



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Sarah Zárate

**SUBJECT:** See Below

**DATE:** June 4, 2025

Approved

Date: June 5, 2025

**COUNCIL DISTRICT:** Citywide

**SUBJECT:** Amendments to Title 4 of the San Jose Municipal Code to Streamline City Processes in the Areas of Procurement, Contract Authority, and Settlement Authority

## **RECOMMENDATION**

Approve an ordinance amending Sections 4.04.020 and 4.04.055 of Chapter 4.04, Sections 4.12.018, 4.12.028, 4.12.055, and 4.12.410 of Chapter 4.12, and Sections 4.24.010 and 4.24.020 of Chapter 4.24 of Title 4 of the San José Municipal Code to streamline City processes in the areas of procurement, contract authority, and settlement authority.

## **SUMMARY AND OUTCOME**

As part of the 2025-2026 Budget Process, the Administration issued Manager's Budget Addendum (MBA) #27 (attached), which proposes amendments to the San José Municipal Code concerning the City's procurement process, contract authority, and claims settlement authority. Approval of this memorandum would approve the changes recommended in that MBA.

## **BACKGROUND**

MBA #27 makes ten recommendations for amendments to the Municipal Code. These amendments are intended to achieve the following goals:

- **Procurement Process Efficiency:** Four of the recommendations direct amendments to improve the speed and efficiency of the procurement process.

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- **Increased Contract Authority:** Four of the recommendations seek to increase and expand the contract authority of the City Manager and other City Council Appointees to streamline the contracting process.
- **Increased Settlement Authority:** Two of the recommendations would increase the claims settlement authority of the City Attorney.

In addition to the Municipal Code amendments, MBA #27 also makes three recommendations directing staff to work on additional improvements in the above categories.

## **ANALYSIS**

At the June 10, 2025 City Council meeting, the City Council has the opportunity to act on MBA #27 as part of consideration of the Mayor's June Budget Message for Fiscal Year 2025-2026. Staff is agendizing this item, which recommends approval of the Municipal Code amendments directed in the MBA, to provide for speedy approval of the amendments should the City Council approve the MBA on June 10, 2025. A full explanation of the amendments can be found in MBA #27, which is attached to this memorandum.

If the City Council does not approve MBA #27 on June 10, 2025, the Administration will recommend that this item be dropped from the June 17, 2025 City Council agenda.

## **EVALUATION AND FOLLOW-UP**

If the recommendation in this memorandum is approved, the Municipal Code amendments will be brought back for a second reading in August 2025 and implemented shortly thereafter.

## **COORDINATION**

This memorandum was coordinated with the City Attorney's Office and the City Manager's Budget Office.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's Council Agenda website for the June 17, 2025 City Council meeting.

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### **COMMISSION RECOMMENDATION AND INPUT**

No commission recommendation or input is associated with this action.

### **CEQA**

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

### **PUBLIC SUBSIDY REPORTING**

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

A handwritten signature in black ink that reads "Sarah Zárate". The signature is written in a cursive style with a large, stylized 'S' and a clear 'Z'.

SARAH ZÁRATE  
Director, City Manager's Office of  
Administration, Policy, and  
Intergovernmental Relations

For questions, please contact Peter Hamilton, Assistant to the City Manager, City Manager's Office of Administration, Policy and Intergovernmental Relations, at [peter.hamilton@sanjoseca.gov](mailto:peter.hamilton@sanjoseca.gov).

**ATTACHMENT:** Manager's Budget Addendum #27



MANAGER'S BUDGET ADDENDUM #27

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Sarah Zárate

**SUBJECT:** See Below

**DATE:** May 30, 2025

Approved

Date: 6/1/25

**SUBJECT: Amendments to the Procurement Process and Authority, Contract Authority, and Claims Settlement Authority Provisions of the Municipal Code**

