

CITY OF COSTA MESA

Department of Public Services/Administration

INTER OFFICE MEMORANDUM

TO: Honorable Members of the Charter Committee

FROM:  Ernesto Munoz, Public Services Director

DATE:  August 9, 2013

SUBJECT: **AWARD OF PUBLIC CONTRACTS**

We have prepared this memorandum pursuant to questions and comments from Committee Members at the last Charter Committee meeting on July 24, 2013 related to the award of public contracts. It is not our intent to provide exhaustive legal information as we understand this was already provided to the Committee, but attempt to answer your questions and concerns through a brief overview of our public contracting award procedures.

Contract Administration and Funding

The Public Services Department plans, directs, and coordinates the design and overall management of capital projects and the City's Capital Improvement Program (CIP). The department is also responsible for the administration of the multiple contracts required to execute these projects.

As a result of comprehensive studies in the areas of Alley Conditions, Street Rehabilitation Assessments, Storm Drain Systems, Traffic Impact Studies, and Open Space Development, the City Council has committed an increase in infrastructure capital investment. See Attachment "A". For Fiscal Year 2013-14, the City Council approved a CIP budget of \$18 million which includes 31 new projects. This brings the total number of active projects that staff is currently managing to 70 projects that are in various stages including: the design of concepts and specifications, advertising, bidding, award, construction, and final acceptance.

Staff utilizes various funding sources to implement the approved Capital Improvement Program. Each of these funding sources has distinct contracting requirements. These funding sources include:

- Air Quality Management District Fund
- Community Development Block Grant Funds
- Drainage Fees Fund

- General Fund
- Gas Tax Fund
- Park Development Fund
- Traffic Impact Fees Fund
- Measure M Funds

In Fiscal Year 2013-14, staff was successful in securing competitive grants to reduce the impact to the City's General Fund by \$5 million. Such grants have specific contracting requirements depending on the revenue source.

The Current Contracting Process Works Well

The Public Services Department's contracting process follows the Uniform Construction Cost Accounting Act (Alternative Procedure) and the City of Costa Mesa's Municipal Code. An extensive process takes place before public works construction contracts are advertised to the public inviting bids, whether formally or informally bid. This process involves the preparation of engineering studies, field surveys, designs, specifications, legal contract documents, and preliminary construction estimates. This pre-bid process can take from one (1) to 18 months depending on the complexity of the project.

All public works projects are advertised for bid utilizing various bidding procedures allowed under the Public Contract Code. Council action is required to award a contract depending on the contract's estimated value. However, all contracts, regardless of the dollar amount, are presented at City Council meetings under the Consent Calendar in the Warrant Resolutions.

The current process utilized by the Public Services Department for award of construction contracts is:

- ❖ Transparent
- ❖ Well supported by our legal department
- ❖ Allows for the selection of the best contractor for the job
- ❖ Flexible
- ❖ Assures the City retains the best services possible for the appropriated funds
- ❖ Effective in processing time-sensitive grant awards for projects
- ❖ Expedites the process of implementing the City's Capital Improvement Program
- ❖ Expedites the process of implementing smaller projects under the \$45,000 threshold

Process for Awarding of Contracts

The Public Contract Code clarifies the law with respect to competitive bidding requirements for public contracts and ensures compliance with competitive bidding statutes. In 2009, the City adopted the Alternative Procedure by resolution. Prior to the adoption of the Alternative Procedure, the City had to formally bid any public

project above the \$5,000 threshold. Every five (5) years, the California Uniform Construction Costs Accounting Commission reviews the informal bid limits for inflation and other factors. The limits were raised by the Commission in 2011 to thresholds listed below; the next review is due in 2016. It is unlawful to split or separate contracts into smaller projects for the purpose of evading the provisions of this article.

Alternative Bidding Procedures

Contract Value	Bid Process	Public Contract Code Section
< \$45,000	Work may be performed by City's own workforce, by negotiated contract, or by purchase order	PCC 230032(a)
\$45,001-\$175,000	Informal Bid Process	PCC 22032(b)
\$175,001+	Formal Bid Process	PCC 22032(c)

Formal Bids

A public contract in excess of \$175,000 is approved for advertisement by the Department Director and Chief Executive Officer. The contract is awarded by the City Council. Contracts that fall in this threshold are awarded to the lowest responsible bidder whose proposal complies with all requirements of the Notice Inviting Bids and is in accordance with the procedures outlined in the UCCAA related to formal bidding.

After construction projects receive approval by the Department Director and Chief Executive Officer, staff proceeds with the advertisement of the project at least 30 days before bids are due, through a Notice Inviting Bids prepared by staff per the design specifications. Under the formal bidding process bidders are required to:

- Be a licensed contractor
- Have all applicable insurance
- Furnish a labor and material bond for 100% of the project's cost
- Furnish a performance bond for 100% of the project's cost
- Furnish a Bidder's Bond for 10% of the bid amount or post a cashier's check in the same amount
- Submit a Responsive Proposal
- Provide references
- Designate all Subcontractors
- Submit a signed Non Discrimination Clause

- Submit signed and notarized Non Collusion Affidavit
- Submit Workers' Compensation Insurance
- Submit a certified Disadvantage Business Enterprises' form
- Disclose of Lobbying Activities

For formal bidding, there is at least a 30-day period between advertising and opening of the bid. Once the bids are received and publicly opened by the City Clerk, staff evaluates each bid and makes a determination of whether the bidder is responsive and responsible. In its discretion, the City may reject any and all bids presented if they exceed the estimated project cost.

Under the formal bid process, the contract is always awarded by the City Council. In anticipation of the Council award, staff prepares an agenda report containing a discussion of the project, analysis, and funding recommendations to award a public works contract to the lowest responsible bidder, and requests authority for the Mayor and City Clerk to execute the agreement. After a contract is awarded, a "Notice to Proceed" is issued to the contractor and the construction work may commence as outlined in the provisions of the contract documents.

Once the project is completed, staff prepares an agenda report recommending acceptance of the work performed by the contractor and requesting authorization for the City Clerk to file a notice of completion, and the release of applicable bonds. Staff also includes an analysis of the contract's execution.

The Public Services Department utilizes the formal bidding procedures for notification, advertisement, and public opening of bids for construction projects in excess of \$45,000, but less than \$175,000. Although the City does not have to follow the formal bidding procedures for projects valued between \$45,000 and \$175,000, staff has found that the use of the formal bidding process is effective to:

- Comply with state and federal requirements
- Assures the City of transparency
- Complies with most state and federal grant requirements
- Provides uniformity for the administration of multiple contracts

Informal Bids

As stated previously, the City has the discretion to use the informal bidding procedures for projects valued above \$45,000 but not more than \$175,000 under the Alternative Procedure. Unlike formal bids, informal bids are awarded by the Chief Executive Officer. There is at least a 30-day period between advertising and opening of the bid. Once the bids are received and opened by staff, they are evaluated and a recommendation to award to the lowest responsible bidder is prepared by staff. Performance bonds are required if the project exceeds \$25,000.

Contracts under \$45,000

For contracts under \$45,000, the City utilizes a Request for Bid form to secure proposals. The City advertises projects for at least 14 days prior to deadline. The form is a four (4) page document that outlines the scope of work, and contains a designated area where the vendor provides a response to the bid and a signature line. The form also outlines the City's General Terms and Conditions. Staff is required to secure a minimum of three (3) bids from qualified contractors. It is the bidder's responsibility to furnish the appropriate proof of insurance and endorsement. Performance bonds are required if the project exceeds \$25,000.

