

ORDINANCE NO. 1164**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
REPEALING AND REPLACING TITLE 2 “ADMINISTRATION”
CHAPTER 5 “PURCHASING” OF THE SAN ANSELMO MUNICIPAL CODE AND
AMENDING CHAPTER 2 “TOWN MANAGER” FOR CONSISTENCY WITH
PURCHASING POLICY**

WHEREAS, Government Code sections 54201 *et seq.* govern purchasing by local governmental bodies and require that every local agency adopt policies and procedures governing the purchase of supplies and equipment; and

WHEREAS, San Anselmo’s current purchasing ordinance, Title 2, Chapter 5 “Purchasing”, was adopted in 1979 and requires updating to incorporate current best practices; and

WHEREAS, the Town Council desires to repeal and replace Chapter 2-5 “Purchasing” with an ordinance that reflects current best practices and Town policy, and make minor modifications to section 2-8.08 regarding the powers and duties of the Town Manager for consistency (the “Ordinance Amendment”); and

WHEREAS, given the high cost of goods and equipment, the Town seeks to increase the Town Manager purchasing threshold amount to \$50,000, consistent with best practices, to promote efficiency in purchasing for the Town; and

WHEREAS, the Town Council desires to promote and encourage environmentally sustainable practices and finds and determines that a “green” purchasing policy of including, but not limited to, preferring the purchase of recycled goods and electric vehicles, is in the public interest; and

WHEREAS, the Ordinance Amendment is consistent with the Town’s Climate Action Plan because it contains a “green purchasing policy” that requires the Town to prefer the purchase of environmentally responsible products and services, including electric vehicles, as set forth in the Ordinance Amendment, and that Town purchases must be consistent with any and all environmental Town policies that the Council may adopt in the future; and

WHEREAS, the Town Council desires to support local vendors, and finds and determines that funds generated in the community should, to the extent possible, stay in the local economy in order to promote the economic health of the Town and encourage local participation in the provision of supplies, equipment, and services; and

WHEREAS, due to the high costs associated with doing business in San Anselmo including but not limited to higher labor costs, insurance and rent, local vendors are at a competitive disadvantage to vendors located outside the Town, and a local vendor preference is reasonable and necessary to provide equality between the bids of local vendors and vendors outside of the Town.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1: Environmental Review. The Ordinance Amendment is exempt from the California Environmental Quality Act (“CEQA”) under the “common sense” exemption, CEQA Guideline section 15061(b)(3), because it can be seen with certainty that it will not have a significant adverse environmental effect; and it is not a “project” within the meaning of the CEQA Guidelines § 15378, as it will not result in any direct or indirect physical change in the environment.

SECTION 2: The above recitals are true and correct and are incorporated as findings herein.

SECTION 3: Title 2 “Administration” Chapter 5 “Purchasing” is hereby repealed in its entirety and replaced as follows:

2-5.01 – Purpose and scope.

The purpose of this chapter is to set forth procedures for the purchase of supplies, materials, equipment, and services, which procedures shall be in compliance with all federal and state laws. This chapter is enacted pursuant to Government Code section 54202. This chapter shall not apply to public projects as defined by California Public Contracts Code section 20160 *et seq.*, or federal award contracts.

2-5.02 – Purchasing agent designated and duties established.

- (a) The Town Manager is designated as the purchasing agent for the Town and shall be responsible for the purchase of supplies, materials, equipment, and services for all departments of the Town. The Town Manager may designate all or a portion of the purchasing duties to any Town staff member.
- (b) The duties of the purchasing agent include:
 - (1) Purchase, or contract for the purchase or lease of, all supplies, materials, equipment, and services required by the Town pursuant to the procedures in this chapter and applicable laws.
 - (2) Negotiate and recommend execution of contracts for the purchase or lease of supplies, materials, equipment, and services pursuant to the procedures in this chapter and applicable laws.
 - (3) Procure for the Town all the necessary quality in supplies, materials, equipment, and services pursuant to the procedures in this chapter and applicable laws.
 - (4) Supervise the inspection of all supplies, materials, equipment, and services to ensure conformance with specifications.
 - (5) Recommend and oversee the sale or disposal of all supplies, materials and equipment that cannot be used by the Town or have become unsuitable for Town use.

