-to-exceed \$100,000,000 letter of credit via a competitive process.</li> <li>• The selection of commercial paper dealer(s) would be done through a competitive process and a dealer agreement would have a term of at least one year with a cost not to exceed 0.125 percent annually of the weighted average of the principal amount of commercial paper notes outstanding each quarter.</li> <li>• The Department of Real Estate has determined that real property assets serving as security in the lease structure for the City's Commercial Paper Program expansion have a value of \$307,800,000, or 123.1 percent of the total requested borrowing capacity of \$250,000,000.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• The estimated total one-time costs of authorizing the execution of delivery of the \$100,000,000 in commercial paper are \$449,750 and ongoing annual fees are \$619,800, resulting in a total estimated cost of \$1,069,550 in the first year and \$619,800 in subsequent years.</li> <li>• If an additional \$160,000,000 in commercial paper were utilized to finance City-approved projects over the next two years, which is the amount currently planned, the City would achieve an estimated minimum of \$9,866,672 in savings.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul>	

## MANDATE STATEMENT/BACKGROUND

### Mandate Statement

According to Charter Section 9.113(e), the Board of Supervisors has the authority to borrow money by the issuance of tax anticipation notes, temporary notes, commercial paper, or other short-term debt instruments.

### Background

Commercial paper is an alternative form of short-term interim financing for capital projects that permits the City to pay project costs on an ongoing basis. Commercial paper notes are issued and short-term debt is incurred only when needed to pay project costs as they are incurred, supported by a letter of credit issued by a bank. Commercial paper has a fixed maturity date from one to 270 days (approximately nine months), compared with a fixed maturity of 20 to 30 years for long-term debt, such as General Obligation bonds. Commercial paper may be issued in anticipation of the issuance of previously authorized, but not yet issued, long term debt or for the delivery of ongoing capital projects.

The use of commercial paper can reduce overall borrowing costs associated with the issuance of long term debt because commercial paper interest rates are typically lower than long term interest rates.

The City's Commercial Paper Program uses City property as security for the commercial paper under an asset transfer structure. Under such an asset transfer procedure, the City leases property to a trustee in consideration for the proceeds of any commercial paper issued, and the trustee subsequently subleases the same property back to the City in consideration for rent payments equal to the debt service due on the commercial paper.

On March 17, 2009, the Board of Supervisors approved the creation of the City's Commercial Paper Program, which allows for a maximum amount of outstanding commercial paper of \$150,000,000<sup>1</sup> (Resolution No. 85-09) as well as forms of the Trust Agreement, the Site Lease and Site Sublease, and the Delivery and Paying Agent Agreement. In addition, the Board of Supervisors authorized the Director of Public Finance to determine the form of the reimbursement agreement<sup>2</sup> and dealer agreement<sup>3</sup>, subject to subsequent approval by the Board of Supervisors, with the following requirements:

- The term of any letter of credit may not be for less than one year;

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<sup>1</sup> This excludes other Departments with separate commercial paper programs, such as the Airport and the San Francisco Public Utilities Commission.

<sup>2</sup> A reimbursement agreement is an agreement between the City and a bank which (a) provides a letter of credit supporting the City's commercial paper, which is necessary to sell the City's commercial paper, such that if the City is unable to make required payments to Commercial Paper investors, the bank shall make such payments on behalf of the City, and (b) sets forth the terms under which the City reimburses the bank for those payments made by the bank to the City's commercial paper investors on behalf of the City

<sup>3</sup> A dealer agreement sets forth the terms for the commercial paper dealer, who is responsible for the marketing and selling of the commercial paper on behalf of the City.

- The interest rate may not exceed 12 percent annually and the amortization may not be less than three years;
- The cost of the letter of credit may not exceed 2 percent annually.

On April 6, 2010, the Board of Supervisors approved the form of the reimbursement agreement and dealer agreement as well as the execution and delivery of one or more dealer agreements (Resolution No. 136-10).

The City currently has two letters of credit totaling \$100,000,000, with \$50,000,000 provided by J. P. Morgan Chase and \$50,000,000 provided by US Bank. As noted above, according to Ms. Nadia Sesay, Director of the Office of Public Finance, the City currently has the option to increase the Commercial Paper Program by an additional \$50,000,000, or to a total of \$150,000,000. Ms. Sesay advises that the City currently has a remaining capacity of approximately \$55,277,000 out of the total \$100,000,000 existing City Commercial Paper Program to support the City's capital program needs, such that the option to increase the Commercial Paper Program by an additional \$50,000,000, would result in a total of \$105,277,000 in current borrowing capacity.

As shown in Table 1 below, the City-owned properties that serve as the security for the existing Commercial Paper Program have a combined value of \$111,100,000.

