



Council Policy

Council Policy #:	CP2020-003
Council Policy Name:	<u>Purchasing</u> Procurement Policy
Date Approved by Council:	October 20, 2020, CR2020-304
Date revision approved by Council:	
Related SOP, Management Directive, Council Policy	<u>Purchasing</u> Procurement Policy; Management Directive; <u>Procurement Sustainable Policy</u>

Policy Statement and Rationale:

To ensure objectivity, accountability and transparency in ~~the~~ procurement ~~process~~ processes.
To encourage competition among ~~respondents~~ suppliers by obtaining the highest quality goods, services or construction to maximize efficiencies, effectiveness, sustainability and cost savings, while ensuring that the Municipality has the flexibility to limit the purchase of goods and services where significant efficiencies and cost effectiveness may be achieved.

Scope:

The PurchasingProcurement Policy is intended to govern the manner in which the Corporation of the City of Kawartha Lakes purchases goods and services.

When a Board or Corporation has the authority to develop their own procurement policy, their policy and procedures shall prevail.
~~Municipal Boards and Corporations that have the authority through By-Law to establish their own Purchasing policy, shall not be bound by this policy.~~

Policy:

1.0 Definitions

- 1.1 Accessibility - A general term for the degree of ease that something (e.g., device, service, physical environment and information) can be accessed, used and enjoyed by persons with disabilities. The term implies conscious planning, design and/or effort ~~to make sure~~ ensuring something is barrier-free to persons with disabilities. Accessibility ~~also~~ benefits the general population, by making things more usable and practical for everyone, including older people and families with small children.

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- 1.2 Aggregate Value - means the total amount anticipated to be spent for the initial term and any optional extensions, ~~not~~ including ~~taxes~~ the City's HST Tax payable.
- 1.3 Award - is when a selected ~~respondent~~ supplier and the City execute a legal contract for the ~~respondent~~ supplier to supply or perform the goods and/or services.
- 1.4 Bid Repair - means any response, which leads to a substantial change in the bid is considered bid repair and must not be considered in the bid evaluation.
- 1.5 Board - means a municipal service board, transportation commission, public library board, board of health, housing board, police services board, planning board, or any other board, commission, committee, body or local authority established or exercising any power under any Act with respect to the affairs or purposes of one or more municipalities, excluding a school board and a conservation authority.
- 4.4.1.6 Budget - refers to the Council approved annual budgets.
- 4.6.1.7 CAO - means the Chief Administrative Officer of the City.
- 1.8 Change Order - occurs when additional work is added to the contract, where that work was already specified in the procurement document.
- 4.7.1.9 Change in Scope - shall mean ~~any change to the scope~~ an addition of an awarded contract to accommodate a need ~~materials, equipment, etc.~~ not originally provided for in the contract specifications.
- 4.8.1.10 City - means the Corporation of the City of Kawartha Lakes.
- 4.9.1.11 City Clerk - means the person appointed by Council to carry out the duties of the Clerk described in section 228 of the Municipal Act, 2001.
- 4.10.1.12 Compliant Bidder - is used to describe a ~~respondent~~ supplier or potential ~~respondent~~ supplier who has complied with all the requirements of a procurement process.
- 1.13 Contingency - means an event or circumstance, that occurs, in the process of implementing the original scope of work, that gives rise to an increase in a contract price which could not have been reasonably anticipated at the time of contract award (unforeseen).

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4.141.14 Contract - means a formal commitment by both parties, which may be in the form of an agreement executed by the ~~respondent~~ supplier and the City or a Purchase Order issued by the City and confirmed by the ~~respondent~~ supplier.

4.121.15 Cooperative Procurement - means the participation of two or more public agencies in a procurement process.

4.131.16 Council - means the Municipal Council for the City.

4.141.17 Director - means the person who holds that position and ~~his or her~~ their delegate or, in the event of organizational changes, another person designated by Council (includes the position of Fire Chief and Paramedic Chief).

4.151.18 Emergency Procurement - occurs ~~a situation where~~ when the immediate purchase of goods or services is essential to prevent serious delays, mitigate fiscal impact, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City.

