



THE COMMITTEE ON BUDGET AND FINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: February 1, 2012

TO: Tony Heinrichs, Director, Public Works Department

FROM: Pamela Ison, Committee Consultant

SUBJECT: *A 21st Century Capital Improvements Process: Streamlining and Transparency*
Follow-up Questions and Requests for Information

On January 25, 2012, the Budget and Finance Committee voted unanimously to forward the proposed *21st Century Capital Improvements Process* to City Council without a recommendation contingent upon: 1) that the IBA's recommendations be incorporated into the proposal; 2) that staff continue stakeholder outreach and document all outreach efforts; 3) that the City Attorney develop language to allow the City Council to encumber CIP project funding; and 4) that the Administration, prior to Council consideration of any Multiple Award Construction Contract (MACC), demonstrate that the new CIP website and other transparency provisions are proven to be operational. Additionally, Chair Gloria requested that all outstanding questions and concerns be provided to the Committee Consultant in writing.

This memorandum captures all follow-up questions, feedback and requests for information received from members of the public, Committee members, and the Office of the City Auditor as of the close of business on February 1, 2012.

A. INCORPORATE THE IBA'S RECOMMENDATIONS AS FOLLOWS:

1. B&FC confirm with the City Attorney's office that the Council has the authority to pull projects of interest from the summarized project list and have staff return to Council at a later date for final approval prior to awarding the contract.
2. That when the streamlining proposal goes to the full Council an example of the summarized list of projects that is proposed to be included in the Annual CIP document be provided for Council review.
3. Clarify how information related to certain projects such as street resurfacing and operating budget impacts will be shared with Council prior to the approval of these types of projects via the budget document.
4. Sufficient operating budget impacts will be included in the annual CIP document.

5. That an implementation timeline for the CIP Transparency measures is included as part of the materials submitted when the item is presented to City Council.
6. Consideration be given to the development of a Council Policy that would include what information will be provided to the Council and public related to the CIP program and how and where that information will be provided.
7. Define in the Municipal Code what specific types of consultant contracts would fall under “Consultant Agreements for Public Works Contracts.”
8. Define how and the type of information for Consultant agreements for Public Works Projects will be presented in the annual budget documents. This information should be included in a Council policy.
9. The B&FC clarify how Council will be notified of Change Orders and the awarding of Job Order Tasks. This information should be included in a Council Policy.
10. The B&FC discuss with EOC staff how the EOCP will operate under the streamlining proposals and that the type of information and the reporting frequency to the CEOC be included in a Council Policy.
11. Clarify if Staff is requesting an increase in the thresholds for easements/Land Acquisitions.

B. OTHER OUTSTANDING ISSUES AND QUESTIONS:

1. An important concern was raised during January 25th presentation regarding the extent of the efforts to outreach stakeholders.
2. [Council] would like more information about the verification process for all contractors and sub-contractors?
3. What license requirements will they need to meet (OSHA training, licenses, certification)?
4. What is the oversight plan?
5. Can our IT Department handle the upkeep with the proposed website because I’ve heard it can take some time to get items posted to the city’s website?
6. Council would also like to see audits conducted on the overall program to ensure monies are being expended appropriately.
7. What is the status of the “Green Jobs in Public Works Contracts by the City” policy?
8. Office of City Auditor did a survey of other cities and compared San Diego's thresholds with other cities and found that San Diego was on the high end of the threshold, being on par with San Jose. That being said, more information is needed regarding the median dollar value of construction projects to add some

perspective to the benchmarks. San Diego tends to lump projects together, which drives up the contract cost.

9. The cumulative \$100M of task orders for design build entities awarded contracts seems to be on the high end, although we [Office of City Auditor] didn't have a chance to research contracting since we had planned to do an audit focusing on this.
10. The proposed amendment to modify environmental and historic permit process is a good idea--we had flow charted these processes in our CIP report (Appendix III) and noted that these were ripe for streamlining. We included this in recommendation 4b of our CIP report.
11. Suggested amendments to Council Policies 600-24 and 600-33 as they relate to park projects by getting approval from community planning groups is a good idea. The CPGs had real issues with lack of knowledge and decision-making re: CIP projects. Appendix V of our CIP report includes the results of our CPG survey.
12. The City still lacks a true 5-year CIP plan, so how can Council members have enough knowledge to make an informed decision regarding the annual budget? Recommendation 4F from our report outlines what is needed to be done, and the Administration has agreed with this recommendation. I [Office of City Auditor] believe a five year CIP plan is more important than ever now that Council will be giving up some control and oversight.
13. Also, it is very important to ensure that the budget process include better estimates of the impact of all projects on the City's operating budget. This is critical for transparency. This point is also included under recommendation 4F of our CIP report.
14. Another point re: CIP budget and planning is that deferred maintenance should be linked in some way as much of it includes capital projects. Looking at these issues separately will not give Council a true picture of the state of the CIP.
15. Providing CIP information online and via regular updates is a good idea and in line with our CIP report finding 5 and recommendations 13-18 and also our PUD CIP report finding 3 recommendations 11-13.
16. The proposal changes the oversight abilities of the City Council through the raising of certain thresholds and by eliminating approval of contracts after the initial approval in the CIP budget process. What mechanisms will be created to give the public opportunities to weigh in about CIP projects after the initial approval in the budget?
17. As illustrated by the figures shared by Councilmember Alvarez in the meeting, there is a current disparity in distribution of CIP funds between districts. How will this proposal ensure that this disparity is not widened further and that the neediest and most underserved neighborhoods receive priority for CIP projects?

18. City staff said that they will provide additional financial detail during the budget process about CIP projects. An example of what this document will ... look like needs to be provided to Council members to ensure that it is adequate. Will this document include money allocated for future fiscal years so that Council may adequately evaluate the funding needs of a project based on a 5-year projection?
19. The proposal seeks to give additional responsibilities to the Capital Improvements Program Review and Advisory Committee (CIPRAC). The June 29, 2011 report from the auditor regarding the CIP program identified limitations of CIPRAC being able to engage in coordinating other stages of the CIP process, such as planning. How are the limitations identified by the auditor being addressed?
20. Have the roles and responsibilities of CIPRAC been officially revised?
21. What measures will be in place to ensure the activities of CIPRAC are accessible and open to the public?
22. The June 2011 auditor's report raised specific issues that needed to be addressed in CIP. The Independent Budget Analyst's (IBA) should do a comparison between the City's January 23 proposal and the June 2011 auditor's report to determine what progress has been in implementing the recommendations.
23. The issues raised by the Citizens' Equal Opportunity Commission about the proposed Multiple Award Construction Contracts (MACC) impacts on diversity need to be answered.
24. Concerns were raised at the hearing about the quality of jobs that will result under the MACC program. This proposal claims to address the need to move "job-generating" projects more quickly through CIP process. Will there be mechanisms in place to ensure that these jobs go to San Diegans and provide them with the ability to live self-sufficiently?
25. The questions raised by the IBA's report were significant and also need to be answered.
26. The proposal takes important steps in beginning to address transparency issues, such as in the development of a public website. What other ways is the City seeking to increase transparency to the public?
27. How will the cost savings from the proposed streamlining mechanisms be utilized to pay for deferred capital projects? Currently, the proposal language is weak about the investment of the cost savings from the streamlining changes. Additionally, what is the expected cost savings if the streamlining mechanisms are implemented?
28. The outreach efforts for the initial proposal were not substantial and stakeholders from various communities were left out. How will community....stakeholders be identified and involved in providing input into the recommendations being

presented by the city? What will be the scope of the charge for the working group proposed in the City's report?

29. How will the Department provide detailed information to the City Council during the CIP Budget process? For instance, street resurfacing has typically been a budget item where the particular street segments have not been identified prior to the budget approval.
30. Specifically, what information will be provided to Council during the 'more robust budget process'? What does a 'high-level full report' mean?
31. Please provide an example of the summarized list of projects proposed to be included in the Annual CIP budget document provided to Council.
32. What is the Department's opinion of the potential for developing a 5-year CIP plan to give context for the Council to make an informed decision regarding the annual budget? What progress has been made, if any, towards that goal?
33. What have been the current obstacles to providing the 'high level full report'? How does the Department expect to overcome these hurdles under the streamlining proposal?
34. How would Consultant agreements for Public Works Projects be presented in annual budget documents?
35. How does this streamlining proposal fit in with prioritization efforts? Does the Department have plans to provide Council with a prioritized CIP budget by district?
36. In the FY 12 budget there are significant disparities in the amount of money spent on CIP projects across council districts. In the case of non-citywide non-public utilities projects, Districts 3, 4, 5, 7, and 8 combined received less money than district 1. Please explain how this disparity will be addressed through the streamlining proposal.
37. At the January 25, 2012 Budget and Finance Committee meeting, the City Attorney confirmed that the Council does have the authority to pull projects from the summarized project list for final approval prior to awarding the contract. Given that authority, what is the specific process to accomplish this? How, and when, would the projects come back to Council if they were pulled?
38. How will pending operating budget impacts and their effect on the CIP Budget be relayed to Council if the only approval timeframe is once a year?
39. How will Council be notified of Change Orders and Job Order Tasks?
40. How does the proposal address deferred maintenance? Does the Department concur that linking such maintenance with the capital project process would give Council a true picture of the state of the CIP?

41. Testimony at the January 25, 2012 Budget hearing seemed to suggest that a set group of organizations were consulted by the Department to craft the MACC proposal. Please confirm which groups or individuals the Department met with.
42. Much of the discussion and testimony at the January 25, 2012 Budget and Finance Committee meeting centered on the proposal for the inclusion of a MACC process within the proposal. Given this discussion and the IBA's Report, how would the Department structure MACC to address the concerns voiced at the meeting?
43. What is the potential impact of the MACC proposal on the Small Local Business Enterprise (SLBE) Program?
44. How will the MACC program address federal restrictions on quotas?
45. Please summarize why the Land Development Code amendments are not moving forward with the other recommendations. What is the timeline for those amendments? I strongly suggest that if the amendments are to move forward, they are heard in the Land Use and Housing Committee as part of the vetting process.
46. What was the Department's methodology in selecting the \$30 million figure? Please include in the response how any potential trade-off between public involvement/transparency and cost or time savings was determined.
47. Is a cost threshold the most useful proxy for public interest, or do some lower cost projects potentially engender more public discussion?
48. Please provide a detailed community outreach plan, including organizations or individuals to be contacted, should this proposal move forward.
49. Please provide an implementation timeline for the CIP Transparency measures.
50. The IBA's recommendation was to have the transparency measures implemented concurrently or before other changes. Does the Department accept this recommendation? If not, why will the measures be delayed?
51. How would the website and other transparency measures fit into planned or existing IT/SAP software interface enhancements?
52. Reducing Council oversight to the annual CIP Budget approval process necessarily puts more discretion and authority in the hands of unelected officials who would decide specific contract awards. How would the Department achieve transparency and accountability for those transactions? Please provide thoughts on whether a disclosure process (either stand alone or linked with existing procedures such as the Lobbying Ordinance) would be appropriate and sufficient to address this issue.
53. At the January 25, 2012 Budget and Finance Committee hearing, Mr. Heinrichs referred to time and cost savings that would be realized by implementation of this

proposal. A specific figure of 'at least 3 months' was suggested as a minimum time savings. What are the expected cost savings if the streamlining mechanisms are implemented?

54. I have requested at two Land Use & Housing Committee meetings to be provided with the OCI data. Please provide this data.
55. On page 65 of the report (Exhibit D), Section 22.3201 states that: "This Division establishes requirements for award of contracts other than public works contracts." Please confirm that these changes are related to CIP and public works specifically, or whether they apply to all contracts for services, goods and consultants.
56. On page 72, (Exhibit D) Section 22.3224, Contractor Standards, is being deleted. This section of the Municipal Code establishes contractor standards, sets forth what happens if the contractor violates the law, and allows that if a contractor is deemed non-responsible they may request a public hearing before the Budget Committee, and makes the determination of the City Council the final administrative remedy. Is this language being moved to another part of the Municipal Code or just being deleted? If it is being deleted please provide the rationale for such a decision.
57. Are there any changes, additions, and/or deletions to the Municipal Code or City Council Policy suggested by this proposal that are not directly related to the Public Works Contracts? Examples would include authorizing additional mayoral and/or department authority, changing any current approval thresholds, eliminating existing language, reducing/eliminating public hearings, etc.
58. Does this proposal suggest any changes to current requirements that the City Attorney sign off on contracts? Are there currently any contracts that the City Attorney does not review and/or sign off on and if so, which ones?
59. The Department made reference to the CIP Performance Audit by the City Auditor (issued in Sept 2011). Does the Department agree with all the recommendations referenced in that Audit report? If not, what are the specific disagreements and how can they be resolved?
60. The Department's November 2, 2011 Report to the Budget Committee states that some of the changes made as a result of the auditor's report have "materially shortened the time required to award contracts." How much time has been saved (what does the word "materially" mean in this context) and how many CIP contracts were involved in determining that time savings?
61. Were any of the following items proposed by the Department suggested by the City Auditor or recommended in the Auditor's report?
 - i. Adjustment of current approval thresholds (CIP related consultants agreements, Change Order Limit, Job Order Contracting Tasks)
 - ii. Modification of the Municipal Code to allow for a design-build MACC process

62. Clarification as to whether Design/Build and MACC are separate/discrete construction delivery systems. I was advised that they are. If MACC is D/B, why would the municipal code need changes?
63. How does the proposed "City MACC" differ from the Federal MACC process, particularly as it relates to EOC requirements?
64. Please provide a summary of all Design/Build and General Requirements Contracts awarded in FY11 and to date for FY12, include project names, contract values and SLB and/or D/M/W/DVBE participation data.
65. Please provide a status update regarding the bidder registration system.

The Committee looks forward to receiving a status update on February 8, 2012. Many thanks in advance for your efforts to respond.