

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

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TO: Budget and Finance Committee
FROM: Budget and Legislative Analyst 
SUBJECT: November 20, 2019 Budget and Finance Committee Meeting

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<p>Item 1 File 19-1033</p>	<p>Department: General Services Agency - Department of Public Works (DPW)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed ordinance would: 1) amend the Administrative Code to create an Office of Emerging Technology (“Office”) within the Department of Public Works (Public Works); 2) amend the Public Works Code to require a permit to obstruct the public right-of-way within Public Works’ jurisdiction; 3) amend the Administrative Code to codify the Public Works Director’s authority to take official actions, including adopting regulations for the pilot operation of emerging technology devices; 4) amend the Public Works Code and Police Code to provide for administrative, civil, and criminal penalties for operating an emerging technology without the prior approval of the Office of Emerging Technology; and 5) affirm the Planning Department’s determination that the actions contemplated in the ordinance comply with the California Environmental Quality Act (CEQA). <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • In April 2018, the Board of Supervisors approved a resolution adopting guiding principles to inform future legislation regulating emerging technology and urging the City Administrator to inform legislation by convening a working group. The Emerging Technology Open Working Group released a report in January 2019 to streamline and coordinate the City’s review and permitting of emerging technologies. • Under the proposed ordinance, “emerging technologies” would include “one or more physical objects, whether mobile or stationary, that constitute or incorporate new electronic or mobile technologies or applications of technology and which are proposed for use upon, above, or below City property and/or public right-of-way.” <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The FY 2019-20 Public Works budget includes \$250,000 in initial funding for the Office of Emerging Technology. The \$250,000 will offset costs of three existing Public Works positions that will direct a portion of their time to the Office of Emerging Technology as needed. • The proposed ordinance includes fees for work related to the Office of Emerging Technology that may cover or offset future costs. The fee for the initial application for review of a pilot project proposal and for any renewed application will be \$2,006. The proposed ordinance would also authorize the Office of Emerging Technology to require an applicant or permittee to pay additional fees to cover departmental costs associated with reviewing the pilot program proposal. Operating an emerging technology without approval from the Office of Emerging Technology would result in administrative fines up to \$1,000 per day, criminal fines up to \$100 per day for the first violation, and civil penalties up to \$500 per day. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

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

BACKGROUND

In April 2018, the Board of Supervisors approved a resolution adopting guiding principles to inform future legislation regulating emerging technology and urging the City Administrator to inform legislation by convening a working group (File 17-1123)¹. In June 2018, the City Administrator created the Emerging Technology Open Working Group to inform future legislation on emerging technologies.² In January 2019, the City Administrator's Office issued the Final Report of the Emerging Technology Open Working Group, which included five recommendations: (1) to create a "front door" for emerging technology, (2) to improve communication with the community, (3) to safely test and evaluate new technologies, (4) to support responsive policy development, and (5) to implement smart forecasting by discussing emerging technology with experts. The City does not currently have an office that is tasked with evaluating the City-wide effects of emerging technologies on San Francisco residents and City resources and infrastructure. The proposed ordinance is in response to the Board of Supervisors April 2018 resolution, and recommendations of the working group to streamline and coordinate the City's review and permitting of emerging technologies.

Under the proposed ordinance, "emerging technologies" would include "one or more physical objects, whether mobile or stationary, that constitute or incorporate new electronic or mobile technologies or applications of technology and which are proposed for use upon, above, or below City property and/or public right-of-way."

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would:

- Amend the Administrative Code to create an Office of Emerging Technology ("Office") within the Department of Public Works (Public Works);
- Amend the Public Works Code to require a permit to obstruct the public right-of-way within Public Works' jurisdiction;

¹ The approved resolution states: "The Board of Supervisors is committed to investigating and adopting legislation including recommendations for a dedicated Office of Emerging Technology with appropriate staffing to ensure that City government is adequately nimble and responsive to address the impacts of emerging technologies in San Francisco."

² The Working Group included representatives from the City Administrator's Office, the Committee on Information Technology (COIT), Department of Technology, San Francisco Municipal Transportation Agency, San Francisco County Transportation Authority, Mayor's Office on Disability, and Public Works. Representatives from various community based and business organizations attended the meetings.

