

The Corporation of the Town of Grimsby

By-Law 21-56

A BY-LAW TO DEFINE THE PROCUREMENT POLICIES
FOR THE TOWN OF GRIMSBY

WHEREAS Section 270(1)(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, requires a municipality to adopt policies with respect to its procurement of goods and services;

AND WHEREAS The Council of The Corporation of the Town of Grimsby has deemed it desirable to set out its policies with respect to the purchase or disposal of goods and services in this By-Law;

Now therefore, The Council of The Corporation of the Town of Grimsby enacts as follows:

PURPOSES, GOALS AND OBJECTIVES OF THIS BY-LAW

1. The purposes, goals and objectives of this By-Law are:
 - (a) to delegate authority and assign responsibilities for the Town's procurement operations;
 - (b) to encourage competitive bidding and ensure fairness, objectivity and integrity in the procurement process;
 - (c) to ensure compliance and consistency with applicable trade agreements;
 - (d) to use the most appropriate procurement method depending on the particular circumstances of the acquisition;
 - (e) to ensure openness, accountability and transparency while protecting the best interests of the Town and its taxpayers;
 - (f) to obtain the best value for the Town and maximize savings for taxpayers when procuring goods and/or services; and
 - (g) to encourage the purchase of goods and services with due regard to the preservation of the natural environment.

DEFINITIONS

2. (a) In this By-Law,

“Bid” means a submission in response to a Solicitation Document, and includes proposals, quotations, proposals, tenders or responses;

“Bidder” means a supplier that submits a bid;

“Bidding System” means the Town's online web-based solution for issuing Solicitation Documents, receiving online bid submissions and posting contract award notices;

“Budget” means the budget or portion of the budget approved by Council;

“Chief Administrative Officer” (CAO) means the official or designate,

appointed by Council, to oversee the administrative management of the Town;

“Conflict of Interest” means:

- (a) a situation or circumstance, real or perceived, which could give a Supplier or Bidder an unfair advantage during a procurement process or compromise the ability of the Supplier or Bidder to perform its obligations under their contract; and/or
- (b) a situation where a personal, business or other interest of an elected or appointed official, officer or employee of the Town is, or can be reasonably be perceived to be, in conflict with the interests of the Town, and includes, but is not limited to:
 - (i) the giving or receiving of a direct or indirect personal gain or benefit, or a direct or indirect advantage or privilege, by any person or business that offers Deliverables to the Town;
 - (ii) a direct or indirect interest in any business that provides Deliverables to the Town; or
 - (iii) a conflict of interest as defined in the *Municipal Conflict of Interest Act*;

“Contract” means a binding commitment by the Town and a Supplier for the purchase and supply of Deliverables;

“Council” means The Council of The Town of Grimsby;

“Deliverables” means any goods, services or construction, or combination thereof;

“Department” means any Department of the Town;

“Department Representative” means a Department employee assigned primary responsibility for a procurement;

“Designate” means a person authorized in writing to act on behalf of another during his or her absence, which written authorization has been filed with the Treasurer; only a person holding a position no lower than one level below in the Town’s reporting structure may be authorized to act as a Designate;

“Director” means the director of a Department, his or her Designate or any successor position thereto;

“Disposal” means the selling, trading, assignment and/or scrapping of Surplus Assets;

“Emergency” means:

- (i) an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public;
- (ii) an event that, unless immediately addressed, is likely to cause significant loss or damage to property;
- (iii) an event that has disrupted any essential service that needs to be re-established without delay; or

- (iv) an emergency as defined in the *Emergency Management Act*, R.S.O. 1990, c. E.8, as amended, or any successor legislation thereto;

“Fair Market Value” means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm’s length who are fully informed and not under any compulsion to transact;

“Invitational Competition” means a competitive process in which an invitation to submit Bids is issued to at least three Suppliers;

“Lobbying” means the advocacy of an interest that is affected, actually or potentially by the procurement process or individuals involved in the procurement process including seeking to influence the outcome of the procurement process;

“Manager” means an employee of the Town who has been designated in writing, for the purposes of this By-Law as a manager by their respective Director;

