

DATE ISSUED: March 14, 2002

REPORT NO. 02-058

ATTENTION: Public Safety and Neighborhood Services Committee  
Agenda of March 20, 2002

SUBJECT: Awarding of Construction Contracts

REFERENCE: Manager's Report No. 94-138  
Manager's Report No. 93-101  
Manager's Report No. 01-093

### SUMMARY

Issue - Should the City Manager continue the current process of advertising and awarding public works contracts by authorizing the City Manager to advertise and award construction contracts in a single City Council action, prior to bid opening.

Manager's Recommendation - Continue the current process for advertising and awarding public works contracts by authorizing the City Manager to advertise and award construction contracts in a single City Council action, prior to bid opening.

Other Recommendations - None

Fiscal Impact - None.

### BACKGROUND

Recently at City Council meetings, concerns have been raised over the process the City follows when awarding construction projects. Some members of the City Council have expressed a desire to be more involved in this process. The current policies and procedures along with two alternative options will be discussed in this report. (Note: per Municipal Code Section 22.3102, projects less than \$1 million that are in the Council approved Capital Improvements Program are not reviewed by the City Council and those more than \$1,000,000 shall be awarded by City Council provided the project has been advertised).

In 1990 and again in 1994 the City conducted efforts at streamlining and expediting the Capital Improvement Program. These efforts were consistent with the City's goal to facilitate San Diego's economic recovery. The results of these efforts were a significant number of procedural and policy changes that were associated with saving the City money and time required to process a capital improvement project. One change in procedure, which was implemented, allowed staff to seek approval from City Council at one meeting, to both approve plans and specifications and award to the lowest responsible bidder. Prior to this change, City staff followed procedures similar to "Option 1" discussed later in this report. At the time, this change was credited with saving 6 weeks in processing time for all projects over \$1 million.

### DISCUSSION

#### **Current Process**

The current process to approve plans and specifications and award construction contracts over \$1 million requires City Council approval prior to the opening of bids, not after. Through this

process, City Council is presented with project estimates to complete said public contract work. The City Council approves the plans and specifications and authorizes the City Manager to enter into a contract with the lowest responsible and reliable bidder if a project bid does not require additional funds than were approved for the project by City Council. If no additional funds are required, no further City Council action is required. If contractor bids are of an amount greater than the amount City Council has approved, staff returns to City Council to request additional funding. Once additional sufficient funding is approved the City Manager can execute said contract.

### **Option 1**

Option 1 would divide the current process into two steps. First, City staff would request approval from City Council of the plans and specifications on a project. Once approved, City staff would advertise and open bids. City Council would then be given an opportunity to review the contractor selection process by having City staff return to Council after the apparent low-bidder has been identified. However, returning to City Council at this point would result in project delays of 2 months (see graph 1). Simultaneous processing of contract documents while processing a request for City Council Action to award a contract was considered as a means to reduce project delays while allowing for Council review of the Contractor. However, contractors have historically been unwilling to purchase insurance and bonds prior to being awarded a contract by City Council. Without insurance and bonds, a written contract cannot be processed to completion. It should also be noted that this 2 month delay would cause the apparent low bidder to have to maintain their bid for that period of time utilizing their bond capacity and risking material and other cost increases.

### **Option 2**

Option 2 is similar to Option 1 by offering an opportunity for City Council to provide input to the contractor selection process by having City staff return to Council for contract award after the apparent low-bidder has been identified. Unlike Option 1, City Council would not be asked to approve the plans and specifications prior to bidding. Instead, this authorization would be requested after bid-opening. Option 2 requires a policy change giving the City Manager authority to approve plans and specifications on all public works projects. Option 2 would also result in project delays of 2 months (see graph 1) because of City staff's inability to process the contract documents simultaneously (similar to Option 1) with the same possible consequences.

### **Graph 1**

It should be noted that current policy does not allow City Council to determine which contractor to award a public works contract. City staff are required to evaluate bids and determine the lowest responsible and reliable bidder. Under current policy, City Council may only vote to award a public works contract to the lowest responsive bidder as determined by the City Manager or cancel the public works contract. Review and input to processing of public works contracts are described in the Municipal Code 22.3102 "Public Works Required to be Competitively Awarded" (Attachment A) and City Charter, Article VII, Section 94. These documents provide direction to City staff and define the role of City Council.

City staff are also addressing the aforementioned concerns through policy and procedural changes in the Capital Improvement Program process. On May 1, 2002, the Land Use and

Housing Committee will be presented with an updated proposed Pre-Qualification Program, changes to the debarment ordinance, and a revised contractor evaluation form and evaluation process.

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## CONCLUSION

The current process for approving plans and specifications and awarding public works contracts appears to be the most timely and efficient. This process does not allow the City Council to provide input to an apparent low-bidder prior to contract award. Requiring City staff to return to City Council for contract award after an apparent low-bidder has been identified is prohibitive given the amount of time required.

ALTERNATIVE(S)

1. Direct the City Manager to implement "Option 1" of this report. If approved, an increase in processing time of 2 months per project would result.
  2. Direct the City Manager to implement "Option 2" of this report. If approved, an increase in processing time of 2 months per project would result..
- Respectfully submitted,

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Attachments: 1. Municipal Code 22.3102, Public Works Required to be Competitively Awarded

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Attachment 1

San Diego Municipal Code

Chapter 2: Government

22.3102

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Public Works Contracts Required to be Competitively Awarded

- (a) If a Public Works Contract provides for an expenditure of equal to or less than \$50,000, and if the City seeks competitive prices either orally or in writing and the City Manager has taken those prices under consideration before the Public Works Contract is awarded, the City Manager may award the contract without advertising.
  
- (b) If a public works project was previously approved and appropriated through the Annual Capital Improvements Program (CIP) budget, the City Manager may award the contract provided that the following are met:
  - (1)the Public Works Contract has been advertised as described in Section 22.3006; and
  
  - (2)the Public Works Contract is in writing; and
  
  - (3)the Public Works Contract provides for an expenditure of greater than \$50,000, but less than \$1,000,000.
  
- (c) All Public Works Contracts not falling within Section 22.3102(a) and 22.3102(b) shall be awarded by the City Council provided that all of the following are met:
  - (1)the Public Works Contract has been advertised as described in Section 22.3006; and
  
  - (2)the Public Works Contract is in writing; and
  
  - (3)the Public Works Contract provides for an expenditure of greater than \$50,000; and
  
  - (4)the City Council authorizes the necessary expenditure of funds for the Public Works Contract and authorizes the City Manager to execute the contract

(“Public Works Contracts Required to be Competitively Awarded” added 6-29-1998 by Q-18532 N.S)