4.161.19 Employee-Employer Relationship - is applicable when a person's daily work is directed or controlled by the business, particularly when the method of executing duties is defined and an integral part of day-to-day operations.

4.171.20 Expression of Interest - is a procurement method used to determine interest, where the scope of specifications ~~of the required~~ for goods or services may not be clearly defined.

~~1.18 Formal Procurement Process is a procurement method where the bids are submitted in a sealed format.~~

1.21 Forfeit of an Award - means a supplier has failed to enter into a contract with the City.

4.191.22 Goods, Services and Construction - include supplies, equipment, property, construction, maintenance and service contracts, consulting and professional services.

~~1.20 Informal Quotation is a procurement process issued by the Department for purchases under \$50,000, where three or more potential respondents have been contacted to provide a submission for specific and defined commodities.~~

4.241.23 Lobbying, ~~to communicate~~ communicating with, anyone other than the person designated in the procurement document, ~~on the procurement of goods,~~

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~~services or construction and the awarding of a contract~~ for the purpose of swaying the results of an award of a procurement process.

1.24 Major or Minor Irregularities - "major irregularity" is a deviation from the competitive procurement process request that affects the price, quality, quantity or delivery, and is material to the award. A "minor irregularity" is a deviation from the competitive procurement process request, which affects form rather than substance.

4.221.25 Non-Compliant Bidder ~~- is a~~ ~~respondentsupplier~~ or potential ~~respondentsupplier~~ who does not meet all the requirements of a procurement process.

~~Person refers to an individual, company or a corporate entity.~~

4.231.26 Pre-qualification Request ~~would be used to invite-~~ invites prospective ~~respondentsuppliers~~ to provide background information, capabilities and resources for upcoming specific procurements.

4.241.27 Procurement Process ~~- is~~ the method selected to procure a good and/or service.

1.28 Provisional - means an item for which a bid amount is being requested and may be added or removed at time of award.

1.29 Purchase Order - is a type of agreement issued by the City to a seller, indicating types, quantities and agreed prices for a specific product, service or construction.

4.251.30 Qualified Bid ~~is a bid that is restricted by-~~ is a statement added to any portion of the submission or a covering letter for a low bid procurement that alters the intent of the procurement (counter offer).

1.31 Request for Informal Quotation/~~Proposal/Tender~~ - is a procurement process issued by the Department for purchases under the thresholds in the Table of Authority, where three or more potential suppliers are contacted to provide a submission for specific, defined commodities.

4.261.32 Request for Quotation/Proposal/Tender (Formal) - is a procurement process issued and opened by the Procurement Division.

1.33 Roster - is a prequalification process to add suppliers to a list where second stage processes will be used to determine the award for specific amounts.

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4.271.34 Segregation of Duties - is an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task (ie. Purchase, approve and approval pay).

4.281.35 Single Source - means there is more than one source in the open market but for reasons of function or service, one ~~respondent~~ supplier is being recommended.

4.291.36 Sole Source - means there is only one known source of manufacture or supply of a particular good and/or service.

1.37 Supplier - means the legal entity that the City is requesting a bid from or entering into an agreement with.

4.301.38 Sustainable Procurement ~~- Purchasing Policy - was created to increase the development and awareness of environmentally preferable preferred products (goods and services) that have a lesser or reduced effect on human health and the environment when compared with other goods, and services that serve a similar process~~ align the City's Procurement practices.

4.341.39 Top Ranked ~~Respondent~~ Supplier - means the lowest compliant or highest scoring ~~respondents~~ supplier.

2.0 Responsibilities:

- 2.1 — Council is responsible to establish the City's procurement ~~philosophy~~ methodology through this policy.
- 2.2 The Chief Administrative Officer is accountable to approve the detailed management directives that establish the operational framework.
- 2.3 Corporate Services is responsible to ensure that the City's Policy and Management Directive are adhered to. -

3.0 Procurement Guidelines

- 3.1 Procurement practices shall be in accordance with all applicable federal and provincial legislation and local By-Laws, Trade Ageements, Policies, Code of

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Conduct, Competition Bureau and ~~the~~ Discriminatory Business Practices Act, R.S.O. 1990, c. D.12.

