

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

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TO: Budget and Finance Sub-Committee

FROM: Budget and Legislative Analyst



SUBJECT: April 19, 2018 Budget and Finance Sub-Committee Meeting

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<p>Item 2 File 18-0310</p>	<p>Department: Public Utilities Commission (PUC)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would (i) retroactively approve Amendment 1 to contracts between the San Francisco Public Utilities Commission (SFPUC) and ICF+Avila and URS Corporation; (ii) retroactively approve Amendment 1 to the contract between SFPUC and Shaw Environmental and Infrastructure, Inc.; (iii) approve Amendment 1 to the contract between SFPUC and CDM Smith/ATS; and (iv) approve Amendment 2 to the contract between SFPUC AND URS Corporation. The proposed resolution would not change the term lengths of the contracts, which expire June 15, 2027. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • For SFPUC’s Water System Improvement Project (WSIP) to comply with federal and state permits, SFPUC is required to conduct environmental monitoring and reporting for a minimum of 10 years at each mitigation area. In June 2013, the Board of Supervisors approved four natural resources technical services and watershed management and monitoring contracts between SFPUC and CDM Smith/ATS (a joint venture), ICF+Avila (a joint venture), Shaw Environmental and Infrastructure, Inc. (Shaw), and URS Corporation. Each of the contracts was for not to exceed \$5,000,000 and a term of 14 years, expiring June 15, 2027. In 2016, because Shaw ceased Bay Area environmental operations, SFPUC amended the contract with Shaw to reduce the contract amount from \$5,000,000 to \$515,000, and amended the contracts with ICF+Avila and URS, increasing the not-to-exceed amount for each contract by \$1,490,000, from \$5,000,000 to \$6,490,000. The contract amendments were executed without Board of Supervisors approval based on the misinterpretation of Charter Section 9.118 at that time. • The actual costs of the services through these contracts exceeded original estimates. In order to complete the 2018 environmental monitoring, oversight, and report development, the SFPUC Commission approved increases in the contracts with CDM Smith/ATS and URS Corporation. The ICF+Avila contract remains. SFPUC has initiated a competitive process to select new contractors in 2019. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The total original contract amounts for the four contracts between SFPUC and CDM Smith/ATS, ICF+Avila, Shaw, and URS Corporation was \$20,000,000. SFPUC amended three of the four contracts in 2016, resulting in total revised contract amounts for the four contracts of \$18,495,000. Under the proposed resolution, SFPUC would amend the contracts with CDM Smith/ATS and the URS Corporation, increasing the contract amounts for these two contracts by \$2,500,000, resulting in total combined contract amounts of \$20,995,000. Funding is available in the Alameda and Peninsula Watershed Monitoring budgets, funded by Water Enterprise revenue bonds. <p style="text-align: center;">Recommendations</p> <ul style="list-style-type: none"> • Amend the resolution to correctly state that the Agreements expire June 15, 2027. • Approve the resolution as amended. 	

MANDATE STATEMENT

City Charter Section 9.118(b) states that any contract entered into by a department, board or commission that (1) has a term of more than ten years, (2) requires expenditures of \$10 million or more, or (3) requires a modification of more than \$500,000 is subject to Board of Supervisors approval.

BACKGROUND

The San Francisco Public Utilities Commission's (SFPUC) Water System Improvement Program (WSIP) consists of 83 projects, stretching from San Francisco to the Sierra foothills, totaling \$4.8 billion over several years. For WSIP to comply with federal and state permits, SFPUC is required to conduct environmental monitoring for a minimum of 10 years.

In June 2013, the Board of Supervisors approved a resolution (File 13-0404, Resolution 188-13) authorizing four natural resources technical services and watershed management and monitoring contracts between SFPUC and CDM Smith/ATS (a joint venture), ICF+Avila (a joint venture), Shaw Environmental and Infrastructure, Inc. (Shaw), and URS Corporation. Each of the contracts was for not to exceed \$5,000,000 and a term of 14 years, expiring June 15, 2027. Subsequently, Shaw discontinued its environmental services in the Bay Area, having provided \$515,000 in services. SFPUC reallocated contract amounts to two of the other three contracts in September 2016 as shown in Table 1 below. The contract terms for the three remaining contracts did not change.

