

Please note: These minutes are yet to be confirmed as a true record of proceedings

CITY OF BUSSELTON

MINUTES FOR THE POLICY AND LEGISLATION COMMITTEE MEETING HELD ON 18 FEBRUARY 2016

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MINUTES

MINUTES OF THE POLICY AND LEGISLATION COMMITTEE MEETING HELD IN MEETING ROOM ONE, COMMUNITY RESOURCE CENTRE, 21 CAMMILLERI STREET, BUSSELTON, ON 18 FEBRUARY 2016 AT 2.00PM.

1. DECLARATION OF OPENING AND ANNOUNCEMENT OF VISITORS

The Presiding Member opened the meeting at 2.02pm.

2. ATTENDANCE

Presiding Member:

Cr Coralie Tarbotton

Members:

Cr Rob Bennett
Cr Grant Henley
Cr Robert Reekie
Cr Ross Paine

Officers:

Mr Matthew Smith, Director, Finance and Corporate Services
Miss Lynley Rich, Manager, Governance Services
Miss Hayley Barge, Administration Officer, Governance

Apologies

Nil

Approved Leave of Absence

Nil

3. PUBLIC QUESTION TIME

Nil

4. DISCLOSURE OF INTERESTS

Nil

5. CONFIRMATION OF MINUTES

5.1 Minutes of the Policy and Legislation Committee Meeting held on 19 November 2015

Committee Decision

PL1602/059 Moved Councillor G Henley, seconded Councillor R Reekie

That the Minutes of the Policy and Legislation Committee Meeting held 19 November 2015 be confirmed as a true and correct record.

CARRIED 5/0

6. REPORTS

6.1 REVIEW OF PURCHASING POLICY

SUBJECT INDEX:	Purchasing
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Corporate Services
ACTIVITY UNIT:	Legal Services
REPORTING OFFICER:	Manager, Corporate Services - Sarah Pierson
AUTHORISING OFFICER:	Director, Finance and Corporate Services - Matthew Smith
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Existing Purchasing Policy Attachment B WALGA Model Purchasing Policy

PRÉCIS

The City of Busselton's Purchasing Policy has been reviewed due to changes to the *Local Government (Functions and General) Regulations 1996*. This report recommends adoption of a revised policy which will ensure compliance with the amended statutory framework.

BACKGROUND

The City of Busselton's Purchasing Policy ("Purchasing Policy") provides the framework for purchasing decisions made by the City of Busselton and defines the procedures that must be followed for purchasing in accordance with the value of transactions. The Purchasing Policy was initially implemented in March 2007 and has subsequently been subject to updates in July 2012 and May 2014. The 2012 and 2014 reviews, undertaken in accordance with the City's ongoing policy review process, resulted in minor variations aimed at improving practices and procedures.

The statutory framework for procurement of goods and services by local governments is established under Part 4 of the *Local Government (Functions and General) Regulations 1996* ("the Regulations"). With the aim of improving the purchase and tendering practices of local governments, the Regulations were amended with effect 1 October 2015. In addition to increasing the tender threshold, the amendments provide for local governments to appoint a panel of pre-qualified suppliers, and make other minor changes (which are discussed in more detail under the Officer Comment section of this report).

These changes prompted a review of the Purchasing Policy to ensure compliance with the Regulations. The recently revised Western Australian Local Government Association ("WALGA") Model Purchasing Policy (Attachment A) has also been utilised extensively as part of this review.

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* (the Act) it is the role of the Council to determine the City's policies. In terms of Regulation 11A(1) of the Regulations a local government is to implement a purchasing policy in relation to contracts for supply of goods or services where the consideration under the contract is, or is expected to be, \$150, 000 or less. Such a policy must, among other things, make provision in respect of —

- the form of quotations acceptable;
- the minimum number of oral quotations and written quotations that must be obtained; and
- the recording and retention of purchasing records.

It is also now a requirement of the Regulations that a local government adopts and implements a policy for panels of pre-qualified suppliers in accordance with Regulation 24AC(1)(a) of the Regulations.

RELEVANT PLANS AND POLICIES

The current WALGA Model Purchasing Policy has been considered for the purposes of reviewing and updating the Purchasing Policy.

FINANCIAL IMPLICATIONS

Adoption of the proposed updated Purchasing Policy will not have any direct financial implications. Establishing, maintaining and managing panels of pre-qualified suppliers in accordance with the new regulatory requirements imposed by the amended Regulations could require a higher level of staff involvement and internal resources in order to meet all the statutory requirements required for operating a panel. The use of such panels is however at the City's discretion.

Long-term Financial Plan Implications

Nil

STRATEGIC COMMUNITY OBJECTIVES

The proposed changes to the Purchasing Policy align with Strategic Community Objective 6.2 which requires for the City's governance systems to deliver responsible, ethical and accountable decision making.

RISK ASSESSMENT

The proposed changes to the Purchasing Policy are designed to ensure compliance with the relevant statutory framework and are therefore designed to mitigate compliance risks.

CONSULTATION

City officers consulted with and sought guidance from WALGA with regards to the changes to the Purchasing Policy.

OFFICER COMMENT

Many of the proposed changes to the Purchasing Policy are required as a consequence of amendments to the Regulations which came into effect on 1 October 2015.

Changes to tender and purchasing thresholds

The tender threshold has been increased from \$100,000 to \$150,000. If the contract for goods or services is expected to be more than \$150,000 a public tender process is required. The Purchasing Policy currently provides for the following thresholds for purchases up to \$100,000:

3.6 Purchasing Thresholds

Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	<i>Amount of Purchase</i>	<i>Model Policy</i>
3.6.1	<i>Up to \$1,000</i>	<i>Direct purchase from suppliers requiring only one verbal quotation</i>
3.6.2	<i>\$1,001 - \$4,999</i>	<i>Obtain at least two verbal or written quotations</i>
3.6.3	<i>\$5,000 - \$19,999</i>	<i>Obtain at least two written quotations</i>
3.6.4	<i>\$20,000 - \$39,999</i>	<i>Obtain at least three written quotations</i>
3.6.5	<i>\$40,000 - \$99,999</i>	<i>Obtain at least three written quotations containing price and specification of goods and services (with procurement decision based on all value for money considerations)</i>
3.6.6	<i>\$100,000 and above</i>	<i>Conduct a public tender process</i>

Considering the increase in the tender threshold to \$150,000, the following changes to the purchasing thresholds for the purchase of goods and services under this threshold are proposed:

	<i>Amount of Purchase</i>	<i>Requirements</i>
6.3.1	<i>Up to \$5000</i>	<i>Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation</i>
6.3.2	<i>\$5,001 - \$14,999</i>	<i>Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement</i>
6.3.3	<i>\$15,000 - \$49,999</i>	<i>Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement</i>
6.3.4	<i>\$50,000 - \$149,999</i>	<i>Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the guidelines stated within the Policy.</i>
6.3.5	<i>Over \$150,000</i>	<i>Conduct a public tender process in accordance with the statutory requirements under the Local Government Act 1995 and Local Government (Functions and General) Regulations 1996</i>

Since the current purchasing thresholds were determined, the City's annual budget and the scope of the City's operations have significantly increased. The proposed adjustments to the purchasing thresholds are generally consistent with the WALGA Model Purchasing Policy, noting the City has an additional level, and are considered necessary to enable City staff to efficiently implement the City's annual budget and deliver on the City's day-to-day operations and major projects.

Panels of pre-qualified suppliers

The Regulation amendments introduce the ability for local governments to create a panel of pre-qualified suppliers and to a large extent formalise current practices for establishing 'tender panels'. In terms of these provisions local governments have to invite prospective suppliers to apply by giving State-wide public notice, make available a range of detailed information about the proposed panel and outline in a written policy how the panel will operate. The policy and/or the detailed information required to be available under each invitation to join a panel must outline how the panel will operate; how each supplier will be invited to quote; how consistent communication with the panel

will be achieved and how quotes and purchases from suppliers will be retained and recorded. These changes have been incorporated into the proposed Purchasing Policy in part 9 of the Policy.

Other changes

A range of minor changes to the Purchasing Policy are proposed. Some of these changes are made as a result of the amendments to the Regulations while other changes are intended to improve day-to-day operations and efficiencies. These changes include:

- a reference to the anti-avoidance requirements under Regulation 11 of the Regulations in the Purchasing Policy in section 6.11.
- changes in section 7.7 reflecting the changes to Regulation 16 of the Regulations which has been amended to require that when tenders are opened there must be at least two employees of the local government present, or one local government employee and at least one person authorised by the Chief Executive Officer.
- Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from:
 - An Australian Disability Enterprise; or
 - A person registered on the Aboriginal Business Directory published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less.

These exemptions, which both are contingent on the demonstration of value for money, have been incorporated under parts 10 and 11 of the proposed Purchasing Policy.

The opportunity has already been taken to “tidy up” the policy by removing some provisions which do nothing more than replicate requirements of the Regulations, sometimes in a manner which does not fully reflect the complexity of the Regulations. The sections relating to “Tender Closing Date” and “No Tenders Received” are examples of this.

CONCLUSION

The proposed changes to the Purchasing Policy ensure compliance with recent amendments to the Regulations and provide a best practice approach to purchasing for the City of Busselton.

OPTIONS

The Council may consider a range of possible changes to the policy, other than where it reflects statutory requirements. In particular, Council could alter the purchasing requirements and thresholds for purchases of a value less than \$150,000.00.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

The revised policy would be effective immediately upon adoption by the Council.

Committee Recommendation and Officer Recommendation

PL1602/060

Moved Councillor G Henley, seconded Councillor R Bennett

That the Council adopts the Purchasing Policy:

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1 PURPOSE

This policy provides a best practice approach to purchasing for the City of Busselton (the “City”). It also ensures compliance with the *Local Government Act 1995* (“the Act”) and the *Local Government (Functions and General) Regulations 1996* (“the Regulations”).

2 SCOPE

This policy provides the framework for all purchasing decisions made by employees of the City and defines the procedures that must be followed for purchasing in accordance with the value of the transaction.

3 POLICY CONTENT

3.1 Objectives

The objectives of the Purchasing Policy are to ensure that all purchasing activities:

- * demonstrate that best value for money is attained for the City;
- * are compliant with relevant legislations, including the Act and the Regulations;
- * are recorded in compliance with the *State Records Act 2000* and associated records management practices and procedures of the City;
- * mitigate probity risk, by establishing consistent and demonstrated processes that promotes openness, transparency, fairness and equity to all potential suppliers;
- * ensure that the sustainable benefits, such as environmental, social and local economic factors are considered in the overall value for money assessment;
- * are conducted in a consistent and efficient manner across the City and that ethical decision making is demonstrated; and
- * to establish a written policy as required under Regulation 11A and to address the particular requirements of Regulation 24AC(1)(a) of the Regulations for the purposes of establishing panels of pre-qualified suppliers.

4 ETHICS & INTEGRITY

All employees of the City shall observe the highest standards of ethics and integrity in undertaking purchasing activity and act in an honest and professional manner that supports the standing of the City of Busselton.

4.1 Purchasing principles

The following principles, standards and behaviours must be observed and enforced through all stages of the purchasing process to ensure the fair and equitable treatment of all parties:

- * full accountability shall be taken for all purchasing decisions and the efficient, effective and proper expenditure of public monies based on achieving value for money;
- * all purchasing practices shall comply with relevant legislation, regulations, and requirements under the City policies, practices and procedures, and Code of Conduct;
- * purchasing is to be undertaken on a competitive basis in which all potential suppliers are treated impartially, honestly and consistently;
- * all processes, evaluations and decisions shall be transparent, free from bias and fully documented in accordance with applicable policies, practices and procedures, and audit requirements; and

- * any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed;

5 VALUE FOR MONEY

Value for money is determined when the consideration of price, risk and qualitative factors are assessed to determine the most advantageous outcome to be achieved for the City.

As such, purchasing decisions must be made with greater consideration than obtaining lowest price, but also to incorporate qualitative and risk factors into the decision.

An assessment of the best value for money outcome for any purchasing should consider:

- * all relevant whole-of-life costs and benefits; whole of life cycle costs (for goods) and whole of contract life costs (for services) including transaction costs associated with acquisition, delivery, distribution, as well as other costs such as but not limited to holding costs, consumables, deployment, maintenance and disposal;
- * the technical merits of the goods or services being offered in terms of compliance with specifications, contractual terms and conditions and any relevant methods of assuring quality;
- * financial viability and capacity to supply without risk of default. (Competency of the prospective suppliers in terms of managerial and technical capabilities and compliance history);
- * a strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by obtaining a sufficient number of competitive quotations wherever practicable;
- * the safety requirements associated with both the product design and specification offered by suppliers and the evaluation of risk when considering purchasing goods and services from suppliers;
- * purchasing of goods and services from suppliers that demonstrate sustainable benefits and good corporate social responsibility; and
- * providing opportunities for businesses within the City's boundaries to quote for providing goods and services wherever possible.

6 PURCHASING REQUIREMENTS

The requirements that must be complied with by the City, including purchasing thresholds and processes, are prescribed within the Regulations, this Policy and associated purchasing procedures in effect at the City.

Purchasing that is \$150,000 or below in total value must be in accordance with the relevant thresholds detailed at section 6.3.

Purchasing that exceeds \$150,000 in total value must be put to public tender in accordance with the statutory requirements under the Regulations (unless a regulatory tender exemption is deemed suitable).

6.1 Purchasing Value Definition

Determining purchasing value is to be based on the following considerations:

- Exclusive of Goods and Services Tax (GST);
- The actual or expected value of a contract over the full contract period, including all options to extend; or the extent to which it could be reasonably expected that the City of Busselton will continue to purchase a particular category of goods, services or works and what the total purchased value is or could be reasonably expected to be. Best practice is if a purchasing threshold is reached within three years for a particular category of goods, services or works, then the purchasing requirement under the relevant threshold (including the tender threshold) must apply; and

- Any variation to the scope of the purchase is limited to a 10% tolerance of the original purchasing value.

6.2 Purchasing from Existing Contracts

Where the City has an existing contract in place that relates to a particular good or service, it must endeavour to purchase required goods or services under that existing contract, to the extent that the scope of the contract allows. When planning the purchase, the City must consult its contract register in the first instance before seeking to obtain quotes or tenders.

6.3 Purchasing Thresholds

Where the value of procurement for the value of the contract over the full contract period (including options to extend) is, or is expected to be:-

	Amount of Purchase	Requirements
6.3.1	Up to \$5000	Purchase directly from a suitable supplier after obtaining at least one (1) oral or written quotation from that supplier either from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.2	\$5,001 - \$14,999	Obtain at least two (2) written quotations from suitable suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.3	\$15,000 - \$49,999	Obtain at least three (3) written quotations from suppliers following a brief outlining of the specified requirement. Quotations within this threshold may be obtained from: <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.4	\$50,000 - \$149,999	Obtain at least three (3) written quotations from suppliers by way of a formal request for quotation, containing price and detailed specification of goods and services required. The procurement decision is to be based on pre-determined evaluation criteria that assess all value for money considerations in accordance with the definition stated within this Policy.

		<p>The selection should not be based on price alone. Consideration should be given to qualitative factors such as quality, availability, accreditation requirements, time for completion or delivery, warranty conditions, technology, maintenance requirements, an organisation's capability, previous relevant experience and any other relevant factors. The quotations are to be evaluated by a panel with a minimum of two members with a mix of skills and experience relevant to the nature of the purchase.</p> <p>Quotations within this threshold may be obtained from:</p> <ul style="list-style-type: none"> • an existing panel of pre-qualified suppliers administered by the City; or • a pre-qualified supplier on the WALGA Preferred Supply Program or State Government CUA; or • from the open market.
6.3.5	Over \$150,000	Conduct a public tender process in accordance with the statutory requirements under the Act and the Regulations.

6.4 \$ 150,000 and above

For the procurement of goods or services where the value exceeds \$150,000, it is a requirement to follow a public tender process in accordance with the statutory requirements under the Regulations (see also part 7 of this Policy).

6.5 Inviting tenders under the Tender Threshold

Where considered appropriate and beneficial, procurement of goods and services with a value of less than the tender threshold of \$150,000, may, in lieu of obtaining quotations, be done by way of a tender process in accordance with the statutory requirements under the Regulations. This decision should be made after considering the benefits of this approach in comparison with the costs, risks, timeliness and compliance requirements.

6.6 Verbal Quotations

The general principles for obtaining verbal quotations are:

- * ensure that the requirement/specification is clearly understood by the employee seeking the verbal quotations;
- * ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote;
- * read back or confirm in writing the details to the supplier's contact person to confirm their accuracy; and
- * ensure the terms and conditions of the purchase are clear to both parties and that they are fair and reasonable and do not pose any unacceptable risk to the City.

6.7 Written Quotations

The general principles relating to written quotations are:

- * an appropriately detailed specification should communicate requirement(s) in a clear, concise

- and logical fashion;
- * they should include general terms and conditions of contract that are appropriate and adequate for the purchase and which do not pose any unacceptable risk to the City;
 - * requests to quote should be issued simultaneously to ensure that all parties receive an equal opportunity to respond;
 - * any new information that is likely to change the requirements should be offered to all prospective suppliers at the same time.
 - * responses should be assessed for compliance, then against the selection criteria, and then value for money and all evaluations documented; and
 - * respondents should be advised in writing as soon as possible after the final determination is made and approved.

6.8 Due Diligence

The responsible City officer is expected to demonstrate due diligence in seeking quotations and may determine that the process outlined for a higher transaction value may be appropriate to a purchase, despite it being of a lower value. As best practice the number of quotations, the contract conditions and level of evaluation required should be determined by the type and nature of the purchase and the associated risk and not purely its value. The value dictates the minimum requirements for the purchase.

In addition, it is recommended to use professional discretion and occasionally undertake market testing with a greater number or more formal forms of quotation to ensure best value robust evaluation are maintained.

6.9 Sole source of supply (monopoly suppliers)

Where the purchasing requirement is over the value of \$5,000 and of a unique nature that can only be supplied from one supplier, the purchase is permitted without undertaking a tender or quotation process. This is only permitted in circumstances where the City is satisfied and can evidence that there is only one source of supply for those goods, services or works. The City must use its best endeavours to determine if the sole source of supply is genuine by exploring if there are any alternative sources of supply. If the view is formed that there is no alternative source of supply, a written justification to this effect must be endorsed by the Chief Executive Officer, prior to a contract being entered into.

From time to time, the City may publicly invite an expression of interest to effectively determine that one sole source of supply still genuinely exists.

6.10 Waiver of requirements

The Chief Executive Officer may, at his/her discretion, waive the requirements to obtain the number or nature of quotations set out in section 6.3. The responsible City officer must request such a waiver in writing, providing sufficient justification therefore, by way of a '*Waiver to the Purchasing Policy*' form or equivalent.

6.11 Anti-Avoidance

The City shall not enter into two or more contracts of a similar nature for the purpose of splitting the value of the contracts to take the value of consideration below the level of \$150,000, thereby avoiding the need to follow the tender process under the Regulations.

6.12 Recordkeeping

The responsible City officer must ensure that all aspects of any procurement or purchase are properly documented and registered in the City's record keeping systems in accordance with all statutory requirements and relevant City practices and procedures.

7 REGULATORY COMPLIANCE - TENDERS

This part includes detail on the requirements of the Act and the Regulations for the public tender process. As these may change from time to time, it is the responsibility of the employee to inform themselves of the requirements of the relevant statutory requirements when conducting a tender process and not rely on this policy alone.

7.1 Tender exemption

An exemption to publicly invite tenders may apply in the following instances:

- * the purchase is obtained from a pre-qualified supplier under the WALGA Preferred Supply Program or State Government Common Use Arrangement;
- * the purchase is from a Regional Local Government or another Local Government;
- * the purchase is acquired from a person registered on the WA Aboriginal Business Directory, as published by the Small Business Development Corporation, where the consideration under contract is worth \$250,000 or less and represents value for money;
- * the purchase is acquired from an Australian Disability Enterprise and represents value for money;
- * the purchase is from a pre-qualified supplier under a Panel established by the City; or
- * any of the other exclusions under Regulation 11 of the Regulations apply.

7.2 Tender Criteria

The City shall, before tenders are publicly invited, determine in writing the criteria by which tenders will be evaluated.

7.3 Advertising Tenders

Requests for tenders must be advertised in a state wide publication and, in addition, may also be advertised locally. The tender must remain open for a minimum of at least 14 days after the date the tender is advertised.

The notice must include;

- * a brief description of the goods or services required;
- * information as to where and how tenders may be submitted;
- * the date and time after which tenders cannot be submitted;
- * particulars identifying a person from who more detailed information as to tendering may be obtained. Detailed information shall include;
 - such information as the local government decides should be disclosed to those interested in submitting a tender;
 - detailed specifications of the goods or services required;
 - the criteria for deciding which tender should be accepted;
 - whether or not the local government has decided to submit a tender; and
 - whether or not tenders can be submitted by facsimile or other electronic means, and if so, how tenders may be submitted.

7.4 Issuing Tender Documentation

Approved tenders will be allocated a tender number, which shall be recorded in the City of Busselton's Tender Register.

A written record will be kept of the details of all persons who request and are supplied with tender documentation.

7.5 Addendum to Tender

Clarifications, variations or adjustments to the tender documentation and/or the conditions of tender may be made by way of addendum after the tender has been publicly advertised but prior to the tender closing date. An addendum is to be given to all prospective tenderers who requested and have been supplied with tender documentation by the City and the responsible City officer must use his/her best endeavours to ensure that all addendums are acknowledged by the receiving persons.

7.6 Opening of Tenders

A lockable tender box is to be kept by the City and all tenders received by the City are to be placed in the tender box. No tenders are to be removed from the tender box, or opened, read or evaluated prior to the tender closing date.

Tenders are to be opened in the presence of at least two persons which can be either:

- (1) Two employees of the City; or
- (2) One employee of the City and another person authorised by the Chief Executive Officer for that purpose.

The details of all tenders received and opened shall be recorded in the Tender Register.

Tenders are to be opened in accordance with the advertised time and place. There is no obligation to disclose or record tendered prices at the tender opening, and price information should be regarded as commercial-in-confidence to the Local Government. Members of the public are entitled to be present.

7.7 Tender Evaluation

Tenders that have not been rejected shall be assessed by means of a written evaluation against the pre-determined criteria. The tender evaluation panel shall assess each tender that has not been rejected to determine which tender represents best value for money.

The evaluation panel must contain a minimum of three members and shall be established prior to the advertising of a tender. Panel members shall have a mix of skills and experience relevant to the nature of the purchase.

7.8 Notification of Outcome

Each tenderer is to be given notice in writing containing particulars of the successful tender or advising that no tender was accepted.

7.9 Tender Register

The City must maintain a tender register which is to include:

- (a) a brief description of the goods and services required;
- (b) particulars of —
 - (i) any notice by which expressions of interests from prospective tenderers was sought; and
 - (ii) any person who submitted an expression of interest; and
 - (iii) any list of acceptable tenderers that was prepared under Regulation 23(4); and
- (c) a copy of the notice of the invitation to tender; and
- (d) the name of each tenderer whose tender has been opened; and
- (e) the name of any successful tenderer.

7.10 Minor Variation prior to awarding a contract

Prior to awarding a contract from a tender, the City may negotiate and agree on minor variations with the preferred tenderer. Any amendments must be incorporated into the contract with the chosen tenderer for the supply of the varied requirement. Any major variation will require a new and separate tender. A minor variation may not materially alter the specification or structure provided for by the initial tender.

8 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION PREFERRED SUPPLIERS PROGRAM

The Western Australian Local Government Association (WALGA) has a number of pre-qualified suppliers called WALGA preferred suppliers. Using WALGA preferred suppliers may be considered appropriate for particular procurement. This method of sourcing goods and services can simplify the process otherwise required for a request for quotation or request for tender, however, in all other respects purchasing via WALGA's preferred supplier panels must comply with this policy.

The City can make purchases from suppliers on a WALGA preferred supplier panel:

- * for purchases up to \$150,000; and
- * for purchases over \$150,000 in reliance on the exemption to the requirement for a public tender,

provided that:

- * the purchasing thresholds in section 6.3 are observed in relation to numbers of and types of quotation sought;
- * this purchasing policy is otherwise followed, in particular the principles of ethics, integrity and best value for money in section 4 and 5.

Note: WALGA terms and conditions are available for use in connection with requests for quotation via eQuotes, however consideration must be given to whether such terms and conditions are appropriate for the proposed purchase. If alternative terms and conditions are used then they must meet the requirements of this Policy.

9 PANELS OF PRE-QUALIFIED SUPPLIERS ("PANEL")

9.1 Background

In accordance with Regulation 24AC of the Regulations, the City may establish a Panel of Pre-qualified Suppliers ("Panel") where there is an ongoing need for particular goods or services. Using these Panels simplifies the process that would otherwise be required as part of a request for quotation. A Panel may be created where most of the following factors apply:

- the City determines that a range of similar goods and services are required to be purchased on a continuing and regular basis;
- there are numerous potential suppliers in the local and regional procurement-related market sector(s) that satisfy the test of 'value for money';
- the purchasing activity under the intended Panel is assessed as being of low to medium risk;
- the Panel will streamline and will improve procurement processes;
- the City has the capability to establish, manage the risks and achieve the benefits expected of the proposed Panel.

The City will endeavour to ensure that Panels will not be created unless most of the above factors are firmly and quantifiably established.

9.2 Establishing a Panel

Should the City determine that a Panel is beneficial to be created, it must do so in accordance with Regulation 24AC of the Regulations.

Panels may be established for one supply requirement, or a number of similar supply requirements under defined categories within the Panel.

Subject to 9.3(b), panels may be established for a minimum of 2 years and for a maximum length of time deemed appropriate by the City.

Evaluation criteria must be determined and communicated in the application process by which applications will be assessed and accepted.

Where a Panel is to be established, the City will endeavour to appoint at least three (3) suppliers to each category, on the basis that best value for money is demonstrated. Where less than three (3) suppliers are appointed to each category within the Panel, the Panel category is not to be established.

In each invitation to apply to become a pre-qualified supplier (through a procurement process advertised through a state-wide notice), the City must state the expected number of suppliers it intends to put on the panel.

Should a Panel member leave the Panel, they may be replaced by the next ranked Panel member determined in the value for money assessment should the supplier agree to do so, with this intention to be disclosed in the detailed information set out under Regulation 24AD(5)(d) and (e) when establishing the Panel.

9.3 Distributing Work Amongst Panel Members

To satisfy Regulation 24AD(5) of the Regulations, when establishing a Panel, the detailed information associated with each invitation to apply to join the Panel must either prescribe whether the City intends to:

- i. Obtain quotations from each pre-qualified supplier on the Panel with respect to all purchases, in accordance with section 9.3(a); or
- ii. Purchase goods and services exclusively from any pre-qualified supplier appointed to that Panel, and under what circumstances; or
- iii. Develop a ranking system for selection to the Panel, with work awarded in accordance with section 9.3 (b).

In considering the distribution of work among Panel members, the detailed information must also prescribe whether:

- a) each Panel member will have the opportunity to bid for each item of work under the Panel, with pre-determined evaluation criteria forming part of the invitation to quote to assess the suitability of the supplier for particular items of work. Contracts under the Panel will be awarded on the basis of value for money in every instance; or
- b) work will be awarded on a ranked basis, which is to be stipulated in the detailed information set out under Regulation 24AD(5)(f) of the Regulations when establishing the Panel. The City is to invite the highest ranked Panel member, who is to give written notice as to whether to accept the offer for the work to be undertaken. Should the offer be declined, an invitation to the next ranked Panel member is to be made and so forth until a contract is awarded to a Panel member for the work to be undertaken. Should the list of Panel members invited be exhausted with no Panel member accepting the offer to provide goods/services under the Panel, the City may then invite suppliers that are not pre-qualified under the Panel, in accordance with the purchasing thresholds stated in section 6.3 of this policy. When a ranking system is established, the Panel must not operate for a period exceeding 12 months.

In every instance, a contract must not be formed with a pre-qualified supplier for an item of work beyond 12 months, which includes options to extend the contract.

9.4 Recordkeeping

Records of all communications with Panel members, with respect to the quotation process and all subsequent purchases made through the Panel, must be kept in the City's records system in accordance with all statutory requirements and relevant practices and procedures.

10 PURCHASING FROM DISABILITY ENTERPRISES

Pursuant to Part 4 of the Regulations, the City is not required to publicly invite tenders if the goods or services are to be procured from an Australian Disability Enterprise, as registered on www.ade.org.au. This is contingent on the demonstration of value for money.

Australian Disability Enterprises may be invited to quote for supplying goods and services under the tender threshold. A qualitative weighting may be afforded in the evaluation of quotes and tenders to provide advantages to Australian Disability Enterprises.

A complete list of approved Disability Enterprises registered in Western Australia is available at www.wade.org.au.

11 PURCHASING FROM ABORIGINAL BUSINESSES

Pursuant to Part 4 of the Regulations the City is not required to publicly invite tenders if the goods or services are to be supplied from a person registered on the Aboriginal Business Directory published by the Small Business Development Corporation, provided the expected value of the goods or services to be purchased is \$250,000 or less. This is contingent on the demonstration of value for money.

Aboriginal businesses may be invited to quote for supplying goods and services under abovementioned threshold. A qualitative weighting may be afforded in the evaluation of quotes to provide advantages to Aboriginal owned businesses, or businesses that demonstrate a high level of aboriginal employment.

A complete list of persons registered on the Aboriginal Business Directory is available at

www.abdwa.com.au.

12 SUSTAINABLE PROCUREMENT AND CORPORATE SOCIAL RESPONSIBILITY

The City is committed to providing a preference to suppliers that demonstrate sustainable business practices and high levels of corporate social responsibility (CSR). Where appropriate, the City shall endeavour to provide an advantage to suppliers demonstrating that they minimise environmental and negative social impacts and embrace CSR. Sustainable and CSR considerations must be balanced against value for money outcomes in accordance with the City's sustainability objectives.

13 OPERATIONAL PRACTICES

Operational Practices, including standard documentation and more detailed information regarding procedures, may be prepared and endorsed by the Chief Executive Officer or their delegate for any action or process referred to in this City of Busselton Purchasing Policy. Any such Operational Practices shall comply with terms of the Act, the Regulations and this Policy.

Policy Background

Policy Reference No. – 239

Owner Unit – Corporate Services

Originator – Contracts and Tendering Officer

Policy approved by – Council

Date Approved –

Review Frequency – As required

Related Documents –

Local Government Act 1995

Local Government (Functions and General) Regulations 1996

History

Council Resolution	Date	Information
	February 2016	Update policy in accordance with Amendments effective 01 October 2015 Version 4
C1405/123	14 May 2014	Update to Sustainable Procurement and purchases under the WALGA exemption Version 3
C1207/196	25 July, 2012	Update to policy format, City terminology and minor editing Version 2
C0703/069	28 March, 2007	Date of implementation of purchasing policy which replaces former Council policy 188/1 Tender Procedures. Version 1

CARRIED 5/0

6.2 REVIEW OF APPLICATIONS FOR EXPLORATION OR MINING/EXTRACTION LICENSES FOR COAL WITHIN THE CITY OF BUSSELTON

SUBJECT INDEX:	Policy Development
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Attachment A Existing Policy Relating to Applications for Exploration or Mining/Extraction Licenses for Coal Within the City of Busselton

PRÉCIS

The Council has had a policy in place since February 2012 setting out an approach to guide the City's response to applications for exploration and mining licenses for coal wholly or partially within the District of the City of Busselton. This review has been proposed through the Policy and Legislation Committee on the basis that a Councillor was seeking to move a notice of motion to review the policy, however, as the process of review is established through the Committee, the notice of motion process was deemed to not be required.

Recently, a presenter at a Council meeting requested the Council to consider extending the provisions of its policy to include conventional gas mining and the Mayor indicated in response that policies are reviewed through the Policy and Legislation Committee and that this could be considered through this Committee.

This report is presented to enable the Committee to make a recommendation to Council as to whether any changes to the policy are required. It is the recommendation of officers that if the Council deems there is sufficient concern to warrant consideration of a policy relating to conventional gas that the Council seek briefings and/or further information from relevant sources before determining whether it should extend the current coal related policy to conventional gas, adopt a separate but similar policy or to remain policy neutral. No changes are recommended to the policy at this time.

BACKGROUND

A representative of Gas Free South West WA through public question time at a Council meeting on 27 January, 2016 requested Council's consideration of extending its existing policy relating to coal mining to include conventional gas mining.

The development of the Council's policy position relating to coal mining occurred in 2011 in consultation with the Shire of Augusta-Margaret River through the established CapeROC partnership in response to applications for coal exploration licenses that were occurring at the time and significant community concern relating to the potential for coal mining or coal seam gas extraction to occur in the District.

At its meeting on 22 February 2012, the Council adopted a position of opposing the mining of coal (at mining application stage), on the basis of concerns about its potential impacts on groundwater and surface water quality and quantity, conflict with existing land uses such as tourism, recreation, agriculture and viticulture, and the potential for coal mining to impact on the character, attraction and quality of life of the region.

The Council also supported continued lobbying of the Minister for Mines and Petroleum and other relevant Parliamentarians against the granting of exploration licences for coal resources in the district of the City of Busselton and neighbouring Shire of Augusta-Margaret River on the basis that the City of Busselton opposes coal mining for the reasons in its policy, and an exploration licence may eventuate in a coal mining license. The policy was adopted in its current form (attached).

STATUTORY ENVIRONMENT

In accordance with Section 2.7(2)(b) of the *Local Government Act 1995* it is the role of the Council to determine the local government's policies. The Council does this on the recommendation of a Committee it has established in accordance with Section 5.8 of that Act.

While the exact approvals required for conventional gas mining would vary depending upon the activity being undertaken, it is most likely that approval for a gas well would be required under the Petroleum and Geothermal Energy Resources Act 1967 and regulations associated with that Act. All approvals under that legislation are dealt with at a State Government level.

RELEVANT PLANS AND POLICIES

Council policy 043 currently applies to a process to guide the City's response to applications for coal related mining activity wholly or partially within the District of the City of Busselton. The Council has been requested to consider extending the application of this policy to include conventional gas mining.

FINANCIAL IMPLICATIONS

Not applicable with regard to the review of the policy, while noting that any decision to actively oppose conventional gas mining generally or applications specifically may have resourcing implications.

Long-term Financial Plan Implications

NA.

STRATEGIC COMMUNITY OBJECTIVES

This matter relates to responsible, ethical and accountable decision-making.

RISK ASSESSMENT

Not required.

CONSULTATION

It is recommended that if the Council seeks to consider a policy position relating to conventional gas mining that it be undertaken in consultation with relevant stakeholders.

OFFICER COMMENT

As identified in this report, the City currently has an established position relating to coal and coal seam gas including having requested consideration of amendments to legislation, planning frameworks and planning policies as well as a position to lodge objections relating to coal mining applications and require Council consideration of any coal seam gas application or notification. This was in response to a specific application at the time that caused significant community concern.

It must be noted that in relation to mining applications all approvals are dealt with at a State Government level. Depending upon the circumstances surrounding the application, there may not even be a requirement for the City to be consulted before an approval is issued.

The Council has been requested to consider whether the same concerns exist in relation to the mining of conventional gas, and if so, to consider what changes can be implemented to the existing policy provisions. It is recommended that if the Council seeks to consider policy changes that it first seek to consult with relevant stakeholders before proposing such changes to enable an informed decision to be made.

CONCLUSION

If the Council seeks to make any policy changes it is recommended that the Council obtain additional information as to the risks pertaining to conventional gas mining specifically before proceeding. However, this report relates to matters that are ultimately within the control of the State Government. No changes to the policy are recommended.

OPTIONS

The Council may be of the view that it currently has sufficient concerns to amend the current policy.

The Council may be of the view that it needs more information to determine whether there are sufficient concerns relating to conventional gas extraction before considering a policy position on this matter. If this is the case, it is recommended that other stakeholders be consulted before any policy changes are considered.

TIMELINE FOR IMPLEMENTATION OF OFFICER RECOMMENDATION

Immediately upon consideration by Council.

MOTION/OFFICER RECOMMENDATION

Moved Councillor G Henley, seconded Councillor R Bennett

That the Council:

1. Does not make any changes to its policy position articulated in Council policy 043 at this time for the reasons outlined in the report.

FORESHADOWED MOTION

Cr Ross Paine foreshadowed his intention to move the following motion

That the Council:

Amends Section 4 of the "Application for Exploration or Mining/extraction licenses for coal within the City of Busselton" policy to include reference to Natural Gas.

Committee Recommendation and Officer Recommendation

PL1602/061

Moved Councillor G Henley, seconded Councillor R Bennett

That the Council:

1. Does not make any changes to its policy position articulated in Council policy 043 at this time

for the reasons outlined in the report.

Voting:

For the motion: Councillor R Bennett, Councillor G Henley, Councillor R Reekie and Councillor C Tarbotton.

Against the motion: Councillor R Paine.

CARRIED 4/1

Note: As the motion was carried Cr Paine was not able to move the motion that he had previously foreshadowed.

7. GENERAL DISCUSSION ITEMS**7.1 POLICY REVIEW PROCESS**

SUBJECT INDEX:	Policy Development
STRATEGIC OBJECTIVE:	Governance systems that deliver responsible, ethical and accountable decision-making.
BUSINESS UNIT:	Governance Services
ACTIVITY UNIT:	Governance Services
REPORTING OFFICER:	Manager, Governance Services - Lynley Rich
AUTHORISING OFFICER:	Chief Executive Officer - Mike Archer
VOTING REQUIREMENT:	Simple Majority
ATTACHMENTS:	Nil

The Manager, Governance Services addressed the Committee regarding the Policy Review Process and advised that a schedule of Policies would be distributed to members to enable input in relation to the prioritisation of future Policy development and review.

8. NEXT MEETING DATE

Thursday, 17 March 2016

9. CLOSURE

The meeting closed at 2.58pm.

THESE MINUTES CONSISTING OF PAGES 1 TO 23 WERE CONFIRMED AS A TRUE AND CORRECT RECORD ON THURSDAY, 17 MARCH 2016.

DATE: _____ PRESIDING MEMBER: _____