

# CITY OF LAGUNA NIGUEL

## AGENDA ITEM CITY COUNCIL

OCTOBER 3, 2017

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**TO:** Honorable Mayor and Council Members

**FROM:** Jerry Slusiewicz, Council Member

**SUBJECT:** Request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing

**SUMMARY:** Former Mayor and current Council Member Slusiewicz requested staff to place an item on the regularly scheduled City Council meeting of August 15, 2017, to develop a Request for Proposals (RFP) for a separate Agreed-Upon Procedures (AUP) engagement related to Citywide purchasing. The City Council voted by majority to move the August 15, 2017 agenda item to the regularly scheduled City Council meeting of September 19, 2017, the meeting after which the Council was to receive the presentation on the Independent Accountants' Report on Agreed-Upon Procedures Applied to Purchase Orders and Contract Processes for the Two Years Ended June 30, 2017 from representatives of The Pun Group, LLP. On September 5, 2017, the City Council voted on an item, placed on the agenda by Mayor Minagar, to reschedule an agenda report pertaining to the request for an Additional AUP Engagement Related to Purchasing from September 19, 2017 to the regularly scheduled City Council meeting of October 3, 2017.

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### BACKGROUND

Former Mayor and current Council Member Slusiewicz requested staff to place an item on the regularly scheduled City Council meeting of August 15, 2017, to develop a Request for Proposals (RFP) for a separate AUP engagement related to Citywide purchasing (Attachment A). The agenda report requested staff to develop procedures to include approximately one-third of the City's active vendors, chosen from purchasing across all City departments. To handle communications with the independent accounting firm chosen in the RFP process, including the procedures, process and reporting of any findings found during the additional engagement, the staff report recommended an Ad-Hoc Committee be formed consisting of Council Member Slusiewicz and another Council Member, as well as the City Attorney, Interim City Manager/Director of Finance, Interim Assistant City Manager, and any additional staff deemed necessary to be involved.

The City Council voted and approved by majority to move the August 15, 2017 agenda item to the regularly scheduled City Council meeting of September 19, 2017, the meeting after which the

Council was to receive the presentation on the Independent Accountants' Report on Agreed-Upon Procedures Applied to Purchase Orders and Contract Processes for the Two Years Ended June 30, 2017 from representatives of The Pun Group, LLP. The Pun Group presented this report during the regularly scheduled City Council meeting held on September 5, 2017. During this same meeting, the City Council voted on an item, placed on the agenda by Mayor Minagar, to reschedule the agenda report pertaining to the request for an Additional AUP Engagement Related to Purchasing from September 19, 2017, to the regularly scheduled City Council meeting of October 3, 2017.

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#### **FISCAL IMPACT**

The fiscal impact is undeterminable at this time as the procedures for an additional AUP have yet to be determined by staff and approved by the City Council, therefore, no proposals have been received. Once staff has solicited proposals from qualified firms, the Fiscal Year 2017-18 budget can be amended as deemed appropriate.

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#### **RECOMMENDATION**

That the City Council consider:

- a. Establishing an Ad-Hoc Committee comprising Council Member Slusiewicz and an additional member of the City Council, the City Attorney, the Interim City Manager/Director of Finance, Interim Assistant City Manager, and any additional staff deemed necessary to be involved;
- b. Directing the Ad-Hoc Committee to develop a Request for Proposals (RFP), including the procedures to be performed in a separate agreed-upon procedures engagement to expand the scope of the AUP as presented to the City Council by The Pun Group, LLP during the regularly scheduled meeting held on September 5, 2017; and
- c. Directing the Ad-Hoc Committee to report back to the City Council with a recommendation of a qualified vendor to perform the additional agreed-upon procedures engagement.

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**PREPARED AT THE REQUEST OF COUNCIL MEMBER SLUSIEWICZ**

**BY:**

  
Stephen Erlandson  
Interim City Manager/Director of Finance

**REVIEWED**

**BY:**

  
Terry Dixon  
City Attorney

**Attachments:**

- A. Staff Report, dated August 15, 2017
- B. August 15, 2017 Minutes related to action and approved by City Council on September 5, 2017
- C. Staff Report, dated September 5, 2017
- D. September 5, 2017 Minutes related to action and approved by City Council on September 19, 2017

# Attachment A

# CITY OF LAGUNA NIGUEL

## AGENDA ITEM CITY COUNCIL

AUGUST 15, 2017

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**TO:** Honorable Mayor and Council Members

