



THE CITY OF SAN DIEGO

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## OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

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# CIP Streamlining and Contracting Improvements

## OVERVIEW

On November 2, 2011 Public Works staff presented to the Budget & Finance Committee (B&FC) an overview of suggested Capital Improvement Program (CIP) Streamlining and Contracting Improvements. These improvements included:

- Increase the threshold for various contracts and agreements;
- Modify the Municipal Code to allow for Multiple Award Construction Contracts;
- Modify the Land Development Code as it relates to Site Development Permits for CIP projects;
- Reconcile Council Policies 600-24 and 600-33 as they relate to park projects;
- Authorize automatic transfers of project savings at project completion to other Capital Improvements projects.

Based on the presentation, the B&FC directed staff and the City Attorney to return to the Committee with the Council Policy and Municipal Code changes required to implement the proposed contracting improvements. In addition, staff was also directed to incorporate recommendations made by the Independent Budget Analyst (IBA) and Councilmember Lightner. At the January 25, 2012 B&FC meeting, staff will be bringing forward the items requested at the November 2, 2012 B&FC committee and also an additional change to the Municipal Code to clarify the City's Bid Protest Process. It should be noted that the modifications to the Land Development Code will be coming forward at a later date.

If approved, the streamlining and contracting measures would significantly change how CIP projects are approved resulting in fewer opportunities for the Council to review projects before the awarding of contracts. If approved, staff states that these changes could result in a minimum savings of three months from the time of bid of a project to the award of the contract. In addition, staff states that these changes would result in increased capacity for the Public Works

department which could be used for additional deferred capital projects and CIP transparency efforts.

## FISCAL/POLICY DISCUSSION

The City of San Diego’s CIP Program includes 900 projects and \$7.2 billion in prior (\$3.5 billion), current (\$208 million), and future year funding (\$3.5 billion). Timely project delivery is essential to ensuring that the City’s assets are repaired and replaced and that funding is allocated to meet these goals. As discussed above, Public Works staff is proposing multiple policy changes to streamline the City’s CIP and Contracting processes. The following sections discuss the proposed changes and include recommendations from the IBA for B&FC consideration.

### **Increase of City Council Approval Thresholds**

The core component to the Mayor’s streamlining proposal is the increase of Council approval thresholds for the award of various types of contacts and agreements. The following table reflects the current and proposed threshold levels for the various contracts and agreements that are proposed to be changed. In addition, Attachment 1 to this report compares the City of San Diego’s current/proposed threshold with other municipal governments.

Type of Contract	Current Threshold	Recommended Threshold
Public Works Projects (Contract Amounts)	\$1,000,000	\$30,000,000
CIP Related Consultant Agreements	\$250,000	\$1,000,000
Public Works Projects (Change Order)	\$200,000	\$500,000
Public Works Projects – GRC (Job Order) Tasks	\$500,000	\$1,000,000

### **Public Works Projects Approval Process and Proposed Threshold Changes**

Under the current process, information on the City’s 900 CIP projects, including project cost and revenue source(s) are included in the Annual CIP Budget document (Volume III). The Annual CIP Budget document is approved as part of the annual budget process. For projects under \$1.0 million, the Mayor has the authority to award contracts. Projects above \$1.0 million require City Council approval before the Mayor can award and execute a contract. Before being heard at the City Council, CIP projects are generally heard at a Council Committee. In some cases, based on discussions with the Public Works/Utilities staff, the Committee Chair, and the Council President’s Office, a project is direct-docketed to the City Council. As noted by the City Auditor in their June 2011 audit of the Capital Improvement Program, it takes an average of 90 days to obtain Council approval for a project.