Table 1: 2016 Amendments to Natural Resources Technical Services and Watershed Management and Monitoring Contracts

	Original Amount	Amendment #	Revised Contract Amount	Increase/ (Decrease)
CDM Smith/ATS ^a	\$5,000,000	none	\$5,000,000	\$0
ICF+Avila	5,000,000	1	6,490,000	1,490,000
Shaw Environmental and Infrastructure	5,000,000	1	515,000	(4,485,000)
URS Corporation	5,000,000	1	6,490,000	1,490,000
Total	\$20,000,000		\$18,495,000	(\$1,505,000)

^a The contract between SFPUC and CDM Smith/ATS was not amended.

According to Ms. Ivy Fine, Manager of the Project Administration Bureau, the contract amendments were executed without Board of Supervisors approval due to misinterpretation of Charter Section 9.118.¹

¹ According to Ms. Fine, the interpretation was that the prior Board of Supervisors approval was sufficient to implement the amendments because the amendments did not adjust the contract duration, and each contract value was less than \$10 million. SFPUC understands that a more accurate interpretation of Charter Section 9.118 requires all changes of \$500,000 or more to come to the Board of Supervisors if the original contract was approved subject to 9.118, regardless of the underlying contract value.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the SFPUC General Manager to:

- i. Retroactively execute Amendment 1 to contracts with ICF+Avila and URS Corporation, increasing the not-to-exceed amount by \$1,490,000 each, from \$5,000,000 to \$6,490,000, as shown in Table 1 above;
- ii. Retroactively execute Amendment 1 to the Shaw Environmental and Infrastructure, Inc. contract, reducing the not-to-exceed amount by \$4,485,000, from \$5,000,000 to \$515,000, as shown in Table 1 above;
- iii. Execute the new Amendment 1 to the CDM Smith/ATS contract, increasing the not-to-exceed amount by \$1,500,000, from \$5,000,000 to \$6,500,000, as seen in Table 2 below; and
- iv. Execute the new Amendment 2 to the URS Corporation contract, increasing the not-to-exceed amount by \$1,000,000, from \$6,490,000 to \$7,490,000, as shown in Table 2 below.

According to Mr. Greg Lyman, SFPUC Construction Contract Manager, annual specialized and technical services costs exceeded initial estimates. SFPUC staff realized that the total amounts authorized in the three existing contracts will not last until 2027 and decided to seek new contracts to be in place once the existing funds are expended in late 2018 or early 2019. In order to complete the 2018 permit required monitoring, oversight, and reporting, the SFPUC Commission approved on March 27, 2018 amendments to the contracts with CDM Smith/ATS and URS Corporation to increase the contract amounts. Amendment 1 to the contract between SFPUC and CDM Smith/ATS increases the not-to-exceed amount by \$1,500,000, from \$5,000,000 to \$6,500,000, and Amendment 2 to the contract between SFPUC and URS increases the not-to-exceed amount by \$1,000,000, from \$6,490,000 to \$7,490,000, as shown in Table 2 below.

Table 2: Proposed New Amendments to Natural Resources Technical Services and Watershed Management and Monitoring Contracts

	Current Amount	Proposed Amendment #	Proposed Contract Amount	Increase/ (Decrease)
CDM Smith/ATS	\$5,000,000	1	\$6,500,000	\$1,500,000
URS Corporation	6,490,000	2	7,490,000	1,000,000
Total	\$11,490,000		\$13,990,000	\$2,500,000

Under advice from the City Attorney's office, SFPUC is now seeking Board of Supervisors authorization for the new contract amendments, as well as retroactive authorization for the previous amendments.

Under the proposed resolution, the contract term lengths would not change, but according to Mr. Lyman, SFPUC expects to fully expend the total authorized amount after completing the 2018 annual monitoring reports. SFPUC is in the process of initiating a Request for Proposals

(RFP) for new contracts through a competitive process for future specialized and technical services.

FISCAL IMPACT

The total original contract amounts for the four contracts between SFPUC and CDM Smith/ATS, ICF+Avila, Shaw, and URS Corporation was \$20,000,000. As noted in Table 1 above, SFPUC amended three of the four contracts in 2016, resulting in total revised contract amounts for the four contracts of \$18,495,000. Under the proposed resolution, SFPUC would amend the contracts with CDM Smith/ATS and the URS Corporation, increasing the contract amounts for these two contracts by \$2,500,000, resulting in total contract amounts of \$20,995,000, as shown in Table 3 below.

