

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

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TO: Budget and Appropriations Committee
FROM: Budget and Legislative Analyst 
SUBJECT: August 19, 2020 Budget and Appropriations Committee Meeting

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Item 1 File 20-0567	Department: Controller
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MANDATE STATEMENT/ DETAILS OF PROPOSED LEGISLATION

File 20-2567: Administrative Provisions of the Annual Appropriation Ordinance

The proposed FY 2020-21 and FY 2021-22 Annual Appropriation Ordinance (AAO) contains the administrative provisions governing the appropriation ordinance. The proposed AAO for FY 2020-21 and FY 2021-22 contain the following major changes to the administrative provisions:

Section 10.10 – Litigation Reserves, Payments

Currently, the Controller is authorized to withdraw funds from the Litigation Reserve to pay legal claims and settlements for General Fund supported departments when approved by the City Attorney. However, payments for legal claims and settlements funded by the San Francisco Public Utilities Commission (SFPUC) require Board of Supervisors approval. The proposed ordinance would add a provision providing for legal claims and settlements payable from the SFPUC Water Enterprise or the Wastewater Enterprise to be automatically appropriated following approval of such settlements by the Board of Supervisors by resolution or ordinance.

Section 10.12 – Workers’ Compensation Alternative Dispute Resolution Program

The Board of Supervisors approved two resolutions in January 2019 authorizing the Department of Human Resources (DHR) to enter into Workers’ Compensation Alternative Dispute Resolution Program agreements with the San Francisco Firefighters Association (File 19-0051) and the San Francisco Police Officers Association (File 19-0052). According to the resolutions, the goals of the alternative dispute resolution programs were to provide for (1) timely and efficient determinations on employees' workers' compensation claims; (2) more timely access to high-quality medical care for industrially ill or injured employees; (3) the return of employees to work in a timely fashion; and (4) timely, efficient, and fair resolution of all disputes that arise in connection with employees' workers' compensation claims. The resolutions provided for the Controller to evaluate the programs’ costs and savings at the end of each fiscal year. Fifty percent of the net savings would be allocated to benefit members of the respective employee associations. According to Ms. Peggy Sugarman, Workers Compensation Director, the program savings for FY 2019-20 have not yet been determined, pending an actuarial review

Recommendation 1

The proposed ordinance includes a new provision, codifying the provisions of the respective Workers’ Compensation Alternative Dispute Resolution Program. The Budget and Legislative Analyst recommends amending the proposed ordinance to state that this provision will terminate if the parties agree to terminate the respective Workers’ Compensation Alternative Dispute Resolution Program agreements.

Section 11.14 – Grants to Departments of Aging and Adult Services, Child Support Services, and Homelessness and Supportive Housing

Currently, the Departments of Aging and Adult Services and Child Support Services are authorized to receive and expend available federal and state grants for their target populations without further Board of Supervisors approval. The proposed ordinance adds a provision authorizing the Department of Homelessness and Supportive Housing to apply surpluses in federal Department of Housing and Urban Development (HUD) sub-grants to deficits in other HUD sub-grants.

Section 11.22 – Laguna Honda Employee Development Account

The proposed ordinance deletes the existing provision authorizing an account set up to receive private funds and donations to provide educational and development programs to Laguna Honda Hospital employees.

Section 11.25 – Housing Trust Fund

The proposed budget for FY 2020-21 and FY 2021-22 moves Housing Trust Fund revenues and expenditures from the General fund to a new special revenue fund. This new provision authorizes the Controller to move existing balances of the Housing Trust Fund to align to the proposed budget.

Section 32 – COVID -19 Response and Economic Loss Contingency Reserve

The proposed ordinance contains a new provision authorizing the use of \$507 million in unassigned fund balance in FY 2019-20 for (1) COVID-19 related expenses, (2) backfill of revenue shortfalls from state and local taxes, (3) pending FEMA reimbursements, and (4) pending voter approval of November 2020 business tax measures assumed in the Mayor's proposed FY 2020-21 and FY 2021-22 budgets. Up to \$507 million, which would be assigned to a budget contingency reserve, would come from the unassigned fund balance reserved for other contingencies (\$308 million), and the Rainy Day One-Time Spending Account, Budget Stabilization Reserve One-Time Spending Account, and Budget Savings Incentive Fund. An ordinance suspending the Budget Savings Incentive Fund is pending before the Board of Supervisors (File 20-0845). The use of the Budget Stabilization Reserve One-Time Spending Account would not change the Administrative Code requirement for making deposits to the Budget Stabilization Reserve.

Recommendation 2

The proposed ordinance should be amended to request written quarterly reports from the Controller to the Board of Supervisors on use of funds from the proposed budget contingency reserve.

Section 33 – Federal, State, and Local Match Sources and Uses Accounting for COVID-19 Emergency

The proposed ordinance includes of new provision, authorizing the Controller to adjust appropriations from federal and state sources to reflect expenditures eligible for federal and state reimbursement, and align expenditures with the appropriate federal and state sources. Adjustments may be made across fiscal years, and available balances on June 30, 2020 may be used in FY 2020-21.

Items 8 & 9 Files 20-0841 and 20-0842	Department: Controller's Office of Public Finance
EXECUTIVE SUMMARY	
<p>Legislative Objectives</p> <ul style="list-style-type: none"> • File 20-0841 authorizes the issuance of up to \$97.5 million Refunding Certificates of Participation (COPs) and approves documents and actions associated with the transaction. • File 20-0842 de-appropriates \$4,636,200 of Series 2010A Refunding COPs, and (b) appropriates \$102,136,200 Series 2020-R1 Refunding COPs. <p>Key Points</p> <ul style="list-style-type: none"> • COPs are structured as a lease-lease back agreement, in which the City leases City-owned property to a Trustee and then pays to lease back the property. The City maintains a master lease-back agreement to fund existing COPS that includes the property of Laguna Honda hospital; the proposed legislation would add County Jail 5 to that master lease-back agreement. • The proposed ordinance provides for the issuance of up to \$97.5 million Refunding COPs to refinance outstanding Refunding COPs issued in 2010. The COPs would be issued with a 14-year term and with an estimated interest rate of 2.6 percent. • The parameters set by the proposed ordinance for the issuance of the COPs include (a) net debt service savings of not less than 3 percent and (b) a maximum annual debt service ("base rental payment") of \$8,700,000. <p>Fiscal Impact</p> <ul style="list-style-type: none"> • Estimated annual debt service on 2021 Refunding COPs is \$8.28 million, which is approximately \$1 million less than debt service on the 2010 COPs of \$9.275. According to the Controller's Office of Public Finance, the estimated debt service savings over the 14-year term would be approximately \$13.8 million, which is greater than the required 3 percent savings threshold (amounting to \$2.7 million) required by authorizing ordinance. <p>Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed ordinances. 	

MANDATE STATEMENT

City Administrative Code Section 10.62(b) states that the Board of Supervisors may authorize the issuance of Certificates of Participation (COPs) and other lease financing debt to fund capital projects provided the annual debt service cost of such outstanding general fund appropriation debt does not exceed 3.25 percent of discretionary revenue as determined by the Controller and Director of Public Finance.

City Administrative Code Section 43.8.4 provides for the Board of Supervisors to authorize debt to refinance bonds, revenue bonds or lease obligations and allows the Board of Supervisors to establish a minimum savings to be generated by the refunding debt and to provide the final terms, amounts, maturities, interest rates and other provisions.

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.

Charter Section 9.105 states that the Board of Supervisors shall approve by ordinance all amendments to the Annual Appropriation Ordinance after the Controller certifies the availability of funds.

DETAILS OF PROPOSED LEGISLATION

File 20-0841 is an ordinance that would:

- Authorize the execution and delivery of refunding Certificates of Participation (COPs) representing an aggregate principal amount not to exceed \$97,500,000 to refinance certain capital improvement projects;
- Approve the Fourth Supplement to Trust Agreement between the City and County of San Francisco (City) and the U.S. Bank National Association, as trustee (Trustee) (including certain indemnities contained therein);
- Approve the respective forms of a Fourth Supplement to the Property Lease and Project Lease, each between the City and the Trustee for the lease and lease back of 375 Laguna Honda Boulevard in San Francisco and of 1 Moreland Drive in San Bruno (or other property as determined by the Director of Public Finance);
- Approve the form the Escrow Agreement between the City and U.S. National Bank Association, as escrow agent (“Escrow Agent”) (including certain indemnities contained therein);
- Approve the form of an Official Notice of Sale and a Notice of Intention to sell the COPs;
- Approve the form of an official statement in preliminary and final form;

- Approve the form of a purchase contract between the City and one or more initial purchases of the COPs; and
- Approve the form of a Continuing Disclosure Certificate.
- Allow the COPs to be sold on a competitive or negotiated sale

The proposed ordinance would also (1) grant general authority to the Mayor, the Treasurer, the City Attorney, the Controller, the City Administrator, the Director of Public Finance and other City officials to take necessary actions in connection with the authorization, sale, execution and delivery of the COPs, and approve modifications to documents; and (2) ratify previous actions.

The parameters set by the proposed ordinance for the issuance of the COPs include (a) net debt service savings of not less than 3 percent and (b) a maximum debt service (“base rental payment”) of \$8,700,000.

Refunding Certificates of Participation

COPs are structured as a lease-lease back, in which the City leases the City-owned property to the Trustee and leases back the property. The proposed ordinance provides for the issuance of up to \$97,500,000 to refund outstanding COPs issued in 2010. The City would enter into the Fourth Supplement to existing Property and Project Leases and Trust Agreement with U.S. Bank National Association, in which the City-owned Laguna Honda Hospital campus at 375 Laguna Honda Boulevard and the San Bruno Jail Complex at 1 Moreland Drive in San Bruno would serve as the leased property to secure the Refunding COPs under the proposed ordinance, as discussed below.

Fourth Supplement to Property and Project Leases, and Trust Agreement

The City and U.S. Bank National Association entered into the original Property and Project Leases for 375 Laguna Honda Boulevard and the original Trust Agreement in 2009 for the issuance of COPs. The City entered three prior supplements to these agreements in 2009 and 2012 for the issuance of COPs to finance multiple capital improvement projects, and in 2019 to refund the previously issued 2009 COPs. Under the proposed ordinance, the City will enter into the Fourth Supplement for the respective lease and trust agreements, using the same lease-lease back structure as the City's existing Series 2009A COPs, Series 2009B COPs, Series 2012A COPs, and Series 2019-R1 Refunding COPs.

Series 2010A COPs

The City entered into Property and Project Leases and a Trust Agreement with U.S. Bank National Association in 2010 to issue Refunding COPs (Series 2010A), in which the San Bruno Jail Complex at 1 Moreland Drive served as the leased property to secure the COPs. The Series 2010A COPs refunded the previously issued COPs:

- COPs, Series 1997 (2789 25th Street)
- COPs, Series 1999 (555 7th Street Property)
- COPs, Series 2000 (San Bruno Jail Replacement Project)
- Refunding COPs, Series 2001-1 (SF Courthouse and 25 Van Ness Avenue Project)

According to the Controller’s Office of Public Finance, the Series 2010A COPs have an outstanding balance of \$90.5 million, with annual interest rate of approximately 5.0 percent and maturity date of 2033. Annual debt service is \$9.275 million.

File 20-0842 is an ordinance (a) de-appropriating \$4,636,200 of Series 2010A Refunding COPs, and (b) appropriating \$102,136,200 Series 2020-R1 Refunding COPs. Table 1 below summarizes the intended uses of the proposed Refunding COPs and change in appropriations for the monies set-aside for the 2010 Refunding COPs debt service reserve so that they may be used for debt service reserve for the proposed 2021 Refunding COPs.

Table 1: Refunding COPs Appropriation

Sources	
De-appropriation Series 2010A Refunding COPs	\$4,636,200
Appropriation - Series 2020-R1 Refunding COPs	<u>97,500,000</u>
Total Sources	\$102,136,200
Uses	
Refund Series 2010A Refunding COPs	\$93,057,700
Debt Service Reserve	4,750,000
Costs of Issuance	1,234,750
Underwriter's Discount	593,750
Reserve for Market Uncertainty	<u>2,500,000</u>
Total Uses	\$102,136,200

Source: File 20-0842

Note: Cost of Issuance refers to legal fees, municipal advisory fees, trustee fees, rating agency fees, printing costs, and other issuance costs.

The Office of Public Finance anticipates issuing \$97,500,000 in 2021 Refunding COPs; the total authorized amount of \$102,136,200 includes a re-appropriation of the 2010 debt service reserve and \$2,500,000 as a reserve for market uncertainty (such as an increase in interest rates). All funds would be placed on Controller’s Reserve pending receipt of COPs proceeds.

FISCAL IMPACT

According to the Controller’s Office of Public Finance, the City would issue the Series 2020 R-1 Refunding COPs in approximately November 2020. The COPs would be issued with a 14-year term and with an estimated interest rate of 2.6 percent¹. Estimated annual debt service on COPs proceeds of \$94.325 million² is \$8.28 million, which is approximately \$1 million less than debt service on the Series 2010A COPs of \$9.275. The authorizing ordinance for refunding of debt requires at least three percent savings of the par value of the debt to be refunded, which for the outstanding Series 2010A COPs would be \$2.7 million. According to the Controller’s Office of Public Finance, the estimated debt service savings over the 14-year term would be approximately

¹ The estimated 2.6 percent interest rate represents the “all-in true interest cost” which incorporates total loan costs, including issuance, underwriters discount, and other costs.

² Estimated COPs proceeds include \$93.1 million to refund outstanding COPs and \$1.2 million in issuance costs.

\$13.8 million, which is higher than the minimum three percent debt service savings required by the proposed legislation. Finally, the proposed decrease in debt service complies with City policy to limit annual debt service to less than 3.25 percent of General Fund expenditures.

RECOMMENDATION

Approve the proposed ordinances.

<p>Item 10 File 20-0829</p>	<p>Department: Administrative Services</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed hearing is for the release of \$254,162 placed on reserve by the Budget and Finance Committee in the Administrative Services budget during the FY 2019-20 budget review. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • The Board of Supervisors approved an ordinance in February 2019, authoring the Chief Administrative Officer to negotiate a Citywide Project Labor Agreement with the San Francisco Building Construction Trades Council. The Board appropriated three positions in the FY 2019-20 Administrative Services budget to administer the Project Labor Agreement, and placed funds for these three positions on Budget and Finance Commission reserve pending completion of negotiations. The Project Labor Agreement went into effect on July 14, 2020. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The FY 2019-20 Administrative Services budget included three new positions to administer the Project Labor Agreement - one 1823 Senior Administrative Analyst, one 2992 Contract Compliance Officer I, and one 2978 Contract Compliance Officer II – which are continuing positions in the proposed FY 2020-21 and FY 2021-22 budgets. The requested release of reserves funds the salary and fringe benefits for two of the three positions as of October 1, 2020. • While these salaries were appropriated in FY 2019-20, the unspent funds are carried forward into FY 2020-21. The proposed FY 2020-21 budget includes an increase in attrition savings in this program, which offsets the amount of funds carried forward. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the requested release of reserves. 	

MANDATE STATEMENT

Administrative Code Section 3.3(e) states that the committee of the Board of Supervisors that has jurisdiction over the City's budget may reserve proposed expenditures to be released at a later date subject to Board of Supervisors approval.

BACKGROUND

The Board of Supervisors approved an ordinance in February 2019, authoring the Chief Administrative Officer to negotiate a Citywide Project Labor Agreement with the San Francisco Building Construction Trades Council. The Board appropriated three positions in the FY 2019-20 Administrative Services budget to administer the Project Labor Agreement, and placed funds for these three positions on Budget and Finance Commission reserve pending completion of negotiations. The Project Labor Agreement went into effect on July 14, 2020.

DETAILS OF PROPOSED LEGISLATION

The proposed hearing is for the release of \$254,162 placed on reserve by the Budget and Finance Committee in the Administrative Services budget during the FY 2019-20 budget review.

FISCAL IMPACT

The FY 2019-20 Administrative Services budget included three new positions to administer the Project Labor Agreement - one 1823 Senior Administrative Analyst, one 2992 Contract Compliance Officer I, and one 2978 Contract Compliance Officer II – which are continuing positions in the proposed FY 2020-21 and FY 2021-22 budgets. The requested release of reserves funds the salary and fringe benefits for two of the three positions as of October 1, 2020, as shown below:

		Salary & Fringe Benefits
1823	Senior Administrative Analyst	\$128,752
2992	Contract Compliance Officer I	<u>\$125,410</u>
	Total	\$254,162

While these salaries were appropriated in FY 2019-20, the unspent funds are carried forward into FY 2020-21. The proposed FY 2020-21 budget includes an increase in attrition savings in this program of \$278,010, which exceeds the amount of funds carried forward.

RECOMMENDATION

Approve the requested release of reserves.