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Committee
Report 09-015 (FCS09020(a))
CM: November 11, 2009

Bill No. 230

CITY OF HAMILTON

BY-LAW NO. 09-230

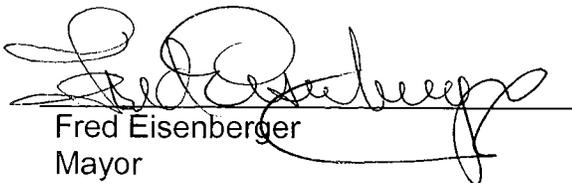
A By-law to Adopt and Maintain a Purchasing Policy for the City of Hamilton

WHEREAS paragraph 270(1)3 of the *Municipal Act*, 2001, S.O. 2001, c. 25 provides that a municipality shall adopt and maintain a purchasing policy with respect to its procurement of goods and services;

NOW THEREFORE the Council of the City of Hamilton enacts as follows:

1. Schedule "A", which is attached to and forms part of this By-law, is the City of Hamilton purchasing policy adopted and maintained in accordance with paragraph 270(1)3 of the *Municipal Act*, 2001.
2. The short title of this by-law shall be the "Purchasing Policy By-law".
3. This by-law comes into force on the day it is passed.

PASSED and ENACTED this 11th day of November, 2009.


Fred Eisenberger
Mayor


Kevin C. Christenson
City Clerk



Hamilton

FINANCIAL SERVICES

PURCHASING SECTION

Purchasing Policy for the City of Hamilton

Approved By City Council On:

November 11, 2009

**CORPORATE SERVICES
PURCHASING SECTION**

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**CORPORATE SERVICES
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MISSION, VISION AND VALUES

Mission

- To ensure that the Purchasing function meets the current and future needs of the corporation, provides an economical and efficient service and is considered a value-added partner in the securing of Goods and/or Services for the corporation.

Vision

- A team of resourceful skilled professionals, working in partnership with their customers to procure the best Goods and/or Services in the most efficient manner.

Our Corporation Values

The vision, mission and goals of the City of Hamilton will be guided by 10 core values.

- Fiscal Accountability: to increase the efficiency of our City government through fiscal responsibility and prudence
- Leadership: in our thinking and in our actions; encouraging individual and team initiatives that exceed expectations, and advocating what we believe in
- Innovation: to think broadly and long-term; to balance both City-wide and neighbourhood responsibilities; to do more with limited resources
- Integrity: to demonstrate honesty and sincerity in all of our dealings, upholding only the highest ethical principles; to provide open and transparent communications to create informed opinion
- Respect: for the needs of all residents, for all viewpoints, and for the diversity of our community
- Compassion: sensitivity to, and meeting the requirements of all residents with special needs and interests, and those less fortunate
- Commitment: to fulfilling the vision and goals of the City
- Teamwork: working in full cooperation and a spirit of collegiality with staff, Council, residents, businesses and external partners
- Sustainability: to contribute to a balanced community, economy and environment; to minimize the footprint of our activities and to do no harm
- Excellence: in our service delivery, through a quality workforce; and to show pride in our efforts and the community in which we live and work

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PURCHASING GOALS & OBJECTIVES

SECTION 1

- (1) Procure the necessary quality and quantity of Goods and/or Services in an efficient, timely and cost effective manner, while maintaining the controls necessary for a public agency, in accordance with the Purchasing Policy as approved by Council.
- (2) Encourage an open and competitive bidding process for the acquisition and disposal of Goods and/or Services, and the objective and equitable treatment of all vendors.
- (3) Ensure the best value of an acquisition is obtained. This may include, but not be limited to, the determination of the total cost of performing the intended function over the lifetime of the task, acquisition cost, installation, disposal value, disposal cost, training cost, maintenance cost, quality of performance and environmental impact.
- (4) Further, the City of Hamilton's commitment to procure Goods and/or Services with due regard to the preservation of the natural environment and to encourage the use of "environmentally friendly" products and services, as supported by Vision 20/20 goals and strategies.

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RESPONSIBILITIES & PROHIBITIONS OF PROCURING GOODS AND/OR SERVICES

SECTION 2

(1) General Responsibilities

- (a) All City staff delegated with purchasing authority shall follow the Code of Ethics attached as Schedule A to this Policy, the City's Conflict of Interest Policy and Section 4.17 of the Purchasing Policy with respect to conflicts of interest.
- (b) Procurement activities shall be subject to all applicable City policies and by-laws, any specific provisions of the Municipal Act, and all other relevant Federal and Provincial legislation.

(2) Purchasing Section Responsibilities

The General Manager of Finance and Corporate Services shall operate a Centralized Purchasing unit on behalf of the City in accordance with the requirements of the Purchasing Policy. In carrying out this responsibility the General Manager of Finance and Corporate Services may appoint designated officials to act on behalf of the City in entering into Contracts with third parties. The General Manager of Finance and Corporate Services may limit the purchasing authority of the designated officials, as deemed appropriate. The Purchasing Section will therefore have the following specific responsibilities:

- (a) Be responsible for the administration of the Purchasing Policy and will continually review the corporate use of Goods and/or Services to ensure the City is receiving the best value.
- (b) Ensure that purchasing transactions are conducted ethically and professionally.
- (c) Conduct audits on an annual basis to ensure that the requirements of the Purchasing Policy have been met and provide such further training as determined to be necessary by the audit.
- (d) Advise on the practicability of Specifications to ensure a maximum number of competitive Bids.
- (e) Notify vendors who have expressed an interest in doing business with the City of the availability of the purchasing documents.
- (f) Prepare necessary purchasing documents and process Purchase Orders.
- (g) Advise and assist in the preparation of Contracts when requested.
- (h) Provide training and documentation on how to use the purchasing module to users of the City's financial software application. Make available copies of the Purchasing Policy and Purchasing Procedures and Guidelines to all relevant City staff.

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(i) Maintain records of purchasing transactions as required.

(3) General Managers' Responsibilities

(a) Ensure all purchases are performed in accordance with the Purchasing Policy.

(b) Delegate Approval Authority to the appropriate levels.

(4) Prohibitions

The following activities are prohibited, unless specifically approved by Council:

(a) Any attempt to evade or circumvent the requirements of the Purchasing Policy including, but not limited to, the division of purchases to avoid the requirements of the Purchasing Policy by any method, which includes purchases made using procurement cards.

(b) Purchase by the City of any Goods and/or Services for personal use by or on behalf of any member of Council, appointed officers, employees of the City or their immediate families.

(c) The acceptance of gifts, benefits, money, discounts, favours or other assistance by any member of Council, officers and employees, and their families as detailed in the City of Hamilton Conflict of Interest Policy or such other similar policy currently in force. The image and integrity of the employee and the City of Hamilton must be preserved at all times.

(d) Purchase by the City from any member of Council, officers, employees of the City or their families or from any other source that would result in a conflict of interest, unless such interest has been declared pursuant to the Municipal Conflict of Interest Act.

(5) Exclusions

Those items listed in Schedule B, Recurring or Non-Competitive Expenditures, are exempt from the requirements of the Purchasing Policy, save and except for Section 4.4 of the Purchasing Policy (Approval Authority).

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DEFINITIONS AND INTERPRETATION

SECTION 3

"Acquisition Method" means the process by which Goods or Services are procured.

"Approval Authority" means the authority to approve procurements up to the procurement values for the respective body or person(s) set out in Section 4.4 of the Purchasing Policy.

"Approved Products Listing" means the listing of approved Goods for use with road, watermain, sewer, lighting and traffic signal work as maintained by the City's Standard and Approved Products Committee.

"Authorized Delegate" means the person who has been delegated by Council an Approval Authority and includes any other person further delegated such Approval Authority in accordance with the Purchasing Policy.

"Bid" means an offer or submission from a vendor in response to a Request for Quotations, Request for Tenders or Request for Proposals issued by the City.

