# San Francisco Collaborative Partnering Steering Committee

Performance Measures Subcommittee Report  
Meeting #3

May 16, 2017

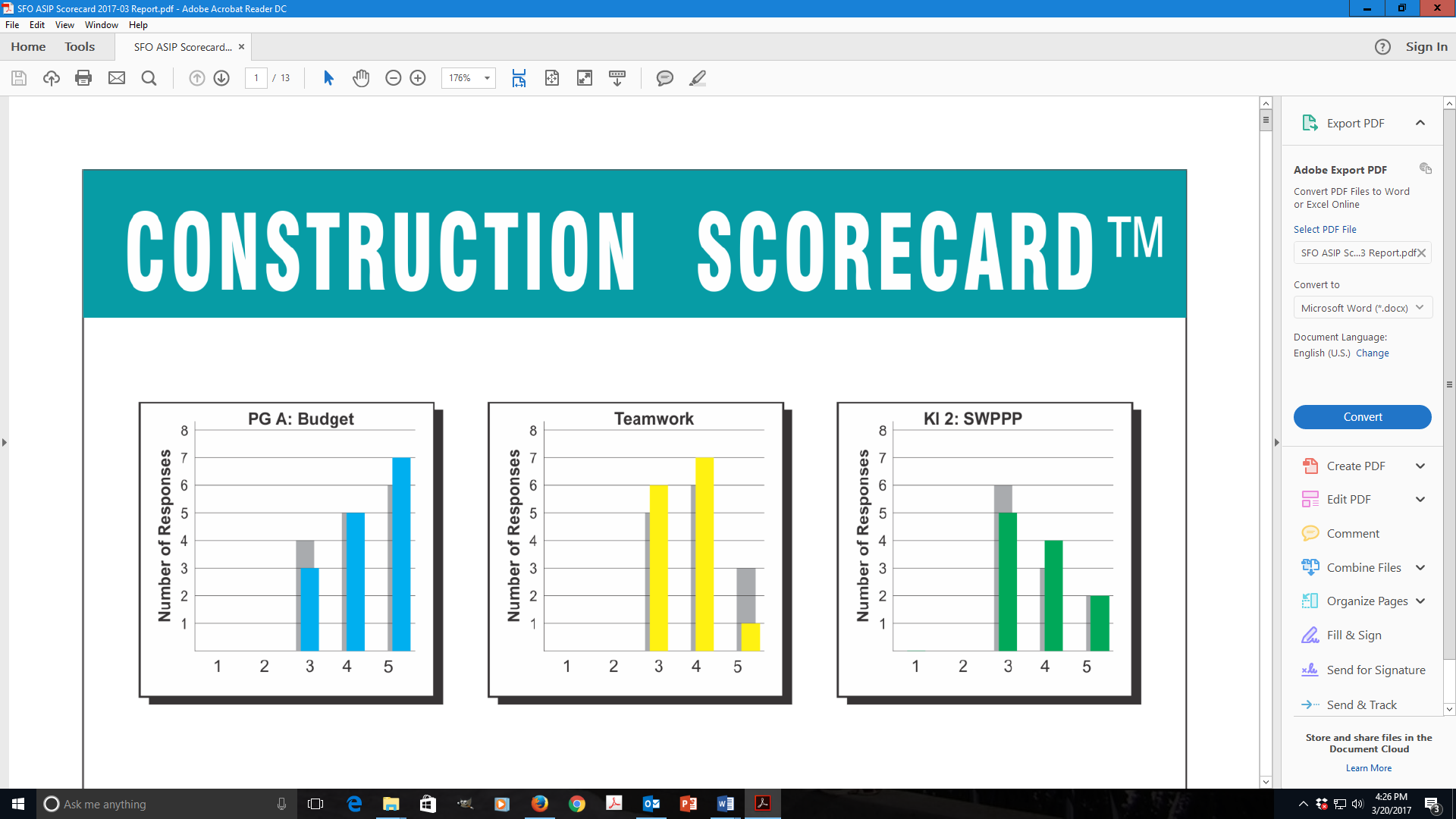
San Francisco Public Works

Main Conference Room

30 Van Ness Ave.

San Francisco, CA





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Facilitator

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**San Francisco Collaborative Partnering Steering Committee**

**Performance Measures Subcommittee Meeting #2**

May 16, 2017

*As recorded on the flip charts*

ACTION PLAN AND FOLLOW-UP ITEMS

1.1 We will provide the final, verified claims survey data (organized by fiscal year) so it can be presented to the full Steering Committee in June.

