

## LEGISLATIVE DIGEST

[Waiving the competitive bid requirements and approving modified indemnification clause for the design of a runway safety area engineered material arresting system]

**Ordinance waiving the competitive bid requirements of San Francisco Administrative Code Chapter 6, approving a modified indemnification clause pursuant to the requirements of Chapter 6, and authorizing the Airport Commission to award a contract to complete the design of a runway safety area engineered material arresting system.**

### Existing Law

San Francisco Administrative Code, Chapter 6.40 requires that contracts for design professionals be competitively procured; the waiver of that requirement necessitates approval by the Board of Supervisors. Further, pursuant to section 6.42(C), the Board of Supervisors and the City's Risk Manager must authorize any abrogation or waiver of the City's standard indemnification clause.

### Background Information

The Federal Aviation Administration (FAA) requires that commercial service airports, such as the San Francisco International Airport ("SFO"), regulated under Code of Federal Regulations Part 139, have a Runway Safety Area ("RSA") where possible. Typically, an RSA is 500 feet wide and extends 1,000 feet beyond each end of the runway. This standard was adopted approximately 20 years ago and is deemed adequate to provide a safe area for aircraft overruns, undershoots, or veers off the side of the runway. Many airports, such as SFO, however, were built before the 1,000-foot RSA was adopted, and because of land constraints, it is not practicable for those airports to achieve the full standard RSA.

Starting in 1990, the FAA worked with, among other entities, the Engineer Arresting Systems Corporation (ESCO) of Logan Township, New Jersey to develop the technology and design for an engineered-material-arresting system ("EMAS") for airports having land constraints. The approved technology from ESCO uses crushable concrete placed in beds at the end of runways to stop aircraft overruns. The beds cause the tires of an aircraft to sink into the lightweight concrete, and the aircraft decelerates as it rolls through the material. (See FAA Fact Sheet—Engineered Material Arresting System (EMAS), dated October 11, 2011, made a part of the Board of Supervisor's File to this Ordinance.)

Having approved the new technology, the FAA, along with Public Law 109-115, requires airports to enhance their RSAs by December 31, 2015. The enhancements at SFO include installing an EMAS at both ends of runways 1L-19R and 1R-19L in accordance with the FAA Advisory Circular (AC) 150/5220-22A. While the FAA has purportedly conducted additional research and examined a number of alternatives to the ESCO EMAS, it currently deems that

the EMAS developed by ESCO using crushable concrete is the only system that meets the FAA standards, making ESCO a sole-source provider of the technology and design necessary to meet FAA requirements. (See FAA Fact Sheet—Engineered Material Arresting System (EMAS), dated October 11, 2011.) Further, because each EMAS must be individually designed for the specific site conditions, SFO must contract with ESCO to design the four EMAS systems to be installed by December 31, 2015. SFO deems that time is of the essence in contracting with ESCO and commencing the design for its four EMASs as other airports similarly situated will also be making demands on ESCO in order to meet the 2015 deadline.

In preparation for bringing this Ordinance seeking a waiver of the competitive bid requirements under Chapter 6 and in accordance with Airport Commission Resolution \_\_\_\_\_, Airport staff negotiated a contract with ESCO to complete the design of the four required EMASs at SFO for a sum not to exceed \$420,000. A copy of the negotiated contract is included in the Board of Supervisor's File to this Ordinance. During negotiations, ESCO refused to agree to the City's standard indemnification clause, but it did agree to a modified indemnification clause, which the Airport Commission and the City's Risk Manager approved and recommended. The approved, modified indemnification clause, along with the standard clause for comparison basis, is attached to Airport Commission Resolution 11-0238, which is included in the Board of Supervisor's File to this Ordinance. Also included in the Board of Supervisor's File to this Ordinance is a copy of an email communication from the City's Risk Manager approving the modified indemnification clause.