"Centralized Purchasing" refers to the activities conducted by the Purchasing Section of the City's Corporate Services Department, which is responsible for the purchase of all Goods and/or Services in accordance with the requirements of the Purchasing Policy.

"Child" means any person under the age of 15, unless local minimum age law stipulates a higher age for work or mandatory schooling, or under the age of 14 if minimum age law is set at that age in accordance with exceptions set out for developing countries under International Labour Organization ("ILO") Convention 138.

"City" means the City of Hamilton.

"Client Department" means the City department initiating the acquisition of the Goods and/or Services.

"Consulting and Professional Services" includes architects, engineers, designers, surveyors, planners, accountants, auditors, lawyers, management, software and financial consultants, brokers, soil consultants, and any other consulting and professional services rendered on behalf of the City.

"Contract" means a legal agreement between two or more parties, usually written, or a Purchase Order.

"Cooperative Purchasing" means coordination of City purchases with purchases from other government agencies or public authorities such as other municipalities, conservation authorities, school boards and hospitals.

"Corporate Contract" means a Contract in which Goods and/or Services are acquired for

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various Client Departments in bulk by one single procurement process (i.e. by RFQ, RFP or RFT).

"Council" means the Council of the City of Hamilton.

"Designate" means a person authorized to act on the behalf of an Authorized Delegate.

"Emergency" means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the City, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level.

"Expanded Works" means approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to deliver the original approved work.

"General Manager" means the General Manager of a City department and includes an Executive Director.

"Goods" includes supplies, equipment, materials, structures and fixtures to be delivered, installed or constructed.

"Low Dollar Value Procurements" means the process of procuring Goods and/or Services with an estimated procurement cost of up to but not including \$5,000.

"Lowest Compliant Bid" means a Bid with the lowest price meeting all requirements of a RFQ, RFP or RFT, subject to any rights or privileges reserved by the City contained in the respective procurement document, or unless otherwise approved by Council.

"Purchase Order" means a written offer to procure Goods and/or Services or a written acceptance of an offer, in a form acceptable to the City Solicitor.

"Purchasing Policy" means the Purchasing Policies approved by Council, as amended from time to time.

"Purchasing Procedures and Guidelines" means the Purchasing Procedures and Guidelines approved by the City's Director of Financial Services, as amended from time to time.

"Purchase Requisition" means an internal online request by a Client Department to the Purchasing Section for procurement of Goods and/or Services.

"Request for Quotations" or **"RFQ"** means an informal request for prices on Goods and/or Services with an estimated procurement cost between \$5,000 and up to but not including \$50,000, and where comprehensive technical Specifications can be developed. Request for Quotations may be processed by the Client Department.

"Request for Information" or **"RFI"** means a process where information is requested from vendors regarding the feasibility and availability of specific Goods and/or Services in the marketplace and to determine if there are enough suppliers to justify a Request for Proposals or

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Request for Tenders.

"Request for Proposals" or **"RFP"** means a formal request for prices and details on Goods and/or Services from vendors, where the Goods and/or Services may not be able to be fully defined or specified or when alternate methods are being sought to perform a certain function or service, at the time of the request.

"Request for Roster Candidates" or **"RFRC"** means a procurement document issued by the City requesting pricing and details with respect to category specific consulting services from vendors, with the intent of creating an approved list of vendors known as rostered candidates, and whereby work assignments under a specific cost limit will be offered by the City to said rostered candidates on an as-needed basis over a two-year period.

"Request for Tenders" or **"RFT"** means a formal request for prices on Goods and/or Services from vendors, where the Goods and/or Services are able to be fully defined or specified at the time of the request.

"Services" means all professional, consulting, construction or maintenance services.

"Sole Source" means there is only one source of supply of particular Goods and/or Services in the open market.

"Specifications" means the detailed description of Goods and/or Services contained in a RFQ, RFP or RFT to the extent known or available to the Client Department.

"Sweatshop" means a facility where individuals manufacture, assemble or produce consumer goods in working conditions that constitute Sweatshop Conditions.

"Sweatshop Conditions" means working conditions that include any of the following:

- (a) employees are not provided with working conditions that: meet or exceed the International Labour Organization ("ILO") Conventions' standards governing forced labour (ILO Convention 29 – Forced Labour Convention, 1930) and (ILO Convention 105 - Abolition of Forced Labour Convention, 1957), child labour (ILO Convention 138 – Convention concerning Minimum Age for Admission to Employment – the "Minimum Age Convention, 1973" and United Nations Convention On The Rights Of The Child – November 20, 1989, Article 32), payment of wages (ILO Convention 95 - Protection of Wages Convention, 1949), hours of work, occupational health, occupational safety, and non-discrimination (ILO Convention 111 – Discrimination {Employment and Occupation, 1958}); and are in compliance with all applicable federal, state, provincial and local laws of the locality of manufacture; and
- (b) employees are compensated by their employer at an hourly rate below the poverty threshold; and
- (c) employees are subject to forced labour practices, whether in the form of involuntary prison labour, indentured labour, bonded labour or otherwise; and

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- (d) employees are under the age of 18 are exposed to situations, in or outside the workplace, that are hazardous, unsafe or unhealthy; and
- (e) employees are not provided with a minimum of one day off for every seven-day period; and
- (f) employees are subject to physical, sexual, psychological abuse or harassment, verbal abuse, or any other form of abuse, including corporal punishment; and
- (g) employees are not provided with a safe and hygienic workplace, including access to clean toilet facilities and safe drinking water.

"Time-Sensitive" means a situation for which the timing to complete the procurement is paramount, but the time available to follow normal procedures is insufficient.

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POLICY # 1 - Policy for Vendor Eligibility

SECTION 4.1

- (1) The City will make reasonable efforts to maintain an electronic vendor database of those vendors who have expressed an interest in doing business with the City and who have submitted a complete online "Bidder's Application Form". The electronic vendor database will be accessible by City staff via the City eNet.
- (2) Without limiting or restricting any other right or privilege of the City and regardless of whether or not a Bid otherwise satisfies the requirements of a RFP or RFT, the City may reject any Bid from a vendor where,
 - (a) in the opinion of Council, the commercial relationship between the City and the vendor has been impaired by the act(s) or omission(s) of such vendor including but not limited to:
 - (i) the vendor being involved in litigation with the City;
 - (ii) act(s) or omission(s) resulting in a claim by the City under any security submitted by the vendor on a RFP or RFT, including but not limited to a bid bond, a performance bond, or warranty bond;
 - (iii) the failure of the vendor to pay, in full, all outstanding payments (and, where applicable, interest and costs) owing to the City by such vendor, after the City has made demand for payment of same;
 - (iv) the vendor's refusal to follow reasonable directions of the City or to cure a default under any Contract with the City as and when required by the City;
 - (v) the vendor's refusal to enter into a Contract with the City after the vendor's Bid has been accepted by the City;
 - (vi) the vendor's refusal to perform or to complete performance of a Contract with the City;
 - (vii) the vendor having unlawfully or unreasonably threatened, intimidated, harassed, or otherwise interfered with an attempt by any other prospective vendor to bid for a City contract or to perform any Contract awarded by the City to that vendor;
 - (viii) the vendor having discussed or communicated, directly or indirectly, with any other vendor or their agent or representative about the preparation of the vendor's Bid including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge of any other vendor making a Bid for the same work;
 - (ix) the vendor having unlawfully or unreasonably threatened, intimidated, harassed, assaulted or committed battery against, or otherwise interfered with an official, employee, representative, agent or independent consultant or contractor of the City in the performance of his or her duties or in any way attempted to influence such persons;

