

**Council Meeting: April 22, 2008**

**SUBJECT: Introduction of Ordinance Amending Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code to Increase the City Manager's Contract Award Authority from \$50,000 to \$100,000**

**REPORT IN BRIEF**

Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code establish the procedures for the purchases of goods and services and for contracts for public works projects. These chapters also establish the contract awarding authority of the City Manager and the City Council. As part of the last update of these code sections, the City Manager's contract award authority was increased in 2000 to \$50,000, with the recommendation to review and modify if appropriate at least once every five years.

Staff recommends that Council modify Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code by increasing the City Manager's contract award authority for the procurement of goods and/or services and public works contracts from \$50,000 to \$100,000 in any one transaction. This action will not affect current competitive bid requirements. This means that purchases over \$50,000, whether awarded by the City Council or City Manager, must follow the competitive bid requirements of the Municipal Code, unless otherwise exempted by ordinance.

Staff is making this recommendation for two reasons. First, since 2000 the cost of goods and services has risen by 24% as measured by the Consumer Price Index and the Construction Cost Index has increased by 30%. This means that a larger number of purchases must go to the City Council for approval, which in turn increases the time that it takes to effect such purchases. Secondly, purchasing staff hours were reduced in FY 2003/2004 in response to the economic downturn based upon the proposal that the City would increase the City Manager's contract award authority to offset the staffing reduction to adequately support City operations. The fact that purchases dipped following the downturn allowed staff to maintain service levels with the reduced hours, but increased levels of purchasing over the last two years have resulted in staff being unable to address the volume within stated service levels.

This proposal maintains Council oversight while recognizing current market realities and staffing levels to allow the City to efficiently and effectively manage the purchase of goods and services.

### **BACKGROUND**

Shortly after the City's Charter was adopted in 1949, the City Council adopted the first Purchasing Ordinance which granted the City Manager authority to award contracts up to \$1,000. This was increased in 1968 to \$2,500; in 1978, to \$5,000; in 1982, to \$20,000; and in 1989, to \$35,000.

Effective January 2000, Council repealed the original Purchasing Ordinance and replaced it with an updated Chapter 2.08 entitled "Purchases of Goods and Services" and adopted a new Chapter 2.09 entitled "Public Works Contracting" (RTC 99-509). Both Chapters 2.08 and 2.09 established the City Manager's contract award authority at \$50,000 with Council action required for any contract in excess of \$50,000.

### **EXISTING POLICY**

The City Manager's contract award authority is established in Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code.

### **DISCUSSION**

The power to create and oversee policy appropriately rests with the City Council, while the City Manager is charged with efficiently and effectively administering the Council's directives. When the current Purchasing and Public Works Contracting Ordinances were adopted by Council in 2000, staff recommended that the City Manager's contract award authority be "reviewed and modified, if appropriate, at least once every five years." Staff recommends increasing the dollar threshold to \$100,000 at this time in order to recognize current market realities and staffing levels in order to procure goods and services in the most effective manner, as more fully explained below.

During the FY 2003/2004 budget and service level reduction process in response to the economic downturn, the Purchasing Division reduced one buyer position, based upon the recommendation that the City would raise the amount of the City Manager's contract award authority if the Purchasing Division was unable to adequately support City operations with the remaining two buyers. The time savings derived from not having to prepare Reports to Council, etc., was to be offset by the reduction in hours. Council approved the Division's budget and service level reduction proposal, and the budget was lowered accordingly. Immediately following the staff reduction, Purchasing was able to adequately support the City without increasing the City Manager's contract award authority because the economic crisis resulted in fewer

purchases. For example, formal bids (more than \$50,000) decreased by approximately 21% from FY 2002/2003 to FY 2004/2005, from 103 to 81. However, this changed dramatically in FY 2006/2007, as the procurement backlog that had developed during the lean years began to materialize. The combination of reduced staffing plus the increase in purchases significantly impacted the time it takes to process bids over \$50,000. Specifically, formal bid purchases increased by approximately 17% and the procurement cycle time increased by 33% for formal bids/public works construction projects, from an average of 52 days in FY 2003/2004 to an average of 69 days in FY 2006/2007. The previous reduction of the buyer position coupled with the increase in the number of projects has contributed to this increase. Another contributing factor is due to the evolving complexity of formal bids and public works construction projects, which often require separate Requests for Proposals (RFPs) for design services, have design evaluation components and need pre-bid conferences. Recent examples of projects that required such measures include the rehabilitation of facilities at the Water Pollution Control Plant.

In addition to the impacts listed above, the cost of goods and services, particularly public works projects and petroleum-based items, has steadily risen. The Consumer Price Index for the San Francisco Bay Area has increased by 24% since the \$50,000 limit was established in 2000. Similarly, the Construction Cost Index for the San Francisco Bay Area (a more accurate measure of construction project costs which captures construction labor and materials) rose by more than 30% during the same timeframe.

A review of the City Manager's contract award authority in other cities in the area indicates that several have established thresholds at \$100,000 or higher.

<b>City</b>	<b>City Manager Award Authority</b>
Campbell	\$25,000 for general goods and services; \$125,000 for public projects
Fremont	\$100,000 for goods and services
Mountain View	Council approval not required for goods and non-professional services purchases if appropriation is not exceeded; \$40,000 for professional services
Palo Alto	\$250,000 for goods and services
San Jose	\$1,000,000 for goods; \$250,000 for services
Santa Clara	\$100,000 for goods; \$50,000 for services

It is important to note that any goods and services purchases over \$50,000 that are required by the Municipal Code to be competitively bid will continue to meet this requirement. This means that purchases over \$50,000, whether awarded by the City Council or the City Manager, must follow the competitive bidding requirements of the Municipal Code, unless otherwise exempted by ordinance.

