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**Managed Competition**

**Pre-competition Assessment Report**

Public Works, Transportation & Storm Water, Environmental Services,  
Public Utilities Departments:

Capital Improvement Program Delivery

July 18, 2012

The Pre-competition Assessment Report was prepared in accordance with the Managed Competition Guide dated July 26, 2010. The report was prepared by the Business Office with assistance from subject matter experts from the Public Works, Environmental Services, Public Utilities, Transportation & Storm Water, and the Office of the City Attorney Departments.

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## **I. INTRODUCTION**

Managed competition is a structured, transparent process that allows public sector employees to be openly and fairly compared with independent contractors for the right to deliver services. This strategy recognizes the high quality and potential of public sector employees and seeks to tap their creativity, experience, and resourcefulness by giving them the opportunity to structure organizations and processes in ways similar to best practices in competitive businesses, yet still compatible with public sector realities.

The first step in managed competition is to conduct a Pre-competition Assessment (PCA) to evaluate whether a function is eligible and appropriate for competition. The purpose of this report is to document the PCA of the City of San Diego's Capital Improvement Program (CIP) Delivery function.

## **II. OVERVIEW OF FUNCTION**

### **A. Definition**

The City's Capital Improvement Program encompasses a wide range of projects administered by a number of departments and funded from a variety of sources, as outlined in Volume III of the City of San Diego's Fiscal Year 2013 Proposed Budget (p. 27):

In accordance with the City's budget policy (City Council Policy 000-02), CIP descriptions clearly establish that a project is capital in nature. Projects include, but are not limited to, the construction, purchase, or major renovation of buildings, utility systems, and other facilities; in addition to land acquisition and roadway projects. Each capital project is represented by a City department and categorized by project type and improvement type.

Funding for the CIP is programmed from a variety of sources, such as: sewer and water fees, a one half-cent local sales tax for transportation improvements, development impact fees, facility benefit assessments, private donations, the sale of City-owned property, and State and federal grants. Financing in the form of bonds may be utilized for large and/or costly projects, and deferred capital project needs.

For the purposes of this competition, CIP is defined as projects for physical assets, and excludes capital projects related to software and information technology infrastructure. Implementation of information technology infrastructure projects typically involves different skill sets, processes, and types of independent contractors than does the delivery of "brick and mortar" capital projects. By limiting the scope in this way the City can efficiently characterize project delivery processes currently used across a number of City departments, and in a manner that is comparable to services provided by private firms.

CIP projects are typically conceived of, and requested by, staff in City departments and programs who identify funding for the projects as well as the ongoing operations and maintenance costs for the projects after they are completed. Staff in these client departments and programs rely on the expertise of the City's CIP Delivery service provider, the Public Works-Engineering & Capital

Projects (PW-E&CP) Department, to move the project from a concept, through construction, and to completion. The City uses a few different CIP Delivery methods to complete a project depending upon the specific needs that have been identified, that include all or some of the following service areas:

1. Pre-Design – after projects are conceived of by a client department, the City Council, or the public, they are brought to Engineering & Capital Projects staff to determine whether the project is appropriately defined as a capital improvement, and to determine the scope of work and the projected cost. PW-E&CP staff work with client departments and the Mayor’s Capital Improvements Program Review and Advisory Committee (CIPRAC) to prioritize and approve projects for Council consideration. A client department will identify the funding source for the project, although PW-E&CP staff may work to secure funding if the project request comes from the City Council or the community. When a client is interested in pursuing a project after an initial consultation, the scope of work and projected costs are further refined.
2. Design – this service area provides further and agreed upon refinement of the scope, budget, and schedule, and moves into creating project construction plans, applying for the appropriate permits, acquiring land, conducting community outreach, awarding contracts, and developing the contract documents for design services. A limited number of hours of design work connected to the civil engineering of specific asset types such as storm drains, small diameter water mains, sewer mains, and streets are currently performed by PW-E&CP staff and are considered within the scope of this competition, while design involving other engineering disciplines (geotechnical, biological, structural, etc.) is generally subcontracted.
3. Bid/Award – the bid process from advertising the opportunity to awarding the bid.
4. Construction Management – oversight of the construction process after the bid is awarded (the actual construction work is considered outside of the scope of this competition), including providing updates to CIPRAC and to the City’s public web site.
5. Project Close-out – all work related to the completion of the project including warranty work, producing as-built records, and working with the Comptroller’s Office in capitalizing the asset.

Some of the oversight and approval work currently performed by the City Engineer and key staff members will remain the purview of the City regardless of the outcome of this managed competition. The City of San Diego will continue to define which projects will be undertaken, the priority of those projects, how to fund them, and the changes made to those projects once underway, regardless of who is providing the CIP Delivery services. City staff will also continue to Program Manage all CIP projects receiving State and federal funding in order to comply with State or federal procurement requirements that do not allow for the consideration of costs, as discussed in further detail in the Legal Limitations section below. City staff will also continue to approve all engineering standards and standard operating procedures documents, as well as award contracts for construction, outsourced design/engineering services, and furnishings and equipment that have been procured by the selected service provider as outlined in the Scope of Work and Grouping of Tasks and Activities section below.

