OFFICE CONSOLIDATION to August 14, 2012
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THE CITY OF Waterloo

By-Law #2011-043

Being a by-law to establish policies for the procurement of goods and services by the City
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THE CITY OF Waterloo

BY-LAW # 2011-043

BEING A BY-LAW TO ESTABLISH POLICIES FOR
THE PROCUREMENT OF GOODS AND SERVICES
BY THE CITY

WHEREAS section 270(1)(3) of the Municipal Act 2001, S.O. 2001, c. 25, as amended (the "Act"), requires all municipalities to adopt and maintain a policy with respect to the procurement of goods and services;

AND WHEREAS The Corporation of the City of Waterloo (the "City") is committed to ensuring its procurement decisions are fair, open and transparent;

AND WHEREAS purchases made by the City should reflect best value for the taxpayer, protect the City's financial interests and encourage competitive bidding;

AND WHEREAS the City should be prepared to manage extraordinary circumstances from time to time, and that such circumstances may require immediate procurement decisions that are necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruption of essential services or damage to public property or to respond to an emergency or as required under the provincial Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9, as amended;

AND WHEREAS effective planning, monitoring and control of public sector procurement is essential for maintaining public trust and confidence;

NOW THEREFORE the Council of The Corporation of the City of Waterloo enacts as follows:

1. PURPOSES, GOALS, AND OBJECTIVES

1.1 The purposes, goals, and objectives of this by-law and of each of the methods of procurement authorized herein are:

1.1.1 To obtain the best value for the City when procuring goods and services and construction;

1.1.2 To ensure fairness amongst bidders during the procurement process;

1.1.3 To the extent possible, ensure openness, accountability and transparency while protecting the financial best interests of the City;

1.1.4 To avoid conflicts between the interests of the City and those of the City's employees and members of Council;
1.1.5 To promote respect for human rights, international and inter-provincial trade treaties or agreements and fair labour practices;

1.1.6 To encourage, whenever possible, the procurement of goods, services and construction with due regard to the conservation of a natural environment;

1.1.7 To promote and incorporate the requirements of the Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c. 11, as amended (the "AODA") in procurement activities of the City as well as any requirements contained in other legislation (either provincial or federal) which may impact the procurement activities of the City;

1.1.8 To support effective business planning such that goods, services and construction will only be acquired after consideration of need, alternatives, timing and appropriate life cycle management issues; and,

1.1.9 To comply with the requirements of the Act.

2. APPLICATION OF BY-LAW

2.1 This by-law shall apply to purchases by staff in all departments of the City.

2.1.1 Notwithstanding section 2.1, this by-law shall not apply to the purchase of those goods or services set out in Schedule “A”.

2.2 All purchases of goods, services or construction shall be compliant with this by-law.

2.3 No contract for goods, services or construction shall be structured in such a manner so as to circumvent any intent or thresholds of this by-law.

2.4 No purchase shall be processed for personal items of direct benefit to employees of the City or any member of Council except where permitted by this by-law, City policy or under the auspices of a City-sponsored employee program.

2.5 No goods or services shall be purchased from an employee of the City, except where permitted under this by-law.

3. DEFINITIONS

3.1 In this by-law:

3.1.1 “Audit Committee” means a committee of Council established by resolution on March 17, 2003, and more specifically outlined in its Terms of Reference, to review and comment upon the City’s procurement process, as outlined in this by-law, including any supplementary policies thereto;

3.1.2 “Bid” includes a bid, proposal, quotation and tender;

3.1.3 “Bid Bond” means a written guaranty from a third party guarantor submitted to a principal (client or customer) by a contractor (bidder) along with a bid which insures against non-performance of the bid document’s requirements on the acceptance of a bid;

3.1.4 “Bid Irregularity” means a deviation from the requirements of a call for bid;

3.1.5 “Bidder” means one who submits a response to a call for bid and includes those submitting a response to a call for proposal, quotation or tender;
3.1.6 "Chief Administrative Officer" or "CAO" means the Chief Administrative Officer of the City or his or her designate;

3.1.7 "Chief Financial Officer" or "CFO" means the Chief Financial Officer and Treasurer of the City or his or her designate;

3.1.8 "City Solicitor" means the lawyer(s) or law firm appointed as such by Council from time to time;

3.1.9 "City" means The Corporation of the City of Waterloo;

3.1.10 "Contractor" means a person having a contract with the City to furnish goods, services or construction;

3.1.11 "Construction" means the process of building, altering, repairing, improving or demolishing any structure, building or public improvement;

3.1.12 "Consultant" means a person that provides consulting services;

3.1.13 "Consulting Services" means services provided by architects, engineers, designers, surveyors, geoscientists, planners, software, and any other similar services;

3.1.14 "Co-operative Purchasing" means the process by which two (2) or more government agencies or members of the broader public sector purchase goods, services or construction collectively;

3.1.15 "Corporate Management Team" or "CMT" means the group consisting of the CAO and the General Managers of all departments which, for greater certainty, includes the CFO and the Chief Human Resources Officer;

3.1.16 "Council" means the Council of the City;

3.1.17 "Department" means a collection of divisions under the control of a General Manager of the City;

3.1.18 "Director" means a Director, the City Clerk or a Deputy Fire Chief of the City, or his or her designate, who is responsible for a specific division;

3.1.19 "Director of Purchasing" means Director, Financial Planning and Purchasing" of the City, or his or her designate, who is under the general direction of the Chief Financial Officer;

[Section 3.1.19 deleted and replaced by By-law 2012-083, August 13, 2012]

3.1.20 "Division" means a part of a department of the City;

3.1.21 "General Manager" means a person with administrative responsibilities for a department of the City, or his or her designate;

3.1.22 "Highway Construction Services" means those services that the City obtains to adequately and regularly maintain the highways under its jurisdiction and includes the replacement of City services or utilities on or under those highways as well as the City's bulk purchase of materials such as asphalt or gravel;
3.1.23 "In-House Bid" means a bid made by a department of the City, where the provision of the goods, services or construction will be completed entirely by City staff;

3.1.24 "Proponent" means one who submits a proposal for an RFP;

3.1.25 "Public Sector" includes municipalities, universities, schools and hospitals;

3.1.26 "Purchase Order" means a contractual agreement with a supplier of goods or services that specifies payment terms, delivery dates, item identification, quantities, freight terms and all other obligations and conditions;

3.1.27 "Purchase Card" means a card provided by the City to duly authorized City staff to make purchases;

3.1.28 "Purchasing Division" means the division of the City managed by the Director of Purchasing;

3.1.29 "Surplus Property" means items no longer having a use to the City and shall include furniture, vehicles, equipment, supplies, and other goods or materials, which are deemed surplus or which have become obsolete, worn out, or otherwise incapable of use.

3.2 To establish the definition of any other purchasing term not herein included, reference shall be made to the latest edition of the National Institute of Governmental Purchasing Inc. (NIGP) Public Procurement Dictionary of Terms.

3.3 All monetary amounts outlined in this by-law shall, unless otherwise stated, exclude all applicable taxes.

3.4 The monetary thresholds outlined in Schedule "C" shall be consistent with the City's estimated or budgeted amounts for the specific procurement or project, not the amount actually bid.

4. INTERPRETATION

4.1 Headings contained in this by-law are for reference only.

4.2 Schedule "A" - Purchasing Exemptions is incorporated into and forms a part of this by-law.

4.3 Schedule "B" - Chart of Bid Irregularities or Non-Compliance is incorporated into and forms a part of this by-law.

4.4 Schedule "C" - Thresholds of Procurement is incorporated into and forms a part of this by-law.

5. RESPONSIBILITIES AND AUTHORITY

5.1 Director of Purchasing – The Director of Purchasing is responsible for:

5.1.1 Providing procurement advice and related services including the necessary forms, contracts and bid document templates that may be required by departments, the CAO and Council for the purposes of fulfilling the procurement needs of the City;
5.1.2 Facilitating all aspects of calls for bids including opening and ensuring compliance with the terms and conditions of the call for bid;

5.1.3 Ensuring compliance with this by-law and reporting non-compliance, in writing, to the appropriate Director, General Manager or CAO, where warranted;

5.1.4 The standardization of goods and services in conjunction with departments, where appropriate and feasible;

5.1.5 The consolidation of the procurement of all similar goods and services where appropriate and possible;

5.1.6 The disposal of Surplus Property;

5.1.7 Acting as the City's representative in respect of co-operative purchasing initiatives; and,

5.1.8 Complying with the purposes, goals, and objectives of this by-law.

5.2 General Managers and Directors – General Managers and Directors are responsible for ensuring that:

5.2.1 all procurement within their respective departments or divisions is in compliance with this by-law;

5.2.2 no procurement, except for emergency purchases, shall be contrary to Council’s approved budget or any specific direction from the CAO, CFO or Council, unless otherwise authorized by a Council-approved policy;

5.2.3 payments to suppliers are approved for processing within the times set out in the contract, provided the supplier or contractor has met all the conditions of the contract; and,

5.2.4 all goods, services or construction contracted for have been received and accepted by the City.

5.3 CAO – The CAO is responsible for ensuring that all City staff complies with this by-law.

6. PRESCRIBED COUNCIL APPROVAL

6.1 The following contract awards shall be subject to Council approval:

6.1.1 any contract prescribed by statute to be made by Council;

6.1.2 any contract that requires debt financing;

6.1.3 any contract where this by-law is being waived;

6.1.4 any contract where Council has expressly directed staff to report prior to an award;

6.1.5 any contract where authority to approve has not been expressly delegated;

6.1.6 any contract where a submission in response to a call for bid contains an irregularity not resolved by Schedule “B” of this by-law and which was not able to be otherwise resolved by the Purchasing Division; or,
6.2 Council may waive, by resolution, the application of any part of this by-law in respect of any given procurement.

7. SIGNING AUTHORITY

7.1 CONTRACTS (except for Purchase Orders) - LESS THAN $100,000.00 - The Director of Purchasing and either the Director or General Manager of the appropriate division or department shall jointly have the necessary authority to award and approve all such contracts, subject to legal, financial and departmental approval, though all such contracts shall be executed by the Mayor and the City Clerk on the City’s behalf.

