

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

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TO: Government Audit and Oversight Committee
FROM: Budget and Legislative Analyst 
SUBJECT: October 3, 2018 Government Audit and Oversight Committee Meeting

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<p>Item 1 File 18-0647</p>	<p>Department: General Services Agency - Department of Public Works (DPW)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p>	
<ul style="list-style-type: none"> The proposed resolution would authorize the acceptance and expenditure of FY 2017-18 SB 1 Local Partnership Program formulaic funds of \$2,106,000 for the Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation project. The LPP Formulaic Program grant requires at least 50 percent of the construction costs to come from local funds. The City’s match comes from \$2,849,000 in Proposition K sales tax revenues allocated by the San Francisco County Transportation Authority. 	
<p style="text-align: center;">Key Points</p>	
<ul style="list-style-type: none"> California Senate Bill (SB) 1 Local Partnership Program (LPP) appropriates \$200 million annually to be allocated by the California Transportation Commission (CTC) to local or regional agencies that have sought and received voter approval of taxes or imposed fees solely dedicated to transportation. The Department of Public Works (DPW) worked with the San Francisco County Transportation Authority (SFCTA) to request LPP Formulaic Program funding for DPW’s street resurfacing projects. In January 2018, the CTC approved \$2,106,000 in FY 2017-18 LPP Formulaic Program funds for the Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation. This project resurfaces 2.8 miles of residential streets (43 blocks) in the Parkmerced, Twin Peaks, and Glen Park neighborhoods in San Francisco. The project consists of repairs to the road base, paving work, curb ramp construction, and sidewalk and curb repairs 	
<p style="text-align: center;">Fiscal Impact</p>	
<ul style="list-style-type: none"> The total budget for the Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation Project is \$4,955,000. Of this amount, the LPP grant will fund \$2,106,000, and DPW will contribute the additional \$2,849,000 in matching funds. The source of \$2,894,000 is Proposition K Sales Tax funds, which is a half-cent local sales tax for transportation that was approved by San Francisco voters in November 2003. 	
<p style="text-align: center;">Recommendation</p>	
<ul style="list-style-type: none"> Approve the proposed resolution. 	

MANDATE STATEMENT

City Administrative Code Section 10.170-1 states that accepting Federal, State, or third-party grant funds in the amount of \$100,000 or more, including any City matching funds required by the grant, is subject to Board of Supervisors approval.

BACKGROUND

In April 2017, the Governor of California signed the Road Repair and Accountability Act of 2017, also known as Senate Bill (SB) 1, a transportation funding package of more than \$50 billion over the next 10 years that increases funding for local streets and roads, multi-modal improvements, and transit operations. Senate Bill 1 created the Local Partnership Program (LPP), which appropriates \$200 million annually¹ to be allocated by the California Transportation Commission (CTC) to local or regional agencies that have sought and received voter approval of taxes or imposed fees solely dedicated to transportation.

The Department of Public Works (DPW) worked with the San Francisco County Transportation Authority² (SFCTA) to request LPP Formulaic Program funding for DPW's street resurfacing projects. SFCTA identified DPW street resurfacing projects as good candidates for the LPP Formulaic Program given the steady pipeline of construction ready projects, the size of the projects being a good match with the anticipated size of SFCTA's LPP formulaic shares, and sufficient Proposition K sales tax revenues to provide the dollar for dollar local match requirement.

Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation

In January 2018, the CTC programmed \$2,106,000 in FY 2017-18 LPP Formulaic Program funds for DPW's Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation project. This project resurfaces 2.8 miles of residential streets (43 blocks) in the Parkmerced, Twin Peaks, and Glen Park neighborhoods in San Francisco. The project consists of repairs to the road base, paving work, curb ramp construction, and sidewalk and curb repairs. The project will resurface the following residential street segments in southwest San Francisco: Clairview Court (Panorama Drive to End), Darien Way (Aptos Avenue to Kenwood Way/Upland Drive), Dorado Terrace (Jules Avenue/Ocean Avenue to End), Font Boulevard (Juan Bautista Circle to Lake Merced Boulevard), Midcrest Way (Panorama Drive to End), Oak Park Drive (Clarendon Avenue to End), Olympia Way (Panorama Drive to Clarendon Avenue), San Aleso Avenue (Monterey Boulevard to Upland Drive), and Upland Drive (Darien Way/Kenwood Way to San Benito Way).

