

**Item 7**  
**File 11-0054**

**Departments:**  
Public Utilities Commission  
Department of Public Works

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed resolution would (a) concur with the Public Utilities Commission's Declaration of Emergency on August 19, 2010, and (b) approve an emergency public works contract under San Francisco Administrative Code Section 6.60 to replace the sewer and pavement on Polk Street, from Bush Street to Pine Street.

### Key Points

- On August 19, 2010, Public Utilities Commission (PUC) staff conducting a sink hole inspection on Polk Street discovered that the street's 334-foot long sewer, between Bush Street and Pine Street, had missing bricks, severely bulging walls, cracks, and fractures throughout the length of the sewer. PUC staff determined that the sewer required immediate replacement, and the PUC General Manager declared an emergency on August 19, 2010. The emergency sewer replacement project commenced on September 1, 2010 and was completed on November 15, 2010.
- PUC and Department of Public Works (DPW) staff coordinated efforts to incorporate another project, a pavement replacement project on Polk Street from Bush Street to Pine Street, into the emergency sewer replacement project contract, in order to minimize disruptions to the public.
- On September 1, 2010, the PUC entered into an emergency contract with Shaw Pipeline Inc. for a total contract not-to-exceed amount of \$412,071, of which (a) \$315,115 was for the emergency sewer replacement project, and (b) \$96,956 was for the non-emergency pavement replacement project.

### Fiscal Impacts

- The DPW Design Engineer estimated a total not-to-exceed cost of \$398,402 for both projects, although the lowest quoted bid and contract award with Shaw Pipeline Inc. was for \$412,071, or \$13,669 more than the DPW's initial estimate. Work began on September 1, 2010 and was completed on November 15, 2010. The total actual expenditures were \$422,339, or \$10,268 more than the not-to-exceed contract award amount of \$412,071, due to unforeseen additional work which was required.

### Policy Issues

- DPW staff included the non-emergency pavement replacement project located on Polk Street and the emergency sewer replacement project, also located on Polk Street, under one emergency contract. As a result, the non-emergency pavement replacement project was not subject to the City's formal competitive bidding process, which would have been required for such projects. The amount of \$422,339 includes \$328,637 for the emergency project and \$93,702 for the non-emergency project.

### **Recommendations**

1. Amend the proposed resolution on page 2 to delete the contract amount of “\$421,071” and insert the contract amount of “\$422,339” and specify that \$328,637 was for the emergency sewer replacement project and \$93,702 was for the non-emergency pavement replacement project.
2. Approve the requested \$328,637 for the emergency sewer replacement project.
3. Approval of the remaining \$93,702, for the non-emergency pavement replacement project, is a policy matter for the Board of Supervisors.

## **MANDATE STATEMENT / BACKGROUND**

### **Mandate Statement**

In accordance with Chapter 6, Article IV, Section 6.60 of San Francisco’s Administrative Code, all emergency contracts, which are awarded by City departments and which exceed \$250,000, require subsequent approval by the Board of Supervisors. Administrative Code Section 6.60 authorizes department heads responsible for public works to award emergency contracts, without using the City’s formal competitive bidding procedures, if there is a breakdown or imminent breakdown of any plant, equipment, structure, street, or public work necessitating immediate emergency repair or reconditioning to safeguard the lives or property of the citizens. Pursuant to Administrative Code Section 6.60, an emergency is defined as “a sudden, unforeseeable and unexpected occurrence involving a clear and imminent danger, demanding immediate action” or “the discovery of any condition involving a clear and imminent danger to public health or safety, demanding immediate action.”

### **Background**

On August 19, 2010, Public Utilities Commission (PUC) staff conducting a sink hole inspection on Polk Street discovered that the street’s 133-year old, 334-foot long sewer, between Bush Street and Pine Street, had missing bricks, severely bulging walls, cracks, and fractures throughout the length of the sewer. PUC personnel utilized their standard sewer rating system to determine the sewer’s condition and assigned the length of the sewer a rating of five, with one being excellent to five requiring immediate attention.

