

1 [Board Response - Civil Grand Jury - San Francisco’s City Construction Program: It Needs
2 Work]

3 **Resolution responding to the Presiding Judge of the Superior Court on the findings**
4 **and recommendations contained in the 2014-2015 Civil Grand Jury Report, entitled**
5 **“San Francisco’s City Construction Program: It Needs Work”**; and urging the Mayor to
6 **cause the implementation of accepted findings and recommendations through his/her**
7 **department heads and through the development of the annual budget.**

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9 WHEREAS, Under California Penal Code, Section 933 et seq., the Board of
10 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
11 Court on the findings and recommendations contained in Civil Grand Jury Reports; and

12 WHEREAS, In accordance with California Penal Code, Section 933.05(c), if a finding or
13 recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a
14 county agency or a department headed by an elected officer, the agency or department head
15 and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the
16 response of the Board of Supervisors shall address only budgetary or personnel matters over
17 which it has some decision making authority; and

18 WHEREAS, Under San Francisco Administrative Code, Section 2.10(a), the Board of
19 Supervisors must conduct a public hearing by a committee to consider a final report of the
20 findings and recommendations submitted, and notify the current foreperson and immediate
21 past foreperson of the civil grand jury when such hearing is scheduled; and

22 WHEREAS, In accordance with San Francisco Administrative Code, Section 2.10(b),
23 the Controller must report to the Board of Supervisors on the implementation of
24 recommendations that pertain to fiscal matters that were considered at a public hearing held
25 by a Board of Supervisors Committee; and

1 WHEREAS, The 2014-2015 Civil Grand Jury Report entitled “San Francisco’s City
2 Construction Program: It Needs Work” (Report) is on file with the Clerk of the Board of
3 Supervisors in File No. 150607, which is hereby declared to be a part of this resolution as if
4 set forth fully herein; and

5 WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond
6 to Finding Nos. 2, 3, 4, 5, 6, 7, 8, and 9, as well as Recommendation Nos. 2, 3, 4, 5, 6, 7, 8,
7 and 9 contained in the subject Civil Grand Jury report; and

8 WHEREAS, Finding No. 2 states: “The current lowest bid-contracting environment is
9 not optimal for the City, since it increases costs due to additional project change orders, and it
10 reduces the number of quality contractors willing to bid on City projects;” and

11 WHEREAS, Finding No. 3 states: “The complexity of the contracting environment,
12 especially as it relates to [Local Business Enterprises] (LBEs), reduces the pool of contractors
13 willing to do business with the City, thereby limiting vendor selection;” and

14 WHEREAS, Finding No. 4 states: “Change orders are not managed uniformly across
15 departments, which exposes the City to increased project costs;” and

16 WHEREAS, Finding No. 5 states: “Construction contract close out procedures are not
17 followed, which can result in the City not receiving the services it contracted to receive;” and

18 WHEREAS, Finding No. 6 states: “The variety of construction projects in the City
19 creates a mismatch between the design and engineering skills required for current projects
20 and the skills of the staff, resulting in duplicate labor costs when outside firms are retained
21 and excess capacity when there is a decline in construction activity;” and

22 WHEREAS, Finding No. 7 states: “The lack of integrated construction management
23 systems and the failure to follow centralized construction management policies and
24 procedures prevents the City from generating citywide construction reports;” and
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1 WHEREAS, Finding No. 8 states: “The City does not have an independent
2 management group reviewing citywide construction performance reports and monitoring
3 adherence to change orders and construction contract close out policies and procedures;” and

4 WHEREAS, Finding No. 9 states: “San Francisco City departments do not issue final
5 reports on construction projects that are readily available to its citizens;” and

6 WHEREAS, Recommendation No. 2 states: “The [Board of Supervisors] (BOS) should
7 amend Chapter 6 of the Administrative Code to require contractor performance as an
8 additional criterion for construction contracts;” and

9 WHEREAS, Recommendation No. 3 states: “The [Civil Grand Jury] (CGJ) recommends
10 that the proposed Chapter 6 amendment make past performance a construction award
11 criterion for all future City construction contracts including LBE subcontracts;” and

12 WHEREAS, Recommendation No. 4 states: “The Office of the Controller should
13 implement a standardized change order management policy and require all City departments
14 to adhere to any new change order policy;” and

15 WHEREAS, Recommendation No. 5 states: “The Office of the Controller should
16 implement a standardized construction contract closeout policy and require all City
17 departments to adhere to any new policy;” and

18 WHEREAS, Recommendation No. 6 states: “The BOS should request the [Budget and
19 Legislative Analyst] (BLA) or [City Services Auditor] (CSA) to benchmark the City’s design and
20 engineering workforce organizational structure against comparable cities and issue a report;”
21 and

22 WHEREAS, Recommendation No.7 states: “The Mayor should allocate financial
23 resources in the current City budget to fund the Department of Technology hiring a consulting
24 firm with extensive construction management expertise to develop citywide system
25 requirements for the implementation of a construction management system;” and

1 WHEREAS, Recommendation No. 8 states: “The BOS should either request the CSA
2 or BLA, or retain an outside firm, to benchmark the independent construction management
3 structure of other cities and develop recommendations applicable to San Francisco;” and

