



NOTICE OF MEETING

CITY OF PACIFIC GROVE
CITY COUNCIL
ERRATA SHEET



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

ERRATA SHEET

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: Sandra Kandell, City Clerk/DEI Coordinator
MEETING DATE: 09/21/2022
SUBJECT: City Council Meeting Agenda- Errata Sheet

Attached is additional information for your consideration at the September 21, 2022 City Council Meeting:

Agenda Item	Information Provided/Corrected
11B	Corrected Financial Impact to read as follows: <i>The estimated impact to the General Fund is \$86,601. While the City is still in the process of closing the Fiscal Year 21/22 accounting records, it is anticipated that there should be sufficient funds in the Unrestricted General Fund Balance to support these repairs. (Highlighted correction.)</i>
12A	The Agenda Report was reportedly distorted. (A clean copy is attached for ease of reference.)

Attachments

12A Clean Agenda Report



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Councilmembers
FROM: Bill Peake, Mayor
MEETING DATE: September 21, 2022
SUBJECT: Purchasing Authorization Procedures
CEQA: Does not constitute a “Project” under California Environmental Quality Act (CEQA) Guidelines Section 15378

RECOMMENDATION

Direct the City Attorney to return with a (1) draft ordinance to clarify purchasing authorization procedures and (2) resolution for approval of standard contracts.

DISCUSSION

City Charter Article 40 provides the City’s purchasing regulatory framework. Paragraph (b) states: “The Council by ordinance shall adopt policies and procedures, including appropriate bidding regulations, governing purchases of or contracts for supplies, materials, and equipment. Purchases of supplies, materials and equipment shall be made only in accordance with the adopted policies and procedures.” In other words, Council has ultimate fiduciary responsibility for all City expenditures, including purchases and contracts for supplies, services, and equipment.

Building on Article 40, PGMC Chapter 2.16 ‘Purchasing System and Procedures’ provides enacts a detailed purchasing framework.

Council previously discussed the need to clarify authorization of purchases with an estimated market value greater than the maximum amount for which the purchasing agent is authorized, the most recent discussion held April 6, 2022. The following four items describe where amendments to the municipal code will bring about added clarity.

1. The municipal code states the mayor shall sign, facsimile or actual, in the name and on behalf of the city, all contracts, deeds, bonds and other legal instruments in which the city is a party. However, it doesn’t explain what the mayor has authority to sign. The code amendment below (**bold**) states signature authority derives from Council approval.

2.05.010 Mayor required to sign contracts and other legal instruments.

Pursuant to Article 11 of the city charter the mayor shall sign, facsimile or actual, in the name and on behalf of the city, all contracts, deeds, bonds and other legal instruments in which the city is a party. **The mayor has authority to sign any contract, deed, bond or other legal instruments**

only with prior Council approval. This section does not transfer operational authority to the mayor. [Ord. 21-015 § 3, 2021].

2. The purchasing agent's (City Manager's) purchase authority limit set in PGM 2.16.160 has an inflation escalator at 5-year intervals. The code does not specify how the escalator is implemented. City staff provided an information only agenda report November 18, 2020 to Council specifying an increase in the purchase authority limit to \$40,000. However, Council authorizes the City Manager's purchase authority limit. The code amendment below (**bold**) clarifies Council approves the purchase authority limit.

2.16.160 Authorized for purchases by the purchasing agent.

(b) The purchase authority limit set forth in subsection (a) of this section shall be adjusted on July 1st of each fifth fiscal year, starting on July 1, 2020 **by Council resolution**. The adjustment shall cause an increase or decrease to the purchase limit based upon the cumulative change in the Consumer Price Index (CPI) that occurred since the last adjustment, based upon the "CPI, All Urban Consumers, San Francisco- Oakland-San Jose area; base years 1982-1984 = 100," as published by the U.S. Department of Labor, or any comparable replacement or successor index. For ease of administration, the purchase authority limit set for each following five-year period shall be adjusted by rounding to the nearest \$5,000.

3. Council approval of purchases and contracts have been handled in a variety of ways, often without a contract or a resolution as specified in the municipal code. The code amendments below (**bold**) clarify actions Council should take for approval of contracts.

Council purchase/contract approval as recorded in meeting minutes (by motion and vote) has the same legal standing as a resolution but with less formality. There is a minor impact on record retention.

It is common sense that when approving a contract, one has the ability to read the contract. Council approval of contracts should be no different. The written contract, as specified in the municipal code, should be provided to Council prior to its approval of the contract.

Use of standardized contracts will eliminate 'boiler plate' or common contract conditions thus reducing Council agenda report length and unnecessary review. Also standardized contracts will focus Council attention on key contract components namely parties involved, term, scope of work, price, and contingencies to extend the term and/or increase the price. The City Manager, with input from the city's insurance provider, CJPIA, would provide standardized contracts to the City Attorney and Council for approval. Draft standard contracts, prepared by City staff with CJPIA input, are attached.

2.16.220 Formal contract procedure.

Except as otherwise provided herein, purchases and contracts for supplies, services and equipment of estimated market value greater than the maximum amount for which the purchasing agent is authorized, as specified in Article II of this chapter, shall be by written contract, approved by the council by resolution **or motion**, with the lowest responsible bidder pursuant to the procedure prescribed in this article **except when such procedures may be dispensed with as defined in Article I of this chapter or as otherwise provided by law. Standard contracts**

may be used when approved by City Attorney and Council by resolution. Written contracts shall be provided to Council prior to approval except that standard contracts may be incorporated by reference into an Agenda Report with specification of the parties, term, scope of work, price, and contingencies to extend the term and/or increase the price. (The procedures prescribed in Article IV of this chapter shall be observed in the case of all public works projects, as defined in Article IV of this chapter, involving expenditures greater than the maximum amount for which the purchasing agent is authorized, as specified in Article II of this chapter.) [Ord. 14-005 § 2, 2014; Ord. 1405 N.S. § 2, 1984].

4. Pursuant to Article 36 of the city charter the city manager is authorized to approve any expenditure without presentation to the council if the city manager determines that a demand for such expenditure is one for an item included within an approved budget appropriation. This authorization is repeated in PGMC 6.20.040. It ignores purchase system requirements.

The code amendment below (**bold**) clarifies that expenditures for purchases and services also requires that purchase system procedures be followed which may include Council authorization.

6.20.040 Expenditures – Authorization.

(a) Pursuant to Article 36 of the city charter the city manager is authorized to approve any expenditure without presentation to the council if the city manager determines that a demand for such expenditure is one for an item included within an approved budget appropriation **and for purchases and contracts for supplies, services and equipment, which is authorized pursuant to PGMC Chapter 2.16.**

FISCAL IMPACT

None for this decision.

OPTIONS

Take no action or modify recommendation.

ATTACHMENTS

- Draft Construction Services Standard Contract
- Draft Design Professional Services Standard Contract
- Draft Maintenance Services Standard Contract
- Draft Professional Services Standard Contract
- Draft Vendor Services Standard Contract