Who: Edgar, Julia, Siew Chin and Shahnam, Cara and Tim

When: By June 9th

2.1 We will review updated PEP 2.1.1 Partnering Specification Implementation and Sample Survey and provide final feedback and comments to Rob by June 9th.

Who: Edgar and Jim will sign the final PEP by June 15th.

3.1 We will review identify key stakeholders for Rob to interview related to the Draft PEP 2.1.2 Partnering Specification Thresholds by June 15th.

4.1 Rob has purchased [www.SFPartnering.com](http://www.SFPartnering.com) to host updated Steering Committee documents – he will alert SFCPSC members to the details when the site is up and running.

PERFORMANCE MEASURES FOLLOW-UP MEETINGS

All subcommittee meetings will be held face-to-face at 30 Van Ness Main Conference Room

* July 26, 2017 – 2:30 – 4:00 p.m.
* September 27, 2017 – 2:30 – 4:00 p.m.
* November 14, 2017 – 10:30 a.m. – noon

UPDATING PARTNERING ENHANCEMENT PROPOSALS

*The Performance Measures subcommittee discussed three Partnering Enhancement Proposals (PEPs).*

*PEP 2.2.1 Partnering Effectiveness – Litigated and Arbitrated Claims Benchmarking – results to be shared with SFCPSC on 6/28/17*

*PEP 2.1.1 Partnering Implementation Survey – Final updates and PEP to be signed for 6/28/17*

*PEP 2.1.2 Partnering Specification Thresholds – Draft PEP updated 5/16/17*

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| **Performance Measures PEP**  **2.2.1 Partnering Effectiveness – Litigated and Arbitrated Claims Benchmarking** |
| PEP 2.2.1 was signed by all Departments on February 8, 2017  Updates for Benchmarking Survey Implementation:   * The team has been able to get this claims and construction program data so far:  |  | | --- | | * + SFPUC – Claims and budget 10-year history - **COMPLETED** | | * + SF Public Works – 5-year history – ongoing (exploring 10-year history and adding detail to listed claims) | | * + SF Rec & Park – 5-year history – COMPLETED (exploring 10-year history) | | * + SF Port – 5-year history – ongoing (exploring 10-year budget history) | | * + SFO – 10-year history – ongoing (confirming 10-year budget history) | | * + SFMTA – 5-year history – COMPLETED (confirming SFMTA – SSD projects) |   Key Decisions and Updates   * All Departments will use City Fiscal Year, which runs from July 1 – June 30th. * The Updated Claims Survey data will be updated in Quarter 1 of the following fiscal year by September 1st (i.e. SFMTA’s 2017-2018 fiscal year data will be collected by September 1, 2018) * SF Recreation and Park will use the Final Cost of the Project for each NTP. This number includes all CCOs and any scope changes and captures the entire budget.  |  |  |  | | --- | --- | --- | | **How many total Claims (2011 – 2016)?** | **How many Claims filed during construction (2011-2016)?** | **Total dollar amount claimed against all CCSF Departments (2011 – 2016)** | | SFPUC – 2 | SFPUC - 1 | $ 18,140,070.00 | | SF Public Works – 7 | SF Public Works - 5 |  | | SF Rec & Park – 1 | SF Rec & Park - 1 | **Total dollars of claims settled so far**  **(2011 – 2016)** | | SF Port – 3 | SF Port - 2 | $7,635,494.00 | | SFO - 0 | SFO - 0 |  | | SFMTA - 4 | SF MTA - 3 | **Total unresolved claims dollars** | | **16 Total Claims**  16 Claims filed against CCSF Departments (2011 – 2016) | **12 / 16 Claims** (75%) Claims filed while construction was ongoing | **(2011 – 2016)** $1,052,752.00 |   \*See Attachment 1 for the updated PEP 2.2.1 Claims Benchmarking Survey |

PEP 2.2.1 Commitments:

1.1 Edgar (SFPW) will provide 10-year history of construction budget totals if possible. He will review the claims provided and explore whether claims can be identified from 2007 – 2011. We will add additional details to the current claims listed in the attached survey.