Some examples that are strictly prohibited according to the above:

3.1.1 Local preference (*Discriminatory Business Practices Act* and *Competition Bureau*) except as noted in 5.2:

3.1.2 Limited tendering (Single/sole source)(*Trade Agreements*):

3.1.3 Lobbying (*Management Directive*): and

3.1.4 Conflict of Interest (*Code of Conduct*).

3.2 All City staff and members of Council will advise the Supervisor of Procurement, in writing, of any perceived, potential or actual conflicts in accordance with the City's Code of Conduct Policies before being involved in a Procurement process.

~~3.23.3~~ The procurement of goods and services will be evaluated for ~~the~~ risk to the City's ability to perform public services in a safe, secure and healthy environment and ~~shall consider~~ considers safety, accessibility standards, financial stability and quality of workmanship.

~~3.3~~ ~~The procurement of goods and services will be in accordance with the City's Sustainable Purchasing Policy.~~

3.4 Staff will ensure that any agreements/contracts, other than the approved City's Form of Agreement will be reviewed by the City Solicitor as required.

~~3.43.5~~ The City shall implement terms and conditions with the ~~respondents~~supplier to keep safe the City's staff, funds, property and capital assets.

~~3.53.6~~ ~~If a supplier forfeits an award, the~~ City ~~may will~~ ban ~~a respondent~~them from submitting any future bids for an ~~undetermined~~indefinite amount of time for failing to enter into a contract ~~upon award~~.

3.7 Suppliers who do not perform according to the specifications outlined in the Procurement document, may be considered in breach or default of the contract and may be terminated.

~~3.63.8~~ Access to formal procurement process results information shall be made available according to the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

~~3.73.9~~ The Procurement Division will provide debriefs within 60 days of notification of award. Debrief requests after the 60 days may be deferred to the Clerk's Office for a Municipal Freedom of Information request.

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~~3.83.10~~ The Procurement Division will maintain a vendor performance program that all Departments can refer to for previous performance and incident reports.

~~3.93.11~~ ~~AA prequalified~~ vendor listing will be available on SharePoint for Department internal use when requesting quotations for work ~~under \$50,000~~ within their approval limits.

~~3.403.12~~ The City will disqualify a ~~respondent~~ supplier:

- 3.10.1 if found to be engaging in lobbying with any elected official or City staff member for such purposes as to sway the results of an award of a procurement process. This period would cover the intent to procure (project conception/budget) up to the final award of the project.
- 3.10.2 that has litigation against them that would affect their performance or reputation in performing the service or providing the goods and services requested by the City.

~~3.443.13~~ No expenditure or commitment shall be incurred or made and no account shall be paid by the City for goods and services, except as authorized in accordance with this policy or approved by the CAO or the Corporate Services Director and/or Council.

~~3.423.14~~ All ~~respondents (including Council Members and City Employees if applicable)~~ suppliers must disclose ~~to the City, in writing~~, any perceived, potential or actual conflict of interest ~~that exists~~ prior to accepting an award from the City. If one arises after an award has been made, the ~~respondent~~ City must ~~notify the City~~ be notified immediately.

~~3.433.15~~ All ~~respondent~~ suppliers shall ensure that they, along with all of their employees, volunteers and others for which they are responsible, comply with the Accessibility for Ontarians with Disabilities Act and associated Regulations and the City's Accessibility Policy. All information (studies, reports, procurement submissions, etc.) provided to the City from a ~~respondent~~ supplier will be in an accessible format.

~~3.443.16~~ All submissions will be evaluated to determine if the expectations of the procurement have been met.

~~3.453.17~~ The City shall establish a management directive authorized by the CAO on behalf of Council ~~that details~~ detailing the expectations of this Policy.

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4.0 Financial Considerations

4.1 The City has a table of authority for procurement limit expenditures. See Schedule A for full details.

4.1.4.2 Procurement awards for contracts ~~valued at an Aggregate Value of \$100,000 or greater~~ must be approved by Council if:

- a) It ~~contains~~ a change in scope and the Treasurer has recommended a report to Council in accordance with the Capital and Special Project Policy;
- b) It has an irregular result as per section 6.0;
- c) The recommendation encumbers future ~~is for an~~ operating contract that budgets and exceeds 5 years including renewals; or
- d) It is a Single or Sole Source that exceeds the thresholds in the Table of Authority.