## RECOMMENDATION

1. To modernize the City's procurement process and authority, direct the City Manager to bring forward the following amendments to Chapter 4.12 of the Municipal Code at the June 17, 2025 City Council meeting:
  - a. Amend section 4.12.018 to increase the competitive procurement threshold from \$10,000 to \$15,000.
  - b. Amend section 4.12.028 to increase the informal procurement threshold from \$250,000 to \$350,000 and index it to the consumer price index as defined in section 4.04.085, and applying the pending July 2025 adjustment to this amendment to make it consistent with the City Manager's contract authority for services.
  - c. Amend section 4.12.055(A)(2) to delete "software licensing and maintenance" from the definition of "services."
  - d. Amend section 4.12.410 to align the criteria for who may protest a procurement decision with the criteria established for public works procurements in section 27.10.250 and insert a provision establishing that there will be no additional protest period after the initial protest period, consistent with the process established for public works procurements in section 27.10.270.
2. To modify the contract authority of the City Manager and other City Council Appointees, direct the City Manager to bring forward the following amendments to Chapter 4.04 of the Municipal Code at the June 17, 2025 City Council meeting:
  - a. Amend section 4.04.020 to split the City Manager's contract authority for services into two categories, one for general services and one for professional consulting services, and align the general services category with the threshold for goods, currently at \$1.43 million, while leaving the threshold for professional consulting services at \$350,000, the current threshold for all services and index these numbers to the consumer price

- index pursuant to 4.04.085 and applying the pending July 2025 adjustment to this amendment.
- b. Amend section 4.04.020(A)(3)(b) to provide that the City Manager's contract authority for goods may include incidental services not to exceed 25% of the total contract value, with the following amendments:
    - i. Eliminate the current provision that incidental services may not exceed \$250,000.
    - ii. Insert an exemption from the 25% limitation for general services.
  - c. Amend section 4.04.020(A)(3)(f) to increase the City Manager's contract authority for "all other types of contracts" from \$100,000 to \$350,000 and index it to the consumer price index pursuant to 4.04.085 and applying the pending July 2025 adjustment to this amendment to make it consistent with the City Manager's contract authority for services.
  - d. Amend section 4.04.055(A)(1) to allow City Council Appointees to execute contract amendments that extend the contract term for any period, so long as the compensation for the contract is not increased.
3. To modify the City Attorney's authority to settle claims, direct the City Manager to bring forward the following amendments to Chapter 4.24 of the Municipal Code at the June 17, 2025 City Council meeting:
- a. Amend section 4.24.010(A)(2) to allow the City Attorney to settle claims against the City that do not exceed \$20,000, increased from the current threshold of \$10,000.
  - b. Amend section 4.24.020(B) to allow the City Attorney to settle claims owed to the City that do not exceed \$50,000, increased from the current threshold of \$20,000.
4. Direct the City Manager to explore the following improvements to the procurement process and authority, in the context of any complementary or related recommendations that may be put forward by the City Auditor as part of the forthcoming procurement audit:
- a. Explore increasing the competitive procurement threshold above \$15,000 for types of procurements that may benefit from a higher threshold.
  - b. Establish best practices guidelines for procurement of services through the informal process for types of services where such guidance currently is not provided.
  - c. Bring forward an amendment to section 3.3.2(B)(3) of the Consolidated Open Government and Ethics Provisions Resolution to increase the threshold, currently set at \$50,000, above which settlement agreements by the City Attorney must be brought before the City Council in open session.

## **BACKGROUND**

The March Budget Message for Fiscal Year 2025-2026, as approved by the City Council, notes that "the General Fund shortfall significantly limits the amount of new

resources we can bring to bear to address our community's concerns," and as a consequence, that "much of the work ahead requires the prioritization of our existing resources toward the most impactful outcomes." In alignment with this sentiment, the Administration has explored opportunities to make the City organization more efficient and to reduce barriers to timely implementation of City priorities. Staff has identified a range of actions to streamline City processes in the areas of procurement authority, contract authority, and settlement authority. With this Manager's Budget Addendum (MBA), the Administration is recommending that the City Council direct the City Manager to implement these streamlining opportunities.

Some of these changes can be implemented rapidly through amendments to the Municipal Code. If the recommendations in this MBA are approved, the Administration will bring forward the recommended ordinance amendments for first reading at the June 17, 2025 City Council meeting with the second reading to occur in August and implementation expected shortly thereafter. Other opportunities will require additional work to develop new, more efficient processes. This MBA recommends that the City Council direct staff to pursue these opportunities in the 2025-2026 Fiscal Year. These efforts will complement other strategies to focus the work of the organization, such as the recommendations in MBA #3, [\*Balancing the Budget and Prioritizing Our Work\*](#), which seek to prioritize City Council referrals.

