File No. 120906

Committee Item No. 5
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

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Committee: Budget and Finance Committee **Date** 10/03/2012

Board of Supervisors Meeting **Date** _____

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Completed by: Victor Young **Date** September 28, 2012
Completed by: Victor Young **Date** _____

[Approval of Amendment to the Construction Management Services Agreement for the Laguna Honda Hospital Replacement Program]

Resolution authorizing the Director of Public Works to execute an amendment to the construction management services agreement with Cooper Pugeda Management, Inc. for the Laguna Honda Hospital Replacement Program from $16,196,764 to $16,805,733.

WHEREAS, The Director of Public Works has entered into an agreement dated May 31, 2002 with Turner Construction Company/Cooper Pugeda Management, Inc., A Joint Venture to provide Professional Construction Management Services for the Laguna Honda Hospital Replacement Program; and

WHEREAS, The Director of Public Works approved an Assignment and Assumption Agreement dated May 9, 2003 severing the joint venture and assigning the terms and conditions of the Agreement solely to Cooper Pugeda Management, Inc.; and

WHEREAS, on May 17, 2011 the Board of Supervisors adopted Resolution 202-11 authorizing an increase in the contract amount in the agreement with Cooper Pugeda Management, Inc., resulting in a contract in an amount not to exceed $16,196,764; and

WHEREAS, The parties have agreed to increase the scope of work that would be performed by Cooper Pugeda Management, Inc. under the agreement and to increase the contract sum by $608,969; and

WHEREAS, Section 9.118(b) of the Charter requires that all agreements having a term in excess of ten years, or requiring expenditures in excess of ten million dollars, or amendments to said agreements in excess of $500,000 be approved by the Board of Supervisors; now, therefore, be it

///

RESOLVED, That the Board of Supervisors does hereby authorize the Director of Public Works to enter into amendments to the May 9, 2003 agreement with Cooper Pugeda Management, Inc., resulting in a contract amount not to exceed $16,805,733.

APPROVED AS TO FORM:
Dennis J. Herrera, City Attorney

Ronald P. Flynn, Deputy City Attorney

RECOMMENDED BY:
DEPARTMENT OF PUBLIC WORKS

3/1/12

Mohammed Nuru, Director of Public Works

Item 5 File 12-0906	Department: Department of Public Works (DPW) Department of Public Health (DPH)

EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolution would authorize the Director of Public Works to execute Modification No. 16 to the Construction Management Services Agreement with Cooper Pugeda Management, Inc. (CPM) for the Laguna Honda Hospital (LHH) Replacement Program, to increase the Agreement by $608,969 from a not-to-exceed $16,196,764 to a not-to-exceed $16,805,733.

Key Points

- On June 15, 2011, DPW executed Modification No. 15 to the Construction Management Services Agreement with CPM to increase the Agreement by $497,657 from a not-to-exceed $16,196,764 to a not-to-exceed $16,694,421, which was not subject to Board of Supervisors approval because the Agreement was increased by less than $500,000. Since the latest authorized Agreement amount is a not-to-exceed $16,694,421 and since the new requested not-to-exceed amount is $16,805,733, the proposed resolution should therefore be amended to authorize the Director of Public Works to execute Modification No. 16 to the Construction Management Services Agreement with CPM to increase the Agreement by $111,312 from $16,694,421 to a not-to-exceed $16,805,733, an increase of $111,312.

Fiscal Impact

- Based on a competitive Request for Proposal (RFP) process, the initial Construction Management Services Agreement between DPW and CPM was awarded in the not-to-exceed $601,000. If the proposed Modification No. 16 authorizing a new not-to-exceed Agreement amount of $16,805,733 is approved, the total amount of the Agreement would increase by $111,312 from $16,694,421 to a not-to-exceed $16,805,733. Mr. John Thomas of DPW advises that the original Agreement amount of $601,000 has significantly increased because the Agreement was intended to be initiated in stages, in which the Agreement would be modified annually based on the work plan for the particular year involved.

Policy Consideration

- DPW requested Board of Supervisors approval of Modification No. 10 to cover DPW-authorized Modification No.'s 10, 11, 12 to the subject Agreement, which should have each been subject to separate Board of Supervisors approval. In addition, Modification No. 13, which DPW authorized, should have been subject to Board of Supervisors approval.

Recommendations

- Amend the proposed resolution to reflect that the subject Modification No. 16 would result in an increase of $111,312 (instead of an increase of $608,969) from a not-to-exceed amount of $16,694,421 (instead of $16,196,764) to a not-to-exceed amount of $16,805,733.
- Approve the proposed resolution, as amended.

MANDATE STATEMENT/BACKGROUND

Section 9.118(b) of the City's Charter requires that all agreements in excess of $10,000,000 or amendments to said agreements in excess of $500,000 be subject to approval by the Board of Supervisors.

Background

The Laguna Honda Hospital (LHH) Replacement Program comprises demolition, construction, and renovation of LHH, including (a) the construction of four new buildings: South, Link, East, and West, and (b) renovations to existing facilities.

As shown in Table 1 below, the total estimated LHH Replacement Program budget is $584,946,602.

Table 1: Laguna Honda Hospital Replacement Program Budget

	Budgeted Expenditures
Professional Services	
Design Agreement	$50,800,000
Construction Management	20,716,795[1]
Permits and Fees	7,995,831
DPW Program Management	7,956,227
Special Inspection and Testing	6,360,579
Surveys, Reproduction, Activation	2,515,295
DPW Architecture	2,428,642
Hazardous Materials	1,734,813
Environmental Impact Report	289,503
Subtotal	**$100,797,685**
Construction	
Construction	$484,148,917
Subtotal	**$484,148,917**
Total	**$584,946,602**

Table 2 below summarizes the sources of funding for the $584,946,602 LHH Replacement Program.

[1] Budgeted expenditures for Construction Management include $14,596,548 or 70.5 percent in agreements with private contractors and $6,120,247 or 29.5 percent in City employee staff time.

Table 2: Sources of Funding for LHH Replacement Program

General Obligations Bonds*	$296,083,671
Interest Earned from General Obligation Bonds	26,771,514
Tobacco Settlement Revenues**	133,554,943
Interest Earned from Tobacco Settlement Revenues	7,437,788
Certificates of Participation	120,000,000
Grants***	1,098,686
Total	**$584,946,602**

*–General Obligation Bonds approved by the San Francisco voters on November 2, 1999.

**–Tobacco Settlement Revenues are funds received under a 1998 Master Settlement Agreement between the Attorney General of the State of California and various manufacturers of tobacco products, which is administered by the State of California.

***–Grants are from the US Health Resources and Service Administration (HRSA) and the US Department of Housing and Urban Development (HUD).

Following a competitive Request for Proposal (RFP) process in May of 2001,the De partment of Public Works (DPW) awarded a Construction Management Services Agreement to Cooper Pugeda Management, Inc. (CPM)[2] to provide construction management services throughout the planning, design, bid, construction and post-construction phases of the LHH Replacement Program.

According to Mr. John Thomas, DPW Program Manager for the LHH Replacement Program, the LHH Replacement Program commenced construction in the fall of 2002. Mr. Thomas advises that due to unanticipated significant structural repairs, the estimated completion of the LHH Replacement Program has been delayed from the previously estimated completion date of late 2013 to early 2014.

The initial Construction Management Services Agreement between DPW and CPM was for a not-to-exceed amount of $601,000. Since the original Construction Management Services Agreement for $601,000 was approved in 2001, there have been 15 modifications to the Agreement. Only two of the previous 15 modifications to the Agreement were subject to Board of Supervisors approval (Modification No.10 ,Re solution No.357 -08, and Modification No. 14, Resolution No. 202-11). The Budget and Legislative Analyst notes that the first 9 modifications to the Agreement were not subject to Board of Supervisors approval because the Agreement did not exceed $10,000,000.

[2] The original Construction Management Services Agreement awarded by DPW in May, 2002 was with Turner Construction Company/Cooper Pugeda Management, Inc. a joint venture. However, the joint venture was severed in May, 2003 to enable Turner Construction Company to compete in the selection of another project. The DPW approved an Assignment and Assumption Agreement dated May 9, 2003 severing the joint venture and assigning the terms and conditions of the Agreement solely to Cooper Pugeda Management, Inc.

The Budget and Legislative Analyst notes that Modification No. 10 (Resolution No. 357-08), which was approved by the Board of Supervisors on August 8, 2008, authorized DPW to increase the Construction Management Services Agreement by $4,789,098 from a not-to-exceed $9,995,383 to a not-to-exceed $14,784,481. Because Modification No. 10 resulted in the Agreement exceeding $10,000,000, Board of Supervisors approval was required for Modification No. 10.

However, rather than increasing the Agreement to $14,784,481 with a single modification, as previously approved by the Board of Supervisors in Resolution No. 357-08, DPW instead executed Modification No. 10 in August of 2008 to increase the Construction Management Services Agreement with CPM by only $670,810 from a not-to-exceed $9,995,383 to a not-to-exceed $10,666,193. Subsequently, DPW executed two additional modifications (Modifications No. 11 and No. 12), which were not subject to Board of Supervisors approval, as follows:

- Modification No. 11, executed on December 23, 2008, increased the Agreement by $2,838,534 from a not-to-exceed $10,666,193 to a not-to-exceed $13,504,727.

