



City of Palo Alto

City Council Staff Report

(ID # 12131)

Report Type: Consent Calendar

Meeting Date: 4/12/2021

Summary Title: Finance Committee Referral: City Council Agenda Contract Approval Protocols

Title: Finance Committee and Staff Recommend the City Council Review and Affirm Current Practices Outlined in the City Council Procedures and Protocols for Contract Approval on City Council Agendas

From: City Manager

Lead Department: Administrative Services

Recommendation

The Finance Committee and staff recommend that the City Council review and affirm current practices outlined in the City Council Procedures and Protocols for Contract Approval on City Council Agendas.

Discussion

On February 1, 2020, the City Council conducted its annual retreat where the Council reviewed the Council Meeting and Agenda Guidelines of the [City Council Procedures and Protocols Handbook](#) (Council Handbook) was reviewed. The Council discussed Consent Calendar Categories and the following motion was passed:

MOTION: Council Member Tanaka moved, seconded by Vice Mayor DuBois to direct the Finance Committee to come up with proposed thresholds for Council to consider related to Section 2.4.L, Consent Calendar Categories, which determines the eligibility for items to be placed on the Consent Calendar. ***MOTION PASSED:*** 4-3 Cormack, Filseth, Fine no

Staff engaged the assistance of its Purchasing Special Advisor, Management Partners, to review the Council Handbook, analyze City Council awarded contracts and review average duration times for meetings in Fiscal Years 2020 and 2019, and research typical agency practices. Results of this review can be found in [CMR ID # 11965 \(Attachment A\)](#). The video and presentation from this item can be found in the following links for reference:

- [Finance Committee February 3, 2021 video](#)
- [PowerPoint Presentation](#)

The Finance Committee reviewed the results of the study, discussed the referral and findings. Ultimately the Committee unanimously (3-0 vote) recommended that this item be forwarded to the City Council to review and affirm current practices for approval of contracts on consent agendas. The formal motion is below:

MOTION: Chair Cormack moved, seconded by Council Member Filseth to accept this report, affirm current practices for approval of contracts on consent agendas, and forward this status to the City Council for approval.

Stakeholder Engagement

This report follows up on Council referral items and has been coordinated internally among departmental parties.

Resource Impact

This item in particular does not have an estimated fiscal impact, however, should recommended action differ from current practices, resources may be impacted. The cost to complete this analysis, not including staff time, totaled approximately \$6,000.

Environmental Impact

This is not a project under Section 21065 for purposes of the California Environmental Quality Act (CEQA).

Attachments:

- Attachment A: Finance Committee Referral - City Council Agenda Contract Approval Protocols (CMR ID 11965)



City of Palo Alto

Finance Committee Staff Report

(ID # 11965)

Report Type: Action Items
Meeting Date: 2/2/2021**Council Priority: Fiscal Sustainability****Summary Title: Finance Committee Referral: City Council Agenda Contract Approval Protocols****Title: Review and Affirm City Council Procedures and Protocols for Contract Approval on City Council Agendas and Forward to the City Council to Accept****From: City Manager****Lead Department: Administrative Services****Recommendation**

Staff recommends the Committee review and accept this report and affirm current practices for approval of contracts on consent agendas and recommend forwarding this status to the City Council for approval.

Discussion

On February 1, 2020, the City Council conducted its annual retreat where the Council reviewed the Council Meeting and Agenda Guidelines of the [City Council Procedures and Protocols Handbook](#) (Council Handbook) was reviewed. The Council discussed Consent Calendar Categories and the following motion was passed:

MOTION: *Council Member Tanaka moved, seconded by Vice Mayor DuBois to direct the Finance Committee to come up with proposed thresholds for Council to consider related to Section 2.4.L, Consent Calendar Categories, which determines the eligibility for items to be placed on the Consent Calendar. **MOTION PASSED:** 4-3 Cormack, Filseth, Fine no*

Staff engaged the assistance of its Purchasing Special Advisor, Management Partners, to review the Council Handbook, analyze City Council awarded contracts and review average duration times for meetings in Fiscal Years 2020 and 2019, and research typical agency practices. Results of this review can be found in **Attachment A**.