- (6) Maintain a bidders' list, including a local bidders' list, that identifies businesses and service providers that have an established place of business within the Town and have held a Town business license for at least 12 months.
- (7) For purchases exempt from bidding, periodically reexamine current vendors' prices as to their competitiveness.

2-5.03 – Purchase procedures.

- (a) Consistent with this chapter, the purchasing agent shall procure favorable pricing for the procurement of all supplies, materials, equipment, and services. Bids should be solicited and obtained from local vendors whenever possible.
- (b) For purposes of this chapter "lowest responsible bidder" shall mean the bidder that timely submits a complete and fully responsive bid that best responds in price, quality, service, fitness, and capacity to the bid requirements. Price alone will not be the determinative factor but will be considered along with other relevant bidder responsibility factors such as the quality of the services to be provided or the supplies or equipment to be delivered as well as bidder reputation, qualifications, experience, and ability to timely perform and meet contract requirements.
- (c) The purchasing agent may approve purchases of supplies, materials, equipment, and services having an estimated value of \$1,000 or less. Informal quotes may be obtained from vendors but are not required.
- (d) The purchasing agent may approve purchases of supplies, materials, equipment, and services having an estimated value of more than \$1,000 but less than and including \$50,000. An informal bidding process shall be used. To the extent possible, at least three bids from different vendors shall be obtained. Bids may be received by informal price checking orally or in writing, and shall be documented and maintained in a file with the final awarded contract. The contract shall be awarded to the lowest responsible bidder. Notwithstanding anything to the contrary, the purchasing agent may use the competitive bidding process in this section in his/her/their discretion.
- (e) For purchases of supplies, materials, equipment, and services having an estimated value of over \$50,000, the authorization to award a purchase contract shall be made by Town Council resolution following a sealed competitive bid process as follows:
 - (1) A notice inviting bids shall be prepared and shall include a general description of the goods or services to be purchased, where bid instructions and specifications may be obtained, the time and place for bid openings, and the security required if any. Notices inviting bids shall be published at least once in a newspaper of general circulation at least 10 days prior to the opening of bids. The purchasing agent may also advertise for bids by other means including posting on the public bulletin board at Town Hall or on the Town's website. The purchasing agent shall also solicit bids from prospective vendors whose name are on the bidders' list or who have made a written request that their names be added thereto, or from such other vendors who are not on the list, but known by the purchasing agent.
 - (2) Sealed bids shall be submitted to the purchasing agent and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than 30 calendar

days after the bid opening. The contract shall be awarded the lowest responsible bidder.

- (3) If two or more bids received from responsible bidders are for the same total amount or unit price, quality and service being equal, preference shall be given to a local vendor, or the purchasing officer or Town Council (as applicable) may accept the lowest bid made by negotiation with the tie bidders.
- (4) Notwithstanding anything to the contrary in this chapter, all bids may be rejected and readvertised in the Town Council's or purchasing agent's discretion, as applicable.
- (5) Performance Bonds. The purchasing agent shall have authority to require a performance bond before entering a contract in such amount as the purchasing agent shall find reasonably necessary to protect the best interests of the Town. If the purchasing agent requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

2-5.04 – Exemptions. No bidding shall be required under the following conditions:

- (a) Emergency conditions. For emergency conditions that involve a sudden, unexpected occurrence or discovery of a condition or circumstance that poses a clear and imminent danger requiring immediate action.
- (b) Sole source. When the supplies, services or equipment are unique because of their quality, durability, availability, or fitness for a particular use and are available from a sole source.
- (c) Professional services. For the purchase of professional or expert services, such as architectural, landscape architectural, engineering, environmental, land surveying, legal, financial, auditing, human resources, information technology, or construction management services, which may be made on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.
- (d) Cooperative purchasing agreements. Cooperative purchasing agreements for the procurement of any supplies, equipment, and services with one or more public entities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint or multiparty contracts between public entities and open-ended state public procurement unit contracts which are made available to the Town.

2-5.05 – Local vendor preference.

- (a) Local vendor preference policy. To promote the economic health of the Town and encourage local participation, the policy of the Town shall be to purchase materials, supplies, equipment, and services from vendors whose principal place of business is located within Town limits, to the extent permitted by law and subject to the provisions of this chapter.
- (b) Local vendor definition. A local vendor shall mean a vendor who has an established place of business within the Town and has held a Town business license for at least 12 months prior to the bid. Any vendor claiming to be a local vendor shall certify the same

in the bid. The Town Manager has the final discretion to determine if the bidder qualifies as a local vendor.