**FROM:** Jerry Slusiewicz, Mayor

**SUBJECT:** Request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing

**SUMMARY:** Mayor Slusiewicz requested staff to place an item on the agenda to develop a Request for Proposals (RFP) for a separate agreed-upon procedures engagement related to purchasing City-wide. Mayor Slusiewicz recommends that the City Council establish an Ad-Hoc Committee comprising Mayor Slusiewicz and an additional member of the City Council, the City Attorney, the Interim City Manager / Director of Finance, Interim Assistant City Manager, and any additional staff deemed necessary to be involved; and direct the Ad-Hoc Committee to develop a RFP, including the procedures to be performed in a separate agreed-upon procedures engagement to expand the scope of the AUP that will be presented to the City Council during its regular meeting on September 5, 2017.

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### BACKGROUND

California Constitution Article XI prohibits payments above contract limits. Beginning in April of 2017, the City's independent accounting firm, The Pun Group, conducted an agreed-upon procedures engagement related to purchasing at the direction of the Mayor and Mayor Pro Tem. This report titled "Independent Accountants' Report on Agreed-Upon Procedures Applied to Purchase Orders and Contracts Processes" (AUP) is expected to be finalized and presented to the City Council during its regular meeting on September 5, 2017. At the last regular Council Meeting on August 1, 2017, staff outlined overpayments of \$409,000 of unauthorized spending to one vendor above the \$25,000 City Manager's signing limit. The Mayor would like to expand upon the scope of that report in the form of a separate engagement to further look into the contracts of the City.

Mayor Slusiewicz requested staff develop procedures that would include approximately one-third of the City's active vendors, chosen from purchasing across all City departments. To handle communications with the independent accounting firm chosen in the RFP process, including the procedures, process and reporting of any findings found during the additional engagement, there should be an Ad-Hoc Committee formed consisting of Mayor / Council Member Slusiewicz and another Council Member, as well as the City Attorney, Interim City

Manager / Director of Finance, Interim Assistant City Manager, and any additional staff deemed necessary to be involved.

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#### FISCAL IMPACT

The fiscal impact is undeterminable at this time as the procedures have yet to be determined by staff and approved by the City Council, therefore, no proposals have been received. Once staff has solicited proposals from qualified firms, the Fiscal Year 2017-18 budget can be amended as deemed appropriate.

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#### RECOMMENDATION

That the City Council:

- a. Establish an Ad-Hoc Committee comprising Mayor Slusiewicz and an additional member of the City Council, the City Attorney, the Interim City Manager / Director of Finance, Interim Assistant City Manager, and any additional staff deemed necessary to be involved; and
  - b. Direct the Ad-Hoc Committee to develop a Request for Proposals (RFP), including the procedures to be performed in a separate agreed-upon procedures engagement to expand the scope of the AUP that will be presented to the City Council during its regular meeting on September 5, 2017.
  - c. Direct the Ad-Hoc Committee to report back to the City Council with a recommendation of a qualified vendor to perform the additional agreed-upon procedures engagement.
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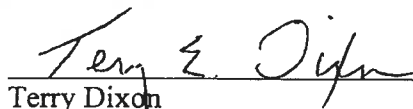
PREPARED AT THE REQUEST OF THE MAYOR

BY:

  
Stephen Erlandson  
Interim City Manager / Director of Finance

REVIEWED

BY:

  
Terry Dixon  
City Attorney

Attachment B



**1. Designation of Voting Delegate and Alternates for the 2017 League of California Cities Annual Conference**

City Clerk Gomez provided information as stated in the staff report. She stated this year, the League of California Cities Annual Conference will be held in Sacramento in September. She stated the Annual Business Meeting is scheduled to take place on Friday, September 15th during the General Assembly. She stated in accordance with the Policies and Procedures for Mayor and City Council, Mayor Minagar will serve as the Voting Delegate and Council Members Davies and Jennings will also be attending and are available to serve as Alternate Voting Delegates.

**A MOTION** was made by Council Member Gennaway, seconded by Council Member Davies, to:

- a. Appoint Mayor Pro Tem Minagar as the Voting Delegate; and
- b. Appoint Council Member Davies and Council Member Jennings as Alternate Voting Delegates for the 2017 League of California Cities Annual Business Meeting on September 15, 2017.

