



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Rick Bruneau

SUBJECT: SEE BELOW

DATE: September 11, 2023

Approved

Date

9/18/23

**SUBJECT: AMENDMENTS TO TITLE 4 OF THE SAN JOSE MUNICIPAL CODE
RELATED TO PROCUREMENT OF GOODS AND SERVICES**

RECOMMENDATION

Approve an ordinance amending Title 4 of the San José Municipal Code, Chapter 4.04 *Contract Authority* and adding to and amending Chapter 4.12 *Procurements of Goods and Services* as follows:

- a) Amend Section 4.04.080(A) titled *Quarterly Reports* to increase the Minimum Contract Values for “Sunshine” Reports to the Informal Procurement Threshold, as defined in Section 4.12.028 of the San José Municipal Code;
- b) Amend Section 4.04.085(B) titled *Periodic Automatic Adjustments to Contract Authority Limitations and Related Figures* to remove references where Section 4.04.085(B) is no longer applicable;
- c) Add Section 4.12.018 titled *Competitive Procurement Threshold* to define the “Competitive Procurement Threshold” to be \$10,000.00, as automatically adjusted to remain aligned with the Federal Micro-Purchase Threshold as defined in 48 CFR §2.101;
- d) Add Section 4.12.028 titled *Informal Procurement Threshold* to define the “Informal procurement threshold” to be \$250,000.00, as automatically adjusted to remain aligned with the Federal Simplified Acquisition Threshold as defined in 48 CFR §2.101;
- e) Amend Section 4.12.210(A) titled *Selection of Procurement Method* to align the upper limit of purchases that may be made without a competitive procurement to the Competitive Procurement Threshold;
- f) Amend Section 4.12.210(B) titled *Selection of Procurement Method* to increase the lower and upper limits for using the request for quotes process to the Competitive Procurement Threshold and the Informal Procurement Threshold, respectively;
- g) Amend Section 4.12.210(C, D) titled *Selection of Procurement Method* to increase the threshold for using the request for proposals and formal bid processes for services and goods, respectively, to those purchases estimated to exceed the Informal Procurement Threshold;
- h) Amend Section 4.12.225(B)(3) titled *Public Agencies Purchases* to allow the City to leverage the results of other public entities’ solicitations which substantially comply with the City's procurement procedures if the respective solicitation gives notice to the bidders that the procurement may be leveraged by other public agencies, which is satisfied if either the

solicitation documents or the executed contract resulting from the procurement includes language allowing other entities to use said procurement, procedure, or contract;

- i) Amend Section 4.12.350(B1, B2) titled *Rejection of Responses* to increase the threshold to the Informal Procurement Threshold for when the Procurement Authority may negotiate and execute contracts after all responses have been rejected;
- j) Amend Section 4.12.415 titled *Formal and Informal Protest Procedures* to increase the threshold for using formal protest procedures to procurements having a value greater than the Informal Procurement Threshold; and
- k) Amend Section 4.12.420 titled *Notice of Decision* to increase the threshold for sending a notice of intended award to procurements valued over the Informal Procurement Threshold.

SUMMARY AND OUTCOME

Approval of the recommendations streamlines and simplifies the City's processes for procuring commodities and services and for the required reporting process. Particularly, it:

- (1) Increases the Informal Procurement Threshold for formal solicitations;
- (2) Aligns the City's procurement thresholds with those of the Federal Government; and
- (3) Enables staff to leverage other public entities' procurement efforts more easily.

The aggregate effects of these changes will simplify the procurement process, reduce the timelines for procuring more items, and reduce the backlog of current solicitations.

BACKGROUND

In February 2019, the Finance Department and the City Manager's Office of Civic Innovation launched the "Procurement Improvement and Readiness Program" in response to Citywide year-over-year increases in demand for procurement services. The Procurement Improvement and Readiness Program called for a comprehensive assessment of the City's procurement and contracting processes for the acquisition of equipment, goods, and services to identify opportunities for improved efficiencies.

