

CITY OF VAUGHAN

EXTRACT FROM COUNCIL MEETING MINUTES OF DECEMBER 15, 2020

Item 2, Report No. 61, of the Committee of the Whole, which was adopted without amendment by the Council of the City of Vaughan on December 15, 2020.

2. VAUGHAN'S FAIR WAGE POLICY

The Committee of the Whole recommends approval of the recommendations contained in the following report of the Deputy City Manager, Corporate Services and Chief Financial Officer dated December 8, 2020:

Recommendations

1. THAT Council consider this Report in providing direction for next steps in the development of the Fair Wage Policy;
2. THAT to develop Fair Wage Schedules council direct staff to implement the identified actions under Option 3;
3. THAT the 2021 Budget be amended to include costs associated with the approved option to develop the Fair Wage Schedules; and
4. That the City's Fees and Charges by-law (171-2013) be updated to reflect the Fair Wage Investigation Fee of \$5,000 for 2021

Committee of the Whole (2) Report

DATE: Tuesday, December 08, 2020

WARD(S): ALL

TITLE: VAUGHAN'S FAIR WAGE POLICY

FROM:

Michael Coroneos, Deputy City Manager, Corporate Services and Chief Financial Officer

Nick Spensieri, Deputy City Manager, Infrastructure Development

ACTION: DECISION

Purpose

A draft Made-in-Vaughan Fair Wage Policy is presented to Council for their consideration and approval. Options have been provided for the development of Fair Wage Schedules. Estimates on costs to administer the Fair Wage Policy have been provided. Council feedback is sought on the recommended Options contained in this report, which will inform the next steps of this initiative.

Report Highlights

- A cross-functional team of staff worked with Prism Economics and Analysis (Prism) to develop a Made-in-Vaughan Fair Wage Policy, conduct stakeholder consultations, develop options for the creation of Fair Wage Schedules and estimate costs to administer the Policy.
- A \$500,000 threshold applies to construction contracts in the industrial, commercial and institutional, sewers and watermains, roads, and heavy engineering sectors of the construction industry
- Stakeholder consultations included Unions and Union Organizations, Employer and Business Organizations and Senior City Staff
- Three Options are for consideration to develop Fair Wage Schedules with costs ranging between \$25,000 to \$155,000
- Two Options are for consideration for the administration of the Fair Wage Policy, with estimated costs of \$25,500 annually

Recommendations

1. THAT Council consider this Report in providing direction for next steps in the development of the Fair Wage Policy;
2. THAT to develop Fair Wage Schedules council direct staff to implement the identified actions under Option 3;
3. THAT the 2021 Budget be amended to include costs associated with the approved option to develop the Fair Wage Schedules; and
4. That the City's Fees and Charges by-law (171-2013) be updated to reflect the Fair Wage Investigation Fee of \$5,000 for 2021

Background

At the December 2019 Council meeting, staff report 'Feasibility Assessment for a Fair Wage Policy for the City of Vaughan', was adopted as amended. Council directed staff to develop a Made-in-Vaughan Fair Wage Policy (Policy), and report back to Council on the options for developing Fair Wage Schedules (Schedules) and the estimated costs associated with the administration of a Fair Wage Policy.

Prism Economics and Analysis, the consultants that prepared the report '[Feasibility Assessment for a Fair Wage Policy](#)' (Prism Report), were engaged to help a cross-functional team of staff in the drafting of the Policy and conducting stakeholder consultations. The same stakeholders that were consulted during the preparation of the Prism Report were consulted during the drafting of the Policy.

The Policy was presented to the Policy Committee on September 23rd. Feedback received during that meeting has been incorporated into the Policy in front of Committee today.

The Prism Report outlined options and estimated costs for the development of Fair Wage Schedules and provided estimates for the administration of a Fair Wage Policy. These were considered when developing the options for developing Schedules and estimating the costs for administering the Policy.

Previous Reports/Authority

Council Extract May 21, 2016: FAIR WAGE POLICY FOR THE CITY OF VAUGHAN:
https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance0502_16_8.pdf

Council Extract December 14, 2016: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:
https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance1205_16_3.pdf

Council Extract May 16, 2017: UPDATE: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance0501_17_2.pdf

Council Extract November 21, 2017: UPDATE: FEASIBILITY ASSESSMENT – FAIR WAGE POLICY FOR CITY OF VAUGHAN:

https://www.vaughan.ca/council/minutes_agendas/AgendaItems/Finance1106_17_4.pdf

Council Extract December 17, 2019: Feasibility Assessment for a Fair Wage Policy for the City of Vaughan:

<https://pub-vaughan.escribemeetings.com/filestream.ashx?DocumentId=43808>

Analysis and Options

The purpose of the City’s Fair Wage Policy is to ensure that no contractor or sub-contractor performing construction work for the City of Vaughan secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms.

A few decisions were required prior to the drafting of the Policy

1. Contract thresholds to which the Policy would apply

The Policy applies to construction contracts with a value of \$500,000 or greater. This aligns with the recommendation in the Prism Report.

2. Sectors to which the Policy would apply

A project in the construction industry where the businesses are engaged in constructing, altering, decorating, repairing or demolishing buildings, structures, roads, sewers, water or gas mains, tunnels, bridges, canals or other works at the site, and where the project falls within one of more of the following sectors referred to in the definition of “sector” in subsection 126 (1) of the Labour Relations Act, 1995:

The industrial, commercial and institutional sector

The sewers and watermains sector

The roads sector

The heavy engineering sector

3. Obligations of Contractors as it relates to the application of the Policy to Sub-contractors

A contractor is responsible for both its own compliance with the Fair Wage policy and the compliance of any sub-contractors.

