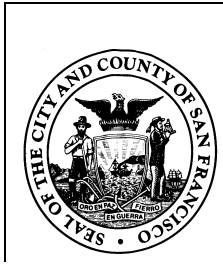


***BIC Regular  
Meeting of  
January 18, 2023***

***Agenda Item 10***

***(Special Meeting Minutes of  
December 14, 2022)***



**BUILDING INSPECTION COMMISSION (BIC)  
Department of Building Inspection (DBI)**

**SPECIAL MEETING**

**Wednesday, December 14, 2022 at 9:30 a.m.**

**Remote Hearing via video and teleconferencing**

Watch SF Cable Channel 78/Watch [www.sfgovtv.org](http://www.sfgovtv.org)

**WATCH: <https://bit.ly/3UFABuK>**

**PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2483 588 3015**

## **DRAFT MINUTES**

- 1. The regular meeting of the Building Inspection Commission was called to order at 9:25 a.m.  
Call to Order and Roll Call.**

**COMMISSION MEMBERS PRESENT:**

Raquel Bito, **President**

Jason Tam, **Vice-President, Excused at 10:35 a.m.**

Alysabeth Alexander-Tut, **Commissioner**

Bianca Neumann, **Commissioner**

Angie Sommer, **Commissioner**

Earl Shaddix, **Commissioner**

Sonya Harris, **Secretary**

Monique Mustapha, **Assistant Secretary**

**D.B.I. REPRESENTATIVES:**

Patrick O’Riordan, **Director**

Christine Gasparac, **Assistant Director**

Joseph Duffy, **Deputy Director, Inspection Services, Excused**

Matthew Greene, **Acting Chief Building Inspector**

Neville Pereira, **Deputy Director, Plan Review Services**

**CITY ATTORNEY REPRESENTATIVE:**

Robb Kapla, **Deputy City Attorney**

**Ramaytush Ohlone Land Acknowledgement:**

The Building Inspection Commission acknowledges that we are on the unceded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives

of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

**2. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e). *(Discussion and Possible Action)***

**The Commission will discuss and possibly adopt a resolution setting forth findings required under Assembly Bill 361 that would allow the BIC to hold meetings remotely according to the modified Brown Act teleconferencing set forth in AB 361.**

*Commissioner Neumann made a motion, seconded by Vice President Tam, to continue to meet remotely for the next 30 days. The motion carried unanimously.*

**RESOLUTION NO. BIC 078-22**

**3. President’s Opening Remarks.**

President Bito welcomed the new commissioner Earl Shaddix who is an Executive Director at a local nonprofit organization.

President Bito said the Commission is focused on fees and funding and the goal is to understand and provide transparency for the public of how DBI’s budget was created, managed, and tracked.

President Bito wished everyone Happy holidays!

She also asked when the discussion of continuing items should happen, and Secretary Harris said the discussion could begin at that time.

There was no public comment.

President Bito said there were a few Commissioners attending the meeting remotely, and one leaving early so for those reasons she proposed continuing agenda items 6, 7, and 9.

***President Bito made a motion, seconded by Vice President Tam, to continue agenda items 6, 7, and 9.***

Commissioner Alexander-Tut said she had to attend the meetings remotely due to a confidential issue, but was okay continuing those items due to time.

President Bito said she preferred to have the majority of the Commissioners in person to discuss the items on the agenda, and because most were either attending online and leaving early that was the reasoning for the continuance and had no issue with one or two commissioners joining online in the future.

There was no public comment on items 6, 7, and 9.

**Secretary Harris called for a Roll Call Vote:**

<b>President Bito</b>	<b>Yes</b>
<b>Vice President Tam</b>	<b>Yes</b>
<b>Commissioner Alexander-Tut</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Shaddix</b>	<b>Yes</b>
<b>Commissioner Sommer</b>	<b>Yes</b>

***The motion carried unanimously.***

## RESOLUTION NO. BIC 078-22

### 4. Director's Report.

#### a. Director's Update [Director O'Riordan]

Director O'Riordan said he wanted to start by welcoming the newest member of the Commission Earl Shaddix, the Executive Director of Economic Development on Third, a community based organization dedicated to supporting residents and businesses along the 3<sup>rd</sup> Street corridor.

Director O'Riordan said he enjoyed meeting Commissioner Shaddix when he visited DBI a few weeks before for a tour, and he was sure the Commissioner's experience will bring great value to the Commissions deliberations.

Director O'Riordan said earlier in December a small business inspection ambassador helped SF OrganiCA, an organic food market located at 500 Larkin Street in the Tenderloin district. The owner Mohammed Hadeed had some issues to take care of before receiving a final approval. He was connected with Inspector Trevor Burns, one of DBI's small business inspection ambassadors. Inspector Burns worked closely with Mr. Hadeed to resolve those issues, and the Certificate of Final Completion was issued December 2, 2022.

Director O'Riordan read a note from Mr. Hadeed as follows: Mr. Burns was a very experienced Inspector and was able to streamline the process of obtaining a permit. Mr. Burns coordinated with the many departments in order to help prepare the business for approval, and explained the process and what was needed in order to get the business permitted. Mr. Hadeed thanked Mr. Burns for his patience, kindness, and for a helpful experience. He hoped Mr. Burns would be able to help other businesses who may be intimidated by the process.

Director O'Riordan said to move on to the Interfaith Winter Shelter program and speaking of fine work, he went on to share another item that brought pride and gratitude to the DBI team as follows: For many years, DBI had worked with the Mayor's office, the Interfaith Council and Episcopal Community Services to assist with opening San Francisco churches as overnight shelters for the homeless during the cold season. DBI's role was modest, but important by conducting inspections making sure the churches were safe for overnight use as sleeping facilities. In 2022, Inspector Carl Malchow of the Code Enforcement Division conducted those inspections along with the San Francisco Fire Department (SFFD). The issue was especially meaningful to Inspector Malchow who was involved with several other programs that helped how San Franciscans get off the streets. This was not the Department's most visible work and it was not spoken of often, but the work was vitally important. Everyone in San Francisco deserves a safe place to sleep and the job of DBI was to protect the residents of the city.

Director O'Riordan said he was proud and appreciated the work the Department was doing with the Interfaith Council to provide warm and good night rest for some of the city's most vulnerable neighbors. Today's agenda centered around the Department's fees and how we were recovering including an update on the fee study as some items were mentioned by President Bito were continued.