When: By June 8th

Who: Edgar

1.2 Cara and Dawn (SF Rec & Park) will provide 10-year history of NTPs and (Project Final Cost) for Recreation and Park (2007 – 2017).

When: By June 8th

1.3 Siew-Chin and Shahnam (SFMTA) will reach out to SFMTA – SSD (Viktoriya Wise) to verify whether the full list of projects have been provided from 2011 – 2017.

When: By June 8th

1.4 Julia (SFO) will update project lists for 10-year financial history and will confirm that project counts are perfected in the benchmarking survey.

When: By June 8th

1.5 Tim (SF Port) will confirm use of Fiscal year data for five-year project history and explore whether it is possible to include 10-year history (2007 – 2011).

DISCUSSION FOR NEXT STEPS RELATED TO PEP 2.2.1 – Claims Survey

* Currently the claims measurement is identifying how many dollars are going into the claim itself, but are not capturing how many dollars are related to the claims administration. The PM subcommittee would enhance the value of this benchmarking data if we could provide “soft costs” for claims administration. Examples include:
  + The significant drain on a project that occurs when a major dispute comes up and hurts momentum
  + Identify or develop a benchmark for evaluating the indirect costs of a claim
    - One Department had a $10M claim filed against them by the general contractor. The CM team spent ~$2M trying to fight it and ultimately the claim was negotiated for ~$3M.
    - We need a way to benchmark the hidden indirect costs as part of a campaign to eliminate claims!

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| **Performance Measures PEP**  **2.1.1 Partnering Specification Implementation** |
| **Problem Statement and Current Practice**  Currently, we are not measuring whether project teams are following the Partnering specification in a consistent way.  **PEP 2.1.1 Partnering Implementation Survey**  How can we best monitor whether teams are following the current Partnering specification to establish a benchmark and goals?  **Proposal**  It is the recommendation of the SFCPSC Performance Measures subcommittee that we use the existing Partnering implementation surveys to maintain an updated count of projects currently using Partnering across each of the six SF Departments.?  Updates   1. Partnering Implementation Survey has been created by Public Works, SF Department reps are identified, survey was distributed and results were shared on 2/8/17 2. PEP reviewed by PM Subcommittee 3/21/17 and finalized 5/16/17 3. PM Co-Chairs sign PEP by 6/9/2017 4. SFCPSC Review PEP - 6/28/17 5. Training and guidance needs to be developed for inclusion in the Partnering Field Guide   Updates for Implementation:  *The subcommittee discussed the current Partnering Implementation Survey and offered the following thoughts/recommendations*   * The Partnering Specification Implementation Survey was amended slightly to ensure consistent application by all Chapter 6 Departments. * Data will be collected two times per year (in Quarter 1 - September 1st and in Quarter3 - March 1st). * Project Duration – defined as number of days for project construction duration * Construction close-out will be defined as the final payment to the contractor * Charges for additional partnering services – (i.e. Scorecards, Facilitated Dispute Resolution, etc.)   Columns added to sample survey   * Project Number(s) * Scorecard used – Yes or No   Notes:   * We need to develop some basic guidance and minimum standards around what is included in the scorecards surveys and include them in the updated Partnering Field Guide * New Citywide financial system is bring rolled out in July 2017 * Fiscal Quarter 1 is July 1st – September 1st – we want to collect Q4 data in Q1 of the following year and have it submitted by September 1st.   \*See Attachments #2 and #3 for the Final PEP 2.1.1 and Updated Sample Survey |

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| **Performance Measures PEP**  **Issue 2.1.2 Partnering Specification Thresholds** |