Specifically, Section 2.4.L of the Council Handbook outlines Consent Calendar Categories and describes the Consent Calendar as “the section where administrative and non-controversial items shall be presented. The Mayor and City Manager should be sensitive to high dollar value items and consider placing those items in the action agenda section.” Furthermore, the Consent Calendar section may include administrative matters that include contracts, appointments, approval of applications, and any

other matters. The focus of the analysis was placed on contracts associated with the purchase of goods and services, as defined in the Council Handbook:

“A contract for goods, general services, professional services, public works projects, dark fiber licensing contracts or wholesale commodities, purchases, as outlined in the Purchasing Ordinance, provided such contracts represent the customary and usual business of the department as included in the Adopted Budget. Examples include: routine maintenance contracts, annual audit agreement; software and hardware support agreements, janitorial services, copier agreements or postage machine agreements.”
(Section 2.4.L.2)

Referral	Assigned Department	Status
FY2020 City Council Retreat: <i>Direct the Finance Committee to come up with proposed thresholds for Council to consider related to Section 2.4.L, Consent Calendar Categories, which determines the eligibility for items to be placed on the Consent Calendar.</i>	Administrative Services Department	Closed Included in the staff report as well as further detailed in Attachment A, staff in consultation with Management Partners, has reviewed the contract approvals by the City Council and the not to exceed limits and whether they were approved as a consent item or action item. Options for potential recommendations that the Finance Committee may consider for the full City Council’s consideration and action: <ol style="list-style-type: none"> 1) Review the data analysis presented and affirm current practice, 2) Clarify the types of purchase contracts that must be placed on the Consent Calendar or as an Action Item in the City Council Procedures and Protocols Handbook, 3) Implement a contract dollar threshold for items that must be placed on the Consent Calendar or as an Action Item, and/or 4) Consider increasing thresholds for City Council approval of contracts and/or include indexing provisions for these thresholds.

Review and Analysis of Council Agendas

City Council Agendas were reviewed and each item, for both the Consent Calendar and Action, were categorized into types of contracts and typical contract actions.

Table 1: Contract Types and Actions

Types of Contracts	Contract Actions
<i>Purchase of Goods, Services, and Public Works Construction</i>	<i>Initial approval and amendments</i>
Wholesale utility commodities, service purchase, and sale	Time extensions
Intergovernmental	Deferrals and removal from agenda
Other (employment-related, leases and licensing)	Direction to staff, termination

Focus of the analysis was placed on contracts awarded for the purchase of goods, services and public works construction. Within this contract type, initial approval and amendments contract action was considered as this type of action has an associated dollar value impact that can be grouped into a potential threshold for Consent Calendar Categories.

Table 2: Contracts on Council Agendas

	Purchase Contracts		Other Contracts/Actions		Total Scheduled Agenda Items	
	FY 2019	FY 2020	FY 2019	FY 2020	FY 2019	FY 2020
<i>Action Items</i>	3*	4*	11	5	85	83
<i>Consent Calendar</i>	75*	88*	43	31	229	200
Total	78	92	54	36	314	283

Table 2 summarizes discrete agenda items however there may be multiple contracts awarded in some instances (as noted by the asterisk). In FY 2020, a total of 143 purchase contracts were awarded on consent and a total six contracts were awarded as an Action item, one of which was moved to the Consent Calendar. For FY's 2019 and 2020, City Council agenda items that were initial approval or amendments of purchase contracts respectively total 25 percent and 32 percent of total scheduled agenda items. Other Contracts/Actions includes intergovernmental agreements and wholesale commodity purchases.

In addition to the presented in Table 2, Tables 3 and 4 illustrate the average number of purchase contracts on Consent, Action, average elapsed time per Action item and groups these items by dollar amount.

Table 3: Contract and Agenda Item Averages

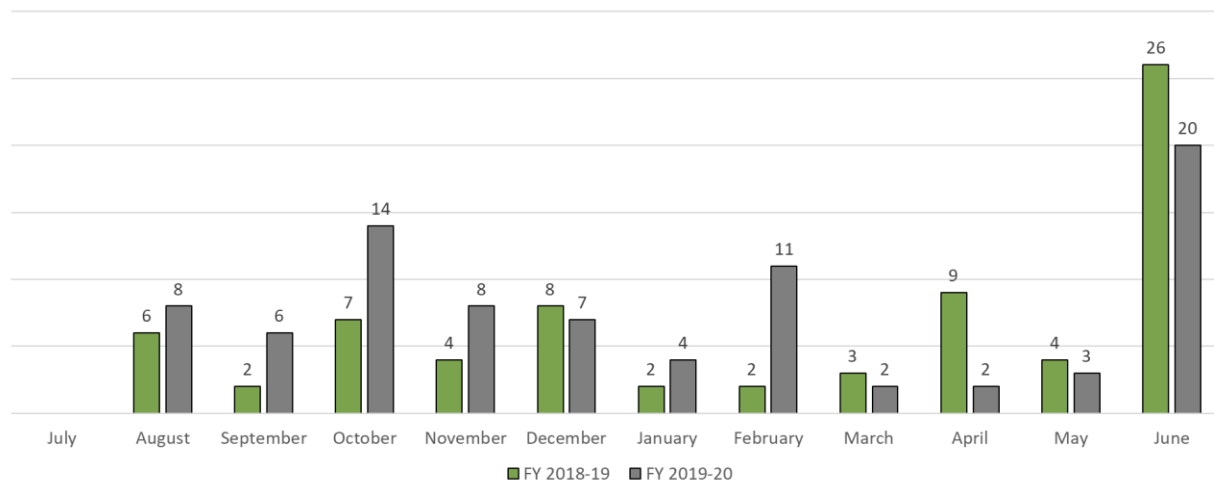
	FY 2019	FY 2020
<i>Purchase Contracts on Consent</i>	2.6	3.5
<i>Consent Items per Meeting</i>	6.7	5.9
<i>Average Elapsed Time per Action Item</i>	1:25	1:12
<i>Action Items per Meeting</i>	2.5	2.4

Table 4: Purchase Contracts on Consent by Dollar Threshold

Dollar Value	FY 2019	FY 2020
<i>Up to \$250,000</i>	16	13
<i>\$250,001 to \$500,000</i>	16	20
<i>\$500,001 to \$1,000,000</i>	20	18
<i>\$1,000,001 to \$5,000,000</i>	15	28
<i>Greater than \$5,000,000</i>	6	6
Total	73	85

In FY 2020, the average time per Action item was 1 hour and 12 minutes, with the actual time distribution being between 31 minutes and 2 hours and 45 minutes. If a threshold of \$1,000,000 were to be selected, for example, based on FY 2020 activity, 34 additional Action items would be added to Council agendas and would result in an additional 40 hours and 48 minutes across all Council meetings throughout the year.

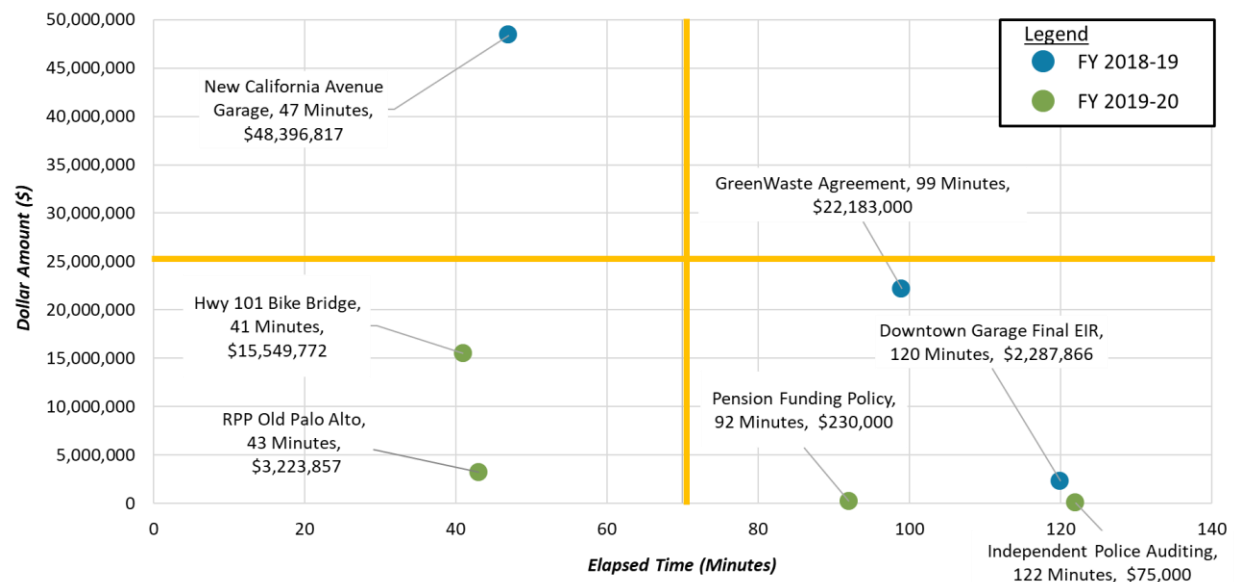
In addition to number of agenda items, time average, and grouping purchase contracts by dollar amount, the distribution of these contracts is summarized by month in the below table.

Table 6: Contracts on Consent Calendar by Month

As noted in the Council Handbook, “the Mayor and City Manager should be sensitive to high dollar value items and consider placing those items in the action agenda section.” Considering this practice and comparing it to potentially assigning a dollar threshold to whether purchase contract be placed as Action, a chart comparing the elapsed time in minutes to the dollar value of the purchase contract was compiled. It should be noted that discussion of these items focused on policy considerations, other

actions, and public comment and the time noted in this chart does not count the time focused on the actual contract approval.

Table 7: Dollar Value and Action Agenda Time Duration



Based on the above chart, the contract having the lowest dollar value is the Independent Police Auditing contract, totaling \$75,000, that went to Council FY 2020; time spent on this item was 122 minutes. In contrast, the largest dollar value contract, New California Avenue Garage, was discussed for 47 minutes and totaled \$48.4 million. Using the Independent Police Auditing and Pension Funding Policy items as examples, both with much lower dollar values relative to the other contracts considered, the discussion surrounding these items was focused on policy considerations and public comment.

Agency Practices and Observations

The City's current practice is aligned with the most common method used by California Cities, that is to place contracts for approval on the Consent Calendar. These items are typically characterized as administrative and/or routine in nature. Discretion is usually given to the City Manager, in consultation with the Mayor and staff, to determine what contracts should be considered as Action items. Comparable cities were selected through a combination of demographic information and proximity to Palo Alto to review the contract approval process:

- Menlo Park
- Milpitas
- Mountain View
- Redwood City
- San Jose
- San Mateo
- Santa Clara
- Sunnyvale

In reviewing the contract approval practices of the cities listed above, all eight jurisdictions utilize the consent calendar to award contracts. The City's Purchasing Advisor also reviewed Council agendas from

several other Bay Area cities, all which place contracts on the consent calendar. These cities include Campbell, Cupertino, Daly City, Fremont, Hayward, Pleasanton, Union City and Walnut Creek. While some California cities may have policies or practices that require Council consideration of contracts as action items, it appears to be uncommon.

In addition, some cities do not bring certain contracts forward for Council approval if funds are included in the Adopted Budget. A summary of agency trends is summarized in the table below.

Table 8: Agency Trends

City	Practice
<i>Mountain View</i>	Goods and general service purchases do not require Council approval if budgeted funds are available.
<i>Redwood City</i>	Approval thresholds can be adjusted annually by lesser of CPI or 2%.
<i>San Jose</i>	Goods and public works contracts less than \$1,000,000 do not require Council approval; approval thresholds can be periodically adjusted by CPI.
<i>Santa Clara</i>	Goods procured with purchase orders do not require Council approval if budgeted funds are available; increases to award thresholds and indexing anticipated.

In reviewing statistics of Council Agenda for the last two fiscal years together with agency trends, the following observations should be noted:

Most California cities place contracts on the Consent Calendar. Contracts that are considered administrative and routine in nature are placed on the Consent Calendar. Policies allow for members of the public, Council, and staff to pull items from Consent to Action. Discretion is given to the City Manager, in consultation with Mayor and staff to place items on Consent or Action. Used as an important time management tool.

Greater clarity could be provided in the Council Handbook. Current policy language focusing on high dollar value contracts dilutes emphasis on controversial items and/or items of significant public interest that may not come with substantial cost but are more appropriately considered as Action Items.

Agency Trends. Trends among the agencies noted increased thresholds for Council approval are being reviewed and that indexing provisions are included in the policy; some have higher thresholds than Palo Alto. Additionally, the periodic indexing of solicitation thresholds is a common practice done by federal and state agencies.

Time Management Tool. Placing contracts of a predetermined high dollar value as Action Items will have varying impacts on meeting scheduling and meeting times, and can impact operational effectiveness, with more significant impacts occurring at critical times of the fiscal year. Contracts resulting from competitive solicitations should come before Council when they are ready for award and may have time sensitivity due to grant restrictions, timing for construction or service provision, timely receipt of goods, or expiry. The high number of contracts presented near the end of the fiscal year typically includes expiring contracts that must be renewed.

Stakeholder Engagement

This is an informational report to follow up on Council referral items and has been coordinated internally among departmental parties.

Resource Impact

This is an information item to follow up on Council referral items and has no fiscal impact, however, should recommended action differ from current practices, resources may be impacted.

Environmental Impact

This is not a project under Section 21065 for purposes of the California Environmental Quality Act (CEQA).

