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: April 28, 2021 Budget and Finance Committee Meeting

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Item 3 **File 21-0335**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would approve a modification to the 2011 Lease and Use Agreement (2011 Lease) between the San Francisco International Airport (Airport) and 39 Signatory Airlines, extending the lease two years through June 2023, and adopt the Planning Department's findings under the California Environmental Quality Act (CEQA).

Key Points

- The Airport's 2011 Lease allows airlines to provide flight operations and rent terminal space at the Airport and provides a common set of lease provisions that are used for these airlines. The 2011 Lease will expire June 30, 2021.
- Airport staff and the Signatory Airlines began negotiating a new lease and use agreement to commence once the 2011 Lease expires. However, the COVID-19 pandemic and its impact on the aviation industry interrupted the lease negotiations and Airport staff determined that a comprehensive new lease would be impractical at this time. In February and March 2021, the Airport Commission approved a two-year extension of the 2011 Lease with 39 Signatory Airlines through June 2023.

Fiscal Impact

- Under the proposed lease extension, Signatory Airlines would continue to pay landing fees, Joint Use rent, and Exclusive Use rent. Landing fees cannot be estimated because they are based on flight activity, which is highly uncertain due to the COVID-19 pandemic. Over the two-year term of the lease extension, the Airport estimates it will receive approximately $577,880,586 in rent. This is a preliminary estimate that will likely change. Rents are subject to the Airport Rates and Charges, which are set annually by the Airport Commission.

Policy Consideration

- The proposed modification preserves the rights of both the City and the Signatory Airlines with respect to any legal action related to the Healthy Airport Ordinance. On March 31, 2021, Airlines for America, a trade association representing some of the domestic Signatory Airlines, filed a lawsuit challenging the Healthy Airport Ordinance on federal preemption grounds. However, the lawsuit does not request injunctive relief from the Healthy Airport Ordinance, and the Signatory Airlines are cooperating with the Office of Labor Standards Enforcement on compliance while the lawsuit is pending.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(c) states that (1) any lease of real property for ten or more years, including options to renew, (2) have anticipated revenues to the City of $1,000,000, or (3) the modification, amendment or termination of these leases is subject to Board of Supervisors approval.

BACKGROUND

In 2011, the San Francisco International Airport (Airport) negotiated a new Lease and Use Agreement (2011 Lease) with its domestic and international airlines. The 2011 Lease allows airlines to provide flight operations and rent terminal space at the Airport and provides a common set of lease provisions that are used for these airlines. Such provisions include rent and landing fees paid by the airlines to the Airport, permitted uses of the premises, use of common facilities, and numerous other provisions. Of the 65 airlines operating at the Airport, 54 have signed onto the 2011 Lease. The 2011 Lease will expire June 30, 2021.

Airport staff and the Signatory Airlines began negotiating a new lease and use agreement to commence once the 2011 Lease expires. However, the COVID-19 pandemic and its impact on the aviation industry has interrupted the lease negotiations and Airport staff determined that a comprehensive new lease would be impractical at this time. Airport staff has discussed a two-year extension of the 2011 Lease with Signatory Airlines to continue operating at the Airport while a new lease and use agreement can be negotiated. In February 2021, the Airport Commission approved a two-year extension of the 2011 Lease with 21 Signatory Airlines. In March 2021, the Airport Commission approved a two-year extension of the 2011 Lease with an additional 18 Signatory Airlines, for a total of 39 Signatory Airlines extending the 2011 Lease through June 2023.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve a modification to the 2011 Lease between the Airport and 39 Signatory Airlines, extending the term two years through June 2023, and affirm the Planning Department's determination that the resolution complies with the California Environmental Quality Act (CEQA).

The proposed resolution would apply to the following 39 Signatory Airlines: (1) ABX Air, Inc.; (2) Aer Lingus, Limited; (3) Air Canada; (4) Air China Limited; (5) Air France; (6) Air India Limited; (7) Air New Zealand Limited; (8) Alaska Airlines, Inc.; (9) All Nippon Airways Corporation, Limited; (10) American Airlines, Inc.; (11) Ameriflight, LLC; (12) Asiana Airlines; (13) British Airways Plc; (14) China Airlines Limited; (15) China Eastern Airlines Corporation Limited; (16) China Southern Airlines Company Limited; (17) Delta Airlines, Inc.; (18) Deutsche Lufthansa, AG, dba Lufthansa German Airlines; (19) Emirates; (20) EVA Airways Corporation; (21) Federal Express Corporation; (22) Frontier Airlines, Inc.; (23) Hawaiian Airlines, Inc.; (24) Japan Airlines International Company, Limited; (25) JetBlue Airways Corporation; (26) Kalitta Air, LLC; (27) KLM Royal Dutch Airlines; (28) Korean Air Lines Co., Ltd.; (29) Nippon Cargo Airlines Company, Ltd.; (30) Scandinavian Airlines of North America Inc.; (31) Singapore Airlines Limited; (32) Southern Air, Inc.; (33)

Southwest Airlines Company; (34) Sun Country, Inc. dba Sun Country Airlines; (35) Swiss International Air Lines Ltd.; (36) Turkish Airlines, Inc. (Turk Hava Yollari Anonim Ortakligi); (37) United Airlines, Inc.; (38) Virgin Atlantic Airways Limited Company; and (39) WestJet, an Alberta Partnership.

Other than the extension of the term, the proposed modification would not change any material terms of the 2011 Lease, including the residual rate-setting methodology for terminal rental rates and landing fees based on the Airport's Rates and Charges, as well as the Annual Service Payment to the City's General Fund. The proposed modification would also update the 2011 Lease to comply with all federal, state, and local laws, including City contracting provisions, such as: Vending Machines: Nutritional Standards and Calorie Labeling Requirements (Administrative Code Section 4.1-9(c)); Local Hire (Administrative Code Section 23.62); Prohibition on Alcoholic Beverage Advertising (Administrative Code Section 4.20); Resource-Efficient Building Ordinance (Environment Code Chapter 7); and All-Gender Toilet Facilities (Administrative Code Section 4.1-3).