5/16 DISCUSSION ON PEP 2.1.2 PARTNERING SPECIFICATION TRESHOLDS

*If we developed the partnering program from scratch, we would typically follow the 80/20 rule to ensure we are focusing “Maximum Partnering Effort” on the highest risk projects.*

Partnering Levels are based on the current Citywide Partnering Spec

Level 1: $100,000 - $5M

Level 2: $5M – $20M

Level 3: $20M - $50M

Level 4: $50M – $200M

Level 5: $200M+

Three Sample City Departments:

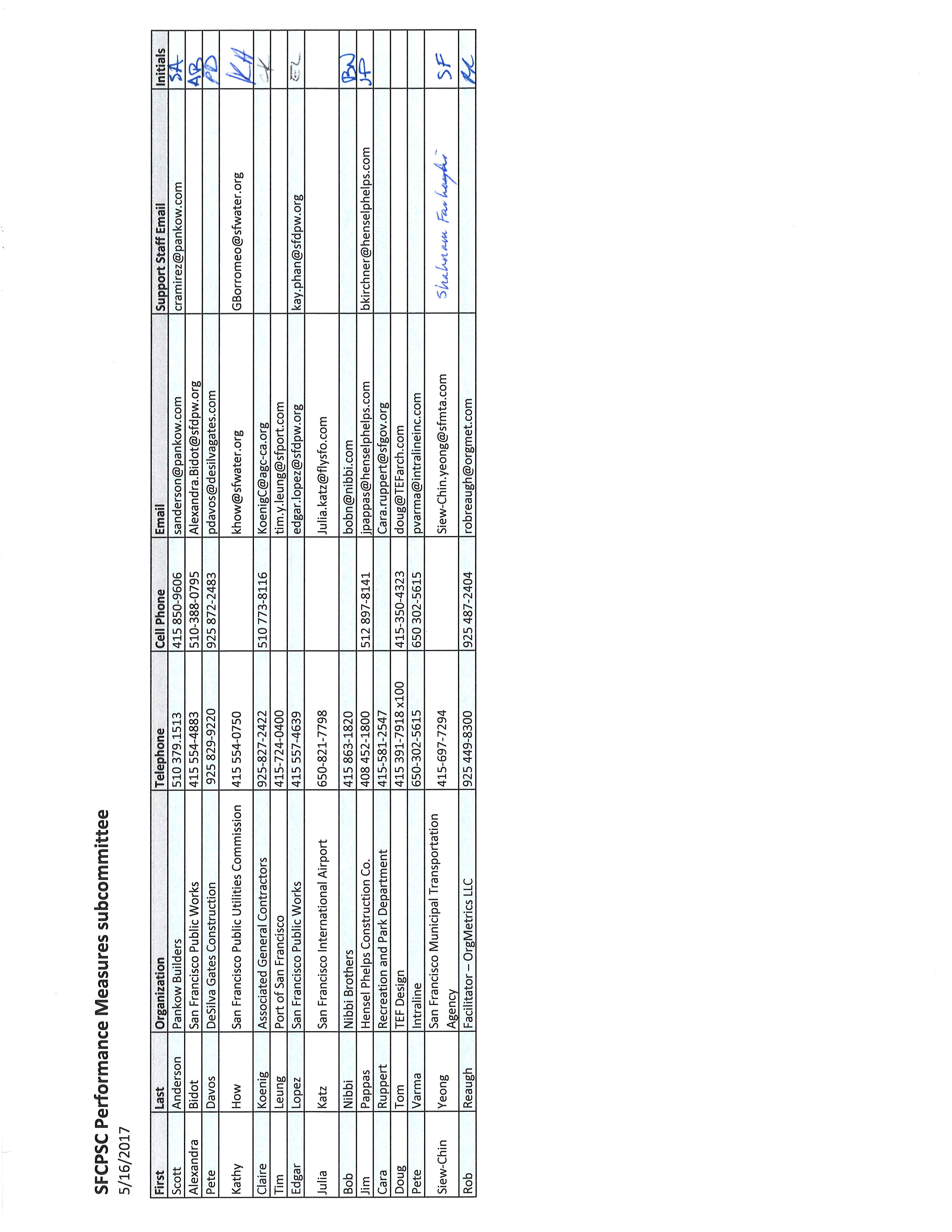
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| SF Public Works  $1.64B Program | SFPUC  $1.63B Program | SFO  $2.496B Program |
| 120 Projects using Partnering  (3) Level 5 Projects ~$1.25B  (0) Level 4  (5) Level 3 Projects ~$150M  (14) Level 2 Projects ~$140M  (97) Level 1 Projects ~$97M  Analysis:   1. If SF Public Works invests in Partnering on Levels 3, 4 and 5, they require Exec support for 8 projects and address ~$1.4B (85%) of the total budget risk. 2. \*Note - For Public Works, 80% of the total jobs are Level 1 – so it makes sense to have a scaled program for this vast array of small projects! | 31 Projects using Partnering  (1) Level 5 Project ~$860M  (2) Level 4 Projects ~$200M  (8) Level 3 Projects ~$320M  (10) Level 2 Projects ~$100M  (9) Level 1 Projects ~$27M  Analysis:   1. If SFPUC invests in Partnering on Levels 3, 4 and 5, they require Exec support for 11 projects, while addressing ~$1.38B (85%) of the total budget risk. | 50 Projects using Partnering  (3) Level 5 Projects ~$1.3B  (9) Level 4 Projects ~$900M  (4) Level 3 Projects ~$160M  (8) Level 2 Projects ~$80M  (26) Level 1 Projects ~$50M  Analysis:   1. If SFO invests in Partnering on Levels 4 and 5, they require Exec support for 12 projects, while addressing ~$2.2B (88%) of the total budget risk. 2. If SFO invests in Partnering on Levels 3 – 5, they require Exec support for 16 projects and address ~$2.37B (95%) of the total budget risk. |

