


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

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January 3, 2014

**TO:** Budget and Finance Committee  
**FROM:** Budget and Legislative Analyst   
**SUBJECT:** January 8, 2014 Budget and Finance Committee Meeting

**TABLE OF CONTENTS**

| <b>Item</b> | <b>File</b> |  | <b>Page</b> |
|-------------|-------------|--|-------------|
| 1           | 13-1183     | Emergency Contract – Fixed Gas Monitoring System – Southeast Water Pollution Control Plant – Not to Exceed \$225,000 .....       | 1           |
| 3           | 13-1193     | Sale of Transferable Development Rights – War Memorial Complex – 301 and 401 Van Ness Avenue.....                                | 5           |
| 4           | 13-1130     | California Constitution Appropriations Limit – FY 2013-2014 .....  | 14          |
| 5           | 13-1141     | Public Employment – Amendment to the Annual Salary Ordinance – Recreation and Park Department – FYs 2013-2014 and 2014-2015..... | 18          |
| 6           | 13-1182     | Emergency Contract – Clean Harbors Environmental Services, Inc. – Not to Exceed \$1,100,000.....                                 | 23          |

|   |   |
|---|---|
| <p><b>Item 1</b><br/><b>File 13-1183</b></p>  | <p><b>Department:</b><br/>Public Utilities Commission (PUC)</p> |
| <p><b>EXECUTIVE SUMMARY</b></p>   |   |
| <p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution would approve an emergency procurement contract between the Public Utilities Commission (PUC) and NTK Construction, Inc. (NTK Construction) to obtain materials needed to repair the fixed gas monitoring system at the Southeast Water Pollution Control Plant in an amount not to exceed \$225,000 in accordance with Administrative Code Section 21.15.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• On November 18, 2013, the PUC’s Wastewater Enterprise Maintenance Division requested the Public Utilities Commission President to declare an emergency to replace the fixed gas monitoring system at the Southeast Water Pollution Control Plant due to an observation of a catastrophic failure of the system during an unscheduled inspection by the State of California Department of Industrial Relations – Division of Occupational Safety and Health (Cal- OSHA).</li> <li>• On November 20, 2013, Mr. Vince Courtney, Public Utilities Commission President, approved the emergency procurement of materials needed to repair the fixed gas monitoring system for an estimated not-to-exceed amount of \$225,000.</li> <li>• The procurement of the materials and the associated work related to the fixed gas monitoring system is expected to be completed by February 2014.</li> </ul> <p style="text-align: center;"><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• Of the not-to-exceed \$225,000 procurement contract amount to procure materials and provide associated repairs to the fixed gas monitoring system, \$150,000 is for materials and equipment and \$75,000 is for labor.</li> <li>• NTK Construction, Inc. has submitted invoices to PUC totaling \$13,747 to date, which have not yet been paid.</li> <li>• These emergency procurement costs will be paid from the 2013 Wastewater Revenue Bonds, previously approved by the Board of Supervisors, which were issued to pay the costs of planning, design, construction, and improvements of various wastewater capital improvement projects and are funded through the wastewater ratepayer revenues.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul> |   |

**MANDATE STATEMENT / BACKGROUND****Mandate Statement**

In accordance with Administrative Code Section 21.15, an emergency procurement of commodities or services made by a City department that exceeds \$100,000 requires approval by the Board of Supervisors. If the emergency does not permit Board of Supervisors approval prior to the procurement being made, approval by the Board of Supervisors shall be obtained as soon thereafter as it is possible to do so.

The Administrative Code also authorizes department heads responsible for such emergency procurement to make procurements without utilizing the City's regular competitive bidding procedures. The Administrative Code Section 21.15 defines an event of an actual emergency as, "... when it becomes necessary to immediately procure Commodities or Services to make repairs, to safeguard the lives or property of the citizens or the property of the City or to maintain public health or welfare as a result of extraordinary conditions created by war, epidemic, weather, fire, flood, earthquake or other catastrophe, or the breakdown of any plant equipment, structure, street or public work."

**Background**

On November 18, 2013, the Public Utilities Commission's (PUC) Wastewater Enterprise Maintenance Division requested the Public Utilities Commission President to declare an emergency to replace the fixed gas monitoring system at the Southeast Water Pollution Control Plant (Plant). During an unscheduled inspection by the State of California Department of Industrial Relations – Division of Occupational Safety and Health (Cal- OSHA), the Plant maintenance staff observed a catastrophic failure of the Plant's fixed gas monitoring system.<sup>1</sup> PUC reported that the system needed to be repaired expeditiously in order to maintain compliance with regulatory requirements. In addition to the Cal-OSHA regulatory requirements<sup>2</sup>, the hazardous conditions posed a threat to the treatment infrastructure, as well as the life and safety of the Plant's personnel. The Wastewater Enterprise Health and Safety section required manual monitoring of the Plant until the fixed gas monitoring system was repaired.

On November 20, 2013, Mr. Vince Courtney, Public Utilities Commission President, approved the emergency procurement of materials needed to repair the fixed gas monitoring system for an estimated not-to-exceed amount of \$225,000, in accordance with Administrative Code Section 21.15.

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<sup>1</sup> The fixed gas monitoring system is part of the Plant' atmospheric monitoring system, which monitors the atmosphere for LEL (low explosive limits), low oxygen, and other potentially hazardous gases to protect the treatment plant and personnel.

<sup>2</sup> Cal-OSHA Title 8, CCR 33.28, regulates the requirements related to atmospheric monitoring systems.

### **Southeast Water Pollution Control Plant**

The Southeast Water Pollution Control Plant, located at 750 Phelps Street in Bayview-Hunters Point, is a critical part of the PUC's wastewater treatment system, processing approximately two-thirds of the City's wastewater, before being released into the Bay.

According to the San Francisco Sewer System Master Plan issued by the PUC in 2010, the Plant was constructed in 1951, and significantly upgraded in 1982, but has now outlived its operational usefulness and is in critical need of replacement. The entire plant is slated to be replaced under the PUC's proposed Biosolids Digester Facilities Project, which is anticipated to commence in 2018, at an estimated cost of \$1.186 billion, under the larger capital program of the PUC's Sewer System Improvement Program (SSIP).

#### **DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would approve an emergency procurement contract between PUC and NTK Construction, Inc. (NTK Construction), without undergoing the City's regular competitive bidding procedures, to obtain materials needed to repair the fixed gas monitoring system at the Southeast Water Pollution Control Plant in an amount not to exceed \$225,000 in accordance with Administrative Code Section 21.15.

According to Ms. Erin Hagan, PUC Policy and Government Affairs Manager, PUC selected NTK Construction to provide the materials, consisting of gas monitors and other related materials, and the associated repairs of the fixed gas monitoring system because the PUC has two existing contracts with NTK Construction previously awarded through a competitive bid process to perform similar work, which consists of major electrical and mechanical work on the wastewater process buildings at the Southeast Water Pollution Control Plant. Ms. Hagan states NTK has immediate access to the technical capabilities and resources necessary to provide the needed materials and perform the emergency work, and was already present on site, therefore not incurring any additional mobilization expenses. Ms. Hagan advises that the PUC will require NTK to provide multiple quotes for the needed materials.

#### **FISCAL IMPACT**

Of the not-to-exceed \$225,000 procurement contract amount to procure materials and provide associated repairs to the fixed gas monitoring system at the Southeast Water Pollution Control Plant, \$150,000 is for materials and equipment and \$75,000 is for labor. These emergency procurement costs will be paid from the 2013 Wastewater Revenue Bonds, previously appropriated by the Board of Supervisors, which were issued to pay the costs of planning,

design, construction, and improvements of various wastewater capital improvement projects and are funded through the wastewater ratepayer revenues.

