File No. 100332 Committee Item No. 4
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Economic Development **Date** April 19, 2010

Board of Supervisors Meeting **Date** _____

Cmte	Board	
☐	☐	**Motion**
☐	☐	**Resolution**
☒	☐	**Ordinance**
☒	☐	**Legislative Digest**
☐	☐	**Budget Analyst Report**
☐	☐	**Legislative Analyst Report**
☐	☐	**Youth Commission Report**
☐	☐	**Introduction Form (for hearings)**
☐	☐	**Department/Agency Cover Letter and/or Report**
☐	☐	**MOU**
☐	☐	**Grant Information Form**
☐	☐	**Grant Budget**
☐	☐	**Subcontract Budget**
☐	☐	**Contract/Agreement**
☐	☐	**Form 126 – Ethics Commission**
☐	☐	**Award Letter**
☐	☐	**Application**
☐	☐	**Public Correspondence**

OTHER **(Use back side if additional space is needed)**

☐	☐	_____
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Completed by: Alisa Somera **Date** April 16, 2010
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

FILE NO. 100332 ORDINANCE NO.

[Revisions to Integrated Project Delivery Construction Contracting Procedures]

Ordinance amending San Francisco Administrative Code Chapter 6 to revise Section 6.68 concerning integrated project delivery contracting procedures.

Note: Additions are *single-underline italics Times New Roman*; deletions are ~~*strikethrough italics Times New Roman*~~. Board amendment additions are double underlined; Board amendment deletions are ~~strikethrough normal~~.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The San Francisco Administrative Code is hereby amended by amending Section 6.68, to read as follows:

SEC. 6.68. INTEGRATED PROJECT DELIVERY

Integrated project delivery is an approach to the procurement of construction services whereby a construction manager/general contractor ("CM/GC") is retained during the design process to review and provide comments as to the constructability of the Architect/Engineer's design within the established budget. The department heads authorized to execute contracts for public work projects are authorized to seek proposals from qualified CM/GCs for construction of public work projects using an integrated project delivery under the following conditions:

(A) Before the request for qualifications is issued, the department head shall determine that an integrated project delivery is necessary or appropriate to achieve anticipated cost savings or time efficiencies, or both, and that such a process is in the public's best interest.

(B) If the proposed public work project is for the use or benefit of a department that is under the jurisdiction of a commission, then such commission shall first approve the solicitation of integrated project delivery proposals. If the public work is for the use or benefit

of a department not under the jurisdiction of a commission, then the City Administrator must first approve this process.

(C) Pre-qualification. Department heads shall require that prospective proposers be pre-qualified to submit proposals on a specific project. The procedure for pre-qualification is as follows:

(1) The department head shall issue a request for qualifications inviting interested parties to submit their qualifications to perform the project. The request for qualifications shall include criteria by which the prospective proposers shall be evaluated. The evaluation criteria shall be based on qualifications and experience relevant to the services needed for the *particular* project. *The list of criteria may include, but is not limited to the following:* ~~*including:*~~ (i) ability to perform required pre-construction and construction phase services; (ii) evidence of financial capacity; (iii) experience on ~~*similar*~~ projects *of similar size and complexity*; (iv) commitment to comply with the goals and requirements of Administrative Code Chapters 12 and 14; (v) ability to collaboratively and cooperatively deliver projects on time and on budget; (vi) liquidated damages for delay and other damages paid on prior projects, and prior litigation history; (vii) reputation with owners of prior projects; (viii) claims history with insurance carriers and sureties; and (ix) compliance with all of the requirements established in the request for qualifications and other criteria that the department head *in consultation with the Human Rights Commission* may deem appropriate. The department head shall set objective scoring criteria and incorporate the criteria into any scoring procedure.

(2) The department head shall designate a panel to review pre-qualification responses and interview and rate respondents with respect to the request for qualifications. Only those respondents found to be qualified will be eligible to submit proposals. The list of pre-qualified respondents shall be valid for not more than two years following the date of initial pre-qualification.

(D) Request for Proposals. The department head shall issue a request for proposals inviting pre-qualified CM/GCs to submit competitive ~~*cost*~~ proposals for the project. The request for proposals shall include information describing the scope of pre-construction and construction phase services for the project. The request for proposals shall request the following minimum cost information from each proposer: (i) fees for pre-construction services and (ii) fees for construction phase services, including overhead, profit and general conditions.

(E) Final Selection Process. The department head may recommend the award of a contract to the responsible *CM/GC* ~~*bidder*~~ submitting the lowest responsive bid. If the award to that *CM/GC* ~~*bidder*~~ is not made for any reason, the department head may recommend the award of a contract to the responsible *CM/GC* ~~*bidder*~~ submitting the next lowest responsive bid, and so forth. ~~*The department head may, at his or her sole discretion, conduct any negotiations that are necessary to effectuate the award of a contract.*~~

(F) Alternative Final Selection Process. If the department head determines that it is in the City's best interest to consider non-cost criteria as part of the final selection process, the department head shall issue a request for proposals inviting pre-qualified CM/GCs to submit integrated project delivery proposals, which will be evaluated based upon both non-cost criteria and project costs.

(1) The department head shall designate a panel to evaluate integrated project delivery proposals and rank the proposals to determine which provides the overall best value to the City with respect to non-cost and cost criteria. The list of non-cost criteria may include but is not limited to the following: (i) plan for expediency in completing the proposed project; (ii) quality of proposal; (iii) commitment to comply with the goals set by the Human Rights Commission and requirements of Administrative Code Chapters 12 and 14; (iv) commitment to meet City hiring goals (e.g. CityBuild or First Source Hiring); and (v) compliance with all the requirements and criteria established by the department head or HRC in the request for proposals. The department head shall set objective scoring

criteria and incorporate the criteria into any scoring procedure. The cost criterion shall constitute not less than sixty-five percent (65%) of the overall evaluation.