Question: On what size projects did claims occur historically?

* SF Port – 1 claim on Level 2 project
* SFMTA – 2 claims on Level 2 projects and 2 claims on Level 3 projects
* SF Rec & Park – one claim on Level 2 project
* SFPUC – one claim on Level 3 project
* SF Public Works – 6 claims on Level 1 projects and 1 claim on Level 2 project

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| **Performance Measures PEP**  **Issue 2.1.2 Partnering Specification Thresholds (DRAFT)** |
| **Barrier**  The six City and County of San Francisco Departments delivering construction projects (SF Departments) are required to use Partnering on all projects larger than $100,000. The SF Departments are committed to using professionally facilitated partnering for larger projects, but for very low-budget or frequently repeated construction projects, teams are unsure of how to best scale the process or take advantage of the benefits.  **Problem Statement and Current Practice**  Currently, the SF Departments are required to implement partnering for all projects larger than $100,000. For the smallest projects, this may represent a financial burden that forces some contractors to select facilitators on price alone and lends project managers to “check-the-box” that they’ve held a session. Also, many of the small projects are similar in nature and done by the same contractors – causing the partnering workshops to become repetitive.  We need to:  a) Teach SF Department staff and Industry how to better use the time invested in the Partnering session so it is meaningful, and  b) Right size the thresholds for implementing professionally facilitated partnering so SF Department Staff and Industry “buy in” to the Return on Investment for the process.   * How can we set up a set of Partnering requirements that are more practical and based on time/duration and risk levels of projects? * How can we set up parameters that are both consistent and flexible enough that it works for all SF Departments?   BRAINSTORM ON PARTNERING THRESHOLDS FOR SMALL PROJECTS   * IDEA #1: Develop Training on the Essential Partnering Tools *For City Staff and contractors to develop the partnering tools, they need to be provided guidance (an Updated Field Guide) and training on that guidance. Training would be required for both staff and industry if the team plans to self-direct the small project partnering process. The tools are:*   + Issue Resolution Ladder   + Core Project Goals: Budget, Schedule, Quality, Safety and Trust   + When applicable – Project-specific goals: team identifies key drivers for project from Owner’s perspective (i.e. deliver by a specific date, ensure certain stakeholders are pleased, environmental concerns, etc.)   + The subcommittee needs to develop recommendations for using Scorecards on small projects – they are currently not frequently used and could also offer a solution for small project teams   + If the PMs (Owner and Contractor) are not trained, they need to do the partnering sessions * IDEA #2: Amend the requirements for the smallest projects   *The smallest construction projects ($100,000 to ~$2 to $3M), teams would be required to develop the key partnering tools, but not required to hold the professionally facilitated meeting (either internal or external).*   * + Teams would be required to jointly create the partnering tools listed above (Issue Resolution Ladder, Core team goals, project-specific goals, etc.) to satisfy the requirement   + Occasionally, the low bidder on small projects has a bust with one of the bid items – this creates an immediate financial issue for the project – tools should be developed for this instance   + Since 2011, most claims Citywide have been on projects between $2M and $20M (Level 1 and Level 2 projects); a special focus on how to best partner these projects needs to be created     - For the smallest projects (under $1M in value) the 50/50 cost split is not always seen as a benefit to bidding contractors – it is viewed as a “check