

File No. 231025

Committee Item No. 8

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance Committee Date November 1, 2023

Board of Supervisors Meeting Date _____

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OTHER (Use back side if additional space is needed)

- REC Letter - MYR 7/14/2023
- REC Letter – Director of Finance 7/14/2023
- REC Emergency Declaration 3/22/2023
- _____
- _____
- _____
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- _____
- _____

Completed by: Brent Jalipa Date October 26, 2023

Completed by: Brent Jalipa Date _____

1 [Emergency Declaration - Winter Storm Debris Removal - Estimated Cost of Repairs
2 Exceeds \$250,000]

3 **Resolution approving the Recreation and Park Department General Manager’s**
4 **declaration of emergency under Administrative Code, Section 6.60, for winter storm**
5 **clean-up at Sigmund Stern Grove and other Recreation and Park facilities, estimated to**
6 **cost in excess of \$250,000.**

7

8 WHEREAS, On March 22, 2023, in accordance with Administrative Code, Section 6.60,
9 the Recreation and Park Department General Manager, declared an actual emergency
10 existed throughout the Recreation and Park system due to historic Winter storms which
11 caused significant tree failure system-wide, including Stern Grove; fallen trees significantly
12 damaged Recreation and Park properties and created hazardous conditions for employees
13 and park users; and

14 WHEREAS, Recreation and Park Department staff determined that due to the
15 extensive damage and technical nature of the clean-up, outside contractors be hired to
16 perform a significant amount of the debris removal and tree stabilization work; and

17 WHEREAS, As clean-up continued, Recreation and Park Department staff determined
18 that the work required an additional \$2,000,000, the majority of it at Stern Grove; the
19 continuity of the team currently working, and the urgency of the matter were determined to be
20 paramount as the Recreation and Park Department operates during the busiest time of year
21 for our park system; and

22 WHEREAS, The Recreation and Park Department intends to apply for reimbursement
23 from the Federal Emergency Management Agency (FEMA); FEMA reimbursement must meet
24 strict time requirements; the guidelines are as follows:

- 25
- **60 days to report all disaster-related damage (8/21/2023);**

- 1 • **90** days to submit documentation for completed work (from date work
- 2 completed or RSM **(9/20/2023)**, whichever is later);
- 3 • **6** months to complete Emergency Work (Cat A/B) **(10/3/2023)**;
- 4 • **18** months to complete Permanent Work (Cat C-G) **(10/3/2024)**; and

5 WHEREAS, Administrative Code, Section 6.60(d), requires that the Board of
6 Supervisors approves emergency work with an estimated cost in excess of \$250,000; and

7 WHEREAS, The Controller has certified that funds are available for this emergency
8 contract; now, therefore, be it

9 RESOLVED, That the Board of Supervisors approves the Recreation and Park
10 Department General Manager’s emergency declaration for the necessary winter storm debris
11 removal at Recreation and Park’s Sigmund Stern Grove and other impacted facilities.

12
13 RECOMMENDED

14
15 /s/_____

16 Recreation and Park Department
17 General Manager, Philip A. Ginsburg

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Items 7 & 8 Files 23-1024 and 23-1025	Department: Recreation and Parks Department (REC)
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EXECUTIVE SUMMARY

Legislative Objectives

- The proposed resolutions would approve the following emergency declarations of the Recreation and Park Department (REC) General Manager: (1) repairs to the Trocadero Clubhouse, with an estimated amount not to exceed \$1,850,000 (File 23-1024); and (2) winter storm clean-up at Stern Grove and other park facilities, for an estimated amount not to exceed \$3,000,000 (File 23-1025).

Key Points

- In March 2023, a series of storms brought heavy rainfall and wind to San Francisco, which caused significant tree failures at various park facilities, including Stern Grove. On March 11, 2023, an 85-foot eucalyptus tree fell on the Trocadero Clubhouse in Stern Grove, damaging the second story and causing water damage to other parts of the building. REC General Manager Philip Ginsburg declared emergencies to respond to the storm damage.
- In March 2023, REC awarded a contract to The Professional Tree Care Company for the work at Stern Grove and other park facilities. The contract has undergone five change orders for a total amount not to exceed \$1,622,150. The work will be completed by mid-November 2023. REC is working with Architectural Resources Group Conservation Services (ARG) on preparing a bid for the Trocadero Clubhouse work and intends to award a contract in November 2023. Work would be completed by October 3, 2024.