#### b. Update on major projects.

Director O'Riordan gave an update on major projects for December 2022 as follows:

- Major projects are those with valuation of \$5 million or greater filed, issued, or completed.
  - 10 permits filed
  - \$634 million in valuation
  - 713 net units

- Major projects with permits issued.
    - 2 issued
    - 233.3 million in valuation
    - 500 net units
  - Major projects with Certificate of Occupancy
    - 3 issued
    - \$20 million in valuation
    - 0 net units
- c. Update on DBI's finances.**

Deputy Director of Administration & Finance Alex Koskinen gave an update on the Department's Fiscal Year finances 2023 as follows:

- Financial Calendar – Annual Cycle
- BIC Finance Reporting – What to Expect
- Fund Balance – Overview
- Draft Proposal – Preliminary Requests
- December 2022 Report – Revenue
  - 42% of the year had elapsed and fee revenue was 38% which resulted in a \$2 million shortfall
- December 2022 Report – Expenditure
  - \$2 million savings expected in Non-Personnel Services; \$3.9 million in work order reductions requested
  - Year to Date number of permits was 11% lower than last year

Commissioner's Questions and Comments:

Commissioner Alexander-Tut said the Commission needed to focus on the question of shifting the Community Based Organization (CBO) grant money, and to her it was not about the CBO but about DBI equity and access to DBI services, and not shifting those to another department. She was concerned about offloading it to another department, because she wanted the policy language to continue to be for outreach to tenants who were least likely to call 311, file complaints and who may be terrified of their landlords and people who did not know the Housing Code existed and potential of having lost the connection between the departments housing division and the community directly because the department would no longer have contract privity with those organizations and would lose the richness those organizations bring to the Department's housing division and the concern was not having the community equity by shifting the grants to other departments.

Commissioner Alexander-Tut said she was concerned about not having contract privity through those grants, and losing the connection to vulnerable communities. If the Inspectors would be able to continue the same level of work without those grant funds, for example, the Litigation Committee saw referrals from those particular organizations such as the Single Room Occupancy (SRO) collaborative and would have preferred to have a broader discussion on where to save money, because the Department may find that letting go of some contracts presently may not fully rectify the deficit and may not have recourse in

the future.

Deputy Director Koskinen said to clarify the Department was not speaking of eliminating or changing any of the services but the source of funding for them and it was the department's desire to keep the current services and have them managed by the Housing Inspection Division (HIS), but to have the Mayor's office or the Department of Homelessness provide the funds to DBI to pay for those services.

Commissioner Alexander-Tut said that was fantastic and she was worried about losing the contract privity and as long as the Department kept the contract privity and found other sources of funding that was fantastic.

Commissioner Alexander-Tut said regarding the ongoing projects that \$55 million of reserves that were committed for the January could those commitments be shared, and what the authority was that ties those commitments such as policy or legal and what were the commitments that could not touched.

President Bito said she wanted to reiterate in in the presentation on page 4 Mr. Koskinen went through the regular updates which went back to her original statement from the November BIC meeting of how to report what is tracked between what is budgeted and what the actuals were.

Mr. Koskinen said what was reviewed was how much of the year had gone by and how much the department had recovered and was it reasonable that amount had been spent or recovered by that time in the year and in January then April 2023 there would be a deeper dive and then the department would seek what projects were expected to come in by the end of the year and on the labor side what positions would be filled or not.

President Bito said the timeline provided on page 4 helped the Commission understand the Director's report from something that did not give much context previously, and was it possible to keep that standard going forward.

Mr. Koskinen said to President Bito that it was possible to discuss the next milestone and when those would be approached.

President Bito said was the \$25 million deficit all going to DBI's deficit budget or was it being disbursed between other DBI commitments.

Mr. Koskinen said the \$25 million was all going to the DBI deficit and it included all work orders, and money that DBI pays to other departments and was included in those expenditure amounts.

President Bito asked if DBI had funds from the Mayor's office for certain programs that were being addressed in the presentation on page 7. For example, the CBO's mentioned by Commissioner Alexander-Tut.

Mr. Koskinen said DBI was the main fund for DBI's revenues and expenditures and the CBO's were paid for out of that fund, and the Department was seeking discussions with the Mayor's Office to find other sources of funding. It was in the missions of other departments such as the Mayor's Office of Workforce Development or Department of Homelessness, the Department would still want to do the work yet those departments could fund those projects.

Commissioner Neumann asked what was the timeline the department anticipated having an answer from the Mayor's office.

Mr. Koskinen said by June 1, 2023 the Department would know as that is when the Mayor submits its budget.

Commissioner Neumann asked if it was possible to submit a letter to the Mayor's Office in support of DBI's budget request.

Deputy Director Koskinen said DBI was seeking partners and doing outreach in the city in support of what it was trying to accomplish with its budget proposal to the Mayor's Office.

President Bito asked if Mr. Koskinen could expand on the work order reductions.

Mr. Koskinen said the Department paid a few million dollars to the Assessor's Office and it was possible that the thought at the time was in 2010 the Department had more money than it knew what to do with, so it looked to fund other programs and items. It was determined to fund the Assessor's Office and their mission was related to DBI and funded about twenty positions in that office, but things have changed and the Department was looking to sunset those, and have the Assessor's and also the Fire Department in the same position to fund their own position. The Department of Public Works (DPW) and DBI pays the salary of the Housing Director in the Mayor's Office, and all of these things involve DBI but could also be funded by other departments.

President Bito asked if DBI or any other departments who managed their own budget have a rainy day fund.

Mr. Koskinen said that fund was the Economic Stabilization Reserve and any surplus at the end of the year would be deposited there. As part of the fee study it was planned to develop a reserve policy.

President Bito said you hear people make projections even if they do not come into fruition, but could those contracts with funding other departments be negotiated annually.

Mr. Koskinen said theoretically those agreements would be renegotiated yearly, but in reality once those funds are set and the expectation developed and savings are in the general fund it becomes difficult to eliminate once started.

Commissioner Neumann asked what was the cap on the reserve and did the charter say those funds had to go to specific programs or could be returned to the general fund.