**Table 1: Estimated Values and Locations of City-Owned Properties Securing the Existing Commercial Paper Program**

Bureau of Engineering Office	1680 Mission St.	\$6,800,000
Corporate Yard	2325 Cesar Chavez St.	46,000,000
Fire College	2310 Folsom St.	7,500,000
Northern Police Station	1125 Fillmore St.	6,400,000
Police Academy	350 Amber St.	29,000,000
Public Health Central Office	101 Grove Street	15,400,000
<b>Total</b>		<b>\$111,100,000</b>

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the execution and delivery (issuance) of commercial paper certificates, in an aggregate principal amount not to exceed \$100,000,000 to provide interim financing for Board of Supervisors-approved City capital projects<sup>4</sup> and approve and authorize execution of the form of the site lease, site sublease, reimbursement agreement, fee agreement, and offering memorandum. In addition, the proposed resolution would authorize the Controller and the Director of the Office of Public Finance to negotiate a dealer agreement for the \$100,000,000 in commercial paper.

<sup>4</sup> The Board of Supervisors previously approved capital projects to be eligible to draw from the City's Commercial Paper Program. These projects are: (1) Department of Public Works-Capital Equipment Acquisitions, (2) The City's public housing project, HOPE SF, (3) Moscone Expansion Project, (4) War Memorial Veterans Building Seismic Retrofit, (5) Port projects, including development of the Pier 27 Cruise Terminal and infrastructure and mitigation requirements related to the 34<sup>th</sup> America's Cup.

Given that the City's Commercial Paper Program currently allows for a maximum amount of outstanding Commercial Paper of \$150,000,000, approval of the proposed resolution would increase this authorization by \$100,000,000 to result in a maximum outstanding commercial paper authorization of up to \$250,000,000 in the City's Commercial Paper Program.

According to Ms. Sesay, the need for the requested \$100,000,000 increase is a combination of factors, including (a) demand for the Commercial Paper Program, (b) current commercial paper pricing, and (c) commercial paper's ability to provide flexibility in meeting various City projects' funding needs. In addition, Ms. Sesay took into account the cost of administering the program, the timing of delivery of the various previously approved capital projects and the availability of City-owned properties to serve as security when deciding upon the subject \$100,000,000 expansion.

The Board of Supervisors has previously approved an aggregate amount of \$761,000,000 in long-term financing for various projects consistent with the City's Ten-Year Capital Plan. Increasing the Commercial Paper Program by \$100,000,000 allows the Office of Public Finance to yield the lowest overall borrowing cost to the City by delaying issuances of long-term financing in favor of Commercial Paper, which, as noted above, typically has lower interest rates and is therefore less costly to the City. In addition, the financial markets have significantly improved since the inception of the City's Commercial Paper Program, resulting in lower interest rates and borrowing costs.

The remaining \$50,000,000 currently available for use in the City's Commercial Paper Program, along with the proposed additional \$100,000,000, allows the City to meet the funding needs of the City's capital projects included in the Ten-Year Capital Plan.<sup>5</sup>

### ***Reimbursement Agreement***

Under the proposed resolution, the reimbursement agreement and associated letter of credit have requirements consistent with the original approval of the City's Commercial Paper Program: the term may not be for less than one year, the interest on any unreimbursed borrowed amounts may not exceed 12 percent annually, and the fees paid for the letter of credit may not exceed 2.0 percent annually.

According to Ms. Sesay, the Office of Public Finance selected State Street Bank and Trust Company (State Street Bank) to provide a not-to-exceed \$100,000,000 letter of credit via a competitive process. The City would be required to repay State Street Bank if amounts are drawn under the letter of credit in accordance with the reimbursement agreement. State Street Bank would be repaid from the remarketing of commercial paper or from the proceeds of long-term financing. If advances from State Street Bank were not immediately repaid, the interest rates for the commercial paper certificates could reach, but not exceed, 12 percent annually.

Ms. Sesay advises that the Office of Public Finance expects to enter into a reimbursement agreement with State Street Bank with the following provisions:

1. A term of approximately five years;

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<sup>5</sup> The Office of Public Finance coordinates the commercial paper use among the various capital projects.

2. A commitment fee of 0.5 percent of the full amount of the credit support provided under the reimbursement agreement, or approximately \$500,000 annually; and
3. Interest rate on unreimbursed borrowed amounts not exceeding 12 percent annually<sup>6</sup> and currently anticipated to equal 0.25 percent.

The above provisions meet the requirements set by the original approval of the City's Commercial Paper Program and the proposed resolution.

### ***Dealer Agreement<sup>7</sup>***

Ms. Sesay advises that the Office of Public Finance currently anticipates the selection of commercial paper dealer(s) via a competitive process and to enter into a dealer agreement with a term of at least one year with a cost not to exceed 0.125 percent annually of the weighted average of the principal amount of commercial paper notes outstanding each quarter.

### ***Leased Assets for Additional \$100,000,000 in City Commercial Paper Program***

According to Ms. Sesay, the real property assets serving as security in the lease structure for the City's Commercial Paper Program expansion would have a value of approximately 125 percent of the total borrowing capacity of \$250,000,000 under the City's Commercial Paper Program, or \$312,500,000, of which \$111,100,000 has already been identified (See Table 1 above). The Office of Public Finance, in consultation with the Department of Real Estate, has identified City-owned real property assets to serve as security and support the expansion of the City's Commercial Paper Program. These City-owned real property assets, which are listed below in Table 2, have a preliminary total combined value of \$196,700,000. Mr. John Updike, Director of the Department Real Estate, advises that this total combined value is conservative and likely will increase upon further examination. However, based on the information Mr. Updike has provided to date, the total real property assets have a value of \$307,800,000 (\$111,100,000 plus \$196,700,000), or 123.1 percent of the total requested borrowing capacity of \$250,000,000.