As a result, the General Manager of the PUC declared an emergency on August 19, 2010 in order to facilitate the immediate replacement of the sewer on Polk Street, from Bush Street to Pine Street. Between August 19 and September 1, 2010, Department of Public Works (DPW) staff prepared construction documents for the emergency sewer replacement project. During this process, the DPW determined that another project pertaining to a non-emergency pavement replacement project, which had been scheduled for FY 2013-2014, a project also located on Polk Street from Bush Street to Pine Street, should be included in the subject emergency sewer replacement contract in order to lessen construction disruptions to the public (see Policy Considerations section below).

On August 27, 2010, the PUC issued a Request for Quotation (RFQ) to 12 firms that were on the PUC's existing pre-qualified contractor list for emergency sewer replacement projects. Four firms submitted quotations by the response deadline on August 31, 2010. The firm with the lowest quotation, Shaw Pipeline Inc., at \$412,071, was awarded the emergency sewer replacement contract. However, the costs for the emergency sewer replacement project contract also included the costs for the non-emergency pavement replacement project. According to Mr. John Wong, Project Manager at the PUC, on September 1, 2010, the PUC issued a construction Notice to Proceed to Shaw Pipeline Inc. The emergency sewer replacement project and the non-emergency pavement replacement project commenced immediately on September 1, 2010, and both projects were completed on November 15, 2010.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would (a) concur with the Public Utilities Commission's Declaration of Emergency on August 19, 2010, and (b) approve an emergency public works contract for \$412,071<sup>1</sup> with Shaw Pipeline Inc. for the emergency sewer replacement project and the non-emergency pavement replacement project. Both projects were located on Polk Street, from Bush Street to Pine Street.

As discussed above, in accordance with Chapter 6, Article IV, Section 6.60 of San Francisco's Administrative Code, all emergency contracts, which are awarded by City departments and which exceed \$250,000, require subsequent approval by the Board of Supervisors. Administrative Code Section 6.60 authorizes department heads responsible for public works to award emergency contracts, without using the City's formal competitive bidding procedures, if there is a breakdown or imminent breakdown of any plant, equipment, structure, street, or public work necessitating immediate emergency repair or reconditioning to safeguard the lives or property of the citizens.

Mr. Wong advises that the City's formal competitive bidding process, including (a) advertising for bids, (b) receiving bids, (c) reviewing bids, (d) selecting a firm, and (d) certifying and issuing a construction Notice to Proceed, takes approximately four to six months to complete. In contrast, an emergency contract can be awarded to one of the City's existing pre-qualified emergency contractors, on an expedited basis without advertising for bids. As noted above, the PUC issued a RFQ on August 27, 2010 and issued a Notice to Proceed to Shaw Pipeline, Inc. on September 1, 2010, a period totaling only five days.

## FISCAL IMPACTS

Mr. Wong advises that, prior to the issuance of the RFQ, the DPW design engineer estimated that completion of the emergency sewer replacement project and the non-emergency pavement

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<sup>1</sup> The proposed resolution specifies \$421,071 as the estimated contract award amount, which is a typographical error. According to the contract award between the PUC and Shaw Pipeline Inc., the correct contract award amount was \$412,071.

replacement project would cost a total of \$398,402. However, as noted above, the lowest quoted bid, and therefore the not-to-exceed contract award amount, with Shaw Pipeline Inc. was for \$412,071 for both projects, or \$13,669 more than the DPW's initial estimate. The amount of \$412,071 included \$315,115 for the emergency sewer replacement project and \$96,956 for the non-emergency pavement replacement project.

As noted above, work on both projects was completed on November 15, 2010. Mr. Wong advises that the total actual project expenditures were \$422,339, which is \$10,268 more than the final contract bid and not-to-exceed award amount of \$412,071, because of required additional work, which was not anticipated prior to the commencement of the emergency sewer replacement project. Mr. Wong stated that the required additional work involved the necessary removal of existing cable car yokes<sup>2</sup> below the street pavement surface on Polk Street, as well as the needed repair and rehabilitation of a portion of a sewer located on Pine Street that intersected with the failed sewer located on Polk Street. Mr. Wong advises that the PUC is amending the subject contract with Shaw Pipeline, Inc. to reflect the higher \$422,339 total actual sewer and pavement replacement costs.