There are 15 Signatory Airlines that have not signed the lease modification.[1] These airlines may continue operating at the Airport under an Operating and Space Permit, which entails a 25 percent premium on landing fees and a security deposit of six months, rather than two months, of anticipated rental and landing fees. Airlines operating under permits pay the same Joint Use and Exclusive Use rent as Signatory Airlines.

FISCAL IMPACT

The 39 Signatory Airlines that have agreed to sign the proposed lease modification would continue to pay landing fees, Joint Use rent, and Exclusive Use rent.[2] According to Ms. Teresa Rivor, Airport Senior Property Manager, landing fees cannot be projected because they are based on flight activities, which faces uncertainty due to the COVID-19 pandemic as demand has yet to return for air travel. Estimated Joint Use and Exclusive Use rent over the extension term are shown in Table 1 below.

Table 1: Estimated Rent Projections

Year	Joint Use Rent	Exclusive Use Rent	Total Rent
FY 2021-22	$116,711,343	$174,409,270	$291,120,613
FY 2022-23	114,963,139	171,796,816	286,759,955
Total	**$231,674,482**	**$346,206,086**	**$577,880,568**

According to Ms. Rivor, the estimated rent revenues of $577,880,586 over the two-year extension term are preliminary assumptions and will likely change. The Airport projects airline rents to slightly decline in FY 2022-23, as shown in Table 1 above, because non-aviation revenues, such as concessions and parking, are projected to increase. If non-aviation revenues do not

[1] According to Ms. Rivor, 11 airlines have indicated that they will not sign the lease modification. Four other airlines have declared bankruptcy. Of the four bankrupt airlines, three are not expected to sign the lease modification, and one is expected to sign at a later date, pending bankruptcy court proceedings.

[2] Eight Signatory Airlines that have agreed to the proposed lease amendment do not currently rent Joint Use or Exclusive Use space at the airport. These airlines still pay landing fees and may also rent Cargo Space.

increase as anticipated, then airline rents would increase. Joint Use and Exclusive Use rents are subject to the Airport Rates and Charges, approved annually by the Airport Commission.

POLICY CONSIDERATION

The proposed modification preserves the rights of both the City and the Signatory Airlines with respect to any legal action related to the Healthy Airport Ordinance. On March 31, 2021, Airlines for America, a trade association representing some of the domestic Signatory Airlines, filed a lawsuit challenging the Healthy Airport Ordinance on federal preemption grounds. However, the lawsuit does not request injunctive relief from the Healthy Airport Ordinance, and the Signatory Airlines are cooperating with the Office of Labor Standards Enforcement on compliance while the lawsuit is pending.

RECOMMENDATION

Approve the proposed resolution.

Item 4 **File 21-0364**	**Department:** San Francisco Municipal Transportation Agency (SFMTA).

Legislative Objectives

- The proposed resolution would approve the Sixth Amendment to the Paratransit Broker and Operating Agreement with Transdev Services, Inc., (a) exercising the option to extend the term by five years for a total term duration of ten years from July 1, 2016 to June 30, 2026, and (b) increasing the not-to-exceed amount by $169,395,342, from $142,902,104 to not to exceed $312,297,446.

Key Points

- In July 2016, the Board of Supervisors approved a new agreement between Transdev Services, Inc. and SFMTA to provide paratransit brokerage and transportation services, following a competitive bid process where Transdev Services, Inc. was the sole respondent. The new agreement replaced the previous six-year agreement (File No. 09-1439) between the parties that was set to expire June 30, 2016.
- The current agreement is for a total not to exceed amount of $142,902,104 for a five-year term beginning July 1, 2016 and ending June 30, 2021, with an option to extend for five years through June 30, 2026 for a potential total of ten years.
- To date, the agreement has been amended five times without a change to the amount or term of the Agreement.

Fiscal Impact

- Under the Agreement's "cost-plus-fixed-fee" model, SFMTA only pays Transdev Services, Inc. the actual costs of providing paratransit service plus a small pre-negotiated management fee.
- Funding for the proposed second five-year term of the Paratransit Broker and Operating Agreement comes primarily from the SFMTA Operating Budget and the Transportation Authority as well as state and federal funding sources.
- Due to the establishment of a the new COVID Essential Trip Card (ETC) Program, the budget for FY 2022-26 would increase by $6,370,963, from $169,395,343 to $175,766,306.
- Actual and projected agreement expenditures through June 30, 2021 are $132,504,717 and budgeted expenditures under the agreement amendment are $175,766,306, totaling $308,271,024.

Recommendations

- Amend the proposed resolution to reduce the not-to-exceed amount by $4,026,423 from $312,297,446 to $308,271,023.
- Approve the proposed resolution as amended.

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

The San Francisco Municipal Transportation Agency (SFMTA) administers SF Paratransit, which is a van and taxi program for people unable to independently use or access public transit because of a disability or disabling health condition.[1] SFMTA contracts with a Paratransit Broker to manage the service and the Paratransit Broker contracts with van and taxi companies to provide transportation to qualified users.

Transdev Services Inc.

Since 2010, SFMTA has contracted with Transdev Services Inc. (which prior to 2014 was called "Veolia Transportation Services, Inc."). Transdev Services, Inc. is an international private sector company headquartered in France that operates and manages transportation networks including bus, commuter rail, and light rail in cities throughout the world. In San Francisco, Transdev Services, Inc. manages 20 independent providers to operate paratransit services on behalf of SFMTA.