Table 3: Proposed Changes in Natural Resources Technical Services and Watershed Management and Monitoring Contract Amounts

Contractor	Current Contract Amount (Table 1)	Proposed Amendment #	Proposed Amount	Increase/ (Decrease)
CDM Smith/ATS	\$5,000,000	1	\$6,500,000	\$1,500,000
ICF+Avila	6,490,000	None	6,490,000	0
Shaw	515,000	Suspended	515,000	0
URS Corporation	6,490,000	2	7,490,000	1,000,000
Total	\$18,495,000		\$20,995,000	\$2,500,000

According to Mr. Lyman, sufficient funding is available in the budgets for Alameda Watershed Monitoring and Peninsula Watershed Monitoring to fund the additional contract costs for specialized and technical services, including environmental monitoring. The Alameda Watershed Monitoring and Peninsula Watershed Monitoring projects are funded by the Water Enterprise Fund, through Water Enterprise Revenue Bonds. The total cost for specialized and technical services, including environmental monitoring over the next ten years is now estimated at \$42,000,000.

RECOMMENDATIONS

1. Amend the resolution to correctly state that the contracts expire June 15, 2027.
2. Approve the resolution as amended.

Item 4 File 18-0156	Department: City Attorney's Office (CAO)
EXECUTIVE SUMMARY	
Legislative Objectives	
<ul style="list-style-type: none"> The proposed ordinance amends the Health Code to designate the City Attorney rather than the District Attorney to institute judicial proceedings under the Lanterman-Petris-Short Act to appoint conservators for persons with mental health disorders and compel participation in assisted outpatient treatment. 	
Key Points	
<ul style="list-style-type: none"> The Lanterman-Petris-Short Act authorizes the implementation of several behavioral health programs interventions, including but not limited to involuntary court-ordered mental health conservatorships. Currently, the District Attorney handles these judicial proceedings, but under the proposed ordinance, responsibility for these proceedings would be transferred to the City Attorney's Office. The proposed ordinance states that the Board of Supervisors intends to add positions in the City Attorney's Office and appropriate funds in the FY 2018-19 budget in order to institute judicial proceedings under the Lanterman-Petris-Short Act. Currently, the District Attorney's Office has a 0.50 FTE 8177 Assistant District Attorney and a 0.40 FTE 8132 Investigative Assistant assigned to performing functions related to representing the Department of Aging and Adult Services in conservatorship proceedings. If responsibility for Lanterman-Petris-Short Act conservatorship proceedings is transferred to the City Attorney's Office, the District Attorney's Office staff would provide additional support to the Mental Health Unit. 	
Fiscal Impact	
<ul style="list-style-type: none"> The proposed ordinance does not add positions to the City Attorney's FY 2018-19 budget to institute these judicial proceedings but states the Board of Supervisors' intent to do so. The City Attorney's Office proposes to add three new positions on January 1, 2019, when the proposed ordinance designating the City Attorney's Office becomes operative, which is estimated to cost \$358,937 in FY 2018-19, or an annualized cost of \$717,874. 	
Policy Consideration	
<ul style="list-style-type: none"> Proposed Senate Bill (SB) 1045 could expand Lanterman-Petris-Short Act conservatorships to individuals who suffer from chronic homelessness accompanied by severe mental illness, drug addiction, repeated commitments, or exceptionally frequent use of emergency medical services, which will result in an increase in caseload. San Francisco would need to adopt local legislation to participate in SB 1045. 	
Recommendation	
<ul style="list-style-type: none"> Because the proposed ordinance commits the Board of Supervisors to add new positions to the City Attorney's Office in FY 2018-19, the Budget and Legislative Analyst considers approval of the ordinance to be a policy matter. 	

MANDATE STATEMENT

Sections 26530 and 27646 of the California Government Code, and Section 5114 of the California Welfare and Institutions Code, provide that the district attorney shall represent the county in proceedings under the Lanterman-Petris-Short Act, unless the county board of supervisors designates the county counsel to do so.

BACKGROUND

The Lanterman-Petris-Short Act authorizes the implementation of several behavioral health programs interventions, including but not limited to involuntary 72-hour hold in a psychiatric facility for evaluation (Section 5150 of the California Welfare and Institutions Code), court-ordered mental health conservatorships, and court-ordered assisted outpatient treatment.

Under these provisions, conservatorship judicial proceedings concern persons who are gravely disabled as a result of mental disorders or impairment by chronic alcoholism that prevents the person from providing for their basic needs.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance amends the Health Code to designate the City Attorney rather than the District Attorney to institute judicial proceedings under the Lanterman-Petris-Short Act to appoint conservators for persons with mental health disorders and compel participation in assisted outpatient treatment.

