



**Citywide Procurement Procedures
for
Normal Major Public Works Project Contract
(Rev. 2/26/14)**

I. General

This document sets forth the procedures for procuring a contractor for a normal major public works project contract as defined in Municipal Code Section 14.04.120. It is divided into the following sections, which reflect the stages of the procurement process:

- Preliminary Tasks
- **Part 1 - Pre-Posting (Initial Posting)** – from the completion of the **Bid Documents (which include “front end” procurement documents, plans and specifications and any other project specific notices, information or documents)** to the advertising of the Request for Bids (RFB) [RFB is the terminology BidSync uses for construction contract procurements.]
- **Part 2 – Active Bid (Addenda and Questions)** – from advertising (in print and online) to Bid Opening
- **Part 3 – Post-Bid Opening (Results and NOI)** – after Bid Opening to Award of the construction agreement with the successful bidder
- Post-Procurement Tasks

The Public Works Procurement Support Team (“Procurement Support Team”) will assist the responsible Project Manager in the completion and facilitation of necessary tasks associated with the procurement procedures defined in this document. The successful completion of Parts 1 through 3 is the responsibility of the Director of Public Works. For capital projects delivered by the Environmental Services Department (ESD) or Department of Transportation (DOT), the Director of Public Works will only authorize the advertisement and the respective Directors of ESD or DOT will approve the **Plans and Specifications**. Preliminary and Post-Procurement tasks are completed under the jurisdiction and procedures of the respective project delivery Department/Division.

IMPORTANT NOTE:

The most current Citywide Procurement Procedures for Capital Projects can be located on the Public Works Intranet Homepage. The most current document templates and additional information relating to Construction/Capital Project Procurement can be found on the Public Works Intranet in the Forms Directory under the category “Bid Documents”.

II. Capital Project Management System (CPMS) Project Numbering Protocol

To ensure project-specific documents are kept together and to quickly facilitate document retrieval, **all project document names need to begin with the four-digit CPMS Project number, followed by the type of document. Adding the date of the document is optional.** The date of the document, if listed, in the file name should be in the six-digit, international format of YYMMDD. Examples: 4700_NTC_110730.doc; 4700_Results_Summary.pdf. Besides adhering to international standards, this date format is advantageous in applying retention periods as well as in eliminating the sorting anomalies of Microsoft Office where months are sorted 1-January, 11-November, 12-December, 2-February, 3-March etc.

III. Preliminary Tasks:

As previously mentioned, preliminary tasks are the responsibility of the project delivery department. The specific sequence and procedures for the preliminary tasks listed below may vary by work group.

- Enter the project in CPMS and use the CPMS project number at the beginning of all document names, as discussed above in Section II.
- Consult the Bid Calendar on the Forms Directory to determine your preferred advertising and Bid Opening date. Bid openings generally occur weekly on Thursdays at 3:00 pm in Room T550 of City Hall. Bids are advertised on Wednesdays, generally 22 calendar days before the Bid Opening. At a minimum, bids must be advertised for at least 10 calendar days prior to the bid opening per Municipal Code Section 14.04.180. The deadline to submit approved Bid Documents for advertising is Thursday at 4:00pm, 6 calendar days prior to the selected advertising date.
- Decide whether to have a Pre-Bid Meeting. A pre-bid meeting is not recommended unless it is important that potential bidders see the project location because it has unique features that may affect the bids received. In evaluating whether to have pre-bid meeting, remember that: a) no discussion about the project can occur; b) no new information may be released; and c) no questions may be received or answered. If you decide that a pre-bid meeting will be important to the receipt of accurate bids, you need to include the following information in the Notice to Contractors (NTC) and in the procurement tab on CPMS to accurately notify contractors:
 1. Whether the pre-bid meeting is optional or mandatory – generally it is recommended that attendance be mandatory;
 2. The date, time, and location of the meeting; and
 3. Any special instructions to those attending.

A sign-in sheet should be collected for those in attendance. The sign-in sheet needs to be posted on BidSync as an Addendum. See 2.7 for detailed instructions on posting Addenda.

- Decide on a deadline for submission of questions by potential bidders into BidSync. Recommendation: The deadline is 7 calendar days before the bids are due and at 3:00 pm on a day other than Friday. **Questions submitted near a Friday deadline may not allow Project Management Staff sufficient time to coordinate or generate an efficient response. If these questions generate the need for an Addendum, the deadline for posting an Addendum is Monday at 3:00 pm (see Section 2.7).**
- Select Classifications for outreach. BidSync sends announcements of the project based on the National Institute of Governmental Purchasing (NIGP) classification(s) selected by the Project Manager and included in the Notice to Contractors. Refer to previous projects to select one or more classifications appropriate for your project. If your project-specific construction work is not represented by previous projects or there are unique construction services to your project, schedule a meeting with the Procurement Support Team to review the NIGP database on BidSync and select the classifications. There is no limit to the

number of classifications that can be used; however, it is recommended that the most global classification be included first.

- Prepare the Bid Documents (which include “front end” procurement documents, plans and specifications and any other project specific notices, information or documents - i.e. Federal Grant-related), that will be made available to potential bidders.
- If the bidders, or their sub-contractors, will need to demonstrate specific experience requirements at 1) the time of the bid, and/or 2) at the time work is performed, (i.e. Contractor must have completed installation of 10,000 feet of linear pipe with own forces by January 1, 2013) be sure to:
 - a. Use the exact template language as provided in the NTC to identify the specific Technical Specifications that identify this detail;
 - b. Use the modified version of the Bidder’s Experience Form (Option II) with the specific requirements listed if required at the time of the bid; and
 - c. Include the requirement(s) in the project specific Technical Specifications.
- If this is an “on-call” contract be sure to select the appropriate special provisions, bid sheet and language in the NTC and Bidder’s Bond.
- Have Bid Documents approved by the appropriate project delivery department (PW, ESD or DOT Director) as instructed by the Plans & Specifications Approval and Authorization to Advertise Memo. Approval signatures need to be completed before requesting a meeting with the Director of Public Works unless it is a project delivered by Public Works. In this case, plans and specification approval and authorization to advertise can occur at a single meeting.