Attachments:

- Attachment A: Consideration of Potential Dollar Thresholds for Treating Contract Awards as Action Items on City Council Agendas

City of Palo Alto Finance Committee

**Consideration of Potential Dollar Thresholds for
Treating Contract Awards as Action Items on City Council Agendas**

December 15, 2020

Pete Gonda, Special Advisor

Management
Partners



Areas of Focus

A

Background on
Council Referral
and Typical
Agency Practices

B

Analysis of Palo
Alto Contracts for
Two Fiscal Years

C

Observations
Gleaned from the
Analysis

City Council Referral

Council Member Tanaka moved, seconded by Vice Mayor DuBois, to direct the Finance Committee to come up with proposed thresholds for Council to consider related to Section 2.4.L, Consent Calendar Categories, which determines the eligibility for items to be placed on the Consent Calendar.

Research to include:

- Number of contracts awarded and dollar “buckets”
- Review of other City policies
- Projection of additional Action items to be added to Council agendas if Consent Calendar approvals were limited by dollar value

City Council Procedures and Protocols Handbook

ATTACHMENT A

ATTACHMENT A

“The consent calendar portion is the section where administrative and non-controversial items shall be presented. The Mayor and City Manager should be sensitive to high dollar value items and consider placing those items in the action agenda section.”

Typical Consent Calendar Items

1. Ordinances and Resolutions
2. Administrative Matters Including Contracts, Appointments, Approval of Applications, and Any Other Matter
3. Request to Refer Items to Any Council Standing Committee, Committee, Board, Commission or Council Appointed Officer
4. Items Unanimously Recommended for Approval by a Council Committee Unless Otherwise Recommended by the Committee, Mayor, City Attorney or City Manager
5. Items Recommended for Approval by Council-Appointed Boards and Commissions

Typical Consent Calendar Items: Contracts

ATTACHMENT A

ATTACHMENT A

- Contracts for which the subject or scope of work has been previously reviewed by the City Council.
- A contract for goods, general services, professional services, public works projects, dark fiber licensing contracts or wholesale commodities, purchases, as outlined in the Purchasing Ordinance, provided such contracts represent the customary and usual business of the department as included in the Adopted Budget. Examples include: routine maintenance contracts, annual audit agreement; software and hardware support agreements, janitorial services, copier agreements or postage machine agreements.

Typical Agency Practices

- Most common method by California cities for approving contracts is to place them on the Consent Calendar
 - ✓ Characterized as administrative and/or routine in nature
 - ✓ Discretion is usually given to the City Manager, in consultation with Mayor and staff, to determine what contracts are considered as Action items

Typical Agency Practices

- Management Partners reviewed procedures for eight Bay Area cities
- Cities selected through combination of demographic information, proximity to Palo Alto

Typical Agency Practices

**All agencies reviewed use the Consent Calendar
for contract approvals:**

**Menlo Park, Milpitas, Mountain View,
Redwood City, San Jose, San Mateo,
Santa Clara, Sunnyvale**

Trends in Agency Practices

- ✓ Trends point to increased thresholds for Council approval and including indexing provisions
- ✓ Some cities do not bring certain contracts forward for Council approval if funds are included in Adopted Budget

ATTACHMENT A

Agency Trends

ATTACHMENT A

City	Practice
Mountain View	Goods, general services purchases do not require Council approval if budgeted funds are available
Redwood City	Approval thresholds adjusted annually by lesser of CPI or 2%
San Jose	Goods and public works contracts less than \$1,000,000 do not require Council approval; approval thresholds periodically adjusted by CPI
Santa Clara	Goods procured with purchase orders do not require Council approval if budgeted funds are available; increases to award thresholds and indexing anticipated

Types of Contracts

Purchase of Goods, Services
and Public Works
Construction

Wholesale utility
commodities, services
purchase and sale

Intergovernmental

Other (employment-related,
leases and licensing)

Contract Actions

Initial approval and
amendments

Time extensions

Deferrals and removal from
agenda

Direction to staff, termination

Contracts on Council Agendas

	Purchase Contracts		Other Contracts, Actions		Total Scheduled Agenda Items	
	FY2018-19	FY2019-20	FY2018-19	FY2019-20	FY2018-19	FY2019-20
Action Items	3*	4*	11	5	85	83
Consent Calendar	75*	88*	43	31	229	200
Total	78	92	54	36	314	283

*Represents discrete agenda items even though multiple contracts may have been awarded in some instances. In FY 2019/20, a total of 143 purchase contracts were awarded on Consent; 6 total purchase contracts were awarded from the Action Calendar, with one moved to Consent.