The proposed ordinance states that the Board of Supervisors intends to add positions in the City Attorney's Office and appropriate funds in the FY 2018-19 budget to support those positions in order to institute judicial proceedings under the Lanterman-Petris-Short Act.

District Attorney's Office Function

Currently, the District Attorney's Office has two positions that perform functions related to representing the Department of Aging and Adult Services in conservatorship proceedings:

- The Assistant District Attorney who serves as the primary attorney in conservatorship matters spends approximately 50 percent of time on judicial proceedings related to the Lanterman-Petris-Short Act.
- The Investigative Assistant is the paralegal who supports the attorney in conservatorship matters spends approximately 40 percent of time on judicial proceedings related to the Lanterman-Petris-Short Act.

According to Ms. Katherine Weinstein Miller, District Attorney's Office Chief of Alternative Programs and Initiatives, the District Attorney's Office has 518 individuals under mental health conservatorship. Of these individuals, 13 cases are Murphy conservatorships tied to criminal proceedings, which would continue to be under the purview of the District Attorney's Office. An additional 14 cases are Lanterman-Petris-Short Act conservatorships that originated as Murphy conservatorships and would continue to be under the purview of the District Attorney's Office.

The remaining 491 cases are Lanterman-Petris-Short Act conservatorships, for which responsibility would be transferred to the City Attorney's Office.

According to Ms. Miller, Lanterman-Petris-Short Act cases are long term, and can last for months or years. The District Attorney's Office work associated with these cases preparing reports for and interacting with the Conservator's Office, reviewing medical records, reaching out to family members and service providers, preparing for hearings and trials, preparing trial memos, and other related work.

According to Ms. Miller, if responsibility for the 491 Lanterman-Petris-Short Act conservatorship cases is transferred to the City Attorney's Office, the 0.50 FTE 8177 Assistant District Attorney and 0.40 FTE 8132 Investigative Assistant in the District Attorney's Office would provide additional support to the Mental Health Unit, which handles cases involving Mentally Disordered Offenders, individuals who have been declared Incompetent to Stand Trial, and individuals deemed Not Guilty by Reason of Insanity. According to Ms. Miller, this unit has never been adequately staffed.

FISCAL IMPACT

The proposed ordinance does not add positions to the City Attorney's FY 2018-19 budget to institute judicial proceedings for Lanterman-Petris-Short Act conservatorships but states the Board of Supervisors' intent to do so. The City Attorney's Office proposes to add three new positions on January 1, 2019, when the proposed ordinance designating the City Attorney's Office becomes operative. The estimated cost of the three new positions is shown in Table 1 below.

Table 1: Estimated Cost of New Positions in the City Attorney's Office

		Number of Positions	FY 2018-19 FTEs	Salary and Benefits per FTE	FY 2018-19 Cost	Annualized Cost
8177	Attorneys	2	1.00	\$276,180	\$276,180	\$552,360
8151	Claims Investigator	1	0.50	165,514	82,757	165,514
Total		3	1.50		\$358,937	\$717,874

Source: City Attorney's Office

POLICY CONSIDERATION

According to Ms. Dora Okai of the City Attorney's Office, the addition of three new staff in the City Attorney's Office is necessary because the City Attorney's Office anticipates an increase in conservatorship caseload due to (a) increased homelessness in the City and associated referrals to services; and (b) legislation pending before the State Legislature – Senate Bill (SB) 1045 – that could expand Lanterman-Petris-Short Act conservatorships to individuals who suffer from chronic homelessness accompanied by severe mental illness, drug addiction, repeated commitments, or exceptionally frequent use of emergency medical services.

SB 1045 establishes a procedure for counties that elect to participate to appoint a conservator for these individuals. The purpose of the conservatorship is to provide an appropriate

placement in a licensed healthcare, community-based, supportive housing or other setting. The conservatorship would be automatically terminated after one year, but the conservator could petition the superior court to extend the conservatorship.

San Francisco would need to adopt local legislation to participate in SB 1045. As of the date of this report, it is not known if SB 1045 will pass, or if San Francisco will adopt legislation to participate in SB 1045. Therefore, the impact of the proposed state legislation on the City's caseload for conservatorship proceedings cannot be predicted at this time.

Because the proposed ordinance commits the Board of Supervisors to add new positions to the City Attorney's Office in FY 2018-19, the Budget and Legislative Analyst considers approval of the ordinance to be a policy matter.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.