“Non-Competitive Procurement” means the acquisition of Deliverables directly from a particular Supplier without conducting a competitive process when an Invitational Competition or an Open Competition would normally be required;

“Open Competition” means the solicitation of bids through a publicly posted Solicitation Document;

“Procurement Value” means the maximum total value of the procurement over the entire term of the contract, including the total value of all possible options, including options for renewal or extension of the term of the contract and options for additional Deliverables, add-ons or upgrades that may be provided under the contract. The procurement value must include all costs to the Town, for all Deliverables to be supplied under the contract(s), including, if applicable, delivery, installation, training, operation, maintenance, replacement and disposal, but excluding applicable sales taxes;

“Purchase Order” means a written confirmation of the terms and conditions of the purchase and supply of the specified Deliverables at a specified cost;

“Solicitation Document” means the document issued by the Town to solicit Bids from Suppliers;

“Substantive Objection” means a written objection provided to the Town from a Supplier with respect to a competitive procurement process giving specific reasons for the objection;

“Supplier” means any individual or organization offering Deliverables including but not limited to contractors, consultants, vendors and service organizations;

“Surplus Assets” means goods and other assets, which are obsolete, damaged or surplus to that Department’s needs;

“Town” means The Corporation of the Town of Grimsby;

- (b) The following schedules are attached hereto and form part of this By-Law:

Schedule "A" - Exempt Acquisitions and Expenditures,
Schedule "B" - Authority, and
Schedule "C" - Circumstances for Non-Competitive Procurement

APPLICATION

3. (a) This By-Law applies to the procurement of all Deliverables. Procurement includes the acquisition of Deliverables by purchase, rental or lease.
- (b) This By-Law does not apply to:
 - (i) Contracts or expenditures relating to hiring employees or employee compensation; or
 - (ii) Contracts or agreements for the sale, purchase, lease or license of land or existing buildings.

EXEMPT ACQUISITIONS AND EXPENDITURES

4. (a) The exempt acquisitions and expenditures set out in Schedule "A" may be approved by the Treasurer or delegate and any Contracts required in respect of the exempt acquisitions and expenditures may be executed by the Treasurer or delegate, provided that funding is available in an approved Budget.
- (b) The exempt acquisitions and expenditures set out in Schedule "A" are exempt from all other requirements of this By-Law.

COOPERATIVE PURCHASING

5. The Town may participate in cooperative or joint purchasing initiatives with other entities where such initiatives are determined to be in the best interests of the Town. If the Town participates in such cooperative or joint purchasing initiatives, the Town may adhere to the policies and procedures of the entity conducting the purchasing process, provided that such policies and procedures comply with goals and objectives of this By-Law. If the Town is leading a cooperative or joint purchasing initiative, this By-Law will be followed.

RESPONSIBILITIES AND AUTHORITIES

6. (a) The Treasurer shall have all the necessary authority to administer this By-Law and to carry out his or her duties on behalf of the Town.
- (b) The Treasurer is responsible for:
 - (i) acquiring Deliverables and disposing of surplus assets on behalf of the Town, and from time to time, other boards and agencies;
 - (iii) establishing administrative procedures and policies for the implementation of this By-Law;
 - (iv) establishing, through consultation with legal counsel, standards for Solicitation Documents, Purchase Orders, Contracts and

- other procurement documents;
 - (v) establishing, through consultation with the user Departments and legal counsel, the terms and conditions of Solicitation Documents;
 - (vii) reviewing proposed Solicitation Documents to ensure clarity, reasonableness and quality and advising staff of suggested improvements;
 - (viii) establishing policies and procedures to support the Town's Corporate Card program.
 - (xi) ensuring compliance with this By-Law and take appropriate action to address and correct any non-compliance;
 - (xii) developing cooperative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Town;
 - (xiii) promoting the standardization of Deliverables, where such standardization demonstrably supports the purposes, goals and objectives of this By-Law; and
 - (xiv) maintaining a listing of Department Representatives, Managers and Designates for the purposes of this By-Law.
- (c) The Treasurer may delegate to an employee or employees, all or part of the authority in Subsection 6 (b) above, which authority may be limited to a particular type of Deliverables.
- (d) The CAO or Director shall appoint in writing, employees to be designated as Managers for the purposes of this By-Law who shall be responsible for the authorization of the purchase of Deliverables in accordance with Schedule "B" - Authority.
- (e) The CAO or Director shall appoint in writing, Department Representatives who shall be responsible for the procurement of Deliverables and oversight up to the value of their prescribed authority in accordance with Section 6 (f);
- (f) Department Representatives will also have the following specific responsibilities:
- (i) ensuring that all Contract terms and conditions comply with the Solicitation Document;
 - (ii) preparing and approving all specifications and terms of reference in consultation with the Finance Department;
 - (iii) managing Contracts to ensure Deliverables are received by the Town and comply with Contract terms and conditions;
 - (iv) monitoring all Contract expenditures and ensuring that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
 - (v) monitoring the performance of Suppliers;
 - (vi) standardizing the use of Deliverables, where such standardization demonstrably supports the purposes, goals and objectives of this By-Law; and

- (vii) ensuring that all Deliverables have been received and recording receipt, thereof in the form prescribed.

PROCUREMENT DOCUMENTATION

- 7. The use of standard Solicitation Document and Contract documents shall be approved by the Treasurer and all changes to standard Solicitation Documents and Contracts shall be reviewed and approved by the Treasurer.

FORM OF CONTRACT

- 8. A Contract may be formed through the issuance of a Purchase Order and/or the execution of a formal written agreement. The contract must be entered into prior to the delivery or provision of the Deliverables.
 - (c) The Contract may be formed by the issuance of a Purchase Order alone when the Contract is straightforward and will refer to the Town's standard terms and conditions outlined in the Solicitation Document.
 - (d) A formal written agreement satisfactory to legal counsel shall be used when the resulting Contract is complex or is a result of negotiation.
 - (e) It shall be the responsibility of the Director, in consultation with legal counsel, to determine if it is in the best interest of the Town to establish a formal written agreement with the Supplier.

CONTRACTING AUTHORITIES

- 9. All purchases shall be authorized in accordance with the Contract Award Authorities and all Contracts shall be signed in accordance with the Contract Execution Authorities set out in Schedule "B" - Authority.

REQUIREMENT FOR APPROVED FUNDS

- 10. (a) Except in the case of an Emergency Purchase, the exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.
- (b) Where Deliverables are routinely purchased or leased on a multi-year basis, the exercise of authority to award a Contract is subject to the following:
 - (i) the identification and availability of sufficient funds in appropriate accounts within the current year's Budget;
 - (ii) the Deliverables will continue to be required in subsequent years and, in the opinion of the Treasurer, the required funding can reasonably be expected to be made available; and
 - (iii) the Contract includes a provision that the supply of Deliverables in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.
- (c) The Treasurer may enter into contractual arrangements on behalf of the Town to permit acquisition of a good or service based on a per-unit costing basis, without a specific budget and without obligation on the part of the Town to purchase specific goods or services until further authorized in accordance with this By-Law. This only applies to goods or services that are widely used by the Town and the funding is reasonably expected to be available within department budgets.

CONTRACT AWARD AUTHORITY

11. Employees or officers of the Town identified in Schedule “B” – Authority (Contract Award Authority) shall have the authority to approve the award of Contracts for the purchase of Deliverables, up to the prescribed limits, provided that:
 - (a) the requirement for approved funding is met;
 - (b) the appropriate procurement method was used, and the procurement process was conducted in accordance with this By-Law and all applicable protocols and procedures; and
 - (c) in the case of a competitive procurement process, the Contract is being awarded to the top-ranked bidder or lowest compliant bidder, as determined in accordance with the evaluation and selection process set out in the Solicitation Document.

CONTRACT EXECUTION AUTHORITY

12. Employees or officers of the Town identified in Schedule “B” – Authority (Contract Execution Authority) shall have the authority to execute Contracts and all other documents necessary to effect the purchase of Deliverables, up to the prescribed limits, provided that:
 - (a) the requirement for approved funding is met;
 - (b) the Contract documents have been prepared in accordance with this By-Law; and
 - (c) the purchase complies with this By-Law.

CONTRACT AMENDMENT AUTHORITY

13. If a contract amendment results in a net increase to the original procurement value, the amendment must be approved in accordance with Schedule “B” – Authority (Contract Amendment Authority). The authority to approve contract amendments is subject to the following:
 - (a) Contract amendments for adjustments to the scope of the contract may be approved if the adjustment is for Deliverables that are directly connected or incidental to the original contract scope.
 - (b) The amendment or extension of a contract to procure Deliverables that were not contemplated in the original procurement is a Non-Competitive Procurement and must be approved as a Non-Competitive Procurement in accordance with this By-Law and any applicable procedures.
 - (c) All amendments to an existing contract must be appropriately documented in a form approved by the Treasurer.

COUNCIL APPROVAL

14. Notwithstanding any other provision of this By-Law, Council approval is required in the following circumstances:
 - (a) the recommended Contract award exceeds the approved Budget for the procurement;
 - (b) staff are recommending that the requirements of this By-Law be waived;
or

- (c) there is an irregularity or unresolved challenge in connection with the procurement process and, in the opinion of the Treasurer, in consultation with legal counsel, the award of the Contract is likely to expose the Town to legal, financial or reputational risk.

MARKET RESEARCH

- 15. Where the Department has insufficient internal knowledge about the required Deliverables or the availability of Suppliers in the market, a Department Representative may conduct a Request for Information (RFI) or Request for Expression of Interest (REOI) process. The RFI or REOI process must be publicly advertised in order to gather market research from any prospective Suppliers. These processes do not create any obligation between the Town and potential Suppliers and must not be used as a prequalification tool.

PROCUREMENT METHODS

- 16. Different procurement methods may be used depending on the nature, value and circumstances of the procurement. Any person purchasing Deliverables on behalf of the Town must use the appropriate procurement method, as determined in accordance with this By-Law and any applicable procedures.

It is important to accurately estimate the value of the procurement to determine the appropriate procurement method and ensure compliance with the requirements of this By-Law. Subdividing, splitting or otherwise structuring procurement requirements or contracts in order to reduce the value of the procurement or in any way circumvent the requirements or intent of this policy is not permitted.

SUPPLY ARRANGEMENTS

- 17. The Procurement Manager may establish supply arrangements for Deliverables that will be required on a frequent or regularly recurring basis. Supply arrangements will be established through an Open Competition.

- (a) Standing Offers may be established for standardized Deliverables that may be purchased by all Departments, where the requirements for Deliverables are standard and clearly defined and it is possible to fix pricing for the Deliverables for the duration of the Standing Offer.

The establishment of a Standing Offer does not create a contractual commitment to procure Deliverables from the supplier. Once a Standing Offer is established the Deliverables can be purchased, as and when required, through the issuance of a Purchase Order to the supplier.

- (b) Qualified Supplier Rosters may be established to pre-qualify suppliers that will be eligible to compete for discrete work assignments involving the delivery of a particular type of Deliverables, as and when required.

The establishment of a Qualified Supplier Roster does not create a contractual commitment to procure Deliverables from any of the suppliers. Once a Qualified Supplier Roster has been established, Roster Competitions may be conducted for the purposes of awarding a Contract for the work assignment to one of the qualified Suppliers.

DIRECT PURCHASES

(UP TO \$10,000, EXCLUDING TAXES)

- 18. Managers may direct employees to procure Deliverables up to a total procurement value of \$10,000. Only purchases that can be demonstrated to have been made at Fair Market Value shall be made. Directed employees may procure Deliverables directly from a Supplier through the following means in accordance with the procurement procedures:

- (a) Petty cash or cheque requisition;
- (b) Corporate Card used in strict accordance with the Corporate Card Procedures as determined by the Treasurer or;
- (c) Direct invoice from the Supplier.

**INFORMAL QUOTE PROCESS
(PURCHASES FROM \$10,001 TO \$50,000, EXCLUDING TAXES)**

19. Directors may authorize employees to conduct an informal quote process for purchases with a total procurement value greater than \$10,000 and not exceeding \$50,000. If possible, at least three (3) written Quotations shall be solicited, analyzed and the results tabulated by the Department Representative. Quotations received shall be evaluated on price and any other criteria outlined in the Solicitation Document to determine the preferred Supplier in accordance with procurement procedures and this policy.

**INVITATIONAL COMPETITION
(PURCHASES FROM \$50,001 TO \$100,000, EXCLUDING TAXES)**

20. For purchases with a procurement value greater than \$50,000 and not exceeding \$100,000, an Invitational Competition will be conducted by the Procurement Manager, in cooperation with the Departmental Representative.

In an Invitational Competition, bids are solicited from a minimum of three suppliers through the issuance of a Solicitation Document to the selected suppliers.

An Open Competition may be conducted in lieu of an Invitational Competition, where the Procurement Manager, in consultation with the Department Representative, determines that it would be in the Town's best interest.

**OPEN COMPETITION
(PURCHASES GREATER THAN \$100,000, EXCLUDING TAXES)**

21. For purchases with a total value greater than \$100,000, an Open Competition will be conducted by the Procurement Manager, in cooperation with the Departmental Representative.

In an Open Competition, bids are solicited from all interested suppliers through a publicly posted Solicitation Document. Solicitation Documents for Open Competitions will be posted on the Bidding System for a reasonable period of time that complies with any minimum time period required under applicable trade agreements. All contract awards in excess of \$100,000 will be reported through the Bidding System.

Open Competitions may include two-stage procurement processes in which a prequalification process is conducted by soliciting and evaluating submissions from all interested suppliers in order to establish a short-list of prequalified suppliers that will be eligible to submit a bid in response to a second-stage competitive process.

EMERGENCY PURCHASES

22. (a) Purchases that are required to respond to an Emergency shall be authorized in accordance with Schedule "B" – Authority. All such purchases must be reported to the Treasurer on the following business day.

- (b) Contracts required to effect Emergency purchases shall be signed in accordance with the Contract Execution Authority set out in Schedule “B” – Authority.
- (c) When an Emergency occurs where compliance with subsection 10(a) of this By-Law is not reasonably achievable prior to the acquisition of required Deliverables, a Contract may, notwithstanding subsection 10(a), be awarded, provided that:
 - (i) The Treasurer, in addition to all other required Contract Execution Authorities otherwise required by this By-Law, have consented to the award of the Contract;
 - (ii) The Director, as soon as possible in the circumstances, proceeds with identifying and approving or seeking approval of the funds required to pay for the purchase.

NON-COMPETITIVE PURCHASES

- 23. (a) Except in the case of an Emergency, the use of a Non-Competitive Procurement process is only permitted under the specific circumstances set out in Schedule “C” – Circumstances for Non-Competitive Procurement.
- (b) Where required by any applicable trade agreement(s), notices of contract award for non-competitive procurements shall be posted on the Bidding System.

SUPPLIER PERFORMANCE

- 24. (a) The Department Representative shall monitor and document the performance of Suppliers providing Deliverables to that Department and shall advise the Finance Department in writing when the performance of a Supplier has been unsatisfactory.
- (b) The Town may, in its sole discretion, disqualify a Supplier from participating any procurement process if a Supplier:
 - (iii) previously provided Deliverables to the Town in an unsatisfactory manner;
 - (v) has a history of illegitimate, frivolous, unreasonable or invalid claims. One claim may be sufficient to be deemed history if it is of a significant nature;
 - (vi) provides incomplete, unrepresentative references, or receives unsatisfactory external and/or internal references in a reference check undertaken by Staff;
 - (vii) has engaged in illegal or unethical conduct that leads the Town to determine that it would not be in the Town’s best interests to accept the Bid.