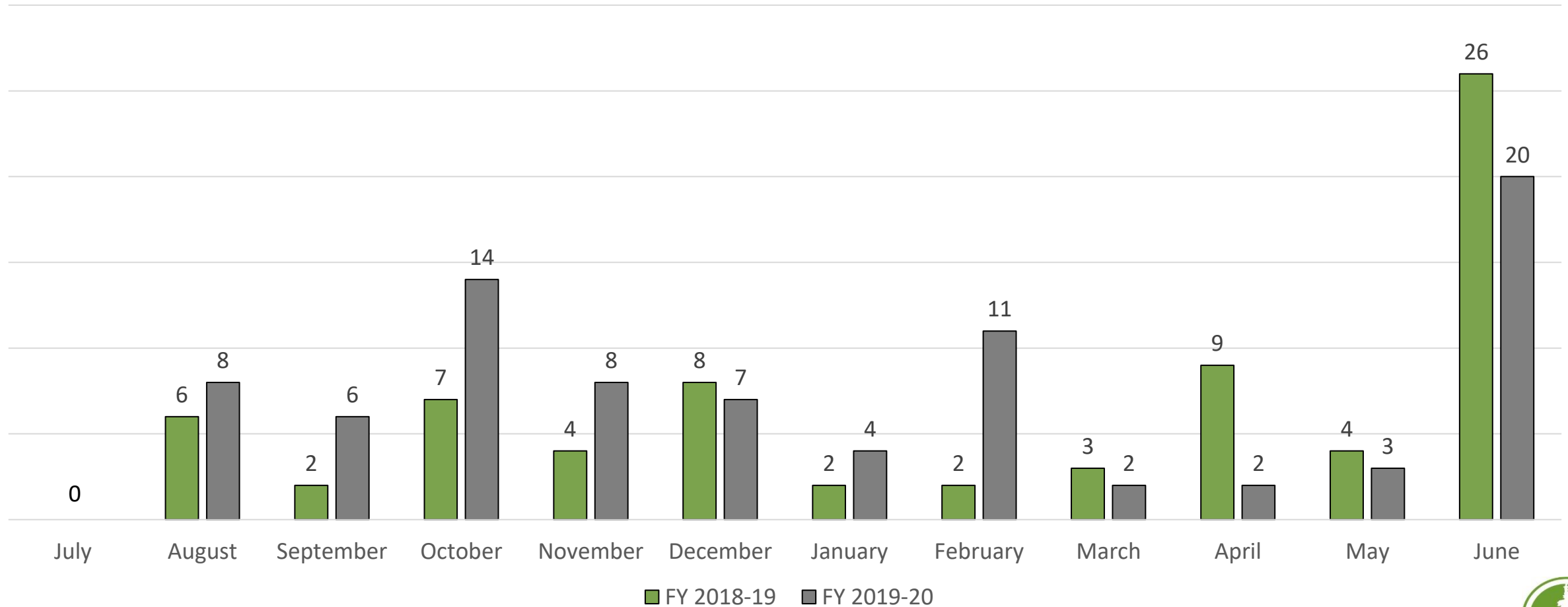
Other Contracts – FY 2019-20

- 14 intergovernmental agreements
 - ✓ Cable-related, cost-sharing, grants, estimated costs/fiscal impacts
 - ✓ Three with direct award costs between \$112,000 and \$800,000
- Four wholesale utility commodities and services purchase and sale agreements
 - ✓ Annual expense cap of \$5 million, no revenue limit (1)
 - ✓ Regulatory representation, program management (3)
- 16 of 18 on Consent