Mr. Koskinen said it was at \$80 million and that he would research why it was at that amount and it may have been that it was enough to cover four years of a downturn, and all of these would be visited as part of the fee study. The Building Code said the funds were to be used for DBI related items and it is restrictive enough that the general fund cannot take it, but asked if the Department should fund this or that program.

President Bito asked if other programs would be able to sustain itself if DBI were to no longer fund other department programs.

Mr. Koskinen said historically he imagined that it would be looked at on a program by program basis but there was no requirement.

President Bito said if there was \$95 million in the reserves by the year 2026 how long would it take to build up.

Mr. Koskinen said that would be a policy decision and figuring out what is prudent, and the effect on stakeholders would be the majority of the analysis of the fee study.

Commissioner Alexander-Tut asked if some of these costs were offloaded, would the Department not include those in the fee study.

Mr. Koskinen said that was correct if the Department offloaded some of those program costs to other departments, those costs would not be part of the fee study but would result in lower charges the Department would pay to its fee payers and the more expenditures we have assuming the fee study resulted in recovering all of the expenditures. The less the Department needs to spend, the less charges to the fee payers.

Commissioner Alexander-Tut questioned if it were possible to keep those programs on the books and include them in the fee study while accepting money from other City departments to back fill those costs, and likewise keep the work orders on the books but freezing those payments rather than taking them completely out of the budget.

Mr. Koskinen said that may be seen as double-dipping and the Department would be getting money from the fee payers and money for those services from other departments. If the services would be funded by the other departments and everything else would be covered by our fee payers and if the worry was building a reserve that would be part of the fee study and the policy and if it was determined DBI had costs of \$100M, the Department would set fees to \$105M to build the reserves. There was flexibility in that the Department could set fees only at the level to recover its past cost.

Commissioner Alexander-Tut said would the fee study have to completed by June 1<sup>st</sup>.

Mr. Koskinen said the fee study had begun and there would be a final report by April 2023.

Commissioner Alexander-Tut said what happens if the Mayor's office does not approve the Department's request to offload those program cost.

Mr. Koskinen said budgets needed to balance in that sources must equal uses and if it was proposed to shift funding to other departments, and the Mayor says no the department needs to keep those program cost and do not increase your fees the option the Mayor's Office would then have to balance the budget was to either use additional fund balance or reduce expenditures and all budgets submitted must be balanced.

Commissioner Alexander-Tut asked how the draft and actual budget related.

Mr. Koskinen said in a scenario such as if in the Department's budget submission would be balanced except \$5 million in CBO grants, and our proposed budget would shift that funding to receive funding from the Department of Homelessness. However, if the Mayor said no it does not want the Homelessness Department to fund the CBO then DBI would have a \$5 million deficit that the Mayor's Office would need to solve for in their proposed budget. Those options would then be to either increase revenues or fees or reduce the \$5 million expenditure somewhere else such as work orders or labor or other contractual agreements. Any changes the Mayor's Office made would be balanced somehow in the budget by the Mayor's budget.

#### **d. Update on proposed or recently enacted State or local legislation.**

Assistant Director Christine Gasparac gave an update on recently enacted State or local legislation as follows:

**File No. 220970:** Ordinance amending the program established in Ordinance No. 143-21 waiving certain first-year permit, license, and business registration fees for certain businesses, retroactive to November 1, 2021 extending the program through June 30, 2023.

**File No. 220878:** Ordinance amending the Planning and Building Codes to increase fines and penalties for violations of Planning and Building Code provisions; clarify that violations affecting more than one unit in a building constitute multiple violations for purposes of assessing penalties

**File No. 221257:** Hearing regarding updates on the findings of the joint Department of Building Inspection (DBI) and Planning investigation into Building Code and Planning Code violations, including potential illegal conversions of the Twitter Headquarters located at 1355 Market Street as reported by Forbes Magazine and potential labor and human rights violations of immigrant workers.



**File No. 220981:** Hearing to review the economic impact, real estate valuations and potential tax revenue loss, and City budget consequence of vacant office buildings and reduced daytime populations in the Economic Core, including the Financial District, SOMA and Embarcadero; and requesting the Office of Economic and Workforce Development, Assessor-Recorder, Department of Building Inspection, Controller’s Office, Small Business Commission, Planning Department, the City Economist, and Assessment Appeals Board to report.

**File No. 220902:** Hearing on the permitting processes, time-frames, and systemic barriers experienced by small property owners building Accessory Dwelling Units (ADUs) under the local and state mandated programs; and the applications in the pipeline under California State Senate Bill No. 9 for duplex and quadplex construction from lot splits allowed in RH-1 zoned districts, including data on geographic distribution; and requesting the Planning Department and Department of Building Inspection to report.

**e. Update on Inspection Services.**

Deputy Director of Inspection Services Joseph Duffy presented the following Building Inspection Division Performance Measures for November 1, 2022 to November 30, 2022:

• Building Inspections Performed	4896
• Complaints Received	363
• Complaint Response within 24-72 hours	358
• Complaints with 1st Notice of Violation sent	50
• Complaints Received & Abated without NOV	201
• Abated Complaints with Notice of Violations	26
• 2nd Notice of Violations Referred to Code Enforcement	35

Deputy Director of Inspection Services Joseph Duffy presented the following Building Inspection Division Performance Measures November 1, 2022 to November 30, 2022:

• Housing Inspections Performed	841
• Complaints Received	377
• Complaint Response within 24-72 hours	346
• Complaints with Notice of Violations issued	122
• Abated Complaints with NOVs	302
• # of Cases Sent to Director's Hearing	20
• Routine Inspections	194

Deputy Director of Inspection Services Joseph Duffy presented the following Building Inspection Division Performance Measures for November 1, 2022 to November 30, 2022:

• # Housing of Cases Sent to Director’s Hearing	44
• # Complaints of Order of Abatements Issues	11
• # Complaint of Cases Under Advisement	0
• # Complaints of Cases Abated	171
• Code Enforcement Inspections Performed	544
• # of Cases Referred to BIC-LC	0

- # of Case Referred to City Attorney

1

Deputy Director of Inspection Services Joseph Duffy said Code Enforcement Outreach Programs are updated on a quarterly as follows for the 4<sup>th</sup> quarter:

- |                                    |        |
|------------------------------------|--------|
| • # Total people reached out to    | 38,675 |
| • # Counseling cases               | 1,081  |
| • # Community Program Participants | 5,898  |
| • # Cases Resolved                 | 236    |

There was no public comment.