**Motion carried 5-0.**

**2. Request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing**

Council Member Slusiewicz made the following statement: "First I want to acknowledge that my approach to discussing this item could be refined and I apologize to my colleagues for my zeal for drilling down on numbers that I'm sure at times is overbearing. While you may not particularly like me, I also know you love the taxpayers that elected each one of us. The City's press release from Friday, August 11, 2017, notes that while there were no findings of illegal or malicious intent, City purchasing could be improved by quote 'stronger monitoring practices, improved automated systems, additional approval procedures, and continued employee training and education.' "

"What we know, is that due to a lack of proper protocols on the West Coast Arborists contract alone, the City spent significantly more than what was contracted. We have new software, but it won't be implemented until the middle of next year and even the best software is only as good as the input received from staff and staff following the outputs directives. Expanding the audit will ensure we have appropriate taxpayer safeguards in place and that West Coast Arborists is just a one off as has been suggested by staff. Ultimately, this agenda item is a win-win. If you vote for the agenda item, and the audit finds problems, it's a win for the taxpayer. If you vote for the expanded audit and there are no findings, it's a win for you because you can tell the voters we weren't certain so we took appropriate steps and there were no problems. And by the way, you get to say "Jerry was wrong." Ultimately, we're going to be accountable for not just what we do, but what we failed to do. We can either hope blindly that the West Coast Arborists contract was a one off or we can roll up our sleeves, look under the hood, and make sure. I suggest that whatever you think of me, the taxpayers



of this City deserve us to do the latter. So with that, I would like to move the item with contingents a, b and c.”

**A MOTION** was made by Council Member Slusiewicz, to approve staff's recommendation, Items a, b, and c.

Council Member Gennaway stated she agreed with Council Member Slusiewicz that we do need to have an audit and look at what the processes and procedures are, and what has led up to all that has happened in the last few weeks. She stated rather than a financial audit, we need more of an operational audit which would be more beneficial to staff and taxpayers.

Interim City Manager Erlandson stated he agreed with an operational audit. He stated an operational audit would help identify efficiency gains and would tighten up controls. He stated over the next 9 to 12 months, a new software system would be implemented, but in that period of time, staff would still be using the current, antiquated system. He stated staff is making refinements now and would continue to work on enhancing purchasing processes. He responded to questions by Council Member Davies, stating an operational audit would take between 30 to 50 hours, depending on the scope of work. He stated a scope of work could be presented for City Council review, and to provide authorization to release a Request for Proposals. He stated if an operational audit was conducted, an ad-hoc committee would not be necessary due to staff's ability to pull scopes of work and procedures from former operational audits.

Council Member Jennings stated he previously discussed this item with Interim City Manager Erlandson and agreed this was a great time to take an internal comprehensive review of all City departments to find out exactly how they work, how they are operating, and how their budgets are handled. He stated this is also good timing since we are in the process of recruiting a new City Manager. He stated that although an outside audit has many values, they also have many costs and he would like to discuss this matter further. In response to Mayor Minagar's questions regarding the composition of an ad-hoc committee, Council Member Jennings stated his understanding was an ad-hoc committee would only be needed if the City Council decided to have an outside audit. He stated he did not think it would be so difficult to do and there was no reason not to go before the full City Council to discuss. He stated he agreed with Interim City Manager Erlandson and was more in favor of not establishing an ad-hoc committee and to let the full City Council deal with this matter.

Discussion ensued.

Interim City Manager Erlandson stated the auditor has not yet had the opportunity to present their report to the City Council and he supported an operational audit which is best management practices. He stated as far as expanding the scope of the Agreed-Upon Procedures (AUP), it would be prudent to let the auditors explain what the nature of an AUP is, what they actually did, what the findings are and then make a decision as to whether or not further test work should be done.

Mayor Minagar stated as a member of the auditing committee with Council Member Slusiewicz, they had the details of the reports. He stated the bottom line is transparency in government and our fiduciary responsibility to the taxpayers of this City. He stated he wanted to make sure there is no ambiguity with regards to how taxpayer money is being spent. He stated at this time, he felt it was premature to make any definite conclusion and wanted to make sure they receive the final report, and to make sure the auditors and partners would provide a presentation at the September 5, 2017, City Council meeting. He invited the public to attend the meeting to hear discussions and state concerns on this item. He encouraged the City Council not to take action at this time until the final reports have been reviewed and the auditors make their presentation, and recommended that this item be postponed to be discussed at the City Council meeting on September 5, 2017, or a later meeting after the City Council has had the opportunity to review the information.