The five service areas of CIP Delivery as outlined above are currently performed by staff in the City's PW-E&CP Department. The overall scope of this competition was determined by reviewing the work associated with CIP Delivery, noting how the activities that fall within the five service areas of CIP Delivery as outlined above could be bundled together, and conducting market research to determine whether or not bundling services in this way is reflective of services provided by the existing CIP Delivery market. The information reviewed as part of this determination is discussed in further detail in the Scope of Work and Grouping of Tasks and Activities, and Availability of Alternatives sections below.

## **B. Background**

The City's CIP Delivery function was part of a Business Process Reengineering (BPR) study initiated in July 2006 that included a comprehensive assessment of engineering core functions and processes that at that time were spread among various City departments. Over a six month period, the Engineering BPR team of more than 100 City employees examined the existing processes across the varied engineering functions performed throughout the City of San Diego. The detailed process review was completed for five major functions performed by engineering personnel (asset planning, design, construction, development support, and operations and maintenance) over five asset classes (pipelines, buildings, parks/non-buildings, transportation/roadways, and process facilities like water and sewer treatment plants, pump stations, and reservoirs). The BPR team developed a new consolidated organization structure with an innovative matrix organization and streamlined processes.

The Engineering BPR study resulted in a reorganization that consolidated most engineering services and support into the Engineering & Capital Projects (E&CP) Department that in fiscal year 2012 became the Engineering & Capital Projects branch of the Public Works Department. The Engineering BPR was fully implemented in January 2008 and the department has indicated that since that time performance standards for City projects have improved, resulting in reduced costs and better coordination and implementation of the Capital Improvement Program.

The City of San Diego's Environmental Services (ESD), Public Utilities (PUD), and Transportation & Storm Water (T&SW) Departments also perform some CIP Delivery activities (project and construction management, regulatory compliance, and strategic planning) as part of their Landfill Monitoring and Maintenance (LMM); Environmental and Canyon Access and Energy Management; and Pavement Management Program functions, respectively. These activities have been determined as outside of the scope of this competition however, due to the small number of staff involved in CIP Delivery in these departments: **Redacted** full time equivalent positions in ESD, **Redacted** full time equivalent positions in PUD, and **Redacted** full time equivalent positions in T&SW. Much of the LMM staff were also considered out-of-scope from the landfill competition as the highly regulated environment in which the LMM function operates coupled with the small amount of City staff that run it, meant that the potential risks associated with the function were considered high, and the economic benefit of competing this function was considered low.

## **C. CIP Delivery Organizations**

PW-E&CP provides Capital Improvement Program Delivery services to multiple client programs and departments: Airports, Community Development Block Grants, Disability Services, Development Services Department's Facilities Financing, Fire & Rescue, Library, Park & Recreation, Police, Public Utilities, and Transportation & Storm Water Department's Transportation Engineering section. A description of the CIP Delivery services provided by each PW-E&CP division is listed below.

The Public Works Department is a reorganized department in Fiscal Year 2012, and is composed of the former Engineering & Capital Projects and portions of the General Services Departments as well as a Contracting Group (in Fiscal Year 2013). PW-E&CP provides a full range of engineering services for the City's capital investment in its various types of infrastructure. The Department is composed of five divisions, all of which are directly or indirectly involved in one or more of the service areas of CIP Delivery, as outlined below:

*Architectural Engineering & Parks* manages the implementation of non-right-of-way and vertical capital improvement projects. Division responsibilities are part of all CIP Delivery service areas, and include the design and project management of public buildings, parks, recreation facilities, airport-related projects, water and sewer treatment plants, reservoirs, major right of way pipeline projects, and pump station projects. Staff in this Division also provide monitoring and contract development services for the development agreements with school districts and non-profit groups.

*Field Engineering* staff provide quality control/quality assurance inspections, overall construction management, and construction surveying and materials testing services under the Construction service area of CIP Delivery. This Division's responsibilities include, but are not limited to, the following tasks: general oversight of the construction process, contract and change order administration, inspection services, and compiling warranty and operations and maintenance information. Field Engineering also includes the Materials Testing Laboratory whose staff perform material sampling, testing, and evaluation, as well as the oversight of developer-built projects and subdivisions, and the Land Surveying Section whose staff provides services during project design and construction.

*Project Implementation and Technical Services (PITS)* provides centralized technical, operational, and project support services to the other functions within the Department, as well as other departments in the City. This work is part of the Pre-Design, Design, and Bid/Award service areas of CIP Delivery, and tasks include: preliminary engineering, project controls, CIP fund management, Americans with Disabilities Act (ADA) compliance review for CIP projects, quality control and standards, environmental and permitting assistance, community outreach, information technology, contract processing, and the contractor prequalification program. In Fiscal Year 2013 PITS will also include the Business Support Services (BSS) group whose staff provides administrative and operating budget support for the PW-E&CP Department. Staff in BSS provide support for those who perform CIP Delivery work and are therefore a part of this competition assessment.