Typically the actions requested of the Committee and ultimately the City Council is to authorize the Mayor or his designee to award and execute a construction contract to the lowest responsible and reliable bidder. Examples of information provided as backup to the Committee and the Council via a report from staff include a background on the project, total funding and source, and Equal Opportunity Contracting information including goals related to City programs such as the Small Local Business Enterprise (SLBE) program. In developing this report, our office

reviewed the number of CIP related action items (including second readings) that went to the Council for approval in calendar year 2011. Of the 89 CIP related items (Project Award, Consultant Agreements, and second readings) that were docketed at Council for approval, 11 were included on the discussion agenda and 78 items were on the consent agenda.

The proposed streamlining process would increase the approval threshold for Public Works Projects to \$30 million **provided that the project had been previously approved and appropriated through the Annual CIP budget** (An exception to this proposal would be if a project was not appropriated in the Annual CIP budget then it would need Council approval to proceed). Projects exceeding \$30 million, regardless of previously being appropriated through the annual CIP budget, would need to return to the Council for final approval to award the contract. To give context to the impacts of changing the threshold, the following table provides Cost Range and number of projects awarded over the last three calendar years segmented by the number of projects that did not require Council approval (<\$1.0 million) and those that did (> \$1.0 million). As can be seen by the chart below, by increasing the threshold to \$30 million none of the 256 projects awarded over the last three years would have required additional Council approval to award the contract.

Project Cost Range	Number*	%	Project Examples
\$0-250K	72	28.13%	\$193,626 - Street Lighting System on University Avenue
\$250K-500K	47	18.36%	\$371,116 - Ransom Street & Darwin Way Storm Drain Replacement
\$500K-1.0M	34	13.28%	\$796,000 - Language Academy Joint Use Improvements
<b>Sub-Total:</b>	<b>153</b>	<b>59.77%</b>	
\$1.0M-5.0M	92	35.94%	\$1.47 million - Torrey Pines/La Jolla Water Main Replacement
\$5.0M-10.0M	6	2.34%	\$9.0 million - Asphalt Overlay Group 1 FY 10
\$10.0M-20M	4	1.56%	\$11.7 million - South Mission Valley Trunk Sewer
\$20M+	1	0.39%	\$20.5 million - Point Loma Waste Water Treatment Plant Grit Processing Improvement
<b>Sub-Total:</b>	<b>103</b>	<b>40.23%</b>	
<b>Total Projects</b>	<b>256</b>	<b>100.00%</b>	

\*Based on information provided by Public Works staff

If the threshold for public works projects is increased to \$30 million, the Annual CIP document will become the guiding policy document for the awarding of projects. In its current form, the Annual CIP document includes close to 900 projects in various stages. Some projects could be in the planning, construction, or completed stages or could be on hold. As our office noted in our comments to the B&FC on November 2, 2011, using the current Annual CIP budget document to ascertain which projects are ready for bid and award can be very difficult. In response to this concern, staff is proposing as part of the CIP transparency measures to include a summarized list of projects in the Annual CIP document that would include new projects added to the budget, projects targeted for award during that fiscal year, and a list of unfunded or underfunded proposed projects to receive funds from future project savings. By approving the Annual CIP budget document (and the summarized list of projects to be awarded during that

fiscal year), the Council is approving the Mayor to move forward with bidding and awarding the projects for that fiscal year. However, we would note that it is unclear if there will be an opportunity for the Council to pull projects of particular interest during the annual budget hearings from the summarized list of projects and require that these select projects come back for final approval prior to awarding the contract. This authority might already be inherent in Council's budget approval authority but this should be confirmed by the City Attorney's Office.

We would also note that certain types of projects included in the Annual CIP budget document are at a very high level and lack specific details on what will be completed during the fiscal year. An example is the Resurfacing of City Streets Project (Project AID0005, Page 774 of the Fiscal Year 2012 Annual CIP budget document). The project page included in the current CIP budget document does not include information on what specific streets will be resurfaced during the fiscal year. Under the current process, this information is shared with Council prior to contracts coming forward for final approval. It is unclear under the new process how this information will be shared with Council enabling them to provide input on the streets that have been selected prior to approval of these types of projects via the budget document. In addition, we would note that the CIP budget document does include information on the impacts of the project to the operating budget (General Fund, Water, Sewer, etc.) but this information is usually a preliminary projection. More specific information on the impacts to the operating budget is often included in the backup information provided to Council at the time the project goes to committee and Council for approval. It is unclear if staff plans to include more definitive operating budget impacts in future CIP documents.

