

August 19, 2024

The Honorable Anne-Christine Massullo
Presiding Judge, Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Massullo,

In accordance with Penal Code 933 and 933.05, the following is in response to the 2023-2024 Civil Grand Jury Report, *Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure*. We would like to thank the members of the 2023-2024 Civil Grand Jury for their research on the City's infrastructure. We commend the Jury for their interest in improving the planning and project delivery processes while focusing on the fiscal responsibility it takes to do so. The Jury's work on this report motivates the City to continue prioritizing transparency and conduct citywide efforts to improve its capital planning and pre-design processes.

The City's Capital Planning process serves to identify and prioritize the estimated and required maintenance of all City assets. The finite resources and many competing priorities of our City government make the transparency in our funding process all the more necessary. This prioritization is informed by Citywide surveys, long-term planning, seismic or safety risk assessments, and public comment; transparency is paramount to that process. While we do not agree that additional oversight processes or structures are the best way to improve outcomes, the City will strive to implement any educational or transparency measures that would allow the public to hold it's government accountable.

Again, we appreciate the opportunity to comment on the Civil Grand Jury report findings and recommendations. As we move forward, the City plans to continue working with all departments to enhance these procedures to achieve our collective goal of fiscally responsible and effective capital project delivery on behalf of the people of San Francisco. The Civil Grand Jury's interest in this topic amplify the importance of capital investments in civic projects and compelled an honest assessment of where we can and should do better.

A detailed response from the Mayor's Office, Department of Public Works, the City Administrator, and the Controller's Office is attached.

Sincerely,

A handwritten signature in black ink that reads "London Breed". The signature is written in a cursive, flowing style.

London N. Breed
Mayor



Carla Short
Director, San Francisco Public Works



Greg Wagner
Controller

Rachel Cukierman, for Carmen Chu

Carmen Chu
City Administrator

2023-24 CIVIL GRAND JURY FINDINGS, RECOMMENDATIONS, AND RESPONSES TO FINDINGS AND RECOMMENDATIONS

Report Title [Publication Date]	F#	Finding	Respondent Assigned by CGJ [Response Due Date]	Finding Response (Agree/ Disagree)	Finding Response Text
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	F4	The perception that the hourly rates for employees of the Department of Public Works for work performed for client departments are expensive leads to frustration and to irritation with DPW at client departments which can negatively impact the working relationship between departments.	Mayor [August 19, 2024]	Disagree partially	The Department has the resources and availability to provide the calculation of labor costs to a requested client department.

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R4 [F4]	The Mayor shall direct the Department of Public Works to create a report by December 31, 2024 for client departments detailing how the hourly rates are calculated including explanations regarding the allocation of DPW indirect costs and the allocation of central services of city government to explain in layman’s terms how DPW billing works, and how the number of projects impacts those rates.	Mayor [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	The creation of a report is not needed, as the requested details on labor costs including salary costs, fringe benefits, and the overhead rate are available. If requested, the Department of Public Works provides the analytical supporting documents of overhead rates. The Mayor's Budget Office will work with departments to understand these cost bases, where appropriate.

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	F1	The city's significant amount of degraded assets is not properly quantified or understood, resulting in an increased cost to taxpayers and a lack of transparency and accountability regarding the city's stewardship of taxpayer funded assets.	Department of Public Works [August 19, 2024]	Disagree partially	Departments update the Facilities Resource Renewal Model annually with estimates of remaining useful life for all building subsystems. While this methodology is far from perfect in terms of cost projections, it does provide a high-level estimation of which assets are most "degraded". With constrained budgets, even if the City did have an accurate view of all degraded assets and associated costs, all of those needs would not receive funding resulting in further deferrals. As such, to blame a theoretical increased cost to taxpayers solely on the lack of quantification of degraded assets is not appropriate.
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	F2	The Public Works Commission lacks appropriate reporting necessary to adequately oversee the performance of Department of Public Works capital facilities projects resulting in insufficient oversight of the department and a lack of sufficient transparency and accountability for hundreds of millions of dollars of capital spending.	Department of Public Works [August 19, 2024]	Disagree wholly	"San Francisco Public Works' construction management, project management and finance staff, per department policy and procedure, provides updated spending and performance information to the Public Works Commission on department-managed capital projects. This reporting is provided in the form of public presentations, staff reports and supporting documents. A repository of these reports and presentations are available online on the Public Works website: https://sfpublicworks.org/public-works-commission-calendar . The established reporting system supports the department's commitment to transparency and accountability and provides the commission the framework required to evaluate and approve cost increases to Chapter 21 and Chapter 6 Professional Services, construction contracts, grants, commodities and general services. In addition, Public Works staff responds to all questions from the Public Works commissioners pertaining to the overall status of projects and financial issues to assist them in the decision making-process to fulfill their City Chartered-mandated oversight responsibilities."
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	F4	The perception that the hourly rates for employees of the Department of Public Works for work performed for client departments are expensive leads to frustration and to irritation with DPW at client departments which can negatively impact the working relationship between departments.	Department of Public Works [August 19, 2024]	Disagree partially	The Department has the resources and availability to provide the calculation of labor costs to a requested client department.

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R1.2 [F1]	By June 30, 2025, Department of Public Works shall issue a report to the Public Works Commission detailing all instances starting on January 1, 2021 to the present day where maintenance work of material cost and scope has on at least 3 occasions been required for essentially the same issue in which a root cause of the issue is that the asset has been allowed to degrade or otherwise has not been properly maintained. Material cost and scope shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	Responsibility for asset maintenance lies with the Department of Real Estate (RED) and/or the department that owns the asset. At times, RED or client departments seek out the services and expertise of Public Works to repair and maintain infrastructure. Public Works professionals are capable of everything from an emergency repair, to an intensive planning process to fully replace or renovate infrastructure. RED/departments decide how to engage Public Works based on their budget, vision and needs (See, e.g., 850 Bryant jail).
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R1.3 [F1]	By June 30, 2025, Department of Public Works shall issue a report to the Public Works Commission detailing all instances starting on January 1, 2021 to present day where degraded assets left unrepaired materially impacted the operations of the facility or city employees. Materially impacted shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	See the response to recommendation 1.2. And, client departments are the experts on their operations and do not necessarily share maintenance history with Public Works. Impacts to operations would be observed and documented by client departments. As those departments identify their needs and plan for new construction, renovation, repairs and maintenance, Public Works will provide expertise to help clients navigate planning, design and construction. PW works closely with clients and private contractors to ensure that facilities meet the operational needs of departments, all within their own staffing and budget constraints.
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R2.1 [F2]	Budget Reporting: By March 31, 2025, DPW shall issue a report to the Public Works Commission, updated quarterly for all currently active and planned bond-funded capital facilities projects to include end-to-end performance information detailing budget accuracy and timeline planning accuracy from initial design to contracting to construction to completion with explanations for material deviations. Material deviations shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	From pre-design through construction, Public Works abides by established standards for accountability, fiscal responsibility and transparency. In planning, there are comprehensive oversight processes (e.g., BOS, CON, CPC numerous public hearings). During construction, for example, Public Works Stat is both a forum for problem solving and accountability, and a robust reporting system for planned and active projects. Stat dashboards capture numerous project metrics including delivery method, schedule, budget, change order dollar amount, nature of change order and more. Project managers present their projects, especially their challenges, to their colleagues, encouraging accountability and providing a regular forum to share expertise and find solutions. Commissioners are welcome to attend Stat. Public Works weighs any increase in oversight/reporting against the resulting increased expense and whether such additions duplicate existing oversight/reporting.

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R2.2 [F2]	Capital Project Facility Design Reporting: By March 31, 2025 DPW shall issue a report to the Public Works Commission, which shall be updated quarterly, for all ongoing bond-funded capital facilities projects, of any material changes to the project design once the project budget has been approved by the Commission through the end of construction, detailing the reasons for the changes, the financial impact of the changes, and the impacts to project timelines. Material changes shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	Public Works uses a wide range of contract delivery methods to deliver a wide range of projects. Design is driven primarily by client departments and external factors like budget, schedule and respective regulatory regimes. For example, fiscal responsibility and efficiency might dictate that a project be delivered through a design-build process, where a single entity is responsible for design and construction within external constraints such as materials prices. (e.g., Traffic Company and Forensic Services Division, FS 25, Ambulance Deployment Facility) In most cases, design changes are client-driven. Public Works makes every effort to minimize change orders--client-driven or otherwise--through existing processes, partnering, and communication with clients. And change orders that result from material changes, when they exceed contingency, already require Commission approval. This recommendation would duplicate existing reporting and controls.
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R2.3 [F2]	Capital Project Facility Construction Reporting: By March 31, 2025 DPW shall issue a report to the Public Works Commission, updated quarterly, on all ongoing bond-funded capital facilities projects, detailing material issues regarding construction quality from the beginning of construction through the end of construction, where construction work had to be re-done including the reason(s) for the re-work, the impact on the project financially, on project timelines, and any legal disputes. Material issues regarding construction quality shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	Public Works professionals deliver construction projects. To do so, they use all available tools to manage and mitigate risks--assorted contract delivery methods, strategic planning with client departments, continuous updating of laws and procedures to align with best practices, industry innovation and partnering. Together with Stat, these processes combine to focus on project delivery with as few change orders or disputes as possible. Quarterly reporting is too frequent to yield actionable information.