Both the contract award amount of \$412,071 as well as the final expenditure of \$422,339 included the cost of the emergency sewer replacement project and the non-emergency pavement replacement project. Given that the total actual cost of the completed work was \$422,339, the Budget and Legislative Analyst recommends that the proposed resolution be amended to increase the total not-to-exceed contract award amount from \$412,071 (incorrectly stated in the proposed resolution as \$421,071) to \$422,339.

Of the total actual expenditures of \$422,339, Mr. Wong advises that (a) \$328,637 was for the emergency sewer replacement, which was funded from the PUC's FY 2010-2011 Wastewater Enterprises' Repair and Replacement Program funds, as previously appropriated by the Board of Supervisors, and (b) \$93,702 was for the non-emergency pavement replacement which was funded from the DPW's carry forward of FY 2008-2009 Proposition 1B Transportation Bond funds, as previously appropriated by the Board of Supervisors. Proposition 1B Transportation Bond Fund monies were approved by California voters in 2006 for transportation capital improvement projects in the State. The DPW's FY 2008-2009 budget included \$12,924,603 of Proposition 1B Transportation Bond funds, which were not fully expended, such that \$3,854,124 is available for expenditure in FY 2010-2011.

## **POLICY CONSIDERATIONS**

### **An Emergency Resolution Allows City Departments to Expedite Contract Awards Without Utilizing the City's Formal Competitive Bidding Process**

As noted above, the PUC included the DPW's non-emergency pavement replacement project costing \$93,702 under the requested approval for the emergency sewer replacement project costing \$328,637, resulting in one emergency contract costing a total of \$422,339. Mr. Wong concurs that

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<sup>2</sup> Cable car yokes are underground steel and iron clamps that control the movement of cable car wires.

the DPW's pavement replacement project was not an emergency. Mr. Wong notes that the proposed pavement replacement project was independent of the requested approval for the emergency sewer replacement project contract.


According to Mr. Ramon Kong, DPW Project Manager, the non-emergency pavement replacement project was scheduled to occur on Polk Street between Bush Street and Pine Street in FY 2013-2014. Since both projects were located at approximately the same location, according to Mr. Kong, the emergency sewer replacement project provided an opportunity to expedite the non-emergency pavement replacement project and, at the same time, minimize the inconvenience of construction disturbances to the public. As a result, the non-emergency pavement replacement project did not undergo the City's formal competitive bidding process, which would have been required for such non-emergency projects. As noted above, the City's formal competitive bidding process, including (a) advertising bids, (b) receiving bids, (c) reviewing bids, (d) selecting a firm, and (d) certifying and issuing a construction Notice to Proceed, takes approximately four to six months.

Mr. Kong advises that, under San Francisco Public Works Code, Article 2.4, section 2.4.11, DPW staff are authorized to coordinate public works projects with the PUC and other public and private utility agencies in order to minimize the inconvenience of construction disturbances to the public. Mr. Kong notes that if the emergency sewer replacement project had not arisen, the non-emergency pavement replacement project would have been completed as scheduled, in FY 2013-2014, subject to the City's formal competitive bidding process, which might have potentially resulted in higher or lower costs.

As discussed above, of the total actual expenditure of \$422,339, Mr. Wong advises that \$328,637 was for the emergency sewer replacement project, and \$93,702 was for the non-emergency pavement replacement project. Because the pavement replacement project was not an emergency, approval of the proposed resolution for the non-emergency project is a policy decision for the Board of Supervisors.

## RECOMMENDATIONS

1. Amend the proposed resolution on page 2 to delete the contract amount of "\$421,071" and insert the contract amount of "\$422,339" and specify that \$328,637 was for the emergency sewer replacement project and \$93,702 was for the non-emergency pavement replacement project.
2. Approve the requested \$328,637 for the emergency sewer replacement project.
3. Approval of the remaining \$93,702, for the non-emergency pavement replacement project, is a policy matter for the Board of Supervisors.



Harvey M. Rose

cc: Supervisor Chu  
Supervisor Mirkarimi  
Supervisor Kim  
President Chiu  
Supervisor Avalos  
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