Part 1 – Pre-Posting (Initial Posting or Rebid)

Remember, all project document names need to begin with the four-digit CPMS Project number, followed by the type of document, according to Section II.

- 1.1 Complete the following forms and place them in the CPMS Project Files -> Folder 12-1 for the project:
 - Request for Bid Advertising – in Word (.doc) format
 - Notice to Contractors (NTC) – unsigned in Word (.doc) format
 - Plans & Specifications Approval and Authorization to Advertise Memo – unsigned in Word (.doc) format.
 - Bid Document Preparation Quality Control Checklist
- 1.2 For Re-Bid Projects, assistance from the Public Works CPMS Tech Team will be necessary to modify the CPMS file structure. To send an email to the CPMS Tech Team, log on to the CPMS Main Menu page, select the Help dropdown, then select the “Send Email to CPMS Tech Team”. Request the CPMS Tech Team to create a folder structure for a Re-Bid project in Folder 12. This will result in creation of two folders, one titled “Initial Bid” and the other titled “Re-Bid”. Each of these will have the three specific project file folders (1-Pre Posting, 2-Addenda and Questions, 3- Results and NOI). All documents related to Re-Bid shall be included in the appropriate folders.

IMPORTANT NOTE:

The CPMS project title, as well as the plans and specifications, for a re-bid project also need to be changed to include the identification of “Re-Bid” at the end. (i.e. Jones Park Construction (Re-Bid))

- 1.3 Select the Procurement tab and complete the information in the required fields for this specific procurement related this CPMS project. Re-Bid projects need to have a new Procurement created with new information entered into the required cells.

IMPORTANT NOTE:

Remember to “Save” information on this TAB before sending an email to the Procurement Support Team. Also, closely review the email content to confirm the most accurate information is included.

- 1.4 Within the Procurement tab, select button “1-Initial Posting” to alert the Procurement Support Team of a new project. This will create a pre-populated draft email to the Procurement Support Team with specific information related to this procurement. Confirm that the information listed is correct, select the appropriate action button(s) and then “Send” the email. The first action is typically to request a 15 minute appointment with the Director of Public Works for approval of the Authorization to Advertise Memo and, for PW delivered projects, the Bid Documents.
- For PW Project Managers: your division’s Deputy Director, the Procurement Deputy Director and the Procurement Manager will also be invited to the meeting. If you wish anyone else to attend, please provide the names.
 - For ESD or DOT Project Managers: please indicate whom you would like to have invited to this meeting from the Project Delivery team. Make sure your Plans and Specifications have been sealed and signed by the Senior Engineer/Architect as applicable and approved by your Director prior to the meeting. The Procurement Deputy Director of Public Works and the Procurement Manager will also be invited to the meeting.
- 1.5 Immediately after requesting a meeting with the Director, PW staff should place the “original” hard copy of Bid Documents on the counter adjacent to the Director’s Office. Non-PW staff should leave the Bid Documents with the receptionist on the 5th floor at City Hall.
- 1.6 At the meeting with the Director of Public Works, the Bid Documents may be approved/authorized for advertisement as submitted or you may be asked to make revisions. If revisions are necessary, the Procurement Support Team will work with the Project Manager to verify these are implemented. When the documents are approved, the Director will sign the cover sheet of the Plans and Specifications (PW only), the NTC and the Approval/Authorization to Advertise memo.
- 1.7 After the meeting, Project Managers should create a PDF of the signed Approval/Authorization to Advertise memo and place it in CPMS Folder 12-1.

- 1.8 Prepare a PDF of the signed and sealed Plans and Specifications. Large format documents may be imaged using the City's Multi-Function Scanner/Plotters or they may be sent to a reprographics vendor for scanning into PDF format.

IMPORTANT NOTE:

If hard copies of the Bid Documents are ordered from a plan vendor, order only the number of full sets needed for distribution to City staff actively working on the project. Consider the process for having a hard copy set available for viewing if the contractor makes that request. [For non-City agencies (i.e. PG&E) requesting copies of the Plans and Specifications, provide a link to the electronic copies on BidSync through email.]

- 1.9 When all required documents have been loaded into CPMS Folder 12-1, go to the Procurement tab and click the button labeled "1-Initial Posting". This will produce a pre-populated draft email. Confirm that the information listed is correct, select the appropriate action button(s), add any special instructions and then "Send" the email. You will receive an email from the Procurement Support Team when your documents are advertised on BidSync.

IMPORTANT NOTE:

Before notifying the Procurement Support Team that the Bid Documents are complete, ensure that a peer-review process has verified that no significant changes have altered the previously approved Bid Documents. The approved Bid Documents should not change after the meeting with the Director of Public Works.

- 1.10 No later than Friday morning, 5 calendar days prior to the advertisement date, the Procurement Support Team will send the unsigned NTC to the newspaper for publishing. On Tuesday, the day before the newspaper advertising date, the Procurement Support Team will complete the BidSync bid information and attach the relevant documents so that it can be released via BidSync on the same morning of your selected advertising date. You will receive an email confirming that your bid has been posted on BidSync. Copies of the Proof of Publication and the newspaper invoice will be posted in CPMS Folder 12-1 by the Procurement Support Team within 10 calendar days of the advertising date.

IMPORTANT NOTE:

Newspapers of general circulation - advertisement requirements: Per Municipal Code Section 14.04.180 and the City Charter, a normal major public works contract must be advertised in a newspaper of general circulation at least once and at least 10 days prior to the Bid Opening. Public Works generally uses the San Jose Post Record to fulfill this requirement. Under special circumstances, the San Jose Mercury News or other publications may be used.