It is important to note that the City Auditor's Office is currently conducting an audit of the City's procurement process that is anticipated to come to the Public Safety, Finance, and Strategic Support Committee in August 2025. The Administration has coordinated with the City Auditor's Office on this MBA to ensure that its recommendations align with the audit analyses conducted thus far. The audit will identify additional strategies, beyond those recommended in this MBA, to streamline the procurement process. This MBA is an initial step in improving the procurement process through some of the most straightforward changes, many informed by a previous study conducted by Guidehouse on procurements, but additional work will be needed through implementation of audit recommendations and pursuit of the additional work identified in this MBA to fully realize all needed improvements.<sup>1</sup>

## **ANALYSIS**

This section provides explanations for the recommendations made in this MBA. The numbering of the below sections is consistent with the numbering of the recommendations for ease of reference. Each subheading indicates the code section it would modify in parentheses after the title.

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<sup>1</sup> The San Jose City Council considered a report on the City's procurement process prepared by the City's consultant, Guidehouse Inc., [under item 3.7](#) at the May 10, 2022 City Council meeting.

## **1. Procurement Process and Authority**

Chapter 4.12 of the Municipal Code sets out the rules that govern the City's procurement process. The below amendments are intended to simplify and expedite procurement of goods and services.

### *1.a Competitive Procurement Threshold (4.12.018)*

The Municipal Code establishes a competitive procurement threshold, currently set at \$10,000. Procurements above that threshold must be made according to a competitive process, where multiple bids or proposals are ranked against each other, or according to an alternative process as specified in the Municipal Code, such as a sole source procurement. Procurements below the threshold need not be competitive. Staff can simply select a vendor capable of providing the service and enter into a contract without entertaining multiple bids or proposals. A non-competitive approach can be more efficient for simple procurements with a relatively low dollar value.

This MBA proposes raising the competitive procurement threshold from \$10,000 to \$15,000. A 2022 evaluation of the City's procurement process, conducted by Guidehouse, found a range of competitive thresholds in other California cities, with Sacramento at \$5,000, Oakland at \$15,000, and San Diego at \$25,000. Staff recommends that the City adjust its threshold to \$15,000 to align with the threshold established by the State of California for registration of public works contracts. The state Labor Code requires that public agencies register public works projects with the state Department of Industrial Relations to ensure compliance with prevailing wage requirements, starting with maintenance contracts over \$15,000. Setting the competitive threshold at \$15,000 will allow a modest increase in the number of contracts that can take advantage of a noncompetitive procurement while preserving the current process for projects over \$15,000 to ensure compliance with state requirements.

Staff believes this threshold can be raised further, but additional analysis is needed to ensure that a higher threshold does not impair compliance with applicable state requirements. Recommendation 4.a directs staff to explore additional increases to this threshold. This recommendation is discussed in Section 4 below.

### *1.b Informal Procurement Threshold (4.12.028)*

The Municipal Code provides that procurements of \$250,000 or less may be conducted according to an informal procurement process. An informal process must still be competitive, but can be simpler than a formal procurement. For example, in an informal process staff may request quotes from three different firms instead of posting the procurement publicly and accepting responses from all interested parties.

This MBA recommends increasing the informal threshold to \$350,000 and indexing it to the consumer price index. This change will make the threshold for the informal process

consistent with the City Manager's contract authority for services. The City Manager's contract authority is the amount at which the City Manager can approve a contract without a vote of the City Council. Aligning the informal process threshold with the contract authority threshold will simplify the City's procurement rules. It will also provide a modest increase to the informal threshold, allowing additional procurements to take advantage of the simpler process.

As mentioned above, this threshold will be adjusted according to the consumer price index, consistent with the City Manager's contract authority threshold. Per section 4.04.085, adjustments are applied every three years, with the next adjustment scheduled for July 1, 2025. If the City Council approves the direction in this MBA, the directed ordinance amendments will come into effect after July 1, 2025. To ensure that the revised thresholds do not miss this planned adjustment, the recommendation language for 1.b, 2.a and 2.c includes direction to apply the July 1, 2025 adjustment when the revised thresholds come into effect.