**5. General Public Comment: The BIC will take public comment on matters within the Commission’s jurisdiction that are not part of this agenda.**

- Mr. Henry Karnilowicz said Commissioner Shaddix was a great addition to the BIC, and that Commissioner Shaddix was doing excellent work in the Bayview district working with the residents and businesses there.
- Mr. Karnilowicz said the fees for the First Year Free program and a colleague had already paid and found that they may receive a refund, and Morgan Heller also received a refund and congratulated the Department on a good job with the program.

**6. Discussion regarding a fee study for the Department of Building Inspection (DBI) Nominations Subcommittee.**

This item was continued to the next meeting.

There was no public comment.

**7. Update regarding the Client Services Subcommittee.**

This item was continued to the next meeting.

There was no public comment.

**8. Discussion and possible action regarding the Department of Building Inspection’s (DBI) Cost Schedule.**

- Cost Schedule Adjustment
  - Cost Schedule
  - DBI is Self-Funded
- Current Cost Schedule is Out-of-Date
  - Updated Cost Schedule
  - Changes
- Current Cost Schedule is Out-of-Date
  - Updated Cost Schedule

- Changes
- Sources
- Updates to the Most Common Cost Values
  - Section II – Tenant Improvements
  - Section III – Residential Remodel
- Overall non-weighted average percent increase over 2017
- Other Changes
- Timeline

Commissioner’s Questions and Comments:

President Bito asked if the Cost Schedule required stakeholder input.

Deputy Director Pereira said it was an objective analysis of the sources that looked at the cost of construction, and ordinarily it was done on annual basis but the Department had not updated the cost schedule in some time.

President Bito said with respect to the type of construction, for example, if the Department had one building at ten thousand square feet that was valued at one amount, and another building the same size but the valuation would be based on the complexity of the building would both building equate to the same level of plan checking.

Mr. Pereira said the Cost Schedule allows the plan checker to look at the levels of effort between projects to agree on the valuation level of its Cost Schedule, and frequently valuation was undervalued due to a perception in the city that the department’s valuation would have a direct effect on the projects assessed value which was not true the County Assessor’s Office valued buildings apart from DBI’s building valuation. The fee study Mr. Koskinen presented earlier was standard practice in the industry to establish valuation to cover the Department’s services rendered to review and inspect those projects.

President Bito said it would be helpful if someone would present at another time how the Cost Schedule was applied and if it was covering the overhead that DBI absorbed for any given project.

Deputy Director Pereira said at the Code Advisory Committee meeting, it was said by industry members that the Cost Schedule was still below standard and the Department wanted to be mindful of the fees people would be charged and the fee study would show that there was no direct correlation between the building valuation and the actual time it took to inspect or plan check those projects and the Department planned to revisit the Cost Schedule and adjust more frequently.

***President Bito made a motion, seconded by Commissioner Alexander-Tut, to approve the Department of Building Inspection’s (DBI) Cost Schedule.***

**Secretary Harris called for a Roll Call Vote:**

<b>President Bito</b>	<b>Yes</b>
<b>Vice President Tam</b>	<b>Excused at 10:35 a.m.</b>
<b>Commissioner Alexander-Tut</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Shaddix</b>	<b>Yes</b>
<b>Commissioner Sommer</b>	<b>Yes</b>

***The motion carried unanimously.***

**RESOLUTION NO. BIC 079-22**

There was no public comment.

9. Discussion and possible action regarding Director O’Riordan’s performance evaluation.
  - a. Public Comment on all matters pertaining to the Closed Session.
  - b. Possible action to convene a Closed Session.
  - c. **CLOSED SESSION:** Pursuant to Government Code Section 54957(b) and the San Francisco Administrative Code Section 67.10(b).  
**Director of the Department of Building Inspection – Mr. Patrick O’Riordan**
  - d. Reconvene in Open Session to vote on whether to disclose any or all discussions held in Closed Session (Administrative Code Section 67.10(b)).

This item was continued to the next meeting.

There was no public comment.

**10. Commissioner’s Questions and Matters.**

- a. Inquiries to Staff. At this time, Commissioners may make inquiries to staff regarding various documents, policies, practices, and procedures, which are of interest to the Commission.
- b. Future Meetings/Agendas. At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Building Inspection Commission.

Secretary Harris said the next Regular meeting of the Building Inspection Commission was January 18, 2023 and the continued agenda items 6, 7, and 9 would be heard at that meeting.

There was no public comment.

**11. Review and approval of the minutes of the Regular Meeting of November 16, 2022.**

*President Bito made a motion, seconded by Commissioner Neumann, to approve the Regular Meeting minutes of November 16, 2022.*

*The motion carried unanimously.*

**RESOLUTION NO. BIC 080-22**

There was no public comment.

**12. Adjournment.**

*President Bito made a motion to adjourn the meeting, seconded by Commissioner Neumann.*

*The motion carried unanimously.*

**RESOLUTION NO. BIC 081-22**

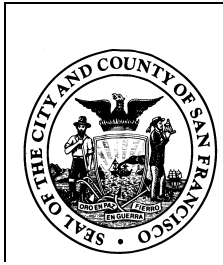
The meeting was adjourned at 11:14 a.m.