As shown in the Table below, NTK Construction, Inc. has submitted invoices to PUC totaling \$13,747 to date, which have not yet been paid.

**Table. Actual Expenditures to Date and Estimated Future Expenditures**

| Item         | Actual invoices to date | Estimated additional Expenditures to be incurred | Total Estimated Expenditures |
|--------------|-------------------------|--|------------------------------|
| <b>Total</b> | \$13,747                | \$211,253  | \$225,000                    |

According to Ms. Erin Hagan, Policy and Government Affairs Manager, PUC, all of the work related to the fixed gas monitoring system is expected to be completed by February 2014.

**RECOMMENDATION**

Approve the proposed resolution.

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| <b>Item 3</b><br><b>File 13-1193</b>   | <b>Departments:</b><br>Real Estate<br>War Memorial |
| <b>EXECUTIVE SUMMARY</b>   |  |
| <p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution authorizes the sale of up to 1,100,000 gross square feet of Transferable Development Rights (TDR) from the War Memorial Complex at no less than \$25 per square foot, in accordance with City Planning Code 128.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• Under Planning Code Section 128, owners of historic buildings located in C-3 Zoning Districts may ask the Planning Department to certify their unused potential, known as transferable development rights (TDR). Once certified, the TDR units may then be transferred via a sale to another property in any other C-3 District. Each TDR is equal to one square foot of floor area.</li> <li>• The revenue generated from the TDR sale must be used to rehabilitate the historic building according to the U.S. Secretary of the Interior’s Standards for Treatment of Historic Properties.</li> <li>• On July 1, 2013, the City began renovation of the War Memorial Veterans Building, including seismic upgrades, accessibility, life safety and building code improvements, and replacement or improvements to building systems, at a current projected budget of \$154.3 million.</li> </ul> <p style="text-align: center;"><b>Fiscal Impacts</b></p> <ul style="list-style-type: none"> <li>• A March 2013 appraisal by Carneghi-Blum &amp; Partners, Inc. of TDRs at the War Memorial Veterans Building determined a market value of \$24 per square foot. The proposed resolution authorizes the Real Estate Division to sell TDRs for not less than \$25 per square foot, or \$1 more than the recent appraisal based on more recent market activity.</li> <li>• Assuming sale of all 1,100,000 at \$25 per square foot results in total revenues of \$27,500,000.</li> <li>• Staff administrative costs of \$10,000 and \$25,000 per transaction, and title company fees of \$3,000 per transaction, are estimated based on number of transactions and level of complexity.</li> <li>• Net proceeds from the sale of up to 1,100,000 TDRs would be used for the War Memorial renovation project, which is currently projected to have a \$14.5 million funding shortfall.</li> </ul> <p style="text-align: center;"><b>Policy Considerations</b></p> <ul style="list-style-type: none"> <li>• Given that this would be the first offering of such public TDRs, amend the proposed resolution for the Director of Property to submit a future resolution to the Board of Supervisors reauthorizing such TDR sales upon reaching sales of 550,000 gross square feet of TDRs.</li> </ul> <p style="text-align: center;"><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• Amend the proposed resolution on page 2, line 20 to add (iii) the Director of Property shall submit enabling legislation to the Board of Supervisors to reauthorize such TDR sales immediately upon reaching sales of 550,000 gross square feet (such legislation to adjust the minimum sales price of TDRs as necessary).</li> <li>• Approve the proposed resolution as amended.</li> </ul> |  |

## MANDATE STATEMENT AND BACKGROUND

### Mandate Statement

According to Charter Section 9.118(c), the sale or other transfer of real property owned by the City and County of San Francisco shall first be approved by resolution of the Board of Supervisors. In addition, Planning Code Section 128 specifies the definitions, requirements and procedures for determining and cancelling Transfer of Development Rights (TDR) as well as the preservation, rehabilitation and maintenance requirements.

### Background

In the mid-1980s, the City established the Transfer of Development Rights program to allow the sale of unused development potential from preservation properties to development properties. The goal was to generate income for the maintenance and preservation of historic buildings, while allowing new developments to build higher. Under Planning Code Section 128, owners of historic buildings located in C-3 Zoning Districts<sup>1</sup> may ask the Planning Department to certify their unused potential, known as transferable development rights (TDR).

Once certified, the TDR units may then be transferred via a sale to another property in any other C-3 District. As of 2007, TDRs may also be transferred from any lot zoned P (public), provided that the other conditions for transfer outlined in Section 128(a)(4) are met. The revenue generated from the TDR sale must be used to rehabilitate the historic building according to the U.S. Secretary of the Interior's Standards for Treatment of Historic Properties.

Each TDR unit is equal to one square foot of gross floor area. To calculate the TDR available from a preservation property, the difference between the building's existing floor area ratio (FAR) and that allowed under zoning limits is determined. Attachment I to this report, provided by Mr. John Updike, Director of Real Estate, graphically depicts how the unused development rights from a landmarked building would be transferred for use by another development parcel. Development properties may obtain TDR to build beyond what is allowed under FAR limits and up to zoned height limits. They may not, however, use TDR to exceed or disregard height, bulk, and setback limits, sunlight access requirements, or other restrictions.

Based on a recent study<sup>2</sup>, the City has certified approximately 5.4 million square feet of TDR originating from 112 buildings downtown. Of the total certified TDRs, approximately 2.9 million square feet has been used for 34 projects, leaving a remaining balance of approximately 2.5

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<sup>1</sup> C-3 Zoning Districts are defined as downtown commercial districts and include Support (S), General (G), Office (O) or Retail (R) uses. In accordance with Section 128 of the Planning Code, any C-3 District parcel may be the recipient parcels for a TDR transaction.

<sup>2</sup> San Francisco's Transfer of Development Rights Program report dated June, 2013, completed by the Seifel Consulting Inc. and C.H. Elliott & Associates for the San Francisco Planning Department.

million square feet. The average amount of TDR used on each receiving site is 84,000 square feet, with half of the parcels requiring less than 40,000 square feet.

Average annual demand for TDR since the program's inception has been approximately 100,000 square feet. However, the demand for TDRs generally varies with market conditions and the development cycle, such that when development is active, TDRs tend to be in greatest demand. An estimated total of 1.3 million TDR square feet is needed for projects that are currently in the development pipeline. Mr. Updike also notes that the market conditions are very favorable now given the current real estate market.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the Director of Real Estate to:

- (1) sell up to 1,100,000 gross square feet of Transferable Development Rights (TDR) from the War Memorial Complex, at no less than \$25 per square foot,
- (2) execute and record the Certificates of Transfer and negotiate and execute the related agreements as necessary,
- (3) make sure the agreements are acceptable to the Managing Director of the War Memorial,
- (4) place funds from the sale of the TDRs into an account solely for the rehabilitation and restoration of the War Memorial Complex in accordance with the Secretary of the Interior's Standards,
- (5) take such additional actions as may be necessary to effectuate one or more TDR transfers in accordance with Planning Code Section 128, and
- (6) report to the Capital Planning Committee and the Board of Supervisors' Budget and Finance Committee at the end of each quarter on the results of the sales of City-owned TDRs.

### War Memorial Complex

The San Francisco War Memorial complex includes two buildings, the War Memorial Opera House and the War Memorial Veterans Building at 301 and 401 Van Ness Avenue respectively, and the adjoining outdoor Memorial Court, all of which were completed in 1932. The complex is designated as both a City Landmark and State Landmark.