Part 2 - Active Bid (Addenda and Questions)

- 2.1 On the Wednesday morning that your bid is advertised in the newspaper, the Procurement Support Team will post the bid on BidSync. Potential contractors registered in the NIGP classifications listed on the NTC will receive an email announcing the project and providing a direct link to view the project details.
- 2.2 When a BidSync-registered viewer **opens or downloads** any of the Bid Documents, they become “planholders” and receive emails whenever a change is made to the project (i.e. change in a deadline, answer to a question, issuing of an addendum).
- 2.3 To view the “planholders” list (contractors, subcontractors and/or suppliers that have looked at or downloaded the document):
 - a. Log onto BidSync by clicking on the “My Account” tab
 - b. Username “**project.manager**” and password “**bidsync2**”
 - c. Click on the “Bids” tab, then select your bid
 - d. When your bid is open, click on the “View” link associated with “# of suppliers that viewed” information cell. Remember, the “planholder” list that City staff can view presents much more detailed information than is available to potential contractors. Refer to 2.4 if Contractors request this information.
- 2.4 Contractors ask questions about the bid by submitting them into BidSync. As soon as a question is received, BidSync sends an email to the PW Procurement Team. Procurement staff will immediately forward the question to the Project Manager.

IMPORTANT NOTE:

If a Project Manager or anyone associated with the project receives a question(s) in any way other than through BidSync (i.e. phone, email, fax, in person), forward the request to the Procurement Team. If you happen to answer the phone in person, inform the contractor that “only questions submitted on BidSync will be answered to ensure that everyone receives the same information at the same time” and give them the phone number for the Procurement Team (408) 535-8300 for additional questions.

- 2.5 To answer a question, create a Word document and copy the question. Provide the answer underneath the question. Name the document with your project number and number of the question(s) you are answering i.e. [CPMS ID#]_Q3-Q5. You do not have to answer the questions in order. If one question takes some research to answer, answer any others and create a separate document for that question when the answer is ready.

For questions that are answered by an Addendum, the answer should read “See Addendum X.” Post the question answer and/or addenda document in CPMS Folder 12-2. Then go to the Procurement tab and click on the button marked “2-Addenda and Questions”. This will create a pre-populated draft email to the Procurement Support Team. Indicate the appropriate action

button(s), complete the blank cell information and then “Send” the email. Addenda will be reviewed by the Procurement Support Team who will authorize posting or contact the Project Manager if one or more changes need to be made. You will receive an email from the Procurement Support Team when the answer or addendum has been posted.

IMPORTANT NOTE:

In BidSync, answers to questions and changes to deadlines do NOT require a signed acknowledgement by the bidders.

2.6 Unanswered questions that remain after the close of the Question and Answer period will be re-forwarded by the Procurement Support Team to the Project Manager for immediate response.

2.7 If the Project Manager needs to issue an Addendum document, the Project Manager should check BidSync to determine the next available Addendum number then name accordingly. Project Managers then need decide whether the Addendum is required to be signed by the bidder in order to acknowledge receipt and then returned as part of their bid package. As a guide, an Addendum that provides information that would materially alter the bid (i.e., result in cost implication) needs to be signed by the bidder. A template Addendum is available on the PW Forms Directory.

An Addendum that provides supplementary information, many times as a courtesy, is not required to be signed and returned. If you have questions about the type of Addendum to provide, please contact the Procurement Support Team.

IMPORTANT NOTE:

Per the Public Contract Code 4104.5 (which the City observes), the deadline for posting an Addendum is 72 hours prior to the Bid Opening (typically Monday at 3:00 pm). Changes to deadlines are considered Addenda by BidSync and they receive an Addendum number.

Part 3 – Post-Bid Opening (Results and NOI)

3.1 Project Managers must attend the Bid Opening and let the Procurement Support staff know 1) whether there are bid alternates, and 2) whether there are any **Addenda requiring signatures**. After all bids are opened and announced, the Project Manager receives the bid packages. No City staff member should engage in bid-related conversation with any bidders present.

3.2 Refer to the Bid Responsiveness Review Checklist (see *Attachment A*) prior to examining the bid packages for irregularities. Irregularities are to be noted in the Bid Results Summary spreadsheet in the “Comments” section or discussed with the Procurement Support Team to decide on necessary action. Additionally, when irregularities are noted, refer to the Citywide Construction Contract Procurement Process Flow Chart (see *Attachment B*) for process and additional notification instruction.

- 3.3 Responsive or responsibility issues noted need to be communicated in detail via a “Yellow Alert” in CPMS. Those issues that may require a bid to be deemed “non-responsive” or a contractor “not responsible” will need to be reviewed by the City Attorney's Office as soon after the Bid Opening as possible.
- 3.4 On the Bid Results Summary spreadsheet, enter the name of each bidder in reverse order from low bidder to high bidder and add the amount of the total bid and any bid alternates. If an Engineer's Estimate was provided, include the Engineer's Estimate(s) above the actual bids on the Bid Results Summary. Calculate the percent variance between the bid amount and the Engineer's Estimate. In the “Comments” section of the Bid Summary worksheet, describe any variation from the amounts recorded and announced at the Bid Opening plus any other relevant information resulting from the bid review. **All Bid irregularities need to be noted and summarized in the communication email to the Procurement Support Team (See Item 3.9).**

IMPORTANT NOTE:

If the project has received federal grant funding, confirm with the Office of Equality Assurance (OEA) that all necessary documents are submitted and any goals are met. This is necessary to determine the responsiveness of the apparent low bidder.

- 3.5 As soon after Bid Opening that you are able to determine the low bidder that is responsive and responsible, create the Notice of Intent to Award (NOITA).

IMPORTANT NOTE:

The posting of the NOITA starts the protest period so the date on the NOITA must be the same as the day that the NOITA is posted on BidSync.

- 3.6 If, by the Monday after Bid Opening, the results of the bid require more time before posting the NOITA, then communicate with plan holders by posting the following document: “Notice of Intent – Pending.” Request the Procurement Support Team to review and post this document through the Procurement tab “3-Results and NOI” button.
- 3.7 Have your Division Manager or Deputy Director review and approve the NOITA.
- 3.8 Scan each bid package to a PDF document and label it [CPMS ID#]_Bidder's_Name.pdf (i.e. 7931_Hunt_Construction.pdf). Do not use the following characters in the document title: +, \, /, :, *, ?, <, >, |, &, #, %, and , or the documents will not be able to be opened on BidSync.
- 3.9 Place the Bid Results Summary, NOITA and the scanned bid packages into CPMS Folder 12-3. These should all be scanned as PDF documents. Click on the Procurement tab, then click on the “3-Results and NOI” button. This will create a pre-populated draft email to the Procurement Support Team. Confirm that the information listed is correct, select the appropriate action button(s) and then “Send” the email. You will receive an email from the Procurement Support Team when your documents are posted. You can confirm that the information is available to the bidders and those on the Planholder list by logging onto BidSync. Once you have logged on, click on “Bids”, then History. All projects

will be listed. Find your project and click on the name. Scroll down to the bottom of the project and you should see your documents.