Fiscal Impact

- REC anticipates that total costs associated with the Stern Grove emergency declaration likely will not exceed \$2,000,000. The estimated cost of the Trocadero Clubhouse work is \$1,850,000. REC will seek FEMA reimbursement for all the costs, with the exception of \$117,300 for Stern Grove. The General Fund would fund any costs not reimbursed.

Policy Consideration

- REC did not comply with the Administrative Code requirement to submit notifications and/or resolutions to the Board within 60 days of its emergency declarations.

Recommendations

- (1) Amend the proposed resolution in File 23-1025 to clarify that the total emergency work is estimated not to exceed \$2,100,000. (2) Request REC establish a written procedure for emergency declarations and contracting within thirty days and provide a copy of the procedure to the Board of Supervisors. (3) Because the Department did not comply with the notification timelines in Administrative Code Chapter 6.60 approval of the proposed resolutions is a policy matter for the Board of Supervisors.

MANDATE STATEMENT

Administrative Code Section 6.60(d) states that emergency work that costs more than \$250,000 is subject to Board of Supervisors approval. Prior to the commencement of emergency work above the \$250,000 threshold, the Department must also secure approval in writing from the Mayor, the President of the Board, or the Commission. If the emergency does not permit approval of the emergency determination by the Board of Supervisors before work begins, the Department head must submit a resolution approving the emergency determination to the Board of Supervisors within 60 days.

BACKGROUND

The State of California experienced above normal precipitation from November 2022 through March 2023, resulting in one of the wettest years on record. In March 2023, a series of storms brought heavy rainfall and wind to San Francisco, which caused significant tree failures at various park facilities, including Stern Grove. On March 11, 2023, an 85-foot eucalyptus tree fell on the Trocadero Clubhouse in Stern Grove, damaging the second story and causing water damage to other parts of the building.

Emergency Declarations

On March 22, 2023, Recreation and Park Department (REC) General Manager Philip Ginsburg declared an emergency for the tree failures at Stern Grove and other park facilities, for an estimated amount not to exceed \$850,000. This emergency declaration did not include the damage to the Trocadero Clubhouse. According to Antonio Guerra, REC Director of Administration and Finance, REC did not submit a resolution of this emergency declaration to the Board of Supervisors for approval within 60 days, as required by Administrative Code Section 6.60(d), due to internal coordination errors. On July 14, 2023, General Manager Ginsberg submitted a revised emergency declaration to the Mayor and Board of Supervisors, increasing the estimated not to exceed amount to \$3,000,000. The emergency declaration was approved by then-Recreation and Park Commission President Mark Buell, but REC again did not submit a resolution to the Board of Supervisors within the 60-day required timeline.

On October 2, 2023, General Manager Ginsburg declared an emergency for the damage to Trocadero Clubhouse that occurred in March 2023, which was approved by Commission President Kat Anderson. Administrative Code Section 6.60(b) states that departmental emergency declarations must provide “immediate” notice to the Board of Supervisors, Mayor, and Controller.

DETAILS OF PROPOSED LEGISLATION

The proposed resolutions would approve the following emergency declarations of the REC General Manager: (1) repairs to the Trocadero Clubhouse, with an estimated amount not to exceed \$1,850,000 (File 23-1024); and (2) winter storm clean-up at Stern Grove and other park facilities, estimated to cost more than \$250,00 (File 23-1025).

Any contracts entered into under the emergency authority are exempt from Administrative Code Chapters 6 (public works contracting policies and procedures), 12A (Human Rights Commission), 12B (non-discrimination in contracts), 12C (non-discrimination in property contracts), and 14B (Local Business Enterprise utilization).

Stern Grove and Other Facilities (File 23-1025)

In March 2023, REC awarded a contract to The Professional Tree Care Company for an amount not to exceed \$574,000 for the work at Stern Grove and other park facilities. The contract has undergone five change orders to remove trees and logs that were not included in the original contract scope, as shown in Exhibit 1 below.

Exhibit 1: Professional Tree Care Company Contract Change Orders

Change Order	Location	Amount
Original Contract	Stern Grove Meadow	\$574,000
Change Order 1	Stern Grove Meadow	1,200
Change Order 2	Stern Grove East	390,000
Change Order 3	Pine Lake	256,500
Change Order 4	Stern Grove Follow Up Work	283,150
Change Order 5	Stern Grove Playground	117,300
Total		\$1,622,150

Source: Contract documents

According to Director Guerra, the contract was awarded based on availability, previous history of the contractor, and reasonableness of cost. REC did not award the contract through a competitive bidding process because of the urgency to clean up the site and timelines for requesting Federal Emergency Management Agency (FEMA) reimbursement. According to Director Guerra, the total cost of the emergency likely will not exceed \$2,000,000 and the work will be completed by mid-November 2023.