4 WHEREAS, Recommendation No. 9 states: “The BOS should require all City
5 departments to issue final project construction reports within nine months of project
6 completion for all construction projects and for the reports to be posted on each department’s
7 website;” and

8 WHEREAS, In accordance with California Penal Code Section 933.05(c), the Board of
9 Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior
10 Court on Finding Nos. 2, 3, 4, 5, 6, 7, 8, 9, as well as Recommendation Nos. 2, 3, 4, 5, 6, 7, 8,
11 9 contained in the subject Civil Grand Jury report; now, therefore, be it

12 RESOLVED, That the Board of Supervisors reports that they disagree partially with
13 Finding No. 2 for reasons as follows: The City has to balance its responsibility to the
14 taxpayers with a clear timeline and stricter oversight on project delivery and cost control; and,
15 be it

16 FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
17 partially with Finding No. 3 for reasons as follows: The Board of Supervisors passed
18 Legislation amending Chapter 6 of the Administrative Code which took effect August 1, 2015.
19 These changes, among other things, incorporate some industry best practices and therefore
20 are more likely to attract contractors familiar with the most recent industry innovations,
21 allowing us to grow our contractor pool and better serve the Public; and, be it

22 FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
23 partially with Finding No. 4 for reasons as follows: Though departments need to abide by their
24 respective change order policies, having a uniform change order management policy is not
25 practical given the differing project types and project delivery methods citywide; and, be it

1 FURTHER RESOLVED, That the Board of Supervisors reports that they agree with
2 Finding No. 5 for reasons as follows: When the Controller's City Services Auditor (CSA)
3 conducted an audit of the closeout procedures it found a number of shortcomings including
4 lack of sufficient documentation, adequate review or verification, and adherence to existing
5 policies and procedures; and, be it

6 FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
7 partially with Finding No. 6 for reasons as follows: In addition to the wide variety of skills the
8 department has in-house, the use of consultants gives the department flexibility to meet the
9 needs of other departments and meet peak demands without the need to increase its staff,
10 departmental budgets and overall project costs; and, be it

11 FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
12 partially with Finding No. 7 for reasons as follows: The Civil Grand Jury is correct that there is
13 not an integrated citywide construction management system. However the Board of
14 Supervisors is represented on the Capital Planning Committee and appoints members to the
15 General Obligation and Revenue Bond Oversight Committees which all review and monitor
16 activities related to construction and capital projects; and, be it

17 FURTHER RESOLVED, That the Board of Supervisors reports that they disagree
18 partially with Finding No. 8 for reasons as follows: The Jury is correct that there is not an
19 independent management group that monitors construction; However the Board of
20 Supervisors is represented on the Capital Planning Committee which monitors and prioritizes
21 infrastructure investments. In addition, the Board with their independent Budget and
22 Legislative Analyst's office regularly analyzes construction performance. Finally the CSA on a
23 quarterly basis presents an update on the implementation of their audits to the Government
24 Audit and Oversight Committee; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors reports that they agree with
2 Finding No. 9 for reasons as follows: While some reports are posted online and publicly
3 available, City departments do not issue final reports when construction projects are
4 completed; and, be it

5 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
6 No. 2 will not be implemented: The Board cannot commit to timing or outcome of future
7 legislation; and, be it

8 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
9 No. 3 will not be implemented for reasons as follows: The Board cannot commit to timing or
10 outcome of future legislation and, be it

11 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
12 No. 4 will not be implemented because it is not warranted for reasons as follows: Given the
13 wide variety of project types, sizes, budgets, and complexity undertaken by the Chapter 6
14 departments, a “one size fits all” approach is not in accordance with best practices; and, be it

15 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
16 No. 5 will not be implemented for reasons as follows: Although the Board of Supervisors
17 supports the recommendation, it is not within the jurisdiction of the Board; and, be it

18 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
19 No. 6 requires further analysis for reasons as follows: A benchmarking analysis could provide
20 important and helpful insight into best practices for how to improve the organizational
21 structure of the City's design and engineering workforce, and merits further consideration. The
22 Board of Supervisors will confer with their independent Budget and Legislative Analyst's office
23 to assess how to best address this recommendation by January 2016; and, be it

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1 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
2 No. 7 will not be implemented for reasons as follows: Although the Board of Supervisors
3 supports the recommendation, it is not within the jurisdiction of the Board; and, be it

4 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
5 No. 8 requires further analysis for reasons as follows: This recommendation overlaps with
6 recent and existing work of a workgroup of Chapter 6 departments. Legislation modernizing
7 Chapter 6 went into effect August 1, 2015, after more than a year of collaboration. The next
8 round of changes, including a shared database to track contractor performance, is being
9 discussed now with a goal of implementation by Summer 2016. The Board of Supervisors will
10 confer with their independent Budget and Legislative Analyst's office to assess how to best
11 address this recommendation by January 2016; and, be it

12 FURTHER RESOLVED, That the Board of Supervisors reports that Recommendation
13 No. 9 requires further analysis for reasons as follows: This recommendation will be revisited
14 by the Board of Supervisors by January 2016 as part of the ones being considered when
15 further amendments to Chapter 6 of the Administrative Code are brought forward; and, be it

16 FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the
17 implementation of accepted findings and recommendations through his/her department heads
18 and through the development of the annual budget.

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