

CERTIFIED COPY**Procurement Bylaw****Table of Contents**

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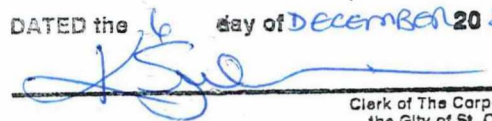
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CERTIFIED COPY

CERTIFIED under the Hand of the Clerk and the Seal of THE CORPORATION OF THE CITY OF ST. CATHARINES to be a TRUE COPY of By-law 2023-178 of The Corporation of the City of St. Catharines

CITY OF ST. CATHARINES

DATED the 6 day of December 2023



Clerk of The Corporation of the City of St. Catharines

BY-LAW NO. 2023-178

A By-law to define the procurement policies and procedures for The Corporation of the City of St. Catharines and to repeal By-law No. 2019-286.

WHEREAS Section 270(1) of the Municipal Act, 2001, as amended requires a municipality to adopt policies with respect to its procurement of goods, services, and construction;

AND WHEREAS The Council of The Corporation of the City of St. Catharines has deemed it desirable to set out its policies with respect to the Procurement or Disposal of Goods and Services in this Bylaw;

Now therefore, The Council of The Corporation of the City of St. Catharines enacts as follows:

Part I - Purposes, Goals and Objectives

1. The purposes, goals, and objectives of this Bylaw and of each of the methods of Purchasing authorized herein are:
 - (a) to encourage competitive bidding;
 - (b) to ensure objectivity and integrity in the Purchasing process;
 - (c) to ensure fairness between Bidders;
 - (d) to maximize savings for taxpayers;
 - (e) to offer a variety of Purchasing methods, and to use the most appropriate method depending on the circumstances of the acquisition;
 - (f) to the extent possible, ensure openness, accountability and transparency while protecting the best interests of the City and the taxpayers of the Corporation of the City of St. Catharines;
 - (g) to obtain the Best Value for the Corporation when procuring Goods and/or Services;
 - (h) to avoid real and perceived conflicts between the interests of the Corporation and those of the Corporation's employees and elected officials and to ensure compliance with the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as amended;

- (i) to encourage the Purchase of Goods and/or Services with due regard to the preservation of the natural environment;
- (j) to promote, and incorporate wherever possible in Purchasing activities of the Corporation, the requirements of the Ontarians with Disabilities Act, 2001, S.O. 2001, c. 32, as amended;
- (k) to adhere to the code of ethics of the Ontario Public Buyers Association and the National Institute of Government Purchasing;
- (l) to maintain timely and relevant policies and procedures.

Part II – Definitions

2. For the purposes of this bylaw:

Award means selection to enter into a Contract with a chosen Supplier;

Best Value means the best combination of cost, technical merit, and quality as determined by the City. The Best Value may not be the lowest cost;

Bid means a Tender, Proposal or Quotation or other formal offer or submission from a Bidder in response to a Bid Solicitation from the City;

Bidder means the legal entity that submits a Bid in response to a Bid Solicitation;

Bid Solicitation means a formal request for Bids issued by the City, which describes what is needed and how it will be obtained. Bid Solicitations include Requests for Quotation, Requests for Tender, and Requests for Proposal;

Budget means the Budget or portion of the Budget approved by Council;

Budget Owners means any City staff responsible for an operating or capital budget (DeptID or project);

City means The Corporation of the City of St. Catharines;

CAO means the Chief Administrative Officer of the City;

City Solicitor means the Director of Legal and Clerk Services and City Solicitor or Delegate;

Compliant means in relation to a Bid or the Supplier making a Bid in response to a particular method of Procurement being used under this bylaw, that the Bid or the Supplier as the case may be, complies or has complied in all material respects with the requirements of the method of Procurement as reflected in the documents issued for that purpose and is not liable to disqualification for failure to comply;

Conflict of Interest means a situation or circumstance, real or perceived, which could give a Supplier an unfair advantage during a procurement process or compromise the ability of the Supplier to perform its obligations under its Contract. A situation where a personal, business, or other interest of an elected or appointed official, officer or employee of the City is, or can be reasonably be perceived to be, in conflict with the interests of the City, and includes, but is not limited to:

- a) the giving or receiving of a Direct or Indirect Interest, or a direct or indirect advantage or privilege, by any person or business that offers

Goods, Services or Construction to the City;

- b) a Direct or an Indirect interest in any business that provides Goods, Services or Construction to the City;
- c) a Conflict of Interest as defined in the Municipal Conflict of Interest Act;
- d) a Conflict of Interest as defined in the City's Code of Conduct Policy #HR-01- 01, as may be amended

Construction means a construction, reconstruction, demolition, repair or renovation of a building, structure or other infrastructure or engineering or architectural work and includes site preparation, excavation, drilling, soil or seismic investigation, the supply of products and materials and the supply of equipment and machinery incidental to the Construction, and the installation and repair of fixtures of a building, structure or other engineering or architectural work;

Consulting Services, Professional or Specialized Services or Consultants means those Services of an advisory or professional nature required by the City to support Construction, policy development, decision making, administration, or the general management of the City, and are generally provided by persons who possess specific knowledge, expertise, technical skills, or unique abilities;

Contract means a binding agreement between two or more parties that creates an obligation to Procure Goods, Services, or Construction and may include a Purchase Order, Formal Agreement and/or the City's Standard Terms and Conditions;

Council means the Council of the City of St. Catharines;

Delegate or Delegation means the formal process of a Department Head delegating authority in writing to a Delegate;

Delegate also means a City employee who through a formal process, has been authorized to act on behalf of another either:

- a) during a temporary absence; or
- b) on a permanent basis to support operational effectiveness.

Department means an area of operation within the City, provided with a Budget to deliver Goods, Services or Construction to the public;

Department Head means the most senior manager responsible for a City Department or Delegate. The position may be identified by the title, Director;

Department Representative means a City employee authorized to Procure and Dispose of Goods, Services or Construction on behalf of the Department up to a specified dollar value;

Direct Interest arises when an employee may derive or be seen to derive some personal benefit or avoidance of a personal loss. These interests are generally financial in nature;

Disposal or Dispose means the sale, trade, redeployment, and/or destruction or donation of surplus personal property, vehicles, or equipment;

Evaluation means the process that takes place after the Bid submission deadline to determine if the Bids submitted are Compliant and to evaluate the Bids using the evaluation criteria included in the Bid Solicitation.

Fairness Monitor means an independent third party whose role is to observe all or part of a Procurement process, to provide feedback on fairness issues;

Formal Agreement means a written Contract outlining the terms and conditions for the Procurement of Goods and Services, and executed by the City and the Supplier;

Goods means, in relation to Procurement, moveable property (including the costs of installing, operating, 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 procured as part of a general Construction Contract but does not include Real Property;

Group Purchasing Organization or “GPO” means an entity whose goal is to leverage the power of a group of businesses or organizations to obtain discounts from Suppliers based on the collective buying power of its members;

Indirect Interest arises when the potential benefit or loss would be experienced by another person or corporation having a relationship with the employee. These interests are generally financial in nature;

Lease means a contract by which one party (lessee) enters into a contract with a second party (lessor) for possession and use of Goods for a specified period of time at a pre-determined cost;

Litigation means any unresolved dispute between the City and any other party or related party adverse in interest, including third party and cross claims, where either a legal proceeding has been commenced or a threat of legal action has been made in writing for an injunction, a mandatory order, a declaration or for the payment of damages or recovery of money;