*Right-of-Way Design* staff manage the implementation of right-of-way and related (primarily) horizontal capital improvement projects including bridges, storm drains, water quality facilities,

slope stabilization, water and sewer pipelines and facilities, roadway realignments, ADA improvements, traffic signals, streetlights, traffic calming, and bicycle facilities, and participate in all CIP Delivery service areas. Services provided by this Division include preliminary engineering work; development of project schedules; the design and development of construction plan specifications and estimates; participating in the advertising, development, and awarding of construction contracts; construction management support; and project close-out.

*Contracting Group* is a new Division of Public Works that is involved in the Bid/Award service area of CIP Delivery. Division staff coordinate the advertising, selection, and awarding of CIP contracts, a process that includes but is not limited to, the following services: procuring engineering and other professional service providers, evaluating bids received, processing bonds/insurance, executing contracts, and ensuring that all contracts are in compliance with Equal Opportunity Contracting (EOC) requirements. This Division was previously part of the Purchasing and Contracting Department.

**D. Sizing of the function**

CIP Delivery is performed by **Redacted** Full Time Equivalent (FTE) positions budgeted in the PW-E&CP Department. The budgeted fiscal year 2012 staffing levels and job classifications for CIP Delivery are displayed in Table 1 below.

Job Title	PW-E&CP and Contracting
Account Clerk	
Administrative Aide 1	
Administrative Aide 2	
Assistant Department Director – City Engineer	
Assistant Engineer-Civil <sup>1</sup>	
Assistant Engineer-Electrical	
Assistant Engineer-Traffic	
Associate Engineer-Civil <sup>2</sup>	
Associate Engineer-Electrical	
Associate Engineer-Mechanical	
Associate Engineer-Traffic	
Associate Management Analyst	
Associate Planner	
Biologist 3	
Clerical Assistant 2	
Contracts Processing Clerk	

**Redacted to Preserve a Level Playing Field in Competition**

<sup>1</sup> Includes **Redacted** Assistant Engineer-Civil positions that work as Contract Specialists.

<sup>2</sup> Includes **Redacted** Associate Engineer-Civil positions that work as Senior Contract Specialists.

Job Title	PW-E&CP and Contracting
Deputy Director	
Junior Engineer-Civil	
Junior Engineering Aide	
Land Surveying Assistant	
Land Surveying Associate	
Management Intern	
Park Designer	
Payroll Specialist 2	
Principal Engineering Aide	
Principal Survey Aide	
Principal Traffic Engineering Aide	
Program Manager	
Project Assistant	
Project Officer 1	
Project Officer 2	
Public Information Officer	
Senior Account Clerk	
Senior Civil Engineer <sup>3</sup>	
Senior Civil Engineer-Hourly	
Senior Clerk/Typist	
Senior Drafting Aide-Hourly	
Senior Engineering Aide	
Senior Engineering Geologist	
Senior Land Surveyor	
Senior Management Analyst	
Senior Planner	
Senior Public Information Officer	
Senior Survey Aide	
Senior Traffic Engineer	
Student Engineer-Hourly	
Supervising Management Analyst	
Word Processing Operator	
<b>Total</b>	

**Redacted to Preserve a Level  
Playing Field in Competition**

Table 1: CIP Delivery Staffing<sup>4</sup>

<sup>3</sup> Includes **Redacted** Senior Civil Engineer positions that work as Principal Contract Specialists.

<sup>4</sup> Source: City of San Diego SAP

Staff in PW-E&CP perform a variety of tasks related to CIP Delivery. These tasks are described in relation to the five CIP Delivery service areas in the section below.

**E. Scope of Work and Grouping of Tasks and Activities**

A critical step of the PCA process involves “scoping and grouping,” defining the activities and tasks that compose a function and determining whether they are suitable for competitive procurement together, individually, or not at all. In this report CIP Delivery tasks have been grouped into five service areas that describe different phases of program delivery. A high-level Work Breakdown Structure (WBS) for this managed competition is provided in Table 2. This table reflects the range of services associated with the function, although certain activities may be excluded from the competition, as noted in this Pre-Competition Assessment.

<b>CIP Delivery Service Areas</b>	<b>Description</b>
<b>Pre-Design</b>	When a client department initiates a project request, staff initiate project development and scoping including providing an initial determination for the contract delivery method, coordinate project requirements with other departments and Council offices, create the CIP (establishes the project within the City’s SAP system, allocates funds, etc.), and perform preliminary engineering work that may include, but is not limited to: identifying project permitting needs, developing a project charter, ADA compliance and review, community outreach work, developing a baseline schedule and preliminary scope of work and project estimate, and conducting a conflict check against the City’s current or known future capital improvement projects.
<b>Design</b>	The scope of design services includes a limited amount of hours of design work related to the civil engineering of specific asset types (i.e., storm drains, small diameter water mains, sewer mains, and streets) in addition to the contract management of consultants performing design services that draw on other areas of engineering expertise or civil engineering work that exceeds the in-scope capacity. Some examples of design work includes the development of project construction plans, specifications, and estimates; managing the design consultant; coordinating with utilities, agencies, and stakeholders; coordinating community outreach/approval; securing land acquisition, permits, and agency agreements; producing, or obtaining and reviewing, the project final cost estimate and schedule; and obtaining project authorization and funding from City Council.
<b>Bid/Award</b>	Bid/Award services include administering the City’s Contractor Pre-qualification Program as well as any tasks associated with the advertisement, bid, evaluation, and proposed award of construction contracts, such as assembling the bid packages, providing online services, maintaining the City’s engineering standards documents including Standard Operating Procedures, determining the lowest responsible and reliable bidder, assembling the contract package and routing to Council if appropriate, procuring engineering and other professional service providers, and ensuring that contracts meet the applicable EOC Program requirements. Awarding contracts will remain the purview of City staff however, and is considered outside of the scope of this proposed competition.

<b>CIP Delivery Service Areas</b>	<b>Description</b>
<b>Construction</b>	Construction management services include oversight of the construction process and all contract and change order administration. Some examples of specific tasks performed include: material sampling, testing, and resolution; field inspections of work in progress; preparing daily reports and working day statements; reviewing change order requests; reviewing invoices for payment authorization; and filing the Notice of Completion.
<b>Project Close-out</b>	Project close-out services include compiling warranty and operations and maintenance information for the appropriate client department, environmental monitoring, and providing all of the necessary close-out and capitalization services including the final accounting of project changes and expenditures for the Comptroller’s office.

Table 2: Work Breakdown Structure

In summary, each of the five service areas outlined in Table 2 contains activities connected to different aspects of a capital improvement project and to the entire capital improvement program. While staff may participate in work performed in more than one service area or work in different service areas may occur concurrently, each of these five service areas include milestones and outcomes that when completed signal a change in the type of project work being performed (i.e., design or construction). Work considered to be outside of the scope of this proposed competition includes design work other than a limited number of hours of the civil engineering of specific asset types as outlined in Table 2 above, the approval of engineering standards and standard operating procedures documents, and the awarding of goods and services contracts procured by the selected service provider. Program Management services for CIP projects funded by State or federal agencies also fall outside of the scope of this proposed competition, as outlined in the Legal Limitations section below.

**III. ANALYSIS OF ELIGIBILITY AND APPROPRIATENESS FOR COMPETITION**

The PCA report should evaluate the eligibility and appropriateness for competition according to the following criteria:

- Inherently Governmental Determination – Is the function inherently governmental or is the task “so intimately related to the exercise of the public interest as to mandate performance by City personnel”?
- Legal Limitations – Are there are legal restrictions regarding a function, activity, or task being competitively procured?
- Availability of Alternatives – Does a sufficient market exist and would the City be likely to receive at least two proposals?
- Efficiency & Economic Gain – Could savings be achieved through competitive procurement?
- Risks to Competition – Are there risks to competition (including service interruption, financial liability, and damage to public trust or welfare) and how could the risks be mitigated (e.g., in the event of default)?
- Workload, Performance, and Property Data – Do we currently have the information required to conduct a competition?

These criteria provide the framework for assessing the eligibility and appropriateness for Capital Improvement Program Delivery to proceed to competitive procurement.

### **A. Inherently Governmental Determination**

According to the Managed Competition Guide, inherently governmental functions are defined as “those services so intimately related to the exercise of the public interest as to mandate their performance by City employees.”

CIP Delivery does not qualify as an inherently governmental function due to the fact that it is often outsourced by other governments such as the Florida Department of Transportation, federal government agencies, and other jurisdictions noted in Table 4 below; it is not a policy-setting function; and competing the function will not pose an intrinsic threat to the public welfare.

### **B. Legal Limitations**

A potential legal limitation to subjecting CIP Delivery to competitive procurement was identified by the City Attorney in the course of conducting this PCA. Federal and State law requires that certain professionals, like land surveyors, construction managers, and architects and engineers, either be City staff, or firms who were awarded a contract based on demonstrated competence and professional qualifications, with compensation negotiated after the firm is selected. The City follows a similar procurement process for professional consultants that require licensure pursuant to Council Policy 300-07. The City’s Managed Competition program differs in that it evaluates bids based on a number of criteria including cost, and therefore if an outside firm was awarded the contract for this managed competition, any projects with funding from State or federal agencies may be deemed ineligible to receive that funding. The City could still apply to the granting federal or State department on a project-by-project basis to see if the funds could be used, but it’s very unlikely that the City could receive a blanket exemption for the entire Capital Improvements Program due to different rules and procedures used by various federal and State departments. The City Attorney’s Office also cautioned that while the weight of the law currently allows charter cities like the City of San Diego to decide how to award professional consultant contracts when those contracts are funded from local sources, potentially future Court rulings could require that all professional consultants working on CIP projects be procured according to State guidelines.