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- (x) the vendor has on one or more occasions, in the performance of a contract with the City, deliberately, with wilful blindness or negligently, save and except an inadvertent error corrected to the satisfaction of the City within a reasonable time, as determined by the City,
1. over-billed, double-billed and/or retained a known over-payment, or has failed to notify the City of an over-payment or duplicate payment;
 2. billed for items not supplied;
 3. billed for items of one grade, while supplying items of an inferior grade;
 4. made a misrepresentation as to the quality or origin of Goods, their functionality or suitability for a purpose, or their performance characteristics;
 5. submitted false or misleading information to the City;
 6. acted in conflict with the City's interests;
 7. misappropriated any property or right of the City, in any form; or
 8. committed any other form of sharp or deceptive practice,

within the five year period immediately preceding the date on which the RFP or RFT is awarded;

- (b) in the opinion of Council there are reasonable grounds to believe that it would not be in the best interests of the City to enter into a Contract with the vendor, including but not limited to:
- (i) the conviction of that vendor or any person with whom that vendor is not at arm's length within the meaning of the *Income Tax Act* (Canada) of an offence under any taxation statute in Canada;
 - (ii) the conviction or finding of liability of that vendor under the *Criminal Code* or other legislation or law, whether in Canada or elsewhere and whether of a civil, quasi-criminal or criminal nature, of moral turpitude including but not limited to fraud, theft, extortion, threatening, influence peddling and fraudulent misrepresentation;
 - (iii) the conviction or finding of liability of that vendor under any environmental legislation, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that vendor for the environmental well-being of the communities in which it carries on business;
 - (iv) the conviction or finding of liability of that vendor relating to product liability or

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occupational health or safety, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that vendor for the health and safety of its workers or customers;

- (v) the conviction or finding of liability of that vendor under the financial securities legislation whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that vendor for its stakeholders.
- (3) For the purposes of subsections (2), (4) and (5) of this policy, a reference to a vendor shall also include: an officer, a director, a majority or controlling shareholder, or a member of the vendor, if a corporation; a partner of the vendor, if a partnership; any corporation to which the vendor is an affiliate of or successor to, or an officer, a director or a majority or controlling shareholder of such corporation; and any person with whom that the vendor is not at arm's length within the meaning of the Income Tax Act (Canada).
- (4) In the circumstances described in subsection (2), the City may, in addition or in the alternative to rejecting a Bid from a vendor, ban a vendor(s) from competing for or being awarded any City contract for a period of up to ten years. However for the purposes of this subsection, the five year period referred to in subsection (2)(a) shall be the five year period immediately preceding the date on which the ban is approved by Council.
- (5) Without limiting or restricting any other right or privilege of the City, the City may refuse to enter into a Contract with a vendor where any of the circumstances described in (2)(a) or (2)(b) of this policy have occurred within the five year period preceding the date on which the refusal to enter into the Contract is approved by Council. In addition or in the alternative to refusing to enter into the Contract, the City may ban a vendor(s) from competing for or being awarded any City Contract for a period of up to ten years.
- (6) Where the contract is awarded to a vendor who has made an unauthorized amendment to the City's pre-printed forms (Form of Proposal or Form of Tender) submitted as part of the vendor's Bid, then within a reasonable time of the City discovering that unauthorized amendment, the City may,
- (a) permit the vendor to withdraw an unauthorized amendment to the City's Form of Proposal or Form of Tender, at no cost to the City; or
 - (b) cancel or terminate the contract without any compensation whatsoever to the vendor by giving written notice to that effect to the vendor; or
 - (c) recover from such vendor any amounts the City paid to the vendor and all costs, expenses, damages and losses incurred or accrued by the City as a result of the unauthorized amendment; or
 - (d) ban such vendor from competing for or being awarded any City contract for a period of up to ten years where, in the opinion of Council, the change was made by the vendor as part of a deliberate attempt to deceive and such deception has resulted in an impairment of the commercial relationship between the City and such vendor,

or any combination of the foregoing.

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POLICY # 2 - Policy for Pre-Qualification of Vendors

SECTION 4.2

- (1) The purpose for pre-qualification of vendors is to ensure that each vendor intending to submit a Bid can demonstrate its ability to provide the necessary expertise and resources to satisfactorily complete the work required.

Pre-qualification will only be considered in the following circumstances:

- (a) the work will require substantial project management by the City if the vendor is not appropriately experienced and could result in a substantial cost to the City;
 - (b) the Goods and/or Services to be purchased must meet national safety standards;
 - (c) the work involves complex, multi-disciplinary activities; specialized expertise, equipment, materials, or financial requirements;
 - (d) there could be a substantial impact on City operations if the work is not satisfactorily performed the first time;
 - (e) where time requirements necessitate efficient use of time and expertise;
 - (f) any other circumstances deemed appropriate by the Manager of Purchasing.
- (2) This is a two-step procurement process.
- (a) Pre-qualification is the first step and requires vendors intending to submit a Bid to provide such information as, but not limited to:
 - i. experience on similar work (firm and staff assigned);
 - ii. references provided from other customers for similar work;
 - iii. verification of applicable licences and certificates;
 - iv. health and safety policies and staff training; and
 - v. financial capability.
 - (b) Vendor submissions will be evaluated and ranked, and a short list of pre-qualified vendors will be invited to participate in the second step of the two step procurement process, being the RFP or RFT.

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POLICY # 3 - Policy for Specifications

SECTION 4.3

- (1) The preparation of the Specifications for Request for Quotations, Request for Proposals or Request for Tenders shall be the responsibility of the Client Department. Specifications shall be approved by the Client Department Authorized Delegate and shall be forwarded directly to the Purchasing Section with approval attached.
- (2) The Purchasing Section shall have the authority to review and recommend improvements to the Specifications when deemed necessary. The Client Department shall cooperate with the Purchasing Section in the finalization of the Specifications. The Manager of Purchasing may reject any Specification not consistent with the Purchasing Policy.
- (3) The City may issue a Request for Information (RFI). A RFI can be used to determine if there is sufficient vendor interest to justify proceeding with a competitive procurement process and/or to gain additional information on the Good and/or Service from the vendor community. The RFI would request detailed information such as, but not limited to, the background of the vendor and its key personnel, relevant experience, and what the vendor can offer the City. Any resulting competitive procurement process will be issued in accordance with Purchasing Policy, Section 4.5 – Policy for Determining Procurement Process.
- (4) The following requirements shall be followed in the preparation of the Specifications:
 - (a) Specifications should be detailed but not brand specific to leave room for potential vendors to provide alternatives in the event an equal or better-proven product or method is available to maintain a competitive procurement process.
 - (b) Where the Specifications requirements of the Client Department will result in a single source purchase, it shall be at the discretion of the Manager of Purchasing whether to authorize such Specifications or to require the Client Department to seek Council approval for such Specifications.
 - (c) Where the Specifications relate to matters that are addressed under the Corporate Energy Policy they shall be approved by the Manager of Energy Initiatives to ensure that they meet the requirements of said policy
 - (d) Vendors may be requested to expend time, money or effort on the content or in the development of Specifications or otherwise help define a requirement to be contained in the Specifications or RFQ, RFP or RFT. A vendor who provides such assistance shall be deemed a consultant of the City, paid a fee and shall be unable to submit a Bid for which the Specifications apply unless exemption is requested and submitted prior to the issuance of the RFQ, RFP or RFT and written approval is given by the Manager of Purchasing.
 - (e) Notwithstanding any assistance in the preparation of the Specifications by a consultant, the Specifications shall be and remain the property of the City.

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- (f) Where it is not possible to prepare precise Specifications to issue a Request for Tenders, a Request for Proposals shall be issued. The Purchasing Section, in cooperation with the Client Department, shall prepare evaluation criteria and weightings for the criteria. The RFP shall clearly distinguish those requirements that are deemed mandatory and non-mandatory and shall clearly outline how these items will be evaluated.
- (g) When preparing the Specifications, the Client Department shall be knowledgeable of the Ontarians with Disabilities Act 2001, the Accessibility for Ontarians with Disabilities Act 2005 and its regulations and the City's Barrier Free Design Guidelines 2006 or the most recent version and apply those requirements with respect to procuring Goods and/or Services and in the development of the Specifications.
- (h) When preparing the Specifications, the Client Department shall consider the amount of packaging that would be associated with the procurement of a Good. If the required level of packaging is felt to be too excessive, then the Specifications for those Goods will require the vendor to be responsible for and bear the cost for the removal and disposal of the packaging materials.