Current SFMTA-Paratransit Broker Agreement

In July 2016, the Board of Supervisors approved a new agreement between Transdev Services, Inc. and SFMTA to provide paratransit brokerage and transportation services, following a competitive bid process where Transdev Services, Inc. was the sole respondent. The new agreement replaced the previous six-year agreement (File No. 09-1439) between the parties that was set to expire June 30, 2016.[2]

The current agreement is for a total not to exceed amount of $142,902,104 for a five-year term beginning July 1, 2016 and ending June 30, 2021, with an option to extend for five years through June 30, 2026 for a potential total of ten years. To date, the agreement has been amended five times without a change to the amount or term of the Agreement, as outlined below:

- First Amendment, April 2017: Deleted Section 10.8 (Health Care Accountability Ordinance); added clauses that were inadvertently omitted from Appendix D to the

[1] Since 1990, the Americans with Disabilities Act (ADA) has required all public transit agencies to provide paratransit services to eligible people with disabilities.

[2] In February 2010, the Board of Supervisors approved a resolution authorizing the Paratransit Broker Agreement with then-called Veolia Transportation, Inc. for an amount not to exceed $118,599,710 for a five-year, three-month period. The agreement was extended on June 12, 2015, for one additional year, through June 30, 2016. This agreement was amended six times, and due to this expanded scope of work, SFMTA decided to issue a new RFP in 2016 rather than exercise the five-year option to extend that existing agreement.

Agreement and correct Exhibit E by retitling it Appendix E and correcting the Small Business Enterprise goal.[3]

- Second Amendment, May 2017: Provided for the City to lease to Transdev 22 additional accessible minivans and 27 additional paratransit vans for use in the SF Access Program; eliminated references to mandatory subleasing of the vehicles and eliminate references to lease payments.
- Third Amendment, June 2017: Amended Appendix B of the Agreement to reflect the adjustments to Transdev's budget due to an increased level of service provided in the Group Van Program, with no changes to the contract's not-to-exceed amount.
- Fourth Amendment, May 2019: Provided for the City to lease to Transdev eight additional paratransit vans and 10 additional hybrid sedans for use in the SF Access and Group Van Program.
- Fifth Amendment, February 2020: Provided for the City to lease to Transdev 35 additional paratransit vans for use in the SF Access and Group Van Program.

Recent Activities

According to SFMTA, during the COVID-19 pandemic, Transdev Services, Inc. has supported various City Departments with the following additional programs: The Essential Trip Card (ETC) Program, Emergency Medical Transportation Service, Pier 94 Shuttle, Meal Delivery and the Golden Gate Park Shuttle. SFMTA reports that Transdev Services, Inc has exhibited "outstanding performance" under the existing agreement and that customer satisfaction with SF Paratransit is "high" according to a 2019 customer survey conducted by a third-party.

On January 19, 2021, the SFMTA Board of Directors approved the sixth Amendment to the Paratransit Broker and Operating Agreement, with Transdev Services, Inc which is currently under Board of Supervisor consideration in this resolution.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Sixth Amendment to the Paratransit Broker and Operating Agreement with Transdev Services, Inc., to exercise the option to extend the term by five years beginning July 1, 2021 for a total term duration of ten years from July 1, 2016 to June 30, 2026, and to increase the amount of the agreement by $169,395,342, from $142,902,104 to not to exceed $312,297,446.

Services Provided

Under the agreement, Transdev is to continue providing a range of services including: 1) determining clients' eligibility for paratransit transportation services, 2) outreach and customer service to paratransit clients, 3) maintaining the customer database, debit card system ,website,

[3] According to the First Amendment, the agreement is exempt from the Health Care Accountability Ordinance because the agreement receives federal grants, and under Administrative Code Section 12Q.2.4(10) agreements that are funded both by grant funds and non-grant funds are exempt if the grant and non-grant expenditures cannot be segregated.

and other information technology services, (4)managing paratransit vehicles, managing the paratransit program staff and budget, (5) subcontracting with group van and taxi providers and managing subcontracted services, and (6) directly managing door-to-door, shared ride, wheelchair accessible, and other transportation services on a 24-hour per day, seven-day per week schedule.

FISCAL IMPACT

According to SFMTA budget data, as of February 2021, 86 percent of the contract total not to exceed amount has been spent over 93 percent of the contract term duration. Actual agreement expenditures between July 2016 and February 2021, agreement expenditures are $123,259,035; total actual and projected expenditures through the end of the agreement term in June 2021 are $132,504,717, as shown in Exhibit 1 below.

Exhibit 1. Actual and Projected Paratransit Broker and Operating Agreement Expenditures, July 2016 to June 2021.

	Actual Expenditures July 2016 to February 2021	Projected Expenditures March 2021 to June 2021	Total
Broker Services [a]	$17,292,728	$1,391,301	$18,684,029
Transportation Subcontractors [b]	27,334,960	1,683,720	29,018,680
Total Transit Division [c]	78,631,347	6,170,661	84,802,008
Total [d]	**$123,259,035**	**$9,245,682**	**$132,504,717**

Source: SFMTA

[a] Transdev staff costs, office and other direct administrative costs, and a management fee equal to 5 percent of broker services

[b] Transdev costs for group van, taxi and other subcontractors

[c] Transdev staff and direct costs for maintaining and operating vehicles and providing transportation services

[d] The Broker Service and Total Transit Division amounts each reflect costs associated with an anticipated 1.5 percent annual demand increase in Budget Years 2 - 5.

Under the Agreement's "cost-plus-fixed-fee" model, SFMTA only pays Transdev Services, Inc. the actual costs of providing paratransit service plus a small pre-negotiated management fee.

The budget for the five-year agreement term extension is shown in Exhibit 2.

Exhibit 2. Paratransit Broker and Operating Agreement Proposed Budget, FY 2021-26

Description	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	5 Year Total
Broker Services	$4,289,369	$4,382,622	$4,481,214	$4,657,317	$4,740,475	$22,550,997
Transportation Subcontractors [a]	7,395,924	7,521,693	7,781,729	7,897,868	8,105,048	38,702,262
Total Transit Division	21,685,121	22,398,217	22,903,163	23,499,911	24,026,636	114,513,047
Total	**33,370,414**	**34,302,532**	**35,166,106**	**36,055,095**	**36,872,158**	**$175,766,306**

[a] Contains all taxi-related cost, including ETC, 20% of Group Van Service, Intercounty, and Mobility Management
Source: SFMTA

Funding for the proposed second five-year term of the Paratransit Broker and Operating Agreement comes primarily from the SFMTA Operating Budget and the Transportation Authority as well as state and federal funding sources, as shown in Exhibit 3.