(2) The department head shall set forth in the request for proposals and in the contract liquidated damages to be assessed against the successful CM/GC in the event it fails to fulfill the commitments made in its proposal.

(3) The department head may recommend the award of a contract to the highest-ranked CM/GC whose total proposed fee is not more than twenty percent (20%) greater for contracts the estimated cost of which is $10 million or less, or is not more than ten percent (10%) greater for contracts the estimated cost of which is in excess of $10 million, than the total proposed fee of the lowest responsive bid. If award to such CM/GC is not made for any reason, the department head may recommend the award of a contract to the next highest-ranked CM/GC whose total proposed fee is not more than ten percent (10%) greater than the total proposed fee of the lowest responsive bid, and so forth. In making the final determination, the department head shall apply the LBE discount to proposals submitted by LBEs, in accordance with Administrative Code Chapter 14B..

(*GF*) The City shall retain the absolute discretion to determine, at any time during the process, not to proceed with any proposed project, which right may be exercised without liability to CM/GCs for costs incurred during the entire pre-qualification, proposal and negotiation process, and such rights shall be reserved in all requests for qualifications and proposals.

(*HG*) The bid security and subcontractor listing requirements of section 6.21 will not apply to the selection of CM/GCs under this section 6.68. Any resulting contract with a CM/GC shall comply with section 6.22.

(*IH*) Procurement of Trade Subcontractors. Department heads shall require the selected CM/GC to procure trade work contracts through a pre-qualification and competitive bid process, as follows:

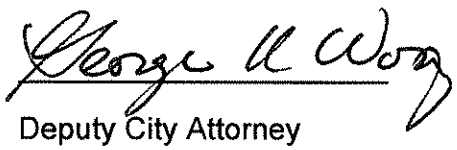
(1) Pre-qualification. The department head shall require the CM/GC to pre-qualify all trade subcontractors, subject to the approval of the department head. The CM/GC shall attempt to establish a pool of no fewer than three pre-qualified subcontractors for each trade package, subject to the approval of the department head.

(2) Competitive Bid. The department head shall require the CM/GC to receive sealed bids from the pre-qualified trade subcontractors. The bid security provisions of section 6.21 will not apply. The CM/GC shall award a trade package subcontract to the responsible bidder submitting the lowest responsive bid, except that the CM/GC may negotiate and award a portion of the trade package subcontracts as provided in paragraph (3), below. Only those Administrative Code provisions that normally apply to subcontracts will apply to the trade package subcontracts.

(3) The department head may authorize the CM/GC to negotiate subcontracts for trade work as appropriate for the project, up to an amount not exceeding seven and one-half percent of the total estimated subcontract costs. The department head shall establish a maximum dollar value for each negotiated trade subcontract as appropriate for the project.

(H) All actions heretofore taken by a department head consistent with the provisions of this section are hereby approved.

APPROVED AS TO FORM:
DENNIS J. HERRERA, City Attorney

By: 
Deputy City Attorney

FILE NO. 100332

LEGISLATIVE DIGEST

Revisions to Integrated Project Delivery Construction Contracting Procedures.

Ordinance amending San Francisco Administrative Code Chapter 6 to revise section 6.68 concerning integrated project delivery contracting procedures.

Existing Law

Administrative Code Chapter 6 addresses public work or improvement contracting policies and procedures.

Section 6.68 authorizes department heads to execute integrated project delivery construction contracts under which construction managers/general contractors (CM/GCs) provide pre-construction and construction phase services. Section 6.68 provides for a selection process under which a department head may recommend award of a contract to the CM/GC who submits the lowest responsive bid.

Amendments to Current Law

Section 6.68 is amended to:

- Remove the word "cost" from the second line of subsection 6.68(D).
- Replace the term "bidder" with "CM/GC" in subsection 6.68(E).
- Remove the authorization for department heads to conduct contract negotiations as part of the final selection process. (Subsection 6.68(E).)
- Authorize an alternative final selection process that may be used if a department head determines that it is in the public's best interest to consider qualifications and/or other non-cost criteria as part of the final selection process. Under the alternative process, proposals will be evaluated based upon these non-cost criteria and project cost; the cost criterion shall constitute not less than sixty-five percent of the overall evaluation. Non-cost criteria include: (i) plan for expediency in completing the proposed project; (ii) quality of proposal; (iii) compliance with the goals set by the Human Rights Commission and requirements of Administrative Code Chapters 12 and 14; (iv) commitment to meet City hiring goals (e.g., CityBuild or First Source Hiring); and (v) compliance with all the requirements and criteria established by the department head in the request for proposals. The cost criterion shall constitute not less than sixty-five percent (65%) of the overall evaluation. (New subsection 6.68(F).)
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- Authorize department heads using the alternative final selection process to recommend the award of a contract to the highest-ranked CM/GC whose total proposed fee is not more than ten percent (10%) or twenty percent (20%) greater than the total proposed fee of the lowest responsive bid. (New subsection 6.68(F)(2).)

- Renumber existing subsections 6.68(F), 6.68(G), 6.68(H), and 6.68(I) for clarity and logic within amended section 6.68.

Background Information

This legislation provides City departments with greater flexibility in using integrated project delivery to promote competition for certain public work projects, help achieve cost savings or time efficiencies for such projects, and help ensure the selection of a CM/GC whose proposal represents the overall best value to the City. The proposed alternative final selection process is very similar to the alternative selection process authorized for design-build contracts under Administrative Code subsection 6.61(F).