- Amend the Administrative Code to codify the Public Works Director's authority to take official actions, including adopting regulations for the pilot operation of emerging technology devices;
- Amend the Public Works Code and Police Code to provide for administrative, civil, and criminal penalties for operating an emerging technology without the prior approval of the Office of Emerging Technology; and
- Affirm the Planning Department's determination that the actions contemplated in the ordinance comply with the California Environmental Quality Act (CEQA).

The Office of Emerging Technology

Under the proposed ordinance, the Office of Emerging Technology would be housed in Public Works and headed by a director. Companies that wish to deploy emerging technologies (as defined above) in San Francisco would have to submit to the Office of Emerging Technology a proposal to deploy their emerging technology as a pilot project for review and approval of the Office of Emerging Technology and any other City agency that is required to approve the activities proposed as part of the pilot project. In reviewing applications, the Office will consult all applicable City agencies to determine whether the pilot project warrants approval. A pilot project application may be approved as proposed, approved with modifications, denied, or denied in part. After the applicant has obtained the Office's approval and all required City agency approvals, the Office may authorize the pilot project for up to 12 months. The Office would then evaluate the results of the pilot project and make recommendations on changes to City laws, regulations, or policies necessary to accommodate, regulate, and ensure the safe operation of the emerging technology.

Under the proposed ordinance, the Office of Emerging Technology's other key responsibilities would include the following:

- Assist emerging technology companies in understanding permitting and other regulatory requirements to operate within the City;
- Evaluate the impact of emerging technology on San Francisco residents and City resources and infrastructure;
- Support policy development to manage the impact of emerging technologies in areas such as equity, accessibility, privacy, and responsible and sustainable use of data;
- Facilitate communication regarding emerging technologies among City departments, emerging technology companies, and other stakeholders; and
- Provide annual reports of Office of Emerging Technology's activities and recommendations to the Board of Supervisors and to the Mayor.

The Office of Emerging Technology's jurisdiction over emerging technology would be City-wide, except for areas under the jurisdiction the following departments: Recreation and Park Department, the Airport, San Francisco Municipal Transportation Agency (SFMTA), the Port, and San Francisco Public Utilities Commission (SFPU). If a technology is fully authorized by State or Federal law, it would be exempt from the Office of Emerging Technology's review.

FISCAL IMPACT

The FY 2019-20 Public Works budget includes \$250,000 in initial funding for the Office of Emerging Technology. According to the Public Works Finance Manager, Mr. Bruce Robertson, the \$250,000 will offset costs of three existing Public Works positions that will direct a portion of their time to the Office of Emerging Technology as needed. The Office of Emerging Technology work is expected to commence in December 2019. According to Mr. Robertson, the funding will be used to cover costs for an Office of Emerging Technology Director and two additional staff to direct and implement the Office, support outreach, provide subject matter expertise in reviewing emerging technology proposals and establish pilot program plans. Table 1 below shows the proposed budget for the Office of Emerging Technology for FY 2019-20.

Table 1. Proposed Office of Emerging Technology FY 2019-20 Budget

Position	FTE	FY 2019-20		Total
		Salary & Fringe	Overhead	
0932 Manager IV	0.25	\$59,591	\$40,938	\$100,529
5408 Coordinator of Citizen Involvement	0.25	\$45,616	\$39,765	\$85,381
5207 Associate Engineer	0.15	\$28,445	\$24,883	\$53,328
Materials & Supplies				\$10,762
Total				\$250,000

Source: Department of Public Works

According to Mr. Robertson, the duties of the three positions will be as follows:

0932 – Manager IV (Director) – This position will provide oversight and direction of day-to-day program operations, research and developing standards, guidelines, procedures, and evaluation criteria tools; department liaison with city departments, technology company representatives, and main point person for the Office of Emerging Technology implementation.

5207 – Associate Engineer – This position will provide technical review, quality assurance and control, site meetings for new emerging technology procedures and will work with IT professionals for implementation.

5408 – Outreach and Education Coordinator – This position will provide outreach to technology company representatives as well as community outreach and community feedback and input, education, and other public facing duties, business outreach, and research new emerging technologies.

As noted above, Public Works' FY 2019-20 budget included \$250,000 for the Office of Emerging Technology. The FY 2020-21 budget for the Office of Emerging Technology will be subject to Board of Supervisors approval during the June 2020 budget process.