To keep the Council and the public informed on the status of projects throughout the fiscal year, staff is proposing to implement a CIP website that will include pertinent information such as schedules, progress, financing, and Equal Opportunity participation. In addition, staff is proposing to implement a "Council Notification" system that will inform Council of advertised projects and also when they have been awarded. This system will also include Equal Opportunity Program goals and results. Staff has stated that the implementation of these programs will occur in the fall of 2012. Until the website and the notification system goes live, staff will be providing hard and electronic copies of the reports. We would also note that no implementation timeline for the CIP transparency measures was included in staff's January 25, 2012 report to the BF&C. The CIP transparency measures are an essential component to the streamlining process that will enable the Council and the public to provide oversight of the program. These measures should be in place at the same time that the new threshold levels take effect.

***Based on our review of the streamlining proposal to increase the threshold for Public Works Projects we recommend the following:***

- ***The B&FC confirm with the City Attorney's office that the Council has the authority to pull projects of particular interest from the summarized project list and have staff return to Council at a later date for final approval prior to awarding the contract. This should also be clarified for consultant contracts.***
- ***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 budget document be provided for Council review.***

- *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.*
- *Sufficient operating budget impacts will be included in the annual CIP document.*
- *That an implementation timeline for the CIP Transparency measures is included as part of the backup material when the streamlining proposal moves forward to Council.*
- *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.*

### **Consultant Agreements for Public Works Projects**

Under the current process, the Mayor has the authority to let contracts for consultants up to \$250,000. Any contract over \$250,000 requires City Council approval. The process for approval of consultant contracts is similar to that for Public Works projects as discussed above. The significant difference from the Public Works projects is that Council is approving the agreement with the consultant. As a result, the Council is made aware of the specific consulting firm that is being awarded the contract. Another significant difference from the Public Works project process is that a specific list of consultants is not included in the annual budget documents.

The proposed streamlining proposal would increase the threshold for consultants for public works projects to \$1.0 million with the following caveats:

- The public works project was previously approved and appropriated through the annual capital improvements program budget; and
- The annual CIP budget is the source of funding for the consultant contract; and
- The consultant contract and any subsequent amendments cumulatively do not exceed \$1.0 million; and
- The total amount of contract awards to the consultant, including the current award, does not exceed \$1.0 in any given fiscal year.

The following table provides, by Cost Range, the number of Architectural & Engineering consultant contracts awarded during fiscal year 2011 segmented by the number of projects that did not require Council approval (<\$250,000) and those that did (> \$250,000). As shown, by increasing the threshold to \$1.0 million, ten Architectural & Engineering consultant contracts would not have required City Council approval. It should be noted that this example uses Architectural & Engineering consultant contracts as detailed on the Purchasing and Contract Department's website, but the streamlining proposal language is "Consultants for public works projects". What specific types of consultant contracts fall under this category needs to be clarified.

Architectural & Engineering Cost Range	Number	%	Consultant Example
\$0-250K	16	51.61%	\$160,100 - Architectual Services For Fire Station 22 (Amendment)
<b>Sub-Total:</b>	<b>16</b>	<b>51.61%</b>	
\$250K-500K	6	19.35%	\$409,000 - Montgomery Field Airport Runway Rehab
\$500K-1.0M	4	12.90%	\$718,300 - Cooperative Agreement with Caltrans - Cabrillo Street Bridge (Amendment)
\$1.0M-5.0M	4	12.90%	\$2.4 million - Construction Management Services for Waste Water Treatment Plant Grit Processing Improvement
\$5.0M-10.0M	1	3.23%	\$5.5 million - Tucker Sadler Architects - SD New Main Library (Amendment)
<b>Sub-Total:</b>	<b>15</b>	<b>48.39%</b>	
<b>Total Projects</b>	<b>31</b>	<b>100.00%</b>	

*Based on our review of the streamlining proposal to increase to the threshold for Consultants agreement for Public Works Projects we recommend the following:*

- *Define in the Municipal Code what specific types of consultant contracts would fall under “Consultant Agreements for Public Works Contracts”.*
- *Define how and the type of information for Consultant agreements for Public Works Projects will be presented in the annual budget document for Council to review prior to awarding. This information should be included in a Council policy.*

**Threshold Changes to Change Order Limits and Job Order Contracting Tasks**

The IBA has reviewed the proposed threshold changes for Change Orders (Increase from \$200,000 to \$500,000) and Job Order Contracting task orders (increase from \$500,000 to \$1.0 million) and our office does not have significant concerns. For both Change Orders and Job Order Task, staff has stated that the last adjustment to the thresholds was in 1998. For comparison purposes, the IBA inflated the current thresholds for Change and Job Task Orders by 2.44%, which is the Average CPI increase over the last fourteen years (1998-2012). Based on these calculations, the threshold for Change Orders would be an estimated \$280,000 and for Job Orders it would be an estimated \$700,000. We would note that staff’s January 25, 2012 report does not specifically mention how Council will be notified of Change Orders and the awarding of Job Order Tasks. How this information will be disseminated to Council should be clarified prior to approval of any threshold changes to Change Orders and Job Order Tasks.

*Based on our review of the streamlining proposal to increase the thresholds for Change Order Limits and Job Order Contracting Tasks the IBA would recommend:*

- *The B&FC clarify how Council will be notified of Change Orders and the awarding of Job Order Tasks. This information should be included in a Council Policy.*

**Other Options to Consider Regarding the Changing of Thresholds**

If concerns exist regarding the implementation of higher thresholds the B&FC could consider the following options:

- Increase the threshold to \$10.0 million or \$20.0 million which would continue to require the most substantial projects to come before the Council prior to the contract award. The weakness with this proposal is that the cost of a project is not necessarily an indication of community interest.
- Require **non-routine** community facilities such as libraries, regional parks, fire stations, police projects, and recreation centers to come back to the Council for final approval prior to awarding the contract. Justification for this would be that there could be high community interest as well as the facility’s operating budget impacts on the General Fund. If the City is facing a revenue shortfall several months after the CIP budget is approved, the Council may wish to delay a new project that carries new operating costs. This would also give the public a second opportunity to comment on a project (the first is the budget hearings).
- The Committee might also want to explore including a sunset provision on the threshold increases that would require Council to review and approve the changes at a set date in the future. A possible timeframe could be having the threshold increases return in two years from the implementation date. This would allow for implementation of the various CIP transparency measures and also takes into account the change in administrations.

**Multiple Award Construction Contracts**

The Multiple Award Construction Contracts (MACC) is a variation of the Design Build Public Works Construction Contract. It is a contract awarded as a result of a single solicitation that results in the awards of task orders to multiple contractors. The Mayor is proposing a MACC for a period of up to three years of competition for the task orders. The contracts may continue for a period longer than three years but if only necessary to complete the outstanding task order. A task order may not exceed \$10 million without City Council approval. The cumulative amount of the task order may not exceed \$100 million.

For comparison purposes, the following chart details common contract types awarded over the last three fiscal years and the average award amount per type.