Negotiated Request for Proposal or “NRFP” means a non-binding flexible format public request for Proposal by the Corporation made in accordance with this bylaw, seeking Proposals to supply Goods and/or Services which may or may not result in an Award by the Corporation;

Negotiation means a process whereby the City may negotiate directly with one or more Suppliers with the intent to Award a Contract or extend an existing Contract;

Procure or Procurement or Purchase means to acquire Goods, Services or Construction by purchase, rental, lease, or trade;

Procurement Representative means the representative of the City specified in the Bid Solicitation document;

Procurement Division means the group of employees responsible for Procurement and Disposal of all Goods, Services and Construction for the City and for the administration of this Bylaw;

Proposal means a submission received in response to a Request for Proposal (RFP);

PCard or Purchasing Card means a credit card issued in the name of both the City and an authorized employee for Procuring Goods and Services on behalf of the City;

Purchase Order or “PO” means a standard Contract used by the City to formalize a Procurement with a Supplier of Goods, Services or Construction;

Purchase Requisition means a request for Goods or Services prepared by the requisitioning Department, for which the Budget has been approved;

Quotation or Quote means a binding statement of price, terms of sale, and description of the Goods and Services offered by a Supplier;

Real Property means land, or land and buildings, and includes fixtures attached to such land or buildings;

Request for Expressions of Interest or “RFEOI” means a request made by the City for the purpose of compiling a list of potential Bidders who may be interested in providing deliverables to the City;

Request for Pre-Qualification or “RFPQ” means a request for the submission of information from potential Bidders including the qualifications, experience, financial capability, background and staffing of any entity who may qualify to supply deliverables to the City;

Request for Proposal or “RFP” means a request for Proposals issued under this bylaw;

Request for Quotation or “RFQ” means a request for Quotation issued under this bylaw;

Request for Tender or “RFT” means a request for Tender issued under this bylaw;

Roster means a list of Suppliers that have participated in and successfully met the requirements of a Request for Pre-Qualification (RFPQ), and have been pre-qualified to perform work assignments involving the delivery of a particular type of Goods, Services or Construction;

Services means intangible products that do not have a physical presence and includes Consulting, Professional and Specialized Services and Services procured as part of a Construction Contract;

Single Source means the non-competitive Procurement process to acquire Goods and/or Services from a specific Supplier even though there may be more than one Supplier capable of delivery of the same Goods, Services or Construction;

Sole Source means there is only one Supplier of the Goods, Services or Construction that meets the requirements of the City;

Standing (Blanket) Order means a Purchase Order to procure repetitively ordered Goods, Services or Construction for a defined period of time at an established price, under set terms and conditions if they are required;

Supplier means a person offering, providing, or contractually required to provide Goods, Services or Construction to the City;

Tender means a written detailed offer from a Supplier to supply Goods, Services or Construction where there are clearly defined criteria or specifications;

Total Contract Price means the Contract cost for the full term of the Contract at the time it is executed, and includes any City-approved changes/amendments of the Contract price throughout the life of the Contract which may include change orders, and in the case of a Contract containing renewal or extension provisions the total Contract cost for the initial term and all potential renewal or extended terms including the non-refundable portion of Harmonized Sales Tax (HST), where applicable, and including all other applicable fees charges and disbursements, less applicable rebates and discounts.

Unsolicited Proposals means Proposals received by the City from a Supplier(s) who have approached the City with a Proposal that has not been requested through a regular procurement process.

Part III - Application

3. This Bylaw applies to all Procurement and Disposal carried out by the City or any of its officers, and employees with the exception of:
 - a) those Goods and Services outlined in Schedule 1; or,
 - b) where an applicable trade agreement or statute of Ontario or Canada supersedes or
 - c) conflicts with this Bylaw, in which case the requirements of the trade agreement or statute shall take precedence; or,
 - d) when a Council Resolution requires that the Procurement or Disposal be carried out in some manner other than by this Bylaw.
4. A Council Resolution adopted by Council:
 - a) shall be made after receipt of a written administrative report describing the nature of the Procurement, or Disposal and including advice and recommendations from both the City Solicitor and the Department Head of the requisitioning department;
 - b) shall state that Council is satisfied that it is necessary in the public interest and shall give the reason or reasons for so concluding.
5. Where the authority to enter into a Contract for the Procurement of Goods, Services or Construction is a decision entirely within the jurisdiction of a local board of the municipality, the local board may use the Services of the Procurement Division. In this case all terms and conditions of this Bylaw will apply except:
 - a) Any reference to "Council" shall be read as a reference to the "Board"; and,
 - b) Any reference to a Department Head, Department Representative or CAO shall be read as the head of the administrative function of any Board, or their Delegate created by a formal process in writing and provided to the Procurement Division.

Part IV - Integrity of Procurement Process

6. Code of Conduct
 - a) With regard to Procurement, elected officials shall adhere to the City Code of Conduct for Members of Council.
 - b) With regard to Procurement, employees shall adhere to the Code of Conduct for Employees.
7. Conflict of Interest
 - (a) Personal Purchases shall not be made for any elected or appointed officials, members of a board or commission, or for City officers, employees, or their families.
 - (b) An employee of the City who has the responsibility for declaring surplus assets shall not bid on or personally obtain any goods that he or she has declared as surplus.

- (c) Every elected official, employee of the City or spouse, parent, or child (as defined in the Municipal Conflict of Interest Act) of every elected official, officer or employee is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any Purchase Order or Contract is, or might be awarded, any rebate, gift or money, except:
 - (i) gifts of a very small intrinsic value; or
 - (ii) moderate hospitality during the normal course of business that would not significantly exceed what would be perceived by others as influencing the making of a business decision.
- (d) All elected officials, officers or employees of the City shall declare any Conflicts of Interest to the Director of Financial Management Services and shall not be involved in a Bid Solicitation process where a real or perceived Conflict of Interest has been found or deemed to exist, including, but not limited to:
 - (i) requesting the Goods and/or Services, setting the parameters of the Purchase, evaluating Bids, or recommending, deciding or making Awards;
 - (ii) direct contact with those making those Purchasing decisions, both in Procurement and the user Department.

8. Supplier Conflict of Interest

- a) All Suppliers hired by the City, acting as an agent or representative of the City shall immediately disclose any actual or perceived conflict of interest, in writing to the Procurement Division.
- b) Suppliers and affiliated persons shall be precluded from submitting a Bid for any Bid Solicitation in which the Supplier or its employees has participated in the preparation of the Bid Solicitation. In this situation, any submitted Bid shall be rejected or disqualified.
- c) Failure by a Supplier to have disclosed in their Bid an actual or perceived Conflict of Interest may result in cancellation or suspension of the Award, or termination of the Contract at the City's discretion, without compensation.

9. Lobbying Restrictions

- a) During a Bid Solicitation process, all communications shall be made through the Procurement Representative specifically identified in the Bid Solicitation.
- b) Any Supplier or person acting on behalf of a Supplier or group of Suppliers, who contacts any elected official, consultant participating in the preparation or review of the Bid Solicitation or any employee other than the Procurement Representative to attempt to seek information or to influence the Award or offers gratuities or bribes shall be deemed to have engaged in lobbying.
- c) Lobbying restrictions shall apply to Suppliers, their staff members, or anyone involved in preparing a Bid. This restriction extends to all of the City's employees, and anyone involved in preparing a Bid Solicitation or participating in a Bid Evaluation process, and members of Council.
- d) The Director of Financial Management Services may reject or

disqualify any Bid from a Supplier that engages in such lobbying at any stage of the Bid Solicitation process.

- e) Elected officials shall refer any inquiries about a Bid Solicitation process to the CAO.