Council Member Jennings proposed a substitute motion to approve an operational audit, and stated rather than approving what is proposed in the recommendation, that the City move forward with an operational audit and begin that process. He inquired with City Attorney Dixon and Interim City Manager Erlandson as to whether this item needed to be brought back to the City Council to determine if there needs to be a separate item for the financial component.

Interim City Manager Erlandson stated if the City Council decides to have an operational audit performed, a scope of work would be presented to the City Council for review. He stated once the Request for Proposals is issued, and the proposals are reviewed, staff would present to the City Council the most qualified firm. He stated a professional services agreement would be presented to the City Council with a budget adjustment to cover the cost.

Council Member Jennings stated a new substitute motion to authorize staff to prepare the scope of work and present the item at the next available City Council meeting.

Interim City Manager Erlandson stated staff would prepare the item to present to the City Council at the next regular meeting on September 5, 2017.

Council Member Jennings made a substitute motion to authorize staff to prepare the scope of work for a Request for Proposals to conduct an operational audit to present to the City Council at the next regular meeting on September 5, 2017.

Council Member Davies stated she supported the motion and of moving forward with the operational audit until there is a complete AUP report. She stated she agreed that there should be further discussion regarding whether or not an ad-hoc committee was necessary or if the entire City Council should be part of the discussions.

Council Member Slusiewicz stated on the financial side, he would still be interested in serving on the ad-hoc committee. He stated there still may be a need for an ad-hoc committee to review the scope of work for the audit.

Interim City Manager Erlandson stated an ad-hoc committee was not necessary for this type of an audit. He stated if the City Council decided to expand the scope of work for the AUP, then that is up to the City Council as to whether an ad-hoc committee should be formed.

Council Member Jennings stated the item should be presented to the full City Council. He stated the procedures that are in place for the AUP are not clear and he plans to request an item be presented with great specificity and exactly what the AUP process consists of. He confirmed his substitute motion does not include the formation of an ad-hoc committee and does not include anything other than a full report coming back to the full City Council.

**A SUBSTITUTE MOTION** was made by Council Member Jennings, seconded by Council Member Davies, to:

- b. Direct staff to develop a scope of services for an operational audit that will be presented to the City Council during its regular meeting on September 5, 2017.

**Motion carried 5-0.**

Council Member Gennaway stated she had a discussion with Interim City Manager Erlandson regarding the delegation of the Purchasing Officer's authority. She stated Interim City Manager Erlandson has authority to approve purchases up to \$25,000, and would only be delegating this authority to another staff member when he is on vacation or is out.

Interim City Manager Erlandson confirmed that he is currently functioning as the Purchasing Officer and does have authority to approve purchases up to \$25,000. He stated he has not yet delegated that authority and will do so before he leaves on vacation. He stated he would appoint Interim Assistant City Manager Bell as Acting Interim City Manager until he returns from vacation on August 28th and would take back the Purchasing Officer authority upon his return.

Council Member Slusiewicz made an amended substitute motion and clarified the substitute motion made by Council Member Jennings as follows:

**A MOTION** was made by Council Member Slusiewicz, seconded by Council Member Davies, to add that Item No. 2, Request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing be tabled and moved to the City Council meeting on September 19, 2017, after the presentation by The Pun Group.

**Motion carried 5-0.**

## **CITY MANAGER**

### **1. Status of the Independent Accountants' Report on Agreed-Upon Procedures (AUP) Applied to Purchase Orders and Contract Processes**

Interim City Manager Erlandson provided information as stated in the staff report. He stated during the City Council meeting on August 1, 2017, City staff stated they would provide a status update on the Independent Accountants' Report on

# Attachment C



# CITY OF LAGUNA NIGUEL

## AGENDA ITEM CITY COUNCIL

SEPTEMBER 5, 2017

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**TO:** Honorable Mayor and Council Members

**FROM:** Fred Minagar, Mayor

**SUBJECT:** Rescheduling of Agenda Item Pertaining to a Request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing from September 19, 2017 to October 3, 2017

**SUMMARY:** On August 15, 2017, the City Council voted by majority to discuss an additional Agreed-Upon Procedures (AUP) engagement related to purchasing at the regularly scheduled City Council meeting of September 19, 2017 after the Council receives the presentation on the Independent Accountants' Report on Agreed-Upon Procedures Applied to Purchase Orders and Contract Processes for the Two Years Ended June 30, 2017 from representatives of The Pun Group, LLP during the September 5, 2017 regularly scheduled City Council meeting. Scheduled for that same City Council meeting is a discussion item pertaining to a permit parking program, including a proposed ordinance to potentially change the current parking program requirements. Due to the long history of this particular permit parking program item in which significant citizen participation and discussion is anticipated, as has been evidenced at the Traffic Commission meetings, it is recommended that the City Council vote to reschedule the request for an Additional AUP Engagement Related to Purchasing from September 19, 2017 to the regularly scheduled City Council meeting of October 3, 2017.