DISPUTE RESOLUTION

- 25. (a) The Town encourages competitive bidding and an open, accountable and transparent process for the purchase of Deliverables.
- (b) Suppliers who believe they have been treated unfairly in a procurement process may submit a Substantive Objection which details their complaint to the respective Director within 10 days from the time when the basis of the complaint became known or reasonably

should have become known to the Supplier

- (c) An ad hoc review committee consisting of the Director or their approved designates and the Treasurer shall review the complaint and make a recommendation to the CAO.
- (d) Within 20 business days of the date of the Substantive Objection, the respective Director shall issue findings in writing to the Supplier, unless an extension of time is warranted due to extenuating circumstances, in which case the Supplier will be notified of the delay and length of the extension.
- (e) To ensure that the Dispute Resolution process for the particular procurement process is seen to be fair and impartial, elected officials shall not advocate on behalf of Suppliers who have submitted a Substantive Objection.

ACCESS TO INFORMATION

- 26. (a) The disclosure of information received from a Supplier in respect of a procurement process or Contract award shall be made by the appropriate officers in accordance with the provisions of all relevant privacy legislation including primarily the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended.
- (b) All Suppliers who contract with the Town shall adhere to or exceed the standards set in the *Municipal Freedom of Information and Protection of Privacy Act* or the *Personal Health Information Protection Act, 2004*, S.O. 2004, c. 3, Sched. A, or other relevant Ontario or federal privacy legislation or common law as may be passed or amended from time to time, as if they were agents of the Town as relates to the confidential and secure treatment, including collection, use, disclosure or retention, of personal (health) information, other confidential information of the Town, and all records thereof which they come into contact with in the course of performing Services or providing Goods to the Town.

ENVIRONMENTALLY SOUND ACQUISITIONS

- 27. Departments will endeavour to include specifications in Solicitation Documents that provide for energy efficient products, reusable products and products that contain the maximum level of post-consumer waste and/or recyclable content, without significantly affecting the intended use of the product or service. It is recognized that cost analysis is required in order to ensure that the products are competitively priced.

PROVIDING ASSISTANCE

- 28. The CAO has the authority, provided there is no adverse impact upon the operations of the Town, to lend, lease, rent or otherwise provide any vehicle, equipment or other goods owned by the Town to any federal, provincial or municipal body, ministry, agency, board, Town or other public authority when such action is reasonably justified due to unforeseen conditions, and shall report such action to Council forthwith.

DISPOSAL OF SURPLUS ASSETS

- 29. (a) Directors may, from time to time, declare a good as surplus or obsolete and have the authority to sell, exchange, or otherwise dispose of the goods declared surplus or obsolete in accordance with procurement procedures and this policy.

- (b) All Surplus Assets shall first be offered to other Departments within the Town.
- (c) The sale of Surplus Assets shall be made to the highest bidder and in accordance with the provisions of this By-Law and procurement procedures.
- (d) The respective capital reserve shall be credited with the net proceeds, if any, from the Disposal of its Surplus Assets unless otherwise agreed.

LOBBYING RESTRICTIONS

- 30. (a) Lobbying restrictions shall apply to Suppliers, their staff members, or anyone involved in preparing a Bid, shall not engage in any form of political or other Lobbying whatsoever or seek to influence the outcome of the procurement process. This restriction extends to all of the Town's staff and anyone involved in preparing a Solicitation Document or participating in a Bid evaluation process, and members of Council.
- (b) The Town may reject any Bid by a Supplier that engages in such Lobbying, without further consideration, and may terminate that Supplier's right to continue in the procurement process.
- (c) During a competitive procurement process, all communications shall be made in accordance with the instructions in the Solicitation Document. No Supplier or person acting on behalf of a Supplier or group of Suppliers, shall contact any elected official, consultant or any employee of the Town to attempt to seek information or to influence the outcome of the procurement process.
- (d) Elected officials shall refer any inquiries about a procurement process to the Treasurer.

CONFLICT OF INTEREST

- 31. (a) The Town's procurement activities must be conducted with integrity and all individuals involved in the Town's procurement activities must act in a manner that is consistent with the principles and objectives of this By-law and in accordance with the Town's:

By-law to establish a Code of Conduct for the Council of the Town of Grimsby and Local Boards of the Municipality, By-law 20-74.
- (b) Elected or appointed officials, members of local boards or committee, employees or their families shall not knowingly cause or permit anything to be done or communicated to anyone which is likely to cause any potential Supplier to have an unfair advantage or disadvantage in obtaining a contract for the supply of goods or services to the Town.
- (c) Elected or appointed officials shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements. Elected or appointed officials should not see any documents or receive any information related to a particular procurement while the procurement process is on-going. Elected or appointed officials who receive inquiries from suppliers related to any specific procurement shall immediately direct those inquiries to the Treasurer.
- (d) All participants in a procurement process, including any outside

consultants or other service providers participating on behalf of the Client, must declare any perceived, possible or actual conflicts of interest

- (e) Elected or appointed officials are required to declare any pecuniary interest, direct or indirect, and its general nature, which may result in a conflict of interest pursuant to the Municipal Conflict of Interest Act and the member of Council shall otherwise comply with that Act.
- (f) Suppliers shall not be allowed to submit a bid for any competitive procurement process in which the supplier has participated in the preparation of the Solicitation Document. Any such bid submitted shall be disqualified.
- (g) An employee, or family member of the employee, who has the responsibility of declaring goods surplus shall not be permitted to purchase any surplus goods to be disposed of except in the accordance with this policy.

COMPLIANCE

- 32. (a) All persons involved in the purchase or Disposal of Deliverables provided for in this By-Law, shall act in a manner consistent with the requirements and objectives of this By-Law.
- (b) Purchases may not be divided into two (2) or more parts to avoid the requirements of this By-Law.
- (c) Any Deliverables that are obtained in contravention of this By-Law will be subject to investigation by the Town, following which the Town will take the necessary corrective action.
- (d) Any employee of the Town who knowingly contravenes this By-Law is committing a serious act of misconduct. The Town reserves its right to take any action at law against the employee for the misconduct including without limitation, disciplinary action up to and including termination.

SEVERABILITY

- 33. If any Section or Sections of this By-Law or parts thereof are found by an adjudicator of competent jurisdiction to be invalid or beyond the power of Council to enact, such Section or Sections or parts thereof shall be deemed to be severable and all other Sections or parts of the By-Law shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Council to enact.

BY-LAW REVIEW

- 34. The Treasurer shall review the effectiveness of this By-Law at least every five (5) years and report to Council as necessary.

REPEAL

- 35. That By-Law No. 04-119, being "A By-Law Respecting Purchasing", passed in Open Council on December 20, 2004 is hereby repealed.

EFFECTIVE BY-LAW DATE

36. This By-Law shall come into force and effect on the day upon which it is signed.

Read a first time this 3rd day of August, 2021.

Read a second and third time and finally passed this 3rd day of August, 2021.

J. A. Jordan, Mayor

S. Kim, Town Clerk

SCHEDULE A – EXEMPT ACQUISITIONS AND EXPENDITURES

EXEMPT ACQUISITIONS AND EXPENDITURES

1. Refundable employee expenses
 - i. Advances
 - ii. Meal allowances
 - iii. Travel
 - iv. Medicals
 - v. Miscellaneous

2. Employer's general expenses
 - i. Charges from other governmental agencies
 - ii. Licences (vehicle, work permits, hardware, software, etc.)
 - iii. Tax remittances (HST, etc.)
 - iv. Debenture or sinking fund payments
 - v. Investments
 - vi. Insurance premiums
 - vii. Grants to agencies (Council approved)
 - viii. Damage claims (livestock, etc.)
 - ix. Custom brokerage fees or commissions
 - x. Postage
 - xi. Advertising

3. Utilities
 - i. Hydro & gas
 - ii. Water & sewer
 - iii. Telephone, internet and cable
 - iv. Utility relocates
 - v. Services and inspection of Technical and Safety Standards Association (TSSA)
 - vi. Other regulated authorities operating within and across municipal right of ways (CN Rail, etc.)

4. Training & education
 - i. Registration and tuition fees for conferences, conventions, courses and seminars
 - ii. Memberships in professional or vocational associations
 - iii. Trade magazines, subscriptions, books, standards, and periodicals
 - iv. Staff development and workshops

5. Professional and special services
 - i. Committee fees and honorarium
 - ii. Counselling, arbitration, investigative, and legal services

SCHEDULE A – EXEMPT ACQUISITIONS AND EXPENDITURES

- iii. Collection agencies
- iv. Banking or third-party payment solution service charges
- v. Appraisal or land survey charges
- vi. Temporary staffing
- vii. Physician fees

SCHEDULE B – AUTHORITY

CONTRACT AWARD, CONTRACT EXECUTION AND PAYMENT RELEASE AUTHORITY

Procurement Value is as defined in Section 2 of this By-Law.

PROCUREMENT VALUE	PROCUREMENT METHOD	CONTRACT AWARD AUTHORITY	CONTRACT EXECUTION AUTHORITY	PAYMENT RELEASE AUTHORITY
\$0 to \$10,000	Direct Purchase	Manager	Director	Department Manager
\$10,001 to \$50,000	Informal Quote Process	Director	Director	Department Manager
	Non-Competitive	Treasurer	Treasurer or CAO	Department Director
\$50,001 to 100,000	Invitational Competition	Director	Director	Department Director
	Non-Competitive	Treasurer	Treasurer or CAO	Department Director (<\$500,000) Treasurer or CAO (>\$500,000)
More than \$100,000	Open Competition	Department Director (<\$500,000) Treasurer or CAO (>\$500,000)	Department Director (<\$500,000) Treasurer or CAO (>\$500,000)	Department Director (<\$500,000) Treasurer or CAO (>\$500,000)
	Non-Competitive	Council	Treasurer or CAO	Department Director (<\$500,000) Treasurer or CAO (>\$500,000)

SCHEDULE B – AUTHORITY

CONTRACT AMENDMENT AUTHORITY

Total Cumulative Increase means the total value of all increases to the original procurement value, including the value of all previously approved amendments and the value of the proposed amendment.

TOTAL CUMULATIVE INCREASE	CONTRACT AMENDMENT AUTHORITY
Less than \$100,000 and less than 15% of original procurement value	Director
Less than \$100,000 and more than 15% of original procurement value	Treasurer
More than \$100,000	Council

SCHEDULE C – CIRCUMSTANCES FOR NON-COMPETITIVE PROCUREMENT

Deliverables may only be acquired through a Non-Competitive procurement process under the circumstances describe below.

1. The procurement value is below \$100,000 and it is determined by the Treasurer to be in the best interests of the Town to proceed with a Non-Competitive Procurement.
2. An Open Competition was conducted for the required goods or services and did not result in the receipt of any valid bids.
3. The procurement is for:
 - goods intended for resale to the public;
 - goods purchased on a commodity market;
 - financial services;
 - health services;
 - social services;
 - services provided by licensed lawyers or notaries; or
 - services of expert witnesses or factual witnesses used in court or legal proceedings
4. The Deliverables are to be procured from a government entity or public body.
5. It can be demonstrated that the goods or services can be supplied only by a particular supplier and no alternative or substitute exists for the following reason(s):
 - There is an absence of competition for technical reasons.
 - The protection of patents, copyrights or other exclusive rights.
 - The requirement is for a work of art.
6. The procurement is for additional deliveries by the original supplier of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:
 - cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and
 - would cause significant inconvenience or substantial duplication of costs for the Town.
7. The procurement is for goods or consulting services regarding matters of a confidential or privileged nature and the disclosure of those matters through an Open Competition could reasonably be expected to compromise government confidentiality,

SCHEDULE C – CIRCUMSTANCES FOR NON-COMPETITIVE PROCUREMENT

result in the waiver of privilege, cause economic disruption or be contrary to the public interest.

8. The procurement is for:
 - a prototype or a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases;
 - goods available under exceptionally advantageous circumstances that only arise in the very short term, such as liquidation, bankruptcy or receivership; or
 - a contract to be awarded to the winner of a design contest and the contest was organized in a fair and transparent manner and was advertised by publicly posted notice and participants were judged by an independent jury.

9. The procurement is otherwise exempt from the open competition requirements under all applicable trade agreements and it is determined by the Treasurer to be in the best interests of the Town to proceed with a Non-Competitive Procurement.