10. Non-Discriminatory Practices

- a) In order to comply with applicable law and trade agreements, including the Discriminatory Business Practices Act, R.S.O., 1990, the City shall not discriminate between Suppliers based on location, whether it be; City, Region, or Province or Country, resulting in no local preference.

11. Other relevant bylaws and policies

- a) Council may approve or provide direction on complementary bylaws/policies to guide the City's procurement practices. This may include but is not limited to policies on topics such as social procurement, living wage employment and ethical/sustainable purchasing.

Part V – Roles and Responsibilities

12. Employees

- a) All City employees shall:
 - i. Comply with the provisions of this Bylaw in the performance of their duties; and report non-compliance with the policy to the Director of Financial Management Services.
 - ii. Attend Procurement training as required.

13. Procurement Division

- a) Procurement Division of Financial Management Services is responsible for and has the authority to:
 - i. act as the Procurement Representative for the City;
 - ii. acquire Goods, Services and Construction;
 - iii. dispose of City assets and other property, excluding Real Property;
 - iv. call for, receive, open and review Bids;
 - v. provide professional procurement advice and services to requisitioning Departments including the application of this Bylaw to Procurement and Disposals, and exercise discretion as prescribed when alternative courses of action are permitted;
 - vi. require a requisitioning Department to use a specific method of Procurement;
 - vii. establish through consultation with the requisitioning Department and the City Solicitor standards, and terms and conditions (as applicable) for Bid Solicitations, Contracts, and other documents;
 - viii. establish and update the necessary policies and procedures, and related documents and forms to carry out

the objectives and requirements of this Bylaw and any related policies;

- ix. co-ordinate the standardization of specifications for similar items ordered by different Departments, resulting in benefits to the City through reduced costs and common standards;
- x. advise the Requisitioning Department when a Procurement process may not conform to an applicable trade agreement as early as possible in the Bid Solicitation process;
- xi. provide ongoing training and education related to this Bylaw;
- xii. retain documentation evidencing procurement processes;
- xiii. monitor adherence to this Bylaw, and report non-compliance in writing, to the Director of Financial Management Services and appropriate Department Heads;
- xiv. collaborate with Group Purchasing Organizations and participate in opportunities where deemed beneficial to the City.

14. Department Heads

- a) *The Department Heads are responsible for the Procurement of Goods, Services and Construction for their Department and have the following responsibilities within their Department operations to:*
 - i. ensure that all Procurement activities and decisions are compliant with all applicable sections of this Bylaw;
 - ii. ensure that spending authorities provided to Delegates support effective and efficient Procurement;
 - iii. ensure that all authority to Award a Contract is subject to the identification and availability of sufficient funds in the appropriate Council-approved Budget;
 - iv. prepare accurate and complete market-ready specifications, scope of work and terms of reference;
 - v. report to Council on proposed Procurement which requires Council approval, as outlined in Schedule 2;
 - vi. review Contract documents to ensure the scope of work and/or service sought in the Bid Solicitation is accurately represented in the executed Contract;
 - vii. ensure that the Goods, Services or Construction Procured or Disposed of are being delivered or removed in accordance with the scope of work and or other terms of the applicable Contract;
 - viii. support the timely payment of accounts within the times set out in the Contract (provided the Supplier has met all conditions of the Contract and precluding processes undertaken by the Accounts Payable Division); and

- ix. review Supplier performance and take appropriate steps after the review.

15. Director of Financial Management Services

- a) The Director of Financial Management Services has all the necessary authority to administer this Bylaw and duties authorized within the Bylaw on behalf of the City.
- b) The Director of Financial Management Services is specifically responsible to:
 - i. implement policies established by this Bylaw;
 - ii. develop and implement Administrative Policies and Procedures supporting the ongoing compliance with this Bylaw;
 - iii. monitor compliance with this Bylaw;
 - iv. *notify Council of non-compliance with this Bylaw if the non-compliance cannot be rectified;*
 - v. review Bids where there have been allegations of lobbying, Conflict of Interest, or other inappropriate behavior and report to the CAO on the outcome of such reviews;

16. CAO and Deputy CAO

- a) The CAO and Deputy CAO are responsible for and have the authority to:
 - i. impose restrictions on Procurement activities from time to time where they consider it necessary and in the best interests of the City; and
 - ii. support Council in satisfying Council's role.

17. City Council

- a) In accordance with best practices in Municipal procurement, there is a need for a clear separation of political and administrative functions in relation to the City's procurement functions.
- b) City Council shall approve the Budget and scope of projects as part of the annual operating and capital budget process or individual project approval submissions from Departments throughout the year. Approval of the project scope and Budget by Council shall be deemed to be approval for the subsequent Award of a Contract in accordance with the procurement processes and staff Delegations of Authority to Award detailed in this Policy and where the cost amount of the Contract is within the Budget previously approved by Council.
- c) In keeping with municipal procurement best practices, the Mayor and Members of Council shall not be involved in specific procurements, including not receiving any related information or documents from the time those procurements have been advertised or solicited until the Contract has been entered into except where the recommendation for Award has been forwarded to Council for approval as noted above.
- d) The Mayor and Members of Council who receive inquiries from Suppliers related to any specific procurement are required to advise

the Supplier(s) to communicate with the contact person listed in the procurement document, if any, or with the Procurement Division.

Part VI – Approval Levels

18. Notwithstanding any other provision of this Bylaw, any of the following situations require Council Approval to proceed with an Award:
 - a) the recommended Award exceeds the approved Budget by \$150,000 or greater, or
 - b) the recommended Award is not the lowest Compliant Bid for a RFT; or the highest ranked Proponent for an RFP, or
 - c) the recommended Award would result in a Contract term, including renewals exceeding ten years, or
 - d) when recommended by the CAO or Deputy CAO, or
 - e) the Award is for a Sole or Single Source Contract and the total cost of the Contract exceeds \$150,000.
19. Employees of the City identified in Schedule 2 shall have the authority to Procure, Award and execute Contracts and all other documents necessary to ensure the Award or Purchase complies with this Bylaw.
20. Formal approval of the annual Budget constitutes Council's approval to proceed with the Procurement process. No further authorization by way of a bylaw or resolution to Award or execute a Contract is required, except as specifically stipulated in Schedule 2.
21. The authority in Schedule 2 to Procure, and execute related Contracts is established based on the Total Contract Price. The Total Contract Price for the purposes of determining the necessary approvals and procedures shall be the Contract cost for the full term of the Contract at the time it is executed, and includes any City-approved changes/amendments of the Contract price throughout the life of the Contract which may include change orders, and in the case of a Contract containing renewal or extension provisions the total Contract cost for the initial term and all potential renewal or extended terms including the non-refundable portion of Harmonized Sales Tax (HST), where applicable, and including all other applicable fees charges and disbursements, less applicable rebates and discounts.
22. In the case of Goods and Services of a similar type being supplied on a repetitive basis over the year or season, the Total Contract Price will be determined based on the estimated cost of such Goods and Services supplied in the whole calendar year or season.
23. No Procurement, or Contract shall be divided in order to reduce the Total Contract Price or to otherwise avoid or circumvent the application of any of the provisions of this bylaw.
24. The authority to execute Contracts shall be subject to all the following requirements:
 - a) the documents being in a form satisfactory to the City Solicitor; and
 - b) any proof of insurance and the provision of financial securities required under the Contract are satisfactory to the City Solicitor; and
 - c) the Procurement is in compliance with this Bylaw.

Part VII - Procurement Planning

25. Planning

- a) Except for the exemptions in Schedule 1 and low dollar value Procurement up to \$10,000, all Procurement shall be conducted through or reviewed by the Procurement Division.
- b) Requisitioning Departments planning large and/or complex Construction projects with a Total Contract Price above \$8 million, or for the Procurement of Goods and Services greater than \$350,000 shall be required to:
 - i. engage the City Solicitor and Procurement Division during the planning phase;
 - ii. address the applicability of trade agreements identified by the Procurement Division;
 - iii. determine if a Fairness Monitor is required for the Procurement; and
 - iv. address any other requirements set out in policy and procedures prepared by the Procurement Division for large and/or complex Procurement.

26. Selection of Method of Procurement

- a) The selection of the appropriate Procurement method will be based on the specific circumstances of the Procurement including the recommended Procurement Method for the dollar value of the transaction as set out in Schedule 3.
- b) The Procurement Division shall be responsible for confirming the Procurement Method to be used.
- c) Procurement authorized under Parts VIII and IX shall be aligned with the Procurement Objectives in Part I.
- d) Requisitioning Departments are responsible for identifying and complying with all the requirements applicable to the specific method of Procurement being undertaken as outlined in Parts VIII and IX of the Procurement Division's policies and procedures.

27. Specifications and Evaluation Criteria

- a) Requisitioning Departments are responsible to provide all the specifications necessary for the Bid Solicitation including:
 - i. the scope of work, and relevant information such as specifications, provisions, terms, and minimum requirements for the Procurement; and,
 - ii. ensuring the specifications provide a clear and accurate description of requirements to be met in the Contract.
- b) Requisitioning Departments are responsible for determining the Evaluation criteria for a response to a RFP Bid Solicitation.
- c) The Procurement Division and the City Solicitor may review and recommend improvements or clarifications to both specifications and Evaluation criteria, to improve the likelihood of attracting and selecting the best suited Bidder.

- d) If specifications are developed by an external consultant, that consultant shall not be permitted to submit a Bid in response to the Bid Solicitation for which the Specifications were prepared.
- e) The Procurement Division may issue an RFEOI for the purpose of informing specifications and to improve the likelihood of a subsequent Bid Solicitation resulting in Best Value for money.

28. Request for Expressions of Interest (RFEOI)

- a) A RFEOI may be undertaken to gather information from Suppliers related to the types of Goods, Services or Construction available and/or the scope of business requirements.
- b) RFEOIs shall not be used to obtain specific costs for specified Goods, Services or Construction.
- c) Receipt of a response to a RFEOI issued by the City does not create any Contract or obligation between the City and the Supplier.

29. Request for Pre-Qualification (RFPQ)

- a) The intent of a RFPQ is to pre-qualify Suppliers that are most likely to provide a positive outcome or response to a Bid Solicitation. A RFPQ may be undertaken to qualify Suppliers who meet specified criteria and include them in a list or Roster (Part IX). These listed Suppliers may be invited to participate and compete in a subsequent Bid Solicitation.
- b) Planning for the Issuance of a RFPQ shall be conducted in accordance with Part VII.
- c) Issuance of the RFPQ as well as receipt, and Evaluation of the responses shall be conducted in accordance with Part X.
- d) Receipt of a response to a RFPQ issued by the City does not create any Contract or obligation between the City and the Supplier.

Part VIII - Methods of Procurement

30. Procurement Methods outlined in Parts VIII and IX shall be conducted in compliance with the Bylaw and policies and procedures supporting this Bylaw.

31. No informal purchase shall be made without a fully executed Purchase Order issued prior to the purchase unless purchase is made through direct purchase

32. Direct Purchase (Low Dollar Value Procurement up to \$10,000)

- a) Department Representatives may make a direct purchase from one Supplier for Goods and Services for a Total Contract Price up to \$10,000 without competitive bidding.
- b) This method of Procurement is appropriate when the administrative burden of another Procurement method is significant in relation to the price or value of the Goods and Services being procured, and associated risks are assessed as low, otherwise the Informal Quotation

Method can be used.

- c) Department Representatives shall utilize Standing Orders or Rosters when available (Part IX).
- d) Department Representatives may enter into Negotiation with a specific Supplier (in accordance with Part X).
- e) The Requisitioning Department is responsible for ensuring that Suppliers providing Goods, Services or Construction to the City, where applicable, provide comprehensive liability insurance, workers' compensation certificate and comply with the Occupational Health and Safety Act, and declaration of compliance with the Accessibility for Ontarians with Disabilities Act 2005 as amended.
- f) Payment for Goods, Services and Construction up to \$10,000 may be made through the following means:
 - i. PCard may be used in accordance with the PCard Policy to make a Procurement up to \$10,000.

33. Informal Quotation (Procurement greater than \$10,000 and less than \$50,000)

- a) An informal Quotation shall be utilized for Procurement with a Total Contract Price greater than \$10,000 and less than \$50,000, to obtain competitive bidding in an expeditious and cost-effective manner.
- b) The Requisitioning Department will solicit, without formal advertising, at least three written Quotations (if possible).
- c) Quotations received will be evaluated on cost and criteria outlined in the informal Quotation to select the preferred Supplier.
- d) The Requisitioning Department is responsible for ensuring that Suppliers providing Goods, Services or Construction to the City, where applicable, provide comprehensive liability insurance, workers' compensation certificate and comply with the Occupational Health and Safety Act, and declaration of compliance with the Accessibility for Ontarians with Disabilities Act 2005 as amended.
- e) In accordance with Schedule 2, the requisitioning Department is authorized to create a Purchase Requisition for the successful Bidder.
- f) The Procurement Division may review the Quotations and the Purchase Requisition for compliance with the Bylaw, prior to issuance of the Contract.

34. Formal Request for Quotation (Procurement greater than \$50,000 and less than \$100,000)

- a) A Formal Request for Quotation shall be utilized for Procurement with a Total Contract Price value greater than \$50,000 and less than \$100,000.
- b) The Requisitioning Department will provide the requirements relevant to the Procurement such as specifications, provisions, terms, and supplemental general conditions for the Bid Solicitation.
- c) The Procurement Division will prepare and issue the Bid Solicitation by using either:

- i. a Roster of Suppliers compiled by the Procurement Division in conjunction with the Requisitioning Department; or,
 - ii. publicly advertising the Bid Solicitation in compliance with Part X; or,
 - iii. both i) and ii) above, if deemed beneficial.
- d) Suppliers shall submit only one Quotation which cannot be altered after submission.
- e) If possible, at least three Quotations shall be solicited and subsequently evaluated:
 - i. jointly by the Procurement Division and Requisitioning Department;
 - ii. on cost and Evaluation criteria outlined in the Bid Solicitation to select the preferred Supplier.
- f) The Procurement Division shall issue a notice of Award prior to issuing the Purchase Requisition.
- g) The Procurement Division shall ensure the Purchase Requisition contains the relevant information such as specifications, provisions, terms, and supplemental general conditions for the Procurement; and, is authorized appropriately as per Schedule 2.
- h) After the Purchase Requisition has been authorized, Procurement Division will issue a Contract and provide it to the Supplier confirming the terms of the Procurement, if applicable