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POLICY # 4 - Policy for Approval Authority

SECTION 4.4

- (1) Any person delegated Approval Authority pursuant to this policy shall ensure that an approved budget exists for the proposed procurement and that such procurement does not violate any City policies or any applicable law. Any such procurement shall also satisfy any applicable audit requirements of the City.
- (2) The following body and persons shall have the respective Approval Authority as set out below:
 - (a) **Council** must approve budgetary funding for any procurement of a value greater than \$250,000.
 - (b) **City Manager** or Designate must approve any procurement of a value of \$100,000 or greater but not exceeding \$250,000. The City Manager may also exercise the Approval Authority of a General Manager.
 - (c) **General Managers** are authorized to approve procurements of a value up to but not including \$100,000, save and except in an Emergency wherein Section 4.10 shall apply. **Only** General Managers may further delegate such Approval Authority to their staff at the procurement values they deem appropriate. Staff who have been further delegated Approval Authority from their General Manager to approve procurements **shall have no authority to** delegate this Approval Authority to any other person.
- (3) The Client Department in conjunction with the Purchasing Section shall submit a report to Council and the appropriate standing committee recommending award of a RFT or RFP if **ANY** of the following conditions apply:
 - (a) The value of the Lowest Compliant Bid is in excess of the Council approved budget including any contingency allowance.
 - (b) The RFT or RFP is for a Corporate Contract.
 - (c) For capital projects, when the final cost of the proposed project exceeds the amount provided in the approved capital budget for that project by more than 10 percent or \$250,000, whichever is less.
 - (d) The award is not being made for the Lowest Compliant Bid.
 - (e) Where a substantive vendor complaint has been filed with the Manager of Purchasing prior to award of a RFT or RFP.
 - (f) Where in the opinion of the Manager of Purchasing, the Client Department's award recommendation is not in the best interest of the City.
 - (g) There are Provincial or Federal government requirements for Council approval of a RFT or RFP.

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Otherwise, the General Manager and the City Manager, or their Designates, shall award in accordance with the provisions of the subject RFT or RFP.

- (4) Council may delegate further Approval Authority as it considers necessary from time to time, including but not limited to, any extended time periods during which Council does not meet.
- (5) The Director of Financial Services shall prepare a monthly status report to Council on any procurement of a value in excess of \$100,000, which shall identify those procurements:
 - (a) which have been issued, but not yet closed,
 - (b) which have closed and under review, and
 - (c) which have been awarded or cancelled,since the previous monthly status report.

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POLICY #5 - Policy for Determining the Procurement Process

SECTION 4.5

- (1) Sales taxes, excise taxes, goods and service taxes, duties and shipping shall be excluded in determining the procurement limit of Authorized Delegates and the type of procurement process to be followed.
- (2) The dollar values identified in Sections 4.5.1 through to 4.5.4 represent the annual estimated procurement value for a Good and/or Service to be procured. The annual estimated procurement value is the cumulative value spent in one calendar year for a particular Good and/or Service. For multi-year contracts, it is the estimated total of the procurement value over the term of the contract that will govern which procurement process applies.
- (3) Where ever possible, it should be the intent of the Client Department to procure Goods and/or Services of like nature as a combined effort.
- (4) Where Provincial and/or Federal Governments impose unique requirements in order to qualify for funding, the City's contract documents will be amended to include those provisions.
- (5) Where there is an incumbent vendor on a Corporate Contract is of a highly sensitive nature due to the risk associated with financial loss, confidentiality or the handling of sensitive information, a report shall be forwarded to the applicable standing committee of Council and Council to seek direction on the type of procurement process to be followed for the acquisition of the Good and/or Service.

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**POLICY # 5.1 - Policy for Low Dollar Value Procurements
(up to but not including \$5,000)**

SECTION 4.5.1

- (1) All Low Dollar Value Procurements shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy.
- (2) The General Managers may delegate Approval Authority to their staff for Low Dollar Value Procurements. This purchasing function has been de-centralized and therefore, it is the responsibility of the respective General Manager to ensure that the Purchasing Policy is adhered to.
- (3) Neither a RFQ, RFP nor RFT is required for Low Dollar Value Procurements.

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**POLICY #5.2 - Policy for Request for Quotations
(\$5,000 – up to but not including \$50,000)**

SECTION 4.5.2

- (1) All Request for Quotations shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy.
- (2) For procurements where there are no applicable departmental Contracts or Corporate Contracts, a Request for Quotations process is used by the Client Department in the following manner:
 - (a) a minimum of three (3) Bids shall be obtained by any method of written communication unless otherwise approved by the Purchasing Section;
 - (b) in seeking the vendors for Request for Quotations, staff shall also use the electronic vendor database available through the City eNet;
 - (c) Bids must be received from a minimum of three (3) separate vendors;
 - (d) a "No Bid" response shall not be considered as a valid Bid;
 - (e) all vendors shall receive the same Request for Quotations written information;
 - (f) the Request for Quotations shall be awarded to the Lowest Compliant Bid; and
 - (g) all written Bids shall be retained in the Client Departmental files in accordance with Council approved by-laws for records retention.

The Manager of Purchasing may waive the requirement for three Bids, but will only do so where the Client Department has demonstrated to the satisfaction of the Manager of Purchasing that a minimum of three (3) Bids cannot be obtained.

- (3) Staff are encouraged to seek more than the minimum three (3) written Bids to ensure a more competitive process.
- (4) The Purchasing Section shall assist as requested by the Client Department, or when deemed necessary, with the Request for Quotations process. The Purchasing Section will also conduct audits to ensure the requirements of this section have been met, in accordance with Section 2 of the Purchasing Policy.
- (5) An authorized online Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor.
- (6) When a Client Department would like to issue a RFP in lieu of a Request for Quotations, the RFP shall be issued by Centralized Purchasing in the same manner as for Requests for Proposals in Section 4.5.4 of the Purchasing Policy.

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POLICY #5.3 - Policy for Request for Tenders (\$50,000 and greater)

SECTION 4.5.3

- (1) The Client Departments shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy. Where there are no applicable departmental Contracts or Corporate Contracts,
- (a) the Request for Tenders process is used for Goods and/or Services with an estimated procurement cost of \$50,000 or greater and where comprehensive technical Specifications can be developed;
 - (b) the Request for Tenders process must be implemented through Centralized Purchasing;
 - (c) all Requests for Tenders shall be issued and awarded in accordance with the tendering procedures as determined by the Director of Financial Services;
 - (d) the Request for Tenders shall be awarded based on the Lowest Compliant Bid. In the event that two or more identical Bids are received and are the Lowest Compliant Bids, best and final offers will be solicited from each of these vendors in order to break the tie. If this effort is unsuccessful, then a draw will be held to determine the successful vendor;
 - (e) when no compliant Bids are received in response to a Request for Tenders, and
 - i. where time permits in the opinion of the General Manager of the Client Department, the Request for Tenders shall be re-issued with the appropriate revisions; or
 - ii. where only one Bid has been received, the Manager of Purchasing in conjunction with the Client Department may proceed to negotiate the changes required to achieve an acceptable Bid, provided that such changes will not alter the general nature of the procurement described in the Request for Tenders; or
 - iii. where time does not permit the re-issuance of the Request for Tenders in the opinion of the General Manager of the Client Department, and the Request for Tenders is not otherwise being revised, all vendors who secured the Request for Tenders shall be given the opportunity to submit a new Bid. The Purchasing Section will communicate to each vendor who previously submitted a Bid any deficiencies that resulted in its Bid being deemed non-compliant. This process may utilize a post-closing addendum; or
 - iv. where time does not permit the re-issuance of the Request for Tenders, and the Request for Tenders is being revised to correct any inaccuracy, all vendors who secured the Request for Tenders, shall be given the opportunity to submit a new Bid. The Purchasing Section will communicate to each vendor who previously submitted a Bid any deficiencies that resulted in its Bid being deemed non-compliant. This process may utilize a post-closing addendum. The General Manager of the Client Department shall approve this process prior to implementation;

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- (f) a Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor.
- (2) Where a Time-Sensitive situation occurs, the Manager of Purchasing may authorize the Client Department to utilize the Policy for Request for Quotations (Section 4.5.2) in lieu of the Request for Tenders process.

