## RECOMMENDATION

That the General Manager of Public Works be authorized to negotiate the single source purchase of the supply and delivery of specialty gases to Praxair Distribution, Division of Praxair Canada for a term of 10 years with an estimated annual expenditure of $21,000.

## EXECUTIVE SUMMARY

The City of Hamilton Environmental Laboratory (CHEL) under the Compliance and Regulations Section within the Environment and Sustainable Infrastructure Division uses specialty gases in the instruments used for analysing regulatory drinking water and wastewater samples, therefore, this consumable is considered critical.

A Request for Tender (RFT) was issued by Purchasing on May 14, 2009, and closed June 10, 2009. Three bids were received. All three bids submitted had qualifiers with the terms and conditions of the RFT and were subsequently disqualified.

Purchasing and CHEL held a meeting and it was decided that CHEL staff review the vendors who showed interest to see if a single source negotiation could be reached. CHEL reviewed the three vendors and as a result of that review, it was noted that two of the three vendors could not meet the City's technical requirements and therefore single source negotiations with these two Bidders would not be of assistance. However in the case of third vendor Praxair Distribution, Division of Praxair Canada, the City's current supplier, the technical requirements of the City are met.
As per Purchasing Policy 4.11, Section 1 (d) Council Approval is required to permit single source negotiations with Praxair Distribution, Division of Praxair Canada for the supply of these important consumables for a term of ten years. The benefit to the City would be to achieve a stable supply of these consumables and in turn the uninterrupted analysis of the City’s drinking water and to broker the best possible mutually agreeable terms and conditions for the supply and delivery of these gases. Currently CHEL is purchasing these gases from Praxair Distribution, Division of Praxair Canada with no contract thereby putting the City at risk of liability and loss.

Purchasing Policy Section 4.11 reads as follows:

(1) Subject to Section 4.11 (2) of this policy, the Manager of Purchasing and the Client Department must authorize the Request for Use of Negotiation Policy form, justifying the need to use this policy prior to City staff entering into any discussions with any vendor.

This process may be adopted when any of the following conditions apply:

(d) when a single source for the supply of a particular Good and/or Service is being recommended because it is more cost effective or beneficial for the City;

Alternatives for Consideration - See Page 5

Financial / Staffing / Legal Implications

Financial: Not Applicable

Staffing: Not Applicable

Legal: The City will have to negotiate mutually acceptable terms and conditions.

Historical Background

CHEL under the Compliance and Regulations Section, Environment and Sustainable Infrastructure Division carries out analytical testing for drinking water and wastewater samples for process control and regulatory purposes. The analyses of trace metals and organic parameters require very sensitive instrumentation such as Inductively Coupled Plasma (ICP) and Gas Chromatography/Mass Spectrometry (GC/MS) that require for their operation specialty gases with very stringent specifications.

Praxair Distribution, Division of Praxair Canada has been the gas supplier for CHEL and has installed a gas supply system in the new laboratory facility. This system has proven to work well with the current instrumentation. As the contract agreement with Praxair Distribution, Division of Praxair Canada expired, the Purchasing Section issued the Request for Tender, C11-38-09, for the supply and delivery of specialty gases to CHEL on May 14, 2009 and closed on June 10, 2009.

The Request for Tender was issued and advertised on the City of Hamilton website. Notification was also done individually and faxed to twenty-seven (27) vendors. Only three (3) vendors submitted bids.

All three bids were submitted with qualifiers and were therefore all disqualified.
At this point in time CHEL is receiving specialty gases from Praxair Distribution, Division of Praxair Canada without a contract. CHEL is not operating in the most efficient manner as the vendor will not supply bulk Argon due to issues relating to the City’s insurance requirements. CHEL is receiving smaller Argon tanks which empty quickly, are not as cost effective and need to be replaced often.

Single sourcing annually is not acceptable to the vendors due to the cost involved to install the mini bulk Argon tank.

Purchasing and CHEL held a meeting and it was decided that CHEL staff review the vendors who showed interest to see if a single source negotiation could be reached. CHEL reviewed the three vendors and the results are summarized as follows:

**Linde Canada Limited**

The bid submission contained a cover letter that rejected the terms and conditions of the Request for Tender (C11-38-09). This supplier was the highest of the three bidders ($133,418.00 annually) and cannot supply the Helium 5.5 Trace Analytical gas as specified.

**Air Liquide Canada Inc.**

Air Liquide Canada Inc. was the lowest bid ($18,540 annually) however the bid did not include the cost of having the cylinders shipped back to Air Liquide Canada Inc. The Supplier would only warrant that the Product delivered to the City complies with the standards of the “Compressed Gas Association and Air Liquide Standards” and would not guarantee that the gases would comply with the specifications as stated in the RFT document. There were numerous other items that were qualified with respect to the RFT document that could compromise the delivery and quality of the gases.

**Praxair Distribution, Division of Praxair Canada**

Praxair Distribution, Division of Praxair Canada pricing was the second lowest ($20,843.83) of the bidders. The Company is able to provide all gases according to the specifications in the RFT document. Praxair has taken exception to certain provisions in the RFT and would like to propose an alternative to agreeing to all terms and conditions listed in the RFT.

Tendering for this product is ineffective because there are no vendors who accepted the City of Hamilton terms and conditions regarding insurance requirements and limits of liability. Furthermore, the successful vendor is required to install, at CHEL, a Bulk Argon Tank. This installation is costly and time consuming and as such the vendors would not agree to a one year contract. As a solution, Purchasing has suggested single source procurement with Praxair Distribution, Division of Praxair Canada to be presented to Council for approval for a term of ten years. CHEL staff, in conjunction with Purchasing, Legal Services and Risk Management, would negotiate the terms and conditions of the contract.
POLICY IMPLICATIONS

Purchasing Policy 4.11, Section 1 (d) Policy for Negotiations, requires Council Approval when a single source for the supply of a particular Good and/or Service is being recommended because it is more cost effective or beneficial for the City.

The Public Works Strategic Plan, Innovate Now –

The recommendations from this Report will assist in meeting Public Works’ key goal, to be recognized as the centre of environmental and innovative excellence in Canada. In addition, implementing the recommendations will also assist Public Works in building on our Strategic Vision Drivers as follows:

- **Communities (Services our communities connect with and trust)** –
  To ensure the Safety and Health of the Community, a long term, uninterrupted supply of specialty gases (a critical consumable) must be available for accurate analytical testing of regulatory drinking water and wastewater samples.

- **People (Skilled teams ready for any situation)** –
  This report is not of a strategic nature, as such there are no issues.

- **Process (Smart processes to match our needs)** –
  This report is not of a strategic nature, as such there are no issues.

- **Finances (Sound finance management for the long haul)** –
  This report is not of a strategic nature, as such there are no issues.

RELEVANT CONSULTATION

CHEL, in consultation with the Purchasing Section, prepared the request for tender with respect to specifications and special provisions. Legal Services was consulted on the three (3) received bids.

ANALYSIS / RATIONALE FOR RECOMMENDATION

The City must purchase specialty gases that meet CHEL's technical specifications to ensure acceptable performance of the instruments used for analysing regulatory drinking water and wastewater samples. Having a multi-year contract would facilitate the provision of a critical supply to CHEL minimizing interruption of services.

Staff recommendation is that Purchasing negotiate with Praxair Distribution, Division of Praxair Canada as a Single Source for the following reasons:

Linde Canada Limited cannot provide Helium gas that is one of the required gases for instrumental analyses. Therefore this vendor cannot be considered for single source negotiations.
Air Liquide Canada Inc. would only warrant that the Product delivered to the City complies with the standards of the “Compressed Gas Association and Air Liquide Standards” and would not guarantee that the gases would comply with the specifications as stated in the RFT document, also there were numerous other items that were qualified with respect to the RFT document that could compromise the delivery and quality of the gases. Therefore this vendor should not be considered for single source negotiations.

Praxair Distribution, Division of Praxair Canada is the present supplier and has had a good history with CHEL. The Company installed the gas supply system in the new laboratory facility. The system has been proven to work with CHEL instrumentation. If the contract were to be awarded to Praxair Distribution, Division of Praxair Canada the present bulk tank (argon gas) would stay in the laboratory facility. In the event that another vendor supplies the gases, removal and replacement of the tank would be required that could lead to unexpected problems.

The Purchasing Section has suggested single source procurement with Praxair Distribution, Division of Praxair Canada to be presented to Council for approval for a term of ten years. CHEL staff, in conjunction with Purchasing, Legal Services and Risk Management, would negotiate the terms and conditions of the contract.

**ALTERNATIVES FOR CONSIDERATION**

The alternative would be to go out for tender again which would result in a duplicate effort with the same results.

**CORPORATE STRATEGIC PLAN**


**Skilled, Innovative & Respectful Organization**

- Not Applicable

**Financial Sustainability**

- Not Applicable

**Intergovernmental Relationships**

- Not Applicable

**Growing Our Economy**

- Not Applicable

**Social Development**

- Not Applicable

Vision: To be the best place in Canada to raise a child, promote innovation, engage citizens and provide diverse economic opportunities.

Values: Honest, Accountability, Innovation, Leadership, Respect, Excellence, Teamwork
Environmental Stewardship

- Not Applicable

Healthy Community

- CHEL uses specialty gases in the instruments used for analysing regulatory drinking water and wastewater samples, therefore, this consumable is considered critical. A reliable, uninterrupted source of gas ensures the Safety and Health of the Community.

APPENDICES / SCHEDULES

None