The provisions of the Fair Wage policy apply equally to contractors and all sub-contractors undertaking construction work for the City of Vaughan. Contractors may not sub-contract work to any sub-contractor at a lower rate stipulated in the Fair Wage policy.

4. Basis of investigation: complaint vs proactive

A complaint basis of investigation is incorporated into the Policy. This aligns with other municipalities that have a Fair Wage Policy, aside from Toronto that has a proactive basis of investigation.

The City of Toronto has approximately \$2.8 billion of contracting. The City of Vaughan's annual value of contracting is approximately \$70 million, less than 3% of Toronto's. It is estimated that the number of contractors and sub-contractors completing work in the City of Vaughan is 300-350, 10-12% of the number overseen by Toronto's Fair Wage Office. Based on these statistics, it would be more appropriate for Vaughan to adopt the approach of smaller municipalities. This approach is based on a complaint-based model. A separate office would not be established and there is the option of using external consultants to conduct investigations.

A Made-in-Vaughan Fair Wage Policy

The Policy is to protect the worker, defined as a person who performs work or supplies services who is entitled by contract to be paid wages. This includes apprentices, trainees, and independent contractors.

A contractor or sub-contractor is following the Policy when a worker's compensation is not less than the compensation set out in the Schedules.

Attachment 2: Fair Wage Policy Summary provides a summary of the sections of the proposed Fair Wage Policy.

There is a Fair Wage Complaint Process and Consequences of Non-Compliance

Anyone may submit a complaint to the Director of Procurement Services, alleging non-compliance with the Policy and Schedules, by any contractor or subcontractor performing construction work on a City construction contract. There is no fee to file a complaint. Should the complaint proceed to the investigation stage, there is a \$5,000

investigation fee. This fee is waived for workers. Attachment 3 provides the Fair Wage Complaint Form to be completed to submit a complaint.

For all investigations, it is proposed that an independent third party will conduct the investigation and report their findings to the City. If it is found that the contractor or sub-contractor is compliant with the Policy and Schedules, there will be no further action. If it is found that the contractor or sub-contractor is non-compliant with the Policy and Schedules:

- First occurrence, contractor or sub-contractor may be required to submit an assurance report from a Certified Public Accountant verifying compliance with the Policy and Schedules for the next three construction contracts the contractor or sub-contractor is awarded.
- Second occurrence, the City may refuse to accept any bid submissions from the contractor or sub-contractor or refuse to accept the sub-contractor on any future construction contract for a period of two years.

There is an appeal process available to contractors, subcontractors and initiators should they wish to dispute the outcomes of a fair wage complaint process.

The City may also inspect and audit the records of a contractor or sub-contractor at any time during a construction contract, or up to seven years after contract completion.

A Fair Wage Working Group is Established to Continue the Engagement Process

The Fair Wage Working Group will be comprised of City Staff and representatives from unions, unionized employers and non-union employers. The Working Group will meet, at least, every three years to consult on the Fair Wage Policy and review the updated Fair Wage Schedules. Proposed amendments will be brought to a future Committee meeting for Council consideration and approval.

Fair Wage Schedules will need to be Developed

The [Prism Report](#) identified two options for the development of fair wage schedules, Prevailing wage survey and Percentage of union rate. Staff have identified a third option, Union wage plus percentage. Wage refers to the worker's basic hourly rate, exclusive of benefits.

1. Prevailing Wage Survey

A consultant would be hired to design a survey to be sent to those contractors and sub-contractors that have had one public sector contract in the GTA in the previous year (i.e. 2019). An Industry Advisory Committee would be formed to provide guidance on the design and execution of a wage survey. The survey would collect wage and benefit information for the classifications under each sector. Survey responses would be used to establish the fair wage for each classification. The cost of developing this survey is estimated to be between \$54,000 - \$155,000, with costs dependent on the survey sample size. It is estimated to take up to six weeks to develop the schedules, including designing the survey and finalizing the results. This survey would be completed every three years.

2. Percentage of Union Rate

A consultant would be hired to compile and analyze wage and benefit data from building trade collective agreements applicable to Labour Relations Board Area 8 and schedules from collective agreements of non-union trades from employers who undertake construction work in Board Area 8. The total hourly compensation on the fair wage schedule would be calculated as a percentage of the rates (wage + benefit) in the union collective agreements. To objectively determine the percentage to be applied to the rates, a wage survey should be conducted. This survey should be completed on a decennial basis to keep the ratio current. The cost of completing this analysis is estimated to be between \$128,000 - \$154,000. It is estimated to take up to six weeks to develop the schedules, including gathering the wage and benefit data, conducting the survey and finalizing the results.

3. Union Wage Plus Percentage

A consultant would be hired to compile the hourly wage information for trades and occupations in the prevailing collective agreements applicable to Labour Relations Board Area 8. A percentage is then added to cover non-statutory benefits and contributions. Union employers pay 23% to 35% (average 29%) for benefits in addition to wages. However, this includes 10% in lieu of paid vacation and paid statutory holidays. Non-union and CLAC employers typically continue normal pay on statutory holidays. Permanent employees are often entitled to paid vacation. It would be reasonable to use a percentage that represents non-statutory benefits and contributions. This could be somewhere between ten percent and twenty percent. For the City's Schedules, a maximum of fifteen percent would be applied to the hourly wage to arrive at the total hourly compensation on the fair wage schedule. The cost of completing this analysis is estimated to be \$25,000. It is estimated it would take up to one month to develop these schedules, including compiling the wage data and finalizing the schedules.