On April 7, 2022, staff presented the results of that comprehensive assessment – *FY 2021-2022 City Roadmap: Procurement Status Report* – at the City Council Smart Cities and Service Improvements Committee¹. The item included the *City of San José Procurement Current State Assessment Report* and *City of San José Procurement Future State Vision Report* from Guidehouse, Inc.², which presented potential strategies for procurement innovations and reforms, along with an assessment and evaluation of the resources required to implement the recommended strategies. The item was cross-referenced and

¹ April 7, 2022, City Roadmap: Procurement Improvement Status Report

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5526271&GUID=E5ED8EA7-1B0B-4B32-B6A2-377FDBD74945&Options=&Search=>

² May 10, 2022, City Roadmap: Procurement Improvement Status Report – Supplemental Memorandum

<https://sanjose.legistar.com/View.ashx?M=F&ID=10856469&GUID=8BCC48A2-70EA-4CE9-BD2C-42F238AB4B65>

heard at the City Council May 10, 2022 meeting³. The City Council subsequently directed staff to return to City Council with recommendations to update Chapter 4.04 Contract Authority and Chapter 4.12 Procurements of Goods and Services of Title 4 of the San José Municipal Code. On February 16, 2023⁴, staff presented their status report on recommended amendments to Title 4 of the San José Municipal Code to the Public Safety, Finance and Strategic Support Committee. This status report and recommended amendments to Title 4 were cross-referenced, heard, and accepted by the full City Council on March 14, 2023⁵.

ANALYSIS

As directed by City Council, staff worked with the City Attorney's Office to prepare the necessary ordinance amending Title 4 of the San José Municipal Code, Chapter 4.04 *Contract Authority*, and adding to and amending Chapter 4.12 *Procurements of Goods and Services*. The proposed San José Municipal Code additions and amendments are summarized as follows:

(a) Competitive Procurement Threshold

Staff recommends the Competitive Procurement Threshold automatically adjust to remain aligned with the Federal Micro-Purchase Threshold, as defined in 48 CFR §2.101.

(b) Informal Procurement Threshold

Staff recommends the Informal Procurement Threshold be increased from \$140,000 to \$250,000, and automatically adjust to remain in alignment with the Federal Simplified Acquisition Threshold, as defined in 48 CFR §2.101.

(c) Leveraging Other Public Entity Procurements

Staff recommends the San José Municipal Code be amended to allow the City to leverage the results of other public entities' solicitations if that solicitation gives notice to the bidders that the procurement may be leveraged by other public agencies, which is satisfied if either the solicitation documents or the executed contract resulting from the procurement includes language allowing other entities to use said procurement, procedure, or contract.

EVALUATION AND FOLLOW-UP

The Finance Department will continue to review future state recommendations from the *City of San José Procurement Future State Vision Report* to evaluate the feasibility and timing of implementing additional recommendations and advancing components as appropriate for City Council consideration and action.

³ May 10, 2022, City Roadmap: Procurement Improvement Status Report

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=5567613&GUID=18B91667-1895-4905-ABAE-2E711A986346&Options=&Search=>

⁴ February 16, 2023, Amendments to Title 4 of the Municipal Code Related to Procurement of Goods and Services Status Report.

<https://sanjose.legistar.com/LegislationDetail.aspx?ID=6002388&GUID=6F1AE4CB-6307-4A64-B029-2B59F72C9B61&Options=&Search=>

⁵ March 14, 2023, Amendments to Title 4 of the San José Municipal Code Chapter 4.04 Contract Authority and Chapter 4.12 Procurements of Goods and Services <https://sanjose.legistar.com/LegislationDetail.aspx?ID=6045680&GUID=A46E2D43-CFFC-43A5-927F-77C4F815CBAD&Options=&Search=>

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Approval of this recommendation will be the first reading of the ordinance. The ordinance will return to City Council for its second reading and approval on October 17, 2023. If approved at that time, the ordinance will be in effect as of November 16, 2023.

COORDINATION

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

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the October 3, 2023 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, Public 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.

/s/

RICK BRUNEAU
Director of Finance

For questions, please contact Albie Udom, Deputy Director of Finance – Purchasing and Risk Management, at albie.udom@sanjoseca.gov.