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POLICY # 5.4 - Policy for Request for Proposals (\$5,000 and greater)

SECTION 4.5.4

- (1) The Client Departments shall utilize all applicable departmental Contracts and Corporate Contracts and shall otherwise be in accordance with the Purchasing Policy. Where there are no applicable departmental Contracts or Corporate Contracts,
- (a) the Request for Proposals process is used for Goods and/or Services with an estimated procurement cost of \$5,000 or greater and where comprehensive technical Specifications cannot be fully defined or specified, or when alternate methods are being sought to perform a certain function or service, at the time of the request;
 - (b) the Request for Proposals process must be implemented through Centralized Purchasing;
 - (c) all Requests for Proposals shall be issued and awarded in accordance with the proposal procedures as determined by the Director of Financial Services;
 - (d) all Requests for Proposals shall clearly set out the evaluation criteria and weightings upon which an award of the Request for Proposals may be made;
 - (e) all proposals that meet the required terms, conditions and Specifications outlined in the Request for Proposals document shall be evaluated based on the evaluation criteria and weightings, subject to any rights or privileges reserved by the City;
 - (f) when no compliant Bids are received in response to a Request for Proposals, and
 - i. where time permits in the opinion of the General Manager of the Client Department, the Request for Proposals shall be re-issued with the appropriate revisions; or
 - ii. only one Bid has been received or has successfully passed the technical proposal requirements, the Manager of Purchasing in conjunction with the Client Department may proceed to negotiate the changes required to achieve an acceptable Bid, provided that such changes will not alter the general nature of the requirement described in the Request for Proposals; or
 - iii. where time does not permit the re-issuance of the Request for Proposals in the opinion of the General Manager of the Client Department, and the Request for Proposals is not otherwise being revised, all vendors who have successfully passed the technical proposal requirements of the Request for Proposals shall be given the opportunity to submit a new Bid (cost proposal). The Purchasing Section will communicate to each of these vendors, any Bid deficiencies that resulted in its Bid being deemed non-compliant. This process may utilize a post-closing addendum;
 - (g) any award shall be made in accordance with the evaluation criteria and weightings contained in the Request for Proposals document, subject to any rights or privileges reserved by the City or as otherwise approved by Council. However, in cases where the Client Department is not recommending award to the proponent offering the Lowest

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Compliant Bid, the Client Department will be required to issue a report to Council for approval of the award; and

- (h) a Purchase Requisition shall be utilized to initiate a Purchase Order and/or formal Contract process. Where, in the opinion of the Director of Financial Services, a formal Contract is necessary, such Contract shall be in a form satisfactory to the City Solicitor.

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POLICY # 6 - Policy for Unsolicited Proposals

SECTION 4.6

- (1) Unsolicited proposals received by the City shall be reviewed by the Manager of Purchasing and the Client Department to determine if it is in the best interests of the City to follow a competitive process as outlined by the Purchasing Policy.
- (2) Should the Manager of Purchasing and the Client Department determine that the unsolicited proposal is a Sole Source type offer that warrants further consideration, the Client Department, prior to any discussions with the vendor, shall take forward a report to the appropriate standing committee and Council outlining particulars of the unsolicited proposal and seeking direction from Council on the course of action to proceed.

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POLICY # 7 - Policy for Construction Contracts

SECTION 4.7

- (1) Construction contracts must meet the requirements of the Purchasing Policy. Construction contracts of \$100,000 or greater shall require both a Purchase Order and a Contract, in a form satisfactory to the City Solicitor.
- (2) The City's Fair Wage Policy and Fair Wage Schedule shall be applied to all construction contracts of \$100,000 or greater. The Fair Wage Policy and Fair Wage Schedule can be accessed on the City of Hamilton website under the Purchasing Section.

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POLICY # 8 - Policy for Vendor Performance Evaluation

SECTION 4.8

- (1) At the completion of every contract for Goods and/or Services of \$50,000 or greater, the Client Department is responsible to complete a "Vendor Performance Evaluation Form". The General Manager of the Client Department, in consultation with the Manager of Purchasing, will ensure this performance evaluation is completed for these contracts. The General Manager or Designate of the Client Department shall forward a copy of the completed "Vendor Performance Evaluation Form" to the Manager of Purchasing.
- (2) In the event of poor performance or non-performance of a vendor at any time during the term of any City contract, the General Manager or Designate of the Client Department shall complete the "Vendor Performance – Incident Reporting Form" as soon as reasonably possible after the occurrence.
- (3) Documented poor performance or non-performance on any City contract will be used to determine the eligibility of a vendor to continue to provide Goods and/or Services to the City on a current contract and to determine their ability to participate on future City contracts. Any vendor may be excluded from a bidding process due to documented poor or non-performance, where in the opinion of the Manager of Purchasing or Council, the commercial relationship between the City and such vendor has been detrimentally affected.
- (4) The Public Works Department shall be responsible for the vendor performance evaluation process with regard to construction contracts issued under Section 4.7 in a format which includes feedback from area residents and elected officials.
- (5) In the event of a vendor's breach of a multi-year Contract, the Manager of Purchasing shall have the discretion to either:
 - (a) re-issue the RFT or RFP; or
 - (b) negotiate and enter into a new Contract for the remaining years of the Contract with the second lowest bidder of the original RFT or RFP,

whichever is in the best interests of the City.

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POLICY # 9 - Professional Consulting and Services

SECTION 4.9

- (1) Unless otherwise provided, Consulting and Professional Services shall be acquired in accordance with the Purchasing Policy.
- (2) A Consulting and Professional Services Roster will be established every two years through a formal RFRC process. Work assignments presented to vendors on an approved list, known as rostered candidates, will be distributed on a rotational basis as well as a "best fit" basis and having an estimated procurement cost of less than \$100,000. The General Manager or Designate shall award such works by direct appointment through the applicable roster captain. The applicable roster captain shall ensure that there is a reasonably equitable distribution of the works, based on the total dollar value of the work. This method allows the City to employ a number of different consultants while matching the particular talents of a consultant to the project needs.
 - (a) The General Manager of the Public Works Department and the Manager of Purchasing, or their Designates, shall approve the appointment of rostered candidates and any acceptable subsequent change in any rostered candidate in accordance with the RFRC document.
 - (b) The General Manager of the Public Works Department shall be responsible to prepare an annual information report to Council on all assignments awarded including consultants used and a breakdown of the total cost utilized by each roster category.
 - (c) All work completed under this policy shall be approved in accordance with the Policy for Approval Authority, Section 4.4, with the exclusion of Item (3) (d).

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POLICY # 10 – Policy for Emergency Purchasing

SECTION 4.10

- (1) When the General Manager has declared an Emergency, Goods and/or Services shall be acquired by the most expedient and economical means. The Purchasing Section will provide cooperative assistance when requested to expedite any purchasing documents necessary to deal with the Emergency. The General Manager of the Client Department, upon declaration of an Emergency, shall provide the reasons for same and shall approve any purchase acquisition document issued under such conditions. For amounts exceeding \$250,000, the General Manager shall issue an information report to the City Manager and to Council at its next scheduled meeting.
- (2) Subsequent to the resolution of the Emergency, all transactions require a Purchase Requisition to be entered to complete the procurement process. The Client Department shall complete the Request for Use of Negotiation Policy / Emergency Reporting Form and forward it to the Manager of Purchasing for informational purposes.

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POLICY # 11 – Policy for Negotiations

SECTION 4.11

- (1) Subject to Section 4.11 (2) of this policy, the Manager of Purchasing and the Client Department must authorize the Request for Use of Negotiation Policy form, justifying the need to use this policy prior to City staff entering into any discussions with any vendor. This process may be adopted when any of the following conditions apply:
- (a) when Goods and/or Services are judged to be in short supply due to market conditions;
 - (b) where there is only one known source for the Goods and/or Services (Sole Source);
 - (c) where the Lowest Compliant Bid received is excessive in total cost or substantially exceeds the estimated procurement cost;
 - (d) when a single source for the supply of a particular Good and/or Service is being recommended because it is more cost effective or beneficial for the City;
 - (e) where a contract has expired or will very shortly expire and unforeseeable circumstances have caused a delay in issuing a new RFP or RFT so that a contract extension is required;
 - (f) where Expanded Works are necessary.

Council must authorize any requests for negotiations with a single source as set out in Section 4.11 (1) (d) of this policy, where the value of proposed procurement is \$250,000 or greater.

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POLICY # 12 – Policy for Cooperative Purchasing

SECTION 4.12

- (1) The City may participate with other government agencies or public authorities in cooperative acquisition ventures for Goods and/or Services when it is in the best interest of the City to do so. Such Cooperative Purchasing shall require the prior written approval of the Manager of Purchasing.
- (2) The purchasing procedures and policies of the government agency or public authority initiating the procurement process will be followed.
- (3) The City and each government agency or public authority will issue its own purchase order or contract for their respective Goods and/or Services in all cases of Cooperative Purchasing.
- (4) In the absence of an applicable departmental Contract or Corporate Contract and with the approval of the Manager of Purchasing, the Client Department may purchase from another government agency or public authority's vendor for a particular contract. The selection of the vendor by the government agency or public authority must have been made through a competitive procurement process and the resulting contract must permit the City to purchase from that vendor under the same terms and conditions.
- (5) Where the Province of Ontario requires the City to meet a provincial standard for any Goods and/or Services, and has established a "Vendor of Record" arrangement for such Goods and/or Services, the City may use such arrangement in place of any procurement process otherwise required in the Purchasing Policy.

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POLICY # 13 – Policy for Authority to Execute Contracts

SECTION 4.13

- (1) The General Manager of the Client Department and the City Manager, or their respective Authorized Delegate, shall execute acquisition Contracts initiated by such department on behalf of the City for all RFT and RFP awards approved in accordance with Section 4.4 of the Purchasing Policy.
- (2) Where an acquisition Contract is required for a procurement which was not initiated by a RFT or RFP, but was otherwise authorized and approved in accordance with Section 4.4 of the Purchasing Policy, the person having the applicable Approval Authority for the procurement shall also have the authority to execute the acquisition Contract on behalf of the City.
- (3) For all other Contracts that require Council approval, the City officials named in the Council resolution shall execute such Contracts on behalf of the City. Where City officials have not been named in the Council resolution, the Mayor and Clerk shall execute such Contract.
- (4) All Contracts shall be in a form satisfactory to the City Solicitor and shall contain content which is acceptable to the Client Department.
- (5) All Authorized Delegates will complete the "Notification of Signing Authority" form, which shall not be effective until approved and executed by the General Manager or City Manager, as the case may be, and forwarded to the City's Financial Services Division for reference.

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POLICY # 14 – Policy for Standardization

SECTION 4.14

- (1) Standardization is a management decision-making process that examines a specific common need or requirement and then selects a Good and/or Service that best fills that need to become the standard.
- (2) No standard shall be established unless approved by the Manager of Purchasing and Council or by the Standards and Approved Products Committee.
- (3) Despite Section 4.14 (2), where the estimated annual value of the Good and/or Service is less than \$50,000, the Manager of Purchasing may approve a standard for such Good and/or Service. In such cases, the approval of the standard will expire on December 31 of the applicable calendar year, unless renewed.
- (4) Where the establishment of a standard will result in a single source purchase, that purchase shall also be approved by the Manager of Purchasing and Council or by the Standards and Approved Products Committee.
- (5) The Manager of Purchasing shall have the authority to negotiate house accounts with original equipment manufacturers and licensed distributors of approved standardized products.
- (6) The Standards and Approved Products Committee shall be responsible to prepare an annual information report to Council outlining the rationale for any standardization of Goods added to the City's Approved Products Listing, the number of Goods standardized and any standardized Good resulting in a single source purchase.

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POLICY # 15 – Policy for Procurement Cards

SECTION 4.15

- (1) No employee shall use a procurement card to purchase Goods and/or Services unless appointed and authorized by such employee's General Manager and the City Manager to do so, following sound business practices. Any use of a procurement card shall be in accordance with the Purchasing Policy and all other applicable City by-laws and policies.
- (2) The procurement card will be issued once the employee has read, signed and submitted the Procurement Card Agreement Form, to the Procurement Card Administrator, which sets out in writing the employee's responsibilities and restrictions regarding the use of the procurement card.
- (3) All procurement cards issued will have a predetermined "single transaction limit", a "monthly credit limit" and "blocked commodities" as determined and authorized by the General Manager of the applicable department and City Manager in consultation with the Director of Financial Services. All procurement cards will be blocked from obtaining cash advances.
- (4) The program will be administered and audited by the Director of Financial Services or designate, who will maintain a master file of all procurement cards and card limits.
- (5) The procurement card shall not be used:
 - (a) when a Contract is in effect for the Good and/or Service (unless pre-authorized in writing by the Manger of Purchasing);
 - (b) for personal purchases of any nature;
 - (c) for computer hardware/software (unless pre-authorized in writing by the Manger of Purchasing);
 - (d) for any long-term lease, license or rental agreement which is deemed material as defined by the City's Lease Financing Policy; Appendix I to FCS04014 on Corporate Administration Committee Report # 04-005;
 - (e) for printing requirements that are required to be handled through the City Print Shop; and
 - (f) for any purchase of Goods and/or Services that may be prohibited under any other policy approved by Council.
- (6) Vendors will not be rejected as a result of their non-acceptance of procurement cards.

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POLICY # 16 – Policy for Disposal of Surplus Goods

SECTION 4.16

- (1) The disposal of surplus and obsolete equipment shall be determined on a case by case basis.
- (2) The Manager of Purchasing, in conjunction with the Director of Financial Services, shall have the authority to sell, exchange, or otherwise dispose of Goods declared as surplus to the needs of the City, and where it is cost effective and in the best interest of the City to do so, items or groups of items may:
 - (a) be offered for sale to other City departments, other government agencies or public authorities; or
 - (b) be sold by external advertisement, formal request, auction or public sale (where it is deemed appropriate, a reserve price may be established); or
 - (c) be sold or traded to the original supplier or others in that line of business where it is determined that a higher net return will be obtained than following other procedures; or
 - (d) be donated to a non-profit agency; or
 - (e) be recycled; or
 - (f) in the event that all efforts to dispose of Goods by sale are unsuccessful, these items may be scrapped or destroyed if recycling is unavailable.
- (3) No disposition of such Good(s) shall be made to employees, elected officials, or their family members unless such Good(s) are sold through external advertisement, formal request, auction or public sale and no conflict of interest exists. Prior to any such disposition, the employee shall declare their interest in writing to their General Manager, who will confirm whether any conflict of interest exists. In the case of an elected official, the elected official shall declare their interest in writing to the City Manager. Family members include those defined by the City's Conflict of Interest Policy or such other similar policy currently in force. DE: same issue as before about checking name of policy; perhaps Code of Conduct, for Councillors. Will advise after speak with Lisa Pasternak in our office.
- (4) The Manager of Purchasing shall submit an annual report to the General Manager of Finance and Corporate Services summarizing the disposal of all surplus Goods pursuant to this policy.