<b>SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS</b>	
Commissioner Alexander-Tut said regarding the ongoing projects that \$55 million of reserves that were committed for the January could those commitments be shared, and what the authority was that ties those commitments such as policy or legal and what were the commitments that could not touched. – Alexander-Tut	Page.5
President Bito said it would be helpful if someone would present at another time how the Cost Schedule was applied and was it covering the overhead that DBI absorbed for any given project. – Bito	Page.10

Respectfully submitted,

\_\_\_\_\_  
Monique Mustapha, Assistant BIC Secretary

\_\_\_\_\_  
Edited By: Sonya Harris, BIC Secretary



**BUILDING INSPECTION COMMISSION (BIC)  
Department of Building Inspection (DBI)**

**SPECIAL MEETING**

**Wednesday, December 14, 2022 at 9:30 a.m.**

**Remote Hearing via video and teleconferencing**

Watch SF Cable Channel 78/Watch [www.sfgovtv.org](http://www.sfgovtv.org)

**WATCH: <https://bit.ly/3UFABuK>**

**PUBLIC COMMENT CALL-IN: 1-415-655-0001 / Access Code: 2483 588 3015**

## **DRAFT MINUTES**

- 1. The regular meeting of the Building Inspection Commission was called to order at 9:25 a.m.  
Call to Order and Roll Call.**

**COMMISSION MEMBERS PRESENT:**

Raquel Bito, **President**

Jason Tam, **Vice-President, Excused at 10:35 a.m.**

Alysabeth Alexander-Tut, **Commissioner**

Bianca Neumann, **Commissioner**

Angie Sommer, **Commissioner**

Earl Shaddix, **Commissioner**

Sonya Harris, **Secretary**

Monique Mustapha, **Assistant Secretary**

**D.B.I. REPRESENTATIVES:**

Patrick O’Riordan, **Director**

Christine Gasparac, **Assistant Director**

Joseph Duffy, **Deputy Director, Inspection Services, Excused**

Matthew Greene, **Acting Chief Building Inspector**

Neville Pereira, **Deputy Director, Plan Review Services**

**CITY ATTORNEY REPRESENTATIVE:**

Robb Kapla, **Deputy City Attorney**

**Ramaytush Ohlone Land Acknowledgement:**

The Building Inspection Commission acknowledges that we are on the unceded ancestral homeland of the Ramaytush Ohlone, who are the original inhabitants of the San Francisco Peninsula. As the indigenous stewards of this land and in accordance with their traditions, the Ramaytush Ohlone have never ceded, lost, nor forgotten their responsibilities as the caretakers of this place, as well as for all peoples who reside in their traditional territory. As guests, we recognize that we benefit from living and working on their traditional homeland. We wish to pay our respects by acknowledging the Ancestors, Elders, and Relatives

of the Ramaytush Ohlone community and by affirming their sovereign rights as First Peoples.

**2. FINDINGS TO ALLOW TELECONFERENCED MEETINGS UNDER CALIFORNIA GOVERNMENT CODE SECTION 54953(e). (*Discussion and Possible Action*)**

**The Commission will discuss and possibly adopt a resolution setting forth findings required under Assembly Bill 361 that would allow the BIC to hold meetings remotely according to the modified Brown Act teleconferencing set forth in AB 361.**

*Commissioner Neumann made a motion, seconded by Vice President Tam, to continue to meet remotely for the next 30 days. The motion carried unanimously.*

**RESOLUTION NO. BIC 078-22**

**3. President’s Opening Remarks.**

President Bito welcomed the new commissioner Earl Shaddix who is an Executive Director at a local nonprofit organization.

President Bito said the Commission is focused on fees and funding and the goal is to understand and provide transparency for the public of how DBI’s budget was created, managed, and tracked.

President Bito wished everyone Happy holidays!

She also asked when the discussion of continuing items should happen, and Secretary Harris said the discussion could begin at that time.

There was no public comment.

President Bito said there were a few Commissioners attending the meeting remotely, and one leaving early so for those reasons she proposed continuing agenda items 6, 7, and 9.

***President Bito made a motion, seconded by Vice President Tam, to continue agenda items 6, 7, and 9.***

Commissioner Alexander-Tut said she had to attend the meetings remotely due to a confidential issue, but was okay continuing those items due to time.

President Bito said she preferred to have the majority of the Commissioners in person to discuss the items on the agenda, and because most were either attending online and leaving early that was the reasoning for the continuance and had no issue with one or two commissioners joining online in the future.

There was no public comment on items 6, 7, and 9.

**Secretary Harris called for a Roll Call Vote:**

<b>President Bito</b>	<b>Yes</b>
<b>Vice President Tam</b>	<b>Yes</b>
<b>Commissioner Alexander-Tut</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Shaddix</b>	<b>Yes</b>
<b>Commissioner Sommer</b>	<b>Yes</b>

***The motion carried unanimously.***

## RESOLUTION NO. BIC 078-22

### 4. Director's Report.

#### a. Director's Update [Director O'Riordan]

Director O'Riordan said he wanted to start by welcoming the newest member of the Commission Earl Shaddix, the Executive Director of Economic Development on Third, a community based organization dedicated to supporting residents and businesses along the 3<sup>rd</sup> Street corridor.

Director O'Riordan said he enjoyed meeting Commissioner Shaddix when he visited DBI a few weeks before for a tour, and he was sure the Commissioner's experience will bring great value to the Commissions deliberations.

Director O'Riordan said earlier in December a small business inspection ambassador helped SF OrganiCA, an organic food market located at 500 Larkin Street in the Tenderloin district. The owner Mohammed Hadeed had some issues to take care of before receiving a final approval. He was connected with Inspector Trevor Burns, one of DBI's small business inspection ambassadors. Inspector Burns worked closely with Mr. Hadeed to resolve those issues, and the Certificate of Final Completion was issued December 2, 2022.

Director O'Riordan read a note from Mr. Hadeed as follows: Mr. Burns was a very experienced Inspector and was able to streamline the process of obtaining a permit. Mr. Burns coordinated with the many departments in order to help prepare the business for approval, and explained the process and what was needed in order to get the business permitted. Mr. Hadeed thanked Mr. Burns for his patience, kindness, and for a helpful experience. He hoped Mr. Burns would be able to help other businesses who may be intimidated by the process.

Director O'Riordan said to move on to the Interfaith Winter Shelter program and speaking of fine work, he went on to share another item that brought pride and gratitude to the DBI team as follows: For many years, DBI had worked with the Mayor's office, the Interfaith Council and Episcopal Community Services to assist with opening San Francisco churches as overnight shelters for the homeless during the cold season. DBI's role was modest, but important by conducting inspections making sure the churches were safe for overnight use as sleeping facilities. In 2022, Inspector Carl Malchow of the Code Enforcement Division conducted those inspections along with the San Francisco Fire Department (SFFD). The issue was especially meaningful to Inspector Malchow who was involved with several other programs that helped how San Franciscans get off the streets. This was not the Department's most visible work and it was not spoken of often, but the work was vitally important. Everyone in San Francisco deserves a safe place to sleep and the job of DBI was to protect the residents of the city.