4.2.4.3 Irregular results of a competitive procurement process require that the selection of the supplier for an award be approved by Council. The results of a competitive procurement process are considered to be irregular when any of the following occurs:

4.3 The Procurement Division shall provide, to Council, a quarterly information report of:

- e) Where all responsible and responsive submissions exceed the award was within budget and within scope; and
- f) all Emergency procurements.

This summary will show the project number, successful respondent, total budget and amount of award. Emergencies where money will be pulled from reserves require a Council resolution allowances in the quarterly report.

- a) Tender/RFP results that result in a budget deficit of \$10,000 or less will be awarded and funding will be adjusted, if necessary, as part of the Capital and Special Project Close Process. Policy; or
- b) The City will establish, as part of the Management Directive, a table contract to the Top Ranked supplier is considered to not be in the best interest of authority the City;

The Procuring Department will be responsible for procurement limit spending. Writing the report to Council for any irregular results in coordination with Corporate Services.

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Emergencies will be reported through the Capital and Special Projects Close Report.

Procurement will report to Council; in the first quarter of the new term, all operating contracts that may span from one term to another.

- 4.4 In the case of Restricted Acts (Lame Duck), ~~as it applies within~~ Section 275 of the Municipal Act 2001, as amended, allows delegation of Council's purchasing authority ~~will to~~ be given to the CAO. The CAO will report to the new Council, purchases authorized during this delegated authority period.
- 4.5 Where a funding or granting agency has rules for a procurement process that exceed this policy, the agency's rules for tendering and risk management shall override this policy.
- 4.6 Where a funded independent Board or Corporation has been established by Council, the Board shall have the same level of authority as Council with respect to signing authority and the Chief Executive Officer, or equivalent, shall have the same level as the CAO.
- 4.7 An award may have optional renewal period(s) added to the term ~~and must include, but~~ the aggregate expenditures. All renewals for all years must be included in taken into consideration to ensure the appropriate report, or will be subject to further approval at time correct approvals are being obtained according to the Table of renewal Authority.
- ~~4.8 Procurements that encumber future operating budgets will be reported to Council if the annual aggregate value (including renewals) is over \$100,000.~~
- ~~4.9 Procurements by Visa (Pcard) are subject to the Management Directive and the Employee Expense Policy. No invoices are to be paid by Visa unless authorized by the Treasurer.~~

5.0 Procurement Process

~~An Open Competition~~

- 5.1 A formal competition (managed by Procurement) will be advertised when the Goods and/or Service is valued over \$100,000.00 at the trade agreement thresholds.
- ~~5.2 An Invitational competition may be followed when the goods and/or service is valued greater than \$50,000, but less than \$100,000 (Aggregate Value including~~

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~~renewals).~~

~~5.35.2~~ Procurements that require specific brand named equipment or materials ~~to be used and no equivalent is being considered~~, must ~~follow the procurement policy where document that~~ quotes were obtained or a single source has been approved prior to the items being included in the document.

~~5.45.3~~ The City may participate with other government agencies or public authorities in co-operative procurement opportunities, so long as they are in compliance with current legislation. The City will maintain a list of agencies they may participate with on an annual basis on the City's Website.

~~5.55.4~~ Emergency Procurement – When an event occurs where the immediate purchase of goods or services is essential to prevent serious delays, incremental costs, damage or injury, to restore minimum service or to ensure the health and safety of any person, including City staff or residents of the City. The ~~CAO or Corporate Services Department~~ Director may authorize the immediate procurement of the good or service required. All Emergency procurements will be reported to council through a quarterly report, as noted in item 4.23.

~~5.65.5~~ Single/Sole Source - may be used, under certain defined circumstances, ~~when there is only when~~ one ~~vendor that~~ supplier is ~~able being recommended~~ to supply the commodity or perform the work. The approval of a single/sole source will be agreed upon between the Department, and Procurement Division ~~and the CAO~~ with Council approving over \$100,000 approvals according to the Table of Authority.