Potential Revenues

Fees

The proposed ordinance includes fees for work related to the Office of Emerging Technology that may cover or offset future costs. Under the proposed ordinance, the fee for the initial application for review of a pilot project proposal and for any renewed application will be \$2,006. The proposed ordinance would also authorize the Office of Emerging Technology to require an applicant or permittee to pay additional fees to cover departmental costs associated with reviewing the pilot program proposal.

Fines

Under the proposed ordinance, operating an emerging technology (as defined above) without approval from the Office of Emerging Technology would result in administrative fines up to \$1,000 per day, criminal fines up to \$100 per day for the first violation, and civil penalties up to \$500 per day.

Mr. Robertson states that the overall revenue generated from the permit fees and fines is currently unknown because of the uncertainty about the number of emerging technologies and permittees that will arise in the coming years.

RECOMMENDATION

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

Item 3 File 19-1098	Department: San Francisco International Airport (Airport)
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve Modification No. 11 to the San Francisco International Airport’s (Airport) contract with Faith Group, LLC, to provide program management support services to the Airport Security Infrastructure Program, increasing the contract not-to-exceed amount by \$3,279,901, for a total not to exceed \$17,381,359, with no changes to the contract term. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The Airport Security Infrastructure Program is a \$197 million program, consisting of migrating to a singular access control system, adding camera systems to areas throughout the Airport, and providing a security network infrastructure system for future implementation of the security systems. • The Airport selected Faith Group, LLC, to provide program management support services following a competitive solicitation. The scope of work included design and construction management services, project controls, contract administration, cost estimating services, and field inspection of Airport infrastructure. The contract has since been modified 10 times, increasing the not to exceed amount to \$14,101,458 and extending the term through December 31, 2021. • The Airport originally selected one design-build contractor to design and construct the security infrastructure (for which Faith Group provides program management support services). Subsequently, the Airport entered into a separate design-build contract to complete the Internet Protocol Camera Coverage Project phase of the Airport Security Infrastructure Program. The change in the Internet Protocol Camera Coverage Project extended the construction phase by approximately two years to late 2021. Additional funding is now needed for the Faith Group contract to provide continued program management support services through the extended construction phase. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed Modification No. 11 would increase the not-to-exceed amount of the contract by \$3,279,901, for a total not to exceed \$17,381,359. Sufficient funding is available in the FY 2019-20 Airport Capital budget. • The total budget for the Airport Security Infrastructure program is \$197,438,379. To date, the Airport has spent \$141,425,143 and encumbered \$5,927,870. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

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

BACKGROUND

In 2015, the San Francisco International Airport (Airport) hired consultants to develop a Security Implementation Master Plan. The Security Implementation Master Plan provided a series of recommendations to improve security. Some recommendations, such as checkpoint improvements, have already been constructed by the Airport. Based on the Security Implementation Master Plan, the Airport decided to (1) migrate to a singular access control system, (2) add camera systems to areas throughout the Airport, and (3) provide a security network infrastructure system for future implementation of the security systems. The Airport decided to combine these improvements into one program, the Security Infrastructure Program.

The Airport entered into a contract with Faith Group LLC, following a competitive selection process, from October 19, 2015 through October 18, 2016, and an amount not to exceed \$2,671,000, to provide program management to the Security Infrastructure program. The scope of work included design and construction management services, project controls, contract administration, cost estimating services, and field inspection of Airport infrastructure.

Under the initial contract, Faith Group was to provide program management support services to the Airport Security Infrastructure Program, including three projects:

1. Access Control Improvements Project: the Airport introduced a new access control system during Terminal 2 construction to replace the aging legacy system, and all subsequent construction projects at the Airport included installation of this system. The Access Control Systems Improvement Project will remove the remaining legacy nodes and replace them with the new system devices.
2. Internet Protocol Camera Coverage Project: the Airport will add over 450 cameras to provide coverage in areas of known deficiency, largely within Terminal spaces and perimeter areas.
3. The Perimeter Intrusion Detection System: the Airport is implementing a new radar perimeter system to create a virtual fence line offshore from the waterside perimeter.