Exhibit 3. Paratransit Broker and Operating Agreement Funding Sources

Paratransit	FY 21/22	FY 22/23	FY 23/24	FY 24/25	FY 25/26	Total
Federal Transit Administration 5307	$4,116,185	$4,239,671	$4,366,861	$4,497,866	$4,632,802	$21,853,385
Prop K [a]	10,193,010	10,193,010	10,193,010	10,193,010	10,193,010	50,965,050
BART ADA Contribution	2,071,241	2,174,803	2,283,543	2,397,720	2,517,606	11,444,913
State Transit Assistance-Paratransit	3,012,914	3,794,000	3,794,000	3,794,000	3,794,000	18,188,914
SFMTA Operating Budget	11,977,064	11,815,049	12,380,612	12,961,227	13,484,129	62,618,081
Department of Disabled and Aging Recovery	800,000	850,000	875,000	900,000	900,000	4,325,000
ETC Funding [b]	1,200,000	1,236,000	1,273,080	1,311,272	1,350,611	6,370,963
Total	**$33,370,414**	**$34,302,533**	**$35,166,106**	**$36,055,095**	**$36,872,158**	**$175,766,306**

Source: Agreement between SFMTA and Transdev Services, Inc

[a] Half-cent local sales tax for transportation
[b] SFMTA Operating Budget, Prop K funds and federal/state/local grant will fund this new program

Due to the establishment of a the new COVID Essential Trip Card (ETC) Program, the budget for FY 2022-26 would increase by $6,370,963, from $169,395,343 to $175,766,306. Actual and projected agreement expenditures through June 30, 2021 are $132,504,717 and budgeted expenditures under the agreement amendment are $175,766,306, totaling $308,271,024. Therefore, the Budget and Legislative Analyst recommends amending the proposed resolution to reduce the not-to-exceed amount by $4,026,423, from $312,297,446 to $308,271,023.

RECOMMENDATIONS

1. Amend the proposed resolution to reduce the not-to-exceed amount by $4,026,423 from$312,297,446 to $308,271,023.
2. Approve the proposed resolution as amended.

Item 5 **File 21-0280**	**Department:** San Francisco International Airport (Airport)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would retroactively approve Amendment No. 2 to the Terminal 3 Newsstand lease between San Francisco International Airport (Airport) as landlord and Skyline Concessions, Inc. as tenant, extending the lease from the date of Board of Supervisors approval through June 2023, with no change to the Minimum Annually Guaranteed (MAG) rent.

Key Points

- In 2013, the Board of Supervisors approved a small business set-aside Newsstand lease with Skyline Concessions in Terminal 3, Boarding Area E. Skyline Concessions' lease expired January 27, 2021 and has been in holdover status under the same terms as the original lease.
- Due to the COVID-19 pandemic and severe downturn in enplanements and concession sales, Airport Management has determined that it would not be prudent to initiate a Request for Proposals (RFP) process to select a new tenant at this time. The proposed Amendment No. 2 would extend Skyline Concessions' lease from the date of Board of Supervisors approval through June 30, 2023, with no change to the MAG rent. The lease could be terminated at the Airport Director's sole discretion by providing six months' written notice.

Fiscal Impact

- Under the lease, the Airport receives the greater of MAG rent, which is currently $235,432, or tiered percentage rent of gross revenues. Over the approximately two-year and five-month period from the expiration of the original lease through the term of the lease extension, the value of the MAG is at least $568,291.
- The lease contains a provision that suspends the MAG rent if enplanements drop to below 80 percent of 2012 levels for three consecutive months, consistent with Airport policy. The MAG is then reinstated if enplanements increase back to at least 80 percent of 2012 levels for two consecutive months. When the MAG is suspended, Skyline Concessions still pays percentage rent, which may be lower than the MAG. MAG rents are currently suspended due to the impact of COVID-19 on air travel.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(c) states that (1) any lease of real property for ten or more years, including options to renew, (2) have anticipated revenues to the City of $1,000,000, or (3) the modification, amendment or termination of these leases is subject to Board of Supervisors approval.

BACKGROUND

In 2013, the San Francisco International Airport (Airport) issued a Request for Proposals (RFP) to award a small business set-aside Newsstand concession lease for approximately 493 square feet in Terminal 3, Boarding Area E.[1] The Airport received four proposals, and a scoring panel determined that Skyline Concessions was the highest scoring responsive and responsible proposer. In September 2013, the Board of Supervisors approved a lease with Skyline Concessions for a term of seven years and initial Minimum Annually Guaranteed (MAG) rent of $192,000 (File 13-0671).

The lease with Skyline Concessions expired on January 27, 2021 and is currently in holdover status. Due to the COVID-19 pandemic and severe downturn in enplanements and Airport concession sales, Airport Management has determined that it would not be prudent to initiate an RFP process to select a new tenant at this time. In December 2020, the Airport Commission approved Amendment No. 2 to the lease, extending the term through June 2023.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve Amendment No. 2 to the lease between the Airport as landlord and Skyline Concessions as tenant, extending the term from the date of Board of Supervisors approval through June 2023.[2] As noted above, the lease has been in holdover status since January 2021 under the same terms as the original lease. Under the proposed Amendment No. 2, the MAG and other lease terms would not change. The lease could be terminated under the Airport Director’s sole discretion by providing six months’ written notice.

According to Ms. Veronica Zaimani, Airport Principal Property Manager, Skyline Concessions briefly suspended operations in March 2020 but has remained operational since June 2020. Skyline Concessions, which operates two concession leases at the Airport, has participated in the COVID-19 Emergency Rent Relief Program, which waived certain rents and fees to encourage business recovery, employee rehiring, and continued operations at the Airport (File 20-1278).

The proposed Amendment No. 2 adds new sections to Article 19 of the lease, including (a) nutritional standards and calorie labeling requirements for vending machines; (b) Administrative Code Chapter 12K restrictions on considering current and past salary history of job applicants; (c)

[1] According to the RFP, eligible proposers were required to have been Small Business Enterprises certified by the California Unified Certification Program, San Francisco Contract Monitoring Division, or United States Small Business Administration.

[2] The Airport Commission approved Amendment No. 1 in October 2020 to incorporate the COVID-19 Emergency Rent Relief Program for Airport concession tenants.

local hire requirements for site alterations; (d) compliance with the City's resource-efficient building requirements; (e) compliance with all-gender toilet facilities requirements; and (f) compliance with Federal Labor Standards Act (FLSA) and Occupational Health and Safety Act (OSHA) requirements.

FISCAL IMPACT

Under the lease, the Airport receives the greater of MAG rent, which is currently $235,432, or tiered percentage rent of gross revenues.[3] Over the approximately two-year and five-month period from the expiration of the original lease through the term of the lease extension, the value of the MAG rent is at least $568,961.

The current MAG rent of $235,432 is based on the original MAG rent of $192,000 adjusted annually by the Consumer Price Index (CPI). In calendar year 2019, the last full year before the COVID-19 pandemic, Skyline Concessions paid $323,388 in percentage rent.

MAG Suspension

The lease contains a provision that suspends the MAG rent if enplanements drop below 80 percent of 2012 levels for three consecutive months, consistent with Airport policy. The MAG is then reinstated if enplanements increase back to at least 80 percent of 2012 levels for two consecutive months. When the MAG is suspended, Skyline Concessions still pays percentage rent, which may be lower than the MAG. MAG rents are currently suspended due to the impact of COVID-19 on air travel.

RECOMMENDATION

Approve the proposed resolution.

[3] Under the lease, Skyline Concessions pays percentage rent of 12 percent of gross revenues up to $500,000, 14 percent of gross revenues from $500,000-$1,000,000, and 16 percent of gross revenues over $1,000,000.

Item 6 **File 21-0383**	**Department:** Mayor Office of Housing & Community Development (MOHCD)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves (a) a purchase and sale agreement between the Mayor's Office of Housing and Community Development (MOHCD) and Mission Housing Associates LP (Mission Housing), in which the City would purchase 4840 Mission Street from Mission Housing for a purchase price of $8.15 million, to be credited against a prior MOHCD loan of $18.5 million to Mission Housing; (b) two 75-year ground leases between MOHCD and Mission Housing for the residential and the clinic developments at 4840 Mission Street; and (c) a new loan by MOHCD to Mission Housing of $28,751,450 for a term of 57 years as gap financing for development of the residential and clinic projects at 4840 Mission Street.

Key Points

- 4840 Mission Street is a proposed affordable housing development for families, consisting of 135 housing units affordable to families with household incomes between 30 percent and 108 percent of Area Median Income (plus two managers' units) and a health clinic. The Board of Supervisors previously approved in 2019 an $18.5 million loan to 4840 Mission Housing, an affiliate of BRIDGE Housing Corporation, to pay acquisition and development costs for 4840 Mission Street.
- The project includes a health clinic to be operated by Mission Neighborhood Health Clinic (MNHC). After completion of the construction of the project, Mission Housing would assign the clinic ground lease to MNHC, and MNHC would reimburse $3.0 million of project development costs.
- The total project budget for the affordable housing and clinic development at 4840 Mission (not including acquisition) is $108.1 million. Sources of project funds come from the MOHCD loan, a commercial loan, low income house tax credit financing, and deferred developer fees.

Fiscal Impact

- Project development costs, not counting land acquisition, are approximately $790,000 per unit. The City's costs are approximately $285,000 per unit.
- The project income comes primarily from tenant rents and the federal Department of Housing and Urban Development (HUD) Housing Assistance Payments (also known as Section 8 Project Based Vouchers). The project pro forma estimates sufficient income to pay operating expenses, reserve replacement, debt service on the commercial loan, and asset management and deferred developer fees.

Recommendation

- 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

4840 Mission Street is a proposed affordable housing development for families, consisting of 137 housing units and a health clinic. In 2019, the Board of Supervisors approved an $18.5 million loan agreement between the Mayor's Office of Housing and Community Development (MOHCD) and 4840 Mission Housing Associates, LP, an affiliate of BRIDGE Housing Corporation ("BRIDGE"), to pay acquisition and development costs for 4840 Mission Street (File 19-0934).

BRIDGE was awarded the loan following a competitive Notice of Funding Availability (NOFA) in 2016. BRIDGE acquired 4840 Mission Street in 2017 for $12 million, using loan funds from MOHCD and the Housing Accelerator Fund. The $18.5 million loan approved by the Board in 2019 consolidated a prior MOHCD loan to BRIDGE to partially fund acquisition and predevelopment costs, and new funds for predevelopment and repayment of the Housing Accelerator Fund loan.

The proposed project would develop 135 units (plus two manager units) of mixed income housing for families with income levels ranging from 30 percent to 108 percent of Area Median Income (AMI), and a health clinic.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

- Authorize the Director of Real Estate to purchase 4840 Mission Street from 4840 Mission Housing Associates L.P. ("Mission Housing") at no cost in exchange for a $8,150,000 credit; and place the property under the jurisdiction of the Mayor's Office of Housing and Community Development (MOHCD) for construction of affordable housing;
- Approve a loan agreement in the amount of $28,751,450 for a term of 57 years to finance construction of the affordable housing;
- Authorize a purchase and sale agreement for the City to acquire 4840 Mission Street;
- Approve a ground lease to Mission Housing for 4840 Mission Street for a term of 75 years with one 24-year option to extend, and annual base rent of $15,000 in order to construct the affordable housing; and a ground lease to Mission Housing for a term of 75 years with one 24-year option to extend and annual base rent of $5,000 in order to construct a health clinic;
- Adopt findings that the Purchase Agreement, Loan Agreement, Residential Ground Lease, and Clinic Ground Lease are consistent with the General Plan, and the eight priority policies of Planning Code, Section 101.1; [1] and

[1] The eight priorities defined in Planning Code Section 101.2 states are that (1) existing neighborhood-serving retail uses will be preserved and enhanced and future opportunities for resident employment in and ownership of such

- Authorize the Director of Real Estate and/or the Director of MOHCD to execute the Purchase Agreement, Loan Agreement, Residential Ground Lease, and Clinic Ground Lease, make certain modifications to such agreements, and take certain actions in furtherance of the resolution.

