



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: FEBRUARY 3, 2012 REPORT NO. 12-013
ATTENTION: BUDGET AND FINANCE COMMITTEE
SUBJECT: A 21st Century Capital Improvements Process: Streamlining and Transparency
Requested Action: Informational Only

BACKGROUND:

During our January 25th, 2012 presentation, which was in response to positive feedback received at our November 2nd, 2011 presentation on the same topic, the Budget & Finance Committee (Committee) forwarded the reform package to full Council, but also requested that staff address the IBA (Independent Budget Analyst) recommendations (IBA Report Number: 12-04, dated January 23, 2012) and to answer the additional questions from members of the public, Council, IBA, Office of City Auditor, and others that were forwarded to us by the Committee. We do welcome and appreciate the opportunity to do so. The comments we have received will respond to Council's desire for additional public review and make our proposal stronger. This report responds to your "Follow-up Questions and Requests for Information" dated February 1st, 2012.

A. **IBA RECOMMENDATIONS FOR THE CIP STREAMLINING MEASURES:**

- 1) 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.

Response: City Attorney Office is preparing proposed amendments to the Municipal Code necessary to implement this recommendation and clarify Council's expressed authority.

- 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.

Response: An example of the summarized list of projects will be provided based on FY 12 data when the streamlining proposal is presented to Council.

- 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.

Response: Staff will work with the IBA to include a response to this recommendation in a Council Policy. Street-related work to be authorized in the CIP budget will be accompanied by a listing of streets that staff anticipates will undergo needed capital improvements during the upcoming fiscal year, pending any additional right-of-way coordination.

- 4) Sufficient operating budget impacts will be included in the annual CIP document.

Response: The estimated operating budget impact from the project will be included in the backup information provided to Council for review during the annual CIP budget. Significant changes to the estimated operating budgets for specific projects will be updated online and provided during the semi-annual state of the CIP presentation to Council.

- 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.

Response: A timeline for the implementation of the CIP Transparency measures will be provided as part of the backup materials when the streamlining proposal is presented to 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.

Response: Staff will work with IBA to draft the Council Policy for consideration. The draft will be included as part of the materials submitted when the item is presented to Council.

- 7) Define in the Municipal Code what specific types of consultant contracts would fall under "Consultant Agreements for Public Works Contracts."

Response: City Attorney Office is preparing proposed amendments to the Municipal Code necessary to implement this recommendation and clarify Council's expressed authority.

- 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.

Response: The information including consultant agreement basic data e.g., amount, consultant, project title, Task Order amount, balance, etc. will be available on the CIP SharePoint site. The SharePoint site will send out automatic email notifications as necessary when the data is refreshed. Staff will work with IBA to draft the Council Policy for consideration. The draft will be included as part of the materials submitted when the item is presented to Council.

- 9) 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.

Response: The information including construction contract basic data e.g., amount, contractor, title, SAP number, Change Order or Task Order amount (each and running), balance, etc. will be available on the CIP SharePoint site. The SharePoint site will be set to send out automatic email notifications as necessary when the data is refreshed. Staff will work with IBA to draft the Council Policy for consideration. The draft will be included as part of the materials submitted when the item is presented to Council.

- 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.

Response: EOC will continue to review and approve contract awards prior to the issuance of the notice-to-proceed. In addition, staff has solicited input from the Citizens' Equal Opportunity Commission and is meeting with the IBA to draft the Council Policy for consideration that maintains or enhances EOCP goals and provides greater transparency.

- 11) Clarify if staff is requesting an increase in the thresholds for easements/Land Acquisitions.

Response: Staff is not requesting an increase in the thresholds for easements/land acquisitions. Staff will modify the report to Council to reflect that no action is necessary and that staff will simply discontinue an outdated process.

B. QUESTIONS AND COMMENTS FROM OFFICE OF CITY AUDITOR

- 1) 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.

Answer: We appreciate the City Auditor's opinion that threshold increases in our streamlining proposal appear high when compared (on that basis alone) to similar thresholds in some other cities. However, San Diego's other unique conditions e.g., market situation, CIP workload, etc. make it necessary to improve efficiencies as prescribed in the CIP Performance Audit Report of 2011. For example, the threshold increase recommendation is intended to eliminate redundancy in Council approvals as pointed out by the CIP audit. Staff will be prepared to speak to these issues when the item reaches Council.

- 2) 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.

Answer: Although the City Auditor's prior report did not include any discussion on a potential task order limit for a Multiple Award Construction Contract

(MACC) ordinance, we appreciate the input and offer a brief response. MACC, which is a new concept in the City, by its very nature requires large cumulative task order amounts. Otherwise, it will not work as intended i.e., efficiently and effectively awarding a large number of projects that are competitively bid. It is important to note that the threshold serves as the ceiling in the Municipal Code. The actual MACC contract amount which can be less will still have to be presented to and approved by Council action.

- 3) 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.

Answer: We appreciate the concurrence with this concept and look forward to additional support as this concept moves through committee and Council.

- 4) 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.

Answer: We appreciate the recognition of this problem we are trying to address through our streamlining measures.

- 5) 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.

Answer: Nowhere in staff's proposal do we suggest that Council become less vigilant or give up its exercise of oversight. In fact, staff believes Council and the public will have much more information at its fingertips to make informed decisions. Additionally, we believe that our proposal simply consolidates all the various meetings and red tape that takes place during the year into a more robust budget discussion.

Staff has already agreed and reported to the Audit Committee that we agree with the City Auditor's recommendation. Following the CIP Performance Audit Report, CIPRAC has been developing a process narrative for the implementation of a long term (e.g., 5-year) CIP Plan. A draft is near completion for review and is expected to be implemented starting FY 2013 as promised in response to the audit. However, even with a 5-year plan, full implementation greatly depends on future resource availability as well as future mayoral and Council actions, including future deferred capital bond issuance. It is important to note that currently Council votes on the annual CIP budget which is part of a multi-year CIP Plan, but appropriating authority extends only to the budget year.

- 6) 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.

Answer: Please see response to B(4) above.

- 7) 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.

Answer: We expect to include in our semi-annual presentation of the state of the CIP an update on deferred capital projects and their proportion within the CIP. Staff agrees that this is necessary to provide a complete picture.

- 8) 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.

Answer: We appreciate the recognition of our efforts.

C. OTHER OUTSTANDING ISSUES AND QUESTIONS:

- 1) An important concern was raised during January 25th presentation regarding the extent of the efforts to outreach stakeholders.

Answer: City Council has periodically reached out and discussed the need for public works streamlining ideas in various public forums over the last 12 months, including at City Council meetings, committee meetings, television, print, and social media. Staff-generated ideas were presented in a conceptual report at the November Budget and Finance Committee, as well as the January meeting, which were both open to the public. Both reports were also posted to the city's website. Staff has offered, and remains committed to providing, briefings to interested parties with opportunities to consider feedback. Staff continues to solicit feedback as recommended at the January 25th presentation and has provided contact information. Following is a summary of the outreach status as of the date of this memo:

1. Budget & Finance on 11/02/12 and 1/25/12
2. CEOC on 12/07/11 and 1/18/12
3. CIPRAC on 10/20/11 and 1/19/12
4. IROC on 1/17/12
5. AGC/EGCA on 10/19/11 and 1/11/12
6. CPC on 1/24/12
7. California Land Surveyor's Association, San Diego Chapter on 11/16/12
8. Regional Construction Procurement Committee on 12/07/11
9. The American Institute of Architects (AIA), San Diego Chapter on 02/01/12
10. Also with numerous individual contractors and consultants

Presentations have been offered to the following groups:

1. Black Contractors Association, Inc.
2. Latino Builder's Industry Association
3. Multi-Cultural Contractors Group (MCCG)
4. Asian Business Association
5. Women Construction Owners & Executives USA
6. Planning Commission
7. Park & Recreation Board

- 2) [Council] would like more information about the verification process for all contractors and sub-contractors?

Answer: As a general rule, all City public works construction contracts include the requirement for the contractors to comply with the state and/or federal laws e.g., being appropriately licensed and trained and to verify the subcontractors' compliance with the State licensing laws. Since there are many contractor licensing and training categories, contractors are required to be only licensed and/or trained as required per project's needs. Staff specifies in the contract documents and verifies the contractor's license(s) prior to contract award. Furthermore, OSHA training(s) status, when required, is verified prior to commencement of construction work.

- 3) What license requirements will they need to meet (OSHA training, licenses, certification)?

Answer: It varies depending on the project. Every City's solicitation for bids for public works construction contracts specifies the appropriate contracting license required and mandated training (if any). Please note that OSHA trainings are not all mandatory for all construction sites in California. Furthermore, OSHA standards are incorporated in all of the City's construction contracts. The City's construction contracts hold the prime contractor, not the City, responsible for site safety. Anything related to safety observed by the City's field engineering staff is brought to the contractor's attention immediately. Health and safety requirements, including the number or percent of workers certified via the OSHA 10-hour or 30-hour General Industry Safety & Health training, are left to OSHA. Also, please see the response to D(2) above.

- 4) What is the oversight plan?

Answer: Our proposed transparency measures in the January 25th report (Exhibit B) will provide an opportunity for an unprecedented amount of oversight. Council will retain appropriating authority for all projects as part of the annual budget process and will be authorized to identify projects that are not subject to the streamlining measures, but must instead be brought back for additional review.

- 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?

Answer: Pursuant to the IBA's recommendation, staff will provide a transparency measures implementation timeline, which will include the timeframe for launching the website. Upon Council's approval of these recommendations, staff will continue working with IT to launch the CIP website consistent with the approved timeline. IT will be setting up the sites. However, Public Works staff will be responsible for uploading and updating the posted data.

- 6) Council would also like to see audits conducted on the overall program to ensure monies are being expended appropriately.

Answer: As always, staff welcomes independent audits to ensure efficient and effective use of taxpayer dollars.

- 7) What is the status of the "Green Jobs in Public Works Contracts by the City" policy?

Answer: Staff responded to the last request made by the Committee on Rules, Open Government and Intergovernmental Relations at their October 14, 2009 hearing. The hearing can be viewed at www.sandiego.gov.

- 8) 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?

Answer: The revised Municipal Code by the City Attorney Office gives Council 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. Also, our report to the Committee dated 01/25/12 (Exhibit B) includes several additional proposals to enhance transparency, including a proposed website and a semi-annual state-of-the-CIP presentation during which public comment would be taken.

- 9) 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?

Answer: Staff is researching to verify the accuracy of the distribution of funds as presented during the meeting. CIP funding sources are many and each comes with specific conditions. Some of the limitations are site specific. Staff's proposal is to streamline the current process, which, consistent with Council Policy 800-14, does not prioritize based on geography.

- 10) 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?

Answer: In short; yes to the extent possible. Also, please see the response to C(5).

- 11) 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?

Answer: Although staff's streamlining proposal does not give additional responsibilities to CIPRAC, the CIP Performance Audit of 2011 does. In response to the Auditor's findings and recommendations, the roles and responsibilities of CIPRAC have been revised to address the limitations identified by the auditor. CIPRAC is a high level committee comprised of City staff advising the Mayor. More specifically, CIPRAC's mandate is to provide a high level, cross functional review of the prioritization process for the entire City of San Diego's CIP to ensure the adherence to established practices. CIPRAC will ensure conformance with the Mayor's and Council's policy goals, departmental priority needs, and anticipated funding sources. Consistent with the audit recommendations, CIPRAC will:

- a) Coordinate capital planning to increase the cost effectiveness of CIP projects and minimize community disruptions.
- b) Coordinate public capital needs with long-term plans for land use changes, including new development, anticipated in-fill, and redevelopment.
- c) Provide a citywide perspective, exploring various financing options and facilitating project coordination.
- d) Review/Approve multi-year CIP plans that consist of infrastructure asset capital investments.
- e) Provide key leadership, authority, oversight, and coordination for the CIP.
- f) Assign the following responsibilities to the appropriate departments or offices.
- g) Improve the interface between SAP and the CIP process
- h) Coordinate various responsibilities of service departments, such as working with Public Works to monitor and report on capital project activity on a regular basis.
- i) Ensure that projects are reviewed for conformance with the General Plan and Community Plans.

- 12) Have the roles and responsibilities of CIPRAC been officially revised?

Answer: Yes. There is now a revised charter (governance) for CIPRAC.

- 13) What measures will be in place to ensure the activities of CIPRAC are accessible and open to the public?

Answer: CIPRAC is a high level committee comprised of City staff advising the Mayor. CIPRAC recommendations are approved by the Mayor and incorporated into the proposed CIP budget, which is then subject to Council deliberations, public comment, and potential changes.

- 14) 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.

Answer: Although the streamlining proposal originated, in part from lessons learned, it was not designed to simply address audit recommendations. That discussion has already occurred at Audit Committee and we intend to implement the recommendations we agreed with.

- 15) The issues raised by the Citizens' Equal Opportunity Commission (CEOC) about the proposed MACC impacts on diversity need to be answered.

Answer: MACC requires bidders to follow the rules that apply to all contracts under the City's Equal Opportunity Contracting Program policies. Staff is working with CEOC to identify potential solutions to their issues. Additionally, staff is continuing to research additional opportunities to strengthen our Small Local Business Enterprise (SLBE) program participation and results within the MACC framework. We anticipate bringing forward those recommendations when the streamlining measures are presented to Council.

- 16) 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?

Answer: There are laws restricting the City's ability to require workers on City's contracts to be local residents. However, by increasing the bidding opportunities, local bidders will be in better position to bid on more projects and consequently to hire more local workers. Furthermore, the City's SLBE program will remain effective and applicable to MACC.

- 17) The questions raised by the IBA's report were significant and also need to be answered.

Answer: Please see Section B above.

- 18) 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?

Answer: Our report to the Committee dated 01/25/12 (Exhibit B) details several specific proposals to enhance the CIP transparency i.e., More Robust Budget Process, Online CIP Information, Council Notification of CIP Project Awards, and State of the CIP presentation to Council.

- 19) 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?

Answer: Although the cost savings have not been quantified, yet, staff estimates them to be significant. The cost savings will result from the time savings from expediting the award of contracts. The savings will reduce the pressure on already strained CIP funding sources and allow us to expend deferred capital project funding at a faster pace than before. Additional detail will be prepared and submitted when this proposal is presented to the Council.

- 20) 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?

Answer: Staff did not intend to leave anyone out and tried to make a deliberate effort to bring concepts to committee, provide more detail to committee, respond to questions in writing to the committee, and be prepared for an in-depth discussion when this item reaches Council. Staff recognizes that additional outreach is always possible and stands ready to provide briefings or consider any additional feedback upon request by community stakeholders. Please also see response to D(1).

- 21) 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.

Answer: Please see the response to B(3) above.

- 22) Specifically, what information will be provided to Council during the 'more robust budget process'? What does a 'high-level full report' mean?

Answer: A high level, full report during the budget process covers both milestones completed and expenditures. It will also cover the accomplishments for the current fiscal year and presents next fiscal year's proposed CIP Budget highlighting new projects added to the budget, projects targeted for award in that fiscal year and a list of unfunded or underfunded proposed projects to receive funds from future project savings.

- 23) Please provide an example of the summarized list of projects proposed to be included in the Annual CIP budget document provided to Council.

Answer: Please see the response to B(2) above.

- 24) 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?

Answer: Please see the response C(5) above.

- 25) 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?

Answer: Lack of resources as well as limited review time with competing operating budget concerns during the budget process have been the primary obstacles. Considering streamlining savings, staff will be able to give a higher priority to the transparency action items listed in our report to the Committee dated 01/25/12 (Exhibit B).

- 26) How would Consultant agreements for Public Works Projects be presented in annual budget documents?

Answer: Please see the response to B(8) above.

- 27) 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?

Answer: In general, staff follows the Council Policy 800-14 for prioritizing CIP projects. There is no criterion in the prioritization policy for geographical preferences, therefore; the location of a project will not be taken in consideration when scoring a project. However, within the CIP Budget Document priority scores will be provided along with their location.

- 28) 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.

Answer: Please see the response to D(9) above.

- 29) 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?

Answer: The City Attorney's Office is drafting revisions to the proposed ordinance that will allow the City Council, in conjunction with the approval of the CIP budget, to have specific consultant and/or construction contracts for projects in the CIP return for individual approval. The items not subject to streamlining would go through the current process, which will add an average of 3 months to their processing timeline. Please also see B(1).

- 30) 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?

Answer: Please see response to B(4).

- 31) How will Council be notified of Change Orders and Job Order Tasks?

Answer: This information will be posted to the CIP sites as more specifically discussed in the staff report to the Committee dated 01/25/12 (Exhibit B). Please also see the response to B(9) above.

- 32) 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?

Answer: Please see response to C(7).

- 33) 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.

Answer: The MACC proposal is staff driven based on professional experience and is modeled on multiple award construction contracts awarded by the United States Navy Facilities Engineering Command and the U.S. Army Corps of Engineers. Outside organizations and individuals were briefed on our entire package, at their request, and we stand ready to meet with others, upon request. Please also see the response to D(1) above.

- 34) 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?

Answer: MACC will be implemented in compliance with the City's EOCB policies. At the request of Public Works' staff, the City Attorney's Office has been looking into to the city's ability to prescribe mandatory requirements for SLBE subcontracting participation within the MACC. Please also see the response to B(10) above for more relevant information.

- 35) What is the potential impact of the MACC proposal on the Small Local Business Enterprise (SLBE) Program?

Answer: Staff acknowledges this concern as it was raised by the CEOC and stakeholders in attendance. We are currently working with the City Attorney Office and IBA to, at minimum, maintain the program's successes and enhance them if possible, in the context of the MACC. Staff will be prepared to comment on the refinement of this proposal as the item moves to Council for approval.

- 36) How will the MACC program address federal restrictions on quotas?

Answer: MACC will be implemented in compliance with the City's EOCP policies which are race and gender neutral under the SLBE program. However, if federal and/or state funding is involved, the City contract may be subject to additional requirements by the funding agency e.g., federal provisions for minority, women, and/or disabled veteran owned business goals and/or requirements as the funding agency requirements will usually control. The City will likely need approval from federal and state authorities before using MACC on federal and state funded projects.

- 37) 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.

Answer: The primary reason for delay is the extent of necessary outreach to stakeholders and resource agencies e.g., Coastal Commission and the number of code changes. Please see below a tentative timeline quoted from our report to the Committee dated 11/25/12 (Exhibit B).

Draft Code Amendments	Begun
Environmental Analysis	2-13-12 through 2-24-12
Code Monitoring Team Presentation	3-14-12
Community Planners Committee Presentation	3-27-12
Public Review and Comment	4-2-12 through 4-13-12
Planning Commission Hearing	6-7-12
City Council Hearing	7-17-12
City Council Hearing - 2 nd Reading	7-31-12
Effective Date Outside of Coastal Overlay Zone	9-11-12
Submittal to California Coastal Commission	9-21-12
California Coastal Commission Hearing	January 2014
Possible City Council Hearing to Address California Coastal Commission Modifications	March 2014

- 38) 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.

Answer: Staff has selected a figure that encompasses the majority of project sizes in the past 3 years. Considering that during past 3 years the City has been enjoying a period of low bidding and a desire to give it a reasonable shelf life, staff selected the \$30 million figure. For additional detail, please see our report to Committee on 1/25/12 (Exhibit B) as well as the companion IBA report.

- 39) Is a cost threshold the most useful proxy for public interest, or do some lower cost projects potentially engender more public discussion?

Answer: CIP projects encompass many different asset types and site conditions. Therefore, projects of any size may attract more public interest.

- 40) Please provide a detailed community outreach plan, including organizations or individuals to be contacted, should this proposal move forward.

Answer: Please see the response to D(1) above.

- 41) Please provide an implementation timeline for the CIP Transparency measures.

Answer: Please see the response to B(5) above.

- 42) 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?

Answer: Staff agrees that the transparency measures should be implemented concurrently. If necessary, staff will coordinate with Council offices to provide hard and/or electronic copies of the reports until the website is launched.

- 43) How would the website and other transparency measures fit into planned or existing IT/SAP software interface enhancements?

Answer: Public Works staff has a good working relationship with IT staff and anticipates a seamless partnership so that resources are efficiently leveraged with regard to any additional enhancement of SAP.

- 44) 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.

Answer: This proposal does nothing to detract from Council's fiduciary responsibility to provide oversight and approve the annual CIP Budget, in fact it provides an opportunity for enhanced oversight. Please see the staff report to the Committee dated 01/25/12 (Exhibit B) for details about improved transparency which in fact enhances oversight to the annual CIP Budget approval process. This proposal does not change any of the safeguards currently in place such as the Lobbying Ordinance which remain effective in all City contracts.

- 45) 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?

Answer: Please see the response to D(19) above. With approval of these reform measures, staff estimates that in addition to the three months on average already achieved through streamlined contracting processes, a minimum of an additional three months savings can be achieved.

- 46) I have requested at two Land Use & Housing Committee meetings to be provided with the OCI data. Please provide this data.

Answer: The City's consultant has delivered the OCIs for streets in various Council Districts which is then integrated into the pavement management system. This information will be posted to the City's website in the next 2 weeks.

- 47) 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.

Answer: The only substantive change to this division of the Municipal Code is to increase the Mayor's authority to award A&E consultant contracts to \$1 million. The other changes shown reflect renumbering and clarification of existing provisions related to goods, services and consultant contracts.

- 48) 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.

Answer: This section was moved to Division 30, Section 22.3004 because it applies to all contracts, not just goods, services and consultant contracts which is the division where it was located before. While drafting the proposed amendments, the City Attorney's Office discovered a conflict within the Municipal Code where hearings on non-responsibility were to be held at Budget Committee, the City Council, and also before a bid protest panel. The Municipal Code has been clarified to specify that determinations of non-responsibility arising from the City's prequalification program will go to Budget Committee for a final decision, and those arising during the bidding of a specific project will go to a bid protest panel. A hearing of this nature can easily take 2-3 hours, consuming an entire Budget Committee meeting, so the Budget Committee may want to consider whether all hearings of this nature are better suited for a protest panel rather than a Committee or Council meeting.

- 49) 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.

Answer: There are no 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. The City Attorney's Office has made a significant

number of changes clarifying, memorializing, renumbering and reorganizing sections of the Municipal Code that do not alter the City's current practice, with the exception of the bid protest process that applies to all contracts. The current 2-step process has proven redundant and causes unnecessary delays, so the bid protest process is being streamlined to speed up contract awards.

- 50) 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?

Answer: This proposal does not suggest any changes to current requirements that the City Attorney sign off on contracts. All public works construction contracts are still reviewed and signed by City Attorney Office.

- 51) 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?

Answer: Staff has agreed to 23 out of 24 recommendations and has responded as such to the Audit Committee. Please see the staff response to the Audit Committee dated 11/07/11 (Exhibit C).

- 52) 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?

Answer: The November 2, 2011 report (Exhibit A) is referring to the improvements following the public works contracting responsibilities being transferred to this department in July of last year. Improvements significantly and quickly cut in half the existing backlog of contracts to be awarded and the time between bid opening and award. There were about 61 contracts in the queue in July of 2011. That number was reduced to about 32 in September. Similarly, bid to award duration was reduced from approximately 6 months to less than 3 months in the same time period. A 50% improvement would be considered "material" by process evaluators.

- 53) 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

Answer: Although the above 2 recommendations were not expressly stated in the CIP Performance Audit Report, they are in response to and intended to comply with the audit report recommendations for improved efficiency.

- 54) 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?

Answer: Because currently, each design-build contract goes through a separate solicitation and awarding process that requires individual committee/council approval. MACC is a design-build contract that allows for multiple competitive awards to occur under a single solicitation. The existing code is silent about multiple awarding construction contracts under the same solicitation. Therefore, amendments to the Municipal Codes are necessary to authorize the City to procure competitive multiple design-build services through a single competitive solicitation subject to the limitations imposed by Council.

- 55) How does the proposed "City MACC" differ from the Federal MACC process, particularly as it relates to EOC requirements?

Answer: From the Navy evidence that we have seen and the conversation with the local command, the U.S. Navy sets aside a certain percentage of the subcontracting opportunities e.g., 15% for the disadvantaged business enterprises e.g., HUBZone, Service-Disabled Veteran-Owned Small Business, and Small Businesses on each solicitation. However, for the City's purpose, MACC contracts will be subject to the same City's EOCP policy that is in effect for all City contracts. Please also see the response to D(15) above.

- 56) 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.

Answer: Staff will prepare a report including the requested data for submittal when this proposal is presented to Council.

- 57) Please provide a status update regarding the bidder registration system.

Answer: Purchasing staff began implementation of a bidder registration system in April, 2011; provided a status update to Rules Committee on September 14, 2011; and plans on returning to Rules Committee for another status update in the next 60-90 days.

CONCLUSION:

We would like to restate our gratitude for your continued support and look forward to present these badly needed improvements to a Council meeting in March for final approval. We believe

this report has addressed all questions and concerns raised by the public and members of the Council that we have received and look forward to presenting the improvements to Council soon.



Tony Heinrichs
Director
Public Works

Attachments:

- Exhibit A - Public Works Department Report, Dated 11/02/11 (no attachments)
- Exhibit B - Public Works Department Report, Dated 01/25/12 (no attachments)
- Exhibit C - Public Works Department Response to Auditors, Dated 11/07/11

cc: CIPRAC Membership



THE CITY OF SAN DIEGO

REPORT TO BUDGET AND FINANCE COMMITTEE

DATE: November 2nd, 2011
TO: Honorable Committee Chair and Members
FROM: Tony Heinrichs, Director - Public Works Department
SUBJECT: Streamlining CIP and Contracting Improvements

RECOMMENDATION:

The City of San Diego's Capital Improvement Program (CIP) is implemented through an interrelationship of client departments, service departments, consultants and contractors. Actions necessary to complete these projects are governed by approvals and processes administered through Council Authority and/or Mayoral Authority. Public Works Department staff has recently implemented several changes to improve the cost, time and or quality needed to complete projects pursuant to the Mayor's authority to administer these processes. In addition, staff has identified several Municipal Code and Council Policy changes that, if authorized by Council, would improve staff's ability to implement the CIP in a timely manner. These recommended changes consist of:

1. Allow the approval of the CIP budget to replace the need for individual council approvals for each project in the CIP budget; only projects not in the CIP budget would need to be brought to Council for approval.
2. Adjust current approval thresholds and add an additional threshold for the acquisition of Easements.
3. Modify the Municipal Code to allow for Multiple Award Construction Contracts.
4. Modify the Land Development Code as it relates to Site Development Permits for CIP projects.
5. Reconcile Council Policies 600-24 and 600-33 as they relate to park projects.
6. Authorize automatic transfers of project savings at project completion to other projects.

These recommendations would require specific modifications to the Municipal Code and Council Policies, but if implemented many projects could shave between 6 and 12 months off the entire process and save between \$10,000 and \$100,000 depending on how the individual project is impacted by the changes implemented.

BACKGROUND:

In 2006 and following the Kroll audit report, the City completed a Business Process Reengineering (BPR) effort that resulted in the consolidation of City-wide procurement efforts into a centralized Purchasing & Contracting (P&C) Department and the management of most CIP projects into the Public Works (ECP) Department. These reorganizations resulted in staff reductions of 89.5 positions for an annual savings of \$7,507,000. Despite the positive results of these BPR's and other initiatives conducted since, concerns persist regarding the cost and length of time required to implement CIP projects.

The recent CIP Performance Audit report issued in June 2011 and the Public Utilities CIP Audit issued in September 2011 summarize contracting initiatives that are being implemented to improve the management of CIP projects. One example of recent improvements is a set of changes to the City's contracting processes following the Public Works contracting responsibilities being transferred to the Public Works Department in July of this year.

A number of short and long term adjustments have been completed and other recommendations are being implemented to further reduce the time needed to award contracts. Staffing levels have been adjusted, the Purchase Requisition process has been streamlined, adjustments to the frequency of addenda has been implemented, and other changes have materially shortened the time required to award contracts.

Following is a list of specific changes that followed the Mayor's announcement of the contracting transfer:

Changes Implemented

1. Define process map, timelines, and ownership for all phases of bidding and award.
2. Improve follow-ups.
3. Improve communication between staff from various offices involved in the process.
4. Post contract information online for all to see therefore; reducing inquiries and interruptions.
5. Improve and promote a teamwork environment (i.e., One City) encouraging positive attitude towards customer service and establish a reward and recognition program.
6. Address bid rejection and protest issues that congest the system expeditiously and carefully using a peer review process.
7. Minimize the number of contract modifications via Addenda that have been congesting the system.

8. Simplify and clarify bid forms and minimize required information.
9. Granting Contracting Authority to the PW Department.
10. Define and clarify staff roles and responsibilities.
11. Fast track starting 1 new Contract Specialist and kick-start filling 3 other critical vacancies.
12. Develop a consolidated user friendly and simple database for logging in and tracking contracts.
13. Streamline Purchase Requisition/Order process.
14. Establish performance metrics and conduct regular weekly meeting to measure progress.
15. Eliminate outdated activities that add no values.

Changes In Progress

1. Streamline insurance submittals and review:
 - a) Improve services provided by the insurance review contractor.
 - b) Simplify Contract Documents.
 - c) Train staff and simplify review process.
 - d) Enforce the "10 day" time period for delivery of bonds and insurance.
2. Develop electronic tracking system for the entire process.
3. Develop electronic tracking system for action documents e.g., PA2625.
4. Implement full service online bidding.
5. Simplify contract documents reducing preparation time and easing review by bidders.
6. Implement 20 day posting period for bids.
7. Issue the Notice to Proceed to the contractor upon award of the contract.
8. Develop process narrative and other SOPs.
9. Online full service electronic bid submission.

Improvements to the process are demonstrated in the table below which provides a summary of the conditions as of July 2011 and the subsequent progress made.

	13-Jul	23-Aug	13-Sep	04-Oct
Contracts In Award Phase	62	28	22	24
Average Time From Bid Opening to Award (days)	120	115	90	60

These improvements were noted in a recent article written by the Associated General Contractors of America, San Diego Inc. which reported "It's been awhile since we provided an optimistic view of the City of San Diego's construction program, but with some recent

and upcoming developments we thought it would be an appropriate time to share some good news...Mayor Jerry Sanders listened to us and reorganized the Purchasing and Contracting Department into the City's Public Work Department.... The change already seems to be paying off, as the bid to NTP timeframe has shortened quite a bit."

DISCUSSION:

Staff has identified several Municipal Code and Council Policy changes that, if authorized by Council, would improve staff's ability to implement the CIP. These recommended changes consist of:

- 1. Allow the approval of the CIP budget to replace the need for individual council approvals for each project in the CIP budget; only projects not in the CIP budget would need to be brought to Council for approval.**

Currently, Council must approve the award of all CIP related construction contracts over \$1,000,000 when budgeted in the CIP. In other words, departments are generally required to obtain City Council approval for larger CIP projects at least twice; first when the project is initiated in the budget and subsequently each time a contract is awarded that exceeds the threshold.

The 2007 Engineering Services BPR recommended making it a 1-step process so that project schedules are not interrupted by the Council award process. Simplifying the process would speed procurement by 1 to 3 months that are now required to obtain Council authority to award contracts. This process was discussed on page 37 of the CIP Performance Audit Report which described the process as lengthy and complicated and stated that "By not identifying the actual cost and benefits of taking things to Council, such as assessing City staff time and Council staff time and the impact of the docketing process, the City cannot ensure that projects will be completed on time. By not assessing and streamlining required processes, the City cannot ensure that funds will be spent effectively and efficiently."

- 2. Adjust current approval thresholds and add an additional threshold for the acquisition of Easements.**

Council contract approval thresholds have not changed since 1998 with the exception of the limit for the minor construction contract which has been increased from \$250,000 to \$500,000 based upon the implementation of the Small/Emerging Local Business Enterprise Program. As time has passed and inflation has occurred project costs have increased resulting in Council having to approve a relatively larger number of contracts.

In addition to recommending adjustments to the existing thresholds, we recommend carving out a new threshold regarding the current easement acquisition process. Currently, CIP projects require Council approval for any easement regardless of size. This is a time consuming step especially for the majority of cases where a simple acquisition with small expenditure is all that is needed. A recommended threshold of

\$100,000 is recommended to cover minor easements that are required. Large projects involving multiple acquisitions, in depth appraisals, etc. will still continue to be brought to Council for the acquisitions, including all with the potential of eminent domain.

Recommended threshold increases for awarding contracts if they are budgeted in the CIP are summarized as follows:

Type of Contract	Current Threshold	Recommended Threshold
Consultants agreements	\$250,000	\$1,000,000
Public works projects - Contract amount	\$1,000,000	Amount authorized in the approved CIP/budget
Public works projects - Change Order limit	\$200,000	\$500,000 or as authorized in the approved CIP/budget (whichever is higher)
Public works projects - GRC Tasks	\$500,000	\$1,000,000
Easements for CIP	\$0	\$100,000

By implementing the new approval thresholds:

- a) Contract awards will be fast-tracked by an additional 1 to 3 months (for each adjustment noted above), getting jobs-generating projects out the door.
- b) Council can focus on the CIP budget during the annual budget process and provide adequate comprehensive oversight throughout the year, without delaying much needed infrastructure projects they have already approved; staff can provide semi-annual progress updates to Council and focus on getting projects out rather than preparing the paperwork for approximately 10 projects needing Council action monthly.
- c) Council approves the entire budget for a CIP project and no additional funds can be expended without further Council approval.
- d) The time required to execute Construction Change Orders over \$200,000 can lead to significant increases to project delivery costs and should be reserved only for cases where the overall project budget must be adjusted.

3. Adopt the use of Multiple Award Construction Contract (MACC).

The MACC program would be a variation of the current As-Needed Design-Build process. While the draft ordinance has not been written and the final recommendation fully developed, the process will save time. The recommendation to allow a MACC process would require an amendment to the Municipal Code. The issuance of contracts would put in place all the insurance and bonds necessary to award each task which is estimated to save three to four weeks from the current award process. In addition by authorizing the Mayor to award task orders, the new process will reduce the time needed for Council approval of each project by an additional 1 to 3 months. Both time savings will shorten project schedules by 2 to 4 months and will result in cost savings in excess of \$10,000 for each project.

Finally the use of a MACC would reduce the number of contracts being processed allowing the contract award staff to focus on other contracts. The reduction of the total contracts being processed through the system will reduce the time needed to award other contracts in the system. Please see the accompanying memo specifically drafted to elaborate on this recommendation.

4. Modify the Land Development Code as it relates to the requirement of Site Development Permits for CIP projects.

Currently, the Land Development Code (LDC), Chapters 11, 12, 13, and 14 of the San Diego Municipal Code set forth the procedures used in the application of land use regulations. An element of the LDC is the Site Development Permit which establishes a review process of proposed developments that may impact Environmentally Sensitive Lands (ESL) and/or historic resources.

This process, however, is oftentimes duplicative and mirrors the California Environmental Quality Act (CEQA) project specific impacts analysis each public project must complete. During CEQA review, projects are assessed as to their compliance with the LDC, in particular the ESL regulations regarding biology, steep hillsides, coastal bluffs and beaches, as well as historic/cultural resources, Multiple Species Conservation Program compliance, community plans, the general plan and a multitude of additional sensitive resources. In fact, it is intended that the Development Regulations for ESL and associated Guidelines in the Land Development Manual for those resources serve as a standard for the determination of impacts and mitigation under CEQA and the California Coastal Act. Therefore, once CEQA is complete the SDP usually reiterates what is outlined in the CEQA document and its associated mitigation measures.

In addition, public projects currently require multiple layers of public input and review prior to consideration and adoption of a CEQA document, in addition to coordination and permitting with State and Federal Regulatory Agencies if ESL is to be impacted. The additional burden of obtaining a SDP is often very time consuming and costly with limited additional benefit to the public, project or environment. Presently, there are many exemptions to SDPs for public projects which have helped to streamline and

reduce the cost of implementing the CIP program, such as linear utility projects, public works projects that have been approved by the City Council before July 1, 1991, habitat restoration, brush management, trails, and site reconnaissance and testing.

Exempting all essential public works projects, including publicly owned parks and recreation facilities, fire and police stations, publicly owned libraries, public schools, major streets and primary arterials, and public utility systems would provide a significant improvement in the delivery of our CIP program. At a minimum, emergency projects that are exempt from CEQA which may only require an after the fact SDP, any CEQA exempt project, and any projects that are in compliance with the ESL, have impacts below the City's CEQA significance thresholds for sensitive resources and do not require mitigation should be exempt from the SDP process.

5. Reconcile Council Policies 600-24 and 600-33 clarifying the appropriate reviewing entity for official recommendations on park projects and modify the Land Development Land Code to reflect the clarification.

Currently most CIP projects are subject to a variety of public outreach processes. City and State Development Permits, Resource Agency Permits, the CEQA and the National Environmental Policy Act (NEPA) all have processes for noticing stakeholders and seeking input. Council Policies 600-24 and 600-33 contain provisions for providing community input on projects that result in unclear recommendation-making authority for park projects. Council Policy 600-24 identifies responsibilities of recognized community planning groups, which includes the review of individual development projects for consistency with the adopted community plan, and Council Policy 600-33 assures that community members have adequate opportunity to participate in the design phase of park development projects.

Delays to project schedule and increased project costs have occurred as a result of park projects having to undergo separate review processes by recognized community planning groups per Council Policy 600-24 and Park and Recreation Board committees per Council Policy 600-33. When the desires and recommendations of the different committees conflict, it has significantly exacerbated the problem, requiring multiple meetings in an attempt to reconcile recommendations. One recent park project resulted in 20 noticed public meetings at a cost of approximately \$2000 per meeting before reaching a conclusion.

Since park development projects are implementing the recommendations of the community plans, and Council Policy 600-33 already requires that the Planning group be notified and invited to attend the Park Recreation Council meeting for input and recommendations, we recommend that Council Policy 600-24 be amended to reflect that review of these park projects will be provided through the Park and Recreation Board processes per Council Policy 600-33. Section 112.0301 (a)(1)(C) of the Municipal Code should be modified to reflect the appropriate reviewing body and contact person.

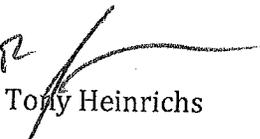
6. Authorize transfer of project savings at project completion to other projects

When a project is completed, all remaining funds are returned to fund balance. Those funds cannot be reprogrammed until the next budget cycle or through City Council action. As a result, the funds sit unused for a period of time. If those funds could be reprogrammed administratively to other existing projects already approved in the CIP budget and eligible for the same funding source, the project receiving the funds could be accelerated.

CONCLUSION:

These recommendations would require specific modifications to the Municipal Code and Council Policies described above. With the implementation of these process changes, significant savings of time and money would be realized. The increase in Mayoral thresholds and addition of a MACC contract would reduce the time needed to issue contracts by several months. Allowing Land Development Code change would eliminate duplicative and costly processes. By authorizing the Mayor to reallocate excess project funds at project completion other projects would be expedited. The effort to draft these Municipal Code ordinances and Council Policies changes will require a process to more fully develop the recommendation and solicit input from stakeholders.

These recommendations are crucial to the streamlining of the CIP and ensuring that critical jobs-generating projects are implemented as soon as possible. The Public Works Department is respectfully seeking concurrence and support to move forward with a process to fully develop these recommendations.

FOR


Tony Heinrichs

Director of Public Works Department

cc: James Nagelvoort, Acting City Engineer–Public Works Department



THE CITY OF SAN DIEGO

REPORT TO BUDGET AND FINANCE COMMITTEE

DATE: January 25th, 2012
TO: Honorable Committee Chair and Members
FROM: Tony Heinrichs, Director - Public Works Department
SUBJECT: A 21st Century Capital Improvements Process: Streamlining and Transparency

A. BACKGROUND:

On November 2, 2011 the Budget & Finance Committee (Committee) requested staff to return to the Committee with the necessary legal and policy changes to the applicable Council Policy and Code (i.e., Municipal Code and Land Development Code) to streamline our Capital Improvements Program (CIP) and public works contracting process. CIP streamlining reforms will expedite the process of harnessing scarce resources on job-generating projects that revitalize our neighborhoods. Furthermore, staff is recommending a series of steps to enhance transparency that will bring our city government closer to the people and put more information at the fingertips of Council and the public.

This follow-up report provides status updates for the recommendations Council requested we bring back to the Committee as well as some additional ones discussed during the Committee's meeting and/or identified after the meeting. The report contains attachments that include detailed specific policy/code modifications for the purpose of implementing the recommendations. It also provided the City Attorney's Office (CAO) with an opportunity to streamline and update some existing ambiguities, conflicts, redundancies, and typographical errors that usually result from various code amendments over the years.

B. STREAMLINING CIP AND PUBLIC WORKS CONTRACTING IMPROVEMENTS STATUS UPDATE

The following recommendations were discussed as part of the Public Works Department's report to the Committee on November 2nd, 2011 (Exhibit A).

1. **Allow Council's approval of the CIP budget to replace the need for individual council approvals for the awarding of design and construction**

contracts for each item in the CIP budget; only projects not previously approved by Council in the CIP budget would need to be brought to Council for approval.

Status Update: The CAO has drafted modifications to Municipal Code to increase the Mayor's authority (from \$1M to \$30M) to award Public Works Contracts which have already been approved by Council through the annual CIP budget process. Please see Exhibit C, for detailed proposed revisions to Municipal Code (i.e., Chapter 2, Article 2, Division 31).

This long overdue adjustment should cover the majority of City projects (i.e., in size). A companion effort to this item corresponds to a revision to Council's budget process as it pertains to CIP and is addressed later in the CIP Transparency section of the report.

2. Adjust current approval thresholds and add an additional threshold for the acquisition of Easements.

Status Update: The CAO has drafted modifications to the Municipal Code (Exhibits B, C, and D) to make some additional procurement adjustments:

Item	Type of Contract	Current Threshold	Recommended Threshold
A	CIP related consultants agreements	\$250K	\$1M
B	Change Order limit	\$200K	\$500K; but, not to exceed the total amount authorized for the project by ordinance or resolution.
C	Job Order Contracting (JOC)Tasks	\$500K	\$1M

This is also an opportunity for streamlining CIP delivery within the Job Order Contracting (JOC) process, also known as General Requirements Contracts. JOC is a method of performing public works projects where contractors bid unit prices for different types of work, and are paid based on the actual quantities of work performed. The CAO has identified some necessary modifications to the Code to reconcile the differences between the Code and the Charter as described below.

In June of 1998, the City Municipal Code was amended to authorize the use of JOCs, but only in limited circumstances because an amendment to the City Charter was pending to allow for broader use of JOCs. The voters approved the use of JOCs in November of 1998. However, the Municipal Code was never amended to reflect the voters' approval of JOCs, and the current provisions of the Municipal Code are more restrictive than necessary. The proposed amendments to the Municipal Code allow City to use JOCs for more routine public works projects.

Regarding the easement/land acquisitions, the CAO has determined no modifications to the Municipal Code are necessary. Furthermore, the CAO has expressed that the only direction provided regarding property acquisitions is Council Policy 700-32, which does not require any Council action (but appropriation of funds is still needed).

When the project budget is approved by Council with a portion reserved for property acquisition, staff should be authorized to acquire the necessary property interest without further Council approval as long as the acquisition is accomplished at or below the amount allocated in the budget. If the acquisition is over budget, staff would return the item to Council to approve the acquisition. This process mirrors the one that is used for the disposition of surplus real estate assets. However, for many years it has been a continued standard practice to take real property acquisitions (mostly easements) to Council for approval after approval of a project, but prior to the time of purchase (when the property interests and costs are certain).

Therefore, for streamlining reasons staff is proposing to change the existing practice to only go to Council if the project budget as a whole is exceeded.

3. Modify Municipal Code to allow for design-build Multiple Award Construction Contracts (MACC).

Status Update: The CAO has drafted modifications to the Municipal Code (Exhibit E) primarily by adding a new section authorizing the City to award design-build contracts to more than one design-build entity to compete for public works projects on a task order basis. MACC will be subject to Council imposed limitations summarized below:

- a) Multiple award design-build contracts provide for a period of up to 3 years of competition for task orders. The contracts may continue for a period longer than 3 years only as necessary to complete outstanding task orders.
- b) No contract may guarantee a design-build entity cumulative task orders in excess of \$50K.
- c) A task order may not exceed \$10M without City Council approval.
- d) The cumulative amount of task orders issued to all design-build entities awarded contracts through each request for qualifications or proposals may not exceed \$100M without City Council approval.

4. Modify the Land Development Code as it relates to Site Development Permits for CIP projects.

Status Update: Several code modifications are being drafted which would continue to require that public projects comply with the Environmentally Sensitive Lands Regulations and Historic Resources Regulations. Public projects that currently require a discretionary review for approval would continue to be

discretionary, subject to California Environmental Quality Act review, subject to community review, and subject to standard public notice. However, public projects would no longer be required to go through the duplicative processes for a Site Development Permit Process Three for environmentally sensitive lands or a Site Development Permit Process Four for Historic Resources.

The proposed code amendment would provide the following benefits:

- a) Streamline duplicative public hearings for approval of public projects that have already received some level of support, such as approval for funding.
- b) Reduction in time of approximately 2 months including time for preparation of staff reports, resolutions, permits, permit findings, public noticing packages, all required to be finalized at least two weeks prior to hearing.
- c) Reduction in costs associated with hearing preparations including staff attendance, and preparation of reports, resolutions, permits, and permit findings.
- d) Reduction in cost associated with noticing packages including mailed notices to all owners and occupants within 300 feet of the project and published newspaper notices.

Please see the following tentative timeline (assuming general support for the proposal) for amendments to the permit process for City projects:

Draft Code Amendments	Begun
Environmental Analysis	2-13-12 through 2-24-12
Code Monitoring Team Presentation	3-14-12
Community Planners Committee Presentation	3-27-12
Public Review and Comment	4-2-12 through 4-13-12
Planning Commission Hearing	6-7-12
City Council Hearing	7-17-12
City Council Hearing - 2 nd Reading	7-31-12
Effective Date Outside of Coastal Overlay Zone	9-11-12
Submittal to California Coastal Commission	9-21-12
California Coastal Commission Hearing	January 2014
Possible City Council Hearing to Address California Coastal Commission Modifications	March 2014

5. Reconcile Council Policies 600-24 and 600-33 as they relate to park projects.

Status Update: Council Policies 600-24 and 600-33 contain provisions for providing community input on projects that result in unclear recommendation-making authority for park projects. In order to reconcile the differences, staff has drafted modifications to both policies, which we submit for Council consideration. Please see Exhibits F and G for detailed proposed revisions.

6. Authorize Mayoral approval to transfer project savings at project completion to other projects.

Status Update: Beginning with FY13, the list of unfunded or underfunded proposed projects along with the project information e.g., a brief scope, priority, and funding will be put together by CIPRAC (Capital Improvements Program Review and Advisory Committee) during the CIP budget process. The list will be submitted to Council for review and approval and the authority to allow transfers of funds to be included in the annual Appropriation Ordinance.

C. ADDITIONAL RECOMMENDATIONS

Encouraged by the Committee's positive response last November, staff has identified additional recommendations for further streamlining of the CIP process.

1. Bid Protest Process Clarification

In response to the request from the Committee to clarify who is responsible for prescribing bid protest regulations, the CAO has proposed changes and clarifications to the existing Municipal Code which govern the bid protest process unless state or federal funding require their process. The proposed changes also reconcile an existing conflict between City's bid protest procedures and contractor standards ordinance that was discovered as part of this review. Furthermore, the CAO has taken this opportunity to streamline the existing Municipal Code and to provide clearer directions in responding to bid protests.

Status Update: Please see Exhibits B and D for detailed proposed revisions to Municipal Code. The CAO is also drafting revisions to Council Policy 000-29 to reflect the proposed changes to Municipal Code.

2. Regional Procurement Cooperation Program

The City is an active member of the Regional Construction Procurement Committee (RCPC) formed several years ago to coordinate and improve procurement activities among the regional public agencies.

Staff is seeking authorization to develop agreements with other agencies such as SANDAG (San Diego Association of Governments) to assist in the awarding of CIP Contracts during peak demand to speed up contract awards.

Status Update: At a later date, staff plans to bring forward inter-agency agreements and possibly proposed modifications to the Municipal Code allowing procurement cooperation among RCPC member agencies (to the extent possible under City's Charter). Procurements under this program will be subject to City's or Agency's EOCP (Equal Opportunity Contracting Program) requirements; whichever stricter.

D. CIP TRANSPARENCY

The Committee also requested staff to enhance the CIP transparency for Council, stakeholder organizations, and the public. Following are specific proposals that staff believe can be accomplished within existing resources provided the CIP Streamlining measures mentioned in this report are adopted:

1. **More Robust Budget Process**

During the budget process staff will provide a high-level, full report and presentation on the status of all CIP projects covering both milestones completed and expenditures. Staff will also cover the accomplishments for the current fiscal year. Finally, staff will present next fiscal year's proposed CIP Budget highlighting new projects added to the budget, projects targeted for award in that fiscal year and a list of unfunded or underfunded proposed projects to receive funds from future project savings.

2. **Online CIP Information**

Staff will post CIP listings with project type (e.g., water, sewer, deferred capital), data (e.g., scope, schedule, location, progress, financing), and EOCP subcontracting participation results on a City dedicated website for CIP.

The categories for presenting the information will include:

- a) Organized by Council District
- b) Organized by Fund Sources
- c) Organized by Asset
- d) EOC results and Equal Opportunity participation

Status Update: Staff is setting up a prototype website, identifying the data sources, and designing project listings. With Council approval of all these streamlining measures, the CIP website will be up and running in calendar year 2012 and updated every quarter. While the website is being constructed, staff will coordinate with Council offices to provide hard and/or electronic copies of the reports.

3. **Council Notification of CIP Project Awards**

Consistent with the IBA (Independent Budget Analyst) recommendation, staff will clearly identify a list of projects that will go to bid during the fiscal year.

Status Update: Staff is setting up an internal SharePoint site with a listing of all construction and consultant contracts advertised and awarded and the pertinent data e.g., EOCP results. With Council approval of all these streamlining measures, we expect the site to be up and running in calendar year 2012. The SharePoint will automatically notify Council offices of projects awarded via City's e-mail system quarterly. While the SharePoint site is being constructed, staff will coordinate with Council offices to provide hard and/or soft copies of the reports.

4. **State of the CIP**

IBA has also recommended regular CIP Program updates to City Council.

Status Update: Staff will provide semi-annual presentations/reports to Budget & Finance Committee covering the state of the CIP beginning in January 2013. Additional financial information is also being developed for incorporation in the proposed and annual CIP budget documents.

IBA also provided some additional recommendations addressing Council including:

1. Undergo a review of all the projects in the CIP document to ensure that the projects will realistically be started in the next 5 years.
2. Dedicate more time during the annual budget hearing process for CIP review.
3. Council should consider direct docketing to full City Council for CIP Projects (no Committee hearing required).

Status Update: These recommendations are all supported by staff and we will work with the IBA to implement.

E. CONCLUSION

The Public Works Department would like to thank the Committee members for their forward thinking and unanimous support of streamlining the CIP process. Staff has been very excited about the proposed streamlining.

These recommendations have been discussed with various stakeholder groups e.g., CIPRAC, EOC, CAO, CEOC (Citizens' Equal Opportunity Commission), IROC (Independent Rates Oversight Committee), and the contracting community. The CEOC held a special meeting on January 18, 2012 to review and discuss the impacts of the proposed process on Equal Opportunity Contracting. They have provided their input in a letter to the Committee. Additional public outreach will be conducted to ensure a broad base of stakeholders is provided an opportunity to review and comment prior to presenting the item to City Council.

These recommendations are crucial to the streamlining of the CIP and consistent with many recommendations listed in the *CIP Performance Audit Report* of 2011. They will also help the department expedite the implementation of the second deferred capital bond that is expected to be considered by Council in the near future. With the implementation of these process changes, significant savings of time and money would be realized.

Therefore, we are respectfully seeking your final concurrence and support to move forward and implement the recommendations. Specifically; the following actions are respectfully being requested:

1. Immediate Committee Actions

Please forward the proposed Municipal Code modifications for recommendations described under sections B(1), B(2), B(3), B(5), and C(1) which are listed as follows to City Council for approval:

- B(1): Allow Council's approval of the CIP budget to replace the need for individual council approvals for the awarding of design and construction contracts for each item in the CIP budget; only projects not previously approved by Council in the CIP budget would need to be brought to Council for approval.
- B(2): Adjust current approval thresholds and add an additional threshold for the acquisition of Easements.
- B(3): Modify Municipal Code to allow for design-build Multiple Award Construction Contracts (MACC).

B(5): Reconcile Council Policies 600-24 and 600-33 as they relate to park projects.

C(1): Bid Protest Process Clarification.

2. Future Committee Actions

a) Please forward the proposed Land Development Code modifications for recommendation described under section B(4) and the inter-agency agreements for recommendation described in section C(2) to City Council for approval once they are received from staff (after sufficient public outreach):

B(4): Modify the Land Development Code as it relates to Site Development Permits for CIP projects.

C(2): Regional Procurement Cooperation.

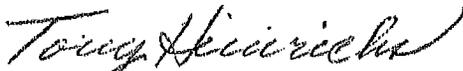
b) Please review and approve recommendation described in section B(6) as part of the FY13 budget process:

B(6): Authorize Mayoral approval to transfer project savings at project completion to other projects.

c) Please implement IBA's recommendations described in sections D(3)(b) and D(3)(c):

D(3)(b): Dedicate more time during the annual budget hearing process for CIP review.

D(3)(c): Council should consider direct docketing to full City Council for CIP Projects (no Committee hearing required).



Tony Heinrichs

Director of Public Works Department

Attachments: Exhibit A: Public Works Department's Report Dated 11/02/11
Exhibit B: Revisions to Chapter 2, Article 2, Division 30
Exhibit C: Revisions to Chapter 2, Article 2, Division 31
Exhibit D: Revisions to Chapter 2, Article 2, Division 32
Exhibit E: Revisions to Chapter 2, Article 2, Division 33
Exhibit F: Revisions to 600-24
Exhibit G: Revisions to 600-33

Note: Due to the large number of markups, Exhibits B through E consist of both "final" and "final showing markups" versions.

cc: CIPRAC Membership



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: November 7, 2011

TO: Kevin Faulconer, Chair, Audit Committee

FROM: Tony Heinrichs, Director, Public Works Department

SUBJECT: Past Due Audit Recommendations

We believe we are now in partial or full agreement with 23 of the audit's 24 recommendations.

Our primary disagreement with 4 of the auditor's recommendations had to do with our desire to avoid a new layer of red tape in the creation of a new office and the impact of increased bureaucratic costs on a General Fund still looking for balance. We are centralizing responsibility for CIP delivery within the Public Works Department, and will continue to seek any additional organizational adjustments to improve delivery, maximize efficiencies, and increase accountability. The CIPRAC Charter will be amended to adopt many of the CIP Audit recommendations. In all of this effort to improve CIP oversight, the general fund must not be impacted nor should an additional layer of management/review be created that would result in slowing down projects and/or increasing cost.

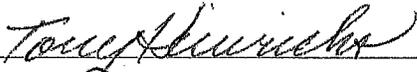
The ERP Development Team, Business Office, Comptrollers, CIPRAC, and Public Works Department are responsible for Recommendations 1 thru 24 under the 11-027 Audit, Capital Improvement Program. The following is the status of the recommendations:

Recommendation #:

15. Complete. Client Departments have assigned liaisons for their Capital Improvement Projects. Also, maintaining liaison assignments is the responsibility of each CIPRAC member.

The remaining twenty-two (22) Audit 11-009 Recommendations are being implemented and have not passed their due dates.

Please note no agreement has been reached on recommendation number 5.



Tony Heinrichs
Director

cc: Jay M. Goldstone, Chief Operating Officer
Wally Hill, Assistant Chief Operating Officer
Amy Benjamin, Director of Council Affairs
Ken Whitfield, Comptroller
Debra Bond, ERP Support Director
James Nagelvoort, Acting Assistant Director. Public Works