the box requirement” and the varying prices of the professional facilitator can affect bid results; small contractors are therefore choosing the facilitator on price or are having to risk the bid     - This has resulted in abuse of the process (some contractors are sending only one representative to all projects, which is damaging momentum for the partnering program)   + Note #1 – Any member of the project team must ALWAYS be able to call for partnering, so an allowance needs to remain in all project budgets above $100,000   + Note #2 – For the smallest projects, including the fee for partnering facilitation may be effecting bid results, it may help entice small contractors to participate if the Owner Department pays 100% for Level 1 projects * IDEA #3: Clarify which projects are included and excluded from the Executive Directive   *Currently, all projects larger than $100,000 are described in the Executive Directive, but for Job Order Contracts and small, As-needed contracts, NTP lands well in advance of actual work and it is becoming an administrative burden to manage all the small project partnering.*   * + Instead of requiring that As-needed or JOC contracts have partnering specified in, the subcommittee could recommend that leaders of the JOC contract team or the As-needed contract team be trained in Partnering Basics so they are at minimum familiar with the partnering tools. * IDEA #4: Develop guidance to make the Partnering process more flexible   *It is common for many Departments to have the same contractors delivering the same types of small, non-complex projects repeatedly. Currently, all Level 1 projects larger than $100,000 are required to use partnering per the Executive Directive and hold two Partnering sessions. The ROI for partnering could increase on small, repetitive projects, if the Project Managers and Resident Engineers could coordinate Partnering focused on several projects to achieve global improvements, rather than conducting two sessions per project. Using multiple project budget allowances would enable teams to use follow-up partnering sessions to improve accountability and follow-through.*   * + The subcommittee can develop a set of best practices for small project partnering and train staff and industry on better ways to “optimize” the small project partnering process to improve project outcomes and help make the City and County of San Francisco “The Owner of Choice”.   NEXT STEPS  *The Subcommittee will focus on exploring PEP 2.1.2 Partnering Thresholds, we will reach out to key staff to gather current practices across the Departments and industry to develop final recommendations.*   * Public Works – Albert Ko and Suzanne Suskind * SFPUC – Alan Johanson and Mario Valdez * SFMTA – Siew-Chin and Bijan * SF Rec & Park – Cara Ruppert and Dawn Kamalanathan * SFO – Kristen Allen * SF Port – Tim Leong   \*See Attachment #4 for Updated Draft PEP 2.1.2 |

**ATTENDEES**



PARTNERING – A MEDIATIVE PROCESS

California Evidence Code

§ 1119. Mediation confidentiality

1119. Except as otherwise provided in this chapter:

(a) No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation is admissible or subject to discovery, and disclosure of the evidence shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(b) No writing, as defined in Section 250, that is prepared for the purpose of, in the course of, or pursuant to, a mediation or a mediation consultation, is admissible or subject to discovery, and disclosure of the writing shall not be compelled, in any arbitration, administrative adjudication, civil action, or other noncriminal proceeding in which, pursuant to law, testimony can be compelled to be given.

(c) All communications, negotiations, or settlement discussions by and between participants in the course of mediation or a mediation consultation shall remain confidential.

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Please call if I can help in any way

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