~~Matters~~For matters involving security, police ~~matters~~, or confidential issues, a purchase may be made in a manner that protects the confidentiality of the contractor or the Corporation. Such purchases ~~may should~~ be ~~made put through~~ as a Sole Source Purchase;

~~5.75.6~~ ~~Rosters will have an authority level not to exceed \$50,000 per contract. Allowances for higher roster values may be considered, but must have Procurement and the CSD's approval.~~ A Roster ~~list~~ will be used to pre-approve vendors to be on a list ~~with where~~ second stage informal quotations ~~being may be issued.~~ within specific thresholds.

~~5.85.7~~ Any complaint on the Purchasing Procurement Policy and/or Management Directive or a complaint related to an award of a competitive process, shall be submitted in writing to the Corporate Services Director. ~~All bid dispute resolutions will be in compliance with current legislation.~~



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Complaints regarding the administration of a contract will be handled by the Department Director.

5.95.8 All bid dispute resolutions will be in compliance with current legislation.

~~5.10~~ ~~When evaluating bids~~ the City may consider whether a bid is unbalanced or unexpectedly low so as to indicate a failure on the part of a ~~biddersupplier~~ to accurately assess scope and/or indicate a likelihood of extra claims. The City may request clarification which may or may not result in disqualification of the ~~respondentsupplier~~.

~~6.0~~ ~~Irregular Results~~

~~4.104.8~~ ~~Irregular Result of a Competitive Procurement Process~~

~~Irregular results of a competitive procurement process require that the selection of the respondent for an award be approved by Council. The results of a competitive procurement process are considered to be irregular when any of the following occurs:~~

- ~~b) all responsive and responsive submissions exceed the budget by more than \$10,000.00 and additional funds are required; and/or~~
- ~~c) An award of the contract to the Top Ranked Respondent is considered to not be in the best interest of the City.~~

~~6.2~~ ~~Major or Minor Irregularity~~

~~For the purposes of this policy, a submission showing irregularities are classified as "major irregularities" or "minor irregularities":~~

- ~~• A "major irregularity" is a deviation from the competitive procurement process request that affects the price, quality, quantity or delivery, and is material to the award. The bidder will be disqualified from the process. The City must reject any offer submitted, which contains a major irregularity. The person will be notified of the rejection due to the major irregularity.~~
- ~~a) A "minor irregularity" is a deviation from the competitive procurement process request, which affects form rather than substance. The effect on the price, quality, quantity or delivery is not material to the award. The bidder will be given the opportunity to adjust the irregularity and continue in the process. The City may permit the person to correct a minor irregularity to make the submission compliant.~~

~~7.06.0~~ Real Estate Developer Finance Capital

Where a real estate developer has requested, in writing, the use of a particular ~~respondentsupplier~~, for services being performed on a project, for which the real estate

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developer is funding the entire cost, no procurement process shall be required, provided the ~~respondent~~supplier is acceptable to the City.

8-07.0 Sponsorships and Donations

Where a donation or sponsorship request is received by the City, the Department will consult with the Procurement Division to ensure any process remains fair, open and transparent.-

9-08.0 Standardization of Equipment-

The City will ~~endeavour to~~ standardize goods and services through a competitive process whenever possible and must be in compliance with legislation. The Procurement Division will work with the Department/~~Division~~, to determine the best procurement process for standardization. ~~This Purchasing Policy will take precedence over any other Policy or Management Directive with regards to standardization.~~

10-09.0 Disposal of Assets

- 11.1 The City shall determine the best method to dispose of City assets no longer required for operations. Some of the methods may include but not limited to:
- Sale by Tender;
 - Local Auction House;
 - Donation to a not for profit agency (must be Council approved);
 - Government Auction.
- 11.2 Employees and elected officials of the City may bid on items provided that:
- they do not possess nor do they try to ascertain relevant insider information that would influence their offer;
 - they remove themselves from submitting an offer on items that may be construed as a conflict of interest;
 - they comply with all the requirements of the public sale.