35. Request for Tender (RFT) (Procurement equal to or greater than \$100,000)

- a) For Procurement with a Total Contract Price equal to, or greater than, \$100,000, a Request for Tender shall be issued through the Procurement Division, provided all of the following conditions apply:
 - i. two or more sources are considered capable of supplying the requirements;
 - ii. the requirements are adequately defined to permit the Evaluation of Bids against clearly stated Evaluation criteria;
 - iii. the City intends to accept the lowest compliant Bid without Negotiations.
- b) If the conditions in 35 a) do not apply, the appropriateness of procuring through a RFP shall be evaluated.
- c) The requisitioning Department shall prepare the Bid Solicitation after completing the Procurement planning including determination of all the specifications necessary for the Bid Solicitation, in compliance with Part VII.
- d) Specifications as well as specific processes and procedures that will be followed for the Procurement will also be outlined in the Bid Solicitation including:
 - i. the scope of work, and relevant information such as specifications, provisions, terms, and minimum requirements for the Procurement;
 - ii. procedures for communication during the procurement (Part X);
 - iii. process for receipt and opening of Bids (Part X);

- iv. the basis of Award (Part X);
 - v. opportunity for post Award debriefing (Part XIII); and
 - vi. Requirements for security, insurance, and indemnification (Part XI).
- e) The Procurement Division will review the Bid Solicitation and arrange for its issuance.
 - f) The Procurement Division will advertise the Bid Solicitation in accordance with Part X on Advertising, except where a list of pre-qualified Suppliers has been compiled in accordance with Part VII on RFPQ.
 - g) Where an RFPQ has previously been conducted, only pre-qualified Suppliers shall be notified, and Bids shall only be accepted from pre-qualified Suppliers.
 - h) RFT submissions will be evaluated by staff to ensure compliance with terms and conditions of the solicitation and recommendation will be made to Award to the lowest compliant Bidder.
 - i) Prior to Award of the Contract, the requisitioning Department will:
 - i. ensure that for Contracts which exceed \$100,000, and prior to the Award of the Contract, the requisitioning Department will ensure that the Contract has been reviewed through the Legal Department and provided to the Procurement Division;
 - ii. ensure the Contract is executed in accordance to the provisions of this Bylaw and provided to the Procurement Division, where applicable; and/or,
 - iii. create and provide to the Procurement Division an approved Purchase Requisition in accordance to Schedule "2", containing all relevant information such as specifications, provisions, terms and supplemental general conditions.
 - j) Upon receipt of an approved Purchase Requisition, and an executed Contract where applicable, the Procurement Division will execute a Purchase order confirming the terms of the Procurement to the Supplier and applicable Department Representative(s).
36. Request for Proposal (RFP) or Negotiated Request for Proposal (NRFP)
(Procurement equal to or greater than \$100,000)
- a) For Procurement with a Total Contract Price equal to or greater than \$100,000, an RFP or a NRFP shall be issued through the Procurement Division provided one or more of the following conditions apply:
 - i. The Procurement is required as a result of a problem, requirement or objective for which there is no clear solution;
 - ii. The precise Goods and Services are not known and the Bidder is expected to define them so as to provide the Best Value solution; or,
 - iii. The selection of the successful Bidder is based on the effectiveness of the proposed solution rather than on cost alone;
 - iv. Procurement is in competitive format for requirements such as a design or a design build solicitation.
 - b) The requisitioning Department shall prepare the Bid Solicitation after completing the Procurement planning including determination of all the

specifications necessary for the Bid Solicitation, in compliance with Part VII.

- c) Specifications as well as specific processes and procedures that will be followed for the Procurement will also be outlined in the Bid Solicitation including:
 - i. the scope of work, and relevant information such as specifications, provisions, terms, and minimum requirements for the Procurement;
 - ii. procedures for communication during the procurement (Part X);
 - iii. process for receipt and opening of Bids (Part X);
 - iv. the basis of Award; and,
 - v. Requirements for security, insurance and indemnification (Part XI).
- d) The Procurement Division will review the Bid Solicitation and arrange for its issuance.
- e) The Procurement Division will advertise the Bid Solicitation in accordance with Part X, except where a list of prequalified Suppliers has been compiled in accordance with Part VII.
- f) All RFPs will be evaluated consistently with specified processes which includes a specified Evaluation team, and criteria identified in the Bid Solicitation.
- g) Ensure that for Contracts which exceed \$100,000, and prior to the Award of the Contract, the requisitioning Department will ensure that the Contract has been reviewed through the Legal Department and provided to the Procurement Division.
- h) Award of an RFP shall comply with Part X and Schedule "2".

Part IX - Special Circumstance Procurement

37. Unsolicited Proposals

- a) Unsolicited Proposals, and/or communications regarding potential unsolicited Proposals, are Proposals received by the City from a Supplier or Suppliers who have approached the City, i.e. any employee or elected official, without solicitation, to advise the City of their ability or desire to undertake City requirements. Unsolicited Proposals can be new or innovative ideas that could assist the City in achieving its goals and have not been requested through the regular procurement process.
- b) City employees or elected officials shall not accept an unsolicited Proposal and/or communication with respect to a potential unsolicited Proposal. The Supplier shall be advised to direct the unsolicited Proposal to the Director of Financial Management Services.
- c) The Director of Financial Management Services will log the unsolicited Proposal and direct it to the appropriate Department Head. The Department Head shall first assess such Proposals on the basis of whether they align with the City's strategic goals and objectives, do not circumvent the City's regular procurement processes, and the Proposal's scale and scope aligns with the requirements and funding ability of the City.
- d) If it is determined by the Department Head that there is a legitimate need for the Goods, Services and/or Construction offered by way of the unsolicited Proposal and that funding is available, then it will be reviewed together by the

Department Head, the Director of Financial Management Services and, where appropriate, any other Department Head to determine the applicable acquisition process to be conducted in accordance with this Bylaw.

38. Single and Sole Source Procurement

- a) Bid Solicitations are not required for Single or Sole Source Purchases, provided that any of the following conditions apply:
 - i. the compatibility of a Purchase with existing equipment, product standards, facilities or service is a paramount consideration;
 - ii. a Good or Service is Purchased for testing or trial use;
 - iii. there is an absence of competition for technical reasons and the Goods and/or Services can only be supplied by a particular Supplier;
 - iv. an unforeseeable situation of urgency exists and the Goods and/or Services cannot be obtained in time by means of competitive procurement procedures;
 - v. the City has a rental Contract with a purchase option and such purchase option is beneficial to the City;
 - vi. for matters involving security, police matters or confidential issues, in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the City;
 - vii. there are no Bids in response to a Bid Solicitation;
 - viii. a Roster for Professional Services has been developed in accordance with this bylaw.
- b) All Purchases shall be authorized in accordance with the Purchasing authorities set out in Schedule "2" and all Contracts shall be signed in accordance with the document execution authorities set out in Schedule "2".
- c) Where required by trade agreements, the City shall publish notice of Single or Sole Source Awards.

39. Rosters for Professional or Specialized Services

- a) A Roster of qualified Suppliers of Professional or Specialized Services for projects requiring particular expertise may be developed from a RFPQ, which shall be conducted in accordance with Part VII.
- b) Subsequent Procurement utilizing the Roster shall be conducted in compliance with the Bylaw, which requires that for any Procurement greater than \$10,000, at least three Suppliers from the Roster shall be selected and invited to submit Bids in response to a Bid Solicitation. If more than three Suppliers are listed on the Roster, an equitable rotation for selecting Suppliers must be established.
- c) Roster lists shall be compliant with trade agreements and shall only be valid to a maximum of (3) years from the date of formation.
- d) If in the opinion of the Procurement Division, the Roster is misused or ineffective the Procurement Division shall have the authority to terminate and or reestablish the Roster.

40. Emergency Procurement

- a) In specified circumstances Procurement may be required to respond to an emergency which shall mean either:
 - i. An emergency declared pursuant to the Emergency Management and Civil Protection Act 1990 (the "Act"); or
 - ii. An event or circumstance where the City's municipal emergency control group established under the Act has been activated; or when immediate Procurement of Goods, Services or Construction is essential or necessary to prevent or alleviate serious delay, a threat to public health, safety, or welfare, the disruption of essential Services or damage to public property. This may include but is not limited to compliance with Laws such as fulfilling a statutory order such as an environmental, public health, or workplace safety compliance order.
- b) To respond to an emergency, Goods, Services or Construction may be procured by the most economical and expedient means, utilizing where possible:
 - i. Standing Order; and/or
 - ii. Rosters
- c) Approval limits for Procurement shall comply with Schedule 2, except that:
 - i. the requirement for a Council approved Budget shall be waived, and
 - ii. Procurement in an Emergency exceeding \$100,000 shall be approved by the CAO or Deputy CAO.
- d) Reporting is required as outlined under the City's Emergency Plan approved pursuant to the Act.

41. Leased Goods

- a) The acquisition of Goods through a Lease shall be completed in consultation with the Procurement Division.
- b) Depending upon the terms and conditions of a Lease, Lease payments may be included in the City's debt and debt servicing costs, and as such decisions to Lease require a high level of scrutiny.
- c) Any decision to Lease Goods which may include the Lease of office equipment, vehicles, machinery, and equipment shall be based on the cost of leasing compared to another method of Procurement and an assessment of the risks associated with the Lease.
- d) Authority to incur expenditures through a Lease shall be subject to the spending authority levels as outlined in Schedule 2 of this Bylaw and compliance with the City's Lease Financing Policy and the Municipal Act, 2001. The Total Contract Price of Procurement shall be defined as the total payments that shall be made during the term of the Lease agreement plus any optional payments that may be made.

42. Co-Operative Procurement

- a) The Procurement Division may enter into arrangements with any government body, ministry, agency, board, corporation or authority on a co-operative or joint basis for Purchases of Goods, Services or Construction where there are economic advantages in so doing. Where a co-operative or joint basis

Purchase occurs, such Purchases are deemed to comply with this bylaw. Co-operative Procurement for reporting purposes shall be considered a Request for Proposal or a Request for Tender based on the process undertaken by the originating agency.

- b) The appropriate level of Authorization on Schedule 2, will be determined by using the Total Contract Price of Procurement that would have been included in a Bid Solicitation if Co-operative Procurement was not utilized.

Part X - Specific Processes Required for Procurement

43. Advertising of Bid Solicitations

- a) Purchases not covered under the monetary thresholds of applicable trade agreements shall, at a minimum, be advertised on the Bidding System for a minimum of ten (10) calendar days preceding the stated closing date.
- b) When required by trade agreements, Purchases shall be advertised on the bidding system for a minimum of twenty-five (25) calendar days preceding the closing date. This requirement may be reduced by Procurement to ten (10) calendar days provided that:
 - i. an RFPQ has been previously issued for the Purchase or;
 - ii. a notice of planned procurement has been posted for the Purchase using the Bidding System at least forty (40) calendar days (and not more than twelve (12) months) in advance of the Bid posting.
- c) The City shall advertise Bids that are impacted by trade agreements on any designated electronic Canada-wide single point of access as directed by the Government of Canada.
- d) Any person involved in Purchases may advertise Purchases on multiple or alternative platforms in addition to those prescribed in this section if they determine that it is in the City's best interest to do so.
- e) Procurement of Goods, Services or Construction equal to or greater than \$50,000, for which Bidders have not been pre-qualified, shall at a minimum be advertised on the City's website or a website authorized by the Procurement Division for posting Bid Solicitations, from the date the Bid Solicitation is issued up to and including the date on which the Bid Solicitation closes;
- f) Where the Bidders have been previously pre-qualified in accordance with this Bylaw no further advertising is required for Procurement.

44. Communication during the Blackout Period

- a) During the period of time from when the Bid Solicitation for a RFT or RFP is issued and until the Bid is Awarded by the City (the blackout period), communication by the Bidders shall be through the Procurement Division, or as specified in the Bid Solicitation.
- b) Prior to the deadline for clarifications, as stipulated in the Bid Solicitation, the Bidders may seek clarification in writing from the Procurement Representative.

45. Addenda to a Bid Solicitation Document

- a) Adjustments, clarifications and changes to a Bid Solicitation shall be issued in writing by the Procurement Division as an addendum within the timeframe stipulated in the Bid Solicitation.

- b) Submission times and dates may be extended to allow for the issuance of an Addendum within a reasonable timeframe and not less than 48 hours prior to the submission deadline, as authorized by the Procurement Division as outlined in the Policy and Procedures and acceptable to the Procurement Division.
- c) The Supplier is responsible for obtaining and incorporating into a Bid any addenda issued.

46. Receipt and Opening of Bids

- a) All Bids (except responses to informal quotation) shall be received by the City in accordance with the instructions in the Bid Solicitation, which will specify a time, date.
- b) All Bids received by the submission deadline shall be opened and specified information shall be made available to the Bidders as outlined in the Bid Solicitation.
- c) The City's standard Bid Solicitation documents shall provide that the City shall have the right to reject the lowest or any Bid in its absolute discretion.

47. Bid Evaluation

- a) All Bid Evaluation criteria will be disclosed in the Bid Solicitation. In addition to price, criteria may include but not limited to the following:
 - i. Skill and demonstrated experience of the Bidder to provide the Goods, Services or Construction;
 - ii. Schedule for the delivery of Goods, Services or Construction;
 - iii. References;
 - iv. Past performance on previous City Contracts, including the value, frequency and validity of claims and change orders requested;
 - v. Sufficiency of financial resources;
 - vi. Ability to provide ongoing maintenance or support for the Goods provided;
 - vii. Incorporation of accessibility criteria and features;

48. Bid Irregularities

- a) The Procurement Division will maintain procedures to administer Bid irregularities.
- b) Each Bid Solicitation document issued by the City will outline irregularities with Bid Submissions that may lead to the disqualification of a Bid, or may require corrective action to take place in order to make the Bid compliant as provided in Schedule 4.
- c) The process for administering irregularities arising from Bids shall be in the first instance, in accordance with Schedule 4 and in the event the Bid Solicitation does not provide a full answer to the irregularity in question, then in accordance with the procedures maintained by the Procurement Division.
- d) Notwithstanding sub-sections a), b) and c) and provided the Procurement division and requisitioning Department agree, prior to the issuance of the Bid Solicitation, bid irregularities may be governed by the provisions of other standard agreements in use such as, but not limited to, Niagara Peninsula

Standard Contract Document or with the Canadian Construction Documents Committee in place of Schedule 4.

49. Negotiation

- a) Negotiation may be undertaken after the highest-ranked Bidder in an NRFP has been identified;
- b) A Single or Sole Source is being recommended;
- c) Negotiation with more than one Bidder at the same time, for the same Procurement opportunity is prohibited.

Part XI – Security and Insurance

50. Financial Security and Insurance

- a) The City may require specified financial security and insurance and shall stipulate these requirements within the terms of the Bid Solicitation.
- b) The financial security may include the following:
 - i. Bid security to ensure the successful Supplier on the Bid Solicitation enters into a Contract;
 - ii. Performance bonds to ensure the performance of the Contract;
 - iii. Labour and/or material bonds to ensure the payment of labour and materials supplied in connection with the Contract; and
 - iv. Other additional security that the Procurement Division deems appropriate relative to the terms of the Bid Solicitation.
- c) The acceptable forms of financial security shall be stipulated within the terms of Bid Solicitation.
- d) Prior to execution of the Contract the Supplier shall provide to the City proof of insurance in accordance with the Bid Solicitation, satisfactory to the City Solicitor.
- e) Failure to comply with terms and conditions of financial security and insurance specified the Bid Solicitation, within the timeframes provided, shall be just cause for cancellation of the Award.