- 3.10 Protests – A bid protest must be in writing and must be submitted to the Procurement Manager as identified in the NOITA. If a written protest is received within the protest period, the Procurement Support Team will forward to the appropriate project manager, city staff and city attorney and follow the protest procedures on the Citywide Construction Contract Process Flow Chart and the Protest Procedures Guidelines. Remember the following important pieces of information:
- a. Protests received need to be communicated to the Public Works Director's office and in detail via a "Red Alert" in CPMS.
 - b. A protest that is not withdrawn may be appealed by the bidder to the City Council.
 - c. For a Public Works Department project \$1M or less, a protest that is not withdrawn creates the need for the City Council (instead of the Director) to award the project so that any appeal of the protest determination can be heard by the Council.
 - d. For a DOT or ESD project, or a Public Works Department project over \$1M, the appeal will be heard at the Council meeting where the staff recommendation for the award of the contract is placed on the agenda (see 3.12).

IMPORTANT NOTE:

If the resolution of the protest will alter the date of intended award of the construction contract, create a "Notice of Intent-Pending" and post it in CPMS Folder 12-3. Notify the Procurement Support Team through CPMS to post the notice on BidSync so planholders will be notified of the ongoing evaluation.

- 3.11 To award a Public Works construction contract that is under \$1,000,000 (*See Attachment C*) and where no protest is received during the protest period, Project Manager creates a Director Award/Reject Memo and submits it for the Director's signature. Once the memo is signed, create a Notice of Director's Award (NODA), place both documents into CPMS Folder 12-3 and click button "3-Results and NOI". This will create a pre-populated draft email to the Procurement Support Team. Indicate the appropriate action button, and then "Send" the email. You will receive an email from the Procurement Support Team when the NODA is posted. Posting the NODA completes the procurement process.
- 3.12 To award a Public Works construction contract that is either a) over \$1,000,000, b) is under a \$1,000,000 but has received a written bid protest, or c) for all DOT or ESD projects over \$100,000 (*See Attachment C*) do the following:
- Determine the relevant Council meeting. Create a City Council Award memo according to your department procedures and proceed with the City Council Agenda process.
 - **If a formal bid protest has been received, you need to include in the City Council Award memo a discussion, analysis and recommendation regarding the City's response to the bid protest. Coordinate with the City Attorney's**

Office and the Public Works Director's Office to review these issues. For DOT or ESD projects, if a formal bid protest has been received, a joint Award Memo with Public Works will be necessary.

- Obtain the Council Meeting Synopsis. Generally, the City Council will follow staff's recommendation regarding an award. In such cases, create a Notice of City Council Award (NOCCA) if the item is awarded by the Council. If the City Council decides to reject all bids, please refer to 3.13. If City takes some other action on the item, then prepare a notice of City Council action that reflects what the City Council did.

Then, either:

- Post the NOCCA in CPMS Folder 12-3 then click on the button "3-Results and NOI". This will create a pre-populated draft email to the Procurement Support Team in which you can select the appropriate action button(s) and then "Send" the email. You will receive an email from the Procurement Support Team when the NOCCA is posted. Posting the NOCCA completes the procurement process.

Or

- Post the Council determination in CPMS Folder 12-3 then click on the button "3-Results and NOI" and notify the Procurement Support Team of any special instructions.

3.13 To Reject All Bids refer to the following 3 cases:

1. Public Works project \$1M or less – Notice of Director's Award/Reject Memo
2. Public Works project greater than \$1M – City Council Memo
3. DOT or ESD projects greater than \$100k – City Council Memo

Be sure to coordinate approval through the Director's Office or the City Council, as appropriate. Then, complete the Notice to Reject All Bids and load with the bid packages into CPMS Folder 12-3. Then "Send" the email, with appropriate instruction, to the Procurement Support Team. You will receive an email from the Procurement Support Team when the Notice to Reject All Bids is posted. This will complete the procurement process.

3.14 If a Re-Bid will occur, please follow these procedures beginning with Section III. "Preliminary Tasks".

Post-Procurement Tasks

- The Contract Award Procedure (see *Attachment D*) lists steps for facilitating the execution of a construction contract. This procedure covers both a Director and Council Awarded Contract. Specific process questions can be directed to the Public Works Council Liaison/Contract Administrator.
- Appropriate documents and forms are loaded and available on the Public Works Forms Directory online.
- Important steps to remember:
 - Return bid bonds or cashier's checks to the non-selected bidders.
 - For federally-funded projects, be sure to include all appropriate documents including the Final Federal Wage Decision.

- Mail the executed contract to the selected contractor.
- Place all signed and approved Director/Council award information in CPMS Folder 12-3.

**Citywide Procurement Procedures
for
Normal Major Public Works Project Contract**

ATTACHMENT A

Bid Responsiveness Review Manual and Bid Irregularity Checklist

Bid Responsiveness Review Manual

BACKGROUND

For clarification purposes, a bid is responsive if it gives the City exactly what the City requests. Irregularities in the bid may make it non-responsive, including any alterations to form, additions not called for, conditional bids, incomplete bids, etc. The City must reject a non-responsive bid, unless the irregularity is minor as determined by the City Attorney's Office (CAO). The City, in its discretion may waive a minor irregularity in a bid and accept the bid. Refer to City Standard Specifications 2-1.05 and 2-1.06 for additional detail.

As documented in the Annual Public Works Construction Bid Irregularity, Variance and Protest Report the following Bid Irregularity categories have been noted and defined:

- Math Errors – Bids with incorrect extended or total amounts on the Schedule of Quantities or Bid Sheet.
- Clerical Errors – Bidder's Proposal documents which contain errors.
- Non-Responsive Bids – Bidders who fail to submit required and/or complete and accurate Proposal documents.
- City Oversight – Proposals that contain errors due to incorrect information provided by the City
- Other – All other errors not defined in the categories above.