¹ (CTC) has both a formulaic program and a competitive program, both of which allocate \$100 million annually. The LPP Formulaic Program allocates its annual \$100 million to cities and counties throughout California that have voter approved sales taxes, tolls, or fees that dedicate funding to transportation.

² The San Francisco County Transportation Authority is eligible to receive LPP Formulaic Program distributions because SFCTA administers Proposition K, a half-cent local transportation sales tax program approved by San Francisco voters in November 2003, and Proposition AA, an additional \$10 vehicle registration fee approved by San Francisco voters in November 2010, both with revenues dedicated to fund transportation investments.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would authorize the acceptance and expenditure of FY 2017-18 SB 1 Local Partnership Program formulaic funds of \$2,106,000 for the Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation project. The LPP Formulaic Program grant requires at least 50 percent of the construction costs to come from local funds. The City's match comes from \$2,849,000 in Proposition K sales tax revenues allocated by the San Francisco County Transportation Authority.³

FISCAL IMPACT

The total budget for the Parkmerced/Twin Peaks/Glen Park Residential Pavement Renovation Project is \$4,955,000, including \$2,106,000 in SB 1 Local Partnership Program grant funds and \$2,849,000 in Proposition K sales tax funds. Expenditures of \$4,955,000 are shown below.

Item Description	Estimated Quantity	Unit	Average Cost/ Unit	Cost
Traffic Routing Work	---	---	---	\$532,000
Planning	523,000	Square feet	\$0.70	366,100
Hot Mix Asphalt (HMA)	7,191	Ton	\$155.00	1,114,605
Concrete Base 8-Inch	51,300	Square feet	\$12.00	615,600
Concrete Pavement 8-inch	53,000	Square feet	\$15.00	795,000
Concrete Sidewalk	14,700	Square feet	\$11.00	161,700
Combined Concrete Curb And Concrete Gutter	3,050	Linear feet	\$58.26	177,700
Concrete Curb Ramp With Detectable Tiles	74	Each	\$3,000.00	222,000
Speed Hump Cushion	4	Each	\$1,500.00	6,000
Adjust City-Owned Hydrant And Water Main Valve Box Casting To Grade	60	Each	\$50.00	3,000
City Owned Pull Box	10	Each	\$46.18	462
Mobilization for Paving Work	---	---	---	135,000
Total Construction				\$4,129,167
Construction Contingency (10%)				412,917
Construction Management (10%)				412,917
Total Project				4,955,000

According to Ms. Rachel Alonso, DPW Transportation Finance Analyst, DPW will not incur any ongoing costs for the pavement renovation project once the grant funds expire.

RECOMMENDATION

Approve the proposed resolution.

³ San Francisco voters approved Proposition K in 2003 to increase sales taxes by a half-cent to pay for transportation projects.

<p>Item 2 File 18-0907</p>	<p>Department: Municipal Transportation Agency (MTA)</p>
<p>EXECUTIVE SUMMARY</p>	
<p style="text-align: center;">Legislative Objectives</p> <ul style="list-style-type: none"> • The proposed resolution would approve amendments to the contract between San Francisco Municipal Transportation Agency (SFMTA) and Aon Risk Services West, Inc. (Aon) for excess insurance coverage for the Central Subway Project, increasing the contract amount retroactively by \$684,382 (Amendment No. 3) to cover increased premium costs, and by \$6,321,304 (Amendment No. 4) to extend excess insurance coverage by two years through June 2020, for a total contract amount of \$25,094,436. <p style="text-align: center;">Key Points</p> <ul style="list-style-type: none"> • SFMTA created the Owner Controlled Insurance Program (OCIP) to provide excess insurance coverage for the Central Subway Project in addition to the insurance coverage provided by the two construction contractors. SFMTA entered into a contract with Aon in 2012 to serve as the insurance broker to purchase \$300 million in excess insurance coverage: \$150 million for construction of the subway tunnels by Barnard Impregelo Healey (Barnard), and \$150 million for construction of trackways, stations, and control systems by Tutor Perini Corporation (Tutor). • Amendment No. 3 retroactively increases the contract amount by \$684,382 to pay increased insurance premium costs for construction of trackways, stations, and control systems due to the increased difficulty and complexity of the work. The excess insurance coverage for this work remains at \$150 million. • Amendment No. 4 increases the contract amount by \$6,321,304 to extend excess insurance coverage by two years, from the current end date of June 2018 to the new end date of June 2020. According to Amendment No. 4, excess insurance coverage remains at \$150 million of the tunnel construction and \$150 million for construction of trackways, stations, and control systems, totaling \$300 million. • According to SFMTA, the original end date of June 2018 for excess insurance coverage was considered sufficient because the original Central Subway Project completion date was December 2018 with substantial completion in February 2018. Project completion is now expected in December 2019, requiring extension of excess coverage through June 2020. • According to the City’s Risk Management Division, excess coverage provides for 10-year “tail” coverage for any construction defects that may arise in the 10 years following project completion. Because the excess coverage lapsed in June 2018, this tail coverage is not currently in effect. Approval of Amendment No. 4 to the contract with Aon would reinstate the tail coverage once SFMTA pays the premium. The 10-year tail coverage will begin upon substantial completion of the Central Subway Project. <p style="text-align: center;">Fiscal Impact</p> <ul style="list-style-type: none"> • The proposed resolution increases the amount of the Aon contract \$7,005,686, which is funded through the Central Subway Project budget of approximately \$1.58 billion. <p style="text-align: center;">Recommendation</p> <ul style="list-style-type: none"> • Approve the proposed resolution. 	

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 Central Subway project will connect the Muni's light rail T-line from the Caltrain station at 4th and King Streets to Washington and Stockton Streets in Chinatown. The 1.67 mile extension includes a surface station at 4th and Brannan Streets and three subway stations at Yerba Buena/Moscone Center, Union Square, and Chinatown. Revenue service for the Central Subway is expected to begin December 2019.

San Francisco Municipal Transportation Agency (SFMTA) established an Owner Controlled Insurance Program (OCIP) to provide excess coverage above the coverage required to be provided by construction contractors. The goals of the OCIP were to reduce the cost of procuring large insurance policies, reduce construction bid costs by relieving some of the contractor insurance burden, and attract more contractors to bid.

Most of the Central Subway construction is divided between two contracts for which OCIP provides excess coverage in addition to the insurance coverage provided by the construction contractors.

- SFMTA has a contract with Barnard Impregelo Healey (Barnard) for construction of the Central Subway tunnels in the amount of \$241,409,170.¹ Barnard carries \$350 million in insurance coverage and OCIP provides \$150 million in excess coverage. Tunnel construction was completed in 2015.
- SFMTA has a contract with Tutor Perini Corporation (Tutor) for construction of stations, trackways, and control systems in the amount of \$852,387,085.² The contract has been modified 89 times, with the modifications adding \$12,710,685 to the contract amount. Tutor carries \$50 million in insurance coverage and OCIP provides \$150 million in excess coverage.³ Construction is estimated be substantially complete in December 2019.⁴

¹ The contract has been modified 62 times, with modifications adding \$7,825,155 to the contract amount.

² The contract has been modified 89 times, with the modifications adding \$12,710,685 to the contract amount.

³ In the initial competitive solicitation, SFMTA required the station contractor to provide insurance coverage of \$200 million, but potential contractors received premium quotes ranging from \$8 million to \$13 million per subway station, which exceeded the Central Subway Project budget. SFMTA conducted a second competitive solicitation, reducing the insurance requirement for contractors by \$150 million, from \$200 million to \$50 million. Amendment No. 2 to the contract with AON, approved by the Board of Supervisors in January 2013 (File 12-1169) increased SFMTA's insurance coverage through AON from \$150 million to \$300 million.

⁴ Completion of construction in December 2019 is approximately one year behind schedule. According to Mr. Hoe, this one year delay is due to the construction methodology used to construct Chinatown Station. Unlike "top down" construction used at other stations, a mining technique was used at Chinatown to mitigate impacts to the

According to Mr. Albert Hoe, Central Subway Project Manager, Tutor is required to carry insurance coverage of \$50 million for a project with construction costs of \$852,263,645, which is significantly less than the insurance coverage carried by Barnard of \$350 million for a project with construction costs of \$241,409,170, because station construction carries significantly less risk to nearby buildings than tunneling does.

The contractors are liable for any latent defects not visible by inspection for a period of ten years beyond project completion. OCIP provides coverage to reduce SFMTA's exposure in the event of a catastrophe.

Contract with Aon

In January 2012, the SFMTA Board of Directors approved a contract with Aon Risk Insurance Services West, Inc. (Aon). Under the contract, Aon served as an insurance broker, obtaining insurance coverage up to \$150 million for the Central Subway Project. The contract amount of \$9,808,750⁵ was to pay for insurance premiums, broker's fees, brokers' commissions, and other related charges. The contract term was for eight years from January 2012 to January 2020.

