

CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST

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March 13, 2014

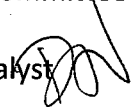
TO: Budget and Finance Sub-Committee
FROM: Budget and Legislative Analyst 
SUBJECT: March 19, 2014 Budget and Finance Sub-Committee Meeting

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Item 1 File 14-0140	Departments: Department of Public Works (DPW) Mayor's Office of Disability (MOD) San Francisco General Hospital (SFGH)
EXECUTIVE SUMMARY	
Legislative Objective	
<ul style="list-style-type: none"> • The proposed resolution would approve an emergency public work contract awarded by DPW to Rodan Builders, Inc. (Rodan), in accordance with Administrative Code 6.60, to repair and modernize three elevators in San Francisco General Hospital (SFGH) Building 80/90 from December 26, 2013 to April 1, 2015, for a not-to-exceed \$2,500,000. 	
Key Points	
<ul style="list-style-type: none"> • On July 8, 2013, based on a competitive bid process, a SFGH Building 80/90 elevator construction contract for \$2,286,619 was awarded to Galleria, Inc. DBA Trico Construction (Trico). However, DPW terminated this contract on December 12, 2013, because Trico was unwilling to comply or assume liability for industry-standard infection control procedures in SFGH's high-risk areas, including the Tuberculosis and AIDS clinics. • On December 17, 2013 the Mayor's Office on Disability (MOD) requested the Department of Public Works (DPW) Director declare an emergency to contract out the construction of SFGH's Building 80 / 90 elevator project without undergoing a subsequent competitive bid process because these elevators were frequently out-of-service, compromising patient safety and staff working conditions. • On December 19, 2013, the Director of Public Works declared an emergency. An emergency contract for \$2,500,000 was awarded to Rodan Builders, Inc. (Rodan) on December 26, 2013 and pre-construction work started immediately. 	
Fiscal Impact	
<ul style="list-style-type: none"> • The \$2,500,000 emergency contract with Rodan represents an increase of \$213,381, or 9.3%, over the original \$2,286,619 contract with Trico. To date, \$144,231 has been expended against the Trico contract. • Approximately 10% of the Rodan contract, or \$250,000, has been completed to date. However, no payments have yet been made by DPW. Funds for the proposed construction contract between DPW and Rodan were previously appropriated from General Fund revenues in MOD's budget. 	
Policy Consideration	
<ul style="list-style-type: none"> • If SFGH and DPW had initially identified the required Class IV level of requirements and specifically identified the need for such infection control procedures for this project prior to issuing the bid, the subject emergency resolution would likely not be required. DPW should work more closely with individual City departments to ensure that the specific required level of compliance is identified in initial competitive bids. 	
Recommendations	
<ul style="list-style-type: none"> • Amend the title of the proposed resolution to substitute the phrase "replace Elevator 27 and modernize and repair Elevators 26 and 28 " for "modernize and replace three elevators" on page 1, line 4. • Approve the proposed resolution, as amended. 	

MANDATE STATEMENT / BACKGROUND

Mandate Statement

In accordance with Administrative Code Section 6.60, an emergency contract awarded by a City department that exceeds \$250,000 requires approval by the Board of Supervisors. Administrative Code provisions also authorize department heads responsible for such emergency work to award and proceed with emergency contracts, which are not subject to the City's regular competitive bidding procedures. The Administrative Code defines an emergency as a sudden, unforeseeable and unexpected occurrence or a discovery of a condition involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss or damage to, life, health, property or essential public services.

Background

ADA Transition Plan: Critical Access Repair and Maintenance Program

On May 22, 2007, the Board of Supervisors adopted the City's Americans with Disabilities Act (ADA) Transition Plan and Uniform Physical Access (Transition Plan) strategy (File 07-0367), in order to comply with U.S. Department of Justice Title II regulations (1) mandating that every program, service, benefit, activity and facility operated or funded by the City be accessible and usable for individuals with disabilities, and (2) requiring detailed assessment of public facilities and documentation of accessibility plans. Implementation of the ADA Transition Plan was coordinated with the City's Ten-Year Capital Plan, adopted by the Board of Supervisors on June 20, 2006 (File 06-0585), with funding through the Mayor's Office on Disability (MOD). According to Mr. JohnPaul Scott, Deputy Director of Physical Access for MOD, \$46.2 million in General Fund monies have been appropriated by the Board of Supervisors to the City's ADA Transition Plan, supporting approximately 60-70 ADA projects. Mr. Scott says the Transition Plan acts as a "safety net" for ADA compliance, supporting projects that otherwise would not be completed through bond financing programs or from enterprise department revenues.

In 2009, the City's ADA Transition Plan was updated to include a dedicated funding stream from previously appropriated General Fund monies for unanticipated, emergent problems that create fundamental access issues for people with disabilities. Called the Critical Access Repair and Maintenance Program, Table 1 below contains a list of such ADA projects that have received General Fund support since FY 2009-10, totaling \$6,869,930.

Table 1: Critical Access Repair and Maintenance General Fund ADA Projects

FY 2009-10	Project Initiation Department of Public Works (DPW) Concept Support to MOD	\$10,000
FY 2010-11	San Francisco General Hospital (SFGH) BLDG 80/90 Elevator Report	74,925
FY 2011-12	SFGH BLDG 80/90 Architect and Engineering Fees SFGH BLDG 80/90 Exterior ramps, passenger loading zones Recreation and Park Department (RPD) Tenderloin Rec Center Elevator Architect & Engineering Fees	1,250,000
FY 2012-13	SFGH BLDG 80/90 Elevators, Backup Clinic, and Ground Floor Toilets RPD Tenderloin Rec Center Elevator Construction	4,300,000
FY 2013-14	SFGH BLDG 80/90 Construction Contingency SFGH BLDG 3 Entry Ramp / First Floor Toilets SFGH Potrero Entry Ramp	1,235,005
Total		\$6,869,930*

Source: Mayor's Office on Disability

*Includes \$4.9 million in SFGH Building 80/90 Elevator Upgrade Project.

San Francisco General Hospital Building 80 / 90 Elevator Accessibility Upgrade Project

The San Francisco General Hospital (SFGH) Building 80 / 90 Elevator Accessibility Upgrade Project was the first ADA project supported by the Critical Access Repair and Maintenance Program. Building 80 / 90 at SFGH has three elevators - two in Building 80 and one in Building 90 – that serve specialty outpatient health clinics¹ in the buildings' upper stories, providing more than 400,000 elevator trips per year.

Starting in 2009, MOD began receiving ADA complaints concerning elevator failures in Buildings 80 and 90. According to MOD and the Department of Public Works (DPW), over the last five years, these elevators have been frequently out-of-service, which has adversely affected the delivery of patient care, the working conditions of staff, and has led to incidents where patients became temporarily stranded in elevators, or had to be physically transported down stairwells by Clinic Staff.

As a result, in late 2009 a project was developed under the ADA Transition Plan to repair and modernize the three elevators in Building 80/90. Table 2 below shows the project's General Fund appropriations as of April 25, 2013, totaling \$4,900,000, funded over three fiscal years. According to Ms. Marilyn Thompson, project manager for the DPW, DPW is managing this project on behalf of MOD and SFGH.

¹ Including the Family Health Clinic, Positive Health Program, the Tuberculosis Clinic, AIDS Clinic, the Opiate Treatment Outpatient Program, and the Child and Adolescent Support Advocacy and Resource Center.

Table 2: SFGH Building 80 / 90 Elevator Upgrade Budget From Previously Appropriated General Fund Revenues

Description	Amount
Design (FY 2011-12) <ul style="list-style-type: none"> • Project management • Permits and fees • Architect and engineers • Contracts 	\$913,605
Engineering /Management (FY 2012-13) <ul style="list-style-type: none"> • Architect and Engineers • Construction management • Oversight • Inspections 	997,080
Construction (FY 2013-14) <ul style="list-style-type: none"> • Elevator construction • Change order contingency • SFGH relocation costs 	2,860,036
Construction contingency (FY 2013-14)	129,279
GRAND TOTAL	\$4,900,000

Source: Mayor's Office on Disability; Department of Public Works

According to Ms. Thompson, the design work has been completed and the engineering/management work and construction on the elevator upgrade project at SFGH Building 80/90 are ongoing and estimated to be completed by the spring of 2015.

Construction Contract with Trico Construction

A construction contract for the repair and modernization of the three SFGH Building 80/90 elevators was advertised for formal bid on February 21, 2013 and four bids were received on March 27, 2013. A contract was awarded to the low bidder, Galleria, Inc. DBA Trico Construction (Trico) on July 8, 2013 in the amount of \$2,286,619, for a term of approximately 14 months.

On December 5, 2013, three months after the Notice to Proceed had been issued, Trico stated to SFGH and DPW that they were unwilling to comply with infection control procedures specified by the "Infection Control Risk Assessment", an industry standard for construction activities in hospital environments. Procedures are determined based upon the type of construction activity taking place and patient risk categories².

According to Ms. Kathy Jung, Associate Administrator at SFGH, and Mr. Jason Zook, Executive Project Manager at SFGH, the project was originally bid with Class II Infection Control

² Major new construction around patients with immune-deficiency disorders, for example, would be classified as the "Highest Risk" and have the highest level of containment. Simple painting in an office area, however, would be classified as "Low Risk".

requirements and then revised to Class III as an amendment prior to the bid submissions. Ms. Thompson then advises that on November 15, 2013, DPW issued revised Infection Control procedures at the request of SFGH to further increase the level of containment for the elevator repair and modernization project from Class III to the highest level, Class IV, specifically for the AIDS ward where immune deficient patients receive care.