#### *1.c Definition of "Services" (4.12.055(A)(2))*

Section 4.12.055 defines "services" for purposes of the procurement process. "Software licensing and maintenance" is currently listed under the definition of services. In staff's experience, software licensing and maintenance more closely resembles a "good" than a "service". This MBA recommends deleting mention of it in the definition of "services" to provide additional clarity and accuracy for this definition.

#### *1.d Right to File a Protest (4.12.410)*

The Municipal Code currently establishes different criteria for who may protest a procurement decision across different types of procurements. Section 4.12.410 establishes that for procurements of goods and services "any interested party" may file a protest, while section 27.10.250 establishes that for public works procurements, only a bidder or potential bidder who can demonstrate that errors in the procurement affected the outcome of the procurement may file a protest.

This MBA recommends establishing consistent protest criteria between goods and services procurements and public works procurements by amending the criteria in section 4.12.410 to align with section 27.10.250. Aligning these two sections will simplify the City's rules and reduce potential confusion. The criteria in section 27.10.250 strikes the appropriate balance by providing an opportunity to protest but limiting it to bidders or potential bidders who would have been affected by the outcome of the procurement.

Additionally, this MBA recommends establishing that for goods and services procurements there will be no additional protest period after the initial protest period, consistent with the process established for public works procurements in section 27.10.270. This change ensures that all protests must be submitted at the same time, as opposed to sequentially over multiple protest periods. Allowing multiple, sequential protests could significantly delay a procurement.



## **2. Contract Authority**

The Municipal Code allows the City Manager and other City Council Appointees to enter and amend contracts without City Council approval, provided they meet certain criteria. This MBA proposes amendments to some of these criteria to provide for clearer and more efficient processes.

### *2.a Services Contract Authority Threshold (4.04.020)*

The code establishes that for services contracts, the City Manager may approve contracts of up to \$350,000 without a vote of the City Council. While the City has just one contract authority threshold for all types of services, the 2022 Guidehouse Study found that other cities distinguish between different types of services. For example, the report found that San Diego set a threshold of \$3,000,000 for goods and general services and a threshold of \$250,000 for professional services.

This MBA recommends creating separate contract authority categories for general services and professional consulting services, similar to San Diego. General services are typically straightforward and do not require professional credentials or specialized expertise. Examples include janitorial and security guard services. Given that these services are straightforward and are often needed across multiple departments, potentially resulting in higher contract amounts, the Administration recommends aligning the City Manager's contract authority for general services with the current contract authority for goods, at \$1.43 million. This change will allow general services contracts below the threshold to be executed more quickly.

Given that professional consulting services can require advanced qualifications and that the project scope for professional consultants can be more complex, staff recommends leaving the contract authority for these services at the current level of \$350,000, retaining the City Council's current level of oversight.

### *2.b Incidental Services in Goods Contracts (4.04.020(A)(3)(b))*

The Municipal Code provides that goods contracts at or below the City Manager's contract authority of \$1.43 million may include incidental services. Incidental services are those services needed to support the purchase of goods but which are not the primary purpose of the contract. The code establishes that incidental services cannot exceed 25% of the contract value or \$250,000, whichever is less. Given that the City Manager's authority for goods is indexed to the consumer price index, and thus will continue to increase above the current \$1.43 million, it makes more sense to apply the 25% threshold for incidental services instead of the static \$250,000 cap. This MBA recommends deleting the \$250,000 cap but leaving the 25% restriction in place.

Further, given that recommendation 2.a. above aligns the City Manager's contract authority for general services with the contract authority for goods, it is not necessary for

the restriction on incidental services to cover general services. This MBA recommends exempting general services from the incidental services restriction on goods contracts. The restriction would still apply to professional consulting services.

*2.c Contract Authority for “All Other Types of Contracts” (4.04.020(A)(3)(f))*

In addition to establishing the City Manager’s contract authority thresholds for different types of contracts, like goods or services, the Municipal Code also establishes a catchall category for “all other types of contracts” and sets the threshold at \$100,000. In staff’s experience this catchall category is generally not used as the other categories in the code encompass most contract types that the City uses; however, on the chance that this catchall category does need to be used at some point in the future, staff recommends aligning the threshold to the \$350,000 threshold for professional consulting services recommended above, indexed to the consumer price index. Aligning these thresholds simplifies the City’s procurement rules and reduces the potential for confusion.