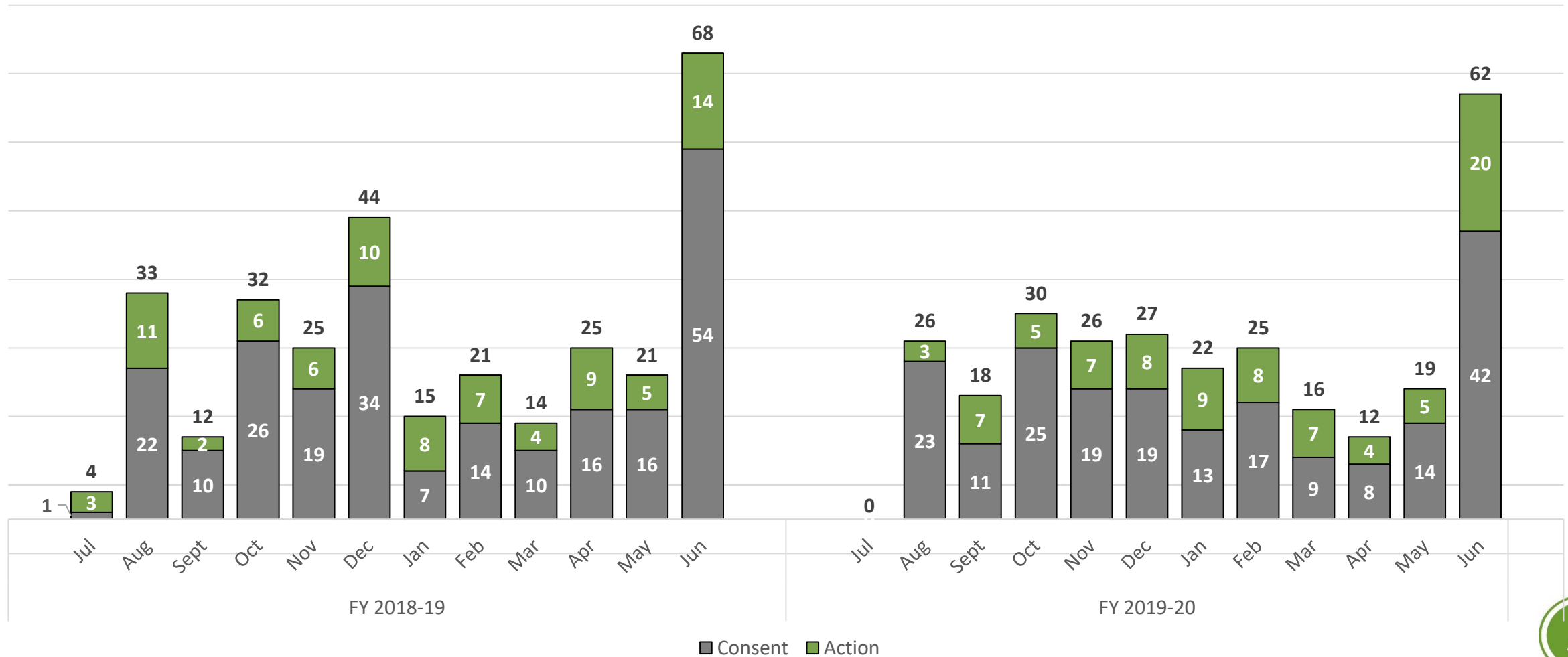
Palo Alto Contract Analytics - Two Fiscal Years

	FY 2018-19 Average	FY 2019-20 Average
Purchase Contracts on Consent	2.6	3.5
Consent Items per Meeting	6.7	5.9
Average Elapsed Time per Action Item	1:25	1:12
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Contracts on Consent Calendar by Month



Total Action and Consent Items by Month



Palo Alto Contract Analytics: Purchase Contracts

Purchase Contracts on Consent by Dollar Threshold		
Dollar Value	FY 2018-19	FY 2019-20
Up to \$250,000	16	13
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Total	73	85