Director O'Riordan said he was proud and appreciated the work the Department was doing with the Interfaith Council to provide warm and good night rest for some of the city's most vulnerable neighbors. Today's agenda centered around the Department's fees and how we were recovering including an update on the fee study as some items were mentioned by President Bito were continued.

#### b. Update on major projects.

Director O'Riordan gave an update on major projects for December 2022 as follows:

- Major projects are those with valuation of \$5 million or greater filed, issued, or completed.
  - 10 permits filed
  - \$634 million in valuation
  - 713 net units



- Major projects with permits issued.
    - 2 issued
    - 233.3 million in valuation
    - 500 net units
  - Major projects with Certificate of Occupancy
    - 3 issued
    - \$20 million in valuation
    - 0 net units
- c. Update on DBI's finances.**

Deputy Director of Administration & Finance Alex Koskinen gave an update on the Department's Fiscal Year finances 2023 as follows:

- Financial Calendar – Annual Cycle
- BIC Finance Reporting – What to Expect
- Fund Balance – Overview
- Draft Proposal – Preliminary Requests
- December 2022 Report – Revenue
  - 42% of the year had elapsed and fee revenue was 38% which resulted in a \$2 million shortfall
- December 2022 Report – Expenditure
  - \$2 million savings expected in Non-Personnel Services; \$3.9 million in work order reductions requested
  - Year to Date number of permits was 11% lower than last year

Commissioner's Questions and Comments:

Commissioner Alexander-Tut said the Commission needed to focus on the question of shifting the Community Based Organization (CBO) grant money, and to her it was not about the CBO but about DBI equity and access to DBI services, and not shifting those to another department. She was concerned about offloading it to another department, because she wanted the policy language to continue to be for outreach to tenants who were least likely to call 311, file complaints and who may be terrified of their landlords and people who did not know the Housing Code existed and potential of having lost the connection between the departments housing division and the community directly because the department would no longer have contract privity with those organizations and would lose the richness those organizations bring to the Department's housing division and the concern was not having the community equity by shifting the grants to other departments.

Commissioner Alexander-Tut said she was concerned about not having contract privity through those grants, and losing the connection to vulnerable communities. If the Inspectors would be able to continue the same level of work without those grant funds, for example, the Litigation Committee saw referrals from those particular organizations such as the Single Room Occupancy (SRO) collaborative and would have preferred to have a broader discussion on where to save money, because the Department may find that letting go of some contracts presently may not fully rectify the deficit and may not have recourse in

the future.

Deputy Director Koskinen said to clarify the Department was not speaking of eliminating or changing any of the services but the source of funding for them and it was the department's desire to keep the current services and have them managed by the Housing Inspection Division (HIS), but to have the Mayor's office or the Department of Homelessness provide the funds to DBI to pay for those services.

Commissioner Alexander-Tut said that was fantastic and she was worried about losing the contract privity and as long as the Department kept the contract privity and found other sources of funding that was fantastic.

Commissioner Alexander-Tut said regarding the ongoing projects that \$55 million of reserves that were committed for the January could those commitments be shared, and what the authority was that ties those commitments such as policy or legal and what were the commitments that could not touched.

President Bito said she wanted to reiterate in in the presentation on page 4 Mr. Koskinen went through the regular updates which went back to her original statement from the November BIC meeting of how to report what is tracked between what is budgeted and what the actuals were.

Mr. Koskinen said what was reviewed was how much of the year had gone by and how much the department had recovered and was it reasonable that amount had been spent or recovered by that time in the year and in January then April 2023 there would be a deeper dive and then the department would seek what projects were expected to come in by the end of the year and on the labor side what positions would be filled or not.

President Bito said the timeline provided on page 4 helped the Commission understand the Director's report from something that did not give much context previously, and was it possible to keep that standard going forward.

Mr. Koskinen said to President Bito that it was possible to discuss the next milestone and when those would be approached.

President Bito said was the \$25 million deficit all going to DBI's deficit budget or was it being disbursed between other DBI commitments.

Mr. Koskinen said the \$25 million was all going to the DBI deficit and it included all work orders, and money that DBI pays to other departments and was included in those expenditure amounts.

President Bito asked if DBI had funds from the Mayor's office for certain programs that were being addressed in the presentation on page 7. For example, the CBO's mentioned by Commissioner Alexander-Tut.

Mr. Koskinen said DBI was the main fund for DBI's revenues and expenditures and the CBO's were paid for out of that fund, and the Department was seeking discussions with the Mayor's Office to find other sources of funding. It was in the missions of other departments such as the Mayor's Office of Workforce Development or Department of Homelessness, the Department would still want to do the work yet those departments could fund those projects.

Commissioner Neumann asked what was the timeline the department anticipated having an answer from the Mayor's office.

Mr. Koskinen said by June 1, 2023 the Department would know as that is when the Mayor submits its budget.

Commissioner Neumann asked if it was possible to submit a letter to the Mayor's Office in support of DBI's budget request.

Deputy Director Koskinen said DBI was seeking partners and doing outreach in the city in support of what it was trying to accomplish with its budget proposal to the Mayor's Office.

President Bito asked if Mr. Koskinen could expand on the work order reductions.

Mr. Koskinen said the Department paid a few million dollars to the Assessor's Office and it was possible that the thought at the time was in 2010 the Department had more money than it knew what to do with, so it looked to fund other programs and items. It was determined to fund the Assessor's Office and their mission was related to DBI and funded about twenty positions in that office, but things have changed and the Department was looking to sunset those, and have the Assessor's and also the Fire Department in the same position to fund their own position. The Department of Public Works (DPW) and DBI pays the salary of the Housing Director in the Mayor's Office, and all of these things involve DBI but could also be funded by other departments.

President Bito asked if DBI or any other departments who managed their own budget have a rainy day fund.

Mr. Koskinen said that fund was the Economic Stabilization Reserve and any surplus at the end of the year would be deposited there. As part of the fee study it was planned to develop a reserve policy.

President Bito said you hear people make projections even if they do not come into fruition, but could those contracts with funding other departments be negotiated annually.

Mr. Koskinen said theoretically those agreements would be renegotiated yearly, but in reality once those funds are set and the expectation developed and savings are in the general fund it becomes difficult to eliminate once started.

Commissioner Neumann asked what was the cap on the reserve and did the charter say those funds had to go to specific programs or could be returned to the general fund.

Mr. Koskinen said it was at \$80 million and that he would research why it was at that amount and it may have been that it was enough to cover four years of a downturn, and all of these would be visited as part of the fee study. The Building Code said the funds were to be used for DBI related items and it is restrictive enough that the general fund cannot take it, but asked if the Department should fund this or that program.

President Bito asked if other programs would be able to sustain itself if DBI were to no longer fund other department programs.

Mr. Koskinen said historically he imagined that it would be looked at on a program by program basis but there was no requirement.

President Bito said if there was \$95 million in the reserves by the year 2026 how long would it take to build up.

Mr. Koskinen said that would be a policy decision and figuring out what is prudent, and the effect on stakeholders would be the majority of the analysis of the fee study.

Commissioner Alexander-Tut asked if some of these costs were offloaded, would the Department not include those in the fee study.

Mr. Koskinen said that was correct if the Department offloaded some of those program costs to other departments, those costs would not be part of the fee study but would result in lower charges the Department would pay to its fee payers and the more expenditures we have assuming the fee study resulted in recovering all of the expenditures. The less the Department needs to spend, the less charges to the fee payers.

Commissioner Alexander-Tut questioned if it were possible to keep those programs on the books and include them in the fee study while accepting money from other City departments to back fill those costs, and likewise keep the work orders on the books but freezing those payments rather than taking them completely out of the budget.

Mr. Koskinen said that may be seen as double-dipping and the Department would be getting money from the fee payers and money for those services from other departments. If the services would be funded by the other departments and everything else would be covered by our fee payers and if the worry was building a reserve that would be part of the fee study and the policy and if it was determined DBI had costs of \$100M, the Department would set fees to \$105M to build the reserves. There was flexibility in that the Department could set fees only at the level to recover its past cost.

Commissioner Alexander-Tut said would the fee study have to completed by June 1<sup>st</sup>.

Mr. Koskinen said the fee study had begun and there would be a final report by April 2023.

Commissioner Alexander-Tut said what happens if the Mayor's office does not approve the Department's request to offload those program cost.

Mr. Koskinen said budgets needed to balance in that sources must equal uses and if it was proposed to shift funding to other departments, and the Mayor says no the department needs to keep those program cost and do not increase your fees the option the Mayor's Office would then have to balance the budget was to either use additional fund balance or reduce expenditures and all budgets submitted must be balanced.

Commissioner Alexander-Tut asked how the draft and actual budget related.

Mr. Koskinen said in a scenario such as if in the Department's budget submission would be balanced except \$5 million in CBO grants, and our proposed budget would shift that funding to receive funding from the Department of Homelessness. However, if the Mayor said no it does not want the Homelessness Department to fund the CBO then DBI would have a \$5 million deficit that the Mayor's Office would need to solve for in their proposed budget. Those options would then be to either increase revenues or fees or reduce the \$5 million expenditure somewhere else such as work orders or labor or other contractual agreements. Any changes the Mayor's Office made would be balanced somehow in the budget by the Mayor's budget.

**d. Update on proposed or recently enacted State or local legislation.**

Assistant Director Christine Gasparac gave an update on recently enacted State or local legislation as follows:

**File No. 220970:** Ordinance amending the program established in Ordinance No. 143-21 waiving certain first-year permit, license, and business registration fees for certain businesses, retroactive to November 1, 2021 extending the program through June 30, 2023.

**File No. 220878:** Ordinance amending the Planning and Building Codes to increase fines and penalties for violations of Planning and Building Code provisions; clarify that violations affecting more than one unit in a building constitute multiple violations for purposes of assessing penalties

**File No. 221257:** Hearing regarding updates on the findings of the joint Department of Building Inspection (DBI) and Planning investigation into Building Code and Planning Code violations, including potential illegal conversions of the Twitter Headquarters located at 1355 Market Street as reported by Forbes Magazine and potential labor and human rights violations of immigrant workers.

**File No. 220981:** Hearing to review the economic impact, real estate valuations and potential tax revenue loss, and City budget consequence of vacant office buildings and reduced daytime populations in the Economic Core, including the Financial District, SOMA and Embarcadero; and requesting the Office of Economic and Workforce Development, Assessor-Recorder, Department of Building Inspection, Controller’s Office, Small Business Commission, Planning Department, the City Economist, and Assessment Appeals Board to report.

**File No. 220902:** Hearing on the permitting processes, time-frames, and systemic barriers experienced by small property owners building Accessory Dwelling Units (ADUs) under the local and state mandated programs; and the applications in the pipeline under California State Senate Bill No. 9 for duplex and quadplex construction from lot splits allowed in RH-1 zoned districts, including data on geographic distribution; and requesting the Planning Department and Department of Building Inspection to report.

**e. Update on Inspection Services.**

Deputy Director of Inspection Services Joseph Duffy presented the following Building Inspection Division Performance Measures for November 1, 2022 to November 30, 2022:

• Building Inspections Performed	4896
• Complaints Received	363
• Complaint Response within 24-72 hours	358
• Complaints with 1st Notice of Violation sent	50
• Complaints Received & Abated without NOV	201
• Abated Complaints with Notice of Violations	26
• 2nd Notice of Violations Referred to Code Enforcement	35

Deputy Director of Inspection Services Joseph Duffy presented the following Building Inspection Division Performance Measures November 1, 2022 to November 30, 2022:

• Housing Inspections Performed	841
• Complaints Received	377
• Complaint Response within 24-72 hours	346
• Complaints with Notice of Violations issued	122
• Abated Complaints with NOVs	302
• # of Cases Sent to Director's Hearing	20
• Routine Inspections	194

Deputy Director of Inspection Services Joseph Duffy presented the following Building Inspection Division Performance Measures for November 1, 2022 to November 30, 2022:

• # Housing of Cases Sent to Director’s Hearing	44
• # Complaints of Order of Abatements Issues	11
• # Complaint of Cases Under Advisement	0
• # Complaints of Cases Abated	171
• Code Enforcement Inspections Performed	544
• # of Cases Referred to BIC-LC	0

- # of Case Referred to City Attorney

1

Deputy Director of Inspection Services Joseph Duffy said Code Enforcement Outreach Programs are updated on a quarterly as follows for the 4<sup>th</sup> quarter:

- |                                    |        |
|------------------------------------|--------|
| • # Total people reached out to    | 38,675 |
| • # Counseling cases               | 1,081  |
| • # Community Program Participants | 5,898  |
| • # Cases Resolved                 | 236    |

There was no public comment.