- Modification No. 12, executed on December 11, 2009, increased the Agreement by $1,298,710, from a not-to-exceed $13,504,727 to a not-to-exceed $14,803,437. The Budget and Legislative Analyst notes that the new not-to-exceed amount of $14,803,437 was $18,956 greater than the not-to-exceed amount of $14,784,481 previously approved by the Board of Supervisors on August 8, 2008 (Resolution No. 357-08).

Mr. Thomas advises that DPW considered the authorization by the Board of Supervisors in August 2008 under Resolution No. 357-08, which increased the Agreement to a not-to-exceed $14,784,481, to cover the three modifications to the actual Construction Management Services Agreement with CPM, which were made separately in August 2008, December 2008, and December 2009, respectively, to a not-to-exceed $14,803,437, because DPW's approach to the Agreement had been, and remained, to modify the Agreement annually based on the work plan for the particular year involved.

Modification No. 13, executed by DPW on July 21, 2010, subsequently increased the Agreement by $499,992, from a not-to-exceed $14,803,437 to a not-to-exceed $15,303,429. Although the new not-to-exceed 15,303,429 was $518,948 greater than the last Board of Supervisors-approved not-to-exceed $14,784,481, DPW did not request Board of Supervisors approval, apparently because the $499,992 specific increase in Modification No. 13 was less than $500,000. However, Modification No. 13 should have been subject to Board of Supervisors approval because the new not-to-exceed $15,303,429 was more ($518,948) than $500,000 over the last not-to-exceed $14,784,481 previously approved by the Board of Supervisors.

The Budget and Legislative Analyst notes that on May 17, 2011 the Board of Supervisors approved a resolution (Resolution No. 202-11) authorizing DPW to execute Modification No. 14, which increased the Construction Management Services Agreement with CPM by an additional $893,335 from a not-to-exceed $15,303,429 to a not-to-exceed $16,196,764.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Director of Public Works to execute Modification No. 16 to the Construction Management Services Agreement with Cooper Pugeda Management, Inc. (CPM) for the LHH Replacement Program, to increase the Construction Management Services Agreement by $608,969, from a not-to-exceed $16,196,764 to a not-to-exceed $16,805,733.

Mr. Thomas advisestha t the proposed increase of $608,969 to the Construction Management Services Agreement would fund continued construction management services, including (a) independent construction cost estimates, (b) construction scheduling support, (c) general administrative support, and (d) Office of Statewide Health Planning and Development (OSHPD) inspections related to the remodel of the existing LHH building.

However, Mr. Thomas advises that on June 15, 2011, DPW executed Modification No. 15 to the Construction Management Services Agreement with CPM to increase the Agreement by $497,657 from a not-to-exceed $16,196,764 to a not-to-exceed $16,694,421. Modification No. 15, which increased the Agreement by $497,657 from a not-to-exceed $16,196,764 to a not-to-exceed $16,694,421, was not subject to Board of Supervisors approval because the Agreement was increased by less than $500,000.

Since the latest authorized Agreement amount is a not-to-exceed $16,694,421 and since the new requested not-to-exceed amount is $16,805,733 the proposed resolution should be amended to authorize the Director of Public Works to execute Modification No. 16 to the Construction Management Services Agreement with CPM for the LHH Replacement Program, from a not-to-exceed $16,694,421 to a not-to-exceed $16,805,733, an increase of $111,312. The proposed Modification No. 16, which would increase the Agreement by $111,312, is subject to Board of Supervisors approval because it would increase the Agreement to a not-to-exceed $16,805,733, which is $608,969 greater than the last not-to-exceed amount of $16,196,764 previously approved by the Board of Supervisors on May 17, 2011 (Resolution No. 202-11).

FISCAL IMPACTS

The proposed Modification No. 16 for an increase of $111,312 would increase the existing Construction Management Services Agreement from a not-to-exceed $16,694,421 to a not-to-exceed $16,805,733. The proposed $111,312 increase would be funded through a reallocation of existing LHH Replacement Program funds previously appropriated by the Board of Supervisors. Mr. Thomas advises that the total LHH Replacement Program cost is not anticipated to exceed the budgeted $584,946,602 as shown in Table 1 above.

Mr. Thomas advises that the proposed increase of $111,312 under Modification No. 16, combined with the increase of $497,657 from Modification No. 15, which totals $608,969, would fund approximately three full-time equivalent CPM employees through the first quarter of calendar year 2013. As noted above, the initial Construction Management Services Agreement between DPW and CPM was for a not-to-exceed amount of $601,000. If the proposed Modification No. 16 for $111,312 is approved, the total Construction Management Services Agreement would increase to a not-to-exceed amount of $16,805,733. However, Mr.