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R2.4 [F2]	Capital Project Facility Post-Construction Reporting: By March 31, 2025 DPW shall issue a report to the Public Works Commission, updated quarterly, on all ongoing bond-funded capital facilities projects detailing material issues regarding construction quality for the period from the issuance of the certificate of occupancy until 2 years after the facility has been in use by the client department detailing the reasons for the problem(s) with the facility, estimate of the cost to repair or replace, timeline to repair or replace, and the impact on functionality of the facility until issues are repaired or replaced. Material issues regarding construction quality shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	The management of the facility post-occupancy, including any warranty period, is the responsibility of the operating department in conjunction with the Department of Real Estate. Public Works is always available to work our client departments in an advisory role, providing additional information and advice upon request. Additionally, on request of the operating department, Public Works has taken on management of the warranty phase. Public Works typically initiates a post-occupancy survey, in conjunction with LEED certification, to solicit feedback on any post-occupancy issues. Our new project and construction management software system could be used capture reported issues.
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R2.5 [F2]	Within 1 week of the quarterly reports in Recommendations 2.1, 2.2, 2.3, and 2.4 all the information presented in those recommendations shall be published prominently on DPW's website and available to the public.	Department of Public Works [August 19, 2024]		"Construction in San Francisco is inherently interdepartmental. Public Works works for client departments who own projects and often take the lead on publishing information about their projects. Accountability measures are also interdepartmental with a partial list of overseeing bodies including the Public Works Commission, Office of Public Finance, Board of Supervisors, Controller, Capital Planning Committee, department commissions and GOBOC. Thus, publication of project details sometimes spans the websites of those departments (plus SFGTV). However, Public Works has long published project information on its website. One purpose is to update the public on in-process projects. A person could, for example, see real-time updates on the the paving of a street. The site has comprehensive information. For example, the Fireboat Station No. 35 page includes basic descriptors, nearly an hour of in-depth video presentations by PW and SFFD and designers, as well as links to detailed Earthquake Safety and Emergency Response (ESER) Bond reports with even more detailed information."
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R2.8 [F2]	By December 31, 2024, Department of Public Works shall update its website for completed capital facilities projects to include original budget information, original timeline information, and material changes to the project budget and timelines including explanations for the changes. Material changes shall be defined by the Public Works Commission.	Department of Public Works [August 19, 2024]	Has been implemented	Public Works has long published project information on its website. One purpose is to update the public on in-process projects. A person could, for example, see real-time updates on the the paving of a street. The site has comprehensive information. For example, the Fireboat Station No. 35 page includes basic descriptors, nearly an hour of in-depth descriptions of the project from SFFD and designers, and links to detailed Earthquake Safety and Emergency Response (ESER) Bond reports. Additionally, this information is already on the Public Works website through our Commission website pages.

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	F1	The city's significant amount of degraded assets is not properly quantified or understood, resulting in an increased cost to taxpayers and a lack of transparency and accountability regarding the city's stewardship of taxpayer funded assets	Office of the Controller [August 19, 2024]	Disagree partially	Departments update the Facilities Resource Renewal Model annually with estimates of remaining useful life for all building subsystems. While this methodology is far from perfect in terms of cost projections, it does provide a high-level estimation of which assets are most "degraded". With constrained budgets, even if the City did have an accurate view of all degraded assets and associated costs, all of those needs would not receive funding resulting in further deferrals. As such, to blame a theoretical increased cost to taxpayers solely on the lack of quantification of degraded assets is not appropriate.
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	F3	Some newly constructed facilities built by the Department of Public Works were observed to have deficiencies in the design and/or construction resulting in additional costs for repair or replacement which may have been preventable requiring further investigation and analysis.	Office of the Controller [August 19, 2024]	Disagree partially	The Controller's Office City Services Auditor has established its Annual Workplan for FY25. The current workplan already includes a number of capital and construction-related audits, including those pertaining to bond-related capital projects. The scope of these projects includes assessing compliance with construction close-out procedures, appropriateness of bond expenditures, and the efficiency and effectiveness of the City's construction processes. CSA Audits also has a number of ongoing construction audits related to bond-funded projects. For more information on the FY25 City Services Auditor Annual Workplan, please use this link: https://openbook.sfgov.org/webreports/details3.aspx?id=3401 .