According to Ms. Jung and Mr. Zook, Trico stated they were unable to perform “Negative Pressure Containment³” work, which would have been required on any floor housing patients in the “High” or “Highest” risk group category, including the Tuberculosis and AIDS clinics, which is part of both Class III and Class IV requirements. Ms. Thompson also advises that Trico was unwilling to assume liability for the new level of compliance that would be required for the increased control procedures. On December 12, 2013, DPW therefore terminated the contract with Trico. According to Ms. Thompson, although no site work had begun, a total of \$144,231 has been expended against the Trico contract.

Emergency Declaration and Emergency Contract with Rodan Builders

On December 17, 2013 Ms. Carla Johnson, Interim Director of MOD, issued a memo to DPW requesting an emergency declaration to award a construction contract for repair and modernization of SFGH’s three elevators in Building 80 / 90, without undergoing an additional competitive bid process, because this elevator rehabilitation project could not afford further delays.

On December 19, 2013, the Director of Public Works declared an emergency. An emergency contract in the amount of \$2,500,000 was awarded to Rodan Builders, Inc. (Rodan) on December 26, 2013 and pre-construction work started immediately.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve an emergency public work contract awarded by the DPW to Rodan Builders, Inc. to repair and modernize the three elevators in SFGH’s Building 80 / 90, for a contract term of approximately 15 months, from December 26, 2013 to April 1, 2015, for a not-to-exceed \$2,500,000. In accordance with Administrative Code Section 6.60, this emergency contract award was not subject to a subsequent competitive bid procedure.

According to MOD and DPW, Rodan was selected for two reasons: (1) Rodan was already mobilized on-site at SFGH, having been previously awarded a contract based on a low-bid for the separate Building 5 Elevator Modernization project, and (2) Rodan was the second lowest qualified bidder after Trico (the previous contractor, who was terminated) for the Building 80 / 90 Elevator Upgrade Project.

The title of the proposed resolution specifies that the proposed emergency contract would “modernize and replace three elevators” in SFGH Buildings 80 and 90. However, only Elevator 27 is being replaced. Elevators 26 and 28 are being modernized and repaired. Therefore, the

³ A contained or regulated area that has negative air pressure drawn on it by filtered air machines.

title of the proposed resolution should be amended to substitute the phrase “replace Elevator 27 and modernize and repair Elevators 26 and 28” for “modernize and replace three elevators” on page 1, line 4.

FISCAL IMPACT

Table 3 below summarizes the not-to-exceed \$2,500,000 contract budget with Rodan.

Table 3: Rodan Contract Budget

Description	Proposed Funding
Procurement Partnering ⁴	\$25,000
Building Operations and Integration	125,000
Infection Control	50,000
Elevator Maintenance	100,000
PHASE 1 – Elevator 28 (Building 80) 1/13/14 to 5/30/14	632,852
PHASE 2 – Elevator 26 (Building 90) 6/2/14 to 11/10/14	995,448
PHASE 3 – Elevator 27 (Building 80) 11/11/14 to 4/1/15	571,700
GRAND TOTAL	\$2,500,000

Source: Mayor’s Office on Disability; Department of Public Works

The \$2,500,000 emergency contract with Rodan represents an increase of \$213,381 or 9.3% more than the original \$2,286,619 contract with Trico, who was terminated. According to Ms. Thompson, approximately 10% of the contract value, or \$250,000, has been completed to date by Rodan. However, Ms. Thompson advises that no payments have yet been made by DPW.

Ms. Thompson advises that the City is currently in the process of negotiating a settlement with Trico. As noted above, \$144,231 has previously been expended against the Trico contract.

Funds for the proposed \$2,500,000 elevator repair and modernization construction contract between DPW and Rodan are available from General Fund monies previously appropriated by the Board of Supervisors in the MOD’s Critical Access Repair and Maintenance program.

POLICY CONSIDERATIONS

As previously noted, the emergency contract with Rodan is being requested due to the termination of the original contract with Trico, which was awarded based on a competitive bid process. The original Trico contract was terminated by DPW because, according to DPW, Trico was unwilling to comply or assume liability for the higher-level of required infection control

⁴ Procurement Partnering is defined as a structured management approach to facilitate teams working across contractual boundaries in order to formalize mutual objectives, provide methods of resolving problems, and continuously measure improvements.

procedures necessary for the SFGH elevator project. As discussed above, the bid called for Class III requirements, which were subsequently amended to Class IV requirements, after the contract was awarded. According to Ms. Thompson, such infection control procedures are required under both Class III and Class IV requirements.

If SFGH and DPW had initially identified the required Class IV infection control level of requirements and specifically identified the need for such infection control procedures for this project prior to issuing the bid, the subject emergency resolution would likely not be required. The DPW should work more closely with individual City departments to ensure that the specific level of compliance that is required is identified in the initial competitive bid process. However, given that there was a competitive bid process, and after the initial contract with Trico was terminated, the second-ranked contractor was able to immediately commence work on the subject emergency elevator project contract, the proposed resolution should be approved.

RECOMMENDATIONS

1. Amend the title of the proposed resolution to substitute the phrase “replace Elevator 27 and modernize and repair Elevators 26 and 28 ” for “modernize and replace three elevators” on page 1, line 4.
2. Approve the proposed resolution, as amended.