**5. General Public Comment: The BIC will take public comment on matters within the Commission’s jurisdiction that are not part of this agenda.**

- Mr. Henry Karnilowicz said Commissioner Shaddix was a great addition to the BIC, and that Commissioner Shaddix was doing excellent work in the Bayview district working with the residents and businesses there.
- Mr. Karnilowicz said the fees for the First Year Free program and a colleague had already paid and found that they may receive a refund, and Morgan Heller also received a refund and congratulated the Department on a good job with the program.

**6. Discussion regarding a fee study for the Department of Building Inspection (DBI) Nominations Subcommittee.**

This item was continued to the next meeting.

There was no public comment.

**7. Update regarding the Client Services Subcommittee.**

This item was continued to the next meeting.

There was no public comment.

**8. Discussion and possible action regarding the Department of Building Inspection’s (DBI) Cost Schedule.**

- Cost Schedule Adjustment
  - Cost Schedule
  - DBI is Self-Funded
- Current Cost Schedule is Out-of-Date
  - Updated Cost Schedule
  - Changes
- Current Cost Schedule is Out-of-Date
  - Updated Cost Schedule

- Changes
- Sources
- Updates to the Most Common Cost Values
  - Section II – Tenant Improvements
  - Section III – Residential Remodel
- Overall non-weighted average percent increase over 2017
- Other Changes
- Timeline

Commissioner’s Questions and Comments:

President Bito asked if the Cost Schedule required stakeholder input.

Deputy Director Pereira said it was an objective analysis of the sources that looked at the cost of construction, and ordinarily it was done on annual basis but the Department had not updated the cost schedule in some time.

President Bito said with respect to the type of construction, for example, if the Department had one building at ten thousand square feet that was valued at one amount, and another building the same size but the valuation would be based on the complexity of the building would both building equate to the same level of plan checking.

Mr. Pereira said the Cost Schedule allows the plan checker to look at the levels of effort between projects to agree on the valuation level of its Cost Schedule, and frequently valuation was undervalued due to a perception in the city that the department’s valuation would have a direct effect on the projects assessed value which was not true the County Assessor’s Office valued buildings apart from DBI’s building valuation. The fee study Mr. Koskinen presented earlier was standard practice in the industry to establish valuation to cover the Department’s services rendered to review and inspect those projects.

President Bito said it would be helpful if someone would present at another time how the Cost Schedule was applied and if it was covering the overhead that DBI absorbed for any given project.

Deputy Director Pereira said at the Code Advisory Committee meeting, it was said by industry members that the Cost Schedule was still below standard and the Department wanted to be mindful of the fees people would be charged and the fee study would show that there was no direct correlation between the building valuation and the actual time it took to inspect or plan check those projects and the Department planned to revisit the Cost Schedule and adjust more frequently.

***President Bito made a motion, seconded by Commissioner Alexander-Tut, to approve the Department of Building Inspection’s (DBI) Cost Schedule.***

**Secretary Harris called for a Roll Call Vote:**

<b>President Bito</b>	<b>Yes</b>
<b>Vice President Tam</b>	<b>Excused at 10:35 a.m.</b>
<b>Commissioner Alexander-Tut</b>	<b>Yes</b>
<b>Commissioner Neumann</b>	<b>Yes</b>
<b>Commissioner Shaddix</b>	<b>Yes</b>
<b>Commissioner Sommer</b>	<b>Yes</b>

***The motion carried unanimously.***

**RESOLUTION NO. BIC 079-22**

There was no public comment.

9. Discussion and possible action regarding Director O’Riordan’s performance evaluation.
  - a. Public Comment on all matters pertaining to the Closed Session.
  - b. Possible action to convene a Closed Session.
  - c. **CLOSED SESSION:** Pursuant to Government Code Section 54957(b) and the San Francisco Administrative Code Section 67.10(b).  
**Director of the Department of Building Inspection – Mr. Patrick O’Riordan**
  - d. Reconvene in Open Session to vote on whether to disclose any or all discussions held in Closed Session (Administrative Code Section 67.10(b)).

This item was continued to the next meeting.

There was no public comment.

**10. Commissioner’s Questions and Matters.**

- a. Inquiries to Staff. At this time, Commissioners may make inquiries to staff regarding various documents, policies, practices, and procedures, which are of interest to the Commission.
- b. Future Meetings/Agendas. At this time, the Commission may discuss and take action to set the date of a Special Meeting and/or determine those items that could be placed on the agenda of the next meeting and other future meetings of the Building Inspection Commission.

Secretary Harris said the next Regular meeting of the Building Inspection Commission was January 18, 2023 and the continued agenda items 6, 7, and 9 would be heard at that meeting.

There was no public comment.

**11. Review and approval of the minutes of the Regular Meeting of November 16, 2022.**

*President Bito made a motion, seconded by Commissioner Neumann, to approve the Regular Meeting minutes of November 16, 2022.*

*The motion carried unanimously.*

**RESOLUTION NO. BIC 080-22**

There was no public comment.

**12. Adjournment.**

*President Bito made a motion to adjourn the meeting, seconded by Commissioner Neumann.*

*The motion carried unanimously.*





**RESOLUTION NO. BIC 081-22**

The meeting was adjourned at 11:14 a.m.

<b>SUMMARY OF REQUESTS BY COMMISSIONERS OR FOLLOW UP ITEMS</b>	
Commissioner Alexander-Tut said regarding the ongoing projects that \$55 million of reserves that were committed for the January could those commitments be shared, and what the authority was that ties those commitments such as policy or legal and what were the commitments that could not touched. – Alexander-Tut	Page.5
President Bito said it would be helpful if someone would present at another time how the Cost Schedule was applied and was it covering the overhead that DBI absorbed for any given project. – Bito	Page.10

Respectfully submitted,

  
\_\_\_\_\_  
Monique Mustapha, Assistant BIC Secretary

  
\_\_\_\_\_  
Edited By: Sonya Harris, BIC Secretary