IRREGULARITY REVIEW PROCESS

- a. Reference and use this Review Manual and attached Bid Irregularity Checklist when evaluating construction proposals submitted. Project Managers are required to perform a full evaluation of all proposals to determine any irregularities that may exist.
- b. If any part of any proposal is evaluated and initially determined to include a bid irregularity, note this irregularity on the Bid Irregularity Checklist and notify the PW Procurement Manager by email with this information.
- c. Summarize any/all bid irregularities and post a Yellow Alert in CPMS (Refer to Citywide Construction Contract Procurement Process Flow Chart).
- d. The Procurement Manager will coordinate and review the noted irregularities on the Bid Irregularity Checklist with the Project Manager and decide the following:
 - i. which can be determined a minor bid irregularity that is waiveable;
 - ii. which can be determined as a non-waiveable irregularity and constitute a decision of non-responsiveness;

Bid Responsiveness Review Manual

- iii. which will require coordination with the CAO for a final determination. If coordination with the CAO is required, the Procurement Manager will facilitate that communication.
- e. Coordination with the Attorney's Office on a bid irregularity will only occur as it relates to determining the apparent lowest responsive bidder. Evaluating all proposals submitted will assist in the initial determination of the apparent lowest responsive bidder.
- f. Noted irregularities need to be summarized and indicated in the Bid Results Summary and in the email communication to the Procurement Support Team via CPMS.

Bid Responsiveness Review Manual

BID IRREGULARITY CHECKLIST INSTRUCTIONS

1. Proposal document

- a. Name of company and name and contact information for submitter is provided
- b. Contractor has a City of San José Business License
 - i. Search the City of San José Finance Department website to determine if this company has a current license.
(<http://ca-sanjose.civicplus.com/index.aspx?NID=196>)
 - ii. *If the contractor does not have a business license or it is not valid, note this and Project Manager should ensure the license is active prior to executing the contract.*
- c. Contractor, and subcontractor when required, has required contracting license noted on Notice to Contractors
 - i. Search the Contractor's State License Board to determine if this company has a current license
(<https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/CheckLicense.aspx>)
 - ii. *If contractor's license is not valid, note this irregularity and notify the PW Procurement Team.*
- d. Signatory has Signature Authority to execute contracts
 - i. Signatory to the Company/partnership/joint-venture is an acknowledged officer or partner authorized to sign contracts on behalf of the corporation/partnership/joint-venture by inclusion of one of the following documents:
 - Corporate Letter
 - Corporate Resolution
 - Power of Attorney
- e. Non-Collusion Affidavit
 - i. Confirm that all blanks are completed
 - ii. Requires original Notarization from a Public Notary, including seal and stamp (attached or other professional notary forms are accepted)
 - iii. Confirm that Notarization name and person signing the document are the same
 - iv. Confirm that the Signatory is granted authority to execute contracts on behalf of the company
- f. Schedule of Quantities (as applicable)
 - i. Confirm that the Schedule of Quantities provided is for the project submitted
 - ii. Verify that a unit price has been included for each line item.
 - iii. Verify that the unit price is extended (multiplied) correctly and accurately for each line item as submitted on the Schedule of Quantities.

Bid Responsiveness Review Manual

- iv. Verify that the Summary Total is an accurate summary of all extended line items.
- v. *If there is a discrepancy with an extended price or the Summary Total the evaluation shall occur in this order:*
 - 1. *If between the unit price and the extended price the unit price will prevail. (Std. Spec 2-1.05)*
 - 2. *If between the extended price and the stated Summary Total, the extended price will prevail. (Std. Spec. 2-1.05)*
- vi. *Any discrepancy in the submitted figures is considered an irregularity and should be noted in the Bid Results Summary.*
- g. Bid Sheet (for Lump Sum and Overhead and Profit contracts)
 - i. Confirm that the Bid Sheet provided is for the project submitted
 - ii. Verify that the requested bid amount (lump sum/Overhead and Profit) has been included according to any specific instructions on the Bid Sheet.
 - iii. Verify that the Component Total is an accurate summary (lump sum) of all line items.
 - iv. *If there is a discrepancy between the component price and the stated Lump Sum Total, the extended price will prevail. (Std. Spec. 2-1.05)*

2. Bidder's Bond

- a. Confirm that document is completed and blanks are filled-in
- b. Confirm that Signatory to the Company and Surety signing the document each have official Notarization from a Public Notary.
 - i. Each signature requires an official notarization
 - ii. Requires original Notarization from a Public Notary, including seal and stamp (attached or other professional notary forms are accepted)
 - iii. Confirm that Notarization name and person signing the document are the same
- c. Confirm that the Signatory to the Company is granted authority to execute contracts on behalf of the company
 - i. Confirm that the Signatory is granted authority to execute contracts on behalf of the company
- d. If Attorney-in-Fact signs in place of the Principal, ensure there is a Power of Attorney document attached which certifies this Attorney-in-Fact.
- e. Confirm that Notarization and signature on document are the same
- f. Confirm that a Surety Company has an attached document verifying that the bond is for 10% of the total aggregate amount of the contract (bid amount)

Bid Responsiveness Review Manual

- g. Are corporate seals attached or embossed

3. Statement of Bidder's Experience

- a. When specific Bidder's Experience is required, as detailed in the Bidder's Experience form, confirm that the form is submitted with the bid.
- b. Confirm that the Bidder's Experience adequately and accurately demonstrates the company that has the experience to meet the requirement and complete the scope of work.
- c. If necessary, verify that the apparent low bidder meets or exceeds the experience requirements
- d. *If there is a concern about a contractor's submitted experience, bidder responsibility issues may also be present. Discuss this situation with immediate management and include the appropriate City Attorney, if necessary*

4. List of Subcontractors

- a. This form can be submitted blank if contractor is self-performing the work.
- b. If included, review the form for completeness of information provided (Std. Spec. 2-1.15A)

5. Signed Addenda

- a. Confirm that all of the required signed addenda cover pages are submitted with the bid.
- b. Be aware of any addenda issued that may have adjusted a required bid document submittal, specifically the Bidder's Experience Form or the Schedule of Quantities.