Purchase and Sale Agreement

The purchase and sale agreement is between Mission Housing and the City, in which the City would purchase from Mission Housing the property at 4840 Mission Street, consisting of 1.48 acres of land, the existing building (formerly used as a morgue), and any other easements or legal rights or privileges associated with the property. The City would purchase the property "as is" for $8,150,000. The purchase amount of $8,150,000 would be in the form of a credit against the outstanding balance of the previously-approved $18.5 million loan to Mission Housing (as an affiliate of BRIDGE).

Costs to be paid by Mission Housing include the premium for title insurance, transfer taxes (if applicable), and utilities, taxes, or other expenses due up to the date of the sale of the property.

Ground Leases

Upon sale of 4840 Mission Street to the City, the City would enter into the following two ground leases:

1. Residential ground lease with Mission Housing, for an initial term of 75 years with one 24-year option to extend. Rent will consist of annual base rent of $15,000 over the 75-year term of the ground lease, and residual rent equal to 10 percent of the appraised fair market value less the value of the clinic parcel, estimated to be $673,346. Residual rent is due only if sufficient surplus receipts are available, in accordance with MOHCD Residual Receipts policy.[2]
2. Clinic ground lease with Mission Housing, for an initial term of 75 years with one 24-year option to extend. Base rent is $5,000 per year. Mission Housing and Mission Neighborhood Health Clinic, a nonprofit corporation, have a separate joint development and cost allocation agreement that defines responsibility for construction of the clinic

businesses enhanced; (2) existing housing and neighborhood character will be conserved and protected in order to preserve the cultural and economic diversity of our neighborhoods; (3) the City's supply of affordable housing will be preserved and enhanced; (4) commuter traffic will not impede Muni transit service or overburden our streets or neighborhood parking; (5) a diverse economic base will be maintained by protecting our industrial and service sectors from displacement due to commercial office development, and that future opportunities for resident employment and ownership in these sectors be enhanced; (6) the City will achieve the greatest possible preparedness to protect against injury and loss of life in an earthquake; (7) landmarks and historic buildings will be preserved; and (8) parks and open space and their access to sunlight and vistas will be protected from development.

[2] Under the Residual Receipts policy (and as stated in the proposed ground lease), surplus revenues (available revenues after expenses, fees, and senior debt are paid) are allocated to (1st) base rent, and (2nd) operating and replacement reserve accounts. After these allocations, if the project owes deferred developer fees, one-half of surplus revenues are allocated to the City; once all deferred developer fees are paid (in approximately 15 years), two-thirds of surplus revenues are allocated to the City. Residual receipts paid to the City are first used to pay for outstanding loan amounts and then used to pay residual rent.

space and assignment of the clinic ground lease to Mission Neighborhood Health Clinic at a future date.

Loan Agreement

The proposed resolution approves a new loan agreement between Mission Housing and MOHCD for $28,751,450. The loan is for 57 years at simple interest of 1 percent per year; principal and interest on the loan is due and payable at the 57-year maturity date.

The MOHCD loan of $28.8 million makes up 27 percent of total project costs of $108.1 million, shown in Exhibit 1 below.[3]

Exhibit 1: Project Sources and Uses

Sources	
MOHCD	
Citywide Affordable Housing Fund	$2,000,000
Inclusionary Affordable Housing Fee	1,490,000
2019 Proposition A GO Bond	25,261,450
Subtotal MOHCD Funds	$28,751,450
Other Committed Funds	
Permanent Mortgage	$25,514,287
Tax Credit Equity	51,584,616
Deferred Developer Fee	2,298,989
Total	**$108,149,342**
Uses	
Demolition	$112,437
Construction	85,224,047
Permits, Engineering & Architect, Other	17,643,869
Residential and Commercial Deferred Developer Fee	5,168,989
Total	**$108,149,342**

Source: Loan Evaluation

Bridge Loans

Federal Home Loan Bank ($1,250,000)

The Inclusionary Housing Fee allocation of $1,490,000 includes a bridge loan of $1,250,000 pending approval of a loan from the Federal Home Loan Bank. The loan agreement requires Mission Housing to apply for a Federal Home Loan Bank loan of $1,250,000 and if approved, to repay the Inclusionary Housing Fee bridge loan.

[3] This amount does not include the prior loan of $18.5 million or the credit of $8.15 million against the outstanding balance.

Clinic Shell and Build Out ($3,000,000)

The Inclusionary Housing Fee allocation includes an additional bridge loan of $240,000 to construct the shell of the clinic. The 2019 Proposition A General Obligation Bond allocation of $25,261,450 includes $2,760,000 to construct clinic improvements.

Mission Housing will construct the clinic shell and improvements, and on completion, will assign its interest in the clinic ground lease and sell its interest in the clinic improvements to Mission Neighborhood Health Center at a price of $3,000,000. Mission Housing will use the proceeds to repay $3,000,000 of the MOHCD loan.

Other Financing Sources

Low Income Housing Tax Credits ($51,584,616)

Mission Housing LP is a limited partnership in which Mission Housing LLC (a subsidiary of BRIDGE) serves as the general partner and Bank America is the limited partner for purposes of obtaining low income housing tax credits for the project. In December 2020 the State Treasurer's Tax Credit Allocation Committee (TCAC) approved Mission Housing's tax credit application.