The contract has since been amended 10 times, as shown in Table 1 below:

Table 1: Faith Group Contract Modifications

No.	Date	Approval Type	Description
1	2/2/2016	Airport Commission	Authorization to proceed with Phase II of Perimeter Intrusion Detection System ¹
2	3/2/2016	Administrative	Amendment of overhead and billing rates
3	7/19/2016	Airport Commission	Extended term by one year through October 15, 2017, and increased not-to-exceed amount by \$2,989,142, for a total of \$5,660,142
4	6/20/2017	Airport Commission	Extended term by 10 months through August 15, 2018, and increased not-to-exceed amount by \$4,160,653, for a total of \$9,820,795
5	9/1/2017	Administrative	Amendment of overhead rates, billing rates, and addition of new sub-consultant
6	7/31/2018	Board of Supervisors (File 18-0379)	Extended term by one year and five months through December 31, 2019, and increased not-to-exceed amount by \$3,920,525, for a total of \$13,741,320
7	9/1/2018	Administrative	Amendment of billing rates
8	3/20/2019	Administrative	Amendment of sub-consultant's firm name
9	6/17/2019	Administrative	Amendment of overhead rates, billing rates, and addition of new sub-consultant
10	10/1/2019	Airport Commission	Extended term by two years through December 31, 2021, and increased not-to-exceed amount by \$360,138, for a total of \$14,101,458

On October 1, 2019, the Airport Commission approved Modification Nos. 10 and 11. Modification No. 10 allowed services to continue while the Airport sought Board of Supervisors Approval for Modification No. 11, the subject of the proposed resolution.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Modification No. 11 to the Airport's contract with Faith Group, increasing the not-to-exceed amount of the contract by \$3,279,901, from \$14,101,458 approved by the Airport Commission in Modification No. 10 to \$17,381,359. Faith Group would continue to provide program management for the Airport, including construction management, cost and scheduling services, document control, construction and special inspections, and administrative support functions.

¹ The Perimeter Intrusion Detection System (PDIS) was divided into two phases: Phase I, consisting of the telecommunication duct bank survey, and Phase II, consisting of all-program level management services and project management services for the project.

Increase in Airport Security Infrastructure Program

The Airport Security Infrastructure Program budget is \$197,438,379, as shown in Table 2 below.

Table 2: Airport Security Infrastructure Program Budget

Activity	Amount
Airport Project Management	\$6,331,709
Planning	986,895
Design	9,456,824
Construction	163,281,592
Program Management Support (File 19-1098)	17,381,359
Total	\$197,438,379

Source: Airport

The Airport originally selected one design-build contractor to design and construct the security infrastructure. Subsequently, the Airport entered into a separate design-build contract to complete the Internet Protocol Camera Coverage Project phase of the Airport Security Infrastructure Program, increasing the number of cameras from 450 to 876. The change in the Internet Protocol Camera Coverage Project has extended the Airport Security Infrastructure Program completion date by two years, from the original completion date in November 2019 to a new completion date in approximately November/December 2021.

Contract Term Extension

The original Request for Proposals (RFP) stated that the program management support services contract term would be for up to five years. In order to provide program management services through completion of the Airport Security Infrastructure Program, Modification 10 to the contract extends the contract term by two years through December 2021, as shown in Table 1 above, which is approximately 14 months more than the term advertised in the in the RFP of up to five years through October 2020. According to Ms. Katarina Lam, Airport Contract Administrator, the Airport decided to extend the program management support services contract with Faith Group beyond the initial five-year term rather than issue a new RFP because it would be inefficient to change program management firms in the middle of the project.

FISCAL IMPACT

The proposed Modification No. 11 would increase the not-to-exceed amount of the contract by \$3,279,901, for a total not to exceed \$17,381,359. Sufficient funding is available in the Airport FY 2019-20 Capital budget to pay for the requested additional spending authority. According to Ms. Lam, the Airport expects to have expended \$13,565,103 through December 31, 2019. The contract budget is shown in Table 3 below.

Table 3: Faith Group Contract Budget

Item	Current Contract	Proposed Amendment	Total
Project Management	\$4,702,268	\$1,200,095	\$5,902,363
Project Controls	4,079,190	727,339	4,806,529
Field Staff	2,315,000	593,020	2,908,020
Administration	2,275,000	589,447	2,864,447
Other Direct Costs	730,000	170,000	900,000
Total	\$14,101,458	\$3,279,901	\$17,381,359

Source: Airport

Of the Airport Security Infrastructure Program budget of \$197,438,379, shown in Table 2 above, the Airport has spent \$141,425,143 and has encumbered \$5,927,870 for a total of \$147,353,013. The Airport expects to spend the rest of the money by December 2021.

