



City of Nedlands

AGENDA

Special Council Meeting

Wednesday, 20 March 2024

Notice of Meeting

Mayor & Councillors

A Special Council Meeting of the City of Nedlands is to be held on Wednesday, 20 March 2024 in the Council chambers at 71 Stirling Highway Nedlands commencing at 6pm for the purpose of:

1. Appointment of an Independent Consultant in accordance with the Resolution of Council dated of 11 March 2024.

This meeting will be livestreamed [Livestreaming Council & Committee Meetings » City of Nedlands](#)

Tony Free | Acting Chief Executive Officer

18 March 2024



Information

Special Council Meetings are run in accordance with the City of Nedlands Standing Orders Local Law. If you have any questions in relation to items on the agenda, procedural matters, public question time, addressing Council or attending meetings please contact the Executive Officer on 9273 3500 or council@nedlands.wa.gov.au

Public Question Time

Public question time at a Special Council Meeting is available for members of the public to ask a question about items on the agenda. Questions asked by members of the public are not to be accompanied by any statement reflecting adversely upon any Council Member or Employee.

Questions should be submitted as early as possible via the online form available on the City's website: [Public question time | City of Nedlands](#)

Questions may be taken on notice to allow adequate time to prepare a response and all answers will be published in the minutes of the meeting.

Addresses by Members of the Public

Members of the public wishing to address Council in relation to an item on the agenda must complete the online registration form available on the City's website: [Public Address Registration Form | City of Nedlands](#)

The Presiding Member will determine the order of speakers to address the Council and the number of speakers is to be limited to 2 in support and 2 against any particular item on a Special Council Meeting Agenda. The Public address session will be restricted to 15 minutes unless the Council, by resolution decides otherwise.

Disclaimer

Members of the public who attend Council Meetings Agenda Forum should not act immediately on anything they hear at the meetings, without first seeking clarification of Council's position. For example, by reference to the confirmed Minutes of Council meeting. Members of the public are also advised to wait for written advice from the Council prior to taking action on any matter that they may have before Council.

Any plans or documents in agendas and minutes may be subject to copyright. The express permission of the copyright owner must be obtained before copying any copyright material.



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1. Declaration of Opening

The Presiding Member will declare the meeting open at 6.00pm and acknowledge the Whadjuk Nyoongar people, Traditional Custodians of the land on which we meet, and pay respect to Elders past, present and emerging. The Presiding Member will draw attention to the disclaimer on page 2 and advise the meeting is being livestreamed.

2. Present and Apologies and Leave of Absence (Previously Approved)

Leave of Absence (Previously Approved)	Councillor B G Hodsdon	Hollywood Ward
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Apologies	None as at distribution of this agenda.
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3. Public Question Time

Public questions submitted to be read at this point.

4. Address by Members of the Public

Addresses by members of the public who have completed Public Address Registration Forms to be made at this point.

5. Disclosures of Financial Interest

The Presiding Member to remind Council Members and Staff of the requirements of Section 5.65 of the Local Government Act to disclose any interest during the meeting when the matter is discussed.

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision-making procedure relating to the matter the subject of the declaration.

However, other members may allow participation of the declarant if the member further discloses the extent of the interest. Any such declarant who wishes to participate in the meeting on the matter, shall leave the meeting, after making their declaration and request to participate, while other members consider and decide upon whether the interest is trivial or insignificant or is common to a significant number of electors or ratepayers.



6. Disclosures of Interest Affecting Impartiality

The Presiding Member to remind Council Members and Staff of the requirements of Council's Code of Conduct in accordance with Section 5.103 of the Local Government Act.

Council Members and staff are required, in addition to declaring any financial interests to declare any interest that may affect their impartiality in considering a matter. This declaration does not restrict any right to participate in or be present during the decision-making procedure.

The following pro forma declaration is provided to assist in making the disclosure.

"With regard to the matter in item x I disclose that I have an association with the applicant (or person seeking a decision). This association is (nature of the interest).

As a consequence, there may be a perception that my impartiality on the matter may be affected. I declare that I will consider this matter on its merits and vote accordingly."

The member or employee is encouraged to disclose the nature of the association.

7. Declaration by Members That They Have Not Given Due Consideration to Papers

Members who have not read the business papers to make declarations at this point.



8. Divisional Reports

8.1. NOM05.03.24 – Councillor Amiry - Appointment of an Independent Consultant - Audit

In accordance with Clause 3.9 of the City of Nedlands Standing Orders Local Law on the 14 March 2024, Councillor Amiry gave notice of her intention to move the following motion.

That Council:

1. **pursuant to s5.45(2)(a) of the Local Government act and Council resolution 8.2 of 11 March 2024:**
 - a. **appoints Mr Craig Ross to the position of independent consultant to address the attached scope of work; and**
 - b. **engagement contract term to be no less than 3 months starting 25 March 2024 with total remuneration of \$42,000 to be paid no later than 24 June 2024; and**
2. **instructs the acting CEO to provide Mr Ross:**
 - a. **an engagement contract referencing the above terms and the attached scope of work complete with all confidentiality agreements required for his signature;**
 - b. **a working laptop with unrestricted access to all finance related records, documentation and information systems including SharePoint sites and One Council;**
 - c. **introduction to a nominated senior member of the finance staff as the primary contact point for the duration of the contract;**
 - d. **access to the Audit and Risk Committee on a fortnightly timeline to provide on-going findings and confirm work priorities; and**
 - e. **an open and collaborative environment to facilitate Mr Ross complete his scope of work.**

Justification

The City of Nedland's received a Disclaimer of Opinion from the Office of the Auditor General (OAG) in relation to the City's Annual Financial Statement for year ending 30 June 2023.

Nine months of the 2023/2024 Financial year has already passed and Council can have no confidence that a second Disclaimer of opinion will not be forthcoming from the OAG for the City's Annual Financial Statement for year ending 30 June 2024. This eventuality would have dire consequences for this Council and the City of Nedlands.

It is therefore imperative that there is a review and gap analysis of the City's financial record keeping and reporting to ensure appropriate corrective actions to address OAG's concerns so the City does not receive another Disclaimer of Opinion for the City's Annual Financial



Statement for year ending 30 June 2024. The review must be undertaken in parallel with the administration doing the work necessary to ensure proper financial records are in place in a timely manner for the OAG 2024 audit.

The timeframe of only 3 months has necessitated that Council delegate its powers to an independent consultant in accordance with Council resolution 8.2 of the 11 March 2024.

Mr Craig Ross is a Finance manager and Group accountant. He is a chartered accountant with a deep knowledge of AAS and extensive expertise in auditing, financial management & reporting, governance, and risk. Most importantly, Mr Ross has significant demonstrated experience in the provision of independent expert advice with a blue chip accounting firm. We are fortunate to find a professional of such outstanding capability available to the City at short notice.

Given the gravity of the matter and the short timeline to the end of this financial year it is prudent that Council engages Mr Ross's services at the earliest.

Background on Independent Consultant

CRAIG ROSS BCom, CA

Chartered accountant with over 30 years significant audit, accounting, and corporate financial reporting experience including end of year closing procedures, internal control processes, financial statement preparation, budget analysis and compliance reporting in a wide variety of significant multinational corporations across numerous industries.

2021-2023 - Group Accountant/Finance Manager, Civmec (Henderson)

1992-2018 – Audit Manager through to Audit Director with international Big 4 accounting firm in a variety location (Australia, Papua New Guinea, Indonesia, Croatia, Slovenia, Bulgaria)

Attachments

Attachment 1 – Scope for Independent Consultant

Attachment 2 – CONFIDENTIAL Resume Mr Craig Ross

Attachment 3 – Procurement of Goods & Services Council Policy

Administration Comment

There are a number of concerns with respect to the proposed motion included in the notice. These are as follows:

1. Reference to Section 5.45 of the Local Government Act 1995

The section of the Act referenced in the proposed motion, is not referencing the correct section of the Act.



That section of the Act is referring to the potential for someone to “act through a person”.

This section of the Act is relevant in a situation when **a person has no discretion in carrying out a function, then that function may be undertaken by another through the ‘acting through’ concept.**

A good example of this is when Council commences the process of creating a Local Law, Council resolves to that effect, and then there are a number of administrative functions which need to occur, Council is “acting through’ officers as these administrative functions are undertaken.

The words “Pursuant to S5.45(2)(a) of the Local Government Act and Council resolution 8.2 of 11 March 2024” should be deleted.

2. **Regulation 11A of the Local Government (*Functions and General*) Regulations 1996**

Council does not have the power to circumvent the Council’s procurement procedures as outlined in the Council Policy – Procurement of Goods and Services.

Regulation 11A of the *Local Government (Functions and General) Regulations 1996* states –

- (1) A **local government** is to prepare or adopt, and is to implement, a purchasing policy in relation to contracts for other persons to supply goods or services where the consideration under the contract is, or is expected to be, \$250 000 or less or worth \$250 000 or less.
- (2) **A purchasing policy is to make provision for and in respect of the policy to be followed by the local government** for, and in respect of, entering into contracts referred to in subregulation (1).
- (3) A purchasing policy must make provision in respect of —
 - (a) the form of quotations acceptable; and
 - (ba) the minimum number of oral quotations and written quotations that must be obtained; and
 - (b) the recording and retention of written information, or documents, in respect of —
 - (i) all quotations received; and
 - (ii) all purchases made.

The reference to the “policy to be followed by the Local Government”, includes Council. The Regulations don’t permit / allow nor facilitate Council circumventing the purchasing policy. The Policy outlines requirements in relation to seeking a minimum of three quotes, makes reference to the form of the quotations, and includes as one of its objectives, that the process should be open, fair and transparent (**see Policy attached**).



3. Under section 5.41 (c) of the Local Government Act 1995 a role of the Chief Executive Officer is to implement Council decisions.

To this end, following Council's resolution 8.2 of 11 March 2024, the City has sought formal quotations from the WALGA approved panel of Finance and Corporate Services providers to implement the Council decision of Monday 11 March. As part of that process, what the City provided as the scope of works and key deliverables was based on the Council resolution. The City has given those on the WALGA panel until 28 March to submit quotations to the City.

This process allows multiple firms / individuals to submit a quote. It provides the firms with adequate time to prepare a quote. The quotes received will be presented to Council, for determination. This process of using the WALGA Panel is considered to be the, most transparent, and from a governance sense the most appropriate approach to follow, as it allows for multiple, appropriately qualified firms / individuals to submit a quote. This process provides Council with the best opportunity to appoint the most appropriate firm / individual at the most competitive price.

4. Alternative Approach

The submission from Mr Ross will be added to any submissions received via the WALGA panel process, plus any other submissions received.

It is recommended that Council follow the WALGA panel approach as commenced by officers as this process is open, fair and transparent.

The closing date for submissions is 28 March.

It is suggested that the submissions received could be presented to a further Council meeting to facilitate Council making the appointment. Noting that Good Friday is 29 March, allowing adequate time for Council to consider the agenda including the submissions received, the matter could be considered by Council on Tuesday 9 or Wednesday 10 April.

Officer recommendation

That Council;

Requests that the submission from Mr Craig Ross be considered and included in the report to Council to appoint the Independent Consultant along with any other submissions received including those from the WALGA panel.

SCOPE OF WORK FOR THE INDEPENDENT FINANCIAL CONSULTANT

Background

Following the Special Council Meeting of 11 March 2024, Council for the City of Nedlands resolved by absolute majority (5/3) not to proceed with the Administration recommendation regarding item 8.2 - CPS 18.03.24 Response to audit of the annual Financial Report for year ending 30 June 2023.

Instead, Council resolved by absolute majority (5/-) to authorise an independent consultant as delegate to assist the City to complete a review of the findings identified by the OAG for the year ended 30 June 2023, and report on actions to address issues and review the administration proposal for remediation responses.

Additionally, the independent consultant is to assist the Council to implement immediate actions to preclude a disclaimer audit opinion on the Financial Report for year ending 30 June 2024, and plan to obtain an unqualified audit opinion in subsequent years.

Independent Consultant Engagement Deliverables

Subject to unrestricted access to all finance related documentation (including but not limited to underlying accounting system, accounting records, general ledger transactions and supporting information) and timely staff cooperation, the Independent Consultant will provide to Council during his tenure;

- 1) Pre-year-end Statements of Financial Position including reconciliations and complete supporting documentation to enable the City to compile an accurate Statement of Financial Position as at 30 June 2024 that meet OAG expectations.
- 2) Report on the factors contributing to the findings identified by the OAG during the year ended 30 June 2023 which resulting in the disclaimer of opinion, including an assessment of the proposed management responses by the Director Corporate Services and progress of remediation action.
- 3) Develop a road map and resourcing plan to be implemented to obtain an unqualified audit opinion in subsequent years including an audit opinion on the Statements of Comprehensive Income, all comparative figures and complete Financial Report note disclosure information.

Engagement Scope

On behalf of Council, the Independent Consultant will;

1. Assess the OAG audit findings for the year ended 30 June 2023 and in liaison with the OAG agree expectations with respect to the impact on significant rated findings and the timeline for the interim and final audit information preparation list for the year ending 30 June 2024.
2. Liaise with Acting CEO and key staff to obtain understanding on the remediation status of the OAG audit findings, council staff workload priorities and the prior year transition/data migration of legacy information from Civica Authority to TechOne.
3. Develop a 3-month implementation plan to meet OAG expectations for the audit of the Financial Report for the year ending 30 June 2024 for approval by the Audit and Risk committee.

4. Work with staff to prepare a preliminary snapshot Statement of Financial Position (as at 31 December 2023) including supporting documentation and listings, and thereafter monitor staff preparing monthly reconciliations.
5. Review of the fixed asset register to the general ledger and year to date movement summary, including additions and disposal transactions and depreciation calculations. This will include comparing depreciation rates against accounting policy and reviewing variances from the 30 June 2023 external valuation.
6. Work with staff to prepare initial reconciliations of all other balance sheet reconciliations and supporting schedules across material account balances (as at 31 December 2023). Monitor staff monthly reconciliation preparation and review process.
7. Report to the Audit and Risk Committee on a fortnightly basis on
 - a) Progress against the approved implementation plan
 - b) Limitations encountered in achieving the approved implementation plan.



Procurement of Goods and Services

Status Council

Responsible Division Corporate and Strategy

This policy outlines Council's approach to the procurement of goods and services.

1. Policy Context

Regulation Part 4, Division 1(11A) of the *Local Government (Functions and General Regulations) 1996* (As at 07 November 2020) requires a local government to prepare, adopt and implement a purchasing policy in relation to the supply of goods or services where the consideration under the contract is, or is expected to be \$250,000 or less. Purchases above \$250,000 must follow the process detailed in Division 2 of the *Local Government (Functions and General) Regulations 1996* and requires a local government to invite tenders.

Division 3 of the *Local Government (Functions and General) Regulations 1996* requires a local government to prepare, adopt and implement a policy in relation to establishing a panel of pre-qualified suppliers for the procurement of goods or services.

2. Policy Objectives

The City is committed to establishing and implementing efficient, effective, economical and sustainable procedures for all procurement activities.

The purpose of this procurement policy is to:

- Provide the City with an efficient process for the procurement of goods and services
- Ensure that all procurement transactions are conducted in a transparent, fair, unbiased and equitable manner
- Strengthen the integrity and confidence in the procurement system
- Ensure effective and proper expenditure of public moneys based on achieving value for money
- Ensure that the City gives appropriate consideration to the environmental impact of its procurement through the lifecycle of goods and services.
- Ensure that the City, where value for money can be demonstrated, gives appropriate consideration to the use of recycled construction and demolition products including but not limited to recycled road base and drainage rock
- Ensure that the City, at all times, remains compliant with all statutory and regulatory obligations, City policies and code of conduct
- Promote effective governance, accountability and a clear definition of all City officers roles and responsibilities
- Uphold community and industry respect for the City's procurement practices



3. Value for Money

Value for money is an overarching principle governing procurement that allows the best possible outcomes to be achieved for the City. It is important to note that compliance with the specification is more important than obtaining the lowest price, particularly taking into account end user requirements, quality standards, sustainability, life cycle costing and service benchmarks.

An assessment of the best value for money outcome for any procurement above \$5,001.00 shall consider:

- All relevant whole-of-life costs and benefits for goods and whole of contract life costs (for services). This consideration includes 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;
- The financial viability and capacity of the supplier to supply in the specified time without risk of default;
- A strong element of competition in the allocation of orders or the awarding of contracts. This is achieved by seeking a sufficient number of competitive quotations wherever practicable; and
- Minimising the average social, environmental and economic impacts in procurement decision making.

4. Procurement Thresholds:

The following table outlines the procedure for City procurement. The value for procurement is the expected value (excluding GST) of the contract over the full contract period (including options to extend).

Procurement value (ex GST)	Procedure
Up to \$5,000	Direct purchase from one supplier after seeking one (1) verbal or written quotation or priced printouts from a reputable supplier's catalogue or website.
\$5,001 and up to \$10,000	<p>Seek a minimum of two* verbal or written quotations. The method used should be based on risk and complexity.</p> <p>The purchasing decision is to be based upon assessment of the supplier's response to:</p> <ul style="list-style-type: none"> • A brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest quote.



\$10,001 and up to \$50,000	<p>Seek a minimum of three* written quotations from suppliers.</p> <p>The purchasing decision is to be based upon assessment of the supplier's response to:</p> <ul style="list-style-type: none"> • A brief outline of the specified requirement for the goods; services or works required; and • Value for Money criteria, not necessarily the lowest quote.
\$50,001 and up to \$250,000	<p>Obtain a minimum of three** written responses from suppliers by invitation under a formal Request for Quotation, in accordance with City procurement procedures.</p> <p>The purchasing decision is to be based upon assessment of the suppliers response to:</p> <ul style="list-style-type: none"> • A detailed written specification for the goods or services required • pre-determined selection criteria that assesses value for money considerations.
Over \$250,000	<p>Conduct a public tender process in accordance with the Regulations and City procurement procedures. Tender award to be approved for acceptance by Council.</p>

*A minimum of one written quotation may be accepted in place of multiple quotations at the discretion of the CEO on a case-by-case basis, where the selected supplier can be demonstrated to offer value for money and approved by the responsible Manager of the business unit.

**A minimum of one written quotation may be accepted in place of three at the approval of Council.

Where it is considered beneficial, tenders may be called in lieu of seeking quotations for procurements under \$250,000 (excluding GST). If a decision is made to seek public tenders for contracts of less than \$250,000 a Request for Tender process that follows the procedures for tendering outlined in Division 2 of the *Local Government (Functions and General) Regulations 1996* must be followed to the extent required of Regulation 13.



5. Form of Quotation

The general principles for obtaining quotations are:

- All formal Request for Quotations (RFQs) must be processed through the Procurement team who will allocate a control RFQ number to the document and maintain a register of RFQs issued by the City;
- Ensure that the requirements/specification/scope of services is clearly understood by the Local Government employee seeking quotations;
- Ensure that the requirement is clearly, accurately and consistently communicated to each of the suppliers being invited to quote; and
- Ensure due diligence is performed in approaching a sufficient number of suppliers to comply with the number of quotes required as per this policy.

6. Details of quotation that must be recorded in the Online Requisition System

- The request for tender/quotation number
- Name of company and person contacted;
- Contact number of suppliers;
- Adequate product/service description, quantity, unit price and total value;
- In cases where the choice of supplier is a WALGA preferred supplier, the WALGA contract number must be stated in the Narration column;
- Written quotes obtained must at least include all of the above details and be captured in the City's Document Management System. Further, the applicable Document Management System reference number must be stated;
- In cases of inability to obtain sufficient number of quotes, the procurement may proceed and Procurement must state the reason in the narration column of the respective supplier contacted for a quote;
- Procurement without the required number of quotes may be made only with valid reasons as allowed in the Exemptions Allowed under this policy; and
- In cases where the lowest quote is not the choice of supplier, the reason must be clearly stated in the Narration column of the choice of supplier.

7. Panels of Pre-Qualified Suppliers:

Where the City has a continuing need for any particular goods or services to be supplied by a panel of pre-qualified suppliers, the procedures for tendering outlined in Division 2 of the *Local Government (Functions and General) Regulations 1996* must be followed in full. This ensures that the process must be inclusive of clear and consistent information being made available to all suppliers and must include the release of specifications, selection criteria, price schedules, and conditions.

The number of pre-qualified suppliers successfully selected for a panel will be dependent on the number of conforming submissions received from potential suppliers, and their suitability to provide goods or services against applicable selection criteria.

Each pre-qualified supplier selected for a panel will be assessed for suitability and value for money to the City. Any procurement from the pre-qualified suppliers, including the process



for obtaining quotations from them shall follow normal competitive procedures as stated in this policy.

All pre-qualified suppliers on a panel of pre-qualified suppliers will be invited to quote for the supply of the goods or services that the pre-qualified suppliers will be expected to supply.

All regular communications between the City and the pre-qualified suppliers shall be in writing to ensure clarity and consistency. All written communication in respect of quotations received and procurements made from the pre-qualified suppliers shall be recorded and retained in the City's records.

When sourcing work from the panel the City will assess the supplier based on the following criteria, price, availability, demonstrated understanding of the project, and any specialist requirements.

The City may elect to select a supplier not on the panel, subject to normal quotation and tendering requirements of the Local Government (Functions and General) Regulations 1996.

In accordance with Division 3 (24AJ) of the Local Government (Functions and General) Regulations 1996 any individual contract with a pre-qualified supplier who is part of a panel will be for a term not exceeding 12 months and will not contain an option for renewing or extending the term beyond the 12 month period.

8. Quotation Exemptions

In any of the following instances, competitive quotations are not required, regardless of the value of the procurement:

- An emergency situation as defined by the *Local Government Act 1995*;
- The procurement is under auction which has been authorised by Council;
- The contract is for petrol, oil, or other liquid or gas used for internal combustion engines;
- The supply of goods or services is to be supplied by or obtained through the government of the State or the Commonwealth or any of its agencies, or by a local government or a regional local government
- Within last six months the market testing was done for procuring the same type of goods and services and the quotations obtained are still valid (i.e. price per unit, total value and the level of service has not changed), then the direct procurement is allowed; or
- Any of the other exclusions under Regulation 11 (2)(e) to (h) of Local Government (Functions & General) Regulations 1996.



9. Tender Exemptions

Part 4, Division 2, regulation 11 (2) of the *Local Government (Functions & General) Regulations 1996* specifies the requirements for when a Local Government does not have to publicly invite tenders for purchases above \$250,000. Accordingly, the determination can be made to procure goods and services which is expected to be more, or worth more, than \$250,000 (exc. GST) without performing a competitive Tender process. Where a tender-exempt supply arrangement is used, the City's Purchasing Policy and procedures under the tender threshold still apply i.e. these exemptions to tender do not exempt the purchaser from gaining the required number of quotations under the policy. For procurements from State Government Common Use Arrangements (CUA), the City is to follow the buying rules for that CUA.

The Regulation may change from time-to-time; hence reference is to be made to the Regulation prior to considering procurement that are likely to exceed \$250,000 excluding GST.

When deciding to conduct a public tender or utilise a Tender Exempt arrangement, consideration and comparison should be made, where reasonable and practical, on the cost and benefits of both processes. The chosen procurement method shall be approved by the CEO.

10. Variation to Tender Contracts

Regulation 20 & 21(A) of Local Government (Functions & General) Regulations 1996 stipulates the requirements for the variation to Tender Contracts prior to and post of awarding the contract. These requirements need to be addressed before any Tender Contract variation can be made.

For the purpose of clarity a 'minor variation' as detailed in Regulation 20(1) shall not exceed the lower of 5% of the total contract value or \$50,000 excluding GST.

11. Variations to Non-Tender Contracts

The City may make minor amendments to a contract only in the following instances:

- After the quotations have been received but before a contract is entered into; or
- After the contract has been entered into but before it has been completed.

Minor variation means a variation that the City is satisfied is minor having regard to the total goods or services that suppliers were invited to supply.

For the purpose of clarity a '*minor variation*' for Non-Tender contracts shall not exceed the lower of 5% of the total contract value or \$25,000 excluding GST

Any major variation to the contract must be fully costed and supported with detailed reasons for the amendment request.



Variations deemed essential for the delivery of the contract requirements may be authorised by the City Officer with the appropriate level of delegation in accordance with the City's Purchasing Authorities and Certification of Invoices.

12. Variation between Authorised Purchase Order and Invoice

It is not normal to observe variation between the total value of the Purchase Order and Invoice. However, when such instances occur the following needs to be executed:

- The requesting officer needs to provide appropriate explanation for the variance and get it approved by their Manager;
- If the variance is greater than 10% or \$1,000, whichever is less, a Purchase Order Amendment is required.

13. Anti-avoidance

The City will not conduct multiple purchasing activities or split the value of a purchase to avoid the requirement to go to public tender or to take the value of a purchase below a purchasing threshold specified in this policy. This includes entering into two or more contracts or creating multiple purchase order transactions of a similar nature.

14. Ethics and Integrity of Employees

It is the responsibility of all staff involved in procurement of goods or services for the City of Nedlands to ensure that any actual or perceived conflicts of interest are to be identified, disclosed and appropriately managed.

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

The City of Nedlands recognises the personal rights of all employees to engage in other activities, but strongly discourages such activities within the boundaries of City of Nedlands that may have the potential to create a perception of a conflict of interest or a conflict with the objectives of this policy or an employee's contract of employment. Accordingly, employees must disclose to the Chief Executive Officer any activity or interests (including indirect financial interests) that may create a conflict of interest when performing any of their duties including an activity or an interest by a person with whom they have a close association as provided for in section 5.62 of the *Local Government Act 1995*.

15. Authorisation of Expenditure

Acceptance of tenders and quotations and the authorisation of expenditure is to comply with the City's procurement requirements, associated policies and procedures and within the relevant delegation or limit of authority.

All procurement of goods or services other than those goods or services deemed an emergency or those outside of normal business hours are only to be procured after the



approval of an appropriate purchase requisition and the creation of a relevant purchase order.

The confirmation of any procurement after the completion of a quotation / tender process must be authorised by an officer to whom authority to incur a liability has been delegated ensuring that sufficient funds have been provided for in the City's annual budget.

16. Quote, Tender and Procurement Record Capture:

All Local Government purchasing activity, communications and transactions must be evidenced and retained as local government records in accordance with the City's Information and Records Management Policies and the *State Records Act 2000*.

17. Purchasing Policy Non-Compliance

This Purchasing Policy is mandated under the *Local Government Act 1995* and Regulation 11A of the *Local Government (Functions and General) Regulations 1996* and therefore the policy forms part of the legislative framework in which the Local Government is required to conduct business.

Where legislative or policy compliance is not reasonably able to be achieved, records must evidence the rationale and decision-making processes that substantiate the non-compliance.

Purchasing activities are subject to internal and external financial and performance audits, which examine compliance with legislative requirements and the City's policies and procedures.

If non-compliance with legislation, this Purchasing Policy or the Code of Conduct, is identified it must be reported to the Manager of Finance or Chief Executive Officer.

Where a breach is substantiated, it may be treated as:

- a) An opportunity for additional training to be provided;
- b) A disciplinary matter, which may or may not be subject to reporting requirements under the *Public Sector Management Act 1994*; or
- c) Where the breach is also identified as potential serious misconduct, the matter will be reported in accordance with the *Corruption, Crime and Misconduct Act 2003*.

Related documentation

Procurement of Goods and Services Procedure
General Disposal Authority for Local Government Records

Related local law and legislation

Local Government Act 1995
Local Government (Functions and General) Regulations 1996
State Records Act 2000



Related delegation

Local Government Act 1995, sections 3.57(1), 3.58(2), 3.58(3).

Local Government (Functions and General) Regulations, regulations 14(2a), 18(4), 18(5), 20(1) 20(2), 21(1), 21(3), 23(3) and 30(2)(a)(ii).

Review History

24 May 2022 (CPS19.05.22)

27 July 2021 (CPS15.21)

14 April 2020 (Item 6 – Special Council Meeting)

25 June 2019 (CEO Report 13.9)

25 May 2010 (Report CM12.10)

25 March 2014 (Report CPS14.14)

15 December 2015 (Report CPS29.15)

Minor change approved by CEO 11 January 2018



9. Declaration of Closure

There being no further business, the Presiding Member will declare the meeting closed.