Permanent Loan ($25,514,287)

Mission Housing has received a commitment from JLL Real Estate Capital, LLC to fund a permanent loan. According to the project's pro forma income and expense projections, the estimated annual payment on the loan is $1.2 million, paid from the project's net income.

Deferred Developer Fee ($2,298,989)

The developer fee represents payment for Mission Housing's developer service. According to the project's pro forma, the deferred developer fee is to be paid over the first 15 years of the project from net income.

FISCAL IMPACT

Project Costs

Project development costs, not counting land acquisition, are approximately $790,000 per unit. The City's costs are approximately $285,000 per unit.

Project Financial Pro Forma

The project income comes primarily from tenant rents and the federal Department of Housing and Urban Development (HUD) Housing Assistance Payments (also known as Section 8 Project Based Vouchers). The project pro forma estimates sufficient income to pay operating expenses, reserve replacement, debt service on the commercial loan, and asset management and deferred developer fees. Estimated residual receipts, of which portion would be paid to the City, are up to approximately $150,000 per year on average over the first 15 years of the project.

Because the proposed project is consistent with prior Board of Supervisors actions and City policy, the Budget and Legislative Analyst recommends approval.

RECOMMENDATION

Approve the proposed resolution.

Item 9 **File 21-0344**	**Department:** Human Services Agency

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution approves the third amendment to the grant agreement between the Department of Disability and Aging Services and the Community Living Fund to (a) increase the contract amount by $10,767,634 from $11,641,294 to $22,408,928, and (b) extend the term by two years for a new end date of June 30, 2023.

Key Points

- The Community Living Fund (CLF) was established by the Board of Supervisors in 2006 (File 06-0793) and is funded by annual General Fund appropriations and federal funds issued through the State. Appropriations to the fund may only be used for the Department of Aging and Adult Services programming related to housing needs, as specified in Section 10.100-12 of the Administrative Code. The CLF Program is administered by the Department of Disability and Aging Services and is designed to help eligible lower income San Francisco residents transition out of hospitals or care facilities so that they can live independently.
- The Board approved the first amendment to the grant agreement between the City and the Institute on Aging in November 2019, and the second amendment in February 2020.

Fiscal Impact

- Under the proposed third amendment to the grant agreement, the budget for FY 2021-22 and for FY 2022-23 is $4,894,379 plus a 10 percent contingency amount of $489,438, totaling $9,788,758 over the two years. Total actual, projected, and proposed expenditures are $22,408,928.
- Funding for the agreement is divided with approximately 25 percent sourced from State/Federal monies and approximately 75 percent is from the City General Fund.

Recommendation

- 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

The San Francisco Human Services Agency is responsible for providing services to older adults and adults with disabilities through the Department of Disability and Aging Services (formerly known as Department of Aging and Adult Services).

The Community Living Fund

The Community Living Fund (CLF) was established by the Board of Supervisors in 2006 (File 06-0793) and is funded by annual General Fund appropriations and federal funds issued through the State. Appropriations to the fund may only be used for the Department of Disability and Aging Services programming related to community placement alternatives, as specified in Section 10.100-12 of the Administrative Code.

The CLF Program is administered by the Department of Disability and Aging Services and is designed to help eligible lower income San Francisco residents transition out of hospitals or care facilities so that they can live independently.

Competitive Procurement of Services

In October 2018, the Department of Disability and Aging Services (DAS) issued a Request for Proposals (RFP) for the Community Living Fund (CLF) Program. DAS sought an agency to provide case management services, staff, and organizational infrastructure, as well as manage the CLF Program dollars to provide needed goods, services, equipment and other resources not available through other means to qualifying individuals.

The sole respondent to the DAS RFP was the Institute on Aging; a nonprofit organization founded in San Francisco in 1985, that has been providing CLF services since 2007. According to annual grant monitoring reports, the Institute on Aging has consistently demonstrated meeting grant performance targets.[1] Accordingly, in May 2019, the Aging and Adult Services Commission[2] selected the Institute on Aging to administer the Community Living Fund program under a new grant agreement amount of $9,794,736 (including contingency amount) for an initial two-year term, from July 1, 2019 through June 30, 2021, with the option to extend the agreement through June 30, 2024.

[1] Performance goals include delivering sufficient units of services, data quality and reporting standards, retaining qualified staff, and delivering consistent outcomes for clients.

[2] The San Francisco Disability and Aging Services Commission, formerly the Aging and Adult Services Commission, is a charter commission of the City and County of San Francisco that provides oversight over the Department of Disability and Aging Services.

Under this grant agreement, the Institute on Aging uses CLF program funds for case management and purchase of goods and services for older adults and younger adults with disabilities who are currently in or at imminent risk of being institutionalized. Examples of services that can be purchased through the CLF program are home care, assistive devices, home modifications, basic furnishings, transportation, and translation services.

Modifications to the Grant Agreement

In November 2019, the Board approved the first amendment to the grant agreement between the City and the Institute on Aging (File 19-1049). The amendment increased the amount of the grant by $770,000 in order to enable the Institute on Aging to pilot the Public Guardian Housing program,[3] bringing the not-to-exceed amount to $10,564,736 during the agreement term of July 1, 2019 through June 30, 2021.

Subsequently, DAS informally increased the grant amount by $261,664 to be used for the Housing and Disability Income Advocacy Program.[4] At the time, the contingency for FY 2019-20 was used to fund HDAP services in anticipation of receiving State funding. Because the increase in the grant amount from $10,564,736 to $10,826,400 was less than $500,000, it did not require Board of Supervisors approval. HDAP funding effectively ended in September 2020.[5]

In February 2020 the Board approved the second Amendment to the grant agreement (File 20-0010), increasing funds by $1,076,558 to a new total not to exceed amount of $11,641,294, to be used for program purchases, software upgrades, new equipment, and adding part-time Occupational Therapist staffing.