### **FISCAL IMPACT**

There is no fiscal impact to this report.

### **PUBLIC CONTACT**

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, in the Council Chambers lobby, in the Office of the City Clerk, at the Library, Senior Center, Community Center and Department of Public Safety; posting the agenda and report on the City's Web site; and making the report available at the Library and the Office of the City Clerk.

### **ALTERNATIVES**

1. Adopt the ordinance amending Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code to increase the City's Manager's contract award authority from \$50,000 to \$100,000.
2. Do not adopt the ordinance amending Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code to increase the City Manager's contract award authority from \$50,000 to \$100,000, but increase the limit by an alternative amount.
3. Do not adopt the ordinance amending Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code to increase the City Manager's contract award authority.

### **RECOMMENDATION**

Staff recommends Alternative 1. The City Manager's contract award authority was last increased in 2000, with the recommendation to review and modify as appropriate at least once every five years. Since that time, the number of procurements and the length of time needed to process them have increased. The cost of goods and services has increased significantly as well.

Increasing the City Manager's contract award authority will make it possible to process contracts up to \$100,000 in a more streamlined manner, thereby creating efficiencies to help offset impacts created by previously reducing budget and service levels. Had this recommendation been in effect during FY 2006/2007, 25 more contracts could have been awarded by the City Manager instead of by the City Council.

This proposal maintains Council oversight while recognizing current market realities and staffing levels to allow the City to efficiently and effectively manage the purchase of goods and services.

Reviewed by:

Mary J. Bradley, Director, Finance  
Prepared by: Pete Gonda, Senior Management Analyst

Approved by:

Amy Chan  
City Manager

**Attachments**

- A. An Ordinance of the City Council of the City of Sunnyvale Amending Certain Sections of Chapters 2.08 and 2.09 of the Sunnyvale Municipal Code Related to Authority for Awarding Contracts for Purchases of Goods and Services and Public Works Contracting.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUNNYVALE AMENDING CERTAIN SECTIONS OF CHAPTERS 2.08 AND 2.09 OF THE SUNNYVALE MUNICIPAL CODE RELATED TO AUTHORITY FOR AWARDING CONTRACTS FOR PURCHASES OF GOODS AND SERVICES AND PUBLIC WORKS CONTRACTING**

THE CITY COUNCIL OF THE CITY OF SUNNYVALE DOES ORDAIN AS FOLLOWS:

SECTION 1. CHAPTER 2.08 AMENDED. Sections 2.08.040 and 2.08.190 of Chapter 2.08 (Purchases of Goods and Services) of the Sunnyvale Municipal Code is hereby amended to read, as follows:

**2.08.040. Procurement and disposition responsibilities.**

(a) - (b) [Text unchanged.]

(c) City Manager. The city manager shall:

(1) Be the awarding authority for every procurement of goods and/or services for which the cost to the city is ~~one hundred thousand dollars or less in any one transaction;~~

Deleted: fifty

(2) - (4) [Text unchanged.]

(d) City Council. The city council shall be the awarding authority for every procurement of goods and/or services for which the cost to the city is greater than ~~one hundred thousand dollars in any one transaction~~

Deleted: fifty

**2.08.190. Emergency procurements.**

The city manager, the purchasing officer or a department head, or a designee of such individual, may make or authorize others to make emergency procurements, regardless of the cost, if there is an urgent necessity to do so for the preservation of life, health or property. Such emergency procurements shall be made with such competition as is practical under the circumstances and shall be limited to those goods and services necessary to satisfy the emergency need. In such circumstances, the purchasing officer or department head shall provide a written report of the procurement to the city manager, including a description of the emergency and the basis for selection of the particular contractor; and a copy of this report shall be included in the procurement records maintained by the purchasing officer. In the event that such emergency action is necessary and the procurement cost is greater than ~~one hundred thousand dollars in any one transaction,~~ the city manager shall make a full and complete report to the city council at its next regularly scheduled meeting.

Deleted: \$50,000

SECTION 2. CHAPTER 2.09 AMENDED. Section 2.09.040 of Chapter 2.09 (Public Works Contracting) of the Sunnyvale Municipal Code is hereby amended to read, as follows:

2.09.040. Project responsibilities.

(a) – (c) [Text unchanged.]

(d) City Manager. The city manager shall:

(1) Be the awarding authority for every public works contract for which the cost to the city is one hundred thousand dollars or less;

Deleted: fifty

(2) - (3) [Text unchanged.]

(e) City Council. The city council shall be the awarding authority for every public works contract for which the cost to the city is greater than one hundred thousand dollars in any one transaction.

Deleted: fifty

SECTION 3. CEQA EXEMPTION. The City Council finds, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment.

SECTION 4. EFFECTIVE DATE. This ordinance shall be in full force and effect thirty (30) days from and after the date of its adoption.

SECTION 5. POSTING AND PUBLICATION. The City Clerk is directed to cause copies of this ordinance to be posted in three (3) prominent places in the City of Sunnyvale and to cause publication once in The Sun, the official newspaper for publication of legal notices of the City of Sunnyvale, of a notice setting forth the date of adoption, the title of this ordinance, and a list of places where copies of this ordinance are posted, within fifteen (15) days after adoption of this ordinance.

Introduced at a regular meeting of the City Council held on \_\_\_\_\_, 2008, and adopted as an ordinance of the City of Sunnyvale at a regular meeting of the City Council held on \_\_\_\_\_, 2008, by the following vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk  
SEAL

\_\_\_\_\_  
Mayor

APPROVED AS TO FORM AND LEGALITY:

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David E. Kahn, City Attorney