Trocadero Clubhouse (File 23-1024)

According to Director Guerra, REC is working with Architectural Resources Group Conservation Services (ARG) on preparing a bid for the Trocadero Clubhouse work and intends to award a contract in November 2023. REC did not award the contract through a competitive bidding process because of the timelines required for FEMA reimbursement. According to Director Guerra, ARG has completed design drawings that are required to meet U.S. Department of the Interior standards for historic buildings. REC has also received approvals from the Historic Preservation Division of the Planning Department and building permits from the Department of Building Inspection. The project must be completed by October 3, 2024, to meet FEMA reimbursement deadlines. To date, REC has incurred \$20,043 in costs for ARG design work, which are not included within the \$1,850,000 estimate and are not eligible for FEMA reimbursement.

FISCAL IMPACT

Stern Grove and Other Facilities (23-1025)

As mentioned above, Director Guerra anticipates that total costs associated with the Stern Grove emergency declaration likely will not exceed \$2,000,000, which is less than the \$3,000,000 estimated amount cited in the emergency declaration. The resolution in File 23-1025 states that the cost of the emergency work is “in excess of \$250,000” but does not specify a not-to-exceed amount. Based on REC’s revised estimate, and to allow for an additional \$100,000 contingency, the Budget and Legislative Analyst recommends amending the proposed resolution in File 23-1025 to clarify that the total amount of emergency work authorized by the resolution is not to exceed \$2,100,000.

According to Director Guerra, REC plans to seek FEMA reimbursement for the base contract costs and Change Orders 1-4, for a maximum reimbursable amount of \$1,504,850. Change Order 5 is ineligible for reimbursement and is funded by the City’s General Fund. The Department would seek full FEMA reimbursement for any additional costs tied to the contract.

Trocadero Clubhouse (File 23-1024)

The estimated costs for Trocadero Clubhouse work (File 23-1024) are shown in Exhibit 2 below.

Exhibit 2: Estimated Trocadero Clubhouse Project Costs

Task	Amount
General Contractor/Mobilization, Scaffolding, Demolition	\$670,110
Roofing, Waterproofing	196,000
Rough/Finish Carpentry	435,000
Utilities: Fire Sprinkler, Electrical	80,200
Finishes: Plaster, Painting, Carpet, Guardrails	300,500
<i>Subtotal</i>	<i>\$1,681,810</i>
Contingency (10%)	168,190
Total	\$1,850,000

Source: REC

According to Director Guerra, REC will seek FEMA reimbursement for the full \$1,850,000 in costs for Trocadero Clubhouse work. The City’s General Fund would fund any costs not reimbursed by FEMA.

POLICY CONSIDERATION

REC Emergency Contracting Procedures

As noted above, the Recreation and Parks Department did not comply with the Administrative Code 6.60(d) requirement to submit notifications and/or resolutions to the Board of Supervisors within sixty days of its emergency declarations. As the Public Works Department did in May 2023, we recommend that the Recreation and Parks Department establish a written procedure for emergency declarations that include the following elements: (a) establish a project manager to

oversee each emergency project, (b) obtain an independent project cost estimate by a qualified technical expert, (c) attempt to solicit quotes from at least three qualified bidders, (d) work with the Contract Monitoring Division to ensure that Local Business Enterprises are aware of opportunities, (e) post resulting emergency declarations and selected contractors on the Recreation and Parks website, (f) adhere to the notification and approval timelines from the appropriate oversight bodies within the timelines established in Administrative Code Section 6.60, and (g) include emergency work cost estimates in its resolutions seeking Board of Supervisors approval of emergencies. The Recreation and Parks Department should establish this procedure within thirty days and provide a copy of the procedure to the Board of Supervisors.

Not-to-Exceed Amounts in Resolutions Approving Section 6.60 Emergency Declarations

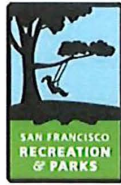
In the past, our office, in conversation with City Departments, has always understood that the cost estimates of emergency work included in resolutions approving emergencies limit the amount of emergency contracting authority. This is to avoid, for example, a Department obtaining Board approval for \$1 million of emergency contracting authority but then spending \$5 million on such work. Recent Board actions suggest this is a widely shared interpretation. In 2021, the Public Utilities Commission obtained Board approval of a resolution declaring an emergency at Stern Grove, which included a \$4 million cost estimate (File 21-1082) but then in 2022 sought Board approval to increase the emergency authority to \$20 million (File 22-0245) after an updated damage assessment. Similarly, in September 2023, the Board, Public Works, and Public Health agreed to add a not-to-exceed amount and list of projects on Public Works' emergency declaration related to Laguna Honda (File 23-0811), which we recommended as a way to limit the emergency contract authority of that request. In this case, REC General Manager Ginsburg's emergency declaration for Stern Grove repairs was revised to increase the estimated amount from \$850,000 to \$3,000,000.