On April 7, 2021, the Disability and Aging Services Commission approved the Third Amendment to the grant agreement that is now under consideration by the Board of Supervisors.

A timeline of the modifications to the City's CLF grant agreement with the Institute on Aging is depicted in Exhibit 1, below. The Total Amount includes the contingency amounts which range from 7-10 percent.

Exhibit 1. Community Living Fund Grant Modification History

	Term	Increase Amount	Total Amount
Original Agreement	July 1, 2019-June 30, 2021		$9,794,736
First Amendment	Unchanged	770,000	10,564,736
HSA Addition	Unchanged	261,664	10,826,400
Second Amendment	Unchanged	1,076,558	11,641,294
Third Amendment (Proposed)	July 1, 2019-June 30, 2023	10,767,634	$22,408,928

[3] The Public Guardian Housing Fund supports individuals' placement in assisted living facilities, supportive housing, or other similar types of housing. The Public Guardian Housing Fund is available for individuals who are conserved by the Public Guardian who meet both Public Guardian eligibility criteria and CLF eligibility criteria. Under California Probate Code, the Superior Court can appoint the Public Guardian to serve as conservator to individuals who have physical and mental (such as dementia) limitations that make them unable to handle basic personal and financial needs.

[4] The Housing and Disability Income Advocacy Program is a state-funded initiative that helps individuals with disabilities who are experiencing homelessness and are at risk of institutionalization apply for disability benefit programs while also providing housing assistance.

[5] Appendix A-3 to Grant Modification 3.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution approves the third amendment to the grant agreement between the Department of Disability and Aging Services and the Community Living Fund (a) increasing the contract amount by $10,767,634 from $11,641,294 to $22,408,928, and (b) extending the term by two years for a new end date of June 30, 2023.

The two-year grant term extension under consideration is in accordance with the Department of Disability and Aging Services' original 2018 Request for Proposal, which stated that the contract shall have an original term of five years effective from July 1, 2019 to June 30, 2024.

Description of Services

Under the third amendment to the grant agreement, the Institute on Aging would continue working in collaboration with subcontractors Catholic Charities, Self-Help for the Elderly and Conard House to provide case management services through clinical supervision and purchase of goods and services to individuals who are discharged from a hospital or care facility, or who are in the community but are at imminent risk of being institutionalized. The Institute on Aging will also continue to administer the Public Guardian Housing Fund to eligible individuals.

The target population for CLF is San Francisco residents who are willing and able to be discharged from local hospitals into community living. CLF program participants are deemed unable to live safely in the community without appropriate support. The Department of Disability and Aging Services is responsible for intake and screening of all CLF program participants. In order to obtain CLF services, an individual must, at a minimum, be: 18 years or older; institutionalized or deemed, at assessment, to be at imminent risk of being institutionalized; a resident of San Francisco; willing and able to live in the community with appropriate supports; and at an income level of 300 percent of federal poverty or less plus assets up to $6,000.

According to HSA Program Manager Ms. Fanny Lapitan, CLF supports clients living in the community for as long as they have a need for the CLF program. As such, CLF's average length of client enrollment is about 28 months.

Grant Performance

The Institute on Aging has met and exceeded the Service and Outcome Objectives as defined in the grant agreement.[6] The annual target number of 425 unduplicated consumers receiving intensive case management and/or purchased services was exceeded in 2019, with 474 actual consumers being served. The annual target number of clients newly enrolled in CLF was 175 and the actual number was 281.

In FY 2019-20, re-institutionalization of those discharged from the Laguna Honda Hospital—a primary source of program participants—within six months of enrollment in CLF was at 4 percent. This rate exceeds the target. According to HSA, the most common reason for re-

[6] Department of Disability and Aging Services Office of Community Partnerships, FY 19-20 Non-Profit Contract Monitoring Standard Assessment Form. Virtual program monitoring conducted on August 24, 2020.

institutionalization is due to a need for higher level of care related to a client's medical and/or behavioral health.

According to the Institute on Aging 2019 Client Satisfaction Survey, 96 percent of survey respondents indicated "overall satisfaction with services". Ninety-five percent of respondents said they would recommend their program to a friend or family member, which is an increase from 93 percent in 2018.

FISCAL IMPACT

Under the proposed third amendment to the grant agreement, the budget for FY 2021-22 and for FY 2022-23 is $4,894,379 plus a 10 percent contingency amount of $489,438, totaling $9,788,758 over the two years. Total actual, projected, and proposed expenditures are $22,408,928, shown in Exhibit 2 below.

Exhibit 2. Community Living Fund Grant Uses

	FY 19/20 Actual	FY 20/21 Projected	Proposed FY 21/22	Proposed FY 22/23	Total
Salaries & Benefits	$1,597,704	$1,911,841	$1,765,480	$1,765,480	$7,040,505
Operating Expense	252,126	303,694	270,413	270,413	1,096,646
HSA Overhead (15%)	277,475	332,330	305,384	305,384	1,220,573
Contractor Overhead	12,750	12,750	12,750	12,750	51,000
Capital Improvements	59,153	60,000	0	0	119,153
Other Operating Expenses	428,618	481,903	372,600	372,600	1,655,721
Purchases of Services	2,237,574	2,090,378	1,817,752	1,817,752	7,963,456
Encumbrances	302,231	0	0	0	302,231
Subtotal, Core Programs	$5,167,631	$5,192,896	$4,544,379	$4,544,379	$19,449,285
Public Guardian Program	145,407	554,593	350,000	350,000	1,400,000
HDAP	261,664	38,515	0	0	300,179
Contingency		280,589	489,438	489,438	1,259,465
Total	**$5,574,702**	**$6,066,593**	**$5,383,817**	**$5,383,817**	**$22,408,928**

Source: HSA

According to HSA staff, funding for the agreement is divided with approximately 25 percent sourced from State/Federal monies and approximately 75 percent is from the City General Fund.

RECOMMENDATION

Approve the proposed resolution.