In August 2012, SFMTA administratively approved Amendment No. 1 to the contract, which allowed payment to different divisions within Aon, but did not change the term or not-to-exceed amount.

In January 2013, the Board of Supervisors approved Amendment No. 2 to the contract, increasing the insurance coverage for the Central Subway Project from \$150 million to \$300 million. The contract increased by \$8,280,000 to pay for premiums for the additional insurance coverage, resulting in a total contract amount of \$18,088,750 (File 12-1169).

In May 2013, SFMTA approved a Central Subway construction contract with Tutor Perini for \$839,676,400.⁶ Because construction costs of \$839,676,400 were more than estimated by SFMTA, reflecting the increased difficulty and complexity of the work, Aon increased the premium amount for the \$150 million insurance coverage pertaining to the trackways, station, and control system work by \$684,381. In June 2014, the Director of Transportation approved Amendment No. 3 to the Aon contract to accommodate this increase, but approval never came to the SFMTA Board of Directors or Board of Supervisors due to an administrative error.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would:

1. Retroactively approve Amendment No. 3 to the Aon contract, increasing the contract amount by \$684,382, for a total not to exceed \$18,773,132; and

neighborhood and local businesses. The mining technique is much slower than "top down" construction, and the program did not meet its predicted construction rates, delaying the overall delivery of Chinatown Station.

⁵ The contract did not require Board of Supervisors approval, as it did not exceed 10 years or \$10 million.

⁶ As noted above, the contract with Tutor Perini increased between 2013 and 2018 by \$12,710,685 to \$852,387,085.

2. Approve Amendment No. 4 to the Aon contract, increasing the contract amount by \$6,321,304, for a total not to exceed \$25,094,436.

According to the SFMTA staff report to the SFMTA Board of Directors, the premiums for the \$300 million in excess insurance coverage for the two Central Subway Project construction contracts is based on the value of the contracts and the periods of active construction. Under the proposed Amendment No. 4 to the contract with Aon, the excess coverage remains at \$300 million, but the contract term would be extended.

Although the original contract with Aon to provide insurance brokerage services extends to January 2020, excess insurance coverage purchased through the contract with Aon extended only to June 2018. According to Mr. Albert Hoe, SFMTA Acting Program Director, excess insurance coverage through June 2018 was considered sufficient because the original project completion date was December 2018 with substantial completion in February 2018. Project completion is now expected in December 2019, a delay of one year.

The proposed Amendment No. 4 extends excess insurance coverage by two years, from the original end date of June 2018 to the new end date of June 2020. The \$6,321,304 increase in the contract with AON is necessary to provided excess insurance coverage for the two-year extension.

Approval of Amendment No. 3 and Amendment No. 4 to the contract with Aon would increase the contract amount for the excess insurance coverage for the tunnel construction (per the contract with Barnard) and the trackways, stations, and control system construction (per the contract with Tutor Perini), as shown below.

	\$150 million coverage - tunnel construction	\$150 million coverage - trackways, stations, and control systems	Total	Increase
Original Contract	\$9,808,750	\$0	\$9,808,750	
Amendment No. 2	\$9,808,750	\$8,280,000	\$18,088,750	\$8,280,000
Amendment No. 3	\$9,808,750	\$8,964,381	\$18,773,131	\$684,381
Amendment No. 4	\$14,151,837	\$10,942,599	\$25,094,436	\$6,321,304

Source: Contract and Contract Amendments

10-Year Tail Coverage

According to Mr. Matt Hansen, Director of the City’s Risk Management Division, the excess insurance coverage provides for 10-year “tail” coverage for any construction defects that may arise in the 10 years following project completion. Because the excess insurance coverage lapsed in June 2018, this tail coverage is not in currently in effect. Approval of Amendment No. 4 to the contract with Aon would reinstate the tail coverage once SFMTA pays the premium. The 10-year tail coverage will begin upon substantial completion of the Central Subway Project.

FISCAL IMPACT

The proposed resolution would increase the not-to-exceed amount of the Aon contract by \$684,381 for Amendment No. 3 and \$6,321,304 for Amendment No. 4, totaling \$7,005,686. According to Mr. Hoe, this amount is included in the total Central Subway project budget of approximately \$1.58 billion.

RECOMMENDATION

Approve the proposed resolution.