Prevailing Wages

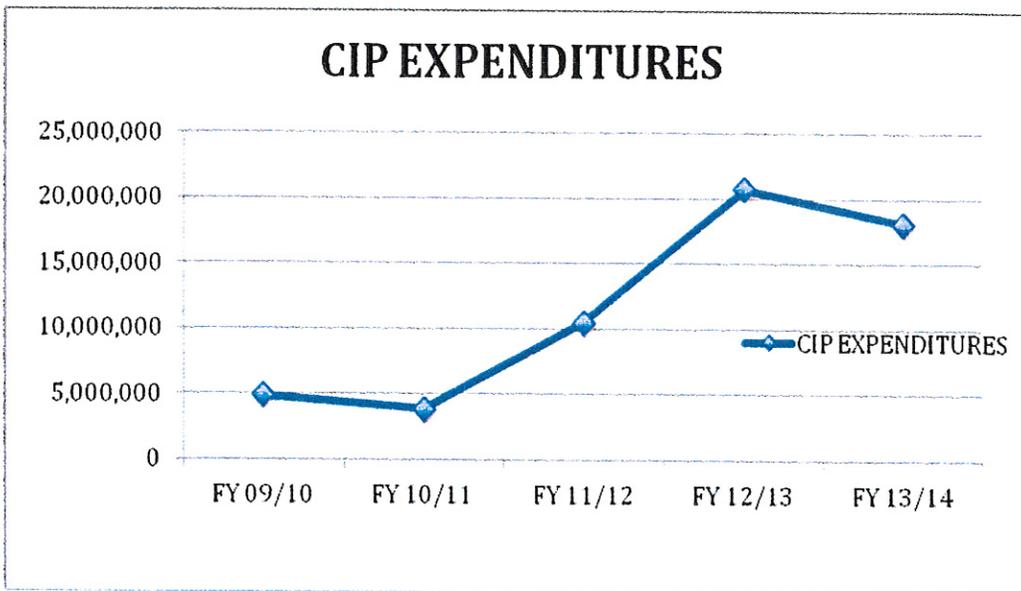
California law requires payment of prevailing wages on public works contracts in excess of \$1,000. The California Department of Industrial Relations (DIR) issues wage rate determinations twice a year. Contractors and their subcontractors must also comply with additional requirements such as providing and maintaining certified payroll records and making such records available for inspection, and complying with apprenticeship obligations. We have attached an Inter Office Memorandum (Attachment B) prepared by staff on January 6, 2012 providing analysis of Prevailing Wage vs. Non-prevailing Wage for Capital Improvement Projects to illustrate possible savings that may be realized from a non-prevailing wage clause.

attachments

- c City Council
 - Tom Hatch, Chief Executive Officer
 - Rick Francis, Assistant Chief Executive Officer

ADOPTED FY 13-14 CAPITAL IMPROVEMENT PROJECTS

PROGRAM/PROJECT NAME	ADOPTED FY 13-14
Parkway & Median Improvements	\$ 300,000
Street Improvements	10,386,500
Storm Drain Improvements	3,371,600
Curbs and Sidewalks	400,000
Park Maintenance	300,000
Park Development	2,795,959
Building Maintenance	500,000
TOTAL	<u>\$18,054,059</u>



The chart above illustrates the increase in infrastructure improvement projects from FY 09-10 through the adopted budget for FY 13-14. FY 2011-12 included fifteen projects, FY 2012-13 included thirty-eight projects, FY 2013-14 has planned for thirty-one projects.

CITY OF COSTA MESA

Department of Public Services / Administration

INTER OFFICE MEMORANDUM

To: Honorable City Council

From:  Ernesto Munoz, Interim Director, Public Services Department

Date: January 6, 2012

Subject: PREVAILING WAGE VS. NON-PREVAILING WAGE FOR CAPITAL IMPROVEMENT PROJECTS

At the December 6, 2011 meeting, the City Council requested staff to provide an analysis of potential cost savings the City may realize if it was not required to meet prevailing wage rate requirements on the labor costs associated with its capital improvement projects.

Staff examined the past two years' project records and analyzed the cost for five non-Federally funded projects, since projects with a Federally-funded match must pay prevailing wage rates.

The following five projects were funded with local revenues and, therefore, were not subject to Federal wage rate requirements. However, prevailing wages were paid pursuant to State labor code requirements. The weighted average cost savings of a non-prevailing wage contract for these projects is approximately \$232,752 or 6.7% over total project costs.

PROJECT	TOTAL COST	PREVAILING WAGE LABOR COST	NON-PREVAILING WAGE LABOR COST	TOTAL LABOR COST SAVINGS	% SAVINGS ON LABOR COST	% SAVINGS ON TOTAL CONTRACT COST
WALNUT DRAINAGE IMPROVEMENTS	\$377,589	\$69,831	\$20,725	\$49,106	70.32%	13.00%
FARM SPORTS COMPLEX LIGHTING	\$42,940	\$7,538	\$6,505	\$1,033	13.70%	2.40%
BRENTWOOD PARK LANDSCAPING	\$80,803	\$42,858	\$30,402	\$12,456	29.06%	15.40%
PARKING LOT NO. 1 REHABILITATION	\$292,744	\$61,646	\$25,172	\$35,474	57.54%	12.10%
CITYWIDE STREET MAINT. 2010/2011	\$2,678,033	\$928,847	\$794,164	\$134,883	14.50%	5.03%
TOTAL	\$3,472,109	\$1,110,720	\$877,968	\$232,752		

Based on the listed projects, the potential savings over the total project costs could have ranged between 2.4% and 15.4% if non-prevailing wage rates would have been paid by the City.

It would be reasonable to assume (without further project-specific detailed analysis) that comparable theoretical savings may have been realized on a project such as the Police Department Expansion and Renovation in the range of \$500,000 to \$3 million. Staff feels that savings for the Police Department Expansion and Renovation Project, with a total construction contract cost of \$19,964,780, could have been in the middle of this range given the high labor component of this contract or approximately \$1.8 million.

The potential savings to the City increase relative to the project size and the size of the project labor component. For further illustration, on a larger facility-type project, such as the construction of a new public library facility (assuming a hypothetical \$30 million budget), the potential savings could be as much as \$2.7 million.

Attached also find other information you may find useful relative to the prevailing wage issue and its impact on public works contract costs.

Please feel free to contact me should you have any questions regarding the above information.

Attachments

c: Thomas R. Hatch, Chief Executive Officer
Peter Naghavi, Economic Development Director/Deputy CEO

MEMORANDUM

Development Services Department

To: Honorable Mayor and City Councilmembers

Through: Peter Weiss, City Manager *W*

By: Gary Kellison, Senior Civil Engineer *GK*
Greg Blakely, Water Utilities Division Manager *GB*

Date: April 1, 2010

Subject: Relative Portion of Local versus Federally Funded Capital Projects

Councilmember Kern requested a breakdown of the relative portion of current capital projects funded with local or regional funds versus those with State or Federal funds. Currently, Oceanside pays prevailing wages on both kinds of projects.

Fund	Description	Local	Federal
751	Harbor -- Lot 11 Restroom	\$250,000	
591	Redevelop. -- Drainage Improvements; Tyson parking lot	\$2,800,000	
520	Drainage fee, TransNet -- Loma Alta Crk detention basins	\$4,490,000	
216	State Prop 42 -- Sidewalk repairs; storm drains	\$290,000	
212	TransNet -- Street maintenance and new construction	\$10,840,000	
212	TransNet -- Federal match for Pacific Street bridge		\$770,000
561	Thoroughfare fee -- College Blvd median storm drain	\$100,000	
508	Traffic Signal fee -- various traffic signals	\$1,670,000	
501	Misc Capital Projects -- 1617 Mission Ave bldg remodel	\$310,000	
501	Misc Capital Projects -- Pacific Street bridge		\$450,000
237	Housing (HUD) -- CBDG and ARRA (housing grants)		\$500,000
272	Public Works -- State Prop 50 grant (arundo removal)		\$80,000
	Public Works -- DOE ARRA (energy efficiency grants)		\$1,500,000
	Water Utilities -- water and sewer projects	\$8,560,000	\$490,000
Total		\$29,310,000	\$3,790,000

The table above lists the current-year budget for various types of projects split between local and Federal fund sources. TransNet and some State programs, such as gas tax, are categorized as "local" because they defer to local rules. Local funds that are budgeted on Federal projects are counted as "Federal" because those funds become subject to Federal rules when spent on Federal projects.

In the previous two years, Oceanside received Federal reimbursements of approximately \$18 million for the Pacific Street Bridge. The next largest project over the same period was El Corazon Senior Center, which was built with \$10 million in local funds.

cc: George Buell, Development Services Department Director
Loren Wasserman, Interim Water Utilities Director

From: Peter Weiss
Sent: Monday, April 05, 2010 7:41 AM
To: City Council

Cc: Gary Kellison; Scott Smith
Subject: FW: Questions regarding Mance Buchanan Park

Mayor and Council:

Council Member Kern requested information regarding the costs for Mance Buchanan Park and an estimate of savings if prevailing wages would not have been required. The following is staff's response.

From: Gary Kellison
Sent: Friday, April 02, 2010 1:14 PM
To: Peter Weiss; Scott Smith
Cc: David Toschak
Subject: RE: Questions regarding Mance Buchanan Park

Peter and Scott,

The construction of Mance Buchanan Park cost \$11,753,000 and its design cost \$775,000 for a total of \$12,528,000.

Prevailing wage savings are difficult to estimate. At the high end, the cost of a consultant providing construction staking or field testing would be 30% without prevailing wages. For a large general contractor, the savings would be smaller because of his fixed material costs and an inability to fully reduce salaries of skilled employees. I think a reasonable savings rate would be 10% at the low end and 20% at the high end. For Mance Buchanan Park, that translates to a savings of \$1,175,000 to \$2,350,000.

Gary Kellison

Council Member Kern would like to know how much money was spent to build Mance Buchanan Park?

Can you estimate what the savings would be to the taxpayers if the City of Oceanside did not have to pay prevailing wages on this project?

Ben Sullivan



Memorandum
DEVELOPMENT SERVICES DEPARTMENT
Engineering Division

TO: Honorable Mayor and City Councilmembers

THROUGH: Peter Welss, City Manager *PW*

FROM: Gary Kellison, Senior Civil Engineer *GK*

DATE: September 15, 2010

SUBJECT: Harbor Aquatics Center Project Bid Results and Cost Comparison

This memo provides information similar to the memo dated September 7, 2010, on the Library Renovation bid results.

The City first bid the Harbor Aquatics Center in May 2008. Then, the low bid was \$4,353,000, but was not awarded because it exceeded the City's budget at that time.

The Aquatics Center was rebid last month with a low bid of \$3,530,249. It is on the September 22, 2010, City Council agenda with a staff recommendation to award.

The \$822,751 (19% difference) price difference between the 2008 and 2010 bid prices is due to a combination of:

- Depressed conditions in the current construction market
- No prevailing wages on the current bid

The Harbor Aquatic Center bid is a "lump sum" price without a breakdown between labor and material, or the individual trades. In response to the City's inquiry about the impact of no prevailing wages on the bid results, the contractor replied with the attached e-mail indicating a savings of 12 to 18% for omitting prevailing wages.

If additional information is needed, please contact Gary Kellison.

c: Don Hadley
George Buell
Scott Smith
Frank Quan
Nathan Mertz

Don Hadley

From: Ben Menasherov [BMenasherov@SMCCON.com]
Sent: Wednesday, September 08, 2010 11:00 AM
To: Nathan Mertz
Cc: Gary Kellison; Scott Smith; Don Hadley; Frank Quan; Al Chegini
Subject: RE: Harbor Aquatics Center Prevailing Wage vs Non-Prevailing Wage Projects

Nathan,

I just checked with my estimating department and please keep in mind that each subcontractor and contractor's wages are different regarding non prevailing rates. We have seen that there is a cost savings of anywhere from 12 to 18% versus prevailing wage work.

In addition the material and equipment costs have also dropped significantly in the past couple of years.

In summary projects in Southern California are coming in approximately 20 to 30% less than they were two years ago.

Hope this helps,

Take care,

Ben Menasherov
General Manager
20 Morgan, Ste. 100
Irvine CA 92618
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fax #949.916.3510
Ben@smccon.com
www.smcccon.com

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-----Original Message-----

From: Nathan Mertz [mailto:NMertz@ci.oceanside.ca.us]
Sent: Wednesday, September 08, 2010 10:34 AM
To: Ben Menasherov
Cc: Gary Kellison; Scott Smith; Don Hadley; Frank Quan
Subject: Harbor Aquatics Center Prevailing Wage vs Non-Prevailing Wage Projects

Hi Ben

As discussed will you please send information in regards to any opinions on cost savings for non-prevailing wage vs. prevailing wage projects. General percentages or specific percentages to our project will work -- thanks!

Nathan Mertz

OCEANSIDE CITY COUNCIL MEMBER JERRY KERN
NEWS RELEASE

Contact: Ben Sullivan
Aide to Council Member Jerry Kern
300 N. Coast Highway
Oceanside, CA 92054
Phone (760) 435-3042
Fax (760) 435-6042
bsullivan@ci.oceanside.ca.us
www.ci.oceanside.ca.us

For Release September 16, 2010

NOTE:

5 PAGES WITH ATTACHMENTS

**COST SAVINGS NEAR \$1 MILLION ON PUBLIC WORKS
PROJECTS WITH ADOPTION OF THE CITY CHARTER**

OCEANSIDE CITY STAFF ANNOUNCED THAT COST SAVINGS RELATED TO PROVISIONS WITHIN THE RECENTLY ADOPTED OCEANSIDE CITY CHARTER HAS SAVED A TOTAL OF \$970,355 ON TWO CITY PROJECTS.

ACCORDING TO STAFF THE CITY REALIZED \$147,604 IN SAVINGS FOR THE LIBRARY RENOVATION PROJECT DUE PRIMARILY TO SAVINGS IN LABOR COSTS.

COUNCIL MEMBER JERRY KERN SAID, "THESE SAVINGS PROVED HELPFUL IN SEEING THE OCEANSIDE CIVIC CENTER LIBRARY RENOVATIONS PROJECT BECOME A REALITY.

ADDITIONAL GOOD NEWS BY CITY STAFF ANNOUNCED SAVINGS OF \$822,751 ON THE HARBOR AQUATICS CENTER, WHICH TURNED OUT TO BE A 19 PERCENT REDUCTION OVER AN EARLIER BID WHEN PREVAILING WAGES WERE REQUIRED WHEN OCEANSIDE WAS A "GENERAL LAW" CITY.

"THE CITIZENS OF OCEANSIDE SHOULD FEEL REALLY GOOD ABOUT SAVING NEARLY \$1 MILLION ON THE FIRST TWO PROJECTS SINCE THE RECENTLY ADOPTED CITY CHARTER WAS ENACTED," KERN SAID.

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"WITH THE ON-GOING BENEFITS OF LOWER LABOR RELATED COSTS ON APPROXIMATELY \$30 MILLION A YEAR IN DAY-TO DAY PUBLIC WORKS PROJECTS, THE TAXPAYERS OF OCEANSIDE SHOULD REALIZE ANNUAL SAVINGS IN THE AMOUNT OF \$3 -6 MILLION PER YEAR," KERN SAID.

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Memorandum
DEVELOPMENT SERVICES DEPARTMENT
Engineering Division

TO: Honorable Mayor and City Councilmembers
THROUGH: Peter Welss, City Manager *PW*
FROM: Nathan Mertz, Parks Development Manager
DATE: September 7, 2010
SUBJECT: Civic Center Library Renovation Project Cost Savings

At the request of Councilmember Lowery, the following information regarding cost savings for the Library Renovation Project is being provided.

As part of the library project re-bid process, a reduced base bid schedule with the inclusion of additive and deductive alternates was prepared. At the time of the project re-bid process the CA State Prevailing Wage provisions were deleted.

I have provided a simple spread sheet from both of the base bids received (see attached). For further description of the individual bid items please refer to the attached bid schedule for the project. The base bids were used in determining the low bidder at the time of the bid opening. I have outlined the "re-bid" base bid items in comparison to the respective "original" base bid items (deductive and additive alternates for the project are not included within the spreadsheet). There is \$147,604 in savings which is primarily based on labor.

The project bid items (line items) are inclusive of equipment, materials and labor. Bids received by the City from a general contractor do not include the breakdown of equipment, materials and labor. In addition, most of the bid items for this project are performed by sub-contractors. Proposals provided by sub-contractors to the general contractor do not include a breakdown of equipment, material and labor either.

Please feel free to contact me with any other questions.

Cc: George Buell
Deborah Polich