

Capitola City Council

Agenda Report



Meeting: September 14, 2023

From: Finance Department

Subject: Purchasing and Procurement Policy and Ordinance

Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance amending Chapter 3.16 of the Capitola Municipal Code pertaining to Purchasing and Purchasing Contracts; and adopt revised Administrative Policy III-4: Purchasing and Procurement Policy.

Background: The City of Capitola established Municipal Code Chapter 3.16 to provide the framework and guidelines for purchasing and purchasing contracts. The Code has required updating over its history, most recently in July 2012 with the adoption of Ordinance No. 972.

On August 29, 2002, the City Council adopted Administrative Policy III-4: Purchasing and Purchasing Contracts to establish efficient procedures to secure supplies, services, and equipment at the lowest possible cost, maintain financial control over purchases, define authority in the purchasing system, and assure quality of purchases. Administrative Policy III-4 was last updated in October 2016.

Discussion: Periodic review of administrative policies is considered a best management practice. Staff recently reviewed Administrative Policy III-4: Purchasing and Procurement Policy (Purchasing Policy) and recommends several revisions and updates. Revisions include:

- Increasing the City Manager's Authority to \$50,000 for expenditures that have been allocated funding by the City Council through the annual budget process. The current limit of \$25,000 was established in 2012;
- Increasing the City Manger's authority to \$75,000 for vehicles and equipment that have been approved by the City Council through the annual budget process. The current limit of \$50,000 was established in 2012; and
- Administrative revisions related to the adoption of Resolution 3926 on July 12, 2012, and in response to a recently completed audit by the California Office of Emergency Services (Cal OES).

Government Code section 54202 requires that all local agencies adopt policies and procedures, including bidding regulations, governing purchases of supplies and equipment by the local agency. Best management practices also recommend that the City Council establish parameters to delegate purchasing authority to the City Manager to streamline and improve the efficiency of purchases related to the operations of the City. The City's current Purchasing Policy has not been updated since 2016 and requires certain revisions.

The City's purchasing authority is limited to City Council approved appropriations within the adopted annual budget and dollar thresholds established by the City Council.

Due to inflation, many of the general purchases of supplies, equipment, and general services that were previously authorized by the City Manager now require City Council approval. Additionally, many of the capital equipment purchases authorized by the City Council are close to or exceeding the existing limit in the Municipal Code. Staff expects this trend to continue as the City converts to electric and hybrid vehicles. This results in reduced efficiency in conducting City business, as

well as increasing City Council agenda items for expenditures that were approved with the adoption of the annual budget.

The proposed revision to increase the City Manager's purchasing authority from \$25,000 to \$50,000 for supplies, equipment, and general services, and from \$50,000 to \$75,000 for capital equipment identified in the adopted budget would improve the operations of the City while maintaining proper checks and balances. Staff found that most cities in the region have established \$100,000 as the purchasing authority for the City Manager.

The proposed revisions to the Municipal Code and the City's Purchasing Policy also incorporate alternative bidding procedures for public works projects authorized by the Uniform Construction Costs Accounting Act (the "Act"). The Act sets forth alternative bidding procedures for certain public works projects, that become available to cities upon formal action of legislative bodies opting into those procedures. In July 2012 the City Council adopted Resolution No. 3926 electing to become subject to the Act's alternative procedures. Unfortunately, the City's Purchasing Policy and Municipal Code were not updated to reflect the applicability of the alternative bidding procedures permitted pursuant to the Uniform Construction Cost Accounting Act. Staff has continued to follow the City's Purchasing Policy, however, with these proposed revisions, staff intends to clarify which projects are subject to the alternative bidding procedure and use those procedures where applicable.

The current bidding requirements as established by the Act, and as incorporated into the Municipal Code and Purchasing Policy through the revisions proposed herein, are as follows:

- a) Public projects of sixty thousand dollars (\$60,000) or less may be performed by the employees of a public agency by force account, by negotiated contract, or by purchase order.
- b) Public projects of two hundred thousand dollars (\$200,000) or less may be let to contract by informal procedures as set forth in the Act.
- c) Public projects of more than two hundred thousand dollars (\$200,000) shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

In addition to revisions to incorporate bidding procedures permitted under the Act, the revisions proposed herein address certain deficiencies identified by CalOES through a recent audit of the City's recently completed grant-funded update to the Local Hazard Mitigation Plan (LHMP). The audit found that the City's use of awarding a contract through a noncompetitive bid process (sole source) violated Title 2 of the Code of Federal Regulations (CFR) due to the City not obtaining authorization from Cal OES prior to awarding the contract. While Cal OES eventually approved the contract and there was no financial penalty assessed, Cal OES required that the City create a corrective action plan to avoid future violations which staff has submitted to Cal OES.

The corrective action plan included reviewing the City's Purchasing Policy and incorporating language to address the use of federal awards and subrecipient awards. Staff reviewed a number of federal and state resources as well as policies from other agencies and have incorporated a section addressing Federal Projects into the Purchasing Policy for the City Council's consideration.

Lastly, staff recommends revising the Purchasing Policy to authorize the City Engineer to approve plans and specifications for public works projects and other improvements that are within the City Manager's signing authority to provide design immunity to the City. Government Code section 830.6 provides public agencies and their employees with immunity from being sued over a defective design with respect to a public works project if that design is either approved by the legislative body or some other "employee exercising discretionary authority to give such approval"

prior to construction of the project and if the project is ultimately constructed as set forth in the design. With the inclusion of this provision, the City would have a defense to claims alleging City liability for injuries caused by the plan or design of construction or improvements to public property where the plan or design has been approved in advance by the legislative body.

Fiscal Impact: There are no direct fiscal impacts associated with the recommended actions; however, the City will be in compliance with the Code of Federal Regulations as it pertains to the expenditure of federal awards and subrecipient awards related to grants and disaster recovery funding.

Attachments:

1. Draft Ordinance
2. Administrative Policy III-4 (revisions in track changes)

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Reviewed By: Julia Moss, City Clerk; Sam Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager