

Table of Contents

Part I - Ethical Considerations and Purchasing Goals4
 Ethical Considerations4
 Purchasing Goals..... 4
Part II - Interpretation.....5
 Interpretation.....5
Part III - Application 10
 Application 10
Part IV - Integrity of the Purchasing Process..... 11
 Conflict of Interest..... 11
 Education..... 11
 Dispute Resolution..... 11
 No Discrimination..... 12
Part V - Roles and Responsibilities 12
 Delegates 12
 City Council 12
 CAO..... 13
 CLT Members and Department Heads..... 13
 Employees 14
 Suppliers:..... 14
Part VI - Approval Authorities 15
 Threshold Calculation and Anti-Avoidance 15
 Administrative Approval 15
 Council Approval..... 16
Part VII - Purchasing Planning..... 16
 Specifications..... 16

Information Gathering	17
Prequalification	17
Part VIII - Purchasing Methods.....	18
Determination	18
Petty Cash.....	18
Small Purchase Order.....	18
Purchasing Card	18
Informal Quotation	18
Formal Quotation.....	19
RFT/RFP	20
In-House Submissions	23
Part IX - Special Circumstance Purchases	23
Lease and Financing.....	23
Blanket Contracts	23
Emergency Purchases.....	24
Negotiation	25
Sole Source.....	25
Roster.....	27
Cooperative Purchasing.....	28
Part X - Security, Insurance and Indemnity.....	28
Bid Security	28
Performance Security and Labour and Materials Security	29
Indemnity.....	29
Insurance.....	29
Occupational Health and Safety	30
Part XI - Contracts.....	30

Types of Contracts.....	30
Administrative Authority To Sign Contracts	30
Contract Renewals and Extensions.....	31
Contract Amendments and Revisions	31
Part XII – Supplier and Material Management.....	32
Performance Management.....	32
Supplier Suspension	32
Material.....	33
Part XIII - Disposal of Surplus and Obsolete Goods	33
Identification of Goods	33
Means of Disposal	34
Sale of Surplus Items.....	34
Hazardous Material	34
Part XIV - General Administration of this Bylaw	35
Records and Information.....	35
Reporting Requirements	35
Review of Bylaw	35
Specific Departmental Purchasing Rules.....	35
Procedures	36
Schedules.....	36
Review of Purchasing Files.....	36
Board Use of Bylaw	36
Repeal	36
Effective Date	36
Transition Rules.....	36
Title	37

Part I - Ethical Considerations and Purchasing Goals

Ethical Considerations

1. The City adopts the tenets of:
 - a. the Code of Ethics adapted from the Ontario Public Buyer's Association; and,
 - b. the Ontario Broader Public Sector Supply Chain Code of Ethicsin the performance of its Purchasing function.

Purchasing Goals

2. The City strives to meet and balance the following goals:
 - (a) **Efficiency:** Maintain the flow of goods and services to meet the City's needs over both the short and long term in the most cost effective manner possible.
 - (b) **Quality and Value:** Obtain Best Value for money.
 - (c) **Honesty:** Ensure Purchasing is undertaken with fairness, honesty and integrity, avoiding even the appearance of impropriety.
 - (d) **Openness:** Ensure equal access to Suppliers to opportunities to benefit from the expenditure of tax dollars by the City.
 - (e) **Transparency:** Ensure that Purchasing is undertaken in accordance with policies and procedures that are accessible to and understandable by all.
 - (f) **Accountability:** Maintain accountability through the ongoing exercise of openness and transparency.
 - (g) **Improvement:** Create an environment of continuous improvement by reducing costs, improving quality and stimulating innovation.
 - (h) **Environmental Responsibility:** Encourage the procurement of "green" goods wherever possible within the context of Best Value.

Part II - Interpretation

Definitions

3. In this Bylaw, the following words will have the following meanings:

“Award”:	When a Submission is formally accepted by the City, either by Council or by delegated authority as permitted in this Bylaw.
“Best Value”	Approach that aims to deliver products and services with a lower Total Life Cycle Cost while maintaining a high standard (optimal balance of performance and cost).
“Bid Documents”	City documents used in connection with a Purchasing process including but not limited to RFTs, RFPs and RFQs.
“Bid Security”	Security to ensure that the successful Supplier on a Solicitation enters into a Contract with the City.
“Blanket Contract”	A form of Contract requiring a Supplier to supply Deliverables on an “as required” basis under prearranged terms and conditions, including pricing, over the term of the Contract.
“Board”	An entity independent of the City, but recognized by Council as an agency which may take advantage of the City’s purchasing power or process, in accordance with this Bylaw. Without limiting the generality of the foregoing, the Windsor Police Services Board shall be considered a “Board”.
“Chief Administrative Officer/CAO”	The City’s chief administrative officer.
“City”	The Corporation of the City of Windsor.
“City Solicitor”	The City’s city solicitor; or, his or her Designate. (Deleted and Replaced B/L 139-2022 September 26, 2022)
“City Website”	The City’s website at http://www.citywindsor.ca .
“Closing Date”	The place, date and time set by the Bid Documents for receipt of Responses
“CLT Member”	A member of the City’s Leadership Team reporting directly to the CAO.

“Conflict of Interest”	A situation in which the personal interests of Employees, City-engaged Consultants or Suppliers, as the case may be, come into conflict or appear to come into conflict with the interests of the City.
“Consulting Services”	The supply of expertise or strategic advice that is presented for consideration and decision-making, or the guidance of execution of a specific project or undertaking and includes professional services such as engineering and architecture.
“Construction”	Construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, the supply of products and materials, the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures of a building, structure or other work, but does not include Consulting Services related to the Construction unless they are specifically included in the Purchase.
“Contract”	A document to evidence an agreement for the purchase of Deliverables, and includes both a Purchase Order and a Formal Agreement.
“Council”	City Council.
“Deliverable”	The Good, Service or Construction being purchased.
“Department”	An area of operation of the City as defined by its organizational charts.
“Department Head”	The designated lead of a City Department responsible for direction and operation of a Department.
“Designate”	An individual duly appointed to act on behalf of the authorized authority.
“Designated Official”	The head of the administrative function of any Board.
“Disposal”	The transfer of ownership of Property by the City by sale, trade in, donation, alternative use or destruction.
“Emergency”	Has the meaning given in section 105.
“Employee”	An employee of the City.

“Evaluation Team”	Individuals designated to evaluate Responses and make Award recommendations in accordance with this Bylaw.
“Fair Market Value”	The price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length, fully informed and under no compulsion to transact.
“Formal Agreement”	A written Contract for the purchase of a Deliverable, executed by the City and the Supplier.
“Formal Quotation”	Means a form of RFQ as described in sections 70 to 76. (Added B/L 139-2022 September 26, 2022)
“Goods”	Any moveable property, including the costs of installing, maintaining or manufacturing such moveable property, including raw materials, products, equipment and other physical objects of every kind and description, whether in solid, liquid, gaseous or electronic form, unless they are purchased in connection with Construction.
“Informal Quotation”	Means a form of RFQ as described in sections 62 to 69. (Added B/L 139-2022 September 26, 2022)
“Purchasing Manager”	The City’s purchasing manager; or, his or her Designate. (Deleted and Replaced B/L 139-2022 September 26, 2022)
“Mayor”	The City’s Mayor.
“Prequalification”	A request for supplier qualification or RFSQ, a process used to gather information on supplier capabilities and qualifications with the intent of creating a list of prequalified suppliers for subsequent participation in an invitational RFT or RFP.
“Professional Services”	Means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of Ontario, for the design, administration, and/or inspection of road rehabilitation and infrastructure. (Added B/L 139-2022 September 26, 2022)
“Property”	Includes furniture, vehicles, equipment and stock.
“Purchase”	The acquisition of Deliverables by any means, including rental and leasing, and the functions that pertain to the acquisition of Deliverables, and “Purchasing” shall have a corresponding meaning.
“Purchasing Card”	A card issued in accordance with the City’s Purchasing card

Policies and Procedures for the purchase of Deliverables.

- “Purchasing Department”** The division of the Office of the City Solicitor charged with carrying out the Purchasing function.
- “Purchase Order/PO”** A standard Contract issued by the City to a Supplier to evidence an agreement for the purchase of Deliverables.
- “Purchase Price”** The amount payable by the City for a Deliverable pursuant to a Contract.
- “Response”** A response to a Solicitation.
- “RFEI”** A request for expression of interest, a process used to gather information on Supplier interest in an opportunity, or information on Supplier capabilities and qualifications. An RFEI does not create a binding relationship between the City and any Supplier.
- “RFI”** A request for information, a process used to research which products and services are available, scope out business requirements, and/or estimate project cost. An RFI does not create a binding relationship between the City and any Supplier.
- “RFP”** A request for proposal, a process in which a need is identified, but the method by which it will be achieved is not necessarily prescribed at the outset and price is not the only evaluation criterion.
- “RFQ”** Request for quotations, including Formal Quotations and Informal Quotations, but not including RFPs or RFTs.
(Deleted and Replaced B/L 139-2022 September 26, 2022)
- “RFT”** Request for tender, a process to request supplier responses to supply Deliverables in compliance with stated requirements, performance specifications and terms and conditions and evaluation is made solely on price.
- “Roster List”** List of Suppliers who will be permitted to participate in certain non-competitive Contracts anticipated to be required on a regular basis in the future.
- “Services”** Intangible products not having a physical presence.
- “Small Purchase Order”** A Contract used for the purchase of Deliverables up to \$15,000.
(Deleted and Replaced B/L 139-2022 September 26, 2022)

“Sole Source”	The Purchase of Deliverables by non-competitive means for the reasons described in section 111 which comply with the Purchasing By Law, Trade Agreements, provincial legislation and requires consultation and approval by the Purchasing Manager. (Deleted and Replaced B/L 146-18 October 15, 2018)
“Solicitation”	Informal Quotation, Formal Quotation, RFT, RFP, RFI, RFEI issued by the City (Deleted and Replaced B/L 139-2022 September 26, 2022)
“Specifications”	Description of the physical or functional characteristics or the nature of a supply, service, equipment or construction item and may include requirements for inspection, testing, or preparing a Deliverable, and may also include drawings or samples or other means of illustrating the requirements.
“Supplier”	A person, corporation or other entity that responds or intends to respond to a Solicitation or provides Deliverables to the City including but not limited to contractors, consultants, suppliers, service organizations.
“Total Life Cycle Cost”	An estimate or calculation that consider all direct and indirect costs of a Deliverable over its useful life, from acquisition to disposal including Contract Prices, implementation costs, upgrades, carrying costs, maintenance contracts, support contracts, licence fees and disposal costs.
“Trade Agreements”	Chapter Five to the Canadian Free Trade Agreement as amended or superseded from time to time. (Deleted and Replaced B/L 146-18 October 15, 2018)

Interpretation

4. Unless the context requires otherwise, use of the singular also implies the plural, and vice versa.
5. Whenever the words “include”, “includes” or “including” or other similar terms are used in this Bylaw, they are deemed to be followed by the words “without limitation.”
6. Any reference in this Bylaw to any statute or any section of a statute shall, unless expressly stated, be deemed to be reference to the statute as amended, restated or re- enacted from time to time. Any reference to a Bylaw or City policy shall be deemed to be a reference to the most current state of the Bylaw or City policy and any replacement Bylaw or policy.
7. All dollar amounts are expressed in this Bylaw are in Canadian dollars.

8. Any reference to a day refers to a calendar day.
9. Any headings in this Bylaw are non-binding and are intended for explanatory purposes only and are not to be considered or taken into account in construing or interpreting this Bylaw.
10. All solicitations and processes under this Bylaw shall be conducted in English.

Part III - Application

Application

11. This Bylaw applies to all Purchasing activities carried out by the City and any Board using this Bylaw with the exception of:
 - a. those Purchasing activities set out in Schedule A;
 - b. the Purchase or Disposal of Deliverables where the laws of Ontario or Canada require the Purchase or Disposal to be carried out in some manner other than by this Bylaw; and,
 - c. a circumstance in which Council directs by Council Resolution that the Purchase or Disposal of Deliverables shall be carried out in some manner other than by this Bylaw.
12. A Council Resolution adopted by Council under Section 11(c):
 - a. shall be a matter of public record;
 - b. shall be made in response to a written administrative report describing the nature of the Purchase, and including advice and recommendations from both the City Solicitor and the Purchasing Manager; **(Deleted and Replaced B/L 145-2014 August 25, 2014)**
 - c. shall state that Council is satisfied that it is necessary in the public interest that the Purchase or Disposal be carried out in otherwise than in accordance with this Bylaw and shall give the reason or reasons for so concluding; and,
 - d. need not identify the nature of the goods or service to be Purchased or Disposed of.
13. Before adopting a Council Resolution under Section 11(c), Council shall afford the City Solicitor and Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** an opportunity to be heard and to provide oral advice concerning the proposed Council Resolution.

14. Unsolicited offers are to be reviewed by the Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) and the relevant Department Head. Any Purchase resulting from an unsolicited Supplier offer must comply with this Bylaw.

Part IV - Integrity of the Purchasing Process

Conflict of Interest

15. All City Employees are subject to the City's Code of Ethics and Conflict of Interest Policy and shall disclose all conflicts of interest as required by the policy and shall take adequate steps to address any actual or perceived conflicts of interest.
16. No Employee or member of Council shall knowingly cause or permit anything to be done or communicated to anyone that is likely to cause any Supplier to have an unfair advantage or disadvantage in any Purchasing opportunity.
 - 16.1 Any City Employee who becomes aware of an actual or perceived Conflict of Interest, where the conflict could directly affect a material term of the potential Contract, and whose daily work would allow them to have any impact on the preparation of the Specifications, the procurement process, or management of the potential Contract, shall immediately refer each and every actual or perceived Conflict of Interest to the City Solicitor for written direction and rationale. Any city Employee who may have an ongoing actual or perceived Conflict of Interest, which would generally not have any impact on the procurement process or the potential Contract, shall disclose the actual or perceived Conflict of Interest to the City Solicitor only once, unless circumstances change. (**Deleted and Replaced B/L 146-18 October 15, 2018**)

Education

17. All City Employees granted Purchasing authority under this Bylaw shall attend training on the proper use and interpretation of the Bylaw.

Dispute Resolution

18. The following dispute resolution process shall be available to Suppliers who:
 - a. dispute the fairness of a Purchasing process;
 - b. dispute an Award or results of a Prequalification; or,
 - c. dispute the fairness of an evaluation of Contract performance.
19. Within sixty (60) days of Award or other circumstance giving rise to the dispute, the Supplier shall provide a written request for a meeting with the Purchasing Manager

(Deleted and Replaced B/L 145-2014 August 25, 2014) detailing the legal and factual grounds underlying the dispute and the desired outcome and including any relevant documents.

20. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** shall convene a meeting with the Supplier within twenty (20) days of receipt of the request. The meeting may be conducted in writing, in person or by teleconference.
21. If the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** is satisfied that action should be taken, he or she will prepare a report to the City Solicitor advising that such action be taken.
22. If the Supplier is unsatisfied with the outcome of the meeting, the Supplier may provide a written request for a meeting with the City Solicitor detailing the legal and factual grounds underlying the claim and the desired outcome and including any relevant documents.
23. The City Solicitor shall convene a meeting with the Supplier within twenty (20) days of receipt of the request. The meeting may be conducted in writing, in person or by teleconference.

No Discrimination

24. The *Discriminatory Business Practices Act* and the Trade Agreements forbid the granting of a preference to a local Supplier as a form of discrimination, therefore in compliance with the law and the Trade Agreements:
 - a. The City shall not discriminate between the Deliverables of a particular province, city or geographic region and the Deliverables of another province, city or geographic region.
 - b. The City shall not discriminate between the Suppliers of a particular province, city or geographic region and the Suppliers of another province, city or geographic region.

Part V - Roles and Responsibilities

Delegates

25. Where any person is authorized to undertake any act under this Bylaw, such act may also be undertaken by a person properly designated by the authorized person.

City Council

26. City Council shall:

- a. establish the City's Purchasing policy through this Bylaw;
- b. monitor compliance with this Bylaw; and,
- c. prioritize the City's purchasing needs.

CAO

27. The CAO shall:
- a. impose restrictions on Purchasing activities from time to time where he or she considers necessary and in the best interests of the City;
 - b. ensure the implementation of the policies established in this Bylaw; and,
 - c. support Council in satisfying Council's role.

CLT Members and Department Heads

28. CLT Members and Department Heads shall:
- a. oversee all Purchasing activities in their areas of responsibility and be accountable for the Purchasing activities of the Employees under their supervision;
 - b. achieve Best Value while observing the requirements of this Bylaw;
 - c. identify single and multi-functional projects in budget submissions to ensure the correct dollar thresholds and Purchasing processes are used; and,
 - d. require those Employees under their supervision having Purchasing authority to complete Purchasing Bylaw training.

Purchasing Manager

29. The Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) shall:
- e. act as the legal purchasing agent for the City of Windsor under the direction of the City Solicitor;
 - f. provide professional purchasing advice to Departments;
 - g. monitor adherence to this Bylaw;
 - h. interpret and apply this Bylaw to all Purchasing activities and exercise discretion as prescribed where alternative courses of action are permitted;
 - i. notify Department Heads of non-compliance with this bylaw;
 - j. notify Council of non-compliance with this bylaw if the non-compliance cannot be

rectified;

- k. provide ongoing training and education regarding this Bylaw;
- l. ensure conduct of Purchasing activities in an efficient and timely manner;
- m. dispose of surplus or obsolete material and equipment in accordance with this Bylaw;
- n. purchase all goods and services for the City or for any Board as required under the authority of Council and in compliance with this Bylaw; and,
- o. establish all necessary procedures, forms, methods and documents to carry out the objectives of this bylaw

Employees

- 30. Employees shall :
 - a. comply with the provisions of this Bylaw in the performance of their duties; and,
 - b. attend Purchasing Bylaw training as required.
- 31. All Employees given authority to Purchase Deliverables under this Bylaw are accountable and responsible to ensure that proper budgets exist within their Departments and that Purchases do not violate any City, legal, or other statutory policy, including Trade Agreements, and will be held accountable for their decisions and actions.

Suppliers:

- 32. Suppliers:
 - a. shall be required to disclose any and all Conflicts of Interest to the City prior to or contemporaneously with making a Response;
 - b. shall not engage in any form of bid rigging or collusion of any nature; and,
 - c. shall be forbidden to engage in any conduct which is or could reasonably be construed as any form of political or other lobbying, or as an attempt to influence the outcome of any Purchasing process during the currency of any process prior to an Award.
- 33. Failure by a Supplier to adhere to the standards established in section 32 may result in disqualification from participating in City Purchasing opportunities, in the discretion of the CAO.
- 34. Suppliers wishing to present product or other information to the City outside of a specific

Purchasing process must do so through the Purchasing Department. **(Deleted and Replaced B/L 146-18 October 15, 2018)**

Part VI - Approval Authorities

Threshold Calculation and Anti-Avoidance

35. In calculating the Purchase Price for the purposes of determining the necessary approvals and procedures, all taxes and duties shall be excluded. In the case of multi- year Contracts, the Purchase Price will be the estimated annual expenditure under the Contract.
36. No action shall be taken to subdivide Purchases in order to reduce the estimated Contract Price or to otherwise avoid or circumvent the application of any of the provisions of this Bylaw.

Administrative Approval

37. The CAO may **(Deleted and Replaced B/L 139-2022 September 26, 2022)**:
 - a. approve a requisition and make an Award of up to \$150,000, provided the funds have been included in the Council-approved operating or capital budget;
 - b. approve a requisition and make an Award of an RFT of any dollar value provided the funds have been included in the Council-approved operating or capital budget, and the RFT Response does not exceed that approved budget;
 - c. delegate his or her authority in this section to any Employee;
 - d. approve a requisition and make an Award of a Sole Source purchase of Deliverables with a Purchase Price in excess of \$100,000 provided the funds have been included in the Council-approved operating or capital budget, and the Sole Source purchase Response does not exceed that approved budget; and
 - e. approve a requisition and make an Award of an RFP for Professional Services of any dollar value provided the funds have been included in the Council-approved operating or capital budget, and the RFP Response does not exceed that approved budget.
38. CLT Members and Department Heads may approve a requisition and make an Award of up to \$100,000 provided the funds have been included in the Council-approved operating or capital budget. Delegation of this authority to any Employee requires the prior written approval of the CAO.
39. Where no funds exist within the Council-approved operating or capital budgets, Council approval is required prior to the initiation of the Purchase of a Deliverable.

40. The Purchasing Manager (**Deleted and Replaced B/L 139-2022 September 26, 2022**) shall maintain a list of Employees to whom the CAO, CLT Members, or Department Heads have delegated Purchasing authority in accordance with sections 37 and 38 and shall provide this list to the CAO at the beginning of each calendar year.

Council Approval

41. City Council must approve the purchase of any Deliverables where:
 - a. the Purchase Price is greater than \$150,000 and the CAO does not otherwise have authority to approve the purchase under section 37; (**Deleted and Replaced B/L 145-2014 August 25, 2014**)
 - b. the lowest compliant Response exceeds the approved budget, including any contingency allowance;
 - c. federal or provincial government or any other body having jurisdiction requires Council approval for a Purchase or Contract;
 - d. the Contract includes financing terms (see CS.A3.03);
 - e. Council requires that it approve the purchase; or,
 - f. any other instance in which the Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) and the City Solicitor acting together or the CAO feels it would be in the best interests of the City to do so.
42. In the event of a conflict, the sections in this Part supersede any other provision in this Bylaw

Part VII - Purchasing Planning

Specifications

43. Departments are responsible to provide all Specifications necessary for a Solicitation and are responsible for the accuracy and suitability of those Specifications.
44. The Purchasing Department may review and recommend improvements or clarifications to Specifications when, in the opinion of the Purchasing Manager, it is necessary to meet the objectives of the Solicitation.
45. Specifications shall be a clear description of the requirements to be met in the Contract and should not be brand-specific if possible.
46. If Specifications are developed by an external Consultant, the external Consultant is not permitted to submit a Response in the Solicitation for which the Specifications were

prepared.

47. In order to contribute to waste reduction and to increase the development and awareness of environmentally sound purchasing, acquisition of Deliverables will ensure that wherever possible, Specifications provide for expanded use of durable products, reusable products, and products (including those used in Services) that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the Deliverable and providing that a cost analysis supports that these products are made available at competitive prices.

Information Gathering

48. If the scope or nature of the Deliverable to be purchased is unclear, an RFI shall be used to gather information from the marketplace on the availability of goods and services.
49. If the level of Supplier interest in supplying a Deliverable is unclear, an RFEI shall be used to gather information from the marketplace on Supplier interest.
50. A Response to an RFI or an RFEI shall not be used as a Prequalification and shall have no influence on a Supplier's chances of Award on a subsequent Solicitation.

Prequalification

51. A Prequalification may be used where:
 - a. It is desirable to create a list of Suppliers to use for one or more future Purchases;
 - b. the qualifications of the Supplier are paramount having regard to the complexity, cost, potential *Occupational Health and Safety Act* risk, or to specialized equipment, material or financing requirements; or,
 - c. the standard of performance of the Deliverables has been established
52. The Prequalification shall include:
 - a. a description of the Deliverable affected by the Prequalification;
 - b. duration of validity of the Prequalification;
 - c. a statement that only Prequalified Suppliers will be permitted to participate in the Solicitation; and,
 - d. a provision that the City is in no way obligated to call on a Supplier as a result of the Prequalification to supply the Deliverable referenced in the Prequalification
53. Where a Prequalification is established for a Solicitation, only prequalified Suppliers may participate in the Solicitation.

Part VIII - Purchasing Methods

Determination

54. Purchasing methods are determined based on the threshold calculation rules at section 34. Purchasing methods cannot be combined. Solicitations can be conducted in an electronic format, at the sole discretion of the Purchasing Manager. **(Deleted and Replaced B/L 145-2014 August 25, 2014)**

Petty Cash

55. Departments have the authority to use petty cash for Purchases up to \$200.
56. Use of petty cash must be in compliance with the Petty Cash Procedure, as amended from time to time. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**
57. No formal Purchasing process is required for petty cash Purchases.

Small Purchase Order

58. Departments have the authority to use Small Purchase Orders for Purchases up to \$15,000. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**
59. No formal Purchasing process is required for Small Purchase Order Purchases.

Purchasing Card

60. Authorized Employees have the authority to use Purchasing Cards for Purchases up to the transaction limit established for the Purchasing Card.
61. Use of Purchasing Cards must be in compliance with the City of Windsor Purchasing Card Policies and Procedures as amended from time to time.

Informal Quotation

62. Departments have the authority to solicit quotations for Deliverables without the direct involvement of the Purchasing Department when all of the following apply:
 - a. total dollar amount greater than \$15,000 but not exceeding \$50,000 **(Deleted and Replaced B/L 139-2022 September 26, 2022)**;
 - b. clearly defined Specification; and,
 - c. no Blanket Contract exists for the Deliverables.

63. Only those Suppliers invited to give quotations will receive notice.
64. At least three quotations must be solicited. If three Responses are not received, the Purchasing Department will assist the Department in obtaining the quotations. If the Purchasing Department is unable to obtain three quotations, the Purchasing Manager may waive this provision, in his or her discretion.
65. Quotations may be given by any written means of communication, including facsimile and email.
66. Each Supplier shall:
 - a. only be permitted to submit one quotation; and,
 - b. not be permitted to change its quotation or negotiate after submitting its quotation unless the criteria and any limitations are included in the Bid Documents. **(Deleted and Replaced B/L 146-18 October 15, 2018)**
67. The Purchasing Department shall have the authority to solicit additional quotations if it is in the best interests of the City to do so.
68. The Supplier submitting the most favourable compliant Response will be awarded a Contract for the Deliverables.
69. The Purchasing Department shall receive all records of Supplier Responses from the requisitioning department prior to issuing a Purchase Order for the Deliverables.

Formal Quotation

70. The Purchasing Department has the authority to solicit formal quotations for Deliverables when all of the following apply:
 - a. total dollar amount greater than \$50,000 but not exceeding \$100,000 **(Deleted and Replaced B/L 139-2022 September 26, 2022)**;
 - b. clearly defined Specifications; and,
 - c. no Blanket Contract exists for the Deliverables.
71. Only those Suppliers invited to give quotations will receive notice.
72. Suppliers shall be informed as to the Specifications, Response requirements, including place, date and time for making Responses and information that could influence a Supplier's decision to provide a Response or influence Supplier pricing.
73. Response requirements shall provide that Suppliers:
 - a. only be permitted to submit one written quotation;

- b. not be permitted to change their written quotations or negotiate after making a submission unless the criteria and any limitations are included in the Bid Documents; and **(Deleted and Replaced B/L 146-18 October 15, 2018)**
 - c. be required to reflect the Specifications in their Response.
74. The Supplier submitting the most favourable compliant Response will be Awarded a Contract for the Deliverables.
75. A Contract will be issued for the Deliverables.
76. The Purchasing Manager has the discretion to require an RFT or an RFP be conducted for Deliverables even if the estimated Purchase Price is less than \$100,000. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**

RFT/RFP

77. An RFT shall be issued when all of the following apply:
- a. two or more sources are considered capable of supplying the Deliverable;
 - b. the estimated Contract Price is \$100,000 or greater **(Deleted and Replaced B/L 139-2022 September 26, 2022)**;
 - c. a Blanket Contract does not exist;
 - d. clearly defined Specifications; and,
 - e. Purchase Price is the sole criterion for Award.
78. If a cost-sharing agreement is in place for a Construction project of which the City is not the owner, an RFT must be issued if the amount of the City's share exceeds the greater of 10% of the cost-sharing agreement value or \$100,000. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**
79. An RFP shall be issued when all of the following apply:
- a. two or more sources are considered capable of supplying the Deliverable;
 - b. the estimated Contract Price is \$100,000 or greater **(Deleted and Replaced B/L 139-2022 September 26, 2022)**;
 - c. a Blanket Contract does not exist;
 - d. the City's need is identified, but the means of accomplishing it is not identified and may be comprised of many variables; and,
 - e. Purchase Price is not the sole criterion for Award.

80. Notice of RFT/RFP shall be given to the Supplier at least fifteen (15) days prior to the Closing Date.
81. Notice shall be given: **(Deleted and Replaced B/L 146-18 October 15, 2018)**
 - a. on the City's Website;
 - b. in any publication or forum deemed relevant by the Department Head and Purchasing Manager as long as forum is equally accessible to all Canadian Suppliers.
82. In the case of Construction with a value of \$100,000 or more, notice shall be published on the City Website and on an electronic tendering system that is equally accessible to all Canadian Suppliers and a copy of the Bid Documents may be provided to the Windsor Construction Association at no cost. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**
83. In the case of Construction with a value of \$250,000 or more, and non-Construction with a value of \$100,000 or more, notice shall be given through MERX or another electronic tendering system equally accessible to all Canadian Suppliers.
84. Every RFT/RFP shall set out:
 - a. the manner in which communications are handled during the RFT/RFP;
 - b. Response requirements, including time, date and location of closing;
 - c. any information that could influence a Supplier's decision to submit a Response, or could influence Purchase Price;
 - d. the manner in which the Response is to be evaluated, including a listing of mandatory requirements and any rating criteria;
 - e. required Contract terms, including provisions for any extension or renewal options;
 - f. time, date and location of public opening, if any; and,
 - g. that Responses may be withdrawn upon the submission of written instructions to do so submitted prior to the Closing Date.
85. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** has the discretion to set fees for the purchase of Specifications for RFT/RFP, the means of distribution of the RFP/RFT, and the registration of Suppliers as registered bidders.
86. Suppliers shall be required to register with the Purchasing Department by acquiring Specifications, paying any applicable fee authorized under Section 85, and providing any required information. The Purchasing Manager **(Deleted and Replaced B/L 145-2014**

August 25, 2014) has the discretion to reject the Response of any Supplier who has not registered with the Purchasing Department.

87. During the currency of an RFP/RFT:
 - a. except at a meeting to which Suppliers have been invited, no oral questions will be taken and no oral answers will be given; and,
 - b. all Supplier questions will be asked in writing, and any response given will be given in writing to all Suppliers participating in the RFP/RFT; and,
 - c. communication by Suppliers and potential Suppliers with the City shall be through the Purchasing Department only, in the manner directed in the RFP/RFT document.
88. The Closing Date for all RFP/RFT shall be set for a weekday, excluding provincial and national holidays.
89. Only Responses meeting the requirements set out in the RFP/RFT shall be opened. Any Response not meeting the Submission requirements shall be returned unopened to the Supplier. If multiple Responses are received from a Supplier, the last Response made before the Closing Date supersedes all prior Responses, except in the case of an RFP in which alternate Responses are permitted.
90. RFTs shall be opened at a public meeting as specified in the RFT. Supplier names and total tendered prices shall be read, along with such other information as may be required by any Purchasing procedure in place pursuant to this Bylaw.
91. RFPs shall be opened in private at a meeting of the Evaluation Team.
92. Evaluation of Responses shall be in accordance with the terms of the RFP/RFT. Any Response disqualified during the evaluation process shall not be further evaluated or considered.
93. Irregularities in Responses shall be addressed in accordance with Schedule B to this Bylaw.
94. If two equal Responses are received, any process described in the Bid Documents shall be followed to end the tie. If no process is prescribed in the Bid Documents to address equal Responses, or if the process fails to end the tie, the Department Head and the Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) may, in his or her discretion, re-evaluate the Responses in accordance with their terms to attempt to end the tie, or select a successful Supplier through a coin toss or drawing of lots performed by the City in the presence of the tied Suppliers.
95. RFPs/RFTs may be cancelled by the Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) at the request of a Department Head requiring the Purchase at any time until Award if:

- a. adequate budget is not available; or,
 - b. the Deliverable is no longer required; or,
 - c. only one Response was received; or,
 - d. the Purchasing process was or may have been compromised.
96. Notice of Contract Award shall be published on the City's Website.
97. Debriefing is available to Suppliers participating in an RFT/RFP upon written request to the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**. The debriefing shall be conducted in accordance with any procedure in place pursuant to this Bylaw.

In-House Submissions

98. Where a Purchase of a Deliverable is considered and it is in the best interests of the City to permit City Employees to compete for the opportunity to supply the Deliverable as part of their employment with the City, in recognition of the fact that City Employees in the course of their employment cannot comply with Security, insurance and certain other Purchasing requirements, the Bid Documents shall contain provisions providing that the decision whether or not to Award a contract shall rest solely with Council.
99. City Employees shall be entitled to appear as delegations to Council to present financial, service, staffing and any other relevant information to Council when Council deliberates whether or not to Award a Contract to a Supplier or, in the alternative, to seek an internal source for the Deliverables.

Part IX - Special Circumstance Purchases

Lease and Financing

100. The acquisition of any Goods through the use of a lease shall comply with the City's Corporate Leasing Policy CS.A3.03 (as amended from time to time) and no Purchasing process shall be initiated until all necessary approvals are received under that policy. **(Deleted and Replaced B/L 146-18 October 15, 2018)**

Blanket Contracts

101. Where a Blanket Contract exists for Deliverables to be purchased, those Deliverables must be purchased under the Blanket Contract.

102. Blanket Contracts can be established by the Purchasing Department when all of the

following criteria are met one or more Departments repetitively orders the same Deliverables or range of Deliverables and the actual demand (including quantity, delivery date, and delivery point) is not known in advance;

- a. the Deliverables are readily available to be ordered (“called up”) as and when the requirement arises; and,
 - b. prearranged prices or a prearranged pricing basis can be established at the outset and there is no need or intention to negotiate them at call-up.
103. Blanket Contracts shall be established by the competitive Purchasing method prescribed by the estimated annual value of the Blanket Contract.
104. The Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) shall maintain a list detailing Blanket Contracts and the associated Deliverables, Suppliers and pricing.

Emergency Purchases

105. An “Emergency” is defined as:
- a. an imminent or actual danger to the life, health or safety of an official, the public, or an Employee while acting on the City’s behalf;
 - b. an imminent or actual danger of injury to or destruction of property belonging to the City or to property owned by a third party to whom the City would be liable;
 - c. an unforeseen interruption or threat of an interruption of an essential public service;
 - d. an emergency as defined by the *Emergency Management Act* and the Emergency Response Plan formulated by the City;
 - e. a spill of a pollutant as contemplated by the *Environmental Protection Act*.
106. In the event of an Emergency requiring the Purchase of Goods or Services to alleviate the Emergency, goods and services may be purchased by the most economical and expedient means, notwithstanding this Bylaw, as follows: (**Deleted and Replaced B/L 146- 18 October 15, 2018**)
- a. Under \$100,000: Department Heads have the authority to approve Emergency Purchases under \$100,000. All approval requirements should be in writing.
 - b. Between \$100,000 and \$150,000: On the recommendation of the Department Head, a CLT Member has the authority to approve Emergency Purchases between \$100,000 and \$150,000. All approval requirements should be in writing.

- c. \$150,000 and above: On the recommendation of the Department Head, the CAO has the authority to approve Emergency Purchases of \$150,000 and above. All approval requirements should be in writing.
107. As soon as reasonably possible following the Emergency Purchase, the responsible Department Head shall submit an Emergency Purchase report in the prescribed form to the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** and an information report to the CAO describing the circumstances of the Emergency.
108. If the Emergency Purchase is \$150,000 or more, the responsible Department Head shall bring an information report to Council at the next available meeting. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**

Negotiation

109. Unless permitted by the Bid Documents, no negotiation shall be permitted within a Solicitation.
110. Deliverables may be acquired through negotiation if previously approved by the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** based on one of the following circumstances:
- a. Goods being purchased by sole source under section 111;
 - b. Only one bid is received on a Solicitation;
 - c. Where the lowest compliant Bid exceeds the available budget and it is impractical to recall the Solicitation;
 - d. No compliant bids are received on a Solicitation and it is impractical to recall the Solicitation; or,
 - e. Goods or services are required in response to an Emergency as defined by this Bylaw.

Sole Source

111. A non-competitive direct Award of Contract may be used to purchase Deliverables with the prior approval of the Purchasing Manager under the following circumstances: **(Deleted and Replaced B/L 139-2022 September 26, 2022)**
- a. Where there is no Response to a competitive process;
 - b. No Responses that conform to the essential requirements of the Bid Documents were submitted;
 - c. No Suppliers satisfied the conditions for participation;

- d. If the Goods or Services can be supplied only by a particular Supplier and no reasonable or alternative or substitute Goods or Services exist for any of the following reasons:
 - i. The requirement is for a work of art;
 - ii. The protection of patents, copyrights, or other exclusive rights;
 - iii. Due to an absence of competition for technical reasons;
 - iv. The supply of Goods and Services is controlled by a Supplier that is a statutory monopoly;
 - v. To ensure compatibility with existing Goods, or to maintain specialized Goods that must be maintained by the manufacturer of those Goods or its representative;
 - vi. Work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work; or
 - vii. Work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor;
- e. For additional Deliverables by the original Supplier of Goods or Services that were not included in the initial procurement, if a change of Supplier for such additional Goods or Services:
 - i. Cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement; and
 - ii. Would cause significant inconvenience or substantial duplication of costs for the City;
- f. When an unforeseeable event(s) occurs, Goods or Services are immediately necessary, and the Goods or Services cannot be obtained in time using a competitive procurement process **(Deleted and Replaced B/L 139-2022 September 26, 2022)**;
- g. For Deliverables purchased on a commodity market;
- h. If the City procures a prototype or a first Good or Service that is developed in the course of, and for, a particular Contract for research, experiment, study, or original development. Original development of a first Good or Service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the Good or Service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity

production or supply to establish commercial viability or to recover research and development costs;

- i. For purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine Purchases from regular Suppliers;
- j. If a Contract is Awarded to a winner of a design contest provided that:
 - i. The contest has been organized in a manner that is consistent with the principles of this By-Law; and
 - ii. The participants are judged by an independent jury with a view to a design Contract being awarded to a winner;
- k. Where Deliverables are in short supply due to market conditions, including geographic limitations;
- l. To Purchase an item directly for resale;
- m. To exercise a purchase option under a rental contract;
- n. To Purchase Goods offered for sale by auction or tender, provided the CAO authorizes the submission of a bid;
- o. Where a competitive method of Purchasing could interfere with the City's ability to maintain security or order, or to protect human, animal or plant life;
- p. Where Deliverables relating to matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process or competitive procurement process could reasonably be expected to compromise confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.

112. Sole source purchases of Deliverables with a purchase price in excess of \$100,000 or pursuant to a funding agreement must comply with the Trade Agreements and provincial legislation and require consultation with the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**

Roster

113. Where a Roster List exists for the Deliverable(s) sought to be purchased, Purchasing from such Roster List shall be permitted (but not required) if the Purchase Price is less than \$100,000 **(Deleted and Replaced B/L 139-2022 September 26, 2022)**

114. Roster Lists shall be developed only when it is determined that a Roster List would

assist the City in the formation of strategic relationships to better serve the City's Purchasing needs. The CAO has the authority to require the establishment of a Roster List. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**

115. Roster Lists shall only be valid for a specific period of time as specified in the Bid Documents and thereafter cannot be used unless updated by a new Solicitation. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**

116. Roster List Awards shall be made at the discretion of the responsible CLT Member based on an equitable distribution of Awards to the Suppliers on the relevant Roster List and provided that an acceptable Contract can be negotiated with the Supplier.

117. Roster List Awards shall be evidenced by a Formal Agreement.

Cooperative Purchasing

118. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** is authorized to enter into arrangements with area municipalities, local boards and other public bodies or authorities for the purchase of Deliverables on a cooperative or joint basis where there are economic advantages to doing so; provided that under any such approved arrangement the methods utilised are competitive and adequate arrangements have been made for the provision of all necessary support required by the Purchasing method chosen.

Part X - Security, Insurance and Indemnity

Bid Security

119. The City reserves the right to require Bid Security in the form of any one or more of the following:

- a. financial bonds issued by a bonding company approved to transact business in Ontario;
- b. certified cheques, bank draft or money order drawn on any bank named in Schedule I or II to the *Bank Act* (Canada), any trust or loan company registered under the *Loan and Trust Company Act* (Ontario), the Province of Ontario Savings office, or a credit union as defined in the *Credit Unions and Caisses Populaires Act* (Ontario);
- c. an Irrevocable letter of credit naming the City as beneficiary.

all satisfactory in form to the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**.

Performance Security and Labour and Materials Security

120. Performance security and labour and material payment security are required for all Construction Purchases over \$150,000.
121. The Purchasing Manager in consultation with the City Solicitor may require performance security for non-Construction projects over \$150,000 if the Purchasing Manager and the City Solicitor deems such security to be in the best interests of the City. **(Deleted and Replaced B/L 146-18 October 15, 2018)**
122. The Purchasing Manager in consultation with the City Solicitor may require labour and material payment security for non-Construction projects over \$150,000 if the Purchasing Manager and the City Solicitor deems such security to be in the best interests of the City. **(Deleted and Replaced B/L 146-18 October 15, 2018)**
123. Where performance security and labour and material payment security are required, the amount of such security shall be 50% of the amount of the Purchase Price, provided that the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** and the Department Head shall have the discretion to require security in excess of 50% of the amount of the Purchase Price, if in their opinion it would be in the best interests of the City to do so.

Indemnity

124. The City shall be indemnified for and against any claim, loss, cost or damage resulting from a Supplier's obligations under a Contract.

Insurance

125. Bid documents shall disclose all necessary insurance as established by the Risk Management Department from time to time and defined in Schedule "C."
126. All insurance must be satisfactory in form and content to the City Solicitor and shall be delivered prior to the commencement of work, to remain in force for the duration of the Contract inclusive of any maintenance period and shall **(Deleted and Replaced B/L 139-2022 September 26, 2022)**:
 - a. name the City as an additional insured, where applicable;
 - b. be primary and non-contributing;
 - c. contain a "cross liability/separation of insureds" clause; and
 - d. not be altered, cancelled or permitted to lapse without 30 days' prior written notice to the City by the insurer

127. The Supplier shall also maintain adequate insurance of its own interests in completing the Contract.
128. The City Solicitor has the authority to modify or waive insurance requirements if, in his or her sole discretion, to do so would not result in harm or undue risk to the City. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**

Occupational Health and Safety

129. Prior to the commencement of the work, the Supplier shall deliver a Certificate of Clearance from the Workplace Safety and Insurance Board to evidence an account in good standing, or, if the Supplier is exempt from membership, satisfactory evidence of such exemption.
130. All Suppliers shall strictly comply with all *Occupational Health and Safety Act* requirements and shall indemnify and hold harmless the City in respect of same, including any legal costs, fines or other penalties incurred by the City resulting from the Supplier's performance of the Contract terms.

Part XI - Contracts

Types of Contracts

131. An Award can be evidenced by a Purchase Order or a Formal Agreement
132. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** shall determine whether a Purchase Order or a Formal Agreement is required with a Supplier, having regard to the nature of the Deliverable, the complexity of the Purchase, and the risks, terms and conditions applicable to the Purchase.
133. The City Solicitor shall prepare or approve any Formal Agreement required by section 132.

Administrative Authority To Sign Contracts

134. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** has the authority to sign Purchase Orders.
135. If a Formal Agreement is required under Section 132 for a Purchase that would fall within the administrative purchasing authority and would therefore not otherwise require Council approval, the CAO and City Clerk are authorized to sign the Formal Agreement on behalf of the City, provided the Formal Agreement is satisfactory in form to the City Solicitor, satisfactory in financial content to the City Treasurer and Chief Financial

Officer, and satisfactory in technical content to the Department Head responsible for the Department making the purchase.

136. Unless otherwise duly authorized by Council Resolution or Bylaw, no other Employees are permitted to sign Contracts on behalf of the City for the Purchase of any Deliverable.

Contract Renewals and Extensions

137. Where a Contract contains an option for renewal, the Department Head may request the Purchasing Department to exercise such option provided that:
- a. in the opinion of the Department Head and the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**, the Supplier's performance under the prior term of the Contract has been satisfactory and has met the requirements of the Contract;
 - b. the Department Head provides a written explanation to the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** as to why the renewal is in the best interests of the City;
 - c. the Department Head and the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** agree that the exercise of the option is in the best interests of the City;
 - d. funds are available in the appropriate accounts within the Council approved budget including authorized revisions to meet the proposed expenditure;
 - e. the dollar amount does not exceed \$150,000; and,
 - f. the Contract is not otherwise required to be brought before Council .

Contract Amendments and Revisions

138. No amendment or revision to a Contract shall be made unless, in the opinion of the City Solicitor, that amendment or revision is in the best interests of the City.
139. No amendment changing the original Purchase Price of a Contract shall be agreed to without a corresponding change in the requirement or scope of work.
140. The CAO has the authority to approve Contract amendments where **(Deleted and Replaced B/L 139-2022 September 26, 2022)**:
- a. INTENTIONALLY DELETED;
 - b. the amendment is less than the lesser of 50% of the original Purchase Price or \$150,000;
 - c. or, the CAO approved the Award of RFT under section 37(b) and the amendment

does not exceed the Council-approved budget; **(Added B/L 145-2014 August 25, 2014)**

- d. or, the CAO approved the Award of a Sole Source purchase under section 37(d) and the amendment does not exceed the Council-approved budget; **(Deleted and Replaced B/L 146-18 October 15, 2018)**
 - e. or, the CAO approved the Award of an RFP for Professional Services under section 37(e) and the amendment does not exceed the Council-approved budget.
141. Council must approve amendments that result in **(Deleted and Replaced B/L 139-2022 September 26, 2022)**:
- a. significant change in the scope of work;
 - b. an overrun of the approved budget.; or,
 - c. the Purchase Price exceeding \$150,000, except where the CAO has authority to approve the Contract Amendment under section 140(c), 140(d), and 140(e).

Part XII – Supplier and Material Management

Performance Management

142. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** is responsible for the City's Supplier performance management system

Supplier Suspension

143. The City may, but shall not be obligated to, at the discretion of the Chief Administrative Officer, suspend a Supplier from participating in the City's Purchasing activities by reason of:
- a. Litigation or engagement in legal action between the Supplier or any officer or director of the Supplier, directly or indirectly through another corporation, and the City, City Consultants engaged by the City in respect of a specific Solicitation, or Employees in relation to any other Contract or service or any matter arising from the City's exercise of its powers, duties or functions if the litigation is likely to affect the Supplier's ability to work with Employees or City Consultants or to cost additional staff and legal costs in the administration of a Contract with the Supplier; **(Deleted and Replaced B/L 145-2014 August 25, 2014)**
 - b. poor past performance by the Supplier, failure to meet specifications or health and safety violations, as documented by the Department Head and provided to the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**;

- c. a failure by the Supplier to satisfy a debt due to the City; or,
 - d. a withdrawal by a Supplier of a Response after the public opening of an RFT, or after Award of an RFP.
144. The CAO, in consultation with the City Solicitor and Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**, may prohibit a Supplier from participating in City Purchasing activities due to poor performance.
145. A Supplier shall be given an opportunity to respond to an allegation of poor performance.
146. A suspension shall be lifted at the discretion of the CAO if the suspended Supplier demonstrates to the City that the reasons leading to the suspension have been satisfactorily addressed and that the Supplier no longer poses a performance risk to the City.

Material

147. Department Heads shall be responsible for inventory management and shall ensure a physical inventory of stock items be taken on a periodic basis and shall allow for adequate inventory obsolescence.
148. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** may alter the source of supply of a Deliverable if it is in the best interests of the City to do so.
149. Upon receipt of Deliverables, Departments shall:
- a. promptly inspect the Deliverable for compliance with the terms of the Contract;
 - b. advise the Purchasing Department promptly of any deviation from the terms of the Contract; and,
 - c. assist the Purchasing Department as required to rectify deficiencies or deviations.

Part XIII - Disposal of Surplus and Obsolete Goods

Identification of Goods

150. The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** shall have the authority to dispose of material declared to be surplus in accordance with this section.
151. Each Department Head shall submit a report to the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** identifying surplus items, being all goods, equipment and stock which is no longer being used, or which has become obsolete,

worn out or otherwise incapable of being used.

Means of Disposal

152. The Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) shall first determine if the items may be of use to other City Departments and may authorize distribution.
153. If the surplus items cannot be used by City Departments, the Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) may dispose of them by any of the following methods:
- a. offered for sale to public agencies;
 - b. sold by external advertisement, including by tender, quotation, public auction or online auction;
 - c. sold or traded to the original supplier or others in that line of business;
 - d. donated to a charitable organization;
 - e. recycled;
- or any other means appropriate and in the best interests of the City.
154. If the surplus items may not otherwise be Disposed of, they shall be scrapped.
155. Disposal of surplus Items valued at \$150,000 or more must receive prior Council approval.

Sale of Surplus Items

156. In the case of sale by sealed bids, the reserve price for each item or lot shall be published.
157. In the case of sale by public auction, on-line auction or informal offer, the reserve price shall be used as an estimate and shall not be disclosed.
158. Any revenue net of expenses incurred in the sale shall be credited to the appropriate Department.
159. No Employees or related parties as defined by the City's Code of Ethics and Conflict of Interest Policy shall be permitted to receive Surplus Items unless those Surplus Items are designated to be scrapped or recycled in accordance with section 153, at the discretion of the CAO, or, by purchase at public auction or on-line auction provided such auction or online auction is conducted by a third party and does not involve the Employee. (**Deleted and Replaced B/L 139-2022 September 26, 2022**)

Hazardous Material

160. Disposal of unsafe or hazardous surplus items is the responsibility of the originating Department and shall be conducted in accordance with this Bylaw.

Part XIV - General Administration of this Bylaw

Records and Information

161. Purchasing records will be retained in accordance with the City's Record Retention Bylaw Number 12599, as amended from time to time **(Deleted and Replaced B/L 139-2022 September 26, 2022)**.
162. The City is subject to the *Municipal Freedom of Information and Protection of Privacy Act*. Subject to the provisions of that Act, the City will use reasonable efforts to safeguard the confidentiality of any information identified by a Supplier as confidential, but shall not be liable in any way whatsoever if such information is disclosed.

Reporting Requirements

163. The following reports are required:
 - a. *Disposal of Surplus Goods Report*

The Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** shall provide an annual information report to Council disclosing all Surplus Items disposed of under Part XIII of this Bylaw.

- b. *Rostered Consultant Report*

The responsible CLT Member and the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** shall provide a semi-annual report to Council disclosing all Consultants engaged through any rostering process in Part IX of this Bylaw.

Review of Bylaw

164. This Bylaw is the responsibility of the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)** and shall be reviewed and amended as required prior to the end of each term of Council.
165. Internal and external stakeholders shall be consulted in making amendments to this Bylaw.

Specific Departmental Purchasing Rules

166. The City Treasurer shall initiate and submit recommendations with respect to group benefits, banking and professional services, and debenture sales.