Part XII – Contracts

51. Form and Execution of Contracts

- a) All Awards of greater than \$10,000 Total Contract Price shall require the issuance of a Contract in the form of a Purchase Order and may also require a Formal Agreement. Awards for \$10,000 or less may also be evidenced by a PO or a Formal Agreement.
- b) A PO which refers to the City's standard terms and conditions outlined in the Bid Solicitation, shall be used when the terms and conditions of the Procurement are unambiguous.
- c) A Formal Agreement shall be used when the terms of the Bid Solicitation are complex or are the result of Negotiation.

- d) It is the responsibility of the Procurement Division in consultation with the City Solicitor to determine when it is in the best interest of the City to establish a Formal Agreement with a Supplier.
- e) POs shall be executed in compliance with Schedule 2.
- f) If a Formal Agreement is required, it shall be executed in compliance with Schedule 2, providing the Formal Agreement is satisfactory in form and content to the City Solicitor and in technical content to the Department Head.
- g) Contracts shall be executed prior to a Supplier commencing work. A PO shall be fully executed upon its provision to a Supplier.

52. Contract Renewals and Extensions

- a) Where a Contract contains an option for renewal or an extended term, the Department Head in conjunction with the Procurement Division shall confirm that:
 - i. the exercise of the option is in the best interest of the City;
 - ii. Supplier performance is satisfactory, based on Contract terms and conditions;
 - iii. the Council approved Budget is available to meet the proposed expenditure.

53. Contract Amendments

- a) Contract amendments to Total Contract Price shall only result from a change in the scope of work, or to address circumstances that were not foreseeable at the time of the Contract Award.
- b) Provided that the Director of Financial Management Services and the requisitioning Department Head are jointly able to confirm an existing Budget for the specified expenditure they may provide their approval on any Procurement where the amended Total Contract Price is not greater than \$250,000. If the amended Total Contract Price is greater than \$250,000 then it shall be approved by the CAO.
- c) Any amendment that cannot be funded from an existing approved Budget for the specific expenditure, shall be brought forward to Council for approval of the amendment and additional required funding, prior to completion of the work outlined in the amendment.

Part XIII - Supplier and Material Management

54. Supplier Performance

- a) The requisitioning Department shall:
 - i. monitor and document the performance of Suppliers compared to the Contract; and,
 - ii. advise the Procurement Division in writing on a timely basis when the performance of a Supplier has been unsatisfactory.
- b) Failure to meet specifications or timelines, or failure to comply with appropriate safety practices, or any applicable law or policy are grounds for unsatisfactory performance.

- c) A Supplier shall be given the opportunity to respond to an allegation of unsatisfactory performance, in accordance with the terms of the Contract if applicable.
- d) The City may, in its sole discretion, disqualify a Supplier from bidding on any Bid Solicitation, or reject a Bid, or suspend a Supplier from future bid solicitations, if:
 - i. a Supplier has, at any time, threatened, commenced or engaged in legal claims or Litigation against the City;
 - ii. a Supplier has been convicted of corruption, collusion, bid-rigging any other anticompetitive activity or any other offence under the Criminal Code, for which a full pardon has not been granted;
 - iii. a Supplier is involved in unresolved claim or Litigation with the City;
 - iv. a Supplier previously provided Goods and/or Services to the City in an unsatisfactory manner;
 - v. a Supplier has failed to satisfy an outstanding debt to the City or one of its local boards or corporations;
 - vi. a Supplier has a history of illegitimate, frivolous, unreasonable or invalid claims;
 - vii. a Supplier is currently serving a suspension period;
 - viii. a Supplier provides incomplete, unrepresentative references, or receives unsatisfactory external and/or internal references in a reference check undertaken by City Staff,
 - ix. a Supplier has engaged in conduct that leads the City to determine that it would not be in the City's best interests to accept the Bid;
 - x. the City is likely to incur increased legal costs in the administration of the Contract if it is Awarded to the Supplier.
 - xi. There are reasonable grounds to believe it would not be in the best interests of the City to enter into a Contract with the Bidder.

55. Debriefing

All requests for a formal or informal Vendor debriefing to obtain feedback on why a Bid was not successful must be received by the City of St. Catharines in writing and directed to the Purchasing Agent. A request for a Vendor debriefing will not alter an Award decision.

56. Bid Dispute Resolution

All Supplier disputes or complaints, whether addressed to elected officials or City staff, shall be referred to the Purchasing Agent.

Part XIV – Disposal of Surplus or Obsolete Assets

57. Disposal of surplus assets is the responsibility of the Procurement Division. The Procurement Division may delegate responsibility for Disposal of certain assets, if it is beneficial to the City to do so.

58. Department Heads are responsible for submitting to the Procurement Division a list of surplus assets which may include:

- a) surplus equipment and/or inventory; and,
 - b) obsolete or unrepairable items.
59. The Procurement Division shall have the authority to:
- a) transfer surplus assets to other Departments who have a need for the Goods; and/or
 - b) sell or dispose of all surplus assets not required by the City, using public sale, auction, or trade-in or donation.
60. The sale of surplus assets shall be made to the highest Bidder and in accordance with provisions of this Bylaw.
61. Surplus assets shall not be sold directly to an employee or an elected official, although this does not prohibit them from purchasing surplus assets through a public process, except in specified cases related to Information Technology equipment valued at under \$2,000, such as cell phones, laptop computers and tablets, as outlined in policy and procedures.
62. Surplus assets may be donated to nonprofit organizations for educational or teaching purposes, or as directed by City Council. Recipients of donated items shall not receive Goods with the intention of resale. All donated assets must be approved by the CAO.
63. If it is determined that the Goods have no residual value, the Procurement Division may dispose of them as waste.
64. Disposal of unsafe or hazardous surplus items is the responsibility of the requisitioning Department and shall be conducted in accordance with applicable laws and this Bylaw.

Part XV - General Administration of this Bylaw

65. In the interpretation and application of this Bylaw, to the extent that a process or policy is not clearly provided for herein, the Procurement Division shall have regard to the Purposes, Goals and Objectives set out in Part 1 herein, the Ontario Public Buyers Association Code of Ethics and any applicable law including the Municipal Act, 2001 and Municipal Conflict of Interest Act in carrying out its responsibilities.
66. Schedules "1", "2", "3" and "4" attached hereto shall form part of this Bylaw.
67. Severability
- a) If any Section or Sections of this Bylaw or parts thereof are found by a Court of competent jurisdiction to be invalid or beyond the power of Council to enact, such Section or Sections or parts of the Bylaw shall be deemed to be separate and independent therefrom and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.
68. Review of Bylaw
- a) The Director of Financial Management Services shall review the effectiveness of this Bylaw at least every five years and report to Council as necessary.
69. Repeal
- a) Upon the Effective Date, By-law No. 2019-286 shall not have any force or effect except to those Bid Solicitations issued prior to the Effective Date ("Transition Solicitations"). Upon the conclusion of all

Transition Solicitations, Bylaw No. 2019-286 shall be repealed. For greater certainty, conclusion means the revocation, withdrawal, termination, or closing of a Bid Solicitation.