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POLICY # 17 – Policy for Conflicts of Interest

SECTION 4.17

- (1) Employees of the City shall not have a pecuniary interest, either directly or indirectly, in any City contract or with any person acting for the City in any contract for the supply of Goods and/or Services for which the City pays or is liable, directly or indirectly to pay unless such interest has been declared pursuant to the City's Conflict of Interest Policy or such other similar policy currently in force.
- (2) Employees of the City are required to declare any pecuniary interest, either direct or indirect, in writing to their General Manager with a copy to the Manager of Purchasing indicating the specific nature of the conflict. Any conflict of interest that cannot be isolated and resolved will be reported to the appropriate standing committee of Council.
- (3) Members of Council are required to declare any pecuniary interest direct or indirect, and its general nature, which may result in a conflict-of-interest pursuant to the Appendix "H" to the City's Procedural By-Law (No. 03-301, as amended) being the Code of Conduct for Members of Council, or such other similar by-law currently in force.
- (4) Any City contract, or with any person acting for the City, and any contract for the supply of Goods and/or Services to a contractor for work for which the City pays or is liable, directly or indirectly, to pay in which a member of Council or any employee of the City has an undeclared pecuniary interest, directly or indirectly may be voided.
- (5) All City employees and others participating in the development of the specifications and/or evaluation of any Bid will be required to complete and sign a Conflict of Interest Form.

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POLICY # 18 – Policy for Vendor Complaint Resolution

SECTION 4.18

- (1) The City of Hamilton encourages the most open, competitive bidding process for the purchase of Goods and/or Services acquired, through the RFQ, RFT and RFP procurement processes and the objective and equitable treatment of all vendors.
- (2) The City, however, recognizes that mistakes and misunderstandings may occur; vendors may feel aggrieved and may seek to dispute the recommendation of an award of a contract. To maintain the integrity of the process, vendors who believe they have been treated unfairly may take the following steps, prior to the award of the contract:
 - (a) request a meeting with the City's Manager of Purchasing. This request shall be in writing and shall provide a detailed statement of the grounds of the complaint, including copies of relevant documents, and identify the form of relief requested; and
 - (b) if, after the meeting, no resolution satisfactory to both parties has been achieved, the vendor may make a formal written request to appear before the appropriate standing committee of Council, and said committee will provide to Council a recommendation with respect to the vendor's complaint.

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POLICY # 19 – Policy for Employee Compliance with Purchasing Policy

SECTION 4.19

- (1) An employee who fails to act in accordance with the provisions of the Purchasing Policy will be subject to appropriate disciplinary action up to and including termination of employment. Council, the public, and the business community must have confidence in the integrity of City employees.

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POLICY # 20 – Policy for Review of the Purchasing Policy

SECTION 4.20

- (1) The Manager of Purchasing shall submit to the Appropriate standing Committee of Council an annual report recommending any changes to the Purchasing Policy to meet the needs and requirements of the City to operate in an efficient and cost effective manner and in accordance with all applicable laws.
- (2) All changes to the Purchasing Policy require the approval of Council.
- (3) Changes to Purchasing Procedures and Guidelines require the approval of the Director of Financial Services and the General Manager of Finance and Corporate Services.
- (4) On a periodic basis the City shall refer the Purchasing Policy to the City's Internal Auditor for review and to assess the effectiveness of the Purchasing Policy.

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POLICY # 21 – Policy for Anti-Sweatshop Procurement

SECTION 4.21

- (1) The City of Hamilton does not encourage the use of consumer goods or products manufactured, assembled or produced in factories where persons and, in particular, children are used as slave or forced labour or in other exploitive manners which restricts the person's freedom or impedes the child's development. The City will consider the supply of consumer goods or products manufactured under such exploitive manners as a negative practice of the vendor.
- (2) The City will not knowingly accept consumer goods or products manufactured, assembled or produced in a Sweatshop or under Sweatshop Conditions.
- (3) The determination of compliance with this policy shall be in the absolute discretion of the Manager of Purchasing. The Manager of Purchasing may, but is not obligated to, request further information and documentation from the vendor to confirm compliance; and may base his or her determination on information provided by Canadian or international certification or compliance agencies or groups, workers or labour unions or organizations, manufacturers, consumer groups, international organizations, ILO or United Nations sources and other parties.
- (4) If any consumer goods or products supplied under a RFQ/RFP/RFT are determined by the Manager of Purchasing to be manufactured, assembled or produced in contravention to this policy and/or the certificate required hereunder, the City reserves the right, at its absolute discretion, to:
 - (a) return all the goods to the vendor and require the vendor to replace, within thirty (30) days from the date of notification by the City, the non-compliant goods or products with goods or products, of at least equal value, complying with this policy and all other requirements and specifications of the RFQ/RFP/RFT, all at no cost to the City; or
 - (b) require the vendor, within thirty (30) days from the date of notification by the City, to provide the City with conclusive evidence that the consumer goods or products have not been manufactured, assembled or produced in contravention of this policy, failing which the City may terminate the Contract without any compensation and without notice to the vendor.
- (5) If the City terminates a Contract with a vendor as a result of a breach of this policy, the City shall cease to be liable to the vendor or to any other person for any unpaid amounts that would otherwise have been payable under the terms of the Contract and shall not be under any obligation to return to the vendor any product supplied by the vendor under the Contract.

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(6) Child Labour Produced Goods Unacceptable

The City fully subscribes to the United Nations Convention on the Rights of the Child and, in particular, Article 32 of the Convention that requires that a Child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the Child's health or physical, mental, spiritual, moral or social development. The City reserves the right to terminate any Contract unconditionally and without liability or compensation whatsoever to the City in the event that consumer goods received from a vendor are discovered to have been manufactured, produced or assembled in a Sweatshop or in non-compliance with the national labour laws and regulations with respect to child employment and/or non-compliance with the United Nations Convention on the Rights of the Child.

(7) A vendor shall certify the following on the Form of Quotation/Form of Proposal/Form of Tender to be included in an RFQ/RFP/RFT, as the case may be:

"We hereby represent and certify the foregoing:

- all goods or products supplied under this RFQ/RFT/RFP have not been manufactured, assembled or produced, either wholly or in part, in a Sweatshop, as defined in the City of Hamilton's Purchasing Policy or by child labour;
- that any goods or products found to be supplied in contravention of the City's Anti-Sweatshop Policy will be returned to us, at our cost and at no cost whatsoever to the City, and that the City has the option to have the goods or products replaced by us with product of at least equal value, meeting specifications of the RFQ/RFT/RFP, or the City may terminate the Contract without any compensation whatsoever to us.

We hereby acknowledge that the City has been induced to consider this RFQ/RFT/RFP on the basis of this representation and certification.

We further acknowledge that the City shall have the right to reject our Quotation, Bid, or Proposal, terminate any Contract made, and collect any of its losses or damages arising out of our breach of the City of Hamilton's Purchasing Policy."