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R1.1 [F1]	By March 31, 2025, the Controller shall conduct a financial analysis of the additional cost to the city entailed by delaying full repair of "degraded facilities assets" and issue the report to the Mayor, the Board of Supervisors, and publish the report to the public.	Office of the Controller [August 19, 2024]		
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R3.1 [F3]	By March 31, 2025 the City Services Auditor shall audit a minimum of 5 completed or nearly-completed bond-funded capital facilities projects, excluding Fireboat Station 35, over the past 5 years and assess end-to-end performance on budget accuracy and management, timeline forecast accuracy, and quality of design and construction and shall report the findings of the audit and recommendations for improvement to the Board of Supervisors and the Mayor's office.	Office of the Controller [August 19, 2024]		
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R3.2 [F3]	By March 31, 2025, the Controller's office shall analyze the use of the Capital Planning Fund to evaluate if additional funding is required such that all planned capital facilities projects over \$10M will have sufficient available funds to cover a minimum of 50% of the planning costs for those projects.	Office of the Controller [August 19, 2024]		

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Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R3.3 [F3]	By March 31, 2025, should the Controller determine that the current budgeted funding for the Capital Planning Fund is insufficient, the Controller shall make recommendations to the BoS and the Mayor on the appropriate amount the Fund should be and options for including that additional funding in the next budget.	Office of the Controller [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	"The Controller's Office City Services Auditor has established its Annual Workplan for FY25. Our team would require expanded resources to implement this item by the deadline.This function exists within the department's project management team. It is the department's responsibility to evaluate if additional funding is required. For more information on the FY25 City Services Auditor Annual Workplan, please use this link: https://openbook.sfgov.org/webreports/details3.aspx?id=3401 .
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R3.4 [F3]	By March 31, 2025, the Controller shall report to the Board of Supervisors and the Mayor detailing the financial impact of change orders to capital facility budgets that were caused by imprecise or incorrect pre-planning and design.	Office of the Controller [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	The Controller's Office City Services Auditor has established its Annual Workplan for FY25. The current workplan for City Performance already includes change order analysis. For more information on the FY25 City Services Auditor Annual Workplan, please use this link: https://openbook.sfgov.org/webreports/details3.aspx?id=3401 .
Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure [June 20, 2024]	R3.5 [F3]	By March 31, 2025, the Controller shall report to the Board of Supervisors and the Mayor's Office detailing the impact of change orders on timeliness of the bond-funded capital facilities projects design and construction that were caused by imprecise or incorrect pre-planning.	Office of the Controller [August 19, 2024]	Will not be implemented because it is not warranted or is not reasonable	The Controller's Office City Services Auditor has established its Annual Workplan for FY25. The current workplan for City Performance already includes change order analysis. For more information on the FY25 City Services Auditor Annual Workplan, please use this link: https://openbook.sfgov.org/webreports/details3.aspx?id=3401 .

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<p>Building San Francisco: Designing, Constructing, and Maintaining City Infrastructure</p> <p>[June 20, 2024]</p>	<p>R1.4 [F1]</p>	<p>Included in the publication in 2025 of the 2026-2035 10 Year Capital Plan and each future biennial 10 year capital plan, the Capital Planning Committee shall add and update in future plans a subsection discussing only “degraded assets” to each relevant section of the Plan (Sections 6 -13 in the 2024-2033 10 Year Capital Plan). Each subsection shall describe: (1) the types of degraded assets, (2) the total cost to repair them to baseline, (3) the risks to the city by not repairing them, and (4) the 10 year plan to get degraded assets back to baseline and do so at the equivalent level of granularity as is in the report in Section 3: Accomplishments (relevant pages 29, 31, 33, 35, 37, 39, 41, and 43 in the 2024-2033 10 Year Capital Plan)</p>	<p>Office of the City Administrator</p> <p>[August 19, 2024]</p>	<p>Requires further analysis</p>	<p>"The Capital Plan does discuss degraded assets in the ""Renewal Program"" section of each chapter. Besides the current Facilities Resource Renewal Model (which provides rough estimates of timing and cost of facilities needs), the City does not currently have a system that can more accurately quantify facilities needs on a consistent basis and at a granular level citywide. In 2024, ORCP will explore an upgrade to the current FRRM system - but even an upgraded system will still rely on an annual data update by departments which will limit it's accuracy at a granular level. ORCP could explore further highlighting some of the the most degraded assets in each service area based on the current FRRM data - but a detailed analysis such as the one proposed would require coordination with contractors and Public Works - coming at a high cost and requiring significant staff time.</p> <p>While such an analysis would certainly be illuminating, uncertainty around the City's ability to fund these needs may result in a costly, time-consuming effort that does not materially change the state of degraded assets."</p>

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