10.0 Procurement Exemptions

Schedule A documents exemptions to the Policy where no competitive process is required. Purchase orders will be issued according to the table of authority if requested.



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Schedule A – Table of Authority

1.0 Table of Authority (See Schedule A in the Management Directive for details)

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<u>Type of Acquisition</u>	<u>Approver</u>	<u>Approval Amount</u>	<u>Procurement Process</u>	<u>Agreements</u>	
<u>Informal Procurement process</u>	<u>Department Staff</u>	<u>Per the Table of Authority in the Management Directive</u>	<u>Informal Request for Quotation by the Department</u>	<u>Agreements will be signed according to the Table of Authority.</u>	
	<u>Manager and/or Supervisor</u>		<u>Informal Request for Quotation by the Department</u>		
	<u>Director</u>		<u>Informal Request for Quotation by the Department</u>		
<u>Competitive within Budget</u>		<u>As per the Trade Agreements</u>	<u>Formal Request for Quotation process by Procurement</u>		
<u>Sole Source and Emergency</u>	<u>Manager, Director, Treasury and Procurement</u>	<u>Per the Table of Authority in the Management Directive</u>	<u>Single Source/Emergency</u>		
<u>Competitive over budget</u> <u>Irregular results</u>	<u>Council</u>	<u>Irregular Results</u>	<u>All irregular results will be sent to Council for approval.</u>		

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Schedule B - Procurement Exemption List

If the procurement falls within this list, no competitive process is required. Purchase orders ~~may~~will be issued according to the table of authority if ~~required~~requested.

- a) Advertising (not intended to cover the cost of creative fees or project management fees associated with media expenditures, advertising or marketing)
- b) Building Leases
- c) Charges from area Municipalities in association with legal agreements
- d) Committee, witness and honoraria fees
- e) Conference/Trade show staff attendance, including travel and accommodations
- f) Debenture and sinking fund payments
- g) Election expenses
- ~~h) Employment Agencies~~
- h) Employment Requirements (See Management Directive for details and clarifications)
- i) Financial and economist services (See Management Directive for clarifications)
- j) Attachments for brand specific City owned equipment (See Management Directive for details and clarifications)
- ~~j) Grants to Government and Council approved Agencies~~
- ~~j) Insurance Claim Payments~~
- ~~k) MPAC Fees~~
- ~~n) Legal Settlements~~
- ~~m) Licenses (vehicles, elevators, radios, etc.)~~
- ~~n) Licenses and maintenance costs for integrated software and systems~~
- ~~o) Maintenance for specialty equipment (i.e. Equipment that is not easily moved and will incur float charges)~~
- ~~p) Payments made under authority of the City's ~~Service~~ Manager, Housing role for Human Services~~
- ~~q) Periodicals, books, magazines and subscriptions~~
- ~~r) Postage~~
- ~~s) Professional licensed services: Legal Services, Notaries, Health Professionals, Land Surveyors, Arbitrators, Interpreters, Court Reporters~~
- ~~t) Real ~~Property~~ property and property appraisals (covered under By-Law)~~
- ~~u) Renovation at a leased space where the lessor can only perform the renovation~~
- ~~v) Statutory Employment expenses~~
- ~~w) Staff Training (education and professional membership fees and associated costs)~~
- ~~x) Utilities where there is only one provider~~
- ~~y) ~~Water/sewer connections for landowners~~~~
- z) Water and Wastewater Chemicals

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11.0 Disposal of Assets

- 11.3 ~~The City shall determine the best method to dispose of City assets no longer required for operations. Some of the methods may include but not limited to:~~
- ~~Sale by Tender;~~
 - ~~Local Auction House;~~
 - ~~Donation to a not for profit agency;~~
 - ~~Government Auction.~~
- 11.4 ~~Employees and elected officials of the City may bid on items provided that:~~
- ~~they do not possess nor do they try to ascertain relevant insider information that would influence their offer;~~
 - ~~they remove themselves from submitting an offer on items that may be construed as a conflict of interest;~~
 - ~~they comply with all the requirements of the public sale.~~

Revision History:

Revision	Date	Description of changes	Requested By