In order to mitigate any loss of State or federal funding, City staff will continue to Program Manage projects funded by State or federal agencies and select any professional consultants necessary for these projects based on qualifications. City staff retained for this purpose will be identified by the City during the employee proposal preparation and development phase of the managed competition process, as outlined in the City of San Diego’s Cost Comparison Guide.

Concerns were raised about other legal limitations that could apply to this competition, such as whether a potential conflict of interest exists if one service provider is responsible for both determining the CIP projects and delivering them (e.g., City Att’y Memorandum of Law No. 2007-23), or whether there are any limitations to how contracts for CIP Delivery work could be awarded (e.g., City Att’y Report No. 2011-35). These concerns are addressed in Table 3 below.

Potential Limitation	Legal Statute	Applicable to CIP Delivery?
Professional consultants that are required to have licenses must be selected based on qualifications before cost is considered.	Council Policy 300-07	Yes. Because Managed Competition considers cost as a component of the award criteria, Council Policy 300-07 must be waived by the City Council for CIP Delivery for professional consultants that are required to have licenses.
State and federal law require professional consultants to be selected based on qualifications before cost is considered, for projects using State or federal funds.	California Government Code Section 4526; 40 USC §1101	Yes. Because Managed Competition considers cost as a component of the award criteria, projects with State or federal funding should be delivered by City staff or procured separately pursuant to State or federal law.
Potential conflict of interest if a service provider determines the CIP projects and then delivers those projects.	California Government Code Section 1090	No, provided that the program management functions of determining what the CIP projects are and when to pursue them is outside the scope of this Managed Competition. Currently client department staff conceive of and request CIP projects, and projects are prioritized according to Council Policy 800-14 and through CIPRAC. Neither the project conception nor the project prioritization approval functions will be included within the scope of this managed competition.
Public works must be awarded to the lowest bidder, without considering relative qualifications.	City Charter Section 94	No, this Charter Section applies to the actual construction work, not to CIP Delivery project/program management tasks.

Table 3: Legal Limitations to CIP Delivery

Any legal requirements, regulations, or other mandated specifications that relate to CIP Delivery and under which the City currently operates will become part of the scope of work and contract terms and conditions for this competition, unless able to be waived and waived by Council, and any future contractor will be expected to remain in full compliance.

### C. Availability of Alternatives

An important element of the competition criteria is identifying whether a potential market exists for the function under review. The Managed Competition Guide requires that at least two independent service providers submit proposals in response to a Request for Proposals (RFP) or the Managed Competition Independent Review Board (MCIRB) shall not recommend to the Mayor that the contract be awarded to the independent contractor.

A sampling of contractors who provide CIP Delivery services, as well as the entities who receive the services, is displayed in Table 4 below.

<b>Service Provider</b>	<b>Description of Services Provided</b>	<b>Client/Government Entity</b>
Atkins North America, Inc.	Program and project management, construction management, procurement, public realm design, planning, design consultancy	Florida Dept. of Transportation; U.S. Army Corps of Engineers; Dept. of Transportation, Federal Transit Administration (FTA)
Bechtel Corporation	Program management, engineering, procurement, construction management, project management, design	US Government, Dept. of Energy; Bay Area Rapid Transit System (BART), San Francisco, CA; Federal Emergency Management Agency (FEMA)
Brown & Caldwell	Program management, project management, construction management, procurement, regulatory and enforcement support	US Army and US Marine Corp, Camp Pendleton, CA; City of Tigard and Lake Oswego, OR; City of Columbus, OH; California Dept. of Transportation (Caltrans), CA
Carter and Associates	Program management, project management, construction management, contract administration, design services, procurement, quality control, cost control	City of Enid, OK; Enid Public Schools, Enid, OK; City of Cincinnati, Hamilton County, OH; Valdosta State University, Valdosta, GA; Gates Rubber, Denver, CO; Progress Energy, St. Petersburg, FL
CH2M HILL	Program management, project management, construction management, procurement, operations and maintenance services, design	US Government, Depts. of Energy and Defense; Air National Guard, Scott Air Force Base, IL; FEMA; Detroit Water and Sewer Dept., Detroit, MI
Fluor EPCM Services	Program management, project management, construction management, design, procurement, operations and maintenance services	US Government, Dept. of Defense; US Navy, Ford Island, HI; U.S. Army Corps of Engineers; State of Oregon, Dept. of Transportation
Harris & Associates	Program management, project management, construction management, asset management, design, inspection services, procurement	Carson City, NV; City of Gilroy, CA; City of Los Angeles, CA; Nevada Dept. of Transportation; Valley Regional Fire Authority, Auburn, WA
Heery	Program management, project management, construction management, regulatory compliance, design, procurement	US Government, Missile Defense Agency (MDA); Seattle Public Schools, WA; Atlanta Public Schools, Atlanta, GA; Houston Independent School District, Houston, TX
Interwest Consulting Group	Program management, project management, construction management, procurement, regulatory compliance	City of Ceres, CA; City of Elk Grove, CA; City of Folsom, CA; City of Wildomar, CA
Jacobs	Project management, project management, engineering and architectural services, construction management, procurement, regulatory compliance	US Government, Depts. of Defense and Energy; City of Tallahassee, FL; City and County of San Francisco, CA

Service Provider	Description of Services Provided	Client/Government Entity
KBR	Program management, project management, construction management, procurement	US Government, Dept. of Defense; US Dept. of Homeland Security (DHS); US National Guard, Reserve, LA; City of Cape Coral, FL; Cooperative Purchasing Network (TCPN), TX
Kimley-Horn	Program management, project management, construction management, design, planning, engineering, procurement, regulatory compliance	US Government, Depts. of Defense, Transportation, and Interior; City of Calabasas, CA
MWH	Program management, project management, construction management, design, construction, procurement	US Government, US Air Force; US Army Corps of Engineers; Clark County Water Reclamation District, Las Vegas, NV; Los Angeles County Dept. of Public Works, CA
Parsons Corporation	Program management, project management and preconstruction management services, construction management, design, procurement	US Government, Depts. of Energy and Defense; U.S. Army Corp. of Engineers; San Francisco Public Utilities Commission, CA
Provost & Pritchard Consulting Group	Program and project management, engineering, construction management, design, regulatory compliance	City of Mendota, CA; City of Modesto, CA; Dudley Ridge Water District, Kings County, CA; City of Reedley, CA
Psomas	Program management, project management, construction management, planning, design, procurement	US Government, Naval Facilities Engineering Command (NAVFAC); Fort Huachuca, AZ; Sacramento County, CA; City of Santa Ana, CA; University of Utah, Salt Lake City, UT; University of California, San Diego, San Diego, CA
RBF Consulting, a company of the Michael Baker Corporation	Program management, project management, construction management, planning, design, procurement	California Department of Transportation (Caltrans); US Army Corps of Engineers, Tucson, AZ; City of Beverly Hills, CA; City of Long Beach, CA
Rick Engineering	Program management, project management, construction management, planning, design, procurement	City of San Diego (CA); City of Cypress (CA); Scottsdale (AZ)
Tetra Tech	Program management, project management, preconstruction management services, design, procurement	US Government, Department of Defense (DOD); Federal Aviation Administration (FAA); State of New York; City of Port St. Lucie, FL; Niskayuna Central School District, NY

<b>Service Provider</b>	<b>Description of Services Provided</b>	<b>Client/Government Entity</b>
URS Corporation	Program management, project management, construction management, planning, design, procurement	US Government, Dept. of Defense; Orange County Public Schools District, Orlando, FL; City of Cincinnati, OH
Vanir Construction Management	Program and project management, engineering, construction management, master planning, constructability review, procurement	Conejo Valley Unified School District; Sierra Joint Community College District; Town of Gilbert, AZ
Willdan Engineering	Program management, project management, construction management, design, procurement, regulatory compliance, project closeout	U.S. Army Corps of Engineers; City of Los Angeles, CA; City of Elk Grove, CA; City of Paramount, CA; County of Alameda, Oakland, CA

Table 4: External Service Providers

In order to determine whether or not the scope of CIP Delivery as currently performed by City staff (i.e., providing Program Management/project management, design, and construction management services) was commensurate with the services provided by the private sector, the 22 contractors listed in Table 4 were asked to respond to a request for information/interest survey indicating whether or not they would be able to provide some or all of these services. As illustrated in Table 5 below, the majority of the 22 contractors indicated that they would be interested in providing—either as a single entity or as a partnership with other professional firms—all of the services requested: Program Management/project management, design, and construction management. It should be noted however, that these potential service providers were not presented with pricing options, and therefore interest in a future CIP Delivery RFP could be affected by the pricing schedule set during the Statement of Work (SOW) phase of the competition. Additional research will be performed to support the pricing decisions made during the SOW phase and ensure that they are compatible with industry standard pricing practices.

<b>Service Combination</b>	<b>Number of Respondents (Total 22)</b>
Program/project management, design, construction management	17
Program/project management, design	1
Program/project management, construction management	1
Program/project management only	2
Design only	1 <sup>5</sup>
Construction management only	1 <sup>5</sup>

Table 5: Market Survey Results

<sup>5</sup> One respondent indicated a preference for a service combination that included design and construction management which had not been a survey option, and so they chose two responses: Design only and Construction management only.

The City of San Diego's potential move to compete its CIP Delivery services is consistent with contracting practices across the State and nation. A number of government entities contract their CIP Delivery services, indicating that a market for these services exists at a national level and therefore widens the pool of potential competitors for this competition.

#### **D. Efficiency & Economic Gain**

One of the expected outcomes of the managed competition process is an increase in efficiency in delivering the function that was competed and/or a reduction in the cost of service delivery. In this section, expected efficiency and economic gains are outlined for the CIP Delivery function.

##### *Efficiency Gain*

The efficiency gain analysis should be based on recent benchmarking data that indicates a service performed by an incumbent function is currently provided at or below known industry efficiency standards. If this is the case, there may be high potential for improving results in a competitive market.

In the course of developing this PCA, comprehensive industry standards from which to form the basis for further efficiency gain analysis were not able to be identified outside of the California Multi-Agency CIP Benchmarking Study: Update 2011<sup>6</sup> which includes CIP Delivery standards for seven local government entities in California but does not include any practices or standards for CIP Delivery that have been put in place by the private sector. The benchmarking study does list Best Management Practices (BMPs) for CIP Delivery that may bring improvements in cost, schedule, quality, communication, environment, or customer service (p. 11), many of which have already been implemented by the City of San Diego (pp. 53-64), but the benchmarking study is limited in that it only includes data related to the Design-Bid-Build project method. The City of San Diego does not exclusively use Design-Bid-Build and so may be realizing efficiencies and associated reductions in cost not noted in the study; greater efficiencies could be realized in this area, but these are not captured in the study.

Although industry-wide standards were not available to provide a basis for a comprehensive efficiency gain analysis, the true measure of economic gain will be realized in the course of a competition between the employee team and the private sector.

##### *Economic Gain*

The economic gain analysis is aimed at determining whether there is a possibility that economic gains could be realized through a competitive procurement process, recognizing that actual information cannot be known until competitive procurement is undertaken. The determination is based on comparing the cost of performing the function by City forces with the cost of purchasing the same level of service from an outside entity.

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<sup>6</sup> *California Multi-Agency CIP Benchmarking Study: Annual Report – Update 2011*, September 2011, <http://eng.lacity.org/techdocs/cabm/>. The agencies participating in the study are: City of Long Beach, City of Los Angeles, City of Oakland, City of Sacramento, City of San Diego, City and County of San Francisco, and the City of San Jose.

The City of San Diego’s current practice is to budget by department, a practice that identifies budgetary needs based on personnel expense (salary and fringe) and various non-personnel expenses (supplies, services, equipment, etc.) as opposed to by function, and therefore PW-E&CP was able to provide the total budgeted cost for providing CIP Delivery services, but not a unit cost for each of the services that are provided in support of the function (i.e., scoping a project, doing community outreach, project management services, etc.). Further, because each project’s scope will be different, the cost of the activity will vary depending upon its scope and complexity.

While the City’s current budget practice coupled with the size and complexity of the competition makes it difficult to conduct a comprehensive economic gain analysis, the information presented in this PCA indicates that there may be a potential for savings. Based on the fact that a well established and vibrant commercial market exists (see Table 4 above), and that numerous government entities currently contract for CIP Delivery-related services, savings may be realized through a competitive process.

Firms employing different management practices, or with different organizational structures, may have identified ways to mitigate costs that are currently part of the City’s budget. The PW-E&CP department has indicated that through the changes implemented as a result of the Engineering BPR and the more recent streamlining efforts approved by City Council in Fiscal Year 2012, staff and consultant costs—as a percentage of their construction costs—have been reduced.

**E. Risks to Competition**

Risk analysis considers the degree to which contracting out a function would expose the City to risk or liability, including service interruption, health and safety issues, financial liability, and damage to public trust.

Many of the risks identified by the CIP Delivery service departments centered on performance standards and concerns with ethical behavior, but the City can take steps to mitigate these issues through the managed competition process whether the function is performed by City employees or independent contractors, as detailed in Table 6.

Service Risk	Risk Type	Level of Risk	Magnitude of Impact	Possible Mitigation
Service provider employees (City or independent contractor) may have financial interests that conflict with the goals of the City	Ethical Behavior & Financial Impacts	Low	Low	The service provider would be subject to all federal, State, and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices. Proper pricing and contract terms, along with regular contract monitoring, can mitigate financial risks.