FY 2019-20

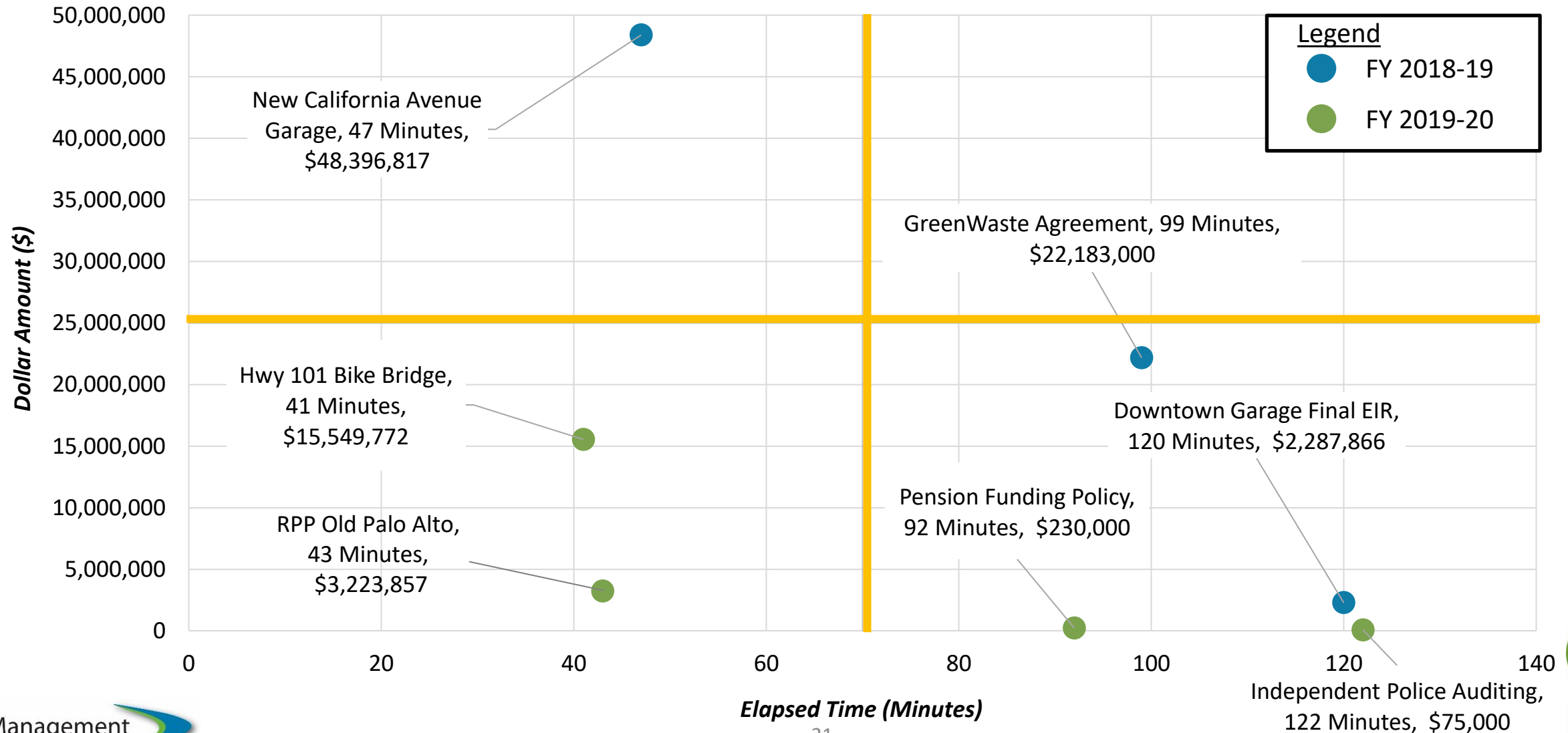
“Number of additional Action items to be added to Council agendas if Consent Calendar approvals were limited by dollar value “

- Average of 1:12 hours per Action Item, with actual distribution between ***0:31 and 2:45 hours***
- Number of Consent Calendar contracts greater than \$1,000,000 = ***31***
- Average number of Consent Calendar Items per meeting greater than \$1,000,000 = ***3***
- Uneven distribution of Consent Calendar contracts greater than \$1,000,000: Zero to 8 across all meetings; 1 to 12 by month

Dollar Value and Agenda Item Duration (Action Calendar Contracts)

ATTACHMENT A

ATTACHMENT A



1. Most California cities place contracts on the Consent Calendar.

- Considered administrative and routine in nature.
- Allow for members of the public, Council and staff to pull items.
- Provide discretion to the City Manager to consult with Mayor and staff to place controversial items, high value contracts and contracts with significant public interest on the Action agenda.
- Used as an important time management tool.

Observations from Analysis

2. Greater clarity could be provided in the Council Procedures and Protocols Handbook.

- Current policy language focusing on high dollar value contracts dilutes emphasis on controversial items and/or items of significant public interest that may not come with substantial cost but are more appropriately considered as Action Items.

Observations from Analysis

3. Trends point to increasing staff level contract approval thresholds (and indexing them) that would reduce the number of contracts considered by City Councils.

- Reflection of the impact of inflation.
- Viewed as efficiency tool at all levels of government.

Observations from Analysis

4. Placing contracts of a predetermined high dollar value on the Action Calendar will have varying impacts on meeting scheduling and meeting times, as well as operational effectiveness, with more significant impacts occurring at critical times of the fiscal year.

- Contracts resulting from competitive solicitations come before Council when they are ready for award and may have time sensitivity due to grant restrictions, timing for construction or service provision, timely receipt of goods, or expiry.
- The high number of contracts presented near the end of the fiscal year typically include expiring contracts that must be renewed.

Other Practical Considerations

- Analysis focused on purchase contracts of goods, services and public works construction with enumerated dollar values and does not include:
 - Contracts with other governmental agencies
 - Contracts related to hiring or wages, hours and working conditions
 - Purchase and sale agreements for wholesale utility commodities and services
 - Revenue generating contracts or bond financings
- Most of these items are placed on the Consent Calendar and can have significant fiscal impacts.
- Moving these types of contracts to the Action Calendar based on maximum dollar value of fiscal impact will further impact meeting scheduling.

Questions and Comments

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Management
Partners