- (c) Preference. The bid amounts of all local vendors who submit bids or quotations otherwise in conformance with this chapter shall be deemed reduced by 5% of said bid amount for purposes of determining whether local vendors' bids are the lowest bid(s) submitted.
- (d) Exemptions. Notwithstanding anything to the contrary, the local vendor preference shall not apply to:
 - (1) Professional or specialized services;
 - (2) Emergency purchases;
 - (3) Public projects under California Public Contracts Code section 20160 *et seq.*, or federal award contracts; or
 - (4) Purchases with an estimated cost of \$1,000 or less.

2-5.06 – Surplus materials, supplies, and equipment. At such times as determined by the purchasing agent, reports shall be prepared showing all supplies and equipment that are no longer used or that have become obsolete or worn out. The purchasing agent shall have the authority to sell, trade, or exchange all supplies and equipment consistent with applicable law.

2-5.07 – Staging prohibited. Purchases shall not be knowingly staged, or bids split or separated into smaller units or segments, solely for the purpose of evading the procedures of this chapter.

2-5.08 – Inflation Factor. Every 12 months, the dollar limits set forth in this chapter shall be modified automatically by the percent change in the San Francisco, California All Urban Consumer Price Index.

2-5.09 – Green purchasing policy. Notwithstanding any provision in this chapter to the contrary, the following policies shall apply.

- (a) Recycled products.
 - (1) Whenever possible, product purchases shall contain the highest amount of post-consumer and recovered materials practicable. In all cases, products must meet reasonable performance standards.
 - (2) Bidders shall be encouraged to use recycled content whenever practicable.
 - (3) The Town will favorably consider the selection of recycled content and renewable materials, products in cases where availability, fitness, operational efficiency, quality, safety, and price of the recycled product is otherwise equal to, or better than the non-recycled content and/or non-renewable alternative.
 - (4) Environmentally preferable products and services that are comparable to standard counterparts are preferred. The bid amounts of environmentally preferable products or services that otherwise conform with this chapter shall be deemed reduced by 5% of said bid amount for purposes of evaluating the bid.
- (b) Electric vehicles. The Town shall give preference to the purchase of electric vehicles. Any purchase of electric vehicles shall be consistent with all applicable Town electric fleet policies.

- (c) Consistency with Town environmental policies. All purchases pursuant to this Chapter shall be consistent with any and all current and future Town environmental policies, as applicable.

SECTION 4: Title 2 “Administration” Chapter 5 “Town Manager” is amended as follows. Deleted language in ~~strikeout~~, new language in underline, existing language unchanged.

2-2.08 – Powers and duties.

The Town Manager shall be Chief Administrative Officer of the Town government under the direction and control of the Town Council. The Town Manager shall be responsible to the Council for the efficient administration of all the affairs of the Town which are under his/her/their ~~his or her~~ control. In addition to general powers as administrative head, and not as a limitation thereon, it shall be the Town Manager's duty and ~~he or she~~ he/she/they shall have the powers set forth in the following subsections:

(n) Purchase of supplies. Subject to and in accordance with the purchasing provisions of the Town (Chapter 5 of this title), to direct and supervise the purchase and acquisition of all property, equipment, services, materials, and supplies for the Town, and for all departments and divisions thereof, consistent with the provisions of Town Municipal Code Title 2, Chapter 5 “Purchasing”. ~~provided the purchase or acquisition has been approved by the Council or is included in a budget which has been approved and adopted by the Council~~. No expenditure shall be submitted or recommended to the Council except on a report or approval by the Town Manager;

SECTION 5: Severability. The Town Council hereby declares every section, paragraph, sentence, clause, and phrase is severable. If any section, paragraph, sentence, clause or phrase of these ordinance amendments are for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 6: Effective Date. This Ordinance Amendment shall go into effect thirty (30) days from its adoption and shall be posted or published as required by state law.

INTRODUCED AND ADOPTED AT A PUBLIC HEARING at a regular meeting of the San Anselmo Town Council on May 10, 2022 by the following vote:

AYES:	Fineman, Burdo, Burke, Greene, Colbert
NOES:	None
ABSTAIN:	None
ABSENT:	None
RECUSED:	None

Carla Kacmar, Town Clerk

Alexis Fineman, Mayor