The City Attorney's Office recently communicated to our office a different interpretation of the scope of the Board of Supervisors' approval of emergency declarations pursuant to Administrative Code Section 6.60, which is that the cost estimates of such emergency declarations are not binding. We do not believe this is good public policy and a significant departure from past practice that reduces the Board of Supervisors' historical oversight authority. We recommend that the Board of Supervisors amend Administrative Code Section 6.60 to clarify that the Board's approval of emergency declarations may limit the scope of the emergency contracting authority.

RECOMMENDATIONS

1. Amend the proposed resolution in File 23-1025 to clarify that the total estimated cost of the emergency work is not to exceed \$2,100,000.
2. Request Recreation and Parks establish a written procedure for emergency declarations and contracting within thirty days and provide a copy of the procedure to the Board of Supervisors.
3. Because the Board notification of the emergency regarding the Trocadero Clubhouse and the resolution approving the emergency at Stern Grove did not comply with the timelines in

Administrative Code Chapter 6, approval of the proposed resolutions is a policy matter for the Board of Supervisors.



London N. Breed, Mayor
Philip A. Ginsburg, General Manager

July 14, 2023

Mayor London N. Breed
City and County of San Francisco
City Hall, Rm. 200
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

The Honorable Board of Supervisors
City Hall, Rm. 244, Attention: Ms. Angela Calvillo
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Mr. Ben Rosenfield, Controller
City and County of San Francisco, City Hall, Rm. 316
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

**Subject: Winter Storm Debris Removal / Repairs
Emergency Contract - Declaration of Emergency**

Dear Mayor Breed, Members of the Board and Mr. Rosenfield:

Pursuant to Section 6.60(b) of the San Francisco Administrative Code, you are hereby notified that in my capacity as the appropriate Department Head, I have updated my declaration of an emergency throughout our park system due to tree failures during the latest winter storms.

On March 22, 2023, in accordance with Administrative Code Sections 6.60, I declared an actual emergency existed throughout the Recreation and Park system due to significant tree failure. Winter storms caused tree failure system-wide including Stern Grove. Fallen trees significantly damaged Recreation and Park properties and created hazardous conditions for employees and park users. Initial assessment indicated the approximate amount of expenditure to be \$850,000. As our clean-up has continued, we have determined that the work will require an additional \$2,000,000, the majority of it spent at Stern Grove. It is not appropriate to go out to bid on this work as we have a contractor in place. The continuity of the team currently working, and urgency of the matter are paramount as we are now in the busiest time of year for our park system. In addition, FEMA reimbursement must meet strict time requirements. Guidelines are as follows:

- 60 days to report all disaster-related damage (8/21/2023)
- 90 days to submit documentation for completed work (from date work completed or RSM (9/20/2023), whichever is later)
- 6 months to complete Emergency Work (Cat A/B) (10/3/2023)
- 18 months to complete Permanent Work (Cat C-G) (10/3/2024)



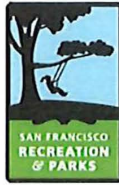
The new estimated cost of this work, including the first phase of work, is \$3,000,000.

Sincerely,

DocuSigned by:


AF27F6596709494...
Philip Ginsburg

General Manager, Recreation and Park Department



London N. Breed, Mayor
Philip A. Ginsburg, General Manager

DATE: July 14, 2023
TO: Antonio Guerra
Director of Finance and Administration
FROM: Philip Ginsburg
General Manager, Recreation and Park Department


SUBJECT: Declaration of Emergency: Winter Storm Debris Removal / Repairs

On March 22, 2023, in accordance with Administrative Code Sections 6.60, I declared an actual emergency existed throughout the Recreation and Park system due to significant tree failure. Winter storms caused tree failure at multiple parks including Stern Grove. Fallen trees significantly damaged Recreation and Park properties and created hazardous conditions for employees and park users. Initial assessment indicated the approximate amount of expenditure to be \$850,000. As our clean-up has continued, we have determined that the work will require an additional \$2,000,000, with the majority of that spent at Stern Grove. It is not appropriate to go out to bid on this work as we have a contractor in place. The continuity of the team currently working, and urgency of the matter are paramount as we are now in the busiest time of year for our park system. In addition, FEMA time guidelines for reimbursement must be followed. Timelines are as follows:

- 60 days to report all disaster-related damage (8/21/2023)
- 90 days to submit documentation for completed work (from date work completed or RSM (9/20/2023), whichever is later)
- 6 months to complete Emergency Work (Cat A/B) (10/3/2023)
- 18 months to complete Permanent Work (Cat C-G) (10/3/2024)

The new estimated cost of this work, including the first phase of work, is \$3,000,000.