*2.d Authority to Extend Contract Term (4.04.055(A)(1))*

The Municipal Code gives City Council Appointees the ability to amend certain contract terms without increasing the amount of the contract. Currently, it allows Appointees to increase the term of the contract for up to six months from the last City Council approved termination date. This MBA recommends allowing Appointees to extend contracts for any period of time so long as the compensation for the contract does not increase. This change will make it easier for Appointees to extend contracts if more time is needed to complete contract deliverables.

### **3. Claims Settlement Authority**

The Municipal Code grants the City Attorney the authority to settle claims against the City and owed to the City provided they are under certain monetary thresholds. This MBA proposes increasing those thresholds to allow more claims to be settled without being brought before the City Council.

*3.a Authority of the City Attorney to Settle Claims Against the City (4.24.010(A)(2))*

The Municipal Code allows the City Attorney to settle claims against the City at \$10,000 and below. Given that this threshold has not been adjusted for some time, this MBA recommends increasing it to \$20,000. This increase will allow a larger number of small claims to be settled without being brought before the City Council.

*3.b Authority of the City Attorney to Settle Claims Owed to the City (4.24.020(B))*

The Municipal Code allows the City Attorney to settle claims owed to the City at \$20,000 and below. Similar to the above, this threshold has not been increased in some time.

This MBA recommends that it be increased to \$50,000. This increase will allow a larger number of small claims to be settled without being brought before the City Council.

#### **4. Additional Opportunities to Explore**

Staff has identified additional opportunities to improve the procurement process and authority and City Attorney settlement approval practices. This MBA recommends that the City Council direct staff to pursue these opportunities.

##### *4.a Further Amendments to the Competitive Threshold for Procurements*

This MBA recommends adjusting the competitive procurement threshold to \$15,000. As discussed above, the State Labor Code requires that public agencies register public works projects with the state Department of Industrial Relations to ensure compliance with prevailing wage requirements, starting with maintenance contracts of over \$15,000. Setting the competitive threshold at \$15,000 will leave current processes in place that ensure compliance with state requirements for public works contracts; however, staff believes there may be an opportunity to allow for a higher competitive threshold for procurements that do not trigger state registration. Staff recommends that the City Council direct staff to explore opportunities to raise the competitive threshold where compliance with state law would not be impaired.

##### *4.b Expansion of Informal Procurement Process*

As discussed above, this MBA recommends raising the informal procurement threshold to \$350,000. In addition to raising the threshold, the Administration also recommends that the City Council direct the City Manager to develop more comprehensive guidance on best practices for use of the informal process. For some types of procurements, clear guidance on the informal process already exists. For example, goods can be procured informally by asking three vendors to provide quotes and then accepting the lowest quote. For other types of procurements, such as professional consultant services, clear guidance does not currently exist. If so directed, staff would develop guidance on best practices where gaps exist, to ensure that procurements can benefit from the informal process where appropriate. No additional City Council action would be needed to accomplish this recommendation—staff can accomplish it administratively.

##### *4.c City Attorney Settlement Threshold for Open Session*

The City's Consolidated Open Government and Ethics Provisions Resolution establishes that any City Attorney settlement agreements of over \$50,000 must be brought before the City Council in open session. This threshold has not been adjusted since it was originally established in 2008. If it had been adjusted based on the consumer price index for the San Francisco Bay Area, the threshold would currently be set at over \$80,000. This MBA recommends that the City Council direct staff to bring back a recommended adjustment to this threshold for City Council consideration.

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May 30, 2025

**Subject: Amendments to the Procurement Process and Authority, Contract Authority, and Claims Settlement Authority Provisions of the Municipal Code**

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**COORDINATION**

This memorandum has been coordinated with the Finance Department, City Auditor's Office, City Attorney's Office, and City Manager's Budget Office.

/s/

SARAH ZÁRATE

Director, Office of Administration,  
Policy, and Intergovernmental Relations