7.1.1 Notwithstanding section 7.1, legal approval from the City Solicitor may be waived by the Director or General Manager of the appropriate division or department, with the approval of the Director of Purchasing.

7.2 CONTRACTS (except for Purchase Orders) - MORE THAN $100,000.00 BUT LESS THAN $200,000.00 - A General Manager and the Director of Purchasing shall jointly have the necessary authority to award and approve all such contracts, should the lowest bidder be selected (or the bidder with the highest score, if an RFP) and the value of the contract is within the limits of the Council-approved budget, subject to legal, financial and departmental approval. (Otherwise, Council must award and approve the contract.) Council shall be notified of all such awards and approvals at its next regularly scheduled Council meeting. All such contracts and any related documents shall be executed by the Mayor and the City Clerk on the City’s behalf.

7.3 CONTRACTS (except for Purchase Orders) - UP TO $500,000.00 - The Chief Administrative Officer shall be authorized to award and approve all such contracts, should the lowest bidder be selected (or the bidder with the highest score, if an RFP) and the value of the contract is within the limits of the Council-approved budget, subject to legal, financial and departmental approval. (Otherwise, Council must award and approve the contract.) Council shall be notified of all such awards and approvals at its next regularly scheduled Council meeting. All such contracts and any related documents shall be executed by the Mayor and the City Clerk on the City’s behalf.

7.4 CONTRACTS (except for Purchase Orders) - MORE THAN $500,000.00 - Council shall award and approve all such contracts. Once approved, the Mayor and the City Clerk may execute those contracts and any related documents on the City’s behalf.

7.4.1 During the months of July and August (Council’s summer schedule), the Mayor and the CAO shall be authorized to jointly award and approve all such contracts on behalf of Council, subject to legal, financial and departmental approval. Council shall be notified of all such awards and approvals at its next regularly scheduled Council meeting. All such contracts shall be executed by the Mayor and the City Clerk on the City’s behalf.

7.5 PURCHASE ORDERS - UP TO $100,000.00 - The Director of Purchasing and the appropriate Director or General Manager may jointly approve all purchase orders with a monetary value of up to $100,000.00.

7.6 PURCHASE ORDERS - FROM $100,000.00 TO $200,000.00 - A General Manager shall approve all purchase orders with a monetary value between $100,000.00 and $200,000.00.
7.7 PURCHASE ORDERS – EXCEEDING $200,000.00 – The CAO shall approve all purchase orders with a monetary value in excess of $200,000.00.

8. AUDIT COMMITTEE

8.1 All purchases over five hundred thousand dollars ($500,000.00) shall be reviewed by the Audit Committee and any comments it may make shall be forwarded to Council, for its review and consideration.

8.2 Notwithstanding section 8.1 of this by-law, the purchase of highway construction services shall only be reviewed by the Audit Committee if the contract value is in excess of one million dollars ($1,000,000.00).

9. PROCUREMENT PROCESS

9.1 Procurement shall be undertaken in compliance with the following requirements:

9.1.1 each call for bid shall be conducted in a fair, open, equitable, consistent and professional manner;

9.1.2 the call for bid document shall be publicly advertised, where applicable, in accordance with Schedule “C” to maximize the response potential to the call for bid; and,

9.1.3 this by-law shall not apply where the City is engaged in co-operative purchasing and where another government agency or member of the broader public sector is purchasing goods, services or construction on the City’s behalf.

10. REQUIREMENT FOR APPROVED FUNDS

10.1 The authority to procure goods and services or award a contract is subject to the identification and availability of funds in appropriate accounts within Council’s approved budget.

10.2 All purchases which are outside the Council-approved budget shall be subject to the appropriate City budget policy.

11. STANDARD PROCUREMENT METHODS

11.1 Unless otherwise specified in this by-law, goods, services and construction shall be purchased or procured in accordance with the methods described in this section and in accordance with Schedule “C” of this by-law.

11.1.1 REQUEST FOR INFORMATION (“RFI”)

11.1.1.1 An RFI may be used to determine the interest of the marketplace to provide goods or services which the City is contemplating purchasing.

11.1.1.2 An RFI may be used as a general market research tool to determine what goods and services are available and if they meet the City’s business or operational requirements or acquisition strategies.

11.1.1.3 An RFI may request publicly available commodity cost details for the purpose of budget planning or developing a future call for bid.
11.1.1.4 The submission of an RFI may be made a specific pre-condition of any other procurement procedure utilized by the City.

11.1.1.5 An RFI may be conducted for any goods, services or construction to determine qualified bidders for a potential subsequent procurement process.

11.1.1.6 An RFI does not create a contractual obligation between the City and the interested party.

11.1.1.7 An RFI may be made a specific pre-condition of any other procurement procedure utilized by the City.

11.1.1.8 An RFI shall be publicly advertised, as outlined in Schedule “C” of this by-law, in a manner determined by the Director of Purchasing or as outlined in a supplementary policy.

11.1.1.9 Notwithstanding any other provision of this by-law, where there has been an RFI, no public advertising shall be required for an RFQ, RFT or RFP.

11.1.2 LOW COST PURCHASE (“LCP”)

11.1.2.1 An LCP may be conducted for the procurement of goods, services or construction having a purchase value up to the limit stated in Schedule “C” of this by-law.

11.1.2.2 An LCP may be made utilizing a purchase order, petty cash, a vendor offered charge account or purchase card.

11.1.2.3 A Director may authorize specific individuals to make LCPs and set monetary limits to that authority, with the approval of the Director of Purchasing.

11.1.3 INFORMAL REQUEST FOR QUOTATION (“IRFQ”)

11.1.3.1 An IRFQ may be conducted for the procurement of goods, services or construction having a purchase value up to the limit stated in Schedule “C” of this by-law.

11.1.3.2 Competitive bids must be solicited from a minimum three (3) bidders for an IRFQ.

11.1.4 FORMAL REQUEST FOR QUOTATION (“RFQ”)

11.1.4.1 An RFQ may be conducted for the procurement of goods, services or construction having a purchase value up to the limit stated in Schedule “C” of this by-law.

11.1.4.2 An RFQ may be publicly advertised, as outlined in Schedule “C” of this by-law, in a manner determined by the Director of Purchasing or as outlined in a supplementary policy.
11.1.5 REQUEST FOR TENDER ("RFT")

An RFT may be conducted for the procurement of goods, services or construction having a purchase value up to the limit stated in Schedule "C" of this by-law.

An RFT shall be publicly advertised in a manner determined by the Director of Purchasing or as outlined in a supplementary policy.

11.1.6 REQUEST FOR PROPOSAL ("RFP")

An RFP may be conducted for the procurement of goods, services or construction having a purchase value up to the limit stated in Schedule "C" of this by-law.

An RFP shall be publicly advertised in a manner set out by the Director of Purchasing or as outlined in a supplementary policy.

An RFP may be used in situations where any of the following apply:

11.1.6.3.1 the selection of the successful proponent depends upon the effectiveness of the proposed solution based on several stated criteria outlined in the proposal;

11.1.6.3.2 where negotiation with one or more proponents may be required with respect to any aspect of the contract;

11.1.6.3.3 the precise goods, services or construction (or the applicable specifications) are unknown or are not definable; or,

11.1.6.3.4 the services required are Consulting Services.

12. ALTERNATE PROCUREMENT METHODS

12.1 UNSOLICITED SUBMISSIONS, PROPOSALS AND OFFERS

All unsolicited submissions, proposals and offers received by the City shall be directed to the Director or General Manager of the appropriate division or department for their review.

13. NEGOTIATION

Negotiation, conducted under the direction of the Director of Purchasing and/or the Purchasing Division, may be used for the procurement of goods, services or construction or for any contract when one or more of the following criteria apply:

13.1.1 due to abnormal market conditions, the goods, services or construction required are in short supply or market price fluctuations or instability exists;

13.1.2 where only one bid is received and it exceeds the amount budgeted for the procurement;

13.1.3 where extending the existing contract was provided for in the original bid document;

13.1.4 where specifications in a bid document expressly allow for negotiations to occur;
13.1.5 where extraordinary circumstances exist, as determined by the Director of Purchasing;

13.1.6 where Council has authorized negotiation; or,

13.1.7 where all submitted bids are non-compliant with the terms of the call for bid.

14. EMERGENCY PURCHASES

14.1 Notwithstanding any of the provisions of this by-law, goods, services or construction may be immediately purchased during an emergency, as determined by the CAO, CFO, the Director of Purchasing, or a General Manager, which includes a circumstance where there is a threat to any of the following:

14.1.1 public health;

14.1.2 the maintenance of essential services or to prevent the disruption of essential services;

14.1.3 the welfare of persons or of public property; or,

14.1.4 the security of the City’s interests.

14.2 Notwithstanding any of the provisions of this by-law, the Director of Purchasing may conduct an emergency purchase in a manner deemed most expedient and in accordance with Schedule “C” of this by-law.

14.3 Notwithstanding any of the provisions of this by-law, the CAO or CFO and the Director of Purchasing shall jointly have the necessary authority to award, approve and execute the contracts for all emergency purchases.

14.4 As soon as is practicable after an emergency purchase has been made, the Director of Purchasing shall forward a report to Council outlining:

14.4.1 the nature of the emergency;

14.4.2 why the emergency purchase was necessary;

14.4.3 the method by which the emergency purchase was conducted; and,

14.4.4 the total cost of the emergency purchase, including any budgetary impacts.

15. SOLE SOURCE PURCHASE

15.1 A sole source purchase may be conducted for the procurement for goods, services or construction of any contract value without the competitive bid process when only one supplier or contractor is available possessing the unique ability or capability to meet the requirements of the City due to a patent, sales/distributor agreement or copyright.

15.2 A sole source purchase may be facilitated and negotiated by a Director, subject to the review of the Director of Purchasing, and shall be in accordance with Schedule “C” of this by-law.

16. SINGLE SOURCE PURCHASE

16.1 A single source purchase for goods, services or construction is a purchase directed to one source, where other sources may be available.
16.2 A single source purchase may be conducted for the procurement of goods, services or construction of any contract value without the competitive bid process when any of the following circumstances apply:

16.2.1 there is a need for standardization to maintain functionality or existing service capacity;

16.2.2 for matters involving security or law enforcement;

16.2.3 where a good is purchased for testing or trial use and there is a clearly established deadline for the testing or trial period that does not exceed twelve (12) months; or,

16.2.4 where the City has a rental contract with a purchase or rental extension option and such purchase or rental extension option may be beneficial to the City, as determined by the Director of Purchasing.

16.3 A single source bid may be facilitated and negotiated by a Director, subject to the review of the Director of Purchasing, and shall be in accordance with Schedule “C” of this by-law.

17. LOCAL OR GEOGRAPHICAL PREFERENCE

17.1 The City shall comply with the Discriminatory Business Practices Act, R.S.O. 1990, c. D.12, as amended.

18. BID ADMINISTRATION

18.1 BID IRREGULARITIES

18.1.1 Where a bid is received that includes an irregularity, the City shall follow the protocol as appropriate for the particular irregularity, as outlined in Schedule “B”.

18.2 ONLY ONE BID RECEIVED

18.2.1 In the event only one bid is received in response to a competitive bid, the Director of Purchasing may return the unopened bid to the bidder. In returning the unopened bid, the Director of Purchasing shall inform the bidder that the City may be re-issuing the competitive bid at a later date.

18.2.2 In the event that only one bid is received in response to a request for competitive bid, the bid may be opened and evaluated.

18.2.2.1 If the bid does not exceed the amount budgeted, it may be awarded in accordance with this by-law.

18.2.2.2 Where the bid exceeds the amount budgeted for the procurement, negotiations may be conducted with the only bidder, in accordance with this by-law.

18.3 EXCLUSION OF BIDDERS IN LITIGATION

18.3.1 The City shall reject all bids submitted by a bidder if that bidder is engaged in a legal action against the City.

18.3.2 Council, in its sole and absolute discretion, may waive section 18.3.1.
19. **CO-OPERATIVE PURCHASING**

19.1 The City may participate with other government agencies or members of the broader public sector in co-operative purchasing initiatives where it is in the best interests of the City to do so.

19.2 The purchasing policies of the originating co-operative (or lead agency) shall form the basis of accepted policy and procedure when participating in, or calling, co-operative bids and this by-law shall be otherwise waived. The City will review the originating co-operatives’ purchasing policies before entering a co-operative purchasing arrangement.

19.3 Notwithstanding any other provision of this by-law, co-operative purchases which are conducted by someone other than the City shall not be subject to review by the Audit Committee, regardless of the purchase values involved.

20. **IN-HOUSE BIDS**

20.1 An in-house bid over $25,000.00 may only be made with the prior approval of the Corporate Management Team.

20.2 The acceptance of in-house bids over $100,000.00 shall require the approval of Council.

20.3 All in-house bids shall comply with this by-law to the greatest extent possible.

21. **CONSULTING SERVICES**

21.1 **GENERAL**

21.1.1 Consulting services over twenty thousand dollars ($20,000.00) shall be procured by RFP, unless otherwise directed by the Director of Purchasing.

21.1.2 When evaluating an RFP for consulting services over twenty thousand dollars ($20,000.00), the criteria of “price” shall be worth at least thirty five percent (35%) of a proponent’s final score.

21.1.3 Consultants may be hired in, but not limited to, any the following circumstances:

21.1.3.1 the project requires special knowledge, skills, expertise, experience or available resources which the City does not possess in-house;

21.1.3.2 another organization is partially or wholly funding the project and strict timelines have been placed on the funding; or,

21.1.3.3 the nature of the project is such that it would not be in the public or City’s interest to perform it in-house, as determined by the appropriate Director, in consultation with the CFO and the Director of Purchasing.

21.1.4 Under this section, all consultant proposals shall include, at a minimum:

21.1.4.1 a schedule of fees;

21.1.4.2 a methodology and timetable to complete the project;

21.1.4.3 demonstrated experience and qualifications required to perform the project; and,
21.1.4.4 a list of personnel who will be directly involved in the completion of the project.

21.1.5 Proposals for consulting services over one hundred thousand dollars ($100,000.00) shall be evaluated by a panel City staff consisting of at least four (4) people which shall include:

21.1.5.1 two (2) City staff members;

21.1.5.2 a Director or General Manager; and,

21.1.5.3 the Director of Purchasing.

21.1.6 All of the members of the evaluation panel described in section 21.1.5 of this by-law must participate in the evaluation process and score the proposal.

21.1.7 The liaison Councillor may be invited to join the evaluation panel described in section 21.1.5 of this by-law but, if invited, the liaison Councillor shall comply with section 21.1.6 of this by-law.

22. ACCESS TO INFORMATION

22.1 Disclosure of any information provided to the City via a procurement process shall be made in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, as amended.

23. DISPOSAL OF SURPLUS PROPERTY

23.1 Any Surplus Property not required by departments that has a residual value, as determined by the Director of Purchasing, in consultation with the CFO and the appropriate Director, shall be sold or disposed of in accordance with one of the following methods, as jointly determined by the Director of Purchasing and the CFO:

23.1.1 Call for bid: If it is determined by the Director of Purchasing and the CFO that the highest return for Surplus Property is by a call for bid, a bid shall be issued;

23.1.2 Public auction: If it is determined by the Director of Purchasing and the CFO that the highest return for Surplus Property is by public auction, the Director of Purchasing shall arrange for the Surplus Property to be sold at a public auction; or,

23.1.3 Return to supplier: If it is determined by the Director of Purchasing and the CFO that a higher return net of disposal cost can be achieved by sale or trade-in of the Surplus Property to the original supplier or suppliers in that line of business, the Director of Purchasing shall sell or trade in such Surplus Property at the highest return.

23.1.4 In accordance with policy: If Council has established a policy in relation to the disposal of certain types of Surplus Property, then the provisions of that policy shall be followed by the Director of Purchasing.

23.2 Any Surplus Property not required by departments and that has no residual value, as determined by the Director of Purchasing, shall be disposed of in accordance with one of the following methods, as determined by the Director of Purchasing:
23.2.1 The Director of Purchasing shall notify community interest or non-profit organizations of the relevant items for disposal and, request they submit to the Director of Purchasing, a letter of interest; or,

23.2.2 The Director of Purchasing may dispose of the items directly through the applicable waste process.

23.3 No staff member or Councillor of the City shall personally obtain any Surplus Property unless it is obtained through a public process.

23.3.1 Notwithstanding section 23.3, a staff member or Councillor of the City may personally obtain Surplus Property at a price determined jointly by the Director of Purchasing and the Director of Information Management & Technology Services, or his or her designate, without going through a public process if the property being obtained is information technology, such as a computer, laptop, cell phone or Blackberry.

24. TIE BIDS

24.1 In the event that two (2) or more compliant, equal bids are submitted during a competitive bid process, the City shall determine the successful bidder by drawing a bidder's name from a receptacle, as determined by the Director of Purchasing.

25. SUPPLEMENTARY POLICIES

25.1 Council or Corporate Management Team may prescribe supplementary policies or procedures, not inconsistent with this by-law, relating to the purchase of goods or services by the City, as Council or the Corporate Management Team deem necessary or expedient.

[Section 25.1 deleted and replaced by By-law 2011-067, June 27, 2011]

26. NO LOBBYING

26.1 Unless authorized by the City to do so, no bidder shall contact any member of Council or any City staff person to attempt to influence the award of a contract.

26.2 If a bidder contacts any member of Council or any City staff person to attempt to influence the award of a contract, the bidder shall be disqualified, unless the bidder's actions have been authorized by the City.

27. DONATIONS

27.1 The City may accept donations for goods, services or construction, at Council’s sole and absolute discretion.

28. SHORT TITLE

28.1 The short title of this by-law shall be the "Purchasing By-Law".
29. **REPEAL**

29.1 By-Law 06-086 is hereby repealed.

30. **ENACTMENT**

30.1 This by-law shall come into force and effect upon the day of passing thereof.

PASSED this 18th day of April, 2011.

“Original signed by Brenda Halloran”
Brenda Halloran, Mayor

“Original signed by Susan Greatrix”
Susan Greatrix, City Clerk
This by-law does not apply to the following items:

1. Training and Education
   - Conferences, conventions, courses and seminars
   - External continuing education fees, workshops and seminars
   - Magazines, books, periodicals and subscriptions
   - Memberships, association fees or dues

2. Refundable Employees' Expenses
   - Advances (Cash)
   - Brokerage fees
   - Meal allowances
   - Permits certificates acquired through Government agencies
   - Taxi fare charges
   - Travel, hotel accommodations expenses

3. City's General Expenses
   - Bank charges
   - Charges to and from other government bodies
   - Collective agreements
   - Damage claims
   - Debenture payments
   - Election expenses
   - Fees and charges payable to the Federal and Provincial Government
   - Insurance premiums
   - Licenses (vehicle, firearms, elevators, communications, etc.)
   - Postage
   - Property Rentals
   - Refunds
   - Tax remittances
   - Wages

4. Professional and Special Services
   - Actuarial expenses
   - Appraisal fees
   - Arbitrator fees
   - Audit fees
   - Committee fees
   - Easements, encroachments and licenses
   - Electronic equipment and ballots for election purposes
   - Employee benefit premium payments
   - Honorariums
   - Insurance claims
   - Investments
   - Leases, such as automobile or equipment leases
   - Legal fees
   - Medical, dental, laboratory and pharmacy fees
   - Mortgage/loan payments
   - Payments to local boards
   - Payroll deduction remittances
• Real estate fees or land transfer taxes
• Real estate transactions, including buying, selling or leasing real property
• Registry office fees
• Research assignments
• Revenue collected on behalf of a third party
• Witness fees

5. Utilities (monthly charges)
   • Cable Television
   • Hydro
   • Natural Gas
   • Telephone (excluding cellular)
   • Water and Sewer

6. Educational institutions

7. Recreation program facilitators or hosts

8. Events supporting local non-profit organizations

9. Entertainers for theatre or special events

10. Expenses related to an event which it is anticipated will be recovered in full from a third party

11. Any purchases relating, either directly or indirectly, to a site plan agreement, a subdivision agreement or any other agreement or requirement that is specified in the Planning Act, R.S.O. 1990, c. P.13, as amended.

For greater certainty, the City Clerk is exempt from this by-law pursuant to the Municipal Elections Act, 1996, S.O. 1996, c. 32, Sched., as amended, in relation to election-related expenses.
32. SCHEDULE “B”

CHART OF BID IRREGULARITIES OR NON-COMPLIANCE

Notes:

I) The following list of irregularities should not be considered exhaustive.

II) This chart of bid irregularities shall apply only where an irregularity exists with respect to a stated requirement of a relevant competitive bid document (e.g. an RFQ, RFT or RFP) or an RFI issued by the City.

III) Where notice of a specified time period to correct an irregularity has been given, and that time period has elapsed without the correction having been made, the bidder shall be deemed to be in default and, where applicable, the bid deposit shall be forfeited. The bid shall be given no further consideration for award.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>IRREGULARITY</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Bidder, at the time of submission, is not registered to carry on business in Ontario</td>
<td>Rejection.</td>
</tr>
<tr>
<td>2.</td>
<td>Late submissions.</td>
<td>Rejection. The submission will not be opened or read publicly. Submission to be returned to bidder. Should it not be clear as to the bidder's name and address then the package will be opened solely to access this information.</td>
</tr>
<tr>
<td>4.</td>
<td>Bidder has not been previously qualified under a related pre-qualification process, where applicable</td>
<td>Rejection.</td>
</tr>
<tr>
<td>5.</td>
<td>Failure to have a representative in attendance and registered at a mandatory attendance site/information meeting</td>
<td>Rejection.</td>
</tr>
<tr>
<td>6.</td>
<td>Submission not completed in a non-erasable medium or signed in ink.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>7.</td>
<td>Failure to include the Form of Tender, Quotation, Proposal or Pre-Qualification, as may be applicable</td>
<td>Rejection.</td>
</tr>
<tr>
<td>8.</td>
<td>Omission of a detail indicated to be mandatory.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>9.</td>
<td>Forms that compose the submission documents are not completed in their entirety.</td>
<td>Rejection unless, in the opinion of the Director of Purchasing, the missing information is minor and would not adversely affect an award decision.</td>
</tr>
<tr>
<td>10.</td>
<td>Conditional bids (bids qualified, based on a bidder's condition or restricted by an appended statement)</td>
<td>Rejection unless, in the opinion of the Director of Purchasing, the qualification or restriction is minor and would not adversely affect an award decision</td>
</tr>
<tr>
<td>11.</td>
<td>Bids containing clerical errors that do not result in any ambiguity with respect to the overall submission or award decision, in the opinion of the Director of Purchasing.</td>
<td>Two (2) business days to correct and initial.</td>
</tr>
<tr>
<td>12.</td>
<td>Un-initialed changes to the submission.</td>
<td>Two (2) business days to initial changes. The City reserves the right to waive the initialing requirement and accept the submission as corrected.</td>
</tr>
<tr>
<td>ITEM</td>
<td>IRREGULARITY</td>
<td>RESPONSE</td>
</tr>
<tr>
<td>------</td>
<td>------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>14.</td>
<td>Failure to include required supplementary copies of the original at time of submission.</td>
<td>Two business days to submit.</td>
</tr>
<tr>
<td>15.</td>
<td>Failure to acknowledge addenda.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>16.</td>
<td>Any irregularity or non-compliance.</td>
<td>Despite the provisions herein contained, Council may waive any irregularity or non-compliance.</td>
</tr>
</tbody>
</table>

**PRICING**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>IRREGULARITY</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>17.</td>
<td>Failure to include the schedule(s) of items &amp; prices, price form or price details, as may be applicable, for inclusion with the submission.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>18.</td>
<td>Pricing appears to be unbalanced to the extent that it may have a significant adverse effect to the City if awarded, in the opinion of the Director of Purchasing.</td>
<td>Rejection.</td>
</tr>
</tbody>
</table>

**BID DEPOSIT**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>IRREGULARITY</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.</td>
<td>Bid deposit or Bid Bond amount is insufficient by more than $1.00.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>21.</td>
<td>Surety provider's or Bidder's authorized signature missing from Bid Bond.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>22.</td>
<td>Effective period of Bid Bond is less than the period set out in the bid documents.</td>
<td>Rejection.</td>
</tr>
</tbody>
</table>

**AGREEMENT TO BOND**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>IRREGULARITY</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.</td>
<td>Agreement to bond amount is insufficient by more than $1.00.</td>
<td>Rejection.</td>
</tr>
<tr>
<td>26.</td>
<td>Surety provider's or bidder's authorized signature missing from agreement to bond.</td>
<td>Rejection.</td>
</tr>
</tbody>
</table>

**POST AWARD NOTIFICATION**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>IRREGULARITY</th>
<th>RESPONSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>27.</td>
<td>Failure to execute required bonding or financial security within the prescribed time period.</td>
<td>Rejection and bid deposit forfeiture.</td>
</tr>
<tr>
<td>28.</td>
<td>Failure to execute a contract within the prescribed period.</td>
<td>Rejection and bid deposit forfeiture.</td>
</tr>
<tr>
<td>29.</td>
<td>Failure to provide supporting documents, as specified within the bid document and within the prescribed period.</td>
<td>Rejection and bid deposit forfeiture.</td>
</tr>
</tbody>
</table>
### Schedule "C"

#### Thresholds of Procurement

<table>
<thead>
<tr>
<th>Monetary Threshold Per Transaction</th>
<th>Procurement Type</th>
<th>Method of Procurement</th>
<th>Advertising</th>
<th>Approval</th>
<th>Method of Purchase</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Up to $20,000</strong>&lt;br&gt;Purchases made by department staff at the discretion of a Director**</td>
<td><strong>Low Cost Purchase (LCP)</strong>&lt;br&gt;or Informal Request for Quotation</td>
<td>Purchase order, petty cash or a purchase card for an LCP.&lt;br&gt;An IRFQ shall be at the discretion of the Director. Competitive bids must be solicited from a minimum three (3) bidders.</td>
<td>Advertising discretionary</td>
<td>A Director may authorize specific individuals to make LCPs or issue an IRFQ in accordance with this by-law.</td>
<td>Purchase order, petty cash, or a purchase card for an LCP or an IRFQ.</td>
</tr>
<tr>
<td><strong>Over $20,000 up to $50,000</strong>&lt;br&gt;Purchases made by department staff at the discretion of a Director, with the approval of the Director of Purchasing</td>
<td><strong>Request for Quotation (RFQ)</strong>&lt;br&gt;or Request for Proposal (RFP)</td>
<td>Competitive bids must be solicited from a minimum three (3) bidders or proponents.</td>
<td>Advertising discretionary</td>
<td>A Director may authorize specific individuals to issue an RFQ or RFP, subject to the approval of the Director of Purchasing.</td>
<td>Purchase order or other written agreement.</td>
</tr>
<tr>
<td><strong>Over $50,000 up to $100,000</strong>&lt;br&gt;Purchase process facilitated by Purchasing Division</td>
<td><strong>Request for Quotation (RFQ)</strong>&lt;br&gt;or Request for Proposal (RFP)</td>
<td>Competitive bid process administered by the Purchasing Division on behalf of the relevant department.</td>
<td>Advertising mandatory</td>
<td>The Director of Purchasing shall issue, review and approve all RFQs and RFPs, with the assistance of staff from the relevant department.</td>
<td>Purchase order or other written agreement.</td>
</tr>
<tr>
<td><strong>Over $100,000</strong>&lt;br&gt;Purchase facilitated by Purchasing Division</td>
<td><strong>Request for Tender (RFT)</strong>&lt;br&gt;or Request for Proposal (RFP)</td>
<td>Competitive bid process administered by the Purchasing Division on behalf of the relevant department.</td>
<td>Advertising mandatory</td>
<td>The Director of Purchasing shall issue, review and approve all RFTs and RFPs, with the assistance of staff from the relevant department.</td>
<td>Purchase order or other written agreement.</td>
</tr>
<tr>
<td>MONETARY THRESHOLD PER TRANSACTION</td>
<td>PROCUREMENT TYPE</td>
<td>METHOD OF PROCUREMENT</td>
<td>ADVERTISING</td>
<td>APPROVAL</td>
<td></td>
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<tr>
<td>REQUEST FOR INFORMATION AND PRE-QUALIFICATIONS</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not Applicable</td>
<td>REQUEST FOR INFORMATION (RFI)</td>
<td>Formal solicitation process administered by the Purchasing Division on behalf of the relevant department.</td>
<td>Advertising mandatory</td>
<td>The Director of Purchasing shall issue, review and approve all RFIs, with the assistance of staff from the relevant department.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>SINGLE OR SOLE SOURCE PURCHASE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any Amount</td>
<td>SINGLE SOURCE or SOLE SOURCE</td>
<td>Purchase to be carried out in accordance with the provisions of this by-law.</td>
<td>Advertising discretionary</td>
<td>Purchase to be carried out in accordance with the provisions of this by-law, which include all contract awards being subject to Council approval.</td>
<td>Purchase order, petty cash, vendor offered charge account, purchase card or other written agreement.</td>
</tr>
<tr>
<td>EMERGENCY PURCHASE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Any Amount</td>
<td>PROCESS IN ACCORDANCE WITH BY-LAW</td>
<td>Purchase to be carried out in accordance with the provisions of this by-law.</td>
<td>Advertising discretionary</td>
<td>The Director of Purchasing shall conduct all emergency purchases.</td>
<td>Any method deemed most expedient by the Director of Purchasing.</td>
</tr>
</tbody>
</table>