6. Federal Grant Funding

- a. If Grant Funding requires verification from Office of Equality Assurance, submit the 3 lowest responsive bid packages to OEA for review.
- b. Facilitate coordination between OEA and potential low bid contractors to complete the bid submittal.



Public Works Bid Irregularity Checklist

Project ID # and Name: _____

Bidder's Name: _____

Project Manager: _____

Bid Opening Date: _____

ITEM	YES	NO	COMMENTS
1. PROPOSAL DOCUMENT			
a. Name of Company and contact			
b. City of San José Business License			
c. Required State Contracting License(s) (noted on NTC)			
d. Signatory has Corporate Authority to submit bid and execute contracts			
e. Non-Collusion Affidavit			
- all blank fields completed			
- Original Notarization for Signatory			
- Appropriate Signatory signs			
f. Schedule of Quantities (as applicable) is extended and totaled correctly			
g. Bid Sheet (for Lump Sum and Overhead and Profit contracts) is completed correctly			



Public Works Bid Irregularity Checklist

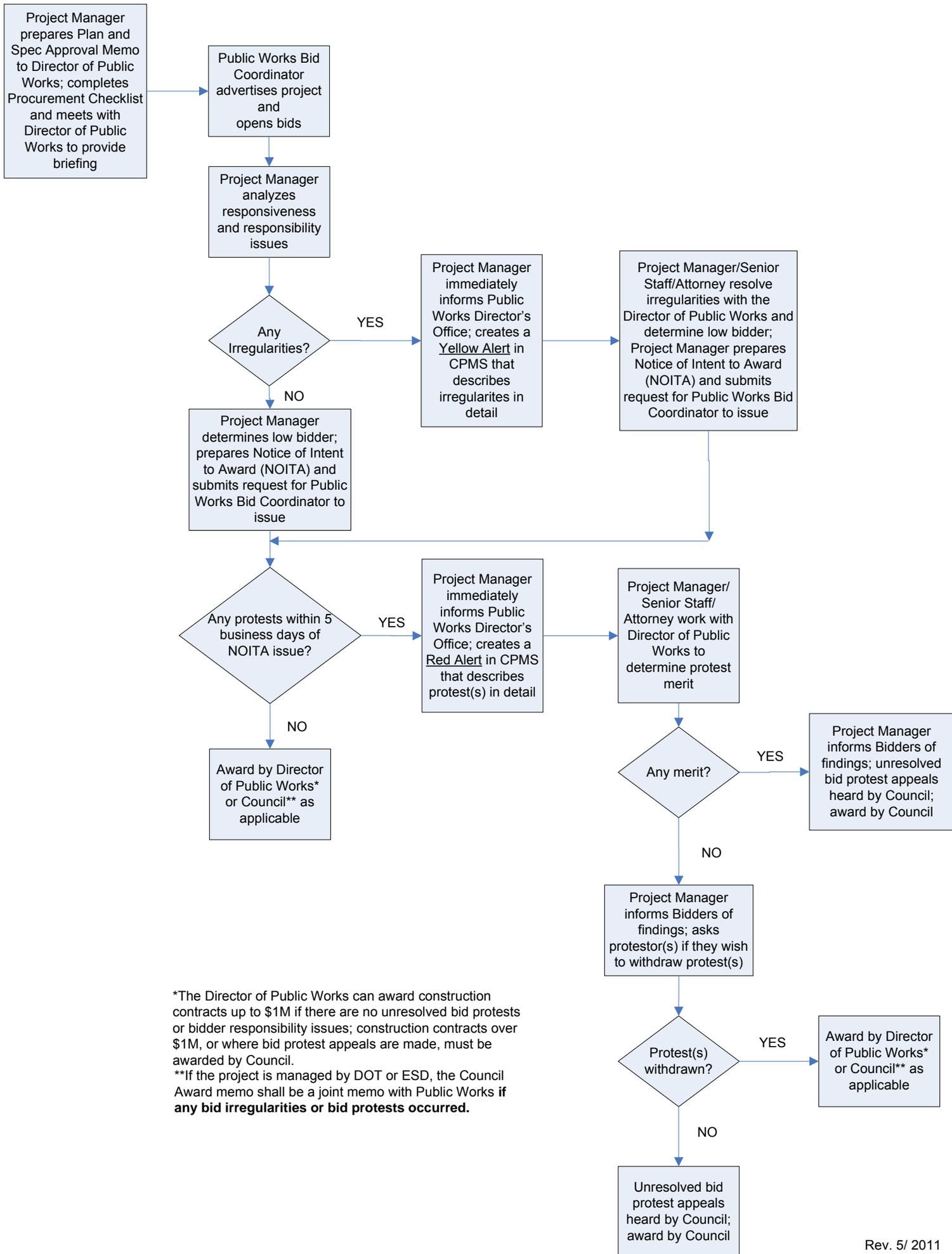
ITEM	YES	NO	COMMENTS
2. BIDDER'S BOND			
- Signatory and Surety have correct and complete Notarization attached			
- Surety submits proof of Signature Authority (Power of Attorney)			
- Appropriate Corporate seals are embossed or attached (original)			
3. STATEMENT OF BIDDER'S EXPERIENCE			
- When required, specific Bidder's Experience Form is submitted			
- Submitted experience meets the requirements (specific or non-specific) for this project			
4. LIST OF SUBCONTRACTORS			
- Form is complete, when submitted			
5. SIGNED ADDENDA			
- Addenda requiring signature acknowledgement are included in bid			
6. FEDERAL GRANT FUNDING			
- If applicable, OEA coordination and verification has occurred			

**Citywide Procurement Procedures
for
Normal Major Public Works Project Contract**

ATTACHMENT B

Citywide Construction Contract Procurement Process Flow Chart

Citywide Construction Contract Procurement Process



**Citywide Procurement Procedures
for
Normal Major Public Works Project Contract**

ATTACHMENT C

City Council Resolution 73532 and 72943

RESOLUTION NO. 73532

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE EXTENDING THE PILOT PROGRAM TO STREAMLINE THE AWARD OF PUBLIC WORKS CONSTRUCTION CONTRACTS AND DELEGATING AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS TO TAKE CERTAIN ACTIONS

WHEREAS, the San José Municipal Code currently authorizes the Director of Public Works to award and execute public works construction contracts that do not exceed \$100,000; and

WHEREAS, the San José Municipal Code currently requires the City Council to award and execute public works construction contracts greater than \$100,000; and

WHEREAS, Section 14.04.300 of the San José Municipal Code specifies that the City Council, by resolution, may give the Director of Public Works greater authority to award and execute public works construction contracts; and

WHEREAS, on October 25, 2005, the City Council adopted Resolution No. 72943, implementing a one-year pilot program that delegated authority to the Director of Public Works to award and execute public works construction contracts of up to \$1,000,000 subject to certain conditions and limitation set forth in the Resolution (hereinafter "Pilot Program"); and

WHEREAS, based on the results of the program, the City of San José ("City") desires to make the Pilot Program permanent and has directed the City Attorney to draft an appropriate ordinance amending the Municipal Code to make the Pilot Program permanent; and

WHEREAS, the City desires to extend the Pilot Program until such time as the ordinance making the Pilot Program permanent is adopted by the City Council and becomes effective.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The Pilot Program established by Resolution No. 72943 shall be extended until such time as an ordinance making the Pilot Program permanent is adopted by the City Council and becomes effective.

ADOPTED this 5th day of December, 2006, by the following vote:

AYES: CAMPOS, CHAVEZ, CHIRCO, CORTESE, LeZOTTE,
NGUYEN, PYLE, REED, WILLIAMS, YEAGER;
GONZALES

NOES: NONE

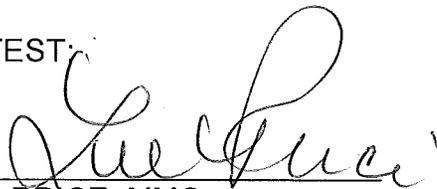
ABSENT: NONE

DISQUALIFIED: NONE



RON GONZALES
Mayor

ATTEST:



LEE PRICE, MMC
City Clerk

RESOLUTION NO. 72943

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE IMPLEMENTING A ONE-YEAR PILOT PROGRAM TO STREAMLINE THE AWARD OF PUBLIC WORKS CONSTRUCTION CONTRACTS AND DELEGATING AUTHORITY TO THE DIRECTOR OF PUBLIC WORKS TO TAKE CERTAIN ACTIONS

WHEREAS, the San José Municipal Code currently authorizes the Director of Public Works to award and execute public works construction contracts that do not exceed \$100,000; and

WHEREAS, the San José Municipal Code currently requires the City Council to award and execute public works construction contracts greater than \$100,000; and

WHEREAS, Section 14.04.300 of the San José Municipal Code specifies that the City Council, by resolution, may give the Director of Public Works greater authority to award and execute public works construction contracts; and

WHEREAS, the City desires to implement a one-year pilot program to streamline the award of public works construction contracts and to delegate authority to the Director of Public Works to take certain actions specified in this Resolution (hereinafter "Pilot Program"); and

WHEREAS, the Pilot Program is not intended to change any of the requirements of the City of San José ("City") Charter or San José Municipal Code regarding the public bidding of public works construction contracts involving an amount greater than \$100,000 or the award of such contracts to the lowest responsive bidder that is responsible.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. Under the Pilot Program, the Director of Public Works shall have the authority set forth in Exhibit "A" of this Resolution with regard to award and execution of public works construction contracts.

SECTION 2. For purposes of this Resolution, reference to the "Director" or the "Director of Public Works" means only the Director of the Department of Public Works ("Director") and does not include the Directors of General Services, Transportation or Environmental Services.

SECTION 3. The Pilot Program established by this Resolution shall be effective from December 1, 2005 through November 30, 2006, unless extended by further act of the City Council.

ADOPTED this 25th day of October, 2005, by the following vote:

AYES: CAMPOS, CHAVEZ, CORTESE, LeZOTTE, NGUYEN,
PYLE, REED, WILLIAMS, YEAGER; GONZALES

NOES: NONE

ABSENT: CHIRCO

DISQUALIFIED: NONE



RON GONZALES
Mayor

ATTEST:



LEE PRICE, CMC
City Clerk

Exhibit "A"

One-Year Pilot Program To Streamline The Award Of Public Works Construction Contracts

1. The Director shall have the authority to award and execute any public works construction contract where the **base contract amount** does not exceed \$1,000,000. The "base contract amount" is the amount of the contract not including add alternates. The Director's authority under this provision is subject to the following conditions:
 - a. There are no unresolved, written bid protests.
 - b. The total amount of the construction contract (including add alternates), plus the project delivery costs and appropriate contingencies are all within the total amount appropriated for the project.
 - c. The Director is not seeking to disqualify the lowest responsive bidder as not being responsible.
 - d. The Director is not seeking to award the contract pursuant to one of the City Charter exceptions to the public bidding requirements.

2. For any construction contract that the Director is authorized to award and execute under Item No. 1 above, the Director also shall have the authority to award and/or reject add alternates bid as part of the project. Pursuant to this authority, the amount of the add alternates awarded by the Director can cause **the total contract amount** (base contract amount plus add alternates) to exceed the \$1,000,000 base contract amount used to determine the Director's authority to award the contract.
 - a. The Director's authority to award add alternates is subject to the condition that the total contract amount plus the project delivery costs and appropriate contingencies are all within the total amount appropriated for the project.
 - b. The following is merely an example illustrating the authority under this provision. Assume that the Director has the authority under Item No. 1 above to award a construction contract where the base contract amount is \$950,000. Under this provision, the Director has the authority to award add alternates that would cause the total contract amount to exceed \$1,000,000, so long as the total appropriation is sufficient to cover all project costs.

3. For any construction contract that the Director is authorized to award under Item No. 1 above, the Director also shall have the authority to establish the construction contingency up to the maximum amount set forth in Resolution No. 71319, which was adopted by the City Council On December 3, 2002. Resolution No. 71319 sets a 5 percent contingency for street, sidewalk and park projects; it sets a 10 percent contingency for utilities and building projects; it sets a 15 percent contingency for building renovation projects.
4. The Director shall have the authority to reject all bids on any project where the Engineer's Estimate for the base work is \$1,000,000 or less. By means of example only, if the Engineer's Estimate on a project were \$250,000 and all the bids came in at \$300,000, the Director would have the authority to reject the bids.
5. Before awarding any contract under Item No. 1 above, the Director shall cause there to be public notice on the internet of pending awards and the date such awards will be made. The Director shall cause a web posted copy of the internal staff report regarding the award to be included in this public notice.