RECOMMENDATION

Approve the proposed resolution.

Item 4 File 19-1111	Department: Mayor's Office
EXECUTIVE SUMMARY	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would authorize an exclusive negotiating agreement for a future ground lease with Mercy Housing California at 155 Grove Street, 165 Grove Street, and 240 Van Ness Avenue <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The City owns land located at 155 Grove Street, 165 Grove Street, and 240 Van Ness Avenue, a combined set of parcels that the City considers surplus property. • To find an alternative use, in November 2017, the Mayor's Office released a Request for Proposals to develop the City's surplus property located at above noted address. Three responses were evaluated by a selection panel, with the proposal by Mercy Housing California and the Kelsey Group scoring the highest. The proposed project, which is still in the early design stage, is an affordable housing development specifically targeting the disabled community, with a community garden accessible to the public. • According to Mr. John Updike, Senior Project Manager at the Real Estate Division, the proposed exclusive negotiating agreement is necessary for Mercy Housing California and the Kelsey Group to effectively raise capital to fund predevelopment costs and to seek entitlement authorizations for the affordable housing project. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • According to the draft exclusive negotiating agreement, the final ground lease between the City and the developers would be \$15,000 per year and have an initial term of 75 years and one option to extend for 24 years. These terms are consistent with the City's other ground leases for affordable housing projects. The ground lease would require the development to remain affordable during the entire term. • The negotiating period would be 45 months, with three options to extend for 90 days each. • The final ground lease would be subject to Board of Supervisors' approval. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

MANDATE STATEMENT

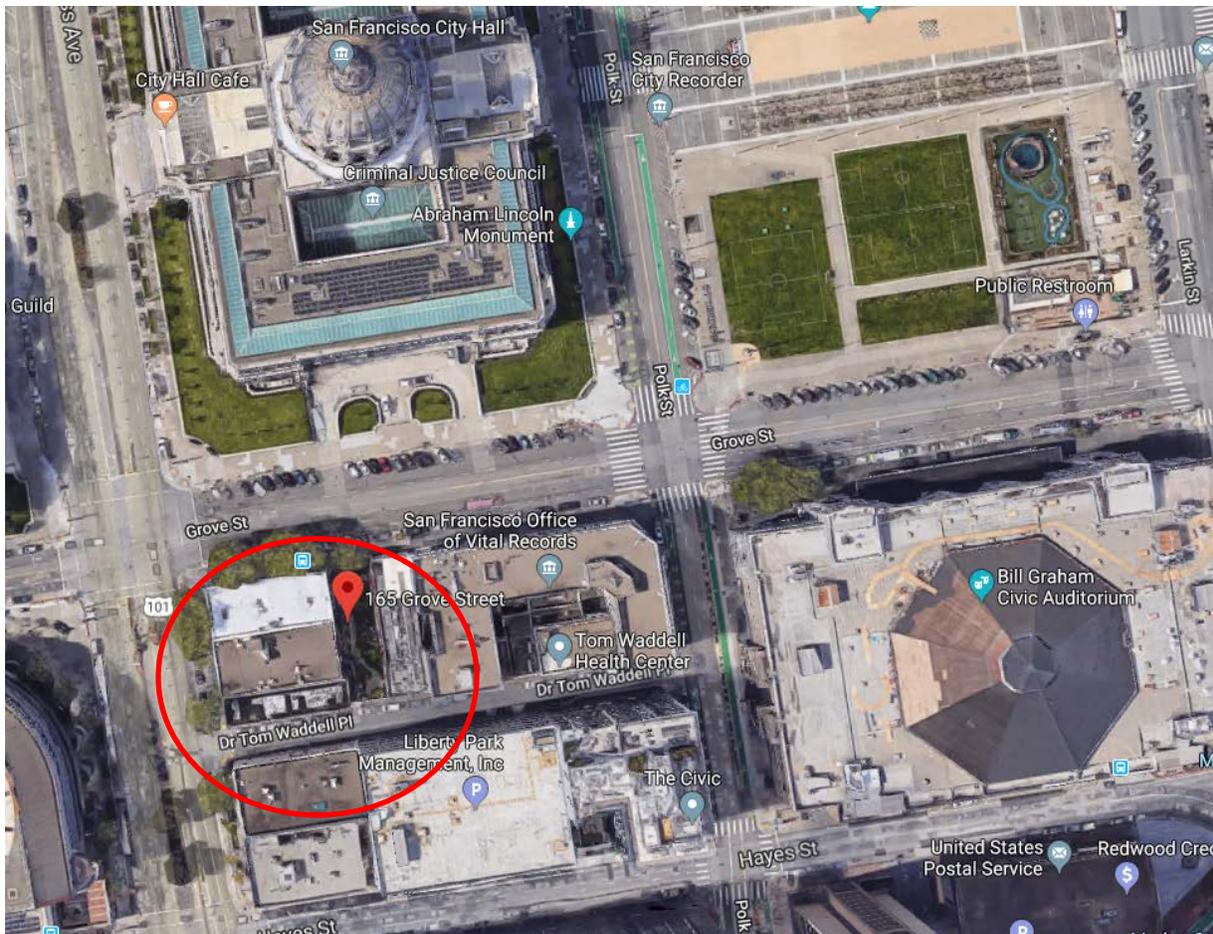
City Administrative Code Section 23.30 states that leases of City-owned property can be for less than market rent if the lease is for a proper public purpose with Board of Supervisors' approval.

City Administrative Code Section 23A.7 states the surplus City property must be evaluated by the Mayor's Office of Housing and Community Development for feasibility of affordable housing development and report such determinations to the Board of Supervisors.

BACKGROUND

The City owns land located at 155 Grove Street, 165 Grove Street, and 240 Van Ness Avenue, a combined set of parcels that has City storage facilities and a community garden. According to Mr. John Updike, Senior Project Manager at the Real Estate Division, neither of the storage facilities are being used by the City and the Real Estate Division considers the area surplus property. The community garden is tended to by a neighborhood gardening advocate licensed to do so by the Real Estate Division. Exhibit 1 below shows the location of the properties.

Exhibit 1: Map of 155 Grove Street, 165 Grove Street, and 240 Van Ness Avenue



Selection of Project

According to Mr. Updike, the Mayor's Office of Housing and Community Development (MOHCD) evaluated the property but did not believe it could be developed for affordable housing purposes, consistent MOHCD's underwriting standards. To find an alternative use, in November 2017, the Mayor's Office released a Request for Proposals (RFP) to develop the City's surplus property located at above noted address.¹ Three responses were evaluated by a selection panel,² with the proposal by Mercy Housing California and the Kelsey Group scoring the highest. The proposed project, which is still in the early design stage, is an affordable housing development specifically targeting the disabled community, with a community garden accessible to the public.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize an exclusive negotiating agreement for a ground lease with Mercy Housing California at 155 Grove Street, 165 Grove Street, and 240 Van Ness Avenue.

According to Mr. Updike, the proposed exclusive negotiating agreement is necessary for Mercy Housing California and the Kelsey Group to effectively raise capital to fund predevelopment costs and to seek entitlement authorizations for the affordable housing project.

FISCAL IMPACT

According to the draft the exclusive negotiating agreement, the final ground lease between the City and the developers would be \$15,000 per year and have an initial term of 75 years and one option to extend for 24 years. The proposed lease amount is below market rate, consistent with City Administrative Code Section 23.30, which allows leases of City-owned property to be for less than market rent if the lease is for a proper public purpose subject to Board of Supervisors' approval. The exclusive negotiating agreement's proposed ground lease rent of \$15,000 per year is consistent with the City's other ground leases for affordable housing projects. The ground lease would require the development to remain affordable during the entire term.

The negotiating period would be 45 months, with three options to extend for 90 days each.

The final ground lease would be subject to Board of Supervisors' approval.

RECOMMENDATION

Approve the proposed resolution.

¹ The City's surplus property was identified in a global RFP ("Reinventing Cities") under the Cities Climate Leadership Group (C40), a global local government effort to address climate change. San Francisco identified two surplus properties in that RFP: Civic Center (subject of this legislation) and Hallidie Plaza (no proposal received has been accepted).

² The selection panel consisted City staff, private sector architects, a professor of architecture at the University of California Berkeley, and an affordable housing developer that operates in San Francisco.