**CORPORATE SERVICES
PURCHASING SECTION**

POLICY # 22 – Policy for In-House Bid Submissions

SECTION 4.22

- (1) In-house Bid submissions will be considered when contemplating a transfer of services from internal services to external services or vice versa.
- (2) The General Manager of the Client Department submitting an in-house Bid shall obtain Council approval prior to submitting such a Bid. The Client Department's report to Council seeking such approval shall include as a minimum:
 - (a) the members of the in-house Bid submission team;
 - (b) which costs will be included in the Bid and how costs will be determined; and
 - (c) the rationale for submitting an in-house Bid.
- (3) The RFP or RFT documents to be utilized, as applicable, shall clearly indicate:
 - (a) an in-house Bid is being considered for the RFP/RFT; and
 - (b) any advantages that the in-house Bid will have over other bidders by virtue of it being an in-house Bid.
- (4) The integrity of the evaluation process will be maintained when evaluating an in-house Bid as follows:
 - (a) No member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services shall have any communications with a member of the evaluation team or an elected official concerning the subject RFP or RFT, as the case may be, except in accordance with the communication and any interview provisions contained in the applicable RFP/RFT;
 - (b) No member of the evaluation team or an elected official shall have any communications with a member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services, except in accordance with the communication and any interview provisions contained in the applicable RFP/RFT;
 - (c) No member of the in-house Bid submission team nor any employee whose employment is affected by the transfer of services shall participate in the development of the subject RFP/RFT nor shall such persons have any communications with any person participating in the development of the subject RFP/RFT;
 - (d) The same rules shall govern the submission of the in-house Bid as will apply to any other bidder, unless expressly provided otherwise in the RFP/RFT document; and
 - (e) The evaluation of Bids shall be objective and the process shall avoid any unfair bias towards either the in-house or external Bids.

Purchasing Policy for the City of Hamilton

Approved By City Council On: November 11, 2009

**CORPORATE SERVICES
PURCHASING SECTION**

**POLICY # 23 – Policy for Participation of Elected City Officials in the
Procurement Process**

SECTION 4.23

- (1) Elected City officials may participate in the procurement process in the narrowly defined circumstances described in this policy for those specific procurement projects identified by Council.
- (2) Elected City officials may participate as members of a steering committee for significant procurement projects identified by Council.

When Council identifies a significant procurement project for which elected City officials are to participate as members of a steering committee, Council will also address the following issues:

- (a) the extent of the elected City officials' involvement in the procurement process to ensure that they are able to provide input prior to the issuance of the procurement documents and to oversee the procurement process, but not function in a decision-making capacity;
 - (b) the selection of elected City officials who are able to comply with Section 4.17 of the Purchasing Policy (Policy for Conflicts of Interest) and who do not otherwise have a perceived or actual conflict of interest that would impair their ability to be impartial; and
 - (c) the number of elected City officials to participate.
- (3) Elected City officials may not participate in the procurement process where they are required to be in an evaluation capacity. Their involvement in the approval capacity of the procurement process is limited to what is stipulated in Policy # 4 - Policy for Approval Authority.

**CORPORATE SERVICES
PURCHASING SECTION**

POLICY # 24 – Policy for Solicitation of Vendors

SECTION 4.24

- (1) There shall be no solicitation for sponsorships or donations from current or potential vendors for City or staff initiatives. Without limiting the foregoing, there shall be no use of any type of vendor list generated from any City database.

**CORPORATE SERVICES
PURCHASING SECTION**

POLICY # 25 – Policy for Energy Commodities

SECTION 4.25

For the purposes of Policy 25 – Policy for Energy Commodities:

"Energy Commodities" means electricity, Green Power, natural gas, methane and all other petroleum based fuel products such as: diesel, bio-diesel, unleaded, fuel oil, propane and any other bulk commodity primarily used by the City for the purpose of heating and cooling of buildings and other structures, electricity generation, cogeneration and the fuelling of City fleets, as determined by the City of Hamilton's Manager of Energy Initiatives.

"Green Power" means electricity generated from renewable energy sources, such as certified water power, solar, biogas, biomass and wind. Other terms for Green Power include: Green Power certificates, Tradable Renewable Certificates or "Green Tags". These attributes, embodied in a certificate, may be bought and sold either bundled or unbundled with commodity electricity.

The purchase, sale, delivery and storage of Energy Commodities and the consideration of price hedging for Energy Commodities shall be in accordance with the City's Energy Commodity Policy.

**CORPORATE SERVICES
PURCHASING SECTION**

SCHEDULE A – Statement of Ethics for Public Purchasers

The following ethical principles should govern the conduct of every City staff delegated with purchasing authority.

- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals on honour and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.

Responsibility to the City:

- Follow the lawful instructions or laws of the employer.
- Understand the authority granted by the employer.
- Avoid activities, which would compromise or give the perception of compromising the best interest of the employer.
- Reduce the potential for any chances of preferential treatment by actively promoting the concept of competition.
- Obtain the maximum benefit for funds spent as agents for the City.

Relationship with vendors:

- Maintain and practice, to the highest degree possible, business ethics, professional courtesy and competence in all transactions.
- Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure.
- Preclude from showing favouritism or be influenced by vendors through the acceptance of gifts, gratuities, loans or favours.
- Adhere to and protect the suppliers business and legal rights to confidentiality for trade secrets, and other proprietary information.

Relationship with the City:

- Remain free of any and all interests and activities, which are or could be detrimental or in conflict with the best interests of the employer.
- Refrain from engaging in activities where staff has a significant personal or indirect financial interest.
- Exercise discretionary authority on behalf of the employer.
- Avoid acquiring interest or incurring obligations that could conflict with the interests of the City.

Purchasing Policy for the City of Hamilton

Approved By City Council On: November 11, 2009

**CORPORATE SERVICES
PURCHASING SECTION**

SCHEDULE B – Recurring and Non-competitive Expenditures

Items listed below are exempt from the requirements of the Purchasing Policy, save and except for Section 4.4 - Approval Authority. Orders for payment listed in Item 1.f) Insurance claims, legal settlements and arbitration awards will have the appropriate approvals from the department initiating the request in place of those approvals in Section 4.4 – Approval Authority.

(1) Employer's General Expenses

- (a) Insurance premiums.
- (b) Debt payments.
- (c) Grants and levies.
- (d) Licenses (for example, vehicle, elevators, radios).
- (e) Real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like.
- (f) Insurance claims and adjudications, legal settlements and arbitration awards.
- (g) Refundable travel expenses.
- (h) Temporary staffing agencies and services.
- (i) Other employee related expenses, such as: memberships in professional organizations, staff attendance of seminars, workshops, trade shows or conferences. This shall not include any training specifically designed for the City.

(2) Professional Services

- (a) Medical Professional Services.
- (b) Expert Witnesses.
- (c) Confidential Items (Forensic Audits).
- (d) Outside Legal Counsel on an individual file basis; however where the City Solicitor proposes to provide multiple files in an area of law to select outside legal counsel for a defined period of time, a competitive procurement process is to be followed in accordance with the provisions of the Purchasing Policy.

NOTE: An annual report will be issued to Council by the City Solicitor detailing outside legal counsel pursuant to (2)(d).

(3) Special Services

- (a) Community Service Providers (including counselling for Ontario Works recipients, Daycare, Lodging Homes, Nursing, Homemakers, Shelter for the Homeless, Funeral Services, Community Outreach Programs, Planned Parenthood and Prenatal Care & Education).
- (b) Appraisers of real property for property insurance assessments.
- (c) Committee Fees.

**CORPORATE SERVICES
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(4) Utilities

- (a) Electricity.
- (b) Postal services.
- (c) Water.
- (d) Natural gas.
- (e) Communications, for example: telephone, cable.

(5) Government Bodies (Federal, Provincial or Municipalities) and Government Legislative Bodies.

(6) Other

- (a) Antiques and Artifacts (shops, sales, repairs, but not including restoration).
- (b) Acquisition of Art (but not including commissioned works of art).
- (c) Publications (including newspapers, periodicals, magazines or books), CDs, DVDs and all copyrighted material.
- (d) Maintenance of software for systems previously acquired.
- (e) Purchases of goods for the purpose of retail sales (re-sale) by the City (not including items that bear the City of Hamilton logo or insignia).
- (f) Media advertising.
- (g) Commodity purchases using a commodity price hedging agreement in accordance with the City's Commodity Price Hedging Policy.