<b>Job Type</b>	<b>Three Year Total (Millions)</b>	<b>Average Award Total</b>
Water Groups*	\$51.5	\$2,339,816
Sewer/Water Groups*	\$40.1	\$2,228,970
Sewer Groups*	\$30.4	\$1,322,816
Slurry Seal (Streets)	\$10.9	\$996,157
Asphalt Overlay	\$10.8	\$2,152,746
Sidewalk Replacement	\$5.8	\$531,456

\*The combined total amount awarded for Water, Sewer/Water, and Sewer Groups is \$122.0 million

It should be noted that although the chart reflects the average award amount for each contract is under \$10 million, some of the project awards were over that amount. In addition, as noted in the footnote in the chart above, the cumulative number for Sewer/Water group jobs is \$122 million. Based on the three-year history of common contract type awards and average award amount per type, it is unclear why staff is asking for a task order threshold that seems to be substantially higher than what has been historically approved.

We would also note that in doing research for this report the IBA was not able to find another Municipal government or organization that is currently using the MACC program. Many of the public works staff from other cities and organizations that we surveyed for Attachment II to this report were familiar with the system but are not currently using.

On January 19, 2012 Public Works staff presented to the Citizens Equal Opportunity Commission (CEOC) an overview of the proposed streamlining changes including the implementation of the MACC program and its impact on the City's Equal Opportunity Contracting (EOC) program. In addition, the City's Equal Opportunity Contracting staff discussed how the EOC program would operate under the new streamlining measures including the MACC program. EOC staff stated that the Equal Opportunity Contracting Process (EOCP) will remain in place and that they will be participating in the development of the MACC program and its implementation. It was also reported to the CEOC that Public Works staff will provide monthly reports to the Commission related to EOC. ***The IBA would recommend that 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.***

### **Other Streamlining Measures Proposed by Staff**

As noted in the introduction section of this report, staff is proposing a number of other streamlining measures including the authorization to acquire necessary property interests related to Public Works projects; reconcile Council Policies 600-24 and 600-33 as they relate to park projects; Authorize Mayoral approval to transfer project savings at project completion to other projects (This would be part of the FY 2013 Budget process); and Modification of the Bid Protest Process for clarification. The IBA has reviewed these measures and has no significant concerns. However, we would note the following item that will need clarification by the B&FC:


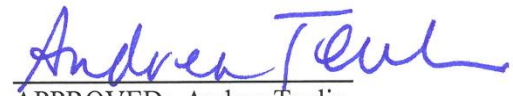
#### **Easement/Land Acquisitions**

On pages 2-3 of staff's January 25, 2012 report, they note that when a project budget is approved by Council with a portion of the funding reserved for property acquisition, staff should be authorized to acquire the necessary property interest without Council approval as long as the acquisition is accomplished at or below the amount allocated in the budget. However, on page 7 of the report under Immediate Committee Actions, the request is to "Adjust current approval thresholds and add an additional threshold for the acquisition of Easements." The information included in the body of the January 25, 2012 report and the requested action is inconsistent. The B&FC should clarify with staff if they are requesting an increase in the threshold for easements/land acquisitions. In addition, if the authorization to approve the acquisition of property is assumed with the approval of the project budgets during the budget process, we would note that the specific request for

action or detailed information on the property is not included in the Annual CIP budget documents project pages.

## CONCLUSION

If approved, the streamlining and contracting measures would significantly change how CIP projects are approved, resulting in fewer opportunities for the Council to review projects before the awarding of contracts. However, if approved, staff states that these changes could result in a minimum savings of three months from the time of bid of a project to the award of the contract. In addition, staff states that these changes would result in increased capacity for the Public Works department, which could be used for additional deferred capital projects and CIP transparency efforts. Our office has reviewed the proposed changes and has included a number of recommendations for B&FC consideration. We have summarized these recommendations in Attachment II to this report.

  
Jeff Sturak  
Deputy Director  
APPROVED: Andrea Tevlin  
Independent Budget Analyst

### Attachments:

- I. Municipal Government/Organization Threshold Comparison
- II. IBA Recommendations for the CIP Streamlining Measures