167. The purchase of any computer equipment subject to a departmental maintenance fee, software, photocopiers and telecommunications equipment are subject to the prior approval of the Executive Director of Information Technology.

Procedures

168. The Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) has the authority to establish procedures for implementing this Bylaw and to amend those procedures as required in the best interests of the City with the concurrence of the CAO and City Solicitor.

Schedules

169. Schedules A, B and C form part of this Bylaw. The City Solicitor has the authority to amend those Schedules as required in the best interests of the City with the concurrence of the CAO. Any amended schedules must be forwarded to all CLT Members.

Review of Purchasing Files

170. The Purchasing Manager (**Deleted and Replaced B/L 145-2014 August 25, 2014**) has the authority to randomly review Departmental purchasing files to monitor the effectiveness of the Bylaw and Procedures, and to ensure compliance with this Bylaw.

Board Use of Bylaw

171. Where the authority to enter into a Contract for the Purchase of Deliverables is a decision entirely within the jurisdiction of a Board, the Board may use the services of the Purchasing Department. All terms and conditions of this Bylaw and the Procedures will apply, except any reference to "Council" shall be read as a reference to the "Board" and any references to the "CAO" shall be read as reference to a "Designated Official".

Repeal

172. Bylaw 400-2004 **BE REPEALED** upon the effective date of this Bylaw.

Effective Date

173. This Bylaw shall come into force and take effect on the day after the final passing thereof.

Transition Rules

174. Notwithstanding its repeal, any Purchases begun but not yet completed by the Effective Date of this Bylaw shall be completed in accordance with the terms of Bylaw 400-2004.
175. Sections 113-117 addressing Roster Lists shall not come into effect until January 1, 2013, until which time bylaw 400-2004 shall govern

Title

176. This Bylaw shall be referred to as the "Purchasing Bylaw."

DREW DILKENS, MAYOR

STEVE VLACHODIMOS, CLERK

First Reading -
Second Reading -
Third Reading -

Schedule A to Bylaw 93-2012 - Exemptions

Exempt Purchases

The purchase of the following is exempt from the application of this Bylaw:

1. **Employer Expenses** including:
 - a. Salaries and benefits
 - b. Payroll deductions and remittances
 - c. Licenses
 - d. Training and education, including conferences and memberships
 - e. Reimbursable employee expenses as defined in the Travel and Business Expense Policy
2. **Governmental Charges** to and from other governmental bodies including Federal, Provincial and Municipal.
3. **Periodic payments** including:
 - a. Debenture payments
 - b. Agency grants
 - c. Sinking fund payments
 - d. Postage
 - e. Utilities
 - f. Telephone, data and television services including installations and repairs
4. **Settlements, awards and deductible payments** for legal and/or insurance purposes.
5. **Payments to Social Service Agencies and Health Agencies** under purchase of service agreements, including all related:
 - a. Medical and dental fees
 - b. Committee fees
 - c. Burial expenses
 - d. Enforcement payments
6. **Magazines, books, newspapers and periodicals**
7. **Advertising**
8. **Legal Services and support** in accordance with the delegation of authority to the City Solicitor.
9. **Services** provided under the Regulated Health Professions Act: Schedule 1 – self-governing professions as well as the following: **(Deleted and Replaced B/L 146-18 October 15, 2018)**

- a. Medical doctors

10. Personal Services for the residents of the City's long term care facility not performed by a member of a regulated health profession, including:

- a. Hairdressing
- b. Clergy
- c. Aesthetics

11. Utility or Rail Works Services where the public utility or the railway, as the case may be, carries out works at the behest of the City.

Schedule B to Bylaw 93-2012 – Irregularities

Nature of Irregularity

1. Any deviation from the requirements of the Bid Documents is an irregularity. An irregularity may be **(Deleted and Replaced B/L 139-2022 September 26, 2022)**:
 - a. Major, affecting price, quality, quantity or delivery and is material to the Contract or required by the Bid Documents and which, if permitted, could give the Supplier an unfair advantage over competitors; or
 - b. Minor, affecting form rather than substance, with no material impact to the Contract and which, if permitted, would not give the Supplier an unfair advantage over competitors.

2. Where discretion exists to determine whether an irregularity is Major or Minor, the Purchasing Manager **(Deleted and Replaced B/L 145-2014 August 25, 2014)**, the responsible Department Head and the City Solicitor shall jointly evaluate the irregularity to determine its nature in the context of the applicable Solicitation.

3. Except as noted herein, irregularities cannot be cured.

	Irregularity	Action
1.	Late Response	<ul style="list-style-type: none"> • Response rejected • Response returned unopened to Supplier
2.	Envelope not sealed	<ul style="list-style-type: none"> • Response rejected • Response returned unopened to Supplier

3.	Response completed or signed in erasable medium	<ul style="list-style-type: none"> • Response rejected
4.	Response does not bear a signature as specified in the Bid Documents (Deleted and Replaced B/L 146-18 October 15, 2018)	<ul style="list-style-type: none"> • Response rejected
5.	All sections of Bid Documents not completed	<ul style="list-style-type: none"> • Response rejected if the effect is a Major irregularity
6.	Response submitted by unregistered Supplier	<ul style="list-style-type: none"> • Supplier must pay all necessary fees to become Registered Supplier prior to the opening; if not, Response rejected.
7.	Minor clerical errors on Response	<ul style="list-style-type: none"> • 48 hours to initial
8.	Minor mathematical errors on Response	<ul style="list-style-type: none"> • Unit pricing prevails; 48 hours to initial

9.	Missing or insufficient Bid Bond	<ul style="list-style-type: none"> • Response rejected
10.	Missing or insufficient agreement to bond	<ul style="list-style-type: none"> • Response rejected
11.	Qualified Response if no qualifications permitted	<ul style="list-style-type: none"> • Response rejected
13.	Any other Major irregularity	<ul style="list-style-type: none"> • Response rejected
14.	Any other Minor irregularity	<ul style="list-style-type: none"> • May be waived at discretion of Purchasing Manager (Deleted and Replaced B/L 145-2014 August 25, 2014), responsible Department Head and City Solicitor, acting jointly

Schedule C to Bylaw 93-2012 – Insurance Requirements

AGREEMENT/EVENT TYPE	BASIC INSURANCE REQUIREMENTS (Deleted and Replaced B/L 139-2022 September 26, 2022)
Encroachment Agreement	\$2 million general liability
Subdivision Agreement	\$5 million general liability \$5 million environmental pollution liability \$2 million auto liability
Consultant Agreement	\$2 million general liability \$2 million professional errors and omissions liability
Oversize/Overweight Load Agreement	\$2 million general liability \$2 million auto liability

<p>Agreements of a general nature for provision of goods and/or services</p>	<p>\$2 million general liability</p>
<p>Leases</p>	<p>\$2 million general liability Tenant's legal liability for replacement cost (Deleted and Replaced B/L 139-2022 September 26, 2022)</p>
<p>Builder's Risk Insurance</p>	<p>Cost of project</p>
<p>Events involving alcohol or fireworks</p>	<p>\$5 million general liability</p>
<p>Other matters not specifically addressed in this Schedule</p>	<p>As determined by the City Solicitor (Deleted and Replaced B/L 146- 18 October 15, 2018)</p>

The insurance requirements in this Schedule C are basic requirements only, and the City Solicitor has the authority to add, modify or waive insurance requirements if, in his or her sole discretion, to do so would not result in harm or undue risk to the City. **(Deleted and Replaced B/L 139-2022 September 26, 2022)**