Service Risk	Risk Type	Level of Risk	Magnitude of Impact	Possible Mitigation
Service provider could benefit from 'scope creep', the changing of the scope of work so that the contractor's fee increases	Damage to Public Trust/Financial Liability	Medium	Low	The City would ultimately be responsible for the scope of work as the "owner" of the project. Proper pricing and contract terms can also mitigate financial risks and transfer risks to the service provider. Setting project completion standards (on-time and on-budget) during the Scope of Work (SOW) phase can also address 'scope creep'.
If consultants are needed for a project, an outside service provider could influence the process in favor of a preferred vendor	Ethical Behavior	Medium	Medium	The City will detail a process in the RFP for the service provider to follow when procuring the services of an outside vendor, and final authority to award contracts will remain the purview of City staff.
A missed error by a City employee or independent contractor could translate to a significant code violation; unaddressed environmental and safety issues; and erroneous reporting at the program level to the regulating agencies or City	Health and Safety Issues	Medium	High	The City will carefully vet consultants during the bid review as well as perform a thorough contract monitoring process after the contract has been awarded, to ensure that contracts are awarded to professional, experienced entities that will adhere to the performance standards set by the City. If an outside contractor is awarded the bid they will be required to be insured for any negligent activity while performing the contracted work, and to indemnify the City and hold the City harmless.
Equal Opportunity Contracting (EOC) goals may not be met	Damage to Public Trust	Low	Low	The City will include applicable EOC provisions in the RFP, and require that the service provider comply with those requirements. The City would retain the role of awarding procured contracts, and the City's review prior to award provides an opportunity to ensure that the procurement and evaluation process met the City's standards.

Service Risk	Risk Type	Level of Risk	Magnitude of Impact	Possible Mitigation
Un-met Americans with Disabilities Act (ADA) requirements could result in injury	Health and Safety Issues/Financial Liability/Damage to Public Trust	Low	High	The City will include ADA requirements compliance in the SOW and RFP and require that the service provider, whether City employees or independent contractors, comply with those requirements.
Potential breakdown in interaction between public, elected officials, and other City departments	Damage to Public Trust	Low	Low	The City will include regular community outreach and stakeholder meeting requirements in the SOW, and require that the service provider comply with those requirements. The Council's adopted transparency provisions associated with the contracting streamlining process will also be requirements in the SOW.
Loss of institutional knowledge or improper transfer of project information	Transition	Low	Low	The City retains some staff in order to effectively monitor the contract that is put in place. This staff will be on hand to retain records and help to facilitate any transfers of project information. The service provider will be required to develop a transition plan, subject to City approval, to ensure a smooth transition to either another service provider or a revamped City-performed function. An independent contractor is also required to give first preference in hiring to displaced City employees, if they need to hire additional staff.

Table 6: Risks to Competition

The City takes these risks very seriously, however most of them would be evident whether the functions are performed by City employees or by an independent contractor, and therefore the City has already put in place effective mitigation strategies to manage some of these risks, and has other available risk mitigation strategies as noted above. Additionally, if an outside vendor submits the winning bid and is awarded the contract for this managed competition they would be required to be insured at the appropriate levels for any negligent activity while performing the contracted work, to name the City as an additional insured party, and to indemnify the City and hold the City harmless. These latter risk mitigation strategies would not be in place for work performed by City employees.

**F. Workload, Performance, and Property Data Assessment**

Workload, performance, and property data are critical to developing a Statement of Work (SOW) should a function move to competitive procurement. The range and depth of workload/performance/property data that are available (or not) also are important factors in determining a future competition schedule. In conducting this assessment, the criteria in Table 7 were evaluated to establish the current level of data available.

Criteria	Status: PW-E&CP and Contracting
Does workload data exist for the function in the last fiscal year? For some functions there may not currently be a formal collection process for workload information. For those functions, a data collection mechanism and process will need to be defined and developed	Yes
Does the function track workload using an automated system? For example, tracking workload through spreadsheets, logs, or other mechanisms	Yes
Has the function tracked workload for at least the last three years?	Yes
Is the function tracking workload consistently? That is, is workload input in a timely and accurate fashion by the workforce?	Yes
Can the function accurately project future workload?	Yes
Overall workload status. Measure on a scale from Level I through IV, with Level I indicating that no system is available to track workload, and Level IV indicating that workload is tracked accurately and reliably	Level IV
Does the function currently track the performance level of the in-house workforce?	Yes
Does the function currently have a property tracking system?	Yes

Table 7: Assess Workload and Data System for CIP Delivery

The result of the workload, performance, and property systems assessment for CIP Delivery is that a system is available for all workload, performance, and property data required for the Public Works Department.

#### IV. CONCLUSION

The CIP Delivery function is defined as encompassing all of the Program Management tasks performed by PW-E&CP that fall under the following service areas: Pre-Design, Design, Bid/Award, Construction, and Project Close-out. Some tasks have been excluded from the scope of this proposed competition as discussed elsewhere in this report: the actual construction work, the Program Management of projects funded by State or federal agencies, the approval of engineering standards and standard operating procedures documents, and the awarding of contracts for construction, outsourced design/engineering services, and furnishings and equipment.

As determined through this Pre-competition Assessment, the Capital Improvement Program Delivery function is deemed to be eligible and appropriate for competitive procurement. The Pre-competition Assessment team determined that CIP Delivery:

- is not inherently governmental;
- is not limited, legally, from being procured from an outside source;
- can be procured from an established competitive market;

- does not face significant risks that cannot be mitigated through the contracting process;  
and
- has the potential to realize economic gain.