The [Prism Report](#) (pg33) stated “there is no evidence that Vaughan’s contractors currently pay less than the prevailing wage.” As such, it is reasonable to consider the hourly rate of collective agreements a fair rate, and these rates can be used in calculations to set Fair Wage Schedules.

Union employers pay an average of twenty-nine percent for benefits. However, this includes ten percent in lieu of paid vacation and paid statutory holidays. Non-union and CLAC employers typically continue normal pay for vacations and statutory holidays. Vacation pay and public holiday pay is a statutory benefit as outlined in the [Employment Standards Act](#) . When considering benefits, a more reasonable tie-in would be a percentage for non-statutory benefits and contributions. This percentage would then be used in calculations to set Fair Wage Schedules.

Options 1 and 2 require a wage and benefit survey to determine the total hourly compensation for the Schedules. This survey would not be required if a percentage for non-statutory benefits and contributions were applied to the hourly rate of collective agreements to arrive at the totally hourly compensation for the Schedules. Option 3 aligns with this methodology. Staff will need to report back to Council to obtain approval of the Fair Wage Schedules.

Costs to administer the Policy are estimated to be between \$50,000 - \$100,000 per year

Costs of administration include investigation costs, cost of appeals, and the costs to update the Policy and Schedules. A large component of administering the Policy is investigating the complaints received. This investigation could be conducted using internal resources or external resources. It is estimated using internal resources to conduct investigations could cost between \$44,000 - \$88,000. The use of external resources could cost an estimated \$50,000 to \$100,000. The cost is dependent on the number of investigations conducted and the complexity of the investigations.

Given the sensitivity of the information, and of the situation should an investigation be required, an independent evaluation from a qualified individual in audit processes and procedures would provide an unbiased response to the complaint received. This unbiased, qualified opinion should satisfy the complainant and the contractor/sub-contractor as well as City staff and Council.

The complaint fee recovers the costs of the investigation, approximately 50 percent of the total costs. The majority of the remaining costs are associated with the update of the Policy and Schedules. There is the potential to work with those municipalities, including Toronto, that have a Fair Wage Policy and supporting schedules in the development of Fair Wage Schedules. The costs would be cost shared amongst those participating.

Financial Impact

The costs of developing Fair Wage Schedules is dependent upon the option chosen:

| Option | Financial Implications |
|--------------------------------------|-------------------------------|
| Option 1: Prevailing Wage Survey | \$54,000 - \$155,000 |
| Option 2: Percentage of Union Rate | \$128,000 - \$155,000 |
| Option 3: Union Wage plus Percentage | \$25,000 |

Continuing the discussion from the above *Fair Wage Schedules will need to be Developed*, Option 3: Union Wage plus Percentage provides for a financially sustainable solution. Costs are for a consultant to gather hourly wage information from collective bargaining agreements, apply the rate representing non-statutory benefits and contributions and finalizing the Schedules. There is the potential the cost of updating these Schedules could be cost shared amongst municipalities that have a Fair Wage Policy.

The costs of administering the Policy is dependent upon whether investigations are conducted by internal or external resources:

| Option | Investigation | Appeal | Policy/Schedule Update |
|------------------------------|-------------------------|----------------|-------------------------------|
| Option 1: Internal Resources | \$7,500 - \$60,000 | \$3,500 | \$22,000 |
| Option 2: External Resources | \$25,000 - \$75,000 | \$3,500 | \$22,000 |
| Impact | Fully recovered* | \$3,500 | \$22,000 |

*if the complainant is a worker, the investigation fee is waived.

As previously stated, an independent evaluation from a qualified individual in audit processes and procedures would provide an unbiased response to the complaint received. This unbiased, qualified opinion should satisfy the complainant and the contractor/sub-contractor as well as City staff and Council. As the costs of investigation are recoverable from the complainant or the contractor/sub-contractor, the cost of administering this Policy is an estimated \$25,500 annually.

Broader Regional Impacts/Considerations

The City should have discussions with the Region of York and its municipalities, as well as all neighbouring municipalities, to advise them of the City's intent when it comes to a Fair Wage Policy. For example, cross-Municipal/Regional projects, such as City of Vaughan and Region of York, will need to be discussed to determine the extent of their inclusion, or exclusion, from the City's Fair Wage Policy.

Staff will continue to monitor what is happening at the Federal and Provincial levels as it relates to their Fair Wage Policy initiatives.

Conclusion

The proposed Fair Wage Policy ensures that no contractor or sub-contractor performing construction work for the City of Vaughan secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms. It applies equally to contractors and sub-contractors, with contractors being responsible to ensure sub-contractors follow the Policy. It would apply to construction projects with a minimum value of \$500,000 in the industrial, commercial and institutional, sewers and watermains, roads, and heavy engineering sectors of the construction industry.

The proposed Policy proposes a complaint-based model where anyone may initiate a complaint of non-compliance against a contractor or sub-contractor. There is a proposed investigation fee of \$5,000 to offset the costs of investigation. Staff propose that an external resource be engaged to provide an independent evaluation to provide an unbiased response to the complaint received. The cost of investigation would be recovered from the complainant or the consultant/sub-consultant.

Staff propose Option 3 be approved for the development of Fair Wage Schedules. A maximum of fifteen percent would be added to the hourly wage from collective bargaining agreements to determine the total hourly compensation on the Fair Wage Schedules. The cost to develop the schedules is an estimated \$25,000 and could take up to a month to develop.

Council adopted the implementation of [Infrastructure Health and Safety Association's Certificate of Recognition \(COR™\)](#), a comprehensive health and safety audit tool with an accredited certification program for the construction industry in Ontario, in December of 2019. COR™ and the Fair Wage Policy demonstrate the City's commitment to protecting workers engaged on City construction contracts, as well as the community of Vaughan as a whole.

For more information, please contact: Asad Chughtai, Director Procurement Services, Ext. 8306

Attachments

1. 15.C.01 Fair Wage, Procurement Services, December 8, 2020
2. Fair Wage Policy Summary, Procurement Services, December 8, 2020
3. Fair Wage Complaint Form, Procurement Services, December 8, 2020

Prepared by

Jackie Lee Macchiusi, CPA, CGA, Procurement Manager, Client Relations & Category Management, Ext.8267

Approved by



Michael Coroneos, Deputy City Manager,
Corporate Services & Chief Financial Officer

Reviewed by



Jim Harnum, City Manager



Nick Spensieri, Deputy City Manager,
Infrastructure Development



CITY OF VAUGHAN

CORPORATE POLICY

POLICY TITLE: FAIR WAGE

POLICY NO.: 15.C.01

| | | | |
|----------------------------|-------------------------------|-----------------------------|-------------------------------|
| Section: | Procurement | | |
| Effective Date: | April 1, 2021 | Date of Last Review: | Click or tap to enter a date. |
| Approval Authority: | Policy Owner: | | |
| Council | DCM, Corporate Services & CFO | | |

POLICY STATEMENT

On construction projects with the City of Vaughan with a procurement value of five hundred thousand dollars (\$500,000) or more, every contractor and sub-contractor shall pay wages to workers that are equal to, or greater than, the wage rates set out in the City’s Fair Wage Schedules.

Contractors are required to comply with applicable laws including the *Employment Standards Act*, the *Occupational Health and Safety Act* and the regulations to those statutes.

Failure to comply with the City’s Fair Wage policy may result in restricted ability to bid on City construction business.

PURPOSE

The purpose of the City’s Fair Wage policy is to ensure that no contractor or sub-contractor performing construction work for the City of Vaughan secures an unfair competitive advantage over other construction employers by paying wages that are below prevailing norms.

The Fair Wage policy serves the interests of the residents by executing on the 2018-2022 Term of Council Strategic Plan through the promotion of City work that is based on contractors’ efficiency, quality and productivity while, at the same time, ensuring that all Workers are treated fairly.

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SCOPE

The provisions of the Fair Wage policy apply equally to contractors and all sub-contractors undertaking construction work for the City of Vaughan at or above the construction contract threshold. Contractors may not sub-contract work to any sub-contractor at a lower rate stipulated in the Fair Wage policy.

The Fair Wage policy does not apply to owner operators or partnerships, or principals of companies as long as they undertake the work themselves.

The conditions of the Fair Wage policy cannot be waived, unless authorized by City Council.

LEGISLATIVE REQUIREMENTS

None.

DEFINITIONS

1. **Apprentice:** As defined by the *Modernizing Skilled Trades and Apprenticeship Act* or its successor.
2. **Audit Services:** The review of tender submissions of any or all bids at item of tender and records of low bid contractors and sub-contractors to ensure compliance. Audit services may be performed by the City of Vaughan or alternate designated by the City of Vaughan.
3. **Benefits:** Any non-statutory payment to an employee or non-statutory premiums or contributions paid to provide benefits to an employee.
4. **Chief Human Resources Officer:** The City's Chief Human Resources Officer or designate.
5. **City Council:** Council of the City of Vaughan
6. **City:** The City of Vaughan, its officers, officials, employees and agents
7. **Construction Contract or Prime Contract:** Any contract entered into between the City with a contractor for the completion of a construction project.
8. **Construction Project:** A project in the construction industry where the businesses are engaged in constructing, altering, decorating, repairing or demolishing buildings, structures, roads, sewers, water or gas mains, tunnels, bridges, canals or other works at the site, and where the project falls within one of more of the following sectors:

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- 8.1. The industrial, commercial and institutional sector
- 8.2. The sewers and watermains sector
- 8.3. The roads sector
- 8.4. The heavy engineering sector

but excludes landscaping work, snow removal and maintaining buildings or equipment.

- 9. Construction Contract Threshold:** A minimum contract value of \$500,000 of the prime contract.
- 10. Contractor:** Any person having a construction contract with the City but does not include any person that only supplies materials for the construction contract or incorporated owner-operators.
- 11. Director of Procurement Services:** The City's Director of Procurement Services or designate.
- 12. Employee(s):** "Employee" as defined by the *Employment Standards Act*.
- 13. Fair Wage Schedule:** The Fair Wage Schedule approved by Council, as amended from time to time.
- 14. Fair Wage Working Group:** The working group established by the City to provide advice to the City on the administration of the Fair Wage policy.
- 15. Hours of Work:** The regular hours of work per day and week and shall include a provision for the payment of overtime as per the *Employment Standards Act*, 2000.
- 16. Initiator:** Any person who submits a complaint to the City alleging non-compliance with the Fair Wage policy and Fair Wage Schedule by any contractor or sub-contractor performing construction work on a City construction contract.
- 17. Manager of Procurement Services:** The City's Manager of Procurement Services or designate.
- 18. Non-Compliance:** The occurrence of any of the following conditions:
 - 18.1. Contractor or sub-contractor does not co-operate with the Director of Procurement Services in fulfilling his or her responsibilities under the Fair Wage policy.
 - 18.2. Contractor or sub-contractor has been found in violation of the Fair Wage policy.

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19. Procurement Call Document: A tender, request for quotation, and a request for proposal as issued by the Procurement Services department in the City.

20. Registered Complaint: A written complaint from an identified source which alleges that a Contractor or sub-contractor has violated this Fair Wage policy. Registered complaints must be submitted on the Fair Wage Complaint Form. All elements of the form must be responded to.

21. Sub-Contractor: Any person, firm or corporation performing work on a City construction contract for a contractor, or an agreement with another sub-contractor, but does not include any person, firm or corporation that only supplies materials for the construction contract.

22. Sub-Contract: Any contract between a contractor and any of that contractor's sub-contractors with a firm, person or corporation for work in accordance with a construction contract. The term excludes contracts for material supplies only.

23. Substantial Performance as defined in the Construction Act, R.S.O. 1990, c. C.30, as amended.

24. Total Hourly Compensation: The aggregate amount of Wages and Non-Statutory Benefits as stated in the Fair Wage Schedule.

25. Wages: The Workers basic hourly rate, which is paid as earned at the time of undertaking the work

26. Worker(s): A person who performs work or supplies services who is entitled by contract to be paid wages or is entitled to be paid at least the minimum wage under the *Employment Standards Act, 2000*.

POLICY

1. City Responsibilities:

1.1. The Director of Procurement Services shall review the Fair Wage policy every three years and recommend to the appropriate standing committee of Council any required amendments to the Fair Wage policy for Council approval.

1.2. The Director of Procurement Services, in consultation with the Chief Human Resources Officer, will prepare and review the Fair Wage Schedule every three years and recommend to the appropriate Standing Committee of Council those amendments to the Fair Wage Schedule for Council approval.

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1.3. The Director of Procurement Services shall reference the Fair Wage policy and Fair Wage Schedule in all City construction contracts. The City's Procurement website will post the Fair Wage policy and Fair Wage Schedule and Fair Wage Complaint Form.

1.4. The Director of Procurement Services will co-ordinate the preparation of an annual report for the appropriate Standing Committee of Council regarding complaints investigated and resulting audits performed pursuant to the Fair Wage policy and Fair Wage Schedule.

1.5. The City is not in any way liable, obligated or responsible to any worker, sub-contractor, contractor or any other person for the payment of any wages or monies not paid by a contractor or sub-contractor in accordance with the Fair Wage policy and Fair Wage Schedule, and the City assumes no responsibility to such worker, sub-contractor, contractor or any other person for the administration and enforcement of the Fair Wage policy and Fair Wage Schedule.

2. Contractor and Sub-Contractor Responsibilities:

2.1. A contractor has responsibility for the completion of the project.

2.2. A contractor is responsible for both its own compliance with the Fair Wage policy and the compliance of any sub-contractors.

2.3. The contractor or sub-contractor shall not be responsible for any increase to the Fair Wage Schedule which occurs after the closing of the Request for Tenders or Request for Proposals or issuance of a Purchase Order unless the increase is required by law.

2.4. At the commencement of the work, the contractor shall post a copy of the Fair Wage policy and Fair Wage Schedule in a prominent location at the City construction contract site to enable workers of the contractor and sub-contractor to review. Alternate methods may be considered, and if approved by the Manager of Procurement, shall be in writing prior to the commencement of the construction contract.

2.5. After substantial performance of the construction contract and prior to release of the holdback, for all construction contracts with the City, the contractor shall provide to the City, in a form acceptable to the City, a declaration confirming that the contractor and its sub-contractors complied with the Fair Wage policy and Fair Wage Schedule. The City reserves the right to not release part or all of the holdback on a construction contract until such contractor's sworn statement of compliance is received and deemed to be satisfactory by the City.

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3. Fair Wage Working Group

- 3.1. The Director of Procurement Services will form a Working Group comprised of City Staff and representatives from unions, unionized employers and non-union employers.
- 3.2. The Fair Wage Working Group will be chaired by the Director of Procurement Services.
- 3.3. The Working Group shall meet, at least, every three years to consult on the Fair Wage policy. The Director of Procurement Services shall present the Working Group with any updated Fair Wage Schedules.

4. Compliance

- 4.1. A contractor or sub-contractor shall be in compliance with the Fair Wage policy and Fair Wage Schedule when the worker receives a minimum compensation package that includes wages and benefits, which aggregate amount is not less than the total hourly compensation as set out in the Fair Wage Schedule.
- 4.2. Workers shall be paid on a “pay-by-pay basis” every pay period in accordance with the Fair Wage Schedule. The “pay-by-pay basis” shall comply with the *Employment Standards Act, 2000*.
- 4.3. Construction contracts that exceed construction contract threshold solely as a result of change orders are not covered by the Fair Wage policy.

5. Records

- 5.1. Every contractor and sub-contractor covered by the Fair Wage policy will maintain, in addition to records required by the *Employment Standards Act*, a record of wages and non-statutory benefits paid and hours worked.
- 5.2. Unless otherwise approved by the City, the contractor and sub-contractor shall make these records available for inspection upon request by the City within five business days.
- 5.3. If a contractor or sub-contractor enters into a contract for service with a self-employed independent contractor to perform work identified in the Fair Wage Schedule, the contractor or sub-contractor shall keep the following records to demonstrate that the self-employed independent contractor is not an employee of the contractor or sub-contractor:

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- 5.3.1. Self-employed independent contractor invoices;
- 5.3.2. Self-employed independent contractor HST registration number;
- 5.3.3. Self-employed independent contractor's clearance certificate from the Workplace Safety and Insurance Board; and,
- 5.3.4. List of equipment supplied by the independent contractor beyond the hand tools conventionally associated with their trade.

5.4. Should there be concerns regarding the self-employed independent contractor's degree of dependency from the contractor or sub-contractor, further records shall be made available to demonstrate that an employer employee relationship does not exist between the contractor or sub-contractor and a self-employed independent contractor. The guideline issued by Canada Revenue Agency RC4110 "Employee or Self-Employed" may be used to assist in making a final determination.

5.5. Records of wages shall be kept and maintained by the contractor and sub-contractor for seven years.

6. Inspection and Audits

6.1. The City retains the right to inspect and audit the records of the contractor or sub-contractor (refer to s.5) at any time during the period of the construction contract and up to seven years after contract completion. The records shall be made available to the City to inspect and audit within five business days.

7. Consequences of Non-Compliance

7.1. Upon determining that a contractor or sub-contractor is non-compliant with the Fair Wage policy and Fair Wage Schedule, the Director of Procurement Services:

7.1.1. Shall advise the contractor, in writing, that it has been determined that the contractor or sub-contractor is non-compliant and that the contractor or sub-contractor is required to rectify the non-compliance(s) and provide written proof of the same, in a form satisfactory to the City, within ten business days;

7.1.2. May withhold making payment, progress payment or release of holdback to the contractor in an amount which is equal to the shortfall in wages or benefits, or may take any other remedies that are otherwise available at law or in equity; and,

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7.1.3. Shall impose upon the contractor a minimum cost of \$5,000 (excluding taxes) for the City inspection, audit or other action as deemed necessary by the City, and may deduct such costs from any payment or payments (as appropriate) owed by the City to the contractor, or may take any other remedies that are otherwise available at law or in equity. In addition, the contractor shall be responsible for all the City's costs beyond the minimum cost of \$5,000 (excluding taxes), which will be payable immediately upon request. Examples of costs may include, but are not limited to, legal, auditor and other investigation costs.

7.2. Where a contractor or sub-contractor has been determined to be non-compliant with the Fair Wage policy and Fair Wage Schedule for the first time in a three year period, the Director of Procurement Services may require the contractor to pay for and submit a Certified Public Accountant assurance report, acceptable to the City, which verifies compliance with the Fair Wage policy and Fair Wage Schedule on the next three City construction contracts to which the contractor is awarded. Such assurance report shall provide sufficient information and detail to demonstrate compliance with the Fair Wage policy and Fair Wage Schedule and shall be submitted after substantial performance of the construction contract and prior to the release of the holdback. The City reserves the right to not release part or all of the holdback on a construction contract until such assurance report is received and deemed to be satisfactory by the City.

Depending on the seriousness of the non-compliant, the City reserves the right to treat a first non-compliance as a material breach and s.7.3 would apply.

7.3. Where a contractor or sub-contractor has been determined to be non-compliant with the Fair Wage policy and Fair Wage Schedule (i) for a second or subsequent time within a three year period from the date of the first determination of non-compliance by the Director of Procurement Services, or (ii) the severity of a one-time breach is deemed by the City as material, the City, as approved by City Council, may refuse:

7.3.1. To accept any bid, quotation or proposal from such contractor or sub-contractor; or,

7.3.2. The use of a sub-contractor where the sub-contractor was determined to be non-compliant with the Fair Wage policy and Fair Wage Schedule on any City contract for a period of two years from the date of City Council approval, save and except any construction contract the contractor may currently have with the City.

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7.4. If the contractor or sub-contractor fails to keep accurate records, the contractor or sub-contractor will pay a Certified Public Accountant to provide an assurance report, acceptable to the City, which clearly demonstrates compliance with the Fair Wage policy and Fair Wage Schedule.

7.5. If a contractor or sub-contractor is found not to comply with the Fair Wage policy, the Director of Procurement Services may recommend the next lowest bidder for contract award in the following circumstances:

7.5.1. At the time of declaration as set out in s.2.5, a contractor or sub-contractor does not meet the Fair Wage Schedules;

7.5.2. An investigation is underway and the contractor or sub-contractor does not co-operate in providing information within five business days after being requested by the Director of Procurement Services in fulfilling their responsibilities under the Fair Wage policy and the provision of goods and/or services cannot be delayed; and,

7.5.3. A contractor or sub-contractor is in violation of the Fair Wage policy and has not paid restitution to its workers.

8. Complaints

8.1. Any person may submit a complaint to the City, alleging non-compliance with the Fair Wage policy and Fair Wage Schedule, by any contractor or sub-contractor performing construction work on a City construction contract. All complaints must be submitted in writing and contain sufficient information in order to investigate the complaint. The Fair Wage Complaint Form must be completed for this purpose.

8.2. A contractor shall not engage in a reprisal against its worker as a result of a claim being filed under this policy.

8.3. The complaint must be forwarded to the City's Director of Procurement Services via email (fairwage@vaughan.ca), regular mail or in person to Procurement Services, Vaughan City Hall, 2141 Major Mackenzie Drive, Vaughan, Ontario, L6A 1T1.

8.4. The complaint may be initiated at any time during the term of the construction contract but shall be received by the City no later than 21 calendar days following substantial performance of the related construction contract. The City may investigate at its sole discretion a breach of the Fair Wage policy at any time regardless of time limits or whether a complaint has been received.

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- 8.5. Upon receipt of a complaint, the Director of Procurement Services will conduct an initial review of the complaint submitted and advise the initiator of the complaint of the investigation fee and what the likely cost of the investigation will be. The minimum cost of an investigation will be \$5,000.00 (excluding taxes). The City will waive the cost of an investigation if a worker of the contractor or sub-contractor is the initiator of the complaint.
- 8.6. The initiator shall confirm to the City in a timely manner whether or not they would like to proceed with the complaint.
- 8.7. The City shall take such action as it deems is necessary to determine whether the contractor or sub-contractor involved or named in the complaint is compliant with the Fair Wage policy and Fair Wage Schedule. Such action deemed necessary by the City shall commence within 30 calendar days of receipt of a completed Fair Wage Complaint Form submitted to the Director of Procurement Services.
- 8.8. Once such action to determine compliance or non-compliance is completed to the City's satisfaction, the Director of Procurement Services shall inform the initiator and any contractor or sub-contractor involved or named in the complaint in writing of the City's determination of the contractor's or sub-contractor's compliance or non-compliance with the Fair Wage policy and Fair Wage Schedule.
- 8.9. Whenever a complaint is initiated by a person other than an individual worker of the contractor or sub-contractor involved or named in the complaint, and said contractor or sub-contractor is found to be compliant with the Fair Wage policy and Fair Wage Schedule with respect to the complaint, the costs associated with the inspections, audits or other action deemed necessary regarding the investigation of the complaint will be borne solely by the initiator. These costs will be considered a debt payable to the City. Until the initiator has paid the debt in full to the City, the City will not accept any additional complaints from the initiator.
- 8.10. For the purposes of the City not accepting any additional complaints from the initiator under s.8.8 of this Fair Wage policy, a reference to initiator shall also include an officer, director, a majority or controlling shareholder, or a member of the initiator, if a corporation; a partner of the initiator, if a partnership; any corporation to which the initiator is an affiliate of or successor to, or an officer, a director or a majority or controlling shareholder of such corporation; and any person with whom the initiator is not at arm's length within the meaning of the *Income Tax Act* (Canada).
- 8.11. The City shall make every effort to safeguard the confidentiality of each initiator's identity. However, this information is subject to the provisions of the

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Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56. or otherwise required by law. For more information, the initiator may reference the City's policies related to Freedom of Information on the City's website under the Office of the City Clerk - Access and Privacy at vaughan.ca.

9. Appeals Process

9.1. Contractors, sub-contractors or initiators may dispute the outcome of a fair wage complaint process. If a party involved wishes to appeal the outcome of a fair wage complaint, they shall write to the Director of Procurement Services within five business days of being notified of the fair wage complaint outcome and provide a detailed statement outlining the grounds of the appeal and request a meeting with the Director of Procurement Services.

9.2. If no resolution satisfactory to both parties has been achieved, the contractor, sub-contractor or initiator will have three business days from the date of the meeting with the Director of Procurement Services to make a formal written request with the Director of Procurement Services to meet with the Deputy City Manager of the Client Department issuing the construction contract and the Deputy City Manager of Corporate Services regarding their complaint. The decision of the Deputy City Managers is final and binding.

10. Fair Wage Schedule

10.1. The City encourages contractors and sub-contractors to hire and train apprentices under approved apprenticeship programs. Apprentices/trainees will be assessed based on Provincial Qualification Apprenticeship Certification criteria.

10.2. Employees reported as apprentices/trainees not properly registered or are utilized at the jobsite in excess of the ration of journeymen permitted under the approved program, must be paid the applicable schedule of wage.

10.3. The Fair Wage Schedule shall include rates for apprentices/trainees.

10.4. The Fair Wage Schedule shall be automatically updated every three years.

10.5. Unless otherwise approved by Council, the total hourly compensation rates set out in the Fair Wage Schedule shall be:

10.5.1. Based on the wages from the collective agreement that is most representative of prevailing wages in Board Area Eight as defined by the Ontario Labour Relations Board plus a maximum of 15%. The wages to be used in this calculation will be the wages that applied three years prior

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to date of the Fair Wage Schedule. For example, the total hourly compensation rates for the Fair Wage Schedule for 2021 will be based on the wages that applied in 2018 plus a maximum of 15%.

10.5.2. Frozen for the three-year period.

10.6. When an apprentice is subject to a collective agreement, the wages for an apprentice will be the wages set out in the collective agreement. When an apprentice is not subject to a collective agreement, the apprentice wage will be a percentage of the wages applicable to a journeyperson in the same trade based on the following schedule.

| Percent of required hours of experience completed per the Trade Standards | Percent of Journeyperson Wage |
|---|-------------------------------|
| 25% or less | 60% |
| More than 25% to 50% | 70% |
| More than 50% to 75% | 80% |
| More than 75% but less than 100% | 90% |

ADMINISTRATION

Administered by the Office of the City Clerk.

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| Review Schedule: | SELECT If other, specify here | Next Review Date: | Click or tap to enter a date. |
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Revision History

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Attachment 2 – Fair Wage Policy Sections, Procurement Services, November 10, 2020

| Section | Title | Purpose |
|----------------|--|--|
| 1 | City Responsibilities | <ul style="list-style-type: none"> • Sets up the review of the Policy and Schedules every three years • Staff recommend amendments • Amendments to Policy and Schedules approved by Council • Annual report of Complaints to Council • City will address any complaint received • City not responsible to pay wages for monies not paid |
| 2 | Contractor and Sub-contractor Responsibilities | <ul style="list-style-type: none"> • Contractor responsible for its own and Sub-Contractor compliance with Policy • Increases to Schedules after closing of bid or issuance of PO not their responsibility, unless required by law • Post Policy and Schedules at the construction site • Requirement for declaration confirming compliance with Policy and Schedules • City reserves right not to release holdback until declaration received and deemed satisfactory |
| 3 | Fair Wage Working Group | <ul style="list-style-type: none"> • Purpose is to consult on administration of the Policy (propose amendments) • Minimum requirement to meet every three years • Members: City staff and representatives from unions/unionized employers/non-union employers • Chaired by the Director of Procurement Services |
| 4 | Compliance | <ul style="list-style-type: none"> • Contractor/Sub-Contractor compliant when Worker paid according to the Schedules (at minimum) |
| 5 | Records | <ul style="list-style-type: none"> • Contractor/Sub-Contractor to maintain record of wages and non-statutory benefits paid and hours work for seven (7) years • Details what record is to be kept for independent contractors (link to CRA RC4110 “Employee or Self-Employed”) • Records to be made available to the City upon request (five (5) days) |
| 6 | Inspection and Audits | <ul style="list-style-type: none"> • Inspect/audit any time during the Construction Contract or up to seven years after contract completion |
| 7 | Consequences of Non-Compliance | <ul style="list-style-type: none"> • 10 days to respond to complaint received in writing • Complaint form developed • May withhold payment of holdback • Minimum cost to Contractor \$5,000, but Contractor also responsible for additional costs beyond \$5,000 • First non-compliance finding in a three-year period, Contractor may be required to submit assurance report verifying compliance with Policy and Schedules for the next three awarded contracts • Second or subsequent time within three-year period option to refuse to accept proposals from Contractor or Sub-Contractor or the use of a Sub-Contractor for a |

Attachment 2 – Fair Wage Policy Sections, Procurement Services, November 10, 2020

| Section | Title | Purpose |
|---------|--------------------|--|
| | | two-year period <ul style="list-style-type: none"> • Right to treat first non-compliance as a material breach • Contractor/Sub-Contractor do not keep records, pay to have CPA provide assurance report • Contractor/Sub-Contractor does not comply with Policy, next lowest bidder may be awarded the work |
| 8 | Complaints | <ul style="list-style-type: none"> • Any person may submit a complaint (Fair Wage Complaint Form) • Any time during the construction contract, but no later than 21 days after substantial performance • Right of City to investigate at any time, even if no complaint has been received • Cost of investigation: \$5,000, waived for Worker • 30 days from receipt of form to begin investigation • Compliant finding – initiator responsible for all costs associated with investigating the claim, waived for Worker |
| 9 | Appeals Process | <ul style="list-style-type: none"> • Contractors, Sub-Contractors and Initiators may dispute outcome of complaint process (5 business days) and request a meeting • No resolution, 3 business days to request meeting with DCM of area and Corporate Services • DCM's will make final decision |
| 10 | Fair Wage Schedule | <ul style="list-style-type: none"> • Encourage hiring/training of apprentices • Automatic update every three years • Basis of wages: wages from collective bargaining agreements + maximum of 15% (three-year lag) • Frozen for three-year period • Sets wages for apprentices not covered under a collective agreement |



Procurement Services Department
 2141 Major Mackenzie Drive
 1st Floor
 Vaughan, ON L6A 1T1

FAIR WAGE COMPLAINT FORM

Telephone: 905-832-8555
 Email: fairwage@vaughan.ca

Complete this form when submitting a complaint to the City of Vaughan alleging non-compliance with the Fair Wage Policy and Fair Wage Schedule by a Contractor or Sub-Contractor performing construction work on a City Construction Contract. This "Fair Wage Compliant Form" must be completed in writing and sent to the Director of Procurement Services at any time, but no later than 21 calendar days following substantial performance of the relevant City Construction Contract.

This form may contain personal information as defined under the *Municipal Freedom of Information and Privacy Act*. This information is collected under the legal authority of the *Municipal Act, 2001*, S.O. 2001 c.25, as amended. The information will be used by the City of Vaughan and will become part of Procurement Services files. Questions regarding this collection may be directed to the above address.

The person submitting the complaint (complainant) is advised to read the City of Vaughan's Fair Wage Policy and Fair Wage Schedule at: [vaughan.ca/Procurement Services](http://vaughan.ca/Procurement%20Services)

The complaint is being initiated and submitted by:

| | | |
|---|--|-----------|
| Full name: | | |
| Address: | | |
| City/Town: | | |
| Postal code: | | |
| Telephone number: | | |
| Email: | | |
| Date submitting this form: | | |
| Are you an employee of the Contractor or Sub-Contractor to which the complaint is being made against? | | Yes No |

The complaint is being made against:

| | | |
|---|---------------------------|------------------------------|
| Contractor or Sub-Contractor name: | | Contractor Sub-Contractor |
| City Construction Contract title and number (or description/site location): | | |
| Position(s) affected (as per the Fair Wage Schedule): | | |
| Indicate and/or state the reason for the alleged non-compliance: | Total Hourly Compensation | Other |