Thomas notes that the original Agreement amount of $601,000 has significantly increased because the Agreement was intended to be initiated in stages, in which the Agreement was modified annually based on the work plan for the particular year involved.

POLICY CONSIDERATIONS

The proposed amendment is the result of direct negotiations with CPM rather than through a competitive process.

As with previous amendments, DPW is requesting a $111,312 increase in the existing agreement rather than undergoing a new competitive Request for Proposal (RFP) process for construction management services. Mr. Thomas advises that this professional service agreement provides construction management support for the LHH Replacement Program, which is a multi-year, multi-phased program. According to Mr. Thomas, an RFP was originally issued to select the most qualified contractor to support the LHH Program over its duration. The current Cooper Pugeda Management staff-members assigned to the LHH Replacement Program are familiar with the program and are an integral component of the project team.

The Budget and Legislative Analyst concurs with the negotiation process utilized by DPW.

Clarification is needed on Board of Supervisors approval of increases to agreements exceeding $10,000,000.

As discussed above, six modifications (Modification No.'s 10-15) have been made to the LHH Replacement Program Construction Management Services Agreement since the Agreement exceeded $10,000,000.

Resolution No. 357-08, which was previously approved by the Board of Supervisors on August 8, 2008, authorized an increase to the Construction Management Services Agreement with CPM from a not-to-exceed $9,995,383 to a not-to-exceed $14,784,781, an increase of $4,789,098.

However, Modification No. 10 to the Construction Management Services Agreement actually executed by DPW on August 22, 2008 increased the not-to-exceed amount by only $670,810. Modification No. 11, executed by DPW on December 23, 2008, subsequently increased the not-to-exceed amount by $2,838,534 from $10,666,193 to $13,504,727, and Modification No. 12, executed by DPW on December 11, 2009 subsequently increased the not-to-exceed amount by $1,298,710 from $13,504,727 to $14,803,437.

According to Mr. Jon Givner, Deputy City Attorney, the not-to-exceed agreement amount included in resolutions previously approved by the Board of Supervisors should be consistent with actual agreements executed by City departments. In addition, Mr. Givner advises that for agreements in excess of $10,000,000, although individual amendments that are less than $500,000 are not subject to Board of Supervisors approval, if the collective amendments are greater than $500,000, then the amendment that exceeds the $500,000 threshold is subject to Board of Supervisors approval. Therefore, DPW should have requested approval for Modification No.'s 10, 11 and 12 by the Board of Supervisors separately.

In addition, Modification No. 13, which increased the Agreement by $499,992 from a not-to-exceed $14,803,437 to a not-to-exceed $15,303,429, should have been subject to Board of Supervisors approval because although the increase was for $499,992, the new not-to-exceed $15,303,429 was $518,948 greater than the latest not-to-exceed amount of $14,784,481 previously approved by the Board of Supervisors.

RECOMMENDATIONS

1. Amend the proposed resolution to reflect that the subject Modification No. 16 would result in an increase of $111,312 (instead of an increase of $608,969) from a not-to-exceed amount of $16,694,421 (instead of $16,196,764) to a not-to-exceed amount of $16,805,733.

2. Approve the proposed resolution, as amended.

City & County of San Francisco
Laguna Honda Hospital Replacement Program

Edwin Lee, Mayor
Mitchell H. Katz, MD, Director of Public Health
Mohammed Nuru, Director of Public Works

Transmittal

To: **Mohammed Nuru**
1 Dr. Carlton B. Goodlett Place Room 348
San Francisco, CA 94102

Date: July 30, 2012

Enclosed:

- ☐ Letter/Memo
- ☐ Meeting Notes
- ☒ Other: CPM Resolution
- ☐ Plans
- ☐ Specs
- ☐ Samples
- ☐ Reports

Transmitted as Checked:

- ☐ For Information
- ☒ For Approval
- ☐ For Review and Comment
- ☐ For Use
- ☐ Other
- ☐ As Requested
- ☐ Approved as Submitted
- ☐ Approved as Noted
- ☐ Return for Correction
- ☐ Return to Us
- ☐ Resubmit for Approval

Remarks:

Hi, Mohammed:
Attached is the resolution for Copper Pugeda Management for the Laguna Honda Hospital Replacement Program. We are requesting to increase the contract amount from $16,196,764 to $16,805,733. Please return the sign copy to me, and John Thomas will work with the Budget Analyst to present this resolution to the Board. If you have any question, I can be reached at 759-4598. Thank you.

Regards,

Leonard Chan
Laguna Honda Hospital Replacement Program

Via: Inter-Office

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(415) 759-4583 Fax (415) 759-4584
www.dph.sf.ca.us/LHHReplace