In addition, the Director shall give notice to the bidders of the date upon which the Director anticipates awarding the contract and a time period within which to submit any written bid protests. A provision in the bid documents setting forth this information shall be sufficient notice.

6. For any construction contract that the Director is authorized to award under Item No. 1 above, the Director shall take the actions needed to incorporate appropriate environmental mitigation measures for the project.
 - a. As part of this authority, the Director shall prepare an annual report to the City Council that confirms the implementation of mitigation on capital projects. The first report will be done half way through the Pilot Program.
 - b. The Department of Public Works and the Planning Division of the Department of Planning, Building, Code Enforcement shall ensure implementation of the mitigation measures. They shall report any changes to the mitigation to the Council.
7. The Director shall cause a listing of contracts awarded pursuant to this Resolution to be included on the City Council agenda.

**Citywide Procurement Procedures
for
Normal Major Public Works Project Contract**

ATTACHMENT D

Construction Contract Execution and Award Procedure

Construction Contract Execution and Award Procedure (*DRAFT*)

The Contract Execution and Award Procedure begins after the NOITA has been posted on BidSync.

Award Process	Director Award ⁽¹⁾	Council Award ⁽²⁾
Project Manager	Completes "Prevailing Wage Compliance Report" with OEA	Completes "Prevailing Wage Compliance Report" with OEA
Project Manager	Following protest period, prepares Director Award memo, coordinates with division analyst & section manager (& client dept)	Following protest period, coordinates with Section Manager, CAO, CMO Budget Office analyst and, if necessary Client Department to prepare council memo
Project Manager	Submits director award memo to division manager for signature	Obtains signatures on Council Transmittal from section manager, division manager, division analyst
Project Manager	Submits signed director award memo to Contract Administrator	Submits hard copy & transmittal to Council Liaison; emails soft copy
Council Liaison/Contract Administrator	Submits director award to Principal Accountant for review and approval	Reviews memo for format, emails soft copy to CAO, OMB_& client dept (if joint signature)
Council Liaison/Contract Administrator	Submits director award memo to deputy director; then assistant director for review & signature	Submits council memo to deputy director, then assistant director
Council Liaison/Contract Administrator	Submits director award memo to Director for review & signature	Submits council memo to Director for review & signature by Council Agenda Calendar deadline
Council Liaison/Contract Administrator	PDFs director award and emails soft copy to project manager and distribution list; keeps original director award on file	Keeps original council memo on file; emails electronically-signed soft copy of memo, agenda tag and attachments to <u>CMOAgendaServices</u>

(1) PW Director awards projects \$1,000,000 or less

(2) City Council awards projects over \$1,000,000 or if bids have been protested or if appropriation is necessary

Construction Contract Execution and Award Procedure (*DRAFT*)

Award Process	Director Award ⁽¹⁾	Council Award ⁽²⁾
Project Manager		Verifies award occurs during scheduled City Council Meeting
Council Liaison/Contract Administrator	Emails project manager contract documents to fill out and return for review: - 45CNTRCT_PW approval Revised 092011 - 50FAITH - 55PAYMNT - 149-7 Notification of Contract Being Processed - CertCorpRes - Contract ExeReqmts - Notary Acknowledgment 2008(3).pdf - Notice of Award of Contract Ltr.doc - Small Business Verification 3.21.11.doc	Emails project manager contract documents to fill out and return for review: - 45CNTRCT_Council approval Revised 092011 - 50FAITH - 55PAYMNT - 149-7 Notification of Contract Being Processed - CertCorpRes - Contract ExeReqmts - Notary Acknowledgment 2008(3).pdf - Notice of Award of Contract Ltr.doc - Small Business Verification 3.21.11.doc
Project Manager	Fills out contract docs and returns to Contract Administrator	Fills out contract docs and returns to Council Liaison
Council Liaison/Contract Administrator	Reviews contract doc's, notes edits, returns to Project Manager to incorporate edits	Reviews contract doc's, notes edits, returns to Project Manager to incorporate edits
Project Manager	Sends contract docs to contractor for signature	Sends contract docs to contractor for signature
Project Manager	Signed documents are submitted to CAO for signature	Signed documents are submitted to CAO for signature
Project Manager	CAO/contractor-signed contract docs are delivered to Contract Administrator	CAO/contractor-signed contract docs are delivered to Council Liaison

(1) PW Director awards projects \$1,000,000 or less

(2) City Council awards projects over \$1,000,000 or if bids have been protested or if appropriation is necessary

Construction Contract Execution and Award Procedure (*DRAFT*)

Award Process	Director Award ⁽¹⁾	Council Award ⁽²⁾
Project Manager	CAO/contractor-signed contract docs are delivered to Contract Administrator	CAO/contractor-signed contract docs are delivered to Council Liaison
Council Liaison/Contract Administrator	Council Liaison submits contract docs to Director for signature.	Sends contract documents to City Clerk
Council Liaison/Contract Administrator	Signed contract is hand delivered to City Clerk's office for final execution	Signed contract is hand delivered to City Clerk's office for final execution
Council Liaison/Contract Administrator	Final executed documents are received from Clerk's office (PDF via email). Forward copy to project manager and Fiscal (Melissa).	Final executed documents are received from Clerk's office (PDF via email). Forward copy to project manager and Fiscal (Melissa).
Project Manager	Sends executed contract, or original, to awarded contractor	Sends executed contract, or original, to awarded contractor
Council Liaison/Contract Administrator	Project & contract info input to Contracts Database as "complete"	Project & contract info input to Contracts Database as "complete"
Project Manager	Uploads executed contract to CPMS Project Files	Uploads executed contract to CPMS Project Files

(1) PW Director awards projects \$1,000,000 or less

(2) City Council awards projects over \$1,000,000 or if bids have been protested or if appropriation is necessary