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<sup>6</sup> If the interest on any bank bond exceeds 12 percent annually due to an increase in general market interest rates, the City would pay interest not exceeding 12 percent annually, with any interest in excess of 12 percent deferred until such a time that the interest rate falls below 12 percent with no interest accruing on any unpaid and deferred interest.

<sup>7</sup> The current fee structure assumes that the City's General Fund-secured obligations credit rating remains at its current rating level of Aa3/AA-/AA- by Moody's Investors Service ("Moody's"), Standard & Poor's ("S&P"), and Fitch Ratings, respectively (collectively, the "Rating Agencies"). The commitment fee may be increased in increments of 0.10% for every notch rating downgrade by two rating agencies below Aa3/AA-/AA-. Should the City's general fund secured obligations credit rating fall below Baa3/BBB-/BBB-, the Reimbursement Agreement would terminate and amounts owing to the Banks would be immediately due and payable.

**Table 2: Properties Proposed to Secure the \$100,000,000 Expansion of the City's Commercial Paper Program**

Alemany Market	100 Alemany	\$30,000,000
Taraval Police Station	2345 24 <sup>th</sup> Street	5,400,000
Department of Public Health Offices	2789 25 <sup>th</sup> Street	15,000,000
Fire Station 1	935 Folsom	6,000,000
Central Shops	1758 Jerrold St.	20,000,000
Fire Station 10	655 Presidio	4,000,000
Fire Station 9	2245 Jerrold St.	6,600,000
Human Services Central Office	150 Otis St.	25,700,000
Public Safety Building Housing New Police Dept. Headquarters and Fire Station 4	Mission Bay (no specific address available)	84,000,000
<b>Total</b>		<b>\$196,700,000</b>

## FISCAL IMPACT

As shown in Table 3 below, the estimated total one-time costs of authorizing the execution of delivery of the \$100,000,000 in commercial paper are approximately \$449,750.

**Table 3: Estimated Costs of Authorizing the \$100,000,000 in Commercial Paper**

Rating Agencies	\$55,000
Bond Counsel	105,000
Printer	4,000
Issuing and Paying Agent Fees	4,600
Financial Advisors	80,000
Property Insurance	7,000
Title Insurance	85,000
Trustee Fee	3,000
City Department Staff Time	105,000
Miscellaneous Closing Costs	1,150
<b>Total</b>	<b>\$449,750</b>

As shown in Table 4 below, ongoing annual fees for the additional \$100,000,000 commercial paper issuance are estimated to equal \$619,800, resulting in a total cost of \$1,069,550 (\$449,750 plus \$619,800) in the first year and \$619,800 in subsequent years.

**Table 4: Summary of Estimated Annual Fees for Additional \$100,000,000 in City Commercial Paper**

Letter of Credit Fee (0.5%)	\$500,000
Dealer Fee (0.075%)	75,000
Credit Surveillance Fee <sup>8</sup>	40,000
Issuing and Paying Agent Fee <sup>9</sup>	4,800
<b>Total</b>	<b>\$619,800</b>

If the interest rate on the additional \$100,000,000 in commercial paper was 12 percent, the maximum allowed percentage, the interest accrued would equal \$8,876,712 on the \$100,000,000 when the commercial paper matures after 270 days.

**The City Would Achieve an Estimated \$9,866,672 in Savings from Expansion of City’s Commercial Paper Program**

As shown in Table 5 below, according to Ms. Sesay, if \$160,000,000<sup>10</sup> in commercial paper were utilized to finance City-approved projects over the next two years, which is the amount currently planned, the City would achieve an estimated minimum of \$9,866,672 in savings.

**Table 5: Estimated Savings of Commercial Paper Program**

<b>Total Interim Cost if Long-Term Financing Were Used at Onset (3.75% interest rate)</b>	<b>\$12,000,000</b>
Interest on Commercial Paper (0.25% interest rate)	533,328
Letter of Credit Fee (0.5% of commitment amount)	1,600,000
<b>Total Cost of Commercial Paper Issuance</b>	<b>-2,133,328</b>
<b>Total Savings</b>	<b>\$9,866,672</b>

The cost of the Letter of Credit and Reimbursement Agreement and Dealer Agreement would be paid from the future proceeds of long-term debt issuances, which would be subject to Board of Supervisors approval, including appropriation approval.

**RECOMMENDATION**

Approve the proposed resolution.

<sup>8</sup> The credit surveillance fee is the fee charged for two credit rating agencies to monitor the City’s credit rating, as required by most investors purchasing short-term securities, such as commercial paper.

<sup>9</sup> The Issuing and Paying Agent fee is for the coordination and issuance of the commercial paper by the paying agent.

<sup>10</sup> The \$160,000,000 amount includes all related fees, such as the credit surveillance fee and dealer fee, for the City’s Commercial Paper Program other than the interest and letter of credit fee, which are budgeted separately.