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### BACKGROUND

Former Mayor and current Council Member Slusiewicz requested staff to place an item on the regularly scheduled City Council meeting of August 15, 2017 to develop a Request for Proposals (RFP) for a separate AUP engagement related to Citywide purchasing. The City Council voted by majority to move the agenda item to the regularly scheduled City Council meeting of September 19, 2017, the meeting after which the Council receives the presentation on the Independent Accountants' Report on Agreed-Upon Procedures Applied to Purchase Orders and Contract Processes for the Two Years Ended June 30, 2017 from representatives of The Pun Group, LLP.

Scheduled for the September 19, 2017 City Council meeting is a discussion item pertaining to a permit parking program, including a proposed ordinance to potentially change the current parking program requirements. Due to the long history of this particular permit parking program

item in which significant citizen participation and discussion is anticipated, it is recommended that the City Council vote to reschedule the request for an Additional AUP Engagement Related to Purchasing from September 19, 2017 to the regularly scheduled City Council meeting of October 3, 2017.

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**FISCAL IMPACT**

None.

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**RECOMMENDATION**

That the City Council reschedule the agenda report pertaining to the request for an Additional AUP Engagement Related to Purchasing from September 19, 2017 to the regularly scheduled City Council meeting of October 3, 2017.

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**PREPARED AT THE REQUEST OF THE MAYOR**

**BY:**

  
Stephen Erlandsen  
Interim City Manager/Director of Finance

**REVIEWED**

**BY:**

  
Terry Dixon  
City Attorney

Attachment D



Mayor Pro Tem Gennaway requested that the oath of office be administered at the next City Council meeting on September 19, 2017.

**2. Rescheduling of Agenda Item Pertaining to a Request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing from September 19, 2017 to October 3, 2017**

Interim City Manager Erlandson provided information as stated in the staff report. He stated due to the long history of the permit parking program, there would be significant resident participation on this issue at the September 19, 2017, City Council meeting. He stated this has been evident at past Traffic & Transportation Commission meetings where this item was discussed. He stated staff is requesting that the Additional Agreed-Upon Procedures Engagement (AUP) item be rescheduled for discussion on October 3, 2017.

Mayor Minagar stated he and Council Member Davies serve on the Traffic & Transportation Commission and over the past several years, each time any parking issues are discussed at those meetings, the attendance has been extremely high. He requested that the Interim City Manager prepare an item to reschedule the additional AUP.

Council Member Slusiewicz stated audits are look backs and the longer the City waits, the lesser the benefit for the taxpayer.

**A MOTION** was made by Council Member Jennings, seconded by Council Member Davies, to reschedule the agenda report pertaining to the request for an Additional Agreed-Upon Procedures Engagement Related to Purchasing from September 19, 2017, to the regularly scheduled City Council meeting of October 3, 2017.

**Motion carried 4-1-0, with Council Member Slusiewicz voting no.**

## **CITY MANAGER**

**1. Independent Accountants' Report on Agreed-Upon Procedures Applied to Purchase Orders and Contract Processes**

Interim City Manager Erlandson provided information as stated in the staff report. He stated under the current contract with The Pun Group, LLP, the independent accounting firm engaged to perform the City's annual financial audit, the Mayor and Mayor Pro Tem may select two (2) Agreed-Upon Procedures (AUP) engagements of which City Management has no knowledge of at the time the procedures are selected. He stated the Mayor and Mayor Pro Tem requested that The Pun Group perform an AUP on purchase orders and contract process for the two years ended June 30, 2017.

The Pun Group representatives Kenneth Pun, Managing Partner, and Frances Kuo, Engagement Partner, provided a PowerPoint presentation on the Independent Accountants' Report on Applying Agreed-Upon Procedures. Ms. Kuo provided background information on professional standards, Agreed-Upon Procedures on purchase orders, the contract process and findings as follows: