



**TOWN OF LOS GATOS  
COUNCIL AGENDA REPORT**

MEETING DATE: 11/16/2021

ITEM NO: 22

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DATE: November 5, 2021

TO: Mayor and Town Council

FROM: Laurel Prevetti, Town Manager

SUBJECT: Staff Recommends the Following Actions Regarding Town Purchasing:

- a. Approve the Recommendation of the Council Policy Committee to Approve the Proposed Updates to the Town Purchasing Policy;
- b. Proceed with an Introduction and First Reading of an Ordinance of the Town Council of the Town of Los Gatos, by Title Only, Amending Chapter 2 (Administration), Article V, Division 2 of the Town Code Regarding Purchasing; and
- c. Adopt a Resolution of the Town Council of the Town of Los Gatos in the Matter of Uniform Public Construction Cost Accounting Procedures.

**RECOMMENDATION:**

Staff recommends the following actions regarding Town purchasing:

- a. Approve the recommendation of the Council Policy Committee to approve the proposed updates to the Town Purchasing Policy;
- b. Proceed with an introduction and first reading of an Ordinance of the Town Council of the Town of Los Gatos, by title only, amending Chapter 2 (Administration), Article V, Division 2 of the Town Code Regarding Purchasing; and
- c. Adopt a Resolution of the Town Council of the Town of Los Gatos in the matter of Uniform Public Construction Cost Accounting Procedures.

**BACKGROUND:**

At its January 25, 2021 meeting, the Council Policy Committee added an update to the Town Purchasing Policy to its work plan for 2021. The existing Purchasing Policy was created in 2008 and can be found as Attachment 1 to this report.

**PREPARED BY:** Holly Zappala  
Management Analyst

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Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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BACKGROUND (continued):

At its October 26, 2021, the Council Policy Committee reviewed the proposed updated 2021 Town Purchasing Policy, found in Attachment 2 to this report. The Committee unanimously agreed to forward a recommendation to the Town Council to approve the proposed updates to the Purchasing Policy.

DISCUSSION:

As part of the update process, staff reached out to comparable municipalities in Santa Clara County to request copies of their Purchasing Policies and corresponding code sections. Staff received responses from the cities of Campbell, Gilroy, Morgan Hill, Saratoga, and Sunnyvale.

Purchasing guidelines vary across municipalities and are tailored to each agency. The following table shows where each of the above-referenced cities falls in reference to the purchase amount thresholds that trigger requirements for purchase orders (PO), quotes, formal bidding procedures, and Council approval. The table also shows which of the agencies have opted into the California Uniform Public Construction Cost Accounting Act (the Act) for public works (PW) projects and what year the policy was last updated.

City	Policy Revised	Opted into the Act	PO Required	Quotes Required	Formal Bids Required	Council Approval Required
Campbell	2017	Yes	\$200	\$5,000	\$25,000 & limits in the Act for PW projects	\$50,000
Gilroy	2020	No	\$3,000	\$3,000	\$100,000 & \$35,000 for PW projects	\$100,000 & \$35,000 for PW projects
Morgan Hill	2019	Yes	\$5,000	\$500	\$25,000 & limits in the Act for PW projects	\$60,000
Saratoga	2015	Yes	\$5,000	\$1,000	Only PW projects in excess of informal bid limit in the Act	\$25,000
Sunnyvale	2019	No	\$1.0	\$15,000	\$50,000	\$100,000
<b>Los Gatos (existing)</b>	2008	No	\$1,000	\$1,000 if feasible, \$5,000 required	\$25,000	\$50,000
<b>Los Gatos (proposed)</b>	2021	Yes	\$3,000	\$3,000	\$50,000 & limits in the Act for PW projects	\$100,000

DISCUSSION (continued):

The proposed 2021 Town Purchasing Policy provides updated thresholds, aligns with current Town practices, and memorializes certain Town procedures, such as the Request for Proposal process. Additionally, the proposed update adds important guidelines to bring the Town into compliance with evolving regulations such as Senate Bill 1383 and incorporates best practices addressing equity in purchasing.

Town Code sections 2.50.105 through 2.50.145 that reference purchasing should be updated in tandem with the Purchasing Policy in order to ensure consistency. The corresponding, proposed red-lined updates to the Code sections can be found as Attachment 3 to this report. The proposed Ordinance Amending Chapter 2 (Administration), Article V, Division 2 of the Town Code Regarding Purchasing can be found as Attachment 4 to this report.

An overview of the major proposed updates to the Policy is as follows:

1. Opts the Town of Los Gatos “in” to the California Uniform Construction Cost Accounting Act (the Act) for public works projects. The Act is legislation that was enacted in 1983 to help promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state. The Act is a voluntary program available to all public entities in the State, but it applies only to those public agencies that have “opted in” to the provisions set forth by the Act using the processes outlined in the Act. Key provisions include:
  - a. The Act allows for public project work in the amount of \$60,000 or less to be performed by a public agency’s force account using the public agency’s own resources, or by negotiated contract, or by purchase order;
  - b. public projects in the amount of \$200,000 or less may use informal or formal bidding procedures; and
  - c. public projects at a cost of more than \$200,000 must use formal bidding procedures to let the contract.

Every five years, the Act Commission reviews the informal bid limits for inflation and other factors to determine whether adjustments should be made. If an adjustment is made, the State Controller notifies the affected public agencies. In order for Los Gatos to “opt in” to the Act, the Council must elect by resolution to become subject to the Act and the Town must file a copy of the approved resolution with the State Controller’s Office. A proposed Resolution in the Matter of Uniform Public Construction Cost Accounting Procedures can be found as Attachment 5 to this report.

2. Reflects a decentralized purchasing process, removes the Town Purchasing Agent, and adds Department Purchasing Representatives in order to align with current Town practices.
3. Adds Healthy Food and Beverage Guidelines per direction from Santa Clara County Public Health.

DISCUSSION (continued):

4. Memorializes the Town Request for Proposal process. This includes Requests for Information, Requests for Statements of Qualifications, or others as deemed appropriate.
5. Adds specific language to the Recycled Products and Materials section in order to be in compliance with Senate Bill 1383 (SB 1383), a state-wide effort to reduce emissions of short-lived climate pollutants. Beginning January 1, 2022, SB 1383 requires cities and counties to procure annually a quantity of recovered organic waste products. As there is so much paper present in the solid waste disposal stream, the procurement of recycled content and recyclable paper will grow demand for these products and support recycling to help meet the organic waste diversion goals of SB 1383.
6. Expands the current preference for local businesses to include preference for minority, disabled, and woman-owned businesses, consistent with the Town Council's Strategic Priority of advancing Diversity, Equity, and Inclusion efforts.
7. Increases the Purchase Order requirement/staff level purchase approval threshold from \$1,000 to \$3,000.
8. Sets the threshold for requiring at least three quotes prior to purchasing to \$3,000. The current guideline is \$1,000 if feasible and required for over \$5,000.
9. Increases the threshold for requiring formal bidding procedures (excluding public works projects, which would align with the thresholds in the Act) from \$25,000 to \$50,000.
10. Increases the threshold for Town Council approval from over \$50,000 to \$100,000.

CONCLUSION:

Staff recommends the Town Council take following actions regarding Town purchasing:

- a. Approve the recommendation of the Council Policy Committee to approve the proposed updates to the Town Purchasing Policy;
- b. Proceed with an introduction and first reading of an Ordinance of the Town Council of the Town of Los Gatos, by Title Only, amending Chapter 2 (Administration), Article V, Division 2 of the Town Code regarding purchasing; and
- c. Adopt a Resolution of the Town Council of the Town of Los Gatos in the Matter of Uniform Public Construction Cost Accounting Procedures.

COORDINATION:

This report was coordinated with all Town Departments.

FISCAL IMPACT:

There is no associated fiscal impact.

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SUBJECT: Purchasing Policy, Ordinance, and Resolution

DATE: November 16, 2021

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Existing 2008 Purchasing Policy
2. Proposed 2021 Purchasing Policy
3. Proposed red-line changes to Town Code Sections 2.50.105 through 2.50.145
4. Draft Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 2 (Administration), Article V, Division 2 of the Town Code Regarding Purchasing
5. Draft Resolution in the Matter of Uniform Public Construction Cost Accounting Procedures