The War Memorial is a charitable trust department, in which the Board of Trustees has exclusive charge over its assets. In 2007, the Board of Trustees approved a resolution, authorizing the Director of Real Estate to obtain City Zoning Administrator approval for the transferable development rights of the War Memorial complex.

According to the Board of Trustees resolution, the Director of Real Estate, with approval from the Managing Director of the War Memorial, could negotiate and award agreements for the sale of TDR for the War Memorial complex. Proceeds from the sale, net of transaction costs, are to be deposited into a segregated, interest-bearing account solely for use by the War Memorial, subject to appropriation approval by the Board of Supervisors.



### **War Memorial Veterans Building Project**

The City has begun renovation of the War Memorial Veterans Building, including seismic upgrades, accessibility, life safety and building code improvements, and replacement or improvements to building systems. The construction of the Veterans Building improvements began on July 1, 2013 and is scheduled to be completed by July 2015.

Total construction costs are currently estimated at approximately \$104 million. The total War Memorial Seismic Upgrade and Improvement Project current projected budget is \$154.3 million, which includes project management, designs and permits; construction costs; hazardous material abatement; relocation costs for existing tenants; and interest and debt service reserves. The funding sources for the War Memorial Seismic Upgrade and Improvement Project include: (a) \$132,455,590 from Certificates of Participation proceeds<sup>3</sup>; (b) \$6,300,000 of War Memorial Department capital funds; and (c) \$1,000,000 of Arts Commission capital funds, as summarized in Attachment II to this report.

## **FISCAL IMPACTS**

### **Amount of TDRs Available**

To determine the available TDRs, the difference between the building's existing floor area ratio and the amount of square footage allowed under zoning limits is calculated. Mr. Updike advises that the TDR available at the War Memorial is estimated to be 1,222,280 square feet. However, Mr. Updike notes that the Planning Department has just begun the formal certification of the total TDR available at the War Memorial, which is anticipated to be completed by February 1, 2014. Mr. Updike advises that the proposed resolution would sell up to 1,100,000 square feet of TDR, or 122,280 square feet less than the current estimated total available, in order to leave some margin for error and allow the War Memorial some modest expansion potential for future improvements.

### **Fair Market Value for TDR**

The Real Estate Division authorized an appraisal, which was conducted in March 2013 by Carneghi-Blum & Partners, Inc., a private real estate appraisal firm, of the market value price per square foot of the TDRs at the War Memorial Veterans Building. Mr. Updike advises that this appraisal was commissioned for a specific request to transfer 151,545 square feet of TDR from the War Memorial for use by the Transbay Tower. Mr. Updike notes that this transfer of TDR from the War Memorial did not occur because the Transbay Tower selected two private sector sellers who could complete their TDR transactions more quickly than the City.

According to this March 2013 appraisal, between 2000 and 2012, the market value of TDRs fluctuated between \$18 and \$38 per square foot, with such pricing reflecting both the available supply and demand to purchase TDRs, which generally reflect real estate and economic development demands. This appraisal found that the March 15, 2013 market value<sup>4</sup> of the

<sup>3</sup> As approved by the Board of Supervisors on July 26, 2011 (Ordinance 149-11).

<sup>4</sup> Market value is defined as the most probable price which the property should bring in a competitive and open sale.

151,454 square feet of TDR at the War Memorial Veterans Building was \$24 per square foot or a total value of approximately \$3,640,000.

### **Sale of TDRs**

Although the March 2013 market value appraisal was for \$24 per square foot, the proposed resolution authorizes the Real Estate Division to sell up to 1,100,000 square feet of TDRs for not less than \$25 per square foot, or \$1 more than the recent appraisal. Mr. Updike advises that the proposed minimum of \$25 per square foot is based on more recent discussions with real estate brokers and is reflective of recent market activity. Assuming sale of all 1,100,000 square feet at \$25 per square foot would result in total revenues of \$27,500,000.

However, Mr. Updike advises that the proposed sale of the War Memorial TDRs would likely be conducted on a rolling basis, of first come-first served, such that there is likely to be various purchasers of the 1,100,000 TDRs over a period of several years. According to Mr. Updike, due to the nature of the market, a party offering to sell TDRs must wait for prospective developers to approach the City with a desire to purchase these TDRs. Mr. Updike notes that he has had inquiries regarding the proposed TDRs, but cannot comment on the specifics at this time.

Mr. Updike notes that the Real Estate Division will monitor the TDR market and at appropriate times over the next several years, will secure additional appraisals of the TDR market to ensure that the City is securing a fair market price for any remaining balance of TDR square footage. Mr. Updike estimates that occasional appraisals over the next two to three years will cost approximately \$15,000.

### **Administrative Costs of TDRs**

The City's administrative costs to execute and complete the TDR sales transactions would be deducted from the gross revenues received. Mr. Updike anticipates City staff costs to negotiate each TDR transaction of between \$10,000 and \$25,000, depending on how many transactions are required to exhaust the 1,100,000 square feet of TDRs at the War Memorial, and the level of complexity of each transaction. In addition, Mr. Updike estimates that the title company costs will be approximately \$3,000 per transaction. Mr. Updike advises that the Real Estate Division anticipates using a boilerplate sales agreement to limit the legal transaction costs to execute and record the TDR certificates of transfer and negotiate and execute the related agreements.

Given that the number of transactions cannot be specified at this time, the total administrative costs to sell all 1,100,000 TDRs cannot be estimated. In addition, the timing for sale of all 1,100,000 cannot be determined. Therefore, the timing for the receipt of all of the TDR sale proceeds and the total net proceeds to be realized by the War Memorial cannot be calculated at this time.

### Use of TDR Revenues

Under the proposed resolution, the net proceeds from the sale of up to 1,100,000 TDR by the War Memorial would be used solely for the rehabilitation and restoration of the War Memorial Complex, which may include payment of debt service, in accordance with the Secretary of the Interior Standards. According to Ms. Beth Murray, the Managing Director of the War Memorial and Performing Arts Center, and as summarized in the War Memorial Budget Status Report included as Attachment II to this report, the current projected costs for the War Memorial renovation project of approximately \$154.3 million is approximately \$14.5 million greater than the current budgeted funding sources totaling \$139.8 million. Ms. Murray advises that the projected \$14.5 million deficit is primarily due to higher construction bids than anticipated and the potential need for a higher 18% contingency due to the complexity of the seismic upgrades and historic restoration. Ms. Murray advises that the net revenues received from the proposed TDR sales would be used to address the shortfall in the War Memorial capital improvement project. Appropriation of all revenues received from the sale of such TDRs would be subject to appropriation approval by the Board of Supervisors.

### POLICY CONSIDERATION

The proposed resolution would authorize the Director of the Real Estate Division to negotiate, execute and record the necessary documents for the sale of up to 1,100,000 square feet of TDR from the War Memorial Complex over several years, at a sales price of at least \$25 per square feet, without subsequent Board of Supervisors approval. All revenues from the sales, less the administrative and transaction costs, would be placed in a separate account to be used to fund the shortfall to rehabilitate and restore the War Memorial Complex, subject to Board of Supervisors appropriation approval. However, the actual price of each TDR sale is not currently known, the specified developers and/or parcels for the sale to be transferred have not been identified and the total value of the sale and the related administrative costs are not currently known such that the net value of the transactions cannot be estimated at this time.

Under the proposed resolution, the Director of the Real Estate Division would be required to report to the Capital Planning Committee (CPC) and the Board of Supervisors' Budget and Finance Committee at the end of each quarter on the results of the sales of City-owned TDRs. In accordance with the proposed resolution, if no TDR sales occurred in the previous quarter, then this quarterly reporting requirement would be waived.

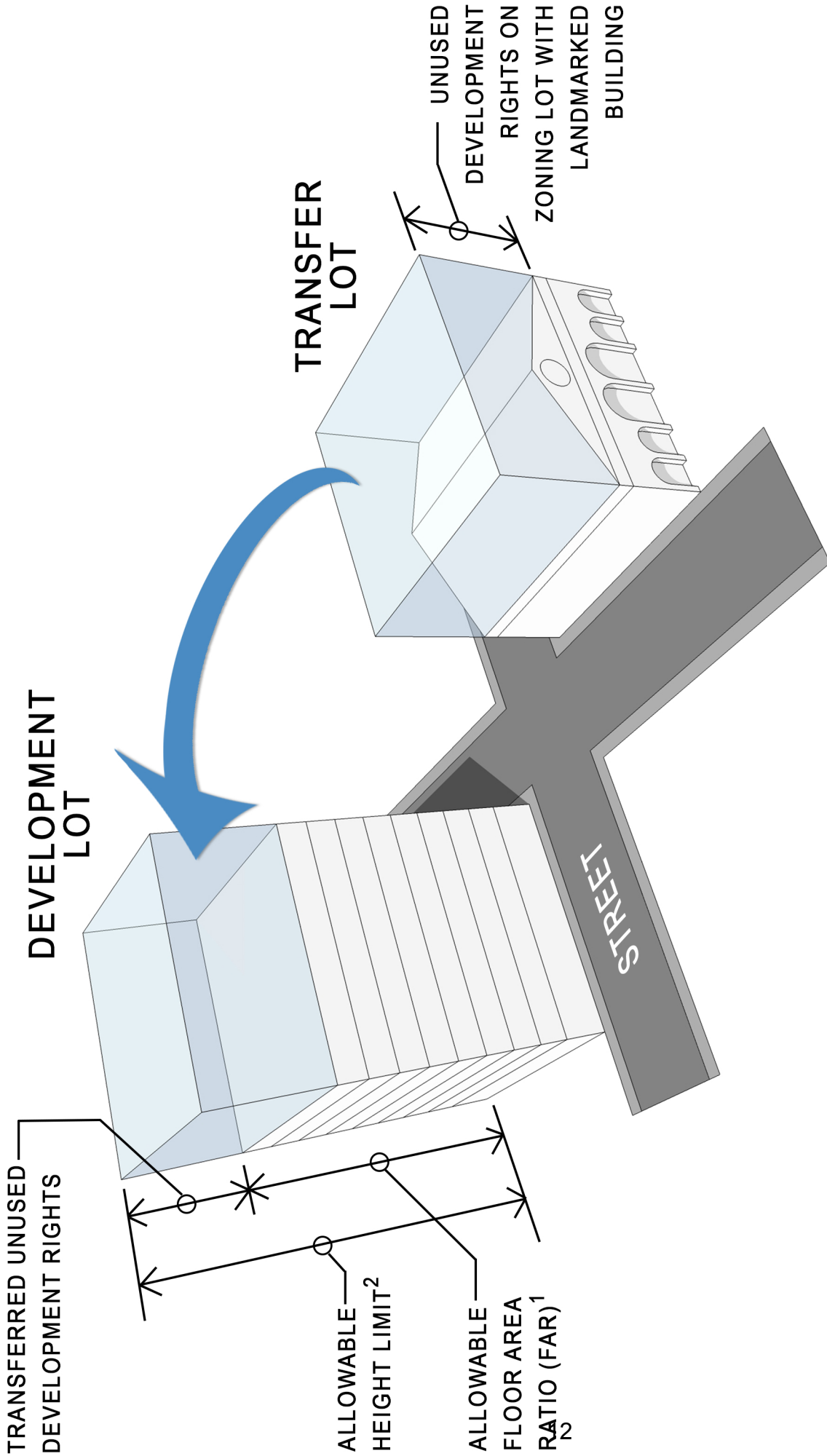
In addition to the proposed sale of up to 1,100,000 square feet of TDR from the War Memorial Complex, Mr. Updike advises that the Real Estate Division has identified approximately 2,500,000 square feet of TDRs that may potentially be available, or a total of approximately 3,600,000 square feet of TDRs. Such additional TRRs are potentially available from City Hall, Asian Art Museum, Bill Graham Auditorium and 101 Grove Street (Public Health Building).

Given that this would be the first offering of such public TDRs, the Budget and Legislative Analyst recommends that the proposed resolution be amended to require the Director of Property to submit a future resolution to the Board of Supervisors reauthorizing such TDR sales immediately upon reaching projected sales of 550,000 gross square feet of TDRs. This

amendment would enable the Board of Supervisors to review and analyze the history of the TDR sales and potentially adjust the minimum sales price of TDRs once the City has experience in initially selling 550,000 square feet, or approximately one-half of the available TDRs from the War Memorial. At the same time, the proposed amendment would enable the full certification of the requested up to 1,100,000 TDRs and provide sufficient capacity of 550,000 square feet of TDRs to be sold at a minimum of \$25 per square foot to provide immediate revenues for the War Memorial Complex capital improvement project. Mr. Updike concurs with the proposed recommendation.

## RECOMMENDATIONS

1. Amend the proposed resolution on page 2, line 20 to add (iii) the Director of Property shall submit enabling legislation to the Board of Supervisors to reauthorize such TDR sales immediately upon reaching sales of 550,000 gross square feet (such legislation to adjust the minimum sales price of TDRs as necessary).
2. Approve the proposed resolution as amended.



## TRANSFER OF UNUSED DEVELOPMENT POTENTIAL SAN FRANCISCO TRANSFER OF DEVELOPMENT RIGHTS (TDR) PROGRAM

1: FLOOR AREA RATIO (FAR) IS THE RATIO OF A BUILDING'S MAXIMUM AREA POTENTIAL TO THE SIZE OF THE SITE IT IS BUILT ON. FOR EXAMPLE, AN FAR OF 5 ON A 10,000 SF SITE LIMITS DEVELOPMENT TO A 50,000 SF BUILDING ON THIS SITE.

2: HEIGHT, BULK, SETBACK, SUNLIGHT ACCESS, SEPARATION BETWEEN TOWERS, OR ANY OTHER RULES OR LIMITATIONS APPLICABLE TO THE DEVELOPMENT LOT REMAIN UNCHANGED.

WAR MEMORIAL VETERANS BUILDING SEISMIC UPGRADE & IMPROVEMENTS

Budget Status Report - November 14, 2013

| Description                                  | CCSF-COPs             | War Memorial        | SF Arts Commission  | TOTAL BUDGET          | Current Projection    | Variance               |
|--|-----------------------|---------------------|---------------------|-----------------------|-----------------------|------------------------|
| Construction                                 | \$ 91,018,571         |                     |                     |                       |                       |                        |
| Hazardous Materials Abatement                | 1,650,000             |                     |                     |                       |                       |                        |
| Construction Total                           | \$ 92,668,571         | \$ 4,666,447        | \$ 892,240          | \$ 98,227,258         | \$ 103,984,866        | \$ (5,757,608)         |
| Construction Contingency                     | 9,422,229             | 466,643             | 90,000              | 9,978,872             | 18,717,276            | (8,738,404)            |
| CM/GC Contingency                            | 1,820,371             | 93,329              | 17,760              | 1,931,460             | 1,931,460             | -                      |
| Soft Costs (A/E, Design, Project Management) | 25,663,829            | 603,581             | -                   | 26,267,410            | 26,267,410            | -                      |
| Post-Construction Site Work                  | 500,000               | -                   | -                   | 500,000               | 500,000               | -                      |
| Relocation                                   | 1,225,000             | -                   | -                   | 1,225,000             | 1,225,000             | -                      |
| Fixtures/Furnishings & Equipment             | -                     | 470,000             | -                   | 470,000               | 470,000               | -                      |
| Finance Costs                                | 1,155,590             | -                   | -                   | 1,155,590             | 1,155,590             | -                      |
| <b>TOTAL PROJECT BUDGET</b>                  | <b>\$ 132,455,590</b> | <b>\$ 6,300,000</b> | <b>\$ 1,000,000</b> | <b>\$ 139,755,590</b> | <b>\$ 154,251,602</b> | <b>\$ (14,496,012)</b> |

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| <b>Item 4</b><br><b>File 13-1130</b>  | <b>Department:</b><br>San Francisco Controller's Office (Controller) |
| <b>EXECUTIVE SUMMARY</b>  |  |
| <p style="text-align: center;"><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• Resolution establishing the City and County's appropriations limit for FY 2013-14 pursuant to Article XIII B of the California Constitution.</li> </ul> <p style="text-align: center;"><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution would establish the City's appropriations limit in FY 2013-14 at \$2,799,495,180 pursuant to Article XIII B of the California Constitution.</li> <li>• According to the California Constitution Article XIII B, the appropriations limit does not apply to any tax proceeds appropriated due to (a) voter-approved indebtedness, (b) federally-mandated services, (c) qualified capital outlays, and (d) various hazardous waste programs administered by the Department of Public Health. The terms and the calculation to be used in setting the appropriations limit are defined by California Government Code Sections 7901 and 7902(b), respectively.</li> <li>• For FY 2013-14, based on the Controller's calculation, the City's net tax proceeds subject to the FY 2013-14 appropriations limit are \$2,696,388,530 or \$103,106,650 less than the appropriations limit of \$2,799,495,180, as calculated by the Controller.</li> </ul> <p style="text-align: center;"><b>Policy Consideration</b></p> <ul style="list-style-type: none"> <li>• Per California Constitution Article XIII B Section 8(e)2, when calculating the cost of living adjustment to the appropriations limit, the Controller may use either (1) the percentage change in California per-capita income from the preceding year or (2) the percentage change in the local assessment roll from the preceding year due to the change in local non-residential new construction.</li> <li>• For the FY 2013-14 appropriations limit, the Controller elected to use the percentage change in California per-capita income from the preceding year, consequently calculating the appropriations limit at \$2,799,495,180. Had the Controller elected to use the percentage change in the local assessment roll due to non-residential new construction from the preceding year, the appropriations limit would have been calculated at \$2,665,272,809, which is (1) \$134,222,371 less than the proposed appropriations limit of \$2,799,495,180 and (2) \$31,115,721 less than the Controller's estimate of net tax proceeds subject to the appropriations limit of \$2,696,388,530.</li> </ul> <p style="text-align: center;"><b>Recommendation</b></p> <ul style="list-style-type: none"> <li>• Approve the proposed resolution.</li> </ul> |  |

## MANDATE STATEMENT / BACKGROUND

### Mandate Statement

California Constitution Article XIII B states that each local government must set an annual appropriations limit as calculated using the preceding year's appropriations limit adjusted for (1) the change in population and (2) the change in the cost of living.

### Background

On November 6, 1979, California voters approved Proposition 4, known as the Gann Initiative, which added Article XIII B to the California Constitution. Article XIII B (later amended by State Proposition 111, as approved by the voters in June of 1990) places annual limits on the appropriations of tax proceeds made by the State, school districts, and local governments in California. The annual appropriations limit is set to the appropriations limit for the preceding year as adjusted for (1) the change in population and (2) the change in the cost of living. Additionally, California Government Code Sections 7901 and 7902(b) define the terms and the calculation to be used in setting the appropriations limit, respectively.

Per Article XIII B Section 9 and California Government Code Section 7901, the appropriations limit does not apply to any tax proceeds appropriated for (a) debt service, (b) federally-mandated services, (c) qualified capital outlays, and (d) various hazardous waste programs administered by the Department of Public Health.

California Government Code Section 7901(b) defines the change in population as the population growth for the calendar year preceding the beginning of the fiscal year for which the appropriations limit is to be determined. According to the California Department of Finance, in calendar year 2012, San Francisco's population growth was 1.08 percent.

California Constitution Article XIII B Section 8(e)2 allows the local government to use one of the two following definitions to calculate the cost of living adjustment:

**Definition 1:** The percentage change in California per-capita personal income from the preceding year, estimated to be 5.12 percent in 2012, or

**Definition 2:** The percentage change for the local jurisdiction in the assessment roll from the preceding year due to non-residential new construction, estimated to be 0.08 percent in 2012.

## DETAILS OF PROPOSED LEGISLATION

The proposed resolution would establish the City's FY 2013-14 appropriations limit at \$2,799,495,180 as calculated by the Controller. The appropriations limit for FY 2013-14 is based



on the amount of the FY 2012-13 appropriations limit and adjusted to reflect changes in (1) the population and (2) cost of living adjustment (calculated using the per capita increase in personal income).

## FISCAL IMPACT

Per California Constitution Article XIII B, the appropriations limit does not apply to tax proceeds appropriated for: (a) debt service, (b) federally-mandated services, (c) qualified capital outlays, and (d) various hazardous waste programs administered by the Department of Public Health. Consequently, the Controller excluded \$285,875,094 from the City's total FY 2013-14 tax proceeds of \$2,982,263,624 as shown in Table 1 below.

**Table 1: Tax Proceeds Subject to the Proposed Appropriations Limit**

|  |                        |
|--|------------------------|
| <b>FY 2013-14 Total Tax Proceeds</b>                               | <b>\$2,982,263,624</b> |
| <b>Exclusions</b>  |                        |
| (a) Debt Service   | (218,201,356)          |
| (b) Federally-Mandated Services                                    | (64,380,048)           |
| (c) Qualified Capital Outlays                                      | (183,227)              |
| (d) Hazardous Waste Program  | (3,110,463)            |
| <b>Subtotal Exclusions</b>   | <b>(\$285,875,094)</b> |
| <b>FY 2013-14 Net Tax Proceeds Subject to Appropriations Limit</b> | <b>\$2,696,388,530</b> |

The City's FY 2013-14 net proceeds of taxes, as determined by the Controller, are \$2,696,388,530 as shown in Table 1 above. As shown in Table 2 below, the proposed resolution would establish the City's appropriations limit in FY 2013-14 at \$2,799,495,180, as calculated by the Controller.

**Table 2: Proposed FY 2013-14 Appropriations Limit  
Calculated by the Controller's Office**

|   |                        |
|---|------------------------|
| <b>FY 2012-13 Appropriations Limit</b>                  | <b>\$2,634,687,668</b> |
| <b>Adjustment Factors</b>                               |                        |
| Increase in Population                                  | 1.08%                  |
| Increase in Per-Capita Personal Income (Cost of Living) | 5.12%                  |
| <b>FY 2013-14 Appropriations Limit <sup>a</sup></b>     | <b>\$2,799,495,180</b> |

<sup>a</sup> \$2,634,687,668 x 1.0108 x 1.0512 equals \$2,799,495,180.

As shown in Table 1 and Table 2 above, the City's FY 2013-14 net tax proceeds of \$2,696,388,530 are \$103,106,650 less than the proposed FY 2013-14 appropriations limit of \$2,799,495,180.

## POLICY CONSIDERATION

As noted in the background section, the Controller has discretion to calculate the cost of living adjustment factor using one of two following definitions:

**Definition 1:** The percentage change in California per-capita personal income from the preceding year, estimated to be 5.12 percent in 2012, or

**Definition 2:** The percentage change for the local jurisdiction in the assessment roll from the preceding year due to local non-residential new construction, estimated to be 0.08 percent in 2012.

Table 3 below shows the FY 2013-14 appropriations limit using both definitions.

**Table 3: The FY 2013-14 Appropriations Limit Can Vary Depending on Definition**

|  | <u>Definition 1</u>                        | <u>Definition 2</u>  |
|--|--|--|
|  | Per-Capita<br>Personal Income <sup>a</sup> | Local Assessment Roll from Non-<br>Residential New Construction <sup>b</sup> |
| <b>FY 2012-13 Appropriations Limit</b> | <b>\$2,634,687,668</b>                     | <b>\$2,634,687,668</b>   |
| Adjustment Factors                     |  |  |
| Increase in Population                 | 1.08%                                      | 1.08%  |
| Increase in Per-Capita Personal Income | 5.12%                                      | -  |
| Increase in Local Assessment Roll      | -  | 0.08%  |
| <b>FY 2013-14 Appropriations Limit</b> | <b>\$2,799,495,180</b>                     | <b>\$2,665,272,809</b>   |

<sup>a</sup> \$2,634,687,668 x 1.0108 x 1.0512 equals \$2,799,495,180.

<sup>b</sup> \$2,634,687,668 x 1.0108 x 1.0008 equals \$2,665,272,809.

For the FY 2013-14 appropriations limit, the Controller elected to use the percentage change in California per-capita personal income from the preceding year to calculate the cost of living adjustment, consequently calculating the appropriations limit at \$2,799,495,180, as shown in Table 2 above. Had the Controller elected to use the percentage change in the local assessment roll from the preceding year, the appropriations limit, as shown in Table 3 above, would have been calculated at \$2,665,272,809, which is (a) \$134,222,371 less than the proposed appropriations limit of \$2,799,495,180 and (b) \$31,115,721 less than the Controller's estimate of net tax proceeds subject to the appropriations limit of \$2,696,388,530, as shown in Table 1 above.

## RECOMMENDATION

Approve the proposed resolution.

|   |  |
|---|--|
| <b>Item 5</b><br><b>File 13-1141</b><br><i>Continued from December 11, 2013</i>   | <b>Department:</b><br>Recreation and Park Department (RPD) |
| <b>EXECUTIVE SUMMARY</b>  |  |
| <b>Legislative Objectives</b>   |  |
| <ul style="list-style-type: none"> <li>• The proposed ordinance would amend the FY 2013-14 and FY 2014-15 Annual Salary Ordinance to add two Class 5502 Project Manager 1 positions at RPD to implement Recreation and Park Department capital improvements.</li> </ul>   |  |
| <b>Key Points</b>   |  |
| <ul style="list-style-type: none"> <li>• In March 2000, San Francisco voters approved \$110,000,000 Neighborhood Park General Obligation Improvement Bond. In February of 2008 voters approved \$185,000,000 Clean and Safe Neighborhood Parks General Obligation Bond, including \$151,300,000 for RPD. In November 2012, San Francisco voters approved a separate \$195,000,000 Clean and Safe Neighborhood Parks General Obligation Bond, including \$160,500,000 for RPD.</li> <li>• RPD has a Capital Improvement Division which manages and implements all of the capital improvement projects for RPD, primarily funded with the 2000, 2008 and 2012 General Obligation bond funds as well as lease revenue bonds, General Fund, Open Space Funds, grants, partnerships and gifts. RPD's Capital Improvement Division currently has nine project managers and 2.5 assistant project managers.</li> </ul>   |  |
| <b>Fiscal Impacts</b>   |  |
| <ul style="list-style-type: none"> <li>• Two new Project Manager I positions were approved in the FY 2013-14 budget to address RPD's delayed 2008 bond projects, which will be filled in early January 2014. A workload comparison of RPD's existing capital projects indicates that if RPD receives the requested two additional Project Manager I positions, RPD would have comparable project management level of services as DPW's existing street bond projects.</li> <li>• Two additional 5502 Project Manager Is would cost \$238,000 per year in salaries for both positions. If fringe benefit costs of approximately 35% are added, the total ongoing annual cost is approximately \$321,000. The proposed ordinance assumes each position would be filled as of January 1, 2014, such that the FY 2013-14 costs would be approximately one-half or \$160,500. RPD bond funds would primarily pay for these positions.</li> <li>• These two positions cannot be filled until April 1, 2014, such that the proposed ordinance should be amended to change the 0.5 FTE to 0.25 FTE for each position for FY 2013-14.</li> </ul> |  |
| <b>Recommendations</b>  |  |
| <ul style="list-style-type: none"> <li>• Amend the proposed ordinance on lines 18 and 19 to change the 0.5 FTE to 0.25 FTE for each of the two new requested positions in FY 2013-14.</li> <li>• Approve the proposed ordinance as amended.</li> </ul>  |  |

## MANDATE STATEMENT

Administrative Code Section 10.04 specifies that a salary ordinance identifying the number and rates of compensation for positions created are subject to approval by the Board of Supervisors.

## BACKGROUND

### **2000 Neighborhood Park Improvement Bond**

In March of 2000, San Francisco voters approved an \$110,000,000 Neighborhood Park General Obligation Improvement Bond for the acquisition, construction and reconstruction of various Recreation and Park Department (RPD) facilities. To date, RPD has acquired three properties, completed 83 capital projects, and is currently managing two active capital projects. The two active projects are: (1) Minnie & Lovie Ward (Oceanview) Recreation Center playfield and (2) Mission Dolores Park.

### **2008 Clean and Safe Neighborhood Parks Improvement Bond**

In February of 2008, San Francisco voters approved a separate \$185,000,000 Clean and Safe Neighborhood Parks General Obligation Bond, including \$151,500,000 for RPD and \$33,500,000 for the Port for specified parks and open space recreation projects. Of the total 13 RPD Neighborhood Parks specified in the 2008 bond program, to date, ten Neighborhood Park projects are complete and open to the public. Of the remaining three RPD Neighborhood Parks, (a) Glen Canyon Park is currently under construction; (b) Raymond Kimbell Playground is currently in the bid/award phase; and (c) Mission Dolores Park is also in the bid/award phase.

### **2012 Clean and Safe Neighborhood Parks Improvement Bond**

On November 6, 2012, San Francisco voters approved a separate \$195,000,000 Clean and Safe Neighborhood Parks General Obligation Bond, including \$160,500,000 for RPD and \$34,500,000 for the Port. The first 2012 bond issuance occurred in July 2013 and included \$53,687,500 for RPD. To date, of the total 13 RPD Neighborhood Park projects specified in the 2012 bond program, seven projects are currently active in the planning phase.

### **RPD Capital Improvement Division**

RPD has a Capital Improvement Division which is responsible for managing and implementing all of the capital improvement projects for RPD, together with the Department of Public Works (DPW) construction management staff and outside consultants. RPD's Capital Improvement Division is primarily funded by the above-noted 2000, 2008 and 2012 General Obligation bond funds as well as by other lease revenue bonds, General Fund, Open Space Funds, grants,

partnerships and gifts. Overall, RPD's Capital Improvement Division budget is currently \$300 million. RPD's Capital Improvement Division currently has a total of 25<sup>1</sup> full-time equivalent (FTE) positions, including nine project managers and 2.5 assistant project managers.

### DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the FY 2013-14 and FY 2014-15 Annual Salary Ordinance to add two Class 5502 Project Manager 1 positions in the Recreation and Park Department to administer Recreation and Park Department bond-funded capital improvements.

The proposed ordinance would create 0.5 FTE for each 5502 Project Manager I position or a total of 1.0 FTE in FY 2013-14, assuming a start date of January 1, 2014 through June 30, 2014.

### FISCAL IMPACTS

#### Justification for the Proposed Two Positions

Although RPD's Capital Improvement Division currently has 25 FTE positions, including nine project managers and 2.5 assistant project managers, RPD reports that this project management staffing level is not sufficient for their current level of work. According to Ms. Taylor Emerson, Analyst in RPD's Capital Improvement Division, RPD's Capital Improvement Division is currently managing 115 active projects at a total cost of approximately \$300 million, with individual projects ranging in cost from \$350,000 to \$22,000,000. Of the 115 projects, (a) 80 projects or 70% range in value from \$350,000 to \$5 million; (b) 29 projects or 25% range in value from \$6 million to \$15 million and (c) six projects or 5% are more than \$16 million.

On August 16, 2013 the Controller's Office conducted a management review of the 2008 Clean and Safe Neighborhood Parks Improvement Bond to determine if the RPD projects were being completed within the specified schedules, scopes and budgets initially identified. This Controller's report found that the 2008 neighborhood park projects were being delayed due to Project Manager and Finance position staffing shortages at RPD. The Controller's report recommended that RPD hire two additional project managers and fill one vacant finance division position. According to Ms. Emerson, RPD has filled the one vacant finance division position.

Ms. Emerson advises that two new Project Manager I positions were approved by the Board of Supervisors in the FY 2013-14 budget for RPD's Capital Improvement Division, as recommended in the Controller's report. According to Ms. Emerson, both of these Project Manager I positions

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<sup>1</sup> These 25 FTE positions do not include 5 student intern trainee positions within the Planning Group under RPD's Capital Improvement Division.

will be filled as of January 6, 2014 and will be assigned to 2008 general obligation bond projects. With these two new Project Manager I positions, RPD's Capital Improvement Division will have 11 Project Managers in January of 2014.

However, Ms. Emerson advises that RPD's Capital Improvement Division still requires two additional Project Manager I positions to address the 2012 bond projects. According to Ms. Emerson, RPD's capital projects are most comparable to DPW's streetscape general obligation bond projects because both the RPD and DPW capital projects require similar design complexity to accommodate multiple users, coupled with increased levels of public outreach and meetings that are required of project management staff.

The Table below compares the number of FTE project managers to the number and value of DPW and RPD's existing capital projects. As shown in the Table below, as of January 2014 even with the recent additional two Project Manager I positions, each RPD project manager will have an average of 10.5 projects at an average cost of \$27.3 million per staff which is greater than each DPW project manager having an average of 7.2 projects at an average cost of \$24.4 million per staff. The Table below also indicates that if RPD receives the requested two additional Project Manager I positions, RPD's project manager staffing level would be reduced to an average of 8.85 projects at an average cost of \$23.1 million per staff, which reflects a slightly greater number of projects at a slightly lower cost per project than DPW project managers. Given that RPD's Capital Improvement Division also has 2.5 FTE assistant project managers working on other capital projects, the requested additional staffing would provide comparable levels of project management services as provided under DPW's street bond projects.

**Table: Comparison of staffing on DPW and RPD Bond Programs**

| <b>General Obligation Bond Program</b>                                    | <b>FTE Project Managers*</b> | <b>Total Projects</b> | <b>Projects /Project Managers</b> | <b>Total Value (\$millions) of Projects</b> | <b>Value (\$millions) /Project Managers</b> |
|---|------------------------------|-----------------------|-----------------------------------|---|---|
| DPW Street and Streetscape Bond Program                                   | 5.0                          | 36                    | 7.2                               | \$121.82                                    | \$24.4                                      |
| RPD Capital Improvement Bond Program (January, 2014)                      | 11.0                         | 115                   | 10.5                              | \$300                                       | \$27.3                                      |
| RPD Capital Improvement Bond Program (subject of the requested ordinance) | 13.0                         | 115                   | 8.85                              | \$300                                       | \$23.1                                      |

Source: Ms. Taylor Emerson in the RPD Capital Improvement Division.

\*Does not include 2.5 FTE assistant project managers who are responsible for managing other projects not reflected in this Table.

**Cost of the Proposed Two Positions**

RPD is requesting two additional 5502 Project Manager I positions (0.5 FTE each in FY 2013-14) for an additional annual salary cost of \$119,000 per position or \$238,000 for both positions. Including the fringe benefit cost of approximately 35%, the total ongoing annual salary and fringe benefit cost is approximately \$321,000 for the requested two new positions. The proposed ordinance assumes that each position would be filled as of January 1, 2014, such that the FY 2013-14 costs would be approximately one-half or \$160,500.

All of the costs for the two positions would be off-budget. Ms. Emerson advises that the source of funds to pay the two positions would depend on the specific projects that the staff person was working on, but would come primarily from the 2008 and 2012 Clean and Safe Neighborhood Parks Improvement General Obligation Bonds.

As noted above, the proposed ordinance assumes that each of the requested two new positions would be filled as of January 1, 2014. Given that the proposed ordinance would not be approved until the end of January 2014, these two positions could not actually be filled until at least April 1, 2014. As noted above, two RPD Project Manager I positions that were approved in the FY 2013-14 budget will not be filled until early January 2014, or approximately six months later. Therefore, the proposed ordinance should be amended to change the 0.5 FTE for each position to 0.25 FTE for each position for FY 2013-14, such that the total cost for the two positions in FY 2013-14 would be approximately \$80,250, instead of \$160,500.

**RECOMMENDATIONS**

1. Amend the proposed ordinance on lines 18 and 19 to change the 0.5 FTE to 0.25 FTE for each of the two new requested positions in FY 2013-14.
2. Approve the proposed ordinance as amended.

|  |   |
|--|---|
| <b>Item 6</b><br><b>File 13-1182</b>   | <b>Department:</b><br>San Francisco International Airport (Airport) |
| <b>EXECUTIVE SUMMARY</b>   |   |
| <p><b>Legislative Objectives</b></p> <ul style="list-style-type: none"> <li>• The proposed resolution (File 13-0497) would approve the award of a sole-source contract with Clean Harbors Environmental Services to perform emergency repair work in accordance with Administrative Code Section 6.60 in an amount not to exceed \$1,000,000 for services already performed. The emergency repair work was for environmental clean-up of soil and water and regrading of the runway safety area after the crash landing of Asiana Airlines Flight 214.</li> </ul> <p><b>Key Points</b></p> <ul style="list-style-type: none"> <li>• On July 6, 2013, Asiana Airlines Flight 214 crashed on Runway 28L at the San Francisco International Airport in an attempt to land. The crash impacted the seawall, runway, runway safety areas, airfield lighting infrastructure, wooden trestle and Federal Aviation Administration (FAA) navigational aids. In addition to the direct impacts of the crash, the leaking jet fuel and the fire suppression foam used to put out the fire resulting from the crash contaminated soil on the airfield and water in the storm drainage system.</li> <li>• On July 11, 2013, Mr. Larry Mazzola, Airport Commission President, approved the commencement for emergency public works projects related to the Asiana aircraft crash landing; and subsequently, the Airport entered into five emergency contracts (including the subject contract with Clean Harbors Environmental Services), without undergoing the City's regular competitive bidding procedures, for the work required for the repair and reopening of the Airport's Runway 28L, for an estimated total of \$1,370,000.</li> <li>• On July 11, 2013, Mr. Ivar Satero, Deputy Airport Director, authorized Clean Harbors Environmental Services to begin the environmental clean-up of the contaminated soil and water and regrading of the Airport's Runway 28L and the emergency work was completed on September 19, 2013.</li> </ul> <p><b>Fiscal Impact</b></p> <ul style="list-style-type: none"> <li>• Clean Harbors Environmental Services has submitted invoices to the Airport totaling \$871,925, and no additional expenditures will be incurred.</li> <li>• All of these emergency repair costs will be paid from Airport's facility maintenance funds previously approved by the Board of Supervisors and the Airport will seek reimbursement of the \$871,925 from Asiana Airlines.</li> </ul> <p><b>Recommendations</b></p> <ul style="list-style-type: none"> <li>• Amend the proposed resolution to reduce the not-to-exceed contract amount by \$128,075 from \$1,000,000 to \$871,925.</li> <li>• Approve the proposed resolution, as amended.</li> </ul> |   |



**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. If the emergency does not permit the required approval by the Board of Supervisors to be obtained before work is commenced or the contract entered into, approval by the Board of Supervisors shall be obtained as soon thereafter as it is possible to do so. 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**

On July 6, 2013, Asiana Airlines Flight 214 crashed on Runway 28L at the San Francisco International Airport in an attempt to land. The crash impacted the seawall, runway, runway safety areas, airfield lighting infrastructure, wooden trestle and Federal Aviation Administration (FAA) navigational aids. In addition to the direct impacts of the crash, the leaking jet fuel and the fire suppression foam (AFFF)<sup>1</sup> used to put out the fire resulting from the crash, contaminated soil on the airfield and water in the storm drainage system. According to the September 20, 2013 memorandum to the Airport Commission from John Martin, Airport Director, the recovery effort to restore Runway 28L for operational use included: 1) grinding and paving the runway; 2) restriping damaged paint markings; 3) repairing the airfield lighting system; 4) regrading infield turf areas; 5) repairing and coordinating the flight check of the FAA navigational aids; 6) removing the top layer of contaminated soil and regrading the runway safety area; 7) cleaning the storm drainage system; 8) testing for soil and water contaminants; and 9) properly disposing of contaminated water and soil.

On July 11, 2013, in accordance with Administrative Code Section 6.60, Mr. Larry Mazzola, Airport Commission President, approved the commencement for emergency public works projects that were estimated at the time to cost \$2,000,000. Following Mr. Mazzola's approval, the Airport entered into the following five emergency contracts, without undergoing the City's

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<sup>1</sup> Fire-fighting foam is foam used for fire suppression; it cools the fire and coats the fuel, preventing its contact with oxygen, resulting in suppression of the combustion. Low-expansion foams have an expansion rate less than 20 times and are low-viscosity, mobile, and able to quickly cover large areas.

regular competitive bidding procedures, for the work required for the repair and reopening of Runway 28L, for an estimated total of \$1,370,000:

- Runway Repair – Contract 9393.A with Pavex Construction for a not-to-exceed amount of \$250,000 for 1) labor to clean up the crash site alongside Airport staff; and 2) the repaving and repairing of Runway 28L.
- Planning – Contract 9393.B with AECOM for a not-to-exceed amount of \$60,000 for 1) consulting services for repair planning, scheduling and coordination; and 2) a structural assessment for possible damage to the wooden trestle at the end of Runway 28L.
- Inspections – Contract 9393.C with Parsons Brinckerhoff for a not-to-exceed amount of \$20,000 for consulting services for construction processes and inspection.
- Trestle Repair – Contract 9393.D with Mason Construction for a not-to-exceed amount of \$40,000 to repair the damaged wooden trestle at the end of Runway 28L.
- Hazardous Material Abatement – Contract 9394, the subject contract, with Clean Harbors Environmental Services (Clean Harbors) for a not-to-exceed amount of \$1,000,000 for 1) the environmental clean-up contaminated soil and water; and 2) regrading the runway safety area.

In accordance with Administrative Code Section 6.60, only the emergency contract with Clean Harbors, which exceeds \$250,000, requires approval by the Board of Supervisors.

#### **Clean Harbor Emergency Contract**

On July 11, 2013, Mr. Ivar Satero, Deputy Airport Director, authorized Clean Harbors to begin the environmental clean-up of the contaminated soil and water and regrading of the Airport's Runway 28L.

The Regional Water Quality Control Board (RWQCB) required that the top six inches of visibly contaminated soil be removed immediately after the Asiana aircraft was removed and before final grading of the soil. The Airport reports that Clean Harbors worked overnight to grade the runway safety area and remove contaminated soil, allowing the Airport to reopen the airfield for operation within 40 hours of the Asiana aircraft's relocation from the crash site.

Additionally, the Asiana aircraft crash landing resulted in a large trench into the runway safety area as it slid to a stop following its failed landing attempt. The aircraft's final stopping point was very close to a catch basin in the Airport's storm drainage system. As a result, the catch basin and the connected piping of the drainage system collected a significant amount of the jet fuel and some of the fire suppression foam. The Airport shut off the pump stations to contain the jet fuel and fire suppression foam and to prevent discharge of contaminants into the Bay.

Clean Harbors provided the emergency environmental clean-up of the storm drainage system and the regrading of the Runway 28L including: 1) pumping out and hauling of contamination to an approved disposal facility; 2) cleaning of the affected pump station and piping; 3) rental of storage containers for temporary holding of contaminated soil and water; and 4) other related incidental work. The Airport reports that due to Clean Harbor's work, the Airport was able to open the affected pump station while fully meeting the RWQCB's requirements for the emergency clean-up.

The Airport reports that although the emergency clean-up work, which was completed on September 19, 2013, was successful, contamination remains in the soil, and possible sediment remains in the storm drainage system and potentially in the ground water. The Airport states that the discharging party, Asiana Airlines, is responsible for the remediation work. Airport staff has met with Asiana Airlines' representatives to establish a procedure for the full remediation process.

#### **DETAILS OF PROPOSED LEGISLATION**

The proposed resolution would approve the award of an emergency contract with Clean Harbors Environmental Services to perform emergency repair work in an amount not to exceed \$1,000,000 for services completed on September 19, 2013. The work consisted of the environmental clean-up of soil and water and regrading of the runway safety area after the crash landing of Asiana Airlines Flight 214 on July 6, 2013. In accordance with Administrative Code Section 6.60, the contract was awarded without undergoing the City's regular competitive bidding procedures.

#### **FISCAL IMPACT**

As shown in the Table 1 below, to date, Clean Harbors Environmental Services has submitted invoices to the Airport totaling \$871,925. According to Ms. Cherie Gubisch, Airport Associate Engineer, all of the environmental clean-up of the contaminated soil and water and regrading of the Airport's Runway 28L were completed on September 19, 2013, and no additional expenditures will be incurred. Ms. Gubisch advises that all of these emergency repair costs will be paid from Airport's facility maintenance funds previously approved by the Board of Supervisors and Ms. Gubisch states that the Airport will seek reimbursement of the \$871,925 from Asiana Airlines.

**Table 1. Total Actual Expenditures to Date**

| Item  | Total Expenditures |
|---|--------------------|
| Emergency Response  | \$35,041           |
| Transportation and Disposal                                       | 513,062            |
| Jetter, Tank, Video Inspection, and Field Service Labor and Waste | 323,822            |
| <b>Total</b>  | <b>\$871,925</b>   |

## RECOMMENDATIONS

1. Amend the proposed resolution to reduce the not-to-exceed contract amount by \$128,075 from \$1,000,000 to \$871,925.
2. Approve the proposed resolution, as amended.