70. Effective Date

- a) This Bylaw shall come into force and take effect on the November 27, 2023 (the "Effective Date")

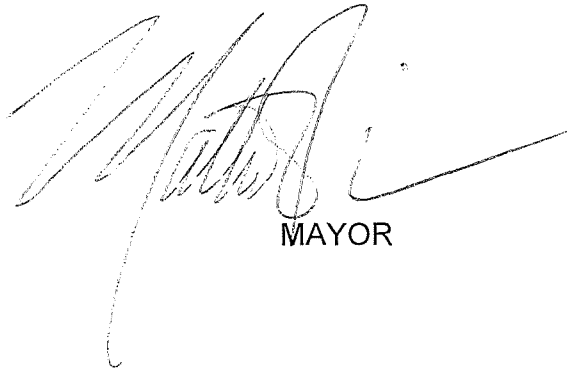
71. Title

- a) This Bylaw shall be referred to as the Procurement Bylaw.

Read and passed this 27th day of November 2023.



CLERK



MAYOR

Schedule 1 – Exemptions from Procurement Policies

The following Goods and Services are exempt from the application of this bylaw. Procurement will determine the proper payment process in consultation with user departments.

1. Training and Education

- Conferences, conventions, courses and seminars;
- Magazines, books, periodicals;
- Memberships;
- Staff Development

2. Refundable Councillor and Employee Expenses (Please refer to travel and expense policy for further guidelines).

- Advances;
- Meal Allowances;
- Travel and Entertainment;
- Miscellaneous – Non-Travel;

3. City's General Expenses

- Payroll Deduction Remittances;
- Refunds;
- Medical;
- Licenses fees (e.g., vehicles, elevators, radios, computer hardware and software renewals/maintenance);
- Website domain renewal
- Debenture Payments;
- Insurance Premiums;
- Grants and charitable donations;
- Damage Claims;
- Customs Brokerage Fees;
- Tax Remittances;
- Charges to and from other government bodies;
- Payment for employment (i.e. Contract employees);
- Postage;
- Employee benefits

4. Professional and Special Services

- Committee Fees;
- Health Services;
- Recreational Program instructors and/or hosts;
- Fees for professional legal or other expert Services engaged by the City Solicitor in connection with the delivery of legal services;
- Legal settlements, disbursements, and reimbursement of claimant expenses;
- Funeral and Burial expenses;
- Appraisal Fees;
- Expert Witness Fees related to legal proceedings;
- Honorariums;
- Advertising, Promotions and Sponsorships;
- Accessibility Services (e.g. language interpretation services for people with disability)

5. Financial/ Banking Services and Charges

- Financial Services regarding the Management of City financial assets and liabilities, treasury operations, including ancillary, collections and advisory services. Includes expenses related to the borrowing and investing of money

6. Utilities

- Water and Sewer;
- Hydro;
- Gas;
- Communication Infrastructure Services such as Bell, Cogeco, Rogers etc.;
- Utility relocations and Railway Crossing Maintenance

7. Real Property

- Acquisition or Disposal of Real Property including easements and right-of-ways through a rental, Lease, purchase, or sale.

8. Resale Items

9. Goods and Services Related to Cultural or Artistic Fields, such as:

- Events supporting local- and/or non-profit organizations
- Entertainers for theatre or special events
- Sponsorship and/or naming rights for cultural, sports and/or other City owned venues

Schedule 2 – Purchasing and Execution Authority

Part VI of the Bylaw stipulates when Council approvals must be obtained prior to Award of a Procurement Contract.

Stipulated Authorities for Procurement, and Contract execution are firmly established based on the Total Contract Price. at the time the documents are originally executed and include any position which is higher in the City's reporting structure. For clarity, if any changes to the Total Contract Price exceed the delegated threshold, the authority level is escalated to the next highest delegate in the reporting structure. For example, in the case of delegated authority for Contracts up to \$100,000, any changes which bring the Total Contract Price in excess of \$100,000 require approval from the Department Director. Change orders/amendments which are reducing the total contract price will not be required to go through the thresholds below and instead requires just the Budget Owner Specified Manager through Delegation from their Department Head (Director).

Total Contract Price of Procurement	Authority for Procurement and Award	Authority for Contract Execution	Payment Release Authority
Up to \$100,000	Budget Owner Specified Manager through Delegation from their Department Head (Director)	Budget Owner Specified Manager through Delegation from their Department Head (Director)	Budget Owner
Greater than \$100,000 and up to \$250,000	Department Head (Director) and/or Budget Owner designate as determined by the Director	Department Head (Director) and/or Budget Owner designate as determined by the Director	Department Head (Director) and/or Budget Owner as determined by the Director
Greater than \$250,000 unless Part VI (Section 17) applies	Deputy CAO or CAO	Deputy CAO or CAO	Department Head (Director)
When Part VI (Section 17) applies	Council	Mayor and Clerk	Subject to nominal thresholds above

- (1) Procurement up to \$10,000 shall be paid by using a PCard, unless there is a valid reason why a P-card cannot be used.
- (2) The Authority for Procurement remains with the Department Manager. Authority to Procure will be evidenced through the Manager's signature approving of the PCard expenditures.

Schedule 3 – Method of Procurement based on Total Contract Price

1. The selection of the appropriate method of Procurement shall consider the direction provided in Schedule 3 in combination with the specific circumstances of the Procurement.
2. When Requisitioning Departments are considering the method of Procurement for purchases greater than \$50,000, the Purchasing Division shall be consulted prior to selecting the Procurement method.

Total Contract Price	Suggested Procurement Method based on Estimated Total Contract Price
Low dollar value –\$10,000 or less	<ul style="list-style-type: none"> • PCard for transactions up to \$10,000 (non-recurring purchase); • Direct Purchase with a Purchase Order where a PCard cannot be used.
Greater than \$10,000 and less than \$50,000	Informal Quotation with a Purchase Order
Greater than \$50,000 and less than \$100,000	Request for Quotation
\$100,000 and greater	Request for Tender or Request for Proposal or Negotiated Request for Proposal

Schedule 4 – Bid Irregularities

	IRREGULARITY	RESPONSE
1.	Late bids	Automatic rejection
2.	Incomplete bids - part bids – all items not bid	Automatic rejection except where the tender form clearly states that an award may be made for individual items or where in the opinion of the Purchasing Division and the Director of the using department the incomplete nature is trivial or insignificant
3.	Qualified bids - qualified or restricted by an attached statement	Automatic rejection except where the change is requested by the City or where, in the opinion of the Purchasing Division and the Director of the using department, the change is trivial or insignificant
4.	Financial security not submitted or insufficient	Automatic rejection
5.	Mathematical errors	May be accepted if corrected in the checking procedure. Unit prices shall ordinarily be used to correct extensions.
6.	Agreement to bond insufficient or not submitted	Automatic rejection
7.	Minor clerical errors	May be accepted, time limit given to correct and initial
8.	Mandatory documents which are not complete, legible, or uploaded in requested format.	Automatic rejection unless in the opinion of the Procurement Manager, and the applicable Department Head in consultation with the City Solicitor, does not significantly impact the bid, in which case the bidder will be provided two (2) business days to provide corrected documents.
9.	Other Minor irregularities	May be accepted, Financial Management Services and the Department Head of the using department shall have authority to waive irregularities which they jointly consider to be minor
10.	Minor clerical errors	May be accepted, time limit given to correct and initial
11.	Mandatory documents which are not complete, legible, or uploaded in requested format.	Automatic rejection unless in the opinion of the Procurement Manager, and the applicable Department Head in consultation with the City Solicitor, does not significantly impact the bid, in which case the bidder will be provided two (2) business days to provide corrected documents.