I direct you to provide the immediate removal of hazardous trees and debris to protect the lives and property of the City and County of San Francisco, in the most expeditious manner.

DocuSigned by:

AF27F6596709494...
cc: Eric Andersen






London N. Breed, Mayor
Philip A. Ginsburg, General Manager

DATE: March 22, 2023

TO: Antonio Guerra
Director of Finance and Administration

FROM: Philip Ginsburg 
General Manager, Recreation and Park Department

SUBJECT: Declaration of Emergency: Winter Storm Debris Removal / Repairs

In accordance with Administrative Code Sections 6.60, I declare an actual emergency exists throughout the Recreation and Park system due to significant tree failure. Winter storms have caused tree failure at multiple parks including Stern Grove. Fallen trees have significantly damaged Recreation and Park properties and have created hazardous conditions for employees and park users. Timely removal and clean-up are required to allow for safe repairs to the park facilities that have been damaged in advance of summer programming including recreation camps and the Stern Grove Music Festival. It is not appropriate to go out to bid on these projects due to the variety and urgency of the matter. The estimated cost of this work is \$850,000.

I direct you to provide the immediate removal of hazardous trees and debris, and restoration of retaining walls and pathways to protect the lives and property of the City and County of San Francisco, in the most expeditious manner.

cc: Dennis Kern



London N. Breed, Mayor
Philip A. Ginsburg, General Manager

DATE: July 31, 2023

TO: Philip Ginsburg
General Manager, Recreation and Park Department

FROM: Commissioner Mark Buell
President, Recreation and Park Commission

SUBJECT: Declaration of Emergency: Winter Storm Debris Removal / Repairs

On March 22, 2023, in accordance with Administrative Code Sections 6.60, you declared an actual emergency existed throughout the Recreation and Park system due to significant tree failure. Winter storms caused tree failure at multiple parks including Stern Grove. Fallen trees significantly damaged Recreation and Park properties and created hazardous conditions for employees and park users. Initial assessment indicated the approximate amount of expenditure to be \$850,000. As clean-up continued, staff determined the work will require an additional \$2,000,000, with the majority of that spent at Stern Grove. It is my understanding that it is not appropriate to go out to bid on this work as we have a contractor in place. The continuity of the team currently working, and urgency of the matter are paramount as we are now in the busiest time of year for our park system. In addition, FEMA time guidelines for reimbursement must be followed. Timelines presented are as follows:

- **60 days to report all disaster-related damage (8/21/2023)**
- **90 days to submit documentation for completed work (from date work completed or RSM (9/20/2023), whichever is later)**
- **6 months to complete Emergency Work (Cat A/B) (10/3/2023)**
- **18 months to complete Permanent Work (Cat C-G) (10/3/2024)**

The new estimated cost of this work, including the first phase of work, is \$3,000,000.

I approve of this Emergency declaration, providing for the immediate removal of hazardous trees and debris to protect the lives and property of the City and County of San Francisco, in the most expeditious manner.

Sincerely,

A handwritten signature in blue ink that reads "Mark Buell".

Mark Buell
President
Recreation and Park Commission



From: [Conine-Nakano, Susanna \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#); [Ginsburg, Phil \(REC\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [Bell, Tita \(BOS\)](#); [Ng, Beverly \(REC\)](#)
Subject: Mayor -- Resolution -- Stern Grove Emergency Declaration
Date: Tuesday, October 3, 2023 4:56:42 PM
Attachments: [Mayor -- Resolution -- Stern Grove Emergency Declaration.zip](#)

Hello Clerks,

Attached for introduction to the Board of Supervisors is a Resolution approving the San Francisco Recreation and Park Department General Manager's declaration of emergency under Administrative Code Section 6.60 for winter storm clean-up at Sigmund Stern Grove and other Recreation and Park facilities, estimated to cost in excess of \$250,000.

@Ginsburg, Phil (REC), can you please reply-all to confirm your approval? Thanks!

Please note that Supervisor Engardio is a co-sponsor of this legislation.

Best,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147